



**Employees' Retirement Board of Rhode Island**  
**Monthly Meeting Minutes**  
**Wednesday, July 8, 2015**  
**9:00 a.m.**  
**2<sup>nd</sup> Floor Conference Room, 50 Service Avenue**

The Monthly Meeting of the Retirement Board was called to order at 9:04 a.m. Wednesday, July 8, 2015, 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: Treasurer Seth Magaziner; Gary R. Alger, Esq.; Daniel L. Beardsley; Michael R. Boyce; Mark A. Carruolo; John P. Maguire; John J. Meehan; Marianne F. Monte; 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 Magaziner called the meeting to order.

Michael DiBiase arrived at 9:06 a.m.

## **II. Approval of Minutes**

On a motion by Gary R. Alger, Esq., and seconded by Jean Rondeau, it was unanimously **VOTED: To approve the draft minutes of the June 10, 2015 meeting of the Retirement Board of the Employees' Retirement System of Rhode Island.**

## **III. Chairperson's Report**

Treasurer Magaziner introduced Ms. Marianne F. Monte as the new public member appointee of the General Treasurer consistent with RIGL §36-8-4. Treasurer Magaziner noted that he has known Ms. Monte for a number of years and is confident she will be an asset to the Board with her Human Resource skills bringing a wealth of experience to the Board.

Treasurer Magaziner next provided an update related to those members with 20 plus years of service who were in the Defined Contribution Plan (DC Plan) but are no longer contributors as a result of the pension settlement. He said questions were raised by those as to whether they are allowed to withdraw funds from their accounts before their retirement? Also, can they make additional contributions into their DC Plan accounts and can they withdraw funds that were rolled in from another retirement plan?

Treasurer Magaziner said employees with more than 20 years of service who no longer contribute into the DC Plan are only permitted to withdraw distributions from the DC Plan upon severance from their employment, death, or termination of the DC Plan. Employees with more than 20 years of service who no longer contribute into the DC Plan are not permitted to make additional voluntary contributions into the DC Plan. An

employee can roll eligible funds from other retirement plans into the DC Plan in accordance with the provisions of the funding plan. Any funds that were rolled into the DC Plan from other retirement plans can be withdrawn at any time, including while participants are actively employed.

Treasurer Magaziner then discussed the outstanding litigation expense involving the Retirement Board and who is responsible and said the Retirement System is responsible. Mr. Maguire reiterated his previous inquiry regarding what the total cost of expenses are thus far; Treasurer Magaziner said it is \$1.946 million as well as \$121,534 of fees to the actuary, Gabriel, Roeder, Smith and Company.

Mr. Alger asked if the litigation expense was 100% charged to the pension fund or split with the State. Director Karpinski said for the 2009-2010 reforms, ERSRI paid \$120,164 which was 50% of the legal expenses; the Attorney General's office was responsible the remaining 50%. Mr. Maguire asked if the \$1.946 million is the total cost for all entities. The Treasurer confirmed that it was for the suits relating to the 2011 reform and the Retirement System is solely responsible. The Treasurer said for the earlier reforms, the cost incurred was split between the System and Attorney General's office. Mr. Maguire asked why the cost was not split for the 2011 reform. Chief of Staff Andrew Roos said the Attorney General has incurred its own expenses for defense of the Governor and the Treasurer and said the additional outside counsel are the fees to defend the Board being the defendant. Mr. Maguire asked if the Attorney General's expenses are available to disclose, and Treasurer Magaziner said it can be requested to obtain. Mr. Maguire questioned why the entire burden of the outstanding litigation expenses falls on the System. Director Karpinski noted that due to a change in legislation eight years ago, the actuarial fees may be charged to the Retirement System.

Treasurer Magaziner asked Attorney Jeff Padwa for a legal update on the pension reform litigation noting that the settlement of the pension litigation was contingent on the legislative process and that has been concluded with the Governor's signing the new law as part of the budget. Attorney Padwa said that within the next few days a decision will be made regarding the fairness hearings, which will resolve the litigation with the exception of continuing litigation involving the Cranston Fire and Police. Attorney Padwa said there is another hearing on July 29, 2015 with the Judge which will probably rule on the outstanding motions that had been previously briefed.

Mr. Maguire again reiterated his concern regarding the litigation fees that were charged to the Retirement System. He said the Rhode Island General Laws specifically note the fiscal and fiduciary responsibility of the Board, and said the laws state that the main use of funds is for the sole benefit of the participants in the Retirement System, and questioned how the defense costs meet that standard.

Mr. Beardsley commended and congratulated the staff of ERSRI under Director Karpinski's leadership and under Treasurer Magaziner's direction on an outstanding communication to cities and towns regarding the re-amortization decision in a short window of time. Mr. Beardsley said he had received no complaints but only compliments to the response time and the availability of information in order for city/town councils to make timely decisions.

Treasurer Magaziner then reiterated to the Board that typically there is not an August Retirement Board meeting, and asked the Board for a motion to not have an August Board meeting. On a motion by John P. Maguire and seconded by Jean Rondeau, it was unanimously

**VOTED: That there be no August 2015 meeting of the Retirement Board but with the ability to call one if necessary.**

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

Director Karpinski apprised the Board that they were in possession of the June 2015 *Pension Application Report* as well as the Disability Subcommittee Report.

Director Karpinski updated the Board on the consideration of the internal audit contract extension with Blum, Shapiro & Company, P.C. Director Karpinski said initially they were hired (formerly Sullivan & Company) and a contract was signed in 2009 to provide internal audit services and to work with the Audit Subcommittee and management to audit and review the System's financial procedures and operations. The Director said adhoc services and studies, consistent with the contract, were done with letters of agreement. Director Karpinski said that such services to date were a disability audit and currently an ongoing employer audit to verify that employers are contributing and transmitting the correct amount of contributions and data. Director Karpinski told the Board that a purchase order was created for an estimated cost and date to complete the employer audit which was June 30, 2015.

Director Karpinski apprised the Board, given the efforts involved in the employer audit, that at June 30, invoices totaling \$29,000 for work completed prior to June 30 require additional funds. He also noted that an additional \$75,000 is required to complete the remaining 8 cities/employers which is to be completed by December 2015, along with a final report to the Board. Director Karpinski also requested an additional \$20,000 in the event any other adhoc reviews are requested by the Board.

Director Karpinski said that upon completion of the employer audit, an RFP will be issued in February 2016 for internal audit services. Accordingly, the Director asked the Board to consider an extension of the letter of agreement for \$125,000 to complete work for the FY2015 budget.

On a motion by Michael DiBiase and seconded by John P. Maguire, it was unanimously

**VOTED: To extend the internal audit contract for Blum, Shapiro & Company, P.C., for \$125,000 (\$29,000 for remaining FY15 invoices; \$76,000 for completion of the municipal review and presentation to the Board; and \$20,000 for potential adhoc services).**

Director Karpinski updated the Board on the pension settlement adjustments. In the July 2015 pension check the 2% COLA of the first \$25,000 will be included for those retirees who retired before June 30, 2012. The second adjustment which is a \$500 stipend to those who retired on or before July 1, 2015 will be paid in the August 2015 pension check, and subsequently a second \$500 stipend will be paid in the August 2016 pension check.

Director Karpinski apprised the Board of the recent mailing on the re-amortization acceptance process. He said information was sent to all the City and Town managers, Council Presidents and Council members with projections of a 21-year and 25-year amortization based on the June 30, 2014 valuation. The Director also said the information sent included draft language for inclusion in a resolution. The communication requires employers to forward a resolution if they choose to remain on the current 21-year amortization. If no resolution is forwarded, the 25-year amortization will be applied to the employers valuation. Director Karpinski said there were a total of 265 letters sent to all member communities as well as local fire districts.

Mr. Beardsley asked Director Karpinski for a compilation of decisions made by the various cities/towns for the Board at the September 2015 Board meeting, which the Director said he will provide. Director Karpinski said prior to the approval of the 2015 valuation, the Board will need to approve the adjusted rates.

Director Karpinski updated the Board on the “*Report of Contributions*” delinquency report in the Board book. He noted that the Central Falls Housing Authority, City of Pawtucket and the Pawtucket School Department (NC) are all current. The remaining outstanding employers will be addressed using the normal collection of funds procedure if payment of contributions is not received today.

Director Karpinski apprised the Board that both he and Mr. Finelli will not be available for the October 14, 2015 Board meeting as they will be attending the National Council on Teachers Retirement (NCTR) annual conference. He indicated that available choices for the October Board meeting are October 7, 2015 or October 21, 2015 for the Board’s consideration, and he will follow up with an email to the Board members.

Mr. Maguire said that he has had conversations with leaders of teacher unions regarding the years of service cohorts related to the pension settlement. He asked what the process would be should a member be in the incorrect cohort. Director Karpinski said that if members are in incorrect cohorts their accounts would be audited and if applicable, be placed in the correct cohort and adjusted accordingly. He noted that those discrepancies that require adjustment in the DC plan could result in lost earnings adjustments from the employer. Director Karpinski said that in the DB plan, the adjustments are easier to rectify if ERSRI is required to collect or return contributions.

## **V. Administrative Decisions**

### **Disability Appeal – Kevin J. Lang vs. ERSRI**

Included in Board Members’ Books, under separate cover, were the Findings of Fact as concluded by the Disability Subcommittee, transcripts from the reconsideration hearing before the subcommittee, medical and supporting information in the matter of *Kevin J. Lang 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 were included in the Board members’ books.

Attorney Robinson noted for the record that Mr. Lang was not present for the hearing and was represented by Attorney James Kelleher. 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 Attorney Kelleher 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.

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

At the conclusion of the presentations, a motion was made by John P. Maguire and seconded by Michael R. Boyce to overturn the decision of the Board and award an accidental disability benefit pension. The following voted Yea: Michael R. Boyce; Mark A. Carruolo; John P. Maguire; John J. Meehan; Claire M. Newell and Louis M. Prata. The following voted Nay: Treasurer Seth Magaziner; Gary R. Alger, Esq.; Daniel L. Beardsley; Michael DiBiase; Marianne F. Monte; Thomas A. Mullaney and Jean Rondeau.

There being 13 votes cast, 6 voted in the affirmative, and 7 voted in the negative. Consistent with Rhode Island General Laws §36-8-6, *Votes of the Board -- Record of Proceedings*, there not being a majority vote of the members present and voting at which a quorum is present, the motion failed.

Another motion was then made by Michael DiBiase and seconded by Jean Rondeau to affirm the original recommendation of the Disability Subcommittee to deny the accidental disability application. The following members voted Yea: Treasurer Seth Magaziner; Gary R. Alger, Esq.; Daniel L. Beardsley; Michael DiBiase; Marianne F. Monte; Thomas A. Mullaney and Jean Rondeau. The following voted Nay: Michael R. Boyce; Mark A. Carruolo; John P. Maguire; John J. Meehan; Claire M. Newell and Louis M. Prata.

There being 13 votes cast, 7 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 affirm the recommendation of the Disability Subcommittee and deny the accidental disability application of Kevin J. Lang vs. ERSRI.**

Treasurer Magaziner queried that during the Disability Subcommittee's meeting there was discussion of whether to award an ordinary disability to Mr. Lang. Attorney Robinson said that such a consideration was raised but that Attorney Kelleher had confirmed that the request was withdrawn by the applicant.

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

On a motion by Gary R. Alger, Esq. and seconded by John P. Maguire, it was unanimously

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

## **VII. Legal Counsel Report**

Attorney Robinson asked the Board if there were any questions of his report and there were none.

## **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 Tuesday, July 7, 2015:

<b>Name</b>	<b>Membership Group</b>	<b>Type</b>	<b>Action</b>
1. Janet Ragno	Teacher	Accidental	Overtured and Approved @ 50%
2. Andrew Butler	Municipal	Accidental	Postpone
3. James Cote	Municipal	Accidental	Approved @ 66 2/3%
4. Augusta Socree	State	Accidental	Approved @ 50%
5. Timothy Hurley	State	Accidental	Approved @ 50%
6. Nancy Marciano	Teacher	Ordinary	Deny
7. Kathy Poku	State	Accidental	Approved @ 50%
8. Ronald Dufour, Jr.	Municipal	Accidental	Deny
9. David Hadad	Municipal	Accidental	Approved @ 66 2/3%
10. Timothy Moffat	State	Accidental	Ordinary--
11. Mary Lurgio	Teacher	Ordinary	Approve
12. Joan Henderson	Municipal	Ordinary	Approve
13. Nicole Broadmeadow	Teacher	Ordinary	Approve

On a motion by Michael R. Boyce and seconded by Louis M. Prata, it was unanimously **VOTED: To approve the recommendation of the Disability Subcommittee meeting of Tuesday, July 7, 2015 on items 6 and 13.**

John P. Maguire recused himself from the vote on numbers 6 and 13.

On a motion by Michael R. Boyce and seconded by Louis M. Prata, it was unanimously **VOTED: To approve the recommendation of the Disability Subcommittee meeting of Tuesday, July 7, 2015 on items 4, 5 and 7.**

Claire M. Newell recused herself from the vote on numbers 4, 5 and 7.

On a motion by Michael R. Boyce and seconded by Louis M. Prata, it was unanimously **VOTED: To approve the recommendation of the Disability Subcommittee meeting of Tuesday, July 7, 2015 on items 1, 2, 3, 8, 9, 10, 11 and 12.**

## **IX. Adjournment**

There being no other business to come before the Board, on a motion by John P. Maguire and seconded by Claire M. Newell, the meeting adjourned at 10:38 a.m.

Respectfully submitted,

**Frank J. Karpinski**

Executive Director