

Commission Meeting Minutes

April 10, 2024

Chairman Philip Y. Brown called the meeting (held at PERAC Offices, 5 Middlesex Ave., Somerville) to order at 11:05 AM. Chairman Brown participated remotely, and he acknowledged the other Commissioners who were also participating remotely: Kathleen Fallon, Jennifer Sullivan, Michael Leung-Tat, and James Guido. Therefore, the Chairman explained, all motions made at this meeting will be voted on by roll call vote. The Chairman announced the meeting was being recorded. Commissioner MacKinnon and Commissioner Fitzpatrick were not in attendance.

PERAC Staff in attendance at the PERAC offices: Executive Director Bill Keefe, First Deputy Executive Director Caroline Carcia, General Counsel Judith Corrigan, Deputy Executive Director Ken Hill, Assistant Deputy Director Patrick Charles, Director of Audits Caryn Shea, Actuary John Boorack, Compliance Manager John Galvin, and Project Manager Anthony Tse.

PERAC staff attending remotely: Fraud Prevention Manager Sandra King and Communications Director Natacha Dunker.

Guests in attendance at the PERAC offices: Tom Gibson representing the Middlesex County and Belmont Retirement Systems and Frank Valeri representing the Massachusetts Retirees Association.

Guests attending remotely: Kathleen Kiely-Becchetti representing MACRS and John Brown representing the Middlesex County Retirement System and MACRS.

Commissioner Guido made a motion to adopt the January 30, 2024 Executive Director Search Committee Meeting minutes. Commissioner Fallon seconded the motion, and a roll call vote was taken:

Chairman Philip Brown YES, Commissioners James Guido YES, Jennifer Sullivan YES, Kathleen Fallon YES, and Michael Leung-Tat YES and the minutes were adopted.

Commissioner Guido made a motion to adopt the March 13, 2024 Commission meeting minutes. Commissioner Fallon seconded the motion, and a roll call vote was taken:

Chairman Philip Brown YES, Commissioners James Guido YES, Jennifer Sullivan YES, Kathleen Fallon YES, and Michael Leung-Tat YES and the minutes were adopted.

Executive Session

At 11:10 a.m. Chairman Brown called for a vote of the Commission to go into Executive Session for the purposes of reviewing Executive Session Minutes under purpose 7, G.L. c. 30A, § 21 (a)(7). Chairman Brown indicated that the Commission would return from Executive Session to Open Session.

Commissioner Leung-Tat made a motion to go into Executive Session. Commissioner Guido seconded the motion, and a roll call vote was taken:

Chairman Philip Brown YES, Commissioners James Guido YES, Jennifer Sullivan YES, Kathleen Fallon YES, and Michael Leung-Tat YES and the Commission entered Executive Session.

A roll call vote was taken in Executive Session to return to open session and to adjourn the Executive Session at 11:15 a.m.

Open Session

Upon returning to Open Session, Commissioner Guido made a motion to adopt and approve the following Executive Session minutes pertaining to the Executive Director's Search Committee ("EDSC") which were just voted to be opened in the Executive Session:

EDSC Meeting Minutes of December 20, 2023
EDSC Meeting Minutes of January 22, 2024
EDSC Meeting Minutes of January 23, 2024
EDSC Meeting Minutes of January 30, 2024

Commissioner Leung-Tat seconded the motion and a roll call vote was taken:

Chairman Philip Brown YES, Commissioners James Guido YES, Jennifer Sullivan YES, Kathleen Fallon YES, and Michael Leung-Tat YES and the minutes were adopted.

Actuarial Update

John Boorack reported that PERAC bases its investment return assumption recommendation on several sources such as the NEPC study, (PRIM's Investment Consultant), the Horizon Study, NASRA, and other investment consultants. The NEPC study is our primary source in determining our recommendations. Although PRIM's returns for 2023 were 11.4%, basing an increase in the investment return assumption solely on the most recent one-year return to increase the assumption would not be a good idea. Mr. Boorack reviewed the information from the sources mentioned above and recommended maintaining the current assumption of 7.0%.

Commissioner Fallon made a motion to keep the investment return rate assumption at 7%.
Commissioner Leung-Tat seconded the motion and a roll call vote was taken.

Chairman Philip Brown YES, Commissioners James Guido YES, Jennifer Sullivan YES, Kathleen Fallon YES, and Michael Leung-Tat YES and the recommendation to keep the investment return rate assumption at 7% was unanimously adopted.

Legal Update

Judith Corrigan updated the Commission on the case of Robert Melchionda v. Teachers' Retirement System & PERAC, CR-21-0674. This case involves an accidental death benefit sought by the widower of a member who was tragically murdered while working from home due to the COVID-19 pandemic. The Division of Administrative Law Appeals ("DALA") agreed with PERAC that the evidence did not support the contention that Laurie Melchionda ("Ms. Melchionda") was killed "as a result of, and while in the performance of," her duties as required by the statute. Ms. Corrigan informed the Commission that this case has been appealed to the Contributory Retirement Appeal Board ("CRAB") and referred them to the memorandum regarding this case in the packet.

Patrick Charles updated the Commission on the case of *Gary Dixon v. Lynn Retirement System*, CR-16-0289 & CR-19-0469. This matter involves a member's post-retirement earnings in the public sector.

PERAC has long held that a member may use the salary upon which their pension is based when calculating their earnings capacity even if it is not based upon the salary from the position held at the time of retirement. Also, if the replacement employee is making less than the member was making at retirement, the member may use the higher salary to calculate their earnings limitation.

DALA and now CRAB have rejected this view, finding that the salary that is being paid for the position held at retirement must be used when calculating an individual's earnings capacity. Since the pension of Petitioner Gary Dixon was based upon his three highest year average earlier in his career and not on the position from which he retired, this means that he has no earnings capacity in the public sector employment.

PERAC is working with the Legislature and the Executive Office of Administration and Finance to amend the language in G.L. c. 32, § 91(b) to try to avoid this outcome in the future.

Legislative Update

Mr. Charles reported that all seven of PERAC's Regulations 840 CMR 2.00, 4.00, 8.00, 11.00, 12.00, 15.00, and 25.00 have been published by the Secretary of State and are now in effect.

Mr. Charles informed the Commission that the House Budget will be released on April 10, 2024 with debates starting on Wednesday, April 24, 2024.

He further reported on H4482, An Act Authorizing the City of Springfield to Continue the Employment of Police Officer Lawrence E. Akers. This legislation would allow Mr. Akers to continue employment until age 70 and contribute to the pension system past the age of 65, thus increasing his retirement allowance. Both Mr. Charles and Mr. Keefe have been in contact with the Joint Committee on Public Service and have sent them information concerning prior legislation relative to mandatory retirement exemptions.

Mr. Charles also explained that DOR's March collection of \$4.065 billion was \$129 million or 3.3% benchmark.

Lastly, Mr. Charles reported on a special House election result and legislators who have announced they were not running for re-election.

Audit Update

Caryn Shea reported that since the last Commission meeting, PERAC has released the Adams and Plymouth County Audits as well as the Concord and Hingham Retirement System Follow-Up letters. Ms. Shea explained that the Adams and Plymouth County Retirement Board Audits had several findings. She also explained that both Concord and Hingham have resolved most of the issues identified in the original audits. She went on to point out the status of all audits as outlined in the Audit Tracking Log included in the Commission packet. She then told the Commissioners that 33 Annual Statements have been submitted by the retirement boards to date and the Audit Staff will shortly begin reviewing them.

Compliance Unit

John Galvin reported that PRIM's return for February was 1.91%. The fund balance as of February 29, 2024 was \$102.5 billion.

Mr. Galvin told the Commission that in a recent meeting of PRIM's Investment Committee, they discussed using Artificial Intelligence ("AI") for both investing and management purposes. PRIM indicated that development would continue throughout the year with "baby steps" into the operation of the fund.

Executive Director's Report

Mr. Keefe discussed numerous staff activities since the last Commission meeting, which are highlighted in the meeting materials. He reported on several organizational changes and promotions that were made recognizing staff's commitment to the goals and priorities of the Commission. He reported that several staff presented at the March 21, 2024 Administrator's Training held in Norwood with over 40 in attendance. He also reported that he and Patrick Charles had attended the Fall River City Council meeting on March 26, 2024 regarding the selection of the Fifth Member of the Fall River Retirement Board. He further indicated that included in the Commission packet is PERAC's Second Quarter Education memo highlighting the list of educational opportunities for board members.

Mr. Keefe then discussed the recent report of the Office of the Inspector General titled "Post-Retirement Earnings Limits for Massachusetts Public Employees" which called for legislative action to strengthen enforcement of the statutory post-retirement earnings limits either by funding and enhancing the authority of PERAC or creating a new enforcement agency. It echoed PERAC's position in allowing the salary used in the pension calculation to determine post-retirement earning capacity.

Mr. Keefe also reported that both the Massachusetts Association of Contributory Retirement Systems ("MACRS") and the National Conference of Public Employee Retirement Systems ("NCPERS") have upcoming conferences if the Commissioners wish to attend. The NCPERS Conference will be held May 19-22, 2024 in Seattle, WA and MACRS will be held from June 1-5, 2024 in Hyannis, MA. He noted that this year is the Trustees Educational Seminar for MACRS which they hold every three years beginning on the Saturday before the Annual Conference and that a number of PERAC staff will be presenting.

Commissioner Guido made a motion to approve attendance at the NCPERS Conference held in Seattle, WA from May 19-22, 2024 and attendance at the Spring MACRS Conference held in Hyannis, MA from June 1-5, 2024 in accordance with PERAC Policy #97-002. Commissioner Leung-Tat seconded the motion and a roll call vote was taken as follows:

Chairman Philip Brown YES, Commissioners James Guido YES, Jennifer Sullivan YES, Kathleen Fallon YES, and Michael Leung-Tat YES and the motion was adopted.

Chairman Brown then announced that the next Commission meeting will be held on Wednesday, May 8, 2024 at 11:00 AM at the PERAC offices.

Commissioner Leung-Tat made a motion to adjourn the meeting. Commissioner Guido seconded the motion, and a roll call vote was taken:

Chairman Philip Brown YES, Commissioners James Guido YES, Jennifer Sullivan YES, Kathleen Fallon YES, and Michael Leung-Tat YES. Thus, the motion was adopted. The meeting was adjourned at 12:05 PM.

Commission Meeting Documents

Commission Agenda for the meeting of April 10, 2024

Commission Minutes dated January 30, 2024 – Executive Director Search Committee Meeting

Commission Minutes dated March 13, 2024

Actuarial Update

Investment Return Assumption Summary

Commonwealth 2023 Valuation Results and 2024 Estimates

Legal Update

Robert Melchionda v. Teachers' Retirement System & PERAC, CR-21-0674

Gary Dixon v. Lynn Retirement System, CR-16-0289 & CR-19-0469

Legislative Update

Memorandum regarding Legislative updates

Audit Update

Adams Retirement Board Audit

Plymouth County Retirement Board Audit

Concord – Follow-Up Letter

Hingham – Follow-Up Letter

Audit Tracking Report

Compliance Update

Memorandum regarding Compliance updates

PRIM Summary of Plan Performance – As of February 29, 2024

Executive Director's Report

Staff Activities Memorandum

PERAC Memorandum #11/2024 – 2nd Quarter Education Memorandum

Office of the Inspector General Report – Post-Retirement Earnings Limits for Massachusetts Public Employees, dated March 26, 2024

Boston Globe Article regarding oversight on post-retirement earnings in Massachusetts, dated March 26, 2024

Notice regarding the NCPERS 2024 Annual Conference & Exhibition (ACE) May 19-22, 2024, Seattle, WA

Notice regarding the MACRS Spring 2024 Trustees Educational Seminar & Annual Conference, June 1-5, 2024, Hyannis, MA

Approved:



Philip Y. Brown, Chairman
Public Employee Retirement
Administration Commission