

MEMORANDUM

To: Board of Selectmen
From: Joshua Ostroff
Date: January 30, 2009
Re: 2008-2009 Contributory Retirement Board election chronology

cc: Martha White, Town Administrator; David Given; Fred Witte

This memorandum will provide the Board with a chronology of recent events concerning elections for the Natick Contributory Retirement Board (CRB). I will bring a file of documents relating to the subject of this memo to our meeting of February 2, 2009.

1. On February 21, 2008 the CRB voted to appoint the Town Clerk as its Election Officer for the elections by the members of the system of the third and fourth members. These terms were to expire in June 2008 and December 2008, respectively. PERAC election guidelines suggest that the an Election Officer be appointed 3 months in advance of the Notice of Election; this appointment was made three weeks before the Notice of Election for the third member.
2. A Notice of Election posted on March 12 prominently stated that the incumbent, Robert Drew, would be a candidate for re-election. This notice was sent out by the Retirement System in the name of the Town Clerk; and not by the Clerk acting as Election Officer. PERAC was notified and directed the CRB to publish a revised Notice of Election omitting the prejudicial statement about the incumbent's candidacy.
3. Three candidates, including the incumbent, obtained nomination papers for the third member election; only the incumbent returned papers by May 16. Following procedure, the CRB declared the incumbent to be re-elected.
4. A Notice of Election for the Fourth Member was published in September.
5. Prior to any candidates being nominated, the Retirement System sent a mailing on behalf of the incumbent Fourth Member promoting his candidacy.
6. A challenger candidate requested and was denied independent access to the list of members of the retirement system. This denial was appealed to PERAC. Both candidates were afforded the opportunity to mail election materials to members through the Retirement System.
7. The company hired to prepare mail ballots for the fourth member election failed to include the required "inside envelope." A replacement ballot was mailed with instructions to disregard the previous ballot.
8. Following a count of mailed ballots on December 18, which resulted in the re-election of the incumbent fourth member, the challenger has appealed the election to PERAC.
9. On January 2, 2009, the term of the second member (appointed by the Board of Selectmen) expired, although MGL does not provide for a specific term of appointment.
10. On January 21, the CRB held a posted meeting attended by the four members, including the Board's appointed member. The Chair postponed the fifth member election because that individual was in court and unable to attend. Another prospective candidate for fifth member offered to attend, but was told he need not do so.
11. On January 26, on oral advice of counsel, the CRB determined that the second member was no longer a member. This advice was withdrawn following a brief recess.
12. On January 26 two voting members of the CRB voted to re-appoint the fifth member.
13. On January 26, the Board of Selectmen voted to file an injunction to overturn the CRB's January 26 vote on the basis that the CRB lacked a quorum for that vote.
14. On January 27, the Executive Director of PERAC sent a letter to the Chairman of the CRB invalidating the January 26 vote to appoint the fifth member. The CRB then posted a meeting for Monday, February 2, 2009.