

**CITY OF PONTIAC, MICHIGAN
GENERAL EMPLOYEES RETIREMENT SYSTEM
BOARD OF TRUSTEES
APRIL 30, 2008
SPECIAL MEETING**

A special meeting of the Board of Trustees was held on Tuesday, April 30, 2008 at the Shrine Room, Main Floor, City Hall, 47450 Woodward Avenue, Pontiac, Michigan 48342. The meeting was called to order at 1:06 p.m.

TERS TRUSTEES PRESENT

Shirley Barnett

Koné Bowman

Raymond Cochran

Charlie Harrison, Chairman

Clarence Phillips, Mayor (*arrived at 1:07 p.m.*)

Javier Saucedo, Vice Chair

Devin Scott

Debra Woods (*arrived at 1:12 p.m.*)

Andrea Wright

TRUSTEES ABSENT

Kevin Williams (*excused*)

OTHERS PRESENT

Laurance Gray, Gray & Company

Tiffany Hartley, Gray & Company

Ellen Zimmermann, Retirement Systems Administrator

Jane Arndt, M-Administrative Assistant

Mr. Gray introduced Tiffany Hartley. She comes to Gray & Company from Bank of America and it is her third day on the job. She greeted the Board and expressed how nice it is to meet everyone. She is excited to begin learning and working at Gray & Company.

Chairman Harrison welcomed the new member of Mr. Gray's staff to the Board saying that she has a good mentor in Mr. Gray.

RETIRE/REHIRE LEGAL OPINION

Chairman Harrison said that the meeting was called regarding the resolution on whether to authorize Ms. Billings to prepare a legal opinion for the City Council on the retire rehire issue. He said that the Board is not looking to direct the situation but it does affect the retirement system. If it is implemented the Board will require the attorney's guidance.

Ms. Billings apologized and said she did not realize that the majority vote does not rule. She discussed the resolution with the Administrator after the meeting and discovered that it takes six concurring votes. According to Robert's Rules of Order if you make a motion at a meeting and it does not prevail, it can be reconsidered at the same meeting only by a trustee on the prevailing

side. The motion can also be introduced again at any future meeting and this is called renewing the motion.

Chairman Harrison stated that at the meeting held on April 23, 2008 it was incorrectly stated that the resolution had passed with a vote of 5 yeas and 3 nays. He reminded the Board that in order for a resolution to pass it requires six votes.

Trustee Phillips confirmed that the same motion can be brought again at the same meeting or the motion can be renewed at a future meeting. He asked how many times a motion can be renewed. Chairman Harrison said that he asked that same question and thought that only the prevailing side could bring the motion no matter when. Ms. Billings said that it can continue to be brought before the Board at a new meeting.

Ms. Billings said she will provide copies of the pages from Robert's Rules of Order. Chairman Harrison asked that Ms. Billings provide copies for the trustees. Trustee Bowman asked what edition Ms. Billings is working from. She is referencing the second edition.

Trustee Woods arrived at 1:12 p.m.

Trustee Phillips said that if the Council was seeking a legal opinion from the Board's counsel it seems to him that a meeting should have been called first. He said that many people are affected by the position the Council has taken. He asked if there could be an issue with the Board's legal counsel working with the Council in reference to attorney client privilege.

Ms. Billings stated that she was contacted by Ericka Savage who said she does not want to put Ms. Billings in an awkward position with the Board and asked if she could refer her to another attorney. Section 36 of the Retirement Ordinance states that the Council shall consult with the Board and seek its technical review of the proposed changes prior to amendment of the ordinance. She said the Council probably should have obtained a technical review from the Board prior to amending the ordinance.

Chairman Harrison said that this is what the Board is attempting to do now. The City Council will engage counsel whether it is the Board's legal counsel or another firm. Trustee Bowman said that the Council will engage an attorney. The amendment was reviewed by the City's legal counsel and was approved; City Council moved forward because it checked out okay.

Trustee Scott confirmed that Ms. Savage reviewed the amendment. Trustee Bowman stated that Mark Hotz reviewed the draft of the ordinance amendment and that Ms. Savage drafted it. She drafted it directly from the State's Ordinance. The only difference from the State's is that the State's grandfathered in those already rehired.

Trustee Scott said that at the last meeting Trustee Bowman stated that as an attorney Ms. Savage researched and drafted the amendment similar to the State of Michigan's Ordinance. It was then forwarded to the City's legal department for their opinion. It was then sent to the Council for a vote. He asked if Ms. Savage also provided a legal opinion. Trustee Bowman said she did not.

Trustee Barnett asked if this is a problem for the Retirement Board or for the City. Trustee Bowman said that the Council requested legal counsel from Sullivan, Ward, Asher & Patton on the resolution that was already passed because of their expertise in pension law. The Board will have to make decisions pertaining to this amendment and Ms. Billings is already familiar with the City and the retirement system.

Chairman Harrison said that the issue was brought before the Board out of courtesy. There are only a few law firms in the State that specialize in pension law. Whether it is Sullivan, Ward, Asher & Patton or not the Council will engage an opinion from a law firm. The Board will not stop the process.

Trustee Cochran said that he does not want to stop the process, but he feels there could be ramifications down the road. He asked what would happen if Ms. Billings disagrees or finds that the resolution can be legally challenged. He questioned whether that could be construed as a conflict since she is the Board's advisor.

Ms. Billings said that the opinion she provides would be the same regardless of whether it was provided for the Board or the Council. She said there is the possibility she could be at odds with another law firm if she disagrees with their opinion. Her opinion would be based on the law. She is leaving it up to the Board to make the decision.

Trustee Phillips said that he does not agree or feel it is clear cut. Ms. Billings' responsibility is to the Board and it could put her in the middle of a conflict. She could not dissolve attorney client confidentiality if she disagrees with the Council.

Ms. Billings said that she would tell the Council if she sees problems with the ordinance on its face value. Trustee Phillips said that if she finds a problem she is responsible to the Board. He asked how she could be impartial to the issue if she has signed on with the Council. Trustee Bowman said she has not signed on to represent the Council; she is providing a legal opinion.

Trustee Cochran asked what would happen if she gives the opinion that everything is fine and the Executive Office's attorney disagrees.

Chairman Harrison said that the Board does not have an opinion one way or another. The Board's attorney is being engaged to give an opinion. It will be whatever it will be. The fight is between the Executive Office and the Council. There is no sense of gain or loss for the Board.

Trustee Phillips said that the issue is not about gain. It sets up a condition where the Council could tell the attorney not to reveal her opinion. He does not feel she is the one who should provide the opinion.

Trustee Bowman thought that once the opinion is given to the Council it becomes public information and at that point it could not be withheld. It would have to be forwarded to the Board to implement or not.

Chairman Harrison said that the Board only enacts and has no opinion. The Council hired Ms. Billings' firm because of their expertise. He does not feel there would be a conflict of interest because the attorney is giving her opinion.

Trustee Scott said that the Council should go somewhere else for their opinion. Chairman Harrison said the legal opinion is the same regardless and will depend on her research of case law. There is no incentive from the Board's standpoint.

Ms. Billings said that the Council will not engage her firm if the Board does not approve.

Trustee Bowman called for a resolution approving Ms. Billings to provide a legal opinion regarding the retire/rehire ordinance amendment.

Trustee Scott questioned if Ms. Billings gave her legal opinion her due diligence would support the client's desire. Ms. Billings said she would show both sides while referring to case law.

RESOLUTION 08-030 By Bowman, Supported by Saucedo
Resolved, That the Board approve Ms. Billings to provide a legal opinion on the retire/rehire ordinance amendment to City Council.

Roll Call:

Trustee Barnett – Yes	Vice Chair Saucedo - Yes
Trustee Bowman – Yes	Trustee Scott - No
Trustee Cochran – No	Trustee Woods - No
Chairman Harrison – Yes	Trustee Wright - No
Trustee Phillips – No	

Motion Fails
Yeas: 4 – Nays: 5

Trustee Wright said that the Board should stay out of the issue and let the Council hire someone else.

Trustee Cochran suggested that the Council engage the Board's former attorney Tom Michaud of VanOverbeke, Michaud & Timmony for a legal opinion. Trustee Phillips said that the facts are the facts and it is best to duplicate efforts to obtain legal opinions.

Trustee Bowman said that the Board cannot recommend someone to the Council. They can engage any firm they choose to provide a legal opinion. It is the Board's role to act upon the ordinance.

Chairman Harrison said that the Board has no gain and will implement when the ordinance is in place. Trustee Bowman said that the ordinance is already in place and that the time is running. It is the Board's dispensation to act upon the ordinance.

Trustee Bowman left at 1:52 p.m.

OTHER ISSUES

Retirement Coordinator – Melissa Tetmeyer

Ms. Zimmermann said that today is Ms. Tetmeyer's last day. She has been an excellent employee for six years. The Retirement Coordinator is a very difficult and technical position. It requires face to face contact with the members, preparing employee benefit estimates and many important duties and responsibilities.

She requested that the Board do a resolution of thanks for her service to the retirement system. The Board does not have the opportunity to see how much hard work and effort is put in by the staff.

RESOLUTION 08-031 By Barnett, Supported by Cochran

Resolved, That the Board Resolved, That the Board of Trustees send a resolution of appreciation to Melissa Tetmeyer.

Yeas: 8 – Nays: 0

Chairman Harrison said that the new employee LaJuan Craft is in training and is a quick learner. There are a lot of duties and responsibilities with this position. They are looking at what it will take to bring Ms. Craft up to speed. Ms. Zimmermann has asked that Ms. Tetmeyer return two days per week for a month or 64 hours to continue Ms. Craft's training. The cost would be less than \$2,000.00.

Trustee Scott said that there is nothing in writing and this is not a Board issue. This position requires a personnel requisition processed through the Human Resources Department.

Chairman Harrison disagrees with Trustee Scott and felt that the Board has the ability to hire her for her professional services.

Trustee Scott said that she would be assisting with a union position which means it needs to go through Human Resources.

Trustee Phillips asked if she would be willing to volunteer.

Trustee Wright said that if temporary administrative help is needed it should be hired as a temporary position. She does not feel it is a Board issue.

Ms. Zimmermann said that Ms. Tetmeyer would be putting her dual internship on hold. She is not sure she would agree to train for 90% of her pay. It would put her behind in her internship. She would agree if she was receiving 100% of her pay.

Trustee Scott said it is contingent upon Human Resources to put a price on a temporary employee. Ms. Zimmermann said she has no problem following the process. She is concerned

that Ms. Craft has not had enough training. She will contact Ms. Vandegriff this afternoon to work on the personnel requisition.

Chairman Harrison confirmed that Ms. Zimmermann would go through the process with Human Resources to hire Ms. Tetmeyer as a temporary employee.

The meeting was adjourned at 1:58 p.m.