

Berkshire County Retirement Board Meeting
August 31, 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. Beth Matson Appointed member, was absent.

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.

NEW BUSINESS:

- 2.) The Board reviewed the annual performance of the PRIT fund with Francesco Daniele, Client service officer, PRIM. A copy of the presentation is available in the retirement office for review. Francesco Daniele PRIT client services representative presented the PRIT performance review thru 6/30/2022, to the Berkshire County Retirement Board members. Mr. Daniele reviewed all investment strategies utilized by PRIT and stressed the constant contact with all money managers engaged with PRIT. PRIT maintains a diversified portfolio to offset risks in investments. Mr. Daniele detailed the many portfolio achievements and recent recognitions (pg.11.) Mr. Daniele detailed the long-term approach to investment rebalancing and advised that PRIT was managing with a very steady hand. (pg.20) A review of asset growth (pg.23) and the overall performance of PRIT, and their ability to outperform bench marks were discussed (pg.24) Investment returns by strategy was discussed (pg.26) An in-depth discussion on how the portfolio reacts to economic factors was discussed and determined that the performance proves the portfolio reacts as it was designed. (pg.28)PRIT has returned 8.1% since inception and that is a net return, Berkshire County Retirement has been a participating system since 1998. (pg. 29) Mr. Daniele discussed the performance strategy of PRIT to always look for way to reduce costs and increase returns. (pg. 30) Mr. Bashara asked about ESG (Environmental –Social- Governance) How PRIT was participating in setting the rules for ESG. Mr. Daniele led a discussion regarding the portfolio design to minimize risk and increase return in any economic situation. Several questions and a discussion regarding full funding status and how that would affect asset allocation for the Berkshire County Retirement System in PRIT? Mr. Daniele will follow up with options regarding actions that could be considered when Berkshire County Retirement approaches full funding of the system. The Board thanked Mr. Daniele for the presentation; Mr. Daniel left the meeting at 9:45am.

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

Bartini Appeal- Mr. Bartini's Appeal, DALA's scheduling order, put the burden on the retirement board and PERAC to make the first filing. I have sent a copy to the board of our submission. It is going to be decided on the documents and there will not be a hearing in this case. Usually the petitioner files first, but Magistrate decided to be a good idea of the board file first, Mr. Bartini's submission is due on September 21st., we will see what Mr. Bartini's

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argument will be as to why he did not have excess earnings for 2020. He is not listed as an over earner for 2021.

PERAC Appeal Colello 3(8)c- The PERAC appeal in the Colello case. We asked PERAC to reconsider its opinion that Mr. Colello's accidental disability retirement allowance should not be prorated between the board and Pittsfield. We asked them to reconsider that decision; they did not change their opinion. We received that letter on August 5th; it is a 15-day appeal period up on that, so to protect the Board's interests we filed an appeal with DALA. The case now is a Berkshire County Retirement Board v. PERAC and Pittsfield. Attorney Sacco has filed an appearance on behalf of the town of Pittsfield. DALA has filed a receipt of the appeal. We are waiting a scheduling order or a prehearing memo; this case will be decided without testimony. There are no issues of fact here, it is a question of law, whether the pension should be prorated, we will wait to see what happens on Mr. Colello's prorated case. PERAC has gone back to really avoiding deciding here, saying, the board did not ask for Pittsfield's opinion. We know what Pittsfield's opinion is, and they and Mike Sacco sent a letter to expressing that. They knew that MR. Colello had file for ADR. Sheila had sent them a request for documents. They complied; they sent all documents to us. PERAC is sort of dodging the issue here and letting it go up to DALA. The legal argument is going to be, he was cleared by the psychiatrist to go back to work in Pittsfield and then he left Pittsfield on his own accord and was hired in Sheffield. Shame on Sheffield for not doing a pre-employment examination of him. An incident occurred on the job in which his condition was re triggered and now Berkshire County is liable for his disability retirement. I hope that DALA will schedule something quickly. In the meantime, we are paying Mr. Colello, we did not have to pay him retroactively because the town agreed to put them on 111 F from the time, and they have taken them off the payrolls until the time he was retired. That was some good news in this case.

Michael Ovitt: How much of this hinges on PERAC?

Tom Gibson: What we argue is that, under the facts here and based on the Medical Panel, there should there is at least a shared liability for accidental disability retirement between Berkshire and Pittsfield. Berkshires should not be picking up the whole pension, PERAC, as the actuary is the entity that has empowered with making that proration determination as to what percentage should be Berkshire and what percentage should be Pittsfield. In this case, however, they're not making that decision, they're saying the Board didn't ask for Pittsfield's input before they accepted the ADR in this case, which I think is a dodge so that they don't have to decide on this particular case.

Travel Regulation - PERAC's rejection, of the Supplemental Travel Regulation specifically, that portion of the regulation that allowed the Board to use a credit card for purposes other than lodging and travel expenses. We know that most vendors, especially IT vendors they will not accept a check. They will not accept any type of payment accept, unless it is your credit card. In Middlesex, we went ahead and amended our travel regulation to make it broader so we could use a credit card for other matters and PERAC approved it. We did the exact same exercise for Berkshire County, exact same language, and sent it into PERAC and they rejected it. I was a little bit stunned by that and I reached out to John Parsons, I gave him the two regulations along with PERAC's approval and PERAC's denial. The language is the same. So how are you going to defend yourself against the claim that you are being completely arbitrary? PERAC is now working on another supplemental regulation regarding credit card you use. It is going to be completely different section of the regulations; PERAC wrote back "we are focused on enhancing the regulation and not exacerbating the current

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problem with the current regulation versus Board practices. Obviously, we are not singling out Berkshire and if we acted inconsistently, it was not intentional. It sounds like our mistake was in approving the original supplement of the regulation for Middlesex and not in not in denying Berkshire. The goal is to put this behind us and, in the meantime, Berkshires should do what it needs to do and document and approve everything. I hope that helps.”

I think the messages here is to continue using a credit card to pay bills and make sure that you document everything that you're paying, there are records so that, when the PERAC regulation does get rolled out it can be a seamless transition from the Board's practices now to comply with the regulation. So, I think, what PERAC is saying between the lines here, do what you have to do, when the regulation comes out, we'll deal with the issue and will make it applicable to all retirement Boards.

PERAC Memo #21- So good news for the board and for the retirees. As part of the State budget bill, an outside section was approved that would serve to protect retirees who had their pensions calculated with regular compensation including payments of sick leave and vacation with workers' compensation. They will not have those pensions modified or adjusted if they retired before July 1, 2022. That takes a huge burden off the retirement staff and retirees. The ruling remains that payments of the supplemental, sick leave and vacation, are not a regular compensation. The payroll clerks throughout all your member units have to know that withholdings should not be taken from sick and vacation payments made when someone is on workers' compensation. This does not impact injured on duty pay, so public safety, police and fire are not impacted by this ruling. Sheila LaBarbera: I have asked the treasures to look at 2022. I will send out another e-mail and ask treasures to look at 2020 and 2021 to see if there is anybody effected.

The SJC decision on sell backs of unused vacation time as not being regular compensation. They upheld a crab decision from 2018, that ruled when an employee sells back unused vacation time it is not regular compensation. On August 4, the Legislature enacted and the governor signed Chapter 147 of the Act of 2022, which grandfathered the retirees. Anyone who retired before May 1, 2018, who had sellbacks included in their retirement calculations would be protected. Any retirement system that had that policy, in effect, on May 1, 2018, and any employee who had been participating in that was a member in service or May 1, 2018, would be allowed to continue the practice of selling back vacation time. At the September meeting, we will have PERAC memo #22, which will address the O'Leary case. What Chapter 147 actually did was it created the new section in Chapter 32. There is Chapter 32, Section 106, is the very last section in Chapter 32. It incorporated all of the language in that act and talks about retirees, and active members, and what the criteria would be for allowing it. Now, Sheila, on May 1, 2018, was the Berkshire County Retirement Board accepting retirement contributions from sellbacks of unused vacation. Sheila LaBarbera: no, we never have.

Tom Gibson: So, this new section does not create a new category of regular compensation, all it does, is protect retirees from any downward modification of the pensions and continue to allow those retirees who do this to continue to do it. That will happen until such time it eventually disappears.

The one-time increase to the COLA percentage, to 5% has created many questions. The Governor did sign the bill, in which this was included in an outside section of the budget, but

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he sent that section back to the legislature, with some alternate language. He approved the one-time 5% COLA increase, for FY23 for the State and Teachers Retirement System. As far as the 5% increase for the Regional, County and Municipal Retirement Systems, the Governor sent that part of the bill back. More local approval would be required as the bill was written. It was treated the same way as the Board would operate if the social security COLA was less than 3%, and the board wanted to grant up to 3%, 30 days' notice would be required to be sent, in your case to the advisory council of your intent to have this on your agenda to make the decision. That same language was incorporated in the outside section of the budget. The Governor did not think that was sufficient. In a county regional system, like Berkshire County, he wanted a two-thirds vote of all of the town councils and approval of the Chief Executive officer, in two thirds of the communities to approve before that 5% would be allowed. It was sent back to the Senate, where it is right now. Now, the problem is that the legislature has adjourned. For this to be brought up they can still bring up matters of informal session, but one negative vote would, would mean that it could not go forward. If was unanimous vote uncontested then the bill can go forward so the Senate could act. The good news is both the House and Senate approved this unanimously; it may well be approved in an informal session. The legislature may come back into formal session before the end of the year; they may suspend their own rules and come back into formal session before the end of the year.

Tom Gibson and Gerry McDonough left the meeting at 10:15am

- 4.) The Board was asked to review and approve the Third Party Recovery proposed for Chad Shimmon. Tom Gibson: My understanding is that Attorney Kinne, who is representing Mr. Chad Shimmon, is in negotiations right now with the employer and their insurer regarding the amount of the lien that that they are looking for payback on 111F benefits paid to Mr. Shimmon. Attorney Kinne is aware of the Board's policy, he knows what the ranges, and right now, there is nothing before us to act on. The third party settlement item was tabled until September. Paul Lisi made a motion to table item 4 to the September 28, 2022, meeting. Karen Williams second.

A vote was taken to table item #4 and the vote was unanimous.

- 5.) The Board reviewed the management letter 2021 financial audit prepared by Melanson. Sheila LaBarbera: We cannot get the final audit until I have the Chairman's signature on the management letter, so if the Chairman will sign I will send the letter into Melanson today and we will have the final audit next month. We can just table the approval of the final audit until next month? Paul Lisi: made a motion to table item 5 until the September 28, 2022 meeting. Karen Williams second

A vote was taken to table item #5 and the vote was unanimous.

- 6.) The Board approved an election schedule and appointed an election officer for the elected member seat on the retirement board. Three-year term will begin January 1, 2023. The Board reviewed a copy of the election schedule. Nomination papers will be available on September 6th. The notices of the fall election have gone out to the retirees with their check stubs in August. On September 6th, notifications will be sent to the

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clerks and treasurers so that they will have nomination papers and notice of Election. Paul Lisi: a motion to approve the election schedule as presented under Item 6 of the agenda and to appoint the Election Officer, Sheila LaBarbera. Karen Williams: I'll Second.

A vote was taken to approve election and election officer and the vote was unanimous.

- 7.) The Board will discuss the process of performance evaluations and staff compensation. Paul Lisi: This is the policy I came up with if you follow the Bureau of Labor Statistics, which is easy to gather each year. A standard in creating these policies is based on the CPI for all urban consumers for the particular region you are in New England. I also put a floor of 2.5%, and a cap of 5%, with the ability for the board at any time to make changes or modifications. Usually, that exemption would only be used, for instances we are seeing right now with inflation of 9%. If we did this calculation, and it came out to 5.5%, this policy would give the board the ability to go above the 5% if they voted to approve that.

Paul Lisi: So we can discuss I will make a motion to approve the policy of the Berkshire County Retirement System, Cost of Living Adjustment Policy, otherwise known as the COLA policy. Mark Bashara: I will second that.

Karen Williams: My only involvement with the COLA raise was that it was always negotiated with the Unions and then it trickled down. I think it's good that we have something that we can go by. It gives a good range, but it is not set in stone.

Mark Bashara: You never know what it will be like in the future. It gets the base 2.5 to 5%, but we can adjust accordingly, no matter what it is. At least it gives us a range to work in. and, I guess, employees have an idea.

Karen Williams: What does it mean that The Board will not use an escalation agreement?

Paul Lisi: Because there are some COLA policies that say that, you can take the Consumer Price Index plus a certain amount. That is the escalation increase.

Mark Bashara: Which is not necessary because we can do, we need to do anyway.

Paul Lisi: Well, that would be typically something like that would not be necessary for the fact that if you do your regular salary surveys and adjust salary that way, it would be kind of an escalation agreement of our salary.

Mark Bashara: You are avoiding redundancy in process.

Paul Lisi: Correct. In addition, just another thing, so, everybody is aware. We are working on collecting all of the data that we talked about last month from all of the retirement systems to get a bigger picture of the correct data. In regard to salaries, we have not finished that yet just because it is so involved in some systems. You have to reach up to the board member because the system employee does not feel comfortable giving you that information, even though it is public information.

Michael Ovitt: Paul, is this used in your town?

Paul Lisi: We get something like this ours is never less than 3%. There are many reasons considered. It's so to say, a 1% raise and if somebody did the math out, you calculated that out based upon you're increase in your insurances, you didn't get a 1%

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raise, you got less than 1%. We do not want our employees to go backwards. That does not make any sense.

Karen Williams: Well, and honestly, it was difficulty to negotiate that with unions.

Paul Lisi: Our unions are not affected by that. That discussion does not affect our employees. We have been in town comparable to the unions. Our board of Selectmen understands that they must negotiate with teacher's union, and teachers get significant contract. We do not have any union points in our town, but we also want our employees to be on the same pay scale or close to a pay scale of union negotiated employees.

Michael Ovitt: But when you said factoring in the insurance increases, how does that cause it?

Paul Lisi: Well, it does not; this is just a standard COLA policy.

Karen Williams: What he is saying is that if I get a 1% COLA increase, but insurance goes up 5%, then it is not really an increase at all.

A vote was taken to approve the COLA Policy presented, and the vote was unanimous.

- 8.) PTG Software update: Q&A site - Live Site – pin access Sheila LaBarbera: Lots of good news. We have now Williamstown posting to the live website. Karen has overcome the pin process access. So now, once they go through the process of the QA site, and they have a good file. We will be able to work with them to get them on the live site.

Karen Williams: Are any people that are submitting a manual file?

Sheila LaBarbera: No, we are going to do that starting in October. We are physically going to go and set up the file for them and spend a day training very soon.

Sheila LaBarbera: We are excited now that it is all starting to roll out. I will mention about PTG software that may come up at the advisory board meeting. I've had a couple of treasures We cannot do premium holidays just because of the way insurance is set up on our end, there is an insurance module that would allow treasures to go into PTG to make those changes. It is something that a couple of the treasures would like to talk about at the Advisory Board meeting. I do not know what the module costs, I will investigate it, and so it will be discussed at the Advisory Board. If the treasures are interested in, it affects probably 75%, of our units that have the Berkshire Health Group.

Mark Bashara: Does Lanesborough have it?

Paul Lisi: Yeah, see. That is the problem. Premium Holidays just mean that you are paying too much for your health insurance.

Mark Bashara: The only thing I got back was the rebate for the overcharge. I know we have a new treasurer in town.

Sheila LaBarbera: Everything with PTG deductions is going very well. I think things will continue to roll out easier and easier.

Consent Agenda Detail:

MINUTES:

- a.) The Board minutes of the regular session meeting held July 27, 2022, were signed and approved.

INVESTMENTS:

- b.) The Board received from PRIT a statement of performance for July 2022. The

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PRIT Fund returned 3.20% for the month of July.

BANK STATEMENTS:

c.) The Board received the bank statements for July 2022 and the budget for August 2022. *Cash Books for July were sent to Board by email.*

MONTHLY WARRANTS:

d.) The Board approved payment vouchers:

08-01-22	\$58,677.56
08-02-22	\$58,276.47
08-03-22	\$22,570.94
08-04-22	\$29,950.69
08-05-22	\$1,642,160.91

REQUESTS FOR RETIREMENT:

e.) The Board approved the application for superannuation retirement from Mary Giron, Clarksburg, Admin Asst. The retirement will be effective 09/24/22.

The Board approved the application for superannuation retirement from William Decelles, Lanesborough, DPW Director. The retirement will be effective 9/25/2022.

The Board approved the application for superannuation retirement from Paul Thompson, Williamstown, Police Sergeant. The retirement will be effective 8/25/2022.

The Board approved the application for superannuation retirement from Nancy Bottesi, MGRSD, Paraprofessional. The retirement will be effective 6/17/2022.

MEMBER TRANSFERS OUT OF SYSTEM:

f.) The Board approved the notice of transfer of the account of William Caldwell, a member in Becket to the Worcester Regional Retirement Board. The Berkshire County Retirement Board will accept 3 years and 2 months of creditable service. The amount of the transfer is \$52,155.24.

The Board approved the notice of transfer of the account of Morgan McDonough, a member in Becket to the West Springfield Retirement Board. The Berkshire County Retirement Board will accept 4 months of creditable service. The amount of the transfer is \$1,592.58.

The Board approved the notice of transfer of the account of Kathleen Shove, a member in Lenox to the Mass Teachers Retirement System. The Berkshire County Retirement Board will accept 8 months of creditable service. The amount of the transfer is \$4,528.65.

REQUEST FOR SERVICE BUYBACK:

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g.) Margaret McDonough, a member in Egremont, is eligible to buy back 6 months of prior creditable service. If Ms. McDonough pays \$2,286.63 into the annuity savings fund by September 30, 2022, the board will grant 6 months of creditable service.

Danelle Duma, a member in CBRSD, is eligible to buy back 4 months of prior creditable service. If Ms. Duma pays \$1,084.38 into the annuity savings fund by September 30, 2022, the board will grant 4 months of creditable service.

Kimberly Borden, a member in BCRHA, is eligible to buy back 7 years and 6 months of prior creditable service. If Mrs. Borden pays \$47,228.03 into the annuity savings fund by September 23, 2022, the board will grant 7 years and 6 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)

Brian Toomey	CBRSD	\$15,324.15
John Murray Sr	Hinsdale	\$30,395.66
Karen Lewis-Kelley	MGRSD	\$12,286.77
Rose Borgnis	Washington	\$886.81

INJURY REPORTS:

i.) There were no injuries reported in August

NEW MEMBER APPLICATIONS:

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

7493	James Welch	Peru	6/1/2022	Town Administrator	1
7494	Austin Mosca	Monterey	7/4/2022	Highway Operator	1
7495	Erin O'Connor	BCRHA	7/11/2022	Housing Counselor	1
7496	Batista Betzaida	BCRHA	7/12/2022	Service Coodinator	1
7497	Sarah Cullison	Lanesboro	7/18/2022	EMT	1
7498	Sheila Parks	Lanesboro	7/1/2022	Library Director	1
7499	Sage Angel	Sheffield	7/11/2022	Light Truck Driver	1
7500	Margaret McDonough	Egremont	7/1/2022	Grant Administrator	1
7501	Stefanie Dangelo	Sheffield	7/1/2022	Children's Program	1
7502	Dakota Meredith	FRRSD	7/25/2022	Head of Maint.	1
7503	Robert Menicocci	Williamstown	7/1/2022	Interim Town Mger	1
7504	Jennie Tullock	CBRSD	8/29/2022	Para	1
7505	Cody Alvarez	Cheshire	7/25/2022	Police Officer	4
7506	Michael Sabato	Cheshire	7/27/2022	Highway Laborer	1
7507	Amy Turnbull	CBRSD	8/29/2022	Title 1 Tutor	1
7508	Matthew Albert	Lee (Schools)	8/25/2022	Para	1
7509	Candace Banach	Lee (Schools)	8/24/2022	Receptionist	1
7510	Mary Bredenfoerder	Sandisfield	8/1/2022	Public Safety Officer	1
7511	Griffin Samal	Sheffield	8/8/2022	DPW Laborer	1
7512	Jacob Blass	Sheffield	8/15/2022	DPW Laborer	1
7513	Blake Poore	Lenox (Town)	7/28/2022	Patrolman	4
7514	Kimberly Hart	Lenox (School)	9/1/2022	Food Service	1

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7515 Celia Armstrong BHRSD 8/25/2022 Payroll Specialist 1

RETIREMENT ALLOWANCE APPROVALS:

k.) The Board received approval from PERAC to grant a retirement allowance to William Ingram, Gt Barrington, as of 03/25/2022. Annual pension amount is \$57,898.44.

The Board received approval from PERAC to grant a retirement allowance to Marsha Pshenishny, New Marlborough, as of 05/01/2022. Annual pension amount is \$16,250.76.

The Board received approval from PERAC to grant a retirement allowance to Lionel Verrier, MGRSD, as of 05/13/2022. Annual pension amount is \$15,383.88.

The Board received approval from PERAC to grant a retirement allowance to Alan Zerbato, Lee, as of 06/10/2022. Annual pension amount is \$54,912.60.

The Board received approval from PERAC to grant a retirement allowance to Mary Bienvenue, as of 06/13/2022. Annual pension amount is \$20,122.20.

The Board received approval from PERAC to grant a retirement allowance to Denise Zuidema, FRRSD, as of 06/21/2022. Annual pension amount is \$14,296.32.

The Board received approval from PERAC to grant a retirement allowance to Lori Sheehan, CBRSD, as of 06/16/2022. Annual pension amount is \$9,805.32.

The Board received approval from PERAC to grant a retirement allowance to Jane Belanger, Lee, as of 06/13/2022. Annual pension amount is \$4,975.92.

The Board received approval from PERAC to grant a retirement allowance to Marian Hassett, BHRSD, as of 06/16/2022. Annual pension amount is \$16,066.80.

The Board received approval from PERAC to grant a retirement allowance to Anna Van Lingen, Lenox, as of 06/22/2022. Annual pension amount is \$14,611.56.

3(8)c REIMBURSEMENTS:

l.) The Board received a letter from PERAC ordering the Hampshire County Retirement Board through the provisions of MGL Sec 3(8)(c) to reimburse the Berkshire County Retirement Board \$1,426.48 a year toward the retirement allowance of William Ingram.

The Board received a letter from PERAC ordering the North Adams Retirement Board through the provisions of MGL Sec 3(8)(c) to reimburse the Berkshire County Retirement Board \$3,123.55 a year toward the retirement allowance of Lionel Verrier.

PERAC CORRESPONDENCE:

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

#21/ 2022 Vernava II- update

#22/ 2022 COLA for dependent allowances

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

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TRAVEL & EDUCATION APPROVALS:

n.) The Board approved the travel expense for Board and staff to attend the fall MACRS Retirement Conference Oct 2-5 in Springfield, MA.

The Board is asked to approve the travel expense for Board and staff to attend the PERAC Emerging Issues Forum Sept 15 in Worcester, MA.

MISCELLANEOUS CORRESPONDENCE:

o.) There is no misc. correspondence for the month of August.

Mark Bashara: Made a motion to approve the consent agenda. Paul Lisi: seconded.

Voted to approve the Consent agenda as presented, the vote was unanimous.

The next regular board meeting is scheduled for Wednesday, October 26, 2022 at 9:00am.

A motion was made by Mark Bashara to adjourn the meeting at 10:37am, Karen Williams, second.

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

RESPECTFULLY SUBMITTED:

Sheila LaBarbera, Executive Director

APPROVED BY:

Michael Ovitt, Chairman

Mark Bashara, Elected Member

Karen Williams, Elected Member

Paul A. Lisi, Jr., Advisory Council Member

Beth Matson, 5th Member Appointed