Minutes

YPSILANTI COMMUNITY UTILITIES AUTHORITY
BOARD OF COMMISSIONERS MEETING
Tuesday, September 22, 2009 – 9:00 a.m.
YCUA Administration Building
2777 State Road
Ypsilanti, MI  48198-9112

Members Present:  J. Ray Scott, Mark Namatevs, Deedra Climer Bass and Larry J. Doe.
Members Absent:  Gregory A. Peoples.

1. CALL TO ORDER:  Scott called the meeting to order at 9:09 a.m.

2. MINUTES OF THE PREVIOUS MEETINGS:  Motion by Doe to receive and file the
minutes of the August 25, 2009 meeting as presented.  Support by Namatevs.  In favor:
All.  Opposed: None.  (Motion carried.)

3. NEW BUSINESS:

A. Request to Approve – YCUA Resolution No. 09-11 Increasing
Teamsters MERS Employee Contribution – Gwyn Belcher

Ms. Belcher advised the Board that YCUA staff is in the process of
negotiating with the AFSCME union and that negotiations are about to
begin with the Teamsters.  She indicated that one of the things that is
being asked of all employees is to increase their contribution to the MERS
pension.

Ms. Belcher also explained that the Teamsters deserve a great deal of
credit as they opened their contract four months before they needed to and
entered into a letter of understanding with the Authority to change their
percentage beginning September 7th.  She pointed out this increase has
already been imposed upon management and that this is simply a
formality for Teamsters since the monies have already begun being
deducted.  She added that, when the AFSCME contract is ratified, their
increase will be brought to the Board for approval.
Ms. Belcher explained that this resolution is required to be passed by the Authority’s governing body in order to change the MERS employee contribution.

Ms. Belcher recommended approval of YCUA Resolution No. 09-11 Increasing Teamsters MERS Employee Contribution.

Larry J. Doe inquired as to what the total amount is that YCUA needs to pay. Ms. Belcher responded that the average employer contribution is 14.8%. Mr. Doe then inquired as how this cost is likely to increase as the amount of employees at YCUA decreases. Ms. Belcher responded that, when the last valuation that was done, the average was 14.8%, which is what starts in 2010. She further advised that with the employees paying the additional 3% starting in 2009, the impact will be seen when the next valuation occurs. Ms. Belcher stated that there are some things planned for the Teamsters that will help reduce some of the contribution requirements for that group but that it’s currently part of negotiations.

Mr. Doe inquired as to what the cost of the 14.8% is to the Authority. Ms. Belcher responded that 14.8% of $6 million is approximately $888,000.

Ms. Belcher confirmed that this agenda item and the next are identical and can be approved with one motion.

Larry J. Doe commented that the Authority needs to do whatever it can to drastically reduce the costs of retirement because he sees that the burden of these costs are swaying from employers to employees. He commended the Teamsters for opening up their contract in order to help get things behind us.

Gwyn Belcher indicated that it is important to acknowledge publicly that all YCUA employees have taken a pay cut and have done so willingly in their attempt to help with the situation in addition to the $2.2 million that has been cut from operating expenses.

Pat Morris, AFSCME union steward, addressed the Board and indicated that the union has addressed the Board’s concerns with their contract and that they will see a proactive stance on behalf of AFSCME in securing the future of YCUA.

Ms. Belcher added that, at the last contract negotiations, the Board saw some pretty unusual concessions given from a municipal-entity union which included some drastic increases in co-pays and premium contributions. She indicated that this indicates that YCUA is once again on the forefront of making some pretty radical changes to municipality benefits.
J. Ray Scott indicated that he wished to go on record saying that one thing that is outstanding to him personally is the nonadversarial cooperation between the entities that are looking to sustain what YCUA has in operation. He commended Larry R. Thomas, T. Michael Jessee, and Gwyn Belcher in this regard and thanked Mr. Doe on his leadership.

Motion by Bass to approve YCUA Resolutions No. 09-11 and 09-12 Increasing Teamsters and Management MERS Employee Contributions. Support by Namatevs. In favor: All. Opposed: None. (Motion carried)

B. Request to Approve - YCUA Resolution No. 09-12 Increasing Management MERS Employee Contribution – Gwyn Belcher

This item was approved along with item 3.A.

C. Request to Approve - Employment Agreement Addendum – Gwyn Belcher

Ms. Belcher advised the Board that this item is required in order to be completely legal with Mr. Thomas’s employment agreement. She indicated that the Authority needs to enter into an addendum changing his contribution. Ms. Belcher also explained that the Board must take action on the addendum.

Ms. Belcher recommended approval of the Employment Agreement Addendum changing the director’s MERS contribution to 3%.

Motion by Bass to approve the Employment Agreement Addendum changing the director’s MERS contribution to 3%. Support by Namatevs. In favor: All. Opposed: None. (Motion carried)

D. Request to Approve - Ypsilanti Township DWSD Water Connection (YT-03) Project – T. Michael Jessee

Mr. Jessee advised the Board that Superior Township built a third connection for YCUA some time ago at the corner of Bridge and Geddes Roads. He indicated that this connection is tied into the DWSD water system. Mr. Jessee also explained that it provides water to Superior Township and can also be used by YCUA in the event that there is a major failure on the YT-02 connection. He pointed out that, after operation of the facility began, it was found that the two-inch valve that was designed for low-flow conditions would not perform as Authority staff had hoped. Mr. Jessee explained that staff met with Superior Township and evaluated the situation. He further advised that the valve manufacturer was also consulted, who completed an exercise to prove that, indeed, the valve would not work as intended.
Mr. Jessee stated that Superior Township, YCUA, OHM, and UIS came up with a solution to the problem. He acknowledged that OHM is to provide all of the specifications and bidding documents for the modifications to the valve with no cost to YCUA or Superior Township. Mr. Jessee confirmed that Superior Township will share the costs with YCUA at a 50/50 split. He explained that the project went out for bid and the lowest bid came from John E. Green in the amount of $49,400. Mr. Jessee pointed out that staff is also requesting a contingency in the amount of $4,940, for a project budget of $54,340. He also stated that, since the writing of his memo, he received news that OHM has also submitted a Construction Engineering Phase to this project in the amount of $9,500, bringing the total project budget to $63,840.

Mr. Jessee recommended approval of the Ypsilanti Township DWSD Water Connection (YT-03) Project in the amount of $63,840 as well as approval to enter into a new agreement, pending review by YCUA attorney Tom Daniels, with Superior Township for the 50/50 division in the project costs.

Deedra Climer Bass inquired as to whether Superior Township will be reimbursing YCUA for their half of this project cost. Mr. Jessee responded affirmatively.

Motion by Doe to approve the Ypsilanti Township DWSD Water Connection (YT-03) Project in the amount of $63,840 as well as approval to enter into a new agreement, pending review by YCUA attorney Tom Daniels, with Superior Township for the 50/50 division in the project costs. Support by Namatevs. In favor: All. Opposed: None. (Motion carried)

E. Fund Balance Report - Larry R. Thomas

Mr. Thomas directed the Board’s attention to the Fund Balance Report for August 30, 2009. He then proceeded to give a detailed report of the information contained in the report and answered questions from the Board.

Informational only; no motion from the Board required.


Mr. Thomas directed the Board’s attention to the Financial Report – Authority Net Assets Report for August 30, 2009. He then proceeded to give a detailed report of the information contained in the report and answered questions from the Board.

Informational only; no motion from the Board required.
G. Usage Report – Consumption Report - Larry R. Thomas

Mr. Thomas directed the Board’s attention to the Consumption Report. He then proceeded to give a detailed report of the information contained in the report and answered questions from the Board.

Informational only; no motion from the Board required.

H. Attorney’s Report – Thomas E. Daniels

Mr. Daniels advised the Board that he has three items to report on that have been consistently reported on over the past several months. He indicated that, as the Board knows from previous written communication, these significant pieces of litigation and arbitration are very close to being resolved.

Mr. Daniels also explained that the C.A. Hull matter resulted in a favorable verdict for YCUA several weeks ago. He pointed out that presently, there is a motion pending in court for entry of a judgment against C.A. Hull, which will be heard by the court on September 30th. Mr. Daniels explained that this follows the judge’s verdict in favor of YCUA. He further advised that the significant piece of that motion before the court is that, in addition to asking for a judgment that includes the award of $208,000 taxable cost of a little bit more than $300 in interest of $21,000, YCUA is also including its affidavit and petition for attorney fees under the case evaluation process.

Mr. Daniels stated that, as the Board may recall, that case went to a case evaluation settlement process, resulting in an evaluation in YCUA’s favor that was rejected by C.A. Hull. He acknowledged that, because they did not improve their position over that award by 10% at trial, they owe YCUA’s attorney fees from the case evaluation through the verdict. Mr. Daniels confirmed that this total is $27,000. He explained that YCUA is now asking the court to enter a judgment on September 30th in the amount of $258,000 with the verdict, the cost, the interest, and the attorney fees.

Mr. Daniels pointed out that YCUA was successful in this case because of the testimony that was offered by Keenen Crump, Scott Westover, and Mike Jessee and the documentation that was generated contemporaneous with all of the events that took place. He also stated that those things cannot be created after the fact and that, without proper documentation of the numbers and the events, witnesses could not have testified convincingly.

Mr. Daniels advised the Board that the WTUA arbitration appeal was successfully dismissed and that the final step in that process is a motion for entry of a judgment against them. He indicated that it is not typical
that there would be a judgment on an arbitration award but, in this case, WTUA must continue to pay their contract share of employee health care expenses for active and retired employees throughout the course of the contract. Mr. Daniels also explained that the nature of the award is prospective into the future and the award itself wouldn’t be enforceable if WTUA breached it a few years down the road. He pointed out that a judgment reflecting the award would be enforceable.

Mr. Daniels explained that the other final piece of this matter, which he has discussed with staff, is that his office is preparing the documentation to be submitted to YCUA’s administrative staff before the end of the week that could potentially be filed with the court to ask them to award the Authority with attorney fees. He further advised that this will not be based on a case evaluation but, rather, based on the claim that the appeal didn’t have any arguable legal merit and should never have been filed in the first place. Mr. Daniels stated that, from April through August, with all the briefs and all of the time that was put into the case, the total fees are in excess of $36,000.

Mr. Daniels advised the Board that a mediation process was completed on September 9th in the Meade Westvaco case. He indicated that the result was that the parties didn’t even come close to settling the case. Mr. Daniels also explained that Meade Westvaco did not engage in any serious negotiations with YCUA and the Christman Company throughout the course of the entire day. He pointed out that, as a result of the failure to settle the matter, dispositive motions are due by the end of September and that he expects Meade Westvaco to be filing motions for summary disposition on portions, and possibly all, of YCUA’s case. Mr. Daniels explained that YCUA will be responding to those motions and continuing with certain discovery issues such as a pending motion to compel the production of documents. He further advised that discovery in this case closed on July 31st.

Informational only; no motion from the Board required.

I. Director’s Report - Larry R. Thomas

There was no director’s report for the month.

4. OLD BUSINESS:

J. Request to Approve – Sewer Use Ordinances – Perry M. Thomas

Mr. Thomas advised the Board that he is requesting approval to forward some revisions to the Sewer Use Ordinance to the City of Ypsilanti and Ypsilanti Township. He indicated that the Sewer Use Ordinance controls
the pollutant contribution to the publicly-owned treatment works, including the collection system and the wastewater treatment plant.

Mr. Thomas also explained that the Sewer Use Ordinance is the instrument of the local governments, including the City of Ypsilanti, Ypsilanti Township, and the contract communities that is administered and enforced by YCUA. He pointed out that revisions are prompted by local limit re-evaluations, which re-evaluate the pollutant loadings to the plant and determine whether the limits are relevant and technically sound. Mr. Thomas explained that it was determined that these limits were indeed relevant and sound and that there was even some room to relax some of the limits.

He further advised that changes in federal regulations also prompt revisions in the Sewer Use Ordinance, which is the case in this instance. Mr. Thomas stated that staff also has some suggested changes which will give YCUA the authority to do various things to administer the Industrial Pretreatment Program and to protect the POTW. He acknowledged that some of the language just increases the effectiveness of the ordinance and some of the language makes the ordinance more complete and consistent.

Mr. Thomas confirmed that the Board’s materials included a document titled Summary of Changes, and he proceeded to paraphrase the contents of that document. He explained that, if the YCUA Board approves this recommendation to the City of Ypsilanti and Ypsilanti Township, authority staff will appear before their respective Boards and ask that they revise their ordinances. Mr. Thomas pointed out that, if they revise their ordinances, YCUA will give its contract communities notice that they have 90 days to revise their ordinances as well.

He also stated that YCUA attorney Tom Daniels would like to comment on concerns over the POTW provision and the request from the contract communities for the inclusion of language in their delegation agreements that would make some changes to the funding mechanism.

Thomas E. Daniels advised the Board that this matter was discussed with the Executive Director of WTUA and their attorney. He indicated that they offered to present to YCUA some suggested language that would revise the delegation agreement to address the issue, which he received the day before. Mr. Daniels also explained that he will be discussing this in the near future with Mr. Thomas and that the suggestion was not problematic at least conceptually.

Mr. Thomas recommended approval of the Sewer Use Ordinance recommendations.
Mark Namatevs inquired as to whether YCUA is loosening its limits on some serious contaminants. Mr. Thomas responded that the pollutants that are receiving the increases are the ones that the expanded and improved YCUA plant is now able to readily treat. He added that it is also the result of the fact that the Board chose to maintain the limit levels during the last local limit re-evaluation, even though it was determined that the limits were unnecessarily strict.

J. Ray Scott inquired as to whether there will be fewer restrictions needed because of industries that are moving out. Perry M. Thomas responded that, when these revisions were drafted, YCUA did not know that Powertrain was moving out but that this assumption is accurate.

Mr. Scott indicated that the important issue is perception and that it is crucial to be able to adequately explain to the public any changes in requirements regarding controversial pollutants like arsenic. He commended Mr. Thomas for his hard work in preparation of this item, particularly because it stands to protect the community and instills confidence in YCUA.

Motion by Bass to approve the Sewer Use Ordinance recommendations. Support by Namatevs. In favor: All. Opposed: None. (Motion carried)

5. OTHER BUSINESS:

K. Director’s Evaluation – Deedra Climer Bass

Ms. Bass advised the Board that it is once again time for the annual performance evaluation of the director of YCUA. She indicated that she would be passing out a memo along with the evaluation form. Ms. Bass also explained that the form needs to be completed and returned to her by October 14th. She pointed out that she will compile the results and bring them to the October Board meeting. Ms. Bass explained that she prefers to have the forms completed electronically.

L. Request to Approve - Request to Connect to YCUA Water Supply and Wastewater Systems – T. Michael Jessee

Mr. Jessee directed the Board’s attention to a memo from YCUA Engineering Manager Scott D. Westover. He indicated that this is related to a request to connect to the YCUA water and wastewater systems that has been received for a residence at 2488 Golfside Road in Pittsfield Township.

Mr. Jessee also explained that Pittsfield Township does not have any infrastructure in this area to service this residence. He pointed out that
service to this potential customer will require a three-way agreement between YCUA, the resident, and Pittsfield Township.

Mr. Jessee explained that he recommends that YCUA attorney Tom Daniels prepare the agreement documentation and bring it before the Board at the October meeting for their approval.

Larry R. Thomas interjected that this type of agreement is quite common and that YCUA has several such agreements in effect with other customers.

Mr. Jessee recommended approval of Request to Connect to YCUA Water Supply and Wastewater Systems for 2488 Golfside Road.

Motion by Namatevs to approve the Request to Connect to YCUA Water Supply and Wastewater Systems for 2488 Golfside Road. Support by Doe. In favor: All. Opposed: None. (Motion carried)

6. STATEMENTS AND CHECKS: Motion by Bass to pay the bills in the amount of $4,164,692.42 with an addendum in the amount of $12,767.75. Support by Doe. In favor: All. Opposed: None. (Motion carried)

7. PUBLIC COMMENTS: There were no public comments for the month.

8. ADJOURNMENT: Motion by Namatevs to adjourn the meeting at 10:14 a.m. Support by Bass. In favor: All. Opposed: None. (Motion carried)

Respectfully submitted,

DEEDRA CLIMER BASS, Secretary - Treasurer
In accordance with the MERS Plan Document of 1996, the Ypsilanti Community Utilities Authority (Participating Municipality) Division 12 - Teamsters Reporting Unit No., MERS Division No. and Name

adopts the following benefits for: 8106 (Municipality No.)

A “division” is defined as an employee or group of employees covered by the same benefit programs and the same employee contribution program. Each division has a specific MERS number and name, such as “Div. 10, General-Admin.” and is part of a Reporting Unit, such as: “01.”

Supporting Supplemental Valuation is dated N/A

**BENEFIT MULTIPLIER**

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<th>From</th>
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<td>(Current Benefit Multiplier)</td>
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**Provisions for Earlier Normal Retirement**

- [ ] F50/25
- [ ] F50/30
- [ ] F55/15
- [ ] F55/20
- [ ] F(N)-Years and Out (Specify number of years)
- [ ] F55/25
- [ ] F55/30

Effective Date

**EMPLOYEE CONTRIBUTION RATE**

New Rate 3%

Effective Date 09/07/2009

**ADDITIONAL BENEFITS AFFECTING FUTURE RETIREES**

- [ ] FAC 3
- [ ] FAC 5
- [ ] V-6
- [ ] V-8
- [ ] V-10
- [ ] RS - 50%
- [ ] D-2
- [ ] E-2
- [ ] DROP + with ____%

Effective Date

**RETIREE COST-OF-LIVING BENEFIT PROGRAMS FOR CURRENT RETIREES**

- [ ] E Standard
- [ ] E-1
- [ ] E - Other (Specify Factor Adjustment Years)

Effective Date

**WINDOW PERIOD (If applicable)**

From ______ (Date) To ______ (Date)

I CERTIFY THAT THE ABOVE WAS ADOPTED BY

YCUA Board of Commissioners 09/22/2009

Governing Body Date of Meeting

SECRETARY - TREASURER September 22, 2009

Authorized Signature: DEEDRA CLIMER BASS

Date

NOTE: Standard/Nonstandard Benefit Provisions—Attach page fully describing provision(s), and (1) a complete copy of the fully executed collective bargaining agreement and a certified copy of official minutes where the collective bargaining agreement or this Resolution was adopted, or (2) a copy of the arbitration or mediation decision. If further information is needed, please contact MERS Employer Services Division at 1 (800) 757-6577.

F18 Resol Chng MERS Bene (9-19-06)
MUNICIPAL EMPLOYEES' RETIREMENT SYSTEM OF MICHIGAN

YCUA RESOLUTION NO. 09-12 INCREASING MERS EMPLOYEE CONTRIBUTION
(OTHER THAN DB COMPONENT OF HYBRID PROGRAM)

In accordance with the MERS Plan Document of 1996, the Ypsilanti Community Utilities Authority
(Participating Municipality)
Division 11 - Management
Reporting Unit No., MERS Division No. and Name

adopts the following benefits for:

(Municipality No.)

A “division” is defined as an employee or group of employees covered by the same benefit programs and the same
employee contribution program. Each division has a specific MERS number and name, such as “Div. 10, General-
Admin.,” and is part of a Reporting Unit, such as: “01.”

Supporting Supplemental Valuation is dated N/A

BENEFIT MULTIPLIER

From (Current Benefit Multiplier) To (New Benefit Multiplier)

Provisions for Earlier Normal Retirement

☐ F50/25 ☐ F50/30 ☐ F(N)-Years and Out (Specify number of years)
☐ F55/15 ☐ F55/20 ☐ F55/25 ☐ F55/30

Effective Date

EMployee CONTRIBUTION RATE

New Rate 3%

Effective Date 09/07/2009

ADDITIONAL BENEFITS AFFECTING FUTURE RETIREES

☐ FAC 3 ☐ FAC 5 ☐ V-6 ☐ V-8 ☐ V-10 ☐ RS - 50%
☐ D-2 ☐ E-2 ☐ DROP + with %

Effective Date

RETIREE COST-OF-LIVING BENEFIT PROGRAMS FOR CURRENT RETIREES

☐ E Standard ☐ E-1
☐ E - Other (Specify Factor Adjustment Years)

Effective Date

WINDOW PERIOD (If applicable)

From (Date) To (Date)

I CERTIFY THAT THE ABOVE WAS ADOPTED BY YCUA Board of Commissioners 09/22/2009

(Official Title)

Secretary - Treasurer September 22, 2009

Authorized Signature DEEDRA CLIMER BASS Date

NOTE: Standard/Nonstandard Benefit Provisions—Attach page fully describing provision(s), and (1) a complete copy of the
fully executed collective bargaining agreement and a certified copy of official minutes where the collective bargaining agreement or
this Resolution was adopted, or (2) a copy of the arbitration or mediation decision. If further information is needed, please contact
MERS Employer Services Division at 1 (800) 767-6377.

F18 Resol Chng MERS Benef 9-19-06