

Commission Meeting Minutes *amended*
June 12, 2014

Vice Chairman McDonough called the meeting to order at 12:15 PM.

Vice Chair McDonough asked on behalf of the Commission for a moment of silence for Chairman Domenic Russo who recently passed away. Vice Chair McDonough and Joseph Connarton spoke very highly of Chairman Russo, and stated that he provided a great public service during his life. They continued that he would be sorely missed and will be succeeded but not replaced.

Vice Chair McDonough then recognized that a visitor of many prior PERAC meetings, President of the Professional Fire Fighters of Massachusetts, Ed Kelly, has a son Tommy who is four (4) years old and has cancer. He asked that people please keep the Kelly family in their prayers.

He announced that the Commission meeting is being tape recorded which will be noted in the minutes, that a stenographer is taking notes, and asked that everyone state their names prior to speaking.

Commissioners Present: Vice Chairman Gerald McDonough, Commissioners Philip Brown, John Langan, James Machado, and Robert McCarthy. Commissioner Donald Marquis was not in attendance.

PERAC Staff Present: Executive Director Joseph Connarton, Deputy Executive Director Joseph Martin, General Counsel/Deputy Director John Parsons, Deputy General Counsel/Managing Attorney Judith Corrigan, Actuary James Lamenzo, Senior Associate General Counsel Ken Hill, Associate General Counsel Patrick Charles, Director of Strategic Planning Michael DeVito, Compliance Officer Thomas O'Donnell, Compliance Counsel Derek Moitoso, Chief Auditor Harold Chadwick, Director of Administrative Services Caroline Carcia, Senior Actuarial Associate John Boorack, Fraud Prevention Manager Sandra King, and Senior Executive Assistant Kim Boisvert.

Vice Chairman McDonough welcomed the following guests: Abigail Durland from the State Auditor's Office, Nick Favorito from the State Retirement Board, Sean Neilon from the Massachusetts Teachers' Retirement Board, Tom Gibson from the Belmont and Middlesex County Retirement Boards, Patrick Brock from the Hampshire County Retirement System, Joe Siewka and Carolyn Russo from the Chelsea Retirement System, Attorney Brian Monahan representing the Chelsea Retirement System, Thomas Standish from the Chelsea Housing Authority, Attorney Ronaldo Rausea-Ricupero and Leslie Hartford representing the Chelsea Housing Authority from Nixon Peabody, Attorney James Boumil representing Michael McLaughlin from Boumil Law Offices, Frank Valeri, Shawn Duhamel and Bill Rehrey from the Mass. Retirees, Denis Devine and Kevin Regan from MACRS, and Carol Kusiuitz from Doris Wong Associates.

Vice Chair McDonough discussed the Commission minutes of May 8, 2014 regarding a few changes requested by Commissioner McCarthy and explained the changes which were distributed.

Commissioner McCarthy made a motion to adopt the minutes of the May 8, 2014 meeting as amended. Commissioner Langan seconded the motion and the minutes were adopted.

Legal Update

Mr. Charles discussed the *Robert Vernava v. Swampscott Retirement Board and PERAC*, CR-12-640. PERAC had appealed and filed objections with DALA yesterday.

There was further discussion regarding this case, the ramification of the change in calculating a retirement date, and sick or vacation time being used to supplement Workers' Compensation. The Commission is of the belief that a one-time lump sum payment of sick time is not regular compensation, but a regular and reoccurring payment of accrued sick time would be considered regular compensation.

Mr. Parsons reported that, as a carry-over from the last Commission meeting, the legal staff has drafted legislation regarding the "Concurrent Beneficiary" situation in hopes of finding someone to file this legislative session.

Ms. Corrigan stated that the goal of filing this legislation would be to preserve the rights of those already receiving such benefits and should stop any new benefits effective July 1, 2014 because of the Larrson case. The legal unit also recommended issuing a memorandum regarding this to all retirement boards. Ms. Corrigan reminded the Commissioners that this policy was originally announced via memoranda.

Commissioner Langan made a motion to proceed with the filing of this legislation as presented to the Commission and to send a memorandum to the retirement boards. Commissioner Brown seconded the motion and it was adopted.

Commissioner McCarthy recommended filing legislation to change the RFP process, as the retirement boards are now required to issue a RFP every five (5) years which is a burden, costly and not needed.

Vice Chair McDonough asked that this issue be discussed later in the meeting.

Chelsea Retirement Board – Michael McLaughlin

Vice Chair McDonough briefly recapped the discussion from the May 8, 2014 Commission meeting about the McLaughlin matter and asked Mr. Parsons for an update.

Mr. Parsons recapped the questions from the Commission and explained that several legal staff members contributed to the memo as disseminated and that the Board did provide certain documents, but did not provide the records from the McLaughlin Section 15(1) hearing held in executive session. The legal unit has to prepare the memo without seeing the executive session minutes.

Mr. Parsons reported that Mr. McLaughlin has not yet received any payments from the Chelsea Retirement Board. The member could be entitled to receive a benefit from the retirement application date to the date of final conviction. Mr. Parsons explained Sections 15 (1), (3), (4), and (7), all allow for the right of due process because of Section 16(1) and that the member has the right to be present at all hearings. He then explained the responsibilities of PERAC and the Retirement Board.

Each attorney was given an opportunity to provide comments to the Commission. Some of those comments are as follows:

Ronaldo Rausea-Ricupero, Attorney representing the Chelsea Housing Authority ("CHA") from Nixon Peabody, stated that he appreciates the work of the Retirement Board and respectfully requests that CHA be afforded "Party" status instead of "Participant". He continued that Mr. McLaughlin's conduct alone would suffice as "misappropriation". At issue in this circumstance is that the Board has not reviewed nor investigated the misappropriation matter. If the CHA is afforded "Party" status it will allow the CHA the ability to submit documents and the right to appeal the Board's decision.

Brian Monahan, Attorney representing the Chelsea Retirement System, stated that he doesn't understand why this "party" status issue is before PERAC and that PERAC should trust the Board who reviewed the information before it and decided to name the CHA as a "participant". He stated that the CHA could file a civil claim. He does agree with the Commission that the Board minutes could be clearer and will discuss that item with the Board. He also reported that the Board has sent several letters to PERAC regarding assistance as Section 15 has many gray areas. Mr. Monahan reported that Mr. McLaughlin has not been charged for misappropriation at this time. He further reported that Mr. McLaughlin has appealed the board's decision not to process his calculation to DALA but the Board contends that the application has not been completed by the member. Mr. Monahan also reported that the Board is trying to schedule a Section 15 (4) hearing. However, the member has a right to be in attendance and is currently incarcerated.

James Boumil, Attorney representing Michael McLaughlin from Boumil Law Offices, requested all in attendance to refrain from assuming that Mr. McLaughlin will lose his pension as a result of his final conviction. He also asked that all available evidence be provided to all attorneys in this matter. He reported that he spoke with the US Attorney's office who reports that they have no influence over the Bureau of Prisons. Mr. Boumil reported that he is sending a petition to the Warden requesting Mr. McLaughlin's availability to attend a hearing of the Board and has been told that the request would be denied.

Mr. Connarton reported that he also has reached out to the US Attorney's office as Mr. McLaughlin is currently in the region. The US Attorney's office stated that if the Commission votes to require the Board to hold a hearing they would make every effort to see that Mr. McLaughlin is available.

The Commission discussed various issues regarding this case, and strongly believes that the employer should be to be a "Party" to any Section 15 hearings to allow an exchange of documents and other rights that are not available to a "Participant". The Commission also instructed that the CRB review their executive session minutes and decide whether or not to open those minutes. The Commission voted to adopt the recommendations of the legal staff, including remand on the Section 15(1) matter, and that the appropriate Section 15 hearings should be held upon each conviction.

Commissioner Brown made a motion that the Commission accepts the recommendations from the legal unit and to provide a copy to all interested parties. Commissioner Langan seconded the motion and it was adopted.

Legislative Update

Mr. DeVito reported that the Conference Committee on the Fiscal Year 2015 budget has been appointed and believes that the budget may be approved by the next Commission meeting. He then stated that consideration has been extended until June 30, 2014 for H. 14 An Act Regarding Post Retirement Earnings and Unemployment Benefits and he will keep the Commission updated. He then stated that H. 3377 the Plymouth County Pension Obligation Bonds bill is currently in Senate Ways and Means and S. 1225 the PRIM Fossil Fuel Divestment bill may be taken up by the Committee on Public Service on June 20, 2014.

Audit Update

Mr. Chadwick reported that audits are currently occurring at the Chicopee, Minuteman Regional, New Bedford, Peabody, and Woburn Retirement Boards. He stated that they have suspended the Beverly Retirement Board audit and would be going back in at a later date. He then stated that the exit conferences are pending for the Fall River, North Attleboro, Plymouth, State, and Teachers' Retirement Boards. Internal reviews are being conducted on the Athol, Franklin County, and Webster Retirement Boards. He further noted that responses from the Plymouth County and Salem Retirement Boards will be forthcoming. Mr. Chadwick told the Commission that the Chelsea Retirement Board audit report has been posted on the PERAC Web Page since the last Commission meeting and explained the findings. Finally, he reported that no follow up audits were scheduled this past month.

Compliance Update

Mr. O'Donnell stated that the Compliance Unit has received over 302 Vendor Disclosure Forms from Investment Management firms that have over 1200 relationships with Massachusetts pension systems. The deadline for filing Vendor Disclosure forms was March 1, 2014 and at this point approximately a dozen firms remain non-compliant. The next step is to notify those firms about their outstanding filing, and warning them they will be debarred. Also the compliance unit will be analyzing the reports that have been received. He then reported that there are nine (9) active and ten (10) inactive members that have not sent in their Statement of Financial Interests ("SFIs") which were to be filed by May 1. Mr. O'Donnell then explained that the board members are taking advantage of the educational opportunities made available and over 270 board members attended the MACRS Conference.

Vice Chair McDonough brought Commissioner McCarthy's recommendation regarding filing legislation to change the RFP process to the table.

Commissioner McCarthy made a motion to discuss the RFP Process at a joint Legislative and Investment Sub-Committee meeting. Commissioner Langan seconded the motion and it was adopted.

Executive Director's Report

Mr. Connarton reported on staff activities since the last Commission meeting.

Mr. Connarton reported that under Policy Number 99-001 the Fiscal Year 2015 budget has been filed with the Joint Committee on Public Service, Joint Committee on Ways and Means and PRIM.

Mr. Connarton reminded those in attendance that the Emerging Issues Forum will be held on Thursday, September 18, 2014 at the College of the Holy Cross in Worcester, Massachusetts.

Mr. Connarton reported that Philip Lemnios, the Town Manager of Hull, has requested a waiver from meeting the educational requirements even though the law doesn't provide for a waiver. Mr. Lemnios sent a request yesterday inquiring if the matter could be rescheduled until September or October.

Commissioner McCarthy recommended that the matter be rescheduled for the September Commission meeting.

Mr. Connarton updated the Commission about the Athol Retirement Board. He stated that the audit is ongoing at this time and the Board has hired Bob Madison (former PERAC Auditor) on a temporary basis to resolve the issues before the Board. He continued that there was a vote at the town meeting to dissolve the Athol Retirement Board and to file legislation to merge the Athol Retirement System into the Worcester Regional Retirement System.

Mr. Connarton reported that he and Mr. Lamenzo recently met with the Springfield Retirement Board to discuss the January 1, 2014 actuarial valuation results of the Springfield Retirement System. City finance officials and a representative of the Mayor were also present. The System is 27% funded which is about the same as two (2) years ago. The Board adopted a funding schedule during the meeting. The schedule will amortize the unfunded liability by Fiscal Year 2036. He reported that Springfield is hoping that the proposed casino will help their financial issues.

Mr. Connarton reported that former Commissioner Greg Mennis, currently employed by PEW Charitable Trust, will be at the July Commission meeting to report on the "Stress Test of the Systems".

Commissioner McCarthy stated that he would recuse himself of any discussion of this topic as he believes that any presentation by Mr. Gregory Mennis, former Commissioner, is unethical.

Mr. Connarton stated that the MACRS Spring Conference was extremely well attended this year and that the participants filled three (3) hotels. He continued that several staff members made presentations and that he believes that many credits were earned at this conference.

Other Business

Vice Chair McDonough stated the next Commission meeting is scheduled for Thursday, July 10, 2014 at noon.

Commissioner McCarthy expressed his concern with the Athol Retirement System situation and would like PERAC to keep monitoring the System.

Mr. Connarton replied that there is a vested interest whether the System survives or transfers. He has not issued the Order as a PERAC auditor is currently on site auditing the System. He stated that

a former auditor (Bob Madison) has been hired as a consultant and the woman from Montague is processing benefits. He is comfortable at this time and we will continue to monitor.

Commissioner McCarthy made a motion to adjourn. Commissioner Brown seconded the motion, and the motion was adopted. The meeting adjourned at 2:45 PM.

Commission Meeting Documents

Commission Agenda of the meeting for June 12, 2014
Commission Minutes for May 8, 2014

Legal Update

Robert Vernava v. Swampscott Retirement Board and PERAC, CR-12-640
Memo and draft legislation regarding Concurrent Benefits under Section 9 and Option 12(2)(c)
Michael McLaughlin, Chelsea matter – information from PERAC Legal Unit, Letter from Nixon Peabody (dated June 5, 2014), and response from Mr. McLaughlin to Nixon Peabody

Legislative Update

Monthly Legislative Agenda and bullet points outlining legislation

Audit Update

Recent PERAC Audit Findings cover sheet and the respective audit findings

Executive Director's Report

Updated Staff Activities Memo
Letters to the Joint Committee on Public Service, Joint Committee on Ways and Means and PRIM regarding Policy Number 99-001 the Fiscal Year 2015 budget
Letter to Springfield Retirement Board regarding its 1/1/14 Actuarial Valuation
Letter from Philip Lemnios, Board Member of the Hull Retirement Board concerning Education

Other Documents

Letter to Lawrence Retirement Board regarding William Lantigua's superannuation calculation

Distributed at the Meeting

Amended Commission Minutes for May 8, 2014
Additional response from Mr. McLaughlin's attorney to PERAC
Chapter 32, Section 15 Language

Approved:



Gerald McDonough, Acting Chairman
Public Employee Retirement
Administration Commission