March 23, 2011
Regular Meeting Pension Plan B

The Board of Trustees, Pension Plan B, met on the above date.

President Rosenberg called the meeting to order at 6:23 p.m.

Present: President Rosenberg, Vice President Ana Garcia, Treasurer Morley, Trustees Buck, Doris G. Garcia, Herlihy, Klein, Meszoros, Rodriguez and Fire Chief Rooney

Absent: Trustee Mary Lee

Trustee Herlihy motioned to dispense with reading the minutes of the previous meeting; Trustee Ana Garcia seconded and the Board passed it unanimously.

Treasurer Report:

Trustee Klein motioned to accept the Treasurer's Financial Report for February 2011; Trustee Meszoros seconded and the Board passed it unanimously.

Old Business:

1. None.

New Business:

1. Trustee Herlihy motioned to table the approval of Domestic Relations Order for FF Frank Perugini; Trustee Ana Garcia seconded and the Board passed it unanimously.

Treasurer Morley received a copy of the Domestic Relations Order for FF Perugini on Friday, there are problems and requested that it be tabled.

Trustee Klein inquired about the legal fee due to Reid and Riege. Treasurer Morley responded that he had a copy of the invoice and would show it to Trustee Klein after the meeting.

Treasurer Morley reported that the Board was kind of aware that the City of Bridgeport and Union have come to an agreement that active fire fighters were going to move to the State MERF'S Plan. He understood that it is in principle only at this point. No details exist concerning it. He stated that there were a number of retirees present tonight and they have come for the purpose of showing their support and faith in the Board of Trustees to execute this transfer with integrity and accuracy.

Trustee Klein asked if this was incorporated in the new contract. Treasurer Morley responded that he has not seen any such contract. He understood from one of the members from the Union Board that they have agreed in principle to do it and are still working on it.

Trustee Herlihy responded that they were waiting for the Contract Committee to look over the contract and they were looking for the first week of April for a vote from the Common Council to approve the contract.

President Rosenberg stated that it was his understanding that the retirees would not be going into the new plan, they would be staying in the B Plan here and Trustee Herlihy's response was yes, they would still be in Pension Plan B.

Trustee Herlihy said that right now the State is doing an actuarial report on the active members and once they get a number of how much the City will have to buy in, that money would come out of Pension Plan B. The rest of the money would stay in Plan B. The report that they saw from Segal, who did an actuarial study in July, was that there would be over 20 million dollars left in Plan B and with a conservative growth, they thought that would fully fund Plan B or reduce their payment to Plan B every month.

Treasurer Morley asked who Segal was reporting to during this transaction. Trustee Herlihy responded that Segal made a report to the City of Bridgeport. He further stated that the State is doing an actuarial study on the active employees, but not on the retirees. Treasurer Morley stated that the State was determining a number for the City to buy into the plan.

Trustee Klein stated they had a fiduciary obligation to the retirees to make sure that enough money is left in the fund to ideally fully fund it.

Trustee Morley informed the Board that they could ask their questions to someone else tonight. He introduced Attorney John Galiette of Reid and Riege. He is in attendance tonight to explain and help guide the Board through their fiduciary obligations concerning this transfer.

Attorney Galiette said he was going to talk about the fiduciary duties that the pension committee has with respect to any transfer of assets from the Pension Plan B to MERFS.

Attorney Galiette:
When determining whether a fiduciary and all of you are fiduciaries, whether you satisfy your fiduciary responsibilities, probably the most important thing to do is to make sure that you have a proper procedure to analyze the question and to determine the course of action that you are going to take because if you have a proper procedure and you retain proper advisors to the extent you don't have the expertise in the area, the decision that you ultimately make is going to be much more able to withstand any challenge then would be if you just made a decision without having taken the proper steps.

The first thing to do before you transfer any assets to MERFS is that you want to make sure that MERFS is a qualified plan under the Internal Revenue Code. Historically, governmental plans never got an IRS approval of their qualified status because they are not subject to ERISA, but governmental plans are subject to Internal Revenue Code and the reason is for the tax benefits to the employees. In order for the assets that are held in the plan not to be immediately taxable to employees, they have to be qualified under the Internal Revenue Code. There are a lot of different requirements they have to meet. The IRS issues a determination letter and has for years with private employer plans saying that the plan is qualified. Governmental plans never usually asked for that because the IRS never audited governmental plans. Recently the IRS said they were going to start focusing on governmental plans. So, there is a possibility that the IRS is going to start auditing governmental plans.

Trustee Klein asked if a determination letter has ever been issued from IRS for MERFS and Attorney Galiette responded that he didn't find anything on the web site.

Attorney Galiette:
If you are taking assets from a qualified plan and transferring it to another plan, you want to make sure that the plan you are going into is qualified. Even if you don't have a determination letter you may want to get an opinion of the Attorney General which says that MERFS is a qualified plan and you can transfer assets from your plan into that plan.

The Pension Board is Fiduciaries so they have fiduciary obligations under the terms of the Trust Agreement. Basically, they have to act prudently, they have to follow the terms of the plan document, and they have to act as a prudent expert. It's not just someone that has no knowledge of the matter, but they have to act as a person who is familiar with investments and take the prudent steps necessary to make a decision. To the extent the members of the Board don't have that expertise; the prudent thing to do is to retain independent experts who will give advice to the Board. Again, Pension Plan B is not subject to ERISA; however, the fiduciary responsibilities that are listed in the Pension Plan are almost identically worded to the fiduciary duties that ERISA imposes on the trustees of plans that are subject to ERISA. If you're looking to see what type of procedure to follow, it is prudent, and he advises that you look to ERISA for guidance as to the steps that you should take with respect to the Plan.

The decision to transfer the active employees and transfer funds to MERFS is not a fiduciary decision. It is not a decision that this Board would make. That's an employer decision, a decision between the Union and the City. Once they make that decision and again it would require an amendment to exclude the active employees from participating in the plan, their decision to make that amendment and modify Pension Plan B is the City and the Union's decision, it is not subject to review by this Board. What is subject to review by this Board is the distribution and disbursement of the assets of the Plan. To make the transfer from Pension Plan B to MERFS and the amount of assets that will get transferred, that would be a fiduciary decision that the Board would be required to make in their capacity as fiduciaries.

If the Pension Plan B were an ERISA Plan, ERISA sets out a very detailed procedure as to how assets can be transferred from one plan to another and under that procedure they basically look at the plan that is going to be transferring the assets out, and they say, any participant in that plan, the benefit that that participant would have before the transfer out if the plan were terminated, that participant cannot have a lesser benefit in either the old plan or the new plan after the transfer occurs. Now, because Pension Plan B is underfunded, obviously everyone's benefit is not going to be fully funded and what ERISA has is a schedule, there are different classes that assets get paid into first.

Trustee Klein stated that we are not fully funded at this point, and ideally, we should be fully funded obviously. Doesn't this present an opportunity for us to make sure that we are fully funded and hold back enough money to fully fund the program.

Attorney Galiette responded that it was not just for one group of participants which is the retirees; it is also for the actives, so when you determine how to distribute the assets to split them up, you want to make sure that you are addressing the issue from both sides of the aisle.

President Rosenberg asked if the prudent thing for them to do is to have an independent actuarial study done first of all on the retirees that are going to remain, and wouldn't it also be prudent for them to see to it since there won't be any future contributions for the retirees because the contributions all come from the actives, that the people who are left behind, that fund should be fully funded. Everything they've done for the last 10 years as Trustees has been in line with ERISA.

Attorney Galiette responded that ERISA basically would be very close to following that analysis. Again, the plan is not an ERISA plan, those rules do not technically apply, but if you're looking at a procedure and you follow what ERISA requires, it is probably going to be deemed to be a prudent procedure because again it's what is required under ERISA.

Treasurer Morley stated that if your actions are being judged, you stand on solid ground by following ERISA. Any judge who looks at a situation is going to go directly to ERISA to judge your prudent behavior, it is where all the case law exists and that is where he will be going to judge your prudent behavior.

Attorney Galiette further stated that if you were going to follow ERISA procedure, you would again need an actuary to determine the benefits for the retirees, the people who are staying and the benefits for the actives, so that you could make that allocation.

Attorney Klein asked if the retirees are their only concern. Attorney Galiette responded that all the participants in the Plan would be your concern because you are allocating assets not just for retirees; you are allocating assets for everyone. You would want to know what the actuarial cost is for everyone's benefit in the Plan so that you could allocate it.

Attorney Galiette recommended that the Pension Board should have its own independent actuary because again what would a prudent person do if you were a prudent expert, would you rely on the expert retained by someone who has an interest that is not necessarily coincident with the duties of the Pension Board or would you retain an independent advisor and the prudent person would retain an independent advisor.

Trustee Klein stated that as a fiduciary, we need to do whatever we can to hang on to as much money as we can to protect the people who are staying behind and if we wind up with a disagreement, and the State says we need to pull out this amount of money and we say we need to hold on to more than that, how does that get resolved.

Attorney Galiette responded that we would be the ones to make the fiduciary decision as we have control over the assets in the pension fund. Trustee Klein said we could say, we are holding this amount of money. Attorney Galiette stated that ultimately the City appoints the members of the Board.

Trustee Buck stated that some of the documents that he has seen regarding entrance of existing employees into a plan deals with the idea of possibly amortizing some of the expenses, so for instance after the study is done and we determine we need X amount of dollars to remain in this fund, then the City will have to determine how they will fund it, if there is a difference.

President Rosenberg stated that they have to have a study and determine exactly what the number is, an independent actuarial study for the benefit of those people who will remain behind and then the City and everybody else can work from there.

Trustee Buck asked Treasurer Morley as far as the study that will be done, are there specific instructions related to the fact that this is a study for the possibility that the plan will now no longer have new contributions and he doesn't know if that impacts some of the assumptions made to investment performance and possibly because of a change in allocation.

Trustee Morley responded that the asset allocation will have to change dramatically. Currently what they have is a 70/30 equity asset allocation. That asset allocation would have to dramatically change because when the funds are left behind servicing a group already collecting their pension, the risk reward ratio that is appropriate for that group will be lower than the risk reward ratio that we are allowed to use when we take the entire demographics into consideration with new employees, young employees, middle, older and retirees because of the time horizons on that you can take an appropriate amount of risk which is what we should be doing and have been doing, however, when you get to dealing with only the retirees and no current contributions that risk reward ratio has to be reduced so that the investments become more conservative. He already has Morgan Stanley working on that. They are aware of the prospective here of going to MERF and he is having them work up an asset allocation that would be appropriate bearing in mind the people that would remain behind.

Trustee Klein asked what was the time frame for making the move. President Rosenberg said he didn't think they know and without an actuarial study they couldn't go further.

Trustee Herlihy said the actuarial study that the City is doing right now is going to have a date on it and if we are not compliant by that date, they would have to do another actuarial study. They were looking at September of this year and they were going to advise the City to maybe push it back a little more.

President Rosenberg thanked Attorney Galiette for coming and speaking to the Board.

Trustee Herlihy stated that it was nice that Jim called all these people and asked if anyone knew that he was going to call some of these members and Deputy Chief Petrucelli responded no, he didn't know.

Trustee Herlihy stated that he thought Jimmy called Mitch Baik's widow and told her about the pension change and the way she took it was that they were going to take benefits away from her. She called frantic and he said he didn't know if that was the right way to do this.

President Rosenberg responded that he's sure that Jimmy was doing his job and he has done it excellently with the utmost integrity and he thought she probably misunderstood what he was saying.

Trustee Buck's comment was that he didn't think that was the right avenue. He was glad to see his retired brothers and sisters and he thinks they are the right people to have in the room. He thought like Tommy said, it's stirring up the pot with people that have an awful lot going on right now, they've been through an awful lot, he thought it was the wrong place to go.

Treasurer Morley responded that he didn't want to eliminate them from the notice. He could not be responsible for what they believe they heard. He talked to a number of retirees and they did not hear that when he spoke with them. If in any way they became concerned, he wished they hadn't, and certainly that was not his intention to do that, but neither was it his intention to exclude them either.

President Rosenberg responded that quite frankly he thought that it was better that all the retirees do know what these changes that are being put into effect are and are informed because he was sure that it is very important to all of them including the widows, children, including everyone that is involved, and really to exclude anybody would be wrong.

Trustee Buck's response was that his thoughts about exclusion is that if there were a vote taking place or something that would be changing it, he wouldn't want anyone excluded, he agrees with that 100%. This was a little different, this was kind of a rallying of the troops and he doesn't know that this was the right form, they're very early on in the process and getting people riled up, he doesn't think it was the right thing to do.

President Rosenberg responded that he didn't think the intent was to rile anybody up, he thought the intent was probably to inform people, rather them hear something second hand, and he thinks it is always better for people to hear things first hand and doesn't think anything improperly was done.

Trustee Klein's response was that in order to make sure they don't have any problems with that sort of thing in the future; maybe they should come up with some method for the retirees to ask questions that they may have, so that they could get an answer and everyone to be on the same page. Jimmy is the best source of things.

President Rosenberg stated that the Board will do everything in a fiduciary responsible way and they heard what the attorney recommended and there will be an actuarial study and the retirees will be and knows that everybody on this Board feels that they have to be adequately taken care of and protected. He wants this to be an open process and certainly anybody from the public or any of the retirees or anybody is more than welcome at all of these meetings.

2. There being nothing further to come before the Board, Trustee Buck motioned to adjourn the meeting; Trustee Herlihy seconded and the Board passed it unanimously.

The meeting ended at 7:10 p.m.