

July 8, 2014
Minutes #504

Minutes of the Board of Trustees' Meeting -1-

Call to Order: Chairman Pinard called the meeting to order at 8:37 a.m.

Present: Trustees: Donald Pinard, Bob Lynch, Richard Molan and William Sanders
MECRS Staff: Gerard Fleury and Suzanne Wilson

Absent: Mayor Gatsas, Dianne Mercier and Mike Woitkowski

In Attendance: Attorney Steve Dutton of the McLane Law Firm, Ms. Janice Chagnon and Ms. Denise Venne

Approval of the Minutes of the Previous Board Meeting:

Chairman Pinard stated that the approval of Previous Board Minutes of June 10, 2014 has been deferred until the August 12, 2014 Board of Trustees meeting.

Approval of the Immediate Meeting Agenda:

It was then moved by Trustee Sanders to approve the immediate meeting agenda, seconded by Trustee Lynch, and passed unanimously by all those trustees present.

Previous Business:

Continuation of Appeal of Administrative Denial – Doris Dionne - Chairman Pinard acknowledged the presence Ms. Janice Chagnon and Ms. Denise Venne, representing Doris Dionne, and stated that he will re-open the hearing which began on June 10, 2014, Appeal of Administrative Denial, Doris Dionne. Chairman Pinard began by reading his opening remarks as follows:

At this time, the Board of Trustees of the City of Manchester Employees' Contributory Retirement System will continue with the hearing of Doris Dionne's appeal from the administrative denial of her retroactive health insurance subsidy benefits.

To recap, by letter dated May 9, 2014, Ms. Janet Chagnon requested the hearing on behalf of Ms. Dionne. A hearing was commenced at the June 10, 2014 meeting. During the hearing, certain information was requested by the board and the hearing was kept open and continued to today's meeting so that this additional information could be presented to the Board.

Chairman Pinard stated that he understands that Janet Chagnon and Denise Venne will continue to represent Ms. Dionne on this appeal and that the staff has received the appropriate authorization from Ms. Dionne to allow them to represent Ms. Dionne.

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Chairman Pinard then explained the procedure in which the hearing will be conducted:

First, in accordance with Administrative Rule 4.5.1, Ms. Chagnon or Ms. Venne will be allowed to present any additional evidence that they would like the board to consider. If there are any witnesses, Mr. Fleury will be allowed the opportunity to cross-examine the witnesses. Furthermore, Ms. Dionne's representatives should present all additional documentary evidence they deem relevant for the board's consideration.

Next, in accordance with Administrative Rule 4.5.2, the staff will submit any additional documents it feels are necessary for an understanding and determination of the issues related to Ms. Dionne's request. This will include documentation responsive to the board's June 10, 2014 requests. The documents being introduced are all attached to Mr. Fleury's supplemental affidavit, a copy of which is being supplied to Ms. Chagnon. Ms. Chagnon will be allowed an opportunity to respond to any evidence presented by the staff.

Last, after all the evidence has been produced, Ms. Dionne's representatives will be allowed to give a closing statement to summarize the evidence and to make legal arguments, if they so desire.

Unless there are any questions, Chairman Pinard commented, Ms. Chagnon and Ms. Venne, may proceed with any additional evidence they would like to submit.

Mr. Fleury stated that at the meeting on July 10, 2014, the MECRS Board had requested documents from Ms. Chagnon and Ms. Venne, some of which were easily obtained by the MECRS staff, such as tax documents and information showing that notifications were provided by State Street Bank. Mr. Fleury explained that these requests would have been difficult for Ms. Dionne's representatives to provide or locate, therefore he informed the trustees that he had those requested forms as exhibits, for the trustee's consideration.

Ms. Chagnon reviewed the exhibits that Mr. Fleury provided and commented that those exhibits only show that Mrs. Dionne's address is correct on the forms, to which Mr. Fleury responded, "That is correct."

Ms. Chagnon further stated that the exhibits however do not prove that Ms. Dionne ever received the notice from May, 2006, informing her of her health subsidy entitlement. Again, Ms. Chagnon continued, "there is no proof that her mother ever received the notice and why wouldn't her mother have taken advantage of her \$100/monthly entitlement if she knew about it."

Ms. Venne stated that she and Ms. Chagnon, still maintain that the MECRS office, having a copy of the original notice of May, 2006, is still not proof that her Mother Mrs. Dionne ever received the notice. She further stated that without having Ms. Dionne's signature on file, indicating yes or no to enroll in the health subsidy program, there is no proof of the letter ever being received.

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She further stated that if the letter would have been received, her mother would have acted upon it.

Ms. Venne then referred to her late husband, who she alleged was watching over her mother's finances back in 2006 and she stated that he would have also acted upon the subsidy entitlement, if he had seen the 2006 notice. She indicated that her husband would have never declined the health subsidy benefit that her mother was entitled to. She expressed her belief that anyone could have used an extra \$100/month. Ms. Venne stated that confirmation that her mother received her W2 forms or any other documentation from State Street is not evidence that her mother actually received the health subsidy notice in May of 2006.

Ms. Venne stated that she and Ms. Chagnon have no proof to show that the notice was never received, other than their firm belief that their mother would have taken advantage of her entitlement. She then also stated that she and her sister are thankful for the opportunity to represent their mother.

Ms. Venne then asked that she and her sister be allowed to know the names of the trustees present, to which Mr. Fleury introduced all in attendance.

Chairman Pinard asked Ms. Chagnon and Ms. Venne if they had concluded their presentation, to which they replied, yes.

Chairman Pinard stated that at this time, the board will note for the record that Executive Director Fleury is introducing a number of additional documents that he believes are responsive to the board's prior requests during the June 10, 2014 hearing. Mr. Fleury will provide these documents to Ms. Chagnon and Ms. Venne. These documents are attached as Exhibits 11-14 to his supplemental affidavit. In order to reach a decision on Ms. Dionne's request, the board will consider these documents along with the evidence submitted by Ms. Dionne today, as well as all evidence submitted during the June 10, 2014 hearing.

Chairman Pinard asked Mr. Fleury to please summarize the additional information gathered, following the June 10, 2014 hearing in response to the board's requests.

In response to the board's request, Mr. Fleury stated, that there were a number of items that were designed to show whether there had been continuity in the address and whether or not notices provided by State Street Bank were in fact being sent.

Including in the exhibits packet, Mr. Fleury reported, are copies of the tax returns for the years 2005 through 2013. All of them are showing the same address, 155 Putnam St. The final 2013 tax return, follows the change of address to 56 Carpenter St., which is the current address on file for Mrs. Dionne. After a review of the original records of Mrs. Dionne's retirement in 1993, it was confirmed that it was the same address of 155 Putnam St. from the time Mrs. Dionne retired, up until the time she moved. In addition, Mr. Fleury stated the exhibits include a

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computer generated report from State Street Bank systems that show the Putnam Street address and also confirm that there is an ACH to savings advice, which is generated for that particular monthly deposit, which is sent to that same address on file. A second notification from the same system at State Street Bank shows the address change from 155 Putnam to 56 Carpenter St.

Mr. Fleury stated that the intent of this exhibit is to show that the non-negotiable from State Street Bank is being sent each month to the correct address on file. Also, he stated that it is an important piece of information because if the health subsidy notice of May 2006 had in fact failed to reach Mrs. Dionne, the exhibit confirms that at that time, State Street Bank did have her correct address on file and subsequent to the May 2006 mailing, Mr. Fleury stated that State Street System sent out a stuffer notice to all retirees to be included with their monthly non-negotiable, which stated, if the retiree did not receive a notice from the Retirement System with information regarding a new health insurance subsidy program, which becomes effective on July 1, 2006, that they should immediately contact the Retirement System and request a copy of the Health Subsidy notice.

Mr. Fleury went on to report that an additional exhibit shows that at the request of Ms. Chagnon, on May 2, 2014 that the MECRS office had sent a copy of the letter, dated March 28, 2014, to Mrs. Dionne, because they were unable to locate the original letter, regarding health subsidy issue.

Mr. Fleury stated that that concludes the information requested by the board.

Chairman Pinard asked Mrs. Chagnon and Ms. Venne if they had any comments at this time regarding the documents presented by Mr. Fleury, to which they replied, "No".

Chairman Pinard then stated that Ms. Chagnon and Ms. Venne will be provided an opportunity to submit briefs in this matter at which point they can address the documents. He then asked Ms. Chagnon and Ms. Venne if they would like to give a closing statement.

Ms. Chagnon asked when and why, did the Retirement System decide to finally make enrollment in the health subsidy automatic.

Chairman Pinard explained that the confusion lies in the past, when members were already retired, before the health benefit subsidy was implemented. The MECRS staff had no way of knowing when somebody was on the rolls at the New Hampshire Retirement System and receiving the health insurance through the City. Chairman Pinard further explained that going forward, there is a procedure in place, upon a member choosing to retire, that the member must have their spouse come into the office and sign off that they understand the subsidy entitlement and to sign a waiver as to whether or not they choose the subsidy option.

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Ms. Chagnon stated that after Mrs. Dionne's husband's death, she called the MECRS office and spoke to Mr. Fleury, which is when she and Ms. Venne became aware of their mothers entitlement. Mr. Fleury immediately enrolled Mrs. Dionne in the Health Subsidy Program.

Therefore the family is simply requesting the past subsidy amount that their mother was entitled to but never made aware of.

Ms. Venne also stated that any documentation sent to their mother after the May of 2006 notice, which she never received, would not have had any meaning to her mother, because she wouldn't think that it pertained to her because she knew nothing about the subsidy in which she was entitled, due to the fact that she never received the original subsidy notice in 2006.

Chairman Pinard stated that Rule 4.4.1 of the Administrative Rules provides that briefs as to facts and the law shall be required on the part of Mrs. Dionne, but are optional on the part of the System. Briefs must be submitted to the board on or before July 22, 2014. The brief may be submitted electronically or submitted as original and 8 copies.

Mr. Fleury then handed Mrs. Chagnon and Ms. Venne his business card with the address at which they should submit it electronically or in paper form.

Mr. Fleury stated that for the record, this is potentially a complicated and confusing matter. It may not be instinctive to everyone what it means to file a brief or to understand why. He then asked counsel, Attorney Steve Dutton of the McLane Law Firm, to address the requirement for the record. Mr. Fleury further stated that because the System is calling on Mrs. Dionne's representatives to take a definitive step, which needs to be submitted by July 22, 2014, Ms. Chagnon and Ms. Venne should leave the board room with a clear understanding what is being asked of them and to also understand why and what the brief needs to look like.

Attorney Dutton explained that the intent of MECRS Administrative Rules 4.4.1, is to give the petitioner the opportunity to make their position clear, after having a chance to hear all the Retirement System's evidence and to formulate their position, also so the MECRS Board has everything that they need to make their decision. The intent is not to place an additional burden on the petitioner, only to give the petitioner the opportunity to know all of the facts and the evidence that the board is going to consider and to present their best case and to support their position.

Attorney Dutton informed Ms. Chagnon and Ms. Venne that there is no minimum length of the brief, but that there is a maximum length of 35 pages.

Ms. Chagnon asked Attorney Dutton if she and Ms. Venne are required to attend another board meeting in submitting their completed brief, to which Attorney Dutton responded that the brief can be submitted electronically or through the postal service.

Ms. Chagnon asked the board, why they were not notified of the brief requirement earlier.

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Mr. Fleury responded that the brief requirement is part of the MECRS Administrative Rules, which were sent to Ms. Chagnon at an earlier date. Ms. Chagnon then stated that they will submit the brief.

Mr. Fleury stated that the brief can be as simple as a sheet of paper, paraphrasing their position in the matter, with a due date of July 22, 2014. Mr. Fleury stated that he would be happy to

acknowledge the receipt of their brief, once received and he provided Ms. Chagnon with his business card inclusive of his email address.

Chairman Pinard stated that the board's decision on the matter will be sent out within 45 days of the hearing, or by August 22, 2014. He then asked Ms. Chagnon and Ms. Venne if they would like the decision to be sent solely to them or to go directly to Mrs. Dionne, with a copy to them.

Ms. Chagnon and Ms. Venne replied that they would like to receive the decision, and they thanked the board for their time and departed.

Executive Director's Report:

Update on Recovery of Overpayment - Mr. Fleury reported that the next steps have been taken to pursue collection of a court awarded settlement after the board authorized that action at the June meeting. A motion for periodic payments was filed on June 27, 2014 and the Retirement System is awaiting a date from the court for the next hearing.

Previously Worthless Security is Now Worth Eight Dollars - Mr. Fleury reported that MECRS is carrying shares of an essentially worthless security on the books, which were received as part of securities litigation many years ago. In recent actions, a new class of these shares became listed on NASDAQ and the System's portfolio has one share worth about eight dollars which resulted from the 13 worthless shares. Mr. Fleury stated that the MECRS custodian is able to sell that share, but he is technically not authorized to make trade decisions. He then stated that if the board is favorably disposed to authorize the executive director to do so, he will liquidate one share of Lumenis Class B stock and recoup the \$8.

Trustee Molan moved to authorize Mr. Fleury to liquidate the Lumenis Stock B stock seconded by Trustee Sanders and passed unanimously by all those trustees present.

Legislative Update - Next, Mr. Fleury reported that SB 225 became law on June 11, 2014 when it was signed by the Governor and became Chapter 108 Laws of 2014. A revised version of Chapter 218 is now posted to the web and a new law book has been prepared. Mr. Fleury noted that the trustees should have received updated law books upon their arrival to meeting and that thank you letters were sent to Senators D'Allesandro, Boutin and Soucy on behalf of the Board and the entire membership for having sponsored the legislation.

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Update on 2014 Pre-Retirement Seminar - Mr. Fleury informed the trustees that details on the 2014 Pre-Retirement Seminar are beginning to come together. Mr. Fleury reminded the trustees that the board authorized the re-scheduling of the September board meeting, to the third Tuesday of the month, so that the seminar would coincide with the Manchester School District, Teacher Workshop, which would provide the para-professionals and School Food Nutrition staff the option to attend the seminar.

Mr. Fleury then informed the board that although MECRS's staff was unable to secure the Executive Court as in previous years, the Puritan Conference Center was available for a September 9th retirement seminar. Also, Mr. Fleury reported that there are two confirmed speakers, one from the Social Security Administration and the other from the City's Deferred Comp provider. He stated that he will be adding two more speakers in the coming days.

Moving on, Mr. Fleury reported on recent difficulties with disabled retirees who failed to comply with the gainful occupation requirements. A Notice of Suspension of Benefits was developed with the cooperation of legal counsel, for use if the gainful occupation forms were not submitted to the MECRS office by the deadline. Mr. Fleury was pleased to report that at the last minute, the required forms were submitted and it was not necessary to send out the Suspension of Benefits notice.

In concluding his report Mr. Fleury stated that the MECRS Investment performance is looking very good, up until the end of June. Private Advisors has been funded and in the beginning of July a draw down on a Prudential Real Estate commitment made a year ago is now fully funded. MECRS is now ready to start receiving calls on the new commitments made at the end of the first quarter.

Report of the Investment Committee:

Committee Chairman Molan reported that although the MECRS Investment Committee was unable to make quorum for its scheduled meeting on Tuesday, June 16th, an informal session which included Executive Director Fleury, Executive Assistant Aboshar and New England Pension Consultant Representative, Kevin Leonard was conducted along with representatives of Mellon Capital and Standish to review changes within each firm.

Committee Chairman Molan explained that Tim Conry, Vice President & Relationship Manager, and Eric Goodbar, Managing Director & Global Investment Strategist for Mellon Capital reviewed performance of the fund to date and then briefed the group on planned changes on the way in which the portfolio will operate beginning on September 30, 2014. At that time, he stated that the existing Global Expanded Alpha I Strategy, in which MECRS is currently invested, will undergo a name change and become Dynamic Growth Strategy. Also, a slight adjustment will be made to the benchmark for the portfolio and the changes have been reviewed by NEPC. There will be no change to the fee structure as a result of this transition which is designed to "better

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reflect the risk-managed total return objective". He then reported that NEPC is monitoring the situation and will advise the MECRS if they observe anything which might become a concern.

Committee Chairman Molan reported that rather than focusing on a core portfolio and an alpha portfolio, they are changing the focus so that it takes risk into consideration.

Next, Committee Chairman Molan reported that Benjamin Leowenberg, Vice President & Relationship Manager, and Urban Larson, Product Specialist – Emerging Market Debt for Standish met with the group to review performance and to explain staff changes in the organizational structure. Changes in the composition of professional staff were said to be limited to the Sovereign Research Division, where one individual left the firm to join another organization and another individual left for reasons unknown. He stated that both individuals were replaced with experienced people and it was further noted that turnover was limited to the Sovereign Research Division and that the Portfolio Management Division has not undergone any changes and was still fully staffed.

In summary, Committee Chairman Molan stated that NEPC was responsible for bringing these changes to the trustees' attention and arranging for representatives of each firm to meet with the Investment Committee to assure us that the changes being anticipated should not have a detrimental result on the operation or performance of their respective portfolios. NEPC will continue to monitor both managers and will alert the MECRS Board if anything transpires, which requires a response.

In concluding his report, Committee Chairman Molan noted that given the MECRS commitment to Standish Capital, the Investment Committee as well as the NEPC consultants will keep a close watch on the performance of Standish.

It was moved by Trustee Lynch to accept and place on file the report of the Investment Committee, seconded by Trustee Sanders and passed by all those trustees present.

Mr. Fleury stated that due to the re-balancing at the end of the 1st quarter and 2nd quarter he will be submitting a report in time for the next board meeting, that will show the performance results at the end of 2013 and the how the portfolio finished at the end of the 2nd quarter. He indicated that the report will be limited to the managers where re-balancing was conducted and he hopes that the report will show whether NEPC's advice was advantageous.

Committee Chairman Molan suggested that in the past he has had discussion with NEPC representatives on creating a review chart with each of the Investment Managers commitment dates as well as the dates of review of each manager. He expressed his concern on not receiving the review chart as well as noting the value that it would provide to the MECRS Board.

Mr. Fleury informed the trustees that he will request that information from the MECRS Investment Consultant.

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Consent Agenda:

Trustee Molan moved to approve the Consent Agenda, seconded by Trustee Lynch and passed unanimously by all those trustees present.

Other Business:

Motion to Adjourn:

Having conducted all the business of the day, Trustee Sanders moved to adjourn the meeting at 9:23 a.m. seconded by Trustee Lynch and passed unanimously by all those trustees present.

Respectfully Submitted

Gerard E. Fleury
Executive Director