

MRA C48
Established 1959

MILWAUKEE RETIREE ASSOCIATION
AFSCME CHAPTER 48
PO BOX: 342055
MILWAUKEE, WISCONSIN 53234



OFFICERS

President
Carol Graham
Vice President
Thomas Hayes
Treasurer
Donald Donovan
Secretary
Walter Powers

414-297-9215

Email: mrac48@yahoo.com

WEB Site:

<http://www.afscme48.org/retirees.html>

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February 09, 2010

Finance & Personnel Committee
200 E Wells Room 205
Milwaukee WI 53202

Re: Common Council File 091274

To: The Finance & Personnel Committee of the Common Council of the City of Milwaukee

Dear Committee members,

I am writing at the behest of the Milwaukee Retiree Association, "MRA". The MRA has approximately 3000 dues paying members, all of whom are retirees of the City of Milwaukee Employee's Retirement System, "CMERS". The MRA asks to be recorded in opposition to File 091274. The MRA asks the Committee to recommend that the matter be placed on file.

The funding policies underlying the 2009 annual employer pension contribution were adopted by the CMERS Board of Trustees and met with the approval of the City Budget Office. File 091274, would change the process and legislatively ordain the funding policies to underlie the determination of the 2010 annual employer pension contribution.

Since the funding policies for 2010 as set forth in the File mimic the funding policies recently approved by the CMERS Trustees for 2009, I can only conclude that the sole purpose for the File is to wrest control of the decision making process from the CMERS Trustees responsible under the law for certifying and collecting the annual employer contribution and to place it in the hands of a party who has a pecuniary interest in minimizing the annual contribution. This proposed change is in direct conflict with CMERS declared responsibility to advance fund the accrued pension liability. To use the old adage, File 091274 is clearly a fox in the henhouse type of proposal. The conflict of interest inherent in the proposal alone should be enough for its rejection out of hand.

However, there is an even more compelling reason for rejection that pertains to the status of MRA members as CMERS beneficiaries. Trustees are fiduciaries. In making their decisions fiduciaries have several so called "fiduciary obligations" to the beneficiaries including the retirees represented by the MRA. Important among those are the obligations of care and loyalty. The concept of these duties is simple. Trustees as fiduciaries have the duty to use their skills, exercise a high degree of prudence and act exclusively in the long term interests of the beneficiaries. As a result, last year when the Board of Trustees of CMERS adopted funding policies to govern the determination of the 2009 employer contribution, beneficiaries of CMERS had the reasonable expectation that their long term interests were protected in the process. They

also had the comfort of knowing that they had a legal remedy for “breach of fiduciary duty” if their interests were not being protected.

The same cannot be said for Common Council legislation. Common Council members are not CMERS trustees. They do not have fiduciary obligations to the CMERS beneficiaries. If File091274 is adopted, retirees will lose their expectations and no longer have comfort of knowing there is a remedy available if CMERS doesn’t meet its funding obligations. Indeed, it seems predictable that future determinations will be governed to some degree by political considerations. If this continues, the retirees’ long term funding interests will become eroded by short term political expediency. And, because legislators have legislative immunity from the consequences of their legislative actions, beneficiaries will not have a legal remedy against the offenders.

As a signatory to the Global Pension Settlement the MRA believes the expectations beneficiaries currently have are not unilateral expectations on their part. As a signatory to the Global Pension Settlement, the City surely understands that the beneficiaries’ expectations are the mutual expectations of all parties to the Agreement. I hope members of the Committee will take the prudent course for a signatory and join the MRA in recommending that the matter be placed on file.

Sincerely,



Carol M. Graham, President
Milwaukee Retiree Association
5163 W Jerelyn Pl
Milwaukee, WI 53219
414-321-7715
carolmitter@sbcglobal.net

C: CMERS A& P Board Members
Bernard J. Allen, Executive Director CMERS
City of Milwaukee Representative Unions
Milwaukee Retiree Associations
MRA Executive Board