**EMPLOYEES' RETIREMENT SYSTEM OF THE COUNTY OF MILWAUKEE**

**MINUTES OF THE MAY 18, 2011 PENSION BOARD MEETING**

1. Call to Order

Chairman Mickey Maier called the meeting to order at 8:30 a.m. in the Green Room of the Marcus Center, 127 East State Street, Milwaukee, Wisconsin 53202.

2. Roll Call

| Members Present | Member Excused |
|---|---|
| Linda Bedford (Vice Chair) | Dean Muller |
| Keith Garland | |
| Mickey Maier (Chairman) | |
| Dr. Sarah Peck | |
| David Sikorski | |

Others Present
Mark Grady, Acting Deputy Corporation Counsel
Gerald Schroeder, ERS Manager
Marian Ninneman, Operations Manager, ERS
Dale Yerkes, ERS Fiscal Officer
Ken Loeffel, Retiree
Bess Frank, Retiree
Ray Caprio, Marquette Associates, Inc.
Brett Christenson, Marquette Associates, Inc.
Mark Murphy, ABS
Joe Hernandez, K2 Advisors
Brian Walsh, K2 Advisors
Marco Ruffini, Buck Consultants
Larry Langer, Buck Consultants
Valerie A. Long, Buck Consultants
Steven Huff, Reinhart Boerner Van Deuren s.c.
William Jenkins, Appellant
Delores Hughes, Appellant
Jacqueline Johnson, Representative for Delores Hughes
Renee Booker, Appellant
Louis Elder, Attorney for Renee Booker
Steve Schultze, Reporter, *Milwaukee Journal Sentinel*
WISN Channel 12 News Crew

3. Chairman's Report

The Chairman stated that Mr. Mawicke, whose term expired, has resigned because he is unable to continue to serve on the Pension Board until his replacement is appointed. Because of this, and because of the two positions vacated by Messrs. Stuller and Weber, the Board will be short members until after the elections.

The Chairman then stated that Mr. Garland is now the Chairman of the Audit and Budget Committee. He noted that Mr. Garland did a good job at the May meeting.

4. Minutes — April 20, 2011 Pension Board Meeting

The Pension Board reviewed the minutes of the April 20, 2011 Pension Board meeting.

**The Pension Board unanimously approved the minutes of the April 20, 2011 Pension Board meeting. Motion by Ms. Bedford, seconded by Mr. Sikorski.**

5. Reports of ERS Manager and Fiscal Officer

(a) Retirements Granted, April 2011

Ms. Ninneman presented the Retirements Granted Report for April 2011. Eighty-five retirements were approved in April, with a total monthly payment amount of $125,779. Of those 85 retirements, 60 were normal retirements and 25 were deferred vested retirements. Forty-seven retirees elected backDROPs in amounts totaling $7,097,283. Of these 47 backDROPs, 20 were under $100,000, 18 were between $100,000 and $300,000, and 9 were over $300,000.

Ms. Ninneman stated that of the 85 employees retiring, the average service was 20 years, with the longest tenure at 38 years. Twenty-three of these employees were non-represented and 42 were District Council 48 employees. Regarding pension options, 41 chose the maximum benefit option and 21 selected Option 3.

In response to a question from Ms. Bedford, Ms. Ninneman stated that the $7 million in backDROPs was expected because of the Medicare Part B reimbursement change.

In response to a question from Mr. Garland, Ms. Ninneman stated that retirement volume should remain at approximately 40 to 50 per month for the next three months. However, another high-volume

wave is expected, due to union member retirements, if the Budget Repair Bill goes into effect.

Mr. Schroeder then stated that ERS is projecting that the number of retirements at the end of 2011 could be double that of 2010, resulting in an increase in both the number and amount of payouts and backDROPs. Additionally, there has been a higher volume recently of normal retirements versus deferred, which is unusual.

In response to a question from Mr. Garland, Ms. Ninneman stated that it is difficult to say how a high volume of union member retirements would affect the backDROP because there are many variables involved, such as length of service, salary, and eligibility.

(b) ERS Monthly Activities Report, April 2011

Ms. Ninneman presented the Monthly Activities Report for April 2011. ERS had 7,637 retirees at the end of April 2011, with a monthly payout of $20,597,005. Ms. Ninneman then reminded the Board that by the end of 2011, there could be as many as 600-plus retirements.

Ms. Ninneman stated that nothing unexpected appears on the report, with the exception of the increased number of administrative appeals, which Ms. Ninneman attributed to employees making decisions more quickly, as well as employees questioning things they come across on the V3 System's self-service.

Ms. Ninneman then stated that a special preretirement session was held on May 11 at Washington Park. Approximately 200 people attended. ERS presented the regular retirements materials, with the exception of the Social Security materials since Social Security was unable to attend due to state budget cuts. Additionally, Scott Manske provided an overview of the Budget Repair Bill.

Ms. Ninneman stated that ERS completed its formal staff evaluations in April. ERS intends to continue the annual evaluations, in addition to biweekly one-on-one meetings and monthly staff meetings.

Ms. Ninneman then stated that the number of retirements increased approximately 15% from 2009 to 2010, with relatively constant payments, and that ERS expects a significant increase in 2011. Projected for 2011 is a 34% increase in retirements, an 18% increase in payout amounts, a 15% increase in backDROPs, and a 44% increase in backDROP amounts. ERS will continue to monitor the

data and begin working on some predictive modeling for rolling six-month forecasts.

The Chairman requested that ERS share these forecasts, when they are available, with Marquette for asset allocation purposes.

Mr. Schroeder then stated that as a result of the Board's request that ERS monitor retirement volume and staffing level, ERS is working on long-term projections to determine whether the current high volume of retirements is a one-time, temporary concern, or if it will continue over the next three-to-five years. ERS will then look at staffing levels to determine whether ERS has appropriate resources and, finally, make a recommendation based on all the information.

Mr. Schroeder concluded by providing an update on the elections for both a retiree seat and employee seat. The $6,400 contract with Votenet has been signed and teleconferences have been held weekly to ensure everything is properly coordinated. ERS notified retirees of the election on May 6 in the Communicator newsletter, and also through an e-mail blast. Nomination papers were available on May 9, and 3 individuals have picked them up for the retiree seat and 2 individuals have picked them up for the employee seat. Completed nomination papers are due on June 6, and ERS is monitoring that closely. Once all papers are received, ERS will send out resumes and pictures to eligible voters. The preliminary election is July 8 through July 11 and, if necessary, a final election will be held on July 22 through July 25. The election is proceeding according to plan and is on target.

(c) Fiscal Officer/Cash Flow Report

Mr. Yerkes first stated that his fiscal assistant, Roger Kirkenbusch, resigned his position with the County.

Mr. Yerkes then discussed the ERS cash flow report, stating that due to the surge in retirements, ERS needs more cash flow for retirements. Original cash needs for May and June were $5 million each, but Mr. Yerkes now projects that ERS will need approximately $25 million in May 2011, with June remaining at $5 million.

**The Pension Board unanimously approved the liquidation of assets to fund cash flow of $25 million for May 2011 and $5 million for June 2011. The amounts should be withdrawn from investments designated by Marquette. Motion by Dr. Peck, seconded by Mr. Sikorski.**

In response to a question from Mr. Grady, Mr. Yerkes confirmed that ERS is projecting $50 million for the next quarter: $20 million in July, $15 million in August, and $15 million in September. This is partially because the County lump sum contributions have ended. An average month will most likely stay around $15 million, whereas last year an average month was approximately $10 million.

Mr. Yerkes then stated that projected amounts include only what is known today—they do not include any retirement surge from District Council 48 or any big increase to employee contributions.

Mr. Yerkes next distributed the April 2011 Portfolio Activity report, noting that April cash flow came from U.S. equities for Mellon Capital and Reinhart Partners.

In response to a question from the Chairman on the ERS Check Register for first quarter 2011, Mr. Yerkes stated that Donna Sachs is a wage assignment. ERS currently only approves 3 different wage assignments: child support, IRS liens, and statements. Donna Sachs is grandfathered in through her ex-husband's pension. ERS agreed to withhold money approximately 20 years ago.

6. Investments

(a) ABS

Mark Murphy provided an overview of ABS, stating that it is an employee-owned firm with $3.6 billion in assets under management. ABS currently employs 25 people, 16 of whom are involved in the investment process, and 11 of whom are equity holders. Among all employees, 11 different nationalities are represented and 12 different languages are spoken.

Mr. Murphy stated that ABS generated alpha in 2010, despite a challenging market environment. One objective of ABS is to create equity-like returns with much less volatility than the equity market, and over a 3-, 5-, and 7-year basis, ABS has done exactly that.

Mr. Murphy then discussed the portfolio managers, stating that the portfolio has 28 different managers, with the largest position at 5.6%. The top 10 managers represent 50% of the portfolio, which is a very diverse and strategy-rich portfolio. Big picture managers with energy market exposure have done well. The energy sector has been one of the best performing sectors in the market, as well as stock-specific names, particularly in the technology sector. Managers who have not done well generally had emerging market consumer stocks

and large-cap multinational stocks with exposure to emerging markets, or those who were short European financials.

In response to a question from the Chairman about how ABS monitors the managers to determine how well they are doing, Mr. Murphy stated that every month ABS obtains gross and net market exposure from each manager by sector, geography, and market cap. When this information is aggregated, ABS can see its full portfolio exposure and gauge whether adjustments must be made. Since the late 2008 into 2009 period, managers dramatically reduced their gross and net exposure. ABS typically has 30% to 60% net exposure to the market. Today, ABS is 44% net-exposed.

In response to a question from Mr. Christenson, Mr. Murphy stated that when ABS falls outside that 30% to 60% range, ABS allows the managers to adjust their exposure based on the market environment within that range. Outside that range, when it begins to drop, ABS will start selling its neutral managers or low exposure managers and buy long bias managers.

In response to a question from Mr. Grady, Mr. Murphy stated that fund managers drive approximately 75% of these moves to long position, and ABS drives about 25%. The problem in late 2008 into 2009 was that the fundamental, bottom-up, long-short managers with a long bias were the ones buying because they saw great value in the falling market. They had the worst performance and they had the biggest redemptions and the biggest business risk. ABS did reduce the number of those managers. When the market began performing well in March of 2009, ABS was light on those long bias managers who would have been on the upside of the market.

In response to a question from the Chairman, Mr. Murphy stated that to a small degree, ABS did rethink its approach after March of 2009. ABS learned to avoid long lockups with managers and not to let its net drop as far as it did. Overall, ABS did not change anything with regard to its investment process or risk management because everything there worked as expected.

In response to a question from Dr. Peck regarding how net exposure is determined, Mr. Murphy stated that all ABS managers are trading long and short stocks and the net long versus short is analyzed. ABS believes it has the right exposure to protect capital in difficult market environments, but can still create equity-like returns when the markets perform well. In a good equity long-short environment, a manager can keep up with the markets with 50% net if they can make money on longs and shorts. The past three years have been a

tough market environment for equity long-short because stocks have been highly correlated with each other. It is difficult for managers to make money on longs and shorts in such an environment. A 45% to 50% net long is the right level for long-short managers to be able to make a return.

Mr. Murphy then stated that ABS can liquidate 80% of the portfolio in one quarter, so it has good liquidity and capacity.

Mr. Murphy then reviewed net exposure to the market, stating that the largest sectors are technology and consumer at half the net. The largest exposure by region is in the U.S. and the largest market cap exposure is in large-cap stocks.

Mr. Murphy stated that it has been a difficult market environment for the last few years. A major market reversal occurred beginning this year. Everything that performed poorly in the second half of 2010 performed well in January and February of 2011. Developed market stocks outperformed emerging market stocks by 10% and severely underperformed other stocks in the market. European financials, which were thought to be in trouble because of problems in Europe, did very well. Additionally, mining stocks and gold had fairly large returns at the beginning of the year.

Mr. Murphy then noted that the market environment continues to be dominated by macro events, which is not a good long-short environment. A good long-short environment is one where there is a low correlation of stocks and good stock dispersion. Currently, however, stocks are moving in the same direction, either up or down. It is hard for managers who are long and short to make money from the good stocks going up and the bad stocks going down. He stated that QE2 helped repair a flat market and a flat commodity index. There is concern as to what will happen at the end of June when QE2 ends.

Mr. Murphy then discussed the bull and headwind cases for different markets. Regarding equities, very strong earnings continue to come from most companies. The headwinds going forward out of the earnings are probably going to slow down with QE2 coming to an end. Emerging markets are increasing interest rates, which may slow some of those economies. Regarding commodities, on the positive side the dollar is weak, with strong emerging market growth and a lot of unrest in the Middle East, which is good for increases in the price of oil. The headwinds here are that prices are historically very high; slow growth could mean those prices would come down. Regarding credit, most companies have very strong balance sheets

today. Most credit rating agencies will most likely go through a cycle of upgrading the credit of many corporations going forward. Unfortunately, yields are at near historic lows and many bonds are trading at high premiums, so it is difficult to see that there is a lot more appreciation left in the credit space. Regarding G7 fixed income, inflation is subdued and it continues to be a safe haven for people to put their money. However, on the headwinds, increased debt continues and there are deficits in all developed market governments. Real interest rates are very low, so there is not a lot of upside for G7 fixed income. Regarding emerging market debt and currencies, emerging market countries have increasing reserves and there is definitely weakness in this market, which makes it attractive. However, yields are very low, and emerging markets are facing serious inflation going forward.

Mr. Murphy then stated that while there are reasons to be concerned about these asset classes, and while equity long-short is in a difficult environment due to high correlation, the situation is improving. QE2 should allow that correlation to go down. ABS is excited about equity long-short as a good place to invest going forward.

In response to a question from Dr. Peck, Mr. Murphy stated a risk control approach does not necessarily change net exposure. Rather, it sizes positions. ABS invests with many managers with varying strategies and styles. Additionally, ABS has a risk budgeting process which means that the more volatile a manager, the smaller the manager can be in the portfolio. ABS sets a limit on how many basis points it is comfortable with any manager losing. It is an automatic mechanism for ABS to cut back certain managers so that the portfolio is not overweight in risky managers.

In response to a question from Dr. Peck, Mr. Murphy stated that the Board can expect a 40% to 60% net long exposure to the market all year.

In response to a question from Mr. Christenson, Mr. Murphy stated that it is the managers who determine what they want to do. There are different components to how managers make their money. One, they have a certain net exposure to the market. Two, they should be able to pick good stocks if they are long, and bad stocks if they are short, and make money on that. Three, the flexible beta, which is the ability over time to move the net up and down based on the market environment and what it is providing. In a down market, managers will protect capital by reducing net and gross, and that is part of what the Board pays for.

(b) K2

Joe Hernandez introduced himself as being part of the investor relations team and then provided a brief overview of the company. K2 was established in 1994 and has $10.2 billion in assets under management, 90% of which is from institutional investors. K2 currently employs 180 people and the investment and marketing teams continue to grow as K2 gains more clients. K2 feels it is important to maintain a high level of client service.

Mr. Hernandez then introduced Brian Walsh as Senior Managing Director, Head of Research. Mr. Walsh discussed the long-short equity fund, which is about 60% of total portfolio assets. He stated that the ERS Fund is approximately $650 million and is designed to outperform the equity market over a full market cycle, but with less volatility. K2 is trying to protect capital in difficult market environments, rely less on market direction and generate returns, and rely more on the manager's ability to pick long and short stocks to outperform.

Mr. Walsh then discussed the long-term historical performance of the Fund. The biggest factor is the environment. Stocks have rallied strongly since government stimulus was introduced in early 2009. That stimulus will be pulled, so the next chapter in market performance is going to be very different. A long-short equity strategy makes sense for investors who want equity market exposure without the directives. K2 is neither bullish or bearish on the equity market, but K2 also does not think that it is realistic to expect the U.S. equity market will continue to improve as robustly without the stimulus. The period in which ERS has invested in the Fund has been volatile, so that investors are concerned about the next big macro news. K2 takes a hedged approach and has about a 30% market exposure, which is somewhat modest. K2 tends to outperform in the trending markets and the down markets rather than in the up markets. K2 also tends not to change market exposure dramatically, preferring to rely on the managers' skill set to generate returns.

In response to a question from the Chairman about K2 changes since 2008, Mr. Walsh stated that post 2008, K2 expected that a recession would follow the market disruption and that equities would not perform well. While K2 may have understood the direction, it underestimated the magnitude; it was much worse than expected. While the Fund performed better than typical long-short equity funds, it was a risk reminder for K2. As a result, a K2 practice is to require all managers to report their positions to K2 through a risk

aggregator so K2 can apply stress tests to see, for example, how the Fund would survive if a 2008 situation occurred again. Another lesson learned is with liquidity. Can managers exit those underlying equities without big market impact? K2 tends to hire smaller managers than other firms, which is helpful.

Mr. Walsh continued that K2 creates a lot of fund structures in which K2 is the only investor, so K2 controls its own destiny. K2 did not have gating issues and suspension or redemptions in any of its funds where other firms did. Even though that was a positive experience, K2 is concerned about that sort of factor affecting it in the future. On the structural side, K2 made many changes. K2 had great transparency and used it well. But there are a number of risk issues, in Europe particularly. Many managers are concerned and remain cautious about potential political decisions on these foreign macro factors.

Mr. Walsh then discussed portfolio allocation. K2 focuses on long-short equity, U.S.-focused managers. The U.S. market is the most efficient from the perspective that investors care more about company fundamentals here than in other markets, which are more modest in market size. Because K2 managers are long and short, the emphasis is on company fundamentals. Are companies trading together? K2 has a smaller focus in Asia and Europe, where the markets are less crowded. Those managers were able to pick up a stock selection alpha. K2 is limiting its exposure to the equity market neutral. Without increasing the risk exposure of the Fund in total, those managers are having a harder time in terms of keeping rigidly neutral. Additionally, K2 tends to have 20 to 25 managers in the portfolio to keep it at a concentrated level. There is a 10% to 20% manager turnover in the portfolio.

Mr. Walsh continued that the major strategy drivers in 2010 have been the U.S. generalists, in terms of return on capital, followed by technology. Specialty managers have emerged as leaders in the portfolio, such as Pershing Square and Bay Resources. Other managers, like K2's manager detractors, were too rigid in their perspective on financials.

In response to questions from the Chairman and Ms. Bedford, Mr. Walsh stated that when K2 lost confidence in one of its managers, K2 fired that manager from the portfolio and reallocated assets to where the Fund was underweight. In this case, in Europe and Asia.

Mr. Walsh then stated that there are concerns about events over the last 24 months in the equity market and where markets go from here. A moderate market exposure where confidence in manager quality is higher is a better proposition today than it was in early 2009. Managers tend to do better in markets that are more narrow in range than in markets that are driving upwards steeply and where managers are losing money on shorts and making money on longs.

In response to a question from the Chairman, Mr. Walsh stated that K2 does not use David Einhorn's Greenlight fund primarily because of transparency. Every manager at K2, no matter how successful, must provide their positions through a risk aggregator so K2 understands how that manager makes money. David Einhorn was not willing to provide that information.

Mr. Walsh concluded by discussing risk output, which is measured by VAR. Even in 2008, K2 was looking at positions modestly in terms of levels of risk compared to the market, which is still the case today. K2's philosophy is not to act only as a proxy for the market. K2 provides exposure information to its consultants and investors as evidence that K2 is acting as promised and not just taking market risks to generate certain returns. K2 is performing well year-to-date.

In response to a question from Dr. Peck, Mr. Walsh stated that K2 still uses a normal distribution in its risk management, but the stress tests K2 uses are more extreme versions of VAR because VAR assumes normality and the world is not always normal. Risk solutions for the kind of market experienced in 2008 are important and VAR does not capture all the necessary information. Additionally, K2 obtains custodian data for asset verification.

Ms. Bedford then stated that she found the side-by-side comparison of the asset managers very useful and insightful. Ms. Bedford then suggested that the managers report their performance against a similar range of benchmarks so that it is easier to understand how portfolios are allocated.

(c) Marquette Associates Report

Brett Christenson and Ray Caprio of Marquette Associates, Inc. distributed the monthly report.

Mr. Christenson first discussed the quarterly report and historical fiscal year returns. Through March 2011, the Fund was up almost 3%. The three-year return of the Fund versus the median public pension fund indicates that ERS is plotting slightly below the

median return, but invested at a much lower risk than the median pension plan. On funds over $1 billion, ERS is actually plotting above the median on returns.

Mr. Christenson then stated that in terms of how the Plan is structured versus the peer group, there is a significant underweight in U.S. equities with ERS at about 23% and the median public pension plan closer to 40%. For international equities, there is an approximate 5% overweight with ERS at about 20% and the median public plan closer to 14%. Overall, the Plan has much less directional equity exposure than its peer group. This is specifically designed to keep the volatility low and to avoid the pension Plan experiencing a negative 15% or 20% return in the future. The goal is to keep volatility low and at the same time achieve an 8% actuarial return.

Mr. Christenson stated that the first quarter was definitely an environment for U.S. equities, and in the second quarter year-to-date, the international equities have performed much better than the U.S. equities. In May, the U.S. market is more volatile and slightly negative. Marquette will closely monitor the situation as QE2 ends. Marquette will be addressing asset allocation with the Investment Committee to fine-tune the portfolio but still keep the portfolio structured in a low-risk environment. Plan assets are close to $1.9 billion, and Marquette has a better idea of liquidity in terms of benefits going forward. One idea is to lower fixed income, which is going to be a significant drag in returns but also a necessary evil to anchor the portfolio. Another possibly is to tweak the international equities.

In response to a question from Mr. Sikorski, Mr. Christenson stated that ERS is high in hedge funds in an attempt to maintain equity-like returns over long market cycles with a lot less volatility than the stock market. ABS and K2 are 10% of the portfolio, which Marquette reallocated from U.S. equities. Over long cycles, the funds should return very close, if not exceed, equity returns, but with much less volatility.

In response to a question from Mr. Sikorski, Mr. Christenson stated that it is good practice to deviate from what peer funds are doing, within reason. It would be easy for Marquette to just model the portfolio to the peer group and monitor returns, but Marquette believes that there are areas that the portfolio should be invested in to try to achieve an 8% return and take much less risk than ERS's peer groups. ERS is taking advantage of a 7% investment in infrastructure, a slight overweight to peer groups in real estate, and

long-short exposure. A peer group is an important guideline, but part of the value Marquette believes it brings to ERS is its recommendations based on other factors.

The Chairman invited Mr. Sikorski to the next Investment Committee meeting to discuss asset allocation and investment rationale.

Mr. Caprio then presented the April 2011 flash report. The ERS portfolio has a market value of approximately $1.9 billion in assets through April 2011, which is a $50 million increase from the prior month. A strong driver of this appreciation was the stock market, which continued its upward trend. Small-cap continues to outperform large-cap, and a negative month on the stock market is yet to be seen since August 2010, although May 2011 is down 3%. ERS remains slightly underweight to fixed income by 2% and slightly overweight to international equity. There is one remaining real estate core manager, UBS, to call money, most likely in the third quarter. Marquette will pull that money from the public REIT portfolio. As benefits are paid out of ERS's portfolio, Marquette will naturally rebalance to targets.

Mr. Caprio then stated that monthly performance for the Fund was up 2.7%. Year-to-date, the Fund is up 5.6% and for the trailing one-year period through April 2011, the Fund is up 13.8%. Additionally, ERS outperformed the policy benchmark, which is a basket of index funds, or what the portfolio would be if Marquette indexed the entire portfolio. This is a strong sign that the allocation in the portfolio, whether small-cap versus large-cap or U.S. versus international, and the active management are paying off. For fixed income, up 1.2%, the stock market rallied, but the bond market also rallied with strong returns for the month. U.S. equity return is a combination of all the active managers in the Wilshire 5000. In international, a reversal of recent trends occurred, with a 6.3% return and the index up 5%. The reallocation Marquette did two years ago hopefully will have a more focused concentration on the more inefficient areas of the international markets, like emerging markets and small-cap stocks. The hedge funds, as expected, returned less than half a percent. With real estate, now that the Fund is in open-ended commercial real estate rather than public REIT, performance will be seen more on a quarterly basis than a monthly basis. Finally, the monthly fluctuation in infrastructure is due to currency appreciation and depreciation.

Mr. Caprio then discussed managers relative to their benchmarks. Across the board, with the exception of mid-cap growth, the active

managers did very well compared to the index. Notably, GMO, who is currently on alert, has performed well. Regionally, in international markets, Europe has performed well, and value has done much better than growth year-to-date, so GMO is outperforming now. Marquette will continue to explore options for that space while GMO continues to perform well versus the benchmark on short term. In small-cap, GMO is slightly beating the benchmark over the one-year period, and year-to-date it is doing well versus the benchmark. Unfortunately, with emerging markets, active management is not paying off, at least over the last year. Marquette will continue to monitor that, as well. With hedge funds, Marquette funded them on April 1, 2010, so one-year numbers are available, and ABS performed a little bit better than K2. Regarding real estate, Morgan Stanley and American Realty have very strong returns for the first quarter. In infrastructure, Marquette did not have a full quarter in 2011 for JP Morgan, but IFM had a return of 7.7%. Additionally, there were fluctuations as the dollar depreciated versus mostly international funds. Overall, relative performance for fund managers has been solid at least through April.

In response to a question from the Chairman, Mr. Caprio indicated that UBS will most likely call ERS's commitment at the end of the third quarter with the possibility of funding in the fourth quarter.

7. Actuarial Valuation Report and County Contribution Request

Larry Langer, Valerie A. Long, and Marco Ruffini distributed the Actuarial Valuation presentation.

Mr. Langer first addressed a question from the Chairman about whether the current targeted actuarial rate of return of 8% should be examined, though returns for the past few years have been relatively good on a smoothed basis. Mr. Langer stated that Buck Consultants studies economic and demographic assumptions during the experience review of the actuarial valuation process, and the next review is for the five-year period ending in 2012. However, an 8% rate of return is common for most larger government retirement systems because of similar investments and actuarial standards of practice.

The Chairman then stated that the Board will be reviewing its asset allocation policy over the summer and may revise it.

Mr. Langer first thanked the Milwaukee County Retirement Office staff for its contribution to the January 1, 2011 valuation, noting that a lot of effort went into supplying necessary data to the actuary.

In an overview of the 2010 Plan year, Mr. Langer stated that the market value of assets returned was about 11.7%. The return on a smoothed basis averaging over five years was a little below 5.5% because of the 2008 and early 2009 results. Returns have been nice since then.

Mr. Langer further stated that liabilities were slightly better than expected because of salary experience and mortality. In terms of experience, limited or no salary increases, reduced workforces, and death helped the liabilities and the costs of the retirement system. In addition, census data clean-up helped to reduce liabilities.

Mr. Langer noted that there were no changes in Plan methodology or assumptions, but there were several Plan amendments, such as to the normal retirement age and member contributions. Currently in the report, no line item exists for subtracting member contributions. This is primarily because contribution amounts are fluid, but also because what will happen with the Budget Repair Bill is an unknown.

Mr. Langer then discussed the actuarial valuation objectives. The first objective was to determine the actual contribution for the 2011 Plan year and a budget amount for 2012. Secondly, to check progress and security of promised benefits with a comparison of assets to accrued liability. Finally, to compare expectations from prior valuations to what occurred in 2010 to examine net actuarial gain or loss. Overall, results are a little better than anticipated.

Ms. Long discussed the actuarial valuation process, which begins with input. Input is what was known as of January 1, 2011, such as membership data, benefit provisions, asset data, actuarial assumptions, and funding methodology. The input is collected and then run through an actuarial projection model, from which a valuation report is run.

Ms. Long stated that the next step in the actuarial valuation process involves demographic and economic actuarial assumptions. Demographic assumptions are what happens to members over a lifetime. For example, normal retirement rates and mortality rates. Economic assumptions describe what happens to money throughout that member lifetime. For example, rates of return and salary increases. Buck Consultants reviews these actuarial assumptions every year, but the five-year experience review is where Buck Consultants compares actual historical experience to the assumptions.

Ms. Long continued that assumptions determine the benefit, and a cost method is applied to determine how much that benefit is worth now and how to allocate that cost over the lifetime. The cost method also helps determine what the contributions need to be to accommodate fluctuating

retirement volume over the lifetime. Contributions are made up of two parts, the normal cost and the amortization of the unfunded accrued liabilities. Normal cost is the amount of benefits that are earned in the previous valuation year. Amortization of the unfunded accrued liabilities includes what the assets do not cover in liability. The point is to pay off that unfunded liability and to smooth that over a period of time. The portion that is smoothed out over any given year is the contribution for that year.

Mr. Ruffini then discussed specific demographics. There was a slight increase in the ERS retired population and a decrease in the ERS active member population, which is normal. Retirement systems around the country are experiencing this because of the baby boomer population, and the trend should continue. In terms of active membership detail, the ERS total employee population is down slightly because of the uptick in retirements this year. Improvements and efficiencies were made to collect better, higher-quality data, and that is reflected in the detail, as well. Average earnings are increasing, though not quite as much as normal. The annual compensation of the total fund has decreased. The retirees' average benefit has increased in proportion to cost-of-living increases.

In response to a question from Mr. Grady regarding the drop in the number of inactive employees as part of the data cleanup, Mr. Ruffini clarified that over the past few years, there has been a shift in the way that the data is handled and reported through the Vitech system. ERS staff has been very helpful in setting up and making improvements to an automated process to produce an actuarial extract. The decrease in the number of inactive employees and the investment returns are primary drivers of the contribution decrease. Buck Consultants is confident the numbers are correct.

Mr. Ruffini stated that in a ten-year history of ERS assets on a market and an actuarial basis, the assets came in fairly close to each other, which makes much of the analysis easier and more straightforward. When Buck Consultants performs its valuation analysis, headcount, demographics, and assets are reconciled from prior year to current year. The market value of assets is reviewed to account for the contributions and disbursements. From there, net investment income is calculated and then compared to the expected net investment income of 8% to calculate gain or loss to the system. The valuation report shows there were favorable asset returns of about $64 million.

In response to questions from Mr. Grady, Mr. Ruffini explained that the 11.7% estimated rate of return from Buck Consultants is different than the approximately 12.2% from Marquette because Buck Consultants takes a slightly more simplified approach for analysis purposes and treats

everything, such as contributions, disbursements, and benefits paid, as if it occurs mid-year. When there is a slight difference between estimated rates of return, it is generally because of the payment timing in the analysis. For example, if ERS has an unusually large cash flow at the beginning of the year because of unusually large retirements, that would throw that number off.

Mr. Ruffini then discussed the actuarial value of assets, a process that smoothes out gains and losses to the system to keep assets in place. This is important because if assets are not kept in place, neither are contributions, and then budgeting becomes difficult. The County of Milwaukee employs a five-year smoothing method, which means that a gain or loss occurring in any one year is recognized in fifths over a five-year period. All deferred gains and losses for the last five years are totaled and applied to the ERS market value of assets, which provides the actuarial value of assets. Currently, ERS losses and gains offset each other, so the actuarial value and market value are very close. Then another reconciliation, similar to the reconciliation for actuarial value, is performed to obtain the actuarial return. ERS has a slight actuarial loss because a higher amount of investment returns were expected. The reason the actuarial value is different from the market value is because of the aggregation of data.

Mr. Langer then discussed results. Gains and losses are differences from what was anticipated to happen last year versus what actually happened. The total amount of ERS loss was just over $20 million, which means that unfunded liability was about $20 million more than what was anticipated from the prior year. Most of the loss came from assets, but there were also some nice gains under mortality and salary.

Mr. Langer stated that the actuarial value of assets basis is what is used for purposes of funding because it is based on smoothed assets, which results in smoother contribution amounts. From 2010 to 2011, the funded status decreased from 93.3% to 92.2%. However, on the market value basis side, the funded status increased from 86.9% to 90.6% because the market return was 11.7% and ERS had liability gains. For the market value basis in 2009, before the $400 million pension obligation bond contribution, ERS had $1.2 billion in assets and $1.9 to $2 billion in liabilities. Current unfunded liability on a market value basis is just under $200 million. However, favorable investment returns since 2009 and the pension obligation bonds and other employer contributions help make up much of that gap.

Mr. Langer stated that for valuation purposes, a budget contribution that is a one-year look forward is determined. Last year, the 2011 budget contribution was $31.6 million. This amount includes unknowns, like amortized gains and losses and planned amendments. The actual budget contribution is $26.8 million, which is much lower. There are several

reasons for that. The current active population is smaller and the salary for that group is smaller, which drives normal cost, plus investment return was better than anticipated and extra contributions were made. The 2012 budget contributions come to almost $30.4 million and include the last of the 2008 losses.

In response to a question from Mr. Grady, Mr. Langer agreed that Buck Consultants and the County calculated an employee contribution of approximately 6% that will be required if the Budget Repair Bill is adopted. Therefore, the 2012 employee contribution will most likely be very close to that because the budgeted contributions of $31.6 million for 2011 and $30.4 million for 2012 are so similar.

Mr. Langer discussed a ten-year projection of the contributions. Over the next few years, contributions are expected to decrease somewhat because of contribution overages and underages amortized over a five-year period, and the asset returns amortized over a five-year period. After those five years, however, contributions steadily increase. In a fifty-year projection of contributions, contributions decrease sharply in the mid 2030s, primarily because the unfunded liability payment established four or five years earlier will stop at that point.

In response to a question from Mr. Grady, Mr. Langer stated that the numbers provided in the contribution projections amount are inflationary numbers. In addition, for periods beyond 2045 or so, the contributions are only for the cost of benefits accruing during the year because all unfunded liabilities will be paid off by then.

Mr. Langer stated that impacts to the budget-to-actual contributions include unanticipated liability loss or gain, which is driven by a much lower normal cost because of lower head counts and lower salaries. Additionally, they include smaller impacts, such as contribution variances. Impacts to actual-to-budget contributions include this year's valuation of $26.8 million, plus expected increases, for a total of $30.4 million. A sizable expected increase is the phase-in of deferred asset gains and losses. However, the last of the 2008 and 2009 losses are almost completed.

Mr. Langer then discussed a summary of results for OBRA. OBRA is not very well-funded. Currently, there are about $1.4 million in assets to cover $5.5 million in liabilities. Additionally, about $2 million in distributions from OBRA are expected in the second half of 2011 or early 2012. Because of this, much of the $772,000 contribution will be needed to pay benefit distributions. Buck Consultants will work with ERS staff to ensure the appropriate amount of money is included.

Mr. Grady then stated that he spoke to the County controller about this issue, who assured Mr. Grady that the County will make whatever contributions are necessary in order for OBRA to make the distributions that are necessary.

In response to a question from Mr. Yerkes regarding the County providing ERS with a check on a biweekly basis as contributions are withheld, Mr. Langer stated that ERS should receive money from the County as the contributions are being made and place that money into the Retirement System.

Mr. Langer concluded by stating the next step is for the Board to approve the 2012 recommended budget contributions and send a letter to the County requesting funds.

**The Pension Board unanimously approved the 2012 requested budget contributions as recommended by the actuary and authorized the Chairman to send a report to the County Board making those requests. Motion by Ms. Bedford, seconded by Mr. Garland.**

8. Investment Committee Report

The Chairman reported on the May 2, 2011 Investment Committee meeting. Marquette presented to the committee a white paper that Marquette intends to publish to its clients on how to construct an international portfolio. Marquette's recommendation is a non-U.S. equity portfolio that takes advantage of the trends revealed through analysis. Allocations should be equal-weighted in large-cap, large-cap core, small-cap, and emerging markets. As ERS asset allocations are reviewed over the next few months, the committee will most likely revisit these allocations and fine-tune them.

The Chairman then stated that though there are concerns about GMO and though GMO is on alert, GMO has been bouncing back. As a result, the committee decided against any recommendation to the Board on GMO's performance, other than to continue to monitor GMO to see whether its style and ability to add value are coming back into favor. As an alternative strategy, the committee will continue to understand the benefits of indexing in the international space if movement is necessary at some point with one of the active managers.

The Chairman concluded by noting that Artisan Partners, a mid-cap manager, is going public. This type of ownership structure change sometimes calls for scrutiny and concern, so Artisan will be monitored going forward.

9. Audit Committee Report

Mr. Garland reported on the May 5, 2011 Audit Committee meeting. He had initiated a discussion as to whether the actuarial assumption of 8% was acceptable. Mr. Grady reminded the committee that it had been as high as 9% in 2000, and that if it were lowered again to do so in smaller increments to ease the change in more gradually. The committee decided to discuss the topic with Mr. Langer for an actuary's perspective on the matter

Mr. Garland then stated that Mr. Schroeder provided an update on the RFP for actuarial services, indicating that it will be sent some time in the next few months.

Mr. Schroeder then noted the discussion about part-time employees on ADR and whether to reconsider how disability cases are handled. The committee decided that the current process was according to Ordinance and no changes were necessary.

Mr. Garland then stated that the committee discussed employee contributions and contingent beneficiaries. Mr. Schroeder noted that the discussion related to the fact that most employees are now contributing. These employees should be considered to have member accounts and therefore be allowed to identify contingent beneficiaries.

In response to a question from Mr. Garland, Mr. Grady stated that the Ordinances do provide for the possibility of a refund of contributions in return for forfeiting any other benefit under the Plan. What the committee is primarily concerned with is having a form signed and on file to name a beneficiary for a refund of these contributions in the event a member dies in active service. A form is needed.

10. Administrative Matters

The Pension Board discussed additions and deletions to the Pension Board, Audit Committee, and Investment Committee agendas. The Chairman asked that anyone with future topic suggestions should voice them. Those topics will be discussed at the next agenda planning meeting.

The Chairman suggested taking action on a few upcoming educational opportunities for the Pension Board members. The Board discussed the educational value of the conferences.

**The Pension Board unanimously approved the attendance of any interested Pension Board member at:**

1. **Pensions & Investments: Pension Risk Management Conference, June 14, 2011, Chicago**

2. **Institutional Investor: Hedge Fund Investor Symposium, June 21-22, 2011, New York**

3. **Adams Street Partners Client Conference, June 2011, Chicago**

**And the attendance of a representative of Corporation Counsel at:**

**National Association of Public Pension Attorneys Annual Conference, June 21-14, 2011, Seattle**

**Motion by Ms. Bedford, seconded by Mr. Sikorski.**

Dr. Peck then suggested that, at the June Board meeting, Marquette recommend other conferences coming up that are related to portfolio allocation since this is something the Board will be looking at closely.

Ms. Bedford moved that the Pension Board adjourn into closed session under the provisions of Wisconsin Statutes section 19.85(1)(f), with regard to item 11 for considering the financial, medical, social, or personal histories of specific persons which, if discussed in public, would be likely to have a substantial adverse effect upon the reputation of any person referred to in such histories, and that the Pension Board adjourn into closed session under the provisions of Wisconsin Statutes section 19.85(1)(g), with regard to items 11, 12, 13, 14, 15, and 16 for the purpose of the Board receiving oral or written advice from legal counsel concerning strategy to be adopted with respect to pending or possible litigation. At the conclusion of the closed session, the Board may reconvene in open session to take whatever actions it may deem necessary concerning these matters.

**The Pension Board voted by roll call vote 5-0 to enter into closed session to discuss agenda items 11, 12, 13, 14, 15, and 16. Motion by Ms. Bedford, seconded by Dr. Peck.**

11. Disability Matters

(a) Applications

(i) Delores Hughes, ADR

In closed session, the Pension Board discussed Delores Hughes' accidental disability pension. The Medical Board recommended that the Pension Board deny Ms. Hughes' accidental disability pension application because no additional information was provided that would alter the Medical Board's previous opinion that Ms. Hughes did not medically qualify for an accidental disability pension in 2009.

**In open session, the Pension Board unanimously approved accepting the Medical Board's recommendation to deny an accidental disability pension application. Motion by Ms. Bedford, seconded by Dr. Peck.**

12. William Jenkins Claim Appeal – Military Service and Vesting

Mr. Jenkins provided testimony in open session. Mr. Jenkins noted that for years he did not apply for pension benefits, though he was contacted by several people to do so. Finally, he did apply, by completing an application. He was told he was eligible for a pension. Months later, Mr. Jenkins received a phone call from the Retirement Office that stated he was not eligible. In a subsequent conversation with the former County Assistant Director of Human Resources, Mr. Jenkins was told again that he was eligible. Subsequent to that conversation, Mr. Jenkins received another phone call from the Retirement Office stating that he was not eligible.

Mr. Jenkins requested that Attorney James Hall help resolve the matter. When Attorney Hall contacted Mr. Schroeder, Mr. Schroeder's response was that Mr. Jenkins was not eligible. Parts of the County Ordinances that were supplied to Mr. Jenkins, however, were ambiguous to him with regard to military service time. Despite the fact that Mr. Jenkins served for 28 years, the report from Mr. Schroeder indicated he only received a one-year credit for military time. Mr. Jenkins then provided additional information to the County that showed actual time served, including reserves, was 33 years, and Mr. Jenkins filed for appeal. Mr. Jenkins then stated that if he is eligible, he would like to receive his pension benefit. If not, he will respect the decision of the Board.

Mr. Jenkins stated that the formula for crediting military service is not clear in terms of how his one year of credit was calculated.

Mr. Grady stated that the military service Ordinance basically provides for a five-for-one credit. He noted that military service credit is not year-for-year, but rather based on years of County service. For every five years of County service, one year of military service is credited, assuming there is at least one year of military service, no matter whether the actual time served in the military is five years or 30 years. If a person has ten years of County service, a second year of military credit is credited. The maximum military service credit anyone can receive is 4 years for 20 years of County service. However, because Mr. Jenkins had more than five but less than ten years of County service, he is entitled to one year of military service.

Mr. Grady then stated that the confusion Mr. Jenkins experienced with respect to pension benefits and eligibility was most likely due to the current five year vesting rule for most County employees. If a person works at the County for five years, the person is entitled to a pension at normal retirement age. However, between 1982 and 2000, the vesting period was ten years. Prior to 1982, it was six years, but it dropped to five years in 2000. For those employees who worked between 1982 and 2000, which included Mr. Jenkins, the vesting period is ten years. In order to receive a pension, an employee had to work a total of ten years. Mr. Jenkins had six and a half years, plus one year of military service credit, for a total of seven and a half years.

The Chairman then stated that the Board will respond to Mr. Jenkins' appeal in writing.

The Board then discussed this matter in detail in closed session and stated reasons for denial in open session.

**In open session, the Pension Board unanimously voted to deny Mr. Jenkins' appeal, consistent with the discretion assigned to the Pension Board by Ordinance section 8.17 to interpret the Ordinances and Rules of Employees' Retirement System of the County of Milwaukee ("County ERS"), based on the following facts and rationale:**

1. William I. Jenkins was an active member in the United States Air Force from April 28, 1963 to August 20, 1970 and a member of the Air Force reserves until his retirement from the Air Force in 1999.

2. Mr. Jenkins became a member of ERS upon commencing employment with the County on July 13, 1983. His employment with the County terminated on December 1, 1989. During his time of County employment Mr. Jenkins earned 6.44167 service credits through County employment and was credited with one additional credit for his military

service in the Air Force. Upon termination of his County employment in 1989, Mr. Jenkins had 7.44167 service credits.

3. On August 11, 2009, Mr. Jenkins received a letter from the Retirement Office stating that he was eligible for a deferred retirement benefit based on his accrued service credit. The letter further stated that his monthly pension would be approximately $570.92. Shortly after the letter was sent, the Retirement Office called Mr. Jenkins to explain that the letter was sent to him by mistake and actually Mr. Jenkins was ineligible for a benefit from the County.

4. On February 14, 2011, Mr. Jenkins, through his attorney, requested reasons why he was not entitled to a County pension benefit. The Retirement Office explained that because of his enrollment date, Mr. Jenkins needed 10 service credits to vest in a pension benefit and therefore, the Retirement Office concluded that Mr. Jenkins was ineligible for a County pension benefit. Mr. Jenkins appealed this decision, arguing that his military service was incorrectly calculated.

5. Members may only gain ERS service credit for their service in the military under one of two provisions in Ordinance section 201.24(2.10). The first provision is inapplicable to Mr. Jenkins because it provides military service credit in ERS to members employed by the County who take a leave of absence to perform military service. Mr. Jenkins did not take a leave of absence during his employment with the County which would warrant the application of this provision.

6. Pursuant to the second provision, regardless of the member's employment status, with the County during his or her period of military service, if a member is first employed by the County and performed the requisite number of years of military service between January 1, 1938 and December 31, 1974, the member is entitled to one military service credit in ERS for every five ERS service credits earned due to County employment. Therefore, in order to be granted the maximum four military service credits in ERS a member must earn 20 years of ERS service credit and performed at least four years of military service between January 1, 1938 and December 31, 1974.

7. The Pension Board finds that Mr. Jenkins is only entitled to one military service credit. While Mr. Jenkins did perform the requisite number of years of military service before 1975 to earn 2, 3, or 4 military service credits in ERS, Mr. Jenkins needed to earn 10, 15 or 20 years of ERS service credit, respectively, in order to be granted any additional military service credit. Mr. Jenkins earned only 6.44167 service credits in ERS, so, despite the fact that he performed seven years of military service before

1975, the Pension Board finds he is only entitled to, at most, one military service credit.

8. Ordinance sections 201.24(4.5) & (5.15) provide that any member who first becomes a member of ERS on and after January 1, 1982, and who was not eligible to accrue service credit as an active employee on or after January 1, 2001, is not eligible for a deferred vested pension if his or her employment is terminated prior to the completion of ten years of service.

9. The Pension Board finds that Mr. Jenkins is ineligible for a deferred vested pension because he began County employment after January 1, 1982, he was not eligible to accrue service credit as an active employee on or after January 1, 2001, and did not accrue the required 10 years of service credit to be eligible for a deferred vested pension.

10. The Pension Board denies Mr. Jenkins' appeal because it finds that Mr. Jenkins' service credit was accurately calculated, taking into account his military service credit and he is ineligible for a deferred vested pension because he did not complete 10 years of County service. Additionally, while it is regrettable that Mr. Jenkins received a letter mistakenly informing him that he was eligible for a deferred vested pension benefit, the letter does not entitle him to a pension when it is not provided for under the Ordinances and Rules.

**Motion by Dr. Peck, seconded by Ms. Bedford.**

13. Jo Ann Schultz Claim Appeal – Death Benefit for Deferred Vested Member under Section 201.24(6.3)

The Board discussed this matter in detail in closed session and stated reasons for denial in open session.

**In open session, the Pension Board unanimously voted to deny Ms. Schultz's appeal, consistent with the discretion assigned to the Pension Board by Ordinance section 8.17 to interpret the Ordinances and Rules of Employees' Retirement System of the County of Milwaukee ("County ERS"), based on the following facts and rationale:**

1. David F. Schulz was previously employed by Milwaukee County, including service as Milwaukee County Executive. Mr. Schulz completed a purchase of service credit under ERS Rule 207 by paying $1,767.46. His adjusted enrollment date after his buy in was 1969. Without the buy in, his enrollment date was 1988. Mr. Schulz's buy in did not appear to violate any Rule 207 requirements. Mr. Schulz died in 2007, prior to reaching age sixty.

2. Mr. Schulz's widow wrote a letter on January 5, 2010 requesting a survivorship pension benefit because Mr. Schulz would have reached his sixtieth birthday in September 2009, had he lived. In her letter, she indicated that she had contacted the Retirement Office previously via telephone, and the Retirement Office employee indicated Mr. Schulz did not qualify for a pension benefit.

3. The Pension Board reviewed Mr. Schulz's situation at its meeting on November 17, 2010. The Retirement Office sent a letter to Ms. Schulz on December 8, 2010 outlining Mr. Schulz's benefit, as guided by the Pension Board's analysis at its meeting. The letter explained that pursuant to section 201.24(3.5) of the Ordinances and ERS Rule 403 Mr. Schulz qualifies for a refund of the payments he made to purchase service credit under ERS Rule 207 plus interest at the rate of 5% per annum from the date of his death until the date paid. Ms. Schulz would receive this refund for the express reason that she does not qualify for, and will not receive, any other pension benefits pursuant to the ERS Ordinances because Mr. Schulz was not eligible to begin receiving a deferred vested pension at the time of his death and he did not qualify for payment of a death benefit under the Ordinances.

4. In a letter dated April 4, 2011, Ms. Schulz appealed the benefit determination included in the Retirement Office's letter. In her letter, Ms. Schulz argued that a deferred vested member has fulfilled all requirements for a pension upon termination of employment because retirement is defined as termination of employment after a member has fulfilled all requirements for a pension. She also argued that, because Mr. Schulz left county service having qualified for deferred vested pension and deferred vested pensions are pensions within the meaning of the code, as his beneficiary, she has a right to his vested pension.

5. Ms. Schulz's letter appears to quote directly from Bruno v. Milwaukee County, a Wisconsin Supreme Court decision of a prior Milwaukee County lawsuit regarding deferred vested benefits. 260 Wis.2d 633 (2003). In Bruno v. Milwaukee County, the Wisconsin Supreme Court held that former County employees who qualified for deferred vested pensions "retired from the County" for purposes of receiving a military service pension credit upon termination of employment. The Court based its decision on the definition of retirement in Ordinance section 201.24(2.19), stating that an individual has fulfilled all requirements for a pension at the time of termination, satisfying the definition of retirement, even if the individual does not immediately begin to collect payments on that pension.

6. The Pension Board finds that the facts underlying Bruno differ from Mr. Schulz's circumstances. The plaintiffs in Bruno had all applied for and begun receiving a pension benefit from ERS at the time they asked to add

the military service credit to their benefit. They had, thus, fulfilled all requirements necessary to receive a pension. Mr. Schulz died prior to reaching the age when he could apply for and receive a pension benefit. The Court's decision did not address whether requiring a participant to reach a certain age to receive a benefit or to apply for a benefit would affect the "retired" status of the member. Accordingly, a critical issue in question with Mr. Schulz, whether he had fulfilled all requirements to receive a pension because he died prior to reaching the age to apply for a benefit, was not addressed by the Supreme Court.

7. A deferred vested ERS member must reach age 60 before receipt of a deferred vested pension benefit can commence. Ordinance section 201.24(4.5) states that payment of a deferred vested pension benefit commences as of the member's normal retirement date. Ordinance sections 201.24(2.17) and (2.18) define normal retirement date and normal retirement age for Mr. Schulz as age 60. In addition, the letter sent to Mr. Schulz in 1993 stated that Mr. Schulz was eligible for a deferred vested pension "beginning after your attainment of age 60..." The Pension Board finds that, because Mr. Schulz died prior to age 60, he did not meet all requirements for receipt of a deferred vested pension benefit.

8. Pursuant to section 201.24(4.5) of the ordinances, an ERS member is required to apply for a pension benefit before it can be paid. The letter Mr. Schulz received in 1993 provided as such, stating "[k]eep in mind that the responsibility for filing the formal application for monthly benefits as you approach age 60 is strictly yours." Mr. Schulz did not file an application for retirement because he died two years prior to reaching age 60 when he could have applied for his benefit.

9. The Pension Board also finds that, because Mr. Schulz did not apply for a pension benefit from ERS, he did not select a form of benefit in which his pension benefit should be paid. It is unclear whether Mr. Schulz would have elected a form of benefit providing a benefit for a beneficiary upon his death, what form of beneficiary benefit (i.e. 100% survivor annuity, 50% survivor annuity, etc.) he would have selected or who he would have designated as his beneficiary. A pension benefit with survivor benefit is calculated based on the characteristics of both the member and the member's beneficiary. Absent this election of a form of benefit and beneficiary, ERS cannot calculate the beneficiary portion of a pension benefit. Had Mr. Schulz selected a form of benefit without a survivor pension and died the day after payments began, no additional pension payments would have been made.

10. The Pension Board denies Ms. Schulz's appeal that she is entitled to receive a pension benefit for the reasons previously outlined in the Retirement Office's determination. Mr. Schulz had not met all of the

requirements for receipt of a deferred vested pension benefit because he died prior to attaining age 60 and prior to applying for a benefit. Even if Mr. Schulz was considered "retired" at the time of his termination of employment, he died prior to the first date he could apply for a pension benefit from ERS. Mr. Schulz did not select a form of benefit or beneficiary because he died prior to application for a pension benefit, and no method would exist for calculating his benefit or determining an intended beneficiary.

11. The Pension Board reaffirms that Ms. Schulz is entitled to receive a refund of Mr. Schulz's buy in amount plus interest calculated at 5% per annum from the date the buy in payment was received by ERS until the date it is paid out.

**Motion by Ms. Bedford, seconded by Dr. Peck.**

14. Renee Booker Claim Appeal – Re-employment of Retired Member

Mr. Booker and his attorney appeared before the Board in open session. Mr. Grady indicated that the Board had seen the correspondence relating to this appeal. Attorney Louis Elder introduced himself as the attorney for Mr. Booker. Attorney Elder stated that Mr. Booker worked for Milwaukee County for 23 years and was recently given credit for another year and a half, during which he did some work for the State of Wisconsin. He stated that Mr. Booker would have been eligible to retire under the Rule of 75 as early as 2005. Mr. Booker worked for the County from 1977 until 2002 as an industries director for the House of Correction, but the position was abolished in 2002. Mr. Booker did not seek retirement because he was not eligible at that time. He did submit a retirement application on December 1,2010 as a vested deferred member. He was later rehired for a short period of time by acting County Executive Lee Holloway on December 29, 2010, and Mr. Booker requested of the acting Human Resources Manager that the Retirement Office rescind his December 1, 2010 request to retire, and he was told "it would be taken care of."

Mr. Booker then stated that when he retired on December 1, 2010, he did not know he was going to be asked to come back to work for the County. On December 29, 2010 he was offered the position and asked to start that day. Mr. Booker noted that the amount of time between his retirement request and the first day of his new position was less than 30-days and therefore he believed he had the right to rescind his retirement request. Had he known he was going to be offered a position with the County, he would not have submitted an application on December 1.

Attorney Elder stated that he believes Mr. Booker should have been allowed to retire under the Rule of 75 whether or not he came back to active

employment. To him, it is irrelevant that Mr. Booker signed the only option he was provided on December 1, 2010—the deferred vested option.

In response to a question from the Chairman, Mr. Booker stated that he worked for the State of Wisconsin for 18 months and that he recently cashed out his pension benefit from the State of Wisconsin in the form of a lump sum.

Attorney Elder then noted three other requests. One, that Mr. Booker's pension benefits be recalculated as a Rule of 75 retiree. Two, that a determination be made as to whether Mr. Booker is eligible to elect a backDROP at this time. Three, that Mr. Booker be given credit for the time he worked for Milwaukee County as a consultant between 1984 and 1986.

In response to a question from the Chairman as to whether Mr. Booker was an employee of the County between 1984 and 1986, Mr. Booker stated that back in the 1980s, the County had a practice of circumventing normal hiring practices by hiring for positions through "personal services contracts." Mr. Booker was working at the Department of Family Support as an accountant and was recruited to take one of these positions as a fiscal coordinator for a new pilot project contracted to Milwaukee County. Mr. Booker stated he was told he would be on contract for one year and then his position would be converted back to County. However, it was actually nearly three years. An audit was eventually conducted that led to the abolishment or conversion of these positions to County employment. During these three years, Mr. Booker received all regular benefits such as sick and vacation time, but since then has not received pension credit for that time. Mr. Booker is aware of other employees in similar situations who have received credit for that time and is asking for the same consideration.

In response to questions from the Board, Mr. Booker stated that he did not have any documentation to back up his statement, but that the audit should still be in County records. Mr. Booker also stated that he should be credited with 24½ years of service without including that time and 27½ years of service including that time.

The Chairman and Mr. Grady stated that without documentation to support this new part of Mr. Booker's claim, this information could not be considered in the pending appeal.

In response to a question from Ms. Bedford, Mr. Booker stated that he received the retirement payment for December 1 through 28, 2010 as a direct deposit into his account on January 31, 2011.

The Chairman then stated that the Board will respond to Mr. Booker's appeal in writing.

The Board then discussed this matter in detail in closed session and stated reasons for denial in open session.

**In open session, the Pension Board unanimously voted to deny Mr. Booker's appeal, consistent with the discretion assigned to the Pension Board by Ordinance section 8.17 to interpret the Ordinances and Rules of Employees' Retirement System of the County of Milwaukee ("County ERS"), based on the following facts and rationale:**

1. Mr. Booker was employed by the County for up to 26 years until 2002.

2. In November 2010, upon reaching the age of 55, Mr. Booker applied for deferred vested early retirement effective December 1, 2010. The Retirement Office processed his application with the December 1, 2010 effective date.

3. On December 29, 2010, Mr. Booker returned to County employment. Upon his return Mr. Booker met with Interim Director of Employee Benefits, Gerald Schroeder. Mr. Schroeder explained to Mr. Booker that as a reemployed retiree, upon re-retirement Mr. Booker's pension would be recalculated to reflect his additional service. While Mr. Booker acknowledged that his pension payments would be placed on hold while he remained reemployed by the County, Mr. Booker did not request that his retirement on December 1, 2010 be rescinded.

4. On January 31, 2011, Mr. Booker received a pension benefit payment for his initial period of retirement (December 1-28, 2010). He has since received three additional pension payments, two in March 2010 and one in April 2010.

5. Mr. Booker's County employment was terminated on February 3, 2011. Upon his termination of employment, Mr. Booker requested that he be allowed to retire with a normal pension benefit under the Rule of 75. The Retirement Office determined that Mr. Booker had returned to County employment as a retiree and therefore could not modify his retirement benefit from early retirement to normal retirement.

6. On April 6, 2011, Mr. Booker, through his attorney, appealed to the Pension Board the Retirement Office's decision to deny Mr. Booker's request to retire with a normal pension. Mr. Booker argues that he qualified to retire under the Rule of 75 as of December 29, 2010 and he

rescinded his original retirement of December 1, 2010 when he accepted the reemployment with the County. Mr. Booker also requested that his eligibility under Wisconsin Statute 40.30 and for a backdrop be determined.

7. The Pension Board finds that once a member has selected a retirement date and that date has passed, the member is considered retired and unable to modify his or her pension benefit. The Pension Board has consistently interpreted the Ordinances and Rules and has denied any change in retirement benefits for any retiree after the effective date of retirement, including, but not limited to, changes in the optional form of benefit or beneficiaries. Further, the Board is not aware of an Ordinance, Rule or Civil Service Rule which allows a member to rescind his retirement request at any point past the retirement date. Furthermore, this decision is consistent with the Pension Board's prior decisions and the Retirement Office's past practice. The Pension Board’s past decisions and the Retirement Office's past practice for members who return to County employment following receipt of a benefit do not allow them to change benefit forms upon re-retirement. Treating Mr. Booker consistently with prior members would require that he maintain the same form of benefit elected when he began receiving a pension benefit from Milwaukee County.

8. The Pension Board finds that Mr. Booker's date of retirement passed prior to his re-employment and he cannot rescind his retirement once his retirement effective date has passed. Mr. Booker completed his retirement application, elected a deferred vested early retirement benefit in accordance with Ordinance section 201.24(4.5) and requested that his retirement be effective on December 1, 2010. His application was processed by ERS and Mr. Booker received a payment for his initial period of retirement. Since his termination of employment in February 2011, Mr. Booker has also received three additional pension payments.

9. The Pension Board further finds that, even if Mr. Booker could rescind his retirement, Mr. Booker did not request to rescind his retirement at the time of his re-employment and instead accepted his pension payment on January 31, 2011. The Pension Board is not persuaded by his argument that he rescinded his retirement by allegedly requesting that his pension payments be placed on hold while he was reemployed by the County. This would have occurred with or without Mr. Booker's request because it is mandated by Ordinance section 201.24(11.2) Similarly, Mr. Booker's argument that he rescinded his retirement by the act of returning to County employment would render Ordinance section 201.24(11.2), which describes the process for retirees who return to County employment, invalid. Furthermore, Mr. Booker accepted, without protest, pension payments.

These actions suggest that Mr. Booker did not intend or attempt to rescind his retirement.

10. The Pension Board finds that, because Mr. Booker did not and could not rescind his retirement request, his retirement benefit cannot be modified. Ordinance section 201.24(11.2) provides that, upon subsequent retirement, the member is credited with the new service for redetermining the amount of the pension benefit. In stating only that the pension amount is redetermined using the new service, Ordinance section 201.24(11.2) implies that the pension benefit merely resumes with the additional benefit amount added. The member is then resuming the benefit already chosen rather than initiating a new pension benefit. The Pension Board also finds that this interpretation is consistent with prior Pension Board decisions and Retirement Office practice.

11. The Pension Board therefore has found that Mr. Booker is ineligible to retire under the Rule of 75 because he has already retired as a deferred vested member under Ordinance section 201.24(4.5). Because Mr. Booker returned to County service, he is entitled to have his pension benefit recalculated to include his additional service credit earned, but Mr. Booker may not re-retire under a new benefit form.

12. Mr. Booker had 1.8 credits of State service arising from his employment with the State from February 2003 through October 2004. Based upon information received from the Retirement Office, the Pension Board finds that effective November 1, 2010, Mr. Booker withdrew his state benefit. Because Mr. Booker no longer has a benefit with the State, Wisconsin Statute § 40.30 has no application to his situation.

13. The Pension Board finds that, Mr. Booker is ineligible for a back drop. Pursuant to Ordinance section 201.24(5.16) a member who is eligible for a deferred vested is ineligible for a back drop. In addition, for the same reasons set forth above with respect to his eligibility for the Rule of 75, Mr. Booker is not eligible to elect a new or different form of benefit under Ordinance section 201.24(11.2). Additionally, based on the timing of his employment, a back drop date could not be determined which meets both requirements of Rule 711(d). Pursuant to Rule 711(d), Mr. Booker's back drop date cannot be earlier than December 29, 2010, the date he returned to active service and became eligible for a pension pursuant to Ordinance section 201.24(4.1) or (4.2). Rule 711 further provides that Mr. Booker's back drop date cannot be later then February 3, 2010, one year prior to the date he left active service. Thus, Mr. Booker is ineligible for the back drop because he cannot have a back drop date that is after December 29, 2010 and before February 3, 2010.

**Motion by Dr. Peck, seconded by Ms. Bedford.**

15. Pending Litigation

(a) *Mark Ryan, et al. v. Pension Board*

The Pension Board took no action on this item.

(b) *Travelers Casualty v. ERS & Mercer*

The Pension Board took no action on this item.

(c) *ERS v. Lynne Marks*

The Pension Board took no action on this item.

(d) *Christine Mielcarek v. ERS*

The Pension Board took no action on this item.

(e) *Lucky Crowley v. ERS*

The Pension Board took no action on this item.

16. Report on Compliance Review

The Pension Board took no action on this item.

17. Adjournment

The meeting adjourned at 12:15 p.m.

Submitted by Steven D. Huff,
Secretary of the Pension Board