



Employees' Retirement Board of Rhode Island
Monthly Meeting Minutes
Wednesday, February 11, 2009
9:00 a.m.
8th Floor Conference Room, 40 Fountain Street

The Monthly Meeting of the Retirement Board was called to order at 9:05 a.m., Wednesday, February 11, 2009 in the 8th Floor Conference Room, 40 Fountain Street, Providence, RI.

I. Roll Call of Members

The following members were present at roll call: General Treasurer Frank T. Caprio; William B. Finelli; Gary R. Alger; Daniel L. Beardsley; Frank R. Benell, Jr.; Rosemary Booth-Gallogly; Roger P. Boudreau; Michael R. Boyce; M. Carl Heintzelman; John P. Maguire; John J. Meehan; Louis M. Prata; Linda C. Riendeau; Susan K. Rodriguez and Jean Rondeau.

Also in attendance: Frank J. Karpinski, ERSRI Executive Director; Attorney Michael P. Robinson, Board Counsel.

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

II. Approval of Minutes

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

VOTED: To amend the draft minutes of the January 14, 2009 meeting to reflect that Linda C. Riendeau was present at roll call. It was then voted to approve the draft minutes of the January 14, 2009 meeting of the Employees' Retirement System of Rhode Island Board.

III. Chairman's Report

The Treasurer remarked that due to the Governor's proposed changes in pension benefits, the Retirement Staff continues to receive a high volume of requests for information regarding retirement eligibility. He asked the Board Members to keep him apprised of any issues or requests they may receive from the membership. The Treasurer stated that the Retirement Counselors have been conducting group sessions. These sessions are often more informative than single sessions, as more information is exchanged due to the number of participants. The Retirement staff has been working overtime to accommodate the prospective retirees and the Treasury Staff will stand ready to assist as needed. Treasurer Caprio told the Board that no legislative decisions regarding changes in ERSRI's benefits have been made as of the current date.

IV. Executive Director's Report

Director Karpinski stated that the Procurement Subcommittee met at 8:45 am, prior to the Board meeting to make a recommendation accepting the current system's actuary, Gabriel, Roeder, Smith & Company, fee proposal for a one year period. Mr. Alger asked if ERSRI is reimbursed for any legislative services. Director Karpinski explained that the legislative service portion of the fees is a retainer fee to address proposed retirement legislation and the impact such legislation will have on the System pension programs requested by the Board. Director Karpinski reminded the Board that the statute was changed last year making ERSRI responsible for any costs associated with fiscal note requests, provided they are approved by the Speaker, Senate President or the Governor. He said such work is invoiced separately at an hourly fee and is not covered by this contract. However, the fees would be covered by ERSRI.

Mr. Boudreau asked if the work being done by the pension study commission is being paid for by ERSRI. Director Karpinski said to date; he has not been presented any invoices. He said he believed those costs would be borne by the legislature since there is no bill submitted in the General Assembly as prescribed by the new law.

On a motion by Mr. Alger and seconded by Mr. Boudreau, it was unanimously

VOTED: To approve the Procurement Subcommittee's recommendation to accept a one year contract with Gabriel, Roeder, Smith & Company at the price of \$159,900 as quoted in their February 4, 2009 letter.

Director Karpinski went on to discuss the Delinquency Report. He apologized to the Board, as there were technical difficulties which prevented him from producing the report. He advised the Board that the report would be available next month. Director Karpinski went on to address questions from the Board regarding content of the report and the process used to collect delinquent payments. Mr. Boudreau asked if the current economic conditions are creating higher than average delinquency rates. Director Karpinski replied that the majority of the employer contributions are current.

V. Administrative Decisions

Administrative Appeal - M. Jean Tisser vs. ERSRI

Included in Board Members Books, was the Hearing Officer's written decision, along with exhibits and supporting information in the matter of *M. Jean Tisser vs. ERSRI*. The Treasurer asked if consistent with Regulation Number 4, Rules of Practice and Procedure for Hearings, there were any written briefs, legal memoranda, or exceptions to the decision of the Hearing Officer which must have been submitted to the Executive Director not later than 10 days prior to the hearing. Director Karpinski apprised the Board that there are documents and they are included in the Board Members books. John P. Maguire and M. Carl Heintzelman recused themselves from voting and participating in this matter.

Treasurer Caprio then said that pursuant to ERSRI's regulations, each party to the proceeding has the right to appear and to make oral arguments before the Retirement Board. He apprised the appellant that it is not an opportunity to present new factual

material to the Board and pursuant to ERSRI's regulations and Rhode Island case law, the Board owes deference to the Hearing Officer on factual determinations and questions of credibility, and cannot overturn the Hearing Officer on determinations of fact or credibility unless such determinations are found to be clearly wrong.

Treasurer Caprio asked the appellant if they intended to make any presentation or oral argument to the Board. The appellant replied in the affirmative and was subsequently sworn in.

Attorney Robinson then apprised the Board that Mr. Tisser was being represented by Mr. James Parisi, of the R.I. Federation of Teachers. He then provided a synopsis of the *M. Jean Tisser* matter. He said the matter is here on appeal from the decision of Hearing Officer Koutsogiane. The Hearing Officer in this matter affirmed the Retirement System's position that Jean Tisser was not eligible for an ordinary disability pension, because she did not have the requisite five years of total service in the System. Mrs. Tisser has unfortunately passed away, but this appeal was brought and prosecuted through her husband. He said Mrs. Tisser worked as a part-time, three-fifths French teacher for the Cranston School Department. She worked three days out of five between the 2000/2001 school year and the 2005/2006 school year. The claim is essentially that because she worked a total of six years, although part time, she nevertheless was eligible for consideration for an ordinary disability pension, which again, requires five years of total service. There being a stenographer present, the parties presented their cases.

At the conclusion of the hearing a motion was made by Michael R. Boyce and seconded by Linda C. Riendeau to overturn the decision of the hearing officer. A roll call was taken. The following members voted Yea: William B. Finelli; Roger P. Boudreau; Michael R. Boyce; John J. Meehan; Louis M. Prata and Linda C. Riendeau. The following members voted Nay: General Treasurer Frank T. Caprio; Gary R. Alger; Daniel L. Beardsley; Frank R. Benell Jr.; Rosemary Booth Gallogly; Susan K. Rodriguez and Jean Rondeau.

There being 13 votes cast, 6 voted in the affirmative and 7 nay, consistent with Rhode General Laws §36-8-6, *Votes of the Board – Record of Proceedings*, there not being a majority vote of the members present and voting at which a quorum was present, the motion failed.

After some discussion, a motion was made by Linda C. Riendeau and seconded by Michael R. Boyce to table the matter. A roll call was taken. The following members voted Yea: William B. Finelli; Roger P. Boudreau; Michael R. Boyce; John J. Meehan; Louis M. Prata and Linda C. Riendeau. The following members voted Nay: General Treasurer Frank T. Caprio; Gary R. Alger; Daniel L. Beardsley; Frank R. Benell Jr.; Rosemary Booth Gallogly; Susan K. Rodriguez and Jean Rondeau.

There being 13 votes cast, 6 voted in the affirmative and 7 nay, consistent with Rhode General Laws §36-8-6, *Votes of the Board – Record of Proceedings*, there not being a majority vote of the members present and voting at which a quorum was present, the motion failed.

Upon additional discussion, a motion was made by Susan K. Rodriguez and seconded by Jean Rondeau and Frank R. Benell Jr. to affirm the decision of the hearing officer. A roll call was taken. The following members voted Yea: General Treasurer General

Treasurer Frank T. Caprio; Gary R. Alger; Daniel L. Beardsley; Frank R. Benell Jr.; Rosemary Booth Gallogly; Susan K. Rodriguez and Jean Rondeau. The following members voted Nay: William B. Finelli; Roger P. Boudreau; Michael R. Boyce; John J. Meehan; Louis M. Prata and Linda C. Riendeau.

There being 13 votes cast, 7 voted in the affirmative and 6 nay, consistent with Rhode General Laws §36-8-6, *Votes of the Board – Record of Proceedings*, there being a majority vote of the members present and voting at which a quorum is present, it was then

VOTED: To affirm the decision of the hearing officer in the matter of *M. Jean Tisser vs. ERSRI* denying her the ability to apply for ordinary disability benefits.

At the conclusion of the hearing a motion was made by Roger P. Boudreau and seconded by Michael R. Boyce to have Regulation 10 Section 4 reviewed by the Rules and Regulations Sub-Committee. A roll call was taken and it was then unanimously

VOTED: To have Regulation 10 Section 4 reviewed by the Rules and Regulations Sub-Committee.

Mr. Alger and Ms. Rodriguez left the meeting at 10:35 am

Disability Appeal – Meredith Arcaro vs. ERSRI

Included in Board Member's Book, under separate cover, was the Findings of Fact as concluded by the Disability Sub-Committee, transcripts from the appeal to the Disability Sub-Committee, medical and supporting information for the matter of *Meredith Arcaro vs. ERSRI*.

The Treasurer asked if consistent with Regulation Number 4, Rules of Practice and Procedure for Hearings, there were any written briefs, legal memoranda, or exceptions to the decision of the Disability Sub-Committee which must have been submitted to the Executive Director not later than 10 days prior to the hearing. Director Karpinski apprised the Board that there was no additional information provided from the appellant.

Treasurer Caprio said that pursuant to ERSRI's regulations, each party to the proceeding has the right to appear and to make oral arguments before the Retirement Board. He apprised the appellant that this is not an opportunity to present new factual material or evidence to the Board. He said the Board affords deference to the conclusions of its Disability Sub-Committee on factual determinations and questions of credibility, and will not overturn those determinations and assessments unless they are found to be clearly wrong.

Treasurer Caprio asked the appellant if they intended to make any presentation or oral argument to the Board. Attorney Sandra Lanni, representing Ms. Aracro, told the Board her client would not be presenting oral argument or presentation and thus would not need to be sworn in.

Attorney Sandra Lanni then apprised the Board that she had additional documentation that had not yet been reviewed by the Disability Subcommittee and asked they review

the information. The Board discussed the addition of new material and then on a motion by Roger P. Boudreau and seconded by Frank R. Benell Jr. it was unanimously **VOTED: To remand the *Meredith Arcaro vs. ERSRI* matter to the Disability Subcommittee for review of additional material.**

VI. Approval of the January Pensions as Presented by ERSRI

On a motion by Roger P. Boudreau and seconded by Michael R. Boyce, it was unanimously

VOTED: To approve the January pensions as presented.

VII. Legal Counsel Report

Attorney Michael Robinson updated the Board regarding the matter of *Barry Holland vs. ERSRI*. He said Mr. Holland is appealing the October 29, 2007 decision by ERSRI to offset the sum of \$28,760 representing a settlement Mr. Holland received from the Town of South Kingstown regarding his workers' compensation matter. Attorney Robinson said the matter has been filed this month.

He then stated the matter of *Kathleen Mellor vs. ERSRI* is also pending. Ms. Mellor appealed the decision of the Retirement Board to deny her the ability to purchase service credits from November 1980 thorough April 1985 while she was employed by the International Institute of Rhode Island.

VIII. Committee Report

Disability Sub-Committee: The Disability Sub-Committee recommended the following actions on disability applications as a result of its February 6, 2009 meeting for approval by the full Board.

Name	Membership Group	Type	Action
1. Mildred Grieve	Municipal	Accidental	Table
2. Paul Dunham	Municipal	Accidental	Approve
3. Robin Ross	State	Accidental	Table
4. John Houle	Municipal	Accidental	Table
5. Carmela Coppa	Municipal	Accidental	Table
6. Patricia Santaniello	Teacher	Accidental	Table
7. Camille Seravo	Teacher	Accidental	Deny
8. Brent Gomez-Paulhus	Municipal	Accidental	Table
9. Joseph DaSilva	Municipal	Accidental	Table
10. Ken Reis	State	Accidental	Table

Name	Membership Group	Type	Action
11. Marie Iannetti	Municipal	Ordinary	Approve
12. Cynthia Robinson	State	Ordinary	Approve
13. Sandra Coyle	State	Ordinary	Approve
14. Teresa Smith	Teacher	Ordinary	Approve
15. Hilda Durango	Municipal	Ordinary	Table
16. Pauline Richard	State	Accidental	Moved
17. Denise Martino	Teacher	Ordinary	Approve
18. John Villari	State	Accidental	Deny

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

VOTED: To approve the recommendation of the Disability Sub-Committee meeting of Friday, February 6, 2009 on item 6, 7 and 17.

John P. Maguire recused himself from items 6, 7 and 17.

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 of Friday, February 6, 2009 on items 1,2,3,4,5,8,9,10,11,12,13,14, 15, 16 and 18.

IX. New Business

Mr. Boudreau expressed the need to address ERSRI's members concerns regarding the financial stability of the Retirement Fund. He asked Director Karpinski to send actuarial information to the membership to quell their concerns. Treasurer Caprio agreed and suggested this information be added to the next newsletter. Director Karpinski concurred and remarked that it will be approximately six weeks to eight weeks before the next newsletter is mailed.

Mr. Finelli referred to the Post Retirement Report. He said it appeared that post-retirement employment is not being reported by all retirees as mandated by statute. Director Karpinski expressed how challenging it is for the staff to collect this information. He added that several past newsletters have had a special post-retirement insert providing the statutory restrictions in regard to post-retirement employment. Director Karpinski explained the communication he has had with officials and attorneys in an effort to ensure that the retirees are aware of the guidelines and monthly reporting requirements. The Treasurer suggested that post-retirement guidelines be one of the topics discussed in the next newsletter as well.

Mr. Boyce referred to recent newspaper articles regarding prospective retirees within the East Providence School system. The content of the articles indicated that there may be some misunderstanding regarding post-retirement regulations. Director Karpinski apprised the Board that he recently forwarded a letter to the East Providence School Department Human Resource Manager regarding the specific matter. He said he outlined issues similar to those sent to the Department of Administration regarding in-service distributions and a bonafide break in service for post-retirement employment at MHRH.

Mr. Boyce asked what the required minimum duration in break of service is from a members retirement date to the time they may perform post-retirement employment. Director Karpinski replied it is thirty working days. He asked what the consequences are if the thirty day rule is not followed. Director Karpinski replied that their pension would be suspended. Mr. Finelli stated that, in his opinion, School Department Officials are not communicating the necessary guidelines and regulations to members. Mr. Maguire and Ms. Booth Gallogly expressed their concern about the potential misinformation to Teachers should there be cause to suspend their pension benefits. Mr. Maguire asked Director Karpinski whom he communicated the information to regarding the bonafide break in service. Director Karpinski said was in contact with attorneys for labor and management as well as Mr. John Leidecker of NEA. He said he provided all parties with the information regarding the IRS requirement. Director Karpinski said he would put the information into the newsletter and place another call to NEA to confirm they are educating their members with respect to post-retirement rules and regulations.

X. Adjournment

There being no other business to come before the Board, on a motion by Mr. Heintzelman and seconded by Mr. Boudreau, the meeting adjourned at 11:05 a.m.

Respectfully submitted,

Frank J. Karpinski

Executive Director