



Employees' Retirement Board of Rhode Island
Monthly Meeting Minutes
Wednesday, March 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 9:08 a.m., Wednesday, March 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: Consistent with statute 36-8-4, Mark Dingley, Chief of Staff/Chief Legal Counsel, was substituting for General Treasurer Frank T. Caprio. Other members present were William B. Finelli; Rosemary Booth-Gallogly; Roger P. Boudreau; Michael R. Boyce; M. Carl Heintzelman; John P. Maguire; John J. Meehan; Louis M. Prata; Linda C. Riendeau; and Susan K. Rodriguez.

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

Recognizing a quorum, Vice Chairman Finelli called the meeting to order.

II. Approval of Minutes

On a motion by Mr. Prata and seconded by Ms. Riendeau, it was unanimously

VOTED: To approve the draft minutes of the February 11, 2009 meeting of the Employees' Retirement System of Rhode Island Board.

III. Chairman's Report

None this month.

IV. Executive Director's Report

Director Karpinski apprised the Board of the 2009 Economic Stimulus Package, known as the "American Recovery and Reinvestment Act of 2009". He said the act has a provision called "Making Work Pay" which will lower tax tables applicable to pension income. This change will take place as of April 1, 2009. Director Karpinski said retirees who use the tax table to determine the amount of tax withholding deducted from their pension checks will be affected by this change. Director Karpinski explained that the next issue of the newsletter will provide information regarding this tax change and the pension checks mailed in April will note the change. Mr. Finelli remarked that members who are not aware of this change could possibly owe tax dollars at the end of the year.

In closing, Director Karpinski said he will also put information on ERSRI's website regarding this matter.

The Director went on to address how ERSRI intends to address service credit for furlough days and layoffs that municipalities may be imposing on members as cost savings measures. The Director said that in either case, the member will be eligible to purchase credit for time only, with accrued interest. If the furlough is treated as a leave, it would require a waiting period of one year from the last furlough day before purchase can be made. If the furlough is treated as a layoff, the time may be purchased after the last day of the layoff. If an institution is closing down for a specified period of time, there will be a reduction in salary with no missing time recorded, but there will not be any time available for purchase. A discussion ensued among the Board members and Director Karpinski regarding how to handle these issues. There was concern by members of the Board that the purchased credits are not considered contributory time and could render members ineligible for retirement due to the missing time if any pension reforms are enacted during the current session.

Mr. Boyce questioned Director Karpinski on a statute he recalled was enacted in 1991 to address furlough issues. Director Karpinski said there are two statutes. Rhode Island General Law (RIGL) §36-10-10.4 and §45-21-59. He told the Board that §36-10-10.4 was amended in the 2008 session removing a sunset date. Conversely, §45-21-59 was not amended and presently has a sunset date of June 30, 1994. Director Karpinski said amending §45-21-59 to remove the sunset date would accommodate the concerns raised by board members and would be equitable with state employees. Ms. Booth-Gallogly said she would raise the issue with the Governor and try to amend the law to be similar to §36-10-10.4.

At the conclusion of the discussion, a motion was made by Mr. Boudreau and seconded by Mr. Boyce, it was unanimously

VOTED: To propose a recommendation at the April 8, 2009 Board Meeting for a policy governing how service credit and contributory credit will be implemented for the potential impact of furlough days and shut downs.

Director Karpinski then went on to discuss the Governor's Supplemental budget bill H5019. He directed the Board's attention to Article 45 which contained a proposed new section 45-21.4. The Director said the basis of the statute is that benefits provided to municipal employees may not exceed those benefits provided for by RIGL §45-21. The specific concern raised by Director Karpinski pertains to §45-21.4-4 of the proposed statute. He said it would place the responsibility of implementation and monitoring of all provisions of §45-21.4 benefits, which include healthcare, with the Retirement Board. Director Karpinski apprised the Board that the system lacks sufficient infrastructure or staff to implement such policy. Ms. Booth-Gallogly said she will bring the matter to the Governor's Legal Counsel to review who could be better positioned to be responsible for implementation and monitoring. She said she would advise the Board of her findings.

Finally, Director Karpinski noted that the Retirement Counselors have met with approximately 1,300 potential retirees as of the current date. The majority of the

applications from these members have not been submitted, so there is no clear indication of how many members will actually be retiring.

V. Administrative Decisions

Disability Appeal – Patricia Logan vs. ERSRI. Included in Board Members' Books was the decision, exhibits and supporting information for the matter of *Patricia Logan vs. ERSRI*. Attorney Robinson apprised the Board that Ms. Logan was being represented by Attorney Lawrence J. Signore. He then provided a synopsis of the matter. There being a stenographer present, the parties presented their cases.

At the conclusion of the discussion, a motion was made by Vice Chairman Finelli and seconded by Ms. Riendeau to remand the matter back to the Disability Subcommittee to consider additional information submitted by the applicant.

There being 11 votes cast in the affirmative, consistent with Rhode Island General Laws section 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 was present, it was unanimously

VOTED: To remand the matter of *Patricia Logan vs. ERSRI* back to the Disability Subcommittee for review of the additional information provided.

Disability Appeal – Theodore DeWolf vs. ERSRI. Included in Board Members' Books was the decision, exhibits and supporting information for the matter of *Theodore DeWolf vs. ERSRI*. Attorney Robinson apprised the Board that neither Mr. DeWolf nor his attorney will be attending this meeting. He then provided a synopsis of the matter. There being a stenographer present, Attorney Robinson proceeded with the matter.

At the conclusion of the discussion, a motion was made by Vice Chairman Finelli and seconded by Mr. Boudreau to remand the matter back to the Disability Subcommittee to consider additional information submitted by the applicant. Mr. Meehan recused himself.

There being 10 votes cast in the affirmative, consistent with Rhode Island General Laws section 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 was present, it was unanimously

VOTED: To remand the matter of *Theodore DeWolf vs. ERSRI* back to the Disability Subcommittee for review of the additional information provided.

At the conclusion of the hearings Chief of Staff Dingley remarked that many of the appellants appearing before the Retirement Board are asking to be remanded back to the Disability Subcommittee, rather than appearing for final consideration. He announced that due to the increase in such cases, there will be an additional Disability Subcommittee Meeting on March 26, 2009 in the first floor conference room. He then asked Attorney Robinson if a procedure can be implemented to limit the number of reconsiderations the Disability Subcommittee is receiving.

Attorney Robinson pointed out that Administrative Hearings have a procedure in place. The Hearing Officer is allowed to keep the record open before rendering a decision for purposes of submitting new and additional evidence. Once the case comes before the full Board, the decision is final and the record cannot be re-opened. In regard to

Disability Hearings, he said the regulation presently indicates that additional evidence must be submitted ten days before the Disability Subcommittee's reconsideration hearing. In essence, the appellants are asking the Board to make an exception based upon new material. If the Board feels it is warranted, they have the authority to make an exception to the rule in an appropriate case. Vice Chairman Finelli requested there be further discussion at the next Disability Subcommittee meeting so a policy can be put in place regarding this matter.

VI. Approval of the February Pensions as Presented by ERSRI

On a motion by Ms. Riendeau and seconded by Ms. Booth-Gallogly, it was unanimously **VOTED: To approve the February pensions as presented.**

VII. Legal Counsel Report

Attorney Robinson noted that *John Villari vs. ERSRI* is the only matter to be discussed. The Board had previously denied Mr. Villari's application for a disability pension. Mr. Villari came to the Retirement Office on February 23, 2009 to fill out paperwork for withdrawal of his application. He created a disturbance and was charged with disorderly conduct by the Providence Police. Due to these circumstances and past incidents reported by his employer, it was deemed prudent to seek a restraining order from the Providence Police to prevent him from returning to the Retirement Office, other than for duly advertised public hearings involving his case.

VIII. Committee Report

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

Name	Membership Group	Type	Action
1. Mildred Grieve	Municipal	Accidental	Deny
2. John LaPlume	State	Accidental	Table
3. Sylvia Sampson	State	Accidental	Table
4. Rachael Dumas	Municipal	Accidental	Deny
5. Janice Connelly	State	Accidental	Deny
6. Mary Ellen Malone	Teacher	Accidental	Deny
7. Carmela Coppa	Municipal	Accidental	Table

Name	Membership Group	Type	Action
8. Hilda Durango	Municipal	Ordinary	Table
9. Richard DelBonis	Municipal	Ordinary	Approve
10. Michael Andrescavage	Municipal	Accidental	Table
11. Christopher Shiels	Municipal	Accidental	Table
12. David Bradley	Municipal	Accidental	Deny
13. Janice Marcello	Teacher	Ordinary	Approve
14. Valarie MacKenzie	State	Ordinary	Approve
15. Pauline Richard	State	Accidental	Table
16. Theodore DeWolf	State	Accidental	Full Board
17. Sandra Ellis	Municipal	Accidental	Approve

On a motion by Mr. Boyce and seconded by Chief of Staff Dingley, it was

VOTED: To approve the recommendation of the Disability Sub-Committee meeting of Friday, March 6, 2009 on item 2 and 5.

Mr. Meehan recused himself from items 2 and 5.

On a motion by Mr. Boyce and seconded by Chief of Staff Dingley, it was

VOTED: To approve the recommendation of the Disability Sub-Committee meeting of Friday, March 6, 2009 on items 6 and 13.

Mr. Maguire recused himself from items 6 and 13.

On a motion by Mr. Boyce and seconded by Chief of Staff Dingley, it was unanimously

VOTED: To approve the recommendation of the Disability Sub-Committee meeting of Friday, March 6, 2009 on items 1,3,4,7,8,9,10,11,12,14,15 and 17.

On a motion by Mr. Boyce and seconded by Chief of Staff Dingley, it was

VOTED: To approve the recommendation of the Disability Sub-Committee meeting of Friday, March 6, 2009 on item 16.

Mr. Meehan recused himself from item 16.

IX. New Business

Vice Chairman Finelli reiterated his concern from last month's Board Meeting that post-retirement employment is not being reported by all retirees as mandated by statute. Mr. Maguire remarked that the category marked "Position" in the Post Retirement Report is incomplete, as there are many missing entries. He suggested these individuals be

contacted so the correct information can be entered. Director Karpinski said he would contact Mr. David Sullivan, the Tax Administrator, to try to secure information that would match social security numbers of retirees and tax reporting / filing. He said this would all but guarantee the ability to detect members / employers who are not currently reporting to ERSRI. Chief of Staff Dingley suggested that this topic be continued at the next Board Meeting to allow Director Karpinski to update the Board on his discussion with taxation.

X. Adjournment

There being no other business to come before the Board, on a motion by Mr. Boudreau and seconded by Ms. Riendeau, the meeting adjourned at 10:29 a.m.

Respectfully submitted,

Frank J. Karpinski
Executive Director