City of Milwaukee

200 E. Wells Street
Milwaukee, Wisconsin
53202

Meeting Minutes

PENSION STUDY TASK FORCE

ALD. MICHAEL MURPHY, CHAIR
Patrick Cronin, Rudolph M. Konrad, W. Martin Morics, Dean Muller, Mark Nicolini, and Derek Tyus

Staff Assistant: Tobie Black, 286-2231; Fax: 286-3456, tblack@milwaukee.gov
Legislative Liaison: Aaron Cadle, 286-8666, acadle@milwaukee.gov

Tuesday, May 10, 2011	10:00 AM	City Hall, Room 301-B

Meeting called to order at 10:02 a.m.

Members present:

Ald. Michael Murphy
Dean Muller
Pat Cronin
Deputy City Attorney Rudolph M. Konrad
Derek Tyus
Mark Nicolini
W. Martin "Wally" Morics

Members excused: none

Also in attendance:

Aaron Cadle, Legislative Reference Bureau

1. Call to Order

The meeting was called to order at 11:05 a.m.

2. Roll Call

Roll call was taken.

3. Introduction of Members

The members introduced themselves.

4. Discussion of Task Force Purpose, Expected Work Products, and Timeline

Ald. Murphy said that the task force was created because although the pension program for the city is healthy, some independent outside experts are needed to weigh in on the program to make sure that the program stays under control. The purpose of the task force is to create options for the Common Council to take action on if it wishes.

Ald. Murphy said that the changes being proposed by the Governor and their potential impact on the pension system need to be studied. A reserve fund has been created for the pension program, but the city needs to go further. Ald. Murphy said that the task force will receive input from active employees and retirees.

Mr. Morics said that some tools have been developed by the Budget and Management Division

Mr. Morics moved to make an email from Carol Graham of the Milwaukee Retiree Association-AFSCME Chapter 48 part of the record. There were no objections.

Ald. Murphy said that the time frame for the task force will be extended from its original end date, but he hopes that the work of the task force will be completed within the next six months.

Mr. Morics said that the pension system is currently healthy, but it may not continue to be healthy in the future. According to modeling tools developed by the Budget and Management Division, the normal cost of the current system could get to a point where it is difficult for the city to maintain under certain circumstances.

Mr. Morics said the city has had success in managing the investment portfolio of the retirement system. But the city must also look at the growth of the system's liabilities, what options are available and what the city can do over the long term to make sure that the normal costs can be managed and that the system stay sound and healthy for all participants.

Mr. Morics also cautioned that the city also has to be mindful of constraints like vested benefits. He requested that Atty. Konrad speak at a later meeting on some of the constraints of vested benefits and what can and cannot be affected in that system.

Appearing at the table:

Jerry Allen, Executive Director, Employes' Retirement System
Beth Conradson Cleary, Assistant City Attorney
Gus Petropolis, Pension Board Member

Mr. Allen gave a presentation on the Employee Retirement System (please see the attachment "Presentation by Jerry Allen-ERS" to Common Council file 110115).

Atty. Konrad asked if the global equity shown on slide seven was for the full ten-year period from January 2001 to December 2010. Mr. Allen said that the ERS did not have global equity for the full ten years. There were investments in international funds, but global equity is a relatively new asset class for ERS. The definition of global equity is managers that can invest anywhere in the world. Atty. Konrad suggested adding a footnote to the document indicating that the global equity does not cover the entire ten years. Mr. Allen agreed.

Mr. Muller asked if all of ERS's asset classes are listed on slide seven. Mr. Allen said that private equity is a new asset class for the system, within the last twelve months. He said that it takes multiple years to fund this class and that there are no return statistics for that as ERS is still in the process of moving in that direction. ERS has not yet made even a five percent commitment. Mr. Allen said that a private real estate asset class exists as well, but it is not included on the slide because there is no such thing as passive investment in real estate.

Ald. Murphy requested that a footnote be included on the slide that says that the private real estate class is not included. Mr. Allen agreed.

Referring to slide three, Atty. Konrad asked Mr. Allen to explain how the city's obligation to make an actuarial payment is affected by the funded ratio. Mr. Allen said that the Chapter 36 of the city's ordinances obligates the city to fund the plan. He said that if the actuary shows that there is an actuarially required contribution, the city must pay it. Also, the city has a requirement under Chapter 36 that it make contributions on behalf of employees each payday along with certain employee groups that have to make a contribution out of their paychecks at a rate of between 5.5 percent and 7 percent of their pay, depending on the employee class.

Mr. Allen said that if the system is below one hundred percent funded, the city has to make an actuarially required contribution to the retirement system. If it is above one hundred percent funded, there is a provision in Chapter 36 that operates very quickly to reduce the city's contribution to zero and there is not an actuarially required payment.

Atty. Konrad said that slide three illustrates what he calls a "feast or famine" funding system in reference to actuarial contributions. From 2001 to 2008, there was no actuarial contribution required. In 2009, circumstances beyond the city's control created a drop in the value of pension fund assets and the city was required to make a very large contribution to the pension fund. Atty. Konrad questioned whether a feast or famine system is a wise way to fund the system. Mr. Allen said that there has been debate about this subject. He said that the way the actuarial standards of practice work in the public environment, much above 120 percent funded would not have resulted in a recommendation for contribution.

Mr. Allen said that the actuary would not have recommended a contribution in a year when the ERS was 130% funded because the plan was so well funded. On an actuarial basis, if the fund were funded between 100 percent and 120 percent, the actuary would have recommended a contribution, but the city charter would not require it.

Mr. Allen said that this year the city is planning to fund the Employer's Pension Reserve with an amount that is equal to what would have been an actuarially required contribution under actuarial standards of practice but for the operation of the full funding limit. The money will only be used for pension contributions, not for any other city purpose.

Ald. Murphy said that most public employee pension systems do not require a 100 percent funding status. He also said that there are roughly 26, 000 participants in the system and the payments that go out annually are about 250 million. Mr. Allen said that about 70 percent of the retirees live in the city of Milwaukee and that there is a substantial economic impact on the City of Milwaukee from the three public retirement systems: the city, the county and the state. Three and a half billion dollars annually goes into the state economy from the three systems.

Mr. Allen said that there are roughly eleven thousand retirees receiving benefits. Ald. Murphy asked about the average pension that a retiree receives. Mr. Allen said that the average benefit paid is about 22,000 dollars a year. Six figure pensions are fairly rare.

Ald. Murphy asked that the ERS draw up a brief narrative of the history of the system, including Chapter 36 and a summary of the program.

Mr. Allen said that the plan is well-funded, but the challenge going forward is how to afford the ongoing operation costs of the fund in the future with reduced tax revenues.

Mr. Muller asked for clarification on the actuarially required contribution to the pension fund. Mr. Allen said that there was one major actuarially required contribution in 2009. Every other year, there was no required contribution due to the level of funding. He said that there might have been a contribution 2003-2005 and a small one in 2010. Mr. Allen said that 5.5 percent of pay per pay period is paid for general employees and 7 percent is paid for Police and Fire. Ald. Murphy said that the task force will have to take on the proposed requirement from the governor that employees pay the 5.5 percent contribution and elected officials pay a seven percent contribution, with police and fire being exempt from contributing. Ald. Murphy said that there is some concern about the state taking away Home Rule as it relates to Chapter 36, which could mean that the state could take the city's assets to merge with the state's assets. Mr. Allen also said that there is a concern that the state could also tell the city how to invest its money and what its portfolio should look like.

Mr. Allen said that Chapter 36 had a requirement for many years that employees make direct contributions out of their paychecks. Forty years ago, the city took over the payments to the pension system as part of a negotiation through collective bargaining in exchange for the mitigation of wage demands. Ald. Murphy mentioned the Special Reserve Fund that was created, which offset some of the costs for the city when the market went down. The fund was created with the understanding that there might be a time when a contribution form the city would be needed. The contribution of 17.3 million dollars to the pension fund in this year's budget was done voluntarily by the city and was not required. Mr. Allen said that the 17.3 million dollar contribution was the amount that would have been required by the actuary if there was no full funding limit in Chapter 36.

Atty. Cleary gave an overview of the city's pension plan. She said that in 1937, there were numerous provisions to protect employees' benefits and the vested rights of individual members. In Chapter 441, the state legislature granted the city Home Rule authority over the plan, which allowed cities of the first class the largest measure of self-government over a pension plan. She said that is why the city can talk about the issues with the pension plan; it is a matter of local government, not something that the state can tell the city how to run. She also said that based on the laws of 1947, certain provisions have now been codified and protect the governance of the plan and the authority of the city to not impact the rights and benefits of its members. Atty. Cleary said that the pension task force has to keep in mind the boundaries that have been established to protect the worker's pension benefits.

In the Global Pension System in 2000, additional protective language was added to Chapter 36 in terms of members' benefits. Atty. Cleary said that there has been some case law establishing that when an employee enrolls in the system, or when they were hired, their benefits begin. She also said that when options are looked at with regard to contributions, you have to look at which benefits are protected. In

Wisconsin Senate Bill 10 (ACT 10), which is pending in the court system, there is a provision that refers payment contributions to employment retirement systems of a first-class city. Since Milwaukee's retirement plan is the only retirement plan of a first-class city out of the state's three retirement plans, it was directed specifically towards the pension plan of the City of Milwaukee. Ms. Cleary said that the City Attorney's Office has concluded that there are certain vested rights and benefits for employees that are in the pension plan currently. The statute would be an unconstitutional impairment of those rights, both via state and federal constitutions. Ms. Cleary said that she would provide copies of the City Attorney's opinion dated February 28, 2011 about the provision in ACT 10.

Mr. Morics said that as part of the results of the Global Settlement in 2001, members received certain benefits in addition to property rights. The bargaining units could not agree to the benefits for the members; ERS had to get consent from each member affected because of the vested rights of the plan members. Mr. Morics also said that benefits start to accrue when a person starts working. When someone is hired and normal retirement age is 55, if the retirement age is later changed to 60, that age is for future hires. The employee keeps his or her retirement age that is agreed on upon being hired. Ms. Cleary said that this is why any changes imposed on members of chapter 36 must be prospective. The actual contractual rights that are vested beginning at the initial employment phase, so the benefits to current retirees cannot be changed.

Ald. Murphy said that it would be helpful to go over the benefit to pension plan members in terms of retirement. He indicated that general city employees can retire at age 55 with 30 years of service, although most wait until age 60. For police officers, retirement eligibility comes after 25 years of service with no age requirement. For firefighters, the earliest is age 49 with 22 years of service.

Ald. Murphy said that the next step is to determine what the task force's expected work product should be and what the task force's options are.

Atty. Konrad said that when the home rule was started in 1937, it was a state law. Employee groups would lobby the legislature for benefits, which created a situation in which the legislature was deciding what employee benefits should be while the city was responsible for paying the benefits. The city had a responsibility for paying for the benefits, but did not have the authority to grant. The city itself lobbied to have home rule authority in 1941 so it could regulate the pension plan as well as fund it.

Atty. Konrad said that if the state gains the authority to assist the city with some financial issues, it could give the legislature the authority to change other parts of the pension system, and it can lead to the state having input on other issues, such as benefit levels.

Mr. Muller asked if the home rule can be changed by an act of the Legislature. Atty. Konrad said that there are two kinds of home rule. Statutory home rule can be changed by the Legislature, but constitutional home rule is rooted in the Wisconsin Constitution. Under the constitutional provision and the state statutes implementing it, the city can exercise the constitutional home rule authority by enacting a charter ordinance. He said that once the charter ordinance is enacted and home rule is made constitutional, it cannot be changed back. Atty. Konrad said that there are not many court cases on this issue and they are not that recent, so if this issue does go to litigation, it will be argued and brief thoroughly.

Mr. Muller asked how long it takes for the payroll deduction of contributions to go into the pension plan. Mr. Allen said that the money is deducted every pay period and is *remitted to the employee retirement system within a few days with no real delay.*

Mr. Allen said that there is another legal opinion forthcoming from outside on the subject of ACT 10 and employee contributions as provided under that ACT. outside counsel believes that the city may already be in compliance, so there may not be any litigation from the Employee Retirement System.

Ald. Murphy said that there needs to be a focus on the problems that the city is facing with regard to the pension plan. He asked Mr. Nicolini to talk about the pension system's impact on the city's budget and its liabilities and what he foresees as driving the liabilities in the future.

Mr. Nicolini said that currently the city's liabilities grow about 4.5 percent per year after pension payments are netted out, but the tax base is not growing at all. There are no alternative taxes and the city has no authority to levy any additional taxes that other cities can levy to supplement the property tax base. He also said that the city is facing a zero percent levy limit under the proposed state budget, so the challenge for the city is to determine how the growth of liabilities can be limited. He said that this will apply, for the most part, to employees who have not yet been hired by the city.

Mr. Nicolini also said that there is a question of how the responsibility for longevity risk, inflation risk and investment risk should be shared between employer and employee. He said that the level of operations that the city can afford will be significantly influenced by pension contributions.

Mr. Nicolini said that by 2013 or 2014, considering debt service, post retirement health care obligations and pension contributions, about eighty percent of the tax levy may be spent on non-discretionary spending. He said that the key will be to look at how future liabilities, which are driven by benefits levels, will be handled. Currently, about 7000 full-time equivalent employees in city government are covered by the pension plan. Protective services accounts for forty-three percent of those employees, but they account for two-thirds of liability costs and will be uncontrolled due to restrictions from the state. The uncontrolled costs for protective services will present a substantial problem for the city in the future.

Mr. Morics requested information from the actuary on the career service lives of the various classes of employees to see how quickly any changes made will impact the growth in future liabilities. Also, he requested written information or a presentation from the actuary on the various drivers of the liabilities and what portion of the growth of liabilities is driven by things like wage growth. Mr. Allen said that the actuary has already agreed to come speak to the task force as long as there is at least three weeks notice of the meeting. Ald. Murphy requested that the actuarial model be used to make projections for future years. Mr. Nicolini said that the model can also be used to show the short-term and long-term effects of wage changes.

Ald. Murphy said that the task force needs better definitions of the problems that it has to address. He thanked Mr. Nicolini for setting up the task force's four guiding principles:

1) The level of city pension benefits should be set with the goal of providing a reasonable level of income replacement for career service employees and fiscally sustainable contributions for employers and taxpayers.
2) Task force recommendations should enable both near-term and on-going improvements to the financial condition of the Employes' Retirement System.
3) Task force recommendations should reduce annual net growth and pension liabilities to a level that is consistent with the tax base and personal income growth.

4) Task force recommendations should include an appropriate balance of risk of financial responsibility for retirement benefit financing among employees and the plan's sponsor.

5. Date of Next Meeting

The next meeting date will be established with members via e-mail. The next meeting is expected to be in June.

6. Adjournment

The meeting was adjourned.

Meeting adjourned at 11:20 a.m.
Staff Assistant Tobie Black