

PUBLIC EMPLOYEES' RETIREMENT BOARD
100 North Park Avenue, Room 201
Helena MT 59601

Thursday, December 12, 2013

MINUTES

Scott Moore, President
Terrence Smith, Vice President
Bob Bugni, Member
Mike McGinley, Member
Melissa Strecker, Member
Timm Twardoski, Member
Sheena Wilson, Member

MPERA Staff

Roxanne Minnehan, Executive Director
Melanie Symons, Chief Legal Counsel
Patricia Davis, Member Services Bureau Chief
Kate Talley, Legal Counsel
Sarah Skubinna, Disability Examiner
Cynthia Pearson, Executive Assistant

Public

Sheryl Wood, MACo
Tom Schneider, MPEA
Jerry Williams, MPPA

Call to Order

President Scott Moore called the meeting to order at 9:00 a.m.

Roll Call

All members of the Board were present. President Scott Moore, Vice-President Terrence Smith, Bob Bugni, Mike McGinley, Melissa Strecker and Timm Twardoski participated via telephone. Sheena Wilson attended in person.

Public/Member Comment

There was no public comment.

Office Space

Roxanne Minnehan, MPERA Executive Director, presented a new, alternative option for accommodating the agency's need for office space for employees, on-site vendors and a new call center. She reported Board of Investments has recently contacted MPERA regarding potential interest in leasing a small amount of office space on the ground level of the IBM Building. Staff from MPERA have toured the space and believe it could help alleviate the agency's lack of office space and, potentially, reduce the need for the remodeling construction approved by the Board at its November 14 meeting.

Facts about the space include the following:

- The current tenants (IBM Corporation) are expected to vacate the offices in April 2014, with the space becoming available to MPERA sometime in May 2014.

- The Board of Investments intends to charge for a total of 1,676 square feet of space. Of that amount, approximately 1,292 square feet is usable office space and the remainder is common (public) space.
- The cost per square foot will be \$18.27.
- Lease payments will total \$30,620.52 annually.

The pros and cons of the space were discussed. Several Board members spoke in favor of putting employees from MPERA's computer system vendor, Sagitec, into the space for up to three years until their contract is fulfilled.

Motion: *Member Sheena Wilson moved to authorize MPERA to pursue questions with Board of Investments regarding the new option.*

Second: *Vice-President Terrence Smith*
No public comment.

Board members discussed the following points:

- *Moving the vendor to the ground level space could reduce the amount of remodeling for MPERA's main office and, thus, diminish disruption to MPERA's normal business.*
- *Maintaining the current Board Room—which was slated to be remodeled into two enclosed offices and additional cubicle space—would have a positive impact on MPERA's day-to-day operations as the room is frequently used by staff for meetings.*

Board members also raised several questions:

- *Would any remodeling be needed in the ground level space if it were leased? Ms. Minnehan said no.*
- *Would the Board of Investments be amenable to a shorter lease term, such as three years? Ms. Minnehan said the agency would make the request.*
- *Would the construction company be willing to agree to changes to the remodeling plan? Ms. Minnehan said yes.*

A majority of Board members expressed support for leasing the new space and changing the remodeling plan if Board of Investments would agree to a 3-year lease; otherwise, they would support continuing with the original plan.

Member Sheena Wilson said she believed MPERA could get answers from the Board of Investments quickly. If Board of Investments was not willing to negotiate the length of the lease term, then it would be clear to the Board that leasing this new ground level space would not be the correct decision.

Vice-President Terrence Smith said he hoped the Board of Investments would be willing to work with the Board and MPERA based on the organizations' ongoing relationship.

Vote: *6/1. Member Mike McGinley opposed. Motion passes.*

Lawsuit Update

Melanie Symons, MPERA Chief Legal Counsel, reported briefly on two lawsuits. Legal documents related to the cases--*AMRPE vs. State of Montana* and *Donaldson vs. State of Montana*—were included in the Board's packets.

Adjournment

President Scott Moore adjourned the open meeting at 9:25 a.m.

CLOSED MEETING SUMMARY

The following portion of the meeting relates to matters of individual privacy. The Board President determined that the demands of individual privacy clearly exceed the merits of public disclosure. As such, this portion of the meeting was closed at 9:25 a.m.

Member Bob Bugni requested to be excused from this portion of the meeting as he was out of state and had not received the meeting materials that were mailed to him.

Consent Agenda

- Disability Report
- Finalized Service Retirements/Death Benefits

Motion: *Member Sheena Wilson moved to approve the consent agenda as presented.*

Second: *Member Timm Twardoski*

Vote: 6/0

Disability Denial – LH

Sarah Skubinna, MPERA Disability Examiner, discussed the disability claim of LH. The claimant is a court reporter who has physical impairments that make it difficult to perform necessary job duties without specialized electronic equipment. LH's former employer did not provide such an accommodation.

Board members discussed that it was not the claimant's fault for being unable to continue working as a court reporter. The claimant's former employer did not provide necessary ADA accommodations. At this point in time, the claimant has only the option of filing a lawsuit against her former employer.

Kate Talley, MPERA Legal Counsel, said the case is a difficult one because the claimant made no request for accommodations when completing the disability claim form. Ms. Skubinna provided information supporting that the situation should be considered a request for accommodation because the claimant's employer was aware of the performance problems caused by the physical impairments. Ms. Talley clarified the Board could rule that reasonable accommodation was not available, but she cautioned that this issue will continue to arise in other disability claims.

The Board discussed whether the claimant would still be considered disabled even if the courtroom used special electronic equipment. Ms. Skubinna said it would be pure medical speculation. Although the claimant's issues are significant, it would be difficult to speculate how much longer he/she could have worked—perhaps only a few more months.

Motion: *Member Sheena Wilson moved to approve the disability claim of LH.*

Second: *Vice-President Terrence Smith (noting that the courtroom where LH works does not allow the specialized electronic equipment needed as an accommodation)*

Vote: 6/0.

Contested Cases

Legal Cases Update

Kate Talley, MPERA Legal Counsel, reported on the Fauque case.

Melanie Symons, MPERA Chief Legal Counsel, reported on three cases: Wrzesien/Ashton; Centers for

Mental Health; and AMRPE.

Adjournment

There being no further business before the Board, President Scott Moore adjourned the closed meeting at 10:00 a.m. The next regular meeting will be January 9, 2014.

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