



Employees' Retirement Board of Rhode Island
Monthly Meeting Minutes
Wednesday, January 13, 2010
9:00 a.m.
8th Floor Conference Room, 40 Fountain Street

The Monthly Meeting of the Retirement Board was called to order at 9:13 a.m., Wednesday January 13, 2010 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; Rosemary Booth-Gallogly; Roger P. Boudreau; Michael R. Boyce; M. Carl Heintzeman; John P. Maguire; 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 Gary R. Alger and seconded by William B. Finelli, it was unanimously **VOTED: To approve the draft minutes of the December 9, 2009 meeting of the Employees' Retirement System of Rhode Island Board.**

Review and Approval of sealed draft Executive Session Minutes of the November 12th and December 9th 2009 Sessions

The following votes were taken at the end of the meeting to accommodate the parties appearing for Administrative Hearings.

A motion was made by John P. Maguire and seconded by Roger P. Boudreau and Michael R. Boyce to convene into executive session consistent with RIGL §42-46-5 (a)(3) of the Rhode Island General Laws to review and approve the sealed draft executive session minutes of the November 12, and December 9, 2009 sessions, which related to matters affecting ERSRI's security, including but not limited to, the deployment of security personnel and devices.

A roll call was taken. The following members voted Yea: General Treasurer Frank T. Caprio; William B. Finelli, Rosemary Booth Gallogly; Roger P. Boudreau; Michael R. Boyce; M. Carl Heintzeman; John P. Maguire; Louis M. Prata; Linda C. Riendeau; Susan K. Rodriguez and Jean Rondeau. It was then unanimously

VOTED: To convene into executive session consistent with RIGL §42-46-5 (a) (3) to review and approve the sealed draft executive session minutes of the November 12, and December 9, 2009 sessions, which related to matters affecting ERSRI's security, including but not limited to, the deployment of security personnel and devices.

The Board thereafter convened in executive session. Upon returning to open session, the Board noted for the record that the following actions and votes had been taken in executive session:

A motion was made in executive session by William B. Finelli and seconded by Roger P. Boudreau to unseal the draft minutes of the executive sessions of November 12, 2009 and December 9, 2009, consistent with RIGL §42-46-5 (a)(3) of the Rhode Island General Laws, due to the sensitivity of the discussion, which related to the deployment of security devices and personnel. It was then unanimously

VOTED: To unseal the draft minutes of the executive sessions of November 12, 2009 and December 9, 2009, consistent with RIGL §42-46-5 (a) (3).

A motion was then made by John P. Maguire and seconded by William B. Finelli to approve the draft executive session minutes of the executive sessions of November 12, 2009 and December 9, 2009, as presented in the January 13, 2010 Board Book. It was then unanimously

VOTED: To approve the draft executive session minutes of the November 12, 2009 and December 9, 2009 sessions.

A motion was made by Roger P. Boudreau and seconded by Louis M. Prata to re-seal the minutes of the executive sessions of November 12, 2009 and December 9, 2009, consistent with RIGL §42-46-5 (a)(3) of the Rhode Island General Laws, due to the sensitivity of the matters, which related to the deployment of security devices and personnel. It was then unanimously

VOTED: To re-seal the approved minutes of the executive sessions of November 12, 2009 and December 9, 2009, consistent with RIGL §42-46-5 (a) (3).

A motion was made by William B. Finelli and seconded by Roger P. Boudreau to exit executive session and return to open session consistent with RIGL §42-46-5 (a)(3) of the Rhode Island General Laws. It was then unanimously

VOTED: To exit executive session and return to open session.

III. Chairman's Report

The Treasurer told the Board that a public hearing of the House Finance Committee took place on January 12, 2010 which centered on the statute mandating how cities and towns who are part of MERS are required to make employer contributions. He said it was evident to the House Finance Committee that in comparison to other municipal funds, ERSRI has been more successful and consistent in collecting MERS employer contributions.

IV. Executive Director's Report

In response to a request at the previous Board meeting, the Director noted that there are 7,061 email addresses on file for retirees and 11,165 addresses on file for active members. He added that the amount continues to increase as members become more familiar with the functions and capabilities of the website.

The Director advised the Board that there would not be a cost of living adjustment (COLA) for those members who retired under Schedule B. He reminded the Board that schedule B COLA is linked to the Consumer Price Index (CPI) which is actually a negative figure for the measurement period. Additionally, Director Karpinski told the Board that beneficiaries who receive benefits from the Teachers Survivor's Benefit Plan will also not receive an increase, as the adjustment mirrors the Social Security adjustment, for which there was no increase this year. Mr. Boudreau and Mr. Prata asked the Director to include this information in the next newsletter.

The Director informed the members that there is no change in the limits of IRS Section 415(b) this year. There was a short discussion regarding the affect that Section 415(b) may have on cost of living increases.

Director Karpinski then went on to discuss the renewal of the actuarial contract with Gabriel, Roeder, Smith and Company (GRS). He asked Attorney Robinson to comment on Mr. Beardsley's question regarding limitations to multiple contract extensions for vendors within state departments and agencies. Attorney Robinson provided legal advice to the Board regarding the applicability of the State Purchasing Act to the actuarial contract, and discussion took place between the Board and legal counsel. Attorney Robinson indicated his opinion that the Board could re-new the actuary contract provided that it was impracticable to go out to competitive bid. The Director said that he apprised the Procurement Subcommittee of his concerns and reasons as to why this is not an opportune time to consider a competitive bid for an actuary. He told the Committee that given GRS's knowledge of ERSRI, the Article 7 changes and legislative proposals submitted this session, GRS's familiarity with our fund is crucial at this juncture. Director Karpinski reminded the Board that GRS was not hired based on the lowest price bid but rather on their expertise with large public plans. He said absent any legal, ethical, quality or price issues, the current climate would suggest that ERSRI maintain the current actuary. He said ERSRI could explore another actuarial audit or consider an RFP at an appropriate time in the future. Director Karpinski told the Board that the Committee was in agreement with him.

On a motion by Louis M. Prata and seconded by William B. Finelli and Roger P. Boudreau, it was unanimously

VOTED: To renew the actuarial contract with Gabriel, Roeder, Smith and Company (GRS) for one year provided GRS will not increase service fees within the contract year, as it is impracticable to go out to competitive bid at the present time.

Ms. Riendeau asked the Director when members will be eligible to purchase service credit for the deferred salary days mandated by Governor Carcieri. The Director replied

that purchases can be made the day following the last deferred day in each fiscal year. The Director added that there would not be interest accrued.

V. Administrative Decisions

Administrative Appeal – Charles Pepin vs. ERSRI

Included in Board Members Books was the Hearing Officer's written decision, along with exhibits and supporting information in the matter of *Charles Pepin 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, Carly Iafrate, if Mr. Pepin would be appearing before the Board. Attorney Iafrate replied he would not be appearing.

Attorney Robinson then provided a synopsis of the *Charles Pepin* matter. He said the matter is here on appeal from the decision of Hearing Officer Marcaccio. The Hearing Officer in this matter affirmed the Retirement System's position to deny the petitioner's request to purchase service credit for time attending the Correctional Officer's Training Academy. There being a stenographer present, the parties presented their cases.

At the conclusion of the discussion, a motion was made by John P. Maguire and Linda C. Riendeau to vote on the matter with the present Board members and not require the full Board to be present as was voted on and approved at the July 8, 2009 meeting. It was then unanimously

VOTED: To vote on the matter with the present Board members and not require the full Board to be present.

After further discussion, a motion was made by William B. Finelli and seconded by Michael R. Boyce to overturn the Hearing Officer's decision. A roll call was taken. The following members voted Yea: William B. Finelli; Roger P. Boudreau; Michael R. Boyce; M. Carl Heintzelman; John P. Maguire; Louis M. Prata; and Linda Riendeau. The following members voted Nay: General Treasurer Frank T. Caprio; Gary R. Alger; Rosemary Booth Gallogly; Susan K. Rodriguez; and Jean Rondeau.

There being 12 votes cast, 7 voted in the affirmative and 5 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

VOTED: To overturn the decision of the hearing officer in the matter of *Charles Pepin vs. ERSRI* allowing the petitioner's request to purchase retirement service credit for time attending the Correctional Officer's Training Academy.

Administrative Appeal – Martin Joyce vs. ERSRI

Prior to the start of the hearing, General Treasurer Caprio recused himself from the matter and Vice Chairman Finelli assumed the chair.

Included in Board Members Books was the Hearing Officer's written decision, along with exhibits and supporting information in the matter of *Martin Joyce vs. ERSRI*. Vice Chairman Finelli 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 was a post memorandum emailed to the members on Friday, January 8, 2010.

Vice Chairman Finelli 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.

Vice Chairman Finelli asked the appellant's Attorney, John Gannon, if Mr. Joyce intended to make any presentation or oral argument to the Board. Attorney Gannon replied that there would be no testimony from Mr. Joyce.

Attorney Gayle Mambro Martin, ERSRI's internal legal counsel, then provided a synopsis of the *Martin Joyce* matter. She 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 appellant the ability to collect a stipend for his part-time position as a member of the State Board of Elections while he is collecting a pension from ERSRI. There being a stenographer present, the parties presented their cases.

At the conclusion of the discussion, a motion was made by John P. Maguire and seconded by Roger P. Boudreau to affirm the Hearing Officer's decision. A roll call was taken. The following members voted Yea: William B. Finelli; Gary R. Alger; Rosemary Booth Gallogly; Roger P. Boudreau; M. Carl Heintzelman; John P. Maguire; Louis M. Prata; Linda C. Riendeau; Susan K. Rodriguez; and Jean Rondeau. The following member voted Nay: Michael R. Boyce. General Treasurer Frank Caprio recused himself from voting on this matter.

There being 11 votes cast, 10 voted in the affirmative and 1 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

VOTED: To affirm the decision of the hearing officer in the matter of *Martin Joyce vs. ERSRI* denying the petitioner’s request to collect a stipend for his part-time position as a member of the State Board of Elections while he is collecting a pension from ERSRI.

Administrative Appeal – Nancy Langlois vs. ERSRI

Prior to the start of the hearing, General Treasurer Caprio recused himself from the matter and Vice Chairman Finelli again assumed the chair.

Included in Board Members Books was the Hearing Officer’s written decision, along with exhibits and supporting information in the matter of *Nancy Langlois vs. ERSRI*. Vice Chairman Finelli 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 was one filing which was emailed to the Board members on Friday, January 8, 2010 and a copy was also provided for each member prior to the start of the hearing.

Vice Chairman Finelli 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.

Vice Chairman Finelli asked the appellant’s Attorney, John Biafore, if Ms. Langlois intended to make any presentation or oral argument to the Board. Attorney Biafore replied that there would be no testimony from Ms. Langlois.

Attorney Robinson then provided a synopsis of the *Nancy Langlois* matter. He said the matter is here on appeal from the decision of Hearing Officer Marcaccio. The Hearing Officer in this matter affirmed the Retirement System’s position to deny the petitioner’s request to purchase service credit for the period from 1990-1994 when she requested to work reduced hours as a technician with the Department of Environmental Management. There being a stenographer present, the parties presented their cases.

At the conclusion of the discussion, a motion was made by Jean Rondeau and seconded by John P. Maguire to affirm the Hearing Officer’s decision. A roll call was taken. The following members voted Yea: William B. Finelli; Rosemary Booth-Gallogly; Roger P. Boudreau; Michael R. Boyce; M. Carl Heintzleman; John P. Maguire; Louis M. Prata; Linda C. Riendeau; Susan Rodriguez; and Jean Rondeau. General Treasurer Frank Caprio recused himself from voting on this matter.

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 unanimously

VOTED: To affirm the decision of the hearing officer in the matter of *Nancy Langlois vs. ERSRI* denying the petitioner's request to purchase service credit for the period from 1990-1994 when she requested to work reduced hours as a technician with the Department of Environmental Management.

VI. Approval of the December Pensions as Presented by ERSRI

On a motion by Roger P. Boudreau and seconded by Louis M. Prata, it was unanimously **VOTED: To approve the December pensions as presented.**

VII. Legal Counsel Report

Attorney Michael Robinson noted that there were three new matters to be discussed. He referred to *Jane Robinson vs. ERSRI* explaining that Ms. Robinson's request to purchase service credit for a period of time when she left teaching for maternity reasons was denied by the hearing officer. He said that an appeal was filed prematurely with the Superior Court, prior to being heard by the Retirement Board. He said the matter is being held in abeyance in Superior Court until February 10, 2010 when it will come before the Board. He added that both *Galvin vs. ERSRI* and *Richard vs. ERSRI* have appealed to Superior Court.

VIII. Committee Report

Disability Subcommittee: The Disability Subcommittee recommended the following actions on disability applications as a result of its January 8, 2010 meeting for approval by the full Board.

Name	Membership Group	Type	Action
1. Rosemary Osei	State	Accidental	Approve
2. Randy Hagenberg	State	Accidental	Postpone
3. Angelo Riccitelli	State	Accidental	Postpone
4. Jeffery Tefft	State	Accidental	Approve
5. Kimberly Arnold	Municipal	Ordinary	Postpone
6. Colleen Beltrami	State	Ordinary	Postpone
7. David Richards	Teacher	Ordinary	Approve
8. Albert Turcotte	State	Accidental	Deny
9. Robert Cahill, Sr.	State	Accidental	Postpone
10. Robert Allen	Teacher	Ordinary	Approve
11. Kathleen Mouradjian	Teacher	Ordinary	Approve
12. Mercedes Redondo	Teacher	Ordinary	Approve

Name	Membership Group	Type	Action
13. Mark Montalbano	Teacher	Ordinary	Approve
14. Nancy Duhamel	Teacher	Ordinary	Approve
15. Katherine Peagler	State	Ordinary	Approve
16. John Oliver	State	Ordinary	Approve
17. Richard Deschenes	Municipal	Ordinary	Approve
18. Alfred Garcia	Teacher	Ordinary	Postpone
19. David Palumbo	State	Accidental	Postpone

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

VOTED: To approve the recommendation of the Disability Subcommittee meeting of Friday, January 8, 2010 on items 7, 10, 11, 12, and 13.

John P. Maguire recused himself from items 7, 10, 11, 12, and 13.

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

VOTED: To approve the recommendation of the Disability Subcommittee meeting of Friday, January 8, 2010 on items 1,2,3,4,5,6,8,9,14,15,16,17,18, and 19.

Procurement Subcommittee: The Executive Director discussed the details of the annual IT maintenance contract with Hewlett Packard, formerly Saber Technologies. He explained that the contract will be for one year only and there will be no increase in fees. The Director noted that it would not be prudent to consider changing the computer maintenance vendor at this time, since a new IT solution is being considered by the Board and Hewlett Packard built the system and has been running it since inception.

On a motion by Louis M. Prata and seconded by Roger B. Finelli and Roger P. Boudreau, it was unanimously

VOTED: To extend the contract with Hewlett Packard for maintenance of the computer system for one year with the stipulation that there shall be no increase in fees during the contract period.

Trustee Education Subcommittee: Director Karpinski told the Board that the Trustee Education Subcommittee met on December 17, 2009 to review and discuss the Board Training policy. He said the Committee discussed the complexity of the system and especially in these difficult times, the need to stay current with trends and issues. He said that trustees need to develop and maintain an adequate level of knowledge and understanding of relevant issues pertaining to the administration of the System throughout their terms on the Board. The Director said the Committee felt it was

important to be able to discuss issues with peers in other systems in order to know best practices. They felt certain outside training from courses and conferences are a good source of training. To facilitate these requirements the Director explained that the Subcommittee has asked him to put together a curriculum and budget for both in house and offsite training.

In conjunction with training, the Director added that an attendance policy would be prudent to institute. He said the Committee proposed an attendance policy that would require trustees to attend a minimum of 2/3 of all Retirement Board Meetings and 2/3 of all Subcommittee meetings during each calendar year; excused absences will not affect this requirement. If a trustee does not fulfill this requirement, the Committee suggested an official notice be sent to the respective appointee or membership organization to apprise them of the absenteeism and in an extreme case, request removal from the Board. The Director stressed that currently there are no attendance issues with any of the Board members, but said the Committee felt it would be prudent to have such a policy in place given the time and potential dollars involved in educating the Board. Director Karpinski told the Board he would draft the policy for the committee to review and consider for adoption.

IX. New Business

Mr. Finelli asked if there has been any discussion regarding the relocation of the Treasury Department when the current lease expires. The Treasurer responded that Treasury staff has been in negotiations with the landlord regarding a potential renewal of the lease and there are ongoing discussions with the Department of Administration regarding office space at One Capitol Hill. The Treasurer said the decision will be influenced by both the financial conditions of the State and Treasury's fiduciary responsibilities. Mr. Prata asked if the facility has to be located in the City of Providence. Treasurer Caprio responded that there would be an RFP process directed by the State Properties Committee if a new location is warranted.

X. Adjournment

There being no other business to come before the Board, on a motion by Roger P. Boudreau and seconded by William B. Finelli, the meeting adjourned at 11:30 a.m.

Respectfully submitted,

Frank J. Karpinski
Executive Director