

**Employees' Retirement Board
Of Rhode Island
Monthly Meeting Minutes
Date of Meeting: February 9, 2005**

The Monthly Meeting of the Retirement Board was called to order at 9:00 a.m., Wednesday, February 9, 2005 in the 8th Floor Conference Room, 40 Fountain Street, Providence, RI.

I. Roll Call of Members

The following members were present at roll call: Ponzi A. Angelone; Daniel L. Beardsley; Rosemary Booth-Gallogly; Michael R. Boyce; William B. Finelli; John P. Maguire; Louis M. Prata; Linda C. Riendeau; General Treasurer Paul J. Tavares and Jerome F. Williams, designee for the Director of Administration.

Also in attendance: Frank J. Karpinski, ERSRI Executive Director and Brent Canning, Board Counsel.

Recognizing a quorum, Treasurer Tavares called the meeting to order.

John A. Marginson arrived at 9:05 a.m.

Daniel L. Beardsley left at 10:00 a.m.

II. Approval of Minutes

On a motion by Rosemary Booth Gallogly and seconded by Jerome F. Williams, it was **VOTED: To approve the minutes of the January 12, 2005 meeting of the Employees' Retirement Board of Rhode Island.**

III. Chairman's Report

Given the items listed on the agenda, Treasurer Tavares asked if the order could be modified to accommodate members of the audience. Specifically, he asked that item 7, "Legal Counsel Report" and item 9, "New Business" be reversed. There being no objection, the agenda order was changed.

IV. Executive Director's Report

Director Karpinski informed the Board that a new phone system would be in place on February 28, 2005, he pointed out that there may be a couple of hours of down time the day of the installation.

Director Karpinski then clarified the pension processing report and referred to retirees Joan Grenga and Patricia Keogh on page 3 of 12 of the report. He said that the dollar

amounts were overstated in the report due to the way processing was done to accommodate a retroactive payment. The actual payment Ms. Grenga will receive is \$1,861.95 per month and \$22,343.34 annually. Ms. Keough will receive \$2,045.52 per month and \$24,546.24 annually.

Director Karpinski also addressed the pensions of Leo J. Gannon and Kevin R. Horan that appeared on page 12 of 12. The Director indicated that the pensions are correct as stated on the report because the dates of retirement are for the month of January 2005 and amounts are prorated accordingly.

Lastly, Director Karpinski informed the Board that the responses to the Retirement System's RFP for the actuarial audit have arrived. He said he is in the process of reviewing the proposals and will then prepare a packet with a score sheet for the procurement subcommittee to review.

V. Administrative Decisions

Disability Appeals:

(None this month)

Hearing Officer Decisions:

(None this month)

VI. Approval of January pensions as presented by ERSRI

On a motion by Michael R. Boyce and seconded by William B. Finelli, it was unanimously

VOTED: To approve the January pensions as presented by ERSRI.

VII. New Business

Discussion and vote on the Cranston Crossing Guard matter

Treasurer Tavares asked that Attorney Brent Canning give an update of the legal proceedings and status regarding the Cranston Crossing Guard matter. Attorney Canning informed the Board that on February 1, 2005, the Board was required to have Board Counsel appear before Judge Procaccini with a response to a writ of mandamus that had been filed by the Cranston Crossing Guards. The writ of mandamus requested that the 13 applications filed be reviewed with the information currently possessed by the Retirement System along with additional information including an affidavit from former Cranston Mayor Michael Traficante and testimony from Attorney Donald Iannazzi. Attorney Canning said that Board Counsel went back to Court to advise Judge Procaccini that the Board had reviewed the applications to determine if they qualified for pensions under the statute that was amended in 1994 and found 11 applicants satisfied the requirement to receive credit up to 1994. Judge Procaccini then asked Board Counsel what more the Board needed to vote to process all 13 applications with all service credits. Board Counsel explained that consistent with Rhode Island General Laws §36-8-6, Votes of Board – Record of proceedings, 8 affirmative votes are required to determine if the additional information from the court provides for a definition of the

Crossing Guards employment status. Board Counsel apprised the Judge that 8 affirmative votes on either side of the matter may not be attainable. Nonetheless, Judge Procaccini ordered ERSRI to review the information and take a vote. Attorney Canning then advised the Board that the matter was before them in order to take the vote.

Treasurer Tavares informed the Board that the board book had the pertinent information regarding the Cranston Crossing Guard matter. He acknowledged that this matter has been thoroughly debated and consistent with the request of the court he would recognize a motion.

Mr. Boyce then said that based upon the information that was provided and at the request of the court, he motioned to process the pensions as originally requested by the 13 applicants with full service credits. John P. Maguire seconded the motion.

There being no discussion, Treasurer Tavares asked for a roll call vote. The following members voted in favor of the motion: Ponzi A. Angelone, C.L.U., Michael R. Boyce, William B. Finelli, John P. Maguire, and Linda C. Riendeau. The following members voted in opposition to the motion: Daniel L. Beardsley, Rosemary Booth-Gallogly, John A. Marginson, Louis M. Prata, General Treasurer Paul J. Tavares and Jerome F. Williams. There being 11 votes cast, 5 votes in the affirmative and 6 votes in opposition, consistent with Rhode Island General Laws §36-8-6, there not being 8 votes in the affirmative, the motion failed.

VIII. Committee Reports

Continuance of Stephen Costa matter

The Treasurer noted that the continuance of the matter was based on the hope that the parties would reach agreement on the possible offer of other municipal employment for Mr. Costa. At the January 12, 2005 Board meeting, the Board requested that both parties attend the next meeting to provide additional information, if required, to assist the Board in reaching final resolution in this matter.

Treasurer Tavares asked if all parties were in attendance, and if there has been agreement on a job offer and acceptance of employment. It was determined that an agreement had not been reached. Treasurer Tavares then asked Attorney Canning what other remedies were available for Mr. Costa if the Board did not reach an affirmative decision.

Attorney Canning advised the Board that Mr. Costa has other remedies available to him. Via his attorney, Attorney Canning said he could seek a petition for writ of mandamus or seek a declaratory judgment from the courts.

Mr. Williams acknowledged the longevity of the issue and stressed his desire to bring closure to the matter. Mr. Williams then asked if a light duty position had been offered to Mr. Costa by the City of East Providence. Mr. Benoit, Human Resource Manager for the City of East Providence, responded that a position has been offered.

Attorney Musgrave, who represents Mr. Costa, indicated that although an offer had been made, it is a conditional offer and further, he pointed out that the City of East Providence's doctor has not cleared Mr. Costa to return to work.

Mr. Boyce indicated that Mr Costa's application has been before the Board for approximately 8 months. He felt that the Board should not make its decision predicated

on employment negotiations between the City of East Providence and Mr. Costa but rather on the merits of Mr. Costa's medical records and application for accidental disability retirement.

Mr. Boyce then made a motion to approve Mr. Costa's accidental disability application. Linda C. Riendeau and William B. Finelli seconded it. The motion was then opened for discussion.

Mr. Prata asked what the legal ramifications would be if the Board were to obtain eight affirmative votes to approve the pension and subsequently, the matter goes to Court for litigation between the parties. Attorney Canning informed the Board that there would be no ramification or liability that would affect the Board.

There being no further discussion, Treasurer Tavares then asked for a roll call vote. The following members voted in favor of the motion: Michael R. Boyce, William B. Finelli, John P. Maguire, Louis Prata and Linda C. Riendeau. The following members voted in opposition to the motion: Ponzi A. Angelone, C.L.U., Daniel Beardsely, Rosemary Booth-Gallogly, John A. Marginson, General Treasurer Paul J. Tavares and Jerome F. Williams. There being 11 votes cast, 5 votes in the affirmative and 6 votes in opposition, consistent with Rhode Island General Laws §36-8-6, there not being 8 votes in the affirmative, the motion failed.

Mr. Williams pointed out that he agreed with Mr. Boyce that the matter should not remain without action. He again acknowledged the longevity of the matter and felt that in order to provide the applicant an avenue for resolution beyond the Board, he motioned to reject the recommendation of the subcommittee on the disability application for Mr. Costa. Rosemary Booth-Gallogly seconded the motion

There being no further discussion, Treasurer Tavares then asked for a roll call vote. The following members voted in favor of the motion: Ponzi A. Angelone, C.L.U., Daniel L. Beardsley, Rosemary Booth-Gallogly, John A. Marginson, Louis Prata, General Treasurer Paul J. Tavares and Jerome F. Williams. The following members voted in opposition to the motion: Michael R. Boyce, William B. Finelli, John P. Maguire, Linda C. Riendeau. There being 11 votes cast, 7 votes in the affirmative and 4 votes in opposition, consistent with Rhode Island General Laws §36-8-6, there not being 8 votes in the affirmative, the motion failed.

Disability Sub-Committee: The Disability Sub-Committee recommended the following actions on disability applications as the result of its February 4, 2005 meeting for approval by the full Board:

<u>Name</u>	<u>Membership Group</u>	<u>Type</u>	<u>Action</u>
1. Thomas Wilcox	State	Ordinary	Approve
2. Samuel Green	Municipal	Accidental	Table
3. Patricia Hendricks	State	Accidental	Approve
4. Ronald Poudrier	Municipal	Accidental	Approve
5. Geoffrey Rinn	Municipal	Accidental	Approve

On a motion by William B. Finelli and seconded by Michael R. Boyce it was unanimously

VOTED: To approve the recommendation of the Disability Sub-Committee meeting on Friday, February 4, 2005 on items 1, 2, 3, 4 and 5.

IX. Legal Counsel Report

Treasurer Tavares asked if there were any questions regarding the legal report in the book. There being no discussion or comments, the Treasurer then requested that the Board convene into executive session to discuss potential pending litigation consistent with Rhode Island General Laws §42-46-5(2)

On a motion by Daniel L. Beardsley and seconded by Jerome F. Williams, it was unanimously

VOTED: To convene into Executive Session.

On a motion by William B. Finelli and seconded by John A. Marginson, it was unanimously

VOTED: To Reconvene into Open Session.

The Board returned to open session and Treasurer Tavares declared that no votes were taken in executive session.

X. Adjournment

There being no other business to come before the Board, on a motion by Jerome F. Williams and seconded by John A. Marginson, the meeting was adjourned at 10:10 a.m.

Respectfully submitted,

Frank J. Karpinski

Executive Director