

**EMPLOYEES' RETIREMENT SYSTEM OF THE CITY OF MILWAUKEE  
ANNUITY AND PENSION BOARD**

Minutes of the Regular Meeting held June 18, 2009

The meeting was called to order at 9:08 a.m.

Board Members Present:           John Barmore  
  William C. Carey  
  Thomas Fischer  
  Angela Henschel  
  Larry Holland  
  W. Martin Morics, Chair  
  Michael J. Murphy  
  Ron Walter

Retirement System Staff Present:   Bernard J. Allen, Executive Director  
  Martin Matson, Deputy Director  
  Thomas Rick, Chief Investment Officer  
  David Silber, Pension Investment Analyst  
  Kathleen Conway, Board Stenographer

Others Present: Elizabeth Conradson Cleary and Rudolph Konrad, City Attorney's Office; Jon Granger, Sagetic Solutions; Mark Nicolini and Dennis Yaccarino, Budget Office; Kenneth Engel, Retired Fire and Police; Tom Hayes, Milwaukee Retirees Assn.; Konrad Ellenberger, MPSO; Larry Langer and Marco Ruffini, Buck Consultants; Steve Schmidbauer, Jefferson Wells; Jon Johnson, MRPA; John English, DC 48; Ken Wischer, City of Milwaukee; and Doug Kryscio and Patricia Hafner, Mercer Investment Consulting.

Mr. Morics indicated he had a request to take up item VII. A. as the first order of business due to scheduling conflicts, and there being no objections, he would grant the request.

**Update on City Contact with Buck Consulting.** Mr. Morics stated this item has touched some nerves and become sensitive, which could potentially lead to possible court action. He stated the City Attorney has advised the Board on matters such as the Board's rights and authority to proceed with this and any other legal issues that may arise. He noted that the issue was raised by Mr. Walter that ultimately if this ever wound up in some kind of legal action that a conflict may arise that the attorneys the Board is getting the advice from on this matter may not be the attorneys that would be in court for the Board. Mr. Morics stated that in the interim the City Attorney has authorized the Board to obtain separate counsel on this item if the Board so wishes. He felt it prudent that rather than changing counsel halfway through any issues, the Board obtain separate legal counsel at the outset.

Mr. Carey voiced concern about the City Attorney advising the Board today as they are the representative of the City and he felt there may be a conflict. Mr. Konrad said the City Attorney's letter, dated June 9, 2009, indicates that they are amenable that the Board get outside counsel, and that position is not dependent on whether or not there is a conflict. After discussion, it was moved by Mr. Murphy and seconded by Mr. Walter, to lay this item over to obtain separate counsel and reconvene on this matter, at the call of the Chair, when the Board's separate counsel is prepared to advise us. After discussion, the motion carried, with Mr. Carey being recorded as objecting. Mr. Morics indicated that Mr. Carey has handed out correspondence from the Milwaukee Retiree Association, the Milwaukee Retired Police

Association, and a letter from Mr. Carey. He stated this meeting is a public meeting, not a public hearing.

Mr. Morics stated there are requests to address the Board. Given the magnitude of the change there are likely other interested parties and he asked the Board members if it was their wish to hold a public hearing for the purpose of taking public testimony on this matter. There being no response by Board members to hold a public hearing, Mr. Morics received the letters submitted, but indicated the Board would not take any testimony today or in the future. Mr. Morics thanked everyone for attending, and indicated that Mr. Nicolini would reserve the presentation and any comments until the Board has their cast of experts in attendance. Mr. Nicolini asked if it was appropriate to offer his availability to any Board members. Mr. Morics stated that would be noted.

**Approval of Minutes.** Mr. Allen presented the minutes of the Regular Meeting held May 26, 2009. Mr. Konrad handed out minutes from the Special Meetings from June 1, 2009, June 5, 2009 and June 8, 2009 related to Item VII. A. It was moved by Mr. Carey, seconded by Ms. Henschel, and unanimously carried, to approve the Minutes of the Regular Meeting held May 26, 2009, and the Special Meetings held June 1, 2009, June 5, 2009 and June 8, 2009.

**Chief Investment Officer Report.** As a matter of information, Board members received a copy of the CIO Report, dated June 12, 2009. Mr. Rick handed out a copy of the Performance Update Charts. Mr. Silber reported that as of May 31, 2009 the Fund's value was \$3.52 billion and had a return of 6.2 percent in May, which outperformed the benchmark return of 5.0 percent. The Fund is also outperforming year-to-date through May with a return of 5.7 and is outperforming its benchmark by about 2 percent. Both Loomis Sayles and Reams outperformed their benchmarks, with Reams returning 9.8 percent and Loomis returning 6.6 percent during May against the benchmark return of 0.7 percent. Other positives for May were five of the Fund's six active U. S. equity managers outperformed their benchmarks, and Northern Trust outperformed their benchmark by about 10 basis points. Mr. Silber stated that the main detractor for the Fund during May was in the real estate portfolio as there were a few more write-downs recognized by ERS' custodian and the Fund is still overweight in its 7 percent target.

He reported that through June 17, 2009, the Fund is down approximately 0.4 percent, putting the Fund's year-to-date return at 5.3 percent. As of yesterday the Fund's approximate value was \$3.51 billion. Mr. Silber indicated that for June the Fund will be withdrawing \$18 million: \$6 million from Barclays Alpha Tilts, \$6 million from Reams, and \$6 million from Loomis Sayles. As of June 17, 2009, year-to-date, the Fund had: capital market gains of \$173.6 million; paid out \$106.1 million in payroll and expenses; and received contributions of \$15.8 million.

**Approval of Reams' Request to Hold Downgraded Bonds.** As a matter of information, Board members received correspondence from Reams, dated June 11, 2009 and June 12, 2009. Mr. Silber stated there are securities from three issuers that they would like to request an additional 90 days to keep in the portfolio: Chrysler, Ford Motor Credit and Lear and he talked about the securities. After discussion, it was moved by Mr. Fischer and seconded by Mr. Mr. Murphy, to approve Reams' request to continue holding these securities for an additional 90 days based on staff recommendation. The motion carried, with Mr. Barmore being recorded as objecting.

Mr. Rick reported that ERS earned a net \$849,000 in our securities lending activity year-to-date. He wanted to point out that the core collateral pool used in our securities lending program has made steady progress in eliminating the amount of unrealized losses due to mark to market issues that precipitated Northern declaring a collateral deficiency back in September 2008. The collateral pool is currently valued at .9982 on the dollar. He stated that what this means, in effect, is that once the pool exceeds \$1 ERS will effectively be paying down the \$3.8 million account payable recorded on our books when the deficiency was declared. He talked about upcoming due diligence trips scheduled with Brandes and DFA in August, as well as visits to Mercer and Northern Trust for the fall.

**Administration and Operations Committee Report.** Mr. Barmore updated the Board on the MERITS Special Projects activities.

**Approval of Contract with Inland Construction.** Mr. Barmore indicated this is to do HVAC work on the 4<sup>th</sup> floor of 789 N Water, with replacement of the Liebert unit. The committee recommended the contract not exceed \$45,000. Staff is to provide the Inland proposal at today's meeting.

**Approval of Contract with S & S Consulting.** Mr. Barmore stated the committee approved staff hiring additional resources to create the IT Standard Operating Guidelines. Approval is subject to City Attorney review and approval.

**Approval of Contract Amendment with Saber Consulting.** Mr. Barmore indicated this is just a housekeeping item related to a name change to Saber Software. Approval is subject to City Attorney review and approval.

**Approval of Contract Amendment with Virchow Krause.** Mr. Barmore reported this is also a housekeeping item to recognize that VK is now the U.S. franchise of Baker Tilly, an international accounting firm headquartered in the UK. Approval is subject to City Attorney review and approval.

**Approval to Contract with Inacom.** Mr. Barmore stated that staff will be creating a general services contract to bring back to the A&O and the Board for approval for specific software upgrade assistance.

**Approval of ERS Ethics Policy.** He indicated that the committee approved the ERS Ethics Policy as drafted by the City Attorney. The committee also asked that the ERS Basic Office Guidelines be amended to recognize that rules may be amended by collective bargaining units. The city attorney drafted a single Acknowledge Form for sign-off by staff for both the Ethics Policy and the Basic Office Guidelines.

(Please note the Board did not convene in closed session as noticed on Item III. G.)

**Fiduciary Liability Insurance Renewal.** Mr. Barmore reported that the committee approved using the Hayes Group as the ERS agent for the renewal process, replacing Willis as the current agent, based on the recommendation of the City Attorney's Office.

It was moved by Mr. Barmore, seconded by Mr. Fischer, and unanimously carried, to accept the A & O Committee Report, and approval of items A. through G., with items B., C. and D. being subject to City Attorney review and approval.

**Legislative Committee Report.**

**Approval to Amend Board Rule XVII. L. 1 and 2 – Retirement and Death Benefits.**

Mr. Matson handed out a copy of the Board Rule change, dated April 15, 2009. Mr. Carey reported this is a technical correction. Mr. Matson said this went to the City Attorney for review of the rules. He noted it was a technical change to reflect ERS’ procedure when paying out GPS lump sum bonuses.

**Approval to Amend Board Rule XV. A. 2 – Service Credit – Unpaid Service.**

Mr. Carey stated this amendment was withdrawn as the Common Council made the necessary change to Chapter 36 regarding unpaid furloughs.

It was moved by Mr. Carey, seconded by Mr. Fischer, and unanimously carried, to accept the Legislative Committee report and approve the amendment to Board Rule XVII. L. 1 and 2.

**New Business.**

**Retirements, Death Claims, and Refunds.** Mr. Allen presented the following activity, as well as Service Credits for the month of June 2009.

Active Death Benefits reported	\$0.00
Retired Death Benefits reported	\$9,199.36
Refund of Member Contributions paid	\$152,559.63

It was moved by Mr. Holland, seconded by Mr. Barmore, and unanimously carried, that the above-indicated retirements, death claims, and refunds be approved.

**Conference Requests.** Mr. Allen reported that requests to attend the following conferences had been submitted:

Bruce Thomas	Zephyr Training
Sponsor:	Zephyr Associates
Dates:	June 23, 2009
Location:	Chicago, IL
Estimated Cost:	\$44

It was moved by Mr. Murphy, seconded by Ms. Henschel, and unanimously carried, to approve the conference request submitted by Mr. Thomas.

**AFSCME District Council 48 Request to Contact System’s Actuary.** Mr. Allen handed out a letter from DC 48, dated June 16, 2009. It was moved by Mr. Murphy, and seconded by Mr. Fischer, to approve the request with the understanding that all costs will be borne by AFSCME DC 48. After discussion, the motion unanimously carried.

**Proposed Health Care Taxation.** Mr. Allen indicated that this was on the agenda at Mr. Carey’s request. He said Mr. Carey would like the Board to consider a motion to request the City Council and this Board to oppose any taxation at the Federal or State level of health care benefits. Mr. Carey talked about the Senate bill that has been introduced. Discussion ensued.

**Approval of Retired Member Election Bulletin No. 180 and the Regular Election Bulletin No. 179.** As a matter of information, Board members received copies of Bulletin No. 180 announcing the Retired Member Election, and Bulletin 179 announcing the Active Member Election. Mr. Allen stated there are two elections this year and this is the announcement being sent out to members. It was moved by Mr. Barmore, seconded by Mr. Carey, and unanimously carried, to approve Bulletins No. 180 and 179.

**Medical Reports.**

**Fire and Police Duty Disability and Duty Disability Re-examinations.** Mr. Allen presented certifications of the Fire and Police Medical Panel Physicians relative to Duty Disability Retirement Benefit as follows:

<u>Police – New Applications - Duty</u>	<u>Recommendation</u>
Michael Boden	Denial
 <u>Police – Re-examinations</u>	 <u>Recommendation</u>
Darcy Raney	Approval
Scott Benton	Approval
Norma Boyd	Approval
Robert Enters	Approval
Joseph Farina	Approval
Scott Ryan	Approval
 <u>Fire – Re-examinations</u>	 <u>Recommendation</u>
Kenneth Green	Approval
Marc Stankiewicz	Approval
Karen White	Approval

**All Ordinary Disabilities and General City Duty Disability.** Mr. Allen presented certifications of the Medical Council relative to Duty Disability Retirement as follows:

<u>New Applications – Ordinary</u>	<u>Recommendation</u>
Kathleen Becker Effective 6/6/09	Approval
Marsha Conner Effective 5/13/09	Approval

<u>Re-examinations – Ordinary</u>	<u>Recommendation</u>
James Houston	Approval
Gregory Dziadosz	Approval
Terry Moore	Approval
Xaoyee Yang	Approval
Ricky Massey	Approval
Steven Wesolowski	Approval
Gloria Nichols	Approval
Marvin Siravo	Approval
Allen Silva	Approval
Theresa Keyes	Approval
Darrell Smith	Approval

<u>Re-examinations – Duty</u>	<u>Recommendation</u>
James Walensa	Approval
Victoria Hellem	Approval
Robert Donahue	Approval
Arthur Saringer	Approval
Paul Rooney	Approval
Daren Andrysczyk	Approval
Otis Caldwell	Approval

It was moved by Ms. Henschel, seconded by Mr. Fischer, and unanimously carried, to accept the aforementioned recommendations of the Fire and Police Panel Physicians and the Medical Council.

**Disability Findings – Phillip Quigley.** Mr. Allen presented the findings submitted by Independent Hearing Examiner Gerlach, whose Decision states “It is recommended that the decision of the Annuity and Pension Board denying Applicant Phillip Quigley duty disability retirement status be reversed”. Correspondence was also received from the City Attorney’s Office, dated June 10, 2009, and Mr. Quigley’s attorney, Daniel Schoshinski, dated June 10, 2009, indicating they did not intend to file briefs. It was moved by Mr. Barmore and seconded by Mr. Murphy, to accept the decision of Independent Hearing Examiner Gerlach, reversing the denial of duty disability benefits for Mr. Phillip Quigley. Mr. Barmore stated that there is a one year time period when an employee is on injury leave where you are compelled to either return to work, apply for duty disability or go on ordinary disability. He said this time limit, in his opinion, may violate the Americans Disability Act as the member is forced to be in a purgatory situation and apply for disability early because they have no where else to go. The finding of the third doctor was not acceptable and ERS indicated the doctor needed to either opine that the employee is completely and permanently disabled or the employee can return to work. After discussion, Mr. Barmore requested the City Attorney provide the Board with an opinion on the one-year time period limit where the member is compelled to apply for disability or return to work, and also, does the Board have any input into that rule or is that someone else’s authority. Mr. Morics asked if the City Attorney could have that ready for the July meeting. Mr. Konrad answered in the affirmative. After discussion, the motion unanimously carried.

## **Unfinished Business.**

**Legal Opinion and Service Requests Pending.** As a matter of information, Mr. Allen presented a list of pending requests for legal opinions and service requests made to the City Attorney.

**Legal Opinions Obtained.** Mr. Allen presented a legal opinion obtained from the City Attorney as follows:

**Board Rule Amendment – XIII. A (Membership).** Requested May 28, 2009. Ms. Cleary briefly discussed the opinion.

**General Service Contract – Inland Construction.** Requested June 3, 2009. Ms. Cleary briefly discussed the request.

**ERS Ethics Policy.** Requested March 13, 2009. Ms. Cleary briefly discussed the request.

It was moved by Mr. Holland, seconded by Mr. Fischer, and unanimously carried, to accept the correspondence dated June 9, 10 and 12, 2009 and place on file

**Legislation Requests Pending and Proposed Legislation.** As a matter of information, Mr. Allen presented a list of pending requests for legislation. Brief discussion ensued with respect to file 090049.

**Executive Director's Report – Inventory of ERS Projects.** As a matter of information, Mr. Allen presented a report on the ERS projects and updated the Board on ERS activities.

**Milwaukee Police Supervisors' Organization vs. ERS, et al. Case No. 05-CV-006697 and State of Wisconsin vs. Bradley DeBraska, Case No. 2009-CF-000695.** Mr. Morics asked if there was any need to convene in closed session on these items. Mr. Allen answered in the negative as there was nothing to report at this time.

## **Informational**

The following is a list of informational items:

- 1) Report on Claims and Litigation – Memorandum dated June 18, 2009, which gives the status of litigation involving the ERS, as prepared by staff of the ERS and City Attorney's office.
- 2) List of conferences from June 2009 through February 2010.
- 3) Class Action Lawsuit Report.
- 4) Minutes of the Investment Committee Meeting held May 6, 2009.
- 5) Minutes of the Investment Committee Meeting held May 7, 2009.
- 6) Letter from Milwaukee Retired Police Association.

The following is a list of activities since the last Board meeting, copies sent with meeting notice and attached to minutes:

- 7) Report on Bills.
- 8) Deployment of Assets.
- 9) Securities Lending Revenue and Budget Reports.
- 10) Preliminary Performance Report/Asset and Manager Allocation Pie Charts.
- 11) ERS Holdings Report.

It was moved by Mr. Murphy, seconded by Ms. Henschel, and unanimously carried, to accept and place on file the aforementioned informational items.

There being no further business, it was moved by Mr. Carey, seconded by Mr. Holland, and unanimously carried, to adjourn the meeting at 10:15 a.m.

Bernard J. Allen  
Secretary and Executive Director

**(NOTE:** All proceedings of the Annuity and Pension Board Meetings and related Committee Meetings are recorded. All recordings and material mentioned herein are on file in the office of the Employees' Retirement System, 789 N. Water Street, Suite 300.)