

Minutes
HULL CONTRIBUTORY RETIREMENT BOARD MEETING

May 25, 2006

1:00 p.m. (Selectmen's Meeting Room)

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 Maurice Murphy, Marcia Bohinc, Arthur Flavin, Gerald Ball, and Retirement Administrator Jennifer Miller and Michael Sacco, Retirement Board Counsel.

To Be Voted:

Read and attest to the minutes from the April 26, 2006 regular Board meeting and May 12, 2006 special meeting.

Motion made by Arthur Flavin seconded by Marcia Bohinc to accept the minutes of the meeting held on April 26, 2006 with corrections.

Unanimously voted:

Motion made by Gerald Ball seconded by Maurice Murphy to add an addendum to the May 10, 2006 meeting minutes, which includes the board's counsel, Michael Sacco's, definition of the word "accepts".

Maurice Murphy was in favor of the addendum because he did not agree that the minutes were correct and he wanted to submit a package he had put together regarding what happened in the last few meetings where Chapter 157 of the Acts of 2005 was accepted at the December 21, 2005 meeting.

Lenny advised Mr. Murphy that the discussion was the minutes of the meeting of May 10th and the actual events that had taken place at the May 10th meeting not the December meeting, leaving the motion for addendums invalid. The discussions on the above would be considered after the discussions of the May 10th meeting and added to the current meeting. Lenny then accepted a motion to accept the minutes of the May 10th meeting.

Motion made by Arthur Flavin seconded by Marcia Bohinc to accept the minutes of the meeting held on May 10, 2006 with corrections.

Voted: Marci Bohinc, Arthur Flavin and Lenny Colten yes

Maurice Murphy and Gerald Ball no

Motion carried

Motion made by Maurice Murphy to have Attorney Sacco research the minutes of the meeting held of December 21, 2005, May 10, 2006 and March 29, 2006 with regards to the votes taken on Chapter 157 of the Acts of 2005 (Disability Veteran's Benefits) on the previous Board's acceptance of Section 1 and 2, prior to the current Board's vote on March 29, 2006. Motion was not seconded. Further discussions continued.

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Gerald Ball explained that there was two interpretations of the meaning of the word “accepts”; his interpretation of “accepts” as used in the December 21, 2005 minutes when addressing Chapter 157 of the Acts of 2005, Section 1 and Section 2 is that the Board approved both sections and therefore they automatically moved to the next step, Town Meeting vote. He then requested that some one whose interpretation was different explain the seconded explanation.

Marcia Bohinc felt the meaning of the word “accepts” was not the issue. The issue was what the Board was permitted to; what does the Board do; and where does the Board currently stand.

The Board then explained the issues at hand, as recorded in the May 10, 2005 minutes to Michael Sacco for his advice and opinion.

Mr. Sacco’s stated historically, you vote to accept, in this particular legislation, either section 1 or 2 or both, by the majority of the Board vote to accept the provision, you accept what that provision would do if enacted at the next level. This being is a two-prong step. The way this legislation works, if the Board votes to accept both sections, it means to him, that the Board agreed that if the legislative body votes to accept, then the Board would pay according to the votes. If the Board had voted to accept then Board should have handed the vote over to the legislative body for their vote. His understanding was that the vote in December was to accept both section one and two.

Attorney Sacco explained that in Roberts Rule of Order the only way a vote can be reconsidered is if a member, of the wining vote, makes a motion to reconsider its prior vote. Once the motion is made to reconsider then it must be seconded and voted favorable. The Board then member motions to reconsider making a vote. If this did not happen the March vote was invalid and the December vote still stands.

Michael asked if every understood and agree with his opinion.

Lenny Colten did not agree with Mr. Sacco. He felt the Retirement Board placed an article and that the town does not vote on the article, but on the motion of the article. The Retirement Board voted on the recommendation to take no action, making Section 2 ineligible. As stated in Chapter 157 of the Acts of 2005 “the Retirement Board must accept both sections”. The retirement board voted no action on Section 2.

Michael again explained, when the Board voted to accept the provision of both Section 1 and 2 of 157, Town Meeting had to vote. It was up to the Town whether to accept the Boards motion.

Marcia asked the question as to what the Board needs to do in order to make the situation correct.

After further discussion and arguments, Michael suggested that no further action by the Board was needed, the December vote was valid, and to place a new article on the next Town Meeting.

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The Board had further discussions on its options, whether to reconsider, or to place an article on the next town meeting.

Michael stated in Robert's Rule of order, the reconsideration should have been done in January, however, the Board was not bound by Robert's rules.

In final Michael stated, if the Board did nothing else, then the Board vote to accept in December stands, and an article for section 2 should be placed on the next town meeting warrant.

The Board then affirmed that they all agreed, they would place an article on the next town meeting. The Board would later make a decision whether it recommended it or not. The Board agreed that the vote in March was not valid.

Notice of Injury:

William W. Frazier III – Fire Department – Group 4 – May 14, 2006

Steven Johnson – Fire Department – Group 4 – May 5, 2006

The Board accepted the Notice of Injury Reports as read.

Retirements

- Thomas Gould

Retirement Date: 05/16/2006	
Annuity	10.02
Pension	<u>12.78</u>
<i>Total Monthly Allowance</i>	<i>\$22.80</i>
Annual Annuity	120.24
Annual Pension	<u>153.36</u>
<i>Total Annual Allowance</i>	<i>\$273.60</i>
Option	C
Service	22.00
Age Factor	1.2
Percentage of Max	80.00%
Percentage of Pay	80.6%*

- First Check – May 31, 2006

Motion made by Marcia Bohinc seconded by Arthur Flavin to table acceptance and approval for further review of Chapter 32, §13 (2)(a) Settlement of Small Allowance in One Sum.

Unanimously voted:

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Payments

- Sign all bill warrants for May 2006
- Sign the contributory payroll for May 2006

The board signed all bill warrants and the contributory payroll for the month of May.

Transfer of members funds:

- Albert Paul McAuliffe, Former Building Inspector, transfer to Plymouth County Retirement System as follows: \$32,092.28, deductions, \$1,383.55, interest, to a total of \$35,204.43. Hull Retirement System service credit liability is eight years and four months for the periods of 11/01/1999 and 02/03/1997. Taunton Retirement System service credit liability is one month for the period of 09/05/1999 to 10/28/1999 to a total of eight years and five months.
- Sheri Boretti, Former Paraprofessional, transfer to MA Teachers' Retirement System as follows: \$1,128.78, deductions, \$4.63, interest, to a total of \$1,133.41. Hull Retirement System service credit liability is eight months for the period of 10/04/2004 to 06/30/2005.

Motion made by Marcia Bohinc seconded by Arthur Flavin to transfer the funds held in the above named individuals names as stated.

Unanimously voted:

Michael Sacco – Review Accidental Disability Application

Motion Made by Arthur Flavin seconded by Maurice Murphy to go into executive session, with intention to reconvene in open session, to discuss the reputation, character, physical condition or mental health of an individual.

Roll call vote: Arthur Flavin, yes; Marcia Bohinc, yes; Maurice Murphy, yes; Leonard Colten, yes; Gerald Ball, yes.

Unanimously voted:

The Board reconvened in open session at 2:30 p.m.

Motor Vehicle Update: Michael Sacco

- Situation is a mess
- Lawrence, which was a party to the litigation, voted to take no action on the Chief's application for use of the Motor Vehicle, which in effect is a denial.
- Which the Chief can file an appeal to CRAB
- DALA will file an appeal
- Several board are beginning to conduct hearings

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- PERAC is instructing the Board what they have to do, that it is the law of the land, it is not, it is a remand decision. Which from a legal standpoint, is not a final decision, nor is it appeal able
- Instead of it being denied or accepted and then appealed to the Super Judicial Court for a final decision, it was remanded with criteria's.
- PERAC is telling all board to comply, because if they do not they're in contempt, but PERAC is not because they are not a party to the suite
- It is only binding on the particular parties
- For Hull – If the issue is presented, the Board must conduct a hearing, and should get all necessary information required prior to having a hearing
- Appeals will not be heard unless all information is reviewed
- Don't do anything unless presented as actual case
- Check with Town of written policy on personal use of town owned vehicles

Received copy of letter sent to David T. DeCelles, Attorney for Gary Taylor, from Michael Sacco regarding Worker's Compensation Settlement.

Received copy of letter sent to Catherine Luna, Hull Housing Authority, regarding Appropriation Agreement from Michael Sacco.

The Board discussed the contents of the letter and the amount of settlement agreed upon for order of payment. The Board requests Jennifer Miller to send a copy of the letter directly to the Housing Authority Board Members.

Edward Burke former elected member of the Park and Recreation Commissioners request to purchase service credit for the period 1980 to 1989. Mr. Burke is not a member and was not ever a member of the Hull Retirement System.

Discussions in this matter lead to remembrance of a prior request being made by Mr. Burke and that a previous Retirement Board had already taken a formal vote on this issue. In order to avoid any override of a prior vote without reconsideration, the issue was tabled further review.

Motion Made by Marcia Bohinc seconded by Maurice Murphy to table Mr. Burk's request in order to review prior minutes.

Unanimously voted:

Travel Approval

The PERAC Emerging Issues Forum Scandals & Solutions June 22, 2006, Holy Cross College, Worcester, MA.

Motion made by Maurice Murphy seconded by Arthur Flavin to allow Marcia Bohinc to attend the Emerging Issues Forum.

Unanimously voted:

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Update: From Senator Hedlunds Office - Article 17 Elected Official Earning Less Than \$10,000.00 a Year Will Be Enrolled In The Hull Retirement System. House Bill 4211 has been changed to HB-4800 and sent for a two study orders and will not go any where for this legislative session.

Liability Insurance – The Town accepted Section 20A Indemnity Insurance, as an employee of the Town we are covered, except for breach for fiduciary duty. Currently not covered for

Old business

David Leary – Request to change his effective date of retirement from April 15, 2003 to January 30, 2004. Received opinion letter from PERAC.

Based on the PERAC opinion that there is no mechanism under M.G.L. c. 32 to change a date of retirement to deny David Leary's request to change his date of retirement.

Motion made by Marcia Bohinc seconded by Arthur Flavin to deny Mr. Leary's request to change his effective date of retirement.

Unanimously voted:

New Business

Received request from Ralph White, MACRS for support letter to be sent to local legislators regarding HB4939, Retirement Board Reform.

The Chairman signed the letters as requested.

Town lost appeal to Mass Commission Against Discrimination Case on Donald Gillis.

- Accidental Disability Retiree who was re-examined by the Public Employee Retirement Administration Commission and found fit for duty
- Placed of restoration to service
- Reinstatement to service was prior to the Amendment which removed department head approval for placement
- Department head had right to deny
- At retirement hearing Chief supposedly refused to get better use of a young guy
- Gillis filed a suit of discrimination
- MCAD – Awarded in Gillis favor that he should have been reinstated
- Cost to town approximately \$187,000.00
- Town appealed to Superior Court
- Superior Court without much comment issued a margin denying town motion
- Town has still judgment of approximately \$200,000.00
- Part of judgment to remit \$94,000.00 to retirement board
- Gillis is over age so no longer can return to work due to age and will continue to receive accidental disability, which will not change
- Board does not need to do anything at this time but Wait to see if Town appeals

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Review

Year-to-date trial balance and cash accounts reconciliation (Unavailable at this time)

Informational Mail

- MACRS Spring Conference Agenda
- MACRS Retirement Board Governance Reform
- MACRS Retirement Board Governance Reform, H4939
- Michael Sacco PERAC Spring Classes Motor Vehicle Follow Up
- James Lampke US Coast Guard Boathouse
- Thomas Gibson, Middlesex Retirement Board Chairman Retirement Seminar Cancellation
- Thomas Gibson, Middlesex Retirement System file complaint against PERAC

Meeting adjourned: 3:35 p.m.

Leonard Colten, Chairman

Marcia D. Bohinc

Gerald Ball

Arthur Flavin

Maurice Murphy