

**CITY OF PONTIAC, MICHIGAN  
POLICE AND FIRE RETIREMENT SYSTEM**

**October 25, 2007**

A regular meeting of the Board of Trustees was held on Thursday, October 25, 2007 at the Shrine Room, Main Level, City Hall, 47450 Woodward Avenue, Pontiac, MI 48342. The meeting was called to order at 9:00 a.m.

**TRUSTEES PRESENT**

Raymond Cochran, Secretary (*arrived at 9:02 a.m.*)  
Brian Lee  
Thomas Miller  
Craig Storum, Chairman

**TRUSTEES ABSENT**

Mayor, Clarence Phillips (*absent*)

**OTHERS PRESENT**

Cynthia Billings, Sullivan, Ward, Asher & Patton, P.C.  
Laurence Gray, Gray & Company  
Andrea Coffey-Stewart, Gray & Company  
Christopher Kuhn, Gray & Company  
Mark Peters, PPSA  
Ellen Zimmermann, Retirement Systems Administrator  
Jane Arndt, M-Administrative Assistant

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**CONSENT AGENDA**

- A. Minutes of Regular Meeting: August 30, 2007
- B. Minutes of Special Meeting: September 19, 2007
- C. Communications:
  - 1. Correspondence from DDJ : Monthly Summaries
  - 2. Correspondence from Wentworth Re: Commentary Q3
  - 3. Correspondence from Oppenheimer Re: Change of Personnel
  - 4. Correspondence from GERS Re: Fiduciary Duty
  - 5. Conferences:
    - a. Investing in Infrastructure Conference – IREI – Nov. 5-7, 2007
    - b. Public Safety Employees Pension & Bnfts Conf.– NCPERS – Oct 14-17, 2007
    - c. VIP 2008 – IREI – Jan 15-18, 2008
    - d. Public Fund Boards Forum – Dec 8-11, 2007
- D. Financial Reports:
  - 1. Financial Reports – August & September 2007
  - 2. Commission Recapture Report – July, August & September 2007
  - 3. Securities Lending – August & September 2007
  - 4. Accounts Payable – September 2007
  - 5. Due to GERS Q3
  - 6. Refund of Arbitration Fees

- E. Remove from the Rolls
  - 1. Bertha Dunnigan (deceased 09-29-07)
  - 2. Paul Fox (deceased 09-20-07)
- F. Application for Service Retirement
 

1. Kerry Appolson – PFFU	24 years, 8 months	Age 54
2. Timothy Banycky – PFFU	24 years, 8 months	Age 53
3. Frances Finnegan – PPOA	10 years, 1 month	Age 56
4. David Hoover – PFFU	24 years, 6 months	Age 53
5. Edward Hoover – PFFU	24 years, 2 months	Age 51
6. Gary Manns – PFFU	22 years, 0 months	Age 53
7. Thomas Nelles – PFFU	25 years, 10 months	Age 51
8. Diana Peters – PPSA	21 years, 4 months	Age 45 (reciprocal)
9. Mark Peters – PPSA	23 years, 5 months	Age 47 (reciprocal)
10. Ronald Zawlocki – PFFU	30 years, 6 months	Age 56
- G. Request to Change Effective Date of Retirement:
  - 1. Pamela Chambers

Trustee Lee said that there was a spelling error on page seven. He also pointed out that Mark Peter’s application for retirement stated he was a sergeant when his rank is lieutenant.

Chairman Storum questioned Pamela Chamber’s request to change her effective date of retirement. He thought her retirement had already been approved. Ms. Zimmermann said that a member can change their effective date up to the date of retirement.

**RESOLUTION 07-050** By Miller, Supported by Lee  
 Resolved, that the consent agenda be approved as amended.

Yeas: 4 – Nays; 0

**CONSULTANTS**

**Re: Gray & Company**

The Boston Company Update

Mr. Kuhn reviewed the status of The Boston Company and the replacement of their international core equity team. He said at the manager review meeting The Boston Company provided an update of the ongoing changes and their efforts to put together a new team. There was also a discussion of a due diligence trip but they feel it would be better to wait for the dust to clear before making a trip.

Since the meeting they have spoken with them a couple of times. They have rounded out their quantitative team. He said that their process uses a two-part strategy. The quantitative model utilizes a computer program that screens investments. The second part of the process is the qualitative analysis. The research team consisted of four members on the quantitative team where they lost two members and have hired two replacements. They have also filled in a couple

of positions. They plan to add four or five people within thirty to sixty days to round out the team. That would be the best time to schedule a due diligence visit.

He said that they are still using the same research process and utilizing the same quantitative model. The analytic team from the domestic side is currently responsible for the qualitative and comparative process. They also have experience with the international side.

Chairman Storum asked if the fund is fully invested and if there has been any increased turnover in the portfolio. Mr. Kuhn said that the turnover in the portfolio is low. He also reminded the Board that Boston reduced their fees. He said that basically the stocks in the portfolio are still there from the old team. It should give you a level of comfort to know that the names are still the same.

Trustee Lee asked how long before the portfolio will reflect the new team. Mr. Kuhn said that it could take approximately a year.

Mr. Gray referred to The Boston Company letter that stated the quantitative model belongs to them. He said they are using the same process and nothing should materially change. He said when they are in Boston they will stop to visit the old Boston Company team at Munder.

Trustee Miller said that they bought into the investment based on the historic performance of the team. Do you think they knew early on they were going to leave? Mr. Gray said that he is sure they knew well in advance. This is not something that happens over night.

He said that the process is still in place at The Boston Company. This is similar to the departure at Loomis which became a success story with Joe Gatz coming on board. He assured the Board that they are watching The Boston Company. He will provide a full write up after their visit. He asked if there were any further questions or concerns.

#### Large Cap Review

Mr. Kuhn stated that the system is currently utilizing an index manager for their large cap investment versus an active manager. He performed some simple research using a database to screen large cap growth, core and value investment strategies and performance over a ten-year period. He referred to the results included in the agenda packet.

He said there are 296 large cap managers and 416 products. Very few can beat the index by 75 basis points net of fees. Only a small number of managers can outperform the index. During a three-year period only fifty-eight managers returned out performance which is 14% of the database with 85% returning under performance.

If you look at performance over a five year period twenty-four of the managers were dropped with under 10% returning positive performance net of fees. As you go down the list most of the managers with good performance were screened out over time.

Not all of the managers are true large cap growth. Some managers like Smith Assets are not a true growth manager they utilize a core/growth strategy, however, they have returned consistent

performance through the ten-year period. As you can see large cap core and value managers have not fared any better for the past ten years.

There was discussion that large cap performance is time period sensitive. If you insert a different subset based on a time period you can get a different list of managers. It is hard to pick one manager over another because it is difficult to find an active large cap growth manager that consistently provides out performance.

Mr. Gray said that net of fees the list of managers is not a static bucket. It is a tough exercise but they came up with some managers to consider. The probability of adding value is low.

#### Investment Policy Statement

Ms. Stewart reviewed the Investment Policy Statement. She said that there are some basic edits and cleanup required to bring it up-to-date.

Revisions included custodian and investment consultant names were revised. On-site due diligence was changed to reflect that it will be conducted for all managers at least once in a three-year period. The asset allocation percentages were changed for core fixed income to 35% and high yield fixed income to 2%. She said that the change to the asset allocations needs to be voted on today. Performance benchmark comparisons were changed for mid cap equity to S&P 400 and high yield to Salomon.

Trustee Miller said that he would feel more comfortable if the changes to the due diligence on-site visit was written to include the consultant during on-site visits. He said that he feels the visit would be more productive. Mr. Gray said that 99% of the time the consultant would accompany the trustee. However, there is occasion for a trustee to be at a conference and schedule a visit with a manager without the consultant.

Ms. Stewart said that she would make the necessary changes and forward to Ms. Zimmermann.

#### **RESOLUTION 07-051** By Lee, Supported by Miller

Resolved, that the Investment Policy Statement be approved as amended.

Yeas: 4 – Nays; 0

Mr. Kuhn said that he would like to present the all cap strategy and other educational pieces such as hedge funds, private equity and timber for the next meeting. He said that the trustees would need to set aside approximately three hours for it to be a meaningful process. It would make the regular meeting quite long. He asked if they would like to schedule a special meeting or schedule it for the same day as the regular meeting but in the afternoon.

Trustee Miller said that he would prefer it was the same day.

Mr. Gray said that he would work with Ms. Zimmermann and perhaps to schedule the meeting in January off-site and include lunch.

## **REPORTS**

### **Re: Chairman**

Chairman Storum asked Ms. Billings whether she was able to find out if CAPROC had scheduled a Board of Directors meeting or when they will hold their annual meeting. Ms. Billings said that they received a reply from Martin Weisman that said no meeting has been scheduled. She went through the bylaws and operating agreement which stated their annual Board of Directors Meeting is held in March.

Trustee Miller commented about the City of Southfield being on the Board of Directors. He is surprised they have not held any meetings.

### **Re: Secretary – None**

### **Re: Trustees**

Trustee Lee said that he has received emails from retirees regarding the Willie Payne pension benefit. There is an issue that the member left the police and fire system and moved into the general system where his wages increased. The pension benefit was then calculated on his three highest consecutive earnings years which increased the liability that is funded by the police and fire system without the system receiving the additional contributions. He asked if there is anything the Board can do to insure this will not happen in the future.

Ms. Billings said that the benefit would have been taken into account in the valuation and that further; the funding for the benefit would be included in the required employer contributions. Ultimately, the City is responsible and has to fund the benefit. She said although employer contributions are expressed as a percentage of payroll, it could also be expressed as a set dollar amount, so even though the City may not have contributed based on a percentage of Mr. Payne's salary, the contribution to pay for his benefit is still being paid by the City, just as a higher percentage spread over the remaining employees' payroll. The Council has the authority to determine the benefit for all non-bargaining unit members. There is the option of contacting the Council on how it is funded.

### **Re: Staff**

Ms. Zimmermann reported that she received a memorandum from Mesirov.

She said that she did not have time to put together a recap for the securities lending conference she recently attended.

### Cash Flow Rebalancing

Ms. Zimmermann told the Board that she has received a number of requests for cost studies for early outs from both funds. This could create an issue with the ten recent retirement applications and if the early outs are approved. They were not anticipated in the cash flow projections. There may be a need to rebalance. She asked the Board for authority to rebalance in conjunction with the consultant.

**RESOLUTION 07-052** By Lee, Supported by Cochran

Resolved, that the Board approve the Administrator to rebalance cash flow if necessary.

Yeas: 4 – Nays; 0

Ms. Zimmermann reported that there is a possibility that Ms. Tetmeyer the Retirement Coordinator could be bumped given the turmoil in the City and with potential layoffs occurring in SAEA her collective bargaining unit.

Memorandum of Understanding – Local #376 Pontiac Firefighters Union, IAFF

Ms. Zimmermann stated that there is a copy of a MOU from the Firefighters Union amending the Police and Fire Retirement System Ordinance Sections 11 and 7. The amendment to Section 11 now states that the deceased member's annuity is payable for the lifetime of the surviving spouse regardless of the spouse's later marital status. Section 7 was modified deleting all occurrences that read one-year and replacing them with ninety days. This referred to the section of the ordinance that applies to the nomination of beneficiary.

MAPERS Administrator Survey – Fiduciary Liability Insurance

As an Administrator she was involved in a survey at the MAPERS Conference regarding fiduciary liability insurance. She has included a copy of the survey results in the consent agenda for the Board's review.

Retirement Staff Issue

Trustee Miller said that he is concerned about the possibility of the Retirement Coordinator being bumped. He said that he feels that Retirement employees should be separate from the City and it would provide stability.

Chairman Storum said that he has attempted to contact the Chairman of the General Employees Retirement System but has not received a reply. He has not pushed the issue, but he will move forward. He said that he feels it is crucial to the privacy and confidentiality of the members that the office staff is protected. Other funds have taken the same approach. He is not sure what the next step is since the Executive Office is opposed.

Trustee Cochran said that the Executive Office feels that it is the City's liability. If the system drops below full funding they would not have the ability to get rid of the liability. They feel that they need some control.

Trustee Miller said that these are operational issues for the Board. Trustee Cochran said that there is opposition and that Eric Walker the Mayor's Assistant and Larry Marshall the Human Resources Director are opposed to the idea and they have the Mayor's ear.

Ms. Billings said that there was the same issue in the City of Detroit. The City did not allow the Boards to retain their own employees. There was a lot of controversy between the Board and the City. As a result of the contention, the Board felt they should retain their own employees. The Court agreed with the Board and issued a persuasive/unpublished opinion. However, that does

not guarantee that the Court would reach the same opinion the next time. Trustee Miller felt that if the State steps in there will be less opposition.

Ms. Billings asked if the General Employees Retirement System Board is in agreement. Chairman Storum said that there was some interest with some of the members on the GERS Board but there were concerns about the Mayor's Office. Trustee Cochran stated that the Chairmen from each Board, the Mayor and the City Council President will ultimately have to meet.

**Re: Legal**

United Rentals

Ms. Billings reported that the Defendant's Motion to Dismiss is still pending.

Jarden Securities

She reported that the defendant's motion to dismiss was denied. Defendants served Notice of Deposition to the lead plaintiff the City of Pontiac Police and Fire Retirement System that was to be held in New York on October 9, 2007.

However, the Defendant's legal counsel came to Detroit and on October 8, 2007 they deposed account representatives from Munder Capital Management and on October 9, 2007, the Plan Administrator, Ms. Zimmerman was deposed. The deposition took approximately four hours and Ms. Zimmermann did a great job.

Maxim Integrated Products

Ms. Billings reported that under Federal guidelines discovery is not permitted until the Motion for Summary Disposition has been decided. Here the defendants appear to be trying to get around the discovery issue by issuing subpoenas through the plaintiffs in their state court action. Coughlin Stoia has offered the state court plaintiff access to the records in their office, but they have refused, demanding copies of the documents instead. It looks like they are using an end run to work out a sweetheart deal with the defendant.

There is a hearing scheduled in Michigan regarding the subpoena and Coughlin Stoia has indicated that they believe the judge will uphold the federal stay of disclosure.

Fossil, Inc.

Ms. Billings reported that the motion is still pending.

Tempur-Pedic International, Inc.

Ms. Billings reported that the Defendants' Motion to Dismiss is still pending.

Metropolitan Real Estate Partners V, LP

Ms. Billings reviewed the Private Placement Memorandum and Subscription Agreement for Metropolitan Real Estate Partners V L.P. Limited Partnership Agreement. She said that they have not agreed to acknowledge their fiduciary status under Michigan Public Act 314. In fact, their attorney stated that they deliberately set up the fund in such a way as to avoid being

considered a fiduciary under ERISA. They stated that they will only acknowledge their fiduciary obligations under the Investment Advisors Act of 1940 which does not make any mention of fiduciary responsibility. They will not recognize being a co-fiduciary.

Mr. Gray said that Public Act 314 should be provided and included as part of the search process.

Ms. Billings also stated that they asked for them to revise the indemnification clause from gross negligence to a negligence standard. She said that gross negligence is hard to prove. Without the change of indemnification to negligence standard Metropolitan would not bear any responsibility.

Chairman Storum asked what action should be taken. Ms. Billings suggested they find a manager that will agree to acknowledge their fiduciary status. Ms. Zimmermann said that two of the three real estate investments came into question and were considered for termination. Mr. Gray said that he will restart the search process.

#### Mesirow Financial Institutional Real Estate – UBTI Issue

Ms. Billings said that she received a letter regarding the structure of the Mesirow International Partnership Fund I. There is the possibility that MFIRE will be generating UBTI. They have setup a feeder fund in the Cayman Islands. Mesirow is asking that the Board approve the subscription agreement to the feeder fund.

She said if the fund is subject to UBTI she can not recommend an off shore feeder fund without further research to ensure that it would stand up to IRS scrutiny. However, if it is not a problem the agreement needs to be signed by November 2, 2007. She said that the system would become a shareholder in the Cayman Island fund. It could result in scrutiny from the IRS. She said the Board could make a motion to accept the subscription agreement if legal counsel feels it is acceptable to IRS standards.

*Chairman Storum left at 9:58 a.m.*

Mr. Gray questioned why this information did not accompany the first agreement. He said feeder funds are very common. He assured the Board that tax counsel will tell them to go ahead and approve the agreement. He asked if the Board was ready to make a motion to approve and move forward.

Trustee Lee said that he is not sure how he feels. If something happens with the investment how would it look? Trustee Cochran agreed and said that he has some reservations.

Mr. Gray said that he will put a call into Tom and find out how to get the \$600,000 back.

Ms. Billings said that Phil O'Brien of her office is checking to see if the tax rate is the same as the corporate rate.

Ms. Zimmermann said that she does not want to file tax returns for the System: it has never been done before. Mr. Kuhn said that the investment income would be considered capital gains and dividends.

Trustee Lee asked for Trustee Miller's opinion. Trustee Miller said that it is common with a lot of investments. However, he feels there are a lot of real estate products that generate returns. He would rather not deal with this issue.

Ms. Billings said she is checking with the auditor, Beth Bialy to determine if there is an issue if the fund generates UBTI.

Trustee Cochran asked if this would impact the autonomy of the fund. Ms. Billings said it is a separate legal government entity.

After discussion, it was determined that the Board would wait for recommendations from legal counsel and the auditor concerning whether or not the System was subject to UBTI and if it was determined to be subject to UBTI, the best way to exit the investment.

#### Correction to Minutes

Ms. Billings stated that a simple correction is needed in the June, 2006 minutes. She has included the revision in the attorney report. The error was found during a FOIA request. She asked the Board to make a motion to correct the June 29, 2006 minutes per the attached.

#### **RESOLUTION 07-053** By Lee, Supported by Cochran

Resolved, that the Board approve the correction to the June 29, 2006 minutes as follows:

##### United Rentals

The Policemen's and Firemen's Retirement System was appointed lead plaintiff in November 2005.

##### Maxim

An amended complaint was filed for alleged backdating of stock options since 1995 for hundreds of millions of dollars. Financials were also grossly misstated. The complaint is attached to the legal report. Ms. Billings requested that the Board ratify the previously signed retainer agreement.

Given the status of Montag & Caldwell it was determined that the Board will send a letter requiring them to hold a minimum number of shares to maintain the original ownership for litigation purposes, in the event the manager is terminated.

#### **RESOLUTION 06-049** By Cochran, Supported by Lee

Resolved that the Board of Trustees ratify the Maxim litigation retainer agreement.

Yeas: 3 – Nays: 0

Yeas: 3 – Nays; 0

Correspondence Regarding CAPROC Meetings  
Refer to Chairman under Reports

Correspondence from Lerach Coughlin Re: Name Change

Ms. Billings reported that the firm Lerach, Coughlin, Stoia, Geller, Rudman & Robbins LLP has changed their name to Coughlin, Stoia, Geller, Rudman & Robbins LLP effective August 31, 2007.

The senior partner William S. Lerach retired to prevent the firm from being indicted. Upon Mr. Lerach's retirement the Department of Justice issued a letter stating that they would not go after the firm.

Department of Labor Article Regarding the Acceptance of Gifts from Service Providers

An article regarding gifts from service providers was provided for trustee information.

Trustee Miller asked Ms. Billings if Lara Lauer is only paid when she attends CAPROC meetings. Ms. Billings confirmed.

**Re: Union Representatives - None**

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**NEW BUSINESS**

**Re: Longevity Calculation**

Ms. Zimmermann reported that Ms. Munson discovered an error in the longevity calculation which affects the FAC for Police and Fire. She has included a list of those affected in the agenda. The recalculations are currently being processed.

Trustee Miller asked what affect this will have. Ms. Zimmermann said that this will change the final average calculation approximately \$60.00 to \$200.00. The coding in payroll was changed in 2003 and was included in their holiday lump sum payment which was then included in their final average calculation.

**Re: CD Renewal**

Ms. Zimmermann informed the Board that the certificate of deposit at the Municipal and Health Services Credit Union is due for renewal. The fund is being offered two certificate of deposit options, 4.85% for twelve months or 5.25% for fifteen months. She asked the Board to provide direction as to the reinvestment of these funds.

**RESOLUTION 07-54**

Resolved, That the Board renew the Certificate of Deposit in the amount of \$100,000 for fifteen months at Municipal & Health Services Credit Union.

Yeas: 3 – Nays: 0

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**UNFINISHED BUSINESS**

**Re: Actuarial Search**

Ms. Zimmermann stated that the Request For Proposals were sent out and are due back by November 9, 2007.

**Re: Ordinance Update Status**

Ms. Zimmermann reported that the revision of the ordinance was passed by City Council. She is in the process of preparing a clean copy for distribution to Council, the unions and to the Board with a letter designating the changes.

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**SCHEDULING OF NEXT MEETING**

Regular Meeting on November 29, 2007 at 9:00 a.m., in the Shrine Room, City Hall, Pontiac, Michigan.

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**ADJOURNMENT**

**RESOLUTION 07-055** By Lee, Supported by Cochran  
Resolved, That the meeting be adjourned at 10:20 a.m.

Yeas: 3 – Nays: 0

I certify that the foregoing are the true and correct minutes of the meeting of the Police and Fire Retirement System held on October 25, 2007.

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Raymond Cochran, Secretary  
*As recorded by Jane Arndt*