



Employees' Retirement Board of Rhode Island
Monthly Meeting Minutes
Wednesday, February 9, 2011
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, February 9, 2011, on 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 Gina M. Raimondo; Vice Chair William B. Finelli; Gary R. Alger; Daniel L. Beardsley; Frank R. Benell, Jr.; Michael R. Boyce; M. Carl Heintzelman; John P. Maguire; John J. Meehan; Thomas A. Mullaney; Louis M. Prata; Susan Knorr Rodriguez, and Jean Rondeau.

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

Recognizing a quorum, Treasurer Raimondo called the meeting to order.

Roger P. Boudreau arrived at 9:05 a.m.

II. Approval of Minutes

On a motion by Frank R. Benell, Jr., and seconded by Jean Rondeau it was unanimously **VOTED: To approve the draft minutes of the January 19, 2011 meeting of the Employees' Retirement System of Rhode Island Board.**

III. Chairperson's Report

Treasurer Raimondo introduced Melissa A. Malone, Esq. The Treasurer told the Board that Melissa is the new Assistant Director for the Member Services department in Retirement. Treasurer Raimondo expressed her delight in having Melissa join the staff.

Treasurer Raimondo told the Board that she will be meeting with the Actuary next week; she previously mentioned that she was meeting with all major vendors that do work with the Retirement System and Treasury.

The Treasurer then mentioned that she has begun one-on-one meetings with all Board Members. She thanked the Members she had met with already and looked forward to meeting with those with whom she had not yet met. She mentioned that Members were interested in additional board education and in receiving regular updates on the investments. Treasurer Raimondo told the Board that she will work with both Director Karpinski and Attorney Mark Dingley to set up a program and will periodically invite speakers to come in to provide continuing education.

Treasurer Raimondo then briefly addressed a few matters that have been in the press recently. First, she said she is launching a top to bottom review of the Treasurer's Office and reviewing all aspects including the 529 program and bond disclosure work. Second, she mentioned the matter regarding the SEC, which has opened an investigation into the State's bond disclosure practices. Treasurer Raimondo apprised the Board that she had a brief phone call with the SEC apprising her that there is an open investigation, however, she said no further information was provided. The Treasurer said she will keep the Retirement Board apprised with any details as they become available.

IV. Executive Director's Report

Director Karpinski noted that Board members were in possession of an updated Municipal Post-Retirement report, Disability Report and the Pension Application Report. Director Karpinski then apprised the Board of an item raised from last month's meeting regarding the use of the internet browser Firefox®. He told the Board that the website is now able to be viewed with this browser.

Also, the Director said 1099-R's have been mailed to retirees. He said the system is experiencing some additional call volume since the "making work pay credit", which was applicable in years 2009 and 2010, has been eliminated and the 2011 tax tables are applied. Also, COLA was applied to all applicable Schedule A retirees.

Lastly, Director Karpinski reminded the Board that the February pension payment will include the final mailing of direct deposit "stubs". He said there will be a mailer enclosed reminding retirees of the ceasing of hardcopy stubs and some instruction on how to get onto the website. He also reminded the Board that if a retiree chooses to continue getting a hardcopy, he/she may contact ERSRI and request to continue receiving one.

V. Administrative Decisions

Administrative Appeal – Mary Riley vs. ERSRI

Included in Board Members' Books was the Hearing Officer's written decision, along with exhibits and supporting information in the matter of *Mary Riley 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 had been no additional documents submitted pursuant to Regulation No. 4.

Treasurer Raimondo 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. She apprised the appellant that this is not an opportunity to present new factual material to the Board, and that 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 Raimondo then asked appellant's Attorney, Gerard E. O'Neill Esquire, if Ms. Riley would be making any presentation or oral argument before the Board. Attorney O'Neill said Ms. Riley would be and she was sworn in by the stenographer.

Attorney Robinson then provided a synopsis of the matter. There being a stenographer present, the parties, through counsel, presented their positions. Attorney O'Neill referenced additional material that he sought to have the Board consider, which material had not been presented to the Hearing Officer.

Based upon the appellant's efforts to have the Board consider new factual materials, a motion was made by John J. Meehan and seconded by Louis M. Prata to remand the matter back to the Hearing Officer for consideration of whether or not to reopen the administrative hearing in order to allow the introduction of new evidence. A roll call was taken. The following members voted Yea: General Treasurer Gina M. Raimondo; William B. Finelli; Daniel L. Beardsley; Frank R. Benell, Jr.; Roger P. Boudreau; Michael R. Boyce; M. Carl Heintzelman; John P. Maguire; John J. Meehan; Thomas A. Mullaney; Louis M. Prata and Susan Knorr Rodriguez. The following members voted nay: Gary R. Alger and Jean Rondeau.

There being 14 votes to cast, 12 voted in the affirmative and 2 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 remand the matter to the Hearing Officer for consideration of whether or not to reopen the administrative hearing in order to allow the introduction of new evidence in the matter of Mary Riley vs. ERSRI.

VI. Approval of the January Pensions as Presented by ERSRI

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

VOTED: To approve the January pensions as presented.

VII. Legal Counsel Report

Attorney Michael Robinson updated the Board regarding the *Barry Holland vs. ERSRI* matter, and as to a recent decision of Judge William Carnes which affirmed the Board's action in upholding the offset of certain workers' compensation benefits from disability pension benefits.

Attorney Robinson then updated the Board on a matter raised by Mr. Maguire at the January Meeting regarding a City of Providence pension revocation ordinance and a recent decision from the Rhode Island Supreme Court interpreting that ordinance, and as to the pension revocation laws applicable to ERSRI.

Lastly, Attorney Robinson updated the Board on the matter of Michael Ayer, wherein the Board was in the process of bringing a pension revocation action in Superior Court.

VIII. Committee Reports

Disability Subcommittee: The Disability Subcommittee recommended the following actions on disability applications for approval by the full Board as a result of its meeting on February 4, 2011:

Name	Membership Group	Type	Action
1. Martin Cappelli, Jr.	Municipal	Accidental	Approve
2. Aric Gabrielson	Municipal	Accidental	Postpone
3. Louise Lovering	State	Accidental	Deny
4. Dianne Brien	State	Accidental (<i>New Law</i>)	Refer to Administrative decision
5. Lynus Berube, Jr.	State	Accidental	Postpone
6. Janice Evans	State	Accidental (<i>New Law</i>)	Postpone
7. Rosemary L'Heureux	State	Accidental (<i>New Law</i>)	Approve at 50%
8. Louise Pearson	State	Accidental (<i>New Law</i>)	Postpone
9. Scott Wright	Municipal	Accidental	Postpone
10. Stephen Tufts	State	Accidental (<i>New Law</i>)	Approve at 50%
11. Joseph Burrell	State	Ordinary	Approve
12. Edward Young	State	Ordinary	Approve
13. Edward Whalen	Municipal	Accidental	Approve
14. James Leduc	State	Post- Retirement Review	Accept Administrative Report
15. Jerry Prete	State	Post- Retirement Review	Accept Administrative Report

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, February 4, 2011 on items 10, 12, 14, and 15.

John J. Meehan recused himself from the vote on numbers 10, 12, 14 and 15.

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, February 4, 2011 on items 1 through 9, 11 and 13.

IX. New Business

Mr. Prata asked about the status on the move to the new building. General Counsel/Deputy Treasurer Mark Dingley apprised the Board that the move date has been set back 2 to 3 months but construction has started. He said the current lease will be a month by month extension. Mr. Prata asked, when appropriate, that the Board view the Building after the changes have been completed. Michael Boyce asked about costs to date, Attorney Dingley said the project was still on budget.

Mr. Maguire asked Director Karpinski if there were any employers that are behind in pension contributions to the Retirement system. The Director said while some limited employers may be presently behind, it is usually due to the fact that their contributions are due on the 15th of the month and state aid payments go out on the 30th of the month; employers will generally make payments before any aid is withheld. He said nobody was seriously behind.

Mr. Beardsley then voiced a concern regarding the current general reduction in overall state aid to cities and towns. He questioned what would occur if a community has insufficient aid and becomes delinquent; he queried what monies could be withheld? Director Karpinski said the system has not been presented with that issue yet but would need to engage legal options.

X. Adjournment

There being no other business to come before the Board, on a motion by Louis M. Prata and seconded by Gary R. Alger the meeting adjourned at 9:48 a.m.

Respectfully submitted,

Frank J. Karpinski

Executive Director