

MINUTES
HULL CONTRIBUTORY RETIREMENT BOARD MEETING
January 25, 2011

The regular meeting of the Hull Contributory Retirement Board, duly posted to be held in the selectman'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, Gerald Ball, Marcia Bohinc, Rocky Tenaglia, and Maurice Murphy, and Retirement Administrator Lauren Durham. Also present was Robert Bowes, retired from the Hull Fire Department and other members of the Hull Fire Department.

In accordance with the open meeting law, the chair was notified and it was announced that Lauren Durham was making an audio recording of the meeting.

Leonard Colten made a motion to begin the meeting reviewing/ discussing the Hull Fire Fighter's contract, Article V, Section 10. The floor was opened to retired Hull fire fighter Robert Bowes.

Mr. Bowes stated that he was present at this meeting to request his longevity payments be calculated into his retirement and he be paid retroactively back to his retirement date. He states that he has always paid retirement on his longevity payments and nowhere in retirement law does it exclude longevity. Further, Mr. Bowes explains that the clause of the Hull Fire Fighters contract in question, Article V, Section 10 is being taken out of context. He explains that the reason that clause was included was to ensure that the named compensation was not used to calculate the overtime rate. The contract does not specifically say that these factors were to be excluded from the overtime rate, but that was the intent. Mr. Bowes offered that others would agree to that being the intent of this clause.

The question was raised as to how far back this change was going to go. Would the retirement board ask retired Firefighters to payback the amount of longevity that had been calculated into their pension benefit? Also, would all currently active fire fighters be refunded any money that they have contributed on longevity payment if it is going to be determined as non-pensionable?

Marcia Bohinc explains that recalculating pensions for fire fighters who have retired prior to July 1, 2009 would not be necessary, as they retired under the "old" law. Mr. Bowes is the first fire fighter to retire under the new definition of wages and that is what raises this issue.

Leonard Colten tells Mr. Bowes that a decision will not be made today, but he is welcome to attend the next board meeting where a vote will be held on this subject. The Board will be reviewing the opinion of Michael Sacco as well as PERAC's position on this issue and then make the determination.

Hull Contributory Retirement Board Meeting
January 25, 2011
Page 2

The question of clothing allowance is also raised, the Fire Fighters contract states that clothing allowance is pensionable and taxable. Under Pension Reform and the acts of 2009, clothing allowance was specifically ruled non-pensionable.

Marcia Bohinc offers clarification that Clothing allowance was used in Mr. Bowes calculation and explains that clothing allowance will be pensionable through FY11.

Mr. Bowes states that the Acts of 2009 specifically discussed clothing allowance, but never breaks out longevity.

Marcia Bohinc explains that is where the confusion arises. What is considered wages, what is considered base pay and what is considered regular compensation? Prior to the Acts of 2009 Retirement Law did not recognize "base pay". Now that it does and the Fire Fighters contract uses the same terminology a potential conflict was identified. The board is looking for further clarification before a decision could be made.

Mr. Bowes highlights to the Board that this is not the first time there has been confusion with his dealings with the retirement board and discussed his frustration. He reiterates that no where in the law is longevity broken out to be non pensionable. He says that if he had known at the time of retirement that longevity would not be included in his pension, perhaps he would not have decided to retire when he did.

Leonard Colten states that the Board has 2 opinions, one of Michael Sacco and one of PERAC. He wants to make sure the Board is doing the right thing. We will be inviting Michael Sacco to the next Board meeting for further clarification, and welcomes Mr. Bowes to attend.

A question is raised for members of the fire department who have been paying into retirement for many years on longevity payments (and other compensation stated in Article V, Section 10), would these retirement deductions be returned to them if the ruling is that these payments are not pension eligible?

Marcia Bohinc says that this is an excellent question for our attorney and we do not have the answer at this time.

A question is raised that if PERAC has one ruling on this issue and Michael Sacco has another ruling on this issue, who makes the final decision in this case. Will there be a vote at the next meeting?

Rocky Tenaglia states that he believes this Board needs to make a ruling on Mr. Bowes case next meeting. Marcia Bohinc agrees.

Hull Contributory Retirement Board Meeting
 January 25, 2011
 Page 3

A question is posed to Marcia Bohinc: "What is the definition of wages according to the new law?"

Marcia Bohinc replies that " Wages: base salary or other base compensation of an employee paid to that employee for employment by an employer"
 Regular Compensation, which a pension is based, is compensation exclusively received as wages, Base salary or other base compensation.

Mr. Bowes says he is the only one that this issue has been raised. He is comfortable with waiting until the next meeting to have a decision made. He also states he feels it very important for PERAC to be present at the next meeting.

Gerald Ball agrees that he would like to see a letter from PERAC stating their opinion.

Marcia Bohinc thinks Attorney Sacco should be present to educate us on his view and this Board needs to make a decision at the next meeting after weighing all the facts and doing more research, we cannot hold up Mr. Bowes any longer.

Marcia Bohinc also explains that this was not brought to Michael Sacco's attention for Mr. Bowes specifically. Attorney Sacco has sent several emails to the board regarding the law change. Jennifer Miller reached out to Attorney Sacco asking if there could be an issue with the new law and this clause of the fire fighters contract. Attorney Sacco responded with his opinion and the issue was then dropped until it arose again when Mr. Bowes retired.

Mr. Bowes again thanks the Board for their time and firmly believes they will do the right thing.

Leonard Colten and Gerald Ball would like to request PERAC attend the next scheduled board meeting, or have something in writing on this issue.

Marcia Bohinc states that there is no value in having PERAC here as they are more of an oversight body rather than a decision making body.

Leonard Colten is also curious to hear Michael Saccos view.

Maurice Murphy made a motion to invite Michael Sacco to the next Board meeting to discuss his opinion on this issue.

Maurice Murphy, Rocky Tengalia, Leonard Colten, Marcia Bohinc in favor.

Gerald Ball opposed

Motion passed, 4:1

Hull Contributory Retirement Board Meeting
January 25, 2011
Page 4

Board Re-Organization:

Chairman

Rocky Tenaglia nominated Marcia Bohinc.
Marcia Bohinc accepts the nomination.

Vice-Chair

Marcia Bohinc Nominates Leonard Colten.
Leonard Colten accepts the nomination.

Secretary

Rocky Tenaglia accepts the nomination.

Leonard Colten thanks the board for a wonderful year.

Marcia Bohinc made a motion to accept the minutes from the December 21, 2010 meeting with no changes. Seconded by Gerald Ball.

Unanimously Voted.

Payments:

The December Retiree Payroll warrant and December Bill warrant were both signed.
Rocky Tenaglia made a motion to accept the Bill Warrant, Seconded by Gerald Ball.

Unanimously Voted.

Rocky Tenaglia made a motion to accept the Payroll warrant, seconded by Gerald Ball.

Unanimously Voted.

Notice of Injury

Brian Snow, Fire Gr. 4, Injury 12/28/2010, Report 01/06/2011

New Members:

Eileen Chiavaroli and James Tucker were recognized as new members of the Retirement System. Welcome packets and certificates of membership were sent to them.

Payroll Changes:

The Board Received notice of the death of Lillian Clerkin, date of death January 2, 2011. Ms. Clerkin chose option B at the time of retirement. Final payment for the period of January 1, 2011 through January 2, 2011 in the amount of \$95.30 will be issued January 2011.

The Board Received notice of the death of Robert Duggan, date of death December 20, 2010. Mr. Duggan chose option B at the time of retirement. Since the Retirement Board was not notified of Mr. Duggan's death until January 11, 2011, he was overpaid \$595.53 in December. A request has been sent to recover the overpayment.

Hull Contributory Retirement Board Meeting

January 25, 2011

Page 5

Review/Updates:

Lauren mailed the 2010 1099 on Monday, January 24, 2011. The new Pension Technology system was a great help in getting these out in a timely manner.

The Trial Balance was reviewed the Board, our PRIT value was just over \$25 million. Year to date PRIT Core fund return 13.5%, which was in excess of our 7.75% actuarial valuation.

Informational Mail

The Board reviewed the following informational mail:

- PERAC Memo #40/2010- 2010 Disability Retiree Data
- PERAC Memo #1/2011- 840 CMR 10:10(3) & 10:15(4)- Annual Review of Medical Testing Fee
- PERAC Memo #2/2011- 2011 Interest Rate set at 0.2%
- PERAC Memo #3/2011- 2011 Limits under Chapter 46 of the Acts of 2002
- PERAC Memo #4/2011- COLA Notice
- PERAC Memo #5/2011- Buyback and Make-up Repayment Worksheets Using Buyback interest
- PERAC Memo #6/2011- Actuarial Data
- PERAC Memo #7/2011- Calendar Year 2010 Annual Statements
- M. Sacco- Remote Participation at Board Meetings, January 10, 2011
- NCPERS New Clips- December 15, 2010, December 21, 2010, December 28, 2010, January 4, 2011, January 11, 2011, January 18, 2011

The Board scheduled the next meeting for Tuesday, February 22, 2011 at 9:00a.m. in the Selectman's Meeting Room.

Meeting adjourned: 10:30 a.m.

Marcia Bohinc, Chairperson

Gerald Ball

Rocky Tenaglia

Leonard Colten

Maurice Murphy