

CHELSEA RETIREMENT BOARD

001053

Minutes from the meeting held Wednesday, September 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 @ [bobrien@chelseama.gov](mailto:bobrien@chelseama.gov) before or during the meeting.

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

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

Chairman Siewko opened the meeting at 9:00 AM and all present stated their name and title including Attorney Boumil representing Mr. Michael McLaughlin and Attorney Sacco representing the Chelsea Retirement Board's Executive Director in the Michael McLaughlin matter.

First on the agenda was Michael McLaughlin- Status Conference – M.G. L. c. 32, s. 15(4)

At 9:01 AM Mr. Carroccino made a motion seconded by Ms. Watson Fisher to enter Executive Session pursuant to Mr. McLaughlin having exercised his statutory right to a private hearing pursuant to M.G.L. c. 32, s. 16(1). The votes were as follows: Chairman Siewko:Yea Mr. Dunn:Yea Ms. Russo:Yea Ms. Watson Fisher:Yea Mr. Carroccino: Yea

At 9:19 AM the Board returned to Regular Session. Attorney Boumil and Attorney Sacco were no longer present as they had left the meeting at 9:17 AM during Executive Session.

Next on the agenda was Steven Staffier - Director of Emergency Management and E-911 – Group Classification pursuant to M.G.L. c. 32, s.3(2)(g)

The Board took a break from 9:19 AM to 9:26 AM to allow Steven Staffier time to connect to the Webex meeting.

At 9:26 AM Steven Staffier, Director of Emergency Management and E-911, connected to the meeting, all present stated their name and title and discussion pursued relating to Mr. Staffier's request to change his position's group classification from Group 1 to Group 2 pursuant to M.G.L. c.32, s. 3(2)(g). Attorney Monahan stated that state legislation will not allow a change from Group 1 to Group 2 on this request. Board Counsel stated that the case law on this is fairly clear and he explained that for Group 2 and Group 4 it is specific such that the individual must be "employed as" not just "engaged in" the work. Board Counsel explained that the specific engagements include police, fire, signal operator and signal maintenance repairman and further explained that the fact that an individual may do some of this work as part of their overall responsibilities is inadequate to give the Board the power to make that change. Mr. Staffier acknowledged that the dispatchers are attempting to get the legislation changed in regards to the classification of dispatcher and added that his concern is regarding the fact that he holds three titles: 911 Director, Emergency Management Director and Superintendent of Fire Alarm. In response to the Chairman's inquiry, Mr. Staffier confirmed that he reports to emergencies including fires, COVID matters and hazmat incidents. Ms. Watson Fisher confirmed that Mr. Staffier's role as well as the Supervisor of Dispatchers role has changed. Mr. Staffier stated that in Washington the job classification code of a dispatcher is clerical but the job classification code of Emergency Management Director on the Federal level, 11-9160, 11-9161, is not classified as clerical. Mr. Staffier stated that it was his understanding that his position, Superintendent of Fire Alarm is a Group 2 classification. Board Counsel then stated that the 2011 *Graney* decision made the distinction that being "engaged in" duties that may qualify for Group 2 classification is not sufficient and that the employee must be "employed as" a title enumerated in M.G.L. c. 32, s. 3(2)(g). Board Counsel stated that the Board does not follow Federal

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regulations and that the Board is restricted to following M.G.L. c. 32, s. 3(2)(g). Board Counsel explained that if there is a change to the State legislation such that Mr. Staffier's title is enumerated, the Board would then have the responsibility of reviewing the title and the job responsibilities to see if it is in harmony with the legislative intent. Chairman Siewko reiterated to Mr. Staffier that without a change to the State legislation, the Board does not have the legal authority to change his position's group classification from Group 1 to Group 2. Mr. Staffier stated that he understands and stated that he would continue to work behind the scenes with State Representatives and Senators to do so. Mr. Staffier then asked if the Board had the same opinion with his primary role as Emergency Management Director and Board Counsel responded yes since Emergency Management Director is not an enumerated title. Mr. Staffier responded that he understood. Ms. Watson Fisher added that Mr. Staffier's position is equal to the two Chief's positions on the City's Organizational Chart.

At 9:35 AM Mr. Staffier left the meeting.

AT 9:36 AM Mr. Dunn made a motion seconded by Ms. Russo to deny Steven Staffier's request to change the group classification of his position, Director of Emergency Management, from Group 1 to Group 2. The votes were as follows: Chairman Siewko:Yea Mr. Dunn:Yea Ms. Russo:Yea Ms. Watson Fisher:Yea Mr. Carroccino: Yea

At 9:37 AM Mr. Carroccino made a motion seconded by Mr. Dunn to accept the Regular Session minutes from the August 20, 2020 Board meeting as submitted. The votes were as follows: Chairman Siewko:Yea Mr. Dunn:Yea Ms. Russo:Yea Ms. Watson Fisher:Yea Mr. Carroccino: Yea

In addition to a couple of grammatical changes to the August 20, 2020 Executive Session minutes, there was discussion relating to a sentence included in a paragraph on page 3 of the August 20, 2020 Executive Session minutes attempting to capture an explanation provided by Board Counsel. It was determined that the sentence was confusing to the Board members and would be confusing to the outside reader as well.

At 9:47 AM Ms. Russo made a motion seconded by Mr. Carroccino to table the vote on the August 20, 2020 Executive Session minutes in order to give the Executive Director the opportunity to listen to the recording of the meeting again and to work with Board Counsel to clarify the above referenced sentence. The votes were as follows: Chairman Siewko:Yea Mr. Dunn:Yea Ms. Russo:Yea Ms. Watson Fisher:Yea Mr. Carroccino: Yea

Nominate Election Officer for Retirement Board Member Election scheduled for December 15, 2020; Joseph Siewko's term expires December 17, 2020

Chairman Siewko explained that this matter was on the agenda for last month's meeting. However, the vote was overlooked in error.

At 9:49 AM Ms. Russo made a motion seconded by Mr. Dunn to nominate the Executive Director, Barbara O'Brien, to be the Election Officer for the Retirement Board Member Election scheduled for December 15, 2020. The votes were as follows: Chairman Siewko:Yea Mr. Dunn:Yea Ms. Russo:Yea Ms. Watson Fisher:Yea Mr. Carroccino: Yea  
Chairman Siewko stated next on the agenda was Earned Income reporting requirements pursuant to M.G.L. c. 32, s. 91A – Rental property

Board Counsel referenced his email response to the Assistant Director's inquiry as to whether the rents collected by an Accidental Disability Retiree from the three family house owned by the retiree counts as earned income pursuant to M.G.L. c.32, s. 91A. Board Counsel stated that the Code of Massachusetts Regulation that codifies PERAC's memorandum on this matter specifically excludes rental income collected from property and makes a distinction between passive and active income. Board Counsel expressed trepidation on this matter stating that although the statute is fairly clear in defining earned income as income that implies some labor or supervision acted on by the member, there have been court cases that have held that the manner in which the income was reported triggered the inclusion of that income which, if reported differently, would have been excluded from earned income. Attorney Monahan stated members should

be advised that the Board's opinions are not to be relied upon as binding or a guarantee of being accurate and stated that if members are seeking to rely on a legal opinion the member should seek legal advice from their own independent attorney. Board Counsel referenced the *Gorman* case and stated he is not comfortable providing the member with a blanket opinion since the Board does not know how the member will get the income or how the member will report the income. Board member Russo suggested that the Executive Director reach out to the member asking how exactly the income is reported then request a legal opinion from PERAC. Board member Russo stated she believes it would be helpful for the member to receive an opinion from the agency who ultimately makes the decision as to whether the income would be included as earned income or not. Board member Watson Fisher suggested that the member share the PERAC opinion with his own attorney to apply to his own personal situation.

At 9:59 AM Ms. Russo made a motion seconded by Mr. Dunn to seek a legal opinion from PERAC, being very specific in the request, as to whether income collected from rental property is included in earned income. The votes were as follows: Chairman Siewko:Yea Mr. Dunn:Yea Ms. Russo:Yea Ms. Watson Fisher:Yea Mr. Carroccino: Yea

#### Operational Plan for the Retirement Board Office relative to Covid-19

Chairman Siewko stated that he and the Executive Director will be meeting with the City's Public Work's Commissioner tomorrow in the Retirement Office to discuss what changes should be made to the office and how those changes will take place.

The following beneficiaries of a Superannuation Option B retiree requested a refund of the annuity balance in accordance with Ch. 32, §11(2)(b):

Retiree/ Date of Death	Accumulated Deductions	Beneficiary	Proportion to be paid to beneficiary	Taxes Withheld
Paul A. Bright, Jr./ April 26, 2020	\$29,463.42 Less \$47.92 (overpayment of annuity due)	Dayna Bright	25%	Yes
		Diandra Bright	25%	Yes
		Danae Bright	25%	Yes

The Executive Director confirmed that the Paul A. Bright, Jr. had designated four beneficiaries at 25% each, that written requests for their share of the remaining annuity were received by each of the three referenced beneficiaries and that the Retirement Office has not been able to locate contact information for the fourth beneficiary.

In response to Board member Dunn's inquiry regarding the fact that Paul Bright Jr. owed money to the city, Attorney Monahan confirmed that M.G.L. c. 32, s.19 precludes the city from securing any funds due to the city from a retiree through retirement funds.

At 10:07 AM Ms. Russo made a motion seconded by Mr. Carroccino to pay each of Paul A. Bright, Jr.'s three beneficiaries listed above their share of the remaining annuity, to reduce each of the three payments by 25% of the overpayment of annuity due to the Chelsea Retirement System and to continue to locate contact information, including reaching out to Paul A. Bright, Jr.'s brother, on the fourth beneficiary. The motion passed 4-1 and the votes were as follows: Chairman Siewko:Yea Mr. Dunn:No Ms. Russo:Yea Ms. Watson Fisher:Yea Mr. Carroccino: Yea

The following member has requested a refund of their accumulated deductions:

Name/Title	Accumulated Deductions	Age	Service Credit	Taxes Withheld
Jennifer Gutierrez/ Clerk	\$6,665.31	26	2.5833 years	No, rollover

At 10:08 AM Ms Russo made a motion seconded by Mr. Dunn to approve the above rollover. The votes were as follows:  
Chairman Siewko:Yea Mr. Dunn:Yea Ms. Russo:Yea Ms. Watson Fisher:Yea Mr. Carroccino: Yea

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
Katherine Lopez/ Paraprofessional	MTRS	\$16,632.50	5.2500/4.2500	12

At 10:09 AM Mr. Dunn made a motion seconded by Ms. Russo to approve the above transfer. The votes were as follows:  
Chairman Siewko:Yea Mr. Dunn:Yea Ms. Russo:Yea Ms. Watson Fisher:Yea Mr. Carroccino: Yea

**Attorney's Report:**

- Board Counsel confirmed receipt of the Chelsea Housing Authority's (CHA) appeal relative to the McLaughlin matter
- Regarding the McLaughlin matter, Board Counsel inquired as to how the Board wishes to proceed relative to the inspection rigging convictions and the campaign finance violation convictions. Chairman Siewko stated he thought it would be best to handle each issue separately and pointed out that neither Attorney Sacco nor Attorney Boumil were opposed to this suggestion.

At 10:12 AM Ms. Russo made a motion seconded by Ms. Watson Fisher to instruct the Assistant Director to advise Attorney Sacco to start the process on the inspection rigging convictions and the campaign finance violation convictions and to advise Attorney Sacco to issue a separate Notice of Action on each issue to the member, Michael McLaughlin. The votes were as follows: Chairman Siewko:Yea Mr. Dunn:Yea Ms. Russo:Yea Ms. Watson Fisher:Yea Mr. Carroccino: Yea

**Executive Director's Report:**

- MACRS Virtual Legal Panel, September 3, 2020
- Virtual Emerging Issues Forum, September 17, 2020

The Executive Director, Board Member Watson Fisher and Board Counsel all stated that they attended the above referenced virtual Legal Panel and Emerging Issues Forum. The Executive Director stated that both are on the PERAC Website and are opportunities for board member credits.

The Executive Director stated that the following warrants were emailed to the Board for their review on September 22, 2020:

**September 2020 Accounts Payable Warrant totaling \$46,580.58:**

Amity Insurance	\$13,061.00
City of Chelsea-Reimb. Postage	\$ 79.50
Brian P. Monahan, Esq.	\$ 4,500.00
ReadyRefresh	\$ 13.77
Ricoh USA, Inc.	\$ 270.50
Joseph M. Siewko-Reimb. for ink	\$ 43.55
The Law Offices of Michael Sacco, P.C.	\$ 4,376.45
Harvard University Tax Def. Plan – Jennifer Gutierrez	\$ 6,665.31
Mass. Teachers' Retirement System-Katherine Lopez	\$16,632.50
The Hartford-Ins.-Property & Cas. Ins. Renewal	\$ 938.00

Date	Retiree Payroll Warrant	Vendor Warrant
August 31, 2020	\$1,046,001.65	\$142,324.89

Date	Staff Payroll Warrant	Vendor Warrant
August 19, 2020	\$3,190.98	\$977.94
August 26, 2020	\$3,190.98	\$974.99
September 2, 2020	\$3,190.98	\$974.99
September 9, 2020	\$5,190.98 (includes Board Stipends)	\$1,320.74
September 16, 2020	\$3,190.98	\$977.94

At 10:15 AM Mr. Dunn made a motion seconded by Mr. Carroccino to accept and approve the above warrants. The votes were as follows: Chairman Siewko:Yea Mr. Dunn:Yea Ms. Russo:Yea Ms. Watson Fisher:Yea Mr. Carroccino: Yea

Distribution of:

- PERAC Memo #27, 2020 Regular Compensation and Creditable Service Status of Certain Leaves
- PERAC Memo #28, 2020 Tobacco Company List
- June 2020 PRIT Balance Sheet
- June 2020 Cash Pages, Bank Statement, Bank Reconciliation
- Michael McLaughlin-M.G.L. c.32, s. 15(4) Factual Allegations - emailed to the Board on August 13, 2020
- Reply of Michael McLaughlin to Alleged Factual Allegations under M.G.L. c.32, s. 15(4) – emailed to the Board on 8/25/2020
- First Amended Reply of Michael McLaughlin to Alleged Factual Allegations under M.G.L. c.32, s. 15(4) – emailed to the Board on 8/27/2020

The Board did not return to Executive Session.

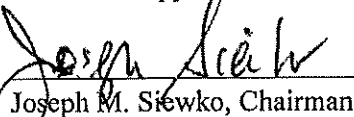
At 10:17 AM Mr. Carroccino made a motion seconded by Ms. Watson Fisher to adjourn. The votes were as follows: Chairman Siewko:Yea Mr. Dunn:Yea Ms. Russo:Yea Ms. Watson Fisher:Yea Mr. Carroccino: Yea

Respectfully submitted,

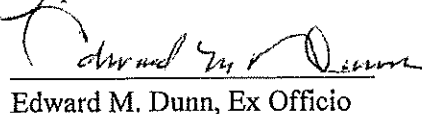


Barbara O'Brien  
Executive Director

Members' Approval:



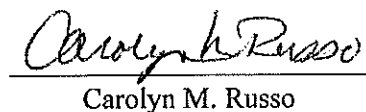
Joseph M. Siewko, Chairman



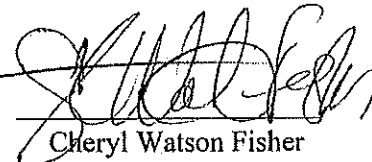
Edward M. Dunn, Ex Officio



Richard Carroccino



Carolyn M. Russo



Cheryl Watson Fisher

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