

August 17, 2022

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The meeting of the Middlesex County Retirement Board convened at 10:00 A.M. Present at the Board's offices were Chairman Thomas Gibson and Board members Brian Curtin, John Brown, and Joseph Kearns. Board member Robert Healy was not in attendance. Lisa Maloney, Chief Administrative Officer, was also present.

The Pledge of Allegiance was recited.

At this time, the Board reviewed the Consent Agenda. Ms. Maloney noted there was a typographical error on Agenda item #3d with respect to the retirement date of a member. There being no requests to remove items from the Consent Agenda,

On motion duly made by Mr. Curtin, seconded by Mr. Brown, it was moved to approve Consent Agenda items # 3(a) through #3(o) as amended.

The motion passed.

At 10:10 A.M.,

On motion duly made by Mr. Brown, seconded by Mr. Kearns it was moved to enter into Executive Session under Purpose 7 of the Open Meeting Law: "To comply with, or act under the authority of, any general ... law", that law being Exemption (c) of the Public Records Law (G.L. c. 4, s. 7(26)(c)) exempting personnel and medical files or information and other materials or data relating to a specifically named individual, the disclosure of which may constitute an unwarranted invasion of personal privacy, following which the Board will reconvene in open session.

Roll Call Vote

John Brown	YES
Thomas F. Gibson	YES
Brian Curtin	YES
Joseph Kearns	YES

The motion passed.

At 11:10 A.M.,

On motion duly made by Mr. Brown, seconded by Mr. Kearns, it was moved to come out of Executive Session.

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Roll Call Vote

John Brown	YES
Thomas F. Gibson	YES
Brian Curtin	YES
Joseph Kearns	YES

The motion passed.

Chief Administrative Officer's Report

Next, Ms. Maloney delivered the Chief Administrative Officer's report and referred the Board members to her written summary of the System's activities since the last Board meeting.

She reported all newly retired members expecting their first payment on July 31st were processed and the FY 2022 COLA payments were applied to all eligible benefit recipients.

Final notices were mailed to benefit recipients who have not returned their affidavits. Ms. Maloney shared the list of those retirees receiving final notices with the Board. If their affidavits are not received by August 29th, their benefits will be suspended.

PERAC has notified the Board that seven disability retirees have not complied with the filing requirements of G.L. c. 32, § 91A regarding their 2021 Annual Statements of Earned Income. Show cause hearings are scheduled for August 18, 2022, for three of those members whose benefits were terminated in prior years and not yet reinstated by PERAC.

After review,

On motion duly made by Mr. Kearns, seconded by Mr. Brown, it was moved to terminate the accidental disability retirement benefits of retirees Daniel Brox, Joseph Hanslip, and Allena Downey should they fail to appear for their show cause hearing on August 18, 2022.

The motion passed.

There are four disability retirees whose show cause hearings are scheduled for August 22, 2022. The Board directed Ms. Maloney to contact the members via phone or email to counsel them on the consequences of failing to file their 2021 Annual Statement of Earned Income and report back at the September meeting.

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Next, the Chairman reviewed PERAC's recent technical advisory with respect to retirement allowance waivers pursuant to G.L. c. 32, § 90B. PERAC advised that annual waivers of retirement allowances to avoid the post-retirement earnings restrictions are not permitted.

Ms. Maloney resumed her report and noted that PERAC determined that disability retiree Robert Morrison owes the System more than \$3,000 in excess earnings. To avoid suspension of his retirement allowance, Mr. Morrison must pay the amount due by September 30, 2022.

Ms. Maloney presented a request from member Cindy Martineau for a ten-year installment plan to buy back her refund. Ms. Martineau's redeposit is more than \$70,000. After rolling funds over from another retirement vehicle, the amount due the System is approximately \$36,500.

After review,

On motion duly made by Mr. Brown, seconded by Mr. Kearns, it was moved to approve a ten-year installment plan for Ms. Martineau to repay her redeposit.

The motion passed.

The Board further directed Ms. Maloney to develop an installment plan policy and explore accepting installment plan payments through payroll deductions.

Ms. Maloney and the Board discussed the Town of Bedford's failure to report payroll information in a timely manner. Ms. Maloney is to provide a status update to Mr. Gibson who will contact the Town Manager, if necessary.

The total amount billed for the FY 2023 appropriation was \$156,350.175. All units have submitted payment.

Staff continues to collect data from the employer units with respect to members who were called to active military duty between January 1, 2021 and December 31, 2021. The units will be billed for member deductions related to the leave periods in September.

Ms. Maloney next reported that the total amount billed, with adjustments, for CY 2022 Section 3(8)(c) invoices was \$5,424,523.57. All but two retirement systems, North Attleboro and City of Worcester, have submitted payment.

Ms. Maloney also reported that payment has been received from the State Retirement System in the amount of \$2,731,210.79 in accordance with the Second

Memorandum of Understanding, settling all Section 3(8)(c) liability between the systems through CY 2021.

Finally, Ms. Maloney reported on the various capital improvements being made to the building, including the security system, window replacement, and the elevator modernization project.

At 12:15 p.m. the Board recessed for lunch and reconvened in regular session at 1:00 p.m. with the Chairman's report.

Chairman's Report

The Chairman reported that the PERAC Commission did not meet this month.

Next, he reviewed the System's investment performance, noting that the PRIT Core Fund was up approximately 3% for the month of July.

With respect to legislative matters, the Chairman reported on Chapter 147 of the Acts of 2022. The new law protects retirees and certain active members in those retirement systems where payments to employees in lieu of vacation leave were treated as regular compensation, with retirement contributions withheld.

Mr. Gibson stated the legislation applies to retirement systems that were treating vacation buybacks as pensionable as of May 1, 2018. In the Middlesex County Retirement System, payments in lieu of unused vacation, personal days and sick leave are not regular compensation. Since the System was not accepting retirement contributions from vacation buybacks on May 1, 2018, it is the Chairman's opinion that the legislation has no impact upon the System. Further advisories are expected from PERAC.

Next, the Chairman reported on the Supreme Judicial Court's decision in *O'Leary v. Contributory Retirement Appeal Board, et. al.*, in which the Court determined that vacation buybacks are not pensionable. The appeals of two members with vacation buybacks that were excluded from regular compensation will be reviewed in light of the Supreme Judicial Court's decision and Chapter 147 of the Acts of 2022.

Next, the Chairman provided a status update of other appeals pending before the Division of Administrative Law Appeals and the Contributory Retirement Appeal Board.

At 1:40 p.m., Mr. Curtin departed the meeting.

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At this time, the Chairman reviewed the revised draft of the Board's policy on Third Party Recovery. Much discussion was had as to the appropriate amount to offset and what guidelines should be used to determine same.

After review,

On motion duly made by Mr. Brown, seconded by Mr. Kearns, it was moved to adopt the Third Party Recovery Policy as amended to include an offset range of 20%-33 1/3%.

The motion passed.

Next, the Chairman presented a revised draft of the policy on Section 3(8)(c) Reimbursements.

After review,

On motion duly made by Mr. Curtin, seconded by Mr. Brown, it was moved to adopt the policy on Section 3(8)(c) Reimbursements as presented.

The motion passed.

The Board announced the following votes which were taken in Executive Session:

4(a.) The Board voted to approve the application for accidental disability retirement of Scott Barnes.

4(b.) The Board voted to approve the voluntary application for accidental disability retirement, and the involuntary application for ordinary and accidental disability retirement filed by the Town of Billerica, of Marc Annese.

4(c.) The Board voted to waive investigation and to conduct an application review on September 21, 2022, in the matter of Anthony D'Amato's accidental disability retirement.

4(d.) The Board voted to waive investigation and to conduct an application review on September 21, 2022, in the matter of the Town of Tewksbury's involuntary accidental disability application filed on behalf of Paul Morris.

4(e.) The Board voted to accept the medical panel reports of Hugo Peysere and schedule an investigation of the circumstances of injury in the matter of the member's application for accidental disability retirement.

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4(f.) The Board voted to accept the medical panel reports of Darrick Yates and schedule an investigation of the circumstances of injury in the matter of Billerica Housing Authority's involuntary application for accidental disability retirement filed on the member's behalf.

There being no further business to come before the Board, on motion duly made by Mr. Brown, seconded by Mr. Kearns, it was moved to adjourn at 2:15 P.M

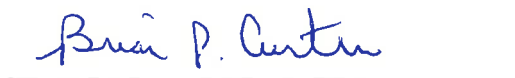
The motion passed.




Thomas F. Gibson, Chairman



John Brown, Elected Member



Brian P. Curtin, Vice Chairman



Joseph W. Kearns, Elected Member

Regular Session Documents

1. Consent Agenda – Items #3(a) - #3(o)
2. Chief Administrative Officer's Report
3. State Street Performance Summary
4. PRIM Performance Report
5. 91 A Termination Show Cause Hearings
6. Affidavit Final Notices before Suspension
7. Litigation Report
8. Draft Policy of Section 3(8)(c) Reimbursements
9. Draft Policy on Third Party Recovery