

Winchester Retirement Board Meeting Minutes

The meeting was called to order at 8:32 am on Tuesday, January 29, 2019 in the Winchester Room located in the Winchester Town Hall.

Present: Stacie A. Ward, Ex-Officio
George F. Morrissey, Chairman
Robert A. Frary, Elected Member
James B. Gray, Elected Member
William G. Zink, Appointed Member

Also Present: Karen Manchuso, Administrator
Thomas F. Gibson, Esq., Law Offices of Thomas F. Gibson

Tom Gibson presented the Board with the following legal updates:

Winchester Retirement Board v. CRAB and JT Travers – A Motion for Judgment and Memorandum of Law in Support has been filed. We are waiting for a date for arguments to be heard in Superior Court in Woburn Massachusetts.

Tom's arguments will be along the lines of the testimony on record, the medical panel statement, the date of disability and the matter of law surrounding the last date of employment.

Tom told the Board that since our case was first heard, there has been two separate cases where the Court has found that an employee being separated from service on account of a suspension or termination did not satisfy the law of being disabled on the last day worked.

Accidental Death Benefit for David Hall- Michael Hall called Tom to get help with a Accidental Death Benefit for his father, David. Tom said the Board had an obligation to provide assistance to its members. Tom told David's family that they would need to provide a death certificate, medical records and a completed Application.

The Administrator told Tom that was also the instructions she provided to the family the last time she spoke with them (late spring of 2018). She also explained that she thought the application had to be submitted within one year from the date of death. Tom told her there is no statute of limitations for submitting an Accidental Death Benefit.

Vacation and Sick Leave buybacks- Tom updated the Board on the legal proceedings regarding whether or not vacation and sick leave buybacks are regular compensation or not. The Administrator told Tom that the Board has never approved those type of pay-outs as pensionable earnings.

Pension Forfeiture- Tom updated the Board on the Courts clarification on the law as it applies to pension forfeiture. The Courts have found the conviction must relate directly to the person's job. A person that took an Oath to protect the public could not lose their pension if they were convicted of a crime that took place outside their normal work hours and regular duties.

Draft Audit Report- Tom explained to the Board PERAC's position on the Master Officer Stipend. PERAC looked back through the years of the Police Contracts from 2010 through 2016 and found issues that they had with the language. Even after the new contracts were cleaned up

in order to clear up any questions as to the true meaning of the stipend, PERAC still opined the payment was a salary augmentation, exchanging a non-pensionable sick leave reduction for a pensionable stipend. Tom explained that he believed PERAC came to that conclusion essentially because of wording. Such as “upon the Chief’s approval” maybe should have said “by appointment”. This may have cleared up any misunderstanding about whether the payment is discretionary or not.

All that being said, Tom said the Board must answer the “finding” and submit a response to PERAC. Tom outlined the options available for the Board :

The Board may request Counsel compose a letter to PERAC outlining the reasons the Board disagrees with the audit finding. Doing this would provide the Board with a path to appeal PERAC’s decision.

The Board may follow PERAC’s recommendation on the audit to instruct payroll to discontinue taking deductions from the Master Officer Stipend and recalculate the retirement allowances that had these stipends in their three-year averages. Taking this action would open the doors for appeals from anyone aggrieved by the Board’s decision.

After hearing the options available to the Board, a motion was made by George Morrissey, seconded by Robert Frary to direct Tom Gibson to compose a letter to PERAC in response to the “Master Officer” Finding. Voted Unanimously.

The Board acknowledged the receipt of cash books and investments as of December 31, 2018.

The Board unanimously approved the December 18, 2018 Regular Meeting Minutes.

The Board unanimously approved the January 31, 2019 Retiree Payroll in the amount of \$672,320.91.

The Board unanimously approved the following Expenses as of January 31, 2019:

<u>Payee</u>	<u>Description</u>	<u>Invoice #</u>	<u>Amount</u>
Andover Retirement Board	2018 3(8)C Payment	Verna Loschi	\$ 2,467.23
Lowell Retirement Board	2018 3(8)C Payment	David McGurl	\$ 4,173.60
Middlesex County Ret. Bd.	2018 3(8)C Payment	Various Retirees	\$19,398.87
Pension Technologies Group	2019 Pension Hosting Services		\$27,100.00
Reading Retirement Board	2018 3(8)C Payment	George Zambouras	\$ 9,464.32
Town of Winchester-Treasurer	12/2018 Pers. Svc. Reimbursement		\$ 7,677.28
WB Mason Co., INC	Copy Toner	I62261102	\$ 184.14

The Board acknowledged the following retirements:

<u>Name</u>	<u>Ret. Date</u>	<u>Dept./Position</u>	<u>Group</u>	<u>Creditable SVC.</u>
William Doyle	01/03/2019	DPW/Custodian	1	20.0833
Gerard Smith	01/08/2019	Animal Control/Custodian	1	32.3333
Stephen Barrow	01/13/2019	Fire Lieutenant	4	40.5000

The Board acknowledge the following Announcements/Memorandums:

- 01/10/2019 PERAC Letter re: Valuation Study
- PERAC Memo’s No: #34/2018 Re: 2018 Disability Data
- PERAC Memo’s No: #1/2019 Re: Annual Review of Medical Testing
- PERAC Memo’s No: #2/2019 Re: 1Q 2019 Board Member Training

- PERAC Memo's No: #3/2019 Re: 2019 Limits under Chapter 46 of the Acts of 2002
- PERAC Memo's No: #4/2019 Re: 2019 Limits under Section 23 of Chapter 131 of the Acts of 2010
- PERAC Memo's No: #5/2019 Re: COLA Notice
- PERAC Memo's No: #6/2019 Re: Actuarial Data
- PERAC Memo's No: #7/2019 Re: Buyback & Make-up Repayment Worksheet
- PERAC Memo's No: #8/2019 Re: 2019 Interest Rate set at 0.01%
- PERAC Memo's No: #9/2019 Re: Accounting Changes
- PERAC Memo's No: #10/2019 Re: Administrative Reminders

There were no deaths to report.

Documents distributed:

- December 18, 2018 Board Minutes
- December 31, 2018 Cash Books
- December 31, 2018 PRIT Investment Statement
- PERAC Audit Report for the Four Year Period 01/01/2013-12/31/2016 - DRAFT
- PERAC Letter dated January 10, 2019 re: Actuarial Data
- PERAC Memo's No: #34/2018 through #10/2019

The next monthly meeting of the Board is scheduled for:

- Thursday, February 28, 2019 at 8:30 am
- Tuesday, March 26, 2019 at 8:30 am
- Tuesday, April 30, 2019 8:30 am

George Morrissey moved to adjourn, seconded by Robert Frary and voted unanimously. The meeting adjourned at 9:37 am.

Respectfully submitted,

Karen Manchuso

Attest:

Stacie A. Ward, Ex-Officio

George F. Morrissey, Chairman

Robert A. Frary, Elected Member

James B. Gray, Elected Member

William G. Zink, Appointed Member