



**Employees' Retirement Board of Rhode Island**  
**Monthly Meeting Minutes**  
**Wednesday, April 10, 2013**  
**9:00 a.m.**  
**2nd Floor Conference Room, 50 Service Avenue**

The Monthly Meeting of the Retirement Board was called to order at 9:04 a.m. Wednesday, April 10, 2013, in the 2<sup>nd</sup> 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; Daniel L. Beardsley; Frank R. Benell, Jr.; Roger P. Boudreau; Michael R. Boyce; John P. Maguire; John J. Meehan; Thomas A. Mullaney; Claire M. Newell; Louis M. Prata and Jean Rondeau.

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

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

Mr. Richard A. Licht arrived at 9:25 a.m.

**II. Approval of Minutes**

On a motion by John P. Maguire and seconded by Frank R. Benell, Jr., it was unanimously

**VOTED: To approve the draft minutes of the March 13, 2013 meeting of the Employees' Retirement System of Rhode Island Board.**

**III. Chairperson's Report**

Treasurer Raimondo reported that there is no update on the current pension reform litigation and said ERSRI is still in mediation. She noted that the Court provided an additional extension to April 22, 2013.

The Treasurer asked Attorney Robinson if there was any update as to when the Ethics Commission will hear ERSRI's request for an advisory opinion regarding those members of the Board who may have potential conflicts of interest regarding the pending pension reform litigation. Attorney Robinson told the Board he was advised the hearing will be on the April 23, 2013 agenda of the commission.

Treasurer Raimondo thanked the Board for attending the Retirement Board Fiduciary Training and Continuing Education Session on March 29, 2013. She noted that those in attendance would have a certificate of participation given to them today. The Treasurer acknowledged one of the guest speakers, Attorney Robert D. Klausner, on his excellent presentation.

#### **IV. Executive Director's Report**

Director Karpinski apprised the Board that they were in possession of the Pension Application Report, the Disability Subcommittee Report and a certificate for the fiduciary training class. For those who were unable to attend, he noted a packet of information was provided with a DVD of the speaker and the accompanied documents provided at the session.

Before providing his report, Director Karpinski informed the Board that Vice Chair Finelli had an announcement. Mr. Finelli reminded the Board that in October 2012 he became the President of NCTR (National Council on Teachers Retirement). It is a constituted independent association dedicated to safeguarding the integrity of public retirement systems in the US and territories to which teachers belong and promoting the rights and benefits of all present and future members of systems. He said NCTR's membership includes 68 state/ territorial/ local pension systems which include Rhode Island, and these systems serve more than 19 million active and retired teachers, nonteaching personnel and other public employees and have combined assets of almost \$2 trillion in their funds. Vice Chair Finelli apprised that Board that this past Saturday, the executive committee of the NCTR voted to hold its 2016 annual conference and business meeting in Providence, RI. Mr. Finelli said the conference will expect to bring up to 510 attendees, and 1,200 hotel rooms will be in use bringing an economic boost to the State of Rhode Island. The Board acknowledged this welcoming news with applause and appreciation.

Director Karpinski noted that the agenda has a Procurement Subcommittee meeting scheduled and a potential vote to approve the IT system contract. He said the meeting was canceled. However, he noted the System is very close to a final contract with only a few more items to negotiate with the vendor. Director Karpinski told the Board that he will target the date to begin this project for the first two weeks in May

Director Karpinski also thanked the Board for their time and attendance at the educational fiduciary training; he congratulated the Board on their certification of the March 29<sup>th</sup> session. The Director noted that there is a questionnaire provided to all attendees for feedback for preparing future sessions. He said there will be additional sessions on investment training during the remainder of the year.

The Director said, as mentioned from the session, that there were eight items identified as next steps for the Board. Director Karpinski said he would like to convene the Board to review and prioritize these issues and obtain input from the Board on a path to move forward. Director Karpinski said he will poll the Board to determine a convenient time.

Director Karpinski apprised the Board that the actuarial audit is in process, and information has been sent over to GRS along with additional internal information. He said the projected completion date for the Board to consider the findings from the audit would be July.

The Director then apprised the Board that the municipal audit will continue as the tax season concludes. Both North Providence and Johnston should be completed by the end of April. He said subsequent towns will include Cumberland, East Greenwich, North Kingstown, Smithfield and West Warwick.

Mr. Boudreau asked if the Director could reschedule a meeting between now and the next Board meeting regarding the SRA-Plus option (the Social Security Option). Director Karpinski said he would schedule the meeting.

Mr. Boudreau noted that the Board has never formally discussed, at Board meetings, the status of investments and reports provided in the board book from the State Investment Commission (SIC). Given the recent fiduciary training the Board received as trustees, he felt such a discussion should be part of the Board's agenda.

Mr. Boudreau commented that there may have been an increased amount of communications in the past week regarding an article in Forbes Magazine about the Treasurer. Mr. Boudreau stated that he responded to some inquiries and comments he received in relation to the Forbes article that based on the most recent data he received in the SIC reports, he was certainly satisfied by what he knew and was happy to share his information in an effort to deal with facts rather than opinions. Regarding the report from the SIC, Mr. Boudreau felt that it would benefit the public and the public record for the Board to address the SIC's monthly report in some fashion as part of the agenda.

The Treasurer noted that the SIC's report is included in the monthly Board book. Mr. Boudreau acknowledged that the SIC report is included in the Board book but reiterated that there is no mention of it in the monthly agenda nor any discussion and just wanted to raise it as an issue for the Board to consider.

Treasurer Raimondo appreciated the mentioning of the Forbes opinion piece and she noted that Mr. Boudreau was on target regarding the many inaccuracies in the opinion blog. She expressed her confidence in how well the SIC operates and its dedication to developing investment strategy. The Treasurer said that the SIC has successfully reduced risk in the portfolio. The one-year return is 9.2% and the 3-year return is 9.7%, all with 10% less risk than what was in the portfolio in the past. The Treasurer also said it is important to know that there is a policy that the SIC voted on regarding asset allocation and the SIC is 100% in line with the policy which is voted on in public meetings and is more transparent than it has ever been. She said the SIC is trying to avoid another decline similar to the one in 2008-2009 where there was too much risk in the portfolio.

Treasurer Raimondo told the Board that she would like to give some thought on the matter, given the complexities of the SIC, to see how to best keep the Board apprised. She acknowledged both Mr. Prata and Mr. Maguire have attended SIC meetings and could appreciate the complexities. She said perhaps her Chief Investment Officer (CIO) Ms. Ann Marie Fink could provide periodic updates and answer questions. Director Karpinski suggested that since the Board will convene to discuss and develop action plans on the items delivered at the recent training session, there could be an opportunity to have the CIO attend and educate the Board on the SIC operations.

Treasurer Raimondo agreed that it is prudent to have better communications between the asset side (SIC) and the liability side (Board) and said she will discuss the matter with CIO Fink.

## V. **Administrative Decisions**

### **Disability Appeal – Herman R. Rainey 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 regarding the matter of *Herman R. Rainey vs. ERSRI*. Attorney Robinson asked if consistent with Regulation Number 9, *Rules of Practice and Procedure for Hearings*, there were any written briefs, legal memoranda, or exceptions to the conclusion and recommendation of the Disability Subcommittee that must have been submitted to the Executive Director not later than 10 days prior to the hearing. Director Karpinski apprised the Board that everything that was provided is included in the board packet.

Attorney Robinson indicated 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. Consistent with the Board's long standing policy, he apprised the appellant that this is not an opportunity to present new factual material or evidence to the Board, and that pursuant to ERSRI's regulations and Rhode Island case law, the Board owes deference to the conclusions of its Disability Subcommittee on factual determinations and questions of credibility and will not overturn the subcommittee on those findings unless they are found to be clearly wrong.

Attorney Robinson then asked the appellant's Attorney, Edward R. McCormick III, if Mr. Rainey would be making any presentation or oral argument before the Board. Attorney McCormick said his client would not be speaking at the hearing. Attorney Robinson then provided a synopsis of the matter. 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 Frank R. Benell, Jr., to uphold the decision of the Disability Subcommittee denying the application for an accidental disability, and to affirm and adopt the findings of fact and conclusions of law as articulated by the Subcommittee. A roll call was taken, and the following members voted Yea: General Treasurer Gina M. Raimondo; William B. Finelli; Daniel L. Beardsley; Frank R. Benell, Jr.; Roger P. Boudreau; Richard A. Licht; John P. Maguire; John J. Meehan; Thomas A. Mullaney; Claire M. Newell; Louis M. Prata and Jean Rondeau. The following member voted Nay: Michael R. Boyce. There being 13 votes cast, 12 voted in the affirmative, and 1 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 uphold the decision of the Disability Subcommittee denying the application for an accidental disability for Herman R. Rainey and to affirm and adopt the Findings of Fact and conclusions of law as articulated by the Disability Subcommittee.**

## **VI. Approval of the March Pensions as Presented by ERSRI**

On a motion by John J. Meehan and seconded by William B. Finelli, it was unanimously

**VOTED: To approve the March pensions as presented.**

Mr. Maguire asked Director Karpinski about Mr. William J. Ferland who was on the pension report. Mr. Maguire asked if he was able to retire given his age and service. Director Karpinski said he would look into the account and verify the information to determine eligibility.

## **VII. Legal Counsel Report**

Attorney Robinson apprised the Board that a decision was received this week from the Rhode Island Supreme Court in the matter of *Lillian Rivera v. Employees' Retirement System of Rhode Island*. He indicated that this was a procedural issue in the case regarding the timeliness of a member's appeal under the Administrative Procedures Act. The Supreme Court declared that the time for an appeal is 30 days from the date of mailing of an adverse decision. Mr. Maguire asked Attorney Robinson about the Superior Court hearing. Attorney Robinson said that Judge Darigan heard the case and dismissed the lawsuit based on the member's failure to file a timely appeal. The Supreme Court held that the untimely appeal did not deprive the Court of subject-matter jurisdiction over the case, and that the doctrine of equitable estoppel could be applied to save untimely claims. The matter was remanded back to the Superior Court for a decision on the merits.

Attorney Robinson then apprised the Board that two Superior Court decisions were received, including the matter of Mr. Albert Turcotte, a carpenter at MHRH who sought an accidental disability pension, and the matter of Mr. Richard Iverson, a former town council member seeking prior service credit. He said both matters will be on next month's agenda for consideration.

Consistent with Rhode Island General Laws section §42-46-5 (a)(2) regarding pending or potential litigation involving the Retirement System, a motion was made by Roger P. Boudreau and seconded by Richard A. Licht to convene the Board in Executive Session to discuss possible pension revocation issues involving Glen Matteson (C.R.No.12-113) and the Special Mastership affecting the Central Coventry Fire District (K.B. No. 231150). 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; Daniel L. Beardsley; Frank R. Benell, Jr.; Roger P. Boudreau; Michael R. Boyce; Richard A. Licht; John P. Maguire; John J. Meehan; Thomas A. Mullaney; Claire M. Newell; Louis M. Prata and Jean Rondeau. It was unanimously

**VOTED: To convene the Board in Executive Session pursuant to Rhode Island General Laws section §42-46-5 (a)(2) to discuss potential litigation involving possible pension revocation issues associated with Glen Matteson and for an update regarding the litigation involving the Central Coventry Fire District.**

**[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 Daniel L. Beardsley to authorize an action against Glen Matteson for pension revocation and/or reduction pursuant to the Public Employee Pension Revocation and Reduction Act, RIGL §36-10.1-1 *et seq.*, (PEPRA), and to request declaratory relief regarding the statute. A roll call vote was taken, and the following members were present and voted Yea: General Treasurer Gina M. Raimondo; Vice Chair William B. Finelli; Daniel L. Beardsley; Frank R. Benell, Jr.; Roger P. Boudreau; Thomas A. Mullaney and Jean Rondeau. The following members voted Nay: Michael R. Boyce; Richard A. Licht; John P. Maguire; Claire M. Newell and Louis M. Prata. 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 is present, it was then

**VOTED: To authorize an action against Glen Matteson for pension revocation and/or reduction pursuant to the Public Employee Pension Revocation and Reduction Act, RIGL §36-10.1-1 et seq., (PEPRA), and for declaratory relief regarding the statute.**

John J. Meehan recused himself from the matter involving Glen Matteson.

A motion was made by Roger P. Boudreau and seconded by William B. Finelli to seal the minutes of the executive session of April 10, 2013, consistent with RIGL 42-46-5(a)(2) of the Rhode Island General Laws, as the session pertained to legal strategies and approaches regarding litigation involving the Board. A roll call vote was taken to seal the executive session minutes, and the following members were present and voted Yea: General Treasurer Gina M. Raimondo; Vice Chair William B. Finelli; Frank R. Benell, Jr.; Roger P. Boudreau; Michael R. Boyce; Richard A. Licht; John P. Maguire; John J. Meehan; Thomas A. Mullaney; Claire M. Newell; Louis M. Prata and Jean Rondeau. There being 13 votes cast, 13 voted in the affirmative, 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 unanimously

**VOTED: To seal the executive session minutes.**

A motion was made by William B. Finelli and seconded by Roger P. Boudreau to exit executive session and return to open session.

A roll call vote was taken to return to open session, and the following members were present and voted Yea: General Treasurer Gina M. Raimondo; Vice Chair William B. Finelli; Gary R. Alger, Esq.; Frank R. Benell, Jr.; Roger P. Boudreau; Michael R. Boyce; Richard A. Licht; John P. Maguire; John J. Meehan; Thomas A. Mullaney; Claire M. Newell; Louis M. Prata and Jean Rondeau. There being 13 votes cast, 13 voted in the affirmative, 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 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 April 5, 2013:

Name	Membership Group	Type	Action
1. Carl Mueller	Teacher	Ordinary	Deny
2. Linda Burgess	State	Accidental	Postpone
3. Michelle Cavanagh	State	Ordinary	Approve(with 1-year review)
4. Henry Jacques	State	Accidental	Postpone
5. Lynn Hazard	Municipal	Accidental	Deny
6. Lauren Vierra	Teacher	Accidental	Deny
7. Margaret Feula	State	Ordinary	Deny
8. Mitchell Levin	State	Ordinary	Approve
9. Karlin Silva	Teacher	Ordinary	Approve
10. Jane Calo	State	Ordinary	Approve(with 1-year review)

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, April 5, 2013 on items 1-10.**

Mr. Rondeau asked the Treasurer for someone to clarify on page 2 of the Disability Subcommittee Report regarding the mentioning of *“Disability Subcommittee approved payment of invoices for physicians for appointments not kept by members for IMEs, not requesting reimbursements from members.”* The Treasurer asked that Director Karpinski clarify, and he said in this instance there were two members who had been given appointments but were unable to attend the visit. It was unclear whether the members called to cancel or not; nonetheless, the physician’s office charged ERSRI. The Subcommittee honored payment of the 2 specific late fees to the IME’s.

Treasurer Raimondo apprised the Board that there is no Procurement Subcommittee Report as the meeting was canceled.

## **Rules and Regulations Subcommittee:**

Chairman John P. Maguire said the Rules and Regulations Subcommittee met on Tuesday, March 14, 2013 to consider two items. Members present were Attorney Mark A. Dingley, H. Carl Heintzelman and Thomas A. Mullaney.

The committee first discussed a draft recommendation to promulgate technical changes to ERSRI Regulations No.1, 4, 5, 7, 9, 10 and 11. The proposed changes were technical updates to the regulations involving various statutory citations to be consistent with RIRSA, address changes relating to ERSRI's new offices at 50 Service Avenue, references for domestic partners and modifying the Board election procedure permitting the use of pencil. The committee also made minor adjustments for purposes of clarity.

Chairman Maguire noted the second item related to a recommendation to promulgate a draft Regulation, No. 6.15 - *Rules Regarding Rhode Island General Laws §36-9-25.1, §36-9-20.5, §16-16-5 and §45-21-14.2 Concerning the Purchase of Leave Service Credits Including The Purchase of Service Credit While on Inactive Status – Workers' Compensation*. He said the committee discussed the draft and requested the Director provide some alternate language on various definitions for the committee to consider. He said the matter was tabled to be reconsidered with the requested changes, upon satisfactory review of the recommended changes, Chairman Maguire said the subcommittee will make its recommendation to the full Board.

Mr. Boudreau asked if there was any update from Ms. Melissa Malone, Esq. on the outreach to increase the physician services. She said there is a new gastroenterologist; and because of the increase in the mental health applications, she noted that there is a need to get more doctors to complete those evaluations. The Treasurer said she and her Chief of Staff/Deputy General Treasurer met with the head of psychiatric services at Lifespan in an effort to secure additional physicians. Mr. Boudreau asked that the Board be updated on a periodic basis with the additions of physicians as IME's; the Treasurer agreed.

## **IX. Adjournment**

There being no other business to come before the Board, on a motion by Roger P. Boudreau and seconded by Richard A. Licht, the meeting adjourned at 10:34 a.m.

Respectfully submitted,

**Frank J. Karpinski**

Executive Director