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

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

MR. CASELLA: So moved.

MR. COFFEY: Second.

MR. ADOMEIT: All in favor say aye.

Opposed nay. The ayes have it.

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

MR. CASELLA: Move to go into executive session.

MR. COFFEY: Second.

MR. ADOMEIT: All in favor say aye.

Opposed say. The ayes have it.

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

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

MR. BARTH: Alisha is there.

MS. CIESLAK: John Herrington is also here.

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

(The Subcommittee went into executive session from 8:33 a.m. until 9:44 a.m.)

MR. ADOMEIT: So we need some motions.

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

MR. COFFEY: Second.

MR. ADOMEIT: Was there a second?

MR. CASELLA: Bob did it.

MR. ADOMEIT: Is there any further discussion? Hearing none, all in favor say aye.

Opposed nay. The ayes have it.

MR. COFFEY: I can take the Panus motion.

I would move with regard to Panus matter that we follow the recommendation of our legal counsel -- that we recommend, rather, to the Commission that it follow the recommendation of our legal counsel and reverse the correspondence that was sent to him in 2015 with a statement that said that the disability application would be approved. So this motion is that we reverse that correspondence.

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

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

MR. ADOMEIT: All right.

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

MR. ADOMEIT: Go ahead, Bob.

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

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

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

MR. ADOMEIT: Thank you, Charlie. So
then, Bob, do you have a note on what the motion will look like then?

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

MR. ADOMEIT: Is there a second?

MR. CASELLA: I'll second.

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

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

MR. CAREY: Second.

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

MR. ROSE: I should have jumped in because I was waiting for discussion, but you might want to
limit that to the definition of an emergency as
defined by the governor so that this isn't open
ended.

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

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

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

MR. HERRINGTON: That's my concern. It's
whether, you know, there's something special for this population that extends beyond the conclusion of the existing executive orders, but perhaps that's not an issue for us to decide today, that's an issue for us to decide if we reach that situation in the future, so perhaps a bit premature.

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

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

MR. ROSE: Yes, that's right.

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

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

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

MR. ROSE: Yes.

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

MR. CASELLA: I'll withdraw my second.

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

MR. ROSE: Yes.

MR. ADOMEIT: All in favor say aye.

Opposed nay. The ayes have it.

MR. ROSE: Now a new motion.

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

MR. COFFEY: I'm willing to make the motion. Mike, can you give me the words with
respect to the emergency period that you want?

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

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

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

MS. CIESLAK: We need a second.

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

MR. CASELLA: Second.

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

MR. HERRINGTON: I just want a
clarification whether there is a motion in
connection with the VCP, because if there is one
lesson I've learned with respect to the 415 that the
Division certainly should not deprive the Commission
of the opportunity to weigh in on the applications.
So, with respect to that, that interest
determination, is the conclusion that the statute
clearly doesn't apply or is that something that
should be, you know, considered or presented to the
entire Commission?

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

MR. CAREY: Agreed.

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

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

MR. ADOMEIT: Subcommittee, what do you
wants to do?

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

MR. COFFEY: I think so, too.

MR. ADOMEIT: Okay.
MS. CIESLAK: So we'll place it on the agenda.

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

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

MR. CASELLA: Second.

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

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

(Concluded at 10:53 a.m.)
STATE OF CONNECTICUT:  
: ss:  Bristol

COUNTY OF HARTFORD:

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

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

Karen Vibert, Notary Public
Commission expires: 8/312024

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