

Berkshire County Retirement Board Meeting  
March 30, 2022

**The meeting of the Berkshire County Retirement Board was called to order at 9:00 A.M. in the Berkshire County Retirement Office, located at 29 Dunham Mall, Pittsfield, MA. Present at the meeting were; Michael Ovitt, Chairman, Paul A. Lisi, Jr., Advisory Board Member, Mark Bashara, Elected Member and Karen Williams, Elected Member.**

**Participating remotely, Beth Matson Appointed member, Thomas Gibson, Board Counsel, Gerry McDonough, Board Counsel, Mark Pruhenski, Town Manager Gt. Barrington, Paul Storti, Police Chief, Gt. Barrington, Chad Shimmon, Police Officer Gt. Barrington, Attorney Kevin Kinne. A roll call vote was taken to open the meeting. The vote was unanimous.**

**PUBLIC COMMENT:**

- 1.) Members of the public had an opportunity to address the Retirement Board as the remote link to the meeting was posted with the agenda. There were no members of the public attending the meeting or connected remotely.
  
- 2.) There was a motion made by Paul Lisi to go into executive session under Purpose # 7 of the open meeting law, to comply with the statute exempting confidential information from public disclosure. The motion was seconded by Mark Bashara. A roll call vote was taken to enter into Executive Session. The vote was unanimous.

**The Board entered executive session @ 9:04 am. The Board remained in executive session to consider item #2**

**The Board returned to regular session at 9:53am.**

The Board convened executive session for the purpose of approving the Involuntary ADR application for Chad Shimmon, Town of Great Barrington. A vote was taken and the Board approved the application for disability benefits unanimously.

**LEGAL UPDATE:**

- 3.) Board counsel will update the Board on any outstanding legal issues before the Berkshire County Retirement Board.

Michael Ovitt: Tom, regarding the evaluation packet that you sent. Am I good to share that with everybody?

Thomas Gibson: Well, yeah. That's something that you asked for some assistance and looking at how to perform of what other boards do regarding staff and staff evaluations and salaries, and things of that nature, so I gave you a whole bunch of stuff, Mike. I'm sure you haven't read at all. You can talk about it now, or you can talk about it at the next board meeting, after you've had a chance to digest it, or whatever your pleasure is.

Michael Ovitt: I think, I just want to make sure I just received it yesterday, and I think I'll forward it and we will probably discuss that over the next 30 days or so. Thank you for that.

Thomas Gibson: You are welcome.

Gerry McDonough: If anybody is interested in the O'Leary case, it's coming before the SJC in April 6, 2022.

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Thomas Gibson: Gerry is referring to the sell back of unused vacation time as regular compensation. That case is going to be heard by the SJC on April 6<sup>th</sup>, in the morning. If you're interested in the oral arguments, you can live stream it through the Suffolk EDU website. If you do a search, you can find it very easily. Just so the board is aware, two of our clients asked us to file amicus briefs, in that case, in support of sell backs of unused vacation time being regular compensation. Because, in those communities, those sell backs have been an integral part of the overall Compensation Plan for employees, for decades, and having the rug pulled out from underneath these employees has caused havoc in these two communities, in like other communities. So, PERAC was correct and kicking it back to the retirement boards to make their own determinations regarding this issue, because all community handles sell backs of unused vacation differently. And just because in one town, it is not regular compensation does not mean necessarily that in another town, where it's handled differently and almost mandatory, as it is in these communities, it should be regular compensation. In the city of Fitchburg, contractually, certain employees are required sell back time to the town. They say you can accrue certain extra days of sick leave., if you don't use sick leave, like you have to sell it back to the town. So the cities have used this as an overall compensation plan. If you want to tune in and watch the oral arguments, it's O'Leary versus PERAC. April 6<sup>th</sup>. I'll be watching diligently on TV.

Gerry McDonough: And there also is, increasingly, we're seeing all different kinds of scams going on, which raise Cybersecurity issues in Retirement Boards. There seems to be more and more people who are sending fake forms, downloading forms, retirement board, sending them to retirement boards and changing the direct deposits and things like that. So everyone has to be really vigilant and alert these days.

Thomas Gibson: Lastly, I just want to call attention to the board that chapter, 22 of the acts of 2022, allowed the boards to continue to meet remotely until July 15th. And, in the interim, the legislature is trying to fashion some type of permanent adjustment to the Open Meeting Law that will allow the public to access. It will require the boards to have it open for people to login to allow participation remotely while the board is still meeting in person, maybe relax the remote restrictions, somewhat that exist in the open meeting law without the legislative exemption. So we'll see what happens in the next couple of months, but we can continue to meet this way. I'm sure Beth appreciates it, I know we do, at least until July 15th, and even after July 15th, we can still log in the way we are right now, because I know you can't get enough of us.

Karen Williams: Is there any update on the Ball case?

Thomas Gibson: As far as I know, there's been no resolution. It's supposed to come to trial, I think, in February. And they keep on putting it off. She continues to collect and by the time this is resolved, the money will be gone, no recovery for the town. So on January 8th, I sent an e-mail to Attorney Hilman, and he wrote back to me on January 18th, "According to the docket at the Berkshire Superior Court, Ms. Ball's case was 'trial ready in both early December, and again on January 3<sup>rd</sup>'. In the December entry notes that was rescheduled there was no notation for January. I believe this means the Case is trailing for trial, that is, it is on the list it will be reached when the court disposes of the cases in front of it. I would have expected to be reached soon, although the recurring postponements of jury trials makes it hard to predict just when." So, I have a good rapport with the Attorney Hilman, and I'm sure he'll be advising me when and if that case is coming up.

Karen Williams: Thank you.

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4.) The Board will discuss the process of performance evaluations and staff compensation.

Michael Ovitt: I briefly touched on that, I just received it yesterday. There are a couple different evaluations. Did anyone else have any input for the evaluation process? Any examples? Does Richmond have anything or West Stockbridge?

Karen Williams: We have nothing, unfortunately.

Mark Bashara: Did you receive several?

Michael Ovitt: Yes, it was just a couple of different communities in Middlesex.

Paul Lisi: So you will forward those out to us?

Michael Ovitt: Yes.

Mark Bashara: And that will give us a whole month to get ideas and questions.

Michael Ovitt: Okay, and I'll do that hopefully by the end of the week here. Are we good with that?

Beth Matson: Yes, I'm good with that, I'll be happy to review them.

5.) PTTG Software update- PTG test site set up /unit payroll codes.

Sheila LaBarbera: So we're still waiting on the release of our test site. So hopefully that will be within the next maybe a week, or so. This is the most labor-intensive part of this process, and the programmers are the ones who have to set it up. So they set it up with all of the detail that we've given them for all of our member units. We've been working with Williamstown, one of our Munis units. They are one of the first ones that we are going to migrate to the system. They have completed the Crossroads, where they set up a payroll bridge with all of their information. Williamstown is ready as soon as we get that test site up, Great Barrington will be a close second and see how they do. I think both of those are going to be a quick turnaround.

Karen Williams: Great Barrington is Munis too?

Sheila LaBarbera: Yes, and we've been working with Harpers payroll systems. I know Karen sent along her deduction codes and earning codes. We're going to try to see if we can create some uniformity with some of those codes just so that we're kind of on the same page. There seems to be a little bit of a difference between other compensation, some use it as pensionable, some use it as non-pensionable. So that's the one thing that we're going to try to work on as we go forward to create some uniformity in there. But that's basically we're at where we are with the PTG process. We did have a PTG training about a week ago. It went really, really well. We went over buybacks, and we can do the buybacks within the system, what's really important is the credible service, the accounting, the payment process, is all done within PTG, so we're excited about that. I know Gerry just touched on this, the cybersecurity issue- first of all, we participated in the MIIA training and we've also completed all the subsidiary trainings for cybersecurity. I completed an application for our cybersecurity insurance for MIIA. I have several questionnaires that we have to complete and send back for insurance purposes. I think that we have a pretty good handle on some of those cybersecurity issues. Certainly Jill's experience with online banking and our cybersecurity issues that she was able to deal with at the bank, provided us with some significant insight as to what we may or may not be looking for, when scams come our way. And also, Joel has been really helpful from the jail on putting some of this stuff together. And the last thing I have is, that we use Team Viewer for our remote access and Team Viewer has been a

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struggle. It was difficult to use so I'm going to be discontinuing our subscription to Team Viewer and we are going to move to LogMeIn. LogMeIn is a subsidiary of GoToMeeting, and that while I couldn't combine the billing, because they are other under the same umbrella, they are two different companies. We're going to migrate to LogMeIn, it's much easier to use. It's about the same price. And we're looking forward to meeting with our member units while we're doing those these PTG updates and the migrations it will be imperative that we have the ability to take our laptops to be able to log into our desktop to be able to communicate with our core system here while we're off site.

Mark Bashara: Have you spoke, other people who say it's better?

Sheila LaBarbera: LogMeIn is absolutely better. We've been working with support for Team Viewer, and Joel actually suggested we find another provider. When the IT person is having trouble with their support, it's a bad sign. We've actually been on a trial, for about a week with LogMeIn. It's amazing. It's so simple to use, it's very secure. And it is something that we're going to need.

Karen Williams: Our software, we use SoftRight, and so they use LogMeIn to view my screen if I have an issue.

Sheila LaBarbera: We did our first online training of the treasures in March. There were two sessions with the same information, but we did it twice in one month. We had about 75% participation from our treasures and payroll coordinators. So it was very successful. We're going to go through to try to answer some of the bigger picture questions and then I think it's going to be a lot easier for us to answer some of those questions as we get out to the other units.

Karen Williams: I haven't had time to talk to Marie and I want her to be included in the discussion because for instance, the water sewer, those hours need to be set by that department. And then the compactor. I don't know who would do that.

Sheila LaBarbera: Yes, we will take some of those individually and try to get everybody that participated set. Even those treasures that have been around for a long time, said there's always something new. What we're going to try to do next month is go a little deeper into the actual calculation of the deductions, both an 8, 9, and 2%. But really calculating that 2% deduction, if they don't do it properly when we do the file upload, we're going to get a warning. A lot of people, plug the 2%. It's not calculated amount. So they just calculate it and plug it. And so if somebody gets a raise, or their regular compensation changes, the 2% is wrong. So we're going to go through how to calculate that 2%. Some people have their own methodology for calculating their 2%, which we've come across. And so I've tried to tell them that you're going to have to calculate the way we calculated, that will be the computers are set up for. But so far, everything's going really well.

Michael Ovitt: I don't know if it's part of part of this, but as far as our supplemental regulation?

Sheila LaBarbera: Yes, we talked about that. We have a supplemental regulation requiring that somebody works a certain amount of time within a six-month period, whether it's number of hours and earnings during that six-month period, that they would be enrolled in retirement. We're going to try to look and see. Brian's done a great job of parsing through all of the active members. There was about 160 people that had no deductions. He's down to the last 30. So we've track down about 130 of those people to figure out where they are. Do they need to be transferred? Do they need to be terminated? What is their actual status? So, we're down to the last thirty that we're trying to capture. We instituted those supplementary regulations for the protection of members. We had towns that would hire people, and they'd

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worked for 40 hours a week for two years. And they'd say they were temporary. When they should have been not only enrolled and retirement, but they should also have been benefit eligible. To protect the return to the retirement system and the employee, because the towns know that if it's not regular compensation and they're not enrolled, they're not paying an assessment. So there's pluses and minuses to both of it. I just had a discussion with a town right now. They've hired somebody temporary. They hired somebody temporary to fill in for somebody who was injured. The injury is almost resolved. But there was a little bit of a snag at the end. He's going to go over that six months, by a week, and she asked me if she should enroll him? And I said, technically, you're supposed to. But are you going to keep him on? She said no and that she didn't think he's going to make the week, because he's applied to other places. So she said, Before I send you all the paperwork, and he leaves, before it even gets to the six months, I just wanted to know. So I said, you know, certain situations, if you know someone who's going to leave and that the town, has no intention of caring person any further and they're going to go over by a week or 10 hours, I'm not tracking down an enrollment. But it's the people that are on in the system. And they're working 20 hours or more a week.

Michael Ovitt: Karen, as far as processing payroll. What do you take for deductions for somebody that works 10 days one month, and 7 another?

Sheila LaBarbera: That's an issue.

Michael Ovitt: When you're when you're in the system, you take out retirement? If a payment is deemed not pensionable, deferred comp is for those that are not enrolled in retirement, then who do we reach out to clarify that?

Sheila LaBarbera: Well, I'm going to ask Tom. I've been talking to Lisa at Middlesex because in the counties there are more of an issue, than it is in the city but it can't be sporadic, intermittent, or temporary. So when you hire people, even if it is in a second position, we should be getting an enrollment form for that second position. All we need is that form because they're already in the system, but then we need to know what their hired for. So if there are hired for police and fire too. As long as they're hired for a shift a week or biweekly two shifts or whatever and that's what they're getting. That's what's pensionable. If they are filling in intermittently or temporary because somebody is on vacation or somebody's injured, that's not necessarily pensionable. What's pensionable is regular recurring guaranteed. So we are just sorting through that right now.

Michael Ovitt: I don't know if it's on IRS, but, you know, do you take the over mandatory is for non-pensionable, right? So, if you're in retirement, then you don't take OBRA out. You're not taking any retirement out for that person.

Sheila LaBarbera: I'm going to ask what they do in Middlesex and how they deal with that and what they do. What do you do when employees exceed the regular recurring and guaranteed? we will figure out what they are doing and see if it makes sense.

Karen Williams: That's a good question because we had talked about, say the compactor attendant. His hours vary every week, and it's above always about 20 minutes, 25, It's 28. So what Sheila was saying, we need to assign him a set number of hours, say, 25. If he goes over that, those hours those wages are not pensionable. But what would I have to take?

Sheila LaBarbera: I don't know, that's what I have to figure out. Brian has gone through, and sorted all those out. We have a couple of programs that we can run reports that we can run to take those people out. It will become more obvious to us when we switch to the deduction posting. Because we have to put in if there is going to be a salary, so those have been

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expected regular compensation and what the expected regular compensation would be, the deductions that go along with that. So if it's higher or lower, that should be, there should be a flag. So we would now focus on looking at those rather than now, can we?

Michael Ovitt: Can we look at some other regional systems as well?

Sheila LaBarbera: Sure.

Michael Ovitt: Yeah, I think the smaller towns are where we are. Not saying that Middlesex doesn't have small towns.

Sheila LaBarbera: And I think that well Worcester might have a few.

Paul Lisi: I'll make a motion to approve the consent agenda. Mark Bashara: I will second the motion as read.

**A roll call vote was taken, and the vote was unanimous to approve consent agenda.**

**Consent Agenda Detail:**

**MINUTES:**

a.) The Board minutes of the regular and executive session meetings held February 23, 2022, to be signed and approved.

*Minutes provided as an attachment to email*

**INVESTMENTS:**

b.) The Board received from PRIT a statement of performance for February 2022. The PRIT Fund returned -1.06% for the month of February. Email from Michael Trotsky regarding Ukraine and Russia was emailed to all board members

*PRIT Investment report provided by email*

**BANK STATEMENTS:**

c.) The Board received the bank statements for Feb 2022, and the budget for March 2022.

*Cash books Febraury2022 were provided by email*

**MONTHLY WARRANTS:**

d.) The Board approved payment vouchers:

02-08-22	\$1,571,407.76
03-01-22	\$44,525.51
03-02-22	\$25,996.95
03-03-22	\$77,334.32
03-04-22	\$22,555.08
03-05-22	\$1,566611.92

**REQUESTS FOR RETIREMENT:**

e.) The Board approved the application for superannuation retirement from William Girard, Becket, Bldg. Inspector. The retirement will be effective 3/31/22.

The Board approved the application for superannuation retirement from William Ingram, Gt Barrington, WTP Supt. The retirement will be effective 3/25/22.

The Board approved the application for superannuation retirement from Robert Sweet, Williamstown, Highway Dept. The retirement will be effective 5/6/22.

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The Board approved the application for superannuation retirement from Anna Van Lingen, Lenox, Manager Head Cook. The retirement will be effective 6/22/22.

The Board approved the application for superannuation retirement from Lynn Browne, Lee, Town Accountant/CPO. The retirement will be effective 6/30/22.

**MEMBER TRANSFERS OUT OF SYSTEM:**

f.) The Board approved the notice of transfer of the account of Sarah Fontaine, a member in Dalton to Adams Retirement Board. The Berkshire County Retirement Board will accept liability for 5 years and 5 months of creditable service. The amount of the transfer is \$13,883.78.

The Board approved the notice of transfer of the account of Jenna Giardina, a member in Lenox to Teacher's Retirement Board. The Berkshire County Retirement Board will accept liability for 7 months of creditable service. The amount of the transfer is \$1,172.91.

The Board approved the notice of transfer of the account of Tanner Senecal, a member in CBRSD to North Adams Retirement Board. The Berkshire County Retirement Board will accept liability for 3 years and 1 month of creditable service. The amount of the transfer is \$10,940.26.

**REQUEST FOR SERVICE BUYBACK:**

g.) Michael Smith, a member in Lenox, is eligible to buy back 1 year and 1 month of prior creditable service. If Mr. Smith pays \$11,220.63 into the annuity savings fund by April 30, 2022, the Board will grant 1 year and 1 month of creditable service.

Kimberly Stuart, a member in CBRSD, is eligible to buy back 1 month of prior creditable service. If Ms. Stuart pays \$189.78 into the annuity savings fund by April 30, 2022, the Board will grant 1 month of creditable service.

Joseph Sniezek, a member in Lee, is eligible to buy back 1 year and 3 months of prior creditable service. If Mr. Sniezek pays \$4,027.28 into the annuity savings fund by April 30, 2022, the Board will grant 1 year and 3 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)

Chad Cummings	Lee	\$59,182.15
Kimberly Goodell	Clarksburg	\$185.74
Charles Lockenwitz	Sheffield	\$10,187.69

**INJURY REPORTS:**

i.) There were three injuries reported by SBRSD in February

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**NEW MEMBER APPLICATIONS:**

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

7419	David Thomas	Dalton Fire District	2/21/2022	Firefighter	4
7420	Samantha Hillard	MGRSD	2/7/2022	Nursing Assistant	1
7421	Michael O'Keefe	MGRSD	2/7/2022	Paraprofessional	1
7422	Michael Richtell	BCHRA	1/24/2022	Service Co-ord.	1
7423	Shannon Nusbaum	Lenox (School)	2/7/2022	Paraprofessional	1
7424	Alliyah Mead	Lee (School)	2/11/2022	Paraprofessional	1
7425	Pamela Caiola	BHRSD	1/18/2022	Paraprofessional	1
7426	Ronald Hirsch	BHRSD	2/28/2022	Paraprofessional	1
7427	Hannah Collier	Clarksburg	1/18/2022	Paraprofessional	1
7428	Jeremy Tousey	Lenox (Town)	3/7/2022	Waste Water	1
7429	Susan Galipeau	MGRSD	2/7/2022	Paraprofessional	1
7430	Michael Fitzgerald	BCRHA	2/22/2022	Service Co-ord.	1
7431	Rachelle Bleau	Clarksburg	2/28/2022	Admin. Asst.	1
7432	Rachel Armstrong	Lee (Town)	3/14/2022	Town Clerk	1
7433	Kenneth Aubin	MGRSD	2/11/2022	Paraprofessional	1
7434	Hannah Folino	MGRSD	2/3/2022	Paraprofessional	1
7435	Colleen McDonald	Clarksburg	3/7/2022	Cafeteria Helper	1
7436	Antonio Suares III	Sandisfield	3/22/2022	Highway Laborer	1

**RETIREMENT ALLOWANCE APPROVALS:**

k.) The Board received approval from PERAC to grant a retirement allowance to Edward Lamarre, MGRSD, as of 12/31/2021. Annual pension amount is \$28,861.92.

The Board received approval from PERAC to grant a retirement allowance to James Crandall, Otis, as of 01/07/2022. Annual pension amount is \$14,150.40.

The Board received approval from PERAC to grant a retirement allowance to Cynthia Biasin-Burton, Lee, as of 03/13/2022. Annual pension amount is \$9,331.44.

**3(8)c REIMBURSEMENTS:**

l.) There are no 3(8)c reimbursements for the month of March.

**PERAC CORRESPONDENCE:**

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

#27/2018      Re-Issue Green Dot Scam

#9/2022      Extension of the Open Meeting Law Waivers

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

**TRAVEL & EDUCATION APPROVALS:**

n.) There are no travel or educational reimbursement requests for February.

**MISCELLANEOUS CORRESPONDENCE:**

o.) -PERAC Pension News March 2022



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Sheila LaBarbera: For next month, I will be on vacation last week of April, so we talked about doing April 22nd at 8 AM. Does anyone have an issue with that? I know, Karen and Paul work on Thursday. If you would rather do a 9 AM meeting on Wednesday, rather than squeeze it in Friday morning, we can. I have a very specific time that I need to leave. I can't tell you who is going to be on the agenda for next month. Right now all I have for next month's agenda, is the COLA. Depending on what kind of debate or discussion you want to have regarding the evaluation and salaries, if it's going to be a really long meeting then, maybe we could look at Wednesday, it's up to you.

Mark Bashara: I prefer Wednesday at 9 AM. That doesn't mean that I'm not flexible.

Sheila LaBarbera: No, that's fine. I just want to make it easier for you, I appreciate the fact that you can be flexible.

Karen Williams: I can get Wednesday the 20<sup>th</sup>.

Beth Matson: Fine with me.

Michael Ovitt: I'll see if I can move stuff around.

Sheila LaBarbera: Do we want to do a tentative Wednesday at nine, and if we have to change Mike, we can change it?

Michael Ovitt: The Fridays not good for everyone?

Karen Williams: I can do Friday.

Sheila LaBarbera: It's up to you guys. I would just need to have an end time. That Friday, I would need to leave by like 10 AM.

Karen Williams: Is there another time that Wednesday that could work, Mike?

Sheila LaBarbera: Would you want to do it later in the day? Would that help?

Michael Ovitt: No, I've committed to working that day.

Sheila LaBarbera: I don't know what I have on the agenda, and what the timeframe is going to be on that. If it would be short, that would be fine. Unless you want to just do the performance and compensation in May?

Michael Ovitt: Alright, we can do that.

Sheila LaBarbera: You can do Friday?

Mark Bashara: The thing is, I guess it could be fluid where we could discuss it somewhat and get a flavor of how we feel that day. But then, if we see, it's going to go into there and we all have a lot of questions, we can just table it and move it to the May. But at least we started the conversation.

Michael Ovitt: So, possibly on Wednesday the 20<sup>th</sup>.

Sheila LaBarbera: So, I'm just hoping that we have Kelly back, and like I said, that one may have the third-party claim, also, to get the information before next month to see.

Michael Ovitt: What about the processing?

Sheila LaBarbera: The only thing that won't be done yet is the pension payroll. Jill and Brian will do that that following week.

Michael Ovitt: We are adjourned at 10:26.

The next regular board meeting is scheduled for Wednesday April 20, 2022 at 9:00am.

A motion was made by Paul Lisi to adjourn the meeting at 10:26am, Mark Bashara, second.  
**A roll call vote was taken, and the vote was unanimous.**

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RESPECTFULLY SUBMITTED:

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Sheila LaBarbera, Executive Director

APPROVED BY:

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Michael Ovitt, Chairman

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Mark Bashara, Elected Member

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Karen Williams, Elected Member

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Paul A. Lisi, Jr., Advisory Council Member

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Beth Matson, 5<sup>th</sup> Member Appointed