



# WAYNE COUNTY RETIREE SUB-CHAPTER 38

## WE MAKE MICHIGAN HAPPEN

### Executive Board Meeting

**Ronald Yee**  
President

~~July 10, 2018~~ August 14, 2018/ks

**Gilbert J. Cox**  
Vice-President

The meeting was called to order at 11:30 AM by President Yee, and was opened with the Pledge of Allegiance.

**Hugh S. Macdonald**  
Secretary Treasurer

**PRESENT:** Cairgle (11:33), Cox (11:45), Kreklau, Macdonald, McCall, Noelke, Parker, Wadlin and Yee

**Mary Etta Kreklau**  
Recording Secretary

**EXCUSED:** Smith and Sockolosky

**Douglas Wadlin**  
Sergeant-At-Arms

**ABSENT:** None

**Richard Noelke**  
**John McCall**  
**James Sockolosky**  
Executive Board

**ROLL CALL OF OFFICERS:** Brother Macdonald made the motion, properly supported by Brother Wadlin, to accept the roll call of officers. The motion carried.

**Faith Cairgle**  
**Charles Parker**  
**Jerry Smith**  
Trustees

**Sub-Chapter 38 minutes for the Executive and Membership meetings are recorded to help the Recording Secretary to produce minutes for each meeting. Pursuant to the previous direction of the membership these recordings shall be disposed of as soon as reasonably possible after the Sub-Chapter 38 membership has approved the minutes. The minutes are not or intended to be an actual verbatim record of the proceedings but are summarized notes of the agenda items, motions maker of the motion, votes and lengthy discussions.**

### CORRESPONDENCE

**MiARA:** July 2018 newsletter with an article on the Janus decision by the U.S. Supreme Court, the Trump appointment of Brett Kavanaugh to the U.S. Supreme Court and endorsements for the August 7, 2018 primary election. Announcing the next general membership meeting for July 24, 2018, in Lansing. Receive and File

**WC Retirement System:** Announcing the 2018 Retiree Retirement commissioner election for the term ending December 31, 2022. Receive and File

Motion by Brother Macdonald, properly supported by Brother Wadlin, to receive and file all items in Correspondence. Motion carried.

### READING OF MINUTES

Brother Macdonald made the motion, properly supported by Brother Noelke, to waive the reading and approve the minutes of the Executive Board meeting of July 10, 2018, leaving the record open to the end of the meeting for corrections, additions, or deletions and adopt as corrected. The motion carried.

Brother Macdonald made the motion, properly supported by Brother Noelke, to waive the reading and approve the minutes of the Membership meeting of July 10, 2018, leaving the record open to the end of the meeting for corrections, additions, or deletions and adopt as corrected. The motion carried.

## **REPORT OF OFFICERS**

### **PRESIDENT:**

The Primary Election is over and the candidates for office on both the Democratic and Republican tickets have been set. There was a 30% voter turnout which is higher than in many primaries for several years. Now we must work to elect the candidates who represent positions that affect our retirement benefits and other important issues to us in the November General Election.

On Tuesday, July 31, an important State Supreme Court ruling was issued, in a 4-3 decision (Viviano, Clement, Bernstein & McCormack v Markman, Zahra & Wilder), on the petitions submitted by People Not Politicians regarding the issue of gerrymandering. The petition language takes the drawing of voting district lines out of the hands of the political party in the majority and puts it in the hands of a 13-member bipartisan commission. The ruling determined that the petition language did not violate the State Constitution and should go to the voters on the Nov 6 ballot.

A second judicial ruling came from a Federal Judge Gershwin Drain on Wed, August 1, that put a permanent injunction on the implementation of Michigan PA 268 passed in 2015 by the Republican led legislature that would ban straight ticket party voting. The Judge ruled that it would lengthen the voting process which could discourage people from voting as well as “intentionally” discriminated against African Americans in violation of the Equal Protection Clause. Since the US Supreme Court refused to hear this case in 2016, it makes the temporary injunction previously issued in this case, a permanent injunction. It is interesting that Republicans have twice tried to eliminate straight ticket voting in 1964 and again in 2001 but both times it was overturned by the voters. This time the legislature included a \$5 million appropriation to the bill which made it immune from a statewide vote to repeal it which led to the lawsuit. However, the Republican Senate Majority Leader strongly disagreed that the law was intended to discriminate against any group of voters.

On Thursday, August 9 we went to the Wayne County Ways and Means Committee Budget hearing. Six (Joe Palamara, Alisha Bell, Glenn Anderson, Terry Marecki, Diane Webb & Al Haidous) of the 8 Commissioners present (Martha Scott and Ilona Varga did not speak but last year they did say they would support an increase) expressed support for our request from last year for an increase in the monthly stipend for Medicare eligible retirees and a stipend of \$1,000 for mirrored retirees. The Chief Financial Officer, Henry Dachowitz stated that the CEO was still in discussions on this matter. The County has had a budget surplus every year since they took away our Employer provided retiree health care ranging from about 2 million to as much as 45 million and they project a \$6.7 million budget surplus for the 2018-2019 fiscal year. During Public Comment, I spoke on behalf of the retirees and stressed that the retirees helped the County get through their fiscal crisis when we lost our healthcare and then our 13<sup>th</sup> check and unlike active employees we had no recourse to get anything back through collective bargaining and did not have a cost-of-living built into our pensions as many State and other municipal retirees have. Most of the Commissioners seemed sympathetic to situation and in agreement with our position. The next important Ways and Means budget hearing will be held on Thursday, September 6, 2018, at 1:30 pm in Room 704 of the Wayne County Building, when they discuss Non-Departmental Budgets. We would request that all retirees that are able to attend to please try to make this meeting to show support for this important issue.

There will be a Court of Appeals Hearing on Tuesday, September 11, 2018 at 10:00 am in the Detroit Courtroom located at 3020 West Grand Boulevard (Old GM Building) on the 14<sup>th</sup> Floor. The issue to be

heard will be the 3 grievances that are pending arbitration with the most important one being the unilateral elimination of the 13<sup>th</sup> check.

Finally, we have been notified that some retirees have received a letter from Prudential regarding insurance. We do not have any information regarding this issue but are working with the Retirement Office and Prudential to identify the issues and who it may affect. In the meantime we have been provided a telephone number if you wish to call on your own. The number is (800) 778-3827.

Motion by Brother Wadlin, properly supported by Brother Noelke, to accept the President's report. The motion carried.

**VICE-PRESIDENT:** None

## **SECRETARY TREASURER**

### **Financial Report**

Brother Macdonald reported that the Sub-Chapter has \$123,873.78 in cash and investments as of July 31, 2018. There are 1,408 current members with 208 participating in the PEOPLE Plan and (61) members lost this calendar year due either death or cancellation.

Motion by Brother Macdonald, properly supported by Brother Noelke, to accept the Treasurer report as presented. The motion carried.

## **Secretary-Treasurer Report, Comments and Announcements**

### **Three (3) Retiree Grievances**

There are three (3) grievances filed by AFSCME and its Local Unions relating to pension issues. The three (3) grievances deal with the following issues:

1. **Pension Funding:** AFSCME takes the position that the retirement ordinance is incorporated into the various CBAs and that the Union has a right to arbitrate the fact that Wayne County has not funded the pension plan.
2. **Elimination of 13th Check:** The second grievance dealt with the changes Evans and the County Commission made when he first came into office to eliminate the funding of the 13th check, taking that money (\$32+ million) away from retirees and using the thirty-two + million dollars, in the "13<sup>th</sup> check account, as a County contribution to the pension system.
3. **Medical Insurance for Disability Retirees:** For (30) years, the County had a practice which was supported by the various CBAs and by the pension ordinance which provided that people who retired on a duty or non-duty disability pension were entitled to medical insurance as part of their retirement. In 2010, CEO Ficano eliminated this program and the Union filed an unfair labor practice and won. The County then filed a challenge in the Michigan Court of Appeals and the Court of Appeals ruled that the matter must be resolved by way of grievance arbitration.

On March 27, 2017 Judge Susan Hubbard, Wayne County Circuit Court, issued an Opinion and Order that (1) denied arbitration on the matter of **"Pension Funding"**, (2) granted the AFSCME motion mandating arbitration on the matter of **"Elimination of 13th Check"**, and (3) denied arbitration on the matter of **"Medical Insurance for Disability Retirees"** stating that the proper forum was a separate lawsuit to enforce the Michigan Court of Appeals ruling. Judge Hubbard's Opinion and Order has been appealed by both parties. The Michigan Court of Appeals has scheduled oral arguments for **Tuesday, September 11, 2018**

starting at 10:00 AM in the Detroit Courtroom, 3030 West Grand Boulevard, and (Cadillac Center) 14<sup>th</sup> Floor. Our attorneys are requesting that, as a show of support, that we attend the hearing in mass.

#### **FOUR (4) UNFAIR LABOR PRACTICES CHARGES V. WAYNE COUNTY**

There are four (4) Unfair Labor Practice charges filed by AFSCME and its local 3317 some of which relate to pension issues. These (4) Unfair Labor Practices deal with the following issues:

1. **Surface Bargaining:** AFSCME charges that Wayne County refused to bargain claiming the Wayne County deficit elimination Plan was all that could be offered.
2. **Regressive Economic Offer:** In 2015 the Ficano administration tendered its economic offer. The Evans Administration withdrew the its economic proposal and replaced it with a reduced economic proposal while Deputy CEO Kaufman reported to the Wayne County Commission that administration had purposely withheld information from the bargaining process that over \$60 million was on deposit at the Wayne County Treasurer in the Delinquent Tax Revolving Fund(s).
3. **Imposition of a Labor Contract :** CEO Evans imposed a labor contract on Local 3317 claiming that the Emergency Manager Statute (EMS) gave him that ability. The EMS does provide the CEO the ability to impose wages, hours and certain other terms and conditions but only after 30 days of **good faith** bargaining and only after any existing contract expires. The Local 3317 labor contract was on an open ended extension that precluded bargaining on retirement issues until 2020. Local 3317 also contends that Wayne County did **not** bargain in good faith during the 30 day period and that retirement issues are among those terms that the EMS statute provides cannot be imposed.
4. **Failure to Bargain:** Following the release of Wayne County from the EMS consent agreement by the State Treasurer, Local 3317 sought immediate contract bargaining pursuant to ACT 312. Wayne County refused to accept any dates for the required arbitration and retaliated by imposing “draconian” new working conditions.

The hearings are now complete and the recommended decision by the ALJ is pending. No change since our July 2018 meeting. In the meantime, oral arguments were heard in the Michigan Court of Appeals on August 8, 2018, as Wayne County argues that these matters are not subject to arbitration.

#### **RETIREE COALITION TO PROTECT PUBLIC SECTOR BENEFITS**

Sub-Chapter along with the other Wayne County retiree organizations has loosely organized many public employees groups, including police and fire, into a coalition for the purpose of protecting public employees’ benefits and pensions. So far that coalition has effectively blocked most of the anti-public employee legislation. The Republican legislature has taken a new approach to disenfranchise public employee by introducing narrowly targeted bills. The legislature continues to pass anti-labor bills and even some that are a clear attempt to subvert the right of voters to amend the state constitution. Hopefully, we have a respite until the lame duck session of the legislature.

#### **WAYNE COUNTY LAWSUIT TO SEAT EVAN’S BOARD**

Wayne County CEO Evans filed a lawsuit against the Wayne County Employees’ Retirement System Commissioners (WCERS) demanding the ability to seat his handpicked WCERS Board by expanding the Board to ten (10) members while eliminating one (1) active employee Commissioner and one (1) retired member Commissioner. Following an intense lobbying effort by your Retiree leadership the Wayne County Commission intervened on our behalf. Judge Leslie Kim Smith issued an opinion on July 31, 2017 denying Evans the ability to seat his WCERS Board. Not surprisingly Wayne County has filed an appeal with the Michigan Court of Appeals. The briefing period ended on May 30, 2018. We now must wait on the court to schedule oral arguments which we do expect before Labor Day. (Case No. 339714).

#### **PRESCRIPTION CO-PAY SETTLEMENT**

This Sub-Chapter continues to reconcile stipends for the Non-Medicare eligible retirees. The latest reconciliation is through the August 1, 2018 pension payment. As of August 1, 2018 we found ten (10) account balances incorrect of which four (4) are apparent underpayments and six (6) are overpayments. Sub-Chapter 38 is also attempting to gather information about the Medicare eligible stipend administrative process at Genesis Employee Benefits. Since December 12, 2017 six (6) grievances have been sent to Wayne County demanding resolution of some Non-Medicare stipend issues. Three (3) of the above underpayments and one (1) overpayment are part of Grievance #1. On August 1, 2018 Wayne County paid the incorrect underpayment amounts to two (2) retirees resulting in one account remaining underpaid and one account becoming overpaid. Wayne County then had the nerve to ask the Sub-Chapter how to resolve the overpaid retiree. The group representing this Sub-Chapter continues to demand that Wayne County fulfill its obligations under the settlement agreement. Grievances #3 and a new Grievance #6 remain open pending additional information from Wayne County. Grievances #2, #4 and #5 have been withdrawn due retiree ineligibility or lack of cooperation from the retiree. It is becoming clear that the only resolution to Grievance #3 is a mutually acceptable Health Reimbursement Account Plan so that every Medicare eligible call member will know their rights and responsibilities under the plan.

#### **MEDICARE AND MIRROR RETIREE STIPEND ENHANCEMENT**

As previously discussed, the several Wayne County retiree organizations have made a request of the Wayne County Commissioners for a modest stipend increase for Medicare eligible and mirror retirees. The commission had suggested that the stipend enhancement request be considered once the new jail project was re-started. On June 7, 2018 the Wayne County Commission passed the last of the resolutions necessary to re-start the new jail project. The Chairman of County Commission Ways and Means Committee has indicated that our request is being opposed by the administration. Several Commissioners have expressed support for our request but have told us that we must recruit additional commissioner to the request. They have further encouraged us to attend the budget hearings on **Thursday, September 9, 2018** at 1:30 PM, 7<sup>th</sup> floor, 500 Griswold when the retiree benefits portion of the budget is to be discussed.

#### **ANNOUNCEMENTS**

None.

Motion by Brother Wadlin, properly supported by Brother Noelke, to accept the Secretary's Report. The motion carried.

**COMMITTEE REPORTS:** None

**UNFINISHED BUSINESS:** None

**NEW BUSINESS:** None

**GOOD AND WELFARE**

There was a moment of silence for deceased members.

#### **ADJOURNMENT**

Motion by Brother Macdonald, properly supported by Sister Cairgle to adjourn the meeting at 11:57 pm. The motion carried.