

**Commission Meeting Minutes
November 10, 2021**

Chairman Philip Y. Brown called the meeting to order at 11:07 AM. Chairman Brown acknowledged the other Commissioners participating: Commissioners Kate Fitzpatrick, Michael Leung-Tat, James Machado, Richard MacKinnon, and Jennifer Sullivan. Commissioner Kathleen Fallon arrived at approximately 11:20 AM. All attendees participated remotely pursuant to Section 20 of Chapter 20 of the Acts of 2021. Therefore, the Chairman announced the meeting was being recorded and any votes in this meeting shall be taken by roll call vote.

PERAC staff remotely in attendance: Executive Director John Parsons, Deputy Executive Director Caroline Carcia, General Counsel Judith Corrigan, Assistant Deputy Director Bill Keefe, Assistant Deputy Director Ken Hill, Actuary John Boorack, Compliance Director Tom O'Donnell, Compliance Analyst John Galvin, Senior Associate General Counsel Patrick Charles, Associate General Counsel Katie Bense, Associate General Counsel Felicia McGinniss, Project Manager Tony Tse, Communications Director Natacha Dunker, Audit Director Caryn Shea, and Senior Executive Assistant Kim Boisvert.

Guests participating remotely: Nick Favorito representing the State Retirement System, Sean Neilon representing the Massachusetts Teachers' Retirement System, and John Brown representing Middlesex County Retirement System and MACRS

Commissioner Machado made a motion to adopt the October 13, 2021 Audit/Fraud Sub-Committee meeting minutes. Commissioner Leung-Tat seconded the motion and a roll call vote was taken:

Chairman Philip Brown YES, Commissioners Kate Fitzpatrick YES, Michael Leung-Tat YES, James Machado YES, Richard MacKinnon YES, and Jennifer Sullivan YES, and the minutes were unanimously adopted.

Commissioner Machado made a motion to adopt the October 13, 2021 Commission meeting minutes. Commissioner Fitzpatrick seconded the motion and a roll call vote was taken:

Chairman Philip Brown YES, Commissioners Kate Fitzpatrick YES, Michael Leung-Tat YES, James Machado YES, Richard MacKinnon YES, and Jennifer Sullivan YES, and the minutes were unanimously adopted.

Chairman Brown ratified the vote taken in Executive Session on October 13, 2021 under Purpose 1, whereas the Commission voted to bar Richard Madigan from serving as a member on a M.G.L. Chapter 32 retirement system for the failure to file the 2020 Statement of Financial Interests pursuant to M.G.L. Chapter 32, S. 20C.

Commissioner Machado made a motion to adopt the ratified vote taken on October 13, 2021 in Executive Session. Commissioner Sullivan seconded the motion and a roll call vote was taken:

Chairman Philip Brown YES, Commissioners Kate Fitzpatrick YES, Michael Leung-Tat YES, James Machado YES, Richard MacKinnon YES, and Jennifer Sullivan YES, and the motion was unanimously adopted.

Legal Update

Ms. Corrigan provided an update on two (2) cases:

- *Demeris v. Foxborough*, a published decision of the Appeals Court, contains several errors regarding the maximum age of retirement for those in public safety. PERAC filed a motion for reconsideration or modification of the Appeals Court's opinion on October 27, 2021. The parties are permitted to respond to this motion by November 12, 2021. To date, we have not received any responses.
- *Capurso v. State Board of Retirement & PERAC* is a DALA decision adverse to PERAC's position. Consequently, we have filed an objection to the decision with CRAB. DALA relied on two of its own previous decisions which are currently on appeal to CRAB. We will carefully monitor the outcome of these two cases and keep the Commission informed.

Ms. Corrigan discussed the two (2) methods for the Commission to approve its executive session minutes. The Commission could go into executive session (under Purpose 7 of the Open Meeting Law) to approve the executive session minutes of the meetings or the Commission could designate its chair or some other individual to review and approve the executive session minutes. The Attorney General's office has suggested and sanctioned the second method to review and approve the executive session minutes. Ms. Corrigan also reminded the Commission that whichever method they decide to use, they will still need to review the executive session minutes to determine, on an annual basis, if the minutes still need to be withheld from public view.

There was some discussion regarding the methods that PERAC and others have utilized in the past. It was suggested that this matter be discussed again after some additional review.

Legislative Update

Mr. Keefe notified the Commission that Representative Andy Vargas, of Haverhill, withdrew his amendment number 777 to H 4219, which he had discussed at the last Commission meeting. Mr. Keefe also stated that Representative Vargas originally filed bill HD 4445, which is a retroactive exception for disabled retirees regarding overearnings, but his bill has not yet been assigned to a committee nor has it been given a bill number. Mr. Keefe will continue to monitor this bill.

Mr. Keefe then reported that the Public Service Committee held hearings on October 19 and 26, 2021. The hearings featured bills on COLAs, retirement allowances, payment in lieu of vacation, and classification bills. House Chairman Kenneth Gordon informed those who were testifying about the group classification bills that the Committee requires a cost estimate from the retirement board to accompany any bill in order for it to be reported out favorably. In nearly all cases, this means the estimate is coming from PERAC. The Actuary is in the midst of valuations and appropriations but will

do his best to accommodate the requests. Mr. Keefe stated that PERAC would like to revisit this rule about cost estimates with the Committee for the next Legislative session.

On November 9, 2021, Public Service held its last hearing of bills filed at the start of the legislative session, and any remaining hearings will be for late-file bills. A veteran's buyback bill was among those bills heard.

He then reported that the Legislature's major focus over the last month has been on redistricting and a surplus/American Rescue Plan Act ("ARPA") bill. The House passed its version of the surplus ARPA bill and it is expected the Senate will debate its version during the week of November 8, 2021. He then stated that interestingly both chambers have included \$500 million to award bonuses between \$500-\$2,000 to private and public sector workers who earn up to 300% of the federal poverty level and worked outside the home during the state of emergency. Commissioner Machado asked what the dollar amount would be that is equal to 300% of the federal poverty level. Mr. Keefe said he would find that number and get back to the Commission.

Mr. Keefe explained that pursuant to Chapter 33 of the Acts of 2021, the Comptroller established a monthly payment schedule of just over \$27 million from October through June to meet the \$250 million in the Pension Liability Fund.

Mr. Keefe indicated the Department of Revenue reported that October revenue totaled \$2.2445 million, \$197 million or 8.7% greater than the month's benchmark and \$356 million or 17% above October 2020. DOR reports, FY22 to date, \$11.2 billion in revenue, \$723 million or 6.9% above the benchmark.

Mr. Keefe then reported that PRIM's September returns were 0.43%, for a calendar year-to-date of 14.29%, and a one-year figure of 25.44%. Through the first quarter of FY 22, PRIM is up 2.48%.

Commissioner Fallon entered the meeting during the Legislative Update.

Audit Update

Ms. Shea reported that since the last Commission meeting, PERAC has released the Lynn Audit which was an increased scope audit and she reviewed the findings with the Commission. Additionally, she reported on the findings for three follow-up audits which were conducted since the last meeting: the Chelsea, Plymouth, and Stoneham Retirement Boards. Ms. Shea reported on the audits in the field work phase, those audits waiting for board responses, those audits pending exit reviews, and, finally, she reported on the number of audits in the planning phase.

Compliance Update

Mr. O'Donnell reported that to date, there have been 1,735 course completions by board members this year. This is the tenth (10) year since Chapter 176 of the Acts of 2011 was passed, and there have been 16,311 course completions by retirement board members. He proceeded to thank the many organizations that have assisted in this great accomplishment including NCPERS, NTRS, MACRS, and many others.

Executive Director's Report

Mr. Parsons discussed staff activities since the last Commission meeting which are highlighted in the meeting materials. He reported that the State Auditor's Office is currently auditing PERAC and several individuals made a presentation to the Auditor's Office regarding our statutory authority.

Mr. Parsons notified the Commission about the parking challenges at 5 Middlesex Avenue. The new owners are building a new building next door and will be moving our parking spaces. We have 17 reserved spaces, currently slated to be moved to the Cambridge Health side of the building. The building owner is seeking alternative parking for staff. They have suggested parking at the movie theater (the owner has offered to offset some amount of the parking cost) although we await their response regarding accommodations. Mr. Parsons continued that 5 Middlesex Avenue is expected to be demolished and we are currently engaged with DCAM regarding new space as our lease expires in 1 ½ years.

Mr. Parsons said that the Pension News, Number 58, has been distributed. Mr. Parsons reported that the 2022 Schedule of Commission meetings is included in the monthly package assuming that the second Wednesday of the month will continue to work for the Commissioners. He stated that December 7, 2022 meeting listed should be the 14th instead. He then asked the Commissioners to review the schedule and let him or Ms. Boisvert know if there are any conflicts prior to next month.

Commissioner Fitzpatrick made a motion to adopt the Commission meeting schedule as proposed for 2022 at this time. Commissioner Machado seconded the motion and a roll call vote was taken:

Chairman Philip Brown YES, Commissioners Kathy Fallon YES, Kate Fitzpatrick YES, Michael Leung-Tat YES, James Machado YES, Richard MacKinnon YES, and Jennifer Sullivan YES, and the motion was unanimously adopted.

Mr. Parsons stated that Caryn Shea, Bill Keefe, and he continue to meet with the Hampden County administrator on a weekly basis to review and oversee the steps taken by the board to remedy the issues reported in the last audit. He also reported that the chairman, one of the elected members, and the executive director are all retiring at the end of the year. They are currently creating a job description for the position of Chairman. The Board will also be hiring a deputy director and an auditor. PERAC is currently conducting the 2018 – 2020 audit of the Board.

Other Business

Mr. Keefe notified the Commission that the dollar amount that is equal to 300% of the poverty level would be \$38,640 for an individual and \$79,500 for a family of four (4).

Chairman Brown announced that the next Commission meeting will be held on Wednesday, December 8, 2021 at 11:00 AM.

Executive Session – Purpose 7

At 11:51 AM Commissioner Fallon made a motion to vote that the Commission go into executive session, pursuant to its authority under General Laws Chapter 7, Section 50 and General Laws Chapter 32, Sections 21 and 23(4). It was announced that the Commission will not reconvene in open session. Commissioner Fitzpatrick seconded the motion and a roll call vote was taken as follows: Chairman Philip Brown YES, Commissioners Kathy Fallon YES, Kate Fitzpatrick YES, Michael Leung-Tat YES, James Machado YES, Richard MacKinnon YES, and Jennifer Sullivan YES, and the motion was unanimously adopted.

Commission Meeting Documents

Commission Agenda for the meeting of November 10, 2021
Audit/Fraud Prevention Sub-Committee minutes dated October 13, 2021
Commission Minutes dated October 13, 2021

Legal Update

George Demeris v. Town of Foxborough, No. 2019-P-1780
Capurso v. State Retirement Board and PERAC, CR-19-0028
Executive Session Minutes Memo

Legislative Update

Memorandum regarding Legislative updates

Audit Update

Audit Findings Cover Page
Lynn Retirement System Audit (2014-2017)
Chelsea Follow-up
Plymouth Follow-up
Stoneham Follow-up
Audit Tracking Report

Compliance Update

Memorandum regarding Compliance updates

Executive Director's Report

Staff Activities
PERAC Pension News # 58
2022 Draft Commission Meeting Schedule

Approved:



Philip Y. Brown, Chairman
Public Employee Retirement
Administration Commission