



Employees' Retirement Board of Rhode Island
Monthly Meeting Minutes
Thursday, November 12, 2009
9:00 a.m.
8th Floor Conference Room, 40 Fountain Street

The Monthly Meeting of the Retirement Board was called to order at 9:12 a.m., Thursday November 12, 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; Daniel L. Beardsley; Rosemary Booth-Gallogly; Roger P. Boudreau; Michael R. Boyce; M. Carl Heintzelman; John J. Meehan; 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 Roger P. Boudreau and seconded by Susan K. Rodriguez, it was unanimously

VOTED: To approve the draft minutes of the October 14, 2009 meeting of the Employees' Retirement System of Rhode Island Board.

III. Chairman's Report

The Treasurer noted that MERS (Municipal Employees' Retirement System) has recently received favorable press regarding its overall funding level. He said that as of the June 30, 2008 valuation, the plan is approximately 90% funded. He noted this was due in part to the discipline in making required contributions by the communities who are participating members of the MERS plan.

Treasurer Caprio apprised the Board that the markets have been moving in a favorable position since March and ERSRI's portfolio is fully participating in the upside. In comparison to other public pension funds, the Treasurer said ERSRI's performance is in the upper quartile. The Treasurer stated that this is a result of the decision by the members of the State Investment Commission to index a major portion of the publicly traded equity within the portfolio rather than relying on the decisions of individual investment managers.

IV. Executive Director's Report

Director Karpinski advised the Board that the contract for actuarial services will expire on June 30, 2010. He told the Board that the contract has a provision permitting extensions in one-year increments. He told them that it is common practice in the industry to leverage an actuary's skill and knowledge over many valuation cycles and perform actuarial audits, by other firms, of the system actuary every 5 to 8 years to validate the assumptions and practices. ERSRI has exercised this practice and in 2004, ERSRI performed its first actuarial audit. Director Karpinski told the Board he will put the actuary's contract on the December agenda to determine if the Board would prefer to continue this practice or issue an RFP for actuarial services. Director Karpinski noted that it will take approximately six months to complete the RFP process if that option is selected.

The Director said that another newsletter was recently emailed to active members. He told the Board that ERSRI has been receiving several inquiries regarding the changes in Article 7 and the determination of a minimum age of retirement. The newsletter provides an explanation on how to use an online calculator developed by ERSRI to determine a member's minimum retirement age.

Director Karpinski advised the Board that he will soon convene the Rules and Regulations Committee to review several regulations related to the purchase of service credit, Article 7, and disability retirement benefits.

The Director closed by referring to the one-day pay reductions in 2010 and 2011. He said that members seeking to purchase the pay reduction days to include in their 3 or 5 year final average salary (depending on their eligibility) may do so at the conclusion of the pay reductions for each respective year. Consistent with the Memoranda of Agreement to address the State's fiscal crisis, the Agreement provided for eight (8) one-day pay reductions in Fiscal Year 2010 and the four (4) one-day pay reductions in Fiscal Year 2011. Upon request by the member and at the conclusion of each year's pay reduction days, members may be invoiced for a total of 8 days for FY 2010 and 4 days for FY 2011. Individual days may not be purchased unless the member is retiring before the completion of all the pay reduction days.

V. Administrative Decisions

Administrative Appeal – Paula Galvin vs. ERSRI

Included in Board Members Books was the Hearing Officer's written decision, along with exhibits and supporting information in the matter of *Paula Galvin 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 were no additional documents submitted.

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 then apprised the Board that the petitioner, Mr. Galvin, was being represented by Attorney Stephen A. Izzi. He then provided a synopsis of the *Paula Galvin* 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 to deny the petitioner's request to change the deceased Paula Galvin's retirement option to Option #1, Joint and Survivor Full. There being a stenographer present, the parties presented their cases.

At the conclusion of the hearing a motion was made by Jean Rondeau and seconded by Daniel L. Beardsley to affirm the decision of the hearing officer. A roll call was taken. The following members voted Yea: General Treasurer Frank T. Caprio; Gary R. Alger; Daniel L. Beardsley; Rosemary Booth Gallogly; Roger P. Boudreau; Michael R. Boyce; M. Carl Heintzeman; John J. Meehan; Susan K. Rodriguez; and Jean Rondeau.

There being 10 votes cast, 10 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 then unanimously

VOTED: To affirm the decision of the hearing officer in the matter of *Paula Galvin vs. ERSRI* denying the appellant, John Galvin, the ability to change Paula Galvin's retirement option to Option #1, Joint and Survivor Full.

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. Director Karpinski apprised the Board that there were no additional documents submitted.

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's Attorney, John Harnett, if Mr. McNulty intended to make any presentation or oral argument to the Board. Attorney Harnett replied that there would be no testimony from Mr. McNulty.

Attorney Robinson then provided a synopsis of the *John McNulty* 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 certain Worker's Compensation benefits be offset from his accidental disability payments. There being a stenographer present, the parties presented their cases.

At the conclusion of the hearing a motion was made by Roger P. Boudreau and seconded by Jean Rondeau to remand the matter back to the hearing officer for consideration of Mr. McNulty's request to reopen the matter and to potentially seek introduction of new evidence. A roll call was taken. The following members voted Yea: General Treasurer Frank T. Caprio; Gary R. Alger; Daniel L. Beardsley; Roger P. Boudreau; Michael R. Boyce; Rosemary Booth Gallogly; M. Carl Heintzelman; Susan K. Rodriguez and Jean Rondeau. John J. Meehan recused himself from voting on this matter.

There being 9 votes cast, 9 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 then unanimously

VOTED: To remand the matter of *John McNulty vs. ERSRI* back to the hearing officer for consideration of Mr. McNulty's request to reopen the matter and to potentially seek introduction of new evidence.

Disability Appeal – Rachel Dumas vs. ERSRI

Included in Board Member's Book, under separate cover, was 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 *Rachel Dumas 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. Director Karpinski apprised the Board that there was additional documentation and it is included in the Board Members' books.

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 stated that Attorney Mary Ann Violet was here on behalf of Rachel Dumas. He asked if there were any witnesses who intended to make any presentation or oral argument to the Board. Attorney Violet replied no. Attorney Robinson then provided a synopsis of the *Rachel Dumas* matter. 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 John J. Meehan to overturn the decision of the Disability Subcommittee. A roll call was taken. The following members voted Yea: Roger P. Boudreau; Michael R. Boyce; and John J. Meehan. The following members voted Nay: General Treasurer

Frank T. Caprio; Gary R. Alger; Daniel L. Beardsley; Rosemary Booth Gallogly; M. Carl Heintzelman; Susan K. Rodriguez and Jean Rondeau.

There being 10 votes cast, 3 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 Daniel L. Beardsley and seconded by Gary R. Alger to uphold the decision of the Disability Subcommittee. A roll call was taken. The following members voted Yea: General Treasurer Frank T. Caprio; Gary R. Alger; Daniel L. Beardsley; Rosemary Booth Gallogly; M. Carl Heintzelman; Susan K. Rodriguez; and Jean Rondeau. The following members voted Nay: Roger P. Boudreau; Michael R. Boyce; and John J. Meehan.

There being 10 votes cast, 7 voted in the affirmative and 3 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, it was then voted

VOTED: To affirm the decision of the Disability Subcommittee recommending the denial of the application for disability benefits in the matter of *Rachel Dumas vs. ERSRI*.

Disability Appeal – Pauline Richard 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 Subcommittee, medical and supporting information for the matter of *Pauline Richard 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. Director Karpinski apprised the Board that there was additional documentation and it is included in the Board Members' books.

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 James Kelleher, representing Ms. Richard, told the Board his client would not be presenting oral argument or presentation and thus would not need to be sworn in. Attorney Robinson then provided a synopsis of the *Rachel Dumas* matter. There being a stenographer present, the parties presented their cases.

At the conclusion of the discussion, a motion was made by Roger P. Boudreau and seconded by Susan K. Rodriguez to affirm the decision of the Disability Subcommittee. A roll call was taken. The following members voted Yea: General Treasurer Frank T. Caprio; Gary R. Alger; Daniel L. Beardsley; Rosemary Booth-Gallogly; Roger P. Boudreau; Michael R. Boyce; M. Carl Heintzelman; John J. Meehan; Susan K. Rodriguez; and Jean Rondeau.

There being 10 votes to cast, 10 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 unanimously

VOTED: To affirm the decision of the Disability Subcommittee recommending denial of the application for disability benefits in the matter of *Pauline Richard vs. ERSRI*.

VI. Approval of the October Pensions as Presented by ERSRI

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

VOTED: To approve the October pensions as presented.

VII. Legal Counsel Report

Attorney Michael Robinson updated the Board regarding the matter of *Donald Panarello vs. ERSRI*. He said that dismissal stipulations have been filed with Superior Court, so the litigation is now concluded. Attorney Robinson said the other case is the matter of *George Waterman vs. ERSRI*, which involves a Worker's Compensation offset. It is now being argued before the Supreme Court and a decision is pending.

VIII. Committee Report

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

Name	Membership Group	Type	Action
1. William McDonald	State	Accidental	Deny
2. Jane Manahan	State	Accidental	Approve
3. Angelo Riccitelli	State	Accidental	Postpone
4. Randy Hagenberg	State	Accidental	Postpone
5. Scott Strickland	Municipal	Accidental	Approve
6. John Houle	State	Accidental	Postpone
7. Paul Vollaro	Municipal	Accidental	Postpone

Name	Membership Group	Type	Action
8. Paul Santos	Municipal	Accidental	Postpone
9. Phillip DeBeaulieu	State	Accidental	Postpone
10. Margaret Bridge	State	Ordinary	Approve
11. William Young	Municipal	Accidental	Deny
12. Joanne Opielawski	State	Ordinary	Approve
13. David Richard	Teacher	Ordinary	Postpone
14. Linda Acciaro	State	Accidental	Postpone

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

VOTED: To approve the recommendation of the Disability Subcommittee meeting of Friday, November 6, 2009 on items 1 through 14.

Prior to the start of Item IX, Treasurer Caprio left the meeting and turned the chair over to Michael R. Boyce. Gary R. Alger also left the meeting.

IX. Presentation of ANCHOR Computer System Feasibility and Technology Planning Study by L.R. Wechsler, Ltd.

Leon Wechsler, of L.R. Wechsler, Ltd. was in attendance to provide the Board with the results of the study regarding ERSRI's technical infrastructure, the current Anchor environment, and ERSRI's additional IT security needs.

A motion was made by Michael R. Boyce and seconded by Daniel L. Beardsley to convene into executive session consistent with RIGL §42-46-5 (a)(3) of the Rhode Island General Laws to discuss the study, and matters affecting ERSRI's security, including the deployment of security personnel and devices.

A roll call was taken. The following members voted Yea: Daniel L. Beardsley; Roger P. Boudreau; Rosemary Booth-Gallogly; Michael R. Boyce; M. Carl Heintzelman; John J. Meehan; Susan K. Rodriguez and Jean Rondeau. It was then unanimously

VOTED: To convene into executive session consistent with RIGL §42-46-5 (a) (3).

Daniel L. Beardsley, and Rosemary Booth-Gallogly left the meeting prior to the end of the presentation.

A motion was made by Roger P. Boudreau and seconded by Jean Rondeau to exit executive session consistent with RIGL §42-46-5 (a)(3) of the Rhode Island General Laws.

A roll call was taken. The following members voted Yea: Roger P. Boudreau; Michael R. Boyce; M. Carl Heintzelman; John J. Meehan; Susan K. Rodriguez and Jean Rondeau. It was then unanimously

VOTED: To exit executive session and return to open session. It should be noted that no vote was taken during the executive session.

A motion was made by Roger P. Boudreau and seconded by Jean Rondeau to seal the minutes of the executive session consistent with RIGL §42-46-5 (a)(3) of the Rhode Island General Laws, due to the sensitivity of the discussion, which is related to security devices and personnel.

A roll call was taken. The following members voted Yea: Roger P. Boudreau; Michael R. Boyce; M. Carl Heintzelman; John J. Meehan; Susan K. Rodriguez and Jean Rondeau. It was then unanimously

VOTED: To seal the minutes of the executive session consistent with RIGL §42-46-5 (a) (3).

X. New Business

There was no new business.

XI. Adjournment

There being no other business to come before the Board, on a motion by Roger P. Boudreau and seconded by Jean Rondeau, the meeting adjourned at 11:55 a.m.

Respectfully submitted,

Frank J. Karpinski

Executive Director