

Commission Meeting Minutes

October 16, 2019

Chairman Philip Y. Brown called the meeting (held at the PERAC Office, 5 Middlesex Avenue, Somerville, Massachusetts) to order at 1:05 PM. He then stated that the Commission meeting is being tape recorded and this will be so noted in the minutes.

Chairman Brown acknowledged the other Commissioners present: Commissioners Timothy Dooling, Kathleen Fallon, Kate Fitzpatrick, and James Machado. Commissioner Robert McCarthy participated remotely pursuant to 940 CMR 29.10. Therefore, the Chairman announced, any votes in this meeting shall be taken by roll call vote. Commissioner Jennifer Sullivan was not in attendance.

PERAC Staff present: Executive Director John Parsons, Deputy Executive Director of Policy Joseph Martin, Deputy Director of Administration Caroline Cárcia, General Counsel Judith Corrigan, Actuary John Boorack, Compliance Director Tom O'Donnell, Audit Director Caryn Shea, Senior Associate General Counsel Ken Hill, Senior Associate General Counsel Patrick Charles, Associate General Counsel Katie Brady, Project Manager Anthony Tse, Communications Director Natacha Dunker, Compliance/Investment Data Coordinator Cheryl Johnson, and Senior Executive Assistant Kim Boisvert.

Ms. Boisvert announced the following guests in attendance for all or part of the meeting: Sean Neilon representing the Massachusetts Teachers' Retirement Board, Frank Valeri representing the Massachusetts Retirees' Association, Robert Ward representing MACRS, and Attorney Daniel Fogarty representing MASSCOPS.

Commissioner Machado made a motion to adopt the September 11, 2019 Commission meeting minutes. Commissioner Dooling seconded the motion and a roll call vote was taken:

Chairman Philip Brown YES, Commissioners Timothy Dooling YES, Kathy Fallon YES, Kate Fitzpatrick YES, James Machado YES, and Robert McCarthy YES, and the minutes were unanimously adopted.

Actuarial Update

Mr. Boorack thanked Samantha MacElveen and Michael Humbert for their assistance in preparing the January 1, 2019 Commonwealth Actuarial Valuation report. He stated that there are 4 components that make up the Commonwealth's pension obligation, including the State Employees and Massachusetts Teachers' Retirement Systems, and the State's obligation for Boston teachers and local recipients of cost-of-living allowances. Mr. Boorack discussed the January 1, 2019 actuarial valuation report. He reviewed the Executive Summary and compared the current and the prior unfunded actuarial liability and funded ratio. He also discussed the investment return assumption, mortality assumption, the impact of Chapter 176 of the Acts of 2011, and the risks that could affect the future financial conditions.

There was some discussion regarding the assumed and actual salary increases, normal costs, liabilities per person, level of retirement benefits, the inability of comparing Massachusetts to other States as that would be like comparing apples to oranges, the unfunded liability, and appropriations.

Mr. Boorack then discussed the January 1, 2019 Massachusetts Teachers' Valuation Report including the Executive Summary. He compared the current and the prior unfunded actuarial liability and funded ratio. He also discussed the investment return and mortality assumptions, the impact of Chapter 176 of the Acts of 2011, Retirement Plus, and the risks that could affect the future financial conditions.

Commissioner Fitzpatrick made a motion to accept the January 1, 2019 Commonwealth and the Teachers' Retirement System Actuarial Valuation Reports. Commissioner Fallon seconded the motion and a roll call vote was taken:

Chairman Philip Brown YES, Commissioners Timothy Dooling YES, Kathy Fallon YES, Kate Fitzpatrick YES, James Machado YES, and Robert McCarthy YES, and the Valuation Reports were unanimously accepted.

Legal Update

Ms. Corrigan reported on *Anthony Kennedy v. Stoneham Retirement Board & PERAC*, CR-13-298.

Mr. Hill reported on the matter of *Rodney Simmons v. Brockton Retirement Board & PERAC*, CR-15-551.

Mr. Hill then reported on the *Joseph O'Leary v. CRAB, Lexington Retirement Board & PERAC*, Suffolk Superior Court No. 1884-CV-02624 (Consolidated with No. 1884-CV-02661). He stated that PERAC must seek approval from the Attorney General's Office in order to file an appeal at the Appeals Court, and that PERAC intends to seek such permission. In the event that permission is granted, PERAC has until November 25, 2019 to file an appeal. He then reminded the Commission that there is currently a partial stay in this matter that will remain in place until judicial review is final (see PERAC Memo # 33/2018). Mr. Hill reported that Mr. O'Leary's attorney reported that they would most likely file an appeal.

Commissioner Fitzpatrick stated that she remains opposed to filing an appeal as she believes that the law is clear and she is aligned with the Lexington Retirement Board that such payments do not constitute regular compensation.

Further discussion ensued regarding PERAC's regulations and memoranda concerning the definition of regular compensation.

Mr. Parsons stated that there are legislative efforts to grandfather individuals in as a push to the Legislature to protect those who are eligible for vacation buybacks pursuant to relevant CBA provisions.

Ms. Corrigan cautioned that this matter should be held in executive session if discussed further, as it would concern litigation strategy.

Legislative Update

Mr. Charles reported that Mr. Parsons and he met with the Joint Committee of Public Service House Chairman Parisella and discussed H 23 regarding overearnings, H 24 regarding wages and H 25 regarding modifications. The above legislation was heard at the Public Service hearing on September 26, 2019 at which time PERAC staff testified. He then stated that H 26 regarding PTSD for Group 1 employees was heard on October 1, 2019. There has been no further action on any of the above bills since that time. Mr. Charles then reported that a hearing will be held on Monday, October 21, 2019 regarding the bills that have been filed on behalf of veterans.

Audit Update

Ms. Shea reported that 2 audits and 3 follow up reports have been posted on the website since the last Commission meeting and she discussed the findings for the Somerville, Reading, Webster and Milford Retirement Boards. Leominster Retirement Board did not have any findings. She reported that PERAC is also posting private audits on the website.

Ms. Shea stated that the Audit Unit has made 2 presentations, 1 at PERAC and 1 at MACRS. She then indicated that interviews will begin and 2 auditors will be hired as another Auditor has resigned. She stated that PERAC is still reviewing audit software and now creating new templates as there are now multiple audit reports. Ms. Shea reported that the Audit Roundtable meeting is scheduled for October 24, 2019, to collaborate with other CPA firms.

Compliance Update

Mr. O'Donnell reported that 1127 courses have been completed year to date, including individuals that attended the 2019 Fall MACRS Conference.

Communications Update

Ms. Dunker discussed the Communications staff, Karen McMahon who is the Graphic Designer, Michael Litvack who is the Webmaster, and Benjamin Polatin who is the Communications Specialist. She reported that there have been almost 26,000 views on our top 20 web pages and made note of the top ten (10) pages. She stated that close to 300 individuals have signed up through the website email list to receive PERAC Memos and the Pension News & Newsflash, and close to 200 have requested to receive PERAC RFP Notifications. She further reported that most of the items posted on our website are also filed under "PERAC Recent Updates" for ease of viewing. The upcoming publications being prepared include the PERAC Pension News, the Biennial Fraud Prevention Campaign Posters, and new forms. Finally, Ms. Dunker reported that despite the parking and rain on September 12, 2019, the Emerging Issues Forum was a success, 345 individuals registered and 229 people attended the Forum. She informed the Commission that the Emerging Issues Forum will likely have a new venue next year due to ongoing construction at Holy Cross.

Discussion ensued regarding the current website, the inability to find particular items, complaints of universal navigation; the "one size fits all" model is not necessarily user friendly. Ms. Dunker advised that Digital Services and the mass.gov developers are listening to user concerns and some enhancements have been made to the site addressing some of these issues. She will keep the Commission apprised of future updates to the website.

Executive Director's Report

Mr. Parsons reported on the staff activities and touched on the Public Pension Advisory Group (PPAG) Meeting, webinars held, live training and the participation at the MACRS conference. He stated that he continues to attend retirement board meetings across the Commonwealth.

Mr. Parsons stated that he has heard good feedback about the Veterans' Bill and has heard that there has been some reluctance regarding pushing the Pension Forfeiture bill forward. A third case of which we are aware of has been overturned under the Eighth Amendment has resulted in a pension forfeiture being halted. The case is *Motyka v. Worcester Retirement Board*.

Mr. Parsons updated the Commission that the attendees from the Emerging Issues Forum provided very positive comments regarding the speakers and the efforts made to accommodate the group with the parking issues. He stated that he could provide a copy of the comments received if the Commissioners would like to see them.

Mr. Parsons notified the Commission that both Commissioner Machado and Commissioner Fitzpatrick have been reappointed by their appointing authorities and congratulated both of them. He then notified the Commission that he has hired an Assistant Deputy of Research, Planning & Public Affairs who will work on legislation, policy and governmental affairs. He will start next week and comes to us from the State Auditor's Office with a background in communications and a degree from Syracuse University. Commissioner Dooling stated that this employee's move is a loss for the State Auditor and a gain for PERAC.

Mr. Parsons then distributed a survey to the Commission, at the request from the facilitator, as it applies to the Strategic Leadership Forum which will be held on November 6, 2019 at Bentley College. He requested that the Commissioners provide their priorities to Ms. Boisvert or Ms. Carcia on a scale from High to Low. He stated that this meeting will be held in a short time frame and he would like this Forum to be productive for all. Commissioner Fitzpatrick reminded the group that she has a prior commitment and will have to leave the event early.

Mr. Parsons stated that PERAC made 6 presentations at the Springfield MACRS event and credits were provided to the board members who attended. MACRS had 219 attendees at their Fall conference.

Finally, Mr. Parsons stated that there will be a Joint Disability and Audit/Fraud Sub-Committee meeting at 10:00 AM on Wednesday, November 13, 2019 at PERAC Offices.

Other Business

Chairman Brown stated that the next Commission meeting is scheduled to be held on Wednesday, November 13, 2019 at 11:00 AM.

Commissioner Fitzpatrick made a motion to adjourn the meeting. Commissioner Machado seconded the motion and a roll call vote was taken:

Chairman Philip Brown YES, Commissioners Timothy Dooling YES, Kathy Fallon YES, Kate Fitzpatrick YES, James Machado YES, and Robert McCarthy YES, and the motion was adopted. The meeting adjourned at 2:15 PM.

Commission Meeting Documents

Commission Agenda for the meeting of October 16, 2019

Commission Minutes from September 11, 2019

Actuarial Update

Draft 2019 Commonwealth and Teachers' Valuation Reports

Legal Update

Cases of Interest:

Anthony Kennedy v. Stoneham Retirement Board & PERAC, CR-13-298

Rodney Simmons v. Brockton Retirement Board & PERAC, CR-15-551

Joseph O'Leary v. CRAB, Lexington Retirement Board & PERAC, Suffolk Superior Court No. 1884-CV-02624 (Consolidated with No. 1884-CV-02661)

Communications Update

Overview of Communications Operations

Audit Update

Recent PERAC audits and follow up reports

Executive Director's Report


Staff Activities

Correspondence regarding Policy 99-001

Distributed at Meeting

Strategic Leadership survey

Approved:



Philip Y. Brown, Chairman
Public Employee Retirement
Administration Commission