

Berkshire County Retirement Board Meeting
February 28, 2024

The meeting of the Berkshire County Retirement Board was called to order at 8:30A.M. in the Berkshire County Retirement Office, located at 29 Dunham Mall, Pittsfield, MA. Present at the meeting were Michael Ovitt, Chairman and Mark Bashara, Elected Member, Timothy Sorrell, Elected Member and Sue Funk, Advisory Board member. Beth Matson Appointed member, Thomas Gibson Board Counsel and Gerry McDonough, Board Counsel participated remotely.

PUBLIC COMMENT:

1.) Members of the public have the opportunity to address the Retirement Board. There was no public comment.

NEW BUSINESS:

Legal Update: Legal update for February with Thomas Gibson

Tom Gibson: We had sent an e-mail with our recommendations on an ADR/ODR case. I am not sure what the Board's pleasure is with regard to that issue.

Sheila LaBarbera: I did not post an executive session so I would just be careful with the discussion.

Tom Gibson: We can go into an executive session right now and talk about some of the issues in his case because I do not think I can talk around it. There should be a motion, Mr. Chairman, to go into executive session under purpose 7 of the open meeting law. That is to comply with the law that says medical records should remain exempt from public disclosure, confidential information.

Michael Ovitt: Tom, does that need to be in the agenda?

Tom Gibson: We are not going to take any definitive action. I am just explaining the basis of my opinion regarding the ADR/ODR. There is no requirement that you have notice to the member. It is just a legal update and a review of the status of the applications. It is okay because it is a legal update, part of the review of the pending ADR applications.

Michael Ovitt: Based on that need, we would convene executive session under Purpose 7.

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: Review of ADR/ODR application benefits for Bustin Buzzella, Dalton.

Mark Bashara: I will make a motion. Timothy Sorrell second.

Tom Gibson: Sheila have we blocked anybody else that may be on the line on the login?

Sheila LaBarbera: I can lock it right now. The only people in the meeting participating remotely are Beth Matson, Gerry McDonough, and Tom Gibson. The session was been locked.

A roll call vote was taken to enter into executive session. All members participating remotely identified that they were in a private setting @ 8:31am. The vote was unanimous.

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At 8:55 am the Board returned to regular session.

Michael Ovitt: The Board voted in executive session to request a medical panel for an ordinary disability the roll call vote was unanimous.

The Board deferred any action on the accidental disability application of Mr. Buzzella until the application was complete.

Legal Update continued:

Tom Gibson: The police officers today have to be certified by what they call a post-commission, and so in contract negotiations in some municipalities, the Officers' Union is negotiating a stipend to maintain that certification – what they call a post-certification. A question has arisen in another municipality as to whether or not that payment would be considered regular compensation. We reviewed the regulations that have been posted – that have been promulgated by the post-commission. We looked at the statute and we opined that we felt it did meet many of the qualifications to be regular compensation because there are some services involved and some certifications involved, and it is going to be part of your base pay. PERAC, however, has written back an opinion to this particular retirement board disagreeing with that assessment, saying it is not regular compensation, it is essentially payment for doing a job the right way.

We do not know what is going to happen in this case, whether the Board is going to appeal or whether the Union is going to appeal, but we may be seeing these in other contracts. You may be faced with that down the road, and I will share that opinion with Sheila. What the town is going to do in this particular case is to roll it into base pay that avoids the whole question because it becomes part of your base salary.

Michael Ovitt: Every year there is in-service classes and you have to meet certain hour requirements – training requirements. Is that different from the post requirement?

Tom Gibson: I would say that would be somewhat different from in-house training, pistol training, and those types of actual training. This additional training has been imposed since the enactment of the law that required police officers to meet these standards and qualifications.

Timothy Sorrell: If I can the association in Lanesborough wanted to put a stipend to be certified. They want to be paid extra to be certified. The in-service training is above and beyond your regular compensation. This is them saying I want an extra \$2000 a year to maintain my certification. We said well you need the certification to work so too bad.

Tom Gibson: Exactly. That is putting it in a nutshell much better than an attorney can say that.

Michael Ovitt: Tom, what community was that that filed the grievance?

Tom Gibson: It has to do with the Town of Brookline. This actually arose out of a joint labor-management commission decision. They had reached some kind of an impasse in negotiating, and this was part of that decision. As the needs of the public change, different

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services change and the different qualifications change. We are constantly seeing regular comp change as well, and you have to make sure that those same characteristics of regular comp has to be the same for special certification.

With the body cameras, if you had to train a police officer how to use a body camera, how to save the film, how to testify using that body camera, and there was a course and there was certification involved, then you can make an argument that the payment for being certified to use a body camera is regular compensation. Others have taken the position that wearing a body camera is like wearing another badge on your uniform, and therefore, it is not regular compensation. It all gets down to the language, the facts and the training that is involved in any of these programs.

Mark Bashara: If the towns push back against the unions or the association, then I do not see so much of problem, but if the towns start following?

Tom Gibson: Well, one of the problems is that the towns want to keep the base salaries low and pay extra for different services. Then they can say that the base salary of a police officer is \$68,000, but in reality, the police officer is putting away \$90,000 when you add up all of the other payments that are being made to them. It does not make sense to keep on breaking down these payments individually. You get 15- 20 different payments going in to somebody's compensation. If they just put it into base pay that solves all the problems.

Michael Ovitt: Tom is there any update on the Veterans buyback legislation.

Gerry McDonough: I have not heard anything lately on that.

Tom Gibson: They say it is on fast track and it is going to be approved. The legislative agent of PERAC has indicated he thinks it is going to come out and going to be passed. She would like to tie these up to Memorial Day or Veterans Day to get some splash on it when it is approved. The governor has filed her own bill, the Hero Act that includes much of the same language in a bill that has already been filed, we think there's enough support in the legislature to get that through, and the question is when it is going to happen.

Sheila LaBarbera: March represents the final payment for Mr. Bartini's over earnings. I have to contact him and I will let him know that March will be the final pay. Do we have any idea of the status of that hearing?

Tom Gibson: It is sitting out there, no activity on Mr. Bartini's decision.

Gerry McDonough: We had a request for a copy of our pleadings from the Magistrate at DALA around June so that is the last we heard of anything on the case. DALA now has a new Chief Magistrate at DALA, Natalie Monroe. She spent four years a number of years ago as a magistrate at DALA so she has some familiarity with the agency, and she was the First Assistant Inspector General. I used to sit on the Inspector General's Council as the State Auditors designee on that group, so I have to know Natalie Monroe. She has worked with the AG's office as well, so she is a very confident individual, very serious about her work, and I am hopeful that she can maybe make some changes at DALA to deal with some issues like magistrates who are untimely in terms of issuing their decisions. We had a decision recently that took four years to be issued, so hopefully, I look forward to the new atmosphere at DALA.

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Tom Gibson: Mr. Bartini's case has been sitting now for over 2 years.

Sheila LaBarbera: I have one that we have to find out how we are going to deal with in the future. We have a disability retiree who started his own business, Tom can you let me know how we should proceed if we need to take any action?

Tom Gibson: Happy to look at it.

- 2.) Directors update: Year End Close, 2023 Financial statement, PTG Advisory Group, PTG insurance module, Marcum Audit, Spring MACRS Conference Michael Ovitt: Okay, so, we can go to Item Number 3, the Director's Update.

Year-end close

Year-end is complete and our financial statement is complete. I have it here today for signatures. I want to thank Brian and Jill for doing an outstanding job. We got it to work on our first try, so 2023 is closed.

PTG Advisory Group

They put forth that looking forward that PTG is going to be priced at about the same cost and that there should be no large increases planned. They are continuing to work out and upgrade the system; I am going to guess that that is the pushback from having another provider or other options. They have assured us that in the future there is no significant cost increases to anybody that is using PTG. They are continuing to make adjustments to the current PensionPro and then Pro+.

Mark Bashara: what do we have? Five years with them?

Sheila LaBarbera: Yes.

Michael Ovitt: What are they defining as the future? Outside of what we just signed up for?

Sheila LaBarbera: Yes. Their upgrade process is one that is going to probably be about three years before the roll out is complete although it is moving along quite quickly.

Michael Ovitt: Maybe for next month, can we just get a timeline to know what enhancements are proposed and implementation-wise?

Sheila LaBarbera: I can try. I will send it to him and see if he can provide that to us for the next advisory group meeting. We can put it right on the PTG Advisory agenda for review.

Michael Ovitt: For us since we just signed

Sheila LaBarbera: I can ask PTG what he has for a timeline.

PTG's insurance module

We are beginning that right now. We have five towns that have volunteered to be working with us on the QA site, so we are going to start that process next week.

Marcum audit

You have the final draft. 2023 is closed and I am hoping that next month we are going to start our 2023 audit with Marcum.

Spring Conference

The Spring Conference this year is five days. It's June 1 through June 5, so if you would like to attend, you can let us know as soon as possible. Rooms may be an issue they have a big renovation at the conference hotel, if you want to stay at the actual hotel, please let me know early because those reservations go fast.

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PRIM Advisory Group

We met yesterday I gave you a copy of the handout of the items that were discussed yesterday. We met for about an hour and talked about asset allocation. They do a phenomenal job and they actually went into some detail about their asset allocation and the returns of the portfolio. They also spoke about the risk of the portfolio in general but also the allocation to prevent significant loss in a down economy. I gave you a copy of it so if you have any questions Francesco will be here in May.

Mark Bashara: Did you do that online or did someone come here?

Sheila LaBarbera: We meet remotely. We are going to go back to in-person probably for our next meeting, but right now, we are still doing it remote.

Consent Agenda Detail:

MINUTES:

a.) The Board minutes of the regular session meeting held January 31, 2024, were signed and approved.

Minutes provided as an attachment to email

INVESTMENTS:

b.) The Board received from PRIT a statement of performance for January 2024. The PRIT Fund returned 0.03% for the month of January.

BANK STATEMENTS:

c.) The Board received the bank statements for Jan 2024 and the budget for February 2024. *Cash Books for December and January were sent to Board by email.*

MONTHLY WARRANTS:

d.) The Board approved payment vouchers:

02-01-24	\$252,486.56
02-02-24	\$150,729.51
02-03-24	\$20,494.94
02-04-24	\$190,135.13
02-05-24	\$1,747,902.63

REQUESTS FOR RETIREMENT:

e.) The Board approved the application for superannuation retirement from Diane Kovacs, CBRSD, Paraprofessional. The retirement will be effective 01/24/2024.

The Board approved the application for superannuation retirement from Andrew Kachel, Cheshire, Maintenance. The retirement will be effective 01/22/2024.

The Board approved the application for superannuation retirement from Peter Robare, Williamstown, Equip Operator. The retirement will be effective 01/12/2024.

The Board approved the application for superannuation retirement from Ruth Boorady-Bloom, Lenox, Paraprofessional. The retirement will be effective 02/12/2024.

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MEMBER TRANSFERS OUT OF SYSTEM:

f.) The Board approved the notice of transfer of the account of Christopher Isner, a member in Becket, to the State Retirement Board. The Berkshire County Retirement Board will accept 4 years of creditable service. The amount of the transfer is \$34,248.53.

The Board approved the notice of transfer of the account of Bradley Curry, a member in Sandisfield, to the Hampshire County Retirement Board. The Berkshire County Retirement Board will accept 5 years and 3 months of creditable service. The amount of the transfer is \$94,819.64.

The Board approved the notice of transfer of the account of Angela Hillman, a member in MGRSD, to MTRS Retirement Board. The Berkshire County Retirement Board will accept 4 months of creditable service. The amount of the transfer is \$1,910.78

The Board approved the notice of transfer of the account of Erica Howard, a member in MGRSD, to MTRS Retirement Board. The Berkshire County Retirement Board will accept 9 months of creditable service. The amount of the transfer is \$2,408.62

The Board approved the notice of transfer of the account of Brandon MacNeill, a member in Dalton Fire District, to the Middlesex Regional Retirement Board. The Berkshire County Retirement Board will accept 1 year and 1 month of creditable service. The amount of the transfer is \$8,752.90.

The Board approve the notice of transfer of the account of Benjamin Gelb, a member in Washington, to the Franklin Regional Retirement Board. The Berkshire County Retirement Board will accept 1 year and 3 months of creditable service. The amount of the transfer is \$8,589.04.

REQUEST FOR SERVICE BUYBACK:

g.) Lyn Minery O'Brien, a member in Otis, is eligible to buy back 5 months of prior creditable service. If Ms. Minery O'Brien pays \$1,425.19 into the annuity savings fund by March 31, 2024, the board will grant 5 months of creditable service.

Laura Zink, a member in Lenox, is eligible to buy back 6 years and 1 month of prior creditable service. If Ms. Zink pays \$20,245.36 into the annuity savings fund by March 31, 2024, the board will grant 6 years and 1 month of creditable service.

Maureen Jarvis, a member in Lenox, is eligible to buy back 9 months of prior creditable service. If Ms. Jarvis pays \$1,959.13 into the annuity savings fund by March 31, 2024, the board will grant 9 months of creditable service.

REQUESTS FOR REFUNDS:

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

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Jessica Horton	\$ 2,534.72	MRGSD	
Jeremy Dion	\$ 664.50	Dalton fire	
Elizabeth Vareschi	\$ 1,736.74	Florida	
Dorothy Litz	\$33,253.61	Dalton fire	
Claudia Ryan	\$12,700.07	Richmond	
Laura Miskinis	\$31,225.90	Lenox	
Samuel Stolzar	\$87,776.54	Gt. Barrington	
Timothy Bornt	\$27,321.66	MGRSD	
Tanya Furey	\$ 6,991.05	SBRSD	rollover to fidelity
Rudolph Gagliardi	\$48,281.77	Lanesboro	rollover to greylock

INJURY REPORTS:

i.) There were forty injuries reported in the Central Berkshire Regional School District. (Employee that handles injury reports was hired in August of 2022 and was unaware that injury reports needed to be sent to the retirement board.)

There were five injuries reported in the Southern Berkshire Regional School District. (Timeframe June 1, 2023 to February 1, 2024)

There were three injuries reported in the Town of Hinsdale. (7/1/2022-9/16/2023)

NEW MEMBER APPLICATIONS:

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

7855	Joshua Seile	Gt. Barr	1/1/2024	Firefighter	4
7856	Lauren Bartlett	CBRS	1/2/2024	Para	1
7857	Matthew Kerichenko	BHRSD	1/2/2024	Custodian	1
7858	Dawn Jardine	Gt. Barr	1/8/2024	Library Director	1
7859	James Cornwell	Stockbridge	1/8/2024	DPW Equipment Operator	1
7860	Beth Harris	Lee	1/16/2024	Para	1
7861	Nathan Zink	CBRS	1/16/2024	Para	1
7862	Jeffrey Gulotta	SBRSD	1/19/2024	Buildings & Grounds	1
7863	Alexis Orts	CBRS	1/16/2024	Para	1
7864	Charlotte Rand	BHRSD	1/17/2024	Para	1
7865	Kathleen Harper	CBRS	1/16/2024	Assistant Cook	1
7866	Natalie Amendola	Gt. Barr	1/22/2024	Admin Assistant	1
7867	John Archer	Lee	1/23/2024	Asst Water Distribution	1
7868	John Carvalho	MGRSD	1/29/2024	Para	1
7869	MaryBeth McDonough	Gt. Barr	1/22/2024	Asst. Micro Transit Mgr.	1
7870	Christina Tobin	Dalton Fire	1/29/2024	Fire Chief	4
7871	Shelina Gonzalez	BHRSD	1/22/2024	Admin. Assistant	1
7872	Janet Forest	Dalton	2/2/2024	Library Director	1
7873	Virginia Southard	CBRS	2/12/2024	Para	1
7874	Christine Viel	Lee	2/26/2024	Para	1
7875	Kaitlin Walsh	Lee	1/22/2024	Para	1
7876	Tyler Farrington	BHRSD	2/5/2024	Para	1
7877	Eric Dean	Otis	1/22/2024	Laborer/Equip Operator	1
7878	Timothy Deming	Sandisfield	2/14/2024	Laborer	1

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RETIREMENT ALLOWANCE APPROVALS:

k.) The Board received approval from PERAC to grant a 12(2)(d)retirement allowance to Emma Bourassa (child of Julie Snow), Williamstown, as of 12/23/2023. Annual pension amount is \$36,100.08.

The Board received approval from PERAC to grant a 12(2)(d)retirement allowance to Gordon Yocher (spouse of Irene), BHRSD, as of 9/13/2023. Annual pension amount is \$6,000.00.

The Board received approval from PERAC to grant a retirement allowance to Andrew Kachel, Cheshire, as of 1/22/2024. Annual pension amount is \$12,552.60.

The Board received approval from PERAC to grant a retirement allowance to Diane Kovacs, CBRSD, as of 1/12/2024. Annual pension amount is \$10,163.76.

The Board received approval from PERAC to grant a retirement allowance to Peter Robare, Williamstown, as of 1/12/2024. Annual pension amount is \$42,251.76.

The Board received approval from PERAC to grant a retirement allowance to Carolyn Wichmann, Great Barrington, as of 12/31/2023. Annual pension amount is \$32,468.40.

3(8)c REIMBURSEMENTS:

1.) There are no 3(8)c reimbursement letters in February

PERAC CORRESPONDENCE:

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

#08/ 2024 Prosper COLA submission
#09/ 2024 Actuarial Data

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

TRAVEL & EDUCATION APPROVALS:

n.) There are no requests for travel or Education reimbursements for February

MISCELLANEOUS CORRESPONDENCE:

o.) MACRS has announced on their website that the Kevin J. Regan Trustees Educational Session and Annual Conference will be held from Saturday, June 1 through Wednesday, June 5, 2024 in Hyannis, MA.

-PERAC Pension Newsflash-Commission Appoints Next Executive Director Bill Keefe.
- Marcum Financial Audit 2023 final draft copies to all Board members.

Mark Bashara: I will make a motion to accept the consent agenda as presented.
Timothy Sorrell, second.

Michael Ovitt: We have a motion and second. Any further discussion on the consent agenda?

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Sheila LaBarbera: Just a note on the injury reports. Central Berkshire has a new employee and did not realize that they needed to be sending us the injury reports. It is a large number, but there were only three people that have a Worker's Comp type injury.

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

Our next scheduled meeting is Wednesday, March 27, 2024 at 8:30.

A motion was made by Mark Bashara to adjourn the meeting at 9:18am. Beth Matson, second.

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

RESPECTFULLY SUBMITTED:

Sheila LaBarbera, Executive Director

APPROVED BY:

Michael Ovitt, Chairman

Mark Bashara, Elected Member

Timothy Sorrell, Elected Member

Sue Funk, Advisory Council Member

Beth Matson, 5th Member Appointed