

**Minutes**  
**HULL CONTRIBUTORY RETIREMENT BOARD MEETING**  
 November 30, 2005

The regular meeting of the Hull Contributory Retirement Board, duly posted to be held in the Selectmen's Meeting Room, Town Hall, Hull, MA on the above date was called to order at 9:00 a.m. Present were Leonard Colten, Chairperson, Members Marcia Bohinc, Donald Brooker, James Yacobucci, Arthur Flavin, Retirement Administrator Jennifer Miller and Susan Ovans, reporter Hull Times News.

To Be Voted:

**1. Read and attest to the minutes from the October 26, 2005 regular Board Meeting**

Motion made by James Yacobucci seconded by Arthur Flavin to accept the minutes of the regular Board meeting with the following changes: Item #2 - Vote taken on Donald Brooker to grant Mr. Brooker a waiver should read not grant Mr. Brooker a waiver, and Item #5 page 4/47 fourth paragraph – In the event that Mr. Boothby files an accidental application prior to Mr. Boothby's first examine, should read first examination.

**Voted: Leonard Colten, James Yacobucci, Marcia Bohinc and Arthur Flavin  
 affirmative. Donald Brooker abstained**

**Retirements**

- Judith Lungo (Re-Calculation)

Retirement Date: 10/01/2005	
Annuity	318.42
Pension	<u>679.42</u>
<i>Total Monthly Allowance</i>	<i>\$997.84</i>
Annual Annuity	3,821.04
Annual Pension	<u>8,153.04</u>
<i>Total Annual Allowance</i>	<i>\$11,974.08</i>
Option	A
Service	15.9167
Age Factor	2.3
Percentage of Max	80.00%
Percentage of Pay	36.6%*

- First Check – October 31, 2005

Motion made by Marcia Bohinc seconded by James Yacobucci to accept the re-calculated retirement allowance on Judith Lungo.

**Unanimously voted:**

**Payments**

- Sign all bill warrants for November 2005
- Sign the contributory payroll for November 2005

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The Board signed all bill warrants and the contributory payroll for the month of November.

2. Received copies of letters sent directly to the Hull Housing Authority Commissioners from Michael Sacco dated November 16, 2005 – Received follow up letter regarding Perla Olsen's response dated November 21, 2005.

The Board was pleased with Perla Olsen's response to Attorney Sacco's threat of a lawsuit and stated she would bring up the issue at the next Housing Authority meeting and will do her best to resolve the issue as quickly as possible. Based on the fast response and fact that Ms. Olsen stated it was the first the HHA Commissioners had hear of the issue; the board felt that it would accept the advise of its counsel.

Motion made by James Yacobucci seconded by Marcia Bohinc to accept Counsel Michael Sacco's recommendation and give the Housing Authority until December 31, 2005 to make payment of the FY03 Appropriation prior to filing a lawsuit.

**Unanimously voted:**

Further, at Leonard Colten's suggestion, that it be duly noted that The Board shall not, under any circumstance, extend its deadline.

**Unanimously voted:**

3. Re-address Donald Brooker's request for a waiver under M.G.L. c32, §20 (5)(c)(3). Mr. Brooker's retirement allowance was reduced after PERAC Audit Findings determined that \$4,704.82 which was paid to Mr. Brooker in lieu of sick leave conversion was not regular compensation, resulting in an overpayment of retirement allowance in the amount of \$2,390.84 since December 2003.

Donald Brooker recused himself as a Board member in this matter and represented himself as a retiree.

After a review of the Board's vote of October 26, 2005 it had been determined that the Board is unable to enter a negative vote against a persons request and therefore needed to re-open the discussion on Mr. Brooker's waiver request.

Motion made by Marcia Bohinc seconded by James Yacobucci to null and void its prior vote of October 26, 2005 not granting Mr. Brooker's request for a waiver under M.G.L. c32, §20 (5)(c)(3).

**Unanimously voted:**

After discussion and a review of M.G.L. c 32, § 20(5)(c)(3) the board was in agreement that (1) the error in question persisted for a period in excess of one year and (2) that the error was not the result of erroneous information provide by Mr. Brooker. The Board revisited the issue of (3) Mr. Brooker did not have knowledge of the error, nor did he have reason to

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believe that the benefit amount being paid was in error. Based on the fact that this issue had been addressed several times in the past, Board Attorney Michael Sacco had written a non favorable opinion on Mr. Brooker's contract which was written in 2002 and that this issue was a final PERAC Audit Finding in 2004, the majority of the Board felt that Mr. Brooker did have reason to believe and or knowledge that benefit amount being paid was in error.

Leonard Colten addressed the fact that the Board did vote in favor of the contract, against its counsel's advice, and that the Board further voted not accept PERAC's findings that the amount in question was not regular compensation and that they were not going to adjust the salary in question and recalculate Mr. Brooker's retirement allowance. Mr. Colten felt it was the Board's error, which resulted in Mr. Brooker not having reason to believe that the benefit amount being paid was in error. Chairman Colton also felt that PERAC should have advised the Board to decrease Mr. Brooker's allowance in 2004 and in its 2005 follow up audit. Further, Chairman Colten addressed the fact that Mr. Brooker had always rescued himself as a Board member and only acted on behalf as a retiree, therefore leaving him with no vote during the Board's prior meetings and discussions.

Mr. Brooker stated that he did not have reason believe that he was being paid erroneously and he did not have knowledge that he was. He stated that he felt that the contract he was granted was correct and in good faith. Had he felt he was being paid erroneously, he would not have accepted the benefit.

Motion made by Marcia Bohinc seconded by James Yacobucci to accept Donald Brooker's request for waiver under M.G.L. c32, § 20(5)(c)(3) in the amount of \$2,390.84.

**Voted: Leonard Colten yes.**

**Marcia Bohinc, James Yacobucci and Arthur Flavin no.**

**Motion defeated**

The Board requested Mr. Brooker to make arrangements for payback with Jennifer Miller, Retirement Administrator, as soon as possible.

4. Received letters from the following requesting appointment to the Hull Retirement Board effective January 6, 2006:

James Yacobucci - current board appointment

Anne Leduc – Executive Director Cambridge Retirement Board

Gerald Ball – Retired School Teacher

The Board will conduct interviews at its January 25, 2006 regular meeting.

5. Year-to-date trial balance and cash accounts reconciliation

The Board reviewed above documents without discussion.

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- Old business
- New Business

Marcia Bohinc present the Board with an article from the Boston Globe November 29, 2005 issue in the matter Judge increases Bugler's pension State told to factor in housing fee, annuity.

The Board was updated on the current status of the election as of November 29, 2005 82 of the 128 retiree and 108 of the 193 members ballots had been returned of these ballots 4 have been disqualified.

#### 6. **Informational Mail**

- Received Notice from PERAC on the re-examination of Richard Colton.
- Received Notice from PERAC that Richard Colton is now in compliance with c. 32, §91A for 2002 and 2004. Mr. Colton will receive a retro-active payment of \$8,758.56 for the period of 06/30/2003 through 04/30/2004 time in which his pension had been suspended 05/01/2004 for failure to comply with §91A currently still terminated.
- Medical Panel Appointment - Gary Taylor – Wednesday, December 07, 2005.
- Received from PERAC FY2007 Appropriation of \$2,653,509.
- PERAC Memo #34/2005 – Proposed Regulation Clarifying the Definition of Regular Compensation.
- PERAC Memo #35/2005 – Follow Up Memorandum Relative to Public Hearings re: Regular Compensation

Travel Approval Requested by Jennifer Miller to attend December 8, 2005 Hearing.

Motion made by Marcia Bohinc seconded by James Yacobucci to allow Jennifer Miller to attend the PERAC Hearing on December 8, 2005 in Somerville.

**Unanimously voted:**

- PERAC Pension News Bulletin.

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- Letter from Middlesex Retirement System re: PERAC'S Interim Report – The Middlesex Retirement System and Cambridge Financial Management dated 10/21/2005.
- Letter to PERAC from Middlesex Retirement System re: PERA'S Interim Investigative Report dated 10/21/2005
- Letter from Ralph White re: Survivor and Veteran's Bills Move From Committee 10/20/2005.
- Memorandum from Ralph White re: S2035 Accidental Disability Veterans Bill 11/17/2005.
- Boston Sunday Globe Article, November 13, 2005, Hey, big spenders
- Babson Staff Letter, October 28, 2005 & November 11, 2005
- The Segal Company Bulletin October 2005
- Letter from Joseph A. Buongiorno, Senior Vice President, CS McKee Investment Managers 11/09/2005

**Meeting adjourned:** 9:55 a.m.

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Leonard Colten, Chairman

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Donald Brooker, Vice Chairman

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Marcia D. Bohinc

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Arthur Flavin

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James A. Yacobucci