



## MINUTES

The Board of Trustees of the Public Employees Retirement Association met remotely in regular session in the Association offices, 60 Empire Drive, Room 117, Saint Paul, Minnesota, on Thursday, May 14, 2020 at 9:30 a.m., with notice given ten days prior thereto by the Secretary.

The following members were present by telephone or video conference:

Thomas Stanley, President

Julie Blaha/Ramona Advani

Paul Bourgeois

Paul Ford

Kathy Green

Barbara Johnson

Leigh Lenzmeier

David Metusalem

Thomas Rupp

Thomas Thornberg

constituting a quorum.

Board member excused: Mary Falk

Attorney General Representative: Kevin Finnerty

Staff members present: Doug Anderson, Executive Director; Julie Leppink, General Counsel; Luis Lugo, Chief Operations Officer; Mike Hagerty, Chief Financial Officer; Beth Reed, Benefit Services Center Manager; Heather Schoenberger, Account Information Management Manager; Andrea Murphy, Benefit Services Supervisor; Amy Strenge, Policy Coordinator; Lance LaFrombois, Assistant General Counsel; David Andrews, Accounting Director; Jody Kortus, Benefit Services Claims Specialist; Mary Daly, Continuity and Data Coordinator and Gladys Rodriguez, Executive Assistant.

Others present: David Gillen, Appellant; Lindsay Rowland, Meuser Law Firm; William Ziemer, Appellant; Quinn Cook, witness for Ziemer appeal; Harry Grigsby, Retiree; Luci Botzek, PEPSA; Melissa Lam Young, MMB; Angela Huss, Lockridge Grindal Nauen PLLP; David Johnson, Faegre Drinker Biddle & Reath LLP.

### 1. **Call to Order and Approval of Agenda**

President Stanley called the meeting to order at 9:34 a.m. He noted that Trustees were participating remotely via telephone or video conference as permitted in Minnesota Statutes Section 13D.015. Anderson was present at the meeting location.

Roll call was taken to establish quorum.

*Green moved to adopt the revised agenda. The motion was seconded by Bourgeois and passed by roll call vote.*

The agenda was taken in the following order.

2. **Approval of Consent Calendar**

The consent calendar included the following reports:

- a. February 13, 2020, Regular Board Meeting Minutes
- b. Operational Report: Education, Payments, and Membership Counts
- c. Financial Report (Statements of Changes in Fiduciary Net Position as of March 31, 2020; Statement of Fiduciary Net Position as of March 31, 2020)

*Green moved to accept the consent calendar as presented. The motion was seconded by Blaha and passed unanimously by roll call vote.*

3. **Appeal in the Matter of the Denial of the Police and Fire Plan Disability Benefit for David Gillen**

*Reference was made to a memo and staff recommendation from Julie Leppink dated March 23, 2020*

Leppink addressed the Board and summarized the facts of the appeal. Gillen and Rowland presented on Gillen's behalf. Gillen was a firefighter and a member of the PERA Police & Fire Plan who applied for duty disability benefits. Because Gillen was found to be duty disabled, he could no longer perform his firefighter duties and as a result, his employment was terminated. However, his employer was required to continue to provide him with health insurance until age 65 under Minn. Stat. § 299A.465. At the time of his application, Gillen was 59 years old.

After PERA staff reviewed Gillen's case to determine how long his duty disability benefits would be paid, it was then determined that Gillen was not eligible to receive disability payments because the law governing the Police & Fire Plan specifically requires PERA to terminate payment of a disability benefit at normal retirement age, which is 55.

Although PERA originally informed Gillen that he would receive disability benefits, it did so in error, and corrected its mistake shortly thereafter, when it recognized that Gillen was older than the normal retirement age. PERA's Police and Fire Plan statute requires that a "disability benefit paid to a disabled member of the police and fire plan, that was granted under laws in effect after June 30, 2007, terminates at the end of the month in which the member: (1) reaches normal retirement age." Minn. Stat. § 353.656, subd. 1(b). Therefore, by operation of law, PERA can only pay Gillen retirement benefits.

PERA notified Gillen that he was eligible only for payment of a retirement annuity, which would be classified as taxable income on his 1099-R form. Gillen was also informed that he was still eligible to receive health insurance provided by his employer.

Gillen appealed to the Executive Director and the Executive Director's representative reaffirmed PERA staff decision that he was not eligible to receive payment of a PERA Police & Fire Plan duty disability benefit because he has reached the normal retirement age of 55. This determination did not change the amount of the PERA retirement annuity payable from the Police & Fire Plan, which is the same amount he would have received as a duty disability benefit. Gillen then appealed to the PERA Board of Trustees.

*After the Board considered the entire record, Lenzmeier moved that the Board of Trustees deny Mr. Gillen's petition, affirm the determination of the Executive Director's representative, and direct its counsel to draft an order reflecting its decision for the Board President's signature. The motion was seconded by Green and passed with 9 AYE'S, with 1 NAY from Thornberg.*

4. **Appeal in the Matter of the Retirement Annuity of William Ziemer**

*Reference was made to a memo and staff recommendation from Lance LaFrombois dated May 14, 2020*

LaFrombois presented on behalf of PERA staff. Ziemer spoke on his own behalf and called on Quinn Cook as a witness.

Ziemer applied for retirement benefits from the Basic and Police and Fire Plans on March 8, 1994, and elected to receive the Pre-Age 62 Supplement. The pre-age 62 benefit option provides that the pension plan pays a higher benefit before a member is age 62 and a lower benefit after age 62, when members are eligible to begin social security retirement benefits. The post-age 62 PERA retirement benefit is reduced by an actuarially calculated amount and the reduction is permanent.

Both Ziemer and his spouse signed the Applications. Above the member's signature line, the Application reads, in part:

"I have read and understand the information on this application and understand that the annuity selection cannot be changed once my first check is cashed or deposited. I have indicated my preference regarding how my annuity is to be treated for purposes of federal and state income tax withholding."

His monthly retirement benefits began on June 1, 1994, when he was age 56.

Ziemer stated that he signed up for the Pre-62 retirement plan because he was told by PERA staff that it was a great deal. He also explained that he understood the program as being a loan.

Ziemer appealed to the Executive Director and the Executive Director's representative reaffirmed PERA staff decision to deny Gillen's petition on the grounds that he is receiving benefit payments that are actuarially equivalent to benefit payments that would have occurred without the pre-62 supplement and that retirement annuities, once granted, must not be increased, decreased, or revoked except as allowed by law. Ziemer then appealed to the PERA Board of Trustees.

*After the Board considered the entire record, Green moved that the PERA Board of Trustees affirm the determination of the Executive Director's delegate that Mr. Ziemer's payments should not be recalculated to remove the reduction required by law governing the pre-62 supplement option, and direct its counsel to draft an order reflecting its decision for the Board President's signature. The motion was seconded by Lenzmeier and passed unanimously by roll call vote.*

## 5. PERA's Operating Budget- FY 21

*Reference was made to a presentation and a memo from Mike Hagerty dated May 14, 2020*

Hagerty reported on the proposed FY21 operating budget. He stated that the budget reflects a 2% increase over the FY20 budget. The budget is comprised of four components: Personnel expenses, Allocated expenses, Projects (or Investments), and the Building budget.

The Personnel component represents approximately 56% of PERA's total administrative budget. Purchase services range from a variety of vendors specializing in actuarial and audit services, disability assessment contract with MMRO, and mail service provided by the Dept. of Admin.

The Allocated expenses are items over which PERA has no control. The largest expense under this category is for the Minnesota State Board of Investment.

The Projects (or Investment) budget is undertaken to maintain PERA's ability to accomplish its mission of sustaining pension plans and providing valuable services. During FY21 PERA will pursue several modernization projects including an intranet to replace the current platform and improve productivity tools. PERA will also begin the process of acquiring a Client Relationship Management (CRM) system to improve our ability to streamline our interactions with members and employers.

The Building budget is PERA's share of the ongoing maintenance and repair of the Retirement System Building. The Facilities management component has three pieces:

- PERA's share of planned projects to maintain the facility.
- PERA's share of the debt service on the revenue bonds that were used to construct the building (including a small fee to MSRS for expenses related to administering the joint tenancy agreement with MSRS and TRA).
- An allowance to maintain PERA's workspace similar to the Facilities Management Division's charges for the shared spaces in the building.

As is the case with allocated expenses, PERA has little control over building charges.

Hagerty noted that between 2015 and 2019 PERA's budget grew at an annual rate of about 6.6% per year. From 2019 -2021, the budget growth has been 1.4% per year.

*Bourgeois moved that the PERA Board of Trustees approve PERA's FY2021 budget at \$19,914,631. The motion was seconded by Johnson and passed unanimously by roll call vote.*

6. **2020 Legislative Agenda**

Streng reported on the pension bill that was introduced this session.

The Federal CARES Act

- Allows plans to implement the new provisions immediately and seek legislation later.
- Allows withdrawals from retirement plans for COVID-19 related reasons, a waiver of the penalty for early withdrawals, the right to the withdrawal without the 20% tax withholding, and the right to repay the withdrawal over three years.
- Mandates that the required minimum distribution be waived for defined contribution plans in 2020. PERA's defined contribution plan is impacted by this provision.
- Legislation has been discussed to allow individuals who already qualify for a refund to take their refund under the CARES Act. Discussion has also occurred to allow individuals to receive their escrow prior to one year under the CARES Act.

Phased Retirement Option (PRO)

- Due to the COVID-19 pandemic, Hennepin County Health Services made a request to PERA to remove the hour's restrictions for healthcare workers participating in the Phased Retirement program.
- Legislation also removed the earnings limitations for healthcare workers who return to work. The Governor signed the legislation on Tuesday.

LCPR

- The commission adopted our provisions, which include PERA's administrative bill, the elimination of augmentation for privatized members, the retroactive language for Police & Fire disability members, and the clarification that Police and Fire members over the age of 55 with more than 20 years of service are not eligible to receive a disability benefit.
- To ensure that the omnibus pension bill move forward this year, two provisions were not included in the delete-all amendment at the request of PERA. One of the provision involved the withdrawal liability employers would be required to pay if the entity privatized. The second provision addressed the modification to disability benefits for members over 55 years old with less than 20 years of service. Members who are over 55 with less than 20 years of service would not receive a disability benefit, but instead be fully vested in their retirement benefit. These items were removed and will be considered next year.
- The LCPR adopted the delete-all amendment and passed HF 3903/SF 3808.

7. **Board Recognition for PERA Staff Members- Pat Kappelhoff and Kay Jensen**

The Board of Trustees recognized Pat Kappelhoff and Kay Jensen for their retirement. Stanley read the following into the record:

**Pat Kappelhoff**

In recognition of over 45 years of dedicated service to the Public Employees Retirement Association (PERA) members, employers, stakeholders, and employees.

We wish to express our sincere thanks and gratitude for your wisdom, commitment to excellence, and for your distinguished leadership in the association's efforts to maintain

excellent customer service that our members value.

With a career spanning from November 1, 1974, to April 30, 2020, your impact as a co-worker, contributor, team player and friend will be missed and never forgotten.

We wish you good health, relaxation and happiness in your retirement.

**Kay Jensen**

In recognition of over 42 years of dedicated service to the Public Employees Retirement Association (PERA) members, employers, stakeholders, and employees.

We wish to express our sincere thanks and gratitude for your wisdom, commitment to excellence, and for your distinguished service to our members. Your commitment to providing members with timely and accurate payments is particularly appreciated.

With a career spanning from July 5, 1977, to April 30, 2020, your impact as a co-worker, contributor, team player and friend will be missed and never forgotten.

We wish you good health, relaxation and happy travels in your retirement.

**8. Date of Next Meeting**

The next meeting of the PERA Board of Trustees will be held Thursday, June 11, 2020 starting at 9:30 a.m.

**9. Adjournment**

*There being no further business to come before the PERA Board, Thornberg moved to adjourn the meeting at 11:50 a.m. Motion was seconded by Green and passed unanimously by roll call vote.*

A handwritten signature in black ink, appearing to read "Doug Anderson", is written over a horizontal line.

Doug Anderson, Executive Director  
Saint Paul, Minnesota