

## ESSEX REGIONAL RETIREMENT BOARD

November 26, 2018

At the regular meeting of the Essex Regional Retirement System (ERRS) held on Monday, November 26, 2018, at 491 Maple Street, Suite 201 at 8:30 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 meeting were:

Charles Kostro, ERRS Executive Director

Michael Sacco, ERRS Counsel

Christopher Locke, ERRS Member from the Town of Manchester

James Harris, Retired Member of ERRS

Nicole Dutra Grinnell, Partner, TA Realty

Luke Marchand, Dispositions Officer, TA Realty

Marty Hernon, Boston Millennia Partners

Michele Randazzo, Attorney for the Town of Rockport

Colleen Soares, ERRS Member from the Town of Rockport

John Becker, Attorney for Colleen Soares

John Horvath, Police Chief, Town of Rockport

Mitchell Vieira, Town Administrator, Town of Rockport

Board Chair H. Joseph Maney called the meeting to order at 8:32 a.m. The Board said the pledge of allegiance.

### Approval of Board Minutes

Upon a motion by Vincent R. Malgeri, seconded by Kevin A. Merz, the Board voted 5-0; To approve the minutes of the regular and executive session of the meeting of October 22, 2018.

### Public Comment Period

There were no public comments.

### New Enrollments

Upon a motion by Alan J. Benson, seconded by Vincent R. Malgeri, the Board voted 5-0; That the following named employees be enrolled in the Essex Regional Retirement System, a list of thirty-five names beginning with Catarina M. Angelo and ending with Jane W. Wuestkamp.

<u>Name</u>	<u>Unit Name</u>	<u>Department</u>	<u>Date</u>	<u>Group</u>
Angelo, Catarina M.	Manchester-Essex RSD	School	10/22/2018	1
Audano, Brian L.	Rockport	Library	07/01/2018	1
Baptista, Elizabeth	Triton RSD	School	11/06/2018	1

Belser, Jill E.	Pentucket RSD	School	08/16/2018	1
Bone, James W.	Ipswich	Building/Plumbing Insp.	10/15/2018	1
Casey, Denise Y.	North Andover	Town Admin. Staff	11/05/2018	1
Cook, Amanda F.	Pentucket RSD	School	09/04/2018	1
Desmond, Cole S.	Hamilton	Highway	10/24/2018	1
Doane, Christine L.	Wenham	Finance	10/22/2018	1
Fedullo, Joseph L.	Middleton	Police	10/09/2018	4
Frissore, Lauren E.	North Andover	School	08/29/2018	1
Hammond, Emma J.	North Andover	School	08/29/2018	1
Hutchings, Jr., Garry W.	Rockport	DPW	02/26/2018	1
Jop, Meghan C.	North Andover	Town Admin. Staff	11/05/2018	1
Keating, Kirk S.	Rockport	School	08/01/2018	1
Lacolla, Pamela F.	North Andover	School	10/15/2018	1
Lane, Heather M.	North Andover	School	11/01/2018	1
Mackey, Alex E.	Wenham	Highway	10/15/2018	1
Macomber, Mandy L.	Triton RSD	School	08/01/2018	1
Mazza, Suzanne D.	Pentucket RSD	School	08/27/2018	1
McDonough, Molly R.	Pentucket RSD	School	08/27/2018	1
McManus, Kerri A.	Pentucket RSD	School	09/24/2018	1
Moore, Patricia A.	Wenham	Finance Dir. & Staff	11/01/2018	1
Nicolosi, Jr. Dann R.	North Andover	Fire	10/15/2018	4
O'Brien, Brandon D.	Triton RSD	School	07/01/2018	1
Persson, Deborah L.	Middleton	School	10/01/2018	1
Raffalli, Jordan P.	North Andover	School	08/29/2018	1
Rowe, Michelle A.	Rockport	Police (Office Manager)	05/13/2018	1
Salib, Joanna M.	North Andover	DPW	10/29/2018	1
Sallade, Margaret M.	Lynnfield	Selectmen & Staff	11/01/2018	1
Stepasiuk, Tanya M.	Middleton	Town Admin. Staff	10/09/2018	1
Tucker, Bethany L.	Manchester-Essex RSD	School	10/26/2018	1
Turner, Lindsay M.	Newbury	Finance	09/13/2018	1
Velez, Stephanie A.	Masco RSD	School	08/23/2018	1
Wuestkamp, Jane W.	North Andover	School	10/11/2018	1

### New Retirements

Upon a motion by Alan J. Benson, seconded by Vincent R. Malgeri, the Board voted 5-0; That the following four members of the Essex Regional Retirement System be awarded superannuation retirement benefits calculated as follows:

1. Ricky A. Gould, D.P.W. Worker, Town of Middleton, Group 1  
Effective Retirement Date: September 18, 2018  
Monthly Retirement Allowance: \$2,722.77  
Annual Retirement Allowance: \$32,673.24

2. Raymond T. Santilli, Assistant Town Manager, Town of North Andover, Group 1  
Effective Retirement Date: September 30, 2018  
Monthly Retirement Allowance: \$6,479.85  
Annual Retirement Allowance: \$77,758.20
3. Tynne R. Sweeney, Foodservice Manager, Tri Town School District, Group 1  
Effective Retirement Date: September 15, 2018  
Monthly Retirement Allowance: \$1,044.81  
Annual Retirement Allowance: \$12,537.72
4. Corintha C. Thurlow, Accounting Assistant, Town of Ipswich, Group 1  
Effective Retirement Date: October 17, 2018  
Monthly Retirement Allowance: \$1,095.97  
Annual Retirement Allowance: \$13,151.64

#### **New Retirements – Disability Retirement**

Upon a motion by Vincent R. Malgeri, seconded by Kevin A. Merz, the Board voted 5-0; That the following member of the Essex Regional Retirement System be awarded an accidental disability retirement benefit calculated as follows:

1. Joseph P. Bourgeois, Head Custodian, Hamilton-Wenham RSD, Group 1  
Effective Retirement Date: July 12, 2017  
Monthly Retirement Allowance: \$3,090.48  
Annual Retirement Allowance: \$37,085.76

#### **Creditable Service Awards**

Upon a motion by Kevin A. Merz, seconded by Alan J. Benson, the Board voted 5-0; That the retirement system staff has verified that the required payments having been received, that the following members of the Essex Regional Retirement System be awarded creditable service as follows:

1. Colleen A. Cowher shall be granted late entry into membership and her enrollment date shall be changed to January 17, 2007, when she originally qualified for membership but did not have retirement deductions taken from her qualified earnings for her service with the Pentucket Regional School District.
2. Peter J. Nich shall be awarded five years of creditable service for the purchase of call firefighter service rendered from March 4, 2013 to March 3, 2018 with the Town of Ipswich.
3. Elaine M. Spiro shall be awarded eight months of creditable service for the purchase of prior non-membership service rendered from November 10, 2003 to April 30, 2005 with the Town of Boxford.

4. Doreen A. Yacubacci shall be awarded one month of creditable service for the purchase of her prior non-membership service from February 27, 2011 to June 18, 2011 with the City of Haverhill Public Schools as this service was rendered in a temporary, provisional or substitute capacity.

**Refund Warrant – November 2018 RT2018.11**

Upon a motion by Alan J. Benson, seconded by Susan J. Yaskell, the Board voted 5-0; To approve refund warrant RT2018.11 for November 2018, to refund, rollover or transfer the total accumulated deductions for seventeen members beginning with Donald R. Belanger and ending with Robert J. Burke, in the total net amount of \$386,932.52.

<b>Name</b>	<b>Type</b>	<b>Board or Institution</b>
Belanger, Donald R.	Transfer	Gloucester Retirement Board
Burnham, Kenneth H.	Erroneous Deductions	
DeNuzzio, Jr., Michael	Transfer	Haverhill Retirement Board
Fuller, David F.	Transfer	Lowell Retirement Board
Gongas, Rebecca A.	Withdrawal	
Gould, Ricky A.	Erroneous Deductions	
Herbert, Jamie L.	Withdrawal	
Hurley, Tara M.	Transfer	Andover Retirement Board
Jenkins, Kristofer	Transfer	Haverhill Retirement Board
Kohler, Jarred K.	Transfer	Marblehead Retirement Board
Lindahl, Justin A.	Transfer	Middlesex County Retirement Board
Lohnes, Karen A.	Transfer	Massachusetts Teachers Retirement System
Luciano, Gina	Transfer	Andover Retirement Board
Shomphe, Anne Reba	Withdrawal	
Silva, Cheryl A.	Withdrawal	
Silva, Cheryl A.	Rollover	Institution for Savings
Zahn, Denise	Transfer	Lawrence Retirement Board
Burke, Robert J.	Death Refund	
Burke, Robert J.	Death Refund	
Burke, Robert J.	Death Refund	
Burke, Robert J.	Death Refund	

### **October Retirees Payroll**

Upon a motion by Susan J. Yaskell, seconded by Vincent R. Malgeri, the Board voted 5-0; To approve the retirement allowances for the month of October in the actual amount of \$3,846,738.55.

### **November Retirees Payroll**

Upon a motion by Susan J. Yaskell, seconded by Kevin A. Merz, the Board voted 5-0; To approve the retirement allowances for the month of November in the estimated amount of \$3,880,000.00.

### **ERRS Payroll**

Upon a motion by Susan J. Yaskell, seconded by Vincent R. Malgeri, the Board voted 5-0; To approve the payment of the ERRS employee payrolls for October 26, 2018, in the amount of \$20,280.54, and for November 9, 2018 in the amount of \$18,405.55.

### **Cash Disbursement Warrant CD2018.10b**

Upon a motion by Alan J. Benson, seconded by Kevin A. Merz, the Board voted 5-0; To approve the Cash Disbursement Warrant CD2018.10b for the monthly transfer from the PRIT Fund as presented in the total amount of \$750,000.00.

<b>Date</b>	<b>Vendor</b>	<b>Amount</b>
10/29/2018	PRIM – Transfer to Eastern	750,000.00
	Total	750,000.00

### **Cash Disbursement Warrant CD2018.11**

Upon a motion by Alan J. Benson, seconded by Kevin A. Merz, the Board voted 5-0; To approve the Cash Disbursement Warrant CD2018.11 for November 2018 as presented in the total amount of \$18,601.21.

<b>Vendor</b>	<b>Amount</b>
Access Record Storage - Monthly Bill	351.02
ASI Flex - Administrative Fee	5.00
Carleton, Kathy - Mileage	18.14
Comcast	363.41
Town of Danvers, Danvers Electric - #201 - Monthly Fee	115.65
Town of Danvers, Danvers Electric - #202 - Monthly Fee	129.18
Group Insurance Commission	6,142.83
Harpers Payroll Services - 2018.10.24	83.85
Harpers Payroll Services - 2018.11.07	45.30

HCOPT - Condo Fee - 2018.12	1,498.00
HIQ Computers #119920 - Monthly Replication Fee	90.00
HIQ Computers #119787 - Various Remote Service	192.50
Kostro, Charles - PRIM Advisory Meeting	24.53
Law Office of Michael Sacco - Monthly Bill	3,655.00
Red Sun Press - Fall Newsletter	4,136.42
Red Sun Press - Envelopes	755.00
S.J. Cleaning Services - Office Cleaning - 2018.11	233.33
W.B. Mason Company, Inc. - Office Supplies	762.05
Total	18,601.21

### **Audit Agreement**

Upon a motion by Vincent R. Malgeri, seconded by Kevin A. Merz, the Board voted 5-0; To approve the agreement for Independent Financial Audit Services with Powers & Sullivan, LLC as presented pursuant to the vote of the Board taken at its meeting on October 22, 2018.

Kevin A. Merz left the meeting.

### **New Member Welcome Letter**

Upon a motion by Alan J. Benson, seconded by Vincent R. Malgeri, the Board voted 4-0; To approve the letter to new members of the Essex Regional Retirement System as presented.

Kevin A. Merz returned to the meeting.

### **Biennial Census**

Mr. Kostro said he recently met with staff to review operations and see what things could be done better or more efficiently. Many of the recommendations that came out of these discussions are on the agenda today. Mr. Kostro said that moving to a biennial census is one of those recommendations. He noted that the PERAC regulations require a census of retirees and survivors only be conducted every other year, but ERRS has for many years conducted a census on an annual basis. Mr. Kostro pointed out that the cost of conducting this census is in excess of \$1,500 per year. He also noted that completing the affidavits and getting them notarized or hand delivering them to the retirement system offices can be a burden on many retirees and survivors. Mr. Kostro said that if an affidavit is not returned as part of this census, the retiree or survivor's benefit is suspended until the individual is in compliance. He noted that this is a very stressful process for many retirees. Mr. Kostro also said that management improvements in recent years, such as the PBI notification service implemented approximately three years ago, is timelier and more efficient than the annual census process. Based on all of these considerations, he felt it would be more efficient for the Board and better for the retirees and beneficiaries if ERRS followed the

PERAC regulation and moved to a biennial census. Mr. Kostro noted that the census was last conducted in 2018. If the Board adopts this recommendation, the next census would be in 2020. Upon a motion by Alan J. Benson, seconded by Vincent R. Malgeri, the Board voted 5-0; Beginning on January 1, 2020, and no less frequently than once every two years thereafter, the Essex Regional Retirement Board shall require each member or beneficiary who receives a pension, retirement allowance or survivor's allowance to file with the retirement board an affidavit in accordance with the provisions of 840 CMR 15.01, and the retirement board shall withhold the retirement benefits of any member or beneficiary who fails to file the affidavit within the time prescribed below and shall pay any benefits withheld only upon receipt of the affidavit.

#### **Schedule of Affidavits:**

- Initial affidavits sent - On or about January 3<sup>rd</sup>.
- Deadline for return of the affidavits - On or about February 28<sup>th</sup>.
- Second notice sent - On or about March 15<sup>th</sup>.
- Deadline for return of the second notice - On or about April 21<sup>st</sup>.
- Final notice sent - On or about June 15<sup>th</sup>.
- Deadline for return of the final notice - On or about July 15<sup>th</sup>.

#### **Biennial Census Letter**

Mr. Kostro said that many retirees are very diligent about completing the census and often call if they have not received their annual affidavit. He was recommending sending a letter to all retirees and survivors now so that they will know that they will not need to complete this process in the upcoming year. Mr. Maney noted a typo in the proposed letter. Upon a motion by Vincent R. Malgeri, seconded by Kevin A. Merz, the Board voted 5-0; To authorize the Chair to sign the letter as amended to retired members and beneficiaries of ERRS as presented regarding the change to a biennial census.

#### **Report on Additional Leaking and Water Damage to Suite 202**

Mr. Kostro updated the Board on recent leaking in the same area in Suite 202 of the retirement system offices as occurred last year. The leaking is related to the installation of the new HVAC system for all of the buildings. This leaking appears to be related to the installation of the new line that goes through building 200 to provide heat and electricity to that building and building 300. He noted that the firm that did the installation was fired by the property manager and a new firm is handling the repairs. He noted that the repairs in Suite 202 are still on-going if Board members want to look at it after the meeting. Mr. Kostro also said that the property management firm has been very good about jumping on the leak as soon as possible.

#### **2019 Board Meeting Dates**

Mr. Maney requested to move the proposed date for the October 2019 meeting from the 28<sup>th</sup> to the 21<sup>st</sup> as he will be leaving for Florida on the 22<sup>nd</sup>. Ms. Yaskell asked how that

will affect the payroll for that month. Mr. Kostro indicated that the staff can work around the change in the schedule. He said that the only time an early meeting date in a month is an issue is usually in July and August which is when there are a lot of retirements. Upon a motion by Vincent R. Malgeri, seconded by Kevin A. Merz, the Board voted 5-0; To tentatively schedule the following dates for meetings of the Board in 2019:

Monday, January 28, 2019 @ 8:30 a.m.  
Monday, February 25, 2019 @ 8:30 a.m.  
Monday, March 25, 2019 @ 8:30 a.m.  
Monday, April 29, 2019 @ 8:30 a.m.  
Tuesday, May 28, 2019 @ 8:30 a.m.  
Monday, June 24, 2019 @ 8:30 a.m.  
Monday, July 29, 2019 @ 8:30 a.m.  
Monday, August 26, 2019 @ 8:30 a.m.  
Monday, September 30, 2019 @ 8:30 a.m.  
Monday, October 21, 2019 @ 8:30 a.m.  
Monday, November 25, 2019 @ 8:30 a.m.  
Monday, December 30, 2019 @ 8:30 a.m.

### **2019 Benefit Payroll Dates**

Upon a motion by Susan J. Yaskell, seconded by Kevin A. Merz, the Board voted 5-0; That the ERRS retirement benefit payroll dates in 2019 will be as follows:

January 31, 2019  
February 28, 2019  
March 29, 2019  
April 30, 2019  
May 31, 2019  
June 28, 2019  
July 31, 2019  
August 30, 2019  
September 30, 2019  
October 31, 2019  
November 29, 2019  
December 31, 2019

And, further, that henceforth all benefit payroll dates shall be on the last business day of the month unless the Board shall direct otherwise.

### **2019 Holiday Closing Schedule**

Mr. Kostro said that the proposed holiday schedule for 2019 is the same as it has been in the last several years and is consistent with the holidays listed in the Employee Handbook. He noted one change on the Friday after Thanksgiving. Mr. Kostro said that in 2019 the Friday after Thanksgiving is also the retiree benefit payroll date. If the office is closed that



day and any retiree or beneficiary has a payroll issue, no one will be available to assist them. He is proposing that the Friday after Thanksgiving be a floating day, where the office will be open and anyone who works that day can take any other day off throughout the year. Upon a motion by Susan J. Yaskell, seconded by Kevin A. Merz, the Board voted 5-0; That the retirement system office shall be closed for the following paid holidays in 2019:

1. Tuesday, January 1, 2019 – New Year's Day
2. Monday, January 21, 2019 – Martin Luther King Day
3. Monday, February 18, 2019 – President's Day
4. Monday, April 15, 2019 – Patriots' Day
5. Monday, May 27, 2019 – Memorial Day
6. Thursday, July 4, 2019 – Independence Day
7. Monday, September 2, 2019 – Labor Day
8. Monday, October 14, 2019 – Columbus Day
9. Monday, November 11, 2019 – Veteran's Day
10. Thursday, November 28, 2019 – Thanksgiving Day
11. Friday, November 29, 2019 – Floating Day
12. Wednesday, December 25, 2019 – Christmas Day

#### **Christmas Eve Office Closing**

Upon a motion by Susan J. Yaskell, seconded by Kevin A. Merz, the Board voted 5-0; That the retirement system office shall be closed at 12:30 p.m. on Monday, December 24, 2018.

#### **Employee Vacation Accruals**

Mr. Kostro reminded the Board that when all current ERRS employees were originally hired, they were credited for their prior work experience with the equivalent of five years of service, giving each new hire three weeks of vacation. Now that several employees have been with the retirement system for an additional five years, the employee handbook appears to indicate that they should receive an additional week of vacation. Several employees have recently asked him if they will receive the fourth week of vacation as described in the employee handbook. Mr. Kostro is seeking clarification that this was the Board's intention at the time these employees were hired, and further, if employees with five years of service can be granted the vacation time implied by the employee handbook. He also noted that the Board has granted this on at least one prior occasion when seeking to match an offer to an ERRS employee by another retirement system. Mr. Benson said that this is not offered in Boxford so he will not support it. Mr. Merz said that he is unaware of any towns in the system that do this and that towns are usually extremely strict with vacation time, and in the two towns he has worked in you don't get any vacation in the first year, and only two weeks of vacation after one year, and after that, you receive three weeks after five years and four weeks after ten years. He indicated that he is not one that wishes to give out additional service to somebody so he will not support this motion. Mr. Merz indicated that retirement system employees should receive benefits similar to those in the retirement system's units. Ms. Yaskell said that she viewed this as a way to keep good

employees without spending money. She felt that the retirement system will keep employees longer if the benefits are competitive with other places. Mr. Maney said he is in favor of this motion as once you give the employee the three weeks of vacation, when they reach the next milestone and you don't provide the time they have appeared to earn, it is almost like a take-a-way. Upon a motion by Vincent R. Malgeri, seconded by Susan J. Yaskell, the Board voted 3 members in favor, with Mr. Benson and Mr. Merz opposed; That solely for the purpose of accruing vacation leave, the Board does hereby credit the following employees with the years of service as listed below:

Katherine Carleton as of January 1, 2019, ten years of total service, including five-plus years of combined service with ERRS;

Traci Masterson as of October 7, 2018, ten years of total service, including five years of continuous service with ERRS;

Michael Nicolazzo as of July 16, 2018, five years of total service;

Scott Provensal as of November 4, 2018, ten years of total service, including five years of continuous service with ERRS.

Further, that the ERRS Employee Handbook is amended by adding at the end of the section entitled Vacation Leave, the following: As of January 1, 2019, the calculation of service time with the retirement system for the purposes of vacation accruals shall be based solely on continuous service. Any employee who leaves the employ of the retirement system and who shall later be re-employed, may not accrue additional vacation leave per the schedule as contained in the ERRS Employee Handbook, until a new five-year period of continuous, full-time employment has been served. If the service of an employee is interrupted by lay-off, military service, or other reason not resulting from the employee's own action, total service will be considered as continuous service. No exceptions to this policy shall be permitted except upon a vote of the Board. Further, no increase in the rate of vacation accrual for any employee of the retirement system shall be granted except upon a vote of the Board.

#### **Employee Handbook Amendment – Longevity**

Mr. Benson noted his support for longevity pay as he believes that this is what works to retain employees. He questioned why Mr. Kostro has excluded the Executive Director from being eligible to receive longevity pay in the draft motion. Mr. Kostro indicated that he was uncomfortable bringing this to the Board if he would then be eligible for one of these payments. He felt it would be better if he was excluded from eligibility for longevity pay. Mr. Benson said this exclusion in the motion should be deleted. Mr. Benson then questioned why it was limited to those employees with only continuous service. Mr. Benson indicated the section limiting longevity pay only to those employees with continuous service should also be eliminated. Mr. Merz advised that Ipswich does not give longevity pay but rather rolls it into the employees' pay schedules. Mr. Maney stated that he has never been in favor of longevity payments and he was not in favor of this motion.

Mr. Benson said that longevity payments are very determinative when people start to look at other employment opportunities. Mr. Malgeri asked for clarification as to when the individual has to be employed to receive the longevity payment. Mr. Kostro responded that the proposed amendment says that the longevity payment will be in the first pay of the new year. If you are not on the payroll at the time of that payment, Mr. Kostro said, you do not receive it. Ms. Yaskell said that she supported the provision requiring continuous service. Mr. Benson said that Boxford has longevity pay for everyone, from call firefighters to himself. Upon a motion by Alan J. Benson, seconded by Vincent R. Malgeri, the Board voted 4 members in favor, with Mr. Maney opposed; Effective as of January 1, 2019, an employee of the retirement system who has been in full-time or regular part-time employment shall be paid in addition to any salary or other compensation received, annual increments as follows:

<b>Length of Service</b>	<b>Payment</b>
Completed five years but less than ten	\$250
Completed ten but fewer than fifteen years	\$500
Completed fifteen years or more	\$750

The longevity payment is in the form of a lump sum. It is to be paid in the first payroll after the completion of the calendar year in which the employee becomes eligible. No payment shall be made under this section except upon a vote of the Board.

#### **Executive Assistant Hiring Status**

Mr. Kostro reviewed the status of the applications that have been received for the position of Executive Assistant. He said that after discussions with staff during the past month, it may be better to reorganize duties rather than continue forward with the current structure. He was hoping a couple of Board members could join him and meet with the staff to review duties and the current work assignments. Mr. Kostro said that this could lead to recommendations to the full Board on how best to re-organize the staff. Mr. Kostro noted that it has been four years since the last review of position descriptions and that it is probably time to do this again. Upon a motion by Alan J. Benson, seconded by Kevin A. Merz, the Board voted 5-0; To appoint Board members Susan J. Yaskell and Vincent R. Malgeri to work with the Executive Director to make recommendations to revise position descriptions for ERRS employees as this subcommittee shall deem appropriate.

#### **TA Realty**

Nicole Dutra Grinnell from TA Realty opened the presentation by noting that this is likely the last time she will appear before the Board. TA Realty has fully liquidated Fund IX and the fund has no assets remaining. She spoke to the process by which the fund will be wrapped up. There is a small amount of cash remaining as part of the close out of the fund and Ms. Grinnell believes this amount will be paid out in the first quarter of 2019.

The Board took a break at 9:18 a.m.

The Board returned to open session at 9:23 a.m.

**MGL C.32, §91A Hearing – James Harris**

Mr. Maney welcomed Mr. Harris to the meeting and noted that this hearing is being conducted in open session and if Mr. Harris needs to discuss any medical information relating to his disability application then he can request that we go in to executive session. Mr. Harris reviewed his injury and employment history. He also reviewed the history of his accidental disability application and he noted that the retirement system provided him with information that he had no earnings limitations after retirement. Mr. Harris further stated that he never applied for a regular retirement as he did not want to retire. He is upset to find that he owes \$21,000 and now has been informed that he has earnings limitations. Mr. Harris is appealing to the Board asking what he must do now. He indicated that had he known he would be limited in earnings after retirement he would not have taken a disability retirement. Discussion ensued about whether Mr. Harris could convert his ordinary disability retirement into a superannuation retirement and what other options the Board may have to address Mr. Harris' situation. Mr. Maney asked Mr. Kostro what options are available to the Board. Mr. Kostro noted that the calculation of what is owed under Section 91A is done by PERAC and the retirement board is obligated to collect under the statute. Mr. Kostro also said that he is unaware of anything that permits a member to change from an ordinary disability retirement to a superannuation. He suggested that the Board could contact PERAC to determine if there is a scenario where such a conversion would be permissible. Discussion ensued over Mr. Harris' work history. Mr. Merz questioned whether Topsfield has provided the correct salary information for Mr. Harris' former position. He suggested that Mr. Kostro follow up with Topsfield and see if there is an error in the reporting of the current salary. Mr. Malgeri asked if an installment plan was an option for repayment of 91A over-earnings. Mr. Kostro said that he has checked with PERAC and a re-payment plan is an option. He noted that two calculations are available for the Board's consideration, a three-year and a five-year repayment plan for Mr. Harris. Mr. Maney noted that the Board's options were limited. He felt the only two choices were a repayment plan or converting Mr. Harris' ordinary disability retirement to a superannuation retirement, which he did not think was possible but the Board could ask PERAC. The Board asked several questions about the history of Mr. Harris' retirement applications, which Mr. Kostro reviewed. Mr. Benson suggested that the Board commit to the five-year repayment plan, and that the Board further commit to pursuing with PERAC the option of converting Mr. Harris' ordinary disability to a superannuation retirement. Mr. Merz stated that he is still concerned about the salary being reported by Topsfield and that this issue should be looked at as well. Mr. Benson suggested that Mr. Harris does not need to come in next month, but the Board will look into whether there was an error in the salary reported by Topsfield, and whether his retirement can be converted. Depending on what information is obtained, the Board will then vote a five-year re-payment plan.

## **Boston Millennia**

Marty Hernon of Boston Millennia reviewed the performance of the two funds in which ERRS is invested. Both funds are still active but are winding down.

## **Gomes Decision & Purchasing Reserve Police/Call Firefighter Service**

Mr. Kostro reviewed the issue of whether payment needs to be made in order for a member to receive creditable service for reserve police and call firefighter service. He noted that every retirement board is struggling to understand what the law presently requires. Mr. Kostro reminded the Board that it is even more complicated for ERRS since the prior Board was charging for reserve police and call firefighter service when the statute required it to be credited at no cost to the member. He noted that prior to the MacAloney decision in June of 2013, this Board was in the process of refunding these payments. After MacAloney, ERRS needed to start charging members again and also needed to collect the refunds previously made. This past summer the Superior Court ruled in the Gomes matter that the service should be granted for free but the Contributory Retirement Appeal Board appealed the decision, so the litigation is still on-going. The question for the Board is, does ERRS continue to charge members for reserve police and call firefighter service or should it be awarded at no charge? Mr. Kostro further noted, that if the Board decides to award this service at no charge, the Board must then decide what will be done with those members who have previously paid for this service. Mr. Kostro said that he believes the best course is to treat everyone the same and if the Board is not going to refund all of the members who have previously paid, then he felt the Board should continue to charge members who wish to purchase this service. However, he recognizes that this position may not be legally tenable. Mr. Sacco stated that the appeal process will likely take until next May or June. He recommended against going all or nothing, as the law as it presently stands requires that it be awarded for free. Mr. Sacco said that given that the litigation is still underway, he understands and recommends that refunds not be made until the litigation is resolved. However, if the Gomes decision stands, the law would be affirmed as not requiring payment for reserve police and call firefighter service, so any member who paid for this service would then be due a refund. Mr. Kostro noted that there has not been any direction provided by PERAC on this issue yet. Upon a motion by Susan J. Yaskell, seconded by Vincent R. Malgeri, the Board voted 5-0; Pursuant to the recent decision of the Superior Court, it shall be policy of the Essex Regional Retirement Board effective as of December 1, 2018, that all new purchases of reserve police officer or call firefighter service shall be granted at no charge, but that no refunds of any prior payments for such service shall be made until all litigation involving such service has concluded.

## **Executive Session**

Upon a motion by Kevin A. Merz, seconded by Vincent R. Malgeri, the Board voted by roll call; Mr. Benson, Yes; Mr. Malgeri, Yes; Mr. Maney, Yes; Mr. Merz, Yes; and Ms. Yaskell, Yes; To move to executive session to act on the involuntary accidental disability application of the Town of Rockport for Colleen Soares and to remain in executive session

to discuss strategy with respect to litigation in the matter of the Essex Regional Retirement Board and others v. PERAC, and other pending litigation matters.

The Board entered executive session at 10:15 a.m.

The Board returned from executive session at 11:10 a.m.

While in executive session, the Board voted as follows:

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; and Ms. Yaskell, Yes; with Mr. Merz recused; That upon confirmation that all medical records have been received, to request PERAC to schedule a regional medical panel to examine Colleen Soares for the purpose of an ordinary disability application.

**Motion to Adjourn**

Upon a motion by Alan J. Benson, seconded by Kevin A. Merz, the Board voted 5-0; To adjourn the meeting.

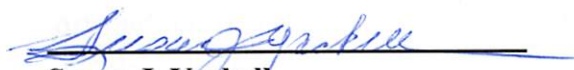
The meeting was adjourned at 11:11 a.m.

  
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**Alan J. Benson**

  
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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 materials were provided to the Board for items acted upon at the meeting:

Agenda  
Board Minutes  
New Enrollment List  
New Retirement Calculations  
Service Purchase Award Letters  
Monthly Warrants  
Audit Services Agreement  
New Member Letters  
Biennial Census Documents  
TA Realty Presentation  
Boston Millennia Presentation  
Over-Earnings Correspondence  
Gomes Decision Correspondence  
Water Damage Pictures  
ERRS Employee Handbook  
ERRS Unit Longevity Information

In addition to the materials provided to the Board for items acted upon at the meeting, the following documents were also provided:

Agenda Posting Checklist  
Ethics Compliance Tracking Report  
Executive Director's Schedule  
Levine Leichtman Fund IV Distribution Letter dated October 31, 2018  
Methuen Retirement Board Email  
Monthly Expenditure Report - October 2018  
PERAC Election Results Letter - Second Member  
PERAC Notice on Retirement System Share of Annual Appropriation  
PRIM - PEVY2019 Notice to Systems – 10292018  
PRIT Fund September Report  
Public Records Request  
Request to Suspend a Pension Benefit  
Retirement Boards Ranking by Funded Ratio