



Employees' Retirement Board Of Rhode Island

Monthly Meeting Minutes

Date of Meeting: November 14, 2007

The Monthly Meeting of the Retirement Board was called to order at 9:15 a.m., Wednesday, November 14, 2007 in the 8th Floor Conference Room, 40 Fountain Street, Providence, RI.

I. Roll Call of Members

The following members were present at roll call: Gary R. Alger; Frank R. Benell, Jr.; Rosemary Booth Gallogly; Michael R. Boyce; General Treasurer Frank T. Caprio; William B. Finelli; M. Carl Heintzelman; John P. Maguire; John J. Meehan; Louis M. Prata; Linda C. Riendeau; Susan K. Rodriguez, 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 Caprio called the meeting to order.

II. Approval of Minutes

On a motion by Gary R. Alger and seconded by Frank R. Benell, Jr., it was unanimously **VOTED: To approve the minutes of the October 11, 2007 meeting of the Employees' Retirement System of Rhode Island Board.**

III. Chairman's Report

Treasurer Caprio discussed a request to conduct an actuarial study at the expense of his office. He told the Board he is seeking access to the actuary primarily in order to update some of the studies performed by the previous Pension Study Commission. The Treasurer said he would be focusing on the defined benefit plan and its formulas and not on a transition to a defined contribution plan.

On a motion by James P. Yancy and seconded by Frank R. Benell, Jr. it was then unanimously

VOTED: To allow access to the system actuary, (Gabriel, Roeder, Smith and Company) by the Treasurer's office at the Treasurer's office expense.

IV. Executive Director's Report

Director Karpinski referred Board members to information provided in their books regarding a military purchase. In the matter of Mr. Marvin Simon, the Director said Mr. Simon had an invoice previously sent to him marked "Payable on Receipt". The Director

reminded the Board that they have approved similar cases previously permitting members to purchase the military credit at the original invoice price.

On a motion by James P. Yancy and seconded by Frank R. Benell, Jr. it was unanimously

VOTED: To process the purchase request for military time using the original invoice amount for Marvin Simon as presented.

Director Karpinski then apprised the Board on the revised Internal Revenue Service (IRS) §415(b) regulations. He said on April 4, 2007, the IRS issued its long-awaited final regulations updating the rules governing the application of section 415 of the IRC. The Director told the Board that the new regulations respond to comments made by public pension plans by providing that, in the case of annuity forms of benefits that are increased automatically each year (i.e., COLA's), no actuarial adjustments at commencement of the benefit need to be made so long as the form of benefit is not subject to the requirements of section 417(e)(3) and the plan provides that the amount payable in any limitation year cannot be greater than the section 415(b) limit applicable at the annuity starting date (i.e., the date of retirement), as increased in subsequent years pursuant to section 415(d). Director Karpinski told the Board that section 415(d) refers to the parameters regarding the amount of COLA and believes the plan is in conformity with the prescribed amounts.

Director Karpinski told the Board he had discussed the regulations with the system actuary, Gabriel, Roeder, Smith and Company and other public retirement systems. Upon his review, it appears that the application of the new final regulations under 415(b) may exclude the SRA Plus form of payment provided by ERSRI. Such a form of payment is considered a non standard form of payment and must be considered under the existing 415(b) rules.

The Director told the Board that the new section 415 regulations generally apply to limitation years beginning on or after July 1, 2007. Director Karpinski told the Board that in order to utilize the new regulation in the time prescribed, the code requires specific legislation to authorize the system to use the provisions contained within, and incorporation by reference is insufficient.

Director Karpinski told the Board that he has discussed the matter with the Treasurer's office and it was agreed that tax counsel should be retained to draft legislation and perform a review of the regulations.

The Director then presented the Board with the pension application processing report.

V. Administrative Decisions

Disability Appeals

Beatriz Maldonado vs. ERSRI

Included in the Board Members' books was the decision, exhibits and supporting information for the matter of Beatriz Maldonado vs. ERSRI. The Treasurer asked if there were any briefs or additional information, consistent with regulation number 4, Rules of Practice and Procedure for Hearings, to be submitted to the Board at the present time. There being none, Attorney O'Gara then provided a synopsis of the Beatriz Maldonado matter. He apprised the Board that Ms. Maldonado was being represented by Attorney Stephen Coaty. There being a stenographer present, the parties presented their cases.

At the conclusion of the hearing, a motion was made by Frank R. Benell, Jr. and seconded by Gary R. Alger to uphold the decision of the Disability Subcommittee to deny the application for disability benefits. A roll call was taken and it was unanimously

VOTED: To uphold the decision of the Disability Subcommittee denying Beatriz Maldonado's application for accidental disability benefits.

John P. Maguire recused himself from this matter.

Barbara Day vs. ERSRI

Included in the Board Members' books was the decision, exhibits and supporting information for the matter of Barbara Day vs. ERSRI. The Treasurer asked if there were any briefs or additional information, consistent with regulation number 4, Rules of Practice and Procedure for Hearings, to be submitted to the Board at the present time. There being none, Attorney O'Gara then provided a synopsis of the Barbara Day matter. He apprised the Board that Ms. Day was being represented by Attorney Vincent Santaniello. There being a stenographer present, the parties presented their cases.

At the conclusion of the hearing a motion was made by William B. Finelli and seconded by Michael R. Boyce to overturn the decision of the Disability Subcommittee and approve Ms. Day's application for disability benefits. A roll call was taken. The following members voted Yea: Michael R. Boyce, William B. Finelli, M. Carl Heintzelman, John P. Maguire, John J. Meehan, Louis M. Prata, Linda C. Riendeau, Susan K. Rodriguez, and James P. Yancy. The following members voted Nay: Gary R. Alger, Frank R. Benell, Jr., General Treasurer Frank T. Caprio and Rosemary Booth Gallogly.

There being 13 votes cast, 9 voted in the affirmative and 4 nay, consistent with Rhode Island General Laws §36-8-6, *Votes of Board – Record of proceedings*, there being a majority vote of the members present and voting at which a quorum is present, it was

VOTED: To reverse the decision of the Disability Subcommittee and approve Barbara Day's application for ordinary disability benefits.

William R. Macera vs. ERSRI

Included in the Board Members' books was the decision, exhibits and supporting information for the matter of William R. Macera vs. ERSRI. The Treasurer asked if there were any briefs or additional information, consistent with regulation number 4, Rules of Practice and Procedure for Hearings, to be submitted to the Board at the present time. There being none, Attorney O'Gara then provided a synopsis of the William Macera matter. He apprised the Board that Attorney Christopher Mulhearn was representing Mr. Macera who was not present at the hearing. There being a stenographer present, the parties presented their cases.

At the conclusion of the hearing, a motion was made by Frank R. Benell, Jr. and seconded by Gary R. Alger to uphold the decision of the Disability Subcommittee to deny the application for disability benefits. A roll call was taken. The following members voted Yea: Gary R. Alger, Frank R. Benell, Jr., Rosemary Booth Gallogly, General Treasurer Frank T. Caprio, William B. Finelli, M. Carl Heintzelman and Susan K. Rodriguez. The following members voted Nay: Michael R. Boyce, John P. Maguire, John J. Meehan and Linda C. Riendeau,

There being 11 votes cast, 7 voted in the affirmative and 4 nay, consistent with Rhode Island General Laws §36-8-6, *Votes of Board – Record of proceedings*, there being a majority vote of the members present and voting at which a quorum is present, it was

VOTED: To uphold the decision of the Disability Subcommittee denying Mr. Macera's application for disability benefits.

Louis M. Prata and James P. Yancy recused themselves from this matter.

VI. Approval of October pensions as presented by ERSRI

On a motion by William B. Finelli and seconded by Linda C. Riendeau, it was unanimously

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

VII. Legal Counsel Report

Attorney William O'Gara informed the Board of two new cases that were brought to Superior Court. The first, *Alan Barth vs. ERSRI* which is an appeal of the Retirement Board's denial of a disability application and the second, *Craig Marciniak vs. ERSRI* which is an appeal of the Retirement Board's denial of an accidental disability application.

VIII. Committee Reports

Disability Subcommittee: The Disability Subcommittee recommended the following actions on disability applications as a result of its November 9, 2007 meeting for approval by the full Board:

	Name	Membership Group	Type	Action
1.	Brian Castro	State	Accidental	Table
2.	Dana Clay	Municipal	Accidental	Table
3.	Comfort Holmes	State	Accidental	Approve
4.	Ann Krajewski	Teacher	Accidental	Deny
5.	William Porter	State	Accidental	Deny
6.	Gerald Ragosta	State	Accidental	Deny
7.	Tisha Williams	State	Accidental	Approve
8.	Deborah Perito	State	Accidental	Approve
9.	Michael Marcello	Municipal	Accidental	Deny
10.	Mitchell Adams	Municipal	Accidental	Approve
11.	Lucille Desjardins	State	Accidental	Table
12.	Gary Gizzarelli	State	Ordinary	Approve
13.	Bruce Kimball	State	Ordinary	Approve
14.	Paul Lavasseur	State	Ordinary	Approve
15.	Nancy Lombardi	Municipal	Ordinary	Approve
16.	Elaine Maculan	Municipal	Ordinary	Approve
17.	Amy Soccia	State	Ordinary	Approve
18.	Glenn Vekman	State	Ordinary	Approve
19.	Lilly Anne Werle	Teacher	Ordinary	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 Subcommittee meeting of Friday November 9, 2007 on item 4.

John P. Maguire recused himself from item 4.

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

VOTED: To approve the recommendation of the Disability Subcommittee meeting of Friday, November 9, 2007 on item 6.

John J. Meehan recused himself from item 6.

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

VOTED: To approve the recommendation of the Disability Subcommittee meeting of Friday, November 9, 2007 on items 1 through 3, 5, and 7 through 19.

Election Subcommittee: Director Karpinski apprised the Board that the Election Subcommittee met at 8:30 am before today's Board meeting. First, the Director told the Board that consistent with Regulation No 5, Rules of Elections to Employees Retirement Board Section 1 (B) Section Four, he certified that the following members have secured 100 valid signatures of their respective membership group as required:

- Michael R. Boyce
- Roger P. Boudreau
- William B. Finelli
- John P. Maguire
- John J. Meehan
- Louis M. Prata
- Linda C. Riendeau

The Director then informed the Board that also consistent with Regulation No 5, Section Four, no election is required since no other candidates returned the required 100 valid signatures.

Director Karpinski apprised the Board of the candidate notification process. He said as in past elections, communication to the membership of the election is done in two ways. First, notices are sent in late August to all municipal employers, school departments and state agencies notifying them of the upcoming election. Employers are asked to post the notice for all members to view. Secondly, a newsletter or "Notice of Election" is prepared by ERSRI and mailed to all members who are an active contributing member of the retirement system on the date of the notice of election, or have attained the maximum service credit and no longer contribute, or are on a leave of absence status without pay for up to one year and each retired member who is receiving a retirement benefit as of the date of the notice. The Director said the date of the notice was September 1, 2007.

Director Karpinski said in an effort to collect the most current addresses for the notice of election, an additional memorandum was sent to employers during August requesting members verify their addresses at ERSRI. Also, the ERSRI web-site has a notice requesting employees verify and update their addresses if applicable.

The Director then discussed the matter of the new position on the Board based on the 2006 legislative session, H7016 Substitute A which enacted changes to the composition of the Retirement Board. As a result of separation of powers legislation, this law removed legislators from the board and replaced them with appointments by both the General Treasurer and Governor and created a new elected position on the retirement board. The new position is that of another retired representative elected by retirees of the system. Mr. Roger P. Boudreau will become the other retiree representative on the board.

Director Karpinski told the Board that consistent with Regulation No. 5, had there been an election, it would have taken place during the month of January, ballots would have been counted in February and the member sworn into office in March. However, since there is no election, as provided for by Regulation No. 5 Section Four, he said it would seem appropriate to begin Mr. Boudreau's term as of the January 9, 2008 board meeting. Technically, Mr. Boudreau's term would expire on January 11, 2012. However, in order to align his term with the six other members, it would be appropriate to extend his term until the March 14, 2012 board meeting. The Director told the Board that this can be accomplished by Regulation No. 1, Section 1(a)(4) which provides that all elected

and appointed members serve a term of 4 years or until such time as their successors are named, the successor would be seated at the March 14, 2012 board meeting as a result of the 2012 election. Given this situation, Director Karpinski said the new retiree position created under §36-8-4 will require some action by the Board to compensate for this one-time adjustment. He said the Election Subcommittee recommended to begin Mr. Boudreau's term as of the January 9, 2008 board meeting and end as of March 14, 2012 board meeting.

Director Karpinski told the Board if acceptable by them, a motion would be required to accept the recommendation of the Subcommittee certifying that the candidates listed secured the required 100 valid signatures and to begin Mr. Boudreau's term as of the January 9, 2008 board meeting and end as of March 14, 2012 board meeting.

A motion was made by John P. Maguire and seconded by Frank R. Benell, Jr. and it was unanimously

VOTED: to approve the recommendation of the Election Subcommittee

IX. New Business

(None)

X. Adjournment

There being no other business to come before the Board, on a motion by Frank R. Benell, Jr. and seconded by M. Carl Heintzelman, the meeting adjourned at 11:30 a.m.

Respectfully submitted,

Frank J. Karpinski

Executive Director