

STATE OF CONNECTICUT
STATE EMPLOYEES RETIREMENT COMMISSION
LEGAL & PERSONNEL SUBCOMMITTEE

MAY 13, 2020 MEETING
HELD VIA ZOOM
CONVENED AT 8:33 a.m.

Present:

Peter Adomeit, Chairman
Charles Casella, Trustee
Robert Coffey, Trustee
Michael Carey, Trustee
Cindy Cieslak, Commission Counsel, Rose Kallor
Michael Rose, Commission Counsel, Rose Kallor
Bruce Barth, Commission Tax Counsel, Robinson & Cole
Alisha Sullivan,
Commission Tax Counsel, Robinson & Cole
John Herrington, Retirement Services Division Director

Karen Vibert, LSR #00064

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1 (Proceeding commenced at 8:33 a.m.)

2 MR. ADOMEIT: I think we can call the
3 meeting to order. The first order of business would
4 be to approve the agenda. We need a motion for
5 that, please.

6 MR. CASELLA: So moved.

7 MR. COFFEY: Second.

8 MR. ADOMEIT: All in favor say aye.
9 Opposed nay. The ayes have it.

10 Then we need to go into executive
11 session. Is there a motion, please?

12 MR. CASELLA: Move to go into executive
13 session.

14 MR. COFFEY: Second.

15 MR. ADOMEIT: All in favor say aye.
16 Opposed say. The ayes have it.

17 MS. CIESLAK: Can someone just indicate
18 who is being invited into executive session?

19 MR. CASELLA: Attorneys Rose, Cieslak and
20 Barth. And I don't know. Is Alisha there?

21 MR. BARTH: Alisha is there.

22 MS. CIESLAK: John Herrington is also
23 here.

24 MR. ADOMEIT: He is? I didn't see him. I
25 have to extend the top to see that because I can't

1 see everybody at once.

2 (The Subcommittee went into executive
3 session from 83:33 a.m. until 9:44 a.m.)

4 MR. ADOMEIT: So we need some motions.

5 MR. CAREY: In the Rizzio matter, I move
6 that we recommend to the Commission to remand the
7 Rizzio case to the MEB.

8 MR. COFFEY: Second.

9 MR. ADOMEIT: Was there a second?

10 MR. CASELLA: Bob did it.

11 MR. ADOMEIT: Is there any further
12 discussion? Hearing none, all in favor say aye.
13 Opposed nay. The ayes have it.

14 MR. COFFEY: I can take the Panus motion.
15 I would move with regard to Panus matter that we
16 follow the recommendation of our legal counsel --
17 that we recommend, rather, to the Commission that it
18 follow the recommendation of our legal counsel and
19 reverse the correspondence that was sent to him in
20 2015 with a statement that said that the disability
21 application would be approved. So this motion is
22 that we reverse that correspondence.

23 MR. ADOMEIT: Probably -- Cindy, do we run
24 into problems with having a motion where we accept
25 the recommendation of counsel and simply state what

1 the recommendation is?

2 MS. CIESLAK: Generally -- so, there was
3 an attorney in a case unrelated to the Commission
4 that argued, essentially, when boards adopt advice
5 by the counsel that that advice is no longer
6 protected, and so we have generally stated that, you
7 know, it's better to just make a recommendation
8 without referring to counsel's advice; nevertheless,
9 I think ultimately, I also concluded that I can make
10 a very strong argument that your legal advice is
11 still protected, and we're in public session right
12 now, so I will leave it at that.

13 MR. ADOMEIT: All right.

14 MR. COFFEY: I don't have a problem with
15 amending of the motion, if that makes it easier to
16 remove that language.

17 MR. ADOMEIT: Go ahead, Bob.

18 MR. COFFEY: I'll just amend the motion to
19 remove the provision about following the
20 recommendation of legal counsel.

21 MR. CASELLA: I just was wondering if we
22 should -- rather than reverse it, we should rescind
23 it.

24 MR. COFFEY: I'll accept that as well.

25 MR. ADOMEIT: Thank you, Charlie. So

1 then, Bob, do you have a note on what the motion
2 will look like then?

3 MR. COFFEY: Yes. I would move that we
4 recommend to the Commission that we rescind the
5 correspondence that was sent to Mr. Panus stating
6 that his disability application would be processed;
7 therefore, his disability application will not be
8 processed.

9 MR. ADOMEIT: Is there a second?

10 MR. CASELLA: I'll second.

11 MR. ADOMEIT: Thank you, Charlie. All in
12 favor say aye. Opposed nay. The ayes have it.

13 MR. COFFEY: I'll take the motion with
14 regard to the MEB process. I would move that we
15 recommend to the Commission that anyone who appeals
16 an MEB denial based on the fact that they couldn't
17 appear to make a statement due to the virtual nature
18 of the MEB meetings will be able to be granted
19 reconsideration.

20 MR. CAREY: Second.

21 MR. ADOMEIT: Thank you, Mike. Thank you,
22 Bob. All in favor say aye. Opposed nay. The ayes
23 have it.

24 MR. ROSE: I should have jumped in because
25 I was waiting for discussion, but you might want to

1 limit that to the definition of an emergency as
2 defined by the governor so that this isn't open
3 ended.

4 MR. COFFEY: Okay. I will amend to
5 include that.

6 MR. HERRINGTON: Can I clarify on that
7 point? I guess that that's probably the prudent
8 course because that gives us a definitive end to it,
9 but there may be a possibility that, again, if
10 there's an end to the emergency, but we're still
11 dealing with this special population that it still
12 may be prudent that we don't allow all of those -- or
13 that this population, that they may have the
14 opportunity of going forward without actually
15 appearing before the Board, and their rights
16 shouldn't be impaired going forward, but I guess that
17 we could probably deal with that if we need to
18 account for some type of virtual meetings that would
19 occur after the conclusion of this emergency period,
20 as defined by the governor.

21 MR. ADOMEIT: Well, it may be an
22 emergency, I guess, or the State may continue to be
23 an emergency for some of these people who are
24 fragile, I assume.

25 MR. HERRINGTON: That's my concern. It's

1 whether, you know, there's something special for this
2 population that extends beyond the conclusion of the
3 existing executive orders, but perhaps that's not an
4 issue for us to decide today, that's an issue for us
5 to decide if we reach that situation in the future,
6 so perhaps a bit premature.

7 MR. CAREY: John, I think it's good to
8 think about. I would suggest that we stick to the
9 emergency period, but it may make sense, to, in the
10 long term, consider how to address situations in
11 which an applicant is unable to appear because of
12 health reasons, whatever those health reasons are.
13 I think we stick with the emergency period for now.

14 MS. CIESLAK: I will add that the motion
15 that was approved is not limited to the emergency
16 period. To the extent you want to revise the
17 Subcommittee's recommendation -- I hate to be a
18 stickler for rules, but I think you need to -- Mike,
19 correct me if I am wrong. I think you need to move
20 to have another vote or reverse the motion and then
21 take another vote. And I think the initial motion
22 to reverse and take another vote has to pass by
23 two-thirds.

24 MR. ROSE: Yes, that's right.

25 MR. ADOMEIT: I feel like I've just lost a

1 cricket game.

2 MR. ROSE: Bob would just move to withdraw
3 that motion. There would be a second, there would
4 be a vote, and then just give a new motion that
5 specifies for as long as the executive order's in
6 place.

7 MR. ADOMEIT: So it would be a motion to
8 withdraw, and then that would be voted on, and then
9 we would insert this other one? Is that what you're
10 saying?

11 MR. ROSE: Yes.

12 MR. COFFEY: I'll so move that the motion
13 that was just passed with regard to denials be
14 withdrawn.

15 MR. CASELLA: I'll withdraw my second.

16 MR. ADOMEIT: All in favor of withdrawing
17 it? Do we need a vote to withdraw?

18 MR. ROSE: Yes.

19 MR. ADOMEIT: All in favor say aye.
20 Opposed nay. The ayes have it.

21 MR. ROSE: Now a new motion.

22 MR. ADOMEIT: Okay. Thank you. A new
23 motion?

24 MR. COFFEY: I'm willing to make the
25 motion. Mike, can you give me the words with

1 respect to the emergency period that you want?

2 MR. ROSE: I would give it -- make it
3 broad and I would say for so long as the State is
4 under emergency management orders as defined by the
5 governor.

6 MR. COFFEY: I move that we recommend to
7 the Commission that for as long as the State is
8 under emergency-management orders from the governor
9 that anyone who appeals a denial from the MEB based
10 on the fact that they couldn't appear to make a
11 statement due to the virtual nature of MEB meetings,
12 be permitted to have the MEB reconsider their case.

13 MR. ADOMEIT: Is there any further
14 discussion on that? Thank you, Bob.

15 MS. CIESLAK: We need a second.

16 MR. ADOMEIT: We do. Can't discuss
17 without a second.

18 MR. CASELLA: Second.

19 MR. ADOMEIT: It's been moved and
20 seconded. Is there any further discussion? All in
21 favor say aye. Opposed nay. The ayes have it. Are
22 there any further motions we need?

23 MR. HERRINGTON: I just want a
24 clarification whether there is a motion in
25 connection with the VCP, because if there is one

1 lesson I've learned with respect to the 415 that the
2 Division certainly should not deprive the Commission
3 of the opportunity to weigh in on the applications.
4 So, with respect to that, that interest
5 determination, is the conclusion that the statute
6 clearly doesn't apply or is that something that
7 should be, you know, considered or presented to the
8 entire Commission?

9 MR. ADOMEIT: It's an entire Commission
10 matter.

11 MR. CAREY: Agreed.

12 MR. ADOMEIT: We're out of executive
13 session. Should we make a motion then, with that
14 recommendation to the Commission?

15 MS. CIESLAK: I would like to add that I
16 am preparing minutes for this meeting and I don't
17 know if we want to just have a full discussion in
18 executive session at the Commission level or if the
19 Subcommittee would like to make a recommendation.

20 MR. ADOMEIT: Subcommittee, what do you
21 want to do?

22 MR. CAREY: I think full discussion in
23 executive session at the Commission level.

24 MR. COFFEY: I think so, too.

25 MR. ADOMEIT: Okay.

1 MS. CIESLAK: So we'll place it on the
2 agenda.

3 MR. ADOMEIT: Yes, thank you. All right.
4 Are there any further motions that we need to make
5 coming out of this meeting? Hearing nothing, are we
6 in danger of adjourning?

7 MR. CAREY: Imminent danger. I move to
8 adjourn.

9 MR. CASELLA: Second.

10 MR. ADOMEIT: All in favor say aye.
11 Opposed nay. The ayes have it.

12 Thank you all. This has been a super
13 meeting. They all are. I love this committee.
14 Thank you so much.

15 (Concluded at 10:53 a.m.)

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1 STATE OF CONNECTICUT:
2 : ss: Bristol
3 COUNTY OF HARTFORD :

4 I, Karen Vibert, LSR No. 00064, a
5 Notary Public for the State of Connecticut, do hereby
6 certify that the preceding pages are an accurate
7 transcription of the Legal & Personnel Subcommittee of
8 the State Employees Retirement Commission meeting held
9 electronically via Zoom, convening at 8:33 a.m., on
10 May 13, 2020.

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19 Dated at Bristol, Connecticut,
20 this 16th day of May, 2020.

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24

Karen Vibert Karen
Karen Vibert, Notary Public
Commission expires: 8/31/2024



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