

Commission Meeting Minutes

October 9, 2024

Chairman Philip Y. Brown called the meeting (held at PERAC Offices, 5 Middlesex Ave., Somerville) to order at 11:03 AM. Chairman Brown acknowledged the other Commissioners present: Kate Fitzpatrick, Richard MacKinnon, and Jay Guido. Commissioners Kathy Fallon and Jennifer Sullivan participated remotely. Therefore, the Chairman explained, all motions made at this meeting will be voted on by roll call vote. Commissioner Michael Leung-Tat was not present for the meeting. The Chairman announced the meeting was being recorded.

PERAC Staff in attendance at the PERAC offices: Executive Director Bill Keefe, First Deputy Executive Director Caroline Carcia, Deputy Executive Director Kenneth Hill, Assistant Deputy Director Patrick Charles, General Counsel Judith Corrigan, Director of Audits Caryn Shea, Actuary John Boorack, Compliance Manager John Galvin, Senior Associate General Counsel Felicia McGinniss, Associate General Counsel Christopher Windle, Communications Director Natacha Dunker, and Project Manager Anthony Tse.

PERAC staff attending remotely: Fraud Prevention Manager Sandra King and Senior Actuarial Assistant Timothy Larkin.

Guests in attendance at the PERAC offices: Tom Gibson representing the Middlesex County and Belmont Retirement Boards.

Guests attending remotely: Sean Neilon representing the Teachers' Retirement System, John Brown representing the Middlesex County Retirement Board and MACRS, Tim Smyth representing the Boston Retirement Board, and Linda Champion.

Commissioner MacKinnon made a motion to adopt the minutes of the Commission meeting of September 11, 2024. Commissioner Guido seconded the motion, and a roll call vote was taken:

Chairman Philip Brown YES, Commissioners Kate Fitzpatrick YES, Jennifer Sullivan YES, James Guido YES, Kathleen Fallon YES, and Richard MacKinnon YES and the minutes were adopted.

Commissioner Fitzpatrick made a motion to adopt the minutes of the Legislative Sub-Committee Commission meeting of September 11, 2024. Commissioner Guido seconded the motion, and a roll call vote was taken:

Chairman Philip Brown YES, Commissioners Kate Fitzpatrick YES, Jennifer Sullivan YES, James Guido YES, Kathleen Fallon YES, and Richard MacKinnon YES and the minutes were adopted.

Commissioner Guido made a motion to adopt and open the minutes of the Executive Session meeting on September 11, 2024. Commissioner MacKinnon seconded the motion, and a roll call vote was taken:

Chairman Philip Brown YES, Commissioners Kate Fitzpatrick YES, Jennifer Sullivan YES, James Guido YES, Kathleen Fallon YES, and Richard MacKinnon YES and the minutes were adopted and opened.

Chairman Brown announced that at the September 11, 2024, Executive Session meeting, the Commission voted to bar Phillip Ciampa from serving as a member on a retirement board governed by Massachusetts Laws Chapter 32 for his failure to file his 2023 Statement of Financial Interests pursuant to Massachusetts General Laws Chapter 32, Section 20C. He stated the staff have sent numerous communications to Mr. Ciampa notifying him of his non-compliance.

Commissioner Fitzpatrick made a motion to ratify the votes taken at the September 11, 2024, Executive Session meeting. Commissioner MacKinnon seconded the motion, and a roll call vote was taken:

Chairman Philip Brown YES, Commissioners Kate Fitzpatrick YES, Jennifer Sullivan YES, James Guido YES, Kathleen Fallon YES, and Richard MacKinnon YES and the motion was adopted.

Actuarial Update

Mr. Boorack indicated that the final results of January 1, 2024, State Retirement Valuation Report did not change from his earlier presentation on September 11, 2024. He provided a re-cap and indicated that the Unfunded Actuarial Liability remained the same at \$14.1 billion and the Funded Ratio increased slightly from 71.3% to 72.5% since January 1, 2023. He indicated there was an overall gain of approximately \$196 million. He explained that the report incorporates new required disclosures under ASOP 4 requiring the disclosure of a new liability measure known as the Low-Default Risk Obligation Measure (LDROM) and disclosure of a reasonable Actuarially Determined Contribution (ADC). The LDROM discount rate will typically be vastly lower than the discount rate based on the plan's actual investment portfolio. As a result, the LDROM will be significantly greater than the plan's funded liability. For the LDROM calculation, we used a discount rate of 4.76%. Mr. Boorack indicated that the Commonwealth's current schedule meets the requirements of a reasonable amortization method under ASOP 4. As such, the Commonwealth's reasonable ADC for FY25 is equal to the scheduled FY25 payment of \$4.50 billion.

Commissioner MacKinnon made a motion to accept the results of the Draft State Valuation Report as of January 1, 2024, and release the final valuation report. Commissioner Guido seconded the motion, and a roll call vote was taken:

Chairman Philip Brown YES, Commissioners Kate Fitzpatrick YES, Jennifer Sullivan YES, Kathleen Fallon YES, James Guido YES, and Richard MacKinnon YES and the motion was adopted.

Legal Update

Judith Corrigan provided the Commission with an update on the Hartnett Supreme Judicial Court case, which concerned the anti-spiking statute of G.L. c. 32, § 5(2)(a). Ms. Corrigan informed the Commission that after a lively discussion between the Legal Unit, the Executive Director, and General Counsel for the Boston Retirement Board, it was determined that PERAC was not going to seek either an appeal of the case or a request for clarification. Ms. Corrigan also informed the Commission that PERAC had issued Memo #26 of 2024 to the retirement boards informing them of the Hartnett decision and steps they must take to enforce this decision.

Felicia McGinnis provided the Commission with an update on the case of Joseph Cafarelli v. City of Revere & Brian Arrigo, No. 1884-cv-02520 (Sept. 12, 2024). This case resulted from two Opinion Letters issued by PERAC in February and April 2023 concerning a settlement agreement between the City of Revere and Mr. Cafarelli. The settlement agreement provided a lump sum award as well as the requirement that Mr. Cafarelli be credited with years of service from June 2017 to November

2019, which would result in a recalculation of his retirement allowance. Mr. Cafarelli was to remit contributions to the Revere Retirement System (“the Board”) for that period of service. PERAC informed Mr. Cafarelli and the Board that because no backpay was awarded, he could not be granted the creditable service time, nor could he have his retirement allowance recalculated. Additionally, if he were to be granted back pay, for Mr. Cafarelli to receive creditable service and have a recalculation of his retirement allowance PERAC Memo #28/2001 requires him to repay his retirement allowance received during that period to the Board. This is because Chapter 32 does not allow an individual to be both a member in service and a retiree at the same time. PERAC instructed that until this repayment was made, Mr. Cafarelli could not have his retirement allowance recalculated and so the Settlement Agreement could not be enforced as written.

On June 12, 2023, PERAC received the Plaintiff’s Motion to Enforce the Settlement Agreement and/or Reopen Case and Motion to Join the Board and PERAC as Necessary Parties that had been filed in Suffolk Superior Court. PERAC filed objections to the Motions as Mr. Cafarelli did not exhaust his administrative remedies pursuant to G.L. c. 32, § 16(4). His appeal should have first been filed with the Contributory Retirement Appeal Board (“CRAB”) and so Superior Court was not the proper venue to challenge PERAC’s and the Board’s determination. PERAC further argued that the Settlement Agreement could not be enforced as written because it violated Chapter 32.

On September 12, 2024, the Superior Court issued its Order denying the Plaintiff’s Motion to Join the Board and PERAC as Parties and denying the Motion to Enforce the Settlement Agreement and/or Reopen the Case for trial. That same day the Plaintiff filed an appeal of the Court’s Order, specifically regarding the denial of his request to reopen the case.

Ms. Corrigan provided an update on the case of Ortiz v. PERAC & Cambridge Ret. Bd., CR-23-0481 (Sept. 20, 2024), which involved the calculation of an accidental disability retirement benefit for a member who was awarded a benefit pursuant to the Heart Law presumption. The Division of Administrative Law Appeals (“DALA”) rejected PERAC’s longstanding policy of calculating disability benefits for presumption cases by using the date the member last received regular compensation as the “date of injury.” This policy had been used because setting an actual date of injury in a presumption case is an impossibility. Instead, DALA determined that the “date of injury” in this case should be set at the date that Mr. Ortiz left his position, despite continuing to receive payments pursuant to G.L. c. 41, § 111F until his retirement. PERAC has filed objections to this decision with CRAB.

Legislative Update

Mr. Charles reported that PERAC will file its legislative package ahead of the November 6, 2024, deadline. He indicated that we will be reaching out to a member of the House and Senate to file our bill relative to emotional disabilities, An Act Relative to PTSD and Accidental Disability.

Mr. Charles indicated that he presented at Emerging Issues on September 18, 2024, about recently passed legislation and will again be presenting at a webinar on October 23, 2024, as part of PERAC’s educational efforts. He indicated that memoranda have been released to the retirement boards on recently passed legislation, with two more memoranda remaining relating to Return to Service provisions and the Violent Act Injury disability provisions that will be released shortly.

Mr. Charles reported that DOR’s August revenue was \$2.622 billion, \$192 million or 7.9% more than actual collections in August of 2023. This figure is below benchmark by \$14 million or 0.5%.

Lastly, Mr. Charles reported that PRIM's return for August was 1.58%. The calendar year to date return through August 31 was 8.6%. The fund balance as of August 31 was \$109.1 billion.

Audit Update

Caryn Shea reported that since the last Commission meeting, PERAC has released the Berkshire County and State Retirement Board Audits and follow-up audits for the Hull and Weymouth Retirement Boards. Ms. Shea explained that the Berkshire County Audit had no findings and reported on the findings outlined in the State Retirement Board audit. She further explained that most of the items have been resolved in the follow-up audits and for those items not resolved, PERAC will be following up with those boards in the coming months. Ms. Shea explained that we are still seeking a part-time auditor to join the Audit Unit, and that the Unit is preparing for the year end Annual Statement filings.

Executive Director's Report

Mr. Keefe discussed numerous staff activities since the last Commission meeting, which are highlighted in the meeting materials.

He noted that PERAC's Emerging Issues Forum was held on September 18, 2024. Over 200 people registered, and we have received good feedback and positive reviews of the presenters and topics. This year the event was at a new facility than past years and we received positive feedback on the new location.

Mr. Keefe reported that this year's MACRS Fall Conference will be held in Springfield, MA from December 8-11, 2024, if any Commissioners are interested in attending.

Commissioner Fitzpatrick made a motion to approve attendance at the Fall MACRS Conference from December 8-11, 2024, in accordance with PERAC Policy 97-002. Commissioner MacKinnon seconded the motion, and a roll call vote was taken as follows:

Chairman Philip Brown YES, Commissioners Kate Fitzpatrick YES, Jennifer Sullivan YES, James Guido YES, Kathleen Fallon YES, and Richard MacKinnon YES and the motion was adopted.

Mr. Keefe reported that the IT Unit and Compliance Unit have rolled out PROSPER enhancements related to the collection of cashbooks recently.

He further reported that he will be making a presentation at the Mass. Municipal Association Human Resource Directors' meeting along with Commissioner Fitzpatrick on Friday, October 25, 2024.

Lastly, Mr. Keefe reported that demolition and construction has begun at 10 Cabot Road, Medford, MA. He indicated that representatives from DCAMM, Brookwood, Smith Architects, VBA Construction and PERAC attended a kick-off meeting on Friday, October 18, 2024 at the new site to discuss project timelines, outstanding issues, and any changes or updates needed. He indicated that we walked through the construction site, which was in the middle of demolition, but got a good sense of the space and will continue to have weekly project meetings with the project team.

Chairman Brown then announced that the next Commission meeting will be held on Wednesday, November 13, 2024, at 11:00 AM at the PERAC offices.

Commissioner MacKinnon made a motion to adjourn the meeting. Commissioner Guido seconded the motion, and a roll call vote was taken as follows:

Chairman Philip Brown YES, Commissioners Kate Fitzpatrick YES, James Guido YES, Kathleen Fallon YES, Jennifer Sullivan YES, and Richard MacKinnon YES. Thus, the motion was adopted. The meeting was adjourned at 11:50 AM.

Commission Meeting Documents

Commission Agenda for the meeting of October 9, 2024

Commission Minutes dated September 11, 2024

Legislative Sub-Committee Minutes dated September 11, 2024

Executive Session minutes dated September 11, 2024

Actuarial Update

Draft State Actuarial Valuation Report – As of 1/1/24

Legal Update

Joseph Cafarelli v. City of Revere & Brian Arrigo, No. 1884-cv-02520

Ortiz v. PERAC, and Cambridge Retirement Board, CR-23-0481 (2024)

Legislative Update

Memorandum regarding PERAC's legislative filings for the 2025-2026 Legislative Session

Memorandum regarding Legislative updates

Audit Update

Berkshire County Retirement Board Audit

State Retirement Board Audit

Hull Retirement Board Follow-Up Audit

Weymouth Retirement Board Follow-Up Audit

Audit Tracking Report

Executive Director's Report

Staff Activities Memorandum

PERAC Memorandum #25, 2024 – 4th Quarter Education

Approved:



Philip Y. Brown, Chairman
Public Employee Retirement
Administration Commission