

**Employees' Retirement Board  
Of Rhode Island  
Monthly Meeting Minutes  
Date of Meeting: December 14, 2005**

The Monthly Meeting of the Retirement Board was called to order at 11:10 a.m., Wednesday, December 14, 2005 in the 8<sup>th</sup> Floor Conference Room, 40 Fountain Street, Providence, RI.

**I. Roll Call of Members**

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

Also in attendance: Frank J. Karpinski, ERSRI Executive Director and Attorney William E. O'Gara, Board Counsel.

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

**II. Approval of Minutes**

On a motion by Jerome F. Williams and seconded by Linda C. Riendeau, it was

**VOTED: To approve the minutes of the November 9, 2005 meeting of the Employees' Retirement Board of Rhode Island.**

**III. Chairman's Report**

General Treasurer Tavares welcomed Mr. James Yancy as the new public representative member of the Retirement Board. Treasurer Tavares then asked that there be a disclaimer on record regarding the status of Mr. Yancy's appointment. The Treasurer stated that the constitutional amendment regarding separation of powers changed the manner in which public members are appointed by the Governor to boards and commissions. Treasurer Tavares pointed out that the Rhode Island Constitution is not self-enacting and thus requires specific statutes for every board to define the makeup and the process of appointing members. The Treasurer said that in the last session of the General Assembly, some legislation regarding separation of powers was passed but vetoed by the Governor and other separation of powers bills were ratified by only one

chamber of the legislature. Consequently, requisite statutes were not enacted in support of the constitutional amendment. Treasurer Tavares pointed out that this scenario has created some confusion on the status of appointments. Given the issues he outlined, Treasurer Tavares told the Board that the Senate has challenged the Governor on Mr. Yancy's appointment. He said the interpretation of the Senate is that the Governor's appointments are subject to their advice and consent, while the Governor's interpretation is that the statute does not require him to seek the advice and consent of the senate. Treasurer Tavares informed the Board that his office has sent a letter to the Attorney General to seek clarification on the matter. The Treasurer told the Board that the same scenario is occurring with an appointment on the State Investment Commission.

Treasurer Tavares then issued a caution to the Board on the outcome of the Attorney General's ruling. He said that if the ruling were to deem Mr. Yancy's appointment null and void, any votes made by Mr. Yancy that were required for passage of an item could be challenged.

Given the circumstances described, Mr. Beardsley asked what would happen if the Board approved the disability sub-committee report and Mr. Yancy's vote is necessary to pass that report and subsequently, the retirement system processes those payments. He questioned what would happen to those payments if Mr. Yancy's vote were deemed ineligible.

First, Treasurer Tavares informed the Board that his office has contacted the Leadership of both the House and Senate and the Governor's office regarding the issues that arise which affect retirees' pensions and disabilities. In response to Mr. Beardsley's question, the Treasurer felt the Board should continue to conduct business and where there are clearly 8 votes without Mr. Yancy, the application be processed and a check be issued. He said if there is a situation in which Mr. Yancy's vote was one of the eight and is subsequently deemed ineligible; his office would then make a plea to the Attorney General's Office, The Governor's Office and General Assembly informing them of how retirees are being impacted.

Mr. Maguire felt that Mr. Yancy has been appointed by the Governor and there is an issue between the Governor and Legislature but until the Courts rules one way or the other, the Board should proceed and Mr. Yancy should participate as a Board Member.

#### **IV. Executive Director's Report**

Director Karpinski referred to a question that arose from the November, 2005 Board meeting regarding the number of full time employees of the Retirement System. The Director told the Board the Retirement System has 31 full time equivalents (FTE's) assigned to it. Currently, 25 of the 31 FTE's are filled. Director Karpinski said 2 positions have been filled and 1 position will be starting the interview process.

Director Karpinski then provided the Board with the pension application processing report for the month of November 2005. Ms. Booth Gallogly asked how many pensions had been processed in December. Director Karpinski informed Ms. Booth Gallogly that the December pensions would be reflected in the January 2006 report.

## **V. Administrative Decisions**

### **Disability Appeals**

*None this month*

### **Hearing Officer Decisions**

*James Jarry vs. ERSRI*

Mr. Jarry's attorney filed a withdrawal of the appeal on behalf of Mr. Jarry.

On a motion by Daniel L. Beardsley and seconded by Louis M. Prata, it was

**VOTED: To affirm the decision of the hearing officer for James Jarry vs. ERSRI.**

*Albert Nixon vs. ERSRI*

Mr. Maguire recused himself from this matter. Treasurer Tavares then informed the Board that Mr. Nixon had been notified by both phone and certified mail. However, he had not yet apprised the Board of his intentions. Mr. Boyce motioned to table the matter another month to give Mr. Nixon an additional opportunity to appear or respond.

On a motion by Michael R. Boyce and seconded by Linda C. Riendeau, it was

**VOTED: To table the Albert Nixon vs. ERSRI matter and provide an opportunity for him to respond.**

## **VI. Approval of November pensions as presented by ERSRI**

On a motion by Michael R. Boyce and seconded by Linda C. Riendeau, it was unanimously

**VOTED: To approve the November pensions as presented by ERSRI.**

## **VII. Legal Counsel Report**

Attorney O'Gara referred Board members to the legal report in the Board book and asked if there were any questions. Attorney O'Gara informed the Board that a memorandum had been filed on the Rossi vs. ERSRI matter and he expects to have an answer from the Courts in early 2006. There being no additional questions,

On a motion by Linda C. Riendeau and seconded by Daniel L. Beardsley, it was unanimously

**VOTED: To approve the Legal Counsel report as presented.**

## VIII. Committee Reports

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

<u>Name</u>	<u>Membership Group</u>	<u>Type</u>	<u>Action</u>
1. Mary Dinitto	State	Ordinary	Approve
2. Janet Massa	Teacher	Ordinary	Approve
3. Russell Saucier	Teacher	Ordinary	Approve
4. Richard Yakey	State	Ordinary	Approve
5. Patricia Bazinet	State	Accidental	Table
6. Arthur Martitz	State	Accidental	Approve
7. Donna Morrone	State	Accidental	Deny
8. Donald Rodriques	State	Accidental	Approve
9. Anthony Trataglia	State	Accidental	Table
10. Michael Peteowicz	State	Ordinary	Approve
11. Donna Peterson	Municipal	Ordinary	Table

On a motion by Michael R. Boyce and seconded by Louis M. Prata it was unanimously **VOTED: To approve the recommendation of the Disability Sub-Committee meeting on Friday, December 4, 2005 on items 1, 4, 5, 7, 8, 9 and 11.**

On a motion by Michael R. Boyce and seconded by John J. Meehan it was **VOTED: To approve the recommendation of the Disability Sub-Committee meeting on Friday, December 4, 2005 on items 2 and 3.**

Mr. Maguire recused himself from items 2 and 3.

On a motion by Michael R. Boyce and seconded by Louis M. Prata it was **VOTED: To approve the recommendation of the Disability Sub-Committee meeting on Friday, December 4, 2005 on items 6 and 10.**

Mr. Meehan recused himself from items 6 and 10.

**IX. New Business**

(none)

**X. Adjournment**

There being no other business to come before the Board, on a motion by Rosemary Booth Gallogly and seconded by Linda C. Riendeau, the meeting adjourned at 11:40 a.m.

Respectfully submitted,

**Frank J. Karpinski**

Executive Director