

**ESSEX REGIONAL RETIREMENT BOARD  
EXECUTIVE SESSION  
January 27, 2020**

At an Executive Session held during the regular monthly meeting of the Essex Regional Retirement System (ERRS) on Monday, January 27, 2019 at 9:57 a.m. at 491 Maple Street, Suite 201 the following Board members were present for all or some of the meeting: Vincent R. Malgeri, H. Joseph Maney (via Skype), Kevin A. Merz and Susan J. Yaskell.

Also in attendance for all or some of the meeting were:

Charles Kostro, ERRS Executive Director  
Christina Parr, ERRS Executive Assistant  
Michael Sacco, ERRB Council  
Judson Pierce, Attorney representing Debra Rogers  
Debra Rogers, Town of Hamilton

**Debra Rogers Disability Application**

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### **DALA Hearing on Walter Lesiczka**

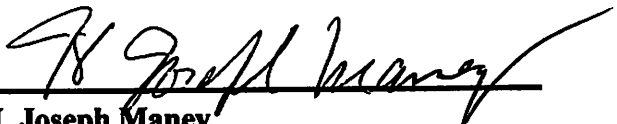
Mr. Sacco brings up the DALA Hearing of Walter Lesiczka who was mistakenly enrolled in the system and who did not qualify for membership. Mr. Lesiczka acknowledged that he never worked 20 hours per work week and was never required to. Mr. Sacco talks about a single prior case of this with someone who was a member for 20 plus years who was a call firefighter and was told he was never eligible for membership upon the time he tried to retire. Mr. Kostro recalls that he didn't work for very long within ERRS and that most of his service was with Haverhill. From what we know Haverhill hasn't retired him yet.

Mr. Maney exits executive session at 10:55 a.m.


### **To Exit Executive Session**

Upon a motion by Vincent R. Malgeri, seconded by Kevin A. Merz, the Board voted 3-0; To exit executive session at 10:57 a.m.

  
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Vincent R. Malgeri

  
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H. Joseph Maney

  
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Kevin A. Merz

  
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Susan J. Yaskell

The following documents were provided to the Board for the executive session:

Counsel opinion letter in the matter of Walter Lesiczka  
Documents relating to the disability application of Debra Rogers

**ESSEX REGIONAL RETIREMENT BOARD  
EXECUTIVE SESSION  
September 28, 2020**

At an Executive Session held during the regular monthly meeting of the Essex Regional Retirement System (ERRS) on Monday, September 28, 2020, which meeting was held remotely at 10:00 a.m., the following Board members were present for all or some of the meeting: Alan J. Benson, Vincent R. Malgeri, H. Joseph Maney, Kevin A. Merz, and Susan J. Yaskell.

Also in attendance for all or some of the executive session were:

Charles Kostro, ERRS Executive Director  
Michael Sacco, ERRS Counsel

**Litigation Strategy – Richard Shailor**

**Litigation Strategy - James Hannon**

**Litigation Strategy – Vernava**

After a long delay, Mr. Sacco said that briefs have been filed in this case and there is a deadline in November for further action. Mr. Sacco briefly reviewed the positions of the parties in the case.

He expects a resolution in this case soon. Mr. Sacco also noted that as the Worcester Regional Retirement System is a party to the case, there are no more legal fees associated with this case for the other parties. Mr. Malgeri complimented Mr. Sacco on the memorandum he submitted in this case.

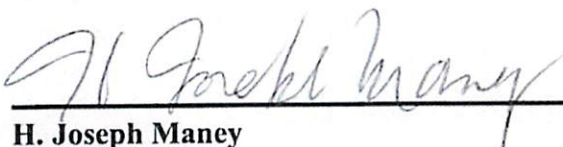
### **To Exit Executive Session**

Upon a motion by Vincent R. Malgeri, seconded by Susan J. Yaskell, the Board voted by roll call as follows: Mr. Benson, Yes; Mr. Malgeri, Yes; Mr. Maney, Yes; Mr. Merz, Yes; and Ms. Yaskell, Yes; to exit executive session.

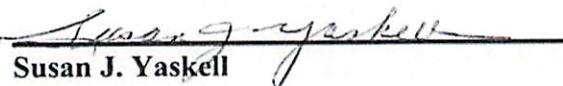
The Board exited executive session at 10:09 a.m.

  
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**Alan J. Benson**

  
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**Vincent R. Malgeri**

  
\_\_\_\_\_  
**H. Joseph Maney**

  
\_\_\_\_\_  
**Kevin A. Merz**

  
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**Susan J. Yaskell**

The following documents were provided to the Board for the executive session:

Hannon motion and scheduling order  
Shailor Notice of Appeal and emails  
Vernava memorandum, notice and filings

**ESSEX REGIONAL RETIREMENT BOARD  
EXECUTIVE SESSION  
January 25, 2021**

At an Executive Session held during the regular monthly meeting of the Essex Regional Retirement System (ERRS) on Monday, January 25, 2021, which meeting was held remotely at 9:06 a.m., the following Board members were present for all or some of the meeting: Vincent R. Malgeri, H. Joseph Maney, Kevin A. Merz, Andrew J. Sheehan, and Susan J. Yaskell.

Also in attendance for all or some of the executive session were:

Charles Kostro, ERRS Executive Director  
Michael Sacco, ERRS Counsel

**Litigation Strategy – Worcester Regional Retirement System, et al., v. PERAC, Middlesex Superior Court, Civil Action No. 2019-00602**

Mr. Sacco provided the Board with a history and overview of the subject case, generally known as the Vernava case. In this matter, the Supreme Judicial Court (SJC) had ruled that compensation paid in conjunction with workers compensation is not regular compensation. PERAC subsequently issued a memo stating that this decision only applied to those members who retired for accidental disability. Mr. Sacco noted that this was an absurd interpretation and ERRS and four other boards filed a declaratory injunction with the SJC, who referred the matter to the Superior Court. Mr. Sacco noted that ERRS and the other Boards prevailed on the issue that this pay is not regular compensation. However, the Superior Court ruled that the only method for disputing a PERAC directive is to file and appeal through the Division of Administrative Law Appeals and the Contributory Retirement Appeals Board. Mr. Sacco noted the burden of filing an appeal any time a retirement board disputes a PERAC directive. Mr. Sacco said that he has the support of the Worcester Regional Retirement System (WRRS) Chair to appeal the decision on the second part of the Superior Court ruling. Mr. Sacco also noted that since he has joined WRRS as the Chief Executive Officer, there is no charge to the other retirement boards for pursuing this appeal. He also noted that there has not been any reaction from PERAC at this time. Mr. Sacco asked for direction from the Board if it wishes to continue with an appeal of the second part of the Superior Court decision. Mr. Malgeri asked what the deadline is for a PERAC appeal, and Mr. Sacco replied that it is sixty days from the date of the decision. Mr. Malgeri asked if the other boards have provided Mr. Sacco with any direction on an appeal of this decision. Mr. Sacco said he has not heard from the other boards yet, but they all have their regular monthly meeting this week. Mr. Malgeri congratulated Mr. Sacco on the Superior Court win and asked if PERAC does not appeal, that we are still considering to appeal on count two, and Mr. Sacco replied that yes, that is what is proposed. Since WRRS is going to go forward, and there is no cost to ERRS, this is just a question of adding ERRS' name to the appeal. Mr. Sacco noted that whether ERRS decides to appeal or not, it remains a party if there is an appeal. Upon a motion by Vincent R. Malgeri, seconded by Susan J. Yaskell, the Board voted by roll call as follows: Mr. Malgeri, Yes; Mr. Maney, Yes; Mr. Merz, Yes; Mr. Sheehan, Yes; and Ms. Yaskell, Yes; To continue the appeal in the matter of the Worcester Regional Retirement System, et al., v. PERAC, Middlesex Superior Court, Civil Action No. 2019-00602.

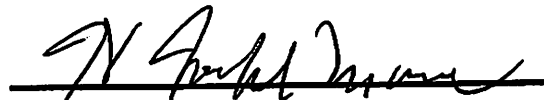
**To Exit Executive Session**

Upon a motion by Susan J. Yaskell, seconded by Vincent R. Malgeri, the Board voted by roll call as follows: Mr. Malgeri, Yes; Mr. Maney, Yes; Mr. Merz, Yes; Mr. Sheehan, Yes; and Ms. Yaskell, Yes; to exit executive session.

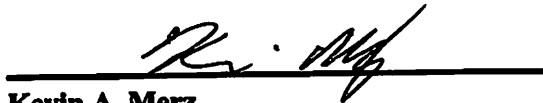
The Board exited executive session at 9:22 a.m.



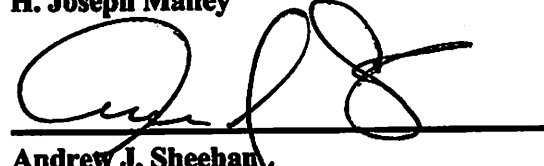
**Vincent R. Malgeri**



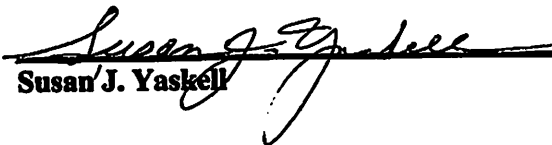
**H. Joseph Maney**



**Kevin A. Merz**



**Andrew J. Sheehan**



**Susan J. Yaskell**

The following documents were provided to the Board for the executive session:

Vernava All Client Memo and Superior Court decision

**ESSEX REGIONAL RETIREMENT BOARD  
EXECUTIVE SESSION  
March 29, 2021**

At an Executive Session held during the regular monthly meeting of the Essex Regional Retirement System (ERRS) on Monday, March 29, 2021, which meeting was held remotely at 8:33 a.m., the following Board members were present for all or some of the meeting: Vincent R. Malgeri, H. Joseph Maney, Kevin A. Merz, Andrew J. Sheehan, and Susan J. Yaskell.

In attendance for all or some of the executive session as well were:

Charles Kostro, ERRS Executive Director  
Michael Sacco, ERRS Counsel  
Gary Ford, ERRS Member from North Andover

**Disability Application – Gary Ford**

Mr. Sacco reviewed the history of the involuntary disability retirement application filed by the Town of North Andover on behalf of Firefighter Gary Ford. Mr. Sacco also reviewed the injury and the medical treatments. Mr. Sacco then reviewed the medical panel certificate, noting that the panel did not address all of the questions asked by the Board. However, Mr. Sacco also stated that the evidence does support the involuntary application and the Board has grounds for approval, which Counsel recommends. Upon a motion by Vincent R. Malgeri, seconded by Susan J. Yaskell, the Board voted by roll call as follows: Mr. Malgeri, Yes; Mr. Maney, Yes; Mr. Merz, Yes; Mr. Sheehan, Yes; and Ms. Yaskell, Yes; To approve an involuntary disability retirement benefit for Gary Ford. Mr. Sacco advised Mr. Ford on the process for PERAC to review the application, approve it, and how the transition will work for him from active duty to retirement. Mr. Ford said that Kathy in the retirement office has been great. Mr. Kostro noted that he will contact the Board when the application is ready for the Board's electronic signatures via PROSPER.

Mr. Ford left the meeting.

**Litigation Strategy - Worcester Regional Retirement System, et al., v. PERAC, Middlesex Superior Court, Civil Action No. 2019-00602**

Mr. Sacco advised the Board on the latest status of the Vernava matter. He noted that the Superior Court agreed with the board's position on regular compensation, but there was a move to appeal the second finding that the only manner in which a board can challenge a PERAC directive is via an administrative appeal, which could take years to resolve. The boards appealed this second count. PERAC has appealed the first count. Mr. Sacco said that based on his discussions with other counsel, that once the case is docketed at the Appeals Court, there will be a joint motion for a direct appellate review by the Supreme Judicial Court (SJC). Mr. Malgeri asked about the legislation filed by PERAC which would effectively overturn the SJC's ruling in Vernava. Mr. Sacco noted that if this legislation becomes law, it will affect retirements going forward. However,



the litigation is important for the processing of any retirements prior to any such legislation passing.

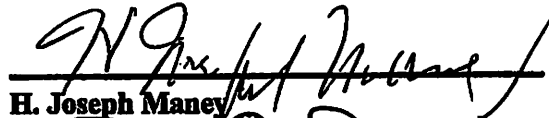
**To Exit Executive Session**

Upon a motion by Vincent R. Malgeri, seconded by Susan J. Yaskell, the Board voted by roll call as follows: Mr. Malgeri, Yes; Mr. Maney, Yes; Mr. Merz, Yes; Mr. Sheehan, Yes; and Ms. Yaskell, Yes; to exit executive session.

The Board exited executive session at 8:46 a.m.



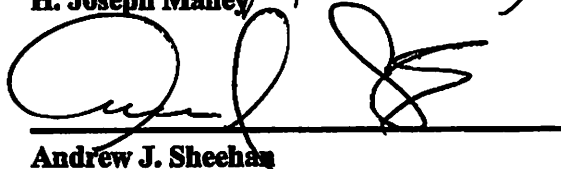
Vincent R. Malgeri



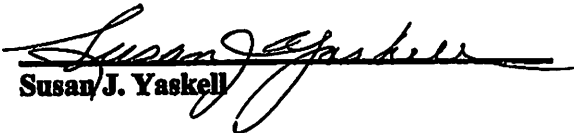
H. Joseph Maney



Kevin A. Merz



Andrew J. Sheehan



Susan J. Yaskell

The following documents were provided to the Board for the executive session:

Documents relating to the disability application of Gary Ford

**ESSEX REGIONAL RETIREMENT BOARD  
EXECUTIVE SESSION  
April 26, 2021**

At an executive session held during the regular monthly meeting of the Essex Regional Retirement Board on Monday, April 26, 2021, which meeting was held remotely at 9:16 a.m., the following Board members were present for all or some of the meeting: Vincent R. Malgeri, H. Joseph Maney, Kevin A. Merz, Andrew J. Sheehan, and Susan J. Yaskell.

In attendance for all or some of the executive session were:

Charles Kostro, ERRS Executive Director  
Michael Sacco, ERRS Counsel  
Robert Corliss, ERRS Member from Boxford  
Michael Halley, Teamsters Local 25, appearing on behalf of Mr. Corliss

**Disclosure**

Mr. Malgeri advised the Board that he will be leaving the meeting when the discussion of the MGL Chapter 32, Section 4(2)(b) issue is taken up, as this involves the Newburyport Retirement Board. Mr. Malgeri further advised the Board that he has recently accepted a position with the Newburyport Retirement Board so he will be leaving the meeting to avoid any appearance of a conflict.

Mr. Corliss and Mr. Halley left the meeting.

### **Appeal Hearing of Denied Unemployment Claim**

Mr. Kostro reviewed the timeline involved in the separation from employment of Christina Parr in March of 2020. He said that he did not believe her separation was acrimonious. Mr. Kostro said that he did not have a chance to speak with Christina in any real depth prior to her departure, as her last two weeks were also the last two weeks in which the office was open prior to the shutdown due to the pandemic. Mr. Kostro recalled that there was a great amount of activity going on in this period as the staff prepared to work remotely during the period of the shutdown. Mr. Kostro then reviewed the history of communications with the Division of Unemployment Insurance (DUI), including his appeal of the bill received by ERRS for Ms. Parr's unemployment payments. DUI subsequently denied the unemployment claim of Ms. Parr, which she appealed. Upon notice of the appeal and a potential hearing, Mr. Kostro notified Mr. Sacco as he felt that this is a form of litigation and that Mr. Sacco should be involved. Mr. Sacco said that if a hearing is held, he will reach out to Ms. Parr, or her counsel, assuming she is represented by counsel, to see if the time and expense of preparing for and attending a hearing for both parties, can be avoided. Mr. Malgeri stated that he was involved in the hiring of Ms. Parr and he is disappointed that this unemployment claim was filed, and that he does not see on what basis Ms. Parr can claim unemployment benefits. Mr. Sheehan asked if any action is required by the Board at this time. Mr. Kostro said no action is required from the Board, but that he and Mr. Sacco wanted to make the Board aware of this matter. Mr. Sacco said that she really has no case and perhaps he will be able to avoid the time and expense of a hearing. Discussion ensued regarding the experience of Board members, Mr. Sacco, and Mr. Kostro at DUI appeal hearings.

### **Reed v. ERRS and PERAC CR-20-0214**

Mr. Sacco reviewed the status of the Reed appeal. He discussed the main issue involved in this matter, which is that while Group 4 members are exempt from the ten-year vesting requirement, PERAC determined that in situations such as Mr. Reed's, a member must file their retirement application while still an active member. In Mr. Reed's case, he filed his application after he left service and PERAC later advised ERRS that since he did not file his retirement application while still an active member, he was not eligible for a retirement benefit. The Board, following PERAC's direction, denied Mr. Reed's superannuation retirement application. Mr. Reed appealed. Mr. Sacco pointed out that this dispute is really between PERAC and Mr. Reed, although ERRS remains a party to the litigation. However, Mr. Sacco said that the recent filing by Mr. Reed is one in which they appear to be putting forward a detrimental reliance claim. The filing by Mr. Reed indicates that he spoke with Kathy Carleton and was told that there was no rush in submitting the retirement application. Mr. Sacco said that this does not make a lot of sense, since there is no reason for Mr. Reed to have waited on filing his retirement application. While Mr. Sacco said he was not consulted on this question at the time, if he had been, he would have advised that there is

no requirement for him to file his retirement application while still an active member, as he disagrees with PERAC's position. Mr. Sacco said that Mr. Reed also claimed that Mike Nicolazzo allegedly provided bad information. Mr. Sacco said that he does not think the detrimental reliance claim has much merit, but he proposed filing a motion to ask DALA to decide if it is necessary for them to receive testimony on this issue. If so, this will require that Kathy and Mike be prepared to testify. While he does not think there is any exposure to the retirement system, this could potentially involve a breach of fiduciary duty and ERRS's insurer should be notified. Mr. Malgeri said that he felt that Mr. Reed and PERAC should fight out the main issue, but that ERRS should notify the fiduciary insurance provider as soon as possible. Mr. Maney asked if the Board needed to take any further action. Mr. Sacco said that no vote was necessary but that once the hearing is scheduled it may involve subpoenas to Kathy and Mike and that he will get involved at that point and will coordinate everything with Mr. Kostro.

**Litigation Strategy - Worcester Regional Retirement System, et al., v. PERAC, Middlesex Superior Court, Civil Action No. 2019-00602**

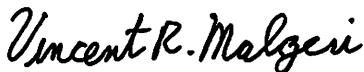
Mr. Sacco reviewed the status of the litigation in the Vernava matter. He pointed out for the Board, that since he is currently working with one of boards who filed the appeal, there is no charge to ERRS or the other boards involved. Mr. Sacco indicated that he has had a discussion with the Assistant Attorney General who is working on the case and that there should be a direct appeal to the Supreme Judicial Court for a clarification of their original decision. He said that he expects to receive that motion within the week. Mr. Sacco said he did not think he would need to file anything and that he will wait to see if the Supreme Judicial Court takes up the matter.

Mr. Malgeri left the meeting.

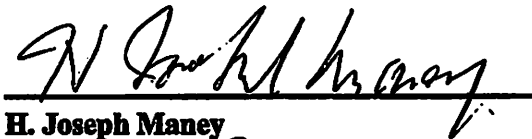
**To Exit Executive Session**

Upon a motion by Andrew J. Sheehan, seconded by Kevin A. Merz, the Board voted by roll call as follows: Mr. Maney, Yes; Mr. Merz, Yes; Mr. Sheehan, Yes; and Ms. Yaskell, Yes; to exit executive session.

The Board exited executive session at 9:50 a.m.



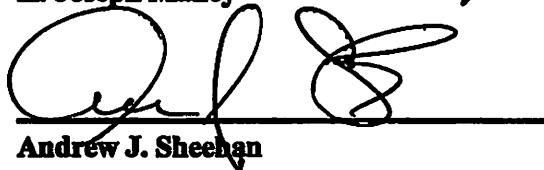
**Vincent R. Malgeri**



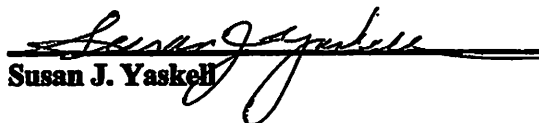
**H. Joseph Maney**



**Kevin A. Merz**



**Andrew J. Sheehan**



**Susan J. Yaskell**

The following documents were provided to the Board for the executive session:

Documents relating to the disability application of Robert Corliss  
PERAC letter on accepting liability for reserve police service  
Correspondence and documentation from the Division of Unemployment Assistance regarding Christina Parr  
Memoranda relating to the matter of Arthur Reed

**ESSEX REGIONAL RETIREMENT BOARD  
EXECUTIVE SESSION  
June 28, 2021**

At an executive session held during the regular monthly meeting of the Essex Regional Retirement Board on Monday, June 28, 2021, which meeting was held at 491 Maple Street, Suite 201 at 9:35 a.m., the following Board members were present for all or some of the meeting: Vincent R. Malgeri, H. Joseph Maney, Kevin A. Merz, Andrew J. Sheehan, and Susan J. Yaskell.

In attendance for all or some of the executive session were:

Charles Kostro, ERRS Executive Director  
Cassandra Green, ERRS Executive Assistant  
Michael Sacco, ERRS Counsel  
Jeffrey French, Member from the Town of Ipswich  
Kevin Calnan, Attorney for Mr. French  
Anthony Marino, Ipswich Town Manager  
Kevin Feeley, Labor Counsel for Town of Ipswich

**Litigation Strategy – Unemployment Claim Appeal**

Mr. Sacco gave an update on the unemployment claim appeal by Christina Parr. He stated that he and Mr. Kostro attended the hearing remotely and they are awaiting the reviewer's decision, which Mr. Sacco anticipates will be in the retirement system's favor.


Mr. Merz recused himself and left the meeting at 9:40am.



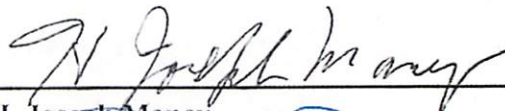
**To Exit Executive Session**

Upon a motion by Vincent R. Malgeri, seconded by Susan J. Yaskell, the Board voted by roll call as follows: Mr. Malgeri, Yes; Mr. Maney, Yes; Mr. Sheehan, Yes; and Ms. Yaskell, Yes; to exit executive session.

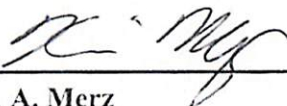
The Board exited executive session at 10:29 a.m.



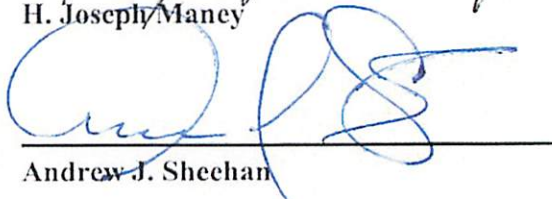
Vincent R. Malgeri



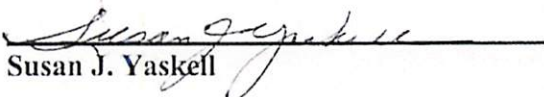
H. Joseph Maney



Kevin A. Merz



Andrew J. Sheehan



Susan J. Yaskell

The following documents were provided to the Board for the executive session:

Counsel letter and correspondence relating to the matter of Jeffrey French  
Memorandum and exhibits in the matter of Richard Shailor



**ESSEX REGIONAL RETIREMENT BOARD  
EXECUTIVE SESSION  
July 26, 2021**

At an executive session held during the regular monthly meeting of the Essex Regional Retirement Board on Monday, July 26, 2021, which meeting was held at 491 Maple Street, Suite 201 at 9:24 a.m., the following Board members were present for all or some of the meeting: Vincent R. Malgeri, H. Joseph Maney (remote), Kevin A. Merz, Andrew J. Sheehan, and Susan J. Yaskell.

In attendance for all or some of the executive session were:

Charles Kostro, ERRS Executive Director (remote)  
Cassandra Green, ERRS Executive Assistant  
Michael Sacco, ERRS Counsel

**Disability Application – Paul Wise**

Mr. Sacco reviewed the unanimous decision of the medical panel, stating that the Board has reason to grant the application if it chooses to do so. Ms. Yaskell expressed dismay that the member did not have surgery in a timely manner, as such measures could have prevented this circumstance. Mr. Merz asked Mr. Sacco about the Board's chances of a favorable decision should the Board deny the application and the member appeal; Mr. Sacco responded it would be challenging and he would not recommend this course of action, given the medical panel's responses. Mr. Malgeri stated he is inclined to approve the application. Upon a motion by Vincent R. Malgeri, seconded by Kevin A. Merz, the Board voted by roll call as follows: Mr. Malgeri, Yes; Mr. Maney, Yes; Mr. Merz, Yes; Mr. Sheehan, Yes, and Ms. Yaskell, Yes; To approve the accidental disability application of Paul Wise.

**Arthur Reed v. Essex Regional Retirement Board and PERAC, CR-20-0124**

Mr. Sacco said the Board does not need to take any action at this time, as the time period Mr. Reed had to file objections has lapsed and he has not filed any to Mr. Sacco's knowledge. Ms. Yaskell asked if Mr. Reed was represented by counsel; Mr. Sacco answered in the affirmative. Mr. Sacco asked Mr. Kostro if Mr. Reed has requested a refund of accumulated deductions; Mr. Kostro responded not yet. Mr. Sacco said that would be the next step and the case could otherwise be considered concluded.

**Richard Shailor v. Bristol County Retirement Board and the Essex Regional Retirement Board, CR-20-0343**

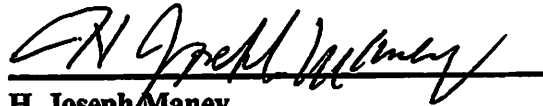
**To Exit Executive Session**

Upon a motion by Kevin A. Merz, seconded by Vincent R. Malgeri, the Board voted by roll call as follows: Mr. Malgeri, Yes; Mr. Maney, Yes; Mr. Merz, Yes; Mr. Sheehan, Yes; and Ms. Yaskell, Yes; to exit executive session.

The Board exited executive session at 9:49 a.m.



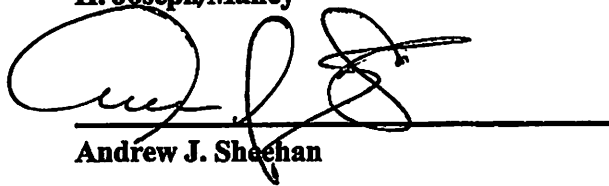
Vincent R. Malgeri



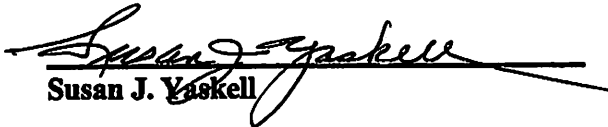
H. Joseph Maney



Kevin A. Merz



Andrew J. Sheehan



Susan J. Yaskell

The following documents were provided to the Board for the executive session:

Documents relating to the disability application of Paul Wise  
DALA decision and Counsel letter in the matter of Arthur Reed  
Memorandum and correspondence in the matter of Richard Shailor

**ESSEX REGIONAL RETIREMENT BOARD  
EXECUTIVE SESSION  
October 18, 2021**

At an executive session held during the regular monthly meeting of the Essex Regional Retirement Board on Monday, October 18, 2021, which meeting was held at 491 Maple Street, Suite 201 at 9:07 a.m., the following Board members were present for all or some of the meeting: Vincent R. Malgeri, H. Joseph Maney, Kevin A. Merz (recused 9:30 a.m.), Andrew J. Sheehan, and Susan J. Yaskell.

In attendance for all or some of the executive session were:

Charles Kostro, ERRS Executive Director  
Cassandra Green, ERRS Executive Assistant  
Michael Sacco, ERRS Counsel

**James Fernandes v. ERRB**

Mr. Sacco reviewed the case and the appeal hearing which took place on October 4, 2021. Mr. Sacco stated the facts of the case indicate that Mr. Fernandes is not entitled to creditable service for the time he worked as an on-call firefighter in Amesbury, that ERRB acted appropriately in adjusting Mr. Fernandes' account because he was never appointed to a permanent position in Amesbury, and he expects the court will affirm that.

**Daniel Soffron v. ERRB**

Mr. Sacco briefly reviewed the case and advised the Board that he is fairly confident that ERRB's actions will be upheld in court.

**Disability Application – Deborah Rogers**

Mr. Sacco summarized that the Board had voted in January 2020 to request a medical panel for Ms. Rogers' disability application pending receipt of medical records, which were received this month. As such, the disability application will move forward.

**Disability Application – David Vigneaux**

Mr. Sacco recommended that the Board deny the disability application, because he did not believe a medical panel would find that it was any one particular injury that caused Mr. Vigneaux to stop working. Mr. Malgeri clarified that the two options before the Board today were to deny the application, or have an evidentiary hearing. Upon Mr. Sacco's confirmation, Mr. Malgeri stated that he would be in favor of a hearing. Ms. Yaskell stated that she was in favor of denying the application. Mr. Merz asked Mr. Sacco if he thought holding a hearing would lower the chances of Mr. Vigneaux later appealing to DALA if he found ERRB's decision to be unfavorable. Mr.

Sacco responded that a hearing would probably lower the chances of an appeal only slightly. Mr. Maney stated that he would in favor of denial; Mr. Merz and Mr. Sheehan agreed. Upon a motion by Vincent R. Malgeri, seconded by Susan J. Yaskell, the Board voted by roll call as follows: Mr. Malgeri, Yes; Mr. Maney, Yes; Mr. Merz, Yes; Mr. Sheehan, Yes; and Ms. Yaskell, Yes; To deny the accidental disability application of David Vigneaux, and that this vote be recorded in the public session minutes of this meeting.

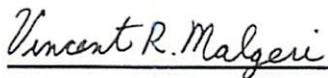
*Mr. Merz recused himself and left the meeting. 9:30 a.m.*

**Jeffrey French**

#### **To Exit Executive Session**

Upon a motion by Vincent R. Malgeri, seconded by Susan J. Yaskell, the Board voted by roll call as follows: Mr. Malgeri, Yes; Mr. Maney, Yes; Mr. Sheehan, Yes; and Ms. Yaskell, Yes; to exit executive session.

The Board exited executive session at 9:56 a.m.



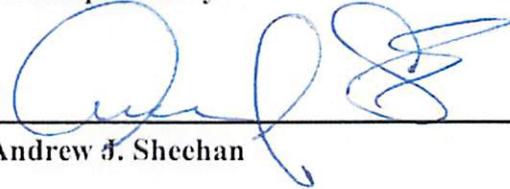
Vincent R. Malgeri



H. Joseph Maney



Kevin A. Merz



Andrew J. Sheehan



Susan J. Yaskell

The following documents were provided to the Board for the executive session:

Documents relating to the disability application of David Vigneaux

Letter from James Fernandes

Counsel's revised letter and correspondence in the matter of Jeffrey French

Documents and exhibits in the matter of Daniel Soffron

**ESSEX REGIONAL RETIREMENT BOARD  
EXECUTIVE SESSION  
November 22, 2021**

At an executive session held during the regular monthly meeting of the Essex Regional Retirement Board on Monday, November 22, 2021, which meeting was held at 491 Maple Street, Suite 201 at 9:15 a.m., the following Board members were present for all or some of the meeting: Vincent R. Malgeri, H. Joseph Maney (remote), Kevin A. Merz (recused 9:45 a.m.), Andrew J. Sheehan, and Susan J. Yaskell.

In attendance for all or some of the executive session were:

Charles Kostro, ERRS Executive Director  
Cassandra Green, ERRS Executive Assistant  
Michael Sacco, ERRS Counsel

**Disability Application – David Vigneaux**

Mr. Sacco reviewed the request of Mr. Vigneaux's attorney for the Board to reconsider their denial of the disability application. Mr. Sacco advised that he did not believe there was a reason for the Board to reconsider. The Board concurred and no action was taken.

**Disability Application – James Young**

Mr. Sacco reviewed the details of the case, and advised the Board that the attorney on the worker's compensation claim has been in contact to settle the claim and request a waiver of the Board's 20% of the lump sum. Mr. Malgeri said he would like to know the details of the settlement on the original third-party claim, and he would be in favor of giving Mr. Sacco the authority to negotiate a settlement. The other members agreed. Mr. Sacco said he will advise opposing counsel that the Board is not granting a waiver, and will begin the process of negotiation.

**Litigation Strategy - WRRB v. PERAC ("Vernava")**

Mr. Sacco gave an update following the Supreme Judicial Court hearing, saying he expects there will be a decision in 60-90 days.

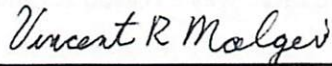
*Mr. Merz recused himself and left the meeting. 9:45 a.m.*

**Litigation Strategy - Jeffrey French v. ERRB**

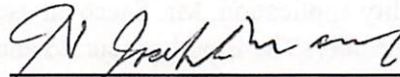
### To Exit Executive Session

Upon a motion by Vincent R. Malgeri, seconded by Andrew J. Sheehan, the Board voted by roll call as follows: Mr. Malgeri, Yes; Mr. Maney, Yes; Mr. Sheehan, Yes; and Ms. Yaskell, Yes; to exit executive session. Mr. Merz absent/recused.

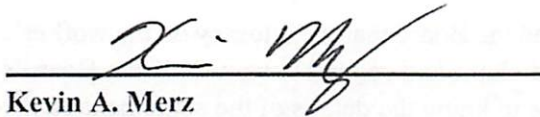
The Board exited executive session at 9:50 a.m.



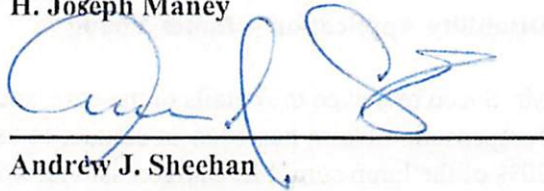
Vincent R. Malgeri



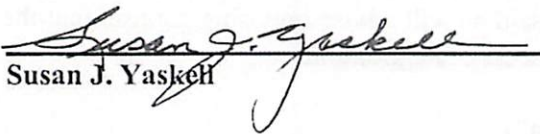
H. Joseph Maney



Kevin A. Merz



Andrew J. Sheehan



Susan J. Yaskell

The following documents were provided to the Board for the executive session:

Documents and correspondence related to the disability application of David Vigneaux  
Minutes of the meeting of June 28, 2021 relating to the disability application of James Young  
Briefs, response and SJC filing in the Vernava matter  
Retirement documents, notice of appeal and decision letter in the matter of Jeffrey French

**ESSEX REGIONAL RETIREMENT BOARD  
EXECUTIVE SESSION  
December 20, 2021**

At an executive session held during the regular monthly meeting of the Essex Regional Retirement Board on Monday, December 20, 2021, which meeting was held at 491 Maple Street, Suite 201 at 9:09 a.m., the following Board members were present for all or some of the meeting: Vincent R. Malgeri, H. Joseph Maney, Kevin A. Merz, Andrew J. Sheehan, and Susan J. Yaskell.

In attendance for all or some of the executive session were:

Charles Kostro, ERRS Executive Director  
Cassandra Green, ERRS Executive Assistant

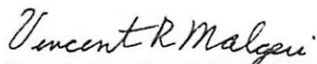
**Disability Application – James Young**

Mr. Kostro reviewed the settlement with the Board, stating that the retirement office was in receipt of a check in the amount of \$8,500, which equates to 10% of the workers compensation settlement, and noted that the member's beneficiary will receive a retroactive payment of \$50,000 this month. Mr. Malgeri asked if Mr. Sacco is in agreement that the retirement system not receive a portion of the third-party settlement; Mr. Kostro stated that he is, as the retirement system is only eligible to receive a portion of the settlement that is based on wages, and there was no allocation in the third-party settlement to wages. Mr. Merz asked if the Board has any recourse. Mr. Sheehan noted that perhaps the Board could have given different instructions to Mr. Sacco upfront. Mr. Merz asked if the retirement system is obligated to pay interest on the back pay; Mr. Kostro said no.

**To Exit Executive Session**

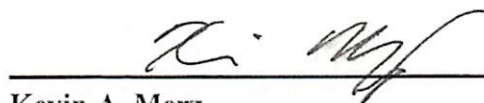
Upon a motion by Andrew J. Sheehan, seconded by Susan J. Yaskell, the Board voted by roll call as follows: Mr. Malgeri, Yes; Mr. Maney, Yes; Mr. Merz, Yes; Mr. Sheehan, Yes; and Ms. Yaskell, Yes; To exit executive session.

The Board exited executive session at 9:16 a.m.

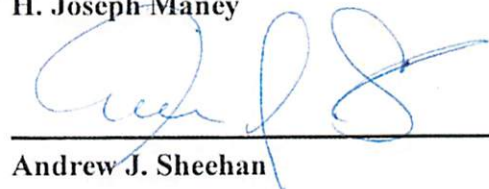


Vincent R. Malgeri

H. Joseph Maney



Kevin A. Merz



Andrew J. Sheehan



Susan J. Yaskell



**ESSEX REGIONAL RETIREMENT BOARD  
EXECUTIVE SESSION  
January 31, 2022**

At an executive session held during the regular monthly meeting of the Essex Regional Retirement Board on Monday, January 31, 2022, which meeting was held at 491 Maple Street, Suite 201 at 8:57 a.m., the following Board members were present for all or some of the meeting: Vincent R. Malgeri, H. Joseph Maney (remote), Kevin A. Merz, and Susan J. Yaskell (Andrew J. Sheehan absent).

In attendance for all or some of the executive session were:

Charles Kostro, ERRS Executive Director  
Cassandra Green, ERRS Executive Assistant  
Chris Collins, ERRS Counsel  
Stephen Lee, Member

Mr. Lee left the meeting at 9:16am.

**Litigation Strategy – James Fernandes v. Essex Regional Retirement Board, CR-18-0378**

Mr. Collins reviewed the facts of the case, noting there has been no decision yet as DALA has a backlog.

**To Exit Executive Session**

Upon a motion by Kevin A. Merz, seconded by Vincent R. Malgeri, the Board voted by roll call as follows: Mr. Malgeri, Yes; Mr. Maney, Yes; Mr. Merz, Yes; and Ms. Yaskell, Yes; To exit executive session.

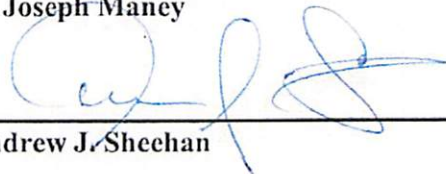
The Board exited executive session at 9:20 a.m.

  
\_\_\_\_\_  
Vincent R. Malgeri

  
\_\_\_\_\_  
Kevin A. Merz

  
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Susan J. Yaskell

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H. Joseph Maney

  
\_\_\_\_\_  
Andrew J. Sheehan

The following documents were provided to the Board for the executive session:

Documents relating to the disability application of Stephen Lee  
Transcript and post-hearing memorandum in the matter of James Fernandes

**ESSEX REGIONAL RETIREMENT BOARD  
EXECUTIVE SESSION  
May 23, 2022**

At an executive session held during the regular monthly meeting of the Essex Regional Retirement Board on Monday, May 23, 2022, which meeting was held at 491 Maple Street, Suite 201 at 9:19 a.m., the following Board members were present for all or some of the meeting: Vincent R. Malgeri, H. Joseph Maney (remote), Kevin A. Merz, and Susan J. Yaskell (Andrew J. Sheehan absent).

In attendance for all or some of the executive session were:

Charles Kostro, ERRS Executive Director  
Cassandra Green, ERRS Membership Coordinator  
Michael Sacco, ERRS Counsel  
Michael White, Member from the Town of Lynnfield  
Janet McElligott, Fiancée of Mr. White  
Kaylene Crum, Counsel to Mr. White  
Tony Fratoni, Town of Lynnfield Assistant Director of School Operations  
Debra Rogers, Member from the Town of Hamilton  
Daniel Napolitano, Counsel to Ms. Rogers

**Michael White – Disability Application**

*Recess 9:56am-10:05am.*

*Mr. Maney left the meeting at approximately 10:00am.*

**Debra Rogers – Disability Application**

#### **Stephen R. Lee – Disability Application**

Mr. Sacco reviewed the findings from the medical panel and stated his recommendation that the Board approve the disability application. Mr. Malgeri and Mr. Merz agreed. Upon a motion by Vincent R. Malgeri, seconded by Kevin A. Merz, the Board voted by roll call as follows: Mr. Malgeri, Yes; Mr. Merz, Yes; and Ms. Yaskell, Yes; To approve the application for an accidental disability retirement for Stephen R. Lee and to record this vote in the open session minutes of this meeting.

#### **Litigation Strategy – Stephen Meola v. Essex Regional Retirement Board (CR-16-412)**

#### **Litigation Strategy – Elizabeth Sciandra v. Essex Regional Retirement Board (CR-22-0128)**

Mr. Sacco reviewed the case, noting that Ms. Sciandra had applied for a refund, which the Board approved, and subsequently expressed her wish not to take the refund and apply for a retirement benefit instead. Mr. Sacco stated it was his opinion that once the refund has been approved, the recipient is no longer a member and cannot buy their way back in. Mr. Kostro noted that he believes Ms. Sciandra reconsidered her refund application after being contacted by the retirement system to sign the vested member acknowledgement form, which had been missed by mistake. Mr. Kostro also noted that Ms. Sciandra had received recent retirement estimates and so was well-informed as to the benefits she was giving up in taking a refund. Mr. Sacco concurred that Ms. Sciandra was duly informed of the implications. Mr. Merz asked how much time elapsed between Ms. Sciandra's application for a refund and when the refund was approved; Mr. Kostro said it was about two months. Mr. Merz asked when Ms. Sciandra stated she did not want to take a refund; Mr. Kostro said it was shortly after the refund was approved, around late February or early March. Mr. Merz

asked what would happen if the Board allowed Ms. Sciandra to revert to membership; Mr. Sacco said he would advise seeking approval from PERAC first, as this could result in audit findings, as well as viewed as a breach of the Board's fiduciary responsibilities. Mr. Malgeri noted that this could also set a precedent for others to do the same. Mr. Merz suggested the line could be drawn at the recipient depositing the funds, that he recognizes that people sometimes make misinformed decisions, and that he would prefer to see members receiving their retirement benefit. Mr. Malgeri asked Mr. Merz if he would be inclined to ask PERAC about the legality of granting Ms. Sciandra's request; Mr. Merz said that he would be. Ms. Yaskell stated she was not in favor of going to PERAC, as she believes the applicant was provided with all the relevant information. Mr. Malgeri asked if Ms. Sciandra would need to be informed of the Board's inquiry to PERAC; Mr. Sacco said no. Ms. Yaskell asked what the process would be; Mr. Sacco said he would draft a letter to John Parsons explaining the facts and his advice to the Board, and asking them whether it was legally permissible to put the money back into the pension system and process Ms. Sciandra's retirement. Mr. Malgeri asked if the Board could use a negative PERAC opinion in Ms. Sciandra's appeal; Mr. Sacco said yes. Mr. Malgeri stated he is inclined to vote in favor of sending an inquiry to PERAC. Upon a motion by Kevin A. Merz, seconded by Vincent R. Malgeri, the Board voted by roll call as follows: Mr. Malgeri, Yes; Mr. Merz, Yes; and Ms. Yaskell, No; That Counsel send a letter to PERAC about Elizabeth Sciandra's refund from our system and ask if PERAC believes that it's legal to put the money from the refund back in the system and allow a retirement.

**Litigation Strategy – Shawn Smith, Jr. v. Essex Regional Retirement Board (CR-19-053)**

*Mr. Merz returned to the meeting (10:59am).*

**Litigation Strategy – Worcester Regional and others v. PERAC (SJC-13137)**

Mr. Sacco gave a brief update on the Vernava case.

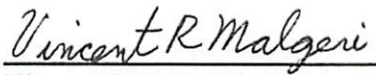
**Litigation Strategy – James Fernandes v. Essex Regional Retirement Board, CR-18-0378**

Mr. Sacco informed the Board that DALA affirmed the Board's decision to adjust Mr. Fernandes' creditable service to reflect that he is not entitled to creditable service for his time as a call firefighter for the Town of Amesbury.

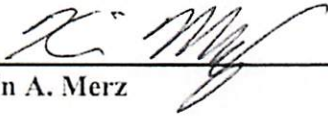
**To Exit Executive Session**

Upon a motion by Vincent R. Malgeri, seconded by Kevin A. Merz, the Board voted by roll call as follows: Mr. Malgeri, Yes; Mr. Merz, Yes; and Ms. Yaskell, Yes; To exit executive session.

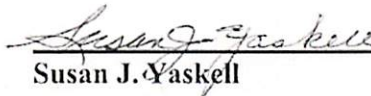
The Board exited executive session at 11:05 a.m.



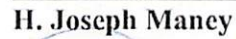
Vincent R. Malgeri



Kevin A. Merz



Susan J. Yaskell



Andrew J. Sheehan

The following documents were provided to the Board for the executive session:

Documents relating to the disability application of Michael White  
Documents relating to the disability application of Debra Rogers  
Documents relating to the disability application of Stephen Lee  
Counsel letter in the matter of Shawn Smith  
All Client Memo and document in the Vernava matter  
DALA decision and Counsel letter in the matter of James Fernandes



**ESSEX REGIONAL RETIREMENT BOARD  
EXECUTIVE SESSION  
July 25, 2022**

At an executive session held during the regular monthly meeting of the Essex Regional Retirement Board on Monday, July 25, 2022, which meeting was held at 491 Maple Street, Suite 201 at 8:50 a.m., the following Board members were present for all or some of the meeting: Vincent R. Malgeri, Kevin A. Merz, Andrew J. Sheehan (remote), and Susan J. Yaskell (H. Joseph Maney absent).

In attendance for all or some of the executive session were:

Charles Kostro, ERRS Executive Director (remote)  
Cassandra Green, ERRS Membership Coordinator  
Chris Collins, ERRS Counsel  
Eric Ryan, Member from Town of Groveland  
Leigh Panettiere, Counsel for Mr. Ryan

**Litigation Strategy – Kim DiOrio-McGonnell v. ERRB (CR-17-781)**

Mr. Collins gave an update on the case. Mr. Malgeri said he is inclined to pursue Option 2 as outlined in Counsel's memo to the Board and comply with the DALA remand and ask that PERAC convene a new medical panel to examine Ms. DiOrio-McGonnell pursuant to the Lung Law. Ms. Yaskell, Mr. Merz, and Mr. Sheehan agreed.

**To Exit Executive Session**

Upon a motion by Kevin A. Merz, seconded by Vincent R. Malgeri, the Board voted by roll call as follows: Mr. Malgeri, Yes; Mr. Merz, Yes; Mr. Sheehan, Yes; and Ms. Yaskell, Yes; To exit executive session.

The Board exited executive session at 9:10 a.m.

*The Board returned to open session 9:10am-9:26am.*

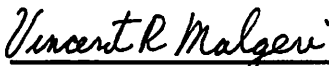


*Mr. Ryan and Ms. Panettiere left the meeting.*

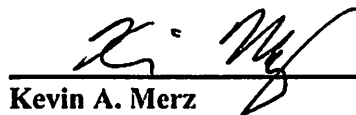
**To Exit Executive Session**

Upon a motion by Kevin A. Merz, seconded by Vincent R. Malgeri, the Board voted by roll call as follows: Mr. Malgeri, Yes; Mr. Merz, Yes; Mr. Sheehan, Yes; and Ms. Yaskell, Yes; To exit executive session.

The Board exited executive session at 10:02 a.m.



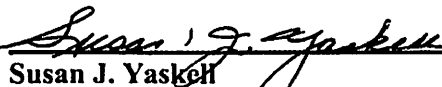
Vincent R. Malgeri



Kevin A. Merz

  
H. Joseph Maney

  
Andrew J. Sheehan



Susan J. Yaskell

The following documents were provided to the Board for the executive session:

Documents relating to the disability application of Eric Ryan  
CRAB decision and related documents in the matter of Kim DiOrio-McGonnell  
Transcript and post-hearing memorandum in the matter of Shawn Smith

**ESSEX REGIONAL RETIREMENT BOARD  
EXECUTIVE SESSION  
January 30, 2023**

At an executive session held during the regular monthly meeting of the Essex Regional Retirement Board on Monday, January 30, 2023, which meeting was held at 491 Maple Street, Suite 201 at 9:19 a.m., the following Board members were present for all or some of the meeting: Kathrine E. Carleton, Vincent R. Malgeri, Kevin A. Merz, Andrew J. Sheehan, and Susan J. Yaskell.

In attendance for all or some of the executive session were:

Charles Kostro, ERRS Executive Director  
Lori O'Donnell, ERRS Executive Assistant  
Chris Collins, ERRS Counsel  
Debra Rogers, Member from the Town of Hamilton  
Daniel Napolitano, Counsel to Ms. Rogers  
Harold White, Member from the Town of Merrimac  
Michael A. Torrisi, Counsel to Mr. White  
Eric Ryan, Member from the Town of Groveland  
Leigh Panetierre, Counsel to Mr. Ryan

**Debra Rogers — Disability Application**

#### **Eric Ryan – Disability Application**

Mr. Collins reviewed the findings from the medical panel and the Board voted to approve the accidental disability retirement application. Upon a motion by Vincent R. Malgeri, and seconded by Kevin A. Merz, the Board voted by roll call as follows; Ms. Carleton, Yes; Mr. Malgeri, Yes; Mr. Merz, Yes, Mr. Sheehan, Yes and Ms. Yaskell, Yes; To approve the application for accidental disability retirement for Eric Ryan, and to record this vote in the open session minutes of this meeting.

#### **Harold White – Disability Application**

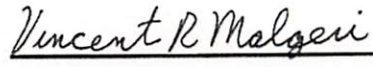
**Shawn Smith – DALA Decision**

**To Exit Executive session**


Upon a motion by Vincent R. Malgeri , seconded by Katherine E. Carleton, the Board voted by roll call as follows: Ms. Carleton, Yes; Mr. Malgeri, Yes; Mr. Merz, Yes; Mr. Sheehan, Yes; and Ms. Yaskell, Yes; To exit executive session.

The Board exited executive session at 10:54 a.m.

  
Katherine E. Carleton

  
Vincent R. Malgeri

  
Kevin A. Merz

  
Andrew J. Sheehan

  
Susan J. Yaskell

The following documents were provided to the Board for the executive session:

Medical panel reports and Counsel letter relating to the disability application of Eric Ryan

DALA decision and Counsel letter in the matter of Shawn Smith

Documents relating to the disability application of Debra Rogers

Documents relating to the disability application of Harold White

**ESSEX REGIONAL RETIREMENT BOARD  
EXECUTIVE SESSION  
March 27, 2023**

At an executive session held during the regular monthly meeting of the Essex Regional Retirement Board on Monday, March 27, 2023, which meeting was held at 491 Maple Street, Suite 201 at 8:50 a.m., the following Board members were present for all or some of the meeting: Tracy A. Blais, Kathrine E. Carleton, Vincent R. Malgeri, Kevin A. Merz, and Susan J. Yaskell.

In attendance for all or some of the executive session were:

Charles Kostro, ERRS Executive Director  
Lori O'Donnell, ERRS Executive Assistant  
Michael Sacco, ERRS Counsel  
Deann Shaw, Member of Triton Regional School District  
Tara Coyle, Member of Triton Regional School District  
Jane Keeler, Member of Triton Regional School District  
Robert Marino, Member of Middleton Police Department  
John Becker, Counsel for Robert Marino  
Casey Berkowitz, Counsel for Brian Murphy  
Paul A Nikas, Member of Ipswich Police Department  
Mary Gallivan, Member of Town of Ipswich

**Deann Shaw – Disability Application**

Mr. Sacco briefly reviewed the disability application with the Board, he informed the Board of the facts of the application and testimony of Ms. Shaw. Mr. Sacco instructed the Board that if Ms. Shaw's witnesses support her testimony, and her description of the incident, that Ms. Shaw went into the bathroom area for supplies-then the Board could move forward with the disability application. Mr. Sacco was clear that there had to be a work-related purpose for Ms. Shaw to be in the bathroom, that had she gone into the bathroom for supplies and not to use the restroom. Because there seemed to be some unanswered questions and two new Board members Mr. Sacco wanted to review Ms. Shaw's testimony.

Mr. Sacco invited Ms. Shaw, Ms. Coyle and Ms. Keeler into the meeting at 9:45 am. Mr. Sacco asked Ms. Shaw to recount the day she was injured. Ms. Shaw stated she was on bus duty, greeting the children as they come off the bus and was going to start to line the children up before they entered the school. She noticed the chalk spots were wearing out so she decided to go into the school to get some chalk to remark the areas. Ms. Shaw said that any IA (instructional assistant) usually does this so the children know where to line up. Ms. Shaw went into the preschool classroom on the first floor and directly into the bathroom, where the supplies are kept on shelves. Ms. Shaw retrieved the chalk and turned to go back outside when she slipped and fell outside of the bathroom on

on the carpet in the classroom. Ms. Shaw only remembers being helped by Ms. Tara Coyle who helped her up and brought her across the hall to the teacher's room where they filled out an accident report. Mr. Sacco addressed the report filled out by Nurse Frizzi that stated "employee reported she went into kids' bathroom to use it & slipped on water in front of sink. No witness to fall. Teacher reports she saw water after & wiped it up." Ms. Shaw said she would not use the bathroom in the



classroom. She said the classroom she went into is for preschool and kindergarten children so the toilets are very low to the ground. She stated that she walked by the teacher's lounge which has 2 "adult" bathrooms so there would not be a need to use the bathroom in the classroom. After the fall Ms. Shaw said the faculty wanted to call an ambulance but she did not want that so Ms. Shaw called her husband and he went and picked her up.

Ms. Shaw's first witness, Ms. Tara Coyle, was a permanent substitute at the time and she was in the classroom where the fall occurred. Ms. Coyle gave a brief description of the classroom and bathroom area. Ms. Coyle said she clearly remembers she was seated at a desk in the corner of the classroom, working on the computer with her back to the classroom when Ms. Shaw came into the classroom saying she was going into the bathroom for chalk. Ms. Coyle remembers hearing Ms. Shaw call her name and when she turned around, she was on the carpeted area of the floor. Although she did not see or hear Ms. Shaw fall, she can attest Ms. Shaw went thru her classroom to the bathroom to get chalk and fell outside of the bathroom on the carpeted area in the classroom. Ms. Coyle called for help and they helped Ms. Shaw up and brought her across the hall to the teacher's room. Ms. Coyle said she went into the bathroom and saw water on the floor in front of the sink and she wiped it up before the children came in.

The second witness, Ms. Jane Keeler, was a kindergarten teacher and recalled seeing Ms. Shaw on the day the injury occurred in the teacher's lounge. Ms. Shaw told her she had fallen and was waiting for her husband to come and pick her up. Ms. Keeler also said she confirmed that each classroom has the same format with a bathroom for the young children inside the classroom. She agreed that supplies are kept in each bathroom on shelves and she also knew that chalk is used outside to designate where the children should line up. Ms. Keeler said that the Instructional Assistants mainly use the chalk and that chalk is kept on the shelves in the bathroom within the classroom.

Upon a motion by Kevin A. Merz, seconded by Vincent R. Malgeri, the Board voted by roll call as follows: Ms. Blais, Yes; Ms. Carleton, Yes; Mr. Malgeri, Yes; Mr. Merz, Yes and Ms. Yaskell, Yes; That upon confirmation that all relevant medical records have been received, to request PERAC to appoint a regional medical panel for the purpose of examining the accidental disability retirement application of Deann Shaw and to record this vote in the open session minutes of the meeting. Ms. Shaw, Ms. Coyle and Ms. Keeler left the meeting at 9:45a.m.

#### **Robert Marino – Disability Application**

Mr. Sacco reviewed the findings from the medical panel and the Board voted to approve the accidental disability retirement application. Upon a motion by Vincent R. Malgeri, and seconded by Kevin A. Merz, the Board voted by roll call as follows; Ms. Blais, Yes; Ms. Carleton, Yes; Mr. Malgeri, Yes; Mr. Merz, Yes; and Ms. Yaskell, Yes; To approve the application for accidental disability retirement for Robert Marino, and to record this vote in the open session minutes of this meeting.

*Mr. Merz left the meeting at 9:59 a.m.*

#### **Brian Murphy – Disability Application**

Mr. Sacco gave a brief overview of the case, suggesting that the Board move to table the application

until next months Board meeting. Upon a motion by Vincent R. Malgeri, and seconded by Katherine E. Carleton, the Board voted by roll call as follows; Ms. Blais, Yes; Ms. Carleton, Yes; Mr. Malgeri, Yes and Ms. Yaskell, Yes; To table the disability application for accidental disability retirement for Brian J. Murphy, and to record this vote in the open session minutes of this meeting.

**Litigation Strategy – Raymond Barnes v. ERRB**

**Litigation Strategy – Hannon v. ERRB, GRB, & PERAC**

**Richard Shailor – DALA Decision**

**To Exit Executive session**

Upon a motion by Vincent R. Malgeri, seconded by Katherine E. Carleton, the Board voted by roll call as follows: Ms. Blais, Yes; Ms. Carleton, Yes; Mr. Malgeri, Yes; and Ms. Yaskell, Yes; To exit executive session.

The Board exited executive session at 10:38 a.m.

  
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Tracy A. Blais

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Katherine E. Carleton

  
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Vincent R. Malgeri

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Kevin A. Merz

  
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Susan J. Yaskell

The following documents were provided to the Board for the executive session:  
Documents relating to the disability application of Deann Shaw  
Documents relating to the disability application of Robert Marino  
Documents relating to the disability application of Brian Murphy

**ESSEX REGIONAL RETIREMENT BOARD  
EXECUTIVE SESSION  
May 22, 2023**

At an executive session held during the regular monthly meeting of the Essex Regional Retirement Board on Monday, May 22, 2023, which meeting was held at 491 Maple Street, Suite 201 at 9:18 a.m., the following Board members were present for all or some of the meeting: Tracy A. Blais, Kathrine E. Carleton, Vincent R. Malgeri, and Susan J. Yaskell.

In attendance for all or some of the executive session were:

Charles Kostro, ERRS Executive Director  
Lori O'Donnell, ERRS Executive Assistant  
Michael Sacco, ERRS Counsel  
Daniel Cena, Member of West Newbury Police Department  
Gary Nolan, Counsel for Mr. Cena

**Daniel A. Cena – Disability Application**

Mr. Sacco reviewed the disability application with the Board. He noted that the Board had the option to request clarification from the medical panel if it chose to do so. The Board discussed this issue but felt there was no need for clarification regarding whether further surgery was necessary. Mr. Cena and his Counsel entered the meeting. Upon a motion by Vincent R. Malgeri, seconded by Katherine E. Carleton, the Board voted by roll call as follows; Ms. Blais, Yes; Ms. Carleton, Yes; Mr. Malgeri, Yes; Ms. Yaskell, Yes; To approve the accidental disability application of Daniel Cena and that this vote be recorded in the open session minutes of the meeting.

**Daniel Soffron v. ERRB – Litigation Strategy**

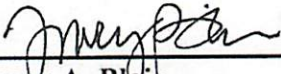
Mr. Sacco reviewed the case and stated that the appeal was upheld by the Division of Administrative Law Appeals.


**Richard Shailor v. ERRB – Litigation Strategy**

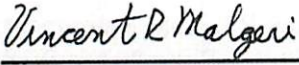
**To Exit Executive session**

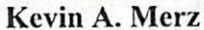
Upon a motion by Vincent R. Malgeri, seconded by Katherine E. Carleton, the Board voted by roll call as follows; Ms. Blais, Yes, Ms. Carleton, Yes; Mr. Malgeri, Yes; Ms. Yaskell, Yes; To exit executive session.

The Board exited executive session at 9:50 a.m.

  
Tracy A. Blais

  
Katherine E. Carleton

  
Vincent R. Malgeri

  
Kevin A. Merz

  
Susan J. Yaskell

The following documents were provided to the Board for the executive session:

DALA decision and Counsel memorandum in the matter of Daniel Soffron  
Opposition of Objections in the matter of Richard Shailor  
Documents relating to the disability application of Daniel Cena

**ESSEX REGIONAL RETIREMENT BOARD  
EXECUTIVE SESSION  
June 26, 2023**

At an executive session held during the regular monthly meeting of the Essex Regional Retirement Board on Monday, June 26, 2023, which meeting was held at 491 Maple Street, Suite 201 at 9:50 a.m., the following Board members were present for all or some of the meeting: Tracy A. Blais, Kathrine E. Carleton, Vincent R. Malgeri, Kevin A. Merz and Susan J. Yaskell.

In attendance for all or some of the executive session were:

Lori O'Donnell, ERRS Executive Assistant  
Michael Sacco, ERRS Counsel  
Harold White, Member from the Town of Merrimac  
Heidi White, wife of Harold White  
Michael A. Torrisi, Counsel to Mr. White

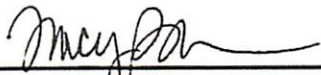
**Harold White – Disability Application**

Upon a motion by Vincent R. Malgeri, seconded by Tracy A. Blais, the Board voted by roll call as follows; Ms. Blais, Yes; Ms. Carleton, Yes; Mr. Malgeri, Yes; Mr. Merz, Yes; Ms. Yaskell, Yes; To approve the accidental disability application of Harold White and that this vote be recorded in the open session minutes of the meeting.

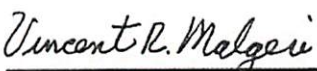
**To Exit Executive session**

Upon a motion by Kevin A. Merz, seconded by Vincent R. Malgeri, the Board voted by roll call as follows; Ms. Blais, Yes, Ms. Carleton, Yes; Mr. Malgeri, Yes; Mr. Merz, Yes; Ms. Yaskell, Yes; To exit executive session.

The Board exited executive session at 9:56 a.m.

  
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Tracy A. Blais

  
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Katherine E. Carleton

  
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Vincent R. Malgeri

  
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Kevin A. Merz

  
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Susan J. Yaskell

The following documents were provided to the Board for the executive session:

Documents relating to the disability application of Harold White

**ESSEX REGIONAL RETIREMENT BOARD  
EXECUTIVE SESSION  
July 24, 2023**

At an executive session held during the regular monthly meeting of the Essex Regional Retirement Board on Monday, July 24, 2023, which meeting was held at 491 Maple Street, Suite 201 at 9:09 a.m., the following Board members were present for all or some of the meeting: Tracy A. Blais, Katherine E. Carleton, Vincent R. Malgeri, Kevin A. Merz and Susan J. Yaskell.

In attendance for all or some of the executive session were:

Chuck Kostro, ERRS Executive Director  
Lori O'Donnell, ERRS Executive Assistant  
Chris Collins, ERRS Counsel (remote)

**Kim DiOrio-McGonnell – Disability Application**


Upon a motion by Vincent R. Malgeri, seconded by Kevin A. Merz, the Board voted by roll call as follows; Ms. Blais, Yes; Ms. Carleton, Yes; Mr. Malgeri, Yes; Mr. Merz, Yes; Ms. Yaskell, Yes. That upon confirmation that all of the required medical records have been received, to request PERAC to schedule a regional medical panel pursuant to the accidental disability application of Kim DiOrio-McGonnell pursuant to the decision of the Contributory Retirement Appeal Board issued on June 24, 2022, which affirmed the Division of Administrative Law Appeals decision ordering a new medical panel to evaluate Ms. DiOrio-McGonnell, and that this motion be recorded in the open meeting session of the minutes.

**To Exit Executive session**

Upon a motion by Kevin A. Merz, seconded by Vincent R. Malgeri, the Board voted by roll call as follows; Ms. Blais, Yes; Ms. Carleton, Yes; Mr. Malgeri, Yes; Mr. Merz, Yes; Ms. Yaskell, Yes; To exit executive session.


The Board exited executive session at 9:24 a.m.

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Tracy A. Blais

  
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Katherine E. Carleton

  
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Vincent R. Malgeri

  
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Kevin A. Merz

  
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Susan J. Yaskell

The following documents were provided to the Board for the executive session:

Documents relating to the disability application of Kim DiOrio-McGonnell

**ESSEX REGIONAL RETIREMENT BOARD  
EXECUTIVE SESSION  
October 30, 2023**

At an executive session held during the regular monthly meeting of the Essex Regional Retirement Board on Monday, October 30, 2023, which meeting was held at 491 Maple Street, Suite 201 at 10:08 a.m., the following Board members were present for all or some of the meeting: Tracy A. Blais, Katherine E. Carleton, Vincent R. Malgeri, Kevin A. Merz and Susan J. Yaskell

In attendance for all or some of the executive session were:

Chuck Kostro, ERRS Executive Director  
Lori O'Donnell, ERRS Executive Assistant  
Chris Collins, ERRS Counsel  
Brian Murphy, Member from Ipswich Police Department  
Casey Berkowitz, Mr. Murphy's Counsel

*Mr. Merz recused himself at 10:08 a.m.*

**Brian Murphy - ADR Application**



*Mr. Merz returned to the meeting at 10:29 a.m.*

### **Kim DiOrio-McGonnell – Disability Application**

Mr. Collins informed the Board the Contributory Retirement Appeal Board issued a request to PERAC to schedule a new regional medical panel after all medical records were received. The last records we have are from 2016, so a request was sent to Lahey Medical center to collect up to date records. ERRS received a bill from Lahey for over \$1000.00 for the records, so ERRS went to Ms. DiOrio-McGonnell's attorney and they refused to pay the fee. Mr. Collins tried to subpoena the records, but the bill increased to \$2500.00 for approximately 7 years of records. Mr. Collins said the Board's options are to pay the bill to obtain the records, which counsel does not recommend. Counsel's view is it is a voluntary application, she is applying for it, so it is her burden or case to prove-so she should pay for it. Mr. Collins said if ERRS pays for Ms. DiOrio-McGonnell's records, you have to pay for everyone's records moving forward. Counsel said ERRS could fight the subpoena, but then ERRS would have to file a complaint thru superior court, which is both costly and time consuming. Mr. Collins said he is advising the Board to take no action. It will be presented to Ms. DiOrio-McGonnell's attorney that because of the new medical panel, regulation requires new medical records and we will not process the application until the records are paid for and presented. Mr. Collins believes that Mr. Poser will appeal to DALA. Upon a motion by Vincent R. Malgeri, seconded by, Tracy A. Blais, the Board voted as follows; Ms. Blais, Yes; Ms. Carleton, Yes; Mr. Malgeri, Yes; Mr. Merz, Yes; and Ms. Yaskell, Yes; To authorize ERRS Counsel to notify Kim DiOrio-McGonnell that no further action on her application for an accidental disability retirement benefit will proceed until such records are in the possession of the Essex Regional Retirement Board, and to record this vote in the open session minutes of the meeting.

### **Refund**

Mr. Kostro explained that in May ERRS processed a refund in the amount of \$3249.91 for Mr. Cass. Mr. Cass called and said he did not receive his refund check. After some discussion, we realized that the check was mailed to the address on file, then found out that he had moved. Mr. Cass said that he was having his mail forwarded-so he would wait to receive it. Mr. Cass came into the office several weeks later to see if the check was returned to us because he still hadn't received it. On September 25<sup>th</sup> we told Mr. Cass we would stop payment and reissue a new check, but when we went to reissue the check, we showed the check was cashed on September 25<sup>th</sup>. Per Counsel's recommendation, Mr. Kostro went to the Danvers Police to report the incident. Eastern Bank confirmed it was cashed through a mobile application and they will pursue it with the bank that cashed the check. Once their investigation is completed, Eastern will deposit the funds into our account and we will issue a new check to Mr. Cass. The bank will not release any information to us, so we will wait until they deposit those funds.

*Mr. Kostro & Mr. Collins left the meeting at 10:48 a.m.*

### **Executive Director contract**

Mr. Merz said he asked to discuss Mr. Kostro's contract at the end of last month's meeting. Ms.

Blais said she would like to see comparable data because she has no idea whether ERRS is the best or the worst paid, and she would like to see where we land. Mr. Malgeri said that he and Mr. Maney negotiated Mr. Kostro's contract back in January 2022, it is for 5 years, with 2.5% increases every year and \$1000.00 per year for longevity. Mr. Malgeri also said on page 5 of Mr. Kostro's contract is a performance evaluation that is supposed to be done twice a year, but hasn't been done for about 3 years. Mr. Malgeri said he asked Mr. Kostro if he would like the performance evaluation removed from his contract, and Mr. Kostro said no. Mr. Malgeri said the Board approved this contract, and it is good until December of 2027. Mr. Merz asked the Board members if they would like to look at Mr. Kostro's contract, especially where ERRS has lost a few employees. Mr. Merz said, thinking about the Board, if we lose our top two people-where would the Board be? Mr. Merz said he remembers several years ago thinking that the executive director would be in a relative similar salary range as a town manager or administrator. Mr. Merz said he is not sure whether that is a great comparable or not. Ms. Blais agree, but thought it could also include similar jobs and salaries of other regional or town retirement systems, as well. Ms. Blais said these comparatives should also include the staff at ERRS to make sure we are staying competitive. Mr. Malgeri said he doesn't believe in giving a raise just to give a raise. Mr. Malgeri wants an analysis of what Mr. Kostro has done and not done, because there have been some bad things that have happened to our system and we can't just bury our heads. Mr. Malgeri said we have had bad hires, bad results, we have had "tweet gate," and there has been a lot going on. Mr. Malgeri said he not going to just give a raise without analysis of how Mr. Kostro is doing. Mr. Malgeri told the Board years ago there was a subcommittee, forms with a numeric rating, and in his perspective, he thinks we need to go back to that in place of just leaving things alone and going by a recently negotiated contract. Ms. Blais said that would require us to reopen Mr. Kostro's contract, and Mr. Malgeri said he is not going to just leave things alone. Mr. Malgeri also said that this should be done in open session per meeting law section 2. Ms. Yaskell said she is not in favor of opening Mr. Kostro's contract; she said it was recently approved and she thinks it is fair. She said the Board can still do comparisons of other systems. Ms. Blais suggested gathering the data and having that along with figures when it is time to renegotiate or give salary increases. Ms. Blais said she also thinks that ERRS is at a disadvantage because we do not do exit interviews. Mr. Merz asked who does exit interviews, and Ms. Blais said she does. Mr. Merz asked if someone does not like you, what do they do? Ms. Blais said they have a human resource board or an employee representative who is also available if they do not want to speak with me. Mr. Malgeri thinks the exit interviews should be done by the Board. Mr. Malgeri said he has spoken with many employees that have left ERRS; he says they are vocal now, but they may not have been vocal when they left. Ms. Carleton said the old adage is never burn a bridge, never say anything negative. Mr. Malgeri said this is exactly why we need a separate person doing our minutes. Ms. Carleton said she would like to take this opportunity to tell the other members how much she appreciates being on the Board, because there are many degrees of separation between what is going on in the workplace, and what you know as a Board member. Ms. Carleton feels if there are mechanisms in place where you can become more familiar, all the better to be effective as a Board member. Ms. Carleton says she knows a lot because she worked here, but she understands how hard it is for a Board. Ms. Blais said it is difficult because you don't want to upset the chain of command or step on anyone's toes, so it becomes a balancing act. Mr. Malgeri pointed out that our statute gives the Board and the Chair authority, where municipalities don't. Mr. Merz said that ERRS has had a lot of transition, and he would like to know why. Is it the culture, the salaries, flexibility of the job, other things, or just the environment we are in? Ms. Carleton said if Mr. Kostro's contract says we do evaluations and we don't, that is not right. Ms. Carleton said Mr.

Kostro is one of two in all of her career that did yearly evaluations, and I know that he believes in them. Mr. Merz said the Chair should ask for a copy of Mr. Kostro's contract to be included in a folder in the packet. Mr. Malgeri said that he was looking at PERAC's website, and for the jobs for retirement administrators, the pay is high. Mr. Malgeri thinks they are beginning to realize the value of retirement employees and the uniqueness of their knowledge. Mr. Merz added that in financial government positions, there are not enough qualified people for these positions. Ms. Blais said they are also struggling to fill positions, as well. Mr. Malgeri said that the town of Andover does not have trouble hiring, and the other Board members all agreed it is because of the salaries they offer. Mr. Merz said he is concerned if we lose our Executive Director or the Deputy Director, who is coming in here to fill in? Mr. Malgeri said he talks to other retirement administrators and he has three people who say they would take Mr. Kostro's job in a minute. Mr. Merz said he likes Ms. Blais idea to look at the contract, look at the evaluation, and get comparisons for Mr. Kostro's position and the ERRS staff.

**To Exit Executive session**

Upon a motion by Kevin A. Merz, seconded by Vincent R Malgeri, the Board voted as follows; Ms. Blais, Yes; Ms. Carleton, Yes; Mr. Malgeri, Yes; Mr. Merz, Yes; and Ms. Yaskell, Yes; To exit executive session.

The Board exited executive session at 11:26 a.m.

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**Tracy A. Blais**

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**Katherine E. Carleton**

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**Vincent R. Malgeri**

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**Kevin A. Merz**

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**Susan J. Yaskell**

The following documents were provided to the Board for the executive session:

Documents relating to the disability application of Kim DiOrio-McGonnell  
Documents relating to the disability application of Brian Murphy  
Documents relating to the issuance of a refund check