

Commission Meeting Minutes
June 14, 2017

Chairman Brown called the meeting (held at the PERAC Office, 5 Middlesex Avenue, Somerville, Massachusetts) to order at 11:12 AM. He then acknowledged the other Commissioners present: Commissioners Timothy Dooling, Kathy Fallon, Kate Fitzpatrick, and Jennifer Sullivan. Commissioner James Machado participated remotely due to illness per the Attorney General's Open Meeting Law 940 CMR 29.10. Commissioner Robert McCarthy was not in attendance.

Chairman Brown announced that the Commission meeting is being tape recorded and this will be so noted in the minutes. He stated that all votes will be by roll call vote due to remote participation.

PERAC Staff Present: Executive Director Joseph Connarton, Deputy Executive Director Joseph Martin, General Counsel and Deputy Director John Parsons, Actuary James Lamenzo, Director of Strategic Planning Mike DeVito, Chief Auditor Caryn Shea, Compliance Officer Tom O'Donnell, Compliance Counsel Derek Moitoso, Senior Associate General Counsel Ken Hill, Associate General Counsel Patrick Charles, Director of Administrative Services Caroline Carcia, Compliance Analyst Cheryl Johnson, Senior Executive Assistant Kim Boisvert, and Summer Intern James Forse

Ms. Boisvert announced the following guests in attendance: Sean Neilon representing Massachusetts Teachers' Retirement System, and Paul Shanley representing Amity Insurance.

Commissioner Fitzpatrick made a motion to adopt the May 10, 2017 Commission meeting minutes. Commissioner Fallon seconded the motion. A roll call vote was taken as follows:

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

Actuarial Update

Mr. Lamenzo reviewed the final cost analysis for the Early Retirement Incentive (ERI) for the Department of Transportation (DOT) Toll Collectors. He stated that this cost analysis will be included in a report which is scheduled to be distributed by June 30 according to statute. The increase in actuarial liability was estimated in the recently released January 1, 2017 State Retirement System valuation report. He stated that 117 members took advantage of the ERI. He stated that this is a "true" ERI as all positions were eliminated and the salary savings to the System is \$7 Million in the first year. The DOT will make a one-time lump sum payment to the State Retirement System on June 30, 2017 in the amount of \$10,759 Million to cover the entire cost of the ERI.

Legal Update

Mr. Parsons stated that Ms. Corrigan is representing PERAC at DALA regarding the *McLaughlin* cases. He proceeded to update the Commission about the *Vernava* case which was

transferred to the Supreme Judicial Court (“SJC”) sua sponte as it pertains to sick and vacation leave being considered regular compensation.

Mr. Hill then reported about *Delores Facey v. City of Boston, PERAC, and Boston Retirement Board*, Suffolk Superior Court, C.A. No. 2014-1267-A, and *Eugene Reardon v. PERAC*, CR-15-91.

Legislative Update

Mr. DeVito updated the Commission on PERAC’s legislation. H. 18: An Act Repealing Chapter 32, Section 90G³/₄, the language passed as Outside Sections in both the House and Senate and are now part of their respective FY’18 Budgets. He then reported that H. 19: An Act Providing for Continuing Education Credits Flexibility, and H. 20: An Act Relative to Chapter 32, Section 15(7) Determinations were heard before the Joint Committee on Public Service and no action has been taken on these bills since then.

Audit Update

Ms. Shea reported that the audit staff is currently auditing the Clinton, Needham, North Adams, and Westfield Retirement Systems. She further stated that the Hingham Retirement System audit was posted on the PERAC Web Page since the last Commission meeting and she briefly reported on the findings. Ms. Shea then reported that PERAC has not completed any six-month follow up reports since the last Commission meeting.

Ms. Shea stated that there will be a new Auditor starting this week and she is conducting interviews for an additional Auditor.

Mr. Connarton stated that Mass Hires is a new tool available for state agencies and has proven to be very helpful in identifying candidates for us.

Compliance Update

Ms. Johnson reported that staff has approved 40 acknowledgements for various asset classes this year. She continued that PROSPER is going well. The educational credits for board members are being updated for those that attended the MACRS and NCPERS conferences. She stated that out of 550 board members, 70 SFI’s remain outstanding and about 25% of those are inactive members. Ms. Johnson stated that a reminder has been sent to the respective 70 remaining members.

Executive Director’s Report

Mr. Connarton introduced Mr. James Forse, our summer intern from Haverford College in Pennsylvania, and stated that he is assisting the legal unit. Mr. Connarton then made note of the staff activities that have occurred since the last Commission meeting. He also noted the Secretary of the Commonwealth has issued a bulletin which clarifies that local, regional, and county retirement boards should be viewed as municipal units for purposes of the updated Public Records Law.

Mr. Connarton then reported that PROSPER seems to be going well, the first roll out was the Compliance Unit and 90% of the board members have registered and responded positively to date. He stated that Ms. Kate Hogan, Disability Unit Manager, has conducted educational training on the Disability Portal at various locations including one session just held at the recent MACRS Conference. The Disability Portal should be rolled out mid-June and the Audit/Fraud and Investment functions will be available by the first quarter of 2018.

Mr. Connarton stated that according to Policy Number 99-001 PERAC's Fiscal Year 2018 budget has been distributed to A&F, Comptroller's Office, House and Senate Ways and Means, as well as the House and Senate Committees on Public Service.

Mr. Connarton gave an update as it pertains to the MACRS Spring Conference. He stated that Commissioners Dooling, McCarthy, and Machado were in attendance. He continued that the conference was very substantive with 10 PERAC staff members who gave presentations. He stated that the tone of this conference was much better than in the past. He stated that the conference was very well attended and Kathleen Kiely-Becchetti did an excellent job of getting this conference together.

Commissioner Dooling echoed Mr. Connarton's remarks and stated that the presentations provided by PERAC were very well done.

Chairman Brown inquired if there was any discussion about the Channel 5 report on board member travel.

Mr. Connarton reported that given the recent Channel 5 report, he thought it prudent to say something at the MACRS Conference. He stated that PERAC has been providing guidance on travel since 2002 and the systems were required to submit supplemental travel regulations for approval. He stated that the staff and board members of systems are able to attend national conferences to which they have an affiliation. Any public funds expended can be questioned by the public. He believes that going out of state 5, 6, or 7 times per year is not necessary and to have 5 board members from the same system each rent a car is out of line. The board does have to function as prudent investors, they are trustees of the fund, but the Commission is not responsible for regulating common sense.

Commissioner Fallon inquired if the retirees could sue board members for violating their respective fiduciary duties?

Mr. Connarton answered that the retirees could sue on behalf of the system. He continued that especially with the recent Pioneer Institute report and all that goes on out there in the media, some members should be more sensitive regarding spending public funds. He continued that some boards will not even travel out of state. The real issue is a matter of excess, reasonableness, and the prudent exercise of common sense.

Mr. Connarton notified the Commission that we are going to put together three road shows, in state, for the administrators of the systems. We used to host a three day training session for administrators at UMass Amherst years ago. Given all the changes in the statute regarding educational credits for members it has gotten difficult to have the time for training the administrators. Therefore, we will be hosting three one-day training sessions in Hadley on

August 10, Hyannis on October 17, and Danvers on November 14. We will send out further information in the near future.

Mr. Connarton updated the Commission about the Special Commission on Pension Forfeiture, as created by Chapter 133 of the Acts of 2016, and directed to “make recommendations, including any proposed legislation, and to file its recommendations to the Legislature”. He stated that Mr. Charles was the attorney on this Commission and did an outstanding job researching and preparing the proposed legislation. The SJC found that the Commonwealth’s pension forfeiture statute is a fine under the 8th Amendment to the United States Constitution in the *Bettencourt* case. They halted Bettencourt’s forfeiture, and suggested that the Legislature might want to act. The significant factor in the SJC’s decision was that the forfeiture penalty assessed to Bettencourt was not proportional to the crimes committed. Mr. Connarton stated that Mr. Charles conducted a comprehensive review of forfeiture statutes in other states, comparing and contrasting the scope and severity of those statutes with the Massachusetts law. After meeting several times the Commission voted to remove misdemeanor crimes from the scope of the forfeiture statute, changing from full forfeiture to a tiered forfeiture amount, and made other suggestions for the Legislature to address. Mr. Connarton stated that there is some controversy regarding the report and that he would be meeting with Chairman Parisella to discuss. He will keep the Commissioners updated as more information becomes available.

Commissioner Fitzpatrick stated that there were some interesting concepts in this report.

Commissioner Machado stated that he is concerned with removing misdemeanors from the law. He stated that if you compare the dollar amount of loss, a few misdemeanors could easily pass for larceny. There is a difference if someone breaks the law once or continuously and could end up being a large sum of money.

Mr. Connarton stated that District Attorney Morrissey had much to say about this same matter. He believes that it will be interesting to hear what would be said during the public hearings. Mr. Connarton will keep the Commission updated about any possible public hearings that may occur.

Mr. Connarton then reminded the Commission that PERAC will be hosting the 13th Annual Emerging Issues Forum on September 14, 2017, once again at the College of the Holy Cross in Worcester.

Chairman Brown stated that in the past the Commission has held a couple of monthly meetings in different locations for more exposure to the outlying communities. He then inquired if there was an interest to have the Commission meet elsewhere.

After discussion, the Commissioners decided that due to the cost and the attendance PERAC would not take the monthly meeting on the road in 2018.

Mr. Connarton made note of the letter, which was distributed, to the Editor of *Pensions & Investments* from Mr. O’Donnell. The letter is a follow up to an earlier article dated April 17, 2017 entitled “*To join, or not to join, is debate for some local funds*” as Commissioner McCarthy requested.

Mr. Connarton then reported that he would be going on vacation and Mr. Martin and Mr. Parsons will keep the office running.

Other Business

Chairman Brown stated that the next Commission meeting is scheduled for July 12, 2017.

Commissioner Dooling made a motion to adjourn the meeting. Commissioner Fitzpatrick seconded the motion. A roll call vote was taken as follows:

Chairman Philip Brown YES, Commissioners Timothy Dooling YES, Kathy Fallon YES, Kate Fitzpatrick YES, James Machado YES, and Jennifer Sullivan YES and the minutes were adopted. The meeting adjourned at 1:06 PM.

Commission Meeting Documents

Commission Agenda for the meeting of June 14, 2017

Commission Minutes from May 10, 2017

Legal Update

Appeals Court email regarding 2017-P-0164, the *Vernava* case
PERAC Memos and cases regarding *Delores Facey v. City of Boston*, *PERAC and Boston Retirement Board* and *Eugene Reardon v. PERAC*

Legislative Update

Monthly Legislative Agenda and bullet points outlining legislation

Audit Update

Recent PERAC Audit

Executive Director's Report

Updated Staff Activities Memo

Secretary of State Bulletin 01-17, regarding Public Records

Letters distributing PERAC's Fiscal Year 2018 budget

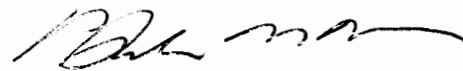
Distribution Letters and Report of The Chapter 133 of the Acts of 2016 Commission

Documents Distributed at Meeting

1/1/17 Cost Analysis of Early Retirement Program for the State Retirement System

Letter to Editor of *Pensions & Investments* following up on an earlier article dated April 17, 2017 entitled "*To join, or not to join, is debate for some local funds*"

Approved:



Philip Y. Brown, Chairman
Public Employee Retirement
Administration Commission