

**MINUTES OF THE RETIREMENT BOARD**  
**Thursday, May 30, 2019**

A meeting of the Retirement Board was held on Thursday, May 30, 2019 at 8:30 a.m., in the Administration Building, 9<sup>th</sup> Floor Committee Room, located at 1 South Main Street, Mount Clemens, Michigan. The following members were present:

Present:

Mark Deldin, Bryan Santo, Gary Cutler, Harold Haugh, Larry Rocca, Matthew Murphy, George Brumbaugh

Excused:

Carol Grant

Also Present:

Stephen Smigiel, Andrew McKinnon, Joe Biondo, Christina Miller, Tom Michaud, Mike Holycross

**1. Call to Order**

There being a quorum of the Board present, the meeting was called to order at 8:30 a.m. by Chair Deldin.

**2. Adoption of Agenda**

*A motion was made by Trustee Haugh, supported by Vice-Chair Santo to adopt the agenda. The motion carried.*

**3. Approval of Minutes from May 9, 2019**

*A motion was made by Trustee Haugh, supported by Trustee Cutler to approve the minutes from May 9, 2019 as presented. The motion carried.*

**4. Approval of Invoices**

*A motion was made by Trustee Cutler, supported by Trustee Haugh to approve the invoices as presented. The motion carried.*

**5. Public Participation**

Retiree Representative Brumbaugh asked for a moment to speak in his capacity as the President of the Retirees' Association. He wanted to thank the Retirement Services division for assisting a retiree recently with questions they had related to their health benefits. The individual indicated he had received excellent service and the staff went above and beyond to assist him.

**6. Retirement Administrator Report**

Chair Deldin advised that Ms. Dobson is currently out on medical leave and Mr. Andrew McKinnon (Director of Human Resources and Labor Relations) will be reporting to the Board in her absence. The

Retirement Specialists (Claudia and Cindy) will be reporting to him in the interim. There is a strong team in the office and they wish Ms. Dobson well, but he expects services to continue uninterrupted.

Mr. McKinnon discussed the Activity Report as provided in the Board's packets and also provided an update on the progress of the Annual Signature Verification. The second round of notices will be going out soon to those who have not yet responded. He will keep the Board apprised of any further updates.

*A motion was made by Trustee Murphy, supported by Trustee Rocca to receive and file the Retirement Administrator Report. The motion carried.*

#### **7. Agreement for Retirement Administration Services**

A draft of this agreement had been presented to the Board at their last meeting and some members had requested some additional time to review. Mr. McKinnon provided a synopsis of this agreement to remind the Board what changes were being proposed from the prior agreement. Retiree Representative Brumbaugh inquired about one of the items stricken from the agreement on the first page. Mr. Michaud indicated he believed that was removed because that process can be done through the online calculator now and no longer has to be performed manually by someone in the Retirement Services office.

*A motion was made by Trustee Haugh, supported by Trustee Rocca to approve the Agreement for Retirement Administration Services as presented today. The motion carried.*

#### **8. Disability Assessment and Management Services Agreement with MMRO (second amendment)**

Chair Deldin reminded the Board that every year one of the service providers is up for review. This year it is the Medical Director. Ms. Dobson has been working on this agreement with MMRO for some time now and it is ready for Board review and approval. Rates for their services will be staying the same and are locked in for a period of three years.

Retiree Representative Brumbaugh asked for confirmation that this agreement had been reviewed and approved by Corporation Counsel and independent counsel. Mr. Michaud confirmed that both he and Mr. Schapka have reviewed it and it is appropriate for signature at this time.

*A motion was made by Trustee Murphy, supported by Vice-Chair Santo to accept the Second Amendment of the Disability Assessment and Management Services Agreement with MMRO. The motion carried.*

#### **9. ValStone Partners annual update – Shana Weiss, Jerry Timmis, Glenn Murray, Larry Jennings**

Ms. Shana Weiss, Mr. Jerry Timmis, Mr. Glenn Murray and Mr. Larry Jennings joined the meeting to provide the Board with the annual update on their investment with ValStone Partners. Mr. Murray introduced himself and the other members of the ValStone team to the Board.

Mr. Timmis continued the conversation by describing the characteristics of Fund VI and the Board's initial investment (\$13,000,000.00). This is a value-add real estate fund that has been active for about 18 months. He reviewed the portfolio's characteristics and went over a summary of the portfolio which included a list of assets and their performance. Mr. Timmis also outlined ValStone's investment

process and philosophy and noted they have been experiencing steady, but slow progress. He also discussed some particular examples of investments they are currently holding or have recently closed on and touched on the background of some of ValStone's key personnel.

Mr. Holycross mentioned that there will be a consent form coming before the Board for the final close investors that did not sign the consent for the line of credit. Since that has been renewed, it is now necessary to get everyone to sign it. He and his team have reviewed it from an investment standpoint and they have no issues with it. This consent will be sent to Mr. Michaud for his review and if there are no issues the Board can sign it.

*A motion was made by Trustee Rocca, supported by Trustee Murphy to receive and file the ValStone Partners annual update. The motion carried.*

**10. Joe Cada – Appeal of Retirement Board's decision on January 17, 2019**

Mr. Michaud summarized the issue related to Mr. Cada's appeal. Mr. Cada had filed a request to have the Board recognize service under the Reciprocal Retirement Act and that request was denied because it was made when he was no longer an employee and therefore he had no standing to make the request. The formal appeal document is provided in their packets today.

Mr. Cada and his attorney (Mr. Angelo Donofrio) were invited to speak before the Board. Mr. Donofrio disputes that the current ordinance applies to his client. The current ordinance (with a restatement date of August 2018) states (Mr. Donofrio quoting from the Retirement system website) "...this restatement will apply to individuals employed by the County on and after the effective date of the restatement. The retirement rights of an individual whose employment terminated before the effective date of this restatement will be governed by the provisions of the MCERS in effect on the date that the individual had terminated employment..." His brief also supports this assertion, noting that under Section 21(c) of the current ordinance, "...any member shall be entitled to retirement pursuant to the provisions of MCERS and the individual's collective bargaining agreement in effect at the time the individual previously separated from membership..."

To Mr. Donofrio, this means that if any Retirement Ordinance should apply, it would be the one from 2012. Mr. Cada was terminated from employment some time in 2013. The Retirement Ordinance that was used to disqualify Mr. Cada last time should not technically apply to him because it should be the one that was in place at the time of his termination along with the appropriate collective bargaining agreement (CBA) from that time.

Mr. Donofrio maintains that Mr. Cada's accumulated time from working at Macomb Community College should count toward his retirement from the County. There were issues in the reporting of his hours to be credited toward his pension, but those issues were not known at the time. At the time of his termination, Mr. Cada had accumulated 23 years and 10.4 months with the Sheriff's Department. Mr. Donofrio states that when Mr. Cada was separated from his employment with the County, he made an appeal to the Civil Service Commission while his determination of his employment was still pending. Mr. Cada's union representative at the time was in negotiations with Mr. Eric Herppich (the Human Resources and Labor Relations Director at the time) and there was a request to allow Mr. Cada to retire in lieu of him being terminated. Mr. Donofrio indicated that the emails he has attached to his brief support that position and that this had been in discussion since late March 2013.

Mr. Herppich was of the same opinion as the college in that Mr. Cada did not qualify based on a combination of his time accumulated at the Sheriff's Department and the time he accumulated at the college. Ultimately, Mr. Cada hired Mr. Donofrio's office to bring an action because the college was underreporting his hours. That was dismissed due to a procedural issue and that is what led them to come before this Board. Mr. Donofrio was finally able to resolve the issue regarding Mr. Cada's hours with the college in April of 2018. Attached to his brief is a letter from the Office of Retirement Services (ORS) that states Mr. Cada should have had almost 3.5 years of service to be credited towards a pension. After that issue was resolved, they came to this Board and asked for a hearing to allow Mr. Cada to retire pursuant to the Retirement Ordinance which would allow Mr. Cada to use his accumulated contributions from both Macomb Community College and the Sheriff's Department to qualify for his pension.

Mr. Donofrio reiterated that Mr. Cada had 23 years and 10.4 months from the Sheriff's Department and he had roughly 3.3 years from ORS which would put him at more than 26 years of employment time. According to Mr. Donofrio, in looking at the current Retirement Ordinance it states that a member can retire upon satisfaction of two requirements: (1) an application for retirement and (2) for an individual hired on or before December 31, 2001 to be aged 60 with eight or more years of service credit or age 50 with eight or more years of credited service where the sum of the member's age and service credit is equal to or greater than 70.

Mr. Donofrio pointed out again that Section 21(c) of the current ordinance says that any member shall be entitled to retire according to the provisions of the MCERS in place at the time the person was in the employ of the County and also the CBA that was in effect at the time the member worked for the County. He stated that under Article 27 of the CBA that was in effect when Mr. Cada was working, it says upon written application, an employee in the classification of Deputy may apply for voluntary retirement after attaining 25 years of service regardless of age or upon completing eight years of service and attaining age 60. At the time, Mr. Cada was separated from employment, his accumulated contributions should have been more than 26 years, but the issue was that Macomb Community College was not reporting his hours correctly. If his hours had been reported correctly, Mr. Donofrio is certain that Mr. Herppich would probably have been more amenable to allowing Mr. Cada to retire and combine his two retirement system contributions for purposes of his retirement according to the Reciprocal Act (which the ordinance has adopted since 1964).

Mr. Michaud thanked Mr. Donofrio for his additional comments today and noted for the Board that the issue they examined before and based their decision on, was Mr. Cada's standing to make the request and not an issue of a question related to the time he had accumulated from the college. He is happy to answer any questions from the Board. The decision made by the Board today will be final and would be subject to further review by Circuit Court.

Mr. Cada asked to make a comment to the Board members. He stated that he is confused why the Board determined that he was not a member of the Retirement System when he made his request to add his time from the college. His attorney provided the Board with a copy of a letter that was found in his personnel file at the Sheriff's Department that requested his college time be considered. That letter was submitted and dated before he was terminated from employment. He does not know how they can say he wasn't a member of the Retirement System still when he asked for that time. He recognizes it might not be a formal letter that was supposed to have been submitted, but he was told to turn it in to his department head and he did. He believes that is when the talks started between his attorney, Mr. Herppich, and his union representative. Mr. Cada thinks there is no way he could not be a member of the Retirement System when he was still employed when he turned that letter in.

Mr. Michaud noted that prior discussions with the Board entail the fact that it was not a request to the Retirement Board and did not address the Reciprocal Retirement Act and it was not given to any official representative of the retirement plan. At that point, any discussions that took place outside of the period of time that Mr. Cada was employed and he was no longer a member are really more of a labor issue than a retirement system issue. The Board made a determination previously that the letter that Mr. Cada had requested to purchase service credit did not rise to the level of standing to recognize his service under the Reciprocal Retirement Act. Mr. Cada stated that he was not told the letter needed to be in a particular format. He was simply told to submit a letter and they would put it in his file. He stated that he gave it to his department head and had no control over what happened after that. Mr. Cada feels he did everything he was supposed to do and at the time he did not know he was being terminated. He said he was not asking for retirement and he was simply told to give a letter about his college time, so that is what he did. He was not told he was going to be fired and asked if he wanted to combine his time and that he would need to submit something. He provided a letter asking for his college time to be considered because he was asked to do that. After that, his attorneys took over.

Chair Deldin asked for clarification on whether or not Mr. Cada is considered a deferred member of the Retirement System. Mr. Michaud confirmed that he is because he was vested at the time of his termination. At the time of his termination, he did not meet the "rule of 70" so he is eligible to draw his pension when he turns 60-years-old. The Board had no further questions.

*A motion was made by Trustee Haugh, supported by Vice-Chair Santo to reaffirm the Board's prior decision. Chair Deldin, Vice-Chair Santo, Trustee Rocca and Trustee Haugh voted affirmatively. Trustee Cutler and Trustee Murphy were opposed. The motion carried.*

**11. Unfinished Business**

None

**12. New Business**

None

**13. Adjournment**

*There being no further business before the Board, a motion was made by Trustee Haugh, supported by Trustee Rocca to adjourn the meeting at 9:39 a.m. The motion carried.*