



Employees' Retirement Board of Rhode Island
Monthly Meeting Minutes
Wednesday, June 10, 2009
9:00 a.m.
8th Floor Conference Room, 40 Fountain Street

The Monthly Meeting of the Retirement Board was called to order at 9:00 a.m., Wednesday, May 13, 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 Jr., Rosemary Booth Gallogly, Michael R. Boyce, M. Carl Heintzelman, John P. Maguire, John J. Meehan, Louis M. Prata, Susan K. Rodriguez, and Jean Rondeau. Daniel Beardsley, Frank R. Bennell, Jr., Rodger P. Boudreau, and Linda C. Riendeau were not in attendance.

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 Mr. Boyce and seconded by Mr. Finelli, it was unanimously

VOTED: To approve the draft minutes of the May 13, 2009 meeting of the Employees' Retirement System of Rhode Island Board.

III. Chairman's Report

Treasurer Caprio reported that the Legislature is in the process of finalizing the State Budget. Additionally, the House Finance Committee held an informational hearing on Friday, June 5, at which Director Karpinski along with members of the Treasury staff were in attendance. At the Finance Committee's request, Director Karpinski testified on specifics of the current Pension Plan. The Treasurer told the Board that upon completion of a bill, he will provide the legislature with information for implementation of necessary pension changes.

IV. Executive Director's Report

Director Karpinski updated the Board regarding the "Making Work Pay Credit". He explained that the IRS had provided the usual tax tables in January, which were used for pension payments in February, March, and April. The tax table for the "Making Work Pay Credit" was implemented in April for pension payments in May. The IRS ruled that pension funds must use the new withholding rates for benefit payments. Director Karpinski told the Board that under the law, the "Make Work Pay" tax credit only

applies to “earned income”, pension benefits are not considered earned income which means the tax obligation for pension benefits does not change. He said this results in a situation for retirees and beneficiaries in which the tax withholding amount on their benefit payment goes down while their tax obligation has not actually been reduced.

Director Karpinski said this situation could result in underpayment of taxes during the year that would have to be made up when filing income tax returns the following year, along with the possibility of penalties for under withholding of taxes during the year.

Effective May 15th, the IRS issued additional withholding tables that apply only to retirement benefits. Director Karpinski said ERSRI will use these additional tables effective with the June 30 pension payment. This new change will help some pensioners avoid a smaller refund next spring or even a balance due in limited situations. He told the Board the new tax table adjustment would be in addition to the change provided in May and will be effective for June pension payments.

Director Karpinski said that according to the IRS, for plans that adopt the new procedure, withholding on pension payments will be automatically adjusted with no action needed by pensioners. The IRS recommended this procedure be done immediately in order to give members an opportunity to review their tax base and make adjustments going forward.

In conjunction with tax changes discussed by the Director, the first electronic Newsletter has been sent to approximately 17,000 email addresses in the ANCHOR system. There were about 2,500 returned emails. Director Karpinski told the Board the Newsletter includes valuable information regarding the changes to the tax law. He said hard copies of the Newsletter also will be forwarded to all members. He said the staff will be making a concentrated effort to encourage members to create on-line accounts to collect email addresses to expand the on-line circulation of the eNewsletter.

Director Karpinski asked Board members who have access to large member audiences to address the tax issue and encourage members to go online and create an account so that they can receive information electronically. Also, ERSRI will be adjusting its website link for the IRS to point to a tax calculator and provide further information on the “Making Work Pay Credit”.

Ms. Gallogly stressed the importance of conveying to members that it is their responsibility to review the tax information on the website. Director Karpinski concurred and said ERSRI will continue its effort to inform members through Newsletters and pay stubs.

A question was raised regarding the effect the new law will have on prospective retirees versus current retirees. Director Karpinski explained that currently, the new tax table is the same for present and future retirees and that the ANCHOR system has been adjusted to handle the new calculations.

Continuing, Director Karpinski updated the contribution revenue results from Article 10. He said during June, the Local Education Authorities (LEA’s) will be contributing approximately \$9.7 Million, the Department of Education (DOE) approximately \$7.1 million, Federally Funded approximately \$500 thousand and State payroll will contribute approximately \$9.7 Million. The Director said the transfer to the account outside of the trust will be approximately \$27 million for the month of May resulting in a balance of \$49-50 million in this account pending the outcome of any legislation.

Director Karpinski then apprised the Board on the initiative to secure an internal audit for the system. He told them it would be best to have an outside firm establish an internal audit procedure including policies, guidebooks, and practices.

The Request for Proposal (RFP) has been completed and the Procurement Subcommittee will be receiving copies of the RFP and bids along with a form to provide their feedback. Once the forms are returned to ERSRI, the Procurement Subcommittee will determine the firms to be brought before the Board for final recommendation.

Director Karpinski then apprised the Board of the timing for the state/teacher, state police, judges and municipal June 30, 2008 valuations. He said that due to the current legislative session, it is likely the contribution rate for fiscal 2009-2010 will come from within this session. The Director said that Mr. Chris Conradi of Gabriel, Roeder, Smith and Company (GRS) has advised him that while a significant portion of the valuation is complete, the benefit structure is not yet available as it is still being discussed and reviewed by the legislature; therefore the final rates and details of the plan structure will not be ready for the usual presentation in July.

Treasurer Caprio stressed the need to keep communications open between the budget office, the actuary, and the Board. He said upon completion of the analysis, the information needs to be provided to the Board. Ms. Gallogly stressed the urgency to provide the locals with interim rates by the end of June. She suggested that if the legislature were to enact reform and GRS could provide contribution rates effective July 1, the Board could use those rates until an official Board action can be taken. Director Karpinski concurred and said he would provide the Board with updates as they are available.

Director Karpinski told the Board that at present, there was no pending legislation on the MERS plan. He said it would be advantageous to get clarification on whether or not changes are pending; if not, GRS could begin preparation of the MERS valuation as soon as possible. He said he would try to ascertain information on the MERS plan.

Finally, he said as Ms. Gallogly suggested, if reforms are enacted soon, the Board could approve the rates at the July meeting for affected plans. The formal presentation would occur potentially in August. However, Director Karpinski told the Board that GRS would be unavailable for the regular Board meeting dates in August and September and suggested to the Board that an alternative date should be considered. He told the Board he would provide them possible dates for their review.

V. Administrative Decisions

Administrative Appeal – Charles Pepin vs. ERSRI. Included in the Board Members' Books was the decision, exhibits and supporting information for the matter of *Charles Pepin vs. ERSRI*. Attorney Robinson then apprised the Board that Mr. Pepin was not present and was being represented by Attorney Carly Iafrate. 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 Mr. Finelli and seconded by Mr. Boyce to reverse the decision of the hearing officer and permit Mr. Pepin to secure service credits for his time at the correctional officer academy. A roll call was taken. The following members voted Yea: William B. Finelli; Michael R. Boyce; M. Carl

Heintzelman; John P. McGuire; Louis M. Prata. The following members voted Nay; General Treasurer Frank T. Caprio; Gary R. Alger; Rosemary Booth Gallogly; Susan K. Rodriguez and Jean Rondeau

Mr. John J. Meehan recused himself.

There being 10 votes to cast, 5 voted in the affirmative and 5 nays consistent with Rhode Island General Laws section 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. Then a motion was made by Mr. Finelli and seconded by Mr. Boyce to postpone the matter pending the presence of the absent Board members. A roll call was taken. The following members voted Yea: General Treasurer Frank T. Caprio; William B. Finelli; Gary R. Alger; Rosemary Booth Gallogly; Michael R. Boyce; M. Carl Heintzelman; John P. McGuire; Louis M. Prata and Susan K. Rodriguez. The following members voted Nay; Jean Rondeau.

Mr. John J. Meehan recused himself.

VOTED: To postpone the matter pending the presence of the absent Board members.

Administrative Appeal – Colleen Mellor vs. ERSRI. Included in the Board Members' Books was the decision, exhibits and supporting information for the matter of *Colleen Mellor vs. ERSRI*. There being a stenographer present, Attorney Robinson then apprised the Board that Ms. Mellor did not have legal representation and that Mr. James Parisi, a union official, was accompanying her. Attorney Robinson then briefed the Board on an issue involving representation before Subcommittees, Hearing Officers and the Retirement Board of Employees' Retirement System of Rhode Island. He apprised them that from time to time members of the system are being represented at hearings before subcommittees of ERSRI, its Hearing Officers and the Retirement Board, by union representatives who are not attorneys. He provided the Board with the pertinent section of Rhode Island General Laws.

Attorney Robinson told the Board that it would be prudent to discuss the matter with labor organizations that appear in front of the Board and its Subcommittees, and to apprise them of the issue to avoid a violation of the law. Ms. Mellor then requested that the Board remand the matter back to the hearing officer so she could secure the services of an attorney.

A motion was then made by Ms. Rodriguez and seconded by Mr. Finelli and Mr. Rondeau to remand the matter back to the hearing officer for consideration of Ms. Mellor's request to re-open the proceedings. 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 back to the Hearing Officer for consideration of Ms. Mellor's request to re-open the hearing in order to be represented by counsel.

Disability Appeal – ERSRI vs. Patricia Logan. Included in the Board Members' Books was the decision, exhibits and supporting information for the matter of *Patricia Logan vs. ERSRI*. Attorney Robinson then apprised the Board that Ms. Logan was being represented by Attorney Lawrence 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 Mr. Rondeau and seconded by Mr. Heintzelman to affirm the decision of the Disability Subcommittee. A roll call was taken. The following members voted Yea: General Treasurer Frank T. Caprio; William B. Finelli; Gary R. Alger; Rosemary Booth-Gallogly; Michael R. Boyce; John P. McGuire; M. Carl Heintzelman; John J. Meehan; Louis M. Prata; Susan K. Rodriguez and Jean Rondeau.

There being 11 votes to cast, 11 voted 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 **VOTED: To affirm the recommendation of the Disability Subcommittee denying disability benefits in the matter of *Patricia Logan vs. ERSRI*.**

Disability Appeal – ERSRI vs. Eugene Matera. Included in the Board Members' Books was the decision, exhibits and supporting information for the matter of *Eugene Matera vs. ERSRI*. Attorney Robinson then apprised the Board that Mr. Matera was not being represented by an Attorney.

At Mr. Matera's request, a motion was made by Mr. Finelli and seconded by Mr. Boyce to postpone the matter to allow him to secure a date when his attorney may be present. A roll call was taken. The following members voted Yea: General Treasurer Frank T. Caprio; William B. Finelli; Gary R. Alger; Ms. Rosemary Booth-Gallogly; Michael R. Boyce; John P. McGuire; M. Carl Heintzelman; John J. Meehan; Louis M. Prata; Susan K. Rodriguez and Jean Rondeau.

There being 11 votes to cast, 11 voted 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 **VOTED: To postpone the matter of *ERSRI vs. Eugene Matera* to allow him to secure a date when his attorney may be present.**

VI. Approval of the May Pensions as Presented by ERSRI

On a motion by Mr. Prata and seconded by Mr. Finelli, it was unanimously **VOTED: To approve the May pensions as presented.**

VII. Legal Counsel Report

Attorney Robinson apprised the Board of the matter of Jeanne Rossi, wherein the Board denied a request for legal fees. He reminded the Board that last year a specific offer was made by her attorney to settle the matter. At that time the Board was not prepared to settle. After her formal denial by the Board, based on a hearing officer's decision, she filed suit in Superior Court. Her counsel, Attorney Kenneth Haupt has again expressed a strong desire to settle the matter. Attorney Robinson said that absent any request by the Board to settle the case, he intends to continue prosecuting the matter in Superior Court.

Another issue is the *John Villari* case. The matter involved a member who had a restraining order based upon an incident at the administration offices. Mr. Villari has filed a suit in Superior Court, appealing the denial of his claim for disability benefits.

VIII. Committee Report

Disability Sub-Committee: The Disability Sub-Committee recommended the following actions on disability applications as a result of the June 5, 2009 meeting for approval by the full Board.

<u>Name</u>	<u>Membership Group</u>	<u>Type</u>	<u>Action</u>
1. Pauline Richard	State	Accidental	Postponed
2. David Palumbo	State	Accidental	Postponed
3. Joseph DaSilva	Municipal	Accidental	Approved
4. Nicholas Guilmette	State	Accidental	Approved
5. Patricia Santaniello	Teacher	Accidental	Postponed
6. Robert Bastien	State	Accidental	Postponed
7. Christopher Shiels	Municipal	Accidental	Approved
8. Dawn Dove	Teacher	Ordinary	Postponed
9. Alfred Benjamin	Municipal	Accidental	Postponed
10. Kevin Frenette	State	Accidental	Approved
11. Jeffrey Saucier	Municipal	Accidental	Postponed
12. Kimberly Arnold	Municipal	Accidental	Postpone
13. Ronald Robertus	State	Accidental	Denied

On a motion by Mr. Finelli and seconded by Mr. Boyce, it was unanimously

VOTED: To approve the recommendation of the Disability Sub-Committee meeting of Friday, June 5, 2009 on item 5.

Mr. Maguire recused himself from item 5.

On a motion by Mr. Finelli and seconded by Mr. Boyce, it was unanimously

VOTED: To approve the recommendation of the Disability Sub-Committee meeting of Friday, June 5, 2009 on items 6 and 10.

Mr. Meehan recused himself from items 6 and 10.

On a motion by Mr. Finelli and seconded by Mr. Boyce, it was unanimously

VOTED: To approve the recommendation of the Disability Sub-Committee meeting of Friday, June 10, 2009 on items 1,2,3,4,7,8,9,11,12,and 13.

IX. New Business

There was no new business.

X. Adjournment

There being no other business to come before the Board, on a motion by Mr. Maguire and seconded by Mr. Heintzelman, the meeting adjourned at 11:16 a.m.

Respectfully submitted,

Frank J. Karpinski

Executive Director