

**CITY OF PONTIAC, MICHIGAN  
GENERAL EMPLOYEES RETIREMENT SYSTEM  
BOARD OF TRUSTEES  
FEBRUARY 23, 2011**

A regular meeting of the Board of Trustees was held on Wednesday, February 23, 2011 at the City Council Conference Room, Second Floor, City Hall, 47450 Woodward Avenue, Pontiac, Michigan 48342. The meeting was called to order at 1:35 p.m.

**TRUSTEES PRESENT**

Shirley Barnett  
Koné Bowman  
Charlie Harrison, Chairman  
Leon Jukowski, Mayor

John Naglick, Secretary  
Tuesday Redmond  
Kevin Williams  
Debra Woods

**TRUSTEES ABSENT**

Devin Scott (*excused*)  
Patrice Waterman (*excused*)

**OTHERS PRESENT**

Matthew Henzi, Sullivan, Ward, Asher & Patton  
Ellen Zimmermann, Retirement Accountant  
Jane Arndt, M-Administrative Assistant  
Sam Scott, Representative Melton Chief of Staff

Larry Marshall, Retiree  
Linda Watson, Retiree  
Carol Czechowski, Retiree  
Kathleen McNally, Retiree  
Patricia Barasch, Retiree  
Sandra Spindler, Retiree

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**AGENDA CHANGES**

Chairman Harrison asked to move agenda changes in front of public discussion in the agenda. He assured those attending the meeting that everyone is here regarding the same issue. The attorney will help with the understanding of this issue.

**Re: Election Results**

It was determined that the election results will be moved up to the front of the agenda to allow Tuesday Redmond to participate in the meeting.

**RESOLUTION 11-014** By Williams, Supported by Woods

Whereas, a General Election for the Retiree Trustee to the Board was conducted on February 15, 2011, and

Whereas, the official results of the election have been certified and canvassed

Resolved, that the official election results are hereby certified by the Board of Trustees.

Yeas: 7 – Nays: 0

**RESOLUTION 11-015** By Jukowski, Supported by Bowman

WHEREAS, the General Employees Retirement System on February 15, 2011 did elect an Employee Trustee for a term beginning February 23, 2011 and ending March 31, 2015; and

WHEREAS, by its own adopted rules and regulations, the Board of Trustees is required to canvass and certify the results of all Employee Trustee elections; and

WHEREAS, the Secretary has furnished a statement certifying the filing and nomination of three candidates for the General Election held on February 15, 2011; and

WHEREAS, Trustee Shirley Barnett has furnished a statement canvassing the returns of February 15, 2011 at which one candidate was elected to the position of Employee Trustee;

RESOLVED, that the Board of Trustee hereby canvasses the returns of a General Election held on February 15, 2011 and hereby certifies that the candidate listed below, having received the highest number of General Election votes, was elected Employee Trustee for a term beginning February 23, 2011 and ending March 31, 2015;

Certified Elected Trustee

TUESDAY D. REDMOND  
Federal Programs/Block Grant

FINALLY, that the election of Tuesday D. Redmond to the General Employees Retirement System Trustee was conducted in accordance with all election policies and procedures adopted by the Board.

Yeas: 7 – Nays: 0

**Re: House Bill 4214**

Chairman Harrison reported that the attorney has information he would like to share with the Board regarding House Bill 4214. He also indicated that Sam Scott is at the meeting representing House Representative Tim Melton.

Mr. Henzi referred to a summary of House Bill 4214 and sample letters in opposition to the bill included in the Legal Report. He said that this is fast moving legislation that will be voted on in the House today or next week. This legislation will allow an Emergency Financial Manager appointed to a financially distressed community to set actuarial assumptions, replace trustees or disband the Board and act as a sole trustee or move the pension system to the Municipal Employees Retirement System (MERS) of the State of Michigan.

He indicated that a number of individuals testified to the House Committee regarding the health of the City of Pontiac Pension Systems. Based on this testimony, an amended bill was adopted on February 22, 2011 stating that if a pension system is 80% or more funded the EFM will not be given authority over that pension system. Ms. Zimmermann has a copy of the amended bill.

He read a summary of the amendment that prohibits the takeover of pension systems more than 80% funded from the bill. This is evidence that people from Pontiac speaking out caused the amendment to this bill.

The bill will also allow the termination of collective bargaining. There is a letter included within the Legal Report for the Chairman to sign and send to Representative Melton stating the effects this bill could have on this System.

Ms. Zimmermann said that she received an email from the MAPERS lobbyist regarding the amendment. They are in attendance at the House and this bill is moving at a very fast pace.

Mr. Henzi said that residents of cities with Emergency Financial Managers should be concerned about the EFM having control over the pension system and using pension assets to balance the City's budget.

## **PUBLIC DISCUSSION**

Sam Scott introduced himself to the Board. He is the legislative aid to Representative Tim Melton. He received information from Representative Melton that the EFM bill was brought to the House floor. The Republicans took one day for amendments and the next day was the vote on the bill. The Representative Pscholka from the Benton Harbor area offered twenty-one amendments all technical in nature to the bill. All were gaveled without vote. None of these amendments impacted the substance of the bill. The amendments offered by the Democrats were not allowed a vote. The Flint area Representative Woodrow Stanley offered an amendment that was gaveled down without a vote.

Representative Melton worked with Republicans in Committee to add amendments to the bill including the one that well funded pension systems of 80% or better are not impacted by the bill. He offered a number of additional amendments to the bill that were not accepted including that the EFM has to competitively bid all contracts. The Department of Treasury has to approve the Emergency Manager's financial plan. Any accrued pension benefits are protected. All financial expenses are posted to the City's website. The Treasurer has to approve the sale of assets over \$5,000.00. An EFM's compensation is paid by the State rather than the municipality. Municipalities are held harmless regarding revenue sharing. The EFM has to secure competitive bids for \$50,000.00 or more. The sale of assets amendment was adopted. The pension protection amendment is still in the bill but it is early in the process. He acknowledged that Representative Melton will vote against the bill.

Trustee Jukowski indicated that a flyer was sent out stating that he, Rick Snyder and Tim Melton sent this bill to the House. He said that this is typical of the misinformation that goes out in the City. He said that the information is not true and he would appreciate, anytime someone

references his name in a flyer, that they contact him first. This is what makes Pontiac look bad. He asked that individuals quit sending out false information.

Retiree, Judy Davidson asked what it means when they reference pension funding. Trustee Jukowski said that this Fund is 158.5% funded. It means that the actuary has determined that when all the bills have been paid there is still 60% more money than what is needed to pay out the retirees. The current amendment in the bill states that the Emergency Manager cannot touch a pension system unless it is less than 80% funded. This System is well funded and currently cannot be touched.

Retiree, Carol Czechowski asked if the Bill can be changed in the Senate. Mr. Scott said that the Senate could pass the bill from the House, change it, or, start with a new bill. He confirmed that the members should send letters and emails to their state senators.

Trustee Jukowski suggested that members send letters and email to all the state representatives and senators.

Chairman Harrison asked if procedure-wise any part of the House Bill can be taken out if the Senate makes changes and whether the bill would come back to the House.

Trustee Jukowski said that the bill would go to reconciliation. However, it would be a closed session and the Republicans, because they have the majority, would choose the members on the committee.

Chairman Harrison confirmed that the committee would include members from both the House and Senate.

Mr. Scott said that the bill would never come back to the House. Chairman Harrison asked if the bill would go back to the Senate once it went through the reconciliation process.

Trustee Jukowski said that under the current statute the Section 420 transfer is a gray area. The previous EFM felt he could take the place of the Mayor on the Retirement Board and he also argued with Mr. Leeb about his belief that he could make all board appointments. Under the current statute City officials have no authority and there is no gray area in the new bill and he could put his people on the Board. There is a fundamental change that elected officials have no authority and are locked out. He is still in favor of obtaining an opinion from the Attorney General.

Retiree, Larry Marshall confirmed that the amendment was not accepted in the Senate version of the bill. He asked if there are any legal challenges to the bill.

Mr. Henzi said that there should be and probably will be communities in front of judges asking for restraining orders and injunctions. An avenue does exist for legal challenges.

Ms. Watson asked if Trustee Jukowski is planning to bring up the Attorney General opinion.

Trustee Jukowski said that he is in favor of obtaining an opinion from the Attorney General. He added that it is already an item on the agenda.

Ms. Watson asked if the EFM can dissolve the Board or remove trustees.

Trustee Jukowski said that as vacancies come up the EFM could act as the City Council and appoint new Board members. The current EFM has not attempted to do this because he would lose in court.

Ms. Watson also asked if the EFM would take on the fiduciary responsibility if he takes a position on the Board. Mr. Henzi said that if the EFM assumes the role as the sole trustee he would become a fiduciary of the System.

Chairman Harrison said that there are a number of people fueling the fire of this bill and MERS is looking to take over a lot of local government pension funds. At that point the State would become the fiduciary. He indicated that MERS is only 87% funded and that this System is doing a better job of managing investments. Whether this EFM would take this route is unclear. As a sole fiduciary of the Fund he could take the funding and then send it to MERS. Generally, a bill does not get this type of response.

Trustee Jukowski said that it seems unrealistic to have the State take over when they have a \$3 billion deficit versus the City with a \$4 million deficit.

Ms. Zimmermann said that at a MAPERS session there was an actuary that said there are a number of systems that went from defined benefit to defined contribution plans that are converting back to a defined benefit plan because there are no new people to fund the other plan and that causes an immediate spike in the required contributions for the employer.

Retiree, Sandy Spindler asked if the beneficiary would be covered if the bill goes through. She indicated that she signed a beneficiary option form at the time of her retirement.

Trustee Jukowski said that the beneficiary selected at the time of retirement and the benefit would not change.

Mr. Henzi said that the terms of the plan would not change. However, the EFM could not make the City's annual contribution to the Fund and use that money to balance the City's books.

Ms. Watson asked if the attorney plans to find out what happens to the vacant positions on the Board when all the employees are gone.

Chairman Harrison said that there is a lot of concern regarding this issue. He asked that legal counsel look into the issue. He also asked if Mr. Henzi could speak to the issue.

Mr. Henzi said that if all employees are laid off, there would not be any employee trustees on the Board. Currently, the Ordinance reads that there is a hospital deferred vested member position

on the Board. The Ordinance would have to be rewritten to allow laid off employees to become trustees on the Board.

Chairman Harrison said that the new legislation with the Emergency Manager says he or she has sole discretion to replace the trustees on the Board. In the past this would be handled through collective bargaining, but if this bill is passed you would have to go to Court and get a restraining order or injunction. The magnitude of this bill strips collective bargaining authority which impacts what happens. This is a moving target. There are a number of people from Pontiac rallying at the Capital now. There will be a lot of legal ramifications to be dealt with. What happens if the City is privatized and the Emergency Manager is not here?

Trustee Woods said that if the bill passes the Emergency Manager will definitely privatize the City. As a trustee she would like to take steps to insure that there is a representation on the Board. She asked what the Board needs to do to keep City employee positions on the Board and how to protect the Retirement Office staff so the retirees are paid, minutes are done, etc.

Chairman Harrison said that this bill has been on such a fast track that they did not realize these issues would need to be dealt with.

Mr. Henzi said that this bill was approved in the House of Representatives within two weeks. Normally, the Board trustee position would be bargained with the City. The privatization of the City information could be incorporated as an amendment to the Retirement Ordinance. However, one component of the bill is the elimination of collective bargaining. The Emergency Manager will have to right to make appointments to the Board. The argument will be more difficult if the bill passes with the amendment. It is a work in progress and how the bill is passed will determine which action should be taken.

Trustee Woods said that they are losing more General Fund employees every day and is concerned about what will happen if the City is privatized.

Mr. Henzi said that the Ordinance can be amended through collective bargaining. However, the EFM could block the action. The Board would have the option to file an injunction. The success of that argument rises and falls with this bill.

Chairman Harrison said that the Representatives are voting along party lines.

Trustee Naglick said that the reason why this is being done is because the State was afraid of widespread bankruptcies. With business property taxes declining 68%, residential property taxes declining 28%, and expected cuts to revenue sharing (with 40% cuts to statutory revenue sharing). They know that cities are losing their revenue streams. As trustees we know that pension benefits are over funded but retiree healthcare benefits are significantly underfunded.

Mr. Henzi said he does not know the proposed bankruptcy rules but retiree healthcare benefits are not protected. This would be different than a private bankruptcy.

Trustee Naglick said that is why they are trying to push this through.

Chairman Harrison said that the problem is the big generalization of authority and that the EFM would have too much authority or more authority than needed.

Trustee Barnett said that the retirees can pay for their own healthcare like the hospital retirees. They pay theirs and get less in pension benefits.

Trustee Jukowski said that if the City goes bankrupt, the State and City's bond ratings drop. When bankruptcy happens you go to court because you cannot pay your bills. Everyone takes a pay cut. Healthcare may get paid ten cents on the dollar. A judge can order that the City pay for healthcare but at some point the issue will be on the table. The statute in the bill is like giving "bankruptcy light" powers to the Emergency Manager.

Trustee Bowman said that we have gotten off the topic somewhat. We just watched the hospital go through bankruptcy. Lou Schimmel made a statement that you cannot cut your way to fiscal efficiency. There is only \$400,000.00 left in the General VEBA because the City took it to pay some of its deficit. Let's just tell the truth. There are other ways to create revenue streams, but so many things have happened during the past eighteen to twenty-four months. The Board does not have authority to govern what happens in Lansing. We can write letters and do what we can. He asked if the Board could move on. The Mayor wants to request an opinion from the Attorney General. Simply stated, the Emergency Manager should not have full authority over the City.

Mr. Scott reported that he just spoke with Representative Melton's Chief of Staff and the language in the House Bill was not accepted in the Senate Bill. This will be a three week battle. The committee will be made up of who those the Republicans choose. It will not be passed without a Democrat supporting the bill. Now how it happens will be handled by a select few. He incorrectly stated that the bill would remain in the Senate. The bill will go back to the House.

Chairman Harrison said that a reprieve does not exist as we speak. It is wide open again. If the bill is approved without the amendment we will have not choice but to go to Court to keep them from taking the pension funds.

Andrea Wright congratulated Tuesday Redmond for winning the trustee position on the Board. She expressed that she enjoyed her time on the Board and took it very seriously. She will continue to support the Board and will take a stand against what is wrong. The City is in the fight of its life. It is important to stand up for what is right. She will continue to come to meetings and to fight.

Chairman Harrison acknowledged Ms. Wright for her years of service and dedication to the Board.

Retiree, Kathleen McInally said that members need to flood their representatives with letters. She asked where to obtain the contact information.

Mr. Henzi said that the letters to go out to the representatives have not been approved by the Board.

Ms. Zimmermann suggested that the letters to the members be sent out by the Retirement Office. This would make sure that everyone is reached.

Mr. Henzi said that members can make phone calls or send emails. The contact information is on the State of Michigan website. He recommended sending communications to the Speaker and the Speaker Pro Tem.

Retiree, Paula Barasch asked what MERS is. Mr. Henzi said that it is the Municipal Employees Retirement System. It acts as the retirement system for a number of communities. The board is appointed by the Governor or the State Treasurer.

There is a real fear that the Emergency Manager will turn the pension system over to MERS. The General Employees Retirement System funding ratio beats most if not all of the pension systems in Michigan.

Ms. Zimmermann said that MERS also includes teachers and judges.

There was a question whether benefits would be the same. Ms. Zimmermann said that MERS has set benefit levels.

*Hospital retirees and Mr. Scott left at 2:53 p.m.*

Chairman Harrison said that it seems that we have taken a step backward. It is surprising that the amendment got into the House Bill.

Ms. Zimmermann said that the MAPERS legal team and lobbyist are testifying this afternoon.

Mr. Henzi said that it is important to work with MAPERS and communities with similar situations. The amendment was not just put into the bill for the City of Pontiac.

Chairman Harrison said this was discussed at the NASP meeting last week.

Chairman Harrison said that there were a number of people representing communities and not just Pontiac and Detroit. There were representatives from Hamtramck, Bloomfield Hills and Troy. There is a formula determining who is a distressed community and there are forty to sixty communities that fall within these parameters. Now is the time to begin the campaign to oppose this legislation.

Trustee Barnett asked if any City retirees were participating in the meetings being held in Lansing.

Ms. Zimmermann said that a number of members have testified.

## APPROVAL OF CONSENT AGENDA

A. Minutes of Regular Meeting: January 26, 2011

B. Communications

1. Correspondence from AMBS Re: Newsletter
2. Correspondence from Artio Global Re: Newsletter 12/10
3. Correspondence from Sawgrass Re: Newsletter
4. Correspondence from Systematic Re: Compliance Letter
5. Correspondence from GERS to Ms. Hardiman Re: Request for Retiree Increase
6. Conferences
  - a. Investments Institute – IFEBP – April 11-13, 2011
  - b. 2011 Annual Conference – NCPERS – May 21-26, 2011

C. Financial Reports

1. Financial Reports – January 2011
2. Securities Lending –
3. Capital Call Ratification:
4. Accounts Payable
  - a. ADP \$2,662.44
  - b. Artio Global 82,625.75
  - c. Berwyn Group 161.00
  - d. City of Pontiac 114,652.14
  - e. Ikon (copier) 307.71
  - f. Gray & Co. 141,194.18
  - g. Kennedy Capital 59,844.00
  - h. Loomis Sayles 44,153.15
  - i. MES 880.00
  - j. Munder 81,762.00
  - k. Office Depot 1,238.02
  - l. Rodwan Consulting 1,400.00
  - m. Stevens Record Management 56.88
  - n. Sullivan, Ward, Asher & Patton 19,052.32
  - o. VISA 3,069.26

D. Retirements, Refunds, Final Calculations, Re-Examinations

1. Remove from the Rolls:
  - a. Sherwin Birnkrant (deceased 02-03-11); survivor benefit of \$2,154.29/mo to Bernice Birnkrant
  - b. Genevieve Hipps (deceased 02-13-11)
2. Applications for Service Retirement:
  - a. Kevin Cook – Local 2002 25 years, 0 months Age 51
  - b. Cynthia Ford – NOMC 14 years, 11 months Age 55
3. Application for Deferred Retirement
4. Final Benefit Calculations:
  - a. Willie Kellar #1400 \$1,647.92
  - b. Cynthia Ford #2609 932.39
5. Change of Retirement Effective Date:
  - a. Charles Anthony

**RESOLUTION 11-016** – By Barnett, Supported by Williams  
Resolved, That the Board approve the consent agenda for February 23, 2011.

Yeas: 8 – Nays: 0

## **CONSULTANTS**

## **REPORTS**

**Re: Chairman** - None

**Re: Secretary** - None

**Re: Trustees/Committees** - None

**Re: Administrator**

### Medicare B Reimbursement

Ms. Zimmermann reported that last month the Board approved Resolution 11-004 stopping the reimbursement of Medicare Part B effective March 1, 2011. Legal counsel sent a letter to the EFM stating that the effective date is April 1, 2011. She asked that this be corrected for the record.

Trustee Barnett asked why the date was changed. Ms. Zimmermann explained that it takes at least six weeks to setup payroll for the reimbursement. She asked that the Board amend the resolution from the January meeting to April 1, 2011 or whatever is practical.

Mr. Henzi said that procedurally the letter went out immediately after the meeting. They did not feel that March 1, 2011 was a fair timeline. The minutes cannot be amended but someone who voted for the resolution can reintroduce it for amendment.

He referred to the letters included in the Legal Report. The response letter from legal counsel for the EFM acknowledged that they owe more. The letter from Dennis Cowan agreed with the Retirement System that this practice is prohibited and that the transaction is illegal. It results in the Retirement System providing an interest free loan to the City. The System is not authorized to pay for healthcare from pension assets. However, it is difficult to change the system mid stream so they feel that April 1, 2011 was a more realistic date. The March 1, 2011 date was not sufficient or fair to allow enough time for the transition.

Ms. Zimmermann confirmed that it takes six to eight weeks and she needs authorization from the City to proceed.

Trustee Naglick said that the EFM is waiting for his legal counsel to confirm the City's obligation. If the lawyers agree, then the system can be setup with the Retirement Office. He said he is waiting to be advised on the City's obligation and looking for the original agreement.

Mr. Henzi said he would look into finding the agreement and verifying the City's obligation.

Chairman Harrison asked what would be a reasonable date.

Ms. Zimmermann felt that April 1, 2011 or sometime thereafter would be practical.

Trustee Naglick agreed with Ms. Zimmermann that the date should be revised allowing a practical timeline that is not in violation of the resolution.

Chairman Harrison asked Mr. Henzi what language would be acceptable.

Trustee Barnett was concerned that it is illegal to pay healthcare benefits out of the pension system.

Chairman Harrison feels that there is a reasonable way to approach the transition.

Ms. Zimmermann explained that it will take time to transition the reimbursement to the retirees and until the transition is completed the Retirement Office will use the process that is in place.

Mr. Henzi agreed and said that the argument is that it is illegal, however, it has been done for sometime and there is a reasonable expectation as to how long it will take to change the process.

Ms. Zimmermann said that if they terminate the reimbursement before it is transitioned a new problem would be created in retiree hysteria because they rely on this reimbursement. The Board does not want to create any additional harm.

Trustee Woods agreed and that the System requires time to change the process.

Chairman Harrison explained that Mr. Henzi is trying to insure that the Retirement System gets back into compliance but with reasonable expectations on implementing a large scale accounting transition.

Trustee Jukowski asked if the Board would be willfully violating the law since they have been informed of the legality of the issue.

Mr. Henzi said that there could be a penalty but felt that since the System was not aware that they were violating a statute, no penalties would be assessed based on their actions to resolve the issue.

Trustee Woods stated that by the same token the Board cannot allow the EFM's attorneys to take forever to make their decision.

Chairman Harrison said that he is more comfortable with a date certain within reason included in the resolution.

Trustee Jukowski asked if there could be associated penalties.

Mr. Henzi said that there could be monetary sanctions. This should not be an issue, however, because the trustees did not know that it was a violation and further, the trustees are implementing a change to become compliant. The trustees are not breaching their fiduciary duty. It would be different if the EFM's letter indicated that the pension system should take over the reimbursement.

Trustee Jukowski confirmed that Mr. Henzi advised the Board that by their actions to resolve this situation it would not be considered a violation to continue the reimbursement to retirees until the process can be transitioned to the City. He was still concerned that illegal is illegal but that the Board needs to be reasonable in rectifying the situation.

Mr. Henzi said that the motion should read that upon realizing that they were not in compliance with reimbursing retirees for their Medicare Part B, the Board is working toward compliance allowing the City and Retirement System to transition the payment effective April 1, 2011.

Trustee Naglick asked if Ms. Zimmermann could be given the authority to setup the separate payroll. Currently, they are waiting for the EFM's authorization.

Ms. Zimmermann asked if she could be authorized to incur costs on behalf of the City.

*Trustee Bowman left at 3:30 p.m.*

Trustee Woods said that the Board cannot authorize Ms. Zimmermann to spend money on behalf of the City. That cannot be put in the resolution.

*Trustee Bowman returned at 3:32 p.m.*

Trustee Naglick and Ms. Zimmermann were directed to work out the details and Mr. Henzi was directed to stay on the EFM's attorney regarding this issue.

*Retiree, Larry Marshall left at 3:34 p.m.*

Trustee Redmond questioned what the new effective date to discontinue the reimbursement would be.

Mr. Henzi said that the Board needs to introduce a motion to rescind the vote on Resolution 11-004, reconsider the resolution and introduce a new resolution with the correct date.

*Retiree, Larry Marshall returned at 3:36 p.m.*

**RESOLUTION 11-017** By Jukowski, Supported by Bowman  
Resolved, That the Board rescind the vote on Resolution 11-004.

Yeas: 8 – Nays: 0

**RESOLUTION 11-018** By Jukowski, Supported by Woods  
Resolved, That the Board would reconsider Resolution 11-004.

Yeas: 8 – Nays: 0

**RESOLUTION 11-019** By Bowman, Supported by Woods  
Resolved, That, based on advice of legal counsel, the Board, being cognizant of the logistical hardship to comply with applicable laws by arbitrarily discontinuing Medicare reimbursements to retirees, the Retirement System will discontinue Medicare reimbursement to retirees as of April 30, 2011 to transition the practice of reimbursing the Medicare payment to avoid disruption of payments to retirees. In addition, the Retirement System shall reimburse the City of Pontiac for all compensation for the Retirement System Administrator and staff upon receipt of cost invoice.

Yeas: 8 – Nays: 0

*Mr. Scott returned at 3:40 p.m.*

Chairman Harrison asked for a point of privilege to allow Mr. Scott to provide an update regarding House Bill 4214.

Mr. Scott said that the Senate's version of the bill includes the language that the EFM can take over the pension system. He stated that they will want a Democrat to be part of the bill so there will be amendments. He reminded the Board that if the Senate passes their version of the bill there will be a reconciliation committee will be convened.

Trustee Jukowski confirmed that the Senate draft of the bill is a carbon copy of the original House bill.

**Re: Legal**

Northern Trust Securities Lending Litigation

Mr. Henzi reported that the hearing on the Defendants' Motion to Dismiss scheduled for February 16, 2011 did not occur.

Airgas Securities Litigation

Mr. Henzi reported that he has not received a report from BLBG regarding the hearing held on January 25, 2011 regarding the defendants' "poison pill."

The Schweitzer – Mauduit International Securities Litigation

Mr. Henzi reported that the litigation is in its infancy and a hearing date has not been set.

IRS Determination Letter

Mr. Henzi reported that the IRS has issued a favorable Determination Letter. Every letter includes an amendment that includes the HEART Act. The act allows for a beneficiary of a member who takes a leave of absence to perform military service with reemployment rights upon the death of the member will be treated as if the member died as an active employee.

He requested that the Board approve to forward the amendment to City Council for adoption.

**RESOLUTION 11-020** By Woods, Supported by Bowman

Resolved, That the Board forward the IRS required amendments and the Heroes Earnings Assistance and Relief Tax Act of 2008 (HEART Act) to the City Council for adoption.

Yeas: 8 – Nays: 0

Nexos Private Equity Growth Fund

Mr. Henzi reported that another letter was sent to the Nexos General Partner. The letter requested that the GP execute an amendment to the Subscription Agreement revising the limited partnership interest and terminating all additional payments for management fees, and any costs or expenses. The letter also requested a response and that the GP provide all financial statements or audit reports as requested. They have had no communication from Nexos to date.

Overpayment of Benefits Due to Death of Retiree

Mr. Henzi reported that at the last meeting the Board asked that he look into the overpayment issue relating to the Estates of William Lewis (\$424.17), Freda Leslie (\$2,366.22) and Leona Neeley (\$3,004.44). They verified that the pension benefits were direct deposited so they could not identify a fraudulent family member. They contacted the Probate Court but there were no open estates in probate for any of these deceased members. A proof of claim could not be filed without an open estate.

Chairman Harrison confirmed that no new checks were being issued. He understands that the Board needs to address their fiduciary duty but recommended that they cut their losses of approximately \$6,000.00 because it would cost more to recoup the funds.

Mr. Henzi agreed that it would cost more to recoup the funds than what is owed to the System.

**RESOLUTION 11-021** By Jukowski, Supported by Williams

Resolved, That the Board resolved to discontinue any further attempts to recoup overpayments to the Estates of William Lewis (\$424.17), Freda Leslie (\$2,366.22) and Leona Neeley (\$3,004.44) totaling \$5,794.83.

Yeas: 7 – Nay 1 (Trustee Bowman)

Trustee Redmond asked if the Retirement Office reads the death notices for deceased retirees.

Ms. Zimmermann indicated that the death notices are watched and a death audit is run a few times per year.

Trustee Redmond asked if the member's life insurance could be used to recoup assets.

Ms. Zimmermann said that the Retirement System cannot attach life insurance benefits to recoup assets.

Trustee Jukowski said that in reality it would cost more than the assets that were lost.

There was discussion regarding why the member's life insurance could not be used and asked that the life insurance avenue be explored.

Ms. Zimmermann asked what the Board would suggest the Retirement Office do.

Chairman Harrison stated that the motion was already passed.

There was concern on what happens going forward and how to better address the issue.

Trustee Barnett stated that one of the retirees had life insurance through the hospital.

Ms. Arndt indicated that the hospital has not notified the Retirement Office for sometime when a member from the hospital passes away.

Trustee Barnett indicated she would speak to the hospital regarding notification. She also asked if the hospital deferred retirees eligible to collect a retirement had been contacted or if she could get a copy of the list. Ms. Arndt informed her that she had reached a number of deferred members.

Chairman Harrison asked if there should be a committee to determine a process to prevent this type of situation going forward.

Ms. Zimmermann did not believe that a committee is necessary. The Retirement Office monitors the death notices and a death audit is run throughout the year to identify deceased members whose death was not reported to the office.

She explained the process to recoup overpayments. The Retirement Office sends out two communications to the estate. She indicated that at the last meeting the Board asked her to find out if the benefits were paid by check in an attempt to identify a family member that could be held responsible for the reimbursement of the overpayment.

Chairman Harrison asked if a motion should be brought setting a dollar amount before bringing an overpayment to the Board.

Trustee Williams said that regardless of what is done there is no way to find out who endorsed a check especially if there is no open estate. If the check was direct deposited good luck going after anything outside of social security.

Ms. Zimmermann stated that some years there are no overpayments or there could be three or four per year. Ms. Munson ran an additional death audit in January at a cost of \$200.00 to the Board because we see more deaths occur around that time of year.

Trustee Naglick suggested running the death audit quarterly.

Mr. Henzi felt that running the death audit quarterly should solve the problem.

**RESOLUTION 11-022** By Naglick, Supported by Barnett  
Resolved, That the Board direct the Retirement Office to run the death audit quarterly.

Yeas: 8 – Nays: 0

Correspondence to Plunkett Cooney Regarding Retirement Department Employee Payroll and Medicare Reimbursement

Refer to Administrator

Correspondence to Plunkett Cooney Re: Roy Dixon, Jr. and Onyx Capital Investors

For the trustees' information.

FOIA From Peggy Hardiman

Mr. Henzi reported that the FOIA from Peggy Hardiman was reviewed and approved to send Ms. Hardiman the number of retirees in the General Employees Retirement System.

FOIA From Linda Watson

Mr. Henzi reported that the FOIA from Linda Watson requesting full travel records for the trustees has been approved.

Trustee Williams voiced his concern over a copy of a trustees' personal check information being provided which would include the trustee's bank account information and address. A letter from the Retirement Office confirming payment could be provided in place of someone's personal information.

Ms. Zimmermann indicated that the information has not been provided to Ms. Watson and that she will redact any personal information from the FOIA documents.

Mr. Henzi stated that personal VISA information should also be redacted.

Motley Rice Portfolio Monitoring Report, Fourth Quarter 2010

Mr. Henzi reported that there are two pending lawsuits included in the report ITT and Genoptics. However, the System does not qualify as lead plaintiff in either litigation. If the litigation is successful the custodian will file a proof of claim.

Bernstein Litowitz Portfolio Watch Fourth Quarter 2010

There are three lawsuits in the report but the System did not have any losses.

### House Bill 4214

Mr. Henzi reported that the letters to the state representatives and state senators will go through the Retirement Office to each member.

The Board discussed revisions to the letters.

Trustee Jukowski said that he was uncomfortable with the Board stating that they support the bill. He would prefer that the wording indicated that the Board would urge the representative to amend the bill to address our concerns.

The letter was amended to read that “Our Pension Board strenuously objects to the passage of the bill as originally proposed.”

Chairman Harrison asked if a motion is needed to revise the letter. Mr. Henzi said that the Board should introduce a motion approving the letter from the Chairman to authorizing legal counsel to work with the Retirement System Administrator with regard to the letters to the members.

Ms. Zimmermann asked if it should identify the amendment language for well-funded pension plans or language regardless of the funding level.

### **RESOLUTION 11-023** By Bowman, Supported by Jukowski

Resolved, That the Board approve the letter from the Chairman to Representatives and Senators and authorize legal counsel to work with the Retirement System Administrator to work on the letters being sent to the members.

Yeas: 8 – Nays: 0

### General Employees’ Retirement System Board Composition

Mr. Henzi stated that Trustees Woods has raised the issue that if the City privatizes and there are no more City employees the Board would have to meet to insure that checks get sent out to retirees. They would have to meet to direct staff

Ms. Zimmermann stated that if the City privatizes everything and quits paying employees there could be a problem getting the employees to come in without pay.

Mr. Henzi said that if everyone is laid off the Board could hold an emergency meeting to hire the staff.

Trustee Woods questioned whether the Board has the ability to hire their own staff.

### Miscellaneous Articles

- IFEBP January 2011 – Diligence Approach for a New Age of Fraud
- The Detroit News, December 26, 2010 – Risky bets costs city’s pension funds \$480 million.
- Detroit News, December 26, 2010 – Earlier findings on Detroit’s two public pensions

- Detroit News, December 26, 2010 – Ex-trustee: Pension funds “investments were garbage”
- Wells Fargo – December 14, 2010 (PLANSPONSOR.com) – US Senate Launches Investigation Into Securities Lending
- Gabriel Roeder, November/December 2010 - NewsScan

Trustee Naglick confirmed that the Board has an ethics policy.

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## UNFINISHED BUSINESS

**Re: Medicare Part B Payroll** - Refer to Administrator

**Re: Retirement Office Payroll** – Refer to Administrator  
Trustee Naglick confirmed that this agenda item has been addressed.

Ms. Zimmermann said she will remove this agenda item.

**Re: Disaster Recovery Plan** – Nothing New to Report

**Re: Attorney General Opinion**

**RESOLUTION 11-024** By Jukowski, Supported by Naglick  
Resolved, That the Board consider obtaining an opinion from the Attorney General with regard to a 420 Transfer.

### Roll Call:

Trustee Barnett – Nay	Trustee Naglick – Yea
Trustee Bowman – Nay	Trustee Redmond - Nay
Chairman Harrison – Nay	Trustee Williams - Nay
Trustee Jukowski – Yea	Trustee Woods – Nay

Motion Failed

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## NEW BUSINESS

**Re: House Bill 4214** – Refer to Public Discussion

Trustee Bowman questioned whether the Board is meeting their agenda with regard to the appointment of officers. He asked if a vote can be taken at the next meeting for the Chairman and Vice Chairman.

When the vote should be taken was discussed by the Board.

Trustee Bowman asked that the vote be taken every April to insure compliance.

Ms. Zimmermann said that the motion should be made annually.

Chairman Harrison asked if there are any standard procedures.

Ms. Zimmermann indicated that she did not believe that there were any procedures on when to vote.

Chairman Harrison asked if there is anything in Robert's Rules on how to handle an agenda item when it becomes a nuisance and asked if there is a two-thirds vote of the Board can it be permanently removed from future agendas.

Mr. Henzi said that the motion can be renewed at a subsequent meeting. But a Board member can object to the recurring motion at a specific meeting and vote to withdraw the recurring motion at that meeting.

Trustee Jukowski said that he will continue to call for a vote to consider obtaining an opinion from the Attorney General.

Mr. Henzi said that if the Board opposes the motion they can vote to withdraw the motion so no vote can be taken on the recurring motion.

Chairman Harrison confirmed that even with a two-thirds vote of the Board the motion can be brought back at the next meeting.

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## **SCHEDULING OF NEXT MEETING**

Regular Meeting: March 23, 2011 @ 1:30 p.m. – City Council Conference Room, Second Level, City Hall

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## **ADJOURNMENT**

**RESOLUTION 11-025** By Bowman, Supported by Jukowski  
Resolved, That the meeting be adjourned at 4:34 p.m.

Yeas: 8 – Nays: 0

I certify that the foregoing are the true and correct minutes of the meeting of the General Employees Retirement System held on February 23, 2011

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*As recorded by Jane Arndt*