



Employees' Retirement Board of Rhode Island
Monthly Meeting Minutes
Wednesday, January 11, 2012
9:00 a.m.
2nd Floor Conference Room, 50 Service Avenue

The Monthly Meeting of the Retirement Board was called to order at 9:02 a.m. Wednesday, January 11, 2012, in the 2nd Floor Conference Room, 50 Service Avenue, Warwick, 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.; Roger P. Boudreau; Michael R. Boyce; M. Carl Heintzelman; Richard A. Licht; John P. Maguire; John J. Meehan; Thomas A. Mullaney; Louis M. Prata and Linda C. Riendeau.

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.

II. Approval of Minutes

The draft December 14, 2011 minutes of the Employees' Retirement System of Rhode Island Board were not approved. Mr. Boudreau said there were two items in the Legal Counsel report and new business where he felt additional detail should be reflected. Director Karpinski said he will review the recording and make the requested adjustments to be presented at the next meeting.

III. Chairperson's Report

Treasurer Raimondo apprised the Board that investments were flat this month with a negative 0.1% return. She said the 1-year return of 1.25% suggests a challenging time to manage money. Pension assets under management as of close of Friday January 6, 2012 were \$7.03 billion.

Treasurer Raimondo then discussed a follow up on education with respect to the recently enacted pension legislation. She said a robust plan to educate both employees and retirees will be available shortly. The Treasurer noted that a grid provided today by Director Karpinski outlined the major changes for Board Members to review before the special board meeting currently being scheduled in January.

Mr. Licht asked about the calculator on the General Assembly's website and if there will be one on ERSRI's website. Treasurer Raimondo said that the General Assembly's web site calculator may not necessarily be accurate given a member's service credit; she said that Director Karpinski and his staff are working on one for the ERSRI website that will provide the necessary details. Additionally, the Treasurer said an updated handbook

will be forthcoming as well as member training sessions. Mr. Beardsley asked that the Board be notified when the calculators become available.

IV. Executive Director's Report

Director Karpinski apprised the Board that election ballots were mailed on December 30, 2011. He reiterated that members have the month of January to have the ballots returned; they must be postmarked by January 31st. The Director said ballot counting will be on February 3 and Board members are welcome to attend.

Director Karpinski told Board Members that the grid provided for the Rhode Island Retirement Security Act of 2011 (RIRSA 11) changes are for State Employees and Teachers only, it excludes Correctional Officers and BHDDH Nurses. He said additional grids will be forthcoming for the other membership groups.

The Director said COLA's are being processed this month; it is the last one for Schedule A retirees. He said Schedule B members with retiree anniversary dates prior to June 30, 2012 will also receive COLA's. However as RIRSA becomes effective July 1, 2012, retirees with anniversary dates after June 30, 2012 will not receive COLA's. Director Karpinski said ERSRI is also processing 1099R's.

Director Karpinski updated the Board on information regarding fiduciary liability insurance. He said after holding a few conference calls with ERSRI, the State's risk insurance agent recently received two bids from Chartis Insurance; one is a proposal that will provide prior acts coverage and one that will exclude prior acts from the coverage afforded. Director Karpinski said he will be reviewing the proposals with the State Risk Manager, the Insurance Agent and Legal Counsel. He said he will report further after the review.

Lastly, Director Karpinski updated the Board on a matter from the November Board meeting regarding Pamela A. Johnson, a member who was incorrectly placed in the MERS Police and Fire plan. A hearing officer decision ruled that she was unable to retire in the police and fire plan. The Director apprised the Board that after further research, there is another member in the fire district with a similar scenario. Director Karpinski said he is working with GRS to create a separate plan to correctly enroll both members and then allow Ms. Johnson to retire.

Mr. Boudreau asked what would happen regarding the election ballot if someone marked the ballot in ink vs. Number 2 pencil. Director Karpinski said the machine may not be able to read it and more than likely it will reject it. He said the instructions specifically say to use a number 2 pencil. The ballots marked with ink may need to be manually counted.

V. Administrative Decisions

Disability Appeal – Mary A. Zayat vs. ERSRI

Included in the board 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 *Mary A. Zayat vs. ERSRI*.

The Treasurer asked if consistent with Regulation Number 9, *Rules pertaining to the application to receive an Ordinary or Accidental Disability Pension*, there were any written briefs, legal memoranda, or exceptions to the conclusions and recommendation 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 information provided from the appellant's attorney and it was included in Board members' books.

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 or evidence to the Board. She 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.

The appellant was sworn in. Attorney Robinson then provided a synopsis of the *Mary A. Zayat vs. ERSRI* matter. Attorney MaryAnn Violette represented Ms. Zayat. There being a stenographer present, the parties presented their cases.

At the conclusion of the hearing a motion was made by Gary R. Alger and seconded by M. Carl Heintzelman to affirm and adopt the recommendation of the Disability Subcommittee to deny Ms. Zayat's application for accidental disability benefits. A roll call was taken. The following members voted Yea: General Treasurer Gina M. Raimondo; William B. Finelli; Gary R. Alger; Daniel L. Beardsley; Frank R. Benell, Jr.; M. Carl Heintzelman; Richard A. Licht, and Thomas A. Mullaney. The following members voted Nay: Roger P. Boudreau; Michael R. Boyce; John P. Maguire; Louis M. Prata and Linda C. Riendeau.

John J. Meehan recused himself from this matter.

There being 13 votes cast, 8 voted in the affirmative, and 5 nay, consistent with Rhode Island 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 is present, it was then

VOTED: To affirm and adopt the recommendation of the Disability Subcommittee to deny the application for accidental disability benefits in the matter of Mary A. Zayat vs. ERSRI.

VI. Approval of the December Pensions as Presented by ERSRI

On a motion by Roger P. Boudreau and seconded by Richard A. Licht, it was unanimously

VOTED: To approve the December pensions as presented.

VII. Legal Counsel Report

Attorney Robinson apprised the Board that the three items on the agenda to be discussed each relate to pending or anticipated litigation and suggested it would be appropriate for the Board, if it so desires, to seek to convene in Executive Session to consider those matters.

Consistent with Rhode Island General Laws section §42-46-5 (a)(2) regarding pending and potential litigation by the retirement system related to the matters of *John A. Zambarano v. Raimondo, et al., C. A. No. PC2011-2304*; *Rachel T. Arruda (discussion of potential pension revocation pursuant to R.I.G.L. §36-10.1, et seq.)*, and *Michelle Giguere, (discussion of potential pension revocation pursuant to R.I.G.L. §36-10.1, et seq., and the member's request for return of her contributions)*, a motion was made by Richard A. Licht and seconded by Daniel L. Beardsley to convene the Board in Executive Session to discuss the matters of John A. Zambarano, Rachel T. Arruda, and Michelle Giguere.

A roll call vote was taken to enter into Executive Session; the following members were present and voted Yea: General Treasurer Gina M. Raimondo; Vice Chair William B. Finelli; Gary R. Alger; Daniel L. Beardsley; Frank R. Benell, Jr.; Roger P. Boudreau; Michael R. Boyce; M. Carl Heintzelman; Richard A. Licht; John P. Maguire; John J. Meehan; Thomas A. Mullaney; Louis M. Prata; and Linda C. Riendeau. It was then unanimously

VOTED: To convene the Board in Executive Session pursuant to Rhode Island General Laws section 42-46-5 (a)(2) to discuss pending and potential litigation involving John A. Zambarano, Rachel T. Arruda, and Michelle Giguere.

[Executive Session]

The Board thereafter convened in executive session.

[Return to Open Session]

Upon returning to open session the Board noted for the record that the following votes had been taken in executive session:

A motion was made by Roger P. Boudreau and seconded by Gary R. Alger to authorize Attorney Michael P. Robinson to pursue an appeal of that portion of the decision in the matter of *John A. Zambarano v. Raimondo, et al., C. A. No. PC2011-2304* that related to whether or not his contributions can be utilized to satisfy the money judgment that was entered in the federal court in connection with his criminal conviction. The following roll call vote was taken;

The following members were present and voted Yea: General Treasurer Gina M. Raimondo; Vice Chair William B. Finelli; Gary R. Alger; Daniel L. Beardsley; Frank R. Benell, Jr.; Roger P. Boudreau; M. Carl Heintzelman and Thomas A. Mullaney. The following members voted Nay: Michael R. Boyce; Richard A. Licht; John P. Maguire; John J. Meehan; Louis M. Prata and Linda C. Riendeau. There being 14 votes cast, 8 voted in the affirmative and 6 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 is present, it was

VOTED: To authorize an appeal of that portion of the decision of *John A. Zambarano v. Raimondo, et al., C. A. No. PC2011-2304* that related to whether or not his contributions can be utilized to satisfy the money judgment that was entered in the federal court in connection with his criminal conviction.

A motion was made by Roger P. Boudreau and seconded by Michael R. Boyce in the matter of *Michelle Giguere* where the Board voted unanimously to return her contributions to her as she requested.

A roll call vote was taken, the following members were present and voted Yea: General Treasurer Gina M. Raimondo; Vice Chair William B. Finelli; Gary R. Alger; Daniel L. Beardsley; Frank R. Benell, Jr.; Roger P. Boudreau; Michael R. Boyce; M. Carl Heintzelman; Richard A. Licht; John P. Maguire; John J. Meehan; Thomas A. Mullaney; Louis M. Prata and Linda C. Riendeau. There being 14 votes cast, 14 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 is present, it was

VOTED: To authorize a return of member contributions to Michelle Giguere as she requested.

Finally, a motion was made by Richard A. Licht and seconded by John P. Maguire to exit executive session and return to open session. It was unanimously

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

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 January 6, 2012:

Name	Membership Group	Type	Action
1. Jennifer Csizmesia	Municipal	Accidental	Deny
2. Hilda Dewey	Municipal	Accidental	Deny
3. Andrew Abram	State	Ordinary	Postpone
4. Karen Benvenuto	Municipal	Ordinary	Approve
5. Diane Diprete-Sparling	Teacher	Ordinary	Postpone
6. Robin Sherman	Municipal	Ordinary	Approve
7. Ronald Thayer	State	Ordinary	Approve

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 6, 2012 on item 5.

John P. Maguire recused himself from the vote on number 5.

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 6, 2012 on items 1, 2, 3, 4, 6, and 7.

Vice Chair Finelli made a note that item 8 was for informational purposes only and not a vote.

IX. New Business

Mr. Maguire asked whether the defined contribution plan has a number identifying itself and secondly if an individual is maximizing contributions under a 403(b) or a 457 will their contributions in the DC plan require them to lower their contributions to their current 403(b)/457. Attorney Dingley said the plan is a 401(a) money purchase pension plan. Secondly, mandatory contributions to the DC plan will not cause an issue with employee 403(b)/457 elective contributions.

X. Adjournment

There being no other business to come before the Board, on a motion by Richard A. Licht and seconded by William B. Finelli the meeting adjourned at 10:38 a.m.

Respectfully submitted,

Frank J. Karpinski

Executive Director