## ATU LOCAL 1596 PENSION FUND MINUTES OF MEETING HELD August 10, 2004

## **Board Members Present:**

Thomas Lapins - Chairman Brian Anderson - LYNX Appointee Blanche Sherman - LYNX Appointee (10:30 AM) (1:50 PM) Edward Johnson - LYNX Appointee Frank Lacock - Union Appointee Mike Snyder – Union Appointee (10:25 AM)

## Others Present

Scott Baur and Nick Schiess - Fund Administrator Jill Hanson - Fund Attorney Joyce Baldi – LYNX Theora Braccialarghe – Actuary (11:00 AM) Lee Ricci – LYNX Mike Donnelly, Member

Agenda Item	Discussion	Decision	Follow-up
1.	Meeting called to order at 10:15 AM.		
2.	The Trustees reviewed the minutes of the meeting held May 11, 2004.	Edward Johnson made a motion to approve the minutes, seconded by Brian Anderson, and approved by the Trustees 4-0.	None
*	Tom Lapins discussed moving the agenda along to ensure the thorough consideration of all issues before the Board. He recommended that the entire agenda be considered at the beginning of the meeting and that the Administrator politely notify the Board if discussions become too lengthy. He requested that future agendas include an anticipated time frame for the discussion of each item.		None
	Edward Johnson objected to agenda item 10. d. being addressed under the Attorney report and requested that it be addressed elsewhere during the meeting. Mike Snyder entered the meeting	Mr. Lapins reordered the agenda to begin the meeting with the consideration of item 10.d.	

10.d.	Mike Donnelly appeared before the Board to discuss the public notification of Board meetings. He reported that notice for the last special meeting had not been posted at the maintenance areas at either the South Street or Princeton Street stations. He stated that the notices were only posted on general bulletin boards, which he believed was not adequate and he then requested that all determinations made at this special meeting be voided. Jill Hanson advised that the legal requirement for posting notices for meetings was that reasonable notice be given and there was not any legal requirement that the notices be posted at every location. Ms. Hanson recommended that all determinations at the special meeting remain valid because reasonable notice was given. A lengthy discussion ensued to the current procedures for posting notices.		
	Blanche Sherman entered the meeting. Joyce Baldi reported that the agenda received from the Administrator was posted in all locations, however, the notices frequently were removed by non-authorized personnel. Mike Donnelly recommended that the notices be placed behind locked glass doors. The Board discussed implementing a policy for posting the notices. Theora Braccialarghe entered the meeting.	Edward Johnson made a motion to continue the current procedure for posting notices for meetings while allowing the additional notification of meetings at the Board's discretion, seconded by Brian Anderson, and approved by the Trustees 6-0.	None
3.	The Trustees review the list of retirement benefit approvals provided by the Administrator. Nick Schiess advised the Board that an Application for Disability Benefits had been received from Member Jose Nieves and that Mr. Nieves met the Plan's eligibility requirements of both service and the receipt of Social Security Benefits. It was noted that Mr. Nieves was currently on a leave of absence and had not submitted a letter of resignation. Mr. Schiess explained that Mr. Nieves was willing to submit a letter of resignation if the Board awarded the benefit and the Administrator would not commence benefits until confirmation of Mr. Nieves' termination had been received from LYNX. A question arose regarding the effective date of Mr. Nieves benefits and Mr. Schiess replied that the effective date was retroactive back to July 1, 2004, which was the first of the month following application for benefits and the same policy extended for normal retirements. Because Mr. Nieves had not terminated, Blanche Sherman questioned whether proper process had been adhered to. Mr. Schiess noted that Mr. Nieves had been advised not to submit a letter of resignation until the determination of		PRC
	whether to award benefits had been decided by the Board as this	Frank Lacock made a motion to authorize the	PRC

was in the best interest of the Member, which had been previously discussed with Jill Hanson. Mr. Schiess noted that procedure had been set forth for normal retirements and refunds of pension contributions, however, a procedure did not exist for disability benefits. Mr. Schiess explained that the effective date for Mr. Nieves's benefits had been administered the same as a normal retirement and under no circumstances would benefits commence until the confirmation of Mr. Nieves' termination.	retirement benefit approvals including the disability benefits for Jose Nieves pending his resignation, seconded by Blanche Sherman, and approved by the Trustees 6-0. Blanche Sherman requested a procedure be developed and implemented for the administration of disability benefits.	PRC Board
The Trustees reviewed a list of refunds of pension contributions provided by the Administrator for approval. Blanche Sherman questioned whether proper procedure had been followed in the issuance of the refunds of contributions presented for approval. Mr. Schiess replied that procedure had been followed including the confirmation of hire and termination dates by LYNX. Theora Braccialarghe entered the meeting.	Blanche Sherman made a motion to authorize the refunds of contributions presented for approval, seconded by Brian Anderson, and approved by the Trustees 6-0.	None
The Trustees reviewed the list of disbursements presented for approval. A question arose regarding check # 2002 issued to Ellen Schaefer in the amount of \$200.00 for programming fees. Scott Baur reported that the amount of \$140.00 was paid for the programming of the Administrator's system to incorporate the 2% interest on refunds of contributions that had been directed by the Board at the last meeting, which was a pass through cost to the Plan. The balance of \$60.00 was to correct a minor issue with the system. Brian Anderson questioned whether the Plan should be responsible for this amount as it was the Administrator's issue. Mr. Baur advised that programming charges are considered pass through expenses to the Plan, however, in this case he would credit the Plan for \$60.00.	Administrator to credit LYNX \$60	PRC
Edward Johnson questioned the amount of \$213.58 that appeared upon the invoice for legal services, which was in excess of the quarterly retainer amount. Jill Hanson explained that the retainer excluded reimbursement for incidental services such as copies and postage. Mr. Johnson noted that the minutes of the last meeting reflected that the quarterly retainer included all expenses. The Trustees reviewed the contract for legal services and verified that the retainer does not include reimbursement for incidental expenses. Mr. Johnson requested that the minutes of the last meeting be corrected.	Correct minutes of last meeting	PRC
Trustees reviewed the contract for legal services and verified that the retainer does not include reimbursement for incidental expenses.	Correct minutes of last meeting	PRO

	the amount of \$221.00. Mr. Baur explained that the amount was for an extension of fiduciary liability insurance past the original renewal date.	Brian Anderson a motion to authorize the disbursements as amended, seconded by Blanche Sherman, and approved by the Trustees 6-0.	
5.	The Board was presented the statement of income and expense, along with the balance sheet for the Plan for the period ending June 30, 2004.	Blanche Sherman a motion to receive and file the financial statements, seconded by Edward Johnson, and approved by the Trustees 6-0. Blanche Sherman requested a schedule of share account withdrawals and general ledger report.	PRC
6.	Peter Alfele appeared before the Board to present the financial audit for the fiscal year ending 2003. He provided the Board with a new requirement of GAS, a Management Discussion and Analysis statement. He explained that statement was a narrative overview of the financial statements.		
	Mr. Alfele reported that the value of the Plan as of September 30, 2003 was \$34,290,248, an increase of \$6,263,481 or 22.4% from 2002. Additions to the Plan totaled \$7.4 million including \$3,849,743 in contributions and investment income of \$3,554,315. Deductions from the Plan increased from \$993,202 in 2002 to \$1,140,568 in 2003, which was primarily due to increases in benefits issued to members. Benefit payments increased \$95,463. Administrative expenses increased 26.8%. Investment returns of 13.1% helped offset prior years' losses. There were 784 Members of which 77 had retired.		
	Jill Hanson noted that the Plan had never received a Tax Determination Letter from the IRS. Mr. Alfele believed this letter was on file and would provide Ms. Hanson a copy. Ms. Hanson noted that a Tax Determination Letter had been submitted to the IRS and was pending approval.		
	Mr. Alfele reviewed a schedule of employer contributions. Theora Braccialarghe explained that LYNX had always contributed the amount of required funding but the contributions had been restated retroactively due to the adoption of a Funding Standard Account, which was the reason that the schedule of stated actual funding contributions was less than 100% of the required contributions. A discussion ensued regarding adding additional information to the financial statements to reflect these changes. Lee Ricci requested that additional information be added to the financial statements		

explaining that the amounts were restated and LYNX had not been deficient in funding the Plan. A discussion arose regarding stating both the original and restated contributions to avoid any misunderstanding. Blanche Sherman requested that the Audit remain unchanged and the additional information being added as a footnote. Ms. Sherman agreed to provide Mr. Alfele with the appropriate language for the footnote.	The schedule of employer contributions would be footnoted with information regarding the restatement of LYNX contributions as provided by Blanche Sherman.	Peter Alfele Blanche Sherman
Mr. Alfele further discussed the schedule of the funding progress noting that the funded ratio was 92.8% and that \$2,566,653 would be required to fully fund the Plan if terminated. Ms. Braccialarghe noted that this was an ongoing Plan measurement and must be revised if the Plan was in fact terminated. He then discussed the administrative expenses noting a significant increase primarily due to the completion of two actuarial reports completed within the fiscal year as a result of data problems. Blanche requested details regarding the accrual of expenses to explain changes from the actuarial, accounting, legal, and performance monitoring fees from 2002 to 2003.	Blanche requested details regarding the accrual of expenses to explain changes from the actuarial, accounting, legal, and performance monitoring fees from 2002 to 2003.	PRC
Mr. Alfele then provided a Management Letter noting that no material weaknesses were found. He then discussed recommendations to strengthen internal controls. He reviewed the prior year's recommendations and noted that all of the recommendations had been implemented. Procedures had been implemented for the record keeping of share accounts, periodic closing of books, and alerts for deceased Members. He noted that a policy did not exist for notifying the Administrator of terminated employees. He recommended that a form be added to the exit process that informs terminated Members of their options. Ms. Hanson recommended a procedure be devised for the notification of terminated Members of their options under the Plan. Lee Ricci noted that the Human Resources Department may not be immediately aware if an employee has terminated and was unsure whether she would desire the Human Resources Department to be responsible for holding terminated employees accountable for a decision during the exit process. She suggested that terminated employees be provided with a release form acknowledging that they have been made aware of the rights under the Plan along with contact information for the Administrator. She noted that there is not always an opportunity to perform an exit interview with terminated employees and recommended a simple one-page document. Scott	Blanche Sherman made a motion to table to	
Baur recommended that because of the inconsistent exit process	the issue until the next meeting seconded hv	

	another method should be considered. Brian Anderson recommended the automatic issuing of refund of contributions for non-vested Members 90 days after termination. Mr. Baur noted that this procedure might cause adverse tax consequences for the Members. Jill added that consideration should be given to partially vested Members and agreed that some mechanism should be in place.	Edward Johnson, approved by the Trustees 6-0. Blanche Sherman made a motion to accept the 2003 Audit. Edward Johnson seconded the motion, approved by the Trustees 6-0.	
	Lunch 12:30 – 1:30 P.M.		
10.	Jill Hanson advised that all Trustees had completed and filed their Financial Disclosure Forms except Mike Donnelly. Mr. Donnelly noted that he had filed the Form but was unaware that he had needed to provide Ms. Hanson with a copy.		
	Ms. Hanson reported that LYNX and the Union had been notified of the expiring terms for Trustees Frank Lacock and Edward Johnson.		
10.a.	Ms. Hanson provided the Board with a draft Amendment that provided for Members to change their beneficiary after retirement. She discussed the provisions within the Amendment noting that the Member was responsible for all costs incurred and must submit proof of good health. In addition, benefits must be recalculated based upon an actuarial equivalent and there were stipulations that protected the Plan including a two year recession period. Edward Johnson made a motion to adopt the Amendment and a lengthy discussion ensued. Ms. Braccialarghe expressed concern over antiselection wherein a change in health would prompt a Participant to change their beneficiary resulting in a financial impact upon the Plan. Brian Anderson recommended that the Amendment should not be adopted. Mr. Johnson stated that although consideration should be given to the circumstances of the Members, the Amendment is not in the best interest of the Plan and then withdrew his motion.	Mr. Johnson Frank Lacock made a motion to not adopt the Amendment, seconded by Brian Anderson, approved by the Trustees 5-0.	

7. a.&b.	Theora Braccialarghe appeared before the Board and provided several 10-year projections of the funding requirements of the Plan. The projections included different options for funding with a corresponding Funding standard Account balance. She noted that the projections were developed using current Plan assumptions, assumed no change in staffing, and the maintenance of the Funding		
	Standard Account at a positive balance. Ms. Braccialarghe discussed the 5-year experience study being performed comparing the Plan assumptions versus actual experience, which would result in more accurate assumptions for the future costing of the Plan. The study considered turnover, age of retirement, and other factors that influenced the cost of the Plan.		
	Ms. Braccialarghe discussed and recommended the adoption of a projection method of determining LYNX's funding requirements, which bases the funding requirements of the current fiscal year on the Actuarial Valuation of the previous fiscal year. This projection method uses the current valuation to determine funding requirements for the 2005 fiscal year. Blanche Sherman questioned whether this would result in an immediate increase in employer contributions and Ms. Braccialarghe replied that the employer contributions would increase regardless. Scott Baur also recommended the method because under the new agreement for which increases in funding are split between the employer and employee, the current method would require modifying the employee contribution rate halfway through a fiscal year and the recovery of underpaid contributions from the beginning of the year. Ms. Braccialarghe advised that the 2003 Valuation would have to be revised to determine funding requirements for the 2005 fiscal year to take into account salary scale and interest adjustments. Scott Baur advised that the Administrator would require a revised contribution percentage rate by October 1, 2004.	Blanche Sherman made a motion to adopt the projection method to determine funding requirements, seconded by Frank Lacock, approved by the Trustees 6-0. Ms. Braccialarghe agreed to provide the revised contribution rate for October 1, 2004.	Theora Braccialarghe
	Lee Ricci requested that Ms. Braccialarghe attend a LYNX audit committee meeting via teleconference. Ms. Hanson advised that since LYNX was requesting her attendance, LYNX should also be responsible for any fees incurred and Ms. Ricci agreed.		

10. b	Jill Hanson provided the Board with a revised draft Amendment on the provisions for disability retirement incorporating the changes the Board discussed at the last meeting. She discussed the integration provision with the LYNX long-term disability plan, which stated that a Member could qualify for a disability pension under the Plan if they had received long-term disability benefits for 18 months, if still disabled. Ms. Hanson questioned the Board for direction regarding the integration of income from other sources and discussed the types of earnings available as an offset. Brian Anderson objected to the "own occupation" definition of disability versus the current definition of gainful substantial employment and a lengthy discussion arose to the different definitions of disability. A lengthy discussion ensued to the proposed changes in the language of the different provisions and although the Trustees agreed that the disability provisions could be enhanced, a consensus was not found. Blanche Sherman questioned the financial impact of the Amendment and Ms. Hanson advised that the Actuary would prepare a cost study on the final draft of the Amendment once approved by the Board.	The Board decided that the Trustees should individually provide Ms. Hanson with suggestions for language on the Amendment. Ms. Hanson would compile the suggestions and the issue would be revisited at the next meeting.	Trustees Jill Hanson
10. c.	Jill Hanson discussed a draft Amendment to increase the enhanced benefit multiplier to .5 benefit credits. She advised that the Actuary was preparing a cost study, which had not been completed, She recommended that the matter be tabled until the cost study was completed. A question arose whether the benefit would cost the Plan and Ms. Braccialarghe advised that the employees would bear the entire cost of the enhanced benefits and as such it was cost- neutral to the Plan. The Board agreed to schedule a workshop to further discuss the proposed Amendments and other policy issues. A discussion ensued regarding the format of the workshop. Edward Johnson recommended that the regular quarterly meetings should be reserved as a forum for all decision-making by the Board and workshops should be a forum not for decisions but rather for the discussion of issues that will be brought before the Board at the regular meetings.	The Board agreed to schedule a workshop to further discuss the proposed Amendments before the Board and policy issues. Brian Anderson made a motion to table further discussion of the Amendment until the workshop, which was seconded by Frank Lacock. The Board decided that regular meetings should be a forum for decision-making and workshops be a forum for discussion and not decision- making.	

10. e.	Jill Hanson provided the Board with a draft notification to the Members receiving an overpayment of pension benefits advising them that their benefits would be adjusted to the correct amounts. The Trustees reviewed the letter and discussed the procedure for mailing the notification.	The Board directed Ms. Hanson to provide the letter to the Administrator for completion to the Members receiving overpayments, which subsequently would be mailed to Tom Lapins for his signature and finally mailed to the Members.	Jill Hanson PRC Tom Lapins
11.a.	Nick Schiess discussed the proper service credit of individuals hired prior to the inception of the Plan. He reported that a list of 33 Members hired prior to the Plan inception had been reviewed by Brian Anderson. Subsequently, the list had been revised and provided to Blanche Sherman who forwarded the list to Larry Bell on July 30, 2004.		LYNX
11.b.	Scott Baur advised the Board that the online benefit calculator and share account balance inquiry system should be available by the end of August 2004.		PRC
12.a.	Blanche Sherman provided the Administrator with a check issued by LYNX in the amount of \$9,772.63 for the matching employer contributions owed to the Plan for the period that contributions were inadvertently not deducted. She advised that for the employee contributions, the Members affected will be notified in writing of the missing contributions, which will be payroll deducted in small amounts over time. Scott Baur requested that the Administrator be copied on the notification letter sent to the Members in order that the additional contributions can be reconciled.	Blanche Sherman agreed to provide the Administrator with a list of Members who will have additional deductions for contributions owed to the Plan.	Blanche Sherman
12.b.	As a follow up to the last meeting, Nick Schiess discussed the Board's request for the independent verification of the data used to calculate refunds of pension contributions. Mr. Schiess reminded the Board that at the last meeting Theora Braccialarghe advised that the Actuary could not independently verify the data used for these calculations. Mr. Schiess noted that only LYNX could independently verify the data maintained by the Administrator. Blanche Sherman requested the matter be discussed further at the workshop.	The verification of data used to calculate refunds of pension contributions issue was postponed until the workshop.	PRC Board

11.b.	The Trustees discussed the presentation during the last meeting by the Salem Trust Company to host educational workshops for the Members. Jill Hanson noted that a conflict of interest might exist as the Salem Trust Company was attempting to gain peripheral business. Jill recommended providing a waiver to be authorized by Members that would hold the Board harmless and also disclose that the Plan was not endorsing the Salem Trust Company. Brian Anderson recommended that service providers should not be allowed to present products to Members. It was noted that although there were no direct sales of financial products, Members would likely seek advice regarding financial needs. Lee Ricci expressed concern that merely by sponsoring the workshop, the Plan provided a silent endorsement.	Chairman Lapins called for a vote on whether or not to allow the Salem Trust Company to host educational workshops and the issue died for a lack of interest.	None
11.a.	Scott Baur reported that the buy back of prior service calculation provided to Member Juan Flores had been incorrectly performed. He explained that two Members with the name Juan Flores had prior service with LYNX. However, only the service record for one Juan Flores existed in the Administrator's records, which was inadvertently used to calculate the service restoration cost for the other Juan Flores.	Brian Anderson made a motion to allow Juan Flores the option to purchase the balance of his prior service credit upon receipt of payment or retain the service credit already purchased, seconded by Edward Johnson, approved by the Trustees 6-0.	PRC
	Mr. Baur provided the Board with a revised calculation to restore the balance of Mr. Flores' service credit. Jill Hanson noted that Mr. Flores was still eligible to purchase the service credit, however, he had submitted an Application for Retirement Benefits and had terminated employment. Brian Anderson recommended allowing Mr. Flores to purchase the balance of his service credit under the condition that the payment for service was completed prior to the commencement of benefits.	Nick Schiess agreed to provide Mr. Flores with the calculation to restore the balance of his service credit and his options.	PRC
11.b.	Jill Hanson reported that Member Terrance Long had passed away and his uncle had requested the refund of Mr. Long's pension contributions. She noted that Mr. Long did not designate a beneficiary and the Plan's provisions specified that his contributions should be issued to his estate. A discussion ensued as to whether Mr. Long assts were significant enough to warrant an estate and whether the Plan could issue payment to his uncle.	Jill Hanson agreed to correspond with Mr. Long's uncle questioning whether he was Mr. Long's next of kin.	Jill Hanson

11.b.	Nick Schiess reported that retired Member Lawrence Patterson passed away and his spouse, Patricia Patterson, had contacted the Administrator regarding survivorship benefits provided by the Plan. Mr. Schiess reported after reviewing Mr. Patterson's file, he had advised Ms. Patterson that the optional form of benefit elected, a life annuity, did not provide any survivorship benefits. He noted that Ms. Patterson was seemingly convinced that she was entitled to survivorship benefits and explained to the Board that either Mr. Patterson was confused over his election or he simply made a choice that was not favorable to Ms. Paterson. Mr. Schiess noted that pursuant the request of Tom Lapins, he had researched Mr. Patterson's file for an executed Spousal Consent Form but it was absent. He explained that procedure dictated the execution of a Spousal Consent Form if a member elected a form of benefit payment that does not provide survivorship benefits. Ms. Hanson was questioned regarding any possible legal action that could be taken against the Plan for the failure to obtain an executed Spousal Consent Form. Ms. Hanson advised that the Spousal Consent Form was an ERISA requirement, however, the Plan was not subject to ERISA and additional research would be required before delivering a legal opinion on the matter.	The Board directed Jill Hanson to correspond with Ms. Patterson advising her that the matter was under consideration and also research the legal ramifications of the matter.	Jill Hanson
*	Tom Lapins proposed reallocating funds from the Funding Standard Account to establish a reserve account to be used to offset future increased contribution requirements for both LYNX and Members and a lengthy discussion ensued. A question arose whether the funds in the Funding Standard Account should be used solely to offset LYNX contributions and Scott Baur noted that the past contributions by LYNX were a benefit gained through bargaining and thus the proceeds from the development of the Funding Standard Account were assets of the Plan that were not necessarily solely to be used to offset LYNX's funding requirements. It was noted that the Actuary had not provided input on this proposal, which was necessary to proceed further. Mike Donnelly noted that the new labor contract specified that Member contributions to the Plan in excess of the 5.25% current contribution rate were non-refundable to the Members.	Discussion of the proposed reserve account was postponed until the workshop.	

*	Frank Lacock questioned Jill Hanson whether any recent changes in Statutes affected the Plan's travel policy for the reimbursement of meal and travel expenses for Trustees to attend conferences. Ms. Hanson advised that changes within the Statutes may affect the travel policy and she would research the matter and report back to the Board at the next meeting.	Jill Hanson agreed to research Statutory changes that may affect the travel policy report back to the Board at the next meeting.	Jill Hanson
*	A discussion arose regarding various issues to be addressed at the next workshop. Edward Johnson requested that the Board revisit the Amendment providing an additional .1 benefit credit and consider the Amendment's repeal because not all the Trustees were aware when it was passed that the cost of the benefit was \$77,000 annually. Brian Anderson requested that the pension overpayments also be addressed.		
9.	Jeff Swanson appeared before the Board to provide an investment performance report. For quarter ending June 30, 2004, the investment return was5%, which was attributable to overall poor bond and equity market performance. He reported that consulting fees were \$8,750.00 annually, which should decrease since PIMCO was terminated and the monitoring requirements have subsequently decreased.		
	He discussed recent publicity regarding "pay to play" allegations against investment consultants wherein claims had arisen that consultants had been influenced by direct or indirect compensation by Investment Managers during searches performed on the behalf of pension funds. He explained that Merrill Lynch Consulting Services did not receive direct or indirect compensation from Investment Managers in exchange for special consideration during Investment Manager searches.		
	Scott Baur noted that prior to PIMCO's termination, contributions had been split equally among the Plan's three Investment Managers. He questioned Mr. Swanson regarding the new procedure for the division of the deposit of future contributions.	Mr. Swanson directed the Administrator to deposit all contributions into the Plan's ICC Capital Management account.	PRC
*	The meeting adjourned at 5:25 P.M.		

Sincerely,

Edward Johnson, Secretary