

**CITY OF PONTIAC  
POLICE AND FIRE RETIREMENT SYSTEM  
BOARD OF TRUSTEES MEETING MINUTES  
JULY 28, 2016**

A regular meeting of the Board of Trustees was held on Thursday, July 28, 2016, at BeneSys, Inc., Third Floor Conference Room, Troy, Michigan.

**Trustees Present**

Craig Storum, Chairman,  
Lon Britton  
Nevrus Nazarko, Secretary  
Deirdre Waterman, Mayor

**Others Present**

Matt Henzi, Sullivan, Ward, Asher & Patton  
Chris Kuhn, The Bogdahn Group  
Beth Bialy, Plante & Moran  
Spencer Tawa, Plante & Moran  
Duane Menter, BeneSys, Inc.  
Chuck Wytrychowski, BeneSys, Inc.  
Liz Edwards, BeneSys, Inc.  
Tammy Mathes  
Nancy Finnegan

**Trustees Absent**

Matt Nye

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**AGENDA CHANGES**

Beth Bialy of Plante & Moran came at 9:00 to present the 2015 audit report both for the Retirement System Fund and the VEBA. She presented the VEBA Fund report first, then the Retirement System report. After her presentation was complete, the Retirement System meeting was suspended and the VEBA meeting was completed.

*Chairman Storum called the meeting to order at 9:20 a.m.*

**AUDITOR'S REPORT**

Beth Bialy and Spencer Tawa of Plante & Moran reviewed the December 31, 2015, audit report. She noted that there was a new actuary this year. She then noted that the market declined this year. The Fund was down \$16 million as of December 31, 2015. She reviewed the financial statements, the financial condition of the plan sponsor, the accounting principles and estimates, plan policies, administration, partial plan termination, benefits, contributions, and investment policy. She reviewed reserves, and stated that the plan is 89% funded. She noted the discount rate used by the actuary was 7.5%. She reviewed what the results would have been had the actuary instead used 6.5% or 8.5%. She then reviewed the GASB Schedule of Changes in the Net Pension Liability and Related Ratios for the last two fiscal years. She also reviewed the annual required contribution payments that have been made and that will be due. In her letter to the Board of Trustees, Ms. Bialy noted that their review of the COLA found errors where four individuals should have received the payment but did not, and one who did receive the payment who should not have. BeneSys has corrected this.

**RESOLUTION 16-023** By Storum, Supported by Nazarko

Resolved, That the 2015 auditor's report as prepared and presented by Plante & Moran, be approved.

Yeas: 4 – Nays: 0

*Ms. Bialy and Mr. Tawa were thanked for their time and were excused from the meeting at 9:38 a.m.*

*Chairman Storum suspended the meeting at 9:38 a.m. The meeting was suspended until the conclusion of the VEBA meeting, and reconvened at 11:05 a.m.*

*Chairman Storum declared that a quorum was present and called the meeting to order at 11:05 a.m.*

**AGENDA CHANGES**

Tammy Mathes and Nancy Finnegan were invited into the meeting. Attorney Henzi explained the situation with respect to Mrs. Mathes, who is the beneficiary of a deceased participant. Mrs. Finnegan is her legal counsel. Mrs. Mathes contacted the Administrator to ask whether she will continue to receive a non-service death benefit in the event she remarries. Mr. Mathes was a member of PPSA. She has two children, both of whom are now over the age of 18. Under the Ordinance, once the youngest minor child reaches age 18, Mrs. Mathes must defer her benefit until age 55. Mrs. Mathes was recently paid for an underpayment discovered by the Administrator. The underpayment resulted because the prior administrator did not increase Mrs. Mathes' benefit, according to the Ordinance, for each of her two children under the age of 18. Trustee Britton stated that he understands her position, but as a plan fiduciary, he must administer the plan according to legal counsel's recommendation. Attorney Henzi stated that a Memo of Understanding in 2007, amended the collective bargaining agreement's requirement that a non-service death benefit would cease upon the remarriage of the surviving spouse. Mrs. Mathes applied for the benefit in 2013. Trustee Britton added that this MOU amended an antiquated rule. Chairman Storum agrees with Trustee Britton's comments. Mrs. Finnegan stated that remarriage is not the issue. Mr. Mathes retired under the 2002 collective bargaining agreement, and as such, Mrs. Mathes believes she is eligible to continue to receive the benefit, and therefore would like to appeal the decision. Attorney Henzi stated he will send a letter setting forth the rationale for terminating the benefit. Mrs. Finnegan will send a rebuttal. Trustee Britton stated that the Board is for the benefit of the members, so yes, you can appeal. Mrs. Finnegan asked if she needs to do a new appeal. Attorney Henzi stated that it must be presented timely. Mrs. Finnegan stated she will have it completed for the next meeting.

*Mrs. Mathes and Mrs. Finnegan leave the meeting at 11:27 a.m.*

Attorney Henzi stated that had Mr. Mathes elected the Joint and Survivor form of payment, then the benefit would have been payable to Mrs. Mathes, regardless of age. Chairman Storum stated

that he had elected the same form of payment, but had it been explained correctly to him, he would have elected differently. Trustee Britton asked how does this affect the COLA. Attorney Henzi stated that he will review how the COLA should be applied in this situation.

*Chairman Storum calls the meeting back to order at 11:47 a.m.*

### **CONSENT AGENDA**

- A. Minutes of Regular Meeting – June 30, 2016
- B. Financial Reports
  - 1. Financial Reports – May 31, 2016
  - 2. Bills for Ratification as of May, June, July, 2016
- C. Remove from Rolls:
  - 1. Lambert, Gary, DOD 07-09-2016; Barbara Spouse / Annuitant
  - 2. Burgess, Elmo, DOD 07-22-2016, No Annuitant
- D. Final Benefit Calculations:
  - 1. Jose Garcia, PPOA, #81566, DOR 08-01-2016; In Progress
  - 4. Hermani Cristobal, PPSA, #17342. DOR 08-01-2016; In Progress

**RESOLUTION 16-024** By Britton, Supported by Nazarko  
Resolved, That the items on the Consent Agenda for July 28, 2016, be approved.

Yeas: 4 - Nays: 0

### **CONSULTANTS**

- A. The Bogdahn Group

Christopher Kuhn of the Bogdahn Group reviewed the Fund's assets as of July 22, 2016. He noted that WHV is basically gone. Aberdeen faces challenges from a performance standpoint. The firm is continually changing. In light of the Tortoise lending strategy, maybe it is time to cut ties with Aberdeen and shift funds to Garcia Hamilton and a large cap fund. Trustee Britton asked if this is a change in our strategy, model or performance. Mr. Kuhn replied that it is a combination of the three: weak performance, and changes at the firm. It was then

**RESOLUTION 16-025** By Britton, Supported by Waterman  
Resolved, To move all funds from Aberdeen to Garcia Hamilton and a large cap fund.

Yeas: 4 - Nays: 0

### **REPORTS**

- A. Chairman
- B. Secretary
- C. Trustees Committees
- D. Legal, Attorney's Report, Sullivan, Ward, Asher & Patton, P.C., Matthew Henzi

## ATTORNEY'S REPORT

Trustee Britton commented that the \$400 that the fund had paid for pre-VEBA retirees should be resumed for seven months. Trustee Nazarko stated that the City was sending invoices, but the majority did not pay. Trustee Britton stated that only some were invoiced. It was then

**RESOLUTION 16-026** By Nazarko, Supported by Waterman  
Resolved, To have Nyhart Actuarial Services prepare a cost study to determine the effect of continuing the \$400 per month payment for another year.

Yeas: 4 - Nays: 0

### Attorney Report – General Matters:

#### Tammi Mathes – Exhibit A

Attorney Henzi addressed this issue for the Board in the Attorney Report.

#### Frank Moon – Exhibit B

Attorney Henzi addressed this issue for the Board in the Attorney Report.

#### Chad Hermans

Mr. Hermans contacted the Administrator and requested to be included in the buyout program for deferred vested participants. He has not withdrawn his member contributions. Legal counsel recently researched this matter through records obtained from the former actuary relative to a cost study it performed as a result of the proposed buyout program. Legal counsel has confirmed that Mr. Hermans is eligible for the offer. BeneSys is in the process of sending him the offer, which had previously not been sent to him.

#### Request from Adam Rihner for Information re: WHV – Exhibit C

Attorney Henzi addressed this issue for the Board in the Attorney Report.

#### James Stefani – Exhibit D

Attorney Henzi addressed this issue for the Board in the Attorney Report. Mr. Stefani was given a disability benefit. It should have been enhanced for children under the age of 18, but he was never told that. He wants it applied retroactive to the dates of birth of his children. It was then

**RESOLUTION 16-027** By Britton, Supported by Waterman  
Resolved, To enhance Mr. Stefani's disability benefit for his children under the age of 18, retroactive to their respective dates of birth.

Yeas: 3 - Nays: 1

Mark Seay

Since last meeting, Mr. Seay has withdrawn, without prejudice, his request for additional service credit for the years he spent as a member of City Council.

Raymond Wiggins – Exhibit E

Attorney Henzi addressed this issue for the Board in the Attorney Report.

Ken Ayres – Exhibit F

Attorney Henzi addressed this issue for the Board in the Attorney Report. He is a deferred vested participant who qualifies for the buyout. He wants to use the back pay period as service. He did have some withheld. It was then

**RESOLUTION 16-028** By Waterman, Supported by Britton

Resolved, To calculate benefit service for the entire period reflected by his back pay, from October 25, 2005, though November, 2007.

Yeas: 4 - Nays: 0

Trustee Nazarko said to be careful when calculating the final average compensation. He would like to see the calculation before it is put into pay status. Trustee Storum stated he is paying back contributions, and will need a letter describing this. Trustee Britton suggested that legal counsel should contact him to ensure he wants the buyout / payout.

Patricia McNeary Overpayment

The Board previously authorized entering into a 12-month payment agreement to allow Mrs. McNeary to repay a COLA overpayment. BeneSys discovered a second overpayment. Mrs. McNeary contacted counsel and proposed to pay \$300.00 per month beginning February 2016. Mrs. McNeary did remit three payments totaling \$900.00, which BeneSys has deposited. Any repayment agreement should require a payment of interest on the overpayment. Trustee Storum stated that BeneSys should pay the amount back to the Fund, and then recover that amount from her. It was then

**RESOLUTION 16-029** By Britton, Supported by Storum

Resolved, To have BeneSys repay to the Fund the amount paid in error, and then recover that amount from Mrs. McNeary.

Yeas: 4 - Nays: 0

*Mayor Waterman leaves the meeting at 12:30 p.m.*

Tortoise Direct Opportunities Fund – Executed Investment Agreement – Exhibit G

Proposed Michigan Legislation – Items of Interest

Attorney Henzi addressed this issue for the Board in the Attorney Report.

Application for IRS Determination Letters - PFRS

Legal requested that the IRS determine that the PFRS DB and DC Plans are qualified under the Internal Revenue Code and tax-exempt. On March 2, 2015, the IRS issued its Favorable Letter of Determination for the Retirement System's DC Plan, Plan Number 002. The Letter of Determination is in error since it qualifies the determination based on the City of Pontiac's adoption of proposed Ordinance amendments legal counsel submitted on November 20, 2014. These amendments were submitted relative to the Retirement System's DB Plan, Plan Number 001.

In response to our demands, the IRS is re-issuing the Defined Contribution Letter of Determination to delete the reference to the adoption of the proposed amendment. The IRS indicated that a Letter of Determination was issued for the Defined Benefit which does mention the proposed amendment. However, we still have not received the Letter. Once the IRS corrects and issues the Letters of Determination for the DC and DB Plans, we will submit the proposed amendment to the City of Pontiac City Council for approval.

Koteles

Mr. Koteles recently contacted the Administrator and inquired about receiving a pension benefit. Mr. Koteles resigned from the City of Pontiac Police Department on December 14, 2007. Since he resigned, instead of being involuntarily laid off, he is not eligible for the buyout program pursuant to partial plan termination. If Mr. Koteles qualifies under the Reciprocal Retirement Act, he can draw a benefit at age 60 based on his eight years nine months of service with City of Pontiac. The Administrator is following up with Mr. Koteles for more information to determine whether he is entitled to a benefit at age 60 under the Reciprocal Retirement Act.

Dispute of IRS Penalty Increase – Exhibit H

Attorney Henzi addressed this issue for the Board in the Attorney Report.

Robbins Geller June 24, 2016, Portfolio Monitoring Report – Exhibit I

Attorney Henzi addressed this issue for the Board in the Attorney Report.

**UNFINISHED BUSINESS**

A. Chad Hermans Request for Buyout

Attorney Henzi addressed this in the Attorney Report.

B. Patricia McNeary COLA Overpayment

Attorney Henzi addressed this in the Attorney Report.

C. Ken Ayres, Deferred Buyout

Attorney Henzi addressed this in the Attorney's Report.

D. Raymond Wiggins, Redeposit Offer

Attorney Henzi addressed this in the Attorney's Report.

E. Tammi Mathes, Request for Re-Hearing  
Attorney Henzi addressed this in the Attorney's Report.

F. Franklin Moon, Request for Buyout  
Attorney Henzi addressed this in the Attorney's Report.

G. Robert Koteles, Determination of Reciprocity Vesting  
Attorney Henzi addressed this in the Attorney's Report.

H. James Stefani, Benefit Calculation  
Attorney Henzi addressed this in the Attorney's Report.

I. Reconciliation of Health Care Deductions  
Attorney Henzi addressed this in the Attorney's Report

#### **NEW BUSINESS**

A. WHV Termination Notification Letter to Brian Forth, July 6, 2016

B. CAPIS Account Payment, \$244.37, July 15, 2016

C. Clarivest Purchase, July 15, 2016, \$10,000,000

D. Review of Amortization of Unfunded Liability from 27 to 20 Years  
Trustee Nazarko stated that the amortization review by the actuary changes the annual required contribution to \$2.9 million, but the City has \$2.1 million budgeted. He wants a revision of the report to leave it at the 2015 levels. Chairman Storum stated the actuary should be asked to go with a one year or two year declining rate. It was then

**RESOLUTION 16-030** By Nazarko, Supported by Britton  
Resolved, To ask Nyhart for options with respect to the annual required contributions.

Yeas: 3 - Nays: 0

Attorney Henzi stated he will contact Nyhart on this issue. Trustee Nazarko noted that the TAB board will have to approve this as well. Attorney Henzi will ask if there are monthly or quarterly payment options. One municipality just got sued for not making enough contributions.

E. Revised Benefit Estimate Letter

The new sentence to be included should be bolded, highlighted and underlined so it is not missed.

F. Tortoise Subscription Agreement and Side Letter

G. Form 945 Dispute of Penalty from IRS, July 18, 2016

**CORRESPONDENCE**

- A. Metropolitan Real Estate Partners VII Distribution, June 29, 2016, \$41,731.37
- B. Metropolitan Real Estate Partners VII Distribution, July 14, 2016, \$43,783.74
- C. Metropolitan Real Estate Partners VI Distribution, July 20, 2016, \$63,845.20

**NEXT MEETING DATE:** August 25, 2016

**ADJOURNMENT**

It was proposed by Trustee Nazarko and supported by Trustee Britton that the meeting be adjourned at 1:10 p.m.

**RESOLUTION 16-031** By Nazarko, Supported by Britton  
Further Resolved, That the meeting be adjourned at 1:10 p.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 July 28, 2016.



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Nevrus Nazarko, Secretary  
*As recorded by BeneSys*