

Berkshire County Retirement Board Meeting
April 30, 2025

The meeting of the Berkshire County Retirement Board was called to order at 9:00am, in the Berkshire County Retirement Office, located at 29 Dunham Mall, Pittsfield, MA. Present at the meeting were Michael Ovitt, Chairman, Mark Bashara, Elected Member, Timothy Sorrell, Elected Member and Ericka Oleson, Advisory Board member. Beth Matson, Appointed member participated remotely. Thomas Gibson, and Gerry McDonough, Legal Counsel also participated remotely @9am.

Executive session item #4 was taken out of order. Present for the executive session: Michael Ovitt, Mark Bashara, Timothy Sorrell and Ericka Oleson, all in person. Participating remotely Beth Matson. Thomas Gibson and Gerry McDonough, Legal Counsel participated remotely. All remote participants attested to their location and privacy.

A motion was made by Mark Bashara to enter into executive session, second by Ericka Oleson. A roll call vote was taken to enter into executive session, the vote was unanimous. The Board entered executive session @ 9:12am.

NEW BUSINESS:

4.) Executive Session: under Purpose 7 of the Open Meeting Law: To comply with Exemption (c) of the Public Records Law (G.L. c. 4, s. 7(26)(c)) exempting information and other materials or data relating to a specifically named individual, the disclosure of which may constitute an unwarranted invasion of personal privacy. RE: -ADR K Degrenier

The Board returned to regular session at 9:43am.

The Chairman announced that a vote was taken by the Retirement Board to approve the ADR benefits for Kurt Degrenier, SBRSD.

Consent Agenda Detail:

MINUTES:

a.) The Board minutes of the regular meeting held March 26, 2025 were signed and approved.

Minutes provided as an attachment to email

INVESTMENTS:

b.) The Board received from PRIT a statement of performance for March 2025. The PRIT Fund returned -1.59% for the month of March.

BANK STATEMENTS:

c.) The Board received the bank statements for March 2025 and the budget for April 2025. *Cash Books for March were sent to Board by email.*

MONTHLY WARRANTS:

d.) The Board approved payment vouchers:

04-01-2025	\$ 41,304.43
04-02-2025	\$ 14,403.59
04-03-2025	\$ 28,116.46
04-04-2025	\$ 24,282.21
04-05-2025	\$ 1,811,219.97

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REQUESTS FOR RETIREMENT:

e.) The Board approved the application for superannuation retirement from Linda Vermilyea, BHRSD, Paraprofessional. The retirement will be effective 6/16/2025.

The Board approved the application for superannuation retirement from Valerie Campbell, CBRSD, Paraprofessional. The retirement will be effective 6/17/2025.

The Board approved the application for superannuation retirement from Robert Taylor, SBRSD, Custodian/ Maintenance. The retirement will be effective 6/30/2025.

MEMBER TRANSFERS OUT OF SYSTEM:

f.) The Board approved the notice of transfer of the account of Connie C Gott, a member in SBRSD to the MTRS. The Berkshire County Retirement Board will accept 5 years and 9 months of creditable service. The amount of the transfer is \$12,779.57.

The Board approved the notice of transfer of the account of Roshanda L Yates, a member in BCRHA to the State Retirement Board. The Berkshire County Retirement Board will accept 4 months of creditable service. The amount of the transfer is \$1,624.02.

REQUEST FOR SERVICE BUYBACK:

g.) Jodi Hostetter, a member in Washington, is eligible to buy back 6 years and 7 months of prior creditable service. If Ms. Hostetter pays \$26,213.94 into the annuity savings fund by May 30, 2025, the board will grant 6 years and 7 months creditable service.

Robert Taylor, a member in SBRSD, is eligible to buy back 3 years and 11 months of military service through Chapter 178 of the Acts of 2024, veteran's buyback. If Mr. Taylor pays \$13,032.82 into the annuity savings fund by August 8, 2025, the Board will grant 3 years and 11 months of creditable service.

Benjamin Towne, a member in Lee, completed a 4(2)b buyback (Reserve Police Officer Part time service) on 2/26/2025. In reviewing the buyback calculation, it was determined that the original service amount calculated was incorrect. The original service credited to Mr. Towne's account was 1 year and 2 months. However, after reviewing and recalculating the buyback, the correct service credited to Mr. Towne's account should have been 2 years and 2 months. The board will approve the adjustment of creditable service for the buyback to grant Mr. Towne 2 years & 2 months of creditable service for Mr. Towne.

Jason Hopkins, a member in Lee, is eligible to buy back 5 years of prior creditable service as a reserve police officer under Chapter 4(2)(b) . If Mr. Hopkins pays \$3,176.58 into the annuity savings fund by May 30, 2025, the board will grant 5 years of creditable service. (Recalculation for previously approved buyback. Original Amount of service, 1 year and 8 months, calculated was incorrect.)

REQUESTS FOR REFUNDS:

h.) The Board approved the applications for refunds from the following members: (Pending approval from Dept. of Revenue- child support division)

Trisha Rose Carlo	Lanesborough	\$1,112.67
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Monica Dingman	Lee	\$387.26
Todd Krutiak	Savoy	\$7,219.58
Cayla Love	CBRSD	\$2,971.68
Patricia Mele-Nichols	Dalton	\$9,588.24
Rodolfo Rivera Jr.	Richmond	\$2,447.38
Mary Ann Rosa	Lee	\$1,282.63
Dustin Stalker	Egremont	\$7,168.90
Deborah Stile	Gt. Barrington	\$6,898.88
Ericka Turgeon	MGRSD	\$1,161.05
Sue Warner	MGRSD	\$2,219.35

INJURY REPORTS:

i.) There were no injuries reported for the month of April.

NEW MEMBER APPLICATIONS:

j.) The Board approved for membership in the Berkshire County Retirement System the following members:

8108	Stephanie Maschino	Lenox	3/17/2025	Paraprofessional	1
8109	Heather Bilotta	Lee	3/17/2025	Kitchen Manager	1
8110	Anthony Barrett	MGRSD	3/10/2025	Cafeteria Assistant	1
8111	Alexandria Capen-Parizo	Otis	3/24/2025	Police Officer	4
8112	Dugana C. Celestin	BCRHA	3/25/2025	Service Coordinator	1
8113	David G. MacDonald	BCRHA	3/31/2025	Manager	1
8114	Daniel Stephenson	Lanesborough	4/14/2025	DPW Laborer	1
8115	Kathy Anker	Stockbridge Housing	5/1/2025	Service Coordinator	1
8116	Mark Delsignore	Great Barrington	4/22/2025	Transit Operations Director	1
8117	Aurora Sjostrom	Dalton	4/14/2025	COA Admin. Asst.	1
8118	Lauren Mcallister	Clarksburg	3/25/2025	Kitchen Worker	1

RETIREMENT ALLOWANCE APPROVALS:

k.) The Board received approval from PERAC to grant a retirement allowance to Karen Tonelli, Peru, as of 2/28/2025. Annual pension amount is \$61,913.28.

3(8)c REIMBURSEMENTS:

l.) The Board received a letter from PERAC ordering the Berkshire County Retirement Board through the provisions of MGL Sec 3(8)(c) to reimburse the Teacher's Retirement Board \$1,338.61 a year toward the retirement allowance of Shannon Nichols.

PERAC CORRESPONDENCE:

m.) The Board received from PERAC the following memorandums:

- #12/ 2025 Recent Investment Fraud Attempts
- #13/ 2025 Extension of Open Meeting Law Waivers
- #14/ 2025 Mandatory Retirement Board Trainings 2nd Quarter 25

Note: Copies of memorandums and letters given to each Board member

TRAVEL & EDUCATION APPROVALS:

n.) The Board approved the travel expenses board members and staff to attend the spring MACRS Conference in Hyannis June 1, 2025 thru June 4, 2025.

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MISCELLANEOUS CORRESPONDENCE:

o.) -PRIM operation and performance letter

-PRIM Client Advisory Council power point presentation

Michael Ovitt: Has PRIM issued any advisories with the market condition?

Sheila LaBarbera: I participated in one of our advisory group meetings. I included the PowerPoint presentation for you to read. The message that they are sending is that they are going to stay the course. They are not making any huge adjustments. They just set their asset allocation again in February. The markets are reacting somewhat to what is happening in the political arena, but they are not making any major changes right now to their asset allocation. If they decide to change, they will obviously notify everybody but they did do that knowing the economic implications of the politics right now.

Michael Ovitt: And looking at performance, it looks like it is down \$6.1 million. Is there a percentage or anything?

Sheila LaBarbera: Back page. It gives you the four percentages.

Michael Ovitt: So where is the performance?

Sheila LaBarbera: I think it is the first column. There is the actual month, fiscal year to date '25 calendar year.

Michael Ovitt: 1.59%. I got it. Okay. That is for March?

Sheila LaBarbera: Yes.

Michael Ovitt: Can you just touch base on the status of the veterans' buyback? Are they still pending? Are they still eligible to file?

Sheila LaBarbera: The first group are eligible to file through August 8, 2025, the members that were in the system that got their second chance to buyback. They have to make a payment or have completed by August 8, 2025. Then it is just ongoing for the others as they reach their ten-year mark.

Michael Ovitt: Do we have a checklist of all the people that were on our radar?

Sheila LaBarbera: Yes, Brian does. I think everyone that had the opportunity to take it has. Now it is just a matter of making sure that they have a payment in by August.

A roll call vote was taken to approve the consent agenda as presented, the vote was unanimous.

2.) The Board is asked to approve a 3% COLA for retirees who retired before June 30, 2024. COLA will be effective July 1, 2025. *Notice to Advisory Board was provided on March 27, 2025.*

Mark Bashara: I will make a motion to approve the 3% COLA to take effect July 1, 2025.

Beth Matson: I second that motion.

Michael Ovitt: We have motion and second. Any discussion? All in favor of the 3% COLA for the retirees.

Ericka Oleson: Sheila, do I need to do anything since I am on the Advisory Board?

Sheila LaBarbera: No. You are fine.

A roll call vote was taken to approve the 3% COLA for retirees who retired before June 30, 2024, the vote was unanimous.

Michael Ovitt: And Michael Ovitt, aye. And the COLA base is currently –

Mark Bashara: 16.

Sheila LaBarbera: \$16,000 and we have not gotten any results yet.

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Mark Bashara: We still have not. Okay.

Michael Ovitt: Okay. We do not have to mention that. That is just what –

Sheila LaBarbera: Exactly. It will continue to remain on the first \$16,000.

Mark Bashara: And when you checked with them regarding that, they just have not gotten to it yet.

Sheila LaBarbera: Yes, They are just still working on it.

Mark Bashara: That is fine. All right. Thank you.

3.) The Board considered the request from Erik Forsberg to change his membership date from September 2, 1997 to August 21, 1997.

Thomas Gibson: Gerry briefly about the Erik Forsberg case.

Gerry McDonough: In this case, Mr. Forsberg had a hire date. He got a letter saying he was hired but he had a start date in September. He is trying to get the date of the appointment letter as the date of his entry into membership in this system. You cannot start your membership or get service for membership until you actually perform services and are paid for those services. There is no basis as far as I can see to anything in his claim.

Michael Ovitt: Your starting date of present service is your membership date not your appointment date?

Thomas Gibson: Correct. We really do not understand what his argument is because the letter that he presented to us in support of his claim says that he is going to start work in September. The letter is dated August 21, 1997. That's the date of his being hired or appointed and it may well be that the seniority purposes within the department that that would be useful for him in having more seniority but it's not going to change his date of membership as a member of the retirement system. The evidence in this case is even less than the one in Ms. Mandel's case. There is not even any payroll records for this individual showing that he worked before the membership date on his enrollment form. We recommend that the Board deny his application. We need to provide him notice of appeal rights and take it from there. I am hoping he will not have an appeal because frankly, I do not see what merits - that letter is not going to be something that is going to sway a magistrate to change his date of membership into the retirement system for sure.

Michael Ovitt: Okay, I would look for a motion.

Mark Bashara: I will make a motion to deny Erik Forsberg's application to change the membership.

Timothy Sorrell: I will second that.

Michael Ovitt: We have motion and second. Any further discussion? All in favor of denying the change of membership date.

A roll call vote was taken to deny the request for a change in membership date, the vote was unanimous.

A letter stating his right to appeal will be sent certified mail.

5.) Legal Update: Presented by Board Counsel Thomas Gibson
PERAC Remand for K Larkin

Michael Ovitt: So, the legal update for Kevin Larkin.

Thomas Gibson: We will do Mr. Larkin first and we will try not to get into any medical issues so that we would not need to go into executive session. We just want to report that the Board will recall that we had approved his application for ADR. PERAC then remanded it to us with recommendations. We contacted Mr. Larkin. He provided some information to us.

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It was five pages, but frankly, the assistance was minimal in that submission from Mr. Larkin. Nevertheless, we then followed the PERAC remand and asked Dr. Cutler and Dr. Lurie for clarifications on their – Dr. Cutler and Dr. Lurie's. We asked them for clarifications. The clarification requests went into Prosper. As you have to put all of these things into Prosper now, and we are waiting for the responses from the medical panel. Once those responses come back and the Board can review the answers to the questions that PERAC wanted brought up to the panel majority, we will then be in a position to revote on this particular case.

Discussion of Board Bylaws

Michael Ovitt: The discussion of board bylaws.

Thomas Gibson: That has been around for a while. If I remember correctly, we had presented a draft. We had done a draft for some other retirement boards. It was essentially taking some of what the statutory requirements are for the Board and then having a more formal process for voting for the vice chairperson of the board in the case the chairperson is unable to act. We had put that together for the Board's review and comment and to marshal any questions that the Board members may have on that.

Sheila LaBarbera: I did not know if that was just going to be an ongoing – I left it on the agenda because I did not hear from any board members.

Timothy Sorrell: Can we have it on the agenda for a formal vote after we have reviewed them? As we said, we want to be able to get something in there to have a formal process for the vice chair.

Michael Ovitt: I believe it started as a result of the remote participation possibilities, and that issue has been taken care of, but certainly if you want to review it for next month?

Timothy Sorrell: Can you get those to us again, Sheila?

Sheila LaBarbera: Yes.

Mark Bashara: And remote was extended, right?

Thomas Gibson: Yes. That is part of our legal update. Chapter 2 of the Acts of 2025 extended the current waiver of the Open Meeting Law requirements through June 30, 2027. We have another reprieve now, the same operations that we've been doing since March of 2020, we are now allowed to meet remotely, a hybrid, so what the Board is doing now they can continue to do for another two years. If something would take you away from the board meeting from the boardroom, you can participate remotely. There are no requirements that anyone be actually physically present at the board meeting, any board member. As long as you provide public access, public viewing, and participation, then you're all set for another two years.

Timothy Sorrell: Tom, if I can. The only issue with that was the Chairman cannot run the meeting remotely, correct?

Thomas Gibson: Now he can run the meeting remotely. Under the old law, under the existing law, the Chairman had to be physically present along with a quorum of the Board in the board meeting and then the other two members could participate remotely as long as there is a physical quorum present as there is now in the Berkshire County Retirement Board Meeting today. If for some reason, Mark was stuck in a snowdrift somewhere out in Berkshire County and could not make it in, he could certainly run the meeting remotely.

Mark Bashara: And that is applicable through July around here. It could come in handy.

Timothy Sorrell: The next meeting.

Michael Ovitt: From Mt. Greylock.

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Mendel case

Gerry McDonough: I already mentioned in the Lisa Mandel case that we had the hearing. We have submitted the briefs last Friday, so we are just waiting for a DALA decision. I have no idea how long that will take. We are cautiously optimistic, but we will have to wait to see what happens. The magistrate is kind of a finicky person, and he is making some changes in the law. You go into a hearing sometimes and you know what the law is and you feel very strongly about it, but sometimes the magistrate will completely take a brand-new look at the underlying law, so we don't know what he's going to do with it, but we're cautiously optimistic about the Mandel case, the outcome of that.

Recent CRAB decision

Some other issues are going on that the Board may want to know about. There was a CRAB decision that was reported on the front page of Lawyers Weekly. Lawyers Weekly is the weekly publication for lawyers that we keep up-to-date in all the changes in the law and decisions that are issued. It is rare that we will see a front-page article on Lawyers Weekly about a public employee retirement case, and the last issue of Lawyers Weekly had a story about a CRAB case. This case has been talked about at different MACRS conferences. It is about people- are they in the performance of their duties when they are going from one place to another place?

In this case, the woman who worked for the Department of Public Health was at a conference that she was required to attend. After the conference, she and some of the other people went out to lunch where they talked about things that happened in the conference and then they continued to discuss some of those issues in the parking lot. Then she drove back to the office, and on her way into the office in her car, another vehicle struck her, and she was killed in that accident. Her spouse filed a claim for accidental death benefits, the DALA decision was that she was in the performance of her duties, and CRAB overruled that and said, no, she was not in the performance of her duties because she was coming from a place where she had lunch to the workplace. The stopping for lunch regardless of what was discussed at lunch was not the performance of her duties. It was only incidental to her job. That is an interesting case. We will wait to see if that is going to be appealed to the Superior Court.

There are people like PERAC auditors, for example, who almost always will start their day in the office. They will go to the PERAC office and then drive to their assigned location. They want to in case there is an accident that happens if they drove from their home to their first audit assignment and they got into a serious accident they would not be covered. PERAC auditors they use enough foresight so that they will be covered in the case of any accidents like that. That is a case we are waiting to see what comes out of the Superior Court, and they will probably go up to further appeals courts with that.

Michael Ovitt: Gerry, the PERAC auditors, is that acceptable?

Gerry McDonough: Yes, if they start their day in the workplace and then they sign in at work and they may look at their emails or anything like that and then go to their workplace assignment that is sufficient. It has never been tested, but that is sufficient. You know, there have been many cases where people were on their way. There are people like visiting nurses who do not go to their home office location at the beginning of the day or people who work for the Department of Children and Families and are looking at foster kids and things like that. If they go from their home to their first assignment and if they are injured on the way to

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that first assignment, they are not in the performance of their duties even though they are traveling to a place that they have been assigned to go to. It is a controversial kind of issue, but this keeps us lawyers fully employed.

Stipends

Gerry McDonough: Another issue that is percolating that we are seeing a lot of right now deals with stipends. It's been the case for many years that when people, for example, a firefighter has to move up on a day to be in charge for a day, that day or a week or a month or something like that, they would get a boost in pay. PERAC has taken the position that anybody who gets a temporary position like that, a temporary upgrade, that extra income they get from that is not regular compensation and it is not permanent. Even though you have, no choice that sometimes you are required to take those positions and you still will not get regular compensation for that. There are a lot of cases that are brewing. There are some cases at CRAB that are five years old that we are waiting for decisions on that might help to resolve that issue, but these are the things that keep us busy and keep us occupied. Those are the two biggest issues.

PERAC new location

PERAC has new offices and they are having on June 11, 2025, an open house at their new location in Medford. It is a much-improved location actually. There is plenty of parking there and all the PERAC people are actually in the same location. The old PERAC office in Somerville, there were two separate parts to the office, so there was not always that kind of communication internally that they would want. They see one another; they talk to one another, so it is a much better operation. Unless there are any other questions, that would complete our legal update.

Michael Ovitt: I think we are good. Thank you very much.

Gerry McDonough: Okay. Thank you, all, and I guess we will see you next month. Take care.

6.) Directors update: 5th member applications, Adams Community Bank Credit Cards, new staff training

Sheila LaBarbera: All I have for my update, as I spoke to Michael Ovitt about this before we started, we have an application for in for a new credit card with Adams Community Bank. It has been presented to us as a municipal credit card. It will be one card number for us rather than the individuals, and I think it allows us to do our credit card business with Adams Community because that is where all our banking is anyway. The Co-op card is good but it is an individual number for each individual person, so this would be a little bit different. We are only in the beginning stages of application. I have sent in all the information to Adams Community Bank because we have to establish ourselves as a municipality or a legislative branch of the Massachusetts government before we could qualify for that card, but as soon as that comes back, we will get going on that.

Martha is doing fine. We are doing a lot of the new staff training, utilizing all the videos and the online training, shadowing, doing some things like that. She is progressing well.

The last thing, I sent out all of the 5th member applications. Tomorrow is the last day for the fifth member applications but you have only four that we have in our possession. We have until tomorrow at 3 o'clock. I do not know if we will get any more. We would want to wait

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and see, but it will close tomorrow, and then you can let me know how you want to proceed after Thursday. That is all I have.

Michael Ovitt: we are looking for a motion to adjourn. Next meeting, May 28, 2025. Any conflicts with that as we speak?

Sheila LaBarbera: I just want the Board to know I will be off on Friday, May 2, 2025 for a medical reason.

Michael Ovitt: Okay.

Mark Bashara: I will make a motion to adjourn.

Timothy Sorrell: I will second that.

Michael Ovitt: Any discussion? All in favor.

Michael Ovitt: Meeting is adjourned at 10:02am. Thank you, all.

A roll call vote was taken to adjourn, the vote was unanimous.

At 10:02am, the meeting was adjourned.

The next regular board meeting is scheduled for Wednesday, May 28, 2025 at 9:00am.

RESPECTFULLY SUBMITTED:

Sheila LaBarbera, Executive Director

APPROVED BY:

Michael Ovitt, Chairman

Mark Bashara, Elected Member

Timothy Sorrell, Elected Member

Ericka Oleson, Advisory Council Member

Beth Matson, 5th Member Appointed