

EMPLOYEES' RETIREMENT SYSTEM OF THE COUNTY OF MILWAUKEE
MINUTES OF THE FEBRUARY 9, 2005 PENSION BOARD MEETING

Chairman Walter Lanier called the meeting to order at 8:20 a.m. in Room 203-R of the Milwaukee County Courthouse.

1. Roll Call

Members Present:

Linda Bedford
Donald Cohen
Walter Lanier
John Martin
Marilyn Mayr
Michael Ostermeyer
Dean Roepke
Cliff VanBeek

Members Excused:

None

Others Present:

Charles McDowell, Director of Human Resources
Gloria Morris, Retirement Coordinator
Howard Felix, Interim Benefits Manager
Gordon Mueller, Fiscal Officer, Employees' Retirement System
Ann To, Milwaukee County
William Domina, Corporation Counsel
Mark Grady, Principal Assistant Corporation Counsel
Steven Huff, Reinhart Boerner Van Deuren s.c.
Leigh Riley, Foley & Lardner
Brad Blalock, William M. Mercer, Inc.
Patrick Race, William M. Mercer, Inc.
Brian Price, Gonzales, Saggio & Harlan LLP
Michael Howden, Retiree
Kathy George, Maximus
Dave Umhoefer, Milwaukee Journal Sentinel

2. Approval of Minutes of January 19, 2005 Meeting

The Board unanimously approved the minutes of the January 19, 2005 Pension Board meeting. Motion by Mr. VanBeek, seconded by Mr. Martin.

3. Reports and Requests from Retirement System Staff

A. Retirements Granted

Ms. Morris presented the schedule of Retirements Granted for the prior month's retirements and asked that the Board ratify them.

The Board noted Mr. VanBeek's retirement and members praised his service to Milwaukee County and the Pension Board. Dr. Roepke commended Mr. VanBeek's dedication to Milwaukee County and pointed out his 31 1/2 years of service with the County, 30 years of military reserves service and nine years as a dedicated Pension Board member. The Chairman echoed his sentiments and congratulated Mr. VanBeek on his career with the County and service on the Pension Board.

The Board unanimously approved the grant of Mr. VanBeek's retirement benefits. Motion by Dr. Roepke, seconded by Mr. Martin.

The Board examined the remaining retirements granted in detail. Ms. Mayr pointed out that backdrop benefits totaled \$16 million.

The Board unanimously approved the remaining retirements granted. Motion by Dr. Roepke, seconded by Mr. Martin.

B. Director of Human Resources, Charles McDowell

(i) Staffing of ERS

Mr. McDowell reported on the nationwide search for a Retirement System manager. Mr. McDowell stated that he is reviewing applications and hopes to have final applications ready by the end of the month for submission to the Board committee. Mr. McDowell also noted that interviews will be conducted soon for two clerical positions.

(ii) Status of Technology System Contract

Kathy George of Maximus presented an update on the IT project. Ms. Mayr raised questions regarding recent

unfavorable publicity involving Maximus. Dr. Roepke described specific Board requests regarding the capabilities of the new IT pension program. Mr. Ostermeyer stated that the Board should be involved in review of the RFP that Maximus is preparing and the evaluation criteria that will be used in vendor selection after the RFP responses are received. The Board noted that this item will probably be addressed at the March Pension Board meeting and that the Board will also be involved in the vendor selection.

4. Disability Retirement Applications

The Chairman stated that the Pension Board may enter closed session to consider medical or personal histories related to disability retirement benefits or to confer with legal counsel with respect to litigation in which it is likely to become involved, provided that motions are made and carried by majority vote to convene in closed session and the Chairman announces the nature of the business to be considered at such closed session. By unanimous roll call vote, the Board agreed to enter closed session to discuss Items 4 and 5. Motion by Dr. Roepke, seconded by Mr. Cohen.

The Board discussed disability retirement applications. Upon returning to open session after discussing Item 5, the Board took the following action:

A. Kevin McElrone

The Board unanimously voted to request that Mr. McElrone submit to a functional capacity evaluation as well as any other test the Medical Board recommends. Motion by Mr. Ostermeyer, seconded by Dr. Roepke.

B. Caridad Colon (Ordinary)

The Board unanimously denied the ordinary disability application of Caridad Colon. Motion by Mr. Ostermeyer, seconded by Dr. Roepke.

5. Pension Service Credit Appeal Request—Kathleen Capaldo

The Board remained in closed session to discuss Ms. Capaldo's appeal.

Upon returning to open session, the Board unanimously denied Ms. Capaldo's request. Motion by Dr. Roepke, seconded by Ms. Bedford.

6. Pension Benefit Waivers

The Board unanimously accepted the benefit waivers of Dennis Buesing and Veronica Britt. Motion by Ms. Bedford, seconded by Ms. Mayr.

7. Interpretation of Retiree Election Rules

The Chairman presented a proposed codification of the Pension Board's interpretations regarding procedures for the election of the retiree member of the Board and noted that the Board was memorializing its interpretation in the minutes rather than amending the Rules. Mr. Huff explained the reasons for the interpretations. Ms. Mayr raised concerns regarding comparable procedures and rules for elected employee members and appointed members, as well as procedures for removal and replacement of members. The Board agreed to table the discussion of the interpretations and address these issues at a future meeting.

8. Administrative Matters

A. Future Agenda Topics

The Board discussed possible agenda topics for future meetings. Suggestions included fiduciary responsibility, policies on professional service providers, annual review of investment policy and portfolio allocation and training. The Chairman indicated that Board members should email requests for additional items to him.

With Ms. Mayr dissenting, and in keeping with the established traditions and protocol of the Pension Board, the Board voted 7-1-0 to host a luncheon in honor of Mr. VanBeek's long service to the Pension Board.

B. Continuing Education

Ms. Mayr raised concerns about the cost of attending continuing education conferences. The Chairman pointed out the educational value of attending these conferences. The conferences presented substantive information regarding fiduciary responsibilities and

investments. He also noted that attendance at these types of conferences is customary in the industry and assists appointed members in maintaining the financial literacy mandated by the Ordinances. Mr. Ostermeyer added that the conferences are invaluable because each member is able to bring the Board to a higher level of expertise on investment matters. Ms. Bedford pointed out that attendees do not determine the location of the conferences.

The Board approved Mr. Ostermeyer's attendance at the April 18-20, 2005 International Foundation Investments Institute conference 7-0-1, with Mr. Ostermeyer abstaining. Motion by Dr. Roepke, seconded by Ms. Bedford.

The Board later unanimously approved Mr. Mueller's attendance at the June 26-29, 2005 Government Finance Officers Association conference. Motion by Mr. Martin, seconded by Ms. Bedford.

C. Annual Meeting

The Board discussed the agenda and schedule for the annual meeting to be held on February 16, 2005. Because the doors to the Zoofari Center will open at 9:30 due to a scheduling conflict, the Board decided to begin the program at 10 a.m.

9. Investments, William M. Mercer

A. Manager Presentations

Mr. Blalock noted that representatives of Adams Street Partners and ING Clarion (formerly CRA) were unable to attend the meeting. Mercer agreed to rework the manager attendance schedule. Mr. Blalock noted that representatives of Capital Guardian will attend the March meeting.

B. Investment Performance—Flash Report.

Mr. Blalock presented the year-end report for the period ended December 31, 2004 and the flash report for the period ended January 31, 2005. Mr. Blalock reported that the Fund had performed extremely well over 2004. The rate of return was 14.3%,

as compared to ERS's 8.5% actuarial assumption. Of the Fund's 42 peers with assets greater than \$1 billion, ERS was in the top 24% for the last year and in the top 11% over five years. As a whole, ERS managers outperformed their benchmarks.

Mr. Blalock noted that the Fund's growth for January 2005 was -0.7%, compared to -1.3% of the composite market. The Board discussed REITS and the allocation of assets among Mellon, Loomis High Yield and Banc One.

Because these reports were not available before the meeting, the Chairman requested that Board members review the reports more closely after the meeting and email questions to him. Any questions will be addressed at the March 16, 2005 Board meeting.

C. EARNEST Contract

Mr. Huff reported that EARNEST Partners LLP had agreed to the terms of the investment manager agreement with minor clarifications. Mr. Huff presented the signed agreement for the Chairman's signature and the Board authorized execution of the agreement by the Chairman.

10. Litigation Update

The Chairman stated that the Pension Board may enter closed session to confer with legal counsel with respect to litigation in which it is likely to become involved, provided that motions are made and carried by majority vote to convene in closed session and the Chairman announces the nature of the business to be considered at such closed session. By unanimous roll call vote, the Board agreed to enter closed session. Motion by Mr. Cohen, seconded by Mr. Martin. Messrs. Ostermeyer and Huff recused themselves for part of the discussion of pending and potential litigation.

Upon returning to open session and with Mr. Ostermeyer abstaining, the Board agreed 7-0-1 to adopt the resolution presented by Corporation Counsel authorizing Corporation Counsel to investigate and proceed against parties believed liable with respect to the benefit enhancements, which is attached to these minutes as Exhibit 1.

11. Legal Counsel on Interpretation and Possible Amendment of Rules, Ordinances and Statutes—Buy Back

The Chairman stated that the Pension Board may enter closed session to confer with legal counsel with respect to litigation in which it is likely to become involved, provided that motions are made and carried by majority vote to convene in closed session and the Chairman announces the nature of the business to be considered at such closed session. By unanimous roll call vote, the Board agreed to enter closed session. Motion by Mr. Ostermeyer, seconded by Ms. Bedford.

Upon returning to open session, the Board unanimously agreed to adopt Rule 1036 and amend Rule 404 as presented by Mr. Huff, which are attached to these minutes as Exhibit 2, to be effective January 1, 2005. Motion by Mr. Martin, seconded by Ms. Bedford.

12. Adjournment

The meeting adjourned at 2:15 p.m. Motion by Dr. Roepke, seconded by Mr. Martin.

Submitted by Steven D. Huff,
Assistant Secretary to the Pension Board

EXHIBIT 1

By Corporation Counsel

A RESOLUTION

To authorize the Corporation Counsel to investigate and prosecute potential claims or causes of action in favor of the Milwaukee County Employee Retirement System arising out of the conduct of any party who participated in the development of the 2000 pension benefit enhancements.

WHEREAS in 2000, certain additional and increased retirement benefits (the 2000 pension benefit enhancements) were granted to members of the Milwaukee County Employee Retirement System through amendments to the Milwaukee County pension ordinance, s. 201.24, M.G.C.O., and corresponding negotiated amendments to the collective bargaining agreements between Milwaukee County and bargaining units representing Milwaukee County employees, and

WHEREAS at the time the 2000 pension benefit enhancements were granted, mistaken or incomplete information was provided with regard to the potential cost of those enhancements, and

WHEREAS the 2000 pension benefit enhancements have resulted in enormous costs to the Employee Retirement System which were not recognized or understood at the time they were granted, and

WHEREAS increased numbers of employees have elected the "back-drop" benefit, and "back-drop" payments through January, 2005, have totaled in excess of \$75,000,000, depleting the assets Employee Retirement System fund in that amount and causing additional costs due to loss of earnings which the fund could have realized on those assets.

WHEREAS numerous parties had active roles in the design, analysis and promotion of the 2000 pension benefit enhancements, and

WHEREAS it is in the best interests of the Milwaukee County Employee Retirement System to investigate the conduct of those parties to determine whether any of them was legally culpable and to pursue any viable claim the Milwaukee County Employee Retirement System may have against any culpable party, now therefore

BE IT RESOLVED that the Corporation Counsel, with the assistance of Attorney Leigh Riley of Foley and Lardner as special outside counsel to the pension board, is authorized to investigate whether any party who had an active role in the design, analysis or promotion of the 2000 pension benefit enhancements may be legally culpable and whether the Milwaukee County Employee Retirement System may have a viable claim or cause of action against any such party or that party's insurer for any of the benefits payments or other costs resulting from those enhancements.

BE IT FURTHER RESOLVED that the Corporation Counsel is authorized to commence and maintain civil action(s), following consultation with the Milwaukee County Pension Board, against any party who had an active role in the design, analysis or promotion of the 2000 pension benefit enhancements for the purpose of providing security to the funds of the Milwaukee County Employee Retirement System.

BE IT FURTHER RESOLVED that the Corporation Counsel is authorized to engage and retain private counsel to assist him in the activities described in the foregoing paragraphs.