Commission Meeting Minutes
April 13, 2016

Chairman Brown called the meeting to order at 11:05 AM. He then acknowledged the other Commissioners present: Commissioners Timothy Dooling, Kathleen Fallon, Kate Fitzpatrick, James Machado, Robert McCarthy, and Jennifer Sullivan.

Chairman Brown welcomed and introduced new Commissioners Timothy Dooling and Jennifer Sullivan.

Chairman Brown announced that the Commission meeting is being tape recorded which will be noted in the minutes.

PERAC Staff Present: Executive Director Joseph Connarton, Deputy Executive Director Joseph Martin, Deputy Director and General Counsel John Parsons, Deputy General Counsel and Managing Attorney Judith Corrigan, Director of Strategic Planning Mike DeVito, Chief Auditor Caryn Shea, Compliance Officer Thomas O'Donnell, Compliance Counsel Derek Moitoso, Compliance Analyst Cheryl Johnson, Senior Associate Counsel Ken Hill, Associate Counsel Patrick Charles, and Senior Executive Assistant Kim Boisvert.

Ms. Boisvert announced the guests in attendance: Former Commissioner John Langan, Sean Neilon representing Mass Teachers' Retirement Board, Nick Favorito representing the State Retirement Board, Kimberly Fletcher representing Newton Retirement Board, Katie McCue representing Massachusetts Municipal Association, Paul Hynes representing the Professional Fire Fighters of Massachusetts. Frank Valeri representing Mass Retirees arrived later in the meeting.

Chairman Brown thanked Mr. Langan for his service to the Commission and wished him well in all his endeavors. Mr. Langan thanked the Commission and stated what a pleasure it has been for him to work with the Commission and its staff.

Commissioner McCarthy made a motion to adopt the Commission meeting minutes dated March 9, 2016. Commissioner Fitzpatrick seconded the motion and the meeting minutes were adopted.

Legal Update

Ms. Corrigan updated the Commission regarding *PERAC v. Bettencourt*, Supreme Judicial Court. She stated that this is the first case in which pension forfeiture was halted by the Excessive Fines Clause of the Eighth Amendment to the United States Constitution. She believes that going forward in Massachusetts there will be a two (2) prong legal argument for those individuals that fall under Section 15 – an argument regarding job relatedness and now the claim that the forfeiture would violate the Excessive Fines Clause of the Eighth Amendment. She also stated that her fear is that lower income individuals will unfairly suffer if not all pensions are going to be forfeited under Section 15(4). Ms. Corrigan discussed the applicability of Section 15 (4) in this case, the Eighth Amendment, the Excessive Fines clause, and the possibility of appealing.

Attorney Paul Hynes, who represented Mr. Bettencourt, but was appearing at the Commission meeting on behalf of the Professional Firefighters of Massachusetts (PFFM) and Officer Bettencourt. He stated that President Ed Kelly and the PFFM feels so strongly about the integrity of the retirement systems and wants to be sure there are pensions available for the members. Because the Supreme Judicial Court (SJC) Justices made a unanimous decision to provide Mr. Bettencourt with his benefit, and referred the case back to the legislature in hopes to correct the inequity of Section 15(4). He further stated that they knew there would be a 32 year veteran, with an outstanding/stellar work record, would have a misstep or mishap at the end of their career and the punishment wouldn't seem to fit the crime. He believes that this case – the punishment doesn't fit the crime. The fact that the SJC sent this back and that he heard some of Speaker DeLeo's comments, he believes that there are certainly some fixes. He believes that bribery and extortion cases should be reinstated and further that nobody would disagree about someone who takes money in the course of their employment should suffer the most extreme penalties. He further believes that there will be another case where a misdemeanor offense (not a felony) will have the same fact pattern and be determined the same. Attorney Hynes hopes that the legislature hears the message; he hopes that this Commission would support that correction, and he believes that the statute needs to be fixed.

Ms. Corrigan stated that any litigation strategy discussion should be discussed in Executive Session.

Mr. Moitoso reported on *Fletcher & Thornton v. PERAC*, CR-11-118, 11-123, 11-153 (CRAB March 31, 2016), and *Haas v. Revere Retirement Board & PERAC*, CR-09-354, 09-477 (CRAB March 31, 2016). Finally, Mr. Hill reported on *Kevin Hunt v. Newburyport Retirement Board and PERAC*, CR-14-69 (DALA March 25, 2016).

Legislative Update

Mr. DeVito stated that PERAC's proposed H. 3566 (now H. 3971), the Concurrent Beneficiaries legislation has now passed both the House and Senate and was placed on the Governor's desk on April 4, 2016. The Governor has until April 14, 2016 to sign the bill, veto it, or allow the bill to become law without his signature. He then reported that PERAC has sent the new language approved by the Commission for H. 17 (the PERAC hearings bill) to the Joint Committee on Public Service. He stated that the PFFM and the Boston Firefighters Union have voiced support but no further action has occurred on the proposed revised language. Finally, Mr. DeVito reported that the FY'17 House Budget is to be released today, April 13, 2016, and amendments are due by Friday, April 15, 2016. He stated that he would be monitoring any pension or related amendments that are filed.

Audit Update

Mr. Connarton introduced Ms. Caryn Shea, PERAC's new Chief Auditor, and reported that Mr. Harry Chadwick will be returning to his home area of Western Massachusetts to work as a field auditor.

Ms. Shea reported that the Audit staff is currently auditing the Danvers, Easthampton, Norwood, and Worcester Retirement Systems. She stated that the Andover (no findings) and Middlesex

County Retirement Systems audit reports have been posted on the PERAC Web Page. She further stated that the Middlesex County Retirement System had a private audit performed by Powers and Sullivan. She also explained how PERAC reviews an audit performed by a private auditing firm. Ms. Shea reported that PERAC did not conduct any six-month follow up reports since that last Commission meeting.

Compliance Update

Mr. O'Donnell stated that the educational program is proving to be very successful and explained that each board member is required to earn 18 credits over a 3 year period. He reported that 9 credits will be earned if an individual attends the full MACRS Conference in Hyannis this year. He then reported that PERAC has received about 94% of the Annual Vendor Disclosures to date. Finally, he reported that PERAC has received about 50% of the SFIs to date which are due in May.

Executive Director's Report

Mr. Connarton welcomed the new members and reported that Mr. Parsons and he met with the two new Commissioners in advance of this meeting for a brief overview of the Commission. He then reported on staff activities since the last Commission meeting. He stated that he participated in a conference call with MACRS president, Kathleen Kiely-Becchetti, regarding the Spring Conference being held in Hyannis. This year MACRS will be hosting a Trustee Educational Seminar on Saturday and Sunday, June 4 and 5, 2016, and the Annual Conference will be held from Monday, June 6 thru Wednesday, June 8, 2016. Board members, with full participation from Saturday to Wednesday, will have the ability to earn nine (9) credits.

Mr. Connarton then updated the Commission about a board vacancy on the Holyoke Retirement Board prompted by the death of the Ex-Officio member. This vacancy has existed for quite some time. The position has been advertised and Mr. Connarton has been notified that the position should be filled within a month.

Mr. Connarton then updated the Commission about the fifth member board vacancy on the Leominster Retirement Board. Mr. Moitoso and he have reached out to folks in Leominster regarding the fifth member vacancy, which has existed far too long due to some obfuscation that exists. It has been reported that, the next Board meeting will be held on April 26, 2016, with all four members present and voting for the fifth member position. Mr. Moitoso will be attending this meeting, as our Compliance Counsel, to assure due process has been preserved under Chapter 32, Section 20.

Mr. Connarton then requested those Commissioners that have a particular interest in a particular Sub-Committee to please reach out to the Chairman, Ms. Boisvert, or himself. There are a few vacancies, however, one (1) vacancy of particular note at this time, is on the Administrative Sub-Committee. Mr. Connarton noted that according to Policy Number 99-001, PERAC must provide a copy of the Commission's annual budget to Ways and Means, Committee on Public Service and Administration and Finance at least thirty (30) days prior to the commencement of the fiscal year. Mr. Connarton would therefore, like to schedule an Administrative Sub-Committee to discuss in May 2016.

Chairman Brown suggested that all Commissioners review the Sub-Committee list and let Mr. Connarton, Ms. Boisvert or himself know which Committee(s) would be of interest.

Commission Travel

Mr. Connarton notified the Commission about the upcoming 2016 MACRS Conference being held from June 4 - 8, 2016 in Hyannis, MA should there be any interest in attending. He reiterated that MACRS will be offering a trustee opportunity to the Conference this year.

Commissioner Fitzpatrick made a motion to grant permission for any Commissioners and staff to attend the MACRS conference. Commissioner McCarthy seconded the motion and it was adopted.

Other Business

Chairman Brown stated that the next Commission meeting will be held on Wednesday, May 11, 2016 at 11:00 AM.

Executive Session

At 11:50 AM Chairman Brown called for a roll call vote of the Commission to go into Executive Session to discuss matters exempt from public disclosure: Hearing recommendation relative to February's modification hearing and litigation discussion relative to Bettencourt and one other matter.

Chairman Philip Brown YES, Commissioners Timothy Dooling YES, Kathleen Fallon YES, Kate Fitzpatrick YES, James Machado YES, Robert McCarthy YES, and Jennifer Sullivan YES.

Chairman announced that the Commission will reconvene in open session after the completion of the Executive Session.

A roll call vote was taken in Executive Session to return to the regular order of business and to adjourn the Executive Session at 1:23 PM.

Open Session

The Commission ratified the votes that were taken in Executive Session.

Commissioner Fitzpatrick made a motion to adjourn the meeting. Commissioner McCarthy seconded the motion and it was adopted. The Commission meeting adjourned at 1:25 PM.

Commission Meeting Documents
Commission Agenda for the meeting of April 13, 2016
Commission Minutes for March 9, 2016
Executive Session Minutes dated August 19 and October 17, 2014
Executive Session Minutes dated January 22, May 13, and August 12, 2015

Legal Update
Memo and decisions for:
PERAC v. Bettencourt, Supreme Judicial Court
Fletcher & Thornton v. PERAC, CR-11-118, 11-123, 11-153 (CRAB March 31, 2016)
Haas v. Revere Retirement Board & PERAC, CR-09-354, 09-477 (CRAB March 31, 2016)
Kevin Hunt v. Newburyport Retirement Board and PERAC, CR-14-69 (DALA March 25, 2016)

Legislative Update
Monthly Legislative Agenda and bullet points outlining legislation

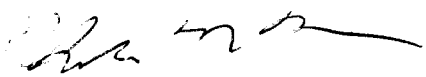
Audit Update
Recent PERAC Audit reports

Executive Director's Report
Updated Staff Activities Memo
Letter to Mayor Morse, City of Holyoke, regarding board membership
Letter to Chairman Richard, Leominster Retirement Board, regarding board membership

Commission Travel
Agenda and registration form for the 2016 MACRS Conference

Other Documents
Committee Takes Next Steps to Protect Social Security Benefits for All Workers as Momentum Builds for the Equal Treatment of Public Servants Act of 2015 – prepared by Ways and Means Chairman Kevin Brady

Approved:



Philip Y. Brown, Chairman
Public Employee Retirement
Administration Commission