

## **MINUTES**

### **METROPOLITAN EMPLOYEE BENEFIT BOARD**

**June 2, 2009**

The Metropolitan Employee Benefit Board met for their regularly scheduled meeting on Tuesday June 2, 2009 in the Civil Service Conference Room, Suite 163, 222 Building, Third Avenue North, Nashville, Tennessee, at approximately 9:30 a.m.

**Benefit Board members:** Chair: Edna J. Jones; Vice Chair: G. Thomas Curtis; Members: Christine Bradley, \*\*Ann V. Butterworth, Douglas D. Conquest, Sr., B.R. Hall, Sr., James H. Johnson, \*Richard M. Riebeling, and Clyde D. Smith.

**Others present:** Shannon B. Hall, Metro Human Resources, Nicki Eke, Attorney, Metro Legal Department and Dr. Cynthia Perry, Civil Service Medical Examiner.

**A. MINUTES:** Chair Edna Jones called the meeting to order and said the first order of business was to determine if there were any amendments, corrections or questions of the minutes from the last regular meeting held on May 5, 2009. With no corrections, nothing further was noted and Clyde Smith moved for approval. B.R. Hall seconded and the Board approved without objection.

\*Denotes the arrival of Richard Riebeling.

#### **B. APPEAL ANNOUNCEMENT:**

Shannon Hall announced the process and timeframe for appealing a decision made by this Board.

#### **C. DISABILITY PENSIONS: (new requests, reexaminations, return to work and referrals)**

The terms of the approval or extension of the items listed in the motions are specifically stated in these minutes.

Dr. Cynthia Perry reported to the Board that she recommends approval of the disability pension new requests, items 1 through 6, for the length of time as recommended. Douglas Conquest moved for approval of the recommendation to approve the disability pension new requests, items 1 through 6, for the length of time as recommended. James Johnson seconded and the Board approved without objection.

Dr. Cynthia Perry reported to the Board that she recommends approval for continuing the disability pension reexaminations, items 7 through 11, for the length of time as recommended and deferral for one month on item 12. Christine Bradley moved for approval of the recommendation to continue the disability pension reexaminations, items 7 through 11, for the length of time as recommended and deferral for one month on item 12. James Johnson seconded.

After clarification on the recommendation on item 8, a vote was taken on the motion to approve items 7 through 11 for the length of time as recommended and deferral for one month on item 12 was approved without objection.

On items 13 and 14, Dr. Cynthia Perry reported to the Board that she recommends the individuals be placed on the return to work list without restrictions.

Shannon Hall indicated that the individual's representative on item 14 was present and would like to address the Board.

Brock Parks was present and addressed the Board. He presented additional medical information regarding the individual being placed on the return to work list.

After some discussion of the medical information presented, Clyde Smith moved to refer this item to the appropriate Committee. B.R. Hall seconded.

Christine Bradley moved for approval of the return to work recommendation on item 13. Ann Butterworth seconded and the Board approved without objection.

**C. DISABILITY PENSIONS: (new requests, reexaminations, return to work and referrals) (continued)**

After discussion of the appropriate Committee (Pension), a vote was taken on the motion to refer item 14 and was approved with Ann Butterworth and Richard Riebeling opposed.

**NEW REQUESTS:**

	<b>Name</b>	<b>Department</b>	<b>In Line of Duty or Medical Disability</b>	<b>Recommendation</b>
1.	Kevin T. Bloomfield	Fire	IOD	As moved, seconded and approved, this disability pension request was approved for six months, (December 2009), with re-exam at that time.
2.	Alan C. Floyd	Bordeaux	Medical	As moved, seconded and approved, this disability pension request was approved for three months, (September 2009), with re-exam at that time.
3.	Carol J. Itoh	MNPS	Medical	As moved, seconded and approved, this disability pension request was approved for two months, (August 2009), with re-exam at that time.
4.	Thomas A. Owens	General Services	IOD	As moved, seconded and approved, this disability pension request was approved for three months, (September 2009), with re-exam at that time.
5.	Beverly D. Valentine	MNPS	IOD	As moved, seconded and approved, this disability pension request was approved for five months, (November 2009), with re-exam at that time.
6.	Michele F. Woodberry	General Hospital	Medical	As moved, seconded and approved, this disability pension request was approved for three months, (September 2009), with re-exam at that time.

**REEXAMINATIONS:**

	<b>Name</b>	<b>Department</b>	<b>In Line of Duty or Medical Disability</b>	<b>Recommendation</b>
7.	Brenda K. Edwards	Register of Deeds	Medical	As moved, seconded and approved, this disability pension was continued for one year, (June 2010), with re-exam at that time.
8.	Sandra J. Endsley	Bordeaux	IOD	As moved, seconded and approved, this disability pension was continued for two months, (August 2009), with re-exam at that time.
9.	Sharon M. Evans	General Services	Medical	As moved, seconded and approved, this disability pension was continued for three months, (September 2009), with re-exam at that time.

**REEXAMINATIONS:** (continued)

	Name	Department	In Line of Duty or Medical Disability	Recommendation
10.	Octavia M. Holt	MNPS	IOD	As moved, seconded and approved, this disability pension was continued for eight months, (February 2009), with re-exam at that time.
11.	James W. McDerman	Police Department	IOD	As moved, seconded and approved, this disability pension was continued for four months, (October 2009), with re-exam at that time.
12.	Richard D. Westfield	Parks	Medical	As moved, seconded and approved, this disability pension was deferred for one month, (July 2009), with re-exam at that time.

**RETURN TO WORK:**

	Name	Department	In Line of Duty or Medical Disability	Recommendation
13.	Parris J. Clark, III	MNPS	IOD	As moved, seconded and approved, this return to work request was approved.
14.	Misty S. Reid	General Services	IOD	As moved, seconded and approved, this item was referred to the Pension Committee.

**SOCIAL SECURITY REFERRALS:**

Item	Name	Department	Review Originated From	Case Mgmt Rec for Referral	CSME Rec for Referral	Comments
1	Andrew Bell	General Services	Pension Approval	No	No	
2	Ronald Chambers	Water	Pension Approval	No	No	
3	Samuel Ensley	MNPS	Pension Approval	Yes	Yes	
4	Joseph Haywood	Police	Pension Approval	No	No	
5	Patricia Owen	MNPS	Pension Approval	No	No	Review again 11/09
6	Abdullah Sindy	MNPS	Pension Approval	No	No	Review again 10/09
8	Julie Sloan	Fire	Pension Approval	No	No	
9	Stanley Tidwell	Public Works	Pension Approval	No	No	Review again 9/09
10	Helen Wilkerson	MNPS	Pension Approval	No	No	Early SS retirement

Dr. Cynthia Perry reported to the Board that she concurs with the recommendations on the Social Security referrals. Ann Butterworth moved for approval of the recommendations. Clyde Smith seconded and the Board approved without objection.

**D. PENSIONS: (service, disability to service, options elected and survivor)**

**MOTION:** Douglas Conquest moved for approval of the pensions. B. R. Hall seconded and the Board approved without objection.

**Service**

Employee	Department	Classification	Plan A/B	Application Date	Estimated Effective Date
Yvonne E. Williams	MNPS	Cafeteria Assistant	B	04/23/2009	05/23/2009
Marvin E. Buck, Jr.	Fire	Fire Captain	B	04/28/2009	05/01/2009
John C. Williams	MNPS	School Bus Driver	B	04/28/2009	05/22/2009
Beverly M. Gillespie	Public Works	Office Support Manager	B	04/28/2009	06/01/2009
Joyce M. Patton	MNPS	Manager II-Food Service	B	04/28/2009	05/22/2009
Virginia K. Prater	General Hospital	Registered Nurse-CC	B	04/28/2009	06/03/2009
Donald G. Ridley, Jr.	Fire	Fire District Chief	B	04/29/2009	05/16/2009
Jere E. Tanner	Municipal Auditorium	Finance Officer 3	B	04/29/2009	06/27/2009
Beverly M. Moon	MNPS	General School Assistant	B	04/30/2009	05/23/2009
George W. Herrman	Assessor of Property	Appraiser 3	B	04/30/2009	05/30/2009
Robert T. Caldwell	MNPS	Security Officer	B	05/01/2009	05/30/2009
David C. Lawrence	Library	Librarian 3	B	05/04/2009	06/27/2009
Pat J. Curran	Sheriff	Administrative Services Officer 4	B	05/05/2009	05/01/2009*
Buell D. Bone	Water	Administrative Services Manager	B	05/06/2009	06/19/2009
Jo E. Patterson	MNPS	Director – HR	B	05/06/2009	04/18/2009
Mary V. Wilhoite	Police	Police Operations Coordinator 1	B	04/30/2009	06/01/2009
Pat J. Curran	Sheriff	Administrative Services Officer 4	B	05/05/2009	05/01/2009*
Donald R. Spain	Water	Industrial Technician Master	B	05/07/2009	06/27/2009
Kenrick M. Oxley	MNPS	Senior Custodian	B	05/07/2009	07/01/2009
Elsie Amaro	General Hospital	Environmental Services Technician	B	05/08/2009	06/01/2009*
Bernice L. Cosby	Office of Emergency Management	Office Administrator	B	05/08/2009	06/06/2009
Winfred E. Batey	MNPS	Senior Custodian	B	05/11/2009	03/21/2009
Walter H. Collins	Health	Environmentalist 3	B	05/12/2009	06/06/2009
James H. Cooper	Police	Police Operations Coordinator 1	B	05/12/2009	05/16/2009
Judy S. West	MNPS	Clerk-Guidance	B	05/12/2009	05/22/2009
John L. Storment	Police	Police Officer 2	B	05/11/2009	05/07/2009
Linda B. York	MNPS	General School Assistant	B	05/13/2009	05/23/2009
Rogers L. Glenn	MNPS	Head Custodian	B	05/11/2009	06/01/2009
Mary V. Shockney	MNPS	School Secretary/Bookkeeper	B	05/12/2009	06/19/2009
Leslie R. Cothorn, Jr.	Fire	Fire Maintenance Worker 2	B	05/13/2009	06/06/2009
Mary L. Adkins	Library	Office Support Rep 2	B	05/13/2009	07/25/2009
Iris J. Epperson	Sheriff	Major Area Head – Sheriff	A	04/13/2009	06/01/2009*
Glenda D. Trammell	General Hospital	LPN	B	05/14/2009	06/01/2009
Jerry D. Oliver	Water	Industrial Tech Master	B	05/14/2009	07/01/2009
James I. Watkins	Fire	Fire Inspector 2	B	05/14/2009	07/01/2009
Martha R. Hopper	Library	Library Associate 2	B	05/18/2009	07/01/2009
Dena M. Boulie	MNPS	School Secretary/Clerk	B	05/18/2009	05/23/2009

**D. PENSIONS: (service, disability to service, options elected and survivor) (continued)**

James L. Lovier	Water	Treatment Plant Tech 2	B	05/19/2009	07/01/2009
Michael D. Roberts	Fire	Emergency Vehicle Technician Supervisor	B	05/19/2009	07/01/2009
Nancy J. Fielder	Police	Police Lieutenant	B	05/20/2009	06/06/2009
William A. Raybon	Water	Treatment Plant Tech 2	B	05/20/2009	06/13/2009
Steven P. Garton	Police	Police Officer 2	B	05/20/2009	07/01/2009
Richard P. Alexander, Jr.	Bordeaux	Security Officer	B	05/21/2009	07/01/2009
Belinda C. Keeler	General Hospital	LPN	B	05/19/2009	07/01/2009
Buddy F. Mitchell, Jr.	Police	Police Sergeant	B	05/21/2009	06/01/2009
Marvin Rivera	Police	Police Officer 2	B	05/21/2009	07/01/2009
Joe E. Swing	Register of Deeds	n/a	B	05/21/2009	07/01/2009

\* Deferred Benefit

**Disability to service**

Employee	Department	Plan A/B	Effective Date of Conversion
Joyce S. Hitchcock	Parks	A	05/01/2009

**Options Elected**

Employee	Department	Pension Type	Plan A/B	Effective Date	Option	DROP Election
Calvin, Michael Joseph	Fire	P&F Service	B	4/16/2009	Option F	3
Carlisle, Merry June	MNPS	Early Service	B	3/28/2009	Normal	
Curran, Pat	Sheriff	Service	B	5/1/2009	Option A	
Daniel, Gay N	General Services	Service	B	4/1/2009	Normal	
Davis, Walter R	Fire	P&F Service	B	2/18/2009	Normal	3
Fussell, Joan Glenn	MNPS	Service	B	4/16/2009	Option E	3
Garafola, Mark A.	Police	P&F Service	B	5/1/2009	Option E	3
Green, Morris	Public Works	Service	B	5/2/2009	Option B	
Marshall, Ann M.	General Hospital	Service	B	3/12/2009	Option C	2
Newman, Stephen E	Parks	Service	B	5/1/2009	Option F	
Norman Jr, Allie B	MNPS	Early Service	B	4/14/2009	Option B	
Shreeve, Janice F.	General Services	Early Service	B	4/4/2009	Normal	
Washington, Ernest G	MNPS	Service	B	4/11/2009	Normal	1

**Pension options key:**

- Normal - life annuity (no option elected)
- Option A - Joint & Survivor - 100% to surviving beneficiary
- Option B - Joint & Survivor - 50% to surviving beneficiary
- Option C - Social Security
- Option D - 120 payments certain and life
- Option E - Joint & Survivor - 100% to surviving beneficiary with pop-up feature
- Option F - Joint & Survivor - 50% to surviving beneficiary with pop-up feature

**Survivor**

Employee Name	Department	Survivor Name	Plan Membership	Effective Date
Thomas McEachron	Police	Ginger McEachron	Old Closed	04/28/2009
Patricia H. Davis	County Clerks Office	Joseph W. Davis, Jr.	B	04/30/2009
William Rogers	Police	Mary Rogers	B	05/04/2009
Robert L. Romines	Public Works	Emma J. Romines	A	05/07/2009
Morris T. Rogers	Police	Quincy Rogers	A	05/05/2009
William Harris, Jr.	MNPS	Carol D. Harris	B	05/12/2009

### **BENEFIT BOARD ITEMS**

The Human Resources staff submitted the following for the Board's consideration and appropriate action:

1. Benefit Board budget update.

Shannon Hall reported to the Board that there are two positions that have been approved by the Board as part of the FY10 budget, however, there have been minor revisions to these two positions. She stated that one has been updated to reflect pension support at the Health Department and the other updated to reflect a part time to full time position for Benefit Services.

There was discussion of the additional monies involved, the allocations and if there is a potential lay off situation for the part time position.

Ann Butterworth moved for approval of the revisions to the positions for the pension support at the Health Department and the full time position for Benefit Services. Christine Bradley seconded and the Board approved without objection.

2. MetroMax plan appeal – Request for unforeseeable emergency withdrawal.

Shannon Hall reported to the Board that an employee participating in the deferred compensation plan was denied a portion of her request for an unforeseeable emergency withdrawal of funds. Ms. Hall stated that in discussions with ING, the circumstances surrounding the custody of the individual's grandchild could be open for interpretation by the Board. The Board may find that the legal costs are an unforeseen emergency situation and approve this additional portion of the withdrawal. However, a withdrawal to pay off credit card expense is not allowed. Ms. Hall reviewed the IRS tax law and definition of unforeseeable emergency as defined by the IRS.

The individual was present and addressed the Board.

There was discussion of the reason for the request "other similar extraordinary and unforeseeable circumstances arising as a result of events beyond your control" and the items listed under that request.

The Board was in agreement that the credit card expense could not be included as a part of the request.

Nicki Eke, Legal Department, indicated that there are no specific court cases or IRS rulings that specifically address this circumstance, however the Board may determine that based on the facts that the expenses arose out of an extraordinary and unforeseeable emergency.

After some discussion of the expenses and review of the definition of an unforeseen emergency situation, the Board moved this item to the end of the agenda as to allow further review by the Legal Department and obtain representation from ING in order to help determine allowable expenses.

At this time the Board took a break and then reconvened with the remainder of the agenda.

3. Cost of living adjustments for closed plans.

Kevin Sullivan, Bryan, Pendleton, Swats & McAllister was present.

Ann Butterworth moved to accept the report in acknowledgement of no cost of living adjustments for the closed plans for this fiscal year.

There was some discussion of the measurements/formulas used in determining an increase or decrease.

James Johnson seconded the motion and the Board approved without objection.

4. Committee Reports:

a. Medical and Life Committee.

Shannon Hall reported to the Board that the Medical and Life Committee met on Tuesday, May 19, 2009 to deliberate on several self insured PPO and CCF plan appeals and discuss the bariatric medical policy review provided by the consultants. She stated that the minutes from this meeting are being presented for approval. Ms. Hall stated that on the plan appeal regarding the denial of lactation services, the Committee recommends the Board approve this claim for this dependent for this case only based on the medical referral for lactation consultation. On the 3 plan appeals regarding the denial of predetermination for bariatric surgery and the bariatric medical policy review, the Committee deferred these cases and recommends the Board have the Civil Service Medical Examiner and other medical professional she deems appropriate review the plan administrators' medical necessity policies for bariatric surgery and report back findings by July 1, 2009.

Ann Butterworth moved for approval of the recommendations from the Medical and Life Committee. Christine Bradley seconded and the Board approved without objection.

Committee Chair B.R. Hall reviewed the minutes from the May 19, 2009 Medical and Life Committee meeting with the Board. With no corrections, the Committee minutes were approved without objection.

b. Pension Committee.

Shannon Hall reported to the Board that the Pension Committee met on Thursday, April 30, 2009 to deliberate on eligibility for in line of duty disability pension. She stated that the recommendation made by the Committee on this item was verbally reported and acted upon at the May Board meeting. The Pension Committee also met on Wednesday, May 20, 2009 to deliberate on a determination of disability pension status and a compliance issue with a disability pensioner. She stated that the minutes from both meetings are being presented for approval. Ms. Hall stated that the Committee deferred the item regarding determination of disability pension status and recommends on the compliance issue of a disability pensioner that the Board give this disability pensioner until September 2009 to become compliant completing GED classes and exam and if not, this item will be represented for appropriate action.

Paula Krebs, Eckman Freeman & Associates, was present.

Richard Riebeling moved to accept the recommendation of the Committee on the compliance issue of a disability pensioner to give this disability pensioner until September 2009 to become compliant completing GED classes and exam and if not, this item will be represented for appropriate action. Christine Bradley seconded.

There was discussion of the individual's original re-exam date and giving him a deadline for compliance. The Board concluded that in September, there would be a progress report and the re-exam date would not be changing.

A vote was taken on the motion.

Clyde Smith offered an amendment to the Committee recommendation to authorize additional testing and counseling coordinated by case management to determine any underlying issues.

After clarification of procedure, there was approval of a motion to rescind the vote on the motion and Clyde Smith restated his amendment to the motion to authorize additional testing and counseling coordinated by case management to determine any underlying issues. B.R. Hall seconded.

There was discussion of the recommendation from the Committee.

Paula Krebs stated that a formal vocational assessment has not been performed on the individual based on the individual's current academic pre-testing aptitude level.

Clyde Smith called for a point of order.

There was discussion of cost and necessity of vocational assessment. There was also discussion on the timeline of the individual's progress to date with compliance.

Edna Jones restated the amendment and the makers of the motion from the Committee declined to accept the amendment.

After further discussion of the individual's willingness/progress, Ann Butterworth moved the amendment to the motion to the table. A vote was taken on the amendment and failed with a vote of 4/5 (Ann Butterworth, Edna Jones, Christine Bradley, Tom Curtis and Richard Riebeling).

A vote was taken on the original motion from the Committee to give this disability pensioner until September 2009 to become compliant completing GED classes and exam and if not, this item will be represented for appropriate action and was approved with Clyde Smith, Douglas Conquest, James Johnson and B.R. Hall opposed.

Edna Jones reviewed the minutes from the April 30, 2009 Pension Committee. Christine Bradley moved for approval of the April 30, 2009 Pension Committee meeting minutes. Edna Jones seconded and the Committee minutes were approved without objection. Edna Jones reviewed the May 20, 2009 Pension Committee meeting minutes with the Board. Ann Butterworth moved for approval of the May 20, 2009 Pension Committee meeting minutes. Christine Bradley seconded and the Committee minutes were approved without objection.

5. Correspondence:

- a. Utilization report from Blue Cross Blue Shield.
- b. Utilization report from CIGNA.
- c. Utilization report from Alternative Service Concepts. (reported quarterly)
- d. CityWorks update.
- e. Letter from Council regarding smokers surcharge.

Items 5.-a. through 5.-e. were for information only and no action was required.

Shannon Hall made note of the Cityworks update and the letter from Council.

Edna Jones noted that item 5.-e., Letter from Council regarding smokers surcharge, was not properly before the Board and would need to be addressed by a Study and Formulating Committee.

Nicki Eke, Legal Department, indicated there would need to be a recommendation from the Study and Formulating Committee in order to make such a change as set forth in the Code.

After some discussion of Code changes, the contribution rates and plan costs, Douglas Conquest moved that item 5.-e., Letter from Council regarding smokers surcharge, be referred to the Medical and Life Committee. Tom Curtis seconded and the Board approved without objection.

Some Board members expressed disagreement with this having to be reviewed by the Study and Formulating Committee and the Board noted that what items are to be reviewed by the Study and Formulating Committee is an issue when related to Code changes.

2. MetroMax plan appeal – Request for unforeseeable emergency withdrawal.

Tom Eddlemon, Treasury Department, and Clint LeGeyt, ING, were present and provided guidance/clarification to the Board on the issues addressed in the appeal.

There was discussion of the issues in the appeal and the IRS rules.

After some discussion, the Board concluded that the legal costs are an unforeseen emergency situation.

2. MetroMax plan appeal – Request for unforeseeable emergency withdrawal. (continued)

Christine Bradley moved for the Board to authorize withdrawal of legal fees as well as related expenses and taxes up to the plan amount associated with the custody of the child as an unforeseeable emergency in accordance with IRS regulations citing extraordinary and unforeseen circumstances. Thomas Curtis seconded and was approved without objection.

6. Reports for your information:

- a. Return to work.
- b. Social Security approvals.
- c. Refund of pension contributions.
- d. Repayment of pension contributions.
- e. Reports from Treasury.
- f. Non-compliant disability pensioners.
- g. Pending litigations. (reported quarterly)
- h. Disability status reports.
- i. Denial log from Alternative Service Concepts.

Items 6.-a. through 6.-i. were for information only and no action was required.

\*Denotes Ann Butterworth leaving the meeting.

Clyde Smith moved that staff prepare a resolution for Dorothy Shell-Berry honoring her dedication and service to the Board. B.R. Hall seconded and the Board approved without objection.

7. Late item(s):

There were no late items reported at the meeting.

With nothing further presented, the meeting adjourned at 11:15 a.m.

ATTEST:

APPROVED:

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**Mrs. Rita Roberts-Turner, Acting Director  
Human Resources**

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**Ms. Edna J. Jones, Chair  
Employee Benefit Board**