

Berkshire County Retirement Board Meeting
January 25, 2023

The meeting of the Berkshire County Retirement Board was called to order at 9:00A.M. 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. Karen Williams, Elected Member, Sue Funk, Advisory Board member and Beth Matson Appointed member participated remotely. Thomas Gibson, legal counsel and Gerry McDonough legal counsel participated remotely.

PUBLIC COMMENT:

- 1.) Members of the public have the opportunity to address the Retirement Board.

NEW BUSINESS:

- 2.) **Legal Update:** Presented by Board Counsel Thomas Gibson
 - BCRS v. PERAC and Pittsfield Retirement System

The Chairman declaring that discussion in open session may have a detrimental impact on the Board's litigation strategy in the appeal of *BCRS v. PERAC and Pittsfield Retirement System* now pending at the Division of Administrative Law Appeals, recommended the Board enter Executive Session under Purpose # 3 of the Open Meeting Law to discuss litigation strategy with counsel. A motion made by Mark Bashara to enter Executive Session under Purpose # 3 of the Open Meeting Law, seconded by Karen Williams.

A **roll call** vote was taken to enter into executive session under Purpose # 3 of the Open Meeting Law @9:11am. The vote was **Unanimous**.

The meeting was locked and all members of the public attending remotely were excused from the meeting.

Michael Ovitt – Board returned to open session at 9:39am from executive session. Board voted to withdraw our appeal of *BCRS v. PERAC and Pittsfield Retirement System*.

Police Chief of Hinsdale working after 65

Tom Gibson: there are a few other matters, Mr. Chairman and then we can dispense of the legal review. As we know, the legislature cleared the legislative session in January and at the last minute, there were a number of bills that were passed and signed. Two of them involve communities in Berkshire County. One dealing with the Police Chief of Hinsdale, which extended the Police Chief's tenure for up to five more years, from her maximum retirement age. I saw that bill and I thought it would be important that the member be notified of the impact of that statute. It does have an impact more than just allowing her to continue to work. It means that when she does retire, she retires as though she was age 65 with the calculations in place as if she were 65. Importantly, it also means that no other form of retirement is available to her because the language in the statute is mandatory. Meaning accidental disability and application of presumptions in Section 94 should she have a cardiac-related disability are no longer available to her. What it did not distinguish, were the rights of any dependents to file for accidental death benefits for her. Sheila can counsel her to that extent and I think we reduce that to writing and gave her a letter so everyone knows what the rules are going forward.

Sheila LaBarbera: She came in before we sent the letter out. She was counseled beforehand, but Tom had given me a letter that is a synopsis of the counseling session. It is not the first over 65 legislation that we have had. She received a copy by certified mail and first class

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mail. We also sent a copy to the Treasurer so she will stop the deductions as of February 2, 2023. We sent a copy to the Chairman of the Select Board so that they are aware of her status. It was nice that Tom gave me the letter to put it in writing; I will save it as a template for the future.

Beth Matson: Was she at 80%?

Sheila LaBarbera: No

Beth Matson: Is she at 80% now?

Sheila LaBarbera: No.

Mark Bashara: She cannot go any further at this point, right?

Sheila LaBarbera: Right. We calculated estimates for her at 65.

Hancock over 65 legislation

Tom Gibson: The second bill, which was not enacted, but almost was, had to do with the town of Hancock firefighters. That also would have allowed those employees, in police and fire, to work beyond age 65. That has been reintroduced this year already in the new session. I understand from Sheila that they are not members of the retirement system.

Sheila LaBarbera: Right. We are unaware of any firefighters that they would have that would be anything more than a stipend volunteer. We are trying to figure out who their Police Chief may be, but their Police Chief may just be a stipend, they are not a member of our system.

Tom Gibson: Well, we will keep an eye on it anyway. Maybe they will start hiring permanent employees.

Michael Ovitt: Do they do an assessment?

Sheila LaBarbera: Barely because they do not really have any employees, just one at the school.

Michael Ovitt: They are eligible, but they must have a minimum number?

Sheila LaBarbera: Yes, I would say that none of them meets the requirement for membership, at least in the police and fire department.

Michael Ovitt: For buybacks?

Sheila LaBarbera: They may have buybacks. I do not think many of them have been employed for that long. I would say for less than five years.

CRAB

Tom Gibson: Two other quick pieces of legislation that have been introduced in this session; they have not even been assigned bill numbers yet because they are brand new. One bill was submitted an Act to modernize and streamline the contributory retirement appeals.

Essentially, that bill would rewrite Section 604 of Chapter 32 to eliminate the Contributory Retirement Appeal Board. Administrative appeals would go from the retirement board decision to the Division of Administrative Law Appeals. The Division of Administrative Law Appeals Decision would become the final administrative decision that would be subject to further judicial review. It would not have a second level of Administrative Review as we have had for decades with CRAB. Some feel that because Chapter 32 is so complex, and that is recognize by the courts, that there should be two levels of administrative review. Others feel that it only delays the whole process. They are good arguments. We have had cases at the CRAB for up to five years. This was tried a few years ago and did not go through. Now with the delays at DALLA and CRAB, we may have some traction with that.

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Military Buybacks

The last bill I want to talk about, it fell just short of being enacted by the House of Representatives, and that is the bills dealing with the military service buybacks. This bill would extend the amount of time that a member has to purchase the military service and would give existing active members a second chance to purchase a military service if they were provided notice beforehand and declined to purchase that time. As we know, they are shut out forever if that happens. It would give those active members second chance. We may see some action on that bill later this year.

3.) The Board is asked to review a 3% COLA for retirees beginning July 1, 2023. Mike Ovitt asked Tom Gibson if voting to approve the 3% COLA would have any effect on the current legislation that allowed a COLA of 5% or the Board pursuing the increase in the COLA base. Attorney Gibson indicated that it did not have any effect on either option and that the social security COLA was more than the 3% so an advisory board meeting was not required to approve the 3% this year. Mark Bashara made a motion to approve the 3% COLA, Karen Williams seconded.

A roll call vote was taken to approve the 3% COLA for retirees on July 1, 2023. The vote was unanimous.

4.) The Board is notified of the passage of H5062 Hinsdale Police Chief working after 65. Member was counseled on the effect of this legislation on her retirement allowance. Letters were sent to the member, the town treasurer and the select board notifying them of the status change after 65 years old. ***see legal review***

5.) The Board will review staff compensation

Sheila LaBarbera: I just wanted to show you a couple of charts that we have. We had a couple mentions of this in our last discussion of salaries so we put together a step worksheet and we highlighted a couple of things for you to see. I just shared my screen so that everyone can see it. For the first step, is where Brian and Jill currently paid, we processed the steps for 3% and the second line is the average salaries that we came up with for those positions with the salary surveys this year. The first one is orange, but the second one that is yellow will show you what it would take for Brian and Jill, almost 5 years of steps to get up to almost where the beginning step is for 2023 salaries. We just wanted you to visually see the impact on salaries. The other slide that I have is in reference to when we talked about where the salaries came from for Jill and Brian. We still had steps and they were still being updated through 2021. You can see that the Step 1 for the lowest job in the system that we would have had, that we did not use, was for the \$61,000. Those are just for your observation, and I wanted to make those points to you. What I would like to do for the future, is around July to start the discussion again so that we are not doing salaries in November and December. We have the policy for the COLA and that happens automatically, but if somebody has something else that they would like to discuss or suggest, but a couple of times, the steps have come up, so we prepared those for you to look at.

Mark Bashara we have discussed that, and we need to discuss things earlier in the year and not wait until December, but I do not know if July is the right time. It might be a little early because a lot can come up between July and then.

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Sheila LaBarbera: What I would like to do for the planning process, for budgeting, I would really like to be able to produce at least a tentative budget in September because the Advisory Board has their annual meeting in October, and we always put the two-term in. and if we could at least have a to have a process.

Michael Ovitt If you could put your assumptions with whatever spreadsheets you have and distribute them to the Board and we will just take it under advisement.

6.) Directors update – PTG - Positive Pay- Valuation data

Sheila LaBarbera **PTG** is going very well. Brian and Jill have done a great job, especially Brian because he is using Zoom to connect with the Treasurers. We have had a couple of bumps but I am hoping to have the issues resolved so we can get all the units up and running.

Michael Ovitt Is PTG still working with the software people?

Sheila LaBarbera: Yes, they do and it is really the payroll companies they are short staffed.

Michael Ovitt: Is there anything we can put onto PTG because of their previous commitments?

Sheila LaBarbera I can try. Most of it now is just the report itself. I would say that by our next meeting, we should be at almost 100%. That is our goal. By doing it this way, one of the things that we have had to work on, and Jill has done a good job at this, is keeping track of the receipts of the retirement deductions that are being remitted. It has been quite a bit more work on our end, but other than that everything is going well.

Positive Pay is just a processing of check numbers and names. The Co-Op is looking at reinstating that because there are a number of people who are looking for it right now. We are going to do some things in-house and the Co-Op is going to do a daily checklist for us. We do not process many checks, but I am going to work with Jill to set up some more ACH for some of the payments that we make. I did check out a couple other financial institutions. Adams Community does have Positive Pay and most of the others do not.

Valuation data the valuation data important because that is the beginning of the process for our assessments. We are ready and balanced but I have two units that have not even processed their December deductions. So unfortunately, we are still waiting. I am hoping that both will be resolved by the end of the week. There has been a change at PERAC for submitting the data. Interchange has been discontinued and it is going to Prosper so we are on the wait for another 2 weeks before we can submit the data.

Michael Ovitt: We are balanced with the ones that we have received? We are balanced, but waiting on the other two units?

Sheila LaBarbera: I cannot close because I do not have the money from them.

Michael Ovitt: It is just the December deductions?

Sheila LaBarbera: Yes and then we must balance the supplementary schedule.

Mark Bashara: Is there anything with the actuarial that we are waiting for?

Sheila LaBarbera: Yes, we need to close before we can send in the year-end data for the actuary. I did talk to John Boorack he is going to do 16 and 18 because we will be able to extrapolate the data for if you decide you only want 15 or 17. The sooner I get in the cue, the sooner we get the data back.

Beth Matson: Would it be possible to also ask him about doing the assessment and doing the schedule?

Sheila LaBarbera: Yes, absolutely. He should already have it. The data may be old, but we did the whole process before so maybe he would just have to update the figures.

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Michael Ovitt: Is that the one for Lee and Lenox? Because those two communities would be the greater changes to the assessments. What about from the last time until now?

Sheila LaBarbera: Their Group 4s were the ones that we are really looking at.

Michael Ovitt: Can you tell us about miscellaneous correspondence that print the annual comprehensive report?

Sheila LaBarbera: That is the CAFR report prepared by PRIT. I put the link in there because it is a big book. That report is going to give you the information on PRIT investments for the last year. They do it on a fiscal year, so it is going to be FY ending June 30, 2022.

7.) CONSENT AGENDA:

MINUTES:

a.) The Board minutes of the regular session meeting held December 28, 2022, were signed and approved. *Minutes provided as an attachment to email*

INVESTMENTS:

b.) The Board received from PRIT a statement of performance for December 2022. The PRIT Fund returned -1.66% for the month of December.

BANK STATEMENTS:

c.) The Board received the bank statements for Dec 2022 and the budget for Jan 2023. *Cash Books for December were sent to Board by email.*

MONTHLY WARRANTS:

d.) The Board approved payment vouchers:

12-06-22	\$332.24
01-01-23	\$19,960.80
01-02-23	\$119,244.45

REQUESTS FOR RETIREMENT:

e.) There were no applications for retirement in the month of January

MEMBER TRANSFERS OUT OF SYSTEM:

f.) There were no transfers for the month of January

REQUEST FOR SERVICE BUYBACK:

g.) James Noe, a member in Egremont, is eligible to buy back 10 years and 3 months of prior creditable service. If Mr. Noe pays \$78,116.26 into the annuity savings fund by February 28, 2023, the board will grant 10 years and 3 months of creditable service.

REQUESTS FOR REFUNDS:

h.) There were no refunds processed in the month of January

INJURY REPORTS:

i.) There were no injuries reported in January

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NEW MEMBER APPLICATIONS:

j.) The Board is asked to approve for membership in the Berkshire County Retirement System the following members:

7639	Katelyn Raimer	Savoy	1/3/2023	School Nurse	1
7640	Kathleen Ricci	Lee	1/3/2023	Para	1
7641	Annaleise Schilling	Lee	12/28/2023	Custodian	1
7642	Mary Jo-Ann Rosa	Lee	1/3/2023	SPED Secretary	1
7643	Catherine Chapin	SBRSD	1/2/2023	ESP	1
7644	Levi Lisi	Dalton	1/5/2023	Animal Control	1
7645	Melanie Serrao	Hinsdale	1/11/2023	Police Officer	4
7646	Joshua Risen	Sheffield	1/17/2023	Board Admin.	1
7647	Norman Dodge	CBRS	1/12/2023	Custodian	1

RETIREMENT ALLOWANCE APPROVALS:

k.) The Board received approval from PERAC to grant a retirement allowance to Mary Giron, Clarksburg, as of 09/24/2022. Annual pension amount is \$11,168.40.

3(8)c REIMBURSEMENTS:

l.) There are no 3(8)c reimbursement letters in January

PERAC CORRESPONDENCE:

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

#01/ 2023	Reintroduction of hour and wage limitation
#02/ 2023	2023 Limits under Ch. 46 of the acts of 2002
#03/ 2023	2023 Limits under sec. 23 of Ch. 131 of the acts of 2012
#04/ 2023	COLA Notice
#05 /2023	Prosper Cash Books and Annual Statement Submission
#06/ 2023	Buyback and Makeup Repayment Worksheets

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

TRAVEL & EDUCATION APPROVALS:

n.) The Board approved the travel expense for staff to provide retirement seminars and PTG training to: DDVS and Great Barrington Fire District.

MISCELLANEOUS CORRESPONDENCE:

o.) -PRIT Annual Comprehensive Financial Report YE 6/30/2022

https://www.mapension.com/wp-content/uploads/2022/12/ACFR_Fiscal_Year_2022.pdf

-Hancock Legislation Working after 65 Police & Fire

Note: copies given to each Board member

Mark Bashara made a motion to approve the consent agenda, Karen Williams, second. **A roll call vote was taken to approve the consent agenda presented. The vote was unanimous.**

The next regular board meeting is scheduled for Wednesday, February 22 at 9am.

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A motion was made by Mark Bashara to adjourn the meeting at 10:13am, Karen Williams, 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

Karen Williams, Elected Member

Sue Funk, Advisory Council Member

Beth Matson, 5th Member Appointed

