

GENERAL RETIREMENT SYSTEM
BOARD OF TRUSTEES
CITY OF GRAND RAPIDS
MICHIGAN

MINUTES
REGULAR MEETING
JANUARY 21, 2015 – 8:08 a.m.
233 East Fulton Street

The meeting was called to order by Chairman J. Patrick Scripps. Other members present: Vice Chairman David Tryc, Mr. Martin Timkovich, Mr. Michael Hawkins, Mr. William Butts, and Mr. Elias Lumpkins, Jr. Absent: Ms. Jane Hofmeyer.

Also present: Ms. Peggy Korzen, Executive Director of the Retirement System, Ms. Elizabeth White, Deputy City Attorney and Legal Advisor to the Board, Mr. Patrick Lannen, Assistant City Attorney, and Ms. Sara VanderWerff, City Comptroller.

Vice Chairman Tryc made the motion to excuse the absence of Ms. Hofmeyer. The motion was seconded by Mr. Hawkins and carried.

Chairman Scripps introduced Mr. Elias Lumpkins, Jr. as Employer Trustee. Mr. Lumpkins is a 3rd Ward City Commissioner. Trustees welcomed him to the Board.

There were no public comments regarding agenda items.

Mr. Timkovich made the motion to approve the minutes of the regular meeting of December 17, 2014. The motion was seconded by Vice Chairman Tryc and carried.

Vice Chairman Tryc made the motion to approve the following retirements: three age and service, one deferred early and one non-duty disability. The motion was seconded by Mr. Butts and carried:

Age and Service Retirements:

Name	Credited Svc.	Ret. Date	Avg. Salary	Pension
Hartley, Frederick D.	23 yrs. 3 mo.	04/02/2015	\$87,111.00	\$4,556.99
Shepard, David H.	27 yrs. 7 mo.	02/14/2015	\$52,068.00	\$2,991.57
Toogood, Gerald W.	28 yrs. 6 mo.	02/21/2015	\$63,678.67	\$3,490.54

Deferred Early Retirement:

Name	Credited Svc.	Ret. Date	Avg. Salary	Pension
Kozak, James E.	16 yrs. 0 mo.	01/01/2015	\$18,993.00	\$582.58

Non-Duty Disability Retirement:

<u>Name</u>	<u>Credited Svc.</u>	<u>Ret. Date</u>	<u>Avg. Salary</u>	<u>Pension</u>
Scruggs, Sheila K.	13 yrs. 4 mo.	12/17/2014	\$42,767.33	\$1,127.58

Mr. Hawkins made the motion to approve the payment of administrative expenses of \$4,149.45 for the period 12/01/14 – 12/31/14. The motion was seconded by Vice Chairman Tryc and carried.

Mr. Timkovich made the motion to approve the payment of the investment management invoice as listed below for the quarter ending 12/31/14. The motion was seconded by Mr. Butts and carried. Fee calculations, fees applied and stated amounts under management have been verified by the Retirement Systems office as correct:

\$8,895.55 – Northern Trust Asset Management for management of equity assets

Vice Chairman Tryc made the motion to approve payment of custody fees to Northern Trust for the quarter ending 12/31/14. The motion was seconded by Mr. Hawkins and carried:

Benefit Payments	\$6,230.12
Money-Weighted Return Calculation Fee	\$3,250.00
Custody	<u>\$7,235.45</u>
Total	\$16,715.57

Ms. Korzen presented the Public Act 314 Asset Analysis showing a market value of \$427,243,405 on December 31, 2014. The report was received and filed by the Vice Chairman. (Analysis found on page)

Ms. Korzen next presented Trustees with the Quarterly Report of Account Refunds for the period 10/01/14 – 12/31/14 that disclosed a withdrawal of \$64,661.31 by five former members; one was vested. The report was received and filed by the Chairman. (Report on page)

The Executive Director next addressed a letter that was written by Ms. Debra Christopher’s attorney, Mr. Bernard Schaefer. Ms. Christopher has applied for a duty disability retirement but is experiencing difficulty in finding a physician that will conduct an independent medical evaluation (I.M.E.) on her behalf other than her treating physician, Dr. Kane. Due to some of Dr. Kane’s treatment of Ms. Christopher being paid for by Worker’s Compensation funding, Dr. Kane would not be eligible to conduct Ms. Christopher’s I.M.E. Mr. Schaefer commented in the letter that he has contacted physicians in the West Michigan area and no one has stated that he/she would be willing to conduct an I.M.E. on behalf of Ms. Christopher; he requested that Trustees allow Ms. Christopher to utilize Dr. Kane for her I.M.E. for the duty disability retirement process. Ms. Korzen stated it has been a long standing practice of the Board that when a member applies for a duty disability retirement, the member is informed that he/she cannot use a physician that has been paid for by Worker’s Compensation to conduct his/her I.M.E. Chairman Scripps asked if Ms. Korzen has consulted MMro regarding this case; Ms. Korzen stated she has asked them and MMro has not heard of people having a hard time finding a doctor to conduct an I.M.E. for the individual. There are a number of practices that have done this in the past; however, some are now leaning toward not doing these for individuals as they are worried about payment. She stated that Ms. Balkema confirmed with Orthopaedic Associates that they no longer conduct I.M.E.s for individuals. Mr. Timkovich asked what the independence issue is; Ms. Korzen stated perhaps it stems from who has paid the physician’s fees in the past. Ms. White stated that the doctor who treats the employee in a Worker’s Comp case is his/her witness for purposes of Worker’s Comp litigation. Mr. Patrick Lannen addressed the Board and stated that he is representing the City in Ms. Christopher’s Worker’s Comp case. He stated that Dr. Kane

has been Ms. Christopher's treating physician since approximately 1996 and has been paid over the years by both Worker's Comp and the City's health insurance plan. If Dr. Kane is deposed in this case he will likely have a duty to Ms. Christopher. Chairman Scripps asked if there is a reason that Trustees cannot ask MMro to provide a list of names to Ms. Christopher; Ms. Korzen stated Ms. Christopher needs to find a physician that will conduct an I.M.E. on her behalf and although MMro could probably supply a list of names to her that could be viewed as Trustees trying to sway the outcome of the process. Ms. Christopher had seen a physician for a second opinion and she asked him if he would complete the certification form, but he declined stating he does not perform I.M.E.s. Mr. Butts asked in a duty disability case, what is the concern for bias when it is the employee's physician; Chairman Scripps stated that the employee's physician has a duty to his patient first. Mr. Butts stated that Trustees would still have the Board's physician that could offset that bias. Mr. Lannen commented that Ms. Christopher has a complicated medical history. Ms. Korzen noted that her duty disability claim is orthopedic. Mr. Timkovich stated that a physician who has been treating her for approximately 20 years would be the best person to perform her I.M.E. and Trustees would still have Ms. Christopher evaluated by one of their physicians and possibly a neutral physician if the first two doctors do not agree in their findings. Ms. Korzen stated it is very rare for an employee's own physician to state that he/she is not disabled. Ms. White clarified that in a non-duty disability retirement request, the employee can use his/her treating physician; Ms. Korzen confirmed but questioned whether there should be a distinction. Mr. Butts asked what the reasoning was behind not allowing an employee to use his/her treating physician in a duty disability case but allowing him/her to do so in a non-duty disability case. Ms. Korzen stated she was unsure but that this has been the policy since before she started working for the Retirement Systems. Mr. Butts asked if Mr. Schaefer challenged Trustees, what basis would they have to defend it? Ms. White stated that the defense would be past practice and Mr. Schaefer is in essence asking Trustees to make an exception to their accepted practice. Mr. Lumpkins asked if Trustees can discuss the duty disability request by Ms. Christopher; Chairman Scripps stated not at this time as she has not completed the process; once it is complete Trustees would go into closed session to discuss the case. Chairman Scripps cautioned that if Trustees approved Mr. Schaefer's request, it could set a precedent. If Trustees wish to grant Mr. Schaefer's request, they should be mindful of the Police & Fire Retirement System and should perhaps discuss this issue in the Joint Board meeting to obtain all the Trustees' opinions. Chairman Scripps stated he had a hard time believing that there are not any orthopedic physicians in the Grand Rapids area that would be willing to conduct an I.M.E. on Ms. Christopher's behalf. Mr. Thomas VanderPloeg commented that he has had Police members tell him in the past that they have had a hard time finding a physician to conduct an individual I.M.E. One individual had an extremely difficult time and had to ask the Retirement Systems office for list of names of doctors that could potentially perform the I.M.E. Although it was a tenuous situation for the Retirement Systems office to do so, they did comply with his request to supply him with a list of names used by prior applicants. Chairman Scripps asked what the difference would be then asking MMro to compile such a list and supply it to Ms. Christopher. Mr. Timkovich asked if Trustees wished to defer this issue to the Joint Board meeting to discuss it with the Police & Fire Trustees. He stated his opinion that perhaps the policy needs to be changed; Chairman Scripps noted that he would like to have more input on this issue before changing the policy and have a deep understanding of what the implications will be down the road if such a change was implemented. Mr. Hawkins suggested deferring this issue to the Joint Board meeting and then make a decision as to how Trustees will move forward. Chairman Scripps stated that Trustees need to address Mr. Schaefer's letter and perhaps respond that Trustees will look into this issue further, discuss it in the Joint Board meeting and seek out additional information before changing the policy. Mr. Balkema commented that perhaps the individual I.M.E. does come down to a matter of money and having the employee's physician conduct the I.M.E. for the individual would probably be less expensive as that doctor has a good working knowledge of the employee and his/her history. Having a different physician conduct the employee's I.M.E. would necessitate starting from scratch and reviewing numerous records and perhaps this is a pretty high hurdle. He noted it is probably prudent to revisit this issue. Mr. Balkema stated that Trustees could make an exception in this case and decide on the greater policy issue later; Ms. White agreed because Ms. Christopher is receiving Social Security Disability benefits and it will not make any difference in monthly benefits whether Ms. Christopher receives a duty or non-duty disability retirement. Chairman Scripps asked why Ms. Christopher did not apply for a non-duty disability retirement; Ms. Korzen was unsure. Ms. White stated that if Ms. Christopher was applying for a

non-duty disability retirement, she could use Dr. Kane. Trustees could make an exception specific to this case since the pension benefits would be the same whether Ms. Christopher was granted a duty or non-duty disability retirement and then explore the policy issue in depth at a later time for cases going forward. Chairman Scripps asked if doing so would set a precedent for the future; Ms. White stated that there could be a problem with making an exception once. She stated that Trustees could state conversely that they will not grant an exception in this case since the pension benefits would be the same. Mr. Butts stated that perhaps from Trustees' perspective it is indistinguishable from a non-duty disability retirement, and they will relax the standard and view this case as a non-duty disability retirement request. Going forward, however, Trustees might not necessarily allow that exception when there is a material difference. Ms. White stated that presently Ms. Christopher is not receiving health insurance benefits and if she is approved for either a duty or non-duty disability retirement she would be able to receive City health insurance. She stated that perhaps Mr. Schaefer is unaware that there is no difference to her pension benefit if she receives a duty or non-duty disability retirement benefit. Mr. Timkovich stated that this policy was probably put in place to protect the individual because the assumption is if the City has been sending the employee to a certain physician for an extended period of time for Worker's Comp injuries the physician will probably state that it is not Worker's Comp because they want additional referrals from the City. Chairman Scripps stated that if Trustees voted to grant an exception in this case that he would like to be clear that the exception was granted on the condition that it would not make a difference in this case because the duty and non-duty disability retirement benefits would be the same. Ms. White stated that Trustees could stipulate that if Ms. Christopher wishes to use her physician then they would allow her to do so if she amends her application to a non-duty disability retirement request. If she does not wish to amend her application, then Trustees would not grant her an exception. Mr. Timkovich questioned if amending her application to a non-duty disability retirement request would jeopardize her Worker's Comp case. Ms. White commented that if Ms. Christopher is successful in her Worker's Comp case those benefits would be an offset in her pension benefit like the Social Security Disability benefits. Chairman Scripps stated that if Ms. Christopher would still like to pursue a duty disability retirement then Trustees would pursue this issue further. Mr. Lumpkins asked how Ms. Christopher's situation differs from Mr. William Leach's situation that Trustees discussed in the December 2014 Board meeting. Ms. Korzen stated Mr. Leach had already completed the disability retirement process and the doctors had determined by majority opinion that Mr. Leach is disabled but Trustees did not find enough evidence to indicate that it was duty related. In most cases there is a difference in the pension benefit amount between a duty and a non-duty disability retirement. Due to the fact that Ms. Christopher has so many years of service and she is receiving Social Security Disability benefits, the pension amounts would be the same for duty or non-duty. Chairman Scripps stated he was uncomfortable making an exception to allow Ms. Christopher to use her physician for a duty disability retirement. He is comfortable stating that because there is no difference in pension benefits between a duty or non-duty disability retirement in Ms. Christopher's case if she wishes to amend her application to a non-duty disability retirement then she can use Dr. Kane as her physician. Mr. Hawkins commented that she still has the option to seek out other physicians that will perform an individual I.M.E. if she wishes to pursue a duty disability retirement. Chairman Scripps stated that if she wishes to pursue a duty disability retirement then he would like to see Trustees study this issue further as there are long-range ramifications. Mr. Lannen commented that Ms. Christopher's Worker's Comp case is set for a pretrial hearing about 90 days from today. Mr. Hawkins made the motion to allow Ms. Christopher to use her physician, Dr. Kane, for her I.M.E., if she amends her application to a non-duty disability retirement request. If she wishes to pursue a duty disability retirement then she will need to find a different physician to conduct her I.M.E. The motion was seconded by Mr. Butts and carried. Trustees agreed that at the next Joint Board meeting Trustees should discuss this policy further. Mr. Timkovich stated that Ms. Korzen should contact MMro to see if they have any suggestions.

There were no public comments on items not on the agenda.

Ms. Korzen commented that at the December Board meeting, it was unclear at that time as to which investment management account funds should be transferred from for the 2015 13th Check and for Cash Account needs for February 2015. After recent review of the investment accounts, Mr. Bensur agreed with the

Executive Director's recommendation to transfer \$11,000,000 from NTAM to the Cash Account on January 29, 2015 and \$1,550,000 from the PIMCO account to the Cash Account on February 2, 2015.

Vice Chairman Tryc made the motion to nominate Mr. Michael Hawkins to serve as Chairman of the Board of Trustees for the year 2015. The motion was seconded by Mr. Timkovich and carried. Mr. Timkovich made the motion to nominate Mr. David Tryc to serve as Vice Chairman of the Board of Trustees for the year 2015. The motion was seconded by Mr. Hawkins and carried.

The meeting adjourned at 8:50 a.m.

The next General Retirement System Board Meeting will be held Wednesday, February 18, 2015, at 8:15 a.m., 233 East Fulton, Grand Rapids, Michigan.

Peggy Korzen
Executive Director
General Retirement System