

CHELSEA RETIREMENT BOARD MEETING
500 Broadway, Chelsea MA, 3rd Floor Conference Room of the Chelsea City Council
Minutes from the Meeting held on Thursday, July 18, 2019 at 9:00AM

Present Were: Acting Board Chair, Ms. Carolyn Russo, Mr. Edward Dunn, Ms. Alice Principe and Ms. Watson Fisher

Not Present: Board Chairman, Mr. Joseph M. Siewko, due to illness

Also Present: Mrs. Barbara A. O'Brien, Executive Director, Mrs. Cindy Donarumo, Assistant Director and Mr. Brian P. Monahan, Esq., Board Counsel

Acting Chair Russo called the meeting to order at 9:00 AM.

Acting Chair Russo stated that the first item on the agenda was Michael McLaughlin – M.G.L. c.32, §15(7) Update. Acting Chair Russo stated she would defer to Board Counsel to provide an update. Acting Chair Russo then announced that the meeting was being recorded and stated that if there was anything to be discussed other than scheduling or the mechanics of the process that the board would have to enter Executive Session since, as Board Counsel stated, Mr. McLaughlin has invoked his right to Executive Session relating to substantive issues. Board Counsel stated that Attorney Boumil had until July 22, 2019 to file his responses with both the Board and Attorney Sacco, the Executive Director's Counsel for the McLaughlin matter. Board Counsel stated Attorney Boumil emailed his responses late yesterday afternoon and stated that it was his understanding that the original responses would be received by the Board via Federal Express later today. Board Counsel stated the plan was that once the Board received and reviewed the responses from Attorney Boumil the parties would have a conference call. It was suggested that the Assistant Director obtain the Board Members' availability to attend the August 15, 2019 meeting as well as Attorney Sacco's and Attorney Boumil's availability to participate in a conference call with the Board on August 15, 2019. Board Counsel stated at the August 15, 2019 meeting the materials, both the allegations and responses, will be reviewed together by the Board and the Board will make a determination on the pleadings and reach out to the parties to see if there are any discovery issues or other motions they intend, prior to the hearing, to raise to the Board. Board Counsel explained that if there aren't any discovery issues or motions, the Board can move to scheduling the hearing and if there are discovery issues or motions the Board would schedule a hearing on any motion that was intended to be presented.

At 9:04 AM Ms. Watson Fisher made a motion seconded by Ms. Principe for the Board to receive the response from Mr. McLaughlin's counsel, Attorney Boumil, well ahead of the August 15, 2019 meeting so that the Board members can review the materials and to schedule the matter for discussion at the August 15, 2019 Board meeting and to have the Assistant Director verify that the parties are available, even if by conference call, for this matter. Attorney Monahan stated that the Board members are not allowed to discuss the materials relating to this matter. The votes were as follows: Acting Chair Russo:Yea Ms. Principe:Yea Ms. Watson Fisher:Yea Mr. Dunn:Yea

Acting Chair Russo stated that the next item on the agenda was regarding the Emergency Operations Center (EOC) Dispatchers – Group Classification – tabled from the May 16, 2019 Retirement Board meeting. Acting Chair Russo asked the group of people who were in attendance for this matter if anyone wanted to speak. After the Acting Chair announced that the meeting was being recorded, Dan Lally came forward and stated he was representing the Teamsters Local 25 Emergency Communications Supervisors unit and was here to support the dispatchers that he supervises within the EOC. Mr. Lally referenced and provided the Assistant Director with a copy of the EOC Dispatcher's job description from March 2019 and copies of two previous administrative law decisions regarding Group 2 retirement: Graney vs. Bristol County Retirement and Raposa vs. State Retirement.

Mr. Lally discussed the type of work that is done 24 hours a day within the EOC. Mr. Lally stated he is involved in the MA Communications Supervisors Association which is, as he explained, a group of 911 professionals across the Commonwealth who are pushing legislation to reclassify all dispatchers in the Commonwealth from Group 1 to Group 2.

Mr. Lally referenced a bill that is in the Joint Committee on Public Service pending a hearing. Mr. Lally stated that on the National level, about two weeks ago, the House of Representatives in Washington DC passed their version of the 911 Saves Act. This, Mr. Lally explained, would force the Office of Management and Budget to reclassify 911 Telecommunicators as Protective Service Occupation employees which is the same for Federal Firefighters.

Paul Koollian, City of Chelsea 911 Dispatcher, stated he wanted to speak regarding the hazard of the position. Mr. Koollian stated that the Dispatchers often testify in court for serious cases such as homicide or domestic assault and they often go into courtrooms with violent offenders and gang members which, he stated, is a serious hazard. Mr. Koollian also stated there are hazards both inside the building and outside the building for the 911 Dispatchers and added that the 911 Dispatchers are Public Safety employees.

Acting Chair Russo then announced she was opening the floor to the Board members and stated she personally acknowledges all the contributions of the 911 Dispatchers. Acting Chair Russo stated that the problem is that the statute has not kept up with the duties and demands of the job and stated that she is happy to hear that that matter is progressing.

City Solicitor and Board member, Ms. Watson Fisher, spoke and stated that she has heard the public safety argument for many years. Ms. Watson Fisher stated she does not believe that the 911 Dispatcher job meets the definition of Group 2. Ms. Watson Fisher stated that she does believe that the job is hazardous but for a different reason – the mental health of sitting there and watching and following what is happening. She also stated she agrees that the legislature should have placed the 911 Dispatchers in Group 2 many years ago and stated that unfortunately the Board statutorily does not have the power to move the 911 Dispatchers to Group 2 without PERAC's approval. She stated her personal view is that even though the technology is better and somewhat safer than years ago, there should be some type of exemption for Dispatchers who were hired at least ten/twenty years ago with the expectation and false pretense that they were in Group 2. She stated that she understands the law but personally feels that a stance needs to be taken that public hazard isn't necessarily standing in the way and that she believes that all municipal employees are at hazard if they go to court and roam around. The City Solicitor further stated that it is her opinion that watching someone running with a gun or running with a knife after someone has got to be an emotional and public health hazard.

Acting Chair Russo stated that the statute requires that a Group status determination be made upon hiring and states that an evaluation may again be performed upon retirement, as far as what the duties have been for the last twelve months. Acting Chair Russo then introduced Board Counsel, Attorney Monahan, and stated she would defer further discussion relating to this matter to him.

Attorney Monahan stated he is sympathetic to their plight as well and explained that the difficulty is that the Board does not have any discretion and that legally the Board is required to follow the classification that the legislature has set out. Board Counsel stated there are four groups: there is Group 2 if you are employed in the capacity as enunciated in the statute, there is Group 4, State Police are Group 3 and other than that it is an automatic default to Group 1. Attorney Monahan stated the only mechanism is to take the plight to the legislature and have them change it and explained that the Board does not have the discretion to give an exemption and if someone is incorrectly placed in a group the Board is under a mandate, M.G.L. c.32, §20(c)(5), to correct that. Attorney Monahan stated that the Board does not have the authority to do what is being requested here.

There was further discussion relating to the times that an employee is classified, the classification of past new hires and the classification of past retirees. Attorney Monahan reiterated that group classification of an employee is done upon initial hire, upon retirement or if there is indication that someone is improperly classified in a group and in that case, the group classification needs to be corrected by statute. Attorney Monahan stated that PERAC also does not have the discretion to make an exemption and stated that the Board is mandated by M.G.L. c. 32 and therefore, M.G.L. c.32 has to be the mechanism that changes the classification.

Acting Chair Russo explained that the age factor goes up when the group classification changes from Group 1 to Group 2 and therefore there is a higher retirement benefit at an earlier age in Group 2 than in Group 1. She explained further that

the age factor for Group 1 at age 60 is used at age 55 with Group 2 and explained that the top limit is the same it's just that you get there five years earlier with Group 2. There was further explanation that the contribution percentage is determined by date of hire and not by Group classification.

City of Chelsea retired Sergeant Cowhig spoke about his concern that not all cities in the Commonwealth have gone through this review, other cities have their dispatchers classified in Group 2 and that the issue is pertaining to health, safety and mental stress.

In response to a dispatcher's question, Attorney Monahan stated that any municipality that treats the Dispatchers as Group 2 is not following the law because that job title is not included in Group 2. In response to a Dispatcher stating that he is a Civil Service Fire Alarm Operator, there was discussion relating to the fact that in order to be classified in a Group, you must be "employed as" and "not engaged in".

Acting Chair Russo recognized Board member and City Auditor, Mr. Dunn, who began by stating that he recognizes, acknowledges and appreciates all the work performed by the Dispatchers. Mr. Dunn stated the problem is that the statute is telling the Board that this position must be classified in a different manner. Mr. Dunn stated that he cannot be concerned with what other cities and towns are doing rather he has to be concerned with his obligation to the Board and what needs to be done. Mr. Dunn stated that he appreciates the Dispatchers' plight and does not think it is fair that there are other cities and towns doing things differently than what the Chelsea Retirement Board is doing but stated he can't disregard what the Board's obligation is.

In response to Acting Chair Russo's request, Mr. Lally stated that the Senate bill is S.1529 and the House bill is H.2366 and reiterated that both bills are pending in the Joint Committee on Public Service. Mr. Lally read the language from the Senate bill. Attorney Monahan stated when the Board is made aware that any member is currently in the incorrect Group classification then as far as practicable and as soon as possible, the Board is mandated by law, M.G.L. c.32, §20(c)(5), to correct errors in their records. Attorney Monahan stated as such, he would not legally advise the Board to withhold action on correcting Group classifications pending the outcome of a law that may or may not pass. Acting Chair Russo received confirmation from Attorney Monahan that if the Board took a vote now to reclassify the Dispatchers, the Board has the authority to reclassify again upon subsequent legislation.

At 9:45 AM Ms. Watson Fisher made a motion seconded by Mr. Dunn to reclassify the telecommunication dispatchers, pursuant to the law, into Group 1. The votes were as follows: Acting Chair Russo:Yea Ms. Principe:Yea Ms. Watson Fisher:Yea Mr. Dunn:Yea

Acting Chair Russo stated next on the agenda was the matter relating to Allan Alpert – Review earnings as it relates to 840 CMR 15.03, Fletcher & Thornton vs. PERAC and Section 18 of Chapter 176 of the Acts of 2011.

At 9:46 AM Ms. Watson Fisher left the meeting since she has recused herself from the Allan Alpert matter.

Allan Alpert and his counsel, Attorney Neil Rossman, were in attendance. Acting Chair Russo announced that the meeting was being recorded and then stated she would defer to Attorney Rossman if he would like to speak. Attorney Rossman stated that he read PERAC's decision and that he and Mr. Alpert came to the meeting today as a courtesy to the Board. Attorney Rossman stated that PERAC was clear, that he and Mr. Alpert accept PERAC's ruling and further stated that they are not going to appeal PERAC's ruling. Attorney Rossman stated that he and Mr. Alpert are content that the retirement allowance that Mr. Alpert has been and is receiving has been calculated correctly and that they are withdrawing any appeals they had in front of the Board. Mr. Alpert stated he would like to echo Attorney Rossman's statements and further added that although PERAC did rule within the spirit of the regulation he feels that decision could have been different based on the circumstances and the testimony and sworn affidavit of the City Manager.

At 9:52 AM Mr. Alpert and his counsel, Attorney Neil Rossman, left the meeting and Ms. Watson Fisher returned to the meeting.

At 9:53 AM Mr. Dunn made a motion seconded by Ms. Principe to acknowledge the removal of objections before the Board by Mr. Alpert and his counsel, Attorney Rossman relating to the two communications and opinions received by PERAC – the first was an email dated December 26, 2018 acknowledging and pointing out that there was no bona fide change in position and the second was a letter dated May 23, 2019 that stated that the amount in question for July 1, 2017 – June 30, 2018 was not considered regular compensation. Therefore the Board is making no change to the retirement benefit calculation that has been done up to this point. The motion passed 3-0 and the votes were as follows: Acting Chair Russo:Yea Ms. Principe:Yea Mr. Dunn:Yea , Ms. Watson Fisher abstained.

Approval of the Regular Session and Executive Session minutes from the June 24, 2019 meeting.

At 9:57 AM Ms. Watson Fisher made a motion seconded by Mr. Dunn to adopt the Regular Session minutes from the meeting held on June 24, 2019 upon the correction of the scrivener's errors. The votes were as follows: Acting Chair Russo:Yea Ms. Principe:Yea Ms. Watson Fisher:Yea Mr. Dunn:Yea

At 9:58 AM Ms. Watson Fisher made a motion seconded by Mr. Dunn to adopt the Executive Session minutes from the meeting held on June 24, 2019. The votes were as follows: Acting Chair Russo:Yea Ms. Principe:Yea Ms. Watson Fisher:Yea Mr. Dunn:Yea

The following member has submitted an application for voluntary superannuation retirement benefits pursuant to M.G.L. c. 32 §5:

NAME/TITLE	DOR	AGE	YEARS OF SERVICE	ESTIMATED 3-YR AVG
Anthony Covino/ Senior Custodian	07/12/2019	64	30.7500	\$68,408.17

At 9:59 AM Mr. Dunn made a motion seconded by Ms. Watson Fisher to approve the above retirement. The votes were as follows: Acting Chair Russo:Yea Ms. Principe:Yea Ms. Watson Fisher:Yea Mr. Dunn:Yea

The following members have requested a refund of their accumulated deductions:

Name/Title	Accumulated Deductions	Age	Service Credit	Taxes Withheld
Christopher Laquidara/ Licensed Public Works Specialist	\$5,943.00	28	1.25	Yes

At 10:00 AM Ms. Watson Fisher made a motion seconded by Mr. Dunn to approve the above refund. The votes were as follows: Acting Chair Russo:Yea Ms. Principe:Yea Ms. Watson Fisher:Yea Mr. Dunn:Yea

For the record it was acknowledged that the Executive Director provided the Board with the annual Salaries for Board Staff, before and after the July 1, 2019 increase.

Attorney's Report:

- Attorney Monahan asked the Assistant Director to provide both the Factual Allegations and Mr. McLaughlin's responses to the Factual Allegations to the Board members and inquire to the parties as to their availability for a conference call at 10:30 AM during the next Board meeting which is scheduled for August 15, 2019. Board Counsel suggested that Board members start checking their availability for special meetings in the coming months. Board Counsel stated he would recommend hiring a stenographer for any hearings that are held. The City Solicitor recommended a stenographer who the City has used in the past to the Assistant Director. There was discussion that the Assistant Director should obtain prices from three stenographers and present that information to the Board. There was discussion that hiring a stenographer simply because he or she is personally know to someone would be a problem but not if the process of obtaining quotes was followed.
- Attorney Monahan stated a response from PERAC is still pending on the opinions he requested regarding the narkan stipend and the retroactivity of the longevity.

Executive Director's Report:

- Update on Retirement Board Election – The Executive Director stated that the Notice of Election was posted on June 28, 2019 with the nominations due back to the Board by 4:00 PM on August 19, 2019 and that so far one person has pulled nomination papers.
- City Audit – Roselli, Clark & Associates – The Executive Director stated that she provided the auditors with the information that they requested. City Auditor, Mr. Dunn, stated that normally the auditors are here in late April/ May but this year it was later. Mr. Dunn explained that the City changed auditors from Clifton Larson to Roselli, Clark & Associates. Mr. Dunn explained that in the future the City is going to establish a dropbox for the purpose of sending materials to the auditors. Mr. Dunn also explained that PERAC has not completed the January 2019 Actuarial Valuation yet and stated that affects the ability to complete the audit.

The following vouchers were approved for payment for the July 2019 Accounts Payable Warrant:


AMTRUST North America	\$ 394.00
City of Chelsea – Reimb. Postage Meter	\$ 496.50
COPRICO Printing	\$ 568.38
Johnson Controls Fire Protection LP	\$ 324.76
The Law Offices of Michael Sacco, P.C.	\$ 2,250.00
Brian P. Monahan, Esq	\$ 3,000.00
Ricoh USA, Inc.	\$ 133.17
ReadyRefresh	\$ 8.38
W.B. Mason	\$ 289.94
Christopher Laquidara – Refund	\$ 4,754.40
City of Chelsea- Federal Taxes – Laquidara	\$ 1,188.60

Retiree and Staff payroll were approved.




Distribution of: PRIT Balance Sheet, Trial Balance, PERAC Memo #18/ 2019- Audits and PERAC Memo #19/2019 – Mandatory Retirement Board Training – 3rd Quarter 2019

The Board did not enter into Executive Session during this meeting.

At 10:17 AM Ms. Principe made a motion seconded by Mr. Dunn to adjourn. The votes were as follows: Acting Chair Russo:Yea Ms. Principe:Yea Ms. Watson Fisher:Yea Mr. Dunn:Yea

Respectfully submitted,

 Barbara O'Brien
 Executive Director

Members' Approval:

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Joseph M. Siewko, Chairman	Alice Principe	Cheryl Watson Fisher
		
Edward M. Dunn, Ex Officio	Carolyn M. Russo	

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