

CHELSEA RETIREMENT BOARD

001041

Minutes from the meeting held Thursday, July 23, 2020 at 9:00 AM

In accordance with Governor Baker's order, signed on March 12, 2020, suspending certain provisions of the Open Meeting Law G.L. c. 30A, §20, this meeting was held via conference call using Webex. As indicated on the agenda, instructions on how to join the meeting were available by emailing the Executive Director @ [hobrien@chelseama.gov](mailto:hobrien@chelseama.gov) before or during the meeting.

Participating Remotely Were: Board Chairman, Mr. Joseph M. Siewko, Mr. Edward Dunn, Ms. Carolyn Russo and Ms. Cheryl Watson Fisher

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

Not Participating: Mr. Richard Carroccino – due to family emergency

Chairman Siewko called the meeting to order at 9:10 AM and all present stated their name and title including the following attorneys who were present for the McLaughlin matter: Attorney Rauseo-Ricupero from Nixon-Peabody representing Chelsea Housing Authority (CHA), Attorney Boumil representing Mr. Michael McLaughlin and Attorney Sacco representing the Chelsea Retirement Board's Executive Director.

First on the agenda was the matter relating to Michael McLaughlin- M.G.L. c. 32, s. 15 (4) and DALA update.

Chairman Siewko announced the receipt of Nixon-Peabody's request for Restitution, Motion to Intervene, Motion to Stay Section 15(4) and Motion That Further Proceedings Be Held In Open Session and stated that since this communication was not received in time to be listed on this month's agenda, it will be addressed at the August 2020 board meeting. Chairman Siewko explained that this will allow the Board members time to read the communication and consider all the options requested. Chairman Siewko also explained that he is going to continue with the preliminary matters relating to M.G.L. c. 32, s. 15 (4) since the Board is required by statute to begin the hearing process not less than 10 days and not more than 30 days prospective from Mr. McLaughlin's request for a hearing. Chairman Siewko stated that the Board will put Attorney Boumil and Attorney Sacco on notice that Nixon Peabody's request as outlined above will be addressed at the August 2020 Board meeting.

Chairman Siewko explained that Attorney Sacco previously sent notice to Attorney Boumil of the M.G.L. c. 32, s.15(4) proceedings and that Mr. McLaughlin responded with a request to have the hearing and matters relating to the hearing conducted in Executive Session.

At 9:14 AM Ms. Watson-Fisher made a motion seconded by Mr. Dunn to enter Executive Session to start the McLaughlin M.G.L. c.32, s.15(4) proceedings pursuant to Mr. McLaughlin having asserted his right to hold the hearing in Executive Session. The votes were as follows: Chairman Siewko:Yea Mr. Dunn:Yea Ms. Russo:Yea Ms. Watson Fisher:Yea

At 9:14 AM Attorney Rauseo-Ricupero left the meeting.

At 9:24 AM the Board returned to Regular Session and Attorneys Boumil and Sacco left the meeting.

Shamus Murphy's request for Accidental Disability Retirement was next on the agenda.

At 9:28 AM Attorney Napolitano, Shamus Murphy's counsel arrived at the meeting followed by the arrival of Shamus Murphy at 9:30 AM

At 9:31 AM Ms. Watson Fisher made a motion seconded by Mr. Dunn to enter Executive Session to discuss Shamus Murphy's request for an Accidental Disability Retirement pursuant to the fact that the request is based on the member's

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medical condition. The votes were as follows: Chairman Siewko:Yea Mr. Dunn:Yea Ms. Russo:Yea Ms. Watson Fisher:Yea

At 9:35 AM the Board returned to Regular Session.

At 9:36 AM Ms. Watson Fisher made a motion seconded by Mr. Dunn to request a Medical Panel Appointment for Shamus Murphy. The votes were as follows: Chairman Siewko:Yea Mr. Dunn:Yea Ms. Russo:Yea Ms. Watson Fisher:Yea

At 9:37 AM Mr. Shamus Murphy and his counsel, Attorney Grace Napolitano left the meeting.

Approval of the Regular and Executive Session minutes from the June 18, 2020 Retirement Board meeting

At 9:38 AM Ms. Watson Fisher made a motion seconded by Ms. Russo to adopt the Regular Session minutes as submitted. The motion passed 3-0 and the votes were as follows: Chairman Siewko:Yea Ms. Russo:Yea Ms. Watson Fisher:Yea; Mr. Dunn abstained since he was not present at the June 18, 2020 Board meeting.

At 9:41 AM Ms. Russo made a motion seconded by Ms. Watson Fisher to enter Executive Session to discuss possible changes to the Executive Session minutes of the meeting held on June 18, 2020. The votes were as follows: Chairman Siewko:Yea Mr. Dunn:Yea Ms. Russo:Yea Ms. Watson Fisher:Yea

At 10:04 AM the Board returned to Regular Session.

At 10:04 AM Ms. Russo made a motion to accept the Executive Session minutes from the June 18, 2020 Board meeting as revised and to incorporate Board Counsel's changes as well. Mr. Dunn stated that he cannot second the motion since he was not in attendance at the June 18, 2020 Board meeting. Ms. Watson Fisher stated that she would not second the motion as she believes the revising of the minutes was illegal. Ms. Russo stated that the minutes are not meant to be a verbatim transcript and they never were a verbatim transcript. Board Counsel stated that since the motion was not seconded, the motion would have to be tabled. Ms. Russo stated that she is not comfortable misrepresenting the contents of the conversation so she is not going to sign the minutes if they are not amended. Board Counsel stated Ms. Watson Fisher is correct if the Board changes the substance of the meeting. As such, Board Counsel asked that the Executive Director or Assistant Director listen to the recording of the meeting, determine if the suggested changes deviate from a fair summary of the meeting and report the findings to the Board at the next meeting. Mr. Dunn stated that any change to the minutes that he, Ms. Russo or any other Board member has made was never changing the substance of the meeting. Ms. Watson Fisher stated that she disagrees with that statement. Board Counsel stated it is his recollection that any changes made to the minutes in the past never changed the substance of the meeting. Board Counsel suggested that Ms. Watson Fisher be provided with the recording of the meeting so that Ms. Watson Fisher can listen for any substantive changes to the meeting. Ms. Watson Fisher stated that she has been at meetings where Board members have said "that's not what I meant to say" and stated that it is illegal to change the wording in the minutes if the wording in the minutes reflects what was actually said at the meeting. Ms. Russo requested that Ms. Watson Fisher provide examples of the accusations since the accusations were made in a public meeting. Ms. Watson Fisher then stated that she has attended many board meetings in the past seventeen years and added that this Board is the only board that spends forty five minutes on the meeting minutes and stated that she believes that it is ridiculous that the minutes are changed. Chairman Siewko requested that the Executive Director or the Assistant Director listen to the June 18, 2020 recording of the meeting and put the matter on the agenda for the August 20, 2020 Board meeting. Board Counsel advised that the recording be provided to Ms. Watson Fisher because she has indicated that she has an issue with her conscience and further explained that as a Board member Ms. Watson Fisher has to be comfortable that the minutes reflect the actual essence summarized of what took place in the actual meeting. Board Counsel asked Ms. Watson Fisher if she agrees that a summary does not have to be a transcript and that it has to be a fair representation and Ms. Watson Fisher responded that she agrees. Ms. Watson Fisher stated she also agrees with some of the clerical points that were made but that she can't accept the revisions as a whole. Board Counsel stated the discussions relating to minutes are the Board members' fair memory of the discussions. Board Counsel explained that is why Ms. Russo originally stated that she cannot send the revisions directly to the Executive Director to change and that the Board members have to agree that the revisions reflect what their memory recalls as having taking place at the meeting. Board Counsel explained that it is his responsibility to ensure that the Board is in accordance with the law. Board Counsel further explained that it is a concern to him when a Board member refuses to sign minutes particularly when the Board member is stating that the Board is not acting in accordance with the law.

The Executive Director agreed to provide Ms. Watson Fisher with both a "red-lined" version of the amended Executive Session minutes and the recording.

Next on the agenda was 2% Retirement Deduction withholding – Longevity – City Payroll

Mr. Dunn referenced the recent audit finding which indicated that the 2% retirement deduction withholding was not being calculated on the separate longevity payments. Mr. Dunn stated there may be other payments with the same issue but his Department is currently concentrating on the longevity payment since it was identified in the PERAC audit. Mr. Dunn stated that the corrective measure is to combine the longevity payment with the regular weekly wage payment. Ms. Watson Fisher stated that unions have expressed concern about having to pay back the 2% that was not withheld correctly. Mr. Dunn states his opinion is that that is a Board decision. Chairman Siewko stated it is his opinion that the error gets corrected and the Board does not collect the prior 2% that was not withheld due to the error. Board Counsel referenced M.G.L. c.32, s. 20(5)(c)(1) and M.G.L. c.32, s. 20(5)(c)(2) and explained those are the statutes that deal with errors. Board Counsel stated that the Board has an obligation to correct errors as far as practicable so if the Board is making a determination that it is not practicable to go back given the nature, extent and scope of that error, then the Board can correct the error prospectively. Board Counsel stated he reviewed the audit findings and that there was nothing in the finding that indicated the Board had to go back and correct the past error. Mr. Dunn stated that the unions agreed to the combined payment for this July but they are still objecting to the payments being combined in December. Mr. Dunn stated that the discussions with the union have not yet been finalized. It is his hopes that the conversations will be finalized before the December longevity payments are issued. Ms. Watson Fisher added that it is just the Superior Officers union that is in opposition to the combined payments at this time.

At 10:19 AM Ms. Watson Fisher made a motion seconded by Ms. Russo to deem it impractical to retroactively charge members for the 2% retirement deductions not withheld on the separate longevity payments over the past approximately twenty years. The votes were as follows: Chairman Siewko:Yea Mr. Dunn:Yea Ms. Russo:Yea Ms. Watson Fisher:Yea

Chairman Siewko stated the Board voted to correct the 2% error on the longevity payment prospectively only. Mr. Dunn stated that he plans on notifying the Executive Director in writing once he can assure her that the error has been corrected for all.

The following Retirement System has requested the transfer of funds for the following member:

Name/Title	Board Requesting Transfer	Accumulated Deductions	Total Service Credit / 3(8)c Liability	10/12 Month Basis
Matthew R. O'Flaherty/ Patrolman	Quincy Ret. Bd.	\$16,323.13	2.8333	12

At 10:22 AM Mr. Dunn made a motion seconded by Ms. Watson Fisher to approve the above transfer. The votes were as follows: Chairman Siewko:Yea Mr. Dunn:Yea Ms. Russo:Yea Ms. Watson Fisher:Yea

Attorney's Report:

- Board Counsel stated that the next Status Report is due two weeks from the Board's Decision on the s. 15(4) matter and stated he received notification that Mr. McLaughlin did file an appeal to PERAC's s. 15(7) determination and that it is being consolidated at DALA with the current appeals pending. Board Counsel suggested that the Board member's review the CHA's request for Restitution, Motion to Intervene, Motion to Stay Section 15(4) and Motion That Further Proceedings Be Held In Open Session so that the Board will be prepared to discuss this at the August 20, 2020 Board meeting. Board Counsel asked the Executive Director to provide the CHA's request to the Board members.
- There was discussion relating to PERAC's Opinion Letter dated June 24, 2020 regarding the retroactive application of regular compensation on Longevity Payment I as outlined in the Superior Officers current Collective Bargaining Agreement (CBA). The Executive Director pointed out that the effective date of July 1, 2016 is specified in the new CBA in section 10 "Housekeeping". Board Counsel explained that PERAC opined

that pursuant to the new CBA, this payment is now regular compensation retroactive to July 1, 2016 and as such the retroactive deductions will have to be collected. Mr. Dunn stated that the Executive Director needs to request the payroll records for the "longevity" payments made starting July 1, 2016 as well as any lump-sum retroactive payments made identifying the amount, if any, that constitutes retroactive payment for this "longevity" payment. Ms. Watson Fisher stated that the "longevity" payments were \$1,000.

- After discussion, Chairman Siewko asked the Assistant Director to send an email to John Parsons, PERAC Executive Director, asking for his opinion regarding the issuing of the annual affidavits during the pandemic. The Assistant Director was asked to explain to Attorney Parsons that the Chelsea Retirement Board generally issues the annual affidavits at this time of year but due to the health risks associated with COVID 19 the Board doesn't feel that it is safe for the retirees or Board Staff to do so.
- Chairman stated that he is not concerned about the Retirement Board member election being affected by COVID 19 because the ballots can be mailed to the Retirement Office and do not require notarization. Mr. Dunn requested that the Notice of Election be posted in all the locations as was done for the last Board Election and the Executive Director confirmed that it would be.
- There was discussion relating to the security of the use of Dropbox for providing the files requested by Roselli, Clark & Associates for the City's audit. After discussion, it was suggested that the Executive Director ask the City's IT Director to explain the security precautions that are in place in regards to the use of Dropbox and that Roselli, Clark & Associates be informed that the release of the documents will be delayed.

The following Accounts Payable warrant, totaling \$22,961.93 was emailed to the Board members on July 22, 2020 for their review:

Amtrust North America	\$ 327.00
Johnson Controls Fire Protection LP	\$ 347.49
Brian P. Monahan, Esq.	\$ 4,500.00
The Law Offices of Michael Sacco, P.C.	\$ 175.00
Barbara O'Brien	\$ 42.00
Sharecare Health Data Services – Shamus Murphy	\$ 67.74
Quincy Retirement Board – Matthew Ryan O'Flaherty	\$ 16,323.13
Needham Retirement System	\$ 1,179.57

The following Retiree Payroll warrant was emailed to the Board members on July 22, 2020 for their review:

Date	Retiree Payroll Warrant
June 30, 2020	\$1,024,309.99

The following Staff Payroll and Vendor warrants were emailed to the Board members on July 22, 2020 for their review:

Date	Staff Payroll Warrant	Vendor Warrant
June 24, 2020	\$3,098.03	\$958.81
July 1, 2020	\$3,098.03	\$958.81
July 8, 2020	\$5,153.80	\$1,314.27
July 15, 2020	\$3,190.98	\$974.99

At 10: 50 AM Mr. Dunn made a motion seconded by Ms. Watson Fisher to approve the above outlined warrants. The votes were as follows: Chairman Siewko:Yea Mr. Dunn:Yea Ms. Russo:Yea Ms. Watson Fisher:Yea

At 10:51 AM Chairman Siewko referenced the Qualified Immunity Bill and there was conversation relating to this matter.

Board Counsel requested that he be provided with the "red-lined" version of the edited June 18, 2020 Executive Session minutes as well as the recording of that meeting.

Distribution of:

- Michael McLaughlin matter:
  - DALA Status Report dated 6/29/2020
  - Notice of M.G.L. c. 32, s. 15(4) proceedings from Attorney Sacco to Attorney Boumil dated 7/1/2020
  - Attorney Boumil's response to Notice of 15(4) proceedings dated 7/1/2020
  - Attorney Sacco's letter to Attorney Boumil dated 7/2/2020
  - Attorney Boumil's letter to Attorney Sacco dated 7/2/2020
  - Attorney Boumil's 7/15/2020 email informing of Mr. McLaughlin exercising his right to Executive Session for matters relating to M.G.L. c.32, s.15(4)
- April 2020 and May 2020 PRIT Balance Sheet
- April 2020 Cash Pages, Bank Statement, Bank Reconciliation
- PERAC Opinion clarification dated 6/24/2020 re: Superior Officers Collective Bargaining Agreement as it relates to the retroactive application of longevity
- Final Version of the PERAC Audit 1/1/13-12/31/16
- PERAC Memo #23, 2020 Tobacco Company List
- PERAC Memo #24, 2020 Prosper Security Update
- PERAC Memo #25, 2020 Mandatory Retirement Board Member Training-3<sup>rd</sup> Quarter 2020
- PERAC Memo #26, 2020 Reinstatement to Service under G.L. c.32, s. 105
- PERAC Pension News #55, July 2020

At 10:55 AM Mr. Dunn made a motion seconded by Ms. Watson Fisher to adjourn. The votes were as follows: Chairman Siewko:Yea Mr. Dunn:Yea Ms. Russo:Yea Ms. Watson Fisher:Yea

Respectfully submitted,

Barbara O'Brien  
Executive Director

Members' Approval:

  
Joseph M. Siewko, Chairman  
Richard Carroccino  
Cheryl Watson Fisher  
Edward M. Dunn, Ex Officio  
Carolyn M. Russo

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