



Employees' Retirement Board of Rhode Island
Monthly Meeting Minutes
Wednesday, January 14, 2015
9:00 a.m.
2nd Floor Conference Room, 50 Service Avenue

The Monthly Meeting of the Retirement Board was called to order at 9:03 a.m. Wednesday, January 14, 2015, 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 Seth Magaziner; Vice Chair William B. Finelli; Gary R. Alger, Esq.; Daniel L. Beardsley; Frank R. Benell, Jr.; Roger P. Boudreau; Michael R. Boyce; Mark A. Carruolo; Michael DiBiase; John P. Maguire; John J. Meehan; Claire M. Newell; Louis M. Prata and Jean Rondeau.

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

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

Thomas A. Mullaney arrived at 9:05 a.m.

II. Approval of Minutes

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

VOTED: To approve the draft minutes and executive session minutes of the December 17, 2014 meeting of the Employees' Retirement System of Rhode Island.

III. Chairperson's Report

Treasurer Magaziner informed the Board that he was elated to serve as the new Rhode Island General Treasurer chairing the Retirement Board. He said he appreciated his recent one-on-one meetings with Board members and Senior Treasury staff. He said in the coming weeks he is excited to spend time with all staff members, and is enthused to have the opportunity to work with Executive Director Karpinski, Assistant Director Diane S. Bourne on ways to continue to improve ERSRI. The Treasurer noted he was pleased with the Computer System upgrade (Ariel) and will be monitoring it while analyzing ways to continue to improve customer service that he said is a major priority of his administration. The Treasurer told the Board that he understands members have been a bit disgruntled with the pension reform thus he feels providing and continuing high quality customer service is imperative.

Treasurer Magaziner said he will continue to work to reach a deal with the pension reform litigation. He said that whether it is attainable is questionable; however, he felt having extended litigation is not in anyone's best interest.

Treasurer Magaziner then introduced his new Deputy Treasurer and Chief Legal Counsel Jeffrey Padwa Esq. Treasurer Magaziner asked Attorney Padwa if he would provide an update on the pension reform litigation and Attorney Padwa said yesterday there was an update status conference with Judge Taft Carter and noted that a trial date is scheduled for April 2015.

Treasurer Magaziner reminded the Board that they are informed of monthly investment performance the month following e.g. the December meeting would have October information; however, since the December Board meeting was later in the month, the Board was already provided November results thus there is no update for this meeting.

IV. Executive Director's Report

Director Karpinski welcomed Treasurer Magaziner to the Board and said he was looking forward to his stewardship. Director Karpinski also introduced and welcomed the new Director of Administration and Board member, Mr. Michael DiBiase Esq.

Director Karpinski apprised the Board that they were in possession of the December 31, 2014 Pension Application Report and the Disability Subcommittee Report.

The Director told the Board that he still had not received updates from one of the Cyber/Privacy Security carriers but will seek to bring the matter to the Board next month for their review and consideration.

Director Karpinski reminded the Board that the annual training session is usually done on the last Friday in March. He said he will circulate an email to Board members to determine if that date is still feasible.

The Director said ERSRI is planning to bring up the new pension payroll system for the January pay period. He also noted that a newsletter will be sent to the membership to provide information on some of the changes.

Director Karpinski referred the Board to the delinquency report of contributions in the Board book and said they are now all current with the exception of Union Fire district and the ongoing Central Coventry Fire District. Regarding the delinquency of the Defined Contribution (DC) Plan, he noted that a meeting has been scheduled with the City of Cranston regarding their Police and Fire to rectify the payment of some contributions.

Consideration of Actuarial Services Contract with Gabriel, Roeder, Smith and Company

Director Karpinski apprised the Board of the contract with its current actuary Gabriel Roeder, Smith and Company (GRS). He said the contract expires on July 2015 and noted that the contract contained an extension clause on a year to year basis. Director Karpinski recommended to the Board that they consider a one-year extension and then in January 2016, as is normally done, go out for a RFP for actuarial services. Director Karpinski cited the reasons he offered this recommendation namely, this summer GASB No. 68 (Employer reporting) will require detailed computations by the actuary, the pension litigation may require analysis and GRS has performed all prior analysis and ERSRI will expend significant efforts during the summer and early fall to complete the system implementation. The Director noted that there would be a very significant amount of effort and computation to be done by a new actuary, should the Board replace GRS, in a limited amount of time while preparing a valuation for Board consideration in December of 2015.

Director Karpinski told the Board that if there is consideration of an extension he would obtain a cost and put it on the February agenda for their review and satisfactory approval. If the Board would prefer an RFP, he said a vote would be appropriate for authorization. Mr. Carruolo asked if an extension would be at the current rates. The Director said yes, however, there would be increased costs because at the time of the original contract both GASB No 67 and 68 were not finalized and officially promulgated by the GASB. The Board agreed to consider a potential extension at the February meeting.

Director Karpinski apprised the Board members that he sent them soft copies of the final 2014 valuations as well as projections and said hardcopies will be provided if needed. He noted some technology has been implemented regarding the disability books. He said they are now being produced electronically to the subcommittee members and will ultimately be upgraded within the next 12 months.

The Director noted some sad news of the passing of former Board member M. Carl Heintzelman on Sunday, January 11, 2014 and expressed his sympathy and prayers for the family. Treasurer Magaziner asked for a moment of silence.

V. Administrative Decisions

Disability Appeal – Robert L. Lincourt vs. ERSRI

Included in Board Members' Books, under separate cover, were the Findings of Fact as concluded by the Disability Subcommittee, transcripts from the subcommittee's decision, medical and supporting information in the matter of *Robert L. Lincourt vs. ERSRI*. Attorney Robinson 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 there was, and that the materials are included in the Board members' books.

Attorney Robinson 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. Consistent with the Board's long standing policy, he apprised the appellant's Attorney 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 Disability Subcommittee on factual determinations and questions of credibility, and will not overturn those determinations of fact or credibility unless such determinations are found to be clearly wrong. The following people were also present, Attorney Vincent Ragosta, Jr., representing the Town of North Providence; Leonard Albanese, Chief of the Town of North Providence Fire Department and North Providence Mayor Charles A. Lombardi.

There being a stenographer present, Attorney Robinson then provided a synopsis of the matter. Attorney Edward C. Roy was representing Mr. Robert L. Lincourt. Attorney Robinson noted that if anyone during this hearing is to provide testimony, they will need to be sworn in. The parties thereafter presented their respective positions. During the hearing at different intervals, both Robert L. Lincourt and Mayor Charles A. Lombardi were sworn in by the stenographer.

Treasurer Magaziner expressed his appreciation to Mr. Lincourt and said regardless of how the Board votes today; he extended his appreciation to Mr. Lincourt for his service to the community.

At the conclusion of the presentations, a motion was made by William B. Finelli and seconded by Michael R. Boyce to overturn the recommendation of the Disability Subcommittee denying the accidental disability application and award the disability. A roll call was taken, and the following members voted Yea: Vice Chair William B. Finelli; Frank R. Benell, Jr.; Roger P. Boudreau; Michael R. Boyce; John J. Meehan; Claire M. Newell and Louis M. Prata. The following voted Nay: Treasurer Seth Magaziner; Gary R. Alger, Esq.; Daniel L. Beardsley; Mark A. Carruolo; Michael DiBiase; John P. Maguire; Thomas A. Mullaney; and Jean Rondeau.

There being 15 votes cast, 7 voted in the affirmative, and 8 voted in the negative. 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, the motion failed.

A second motion was made by Jean Rondeau and seconded by Gary R. Alger, Esq., to uphold and accept the recommendation of the Disability Subcommittee denying the accidental disability application. A roll call was taken, and the following members voted Yea: Treasurer Seth Magaziner; Gary R. Alger, Esq.; Daniel L. Beardsley; Frank R. Benell, Jr.; Mark A. Carruolo; Michael DiBiase; John P. Maguire; Thomas A. Mullaney; and Jean Rondeau. The following voted Nay: Vice Chair William B. Finelli; Roger P. Boudreau; Michael R. Boyce; John J. Meehan; Claire M. Newell and Louis M. Prata.

There being 15 votes cast, 9 voted in the affirmative, and 6 voted in the negative. 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 and accept the recommendation of the Disability Subcommittee in the matter of *Robert L. Lincourt vs. ERSRI* denying the accidental disability application.

Disability Appeal – Regina Socree vs. ERSRI

Included in Board Members' Books, under separate cover, were the Findings of Fact as concluded by the Disability Subcommittee, transcripts from the subcommittee's decision, medical and supporting information in the matter of *Regina Socree vs. ERSRI*. Attorney Robinson 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 there was, and that such materials are included in the Board members' books.

Attorney Robinson 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. Consistent with the Board's long standing policy, he apprised Ms. Socree 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 Disability Subcommittee on factual determinations and questions of

credibility, and will not overturn those determinations of fact or credibility unless such determinations are found to be clearly wrong. Ms. Socree was appearing Pro Se.

There being a stenographer present, Attorney Robinson then provided a synopsis of the matter.

Treasurer Magaziner expressed his appreciation to Ms. Socree and said however the Board votes today, he thanked Ms. Socree for her service to the State.

At the conclusion of the presentations, a motion was made by Gary R. Alger, Esq., and seconded by Jean Rondeau to uphold and accept the recommendation of the Disability Subcommittee denying the accidental disability application. A roll call was taken, and the following members voted Yea: Treasurer Seth Magaziner; Vice Chair William B. Finelli; Gary R. Alger, Esq.; Daniel L. Beardsley; Frank R. Benell, Jr.; Roger P. Boudreau; Michael R. Boyce; Mark A. Carruolo; Michael DiBiase; John P. Maguire; John J. Meehan; Thomas A. Mullaney; Claire M. Newell; Louis M. Prata and Jean Rondeau.

There being 15 votes cast, 15 voted in the affirmative, and 0 voted in the negative. 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 and accept the recommendation of the Disability Subcommittee in the matter of Regina Socree vs. ERSRI denying the accidental disability application.

Mr. Boyce asked Director Karpinski about Ms. Socree's previously submitted application for an ordinary disability. Director Karpinski affirmed that Ms. Socree's matter regarding her ordinary disability will be considered at the next month meeting of the Disability Subcommittee.

VI. Approval of the December Pensions as Presented by ERSRI

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

VOTED: To approve the December pensions as presented.

VII. Legal Counsel Report

Attorney Robinson apprised the Board that shortly before the Christmas holiday the Central Coventry Fire District entered into Chapter 9 bankruptcy. Steven Hartford was the State appointed receiver for the district and has now been replaced by former Judge Pfeiffer, who is represented by Attorney Robert Flanders. Attorney Robinson noted he was informed of a scheduling conference for this Friday. He also said he anticipates submitting an amended proof of claim on behalf of MERS, and said he will actively monitor and keep the Board apprised of any updates with regard to the bankruptcy case.

Mr. Maguire asked that since this matter is being handled on a federal level, is there any impact on the Board's standing. Attorney Robinson reminded the Board that Judge Stern (of the State Superior Court) had previously granted a priority status to a portion of the MERS' claim relating to the members' contributions, but noted that it is still questionable as to what priority will be afforded the MERS claim in the context of the federal bankruptcy action.

Mr. Maguire then asked if getting less than 100 cents on the dollar is possible. Attorney Robinson said that it is possible, although he felt optimistic that ERSRI would be paid in full, but perhaps with repayment being phased over a period of time.

Mr. Maguire asked about the time line for bankruptcy proceedings. Attorney Robinson said that it would likely proceed quickly. He noted that the matter will be discussed at this Friday's scheduling conference in the federal bankruptcy court. Mr. Boudreau asked for a status of the Coventry Fire chief regarding his service in North Providence. Director Karpinski said the matter is still under review. He noted that a communication was sent to Chief Labbadia and the Town of North Providence to obtain information to substantiate his call time.

Mr. Boudreau then asked what would occur if a portion of his call time is unsubstantiated. Director Karpinski said Mr. Labbadia has 20 years of service time including his call time. If a portion of his call time is ineligible, he will no longer be eligible for pension benefits and thus would owe the system back any benefits received. Consequently, although he was working post-retirement at the Coventry Fire Department, he would now be considered a contributing member and would be required to make contributions from the start of his employment at the Coventry Fire Department to present along with the employer. Mr. Maguire asked for an update next month.

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 Friday, January 9, 2015:

Name	Membership Group	Type	Action
1. Anna Canto	State	Accidental	Approve at 50% (reaffirmed)
2. Jane Calo	State	Ordinary	Upheld previous decision to notify employer that Ms. Calo should be put on their employment recall list
3. Suzanne Leclair	State	Deny-- Accidental	Approve-- Ordinary
4. Mark Sheridan	State	Accidental	Approve at 50%
5. Timothy Davis	State	Accidental	Approve at 66 2/3%

Name	Membership Group	Type	Action
6. Richard Fleming	State	Accidental	Report Accepted
7. Keith Robert	State	Accidental	Approve at 50%
8. Eleuterio Scaffi	State	Accidental	Approve at 50%
9. Audrey Williams	State	Accidental	Approve at 50%
10. Marcia Berg	State	Accidental	Approve at 50%
11. Susan Koerner	Municipal	Ordinary	Approve
12. Dennis Falso	State	Ordinary	Postpone
13. Richard Brousseau	State	Ordinary	Approve
14. Joanne Decurtis	Teacher	Ordinary	Approved with 1-year review
15. Virginia Hiatt	State	Ordinary	Approve
16. Mary Murphy	State	Ordinary	Approve
17. Jennifer Palumbo	Teacher	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 9, 2015 on items 1, 2, 3, 5, 6, 9, 10 and 15.

Claire M. Newell recused herself from the vote on numbers 1, 2, 3, 5, 6, 9, 10 and 15.

VOTED: To approve the recommendation of the Disability Subcommittee meeting of Friday, January 9, 2015 on items 4, 7 and 8.

John J. Meehan recused himself from the vote on numbers 4, 7 and 8.

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 9, 2015 on item 14.

John P. Maguire recused himself from the vote on number 14.

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 9, 2015 on items 11, 12, 13, 16 and 17.

VIII. Adjournment

There being no other business to come before the Board, on a motion by Roger P. Boudreau and seconded by Frank R. Benell, Jr., the meeting adjourned at 10:29 a.m.

Respectfully submitted,

Frank J. Karpinski
Executive Director