

## Minutes of the January 10, 1996 Retirement Board Meeting

The regular monthly meeting of the Retirement Board was held January 10, 1996 in Room 35, State House, Providence, RI. The meeting was called to order at 9:10 a.m. by Marcia B. Reback, Vice Chairperson.

The following members were present at roll call: Daniel L. Beardsley; Michael R. Boyce; Leonard Clingham representing Robert L. Carl, Jr., Ph.D.; William B. Finelli; James A. Gillis; Rosemary Booth-Gallogly representing Steven McAllister, Thomas Morrissey, Michael O'Keefe, Marcia Reback.

Mr. Clingham moved approval of the December 13, 1995 and there being no additions or corrections, the minutes were approved as presented.

### Executive Directors Report

Director Flaminio informed the Board that the election ballots would be counted February 7, 1996.

The Section 415 issue does not look promising. Director Flaminio spoke with Cindy Moore, NCTR counsel, who stated that pension simplification issues will not likely be included in the federal budget should one ultimately be adopted by Congress and the President.

Director Flaminio related that interest in retirement has increased significantly and that our phone lines have been extremely busy; however, applications for retirement have ceased as members are waiting to see if there is some form of incentive plan offered this spring. Ms. Flaminio indicated that one of the retirement counselors is ill and that she would move to temporarily replace her to relieve the strain on the remaining members service staff.

Lastly she informed the Board that the Unclassified Pay Plan Board Meeting which was previously canceled was rescheduled to January 18, 1996 at 5:00 p.m., Conference Room B. She invited all Board members to attend to show support for the ERSRI Personal Proposal.

### Hearing Officer Decision

ERSRI v. Gomez - At the request of her lawyer, the hearing for Ms. Gomez was postponed to the March 13, 1996 Retirement Board meeting.

### Legal Counsel Report

Mr. Carlotti, Legal Counsel for the Board, stated that the Parella (retired legislators) case and the McGrath case are wending their way through the court system. He expected that a response to the plaintiffs motion for summary judgment will be filed in the Parella case within the next few weeks. With regard to McGrath, counsel stated that the case will probably not be resolved until the end of this year or next year.

### Committee Reports

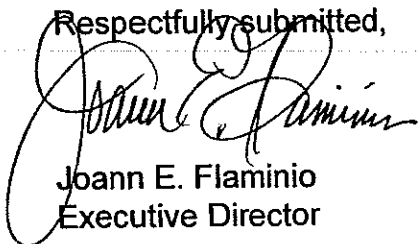
Disability Report: Mr. Finelli moved the acceptance of the Disability Sub-Committee report of the January 5, 1996 meeting, which was seconded by Mr. Clingham. The motion passed by voice vote.

Legislative Committee. Mr. Clingham informed the Board that the committee had met the previous Friday and discussed the seven proposals that originated from the Treasurer's Office. Some of the proposals were approved and will be put in legislative form. Prior to the closing day for introduction of legislation, the sub-committee will be having at least one more meeting and will be reporting back to the Board. Should any members of the Board have any further suggestions for legislation, he welcomed them to send them to the committee.

New Business

There being no further business to come before the Board the meeting adjourned at 9:18 a.m.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Joann E. Flaminio".

Joann E. Flaminio  
Executive Director

vlp

## Minutes of the February 21, 1996 Retirement Board Meeting

The regular monthly meeting of the Retirement Board was held February 21, 1996 in the Conference Room of the Employees' Retirement System, 40 Fountain Street, Providence, RI. The meeting was called to order at 3:05 p.m. by Chairperson Nancy Mayer.

The following members were present at roll call: Virgil N. Almeida, Daniel L. Beardsley; Michael R. Boyce; Louis Ciaramello; C.L.U., Leonard Clingham representing Robert L. Carl, Jr., Ph.D.; William B. Finelli; James A. Gillis; Steven McAllister, Thomas Morrissey; Rep. Antonio J. Pires; Marcia Reback and Nancy J. Mayer.

Mr. Morrissey moved and Mr. Finelli seconded the motion to approve the January 10, 1996 minutes. The minutes were approved as presented.

### Chairperson's Report

Treasurer Mayer thanked the retiring members of the Retirement Board for their past service and their outstanding participation as Board Members.

Mrs. Mayer apprised the Board of the Treasurer's Conference she attended in Washington, D.C. and of possible action on the 415 issue. She stated the performance of the pension fund recently has been very good.

### Executive Directors Report

Director Flaminio informed the Board that her personnel plan had been approved by the Unclassified Pay Plan Board and that the Retirement/ Retiree Health Manager position is in the process of being filled. She thanked those Board members that actively supported the plan.

Director Flaminio stated that she and Assistant Director Reilly had met with each of Rhode Island's Congressional representatives regarding the Section 415 issue. The latest information is that the exemption is included on a consensus list that has been approved by both the House and Senate and could be part of debt ceiling legislation that will be taken up at the end of February. However, the President wishes to include multi-employer plans (Taft-Hartley) within the exemption which may once again prevent passage.

With regard to Governor Almond's Early Retirement Legislation, she noted that current Section 415 restrictions would decrease potential Employees' Retirement System pensions for those employees that are low in age and highly paid. Ms. Flaminio again commented on the complexity of administering the Section 415 issue. Most plans simply ignore it.

On the subject of an Early Retirement Incentive, Ms. Flaminio noted that the Board had officially adopted a Code of Fiduciary Responsibility last December which requires a duty to all active and retired members of the System. Early Retirement proposals place additional financial strain on the pension fund. She provided an example of a young ERSRI member taking advantage of the current Almond proposal with an estimated pension price tag of one and a half million. She urged caution with regard to the passage of the plan.

Should such a plan ultimately be adopted, she made the following administrative recommendations: (1) a later retirement date for retirement staff participating in the plan; (2) additional staff for the Early Retirement window; and (3) a program that doesn't involve a purchase based on the amount of service credit. Mr. Clingham noted that the administration had included a section regarding later retirement for retirement system staff. Mr. Beardsley suggested that Ms. Flaminio's comments and recommendations be given to the policymakers

in order that they may fully understand the impact on the system. Mrs. Mayer commented that there should be a distinction between administrative recommendations and policy recommendations, the later which are made by the Retirement Board. Mr. Beardsley agreed with Mrs. Mayer's comments.

Director Flaminio informed the Board she is presently working on a new handbook for police and fire members.

Finally, Ms. Flaminio expressed heartfelt thanks to the retiring members of the Board and presented citations from the Governor to each of them.

### Committee Reports

Disability Report: Mr. Ciaramello moved the acceptance of the Disability Sub-Committee report of the February 9, 1996 meeting with Mr. Gillis seconding the motion. Mr. Finelli recused on Number 2 of the Disability List and Ms. Reback recused on Numbers 5 & 10 of the Disability List. The motion was voted on and passed by voice vote.

Legislative Committee. Prior to Mr. Clingham giving his report, Mrs. Mayer thanked the sub-committee for their work and Mr. Clingham in turn thanked Carol Head of the Treasurer's Office for her help. Mr. Clingham reported the committee endorsed five legislative initiatives. (1.) Teachers' Survivors Benefit Fund, (S-2779; H-8058); (2.) Optional Benefits (S-2608; H-8536) (3.) Partial Transfer of Service Credit (S-2609; H-8535) (4.) Multiple Beneficiaries (S-2610; H-8535) & (5.) Pension Revocation (S-2622; H-8537).

Ms. Reback raised a question regarding the Multiple Beneficiaries Bill S-2610. Assistant Director Reilly responded that 'present value' is not utilized in determining a pension benefit which makes allocation between multiple beneficiaries in a defined benefit plan difficult. Board member Reback also raised concerns regarding S-2622 and H-8537 and the question of what constitutes a felony. Mrs. Mayer clarified that there are many safeguards built in regarding the determination of a felony and the revocations are not automatic.

Ms. Reback moved support of S-2779 & H-8058. Mr. Finelli seconded the motion which passed by voice vote. Ms. Reback moved support of S-2608 & H-8536. Mr. Boyce seconded the motion which passed by voice vote. Mr. Morrissey moved support of S-2609 & H-8531. Mr. Beardsley seconded the motion which passed by voice vote. Mr. Clingham moved support of S-2610 & H-8535. Rep. Pires seconded the motion. A show of hands was taken and the motion failed because of lack of majority. It was moved by Ms. Reback that the Retirement Board support S-2610 & H-8535 with an amendment that each member be allowed to select one beneficiary, or multiple beneficiaries of one's immediate family defined as spouse and children. Mr. Ciaramello seconded the motion which passed by voice vote. Mr. Clingham moved to support S-2622 & H-8537. Mrs. Mayer seconded the motion. The vote: 3 in support, 7 against & 2 abstained. Motion failed.

Rep. Pires stated the bills will be heard on either March 5th or 6th.

Mr. Beardsley questioned if there had been any consideration by the sub-committee regarding the application of disability offsets for police and fire, and if the bill introduced by the Treasurer's Office regarding disability offsets had been introduced in the 1996 session. Ms. Flaminio suggested that any new bills of concern by the Board be brought to the Board meeting for discussion. Mr. Beardsley requested that the Board discuss the bill at the next meeting as a guide to his testimony on the legislation. Mrs. Mayer stated that she had introduced the bill requiring income offsets for police and firefighters collecting disability pensions. She described the bill and the changes that her office had made this year.

Election Committee: Rep. Pires informed the Board that a sub-committee meeting was held February 19th at which time they met with Mr. Heisler of the NEA Retired Teachers Association. He voiced concerns over the fact that several of their members had received duplicate ballots. Ms. Flaminio and staff determined there was no error in the retiree election, but that approximately 1,000 additional ballots were issued in the teacher election to inactive teachers and teachers working in more than one school district.

To ensure the fairness of the teacher election, the Sub-Committee voted to send an accounting of the election to the three candidates on the teacher ballot and to give each candidate an opportunity to challenge the election results by extending the normal 72-Challenge within Section Nine of the Election Rules until the close of business on Wednesday, February 28th. Copies would also be sent to teacher representative groups.

The elections within the three other membership groups (Municipal, State Employees, and Retiree) were certified by the Sub-Committee.

Rep. Pires then moved that the Board certify the election results for the Municipal, State Employees and Retiree groups. The motion was seconded by Mr. Ciaramello and passed by voice vote.

Rep. Pires moved to table the certification of the Teacher member until the appeal time of February 28 passes, at which time the sub-committee will make a recommendation back to the Board for certification. Until such time Ms. Reback and Mr. Finelli would continue as teacher representatives. Mr. Ciaramello seconded the motion which passed by voice vote.

Note: Mrs. Mayer left the Board meeting at 4:40 at which time Ms. Reback assumed the chair.

#### Hearing Officer Decision

ERSRI v. Frisella - Attorney Stephen T. O'Neill, counsel for Ms. Frisella, presented objections to the hearing officer's decision which held that Ms. Frisella did not meet the requirements of the Early Retirement Incentive in 1989 and is not entitled to a change in her current retirement benefits. Ms. Reback recused herself from chairing the appeal and turned the chair over to Boardmember Beardsley. After hearing Mr. O'Neill's presentation, Mr. Morrissey moved and Mr. Clingham seconded the motion to uphold the hearing officer's decision. Motion passed by voice vote.

Yolanda Allen: Ms. Allen's application for an Accidental Disability pension was denied by the Disability sub-committee. Attorney Joseph B. Carty, Jr., representing Ms. Allen presented her appeal. During the presentation it was revealed that Ms. Allen was re-examined by one of the independent physicians initially employed by the Retirement Board. Mr. Morrissey's moved that the matter be remanded back to the Disability sub-committee. The motion was seconded by Mr. Beardsley and Mr. Boyce and passed unanimously by voice vote.

There being no further business to come before the Board the meeting adjourned at 5.35 p.m.

Respectfully submitted,

  
Joann E. Flaminio  
Executive Director

vlp

Minutes of Actuarial Workshop

March 29, 1996

An Actuarial Workshop was held on Friday, March 29th, 1996 at the offices of the Employees' Retirement System to further discuss the Employees' Retirement System actuarial valuation as of June 30, 1995.

The following members of the retirement board were present:  
Michael O'Keefe and Linda Masse.

The following individuals were also present: Carol Head, Jim Thorsen and Steve Klampkin of the Treasurer's office; Rosemary Booth Gallogly, Budget Office; Ann Marie McMahon, House Fiscal Staff; Frank Karpinski and Joann E. Flaminio of the Retirement System.

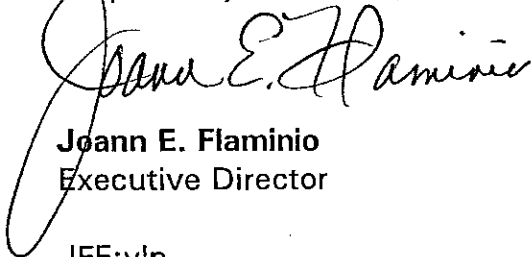
Barry Gilman and Frank Mangione represented the William M. Mercer Company.

The workshop commenced at 2:15 p.m. at which time Barry Gilman passed out a handout regarding funding for the Rhode Island Retirement Plan.

Mr. Gilman and Mr. Mangione began the workshop by addressing the actuarial assumptions presently in use in Rhode Island and the actuarial funding method required by statute. They intermittently took questions from Board members and staff present.

The workshop adjourned at 4:15 p.m.

Respectfully submitted,



**Joann E. Flaminio**  
Executive Director

JEF:vlp

Minutes of the March 13, 1996 Retirement Board Meeting

The Annual meeting of the Retirement Board was held March 13, in Room 35, State House, Providence, RI. The meeting was called to order at 9:15 a.m. by Chairperson Nancy Mayer.

The following members were present at roll call; Daniel L. Beardsley; Michael R. Boyce; Leonard Clingham representing Robert L. Carl, Jr., Ph.D.; William B. Finelli; Michael O'Keefe; Rep. Antonio J. Pires; and Nancy J. Mayer. The following newly elected members were also present at roll call. Leslie E. Clark; John Maguire; Linda M. Masse and Linda C. Riendeau.

The meeting was turned over to Rep. Pires, Chairperson of the Election Sub-Committee, to certify the election of the new teacher board members. He reported that the Sub-Committee had met prior to the board meeting and that no appeal or challenge had been received from teacher member candidates in response to the certified letter sent to each of them. Thus the Sub-Committee voted to approve the teacher election. Rep. Pires then moved that the election of the teacher members be certified by the full board thus electing William B. Finelli and John Maguire to the Board. The motion was seconded by Leonard Clingham and passed unanimously by voice vote.

Chairperson Mayer proceeded to swear in the new board members: Leslie E. Clark; William B. Finelli; John Maguire; Linda M. Masse; and Linda C. Riendeau. (Former Public Representative Michael Boyce is the new Retiree Representative.)

Mrs. Mayer welcomed the new Board members and proceeded to introduce her staff. She requested that the new members of the Board review the sub-committee descriptions and inform her office of their committee preference.

Chairperson's Report

Treasurer Mayer reported that four bills endorsed by the Board (S-2779 - Teacher Survivor Bill; S-2609 - Partial Transfer of Credit Bill; S-2608 - Optional Benefits for Ordinary Disability, and S-2610 - a Bill amending the Multiple Beneficiaries Provision) were heard by the Senate Finance Committee.

She also noted that an additional bill, S-2977, filed by Sen. Roney, was heard by the Senate Finance Committee. This bill would give the Retirement Board the authority to select its own counsel and would also make the retirement system the hiring authority for retirement system employees.

Mrs. Mayer stated that she objected to the Executive Director giving testimony on this bill. Mrs. Mayer noted that although Ms. Flaminio has a right to present testimony as a private citizen, she does not have a right to present testimony in her official capacity.

Board Member Beardsley stated he testified in support of the legislation as both Executive Director of the Rhode Island League of Cities and Towns and as a member of the Retirement Board. He took exception to the Treasurer's view of the Executive Director's role as it is his belief that the Executive Director has a right to testify before any committee in her capacity as Executive Director. He stated that administrative necessity often prohibits contacting each of the 15 board members prior to giving testimony. He added that as

someone who has watched the Legislature for many years there have been many instances in which retirement testimony was sorely needed but never given.

Attorney Barricelli stated that official acts of the Board require a majority vote.

Rep. Pires added that it is vital that elected officials receive honest and open testimony and that committee chairpersons recognize when an individual is speaking officially or privately. If necessary, they may question the witness as to whether or not he/she is testifying in an official capacity or as a private citizen.

Mrs. Mayer again reiterated that it is her opinion that policy initiatives must be supported by a majority of the Board and that Ms. Flaminio should not have testified.

Board Member Clingham, chairman of the Legislative Sub-Committee, stated that this particular bill, S-2977, was mentioned at a meeting of the Legislative Sub-Committee, but no official position was taken. Thus, all who spoke on the bill, Chairperson Mayer, Board member Beardsley, and Director Flaminio were testifying not on behalf of the Board, but simply to provide information and offer his/her own opinion.

Board Member O'Keefe noted that members of the General Treasurer's staff routinely testify on bills and it is never clear whether they are speaking on behalf of the retirement system, or on behalf of the Treasurer's office.

Board Member Beardsley stated that no proponent of S-2977 indicated that he/she was speaking on behalf of the retirement board.

Retiree Representative Boyce stated that he supports efforts by the Executive Director to monitor legislation on behalf of the retirement system.

Mrs. Mayer moved on to the nomination of a new Vice-Chairperson of the Retirement Board. Mr. Boyce nominated William Finelli. The nomination was seconded by Mr. Beardsley and Mr. Clingham. Mr. Clingham moved to close the nominations for Vice-Chairperson and Mr. Beardsley seconded that motion which passed by voice vote. There being only one nomination for Vice-Chairperson, it was moved to cast one vote for his nomination which passed unanimously by voice vote.

Mr. Finelli moved to approve the minutes of the January 10, 1996 board meeting. The motion was seconded by Mr. O'Keefe and passed by voice vote.

#### Executive Directors Report

Director Flaminio stated that Member Annual Statements would be mailed by the end of March.

She thanked the new board members who attended the Trustee orientation. Board members who did not attend the session received a bound copy of retirement system regulations as well as a book of current retirement law. She also introduced a book 'Ready or Not', a retirement planning guide used by many retirement systems across the country. It will be made available on a trial basis to prospective retirees who visit the office. She also



invited Board Members to attend a pre-retirement conference put on by the Massachusetts Teachers' Retirement Board this September.

With regard to the Section 415 issue, she noted that there is still a possibility that 415 relief will be included in debt ceiling legislation making its way through Congress.

Director Flaminio turned the meeting over to Francis Mangione and Barry Gilman of the William Mercer Company to present a summary of the June 30, 1995 Results of the Actuarial Valuation for the Employees' Retirement System (State employees and teachers). Mr. Mangione stated they would be back with additional valuations (Municipal, State Police and Judges) at the May meeting.

Mr. Mangione first explained that this report sets employer rates for Fiscal Year 1998. (July 1997).

For Fiscal Year '98, the employer contribution rate is 10.83% for state employees and 14.25% for teachers. Mr. Mangione stated that the employer contribution rate for state employees last year was 10.05% (with the 1.00% increase in the employee contribution rate.) On the state side, the actuarial gains produced by a strong investment return and the increase in the employee contribution rate were offset by actuarial losses due to the increase in the unfunded liability cost set by statute as well as other losses attributed to mortality, turnover, and retirement age. Subsequently, the 1997-1998 state employer contribution rate has increased slightly.

On the teacher side, gains in investment return and the lack of salary increases caused the teacher rate to decrease slightly for Fiscal Year 1998.

After considerable discussion, it was the consensus of the Board to delay certifying the state and teacher rates since they are not needed for Fiscal '97 state planning. It was also decided that an extra working session would be held for those Board members interested in the valuation. In response to a question from Mr. O'Keefe, Mercer also agreed to provide more history regarding previous year unfunded liability.

#### Hearing Officer Decision

ERSRI v. Gomez: The Gomez hearing was continued to a later date by request of Ms. Gomez's lawyer.

ERSRI v. Goldstein: The attorney for Eleanor Goldstein did not respond to the notification of the right to appeal in accordance with the Administrative Procedures Act. Mr. Boyce moved to uphold the hearing officer's decision which was seconded by Mr. Clingham. The motion passed unanimously by voice vote.

A short recess was called at 11:15 a.m. by Treasurer Mayer. The meeting resumed at 11:30 a.m. chaired by Vice-Chairperson Finelli. Treasurer Mayer reassumed the chair at 11:40 a.m.

Nancy Ellis: Ms. Ellis, a teacher appealing the denial of her application for Accidental Disability, was represented by Attorney Vincent Santaniello. After a presentation by Mr.

Santaniello, Mr. O'Keefe moved to accept the decision of the Disability Sub-Committee to deny Ms. Ellis' application. This motion was seconded by Mr. Beardsley. The motion passed with Mr. Finnelli recusing.

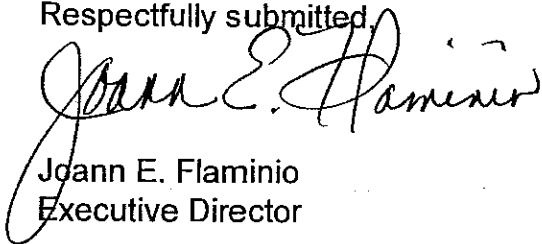
#### Committee Reports

Disability Report: Mr. Finelli moved the acceptance of the Disability Sub-Committee report of the March 8, 1996 meeting with Mr. Clingham seconding the motion. The motion was voted on and passed by voice vote.

Treasurer Mayer stated she would postpone her informational discussion of the Disability Offset Legislation to the next meeting. Board Member Beardsley, who asked for the discussion, stated that he had no objection to the item being taken off the agenda permanently.

There being no further business to come before the Board the meeting adjourned at 12.05 p.m.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Joann E. Flaminio".

Joann E. Flaminio  
Executive Director

vlp

## Minutes of the April 10, 1996 Retirement Board Meeting

The monthly meeting of the Retirement Board was held April 10, in Room 35, State House, Providence, RI. The meeting was started at 9:15 a.m. by Executive Director Flaminio.

The following members were present at roll call: Michael R. Boyce; Leonard Clingham representing Robert L. Carl, Jr., PhD.; Leslie E. Clark; Lu Cribari; Linda M. Masse; John P. Maguire; Rosemary Booth-Gallogly representing Stephen McAllister; and Linda C. Riendeau. Ms. Flaminio introduced Ms. Cribari as the new Public Representative appointed by Governor Almond.

### Executive Director's Report

NOTE: General Treasurer Mayer arrived during Executive Director Flaminio's report and assumed the chair.

Executive Director Flaminio updated Board members on the Section 415 issue. She stated that debt ceiling legislation had passed but that 415 relief was not included within the bill. Thus, the retirement system will be adhering to the Section 415 benefit limitations as previously announced.

She also referred to materials distributed to all Board members on the issue of non-discrimination. Non-discrimination rules require that retirement systems not provide benefits in favor of highly compensated employees. Should these rules ultimately be applied to public systems, it would require that public systems be radically re-engineered. This is the next federal issue that will be facing all public retirement systems.

Ms. Flaminio spoke briefly on the issue of Early Retirement. Ms. Flaminio stated that many prospective retirees bring fact sheets prepared by human resource departments which make it appear that a plan has already been adopted by the General Assembly.

Executive Director Flaminio informed the Board that the Treasury Department and the Retirement System will be staying at 40 Fountain Street. She hoped that future board meetings would be held in a new board room at 40 Fountain Street.

Ms. Flaminio then spoke on the issue of School Committee Membership. She stated that in 1994 Governor Sundlun signed a bill which codified the Board's internal policy that an individual must be employed at least 20 hours a week in order to be eligible for membership. In the municipal statute, this requirement was waived for City Councillors only. Thus, School Committee Members are no longer eligible for MERS membership. Although a number of memos have been sent to each municipality explaining the new requirements, some payroll clerks are still submitting contributions on behalf of school committee members.

Ms. Flaminio also presented to the Board members a copy of a newly designed Pension Record form. This form is sent to all members upon retirement. Since in the past it has been the subject of considerable Board discussion, it has been reformatted to provide a clear and accurate portrait of a member's retirement benefit and payment option.

Director Flaminio then introduced Frank Karpinski, Assistant Director of Finance. Mr. Karpinski spoke first about a new Deposits and Contribution Program that will allow all

participating districts to enter contribution data electronically and to eliminate re-posting at the retirement system.

Mr. Karpinski then updated the Board on the progress of a Request For Proposal for a Retirement Management Software program. At present, the proposal is 40% completed. Director Flaminio noted that at present we have only an active and retired data base that is not integrated. This posed problems during the recent election as members under the present system could receive two ballots, one as an active member and one as a retiree. Additionally, she noted that our retirement system is many years behind other systems in the automation area.

Mr. Karpinski recommended the hiring of a consultant to guide us through the vendor selection process and stated that the System would be seeking the Board's advice on this issue. Mrs. Mayer also recommended the hiring of a consultant stating that, in her opinion, it would be money well spent. Mr. Karpinski stated that once a vendor is selected, it would probably take two to three years to install a new system.

#### Approval of Minutes

Ms. Cribari moved the approval of the February 21, 1996 retirement board minutes. Mr. Clingham seconded the motion which passed by voice vote.

Ms. Cribari moved the approval of the March 13, 1996 Annual Meeting minutes. Mr. Maguire requested a change of date on page 3, paragraph 5, 1988 to 1998. Mr. Clingham seconded the motion as amended which passed by voice vote.

Ms. Riendeau moved the approval of the minutes of the Actuarial Workshop of March 29, 1996. The motion was seconded by Ms. Clark and passed by voice vote.

#### Chairperson's Report

Treasurer Mayer welcomed Ms. Cribari to the Board. She then gave a legislative update regarding the retirement bills approved by the Retirement Board. The Multiple Beneficiaries Bill (S-2610) passed the house but appears to have died in the Senate. The Optional Benefits for Ordinary Disability legislation (S-2608) has been heard in House Finance and will be heard in the Senate on April 23rd. The Teacher Survivor Bill (S-2779) has been heard in House Finance and will also be considered in the Senate on April 23. Finally, the Partial Transfer of Credit (S-2608) has been heard in the House and will be considered in the Senate on April 23rd.

Ms. Mayer stated that the State Investment Commission (SIC) is in the process of selecting a consultant to do a Request For Proposal (RFP) for a vendor for the recently expanded 457 program that will give state employees and members increased investment options.

She also stated the SIC has another RFP out for an investment advisor for an allocation of high yield/convertible bonds. She noted that the next meeting of the State Investment Commission would be on Wednesday, April 17, 8:30 a.m. in Room 135 of the State House and all are invited.

She asked the Board if they would be interested in meeting with the State Ethics Commission to discuss the Ethics Code. It was the consensus of the Board to have an informational session.

Treasurer Mayer informed the Board of the new Disability Sub-Committee. The members are William Finnelli (Chairperson) Linda Masse, Ponzi Angelone, Leonard Clingham and Mrs. Mayer or her designee.

Retiree Board Member Boyce expressed his disappointment that the retiree member was not represented on the sub-committee. Ms. Mayer stated she felt the retiree representative should be active on committees with retiree concerns. Mr. Boyce stated that retirees are concerned with all aspects of the retirement system and indicated that previously the Disability Committee always had 6 or 7 members on the committee not including the Chairperson or her designee.

### Hearing Officer Decision

Mr. Carlotti, Legal Counsel, explained to new Board Members the two different types of hearings: (1) appeals taken from recommended decisions by an independent hearing officer; and (2) appeals from a earlier decision of the Disability Sub-Committee. He stated the sub-committee makes recommendations and that, unlike the Hearing Officer's decision, there are no written findings made by the Disability Sub-Committee.

ERSRI v. Gomez: The Gomez hearing was continued to a later date by request of Ms. Gomez's lawyer.

(Prior to the Tarlian hearing, Board member John Maguire recused himself.)

ERSRI v. Tarlian: Mr. Richard Skolnik, an attorney representing Mr. Henry Tarlian, introduced himself to the Board. He distributed transcripts of the hearing and also a letter from Mr. Nichol, Chairperson and member of the Warwick School Committee. After hearing Attorney Skolnik, Ms. Clark moved and Ms. Riendeau seconded the motion to affirm the decision of the hearing officer. By a show of hands, the motion passed 8 votes in the affirmative with Board member Maguire recusing.

ERSRI v. Green: Mr. Jack DiGiovanni, an attorney representing Mrs. Patricia Green introduced himself to the Board. Mr. DiGiovanni gave a brief background of Mrs. Green's disability.

Ms. Cribari moved and Mr. Clingham seconded the motion to uphold the decision of the Disability Sub-committee. A rollcall vote was taken of the members present: Mr. Boyce, no; Mr. Clingham, yes; Ms. Clark, yes; Ms. Cribari, yes; Mr. Maguire, no; Ms. Masse, yes; Ms. Booth-Gallogly, yes; Ms. Riendeau, no and Ms. Mayer, yes. The vote tally: 6 yes, 3 no. The motion failed for lack of majority.

Mr. Boyce moved to overturn the decision of the Disability Sub-Committee: A rollcall vote was taken of the members present: Mr. Boyce, yes; Mr. Clingham, no; Ms. Clark, no; Ms. Cribari, no; Mr. Maguire, yes; Ms. Masse, no; Ms. Booth-Gallogly, no; Ms. Riendeau, yes, Ms. Mayer, no. Motion failed for lack of majority.

Mr. Carlotti suggested that the appeal be continued to the next meeting of the Board. Mr. Carlotti stated that he would do some research on the particular issue involved in the Green matter.

Legal Counsel Report

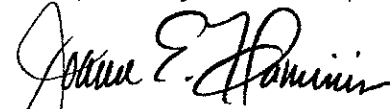
Mr. Carlotti stated that the Board had received an updated summary of all Board Litigation.

Committee Reports

Disability Report: Mr. Clingham moved the acceptance of the Disability Sub-Committee report of the April 5, 1996 meeting with Ms. Masse seconding the motion. The motion was voted on and passed by voice vote.

There being no further business to come before the Board the meeting adjourned at 11:45 a.m.

Respectfully submitted,



Joann E. Flaminio  
Executive Director

vlp

## Minutes of the May 8, 1996 Retirement Board Meeting

The monthly meeting of the Retirement Board was held May 8, 1996 in Room 35, State House, Providence, RI. The meeting was called to order at 9:15 a.m. by Chairperson Nancy J. Mayer.

The following members were present at roll call: Ponzi A. Angelone, C.L.U.; Michael R. Boyce; Leonard Clingham; Leslie E. Clark; Lu Cribari; William B. Finelli; Linda M. Masse; John P. Maguire; Nancy J. Mayer; Stephen McAllister; and Michael O'Keefe.

### Approval of Minutes

Leslie E. Clark moved and Linda Masse seconded the motion to approve the minutes of the April 10, 1996 meeting. The minutes were approved as presented.

### Chairperson's Report

Chairperson Mayer gave a legislative update pertaining to bills supported by the Board. She stated the Optional Benefits for Ordinary Disability legislation (S-2608) has passed in both the House and Senate. The Teacher Survivor Bill (S-2779) has passed the Senate and has been heard by House Finance but not yet voted upon. Regarding the Partial Transfer of Credit (S-2608) legislation, the House has not voted on it and the Senate has postponed voting on it seven times. The Multiple Beneficiaries Bill (S-2610) passed in the House but is dead in the Senate.

Mrs. Mayer stated the next State Investment Commission (SIC) meeting will be Tuesday, May 21, 1996 at 8:30 a.m. in room 135 and that all Board members are invited and encouraged to attend.

Updating the Board on SIC activities, Mrs. Mayer stated that the period for responding to a search for a high yield/convertible bond allocation has passed. Seventeen applicants have been received and Wilshire, the SIC's pension consultant, and her office will be reviewing all applications.

Second, at the last SIC meeting they voted to allocate funds to Emerging Markets. Wilshire had previously recommended that they take a conservative approach to investments in emerging foreign markets that include Malaysia, Singapore, Hong Kong and Latin American countries. A RFP will be generated to look for managers that specialize in those areas.

Mrs. Mayer also reported on an inquiry she had received from the Attorney General's office regarding the amount of tobacco stock held in the portfolio of the pension system. She inquired of the SIC some time ago whether they wished to consider our holdings of tobacco stock because of the health hazards connected with tobacco products. The consensus of the commission was that interference in this area would limit the managers from investing in the best interest of the fund and for the exclusive benefit of the membership. She does not know if the Rhode Island Attorney General will join other Attorneys' General across the United States in filing suit against tobacco companies for Medicaid reimbursement.

Third, Mrs. Mayer inquired of the Retirement Board members if they would be interested in an Ethics Commission Education Seminar. The Educational Coordinator could present a half-hour overview of the Ethics Code at a regularly scheduled Board meeting, or present a workshop tailored to the specific issues that confront the Retirement Board. It was the consensus of the Board to have a workshop. She will contact the Ethics Commission to coordinate a date.

Chairperson Mayer referred to the Committee reconstitution handout. She thanked the members for their willingness to serve on the various committees. In answer to Mr. Boyce's query as to the selection of the chairs for the committees, Mr. Carlotti stated the By-laws were silent on the issue and that the standing practice has been for the General Treasurer to make the appointments.

### Executive Director's Report

Executive Director Flaminio spoke of the newly revised Police & Fire handbook now available to that membership group. It is the first time any public safety benefits material has been produced since 1989. The handbook is designed to answer all of a member's questions from beginning membership to retirement. As part of its overall communication effort the next subject the system hopes to address is the subject of divorce and Qualified Domestic Relations Orders. The material will address the two leading cases in Rhode Island on QDRO's and public pensions, Furia v. Furia and Moran v. Moran. It will also provide sample domestic relations orders.

Ms. Flaminio complimented the Treasurer's Office on its establishment of its Web Site on the Internet. She stated she is interested in exploring ways it can be used by the membership. Mrs. Mayer thanked Ms. Flaminio but stated the credit goes to her staff, Steve Klampkin and Cliff Mosley at 40 Fountain Street.

Director Flaminio spoke briefly on IRS Section 415. She stated there has been no federal action; thus, retirement will be applying the Section 415 Limitations as previously explained. Should the federal exemption ultimately pass, it does not mean that the system will not adhere to the IRS maximum dollar limitations. This effectively establishes some form of actuarial reduction based on age within the system.

With regard to retiree health care and open enrollment, Ms. Flaminio stated that open enrollment for retirees has been delayed from June to sometime later in the year. This change comes about as a result of Governor Almond's interest in changes to our current health care program. Thus, retirees will not be able to change health vendors until that time.

With respect to the number of people inquiring about retirement, Ms. Flaminio stated the system is capable of handling about 80 appointments a week. She emphasized that the counseling staff is not providing retirement estimates based on the Governor's initiative and is explaining to the membership that any early retirement initiative must be adopted by the House & Senate prior to implementation.

Mr. McAllister stated he would look into when the retiree open enrollment package would be mailed. He also stated that the Director of Administration, Dr. Carl, shares the retirement system's concern about workload with an early retirement program and has given a number of assurances that the issue will be addressed.

Ms. Flaminio asked Mr. Palmer to update the Board regarding the Treasury and its recent signing of a new five-year lease which will keep the retirement system at 40 Fountain Street. Mr. Palmer stated that as part of the lease agreement renovations to the Member Services Department are underway and should be completed by the end of May. The new agreement also means improved parking for Treasury employees and a large 8th floor conference and meeting room.

Ms. Flaminio turned the meeting over to Frank Mangione and Barry Gilman of the William Mercer Company, Inc. who provided a summary of the results of the Actuarial Valuation for the Employees' Retirement System as of June 30, 1995. (Mr. Mangione stated that the Municipal Valuation results will be brought to the Board at the June meeting).



After Mr. Mangione & Mr. Gilman responded to questions posed by the Board, Ms. Cribari moved and Ms. Clark seconded the motion to approve the employer contribution rate of 10.83% for the State employees plan for FY'98. The motion passed with Mr. O'Keefe abstaining.

Ms. Masse moved and Ms. Clark seconded the motion to approve Employer contribution rate of 14.25% for the Teacher plan for FY'98. The motion passed with Mr. O'Keefe abstaining.

The State Police Valuation was reviewed by Mercer with Mr. O'Keefe moving and Mr. Finelli seconding the motion to approve the State Police contribution rate for FY'98. The motion passed unanimously. The FY'98 Employer contribution rate for State Police is 12.66%.

Lastly, the Judicial Valuation was reviewed by Mercer with Mr. O'Keefe moving and Mr. Finelli seconding the motion to approve the Judicial contribution rate for FY'98. The motion passed unanimously. The FY'98 Employer contribution rate for Judges is 25.34%.

### Hearing Officer Decision

ERSRI v. Gomez: Jerilyn Fahey, representing Ms. Gomez, appealed the decision of the hearing officer which disallowed Ms. Gomez's application for accidental disability benefits as her injury was outside the five-year statutory limit required of R.I.G.L. 36-10-14. After her presentation which included submission of a document regarding her desire to return to work, Mr. Carlotti stated that the Board could (1) uphold the decision of the hearing officer; or (2) vote to send the matter back to the hearing officer to consider new evidence presented here that had not been previously considered by the hearing officer.

Mr. Boyce moved to remand the matter back to the Hearing Officer. Mr. Finelli seconded the motion. A rollcall vote was taken of the members present: Mr. Angelone, yes; Mr. Boyce, yes; Mr. Clingham, yes; Ms. Clark, no; Ms. Cribari, no; Mr. Finelli, yes; Mr. Maguire, yes; Ms. Masse, no., Mr. McAllister, no; Mr. O'Keefe, no; Ms. Mayer, yes. Vote tally: 6 yes, 5 no. Motion failed.

Mr. Clingham moved to uphold the decision of the hearing officer with Ms. Masse seconding the motion. A rollcall vote was taken of the members present. Mr. Angelone, no; Mr. Boyce, yes; Mr. Clingham; yes, Ms. Clark, yes, Ms. Cribari, yes; Mr. Finelli, yes, Mr. Maguire, yes; Ms. Masse, yes, Mr. McAllister, yes; Mr. O'Keefe, yes; Mrs. Mayer, yes. Vote tally, 10 yes, 1 no. Motion passed.

### Legal Counsel Report

Mr. Carlotti stated that the Board had received an updated summary of all Board Litigation. He told them the McGrath matter is pending in the first circuit and oral argument will be taking place in the near future.

Additionally, cross-motions for summary judgment in the legislators pension case (ERSRI v. Parella) have been filed before Judge Lisi. The matter will be determined by Judge Lisi some time this summer.

Mr. Carlotti recommended the Board go into Executive Session to receive a report from Assistant Attorney General Alan Shoer regarding the National Education Association Rhode Island vs. Retirement Board (Union Eviction case) pending in the U.S. District Court. Prior to going into Executive Session, Mr. Carlotti suggested that any board member believing they had a conflict (members of the AFT, NEA, AFL-CIO) should recuse themselves from hearing the report and participating in the Executive Session. Board member Boyce stated that he would like it

reflected in the minutes that he recused himself from the Executive Session based on advice of the retirement board's legal counsel.

Mr. Finelli questioned that since half of the board members present are union members and would recuse, how could that constitute a meeting of the retirement board (without a quorum present)?

Mr. Carlotti stated it could due to a rule called the "Rule of Necessity" which states that where people are required to recuse themselves by reason of the ethics statute, that fact alone cannot be used to deprive the agency or instrumentality of the ability to act. Therefore, it would still be a meeting for that particular purpose.

Mr. Clingham moved and Ms. Clark seconded the motion to go into Executive Session. The motion passed by voice vote. Board members Boyce, Clark, Finelli, Maguire & Masse recused themselves.

At the end of the report Mr. Clingham moved and Mr. McAllister seconded the motion to go back into Open Session. The motion passed by voice vote.

NOTE: Mr. McAllister left the meeting at 11:15 a.m.

Mr. Maguire questioned the rationale of Mr. Carlotti's recommendation that members of the AFL-CIO recuse themselves from participation in the executive session.

Mr. Carlotti explained that there are a number of officials involved in the litigation that are union members. He stated his recommendation took into consideration what the Ethics Commission might determine if such a question was posed. If the members wanted to get an advisory opinion from the Ethics Commission, he would provide any factual background they might need for the opinion.

#### Committee Reports

Disability Report: Mr. Finelli moved the acceptance of the Disability Sub-Committee report of the May 3, 1996 meeting with Mr. Boyce seconding the motion. Mr. Finelli recused on Numbers 4 & 5 and Mr. Maguire recused on Numbers 7, 11 & 12. The motion was voted on and passed by voice vote noting the recusals.

Mr. Clingham questioned the second continuance of the Green appeal. He suggested that perhaps the Rules and Regulations Committee should look into the number of times attorneys are granted continuances. Mr. Carlotti agreed and stated that at next months meeting the Board would decide this issue regardless of the attorney's appearance.

There being no further business to come before the Board Mr. Finelli moved and Mr. O'Keefe seconded the motion to adjourn which passed unanimously at 11:20 a.m.

Respectfully submitted,



Joann E. Flaminio  
Executive Director

vlp

## Minutes of the June 12, 1996 Retirement Board Meeting

The monthly meeting of the Retirement Board was held May 12, 1996 in Room 35, State House, Providence, RI. The meeting was called to order at 9:15 a.m. by Vice-Chairperson William B. Finelli.

The following members were present at roll call: Ponzi A. Angelone, C.L.U.; Daniel Beardsley; Michael R. Boyce; Leonard Clingham; Leslie E. Clark; William B. Finelli; Linda M. Masse; John P. Maguire; Beatrice C. Frazer, representing Stephen McAllister. Sen. Eleanor C. Sasso also attended.

### Approval of Minutes

Linda Masse moved and Leslie Clark seconded the motion to approve the minutes of the May 8, 1996 meeting. Mr. Boyce stated that Linda Riendeau was not present for the vote taken in the matter of ERSRI v. Gomez and her name should be removed. He also wished to have inserted into the minutes that he recused from the Executive Session pertaining to National Education Association vs. Employees Retirement Board based on advice of the retirement board's legal counsel. The minutes were approved with Mr. Boyce's amendments.

Mr. Barricelli explained to the Board that, in compliance with R.I.G.L. 42-46-7, the minutes of the executive session were being made available at the next regularly scheduled Board meeting as the Board did not vote to seal the executive session minutes upon exiting the Executive Session. Mr. Clingham motioned to table consideration of the executive session minutes until this issue could be resolved. The Board unanimously approved.

### Chairperson's Report

General Treasurer Nancy J. Mayer was not present at the meeting. Thus, no Chairperson's report was given.

On behalf of the chair who was organizing an Ethics Seminar, a show of hands was taken and it was determined that Monday, July 15, 1996 was the most convenient date for the seminar. Plans will be finalized with the Ethics Commission and the Board will be notified of the time and place of the meeting.

### Executive Director's Report

Executive Director Flaminio introduced retirement staff member Lydia Lopes to the Board who began working for the Retirement System in October. Ms. Lopes works in the Retiree Unit of the Finance Department.

Ms. Flaminio stated that there is a Blue Cross Plan 65 rate change which will affect at least half of the system's retirees. A notification of the change will be sent out with the June pension checks. Retirees will notice the rate change in their June pension checks.

Updating the Board on the status of teacher retirements, Ms. Flaminio stated that to date 232 teachers have signed up to retire and more are expected in the months of June and July. She stated that she also expected a significant increase in the number of state retirees once the Legislature and the Governor decide the issue of early retirement.

Ms. Flaminio described renovations to the Member Services area of the retirement system that have greatly improved the professional appearance of that particular department. She invited Board members to visit the office to look over the new Member Services quarters.

Prior to turning the meeting over to Frank Mangione and Barry Gillman of the William M. Mercer, Co., Director Flaminio gave an overview of the Municipal Retirement System for the benefit of new Board members. She detailed the present status of the various plans and explained the differences in the MERS plan from the State and Teachers plan.

Mr. Mangione and Mr. Gillman then presented an overview of the Municipal Valuation for the Municipal Employees Retirement System as of June 30, 1995. Mr. Beardsley questioned if costs associated with special studies are borne by the requesting units. Mr. Mangione stated that charges are assessed to municipalities that are not currently members of the MERS plan but that most studies are for current MERS units who are not charged.

After discussion, Mr. Beardsley moved and Mr. Boyce seconded the motion to approve the MERS Employer Contribution rates for FY'98 contained in the municipal valuation. The motion passed by voice vote.

### Hearing Officer Decisions

ERSRI v. Capuano: Prior to Mr. Capuano's presentation, Mr. Ponzi Angelone recused himself from the matter. Mr. William Capuano, representing himself, presented argument as to why he felt the decision of the hearing officer should be overturned and asked that the Board grant his request for retroactive pension benefits. (As a member of a MERS plan, Mr. Capuano was eligible for a benefit at age 58, but did not apply for such benefits until reaching age 65). After hearing Mr. Capuano's presentation, Mr. Clingham stated that, in his opinion, the law is clear and unambiguous on this issue. He then moved to uphold the hearing officer's decision. His motion was seconded by Linda Masse and passed unanimously by voice vote with Mr. Angelone recusing.

ERSRI v. Green: Director Flaminio advised that Board that the Green matter was first put on the Board agenda for the April meeting. At that meeting, counsel was asked to provide the Board with additional guidance regarding the legal definition of 'accident'. The matter was continued at the May meeting. Ms. Green is a 51 year old woman who worked for the State of Rhode Island as a cook's helper. Her accidental disability application, which was denied by the Disability Sub-Committee, is based upon an accident which occurred on October 13, 1992.

Mr. Boyce asked Board counsel that if Ms. Green's application was denied by the retirement board, did she have further recourse within the court system? Mr. Barricelli responded that Ms. Green could then take her appeal to Superior Court.

Mr. Boyce then moved and Mr. Clingham seconded the motion to uphold the decision of the Disability Sub-Committee to deny the accidental disability. The motion passed unanimously by voice vote.

### Legal Counsel Report

David Barricelli of Hinckley, Allen stated that he had just returned from U.S. Circuit Court of Appeals in Boston where he had argued on behalf of the retirement board in the case of McGrath v. ERSRI. This case concerns the constitutionality of the retirement provision that requires all members work at least 10 years as a contributing member to be eligible to retire and the right of the retirement system to make reasonable accommodations to the retirement law.

Mr. Barricelli also commented on the recent Superior Court decision in the case of Craveiro vs. ERSRI. This decision, in favor of the retirement board, reaffirms the statutory requirement of an 'accident' in order to apply for an accidental disability retirement. It also clearly states that the legal requirements for the Worker's Compensation statute and the Accidental Disability retirement statute are separate and distinct and that a finding in one court is not dispositive of the other.

### Committee Reports

Disability Report: Mr. Clingham moved the acceptance of the Disability Sub-Committee report of the June 7, 1996 meeting with Ms. Masse seconding the motion. The motion was passed unanimously by voice vote.

### New Business

Sen. Sasso questioned Director Flaminio regarding legislation currently pending in the Legislature regarding the City of Cranston Police and Fire entry into the Municipal Employees Retirement System. Ms. Flaminio stated that the retirement system has testified before the House Finance regarding the Cranston bill. Specifically, the retirement system is concerned about the disability provisions that Cranston has proposed and their desire to use a compounded cost-of-living adjustment.

Director Flaminio referred to the memorandum that she supplied the board regarding actuarial services. She reiterated the statutory provision, R.I.G.L. 36-8-10, that states that the Board shall secure the services of an actuary. She outlined two possibilities for the Board: (1) to re-negotiate an agreement with the present actuary William M. Mercer, Inc. (who has written to the Board proposing that they be retained and a new contract negotiated); or (2) utilize the Board's Purchasing Regulations to select a new actuary. Given the on-going need for actuarial services, the Mercer contract would have to be extended until the RFP process is completed.

Mr. Clingham stated that the state's purchasing rules frown on contract extensions and expressed his opinion that the Board proceed with the RFP.

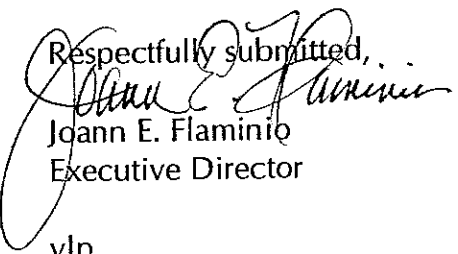
In answer to Mr. Beardsley's query as to who had been appointed to the Procurement Committee who would oversee such a process, Ms. Flaminio stated it was Leslie Clark, Ponzi A. Angelone, C.L.U. and Treasurer Mayer.

Mr. Clingham moved that the Board proceed with the development of an RFP for actuarial services which would be presented to the Board for approval and further moved that Mercer's present contract would be extended on an interim basis. Ms. Masse seconded the motion which passed unanimously by voice vote. Director Flaminio invited all members of the Retirement Board interested in such a project to participate.

Director Flaminio spoke to the board regarding Mercer's request to do an additional valuation of the state's Retiree Medical Account Valuation. Ms. Flaminio stated that she would prefer that such a request be delayed at this time since there has been considerable on-going discussion regarding that account and the way the State of Rhode Island has been meeting the retiree medical liability. She stated that she had prepared a memo regarding the entire subject and stated that it was available for members with an interest in the subject.

There being no other business to come before the Board the meeting was adjourned at 10:50 a.m.

Respectfully submitted,

  
Joann E. Flaminio  
Executive Director

vlp

## Minutes of the July 10, 1996 Retirement Board Meeting

The monthly meeting of the Retirement Board was held July 10, 1996 in Room 35, State House, Providence, RI. The meeting was called to order at 9:15 a.m. by Chairperson Nancy J. Mayer.

The following members were present at roll call: Daniel Beardsley; Michael R. Boyce; Leslie E. Clark; Leonard Clingham; Leslie E. Clark; Lu Cribari; John P. Maguire; Linda M. Masse; Stephen McAllister; Linda C. Reindeau; Sen. Eleanor C. Sasso; and Nancy J. Mayer. Note: Michael O'Keefe arrived at the meeting at 10:05 a.m.

### Approval of Minutes

Lu Cribari moved and Leslie Clark seconded the motion to approve the minutes of the June 12, 1996 meeting. The minutes were approved with Senator Sasso abstaining.

### Chairperson's Report

General Treasurer Nancy J. Mayer reported on the State Investment Commission meeting held on Tuesday, July 9, 1996 to discuss updating the asset allocation of the ERSRI pension fund for the next two years. She stated the SIC is looking for a new manager for a new asset class dealing with convertible and high yield bonds. The interviews for that manager should be completed within the next week.

Updating the Board on legislation, she stated a bill restricting multiple beneficiaries has passed the House and is on the Senate calendar. With regard to the bill allowing ordinary disability recipients to select an option, both the House and Senate versions have passed with the House version on the Senate calendar. With regard to the bill increasing Teacher Survivor benefits, the Senate version has passed and is in House Finance (along with the house version); to date, no action has been taken on either bill by the House Finance Committee. And finally, with regard to the bill banning the partial transfer of credits, the Senate version of the bill has passed and is in House Finance (along with the house version); again, no action has been taken by the House Finance Committee on either bill.

### Executive Director's Report

*(Note: This report was delivered after Committee reports, but is presented here in regular agenda order.)*

Executive Director Flaminio thanked the Board for their attendance at the July meeting and then outlined the summer board schedule. Upcoming meetings are: (1) the August Disability Sub-Committee meeting on Friday, August 9th; (2) the Procurement Sub-Committee Meeting Friday, July 12, at 9:00 a.m; and (3) and the Ethics Seminar on Monday, July 15th at 9:00 a.m. She reminded the Board that all meetings, including all monthly Board meetings, will now be held in the 8th floor conference room at 40 Fountain Street. Parking is available at the Biltmore garage next door to the retirement system.

Reporting on the Minimum Wage Bill, also called the Small Business Job Protection Act, Executive Director Flaminio stated that passage of this bill by the Senate is very good news. Should this bill ultimately be passed by the Congress and signed by the President, Section 415 limitations lowering a person's three year average based on the amount of his/her tax-deferred

contributions will be eliminated. She warned, however, that maximum dollar limitations imposed by Section 415 will remain in effect regardless of the passage of the Minimum Wage Bill.

Ms. Flaminio referred to her annual Year-in-Review memorandum that was enclosed in the monthly booklet and offered to answer any questions the Board members might have pertaining to that memo. She noted that it is indeed unfortunate that all of the good work being done at the retirement system during the past three years is continually overshadowed by persistent stories of past abuse reported by the press.

Mr. Beardsley urged his fellow Board members to review the Year-in-Review memorandum and complimented the Executive Director and her staff for her accomplishments during her three years tenure. He, too, stated that it was unfortunate that the Providence Journal was no longer present so that they could be made aware of system improvements.

Board member and Acting Chair Clingham agreed with Mr. Beardsley's comments.

### **Hearing Officer Decisions**

ERSRI v. Romanelli: Mr. Romanelli did not prevail in his hearing with the Employees Retirement System and is appealing the decision under the Administrative Procedures Act. Mr. Joseph Romanelli, representing himself, did not dispute the hearing officer's decision on this matter, but rather stated to the Board that he wished to go back to work so that he can supplement his present pension. Mr. Romanelli claims that when he met with a retirement counselor an error was made with regard to the calculation of his benefit and thus he is receiving \$162 less per month than what he was told by the retirement system.

Ms. Flaminio explained that the retirement board had no authority to rescind his termination and suggested he go back to the Department of Administration to seek assistance in rescinding his termination. If Mr. Romanelli went back to active service, he would have to return the pension monies already received prior to his return.

Ms. Clark moved and Sen. Sasso seconded the motion to uphold the hearing officer's decision on this matter. The motion passed unanimously by voice vote.

ERSRI v. Orabona: In this matter, the hearing officer upheld the position of Mr. Orabona regarding his past partial transfer of legislative credits to his teacher pension.

For the purpose of discussion, Mr. Beardsley moved and Mr. Clingham seconded the motion to affirm the hearing officer's decision.

Ms. Cribari stated she had several concerns regarding the Orabona matter. Specifically, she stated that our regulations state that the scope of the hearing should include only the matters outlined in the request for the hearing. She stated that the matters outlined by Orabona's attorney: (1) the decision was not supported by statute; (2) the decision was not supported by internal rules and regulations; and (3) that the decision contradicts a previous board decision were not properly addressed during the hearing. She added that even if the board accepts the equitable estoppel principle, she believes the issue is before the Board prematurely and that ultimately this matter should be decided by a court. Based on the issues she has outlined, she does not support the hearing officer's decision.

Chairperson Mayer stated that, in her opinion, the statute does not permit the transferring of partial credit and that specific issue was not addressed in the hearing officer's report. Mrs. Mayer moved that the decision be remanded back to the hearing officer to explicitly interpret the statute. Sen. Sasso seconded the motion.



Mr. Barricelli, legal counsel to the Board, stated the first motion must be voted on or amended before an additional motion can be considered.

Mr. Clingham stated that he, too, was appalled by the decision rendered in this case but that as an attorney and member of the Board he felt that he was bound by the Supreme Court's decision in the case of Environmental Scientific which states that unless the administrative decision is "clearly erroneous," the Board must uphold the decision. He noted the sensitivity of the situation and the likely outrage of the public on this matter but he was unable to find any reason the hearing officer's decision was "clearly erroneous" and thus feels constrained to uphold the decision.

Sen. Sasso agreed with Mrs. Mayer and felt that to preserve the integrity of the retirement board, the matter should be remanded back to the hearing officer at this time.

Mr. Boyce stated that he is constantly reminded by counsel that unless the decision is "clearly erroneous" the Board is bound by the hearing officer's decision. He, too, disagrees with the hearing officer's decision but feels that the board has to abide by the decision. He noted that the hearing officer spent considerable time in making her decision and most likely agonized over her decision prior to submitting it to the Board. Thus, he would support the motion to affirm the hearing officer's decision.

Mr. Beardsley stated that what is bothersome about the hearing officer's decision is the failure of the decision to address the fact that such transfer is currently not permissible and whether or not that provides an adequate rationale today to reject the 1992 transfer. He questioned why the change in retirement law was not introduced by Board counsel.

Mr. Beardsley stated that he would withdraw his previous motion to affirm the decision, but that he was troubled by Mr. Clingham's comments regarding the standard set up the Supreme Court in Environmental Scientific.

Mr. Barricelli stated the Treasurer's office and the retirement board has made significant progress in curtailing pension abuse in the retirement system. He stated that perhaps the abuse exposed in this case would aide in the further reform of the retirement statute. He compared the incident to the Craig Price case in which current statute did not adequately address his situation and was subsequently amended.

Mr. Maguire questioned whether other people used partial legislative credit towards a state/teacher pension. Ms. Flaminio answered in the affirmative. He then asked if they had their pension denied. Mrs. Mayer stated the question was if the previous transfers had been partial or full purchase of credit.

Mr. Maguire commented that the hearing officer's memorandum distributed each month in states that unless you find the decision to be "clearly erroneous," the decision must be upheld.

Mrs. Mayer once again emphasized that she is not suggesting that the decision of the hearing officer be rejected but rather remanded back to the hearing officer to address the issue of whether the statute allows for a partial transfer.

Mr. Beardsley commented that both Mrs. Mayer and Sen. Sasso raised very relevant issues and the only way that these issues could be addressed was to defeat the motion and vote to remand it back to the hearing officer. He referred to page 4 of the decision which states "The Employees' Retirement System determined that the transfer of time contemplated by this statute was a complete transfer. Based on that interpretation, the member has been denied payment". He stated there was no further analysis of that issue and believed that was the reason the chair wished to remand back to the hearing officer. The decision then discusses the principle of

equitable estoppel. For those reasons, Mr. Beardsley stated that he would not be supporting his own motion.

Mrs. Mayer called for the question to affirm the decision of the hearing officer. A rollcall vote was taken of the members present: Mr. Beardsley, no; Mr. Boyce, no; Ms. Clark, no, Mr. Clingham, yes; Ms. Cribari, no; Mr. Maguire, yes; Ms. Masse, no; Mr. McAllister, no; Ms. Riendeau, yes; Sen. Sasso, no; Mrs. Mayer, no. Vote tally, 3 yes, 8 no. Motion failed.

Mrs. Mayer moved the decision be remanded back to the hearing officer for an interpretation of the statute, R.I.G.L.16-16-8. Mrs. Sasso seconded the motion.

Ms. Cribari reiterated again that, in her opinion, the scope of the hearing should be limited to those matters raised by Mr. Brill. She withdrew her suggestion when Mr. Barricelli stated the Board could not tell the hearing officer what matters to consider. The remand revolves around the hearing officer's interpretation of R.I.G.L. 16-16-8 and whether R.I.G.L. 16-16-8 allows the partial transfer of legislative credit to the teacher system.

A rollcall vote was taken of those present to remand the decision back to the hearing officer for an interpretation of R.I.G.L. 16-16-8 as a conclusion of law which is not specifically articulated in the decision. Mr. Beardsley, yes; Mr. Boyce, yes., Ms. Clark, yes; Mr. Clingham, yes; Ms. Cribari, yes; Mr. Maguire, yes; Ms. Masse, yes; Mr. McAllister, yes; Mr. O'Keefe, yes; Ms. Riendeau, yes; Sen. Sasso, yes and Mrs. Mayer, yes. There were 12 votes in the affirmative; the motion carried.

**Note:** Mrs. Mayer left at 10:25 and the Chair was assumed by Mr. Clingham.

ERSRI vs. Kelley: Mr. Kelley did not prevail in his ERSRI appeal and was informed of the his right to appear before the Board. Mr. Kelley chose not to appear before the Board. Mr. Boyce moved to uphold the hearing officer's decision with Ms. Clark seconding the motion. A rollcall vote was taken of the members present: Mr. Beardsley, yes; Mr. Boyce, yes; Mr. Clingham, yes; Ms. Clark, yes; Ms. Cribari, yes; Ms. Masse yes; Mr. Maguire, yes; Mr. McAllister, yes; Ms. Riendeau, yes; Sen. Sasso, yes. Vote tally: 10 affirmative. Motion passed.

### Disability Appeals

ERSRI vs. Gallant: Ms. Gallant's application for an Accidental Disability pension was denied by the Disability Sub-Committee. Vincent P. Santaniello, representing Martha Gallant, presented her appeal.

Mr. Santaniello stated that in the case of Ms. Gallant that there was clearly a work-related accident and sufficient medical information regarding her disabling condition. He also felt the Craviero decision supported this appeal as that decision did not find an accident whereas his client has sufficient evidence supporting a work-related accident.

Ms. Clark moved to uphold the hearing officer's decision with Ms. Masse seconding the motion. A rollcall vote was taken of the members present. Mr. Beardsley, yes; Mr. Boyce, yes; Ms. Clark, yes; Mr. Clingham, yes, Ms. Cribari, yes; Mr. Maguire, yes; Ms. Masse, yes; Mr. McAllister, abstain; Ms. Reindeau, yes; Sen. Sasso, yes. Vote tally: 9 votes in the affirmative with 1 abstention. The motion passed.

ERSRI v. Murray: Ms. Flaminio relayed to the Board that Mr. Murray had requested an continuance of his appeal to August 14th as his attorney had prior commitments. Mr. Clingham proposed that his attorney be advised that unless there is good reason, there will be no further continuances on this matter.

### Legal Counsel Report

Mr. Barricelli stated the legal report is identical to the June report with one exception.

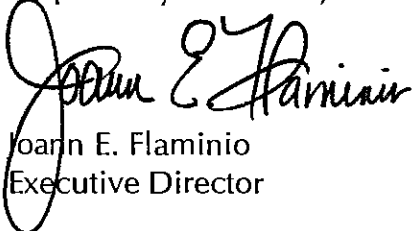
With regard to the Adjunct Professors case regarding the 75-day rule which has been appealed to the Rhode Island Supreme Court, Hinckley Allen & Snyder will now be filing a brief on this matter along with the Attorney General and the Governor's office. It is the opinion of Hinckley Allen that this case could take on increased significance given Judge Israel's comments in the Superior Court decision regarding the federal district court decision in the matter of McGrath v. Rhode Island Retirement Board.

### Committee Reports

Disability Report: Ms. Clark moved the acceptance of the Disability Sub-Committee report of the July 8, 1996 meeting with Ms. Masse seconding the motion. The motion was passed by voice vote with Mr. Maguire recusing on Numbers 3 & 7.

There being no other business to come before the Board, Ms. Cribari moved and Ms. Clark seconded the motion to adjourn at 11:05 a.m.

Respectfully submitted,



Joan E. Flaminio  
Executive Director

vlp

## Minutes of the August 14, 1996 Retirement Board Meeting

The monthly meeting of the Retirement Board was held August 14, 1996 in the 8th Floor Conference Room, 40 Fountain Street, Providence, RI. The meeting was called to order at 9:00 a.m. by Vice-Chairperson William B. Finelli.

### I. Roll Call of Members

The following members were present at roll call: Ponzi A. Angelone, C.L.U.; Michael R. Boyce; Leslie E. Clark; Leonard Clingham; William B. Finelli; John P. Maguire; Bea Frazier representing Stephen McAllister; Michael O'Keefe; and Linda C. Reindeau.

### II. Approval of Minutes

Michael O'Keefe moved and Leslie Clark seconded the motion to approve the minutes of the July 10, 1996 meeting. The minutes were approved as presented. Leslie Clark moved and Michael O'Keefe seconded the motion to approve the minutes of the July 12, 1996 Procurement Sub-Committee meeting of the Retirement Board. The minutes were approved as presented.

### III. Chairperson's Report

Chairperson Nancy J. Mayer was not present at the meeting, but sent along an update of the Board's legislative package. To date, legislation increasing Teacher Survivor benefits had passed along with an amendment to the Multiple Beneficiaries provision. Legislation allowing all prospective Ordinary Disability applicants to select an option upon retirement has passed while legislation regarding the Partial Transfer of Credit (the so-called Orabona bill) has not passed. (See packet for entire 1996 retirement legislative summary).

### IV. Executive Director's Report

Executive Director Flaminio welcomed the board to the new conference room on the 8th floor at 40 Fountain Street and expressed her hope that this would be a good meeting room for all future retirement board meetings.

Executive Director reported that Section 415 which is part of the federal Small Business Job Protection Act is currently awaiting the President's signature. This is very good news for the retirement system as it will exempt all governmental plans from the tax code requirements of Section 415. This means that future retirees benefits will not be tested against their contributions to other voluntary 403B and 457 deferred compensation programs. It does not excuse participants, however, from the Maximum Benefit Limitations (based on age) that are also a part of Section 415. Ms. Flaminio noted that all members will be advised of the signing of the bill through an upcoming newsletter.

Ms. Flaminio passed out an organizational chart detailing the two separate departments within the retirement system, Member Services and Finance, and noted that currently we have only 21 ERSRI staff members on board. She stated that this year's budget allows for 25 FTE's within the retirement system and that she is currently in the process of filling two retirement counselor positions, an Accounting Manager position, and the position of Communications Coordinator. She reminded the Retirement Board that she first identified the need for additional

staff some 18-24 months ago and talked of her frustration in seeking to fill positions that are desperately needed. Nationally, she explained that the Government Finance Officers Association recommends one full-time employee per every thousand participants.

She also reported on national trends in the public pension area including the debate regarding Defined Contribution plans versus Defined Benefit plans, the fight to give public pension plans constitutional protection, continued interest in the upgrade of retirement data and document imaging, and the Uniform Management of Public Employee Pension Funds Act.

The Ethics Seminar will be rescheduled to a date in September and will be held at 40 Fountain Street.

### V. Hearing Officer Decisions

*There were no hearing officer decisions this month.*

### Disability Appeals

ERSRI v. Tracey: Board member John Maguire recused himself from any consideration of this appeal.

Mr. Joseph Tracey is a 62 year old Providence school teacher whose application for Accidental Disability Retirement was denied by the Disability Sub-Committee. Mr. Tracey was represented at the appeal by Bill Lynch of Skolnick, McIntire & Tate.

Citing the letter from the Providence School department detailing the accident of April 24, 1994 and Mr. Tracey's testimony, Mr. Boyce moved and Ms. Reindeau seconded a motion to reject the recommendation of the Disability Sub-committee and grant Mr. Tracey an accidental disability retirement.

A rollcall was taken of the members present: Mr. Angelone, no; Mr. Boyce, yes; Ms. Clark, no; Mr. Clingham, no; Mr. Finelli, yes; Mr. Maquire did not vote; Bea Frazier, no; Mr. O'Keefe, no; Ms. Reindeau, no. Vote tally: 2 yes, 6 no. Motion failed.

**VOTED: To uphold the previous decision of the Retirement board to reject Mr. Tracey's application for accidental disability retirement.**

ERSRI v. Murray: Board member Linda Reindeau recused herself from any consideration of this appeal.

Mr. Robert S. Murray is a 46 year-old former electrician at the University of Rhode Island whose application for Accidental Disability Retirement was denied by the Disability Sub-Committee. Mr. Murray was represented at the appeal by Attorney Edward Shapero.

A motion was made by Mr. O'Keefe and seconded by Mr. Clingham to reverse the previous decision of the Disability Sub-Committee and the Retirement Board to grant Mr. Murray an accidental disability retirement.

A rollcall was taken of the members present: Mr. Angelone, no; Mr. Boyce, yes; Ms. Clark, no; Mr. Clingham, no; Mr. Finelli, no; Mr. Maquire, yes; Bea Frazier, no; Mr. O'Keefe, no; Ms. Reindeau did not vote. Vote tally: 2 yes, 6 no. Motion failed.

**VOTED: To uphold the previous decision of the Retirement board to reject Mr. Murray's application for accidental disability retirement.**

## VI. ERSRI Legal Counsel Report

Mr. Barricelli, legal counsel, stated that yesterday the Retirement Board had been sued by Mr. Orabona with regard to the conduct of the July 10, 1996 Board meeting. Mr. Barricelli stated that he had turned the complaint over to the Executive Director for her review.

Board member Clingham stated that he had been disturbed by reading a press release that stated that the General Treasurer had hired an attorney to represent the Board in the Orabona matter before its own hearing officer. He stated that he had raised the issue with the General Treasurer, but had not received a response. He has no objection to the system having independent representation in this particular matter, but objected to any legal hiring by the General Treasurer on behalf of the Board without its knowledge or approval. The Board cannot take a position in this matter, stated Mr. Clingham, since it ultimately must rule on the matter.

In deference to the Chairperson who is not present, Executive Director Flaminio stated that she felt any serious discussion on this issue should be delayed until the Treasurer's return. She did state, however, that since she is the person who took action against Mr. Orabona, it is her opinion that any independent counsel in this matter should be retained by the Executive Director on behalf of the system. Additionally, she noted that the Board's hearing officer in this matter, Ms. Giannini, has responded to the remand letter by stating that the Board's Rule and Regulations on Hearings do not allow for any remand once a written decision has been issued and thus she will not re-open the case.

Board member Boyce stated that if the Chairperson hired an attorney for the board in the Orabona case that he did not participate in the decision. He did note that in 1992, the then Treasurer convened a special Board meeting and sought Board approval to hire an attorney on a particular tax matter.

Finally, Mr. Barricelli noted that the federal Circuit Court of Appeals had upheld the decision of its lower court in the case of McGrath vs. Rhode Island Retirement Board. The court reaffirms the right of the General Assembly to make reasonable modifications to the plan, and holds that the 1992 plan amendment creating the 10 years contributing member rule does not impair the Contract Clause of the U.S. Constitution.

## VII. Committee Reports

Disability Sub-Committee Report: Mr. Clingham moved the acceptance of the Disability Sub-Committee report of the August 9, 1996 meeting with Mr. Boyce seconding the motion. The motion was passed by voice vote with Mr. Maguire recusing on Numbers 4 & 7.

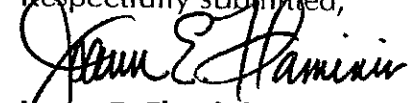
Procurement Sub-Committee: Mr. Ponzi Anzelone, Chairperson of the Procurement Sub-Committee, discussed the meeting held on July 12, 1996. He stated that the Sub-Committee reviewed other states' RFP, discussed the actuarial needs of the retirement system and its staff, and stressed the need for a RFP that is specific yet flexible. The Sub-committee unanimously agreed that a new actuary should be hired for the beginning of the fiscal year, i.e. July 1, 1996. They will meet again in September.

## VIII. New Business

Mr. O'Keefe requested information regarding the number of state employees retiring monthly.

There being no other business to come before the Board, Ms. Clark moved and Ms. Reindeau seconded the motion to adjourn at 11:00 a.m.

Respectfully submitted,



**Joann E. Flaminio**  
Executive Director

vlp

## Minutes of the September 11, 1996 Retirement Board Meeting

The monthly meeting of the Retirement Board was held September 11, 1996 in the 8th Floor Conference Room, 40 Fountain Street, Providence, RI. The meeting was called to order at 9:10 a.m. by Chairperson Nancy Mayer.

### I. Roll Call of Members

The following members were present at roll call: Ponzi A. Angelone, C.L.U.; Daniel Beardsley; Michael R. Boyce; Leslie E. Clark; William B. Finelli; Linda M. Masse; John P. Maguire; and Nancy Mayer. Stephen McAllister, Michael O'Keefe and Sen. Eleanor C. Sasso arrived after roll call.

### II. Approval of Minutes

Linda Masse moved and Ponzi Angelone seconded the motion to approve the minutes of the August 14, 1996 meeting. The minutes were approved as presented. Leslie Clark moved and Ponzi Angelone seconded the motion to approve the minutes of the September 4, 1996 Procurement Sub-Committee meeting of the Retirement Board. The minutes were approved as presented.

### III. Chairperson's Report

Chairperson Nancy J. Mayer updated the Board on actions taken by the State Investment Commission. She stated that the interviews for High Yield Bond/Convertible Securities Manager had been completed and Loomis, Sayles & Company was retained by the SIC. The SIC will next conduct a search for an Emerging Markets manager. She will update the Board on the progress of that search next month.

### IV. Executive Director's Report

Executive Director Flaminio introduced Christy Law as the new Communications Manager for the Retirement System. She noted that the new position was part of the Reorganization plan supported by the General Treasurer and the Retirement Board and approved by the Unclassified Pay Plan Board last January. Ms. Law has begun work on a Fall Newsletter which will update the membership on the Small Business Job Protection Act and its effect on Section 415 and contain a rundown of all 1996 retirement bills passed by the General Assembly. The newsletter will also include a schedule of Fall Benefit Presentations for state, teacher and municipal members of the retirement system.

The Board will consider the adoption of actuarial assumptions for the next year's valuation at an upcoming meeting. Frank Mangione of William M. Mercer, Inc. will be in attendance.

### V. Hearing Officer Decisions

*There were no hearing officer decisions this month.*



## Disability Appeals

ERSRI v. Bolster: Mr. Bolster is a 33 year old correctional officer for the State of Rhode Island. Mr. Bolster is appealing the denial of his application for an accidental disability by the Disability Sub-Committee. Mr. Bolster is represented by Attorney Paul V. Jabour.

After a presentation by Attorney Jabour in support of Mr. Bolster's application, Mr. Finelli moved and Mr. Boyce seconded the motion to sustain the decision of the Disability Sub-Committee and reject the application for accidental disability.

A rollcall was taken of the members present: Mr. Angelone, yes; Mr. Beardsley, yes; Mr. Boyce, yes; Ms. Clark, yes; Mr. Finelli, yes; Mr. Maquire yes; Ms. Masse, yes; Mr. McAllister, yes; Mr. O'Keefe, yes; Sen. Sasso, yes, Mrs. Mayer, yes. Vote tally: 11 votes in the affirmative. Motion passed.

**VOTED: To uphold the previous decision of the Retirement board to reject Mr. Bolster's application for accidental disability retirement.**

## VI. ERSRI Legal Counsel Report

ERSRI v. Orabona: Mr. Carlotti, Board counsel, apprised the Board on the settlement agreement reached between ERSRI and Mr. Orabona. (This case was first considered at the July 1996 meeting at which time the Board voted to remand the hearing officer's decision back to the hearing officer for additional discussion. On August 6, 1996, the hearing officer responded to the Board's request by stating that she does not have the authority to reopen the case for additional briefs or evidence. After that determination, the system entered into negotiations with Mr. Orabona to settle the dispute.)

The case involves an application of R.I.G.L. 16-16-8 and whether or not the statute allows for a partial transfer of his legislative credits to be applied to Mr. Orabona's pension as a teacher member of the retirement system.

In the settlement proposal, Mr. Orabona agrees to: (1) forfeit his legislative pension and return the \$17,667 he has received since January, 1995; (2.) retire immediately as an ERSRI teacher member and activate his teacher application for retirement effective 9/1/95 for which he will receive a lump-sum payment of \$41,546; (3.) transfer his legislative credits to the teachers' system resulting in an annual pension of \$57,851 under the Social Security option (to be reduced at age 62); and (4) be refunded \$1,362 (contributions taken in error) for the time he purchased in the legislative system which could not be transferred to the teachers' system.

In response to the Board's inquiry as to the fees charged by Richard Galli as counsel for the retirement system in this matter, Attorney Galli responded that his hourly fee is \$125 and that he estimated that the total fee on the matter would be between \$5,000 and \$10,000.

Upon a motion by Mr. Angelone seconded by Ms. Masse, it was

**VOTED: To approve the settlement agreement between the ERS and Orabona in the form presented to the Board and to authorize the Executive Director and the Chairperson to execute and deliver the settlement agreement for and on behalf of the system and the Board.**

The vote was unanimous with Mr. McAllister abstaining.

*(Note: The Board went into Executive Session at the end the meeting to discuss Parella vs. Rhode Island Retirement Board but is it is presented here under the legal counsel report.*

In order to discuss ongoing litigation, Board counsel Carlotti recommended that the next matter be taken up in Executive Session.

Upon a motion by Mr. Finelli and seconded by Ms. Masse, it was unanimously

**VOTED: To go into Executive Session pursuant to R.I.G.L. 42-46-5 (2).**

The Retirement Board reconvened into open session at 10:10 am. Upon a motion by Mr. Beardsley and seconded by Mr. Boyce, it was unanimously

**VOTED: That in light of the Amendment to Section 415 of the Internal Revenue Code of 1986, which such Amendment is retroactive to January 1, 1995, the Board hereby authorizes the Executive Director on or after October 1, 1996, to reinstitute all legislator's pensions suspended pursuant to the provisions of Section 36-10-10.1(e) of the General Laws of Rhode Island, 1956, as amended, and to pay retroactive to July 1, 1995 all such suspended pensions; provided, however, that with respect to those amounts owed to legislators who are members of the class action entitled Gaetano Parella et al. vs. The Rhode Island Retirement Board et al.; now pending in the United States District Court for the District of Rhode Island, the Executive Director shall either (a) pay such amounts to such parties on and after October 1, 1996, or (b) if ordered by the Court, deposit amounts owing to such party in the Registry of the Court, and except with the prior approval of the Retirement Board, the Executive Director is to make no other payments with respect to such legislative pensions, including without limitation, interest or counsel fees.**

#### VII. Committee Reports

Disability Sub-Committee Report: Upon a motion by Mr. Finelli and seconded by Ms. Masse, it was unanimously

**VOTED: To approve the Disability Committee report of September 6, 1996.**

Mr. Maguire recused on Numbers 1 & 7.

Procurement Sub-Committee: Mr. Ponzi Angelone, Chairperson of the Procurement Sub-Committee reported on the activities of the Procurement Sub-Committee and specifically the Sub-Committee's approval of an RFP for a computer consultant.

Upon a motion by Mr. Angelone and seconded by Ms. Clark, it was unanimously

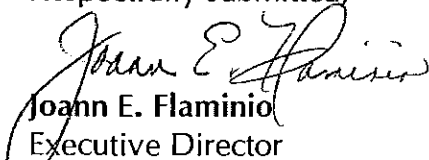
**VOTED: To approve the action of the Procurement Sub-Committee to issue a Request for Proposal to retain a technical consultant to advise and assist the Employees' Retirement System during the procurement of a computer vendor, with final approval of the technical consultant to be made by the Retirement Board.**

#### VIII. New Business

Mr. Boyce inquired as to whether the Rules and Regulations Sub-Committee would be meeting in the future. Executive Director Flaminio stated she would schedule a meeting shortly to discuss the formulation of disability and other rules.

There being no other business to come before the Board, Mr. Boyce moved and Ms. Clark seconded the motion to adjourn at 10:45 a.m.

Respectfully submitted,

  
Joann E. Flaminio  
Executive Director

vlp

## Minutes of the October 9, 1996 Retirement Board Meeting

The monthly meeting of the Retirement Board was held October 9, 1996 in the 8th Floor Conference Room, 40 Fountain Street, Providence, RI. The meeting was called to order at 9:11 a.m. by Vice-Chairman, William B. Finelli.

### I. Roll Call of Members

The following members were present at roll call: Ponzi A. Angelone, C.L.U.; Daniel Beardsley; Michael R. Boyce; Leslie E. Clark; Leonard Clingham; William B. Finelli; Linda M. Masse; John P. Maguire; Stephen McAllister; Rep. Antonio J. Pires & Linda C. Riendeau. Lu Cribari, Nancy Mayer and Sen. Eleanor C. Sasso arrived after roll call.

### II. Approval of Minutes

Linda Masse moved and Leslie Clark seconded the motion to approve the minutes of the September 11, 1996 meeting. John Maguire noted that there was a paragraph repeated at the bottom of page 2 and top of page 3. The minutes were approved as amended.

### III. Chairperson's Report

*(No Chairperson's report was given this month).*

### IV. Executive Director's Report

Executive Director Flaminio introduced Cheryl Melise, the new Senior Retirement Counselor for the Retirement System. Ms. Melise replaces Elaine Drapeau who was promoted to the position of Retirement and Retiree Health Manager, a new position that was part of the Reorganization plan approved last January by the Retirement Board and the Unclassified Pay Plan Board.

Director Flaminio referred to a photocopy of the newsletter that would be mailed to all members of the System later in the month. It was created by Ms. Law, the new Communications Manager. She noted that the newsletter and a previous memorandum mailed to all state agencies, ERSRI teacher liaisons and MERS Employing units summarize the Section 415 changes in the Small Business Job Protection Act. It also contains a summary of all 1996 General Assembly legislation relating to retirement including the increase in Teacher Survivor Benefits.

On other matters, the retirement system held a Bidder's Conference on October 3rd in conjunction with its search for a computer consultant. The deadline for RFP responses is October 15th. She emphasized that the system is searching for a consultant with knowledge of computer systems and the administration of defined benefit programs. She indicated she would keep the Board updated on the progress of the search and that the Procurement Sub-Committee would be meeting soon to rate the responses.

Ms. Flaminio informed the Board that they would adopt actuarial assumptions for the next round of valuations at the November meeting. Should any Board member have a specific request regarding information on salary history, investment return, any other subject relating to the adoption of actuarial assumptions, they should contact her.

Ms. Flaminio passed out certificates to the attendees of the Ethics Commission workshop that was held for the Board members. Recusal forms were sent along in the October packet. They will also be available each month from Virginia.

Lastly, Director Flaminio commented on the recent Azar decision, the second application of the state's Pension Revocation and Reduction Act. In the first application, Presiding Judge Rogers revoked half of the pension benefits of Gerald Pouliot while retaining benefits for his innocent spouse. In the state's second application of this new law, the Azar decision, Judge Williams issued a lengthy opinion in which he revoked no pension benefits but instead redistributed pension assets to Mr. Azar, to Dennis Azar (Mr. Azar's dependent), to the City of Cranston who sought restitution for Mr. Azar's illegal acts, to Mr. Azar's brothers and sisters, and to Mr. Dennis Azar's guardian ad litem. She explained to the Board that as administrator, her fiduciary responsibility flows to two classes of individuals within the system: members and statutorily designated beneficiaries. In addition to administrative concerns on how to implement the judge's plan, she feels that the decision violates not the anti-alienation provisions of the retirement law and the exclusive benefit rule as well.

Mr. Carlotti stated that the Attorney General's Office represents the Board on all pension revocation matters and that the importance of informing the Board is to have on record their support for an appeal of the Azar decision. He indicated that he had spoken to the representative of the Attorney General's office who recommended an appeal be taken.

Upon a motion by Senator Sasso and seconded by Mr. Clingham it was unanimously

**VOTED: to appeal the decision of Judge William's in the Azar case and to support the Attorney General's Motion for New Trial and Motion to Alter/Amend Judgment.**

*(Note: Chairperson Mayer assumed the chair at 9:20 from Vice-Chairperson Finelli.)*

#### **V. Funding of Municipal Employees' Retirement System (MERS)**

Chairperson Mayer introduced a proposal to relieve a city or town from making annual contributions to the state-run Municipal Employees' Pension System (MERS) when a municipality's pension plan is fully funded.

In support of such a proposal, she commented that the system's actuary, William M. Mercer, Inc. has long advocated reviewing that policy. She noted that the federal Employees Retirement Income Security Act (ERISA), which applies to private pension plans, prohibits corporations with fully-funded pension plans from making additional contributions. Under the proposal, municipalities with overfunded pension plans would automatically resume contributions when they become less than 100% funded. She stated that by applying the rule, her office had calculated that it would save 29 cities and towns \$4.9 million: \$1.6 million in FY 1997 and \$3.3 million in FY 1998.

Mrs. Mayer indicated that Barry Gilman and Frank Mangione from Mercer, Inc. were present and could answer questions that might arise regarding the recommendation. Rep. Pires asked whether Mercer had previously made the recommendation to the Board that the rates be redetermined. Mr. Gilman replied that Mercer had advised the Board of the over-funding in the past. Rep. Pires indicated he was uncomfortable with the idea of adopting any resolution regarding full-funding prior to any formal confirmation by the actuary. He felt the rates should be re-determined prior to the adoption of any full-funding rule.

Mrs. Mayer responded that the resolution would not set any rates on behalf of the participating municipalities.

Mr. Mangione and Mr. Gilman spoke on the concept of full-funding generally and how it applies to MERS participating municipalities citing examples.

Board Member Beardsley commented that he was generally in favor of the resolution but that he had received calls from many municipal finance directors who had questions about the proposal. It was then the consensus of several Board members that Mercer further study the issue and produce a report on full funding that could be shared with the Board and participating municipalities prior to the adoption of any resolution.

Mr. McAllister moved that the proposal be adopted as presented to provide property tax relief. During discussion on the motion, Rep. Pires mentioned that the House Finance Committee was aware of the overfunding of some municipal plans during budget discussions but had decided that any change in policy regarding the MERS plans should be initiated by the Retirement Board.

Mr. Carlotti stated that he had issued an opinion to the Board that R.I.G.L. 45-21-43 requires that when a MERS plan is determined to be fully funded, the system is required to reduce the contribution of the municipality. He stated, however, that there is no statutory guidance or definition regarding what constitutes "full funding."

Mrs. Mayer suggested the resolution be tabled until the November meeting pending a workshop with cities/towns that would be affected should a full-funding limitation be adopted.

Upon a motion by Mrs. Mayer and seconded by Mr. Clingham it was unanimously

**VOTED: to table the MERS proposal until the next meeting.**

Upon a motion by Mr. Beardsley and seconded by Mr. Boyce it was unanimously

**VOTED: to ask the Board's actuary, William M. Mercer, Inc., to provide a report to the Board prior to next month's meeting which includes the following: a definition of full-funding; an analysis of the risks to MERS plans of adopting a full-funding limitation based upon their size; a review of the Entry Age Normal actuarial methodology used to compute liabilities and determine contribution rates; a recommended full-funding limitation; an analysis of those plans considered to be fully-funded using the limitation; an analysis of how long fully-funded plans could cease contributions; and finally, consideration of the impact on fully funded plans should employee contributions be reduced by a percentage point.**

Mr. Carlotti suggested the report be available at the workshop to assist MERS communities in understanding the a full funding resolution.

## **VI. Hearing Officer Decisions**

ERSRI v. Lucca: Mr. Lucca did not prevail in his hearing before an administrative hearing officer. The case involves the application of R.I.G.L. 36-10-9 (e) which prohibits the purchase of military credit if the member is vested in another pension system based on the same credits or time of service. The amendment prohibiting purchases that will also be used towards credit in another system became effective January 1, 1993.

Mr. Lucca was represented at the Board by Attorney John J. Tworog. Attorney Tworog argued that his client had not been treated fairly as there was no disclaimer on the form saying the law might change nor had he ever been notified of the change.

After discussion. Ms. Cribari moved and Mr. Angelone seconded the motion to affirm the decision of the hearing officer.

A rollcall was taken of the members present: Mr. Angelone, yes; Mr. Beardsley, yes; Mr. Boyce, no; Ms. Clark, yes; Ms. Cribari, yes; Mr. Finelli, yes; Mr. Maguire, no; Ms. Masse, yes; Mr. McAllister, yes; Rep. Pires, yes; Ms. Riendeau, no; Sen. Sasso, yes; Mrs. Mayer, yes. Vote tally: 10 votes in the affirmative, 4 votes in the negative. Motion passed.

**VOTED: To affirm the decision of the hearing officer in ERSRI v. Lucca.**

### VII. Disability Appeals

ERSRI v. Cook-Picozzi: Ms. Carol Cook-Picozzi, is a 58-year old former police dispatcher with the City of Cranston whose application for accidental disability retirement was denied by the Disability Sub-Committee. Ms. Cook-Picozzi was represented at the appeal by Attorney Gerard Cobleigh. It was the opinion of the Disability Sub-Committee that Ms. Cook-Picozzi was disabled but as a result of a speech impediment and not as a result of a knee injury which was the basis of her accidental disability application.

Attorney Cobleigh presented documentation from one of the Board's examining physicians, Dr. Garrahan, stating Ms. Cook-Picozzi's disability was related to her fall from her chair on 2/12/95.

Upon a motion made by Mr. Finelli and seconded by Mr. Maguire, it was unanimously

**VOTED: To reverse the decision of the Disability Sub-Committee and award Ms. Cook-Picozzi an accidental disability retirement.**

### VII. ERSRI Legal Counsel Report

*(no formal report given)*

### VIII. Committee Reports

Disability Sub-Committee Report: Upon a motion by Mr. Finelli and seconded by Ms. Masse, it was unanimously

**VOTED: To approve the Disability Committee report of October 4, 1996.**

There being no other business to come before the Board, Ms. Masse moved and Sen. Sasso seconded the motion to adjourn at 11:05 a.m.

Respectfully submitted,

  
Joann E. Flaminio  
Executive Director

## Minutes of the November 13, 1996 Retirement Board Meeting

The monthly meeting of the Retirement Board was held November 13, 1996 in the 8th Floor Conference Room, 40 Fountain Street, Providence, RI. The meeting was called to order at 9:13 a.m. by Leonard Clingham, Acting Chair.

### I. Roll Call of Members

The following members were present at roll call: Ponzi A. Angelone, C.L.U.; Daniel Beardsley; Michael R. Boyce; Leslie E. Clark; Leonard Clingham; Lu Cribari; Linda M. Masse; John P. Maguire; Stephen McAllister, Michael O'Keefe & Linda C. Riendeau.

### II. Approval of Minutes

Ms. Cribari moved and Mr. Angelone seconded the motion to approve the minutes of the October 9, 1996 meeting. The minutes were approved as presented.

Mr. Beardsley moved and Ms. Clark seconded the motion to approve the minutes of the Informational MERS Funding Workshop of November 1, 1996. The minutes were approved as presented.

### III. Chairperson's Report

*(No Chairperson's report was given this month).*

### IV. Executive Director's Report

Executive Director Flaminio distributed a draft of the RFP for Actuarial Services plus a copy of the RFP which was used by the retirement board in 1990. She requested the Board look it over and offer its comments and suggestions to the Procurement Committee as soon as possible. In order to adhere to the previously suggested timetable (that the process be completed by the Spring of 1997), the Retirement Board needs to issue the RFP during the month of December.

Director Flaminio reported that the first benefit presentation was held November 7<sup>th</sup> for state employees and that additional seminars will be held on November 14<sup>th</sup> and November 21<sup>st</sup> for municipal employees and public school teachers. The seminars are being held at E.R. Martin Junior High School in East Providence.

In response to requests from Board members, Ms. Flaminio distributed a spread sheet detailing the receipt of teacher contributions (both employer and employee) by RI school districts and municipalities. Some districts are delinquent in submitting contributions which are received monthly by the retirement system. Ms. Clark requested the same report be produced for municipal contributions.

In response to the need for better communication between participating municipalities and the MERS system, Ms. Flaminio is setting up two workshops in January for municipal employing authorities in Barrington on Tuesday, January 14<sup>th</sup> and in Warwick on Friday, January 17<sup>th</sup>. In addition to a session on retirement issues and regular compensation, the workshop will introduce our contribution reporting program and stress the need for all reporting districts to report deductions utilizing our new program or an alternate electronic method.

Ms. Flaminio notes that the Section 415 Chart on Maximum Benefit Limitations was provided in the fall newsletter for all members. Because of our plan design, some ERSRI

members wishing to retire are affected by the benefit limitations and promised to report further on this issue.

Finally, Ms. Flaminio gave Board members our new Internet/Web Site address and stated that following the December meeting, there would be an informal luncheon for all Board members in the retirement system offices.

Actuarial Assumptions Presentation by William M. Mercer, Inc.

Barry Gilman and Frank Mangione of the William Mercer Company reviewed the present Actuarial and Economic Assumptions being used by the various subgroups/membership classes of the retirement system: state employees, teachers, municipal workers, state police and judges. Mr. Gilman then presented his recommendations for the next round of actuarial valuations which were in effect two recommendations: a retention of the present set of assumptions and a continued monitoring of present experience or if the Board wants each assumption to be reasonable, Mr. Gilman suggested that the following new assumptions be utilized:

Increase in interest rate:	8 ½% - 9%
Adoption of New Mortality Table:	from 1983 to 1994 Group Annuity Table
Study of retirement ages	
Restating of actuarial value of assets at market value.	

Mr. Gilman noted that the second recommendation would most likely result in an increase in employer costs depending on the interest rate adopted.

Mr. O'Keefe noted that for three years he has been seeking historical information on each individual assumption (salary, investment return, retirement age, mortality) that would allow him to compare the assumption recommended by the actuary and the true experience of the plan.

Mr. Beardsley agreed with Mr. O'Keefe and noted that municipal officials are suggesting that the retirement age for fire & police is much younger than age 57 which is the current assumption. Similarly, Board Member McAllister suggested that the Board needs more meaningful comparisons regarding salary assumptions and true experience including an analysis of contract data and future projections regarding salary.

With regard to investment return and in preparation for this discussion, Ms. Flaminio noted that she had suggested that the necessary information be obtained from either Wilshire, the SIC's pension consultant, or the State Investment Commission. Further, Ms. Flaminio stated that she, too, is concerned with the both the mortality assumption presently utilized and the retirement age assumption for teachers who she claims are retiring earlier than age 61 which is the present assumption.

Mr. O'Keefe commented that the setting of actuarial assumptions is one of the most important functions, if not the most important function of the retirement board, and that the information presently available is not sufficient to allow Board members to comfortably adopt a set of assumptions for the coming year. He suggested that additional time be spend on this most important responsibility. Ms. Cribari stated that she would like to see the assumption in one column with the actual experience presented next to it so that it could be easily compared.

After further comment, it was the consensus of the Board that assumptions could not be adopted at the November meeting and that additional study would be necessary.

Upon a motion by Mr. O'Keefe and seconded by Mr. McAllister it was unanimously



**VOTED:** that the Adoption of Actuarial Assumptions for the 1996 Valuations be tabled until the December meeting and that in the interim, the Board requests the system's actuaries, the William M. Mercer, Co. to examine available ERSRI and MERS member data and to report back to the Board with their experience findings regarding the following individual actuarial assumptions: (1) Salary; (2) Mortality; and (3) Retirement Age. Such information shall be a format that is easy to understand and which provides a clear comparison between the assumption and the system's true experience. It was further moved to ask the State Investment Commission and its consultant, the Wilshire Company, to provide similar information regarding the historical investment performance of the fund and a recommendation regarding the setting of a reasonable interest assumption for the fund given the fund's performance and expected future performance.

#### V. Funding of Municipal Employees' Retirement System (MERS)

Board member Beardsley spoke on behalf of the adoption of the full-funding limitation proposed by the William M. Mercer, Co. , actuaries to the Board, and Mr. Boyce, for purposes of discussion, seconded the motion. Mr. Beardsley urged fellow Board members to adopt the full funding limitation. He stated that given counsel's opinion on this issue, it is the responsibility of the Board to adopt the full funding limitation for those participating municipalities with sufficient assets.

The text of the full funding limitation is as follows: "No employer contribution is required for a plan year if the beginning of the year actuarial value of plan assets exceed the beginning of the year entry age actuarial accrued liability, plus the costs of benefits accruing during the year (known as entry age normal cost). A unit may, however, continue to make contributions at its own discretion."

On a related matter, Mr. Boyce stated that he had asked for information regarding the percentage cost of providing a Cost-of-Living Adjustment (COLA) to those MERS municipalities with COLA's. Currently, he stated, such information is provided to employers, but not employees. Director Flaminio stated that under the Rhode Island public records law such information is considered public information and should be provided to Mr. Boyce.

On a motion by Mr. Boyce and seconded by Ms. Riendeau to table Mr. Beardsley's motion, a roll call vote was taken. Mr. Angelone, yes; Mr. Beardsley, no; Mr. Boyce, yes; Ms. Clark, yes; Mr. Clingham, abstain; Ms. Cribari, no; Mr. Maguire, yes; Ms. Masse, yes; Mr. McAllister, no; Mr. O'Keefe, abstain; Ms. Riendeau, yes. Vote tally: 6 votes in the affirmative, 3 votes in the negative, 2 abstentions. The motion to table Mr. Beardsley's original motion did not carry.

Mr. Boyce then moved to amend Mr. Beardsley's motion regarding the full funding limitation by inserting before the last sentence: "provided that the full funding limitation will only be available to contributing employers that have adopted Section 45-21-52 (a) (2) or equivalent section of the Rhode Island General Laws entitled retirement of municipal employees." Mr. Maguire seconded the motion.

Mr. Beardsley spoke against the amended motion stating that COLA and other benefits are subjects of collective bargaining discussions. Mr. Boyce responded by saying that 94% of municipal employees are in plans that are considered overfunded and 45% of active members are not eligible for a COLA and 65% of current retirees do not receive a COLA.

Mr. Maguire said he was not sure that the Board couldn't pass the resolution with the amendment. It does not require MERS municipalities to offer COLA to its members, but instead

states that as a matter of ERSRI policy that a MERS plan would not be considered fully funded unless it offered a COLA option to its retirees. He further commented that the statute's do not reflect the Legislature's intention to create retirement systems with employee contributions only.

A roll call vote was taken on Mr. Boyce's amended motion. Mr. Angelone, no; Mr. Beardsley, no; Mr. Boyce, yes; Ms. Clark, no; Mr. Clingham, no; Ms. Cribari, no; Mr. Maguire, yes; Ms. Masse, no; Mr. McAllister, no; Mr. O'Keefe, no; Ms. Riendeau, yes. Vote tally: 3 affirmative, 8 negative. Mr. Boyce's motion did not carry.

The Board then voted on the original motion by Mr. Beardsley to adopt the full-funding limitation. Mr. Angelone, yes; Mr. Beardsley, yes; Mr. Boyce, no; Ms. Clark, no; Mr. Clingham, abstain; Ms. Cribari, yes; Mr. Maguire, no; Ms. Masse, yes; Mr. McAllister, yes; Mr. O'Keefe, no; Ms. Riendeau, no. Vote tally: 5 votes in the affirmative, 5 votes in the negative with 1 abstention. The motion did not pass.

Several members of the Board asked for additional information from Mercer and indicated that they would like this issue to be raised again at a future meeting.

## **VI. Hearing Officer Decisions**

ERSRI v. Golini: Ms. Golini prevailed in her hearing before an administrative hearing officer concerning the availability of previous Cranston school committee time and whether or not such time may be credited to her current ERSRI state employee membership. Mr. Carlotti advised the Board that he had reviewed the decision, and recommended to the Board that they adopt the decision of the hearing officer but not the decision's rationale. Mr. Carlotti relied on an original October 2, 1991 document regarding the school committee time which has the written notation "2 years, OK, LC." At the time of the notation, the awarding of such time was permissible and was granted by a former retirement system employee. Ms. Cribari moved and Mr. Angelone seconded the motion to affirm the decision of the hearing officer. It was unanimously

**VOTED: To affirm the decision but not the text or rationale of the decision in ERSRI v. Golini.**

## **VII. Disability Appeals**

ERSRI v. Harney: Ms. Virginia Harney is a 35 year old former janitor at the University of Rhode Island whose application for accidental disability retirement was denied by the Disability Sub-Committee. The Disability Sub-Committee based its denial on the reports of ERSRI independent physicians, two of whom did not find her disability to be work-related. Ms. Harney was represented at the appeal by Attorney Robert D. Goldberg.

After a presentation by Mr. Goldberg, upon a motion made by Ms. Cribari and seconded by Mr. Angelone, it was unanimously

**VOTED: To affirm the decision of the Disability Sub-Committee and deny Ms. Harney's application for an accidental disability retirement.**

## **VIII. ERSRI Legal Counsel Report**

*(no formal report given)*

#### IV. Committee Reports

Disability Sub-Committee Report: Upon a motion by Ms. Masse and seconded by Mr. Angelone it was unanimously

**VOTED: To approve the Disability Committee report of November 8, 1996.**

Please note that Board member Maguire recused himself from any consideration on numbers 5, 8 & 11.

Procurement Sub-Committee: Mr. Angelone noted the committee would be meeting directly after the Board meeting and he would give an additional report at the December meeting.

Board Counsel Carlotti informed the Board of proposed new rules by the Ethics Commission to be effective January 1, 1997. He will be giving a brief summary of the rules at the December meeting.

#### X. New Business

Mr. O'Keefe noted that it is his intention, having voted on the prevailing side of Mr. Beardsley's motion regarding the full funding limitation, to raise this issue at a subsequent meeting of the Retirement Board.

#### XI. Adjournment

There being no other business to come before the Board, Mr. Boyce moved and Mr. Beardsley seconded the motion to adjourn at 11:32 a.m.

Respectfully submitted,

**Joann E. Flaminio**  
Executive Director

vlp

## Minutes of the December 18, 1996 Retirement Board Meeting

The monthly meeting of the Retirement Board was held December 18, 1996 in the 8th Floor Conference Room, 40 Fountain Street, Providence, RI. The meeting was called to order at 9:15 a.m. by Nancy J. Mayer, Chairperson.

### I. Roll Call of Members

The following members were present at roll call: Ponzi A. Angelone, C.L.U.; Daniel Beardsley; Michael R. Boyce; Leslie E. Clark; Leonard Clingham; Lu Cribari; William B. Finelli; Linda M. Masse; John P. Maguire; Stephen McAllister; Rep. Antonio J. Pires; Linda C. Riendeau; Sen. Eleanor C. Sasso & Nancy J. Mayer.

### II. Approval of Minutes

Mr. Maguire moved and Mr. Boyce seconded the motion to approve the minutes of the November 13, 1996 meeting. Mr. Boyce noted on page 3, paragraph 6 it should read Section 45-21-52 (b) and he also requested that the last sentence of Section five be removed. He did not believe several members requested additional information on the municipal overfunding issue and therefore moved to amend the minutes which was seconded by Mr. Maguire. The amendment was passed by voice vote. The minutes were then approved as amended by voice vote.

### III. Chairperson's Report

Mrs. Mayer reported that the State Investment Commission is completing its search for an Emerging Markets investment manager. After completing a total of six semi-finalist interviews they will bring to the SIC a hiring recommendation by the January or February meeting of next year. The chairperson also reported that the investment performance of the pension fund remains strong and that the present value of assets is in excess of \$4.5 billion.

### IV. Executive Director's Report

On behalf of Assistant Executive Director Reilly and herself, Ms. Flaminio extended her thanks to the Board members for their year of service on the retirement board. She also pledged to continue to search in the New Year for ways to effectively and equitably administer the retirement system on behalf of the active and retired membership.

Director Flaminio presented a citation from Governor Almond to two members of the Retirement Board: (1) to Leonard Clingham who is leaving the retirement board having served on the Disability Sub-Committee in addition to serving as the Director of Administration's designee; and (2) to Ponzi Angelone, C.L.U. who in his first year on the Board has served both on the Disability Sub-Committee and as Chair of the Procurement Sub-Committee.

Ms. Flaminio reported that retirees were unable to change health carriers in 1996 but that an open enrollment is planned for June, 1997.

Ms. Flaminio noted that all retirement board members have been mailed a copy of the Annual Financial Report for the year ending June 30, 1995. Ms. Flaminio stated that current retirement system statutes require that a report be produced in a timely manner. She added that

although the report is a solid one containing audited financial statements and our latest actuarial valuations, it needs to be produced in a more expeditious fashion. She stated that slow data collection and the six-month time frame necessary to produce audited statements delay the publication and distribution of the report. She also noted that the Governmental Accounting Standards Board which governs the reporting of public entities such as public employee retirement systems is introducing new rules, namely GASB rules 25, 26, and 27, which will be used in writing next year's report.

The Director impressed upon the Board the importance of the Procurement Sub-Committee recommendation for a computer consultant. She stated that many of the system's current problems can be traced to the need for better automation and urged their support of the Procurement Sub-committee's recommendation.

Finally, Ms. Flaminio gave a brief explanation of a potential problem the system will experience in applying Section 415 Maximum Benefit Limitations. Currently, there are about 10 to 15 members of the system who are eligible to retire but who will experience a reduction in benefits as a result of the mandatory limitations based on age. In Rhode Island, this issue affects highly paid individuals capable of retiring at a fairly young age. To explain the issue further, Ms. Flaminio presented a case study of Sam State modeled after real members who currently face a benefit reduction. She noted that the system may either choose to do nothing and litigate the issue by entertaining lawsuits by affected members or investigate the notion of establishing a Qualified Governmental Excess Benefits Plan as authorized by the Small Business Job Protection Act of 1996.

Upon a motion by Mr. Beardsley and seconded by Mr. Boyce it was unanimously

**VOTED: To refer the Section 415 issue to the Board's Legislative Committee and request that the Sub-committee meet with Board legal counsel to determine if the matter could be handled legislatively and report back to the Board for the January meeting.**

#### V. Municipal Overfunding

On this issue, Mr. Beardsley moved and with Mr. Boyce seconding the motion it was unanimously

**VOTED: to table the issue of Municipal over-funding until the January, 1997 meeting of the Employees Retirement Board.**

Ms. Flaminio shared actuarial information regarding this issue from the Woonsocket Police who had concerns about the actuary's mortality and retirement age assumptions which they feared may not reflect their unit's present experience.

On a related issue, Mr. Finelli inquired whether there are penalties in place for cities and towns in arrears in submitting employer and employee contributions. Mr. Karpinski stated at this time the system contacts employers by phone and mail. Mr. Finelli then asked if it was possible to fashion a legislative solution. On the topic, Mr. Beardsley commented that he felt it was wrong to penalize municipalities for the actions of delinquent school districts.

Ms. Flaminio stated that she will stress at the upcoming employer seminars the importance of 'on time' employer and employee contributions. Mr. Maquire asked if information regarding delinquent school district employer and employee contributions could be provided to Board members. Such information will be provided by the retirement system.

## VI. Adoption of Actuarial Assumptions

Barry Gilman and Frank Mangione of the William Mercer Company presented the results of their month-long experience study which was requested by the retirement board at the last meeting. In the report, the actuaries analyzed the following experience of state employees only (similar data is presently unavailable for teachers and municipal employees):

*mortality*

*salary increases*

*retirement age*

*turnover*

*disability*

*investment return* (provided by State Investment Commission and Wilshire )

The actuaries explained that to adopt a more recent mortality table such as the 83 GAM or the newer 94 GAM table would mean an immediate increase in contribution levels and funding necessary to pay benefits. The recent experience study has shown that the present 1971 table is not unreasonable given the number of deaths in the different membership groups: state, teachers, municipal, and police & fire.

With regard to salary, experience has shown that average state salary increases of 4.1% do approximate the salary assumption of 4.5%. (The average increase in teacher salaries for the same period was slightly higher at 5.1%). Adopting a higher salary assumption would mean an increase in amounts necessary for funding.

With regard to retirement age, the study showed that the retirement age assumptions are on target except for police and fire members who are retiring much earlier than our valuations assume. Teachers are also retiring earlier than what the valuations have assumed. A change in the retirement age assumptions to more purely reflect actual age at retirement would mean increased costs. It was stated that this could effect the characterization of police & fire plans as overfunded.

Turnover is higher than expected and produces slight savings while disability experience is much lower than expected.

With regard to investment return, Mrs. Mayer explained that the State Investment Commission has had many discussions with Wilshire regarding investment return assumptions because they are important in calculating contributions and equally important in developing an asset allocation plan for the SIC. She stated that Wilshire and the SIC continue to recommend an 8% investment assumption.

It was the actuaries recommendation that the system adopt and utilize a more modern mortality table (83 GAM) for all of the plans which would mean an increase in the cost of benefits. Mercer also recommended slight changes in retirement age and salary for teachers and a lower retirement age for the police & fire group. These necessary changes are currently being offset by investment gains in excess of 8%. If only these changes are implemented without an increase in the investment assumption, there will be additional cost. (estimated to be \$32m in 1998) In the past, although individual retirement assumptions may not have been correct, they have worked together to produce modest actuarial gains.

Upon a motion by Mr. McAllister and seconded by Mr. Beardsley it was unanimously

**VOTED: to retain the current assumptions that are in place for another year except for the expected retirement age of police & fire and to request the actuaries to do an experience study of this particular membership group and institute a new retirement age assumption.**

## VII. Hearing Officer Decisions

**ERSRI v. Estate of Roy L. Silva:** Ms. Irene Pierini, widow of Roy L. Silva, did not prevail in her hearing before an ERSRI hearing officer. The case involves the application of R.I.G.L. 45-21-51 which states that in the case of the death of the retired member, any option selection becomes effective the following day. In this case, the municipal worker selected Option 2 and died on April 20, 1996. A one-time change of option form was completed by Mr. Silva but not received in the retirement office until April 23, 1996 as evidenced by the retirement system date stamp. Thus, the hearing officer upheld the system's decision not to recognize the change of option (from Option 2 to Option 1) received in the retirement office after the date of Mr. Silva's death.

Ms. Pierini, Mr. Silva's widow, was represented by Joseph A. Lamagna, Esq. Mr. Lamagna maintained that Mr. Silva did exercise his one-time change of option prior to his death on April 20, 1996 as allowed by statute.

Representative Pires recused from any consideration of this case.

Mr. Boyce moved and Mr. Finelli seconded the motion to overturn the hearing officer's decision and that the Rules and Regulations committee meet to address the situation. A rollcall vote was taken. Mr. Angelone, no; Mr. Beardsley, no; Mr. Boyce, yes; Ms. Clark, no; Ms. Cribari, no; Mr. Finelli, yes; Mr. Maguire, yes; Ms. Masse, no; Mr. McAllister, no; Ms. Riendeau, yes, Sen. Sasso, no and Mrs. Mayer, no. Vote tally: 4 votes yes, 8 votes no. The motion failed.

Sen. Sasso moved with Ms. Clark seconding the motion to affirm the hearing officer's decision. A rollcall vote was taken. Mr. Angelone, yes; Mr. Beardsley, yes; Mr. Boyce, no; Ms. Clark, yes; Ms. Cribari, yes; Mr. Finelli, no; Mr. Maguire, no; Ms. Masse, yes; Mr. McAllister, yes; Ms. Riendeau, no; Sen. Sasso, yes and Mrs. Mayer, yes. Vote tally, 8 yes, 4 no. It was

**VOTED : to affirm the decision of the hearing officer in ERSRI v. Estate of Roy L. Silva.**

Mrs. Mayer suggested the issue be referred to the Legislative committee to discuss the issue of when a member may change options.

**ERSRI v. Romano:** Mr. Romano did not prevail in his hearing before an ERSRI hearing officer. Mr. Romano was a state employee who retired in 1989 and who was subsequently employed as the Director of Public Works for the Town of Bristol. R.I.G.L. 36-10-36 prohibits somebody who has retired from being re-employed on a full-time basis by a participating municipality.

Ferdinand A. Bruno, Esq., who represented Mr. Romano, contended that prior to accepting the job in the Town of Bristol, Mr. Romano had inquired as to the legality of accepting the post and receiving a retirement allowance from the Employees Retirement System. He noted that Mr. Herreshoff, Town Administrator, had received a written letter from then Director Hickey stating that Mr. Romano could accept the position.

Mr. Beardsley moved and Ms. Masse seconded the motion to affirm the decision of the hearing officer. A rollcall vote was taken: Mr. Angelone, yes; Mr. Beardsley, yes, Mr. Boyce, no; Ms. Clark, yes; Ms. Cribari, yes; Mr. Finelli, yes; Mr. Maguire, yes; Ms. Masse, yes; Mr. McAllister, yes; Rep. Pires, yes; Ms. Riendeau, yes; Sen. Sasso, yes; Mrs. Mayer, yes. Vote tally: 12 votes yes, 1 vote no. It was

**VOTED: to affirm the decision of the hearing officer in ERSRI v. Romano.**

*(no disability appeals for December)*

**VIII. ERSRI Legal Counsel Report**

*(no formal report given)*

**IX. Committee Reports**

Disability Sub-Committee: Upon a motion made by Mr. Finelli and seconded by Mr. Boyce, it was unanimously

**VOTED: To approve the Disability Committee report of December 6, 1996.**

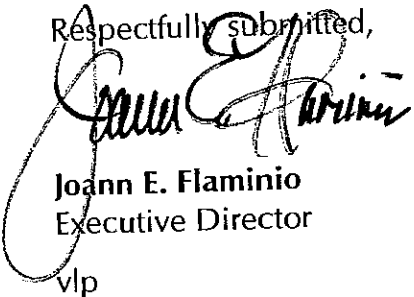
Procurement Sub-Committee: Upon a motion made by Mr. Angelone and seconded by Mr. Beardsley, it was unanimously

**VOTED: to accept the recommendation of the Procurement Sub-Committee to hire L.R. Wechsler, LTD. as a technical consultant to the retirement system during its vendor selection process.**

**X. Adjournment**

There being no other business to come before the Board, the meeting was adjourned at 12:15 p.m.

Respectfully submitted,



Joann E. Flaminio  
Executive Director

vlp



## Minutes of the January 8, 1997 Retirement Board Meeting

The monthly meeting of the Retirement Board was held January 8, 1997 in the 8th Floor Conference Room, 40 Fountain Street, Providence, RI. The meeting was called to order at 9:08 a.m. by Nancy J. Mayer, Chairperson.

### I. Roll Call of Members

The following members were present at roll call: Ponzi A. Angelone, C.L.U.; Daniel Beardsley; Michael R. Boyce; Leslie E. Clark; Gary Clark, designee of Robert L. Carl, Jr.; Lu Cribari; William B. Finelli; Linda M. Masse; and Chairperson Nancy J. Mayer. Rosemary Gallogly, designee of Stephen McAllister, arrived at 9:20 a.m.

### II. Approval of Minutes

Ms. Cribari moved and Mr. Finelli seconded the motion to approve the minutes of the December 18, 1996 meeting. The minutes were approved by voice vote.

### III. Chairperson's Report

Mrs. Mayer reported that the value of assets of the pension fund was close to \$5 billion dollars. She added that manager finalists for an Emerging Markets allocation will be interviewed by the State Investment Commission at either the January or February meeting.

She also reported that the SIC is nearing completion of its review of the 457 RFP which would provide for expanded investment options within the state's 457 deferred compensation program. Previously investment options within this program were severely limited.

### IV. Executive Director's Report

Director Flaminio gave a brief report in which she indicated that all ERSRI retirees and beneficiaries will receive their 1099 statements by the end of January, 1997. She also reminded the Board that on January 14<sup>th</sup> and January 17<sup>th</sup>, the retirement system will be sponsoring its first-ever meetings for municipal finance and personnel officers. The meetings are designed to introduce our new contribution input program and to focus on benefit and compensation issues.

In response to a question by Mr. Boyce, Ms. Flaminio stated she would provide to the Board information regarding the system's expenses and budget for the upcoming fiscal year. (Fiscal '98).

### V. Municipal Overfunding and Adoption of Full-Funding Limitation

*(continued from last month's meeting)*

Mr. Boyce moved that this issue be placed on the table as he was still awaiting information that he requested regarding the overfunding of certain municipal units.

Counsel Carlotti noted that the issue before the Board is whether or not to adopt a full-funding limitation based on the benefit structure as presently adopted.

Mr. Beardsley noted that many municipal members are interested in the information being sought by Mr. Boyce and noted that he, too, had made a similar request to the system's actuary for the municipal information. As such, he supports Mr. Boyce's request for a postponement on this issue.

Mrs. Mayer expressed concern regarding the money being lost by municipalities given the delay in bringing the issue to a vote.

Mr. Boyce moved and Mr. Beardsley seconded the motion to table indefinitely the adoption of a full-funding limitation for overfunded units. A roll-call vote was taken: Mr. Angelone, yes; Mr. Beardsley, yes; Mr. Boyce, yes; Ms. Clark, yes; Mr. Clark, yes; Ms. Cribari, no; Mr. Finelli, yes; Ms. Masse, yes; Ms. Gallogly, yes, Mrs. Mayer, no. Vote tally, 8 yes, 2 no, the motion carried. It was

**VOTED: to table indefinitely the adoption of a full-funded limitation for overfunded municipal units.**

Mrs. Mayer noted that Mercer had recommended a new retirement age for police and fire units as a result of their recent experience study. This may affect the characterization of some police & fire units as overfunded given the younger retirement age to be used. (*At the last retirement board meeting, the Board adopted assumptions for every valuation except for the retirement age of police & fire.*)

On a motion by Ms. Cribari and seconded by Mr. Beardsley it was unanimously

**VOTED: to accept the recommended retirement ages for police & fire units to be utilized in the next series of system valuations for fiscal 1999.**

## **VI. Hearing Officer Decisions**

*(no appeals for the month of January)*

### **Disability Appeals**

*ERSRI v. Allen:* Ms. Yolanda Allen, is a 47 year old juvenile program worker at DCYF whose application for accidental disability retirement was denied by the Disability Sub-Committee. Ms. Allen was represented at the appeal by Attorney Joseph B. Carty, Jr. It was the opinion of the Disability Sub-Committee, based on the medical evidence, that there was not a causal connection between the incident of September 8, 1990 and the arthritic condition of her knees.

After a presentation by Attorney Carty on behalf of Ms. Allen, a motion was made by Ms. Clark and seconded by Mr. Finelli to affirm the decision of the Disability Sub-Committee to deny the application for accidental disability retirement. A rollcall vote was taken of the members present: Mr. Angelone, yes; Mr. Beardsley, yes; Mr. Boyce, yes; Ms. Clark, yes; Mr. Clark, yes; Ms. Cribari, yes; Mr. Finelli, yes; Ms. Masse, yes; Ms. Gallogly, yes; Mrs. Mayer, yes. It was unanimously

**VOTED: to affirm the decision of the Disability Sub-Committee to deny Ms. Allen's application for accidental disability retirement.**

## **VII. ERSRI Legal Counsel Report**

Mr. Carlotti spoke to the Board regarding the Town of Barrington municipal unit for firefighters which wishes to sub-divide into two units and to offer two separate plans as a result of a recent collective bargaining agreement. The Town of Barrington would like to offer a 25-year retirement pension for all new firefighter hires and to retain its 20-year plan for firefighters that are presently employed. Mr. Carlotti stated that by allowing the sub-division of bargaining units, it would create administrative and legal issues with respect to the pension system that should be brought to attention of the full Board. Additionally, no other municipal unit has been

allowed to split a governmental entity in this fashion to allow for a different set of retirement rules.

Ms. Flaminio noted that a bargaining unit within the Town of Tiverton wanted to receive a Cost-of-Living Adjustment. The system responded by stating that a Cost-of-Living may only be granted to the entire municipal unit and not simply a bargaining unit within the municipality. Ultimately, stated Flaminio, it must be determined whether a participating unit *must* accept the tenets of the applicable retirement statute in order to enjoy the benefits (investment return and administration ) or whether the retirement system is simply a hired administrative agent. If so, additional questions should be raised regarding system administration and related system administrative costs.

Mr. Andrew Teitz, representing the Town of Barrington, felt their request was not unusual and permitted by present statute. He added that Barrington is willing to pay an extra administrative cost.

Mr. Beardsley noted that his concern involves not Barrington, but the newly created City of Cranston Police & Fire unit. For this unit, the General Assembly approved an entirely new set of retirement rules (particularly with regard to disability). He noted that the retirement board did not object or have a specific position on this newly passed legislation.

It was agreed that Ms. Flaminio should identify the administrative and financial issues involved with the administration of a two-tiered Barrington Municipal Firefighter unit and discuss with the Town of Barrington a reasonable solution to the current matter.

### VIII. Committee Reports

Disability Sub-Committee: Upon a motion made by Mr. Finelli and seconded by Ms. Clark, it was unanimously

**VOTED: To approve the Disability Committee report of January 3, 1997.**

Procurement Sub-Committee: Mr. Angelone reported that a previously scheduled meeting of the Procurement Sub-Committee had been cancelled and that there was no committee report at this time.

Mr. Boyce questioned the delay in issuing the RFP for Actuarial Services noting that each member of the Board had received two drafts of the RFP during the past few months. Chairman Angelone stated that in his opinion the RFP was complete but that the Chair had additional questions and concerns.

Mr. Boyce moved and Mr. Finelli seconded to put the matter on the agenda for consideration at this time. A rollcall vote was taken. Mr. Angelone, no; Mr. Beardsley, no; Mr. Boyce, yes; Ms. Clark, no; Mr. Clark, no; Ms. Cribari, no; Mr. Finelli, yes; Ms. Masse, no; Ms. Gallogly, no; Mrs. Mayer, no. Vote tally, 2 yes, 8 no. Motion failed.

Director Flaminio noted that it was originally the intent to have a new actuary on board by the spring of 1997 in preparation for Fiscal Year '98 and that additional delays would make it impossible to meet that timetable.

Legislative Sub-Committee: Ms. Cribari stated the committee had met and voted to bring five legislative initiatives to the full Board for their consideration. Each legislative initiative was considered individually by the Board.

(1) Legislation to make Retirement Board meetings comport with the Rhode Island Open Meeting Law.

On a motion by Mr. Boyce and seconded by Ms. Masse it was unanimously

**VOTED: to approve proposed legislation to amend R.I.G.L. 36-8-4 which would bring retirement board meetings into compliance with the Rhode Island Open Meeting Law.**

(2) Legislation which would expand the definition of dishonorable service to include all felonies that are committed in connection with the execution of public duty or through the abuse of public position.

After considerable discussion of this initiative including comments by Board members on the possible broad interpretation of the word felony, a motion was made and seconded to approve the initiative. A roll-call vote as taken: Mr. Angelone, yes; Mr. Boyce, no; Ms. Clark, no; Mr. Clark, yes; Ms. Cribari, yes; Mr. Finelli, no; Ms. Masse, yes; Ms. Gallogly, yes and Mrs. Mayer, yes. Vote tally: 6 affirmative, 3 negative. The motion did not carry and the Board did not approve the initiative.

(3) Legislation to exempt the Employees Retirement System pension fund from the 7% administrative surcharge on restricted receipt accounts.

On a motion by Mr. Boyce and seconded by Mr. Finelli it was unanimously

**VOTED: to approve proposed legislation which would exempt the pension system from the 7% administrative surcharge on restricted receipt accounts, adding the account number and program name to the list of exempt accounts in S 35-4-27.**

(4) Legislation that would limit the salary increases that could be used to calculate final average salary (FAS) at time of retirement.

After discussion, it was determined that there were additional issues regarding this legislative initiative that needed to be further discussed and clarified by the Legislative Sub-Committee. On a motion by Mr. Finelli and seconded by Ms. Masse it was unanimously

**VOTED: to recommit this legislative initiative regarding the limiting of salary increases to the Legislative Sub-committee.**

(5) Legislation that would amend the definition of disability to include a requirement that the disability be permanent.

On a motion by Ms. Masse and seconded by Ms. Cribari it was unanimously

**VOTED: to approve proposed legislation which would add a permanency requirement to the present statutory standard of disability found in Titles 35, 16 and 45 of the Rhode Island General Laws.**

## **IX. Pension Revocation**

Thomas Palumbo, Special Assistant Attorney General, addressed the Board regarding R.I.G.L. 36-10.1-1-- the Public Employee Pension Revocation and Reduction Act, which requires that the retirement board initiate a civil action in the superior court for revocation or reduction of a retirement benefit or any other payment whenever a public employee or official is convicted or pleads guilty to a crime related to his/her employment.

Specifically, Attorney Palumbo spoke to the Board regarding the pensions of Anthony G. Izzo and Benjamin R. Zanni, former employees of the Town of Johnston, who are presently incarcerated in federal prisons. (As determined by the retirement system, Mr. Izzo will be eligible to retire from the retirement system in the year 2008 with an estimated retirement benefit of \$18,264.87 while Mr. Zanni will be eligible to retire in the same year with an estimated annual benefit of \$413.59.) According to court records, Mr. Izzo entered a guilty plea in federal court to two counts of making fraud and false statements, 26 U.S.C. S 7206 (tax charge) while Mr. Izzo entered a guilty plea to one court of extortion, 18 U.S.C. 1951. He asked

for the Board's authorization to commence proceedings immediately under the Pension Revocation Act.

On behalf of the Board, Counsel Carlotti raised the question as to whether such issues are ripe to proceed. In response, Mr. Palumbo stated that after discussion with other members of the Attorney General's Office, they concluded that: (1) it is prudent to go forward at this time as there is a case in controversy; and (2) one count in the complaint filed would include a count of declaratory judgment asking the court if it is proper to proceed with the case. Thus, this case would test whether or not a member's benefit can be revoked prior to actual receipt (i.e. the right to receive the pension) and how the court can consider the needs of other dependents of the member, a statutory factor to be considered, if the benefit is revoked prematurely.

Board member Finelli expressed concern for the felon's family if the issue was put before the court prematurely given the possibility of changed circumstances.

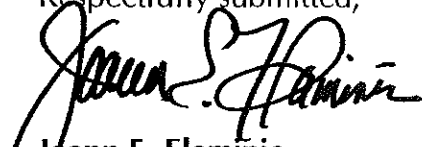
Mr. Beardsley moved and Ms. Cribari seconded a motion to authorize the Attorney Generals office to proceed to revoke the pensions of Zanni and Izzo under the Pension Revocation Act. A rollcall vote was taken: Mr. Angelone, yes; Mr. Beardsley, yes; Mr. Boyce, yes; Ms. Clark, yes; Mr. Clark, yes; Ms. Cribari, yes; Mr. Finelli, no; Ms. Masse, yes; Ms. Gallogly, yes; Mrs. Mayer, yes; Vote tally: 9 yes, 1 no. It was voted

**VOTED: in accordance with R.I.G.L. 36-10.1-1, the Public Employee Pension Revocation and Reduction Act, to authorize the Attorney General's office to proceed to initiate a civil action in the superior court to revoke the pensions of Anthony G. Izzo and Benjamin R. Zanni.**

#### X. Adjournment

There being no other business to come before the Board, the meeting was adjourned at 11:55 a.m.

Respectfully submitted,



Joann E. Flaminio  
Executive Director

vlp

## Minutes of the February 12, 1997 Retirement Board Meeting

The monthly meeting of the Retirement Board was held February 12, 1997 in the 8th Floor Conference Room, 40 Fountain Street, Providence, RI. The meeting was called to order at 9:20 a.m. by Nancy J. Mayer, Chairperson.

### I. Roll Call of Members

The following members were present at roll call: Ponzi A. Angelone, C.L.U.; Daniel Beardsley; Michael R. Boyce; Leslie E. Clark; William B. Finelli; Linda M. Masse; John P. Maquire; Linda C. Riendeau and Chairperson Nancy J. Mayer.

### II. Approval of Minutes

Ms. Masse moved and Mr. Angelone seconded the motion to approve the minutes of the January 8, 1997 meeting. The minutes were approved by voice vote.

### III. Chairperson's Report

Mrs. Mayer reported that the State Investment Commission (SIC) recently selected Schroeder Capital Management as the manager for a new Emerging Markets allocation within the pension fund. Ms. Mayer reported that Schroeder already runs an international equity portfolio for the fund.

She also reported that the SIC selected Fidelity as a new provider for the state's 457 deferred compensation program. She informed the Board that state employees with old Aetna accounts may stay with Aetna or may choose to switch for Fidelity. First year fees will be based on the number of employees that switch accounts to Fidelity. New Fidelity investments will commence in July of 1997.

Mrs. Mayer also informed the Board that she has been selected the national chairwoman of National Association of State Treasurers' Pension Committee.

### IV. Executive Director's Report

Director Flaminio reported that the municipal seminars held in Barrington and Warwick were quite successful. She stated they many participating municipalities have already switched to some type of automated reporting program and that as a result we have completely eliminated the delay in entering municipal contributions. This will mean a quicker process for retiring municipal employees and better yearly reporting for active municipal employees.

Ms. Flaminio commented that member usage of the Internet is starting to increase. With regard to the Pension Revocation matters discussed at last month's meeting, she noted that one of the members discussed, Mr. Benjamin Zanni, is requesting a refund of his contributions. Thus, there will be no litigation by the Attorney General's office to revoke Mr. Zanni's municipal pension. Finally, some Board members did inquire regarding the status of the Excess Benefit Plan idea discussed at the December meeting. Ms. Flaminio reported that the Legislative Sub-Committee did discuss the issue and review counsel's opinion and determined that no action should be taken at this time. Ms. Flaminio noted that in all likelihood the matter will result in future member litigation.

Director Flaminio alerted the Board to the next public pension issue being debated in Washington regarding "non-discrimination" and whether the temporary moratorium on applying non-discrimination rules to public plans should be made permanent. (*Non-discrimination rules are scheduled to go into effect in the public sector in 1999.*) What this would mean for most plans is the application of a new administrative test against the public sector "employer" to

determine whether highly compensated employees are receiving a higher benefit than lower paid employees. Ms. Flaminio noted that the notion of testing, which is complex for the private sector, would be very difficult for public plans given their current structure and organization. Unlike company plans which are top down, public plans are often organized for groups of employees such as teachers, police & fire, and judges. The handouts lists the many national groups in support of a permanent moratorium of applying non-discrimination rules to the public sector.

Ms. Flaminio referred to the handout regarding the National Conference of Commissioners of Uniform State Laws which is completing a draft on a Management of Public Employee Retirement Systems Act. She noted that if it retains its 'uniform' designation, it must be introduced into the state legislature.

On the personnel front, Ms. Flaminio introduced Paula Azulay who was recently promoted to the position of Senior Retirement Counselor. She also noted that the system had hired Marlene Deneault in the finance area and that she will be commencing work in a few weeks.

Ms. Flaminio referenced the Romano case and the entire issue of post-retirement employment. She noted that current state law allows a retired Providence police officer from a non-participating municipality to return to work full-time for the State of Rhode Island yet prohibits a retired Bristol police officer from a participating municipality to work for the State of Rhode Island. She noted that although the intent of the legislative amendments to R.I.G.L 36-10-36 were undeniably correct, i.e. to prevent someone from returning to a job he/she has just retired from, that the current statute presents many thorny issues in its implementation.

Mr. Beardsley suggested that Ms. Flaminio and Assistant Director Reilly suggest legislative amendments to the current law and report back to the Board and the Board's counsel at a future meeting.

Lastly, Ms. Flaminio stated that she was pleased to see the editorial written by Senator Roney which noted that our retirement system administration has been greatly improved and is a doing a good job of preparing public employees for retirement.

The next retirement board meeting will be held on Wednesday, March 19<sup>th</sup>. In March, there will be a short primer on budget and funding information while the April and May meetings will discuss the next round of actuarial valuations (April: state and teachers; May: municipal).

Mr. Boyce requested that the budget information include information regarding the lease price at 40 Fountain Street.

#### **V. Hearing Officer Decisions**

*(no appeals for the month of January)*

#### **VI. Disability Appeals**

ERSRI v. Olson: Ms. Leslie Olson is a 48 year old rehabilitation counselor with the Rhode Island Department of Human Services whose application for accidental disability retirement was denied by the Disability Sub-Committee. Ms. Olson was represented at the appeal by Attorney Mark Gursky. It was the opinion of the Disability Sub-Committee that Ms. Olson applied for accidental disability retirement outside of the 5 year statutory limit and thus was not statutorily eligible for an Accidental Disability Retirement. Mr. Finelli, Chairperson of the Disability Sub-Committee, noted that the Sub-Committee did not make a determination on the disability and that their denial was based on the legal issue.

After a presentation by Attorney Gursky on behalf of Ms. Allen, a motion was made by Mr. Boyce and seconded by Mr. Beardsley to accept the application as if it was timely filed and remand the application back to the Sub-Committee to determine if the applicant is disabled. A rollcall vote was taken of the members present: Mr. Angelone, no; Mr. Beardsley, yes; Mr. Boyce, yes; Ms. Clark, yes; Mr. Finelli, yes; Mr. Maguire, yes; Ms. Masse, no; Ms. Riendeau, yes; Mrs. Mayer, no. Vote tally: 6 yes, 3 no. Motion failed.

Mr. Finelli moved and Mr. Boyce seconded the motion to remand the application back to the Disability Sub-Committee for a determination of disability. A rollcall vote was taken of the members present: Mr. Angelone, yes; Mr. Beardsley, yes; Mr. Boyce, yes; Ms. Clark, yes; Mr. Finelli, yes; Mr. Maguire, yes; Ms. Masse, yes; Ms. Riendeau, yes, Mrs. Mayer, yes. It was unanimously

**VOTED: to remand Ms. Olson's application for accidental disability retirement back to the Disability Sub-Committee for a determination of disability.**

*(It was determined that the issue of timeliness would be further considered at the March 1997 meeting while the issue of Ms. Olson's disabled status would be taken up at the March meeting of the Disability Sub-Committee. Ms. Olson was further advised of her right to apply for an Ordinary Disability.)*

#### VII. ERSRI Legal Counsel Report

Attorney John Longo spoke to the Board on behalf of his client, Margaret Crawford, formerly a state employee with the State of Rhode Island. Ms. Crawford, with 4 years and 9 months of service and currently on leave pursuant to the Family and Medical Leave Act, is desirous of applying for an ordinary disability retirement. Currently, state statute provides that a member must have 5 years of contributing service in order to apply. Attorney Longo has filed a complaint in Superior Court on behalf of Margaret Crawford seeking a declaratory judgment that the Retirement system's refusal to grant the remaining amount of credit to Ms. Crawford is a violation of the federal Family and Medical Leave Act. Mr. Carlotti invited Mr. Longo to present his argument to the Board before continuing to pursue action in the Superior Court. It was agreed that Mr. Carlotti would research the matter on behalf of the Board and render an opinion regarding this matter at the next Board meeting in March. No further action was taken.

#### VIII. Committee Reports

Disability Sub-Committee: Upon a motion made by Mr. Finelli and seconded by Ms. Clark, it was unanimously

**VOTED: To approve the Disability Committee report of February 7, 1997.**

Procurement Sub-Committee: No report by the Procurement Sub-Committee.

#### IX. Adjournment

There being no other business to come before the Board, on a motion by Mr. Finelli and seconded by Ms. Riendeau, the meeting was adjourned at 10:50 a.m.

Respectfully submitted,



Joann E. Flaminio  
Executive Director

vlp



## Minutes of the March 19, 1997 Retirement Board Meeting

The monthly meeting of the Retirement Board was held March 19, 1997 in the 8th Floor Conference Room, 40 Fountain Street, Providence, RI. The meeting was called to order at 9:05 a.m. by Nancy J. Mayer, Chairperson.

### I. Roll Call of Members

The following members were present at roll call: Ponzi A. Angelone, C.L.U.; Daniel Beardsley; Michael R. Boyce; Gary Clark, Leslie E. Clark; William B. Finelli; John P. Maguire; Linda M. Masse; Ellen Eggeman, designee of Stephen McAllister; Linda C. Riendeau and Chairperson Nancy J. Mayer.

### II. Approval of Minutes

Mr. Maguire moved and Mr. Finelli seconded the motion to approve the minutes of the February 12, 1997 meeting. The minutes were approved by voice vote.

### III. Chairperson's Report

Mrs. Mayer referred to the State Investment Commission's selection of Schroeder Capital Management as the manager for a new Emerging Markets allocation within the pension fund.

She also reported on the progress of the expansion of the deferred compensation program for state employees. The State Investment Commission has selected Fidelity to administer the new 457 program which will allow a variety of investment choices for those state employees who choose to participate. The new program is still being developed by Fidelity and state officials.

### IV. Executive Director's Report

Director Flaminio introduced Marlene Deneault to the Retirement Board. She is the new Accounting Manager for the Finance Department and will work on the production of financial statements for the different plans.

Ms. Flaminio then commented on the pending changes to active state employee health care rates. By statute, rates must be developed for active employees in concert for those developed for ERSRI retirees. She noted that the state is trying to move towards managed care to stimulate savings. As more information is received regarding retiree rates and the likelihood of increased group retiree rates, she will share it with the Board.

As promised, Ms. Flaminio stated a legislative response to the issue of post-retirement was developed by staff members at the retirement system. She would like the bill referred to the Board's Legislative Sub-Committee for further discussion.

On a similar note, Laura Pisaturo, substituting for Board Counsel Carlotti, apprised the Board of the recent Supreme Court decision in the matter of Retired Adjunct Professors vs. Almond. Ms. Pisaturo stated that the decision rejected the trial court's decision and ruled that there existed no contractual right to post-retirement employment. Thus, a financial cap on post-retirement public employee earnings is constitutional. In its decision, the Supreme Court stated that the mere expectation of re-employment was not sufficient to create a permanent right. To summarize, the Adjunct Professors may go back to work as part-time professors, but with a \$10,000 cap on their post-retirement earnings.

Board Member Beardsley commented that the legislation should also be referred to Board Member Pires, Chairman of the House Finance Committee, as the deadline for the introduction of legislation is in early April. Chairperson Mayer objected and stated that, in her opinion, the

matter should just be taken up first by the Board's Legislative Sub-Committee. After some discussion, it was agreed to refer the legislation to the Legislative Sub-Committee.

Ms. Clark moved and Mr. Beardsley seconded the motion to refer draft legislation on the issue of Post-Retirement employment to the Legislative Sub-Committee. The motion passed unanimously by voice vote. It was

**VOTED: To refer draft legislation on Post-Retirement Employment to the Board's Legislative Sub-committee for their consideration.**

Ms. Flaminio informed the Board that annual statements would be mailed to all active members in early April.

She then gave a short presentation of the retirement budget which is required by Board regulation. The ERSRI administrative budget for the retirement system submitted to the General Assembly for FY'98 is \$4,685,225. (*Note: \$1.5 million of this is slated for a computer vendor. If no contract is awarded by June, 1998, the money would revert to the pension fund.*)

Upon completion of the presentation, Mr. Beardsley moved and Mr. Finelli seconded the motion to approve the retirement system's budget for Fiscal Year '98. The motion passed unanimously by voice vote. It was

**VOTED: To approve the retirement system's budget as presented for Fiscal Year '98.**

Ms. Flaminio then introduced L.R. Wechsler, President of L.R. Wechsler, Ltd, the procurement consultant selected by the Retirement Board to oversee its computer vendor selection process. Mr. Wechsler updated the Board as to his progress to date under the terms of his contract. His presentation included information on the types of computer solutions available to retirement systems and current national vendors. He noted that should the Board choose a solution that includes 'imaging' of all past and present member documents that the cost will increase substantially.

**Note:** Mr. Angelone left the meeting at 10:30 a.m.

#### **V. Hearing Officer Decisions**

*(no appeals for the month of February)*

#### **VI. Disability Appeals**

ERSRI v. Olson: Ms. Leslie Olson is a 48 year old rehabilitation counselor with the Rhode Island Department of Human Services whose application for accidental disability retirement was denied by the Disability Sub-Committee. Ms. Olson is represented by Attorney Mark Gursky.

At the February 12th meeting of the Retirement Board, a motion was made to accept the application as timely filed and to remand the application back to the Disability Sub-Committee to determine if the applicant is disabled. This motion *did not carry*; therefore the issue is back for additional consideration by the Retirement Board.

Ms. Flaminio informed the Board that the system is presently involved in a similar case involving a Providence school teacher who also did not meet the statutory deadline for filing. The System is currently awaiting a decision in that matter, ERSRI vs. Tracy which is before Judge Fortunato in the Superior Court. She urged the Board to adopt a consistent position in the Olson matter.

Mr. Finelli informed the Board that the Disability Sub-Committee revisited Ms. Olson's application and took no action regarding her claim for disability as it was determined that additional medical information was necessary.

Attorney Gursky informed the Board that he had a March 11th medical report issued by Dr. Himmel. Mrs. Mayer provided that new medical information should be given to the Disability Sub-committee for its consideration. Mr. Finelli moved and Ms. Riendeau seconded the motion to remand the issue of timeliness and the new evidence back to the Disability Sub-committee. A roll call vote was taken of the members present: Mr. Beardsley, yes; Mr. Boyce, yes; Ms. Clark, yes; Mr. Clark, yes; Mr. Finelli, yes; Mr. Maguire, yes; Ms. Masse, yes; Ms. Eggeman, yes; Ms. Riendeau, yes; Mrs. Mayer, yes. It was unanimously

**VOTED: To remand Ms. Olson's application on the issue of timeliness back to the Disability Sub-committee for further determination based on a representation made that the new evidence might have bearing on the timeliness issue.**

#### VII. Legal Counsel Report

Matter of Margaret Crawford: Ms. Pisaturo stated that Hinckley Allen had conducted substantial research on the Family Medical Leave Act "FMLA" and its relationship to our retirement statutes and specifically the statutes regarding ordinary disability. It is their recommendation that although Ms. Crawford does not meet the five year statutory service requirement, Ms. Crawford's five year anniversary of employment occurred while on FMLA leave and it is thus their conclusion that she cannot be penalized service time for being on medical leave. Thus, she should be allowed to apply. (This will mean an agreement will be reached and the litigation against the retirement system dropped.)

Mr. Boyce moved and Ms. Riendeau seconded the motion to allow Ms. Crawford to apply for an Ordinary Disability Pension. It was unanimously

**VOTED: Pursuant to recommendation of board counsel, to allow Ms. Crawford to apply for an Ordinary Disability Retirement while currently on a leave under the Family Medical Leave Act.**

*(Attorney Barricelli arrived during the legal counsel report.)*

Mr. Barricelli answered questions from Mr. Maguire regarding the Boitano and Hefner matters as reported in the Litigation Report supplied to the Board. Mr. Maguire also posed a question regarding the Abbatamatteo case which is an action by a group of plaintiffs challenging special pension legislation filed in the 1980's. That litigation is being handled by Richard Galli of Galli & Gyorgy. Mr. Barricelli will inquire as to the status of the cases and report back to Mr. Maguire and the Board.

#### VIII. Committee Reports

Disability Sub-Committee: Upon a motion made by Mr. Finelli and seconded by Ms. Masse, it was unanimously

**VOTED: To approve the Disability Committee report of March 7, 1997.**

Procurement Sub-Committee: Leslie Clark presented the Request for Proposal for Actuarial Services to the Board. Referring to Page 7, #13, Mr. Maguire moved to delete the words 'Employees Retirement System' and insert the words 'Executive Director'. Mr. Boyce seconded the motion.

Mrs. Mayer expressed concern about the amendment. Similarly, Mr. Clark also expressed concerned on behalf of the Director of Administration and stated that perhaps an amendment should be offered that would insert the words 'Director of Administration.' Mr. Beardsley was not in favor of the Director of Administration requesting actuarial services since the System pays

for the costs and moved a friendly amendment to have it read Executive Director and Assistant Executive Director.

Mr. Barricelli inserted that this issue should not be addressed in the RFP but in the contract which has to be approved by the Board. A roll call vote of the members present was taken on the motion to delete 'Employees Retirement System' and insert the words 'Executive Director and Assistant Executive Director.' Mr. Beardsley, yes; Mr. Boyce, yes; Ms. Clark, yes; Mr. Clark, no; Mr. Finelli, yes; Mr. Maguire, yes; Ms. Masse, yes; Ms. Eggeman, no; Ms. Riendeau, yes; Mrs. Mayer, no. Vote tally: 6 votes in the affirmative, 3 negative. The motion did not carry.

A roll call vote of the members present was then taken on the motion to delete 'Employees Retirement System' and insert the words 'Executive Director.' Mr. Beardsley, yes; Mr. Boyce, yes; Ms. Clark, yes; Mr. Clark, no; Mr. Finelli, yes; Mr. Maguire, yes; Ms. Masse, yes; Ms. Eggeman, no; Ms. Riendeau, yes; Mrs. Mayer, no. Vote tally: 6 votes in the affirmative, 3 negative. The motion did not carry. On a motion by Ms. Masse and seconded by Ms. Clark it was unanimously

**Voted: To approve the RFP as presented by the Sub-Committee.**

### **IX. New Business**

Mr. Beardsley advised the Board that there was a bill, House Bill 6030, allowing employing units of the Municipal Employees Retirement System to suspend contributions to the system if their plans are found to be overfunded as determined by the system's actuary. In addition, Mr. Beardsley reported that he understood that a "Substitute A" or new legislation would be filed that would require cities or towns to adopt either COLA B or COLA C as a prerequisite to suspending MERS employer contributions. Pursuant to that Substitute A legislation, Mr. Beardsley moved that the Board request from its actuary, the Mercer Co., a financial analysis of the impact of providing either COLA B or COLA C to those overfunded municipal units presently without a Cost-of-Living increase. The motion was seconded by Mr. Boyce.

Mrs. Mayer commented that the previous estimate of the cost of such an analysis (\$60,000) was too high and felt that the study goes beyond the Board's duty to administer the system and not set policy. Mr. Beardsley responded that the Board was not setting policy, but merely trying to provide information to a sizable portion of the membership of the system on how such legislation would impact their particular MERS system.

Mrs. Mayer also stated that, in her opinion, the charge for the study, if applied against the system as a whole, violates the Exclusive Benefit Rule found in R.I.G.L. 36-8-20.

As a means of keeping the cost of such an analysis down, Ms. Flaminio suggested that Mercer include the information as part of the Municipal Valuation currently in progress and slated to be presented to the Board on May 14<sup>th</sup>.

Mr. Maguire called for the question. A roll call vote was taken of the members present: Mr. Beardsley, yes; Mr. Boyce, yes; Ms. Clark, yes; Mr. Gary Clark, yes; Mr. Finelli, yes; Mr. Maguire, yes; Ms. Masse, yes; Ms. Eggeman, yes; Ms. Riendeau, yes; Mrs. Mayer, no. Vote tally: 9 votes in the affirmative, 1 vote no. It was

**VOTED: To move the question and vote on Board member Beardsley's request.**

A roll call vote was then taken on Mr. Beardsley's motion: Mr. Beardsley, yes; Mr. Boyce, yes; Ms. Clark, yes; Mr. Gary Clark, yes; Mr. Finelli, yes; Mr. Maguire, yes; Ms. Masse,

yes; Ms. Eggeman, yes; Ms. Riendeau, yes; Mrs. Mayer no. Vote tally: 9 votes in the affirmative, 1 vote no. It was

**VOTED:** Pursuant to the filing of Sub A legislation or the introduction of new legislation that would mandate either COLA B or COLA C, to request from the system's actuary an analysis of the impact of providing either to those overfunded municipal units presently without a Cost-of-Living increase.

In an effort to keep the costs of such a study down, this request is to be part of the annual MERS valuation to be presented this May. The motion was also made pursuant to the filing of Sub A legislation requiring that all overfunded units adopt a Cost-of-Living increase prior to the suspending of contributions.

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**X. Adjournment**

There being no other business to come before the Board, on a motion by Mr. Maguire and seconded by Mr. Finelli, the meeting was adjourned at 12:10 p.m.

Respectfully submitted,



**Joann E. Flaminio**  
Executive Director

vlp

## Minutes of the April 9, 1997 Retirement Board Meeting

The monthly meeting of the Retirement Board was held April 9, 1997 in the 8th Floor Conference Room, 40 Fountain Street, Providence, RI. The meeting was called to order at 9:08 a.m. by Nancy J. Mayer, Chairperson.

### I. Roll Call of Members

The following members were present at roll call: Daniel Beardsley; Michael R. Boyce; Leslie E. Clark; Sandra Murphy Crowe, designee for Dr. Robert Carl; William B. Finelli; John P. Maguire; Linda M. Masse; Stephen McAllister; Linda C. Riendeau and Chairperson Nancy J. Mayer.

### II. Approval of Minutes

Mr. Beardsley moved and Mr. Finelli seconded the motion to amend the March, 1997 minutes. It was unanimously

**VOTED: To amend the 2nd sentence under Article IX, New Business, Page 4, to read, "Mr. Beardsley reported that he understood that a "Substitute A" would be introduced that would require cities or town to adopt either COLA B or COLA C as a prerequisite to suspending MERS employer contributions".**

Mr. Beardsley then moved and Mr. Boyce seconded the motion to amend the minutes. With Mrs. Mayer voting no, it was

**VOTED: To amend the motion voted on by the Board on Page 5 to read "Pursuant to the filing of Sub A legislation or the introduction of new legislation, to request from the system's actuaries an analysis of the impact of providing either COLA B or COLA C to those overfunded units presently without a Cost-of-Living increase."**

Mrs. Mayer then moved, and Mr. Beardsley seconded the motion to amend the minutes. It was unanimously

**VOTED: To amend the minutes by inserting in the second paragraph, second sentence, under Article IX New Business , that "Mrs. Mayer also commented that she believed that it was inappropriate under the Exclusive Benefit Rule for this actuarial expense, if incurred, to be charged against the State Employees & Teachers Plan.**

Director Flaminio stated that any additional MERS actuarial analysis would be charged against the MERS account.

On a motion by Ms. Clark and second by Mr. Finelli it was unanimously

**VOTED: To approve the minutes of March 19, 1997 as amended.**

### III. Chairperson's Report

Mrs. Mayer updated the Board on the progress of the state's expansion of the Section 457 deferred compensation program for state employees (only). She indicated that some have argued that the expansion of investment options within the program would not be beneficial to state employees. She assured the Board that the increased choices offered by Fidelity would be advantageous to state employees and stated that should they have questions, they should contact

her office. Yet, she was not sure if the 'new' deferred comp plan with increased investment options would meet an anticipated July 1st start-up date.

Mrs. Mayer also commented on the recent stock market corrections and their effect on the pension fund.

#### **IV. Executive Director's Report**

**Note:** Senator Sasso arrived at 10:00 a.m.

Director Flaminio introduced Barry Gilman and Frank Mangione of the Mercer Company for a presentation of the valuation of the Employees Retirement System (State and Teachers Plan) for the year ending June 30, 1996.

Mercer recommended for the State of Rhode Island an employer contribution rate of 11.33% for Fiscal Year 1999 compared to an employer contribution rate of 10.83% for Fiscal Year 1998. The number of state employees decreased from 13,550 as of June 30, 1995 to 12,976 as of June 30, 1996. Mercer also reported based on ERSRI data received that average salary increase for state employees equals 7.17%.

Mr. McAllister questioned the 7.17% salary increase reported for state employees. Mr. Karpinski, Assistant Director of Finance for the retirement system, responded stating that while Mercer utilized budgeted numbers for the June 30, 1996 valuation, actual numbers were utilized for the previous year's valuation because of the inability to receive budgeted numbers due to late contract negotiations. Thus, the numbers utilized this year reflect salary increases, longevity increases and adjustments for both years which would account for the 7.1% average state salary increase.

For teachers, Mercer recommended an employer contribution rate of 14.37% for Fiscal Year 1999 compared to an employer contribution rate of 14.25% for Fiscal Year 1998. Conversely, the number of teachers increased from 12,079 as of June 30, 1995 to 12,391 as of June 30, 1996. Mercer also reported based on ERSRI data received that average salary increases for teachers is equal to 5.64%.

Mr. Gilman noted that whatever actuarial losses have incurred to the state and teachers plan are being offset by the actuarial gain due to investment return. A smoothed investment return of 11.4% produced an actuarial gain of 1.10% for the state plan and 1.30% for the teachers plan. The state and teachers plan, as presently scheduled, will be fully funded in 2017.

Approval of the Employer Contribution Rates for the State and Teachers Plan for Fiscal Year '99 was delayed until the May meeting. It was further agreed that the salary discrepancy for state employees would be studied.

There was no additional report from the Executive Director.

#### **V. Hearing Officer Decisions**

**ERSRI vs Phelps:** (Mr. Finelli recused himself from any discussion of the Phelps matter.) Mr. Phelps, a state employee with the Department of Health, prevailed in his hearing before an administrative hearing officer regarding his ability to purchase military credits for active duty in the National Guard pursuant to R.I.G.L. 36-9-31. Ms. Flaminio advised the Board that she had reviewed the decision, and that it was the opinion of the retirement system that the hearing officer erred in part by failing to recognize that R.I.G.L. 36-9-25 provides that the system may not credit a member more than one year of service "on account of all service in one calendar year." To adopt the decision as recommended by the hearing officer would result in

Mr. Phelps receiving 6 months of military service credit (based on National Guard service) in addition to 12 months of credit for years when he was actively employed by the State of Rhode Island.

On a motion by Mr. Maguire and seconded by Mr. Beardsley, it was unanimously

**VOTED: To affirm that portion of the Hearing Officer's decision that permits Mr. Phelps to purchase military service credit for time spent as a member of the National Guard prior to his becoming an active state employee pursuant to R.I.G.L. 36-9-31, and to overturn the portion of the Hearing Officer's decision that would permit him to purchase time in excess of the limitations found in R.I.G.L. 36-9-25.**

ERSRI vs Finn: With regard to this matter, Mr. Carlotti referred to a request made by Chairperson and General Treasurer Mayer to the Ethics Commission on behalf of Board members and Treasury staff regarding whether or not they may deliberate on the Finn issue which relates to the payment of interest on refunded contributions. He recommended that the Board table the issue until the May meeting in order to first receive a response from the Ethics Commission.

Mr. Boyce moved and Ms. Clark seconded the motion which was unanimously

**VOTED: To table the matter of ERSRI vs. Finn until a response is received from the Ethics Commission on the written request from Chairperson Mayer.**

#### VI. Disability Appeals

*(no appeals for the month of April)*

#### VII. Legal Counsel Report

In answer to Mr. Maguire's request for an update on the Abbatamateo matter, Mr. Reilly stated the Supreme Court would be holding a hearing on its order to show cause on April 15, 1997.

Mr. Beardsley questioned whether Mercer, in preparing for the MERS report in May, had begun evaluating the effects of COLA B & COLA C in light of the legislation that has been introduced, H-6740 and H-6741. Mr. Mangione responded by stating that for any overfunded unit that does not have COLA, they will provide an analysis of the effects of the adoption of COLA B and COLA C. For any overfunded unit that with COLA C, they will provide an analysis of the effects of the adoption of COLA B. In answer to a question from Mrs. Mayer, Mr. Mangione stated it would cost about \$750 per study.

Ms. Riendeau questioned when the next Legislative Sub-Committee would be as the previously scheduled meeting had been canceled. Ms. Flaminio stated she would set-up a new date and inform the members of the Legislative Sub-Committee.

Pursuant to R.I.G.L. 42-46-5 (2) to discuss pending litigation, on a motion by Mr. Maguire and seconded by Ms. Clark it was unanimously

**VOTED: Pursuant to R.I.G.L. 42-56-5 (2) to discuss pending litigation, to go into Executive Session.**

On a motion by Mr. Finelli and seconded by Mr. Maguire it was unanimously

**VOTED: To return to Open Session.**

With regard to the Parella matter, on a motion by Mr. Finelli and seconded by Mr. Beardsley, it was unanimously



**VOTED: To not appeal the matter of Parella v. Employees Retirement Board of Rhode Island.**

**VIII. Committee Reports**

*Disability Sub-Committee:* Upon a motion made by Mr. Finelli and seconded by Ms. Clark, it was unanimously

**VOTED: To approve the Disability Committee report of April 4, 1997.**

**X. Adjournment**

There being no other business to come before the Board, on a motion by Mr. Maguire and seconded by Ms. Riendeau, the meeting was adjourned at 12:05 p.m.

Respectfully submitted,



Joann E. Flaminio  
Executive Director

vlp

## Minutes of the May 15, 1997 Retirement Board Meeting

The monthly meeting of the Retirement Board was held Thursday, May 15, 1997 in the 8th Floor Conference Room, 40 Fountain Street, Providence, RI. The meeting was called to order at 9:11 a.m. by Nancy J. Mayer, Chairperson.

### I. Roll Call of Members

The following members were present at roll call: Daniel Beardsley; Michael R. Boyce; Sandra Murphy Crowe, designee for Dr. Robert Carl; William B. Finelli; John P. Maguire; Linda M. Masse; Rep. Antonio J. Pires; Linda C. Riendeau and Chairperson Nancy J. Mayer. Rosemary Booth Gallogly and Senator Eleanor C. Sasso both joined the meeting, Ms. Gallogly as designee for State Budget Director Stephen P. McAllister.

### II. Approval of Minutes

Mr. Finelli moved and Ms. Riendeau seconded the motion to approve the amended April 9, 1997 minutes. It was unanimously

**VOTED: To approve the minutes of April 9, 1997 as amended.**

### III. Chairperson's Report

Mrs. Mayer informed the Board that as of April 30th the pension fund hit 4.85 billion dollars, and is probably very close to hitting the 5 billion dollar mark. She said the State Investment Commission (SIC) would be considering an alternative investment by the Blackstone Group at the next SIC meeting and invited all to attend.

### IV. Executive Director's Report

Director Flaminio reported that there would not be a full actuarial report regarding the Municipal Employees Retirement System as of June 30, 1996, and that a full report would be presented at the June, 1997 meeting. Barry Gilman of Mercer will be present with some preliminary results.

Ms. Flaminio also reported on the progress of the Actuarial RFP search. She stated that interviews will likely be scheduled for the July, 1997 retirement board meeting. She noted that there were eight (8) responses to the RFP and that if individual Board members would like to review the responses a few extra sets are available.

Ms. Flaminio referred to the Phelps matter and the numerous applications received in the office for purchase of military reserve credit. She thanked Representative Pires for introducing House Bill 6816 which will amend and rectify this problem by deleting from the military credit statute the words "for each such fraction." Prospectively, members will be allowed to purchase reserve military credit but only for the exact amount of time served. She also added that she would be introducing a regulation to be passed by the Board regarding this type of purchase at an upcoming Board meeting.

She noted that the retirement system is busiest during the months of July and August due to the number of teacher retirements.

All active and retired members will be receiving a newsletter during the week of May 19<sup>th</sup>. This Spring issue focuses on issues affecting retirees particularly the changes to retiree health care.

Director Flaminio then introduced Barry Gilman of the Mercer Company.

Mr. Gilman explained an upcoming increase in employer contribution rates due to the change in the retirement age assumptions for MERS Police and Fire plans. As a mitigating device, he suggested that the Board could either (1) utilize the market value of assets as of June 30, 1996 as the starting point to calculate a new 3-year actuarial value of assets; or (2) alternatively, utilize term funding for certain aspects of the MERS funding. This would decrease payments now, but increase them later.

Board member Beardsley asked if the change in the retirement age assumption in the police and fire plans would wipe out any overfunding previously discussed. Mr. Gilman agreed that it could and stated that savings for general municipal plans could be used to offset the increase in MERS fire & police plans.

It was determined that before the June, 1997 retirement board meeting an informational meeting would be held by the League of Cities and Towns for MERS participating units to discuss the results of the valuation and to comment on Mercer's funding recommendations. As soon as the information is ready, MERS results will be shared with the Board and the participating units by the retirement system.

At the request of Board Member Steve McAllister, the approval of the FY'99 employer contribution rates for the state and teacher system was deferred until the June, 1997 meeting.

#### V. Hearing Officer Decisions

ERSRI vs Finn: (Prior to the beginning of this case, Mr. Maguire recused himself from any discussion of the Finn matter.) Mr. Finn, formerly a state employee with the State of Rhode Island, prevailed in his hearing before an administrative hearing officer regarding his ability to receive interest upon the refund of his contributions pursuant to R.I.G.L. 36-10-8. Mr. Finn was represented by Michael D. Coleman, Esq of the law firm of Skolnik, McIntyre & Tate.

After a short presentation by Attorney Coleman reaffirming the position of the hearing officer, Executive Director Flaminio presented the contrary view of the retirement system that Mr. Finn was not entitled to a return of contributions with interest. Ms. Flaminio, giving a short history of the retirement system, stated that in 1936 when the system began refunding members were allowed interest at a rate of 2 percent. This was changed in 1947 with the passage of legislation which eliminated the right of members to receive contributions with interest. A 1981 legislative amendment to the system eliminating a terminating state employee member's right to have his/her contributions automatically transferred to the State Employees Credit Union inadvertently eliminated the words "without interest." Ms. Flaminio argued that had the Legislature intended to grant interest upon withdrawals, they would have allowed the change for all members including members of the Municipal Employees Retirement System. She noted that the system since 1947 had never granted interest to a refunding member and that all of our materials have stated been consistent with that position. She argued that such a radical alteration of retirement system policy should be considered by the General Assembly given the fiscal implications of such a change and that ultimately what occurred was a simple legislative mistake. Mr. Carlotti disagreed stating that the statute is clear and without statutory ambiguity.

Board Member Crowe stated that in her opinion the Legislature does not intend inconsistent or absurd results and in this case application of the error produces an absurd result.

She felt that it would be giving credence to an error that would be detrimental to the people of Rhode Island.

Chairman Mayer noted that, in her opinion, the lack of interest upon withdrawal produces absurd results because an individual who refunds and comes back must repay the refunded amount with interest.

Board Member Crowe noted that it is relevant to look at agency practice which in this case clearly states that interest is not given. Additionally, Mr. Beardsley noted that in the past the Board has been counseled that notwithstanding the hearing officer's decision, it is relevant to look at 'agency past practice.'

In answer to Mr. Boyce's questions, Mr. Carlotti indicated Mr. Finn should be paid 2% interest from 1981 to date of withdrawal and that the decision should be applied to all refunded members since 1981. The Treasurer's office, in consultation with Mercer, studied the issue and placed the cost at anywhere from \$5 to \$25 million.

Senator Sasso, referring to Senator Hanaway's affidavit, stated that in her opinion the intent of the legislation is significant. She questioned whether there was additional documentation regarding the 1981 legislation.

Representative Pires commented that at times members of the Board must make their decision on issues that may be contrary to legal opinion. In his opinion, there was sufficient ambiguity in the statute to overturn the hearing officer's decision.

Mr. Beardsley moved and the motion was seconded by Representative Pires and Senator Sasso to overturn the hearing officer's decision. A roll call vote was taken. Mr. Beardsley, yes; Mr. Boyce, yes; Ms. Murphy Crowe, yes; Mr. Finelli, yes; Ms. Masse, yes; Ms. Gallogly, yes; Rep. Pires, yes; Ms. Riendeau, yes; Sen. Sasso, yes, Mrs. Mayer, No. Vote tally: 9 in the affirmative, 1 vote in the negative and Mr. Maguire recused. It was

**VOTED: To overturn the hearing officer's decision based on the alternate rationale that there was sufficient ambiguity in the statute given the long-standing policy of the Employees Retirement System of Rhode Island not to grant interest and thus it was the opinion of the Board that the statute should be interpreted so that interest not be paid to Mr. Finn under RIGL 36-10-8.**

#### VI. Disability Appeals

*(no appeals for the month of May)*

#### VII. Legal Counsel Report

Mr. Carlotti informed the Board of the following changes in the status of system litigation: (1) the Supreme Court has overturned Judge Cresto in the Lyman thus affirming the right of the board to determine what is casual and seasonal employment; and (2), with regard to the Parella matter (legislator pension case), Hinckley is objecting to the fee request by plaintiff's counsel in that case.

Assistant Director Reilly informed the Board that we are awaiting a final decision by the Rhode Island Supreme Court in the Abbatamatteo case.

#### VIII. Committee Reports

Disability Sub-Committee: Upon a motion made by Mr. Finelli and seconded by Ms. Riendeau and Mr. Maguire, it was unanimously

**VOTED: To approve the Disability Committee report of May 9th, 1997.**

Mr. Finelli also stated that it was the recommendation of the Disability Sub-Committee that a new recording system be purchased because of technical problems. Ms. Flaminio responded that she is aware of the problem and will be looking to update our recording capacity.

Legislative Sub-Committee: Ms. Riendeau reported that the committee met on Wednesday, April 30, 1997. The committee did endorse H. 6816 Sub A, legislation filed by Representative Pires, to close the loophole regarding the purchase of military service.

On the matter of accidental disability retirement and the Cranston Police & Fire unit, the matter was referred to the General Treasurer's office for further study. This issue revolves around whether the presumption language in last year's MERS bill for the new Cranston Police & Fire unit alters a member's right to claim such disability retirement as tax-free. Senator Sasso requested further study on this issue specifically.

**IX. New Business**

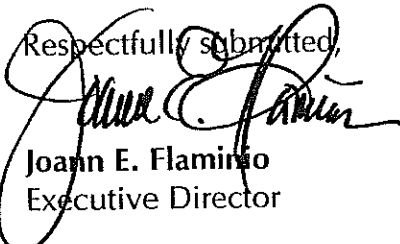
Mr. Boyce spoke regarding changes both in the type of health care plans available to retirees and planned increases in group health care rates to be effective July 1, 1997. He also discussed the statutory language in RIGL 36-12-1 and 36-12-4 and whether or not those retiree health care statutes allow the two groups, active and retirees, to be separated for the purpose of purchasing and negotiating group health care rates. Mr. Boyce moved to authorize the Executive Director to retain independent counsel to address the issues brought about by the changes in retiree health care and whether or not the separate rates were permissible under the retiree health care statutes. The motion was seconded by Board Member Maguire. Chairperson Mayer noted that the statute states that it is the Chair's purview to appoint legal counsel and that she could not support the motion. (*About 9,500 retirees purchase health care through an ERSRI health care deduction.*)

Several retirees spoke about the health care changes. After listening to the concerns of the retirees present, Representative Pires and Senator Sasso stated that they would speak to Dr. Carl, the Director of Administration, to investigate the matter and request that they attend a hearing to explain the Administration's actions. The motion was withdrawn and not voted upon.

**X. Adjournment**

There being no other business to come before the Board, on a motion by Sen. Sasso and seconded by Mr. Maguire, the meeting was adjourned at 11:35 a.m.

Respectfully submitted,

  
Joann E. Flaminio  
Executive Director

vlp

## Minutes of the June 11, 1997 Retirement Board Meeting

The monthly meeting of the Retirement Board was held Wednesday, June 11, 1997 in the 8th Floor Conference Room, 40 Fountain Street, Providence, RI. The meeting was called to order at 9:22 a.m. by Nancy J. Mayer, Chairperson.

### I. Roll Call of Members

The following members were present at roll call: Daniel Beardsley; Michael R. Boyce; Sandra Murphy Crowe, designee for Dr. Robert Carl; William B. Finelli; John P. Maguire; Stephen McAllister; Linda C. Riendeau and Chairperson Nancy J. Mayer.

### II. Approval of Minutes

Mr. Gilman requested an amendment to the May, 1997 minutes. Page two, paragraph 3 2<sup>nd</sup> line should read: As a mitigating device, he suggested that the Board could either (1) utilize the market value of assets as of June 30, 1996 as the starting point to calculate a new 3-year actuarial value of assets; or (2) alternatively, utilize term funding for certain aspects of the MERS funding. Mr. Finelli moved and Ms. Riendeau seconded the motion to approve the May 15, 1997 minutes as amended by Mr. Gilman of the Mercer Company. It was unanimously

**VOTED: To approve the minutes of May 15, 1997 as amended.**

### III. Chairperson's Report

Mrs. Mayer stated that the ERSRI and MERS pension fund was close to reaching the five billion dollar mark. Recently, the State Investment Commission (SIC) has dedicated pension fund assets to an additional alternative investment manager, the Blackstone Group. She encouraged all Board members to attend the monthly SIC meetings which are held at the State House.

### IV. Executive Director's Report

The Executive Director's report began with an actuarial presentation by Frank Mangione and Barry Gilman of the Mercer Company.

**State Police Retirement Plan:** Mr. Mangione presented the results of the actuarial valuation of the new State Police Retirement Plan based on data and asset information as of June 30, 1996. The suggested contribution rate for FY'99 for the State Police Retirement Plan is 11.43% as compared with 12.16% for FY'98. This is largely due to good investment return.

**Judicial Retirement Plan:** Mr. Mangione presented the results of the actuarial valuation of the Judicial Retirement Plan based on data and asset information as of June 30, 1996. The suggested contribution rate for FY'99 for the Judicial Retirement Plan is 23.36% as compared with 25.27% for FY'98. This again is due to good investment return and lower than expected judicial salary increases.

Upon a motion by Mr. Beardsley and seconded by Mr. Finelli, it was unanimously

**VOTED: To approve the FY'99 employer contribution rates for the Judicial Retirement Plan and the State Police Retirement Plan.**

Next, Mr. Gilman apologized to the Board for an error that was discovered in the MERS valuation as of June 30, 1996. (*Deceased members were not removed prior to the calculation of the valuations and thus the rates are incorrect.*) Because of that error, final MERS valuation numbers are not available.

Mrs. Mayer requested that Mercer proceed with their presentation but postpone the formal adoption of the valuation until accurate numbers are received.

Mr. Mangione reported on the overall demographics of the MERS plan in total. He noted that age and salary averages have increased slightly in the general municipal plan, but that the average age within MERS police & fire plans is slightly lower than that of the general municipal plan.

Mr. Beardsley commented that there is growing interest in the MERS plan by Rhode Island municipalities due to the improved administration of the MERS plan. He also noted that those municipalities interested in joining the plan may request approval from the Legislature for benefit rules and provisions that differ from the municipal statute (*such as the recent Cranston legislation*) thus increasing up the complexity of the plan and driving up the cost of system administration.

Mr. Mangione noted that it may be advantageous to take a look at the many MERS units, particularly those with small numbers of participants (less than five), and suggest that they be placed in a MERS pooled unit for purpose of valuation and benefits.

Board counsel Carlotti suggested that the structure of the MERS be looked at by an outside consultant to determine the status of the MERS current plan. Mr. Beardsley concurred with Mr. Carlotti's assessment and stated that the Board has not really commented on whether or not the MERS plan should accept municipalities who request participation but alter the present statutory provisions.

Mr. Beardsley informed the Board that Mr. Gilman and Mr. Mangione met with many of the member municipalities during the past week to discuss the initial results of the valuation and Mercer's study on the effect of COLA B & C on overfunded units. They also discussed mitigating the effect of fluctuating employer contribution rates by utilizing the market value of assets as of June 30, 1996 as the starting point to calculate a new 3-year actuarial smoothing of assets. Finally, Mr. Beardsley commended Mr. Gilman and Mr. Mangione for their attendance and presentation at the municipal meeting.

Upon a motion by Mr. Beardsley and seconded by Mr. McAllister it was unanimously

**VOTED: To utilize the market value of assets as of June 30, 1996 as the starting point to calculate a new 3-year actuarial smoothing of assets.**

With regard to the state and teachers valuation as of June 30, 1996, Ms. Flaminio noted that the recommended contribution rates for FY'99 as previously presented by Mercer are 11.33% for state employees and 14.37% for teachers. She also discussed the memo written by Frank Karpinski regarding covered payroll during the last two fiscal years and the fact that during one of those cycles budgeted numbers were unavailable. This may have produced a larger than anticipated salary increase for state employees.

Mr. McAllister moved that the state employees and teachers plan re-state the actuarial value of assets to market as of June 30, 1996 and utilize that as the starting point to calculate a new three-year actuarial smoothing of assets. The motion was seconded by Mr. Beardsley. According to Mercer, this would produce a savings of approximately \$10.0 million on the state employee side and a savings of approximately \$13.0 million on the teacher side. With regard to a question regarding the Internal Revenue Service, it was noted that IRS funding policies do not apply to public pension plans.

A roll call vote was taken on Mr. McAllister's motion. Mr. Beardsley, yes; Mr. Boyce, yes; Ms. Murphy Crowe, yes; Mr. Finelli, no; Mr. Maguire, no; Mr. McAllister, yes; Ms. Riendeau, no; Mrs. Mayer, no. Vote tally, 4 votes affirmative, 4 votes negative. The motion did not pass.

It was then requested that Mercer provide the following information with regard to the state and employees plan:

- (1) The effect of commencing a new 3 year phase-in period of investment gains and losses differing from the assumed 8% and utilize market value as of June 30, 1996 as the starting point.
- (2) The cost effect of recognizing 10% multiples of the difference between the actuarial value of assets and the market value of assets as of June 30, 1996.

The development of a new actuarial value of assets as of June 30, 1996 which assumes that a new 3 year phase-in period of investment gains and losses differing from the assumed 8% began June 30, 1995 and that the June 30, 1995 value of assets was the market value of assets.

Mr. Maguire noted that the savings being discussed involves savings for employers only.

Mr. McAllister requested that information dispersed at Board meetings be sent to those members not in attendance at the meeting.

*(end of actuarial discussion)*

On behalf of the Procurement Sub-Committee, Director Flaminio noted that actuarial interviews will take place on Friday, June 27<sup>th</sup>. The finalists have been chosen and they are: Watson Wyatt, Gabriel Roeder & Smith, Milliman & Robertson, and William M. Mercer Co. All Board members are urged to attend on that day.

Ms. Flaminio noted that she intends to promulgate a regulation regarding the purchase of Military Service (*in light of the Phelps decision*). A copy of the regulation has been provided to the Board.

Ms. Flaminio also emphasized the stressful month the retirement system has experienced due to rate changes for retiree health care. It has been difficult to proceed with the normal summer workload given the retiree health care issue.

Ms. Flaminio noted that the National Council of Teacher Retirement will be holding its Annual Conference this fall in Philadelphia and wanted to know if any Board members are interested in attending the conference. Several pertinent issues will be discussed.

In response to the Chair's inquiry regarding municipal retiree health care, Director Flaminio noted that they have reviewed Board minutes for the last 20 years and can find no specific authorization regarding the right of municipal retirees to purchase group health care. She noted that of the 970 municipal retirees currently purchasing health care, 870 of the total are over 65 years of age and are purchasing a Medigap policy at \$80.00 a month (this goes to \$100.00 a month in July) which is the same policy that can be purchased independently and thus amounts to nothing more than a convenience deduction. She noted that although there is no specific statutory authorization, she monthly deducts for such items such as federal and state taxes, retiree union dues, retiree life insurance, and QDRO orders which requires the actual splitting of pension benefits. The last 100 municipal retirees do purchase a group health care policy.

It was noted that the Administration is proposing legislation that would allow municipal retirees to continue to purchase retiree health care provided there is no cost to the State of Rhode Island. Ms. Flaminio did recommend that the administration of retiree health care be



transferred to the retirement system if the Department of Administration is ultimately successful in its desire to split active and retiree health care rates.

#### V. Hearing Officer Decisions

ERSRI vs. Duffney: (postponed to the next meeting)

ERSRI vs. Perrotti: (postponed to the next meeting)

#### VI. Disability Appeals

(no appeals for the month of June)

#### VII. Legal Counsel Report

At the request of the General Treasurer, Mr. Carlotti has prepared a written opinion that states that there is no specific statutory authorization for municipal retiree health care.

He also informed the Board of a recent decision from Judge Fortunato of the Superior Court regarding the disability appeals process. The judge criticized the Board for the non-compliance of the provisions of the Administrative Procedures Act and remanded the case back to the Board because there wasn't a formal transcript of the proceeding. In the short term, Mr. Carlotti stated that transcripts will be necessary when dealing with a disability appeal.

Mr. Beardsley asked Mr. Carlotti for any other suggestions he might have regarding this issue and requested that they be shared with Mr. Finelli, Chair of the Disability Sub-Committee.

Mr. Boyce moved that legal counsel review the retiree health care statute that is presently on the books, and in his opinion, determine whether the Board should be agreeing to the separation of health care rates for the state and teacher retirees. The motion was seconded by Mr. Finelli. The voice vote was not unanimous and did not carry.

Mr. Carlotti informed the Board that the North Providence Senior Center, a 501(c)(3) non-profit agency whose funding comes from North Providence, has requested to join the System. He alerted the Board that policies are going to have to be established to determine the eligibility of this type of entity.

#### VIII. Committee Reports

Disability Sub-Committee: Prior to voting on the Disability Committee report, Mr. Maguire recused on item #3. Upon a motion made by Mr. Finelli and seconded by Ms. Riendeau, the Board unanimously

**VOTED: To approve the Disability Committee report of June 6, 1997 excluding #3 which will be considered at the July meeting.**

Mr. McAllister requested that the information dispersed at today's Board meeting be sent to those members not in attendance at the meeting.

Procurement Sub-Committee: In the absence of Mr. Angelone & Ms. Clark, Director Flaminio reported that the committee had met on Wednesday, June 4, 1997. Interviews of the four finalists (Milliman & Robertson, Gabriel Roeder & Smith, William M. Mercer, Co. and Watson Wyatt) are scheduled for Friday, June 27th from 9:00 to 12:00 p.m. All Board members are again urged to attend.

**IX. New Business**

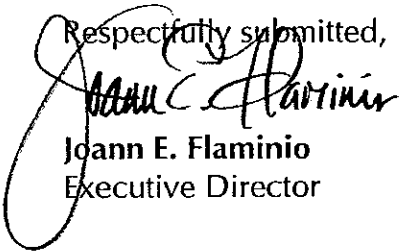
Mr. Boyce asked for an update regarding delinquent employer and employer contributions from cities & towns. Ms. Flaminio stated that she would comment on this issue at the next meeting.

Mr. Beardsley indicated there may not be a quorum for the two summer meetings. Mrs. Mayer suggested the elimination of the August meeting if at all possible.

**X. Adjournment**

There being no other business to come before the Board, on a motion by Ms. Riendeau and seconded by Mr. McAllister, the meeting was adjourned at 11:45 a.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Joann E. Flaminio". The signature is written in a cursive style with a large initial "J".

**Joann E. Flaminio**  
Executive Director

vlp

## Minutes of the July 9, 1997 Retirement Board Meeting

The monthly meeting of the Retirement Board was held Wednesday, July 9, 1997 in the 8th Floor Conference Room, 40 Fountain Street, Providence, RI. The meeting was called to order at 9:10 a.m. by Nancy J. Mayer, Chairperson.

### I. Roll Call of Members

The following members were present at roll call: Daniel Beardsley; Michael R. Boyce; Leslie E. Clark; Sandra Murphy Crowe, designee for Dr. Robert Carl; William B. Finelli; John P. Maguire; Linda M. Masse; Stephen McAllister; Linda C. Riendeau and Chairperson Nancy J. Mayer.

### II. Approval of Minutes

Ms. Clark moved and Mr. Finelli seconded the motion to approve the June 11, 1997 minutes. It was unanimously

**VOTED: To approve the minutes of June 11, 1997.**

### III. Chairperson's Report

Mrs. Mayer stated that ERSRI pension fund is enjoying very good performance as of the end of May and cited particularly the new emerging market investment. She once again encouraged all Board members to attend the monthly State Investment Commission (SIC) meetings which are held at the State House.

### IV. Executive Director's Report

Executive Director Flaminio reported that new health care rates went into effect in July for some retirees (other rates will be effective August 1<sup>st</sup>) and this—in addition to the variety of the new plans—has caused confusion for many retirees. She indicated that the phone lines have been unusually busy because of the health care questions and concerns and she also informed the board that an additional open enrollment period is scheduled for all retirees for this fall.

Ms. Flaminio noted that on July 3, 1997 Governor Almond had signed into law H. 6816 regarding the purchase of military credit. This effectively eliminates the phrase 'for each such fraction' within the confines of the military credit statute in each section of the law: state, municipal and teachers. Thus, after this date, members with National Guard or Armed Reserves time will be able to continue to purchase such time, but will not receive 6 months of credit for each fraction of time served. She stated that she had published a Notice of Intent with regard to the promulgation of a new Military Credit Regulation in accordance with the Administrative Procedures Act and hopes that the Regulation will be able to be adopted at the September meeting. In response to a query from Board member Maquire, she stated that retiring members will have their military purchases processed. All other requests will be taken up after the adoption of the regulation.

The Director also related to the Board that the law firm of Galli and Gyorgy had been retained to represent the retirement system in the Finn case.

*(The meeting was then turned over to Barry Gilman and Frank Mangione of the William M. Mercer Co. Inc.)*

Mr. Barry Gilman, of the Mercer Company presented to the Board the cost effect (and savings) of using the market value as of June 30, 1996 and beginning a new 3-year actuarial smoothing of assets. To adopt this approach will mean savings to the State of Rhode Island of \$6,895,000 for state employees and \$7,335,000 for teachers. Municipalities who contribute a percentage of the teacher cost would reap \$10,345,00 jointly. After discussion, on a motion by Mr. McAllister and seconded by Mr. Beardsley, it was unanimously

**VOTED: To utilize the market value of assets as of June 30, 1996 as the starting point to calculate a new 3-year actuarial smoothing of assets and adopt a State of Rhode Island employer contribution rate of 9.85% for state employees for FY'99.**

On a motion by Ms. Masse and seconded by Mr. McAllister it was unanimously

**VOTED: To utilize the market value of assets as of June 30, 1996 as the starting point to calculate a new 3-year actuarial smoothing of assets and adopt an employer contribution rate of 11.52% for teachers for FY'99.**

Mr. Gilman proceeded to the corrected MERS valuation as of June 30, 1996. After a short presentation on the MERS valuation, on a motion by Mr. Beardsley and seconded by Ms. Clark and Mr. McAllister, it was unanimously

**VOTED: To approve the MERS Employer Contribution rates for FY'99.**

Mr. Beardsley questioned Mr. Gilman regarding the adoption of a full-funding limitation and the suggested 'trigger level' should a municipal unit become once again underfunded. Mr. Gilman responded that ERISA recommends a level of 100% for private plans; in this instance given the smallness of the units, he suggested that the level for the re-adoption of employer contributions be 110%.

Board Counsel reminded the Board that the issue of full-funding for municipal plans was tabled at a previous meeting and must be taken off the table prior to any consideration of the issue.

## **V. Hearing Officer Decisions**

ERSRI vs. Duffney: *(Prior to the beginning of this case, Mr. Maguire recused himself from any discussion of the Duffney matter.)* Ms. Duffney did not prevail in her hearing before an ERSRI hearing officer. Ms. Duffney was advised by the Member Services Department that she had 30 years of service credit upon her retirement; upon further review, Ms. Duffney who had taught part-time kindergarten for two years, had only 29 years of service to her credit at her retirement date. Ms. Duffney, who was represented by Edward Casey at the initial hearing, was represented by Richard Skolnik before the retirement board.

Richard Skolnik, Esq., maintained that Ms. Duffney relied upon the counselor's estimate when making her decision to retire, and that the retirement estimate stated 30 years. He entered a letter written by Ms. Duffney as additional evidence (Exhibit 1). After hearing arguments, Mr. Beardsley moved and Ms. Murphy Crowe seconded the motion to uphold the decision of the hearing officer. A roll call vote was taken. Mr. Beardsley, yes; Mr. Boyce, no; Ms. Clark, yes; Ms. Murphy Crowe, yes; Mr. Finelli, no; Ms. Masse, yes; Mr. McAllister, yes; Ms. Riendeau, no; Ms. Mayer, yes. Vote tally, 6 votes affirmative, 3 votes negative. The motion did not pass. Mr. Carlotti stated Mr. Skolnik will send a letter indicating what he would like the Board to do regarding his client's appeal and that the matter will be put on a subsequent agenda.

ERSRI vs. Perrotti: (The Perrotti matter was postponed to the next meeting of the retirement board in response to a request by Mr. Perrotti's counsel.)

**VI. Disability Appeals**  
(no appeals for the month of July)

**VII. Legal Counsel Report**

Board Counsel Carlotti informed the members that the Finn matter had been appealed to the Superior Court and that he had recommended to the General Treasurer that special counsel be hired for this case. Mr. Carlotti stated that he will hand over his files regarding this matter to counsel selected by the Treasurer's office, the law firm of Galli & Gyorgy.

Mr. Carlotti also informed the Board that a lawsuit had been filed by a number of unions on behalf of teacher retirees regarding the State of Rhode Island's new health insurance plan and rates. He stated that the General Treasurer and the Executive Director of the retirement system had been sued along with the State of Rhode Island. The matter is being handled by the Attorney General's office on behalf of all parties.

**VIII. Committee Reports**

Disability Sub-Committee: (Prior to voting on the Disability Committee report, Mr. Maguire recused on item #1,6,7 & 8. ) Upon a motion made by Ms. Masse and seconded Mr. Beardsley, the Board unanimously

**VOTED: To approve the Disability Committee report of July 8, 1997 including #3 which was postponed from the June, 1997 retirement board meeting.**

Procurement Sub-Committee: In the absence of Mr. Angelone who serves as chair of the Procurement Sub-Committee, Ms. Clark reported that the committee had met on Friday, June 27<sup>th</sup> and interviewed the four actuarial finalists : (1) Milliman & Robertson; (2) Gabriel Roeder & Smith; (3) William M. Mercer, Co.; and (4) Watson Wyatt). Prior to the Board meeting, it was determined that the Procurement Sub-Committee would now recommend two finalists that would be interviewed by the full Board at the September meeting.

On a motion by Mr. Beardsley and seconded by Ms. Murphy Crowe it was unanimously

**VOTED: To ask the two actuarial finalists to meet with the entire Board at its next regularly scheduled monthly meeting.**

**IX. New Business**

Board Member Boyce moved an amendment to the current General Administrative Rules of the Employees Retirement System, specifically Section (1) Board Administration (10) Committees, that would increase the member number of all standing and special committees to five members. The motion was seconded by Mr. Finelli.

The substituted section would read as follows:

- (a) The chairperson will appoint five board members to the standing committees and special committees and shall serve on all committees ex-officio. Each committee shall select a chairperson and vice chairperson. The chairperson shall preside at all

meetings. In the absence of the chairperson, the vice chairperson shall preside. All board members except the public representatives will be allowed to send a designee to represent him/her on such standing committees and to vote provided a written proxy statement has been entered. In the case of all elected members, the designee must be a member of the membership group of the elected member.

Mr. Beardsley offered a friendly amendment to the motion that would add to the last line of the section: At any time, the board, may increase or decrease the number of members to standing and special committees. A roll call vote was taken. Mr. Beardsley, yes; Mr. Boyce, yes; Ms. Clark, yes; Ms. Murphy Crowe, yes; Mr. Finelli, yes; Mr. Maguire, yes; Ms. Masse, yes; Mr. McAllister, yes; Ms. Riendeau, yes; Mrs. Mayer, abstain. Vote tally. 9 affirmative, 1 abstain. It was

**VOTED: To amend the Employees Retirement System of Rhode Island and the Municipal Employees System General Administrative Rules, specifically Section (1) Board Administration (10) Committees to read as follows:**

**(a) The chairperson will appoint five board members to the standing committees and special committees and shall serve on all committees ex-officio. Each committee shall select a chairperson and vice chairperson. The chairperson shall preside at all meetings. In the absence of the chairperson, the vice chairperson shall preside. All board members except the public representatives will be allowed to send a designee to represent him/her on such standing committees and to vote provided a written proxy statement has been entered. In the case of all elected members, the designee must be a member of the membership group of the elected member. At any time the Board may increase or decrease the number or members to standing or special committees.**

Board Member Boyce then discussed municipal retirees and the fact that they will no longer be able to have health insurance premiums deducted from individual monthly pension checks and moved that the chair be directed to appoint a special committee to work with the Executive Director to research possibilities of establishing a policy that would allow retirees to purchase their health care coverage through pension deduction. The motion was seconded by Mr. Finelli. A roll call vote was taken of the members present: Mr. Beardsley, yes; Mr. Boyce, yes; Ms. Clark, yes; Ms. Murphy Crowe, yes; Mr. Finelli, yes; Mr. Maguire, yes; Ms. Masse, yes; Mr. McAllister, yes; Ms. Riendeau, yes; Vote tally. 9 votes affirmative. It was

**VOTED: To direct the Chair to appoint a special committee to work with the executive director to research possibilities of establishing a policy that would allow retirees to purchase their health care coverage through pension deduction.**

*(Note: Chairperson Mayer left the meeting at 11:35 am at which time Mr. Finelli assumed the chair)*

Mr. Beardsley voiced concern regarding the Municipal Employees Retirement System and the need for study by the retirement board regarding its future. Mr. Beardsley moved that the Chair be requested to appoint a sub-committee of five members on or before the next meeting. The charge of the sub-committee would be to examine the entire MERS structure including: provisions relating to a unit's entry; the trend by units to design its own plan outside of current statutory standards; the cost of administering specialized plans, and the allocation amongst various MERS units of the cost of administering the entire MERS plan. The committee would then be asked to make recommendations to the Board regarding any changes the committee believes to be in the best interest of a more effective administration of the Municipal Employees Retirement System. The motion was seconded by Mr. Boyce.

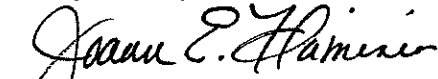
It was unanimously

**VOTED:** To request the Chair to appoint a sub-committee of five members on or before the next meeting charged with examining the entire MERS structure including provisions relating to a unit's entry; the trend by MERS units to design its own plan outside of current statutory standards; the cost of administering specialized plans, and the allocation amongst various MERS units of the cost of administering the entire MERS plan. The committee would be asked to make Board recommendations regarding any changes the committee believes to be in the best interest of a more effective administration of the Municipal Employees Retirement System.

**X. Adjournment**

There being no other business to come before the Board, on a motion by Ms. Clark and seconded by Mr. Boyce, the meeting was adjourned at 11:50 a.m.

Respectfully submitted,

  
**Joann E. Flaminio**  
Executive Director

vlp

## Minutes of the September 10, 1997 Retirement Board Meeting

The monthly meeting of the Retirement Board was held Wednesday, September 10, 1997 in the 8th Floor Conference Room, 40 Fountain Street, Providence, RI. The meeting was called to order at 9:10 a.m. by Nancy J. Mayer, Chairperson.

Prior to the rollcall, Mrs. Mayer welcomed Senator William Enos, the new Senate Finance Committee designee, to the Retirement Board.

### I. Roll Call of Members

The following members were present at roll call: Ponzi A. Angelone, C.L.U.; Daniel Beardsley; Michael R. Boyce; Leslie E. Clark; Sandra Murphy Crowe, designee for Dr. Robert Carl; Sen. William Enos; William B. Finelli; John P. Maguire; Linda M. Masse; Stephen McAllister; Linda C. Riendeau and Chairperson Nancy J. Mayer.

### II. Approval of Minutes

Ms. Clark moved and Mr. Finelli seconded the motion to approve the July 9, 1997 minutes. It was unanimously

**VOTED: To approve the minutes of July 9, 1997.**

### III. Actuarial Interviews

Mrs. Mayer announced the format for the actuarial interviews: a 20 - 25 minute presentation to be followed by a question and answer period.

The first actuarial finalist was Watson Wyatt Co. They were represented at the Board meeting by W. Michael Carter, Lead Actuary, and G. Wilson Lowry.

The second actuarial finalist was Milliman & Robertson. They were represented at the Retirement Board meeting by Althea A. Schwartz, Lead Actuary, and Robert Bezube.

After both presentations and question & answer periods, on a motion by Ms. Riendeau and seconded by Vice-Chairperson Finelli, it was unanimously

**VOTED: To go into Executive Session.**

Upon coming out of Executive Session, on a motion by Ms. Clark and seconded by Ms. Riendeau and Mr. Angelone, it was unanimously

**VOTED: In accordance R.I.G.L. 36-8-10, to engage Watson Wyatt as the actuary for the Employees' Retirement System and the Municipal Employees Retirement System. (As provided in the Request for Proposal, the initial engagement shall be for a four-year period commencing in September, 1997.)**

On behalf of the Board, Mr. Beardsley voiced his appreciation to the Procurement Sub-Committee for all of their hard work in selecting a new actuary. Mr. Beardsley noted that he chaired the last effort in 1990 to select a new actuary and was well aware of the time and effort that goes into an actuarial search process.

Chairperson Mayer proposed that the Executive Director be directed to send a letter to the William M. Mercer Co. and specifically Frank M. Mangione and Barry Gilman thanking them for their past service on behalf of the system. The Board agreed that such a letter should be sent to Mercer.



#### IV. Chairperson's Report

Mrs. Mayer stated that the value of the pension fund was in excess of \$5.5 billion at the end of July. She again invited the members of the Board to attend the State Investment Commission (SIC) meeting which is held the last Tuesday of each month.

#### IV. Executive Director's Report

Executive Director Flaminio noted that Congress had recently enacted the Taxpayer Relief Act of 1997 which included a permanent moratorium on the application of non-discrimination laws to public plans. The same bill also exempted fire and police public plan members from the Maximum Benefit Limitations of Section 415. (*In Rhode Island, this issue affects state employees to a greater extent.*)

She also announced that there will be additional open enrollment this fall. Only those members who desire to change his/her health plan will be required to take some action during this 2<sup>nd</sup> 1997 open enrollment. She also noted that because of the open enrollment this spring, it has been impossible to process all of the teacher retirements during the summer months of July and August.

Ms. Flaminio reported that the office will be open one day a week until 5:00 pm from October to May to accommodate teachers who are unable to make appointments earlier in the day.

Ms. Flaminio stated that she had passed out a memorandum to the Board updating the Board on developments in the Finn matter and welcomed comments from the Board members on the case.

Ms. Flaminio introduced Robyn Patton to the Board as a new staff member working in the Retiree Unit.

Lastly, Director Flaminio asked for a motion to pass the military credit regulation that had been previously discussed and properly posted. (*Mr. Finelli recused himself from any discussion or action on the military regulation.*) Mr. Maguire had a concern regarding the inclusion of the July 3, 1997 date on page 2, Section One, subsection (f). Ms. Flaminio suggested the regulation be promulgated without including the date of July 3, 1997. On a motion by Mr. Maguire and seconded by Sen. Enos it was unanimously

**VOTED: To delete the words "As of July 3, 1997", from page 2, Section One, subsection (f) from the Rules Regarding the Purchase of Military Service Credit.**

On a motion by Mr. Maguire and seconded by Mr. Angelone, it was unanimously

**VOTED: In accordance with the Administrative Procedures Act, to adopt the Rules Regarding the Purchase of Military Service Credit pursuant to R.I.G.L. 36-9-31, 16-16-7.1 and 45-21-53.**

On a motion by Mr. Boyce and seconded by Ms. Riendeau, it was unanimously

**VOTED: In accordance with the Administrative Procedures Act, to amend the Employees Retirement System of Rhode Island and the Municipal Employees Retirement System General Administrative Rules, specifically Section (1) Board Administration (10 Committees to read as follows:**

- (a) **The chairperson will appoint five board members to the standing committees and special committees and shall serve on all committees ex-officio. Each committee shall select a chairperson and vice-chairperson. The chairperson shall preside at all**

meetings. In the absence of the chairperson, the vice chairperson shall preside. All board members except the public representatives will be allowed to send a designee to represent him/her on such standing committees and to vote provided a written proxy statement has been entered. In the case of all elected members, the designee must be a member of the membership group of the elected member. At any time the Board may increase or decrease the number of members to standing or special committees.

#### V. Hearing Officer Decisions

ERSRI vs. Ruth Russian: Mrs. Russian did not prevail in her ERSRI appeal. Mrs. Russian is desirous of selecting Option Two upon her retirement. Mrs. Russian's husband is two years and 362 days older than she and because of that fact she would like us to utilize a different Option Two factor that what is required by Board regulation. Ms. Russian would like the retirement system to consider her husband *three* years older rather than *two* which would give her a slightly larger Option Two retirement. It was noted that the Option Factor charts were adopted by the Retirement Board back in 1983.

On a motion by Mr. Beardsley and seconded by Ms. Clark it was unanimously **VOTED: To sustain the decision of the hearing officer in the Russian matter.**

#### VI. Disability Appeals

*(no appeals for the month of September)*

#### VII. Legal Counsel Report

Board Counsel Carlotti highlighted changes in this month's Litigation Report. With regard to the subject of Disability, he noted that the Rhode Island Supreme Court had denied Mr. Craviero's petition for a Writ of Certiorari, and also that Judge Cresto, in the case of Yolanda Allen, affirmed the Retirement System's denial of her application.

In response to a question by Mr. Finelli regarding the remand by Judge Fortunato of the accidental disability retirement application of Joseph L. Tracy, Mr. Carlotti stated that it is imperative that a proper record be compiled and that a court stenographer be utilized. He stated that the Tracy case would, in all likelihood, be re-heard with the assistance of a court stenographer. He noted that the Disability Sub-Committee is already utilizing a court stenographer for all hearings.

In answer to a question by Mr. Boyce's regarding the NEA-RI case against the retirement system, Mr. Carlotti stated that Mr. Boyce was correct that no interim judgments would be entered and that the case would not be finally decided until additional trials are held on those plaintiffs in which no determination was made in the recent written decision. Thus, no appeals can be taken by the plaintiffs until a final decision is entered.

#### VIII. Committee Reports

Disability Sub-Committee: *(Prior to voting on the Disability Committee report, Mr. Maguire recused on item #11.)* Upon a motion made by Ms. Masse and seconded Mr. Finelli, the Board unanimously

**VOTED: To approve the Disability Committee report of September 5, 1997.**

X. Adjournment

There being no other business to come before the Board, on a motion by Mr. Finelli and seconded by Ms. Murphy-Crowe, the meeting was adjourned at 12:00 noon.

Respectfully submitted,

  
**Joann E. Flaminio**  
Executive Director

vlp

## Minutes of the October 8, 1997 Retirement Board Meeting

The monthly meeting of the Retirement Board was held Wednesday, October 8, 1997 in the 8th Floor Conference Room, 40 Fountain Street, Providence, RI. The meeting was called to order at 9:10 a.m. by William Finelli, Vice-Chair of the Employees Retirement Board of Rhode Island.

### I. Roll Call of Members

The following members were present at roll call: Ponzi A. Angelone, C.L.U.; Daniel Beardsley; Michael R. Boyce; Leslie E. Clark; Sandra Murphy Crowe, designee for Dr. Robert Carl; William B. Finelli; John P. Maguire; Linda M. Masse; Stephen McAllister; Michael O'Keefe; Linda C. Riendeau. Chairperson Nancy J. Mayer arrived at 9:35 am and assumed the chair upon her arrival.

### II. Approval of Minutes

Ms. Clark moved and Ms. Riendeau seconded the motion to approve the September 10, 1997 minutes. It was unanimously

**VOTED: To approve the minutes of the Board meeting of September 10, 1997.**

### III. Chairperson's Report

*(There was no report from the Chair at this meeting.)*

### IV. Executive Director's Report

Prior to giving her report, Board member Crowe and Vice-Chair Finelli reported on their experiences at the recent National Council on Teacher Retirement Conference held in Philadelphia. Ms. Murphy-Crowe stated that the conference was very informative and that she was able to talk to Board members from other states on disability policy. She noted that most states have adopted a disability standard that does include "permanency" as a requirement. Vice-Chair Finelli agreed with Ms. Crowe that it was an informative and helpful experience and that he was able to spend time with both Michael Carter, the new actuary, and Leon Wechsler, the system's computer consultant.

Ms. Flaminio apprised the Board that we are currently in the midst of the 2<sup>nd</sup> Open Enrollment period for retirees during 1987. However, during this 2<sup>nd</sup> period, only those retirees that wish to change their current health vendor need to contact the retirement system. Also, there is no telephone enrollment or re-enrollment of retiree health insurance this time.

She also reported on the lawsuit brought by the public sector unions regarding the administration's move to split the health insurance rates for active employees and ERSRI state and teacher retirees has yet to be decided. The case has been further delayed until October 20<sup>th</sup>.

Director Flaminio noted that in July, August & September, 555 retirees were put on pension. In a typical calendar year, the retirement system puts about 700 members on pension. Of the 555 summer retirees, 350 are teacher members.

Ms Flaminio also informed the Board that the retirement system's phone number may be changing as of January, 1998 as part of the state's overhaul of its telecommunications system.

Lastly, she noted that the system is near completion of its computerization RFP with the assistance of the firm of L.R. Wechsler, LTD. She noted that in her opinion this is the single most important improvement the system can make in that it will greatly improve the system's ability to both deliver service and analyze its progress. She hopes to have a report for the Board on the RFP in the next few months.

### V. Hearing Officer Decisions

ERSRI vs. Caccia: Mr. Caccia did not prevail in his ERSRI appeal. He appeared before the Board along with his attorney, Mr. John J. Flanagan. Mr. Caccia requested a refund of his contributions pursuant to RIGL Section 36-10-10(c) which states that members who had 38 years of service as of December 31, 1985 would be entitled to cease contributions. Mr. Caccia had 38 years of continuous service as of September 1, 1988 and failed to meet the necessary statutory requirement. Mr. Beardsley moved and Ms. Clark seconded the motion to uphold the hearing officer's decision. A roll call vote was taken. Mr. Angelone, yes; Mr. Beardsley, yes; Mr. Boyce, yes; Ms. Clark, yes; Ms. Murphy Crowe, yes; Mr. Finelli, yes; Mr. Maguire, yes; Ms. Masse, yes; Mr. McAllister, yes; Mr. O'Keefe, yes; Ms. Riendeau, yes; Mrs. Mayer, yes. It was unanimously **VOTED: to sustain the decision of the hearing officer in the Caccia matter.**

ERSRI vs. Perrotti: Mr. Perrotti did not prevail in his ERSRI appeal and appeared at the Board meeting with his attorney, Mr. Stephen R. Famiglietti.

*(Director Flaminio recapped the travel of the case.)*

Mr. Perrotti was first employed by the State of Rhode Island in 1955 and rose to the position of Chief Deputy Registrar of Motor Vehicles. While serving as chief deputy he was, after an investigation by the state police relating to an impropriety regarding an automobile accident in 1979, indicted by State and Federal grand juries on criminal charges. He was convicted of mail fraud in November, 1983 and spent nine months in federal prison.

During the investigation, he was placed on administrative leave by the Department of Transportation and was ultimately terminated by the State of Rhode Island. In 1989, however, the Department of Transportation and Mr. Perrotti executed an agreement which allowed Mr. Perrotti to return to work for one day on July 27, 1989 in order to retire and take advantage of early retirement provisions then in effect within the retirement system. Mr. Perrotti bought some credit and retired under the early retirement provisions of 1989.

In December of 1991, the retirement system notified Mr. Perrotti that it was suspending his retirement benefits as of January 1, 1992 and that a hearing would be conducted by the Retirement Board to consider whether the pension benefit could be revoked as a result of his previous conviction. Mr. Perrotti, at that time, sued and obtained a stay of the Retirement Board hearing which was scheduled for June 1, 1992. In May of 1995, the Supreme Court ruled in the case of Perrotti v. Solomon that the Retirement Board did indeed have the authority to consider whether the awarding of Mr. Perrotti's pension was proper given his previous conviction. Effective May 11, 1994, the Retirement System promulgated Rules of Practice and Procedure for Hearings and Mr. Perrotti's case was assigned to Hearing Officer Elaine Giannini who issued a decision terminating Mr. Perrotti's pension. *(It is important to note that this conviction pre-dates the General Assembly's enactment of the Pension Reduction and Revocation Act which requires that after knowledge of a conviction, the case be referred to the Attorney General's office for prosecution. This was done in the cases of Pouliot, Azar, Zanni & Izzo.)*

On Mr. Perrotti's behalf, Attorney Famiglietti argued that, in his opinion, the Retirement Board does have the right to reconsider and revisit the Perrotti matter, but that the right is limited to determining whether or not his conviction is newly discovered evidence or whether or not the previous board was aware of the fact that he had been convicted at the time that his pension was originally granted back in 1989. He argued that the Retirement Board was aware of the Perrotti conviction at the time the pension was granted and that prior to her consideration of the case, Ms. Giannini had to find that the Retirement Board was unaware of the conviction (which she did not). Mr. Famiglietti submitted written affidavits of former Treasurer Solomon, Board Member Reback and Board Member Iannelli stating that they were aware of Mr. Perrotti's conviction at the time.

Alternatively, Attorney Famiglietti argued that the hearing officer's decision did not properly apply the factors enunciated in Almeida to Mr. Perrotti's set of circumstances. Finally, he argued that the penalty laid down is a violation of the double jeopardy clause of the state and U.S. constitution.

Mrs. Mayer moved and Mr. O'Keefe seconded the motion to remand the issue back to the hearing officer to consider the factors listed in the Almeida decision. A roll call vote was taken: Mr. Angelone, yes; Mr. Beardsley, no; Mr. Boyce, no; Ms. Clark no; Ms. Murphy-Crowe, yes; Mr. Finelli, no; Mr. Maguire, no; Ms. Masse, yes; Mr. McAllister, yes; Mr. O'Keefe, yes; Ms. Riendeau, no; Mrs. Mayer, yes. 5 votes in the affirmative, the motion did not carry.

Mr. Boyce moved and Ms. Riendeau seconded the motion to overturn the hearing officer's decision. A roll call vote was taken. Mr. Angelone, no; Mr. Beardsley, no; Mr. Boyce, yes; Ms. Clark, no; Ms. Murphy-Crowe, no; Mr. Finelli, yes; Mr. Maguire, yes; Ms. Masse, no; Mr. McAllister, no; Mr. O'Keefe, no; Ms. Riendeau, yes; Mrs. Mayer, no. 4 votes in the affirmative, the motion did not carry.

Ms. Murphy Crowe moved and Mr. Beardsley seconded the motion to affirm the decision of the hearing officer.

Mr. Finelli moved and Mr. Boyce seconded a motion to amend the motion to affirm the decision of the hearing officer by first remanding the matter back to the hearing officer to (1) consider the factors set forth in the Almeida decision after hearing any additional evidence on these factors presented by Mr. Perrotti; and (2) to consider explicitly the argument raised by counsel that based on the decision of the Supreme Court, if the Board had knowledge of Mr. Perrotti's conviction, it could not at this point revisit the question of whether his service was honorable. A roll call vote was taken on the amendment to the motion. Mr. Angelone, yes; Mr. Beardsley, no; Mr. Boyce, yes; Ms. Clark, no; Ms. Murphy Crowe, yes; Mr. Finelli, yes; Mr. Maguire, yes; Ms. Masse, yes; Mr. McAllister, yes; Mr. O'Keefe, no; Ms. Riendeau, yes; Mrs. Mayer, yes. Vote tally, 9 votes in the affirmative, it was

**VOTED: to amend the motion to affirm the decision of the hearing officer by first remanding the matter to the hearing officer to (1) consider the factors set forth in the Almeida decision after hearing any additional evidence on these factors presented by Mr. Perrotti; and (2) to consider the argument raised by opposing counsel that if the Board had knowledge of Mr. Perrotti's conviction, it could not revisit the question of whether or not his service to the state was honorable.**

A roll call vote was taken on the main motion as amended. Mr. Angelone, yes; Mr. Beardsley, no; Mr. Boyce, yes; Ms. Clark, no; Ms. Murphy-Crowe, yes; Mr. Finelli, yes; Mr. Maguire, yes; Ms. Masse, yes; Mr. McAllister, yes; Mr. O'Keefe, yes; Ms. Riendeau, yes; Mrs. Mayer, yes. Vote tally - ten votes in the affirmative, two votes in the negative, it was

**VOTED:** to affirm the decision of the hearing officer as amended, (*see above*) by remanding the matter to the hearing officer to (1) consider the factors set forth in the Almeida decision after hearing any additional evidence on these factors presented by Mr. Perrotti; and (2) to consider the argument raised by opposing counsel that if the Board had knowledge of Mr. Perrotti's conviction, it could not revisit the question of whether or not his service to the state was honorable.

#### VI. Legal Counsel Report

(*there was no specific report given by legal counsel*)

#### VII. Committee Reports

Special Sub-Committee on Health Care: Mr. McAllister stated that the Sub-Committee met twice with the purpose of providing a mechanism by which retired municipal members could enjoy the convenience of a health care pension deduction at a group rate provided that the municipal retired employee paid *full* cost for his/her medical coverage. With the assistance of Board Counsel Carlotti, legislation was enacted to authorize this result. Mr. McAllister stated that the Sub-Committee voted 3-1 to approve the legislation recommended by Carlotti. Josh Ravitz, representing General Treasurer Mayer, opposed the bill because of his concerns that there may be added cost to the State of Rhode Island. Mr. McAllister stated that the Administration shares Mr. Ravitz's concerns but was comfortable that adding municipal retirees would not mean added costs to the State of Rhode Island.

Mr. O'Keefe inquired if there had been an actuarial study regarding the municipal population who was purchasing health care. Ms. Flaminio noted that there were 970 municipal retirees purchasing health care, 870 of whom were purchasing an over-65 supplemental Medicare Part B policy at a standard rate available to all.

Mr. Carlotti pointed out that the legislation does not mandate the state to offer anything, and would be merely permissive.

Mr. McAllister referred to Director Flaminio's suggestion that the Board vote on the issue, and if passed, find a sponsor. At that time, noted McAllister, there would be sufficient time to investigate additional concerns.

After further discussion, Mr. McAllister moved and Ms. Murphy-Crowe seconded the motion to adopt the proposed legislation as submitted by the Sub-Committee on Healthcare Pension Deductions.

Mr. O'Keefe moved to postpone action on the legislation for a month in order to obtain statistical information (occupation and ages) on the municipal under-65 retiree population who would be most likely to take advantage of the bill. The amendment to the motion was seconded by Mr. Beardsley. A roll call vote was taken: Mr. Angelone, no; Mr. Beardsley, yes; Mr. Boyce, no; Ms. Clark, no; Ms. Murphy Crowe, no; Mr. Finelli; no; Mr. Maguire; no; Ms. Masse, no; Mr. McAllister, no; Mr. O'Keefe, yes; Ms. Riendeau, no; Mrs. Mayer, yes. 3 votes in the affirmative, the amendment to the motion did not carry.

Chairperson Mayer, who had concerns about the wording of the proposed legislation, then moved to amend the legislation and insert the language "Nothing contained in this section shall require or be deemed to authorize the state to offer a program of health insurance benefits to retired municipal employees". Mr. O'Keefe seconded the motion. Discussion included the use of "may or shall" in the legislation. A roll call vote was taken. Mr. Angelone, no; Mr. Beardsley, yes; Mr. Boyce, no; Ms. Clark, no; Mrs. Murphy Crowe, yes; Mr. Finelli, no; Mr.

Maguire, no; Ms. Masse, yes; Mr. McAllister, no; Mr. O'Keefe, yes; Ms. Riendeau, no; Ms. Mayer, yes. 5 votes in the affirmative, the amendment to the motion did not carry.

A roll call vote was then taken on the original motion. Mr. Angelone, yes; Mr. Beardsley, yes; Mr. Boyce, yes; Ms. Clark, yes; Ms. Murphy Crowe, yes; Mr. Finelli, yes; Mr. Maguire, yes; Ms. Masse, yes; Mr. McAllister, yes; Mr. O'Keefe, yes; Ms. Riendeau, yes; Mrs. Mayer, yes. It was unanimously

**VOTED: To recommend to the General Assembly the adoption of the proposed legislation as presented to the Board by the special Sub-committee on Health Care Pension Deductions.**

Disability Sub-Committee: Upon a motion by Ms. Masse and seconded by Mr. Finelli with Mr. Maguire recusing on #'s 1 & 6, it was unanimously

**VOTED: To approve the Disability Committee report of October 3, 1997.**

Special Sub-Committee on MERS: Mr. Beardsley reported that the Sub-Committee on MERS is sponsoring a Member Forum on Thursday, October 30th, 9:00 a.m. in Room 35 of the State House to hear from participating municipalities. The forum will deal with many issues including: MERS Customization, the Administration of the MERS plans, size of the MERS units, MERS Overfunding, and plan customization by individual bargaining units.

#### **VIII. New Business**

*(no new business)*

#### **IX. Adjournment**

There being no other business to come before the Board, on a motion by Mr. Maguire and seconded by Ms. Clark, the meeting was adjourned at 11:28 a.m.

Respectfully submitted,

  
Joann E. Flaminio  
Executive Director

vlp



## Minutes of the November 12, 1997 Retirement Board Meeting

The monthly meeting of the Retirement Board was held Wednesday, November 12, 1997 in the 8th Floor Conference Room, 40 Fountain Street, Providence, RI. The meeting was called to order at 9:03 a.m. by William Finelli, Vice-Chair of the Employees Retirement Board of Rhode Island.

### I. Roll Call of Members

The following members were present at roll call: Daniel Beardsley; Michael R. Boyce; Leslie E. Clark; Sandra Murphy Crowe, designee for Dr. Robert Carl; William B. Finelli; John P. Maguire; Stephen McAllister; & Michael O'Keefe.

### II. Approval of Minutes

Ms. Clark moved and Mr. McAllister seconded the motion to approve the October 8, 1997 minutes. It was unanimously

**VOTED: To approve the minutes of the Board meeting of October 8, 1997.**

### III. Chairperson's Report

*(There was no report from the Chair at this meeting.)*

### IV. Executive Director's Report

Ms. Flaminio stated that she included within the Board packet a copy of our present Member Benefit presentation in response to the many questions she receives from Board members regarding our benefits package. She suggested that the December Board Meeting begin with the presentation and then commence official business at 10 a.m.. All Board members are invited to attend the Member Benefits Presentation as well as the Board luncheon after the December meeting.

Director Flaminio stated that she had analyzed for the Board those 96 municipal retirees who were purchasing something other than a standard supplemental Medigap policy through the Employees Retirement System. That report is included in the Board packet.

She noted that she would set up a meeting of the Board's Legislative Sub-Committee in the near future.

Also, Ms. Flaminio explained that the Computer RFP has been distributed to various parties within the state for comment and that she will continue to update the Board on its progress.

Ms. Flaminio also commented briefly on the "military reserve" purchase currently being computed by the retirement system and the fact that for some members, 2 months (8 2-week periods of active reserve time) will provide certain members with an additional four years of service time. She stressed the cost to the system and the importance of careful consideration of all hearing officer decisions.

In response to a question from Mr. Beardsley, Ms. Flaminio noted that the members of the Legislative Sub-Committee are: Lu Cribari, Representative Pires, Sen. Sasso (replaced by Sen. Enos), Linda Riendeau and Nancy Mayer.

Mr. Beardsley indicated that he has spoken with Ms. Cribari and that she indicated that she would not be continuing to serve actively on the Employees Retirement Board. Ms. Binder stated that she would contact Ms. Cribari about her future status with the Board.

#### V. Hearing Officer Decisions

ERSRI vs. Dionne: Ms. Flaminio referred to Ms. Dionne's letter requesting postponement to the December meeting.

#### VI. Legal Counsel Report

On a motion by Mr. Maguire and seconded by Ms. Murphy-Crowe it was unanimously **VOTED: To go into Executive Session.**

#### VII. Committee Reports

Special Sub-Committee on MERS: Mr. Beardsley reported that the Sub-Committee held a public forum on October 30th in Room 35 of the State House and that six individuals testified on a variety of issues including full funding, the separation of units, vesting, and interest on a refund of contributions. He noted that most individuals who testified were employed by a town. He did state that some individuals wanted the ability to comment on the Sub-Committee's recommendations after they were made public. The next meeting of the Sub-committee has been scheduled for November 24<sup>th</sup> at 9:00 a.m.

Disability Sub-Committee: Mr. Maguire indicated he would have to recuse on #'s 4, 15 & 17 of the disability report. Ms. Murphy-Crowe moved and Ms. Clark seconded the motion to approve the report of the Disability Sub-Committee. Mr. Carlotti pointed out that without Mr. Maguire's vote, there would not be a majority vote of the Board on #'s 4, 15 & 17. It was unanimously

**VOTED: To approve the Disability Sub-Committee report of November 7, 1997 excluding #'s 4, 15 & 17. (which will have to be taken up at a subsequent date)**

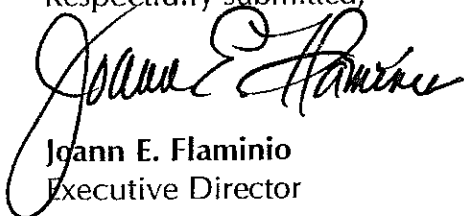
#### VIII. New Business

*(no new business)*

#### IX. Adjournment

There being no other business to come before the Board, on a motion by Ms. Clark and seconded by Mr. McAllister, the meeting was adjourned at 10:00 a.m.

Respectfully submitted,



Joann E. Flaminio  
Executive Director

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## Minutes of the December 10, 1997 Retirement Board Meeting

The monthly meeting of the Retirement Board was held Wednesday, December 10, 1997 in the 8th Floor Conference Room, 40 Fountain Street, Providence, RI. The meeting was called to order at 10:15 a.m. by Nancy Mayer, Chairperson.

### I. Roll Call of Members

The following members were present at roll call: Ponzi A. Angelone, C.L.U.; Daniel Beardsley; Michael R. Boyce; Leslie E. Clark; Sandra Murphy Crowe, designee for Dr. Robert Carl; Senator William Enos; William B. Finelli; John P. Maguire; Linda M. Masse; Stephen McAllister; Michael O'Keefe; Linda C. Riendeau and General Treasurer Nancy J. Mayer.

### II. Approval of Minutes

Ms. Clark moved and Ms. Murphy Crowe seconded the motion to approve the November 12 1997 minutes. It was unanimously

**VOTED: To approve the minutes of the Board meeting of November 12, 1997.**

Ms. Masse moved and Mr. Boyce seconded the motion to approve the minutes of the November 24, 1997 Special Board meeting. It was unanimously

**VOTED: To approve the minutes of the Special Board meeting of November 24, 1997.**

### III. Chairperson's Report

Chairperson Mayer reported that the State Investment Commission is currently reviewing responses for a Request for Proposal for a 'core equity' allocation. She noted that there were numerous responses to this RFP and that finalists will be interviewed by the SIC during the new year (probably at the February meeting.) She invited all Retirement Board members to attend the final presentations.

She stated the fund value is around \$5.5 billion.

### III. Executive Director's Report

As of January 9, 1998, Ms. Flaminio informed the Board the prefix of the retirement telephone number will change from 277 to 222. Thus, the new number will be (401) 222-2203.

Copies of the RFP for the computer system are being analyzed by interested parties. If you would like a copy, you may call Frank Karpinski.

She also stated that we are nearing completing of the system financial statements for the fiscal year ending June 30, 1997 is almost completed internally. The financial statement for June 30, 1996 has yet to be published.

Ms. Flaminio informed the Board that retirement and treasury staff had met with the new actuaries, Watson Wyatt, on December 2<sup>nd</sup>. It was agreed that before the actuaries would recommend assumptions for the next round of valuations, the actuaries would proceed with an extensive experience study of the plan. She noted that the Special Pension Commission has requested Watson Wyatt to do some cost projections regarding changes to the plan for new

members of the state employees and teachers plan. Since the actuaries may not do any outside work without Board approval, Ms. Flaminio asked for a motion which would allow Watson to respond to the Special Pension Commission request. The Special Pension Commission would be responsible for payment.

On a motion by Mr. Finelli and seconded by Ms. Riendeau and Ms. Masse, it was unanimously

**VOTED: To authorize Watson Wyatt to perform an actuarial cost study for the Special Pension Commission which will be paid for by that Commission.**

Noting the confusion that exists with regard to the application of the 75-day rule for retirees, Ms. Flaminio indicated that within the next few months she hoped to publish an informational hand-book on the subject.

Director Flaminio then referred to the Board of Elections controversy and the issue of whether or not they should continue to be members of the retirement system. She quoted Public Law 94-142 signed into law by Governor Sundlun on July 7, 1994, which states for each membership group that a member must work 20 hours a week to be a member of the retirement system. She noted that the membership application was revised at that time and very clearly states that members who fail to meet the 20-hour requirement should not be enrolled. This information has been distributed to every agency and every municipality, and the retirement system relies on agency and municipal personnel to submit information on behalf of its employee. There is no way to monitor at present whether a member truly works a 35-hour or 20-hour work week.

On a motion by Mr. Beardsley and seconded by Mr. Finelli, it was unanimously

**VOTED: To accept the following resolution which reads:**

**“That the Executive Director advise each State Board, Commission, or Public Authority, whose members are paid, of the provisions of Section 36-8-1(2) of the General Laws insofar as those provisions relate to the limitation on eligibility for membership in the Employees’ Retirement System of those members and employees whose service is part-time; and be it further resolved:**

**That in connection with such notice, the Executive Director inform each such Board, Commission, or Public Authority that if any member or part-time employee claims to be an employee within the meaning of Section 36-8-1(2) such member or employee must submit on or before a date certain as set forth in the notice an affidavit under oath stating the basis upon which such person claims eligibility for membership in the System.”**

Director Flaminio thanked each member for their service and dedication to the Retirement Board. Chairperson Mayer presented the public member, Ponzi Angelone, a citation from Governor Almond thanking him for his service on the Board this year.

#### **V. Hearing Officer Decisions**

**ERSRI vs. Dionne:** Ms. Flaminio informed the members that Ms. Dionne has dropped her appeal and will accept the hearing officer’s decision. Two months of previously labeled “purchased time” will be accepted as contributing time by the system.

## VI. Legal Counsel Report

On a motion by Mr. Finelli and seconded by Ms. Masse it was unanimously

**VOTED: To go into Executive Session.**

Upon coming out of Executive Session, Mr. Finelli moved and Ms. Crowe seconded the motion to approve the Finn settlement as recommended by counsel. It was

**VOTED: To approve the Finn settlement as recommended by counsel.**

Upon coming out of Executive Session, Ms. Clark moved and Ms. Riendeau seconded the motion it was unanimously

**VOTED: To approve the November 12, 1997 Executive Session minutes and direct that they remain sealed pending the settlement of the litigation.**

## VII. Committee Reports

Disability Sub-Committee: Mr. Maguire indicated he would have to recuse on #13 of the disability report. Mr. Finnelli moved and Ms. Clark seconded the motion to approve the report of the December 5, 1997 Disability Sub-Committee. It was unanimously

**VOTED: To approve the Disability Sub-Committee report of December 5, 1997.**

Special Committee on MERS Report: Mr. Beardsley reported that the committee met on November 24th to discuss the schedule and also the issues to be addressed at future meetings. They will be meeting again sometime in January.

## VIII. New Business

Mr. O'Keefe in reviewing the monthly contribution report noted the delinquencies of some communities and questioned if the system had any recourse. Mrs. Mayer replied that the General Treasurer does possess the authority to withhold state aid from delinquent communities if necessary. It was noted by Mr. Boyce that it is employer *and* employee contributions that are delinquent and that communities should at least send the employee portion of the delinquent amount.

Mr. Carlotti suggested that the system formulate a policy with penalties for delinquency with the ultimate penalty being the withholding of state aid. He noted that it seems to be a chronic problem for certain communities.

Mr. Boyce requested that the contribution report for January reflect "total delinquency" of each municipality rather than the pay period.

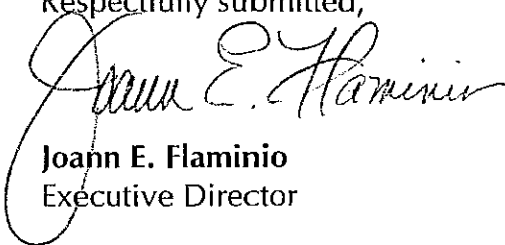
Finally, Mr. Beardsley questioned whether Mrs. Mayer's office had contacted Lu Cribari pertaining to her status on the Board. Mrs. Mayer stated that an official letter of resignation would be forthcoming and that the Governor would have to appoint a new public representative.

## IX. Adjournment

Prior to adjournment, Ms. Flaminio informed the Board that the retirement system is presently processing the Phelps/military credit and that there will be an upcoming Journal article about this military purchase issue.

There being no other business to come before the Board the meeting was adjourned at 11:36 a.m.

Respectfully submitted,

A handwritten signature in cursive script that reads "Joann E. Flaminio". The signature is written in black ink and is positioned above the printed name and title.

**Joann E. Flaminio**  
Executive Director

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