



Employees' Retirement Board of Rhode Island
Monthly Meeting Minutes
Wednesday, October 14, 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, October 14, 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; Gary R. Alger; Frank R. Benell, Jr.; Rosemary Booth-Gallogly; Michael R. Boyce; M. Carl Heintzelman; John P. Maguire; John J. Meehan; Louis M. Prata; Linda C. Riendeau; Susan K. Rodriguez and Jean Rondeau. Roger P. Boudreau arrived at 9:07 a.m.

Also in attendance: Diane Bourne, ERSRI Assistant Executive Director and 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 Gary R. Alger, it was unanimously **VOTED: To approve the draft minutes of the September 9, 2009 meeting of the Employees' Retirement System of Rhode Island Board.**

III. Chairman's Report

The Treasurer remarked that the staff has worked diligently to service ERSRI members during this challenging period due to changes that went into effect October 1, 2009 related to Article 7. He noted that he was pleased with the transition and felt the staff did an exceptional job. Treasurer Caprio then stated that the financial markets have gained approximately 50% from their lows in the spring of 2009. He said this has resulted in positive returns within ERSRI's portfolio. The Treasurer explained that the contract changes Council 94 voted to approve will eliminate the need for potential layoffs during the next 18 months. He added that the Treasury staff continues to persevere and seems to be in good spirits.

IV. Executive Director's Report

Assistant Executive Director Bourne asked if there were any questions in regard to Director Karpinski's report that was included in the Board Book. Ms Gallogly inquired if the on-line calculators for members to do estimates of their eligibility dates will be

available to members on October 14, 2009, as noted in the Executive Director's report. Deputy Director Bourne replied that it was not available at this moment, but that it should be available by the end of the work day. Ms. Gallogly also asked when L.R. Wechsler, LTD. will be presenting their recommendations regarding the IT system review. The Assistant Director responded that the review will be presented at the November 12, 2009 Board Meeting. Mr. Boudreau asked if there has been any response to the letter Director Karpinski sent to Governor Carcieri regarding supplemental contributions to the ERSRI fund related to §36-10-2 (e) and (f). Assistant Executive Director Bourne said that presently, no response had been provided.

V. Administrative Decisions

Administrative Appeal – Algy Ripanti vs. ERSRI

Included in Board Members Books, was the Hearing Officer's written decision, along with exhibits and supporting information in the matter of *Algy Ripanti vs. ERSRI*. Attorney Robinson apprised the Board that Attorney Carly Iafrate was representing Mr. Ripanti and then he provided a brief summary of the matter. Attorney Robinson explained that the Hearing Officer had reversed ERSRI's initial decision which denied Mr. Ripanti the ability to remove his wife as his Option One beneficiary following his divorce. Attorney Robinson said that based on the testimony demonstrated at the hearing of October 14, 2008 and the evidence that the Hearing Officer duly found, the Administration is taking the position that they do not wish to contest the Hearing Officer's decision. Therefore, the decision to allow Mr. Ripanti a change of beneficiary designation will stand. Attorney Robinson stated that there was no vote necessary, as the Administration was waiving any objections to the decision. Attorney Iafrate had no objection.

Administrative Appeal - Patricia Page vs. ERSRI

Included in Board Members Books, was the Hearing Officer's written decision, along with exhibits and supporting information in the matter of *Patricia Page 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. Assistant Executive Director Bourne apprised the Board that there were no additional documents.

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.

Ms. Page was not present for the hearing, but was being represented by Attorney Monica Horan. Attorney Robinson then provided a synopsis of the *Patricia Page* matter. He said the matter is here on appeal from the decision of Hearing Officer Raymond Marcaccio, Esq. who affirmed the Retirement System's position that Patricia Page was ineligible to purchase service credit for time she was employed as a library page by the

City of Pawtucket from 1981-1986. The decision cited the fact that Ms. Page did not consistently work 20 hours per week or more during the years in question. 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 Jean Rondeau to affirm the decision of the hearing officer. A roll call was taken. The following members voted Yea: Frank T. Caprio; Gary R. Alger; 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.

There being 13 votes cast, 13 voted in the affirmative, 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 was present, it was unanimously

VOTED: To affirm the decision of the hearing officer in the matter of Patricia Page vs. ERSRI denying her the ability to purchase service credit for time employed with the City of Pawtucket.

Administrative Appeal – John McNulty vs. ERSRI

Included in Board Members Books, was the Hearing Officer's written decision, along with exhibits and supporting information in the matter of *John McNulty 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. Assistant Executive Director Bourne apprised the Board that there were no additional documents.

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.

Attorney Robinson apprised the Board that Mr. McNulty was being represented by Attorney John Harnett. He then provided a synopsis of the John McNulty matter. He said the matter is here on appeal from the decision of Hearing Officer Charles Koutsogiane Esq. who affirmed the Retirement System's determination to offset certain worker's compensation benefits from Mr. McNulty's Accidental Disability Pension. There being a stenographer present, the parties presented their case.

At the conclusion of the hearing a motion was made by John P. Maguire and seconded by Roger P. Boudreau to postpone the matter of *John McNulty vs. ERSRI* pending review of those certain member records referenced by Mr. McNulty, for purposes of determining how ERSRI addressed similar fact patterns in the past. A roll call was taken. The following members voted Yea: General Treasurer Frank T. Caprio; Gary R. Alger; Frank R. Benell, Jr.; Rosemary Booth-Gallogly; Roger P. Boudreau; Michael R. Boyce; M. Carl Heintzelman; John P. Maguire; Louis M. Prata; Linda C. Riendeau; Susan K. Rodriguez and Jean Rondeau. John J. Meehan recused himself from the vote.

There being 12 votes cast, 12 voted in the affirmative, 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 was present, it was

VOTED: To postpone review of the decision of the Hearing Officer in the matter of *John McNulty vs. ERSRI* pending review of those certain member records referenced by Mr. McNulty, for purposes of determining how ERSRI addressed similar fact patterns in the past.

Disability Appeal – Mildred Grieve vs. ERSRI

Included in Board Member's Books, under separate cover, were the findings of fact as concluded by the Disability Subcommittee, transcripts from the appeal to the Disability Subcommittee, medical and supporting information for the matter of *Mildred Grieve 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 Subcommittee which must have been submitted to the Executive Director not later than 10 days prior to the hearing. Assistant Executive Director Bourne 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 Subcommittee 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 John Harnett, representing Ms. Grieve, told the Board his client would be presenting oral argument and thus would need to be sworn in. There being a stenographer present, the parties presented their cases.

At the conclusion of the discussion, a motion was made by Michael R. Boyce and seconded by Roger P. Boudreau to overturn the Retirement Board's decision which affirmed the Disability Subcommittee's decision. A roll call was taken. The following members voted Yea: Roger P. Boudreau; Michael R. Boyce; John P. Maguire; John J. Meehan; Louis M. Prata; Linda C. Riendeau. The following members voted Nay: General Treasurer Frank T. Caprio; Gary R. Alger; Frank R. Benell, Jr.; Rosemary Booth-Gallogly; M. Carl Heintzelman; 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 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 Gary R. Alger and seconded by Frank R. Benell Jr. to affirm the decision of the Retirement Board which affirmed the Disability Subcommittee's decision denying Ms. Grieve's application for accidental

disability benefits. A roll call was taken. The following members voted Yea: General Treasurer Frank T. Caprio; Gary R. Alger; Frank R. Benell Jr.; Rosemary Booth Gallogly; M. Carl Heintzelman; Susan K. Rodriguez and Jean Rondeau. The following members voted Nay: Roger P. Boudreau; Michael R. Boyce; John P. Maguire; John J. Meehan; Louis M. Prata and Linda C. Riendeau.

There being 13 votes to cast, 7 voted in the affirmative and 6 nay, 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 decision of the Retirement Board which affirmed the Disability Subcommittee’s decision denying the application for accidental disability benefits in the matter of *Mildred Grieve vs. ERSRI*.

VI. Approval of the September 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 September pensions as presented.

VII. Legal Counsel Report

Attorney Michael Robinson updated the Board regarding the matter of *Kathleen Mellor vs. ERSRI*. Ms. Mellor’s application to purchase service credit for time spent as an ESL teacher at the International Institute was denied by the Retirement Board. She filed a petition for issuance of a writ of certiorari on October 2, 2009 with the Rhode Island Supreme Court. Attorney Robinson said he will apprise the Board of any new developments regarding this matter.

VIII. Committee Report

Disability Subcommittee: The Disability Subcommittee recommended the following actions on disability applications as a result of its September 24, 2009 meeting for approval by the full Board.

Name	Membership Group	Type	Action
1. Paul Cassavant	Municipal	Accidental	Approve
2. Patricia Hunt	State	Accidental	Postpone
3. Meredith Arcaro	Municipal	Accidental	Approve
4. Karl Swanson	State	Ordinary	Approve
5. Kathleen Lowry	State	Ordinary	Postpone
6. Raymond McKenna	State	Ordinary	Approve
7. Barbara Heaton	State	Ordinary	Approve

Name	Membership Group	Type	Action
8. Joseph Galligan	State	Ordinary	Postpone
9. Linda Simmons	State	Ordinary	Approve
10. Colleen Beltrami	State	Ordinary	Postpone
11. Michael Andescavage	Municipal	Accidental	Approve
12. William McDonald	State	Accidental	Postpone
13. Ronald Broady	State	Accidental	Deny
14. Dawn Dove	Teacher	Ordinary	Deny

Disability Subcommittee: The Disability Subcommittee recommended the following actions on disability applications as a result of its October 9, 2009 meeting for approval by the full Board.

Name	Membership Group	Type	Action
1. Steven Pepper	Municipal	Accidental	Approve
2. Kevin Horning	State	Ordinary	Postpone
3. Kimberly Arnold	Municipal	Ordinary	Postpone
4. Patricia Bianco	State	Ordinary	Approve
5. Rebecca Magiera	State	Ordinary	Approve
6. Alfred Andrade	State	Ordinary	Approve
7. Robyn Carosi	Teacher	Ordinary	Deny
8. Maryann Rainy	Teacher	Ordinary	Approve
9. Janice Connelly	State	Accidental	Approve

On a motion by Michael R. Boyce and seconded by Susan K. Rodriguez, it was

VOTED: To approve the recommendation of the Disability Subcommittee meeting of Thursday, September 24, 2009 on items 5 and 10.

John J. Meehan recused himself from items 5 and 10.

On a motion by Michael R. Boyce and seconded by John P. Maguire, it was unanimously

VOTED: To approve the recommendation of the Disability Subcommittee meeting of Thursday, September 24, 2009 on items 1, 2, 3, 4, 6, 7, 8, 9, 11, 12, 13, and 14.

On a motion by Michael R. Boyce and seconded by Susan K. Rodriguez and Jean Rondeau, it was

VOTED: To approve the recommendation of the Disability Subcommittee meeting of Friday, October 9, 2009 on items 4, and 7.

John P. Maguire recused himself from items 4 and 7.

On a motion by Michael R. Boyce and seconded by Susan K. Rodriguez and Jean Rondeau, it was

VOTED: To approve the recommendation of the Disability Subcommittee meeting of Friday, October 9, 2009 on item 9.

John P. Maguire and John J. Meehan recused themselves from item 9.

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

VOTED: To approve the recommendation of the Disability Subcommittee meeting of Friday, October 9, 2009 on items 1, 2, 3, 5, 6 and 8.

IX. New Business

Mr. Boudreau referred to the Post Retirement Report, acknowledging that letters have been sent to members who have exceeded statutory limits as he requested at the September Board meeting. He noted that there was a teacher in the report who is listed in a 0.4 position and has a total of 96.5 days recorded for the 08/09 school year. Mr. Boudreau explained that this would not be possible unless the school year went beyond 200 days. Assistant Executive Director Bourne said she would look into the matter.

X. Adjournment

There being no other business to come before the Board, on a motion by Frank R. Benell, Jr. and seconded by Roger P. Boudreau, the meeting adjourned at 10:35 a.m.

Respectfully submitted,

Diane Bourne

Assistant Executive Director