CITY OF PONTIAC, MICHIGAN
POLICE AND FIRE RETIREE PREFUNDED
GROUP HEALTH & INSURANCE PLAN
"VEBA MINUTES"
JULY 28, 2011

Trustees Present	Others Present
Leon Jukowski, Mayor	Matthew Henzi, Sullivan, Ward, Asher & Patton
John Naglick, Secretary	Chris Kuhn, Gray & Company
Matthew Nye, Vice Chair	Alisha Davis, Plante & Moran
Craig Storum	Ellen Zimmermann, Retirement Administrator
	Jane Arndt, Retirement M-Admin Assistant
	John Wargel, Retiree

Trustees Absent
Brian Lee, Chairman *(excused)*

The meeting was called to order at 8:49 a.m.

AGENDA CHANGES

CONSENT AGENDA
A. Approval of Regular Meeting Minutes: June 23, 2011
B. Financial Reports
   1. Statement of Changes – June 2011
   2. Accounts Payable:
      a. Gray & Company $1,250.00
      b. Sullivan Ward 1,905.00
C. Correspondence:
   1. Rhumbline Monthly Performance
   2. Bradford Marzec Newsletters

RESOLUTION 11-025 By Storum, Supported by Naglick
Resolved, That consent agenda for July 28, 2011 be approved.

Yeas: 4 – Nays: 0

TRUSTEE/COMMITTEE STAFF REPORTS

CONSULTANTS

Re: Plante Moran – 2010 Audit Presentation
Ms. Davis from Plante & Moran presented the audit statement for the year ending December 31, 2010.

There were no audit adjustments proposed, however there were some challenges but they worked through them with the cooperation of staff.

The audit opinion letter issued an unqualified opinion without exception which is the highest level of assurance they can give. Everything in the audit was free of material error and in compliance.

The Statement of Trust Net Assets is the Fund's balance sheet. Total assets were $34.2 million with $3.5 million in total liabilities with the majority for reimbursed retiree healthcare costs. Total net assets as of December 31, 2010 were $30.7 million.

The Statement of Changes in Trust Net Assets shows the annual activity including contributions. The contributions are actual amounts remitted by the City.

During the current year there are significant contributions that were not paid as of June 30, 2011. The receivable in on the books as $2.1 million in revenues and should be written off.

The investment income offset the lack of contributions with a net increase of 15% or $4 million.

They added a new section "Plan Sponsor Financial Condition" under Note 1 based on the City's financial condition. The language highlights the uncertainty of contributions going forward. Because contributions may not be received in the future, they used a lower actuarial rate of return assumption which increased the unfunded actuarial accrued liability shown on page fifteen.

The higher rate allows for the building of assets. They used a 5% return assumption due to the employer unfunded contributions. If there is a change with the plan sponsor, they can always go back to the 7.5% return assumption. The unfunded actuarial accrued liability went from $42.9 million as of December 31, 2007 to $81.8 million as of December 31, 2008 based on using the alternate five percent return assumption.

Ms. Zimmermann indicated that an experience study was just done for Police & Fire.

Ms. Davis asked if there were any questions with regard to the audit report.

She referred to the management letter. She explained that there are two parts to the letter with the first being required communications pertaining to the auditing standards and the second being other recommendations of value.

She described their responsibilities under the required communication section relating to their responsibility under the U.S. Generally Accepted Auditing Standards, the planned scope and timing of the audit and the significant audit findings or changes or practices.

She reported that the accounting estimate is an important part of the financial statements that is prepared by management. The most sensitive estimates affecting the financial statement are alternative investments and the valuation of the unfunded actuarial accrued liabilities. The valuation for certain alternative investments is based on unaudited financial statements.

She indicated that they had a problem getting the audited final statement from Pluscios which was noted as an encountered difficulty. They were receiving the monthly internal statement but in order to verify that the investment was appropriately valued to market as of the end of the year they needed the audited final statement.

She also pointed out that there is a question regarding the rate of return used by the actuary that affects the unfunded actuarial accrued liability. Both these issues were listed as potential uncorrected misstatements in the audit.

Under other recommendations there was a statement pertaining to alternative investments discussing valuation issues, losses and significant write offs for the Systems. They recommended strict due diligence before entering into this type of investment.

Chairman Storum said he is concerned that their suggestions are indicating that the Board is not performing due diligence before making an investment.

Ms. Davis said that they do not have any concerns with the Police & Fire VEBA Fund. This does not mean the Board did something wrong. Their comments are based on some issues with one of the other pension systems.

Chairman Storum said he wanted it reflected in the minutes that the Board is performing due diligence and monitoring investments and their consultant is also a fiduciary of the Fund.

She described some State initiatives that are impacting local units of government including the Economic Vitality Incentive Program. This program is looking for transparency and more accessible financial information for citizens, the sharing of services including consolidation with other government units and reduced employee pension and healthcare benefits.

The statutory revenue sharing portion will have a macro level impact on a number of pension plans. Municipalities will have to compete for shared revenue by becoming transparent, the sharing of services and using best practice with regard to employee benefits.

The major provision impacting pension and VEBA plans will be implemented on May 1, 2012. Communities must certify that they intend to implement the following employee compensation criteria for any new, modified or extended contracts.

The provisions include a 10% cap on the base salary of new hires fore retirement plans if they are eligible for social security and a 16.2% cap for those who are not eligible for social security. This does not specifically state that it related to defined benefit plans.

For defined benefit plans the maximum multiplier is 1.5% if the employee is eligible for social security or 2.25% if there is no retiree healthcare.

If the employee is not eligible for social security the maximum multiplier is 2.25% or 3.0% if there is no retiree health care.

The final average compensation calculation for defined benefit plans shall use a minimum of three years' compensation and cannot include more than 240 hours of paid leave and cannot include overtime.

Healthcare costs for new hires shall include a minimum employee share of 20% which only affects new hires.

Public Act 54 also prohibits retroactive pay on an expired contract. If healthcare costs increase while a new contract is being negotiated the employee will bear the cost until a new contract is in effect.

The overall intent is to relieve legacy costs to municipalities.

She indicated that there is a section entitled Plan Sponsor Financial Condition: Impact on the Systems. She indicated that as a result of the uncertainty regarding the City's inability to make their contribution payments, contributions were removed from the financial statements. The Police & Fire VEBA wrote off $2.1 million from its financial statement.

In the even the City goes into bankruptcy they recommend that the Board consider the continuity of the Plan. The benefits still need to be administered and the investments need to be managed.

Trustee Naglick said that the reality is that the only way the contributions will be made is if they are turned into a judgment and put on the tax rolls.

Ms. Davis asked if the Board had any questions.

Mr. Henzi said that the $2.1 million is an unrecorded receivable and was written off the financial statement. He said that they need to look into how to recover the contributions and how to account for them when they are recovered.

Ms. Davis said that they would simply be recorded on the financial statement.

There was a question regarding the $2.1 million contribution write off and how it differed from Ms. Zimmermann's number.

Trustee Naglick asked if Ms. Zimmermann's number is from June 30, 2011 and Ms. Davis' number is from December 31, 2010.

Trustee Naglick stated that the Economic Vitality Plan is making the situation worse.

RESOLUTION 11-026 By Storum, Supported by Naglick
Resolved, That the Board accept the Audit Report for year ending December 31, 2010 as presented.

Yeas: 4 – Nays: 0

Re: Gray & Company – Portfolio Update
Mr. Kuhn reported that the total Fund assets are up to $31.7 million as of July 21, 2011 versus $30.6 as of June 30, 2011. The performance during the second quarter was flat. However, year-to-date most plans are up 22%. He indicated that rebalancing is not necessary with the asset allocations close to target.

Re: Sullivan Ward Asher & Patton, P.C.

IRS Request for Form 990
Mr. Henzi reported that the request to renew the VEBA's tax-exempt status is still pending with the IRS.

UNFINISHED BUSINESS

NEW BUSINESS

Re: Non Payment of Contributions
Mr. Henzi reported that he received notification from the Emergency Manager's attorney that the City will not be making its contributions. He said he has had several conversations with counsel for the EM, which are referenced in the legal packet. It also includes a letter from Michael Stampfler to State Treasurer, Andy Dillon with a projected list of the City's financial issues that indicate there is no money to make the contributions.

It is appropriate for the Board to file a complaint to compel payments guaranteed by the State Constitution. He does not know what the City's defense to the VEBA will be other than there is no money. In the short term, from his perspective, the Board should send a demand to compel payment.

He will get together with Ms. Zimmermann to determine the correct number. They do not need to file the complaint now but can send a notice

Trustee Naglick said that the only practical way for the City to get money to make the contributions is a judgment that will be put on the tax rolls.

Mr. Henzi said because of the time sensitive nature of putting the lien on the tax rolls they will need to put that point in place by December 1, 2011. The Board could go into closed session to discuss the structure of the complaint.

Trustee Naglick said that this mechanism is used to pay judgments and is added onto the taxpayer's bill. They collect the taxes from the taxpayer and the Treasurer tracks the money as it and applies it to the defendant's judgment.

Mr. Henzi said that in general there is nothing devious with using judgments. They are used in other counties and cities.

Trustee Naglick said that it is the only way to fund it from the City's side because it is a significant expense going from 42% to 59% of payroll.

Trustee Nye said it is a promised benefit and the City has to pay.

Trustee Naglick asked what happens if the City goes into bankruptcy.

Mr. Henzi said there would probably be some compromise recommended by the bankruptcy judge.

There has been some municipal bankruptcy information in the news. A municipal bankruptcy is different from the corporate bankruptcy process. The corporate process gives preference based on a certain set of creditors. In the municipal process there is no way to distinguish between employee promised benefits, citizens and services.

Trustee Naglick said that the State has said they will not let a municipality go into bankruptcy because of how it would affect the State and County's bond rating. He asked Mr. Henzi to recommend the best option for the Board.

Trustee Storum suggested offset the contributions with the request for payment from the City as a strategy.

Mr. Henzi said he would recommend filing suit and entering into a consent judgment.

Trustee Storum said that the City would not want the VEBA to withhold payment.

Trustee Naglick reported that the VEBA has paid the City for retiree healthcare through March, 2011. They are currently preparing the invoice for the period of April, 2011 through June, 2011. If the VEBA does not pay the retiree healthcare claims to the City it will make them go broke quicker.

Mr. Henzi told the Board that as fiduciaries they have to work on getting the contributions paid.

Trustee Storum asked whether there is an issue working within the timeframe of December 1, 2011.

Retiree, John Wargel told the Board that he is a retired police officer. He asked how much the City's deficit or default is.

Trustee Storum stated that the City's deficit is $4.3 million for the fiscal year 2010-11. They are currently in default of their payment to the Police & Fire VEBA which pays the retiree healthcare costs for those who retired from 1996 going forward.

Mr. Wargel asked how much the City is paying for the pre-1996 group of retirees.

Trustee Naglick said that the City's net expense for retiree healthcare after reimbursements is $8 million. He does not have the exact amount for the police and fire benefit pre-1996.

Trustee Jukowski stated that he is not a pension attorney but it is his understanding that the State Constitution protects pension benefits but healthcare benefits are not covered because they are contractual.

Mr. Henzi said that it is his position that both are a promised and protected benefit.

Ms. Davis said that there is a Public Act that requires funding for pension benefits but not healthcare benefits.

Mr. Henzi said that the language in the VEBA Trust stating that these benefits are constitutionally protected.

Trustee Jukowski said that language makes a significant difference with a probable result that the contributions will go on the tax rolls.

Trustee Storum said he believes it was the intent of the language to protect these benefits when the VEBA was setup.

Trustee Jukowski explained that he cannot vote to sue himself based on his position as Mayor.

Trustee Naglick said that this is the mechanism being recommended by the Emergency Manager so he will vote favorably.

Mr. Henzi said that the trustees have a fiduciary requirement to the Fund. He suggested that they allow for a seven-day response before filing the complaint.

RESOLUTION 11-027 By Storum, Supported by Naglick
Resolved, That the Board authorizes legal counsel to file a demand letter allowing for a seven day response. If not response is received the Board authorizes legal counsel to file a complaint.

Yeas: 3 – Nays: 0
Abs: 1 (Trustee Jukowski)

Mr. Henzi said that he would provide a summary and keep the Board updated via email due to the gap between meetings.

Mr. Wargel asked that he be furnished with copies of the Retirement Systems financial reports.

Mr. Henzi told Mr. Wargel that he can obtain copies of these reports by providing a FOIA to the Retirement Office.

SCHEDULING OF NEXT MEETING & ADJOURNMENT

Regular Meeting – August 25, 2011 – City Council Conference Room, Second Level, City Hall @ 8:30 a.m.

ADJOURNMENT

RESOLUTION 11-024 By Jukowski, Supported by Naglick
Further Resolved, That the meeting be adjourned at 9:51 a.m.

Yeas: 4 – Nays: 0

I certify that the foregoing are the true minutes of the Police & Fire Retirement Pre-funded Group Health and Insurance Plan "VEBA Trust" on July 28, 2011.

John Naglick, Secretary
As recorded by Jane Arndt