

## **Minutes of the meeting held on September 11, 2017**

Present: Francis Murphy – Chair, James Monagle, Michael Gardner, Nadia Chamblin-Foster, John Shinkwin, Ellen Philbin, Attorney James Quirk and Chris Burns.

The meeting was called to order at 5:02 PM. The meeting was digitally recorded.

### **Agenda Item #1– Minutes**

Motion by Gardner, seconded by Shinkwin to accept the regular minutes of the meeting held on August 7, 2017. Voted unanimously.

Motion by Gardner, seconded by Shinkwin to accept the executive session minutes of the meeting held on August 7, 2017. Voted unanimously.

### **Agenda Item #2 - Warrant**

Motion by Gardner, seconded by Monagle to accept payment of warrant #16 in the amount of \$6,747,435.15 and to accept payment of warrant #17 in the amount of \$1,183,029.52. Voted unanimously.

### **Agenda Item #3 – Superannuations**

Motion by Gardner, seconded by Monagle to accept the Superannuation retirement applications submitted by Karin Ash, Staff Nurse, Cambridge Health Alliance with twelve years, four months; Fatima Cabral, Paraprofessional, School Dept. with eleven years, two months; Catherine Dahill, Paraprofessional, School Dept. with fifteen years, five months; Carol Leblanc, RN, Cambridge Health Alliance with twenty-seven years, ten months; Kevin McCormick, Associate Housing Planner, Community Development Dept. with ten years; Maria Perez, Milieu Counselor, Cambridge Health Alliance with nineteen years, six months; Ruth Thomas, Senior Planner, Housing Authority with twenty-seven years, six months; and Eleanor Vailliant, Clerk, School Dept. with thirty-three years, five months. Voted unanimously.

### **Agenda Item #4 - Make-ups/Redeposits / Liability**

The Board reviewed make-up and redeposit worksheets for six members.

Motion by Gardner, seconded by Shinkwin to allow the make-up of contributions requested by Anne E. Crockett, 3 months (pro-rated); Suzanne Dailey, 2 months (pro-rated); Madeline W. Fodero, 1 year, 1 month (pro-rated); Kumi Velasco Okabe, 1 year, 8 months (pro-rated); to allow the redeposit of refunds requested by Debra P. Morris, 10 months; and David E. Perry, 4 years, 11 months. Voted unanimously.

### **Agenda Item #5 – Refund Applications**

The Board reviewed a list of refund applications submitted in August.

Motion by Gardner, seconded by Shinkwin to accept fourteen refund applications. Voted unanimously.

### **Agenda Item #6 – Fossil Fuel Investments**

Rosalie Anders, Jim Recht and Susan Redlich appeared before the Board, representing MassDivest.org. The Board reviewed correspondence, news articles and draft legislation provided by MassDivest.org as well as correspondence from PERAC.

Recht described the threat of global warming and noted actions taken by the City of Cambridge in recent years to reduce carbon emissions. Anders described the implementation of the City's Net-Zero plan. Redlich noted a number of other institutions that have recently made the decision to divest from fossil fuels. She also stated that the Somerville Retirement System has attempted to initiate divestment of their portfolio, although they have run into some legal issues about

issuing an RFP that would be approved by PERAC. She also described legislation, sponsored by Marjorie Decker, which would mandate statewide divestment from certain coal companies. The Chairman stated that he remains concerned about the system experiencing lower returns should they make a decision to divest. He also stated that he believed that the system's current holdings of fossil fuel companies was under 5% of the portfolio, and he invited the presenters to perform their own analysis, based on publicly available information about the portfolio holdings. The Chairman stated that the system has requested guidance from PERAC as to what types of restrictions a Board could independently include in an RFP. PERAC has responded and stated that, in the absence of a statutory restriction, the system must not constrain investment options by divesting from any particular type of investment. To do so would be a violation of the Board's fiduciary duty and might expose Board members to litigation. Gardner stated that he was reluctant to rely on arguments stating that divesting would be financially prudent. He noted that divestment from tobacco was taken at a time when it appeared that the industry was facing crippling lawsuits and when smoking rates were declining. Despite this, the tobacco industry has remained quite profitable, and the system has seen smaller returns as a result of the prohibition on tobacco investments. Gardner also stated that he feels that the divestment movement underestimates the benefit of shareholders using their proxy voting power to influence firms. Quirk noted that PERAC's letter quotes the fiduciary standards in MGL c. 32, Sec. 23 at some length. He stated that the presenters should be aware that the procurement rules in this section are much stricter than the rules applying to any other government agency in Massachusetts. Chamblin-Foster stated that she would be interested in seeing additional information on the firms that MassDivest has identified as problematic. The Director stated that she has been in contact with the Executive Director of the Somerville Retirement System, and that she is following their actions closely.

#### **Agenda Item #7 – Interest Calculation**

The Board reviewed correspondence from Dr. Margaret Coleman, legal research from Attorney Quirk and interest calculations for ten members.

Burns reviewed the history of the case, stating that ten physicians had received annual bonus payments. The amount of these payments was based on the attainment of certain performance metrics spelled out in their contract. After reviewing these payments with Quirk, the staff found the payments were not pensionable. Dr. Coleman was the person who had received the largest payments, and had over \$10,000 in improper withholdings. The payments began in 2009 and continued until 2017. In her correspondence, Coleman has requested that the Board pay interest on the amount she will be refunded. Gardner stated that he was concerned that the statute limits employers' ability to craft performance incentives for employees. Quirk stated that he felt some of the payments might have been allowable prior to 2009, but recent changes to the law have narrowed the types of payments that can be considered pensionable.

Quirk stated that his review of case law shows there is no requirement for Boards to pay interest in similar cases. Monagle moved to seek a written opinion from PERAC if the incentive payments to physicians can be considered pensionable. Gardner offered an amendment, stating that if PERAC agrees that the payments are not pensionable, that the overwithholding be returned to the affected physicians with buyback interest paid. Monagle accepted the amendment. Shinkwin seconded the motion and it was voted unanimously.

#### **Agenda Item #8 - PERAC Memos**

The Board reviewed PERAC Memos 27-29.

Memo #28 instructs Boards to follow a more open process when considering the appointment of a Fifth Board Member. The Chairman requested that the matter be placed on the agenda for the October meeting, so the Board can create a process to use prior to the expiration of Nadia Chamblin-Foster's term on January 1.

### **Agenda Item #9 - Old Business**

Not needed.

The Chairman requested to adjourn the open meeting and go into executive session for the purpose of discussing disability retirement applications. The Chairman stated that the meeting would reconvene in open session at the conclusion of the executive session. On a roll call, the vote was as follows:

Michael Gardner:	YES
John Shinkwin:	YES
Nadia Chamblin-Foster	YES
James Monagle:	YES
Francis Murphy:	YES

### **Agenda Item #10 - New Business**

The Board reviewed the member's application, treating physician's statement and employer's statement filed in connection with Stephen Lawless' application for Accidental Disability benefits.

The Chairman stated that the application was completed after the agenda was finalized, but that the Fire Dept. was interested in moving the application forward quickly due to the pending expiration of their promotion list.

Motion by Gardner, seconded by Shinkwin to accept the application filed by Stephen Lawless and to request that PERAC convene a medical panel. Voted unanimously.

### **Agenda Item #11 - Executive Session**

Agenda Item #10 (Stephen Lawless) – adopted

### **Agenda Item #12 - Chairman's Report**

The Chairman stated that he, Quirk and the Director participated in a conference call involving securities litigation involving the Starz network.

### **Agenda Item #13 – Executive Director's Report**

The Director reminded Board members to notify her if they intend to go to the Segal Marco client conference.

The following documents were also reviewed by the Board:

- Notice of Retiree Death
- Agenda for Investment Review Meeting on September 20, 2017
- Lazard Asset Management Portfolio Review – July 2017

Monagle moved to adjourn at 7:00 PM.