

Berkshire County Retirement Board Meeting  
December 29, 2021

**The meeting of the Berkshire County Retirement Board was called to order at 9:18 A.M. in the Berkshire County Retirement Office, located at 29 Dunham Mall, Pittsfield, MA. Present at the meeting were; Paul A. Lisi, Jr., Advisory Board Member. Michael Ovitt, Chairman, Mark Bashara, Elected Member, Karen Williams, Elected Member and Beth Matson Appointed member participated remotely. Also present and participating remotely were Thomas Gibson and Gerald McDonough Retirement Board Counsel. A roll call vote was taken to open the meeting. The vote was unanimous.**

**PUBLIC COMMENT:**

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:**

- 1.) 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:** Adoption of Board Decision under Section 91A re: William Bartini 2020 Excess Earnings.

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 @ 9:18 am. The Board remained in executive session to consider item #2 and item #3**

- 2.) 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 90-day staff evaluation performed by Executive Director
- 3.)** The Board will review an Involuntary Accidental Disability Application from the Town of Lee. The Board consider accepting the application and requesting a medical panel.

**The Board returned to regular session at 10:34am.**

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Paul Lisi noted that there votes taken in Executive Session and those votes should be noted in Open Session. Thomas Gibson noted the Board voted to adopt the decision regarding Mr. Bartini and to offer him a payment plan, the board acknowledged the 90-day staff evaluation, the Board vote to accept the application filed by Chief DiSantis to involuntarily retire Timothy Kelly, Town of Lee.

- 4.) The Board will review and approve the renewal clause in the lease agreement with Scarafoni Associates for the period of January 1, 2022 to December 31, 2026. Michael Ovitt noted the item that I saw was the 2017 agreement with the provision to increase the rate. I don't believe there was any other changes to that other than the parking. Sheila LaBarbera noted all we're asking to do today is to use the renewal clause to renew our five-year lease. The new monthly amount will be \$2645 a month, and it's \$50 for the parking space. There is no CPI attached to this. It's a flat rate, and it will be a flat rate for the next five years. Just as the original agreement was to \$2300 and that was no CPI on that, and that was a flat rate for five years.

Paul Lisi: I would make a motion to accept the renewal clause and the Lease Agreement with Scarafoni Associates for the period January 1, 2022, to December 31, 2026. Mark Bashara: Second. Michael Ovitt asked if there were any additional questions?

Beth Matson asked what we were paying? Sheila LaBarbera noted we are paying \$2300 a month or \$15.33 per square foot. That was from 2017 to 2021 so we had a flat rate for five years. We pay an additional \$50 for private parking space for our membership. So the new period that would be covered is going to be January 2022 through December, 31 of 2026. Again, at a flat rate of \$2645, or \$17.63 per square foot, there's an additional \$50 charge for the private parking space. On a monthly basis. There's no CPI adjustment, so it will be a flat rate for five years.

Beth Matson noted she was in a larger space for less money. Paul Lisi responded that commercial space in downtown Pittsfield is very expensive. Mark Bashara asked about an older review of leased space? Sheila LaBarbera noted we did - the problem with most of them in this area is that you're going to get into a triple net lease. Michael Ovitt procurement wise, do we need to do it any different? Sheila LaBarbera not now because it with an automatic renewal. At the end of 2026, we probably will have to do the same exercise we did in 2017, which is to put out a request for proposals and go and look at other spaces just like we did in 2017.

Michael Ovitt noted there was a motion and a second to accept the renewal clause and the Lease Agreement with Scarafoni Associates for the period January 1, 2022, to December 31, 2026.

**A roll call vote was taken, and the vote was unanimous.**

Mr. Ovitt suggested that the Board take item #6 out of order to review the legal updates with Attorneys Gibson and McDonough.

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**LEGAL UPDATE:**

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

a. Pratt v. Berkshire County Retirement Board ruling. Attorney Gerry McDonough noted PRATT was the case where he had been adopted and was no longer entitled to the 12(2)d benefits because of that, and his mother appealed in his behalf, but we filed a motion for summary decision with DALA. They did not respond to it so DALA issued an order to show cause as to why it shouldn't be dismissed, there was no response to that. So that whole matter has been dismissed from DALA. I don't think there's anything else. We did not receive a decision directly ourselves from DALA, but I found one that had been actually published somewhere, but that case has been resolved.

b. Attorney Gibson provided an update to Mr. Colello's case. He has a draft letter ready to go to Attorney Timothy Zessin at KP Law. Which is town Counsel for the town. And they are nudging us to make Mr. Collelo's disability retirement retroactive to the last day that he received regular compensation, which, in effect, would render his claim for 111F benefits, moot, and the Board would pick up the liability for that period of time that he otherwise would be entitled to 111F benefits. Before I do that I just need to get some updated information on Mr. Colello, on his status, when PERAC approved his application, if they've approved as calculation.

Michael Ovitt in our consent agenda there is an item the board received approval from PERAC to grant the retirement allowance, and it said, as of 10/28/21, is that going to be questioning, or are we going with that date and then it could be revised?

Thomas Gibson that's the date that we voted on to make it effective. Not to go back retroactively on his case because he has this outstanding claim for 111F benefits. Based upon the events that occurred on the job, then certainly he would qualify for Injured on Duty Leave, we will respond to Attorney Zessin with his allowance approvals.

A few other issues: PERAC is having a renewed focus on pre-employment physicals for police and fire who seek to retire based on a presumption. And sometimes those pre-employment physicals are hard to come by. So I just want the Board to be aware that if we do get a presumption case in, we should be looking for that pre-employment physical right away. If the member does not have one or if the employer does not have one, then any medical record around the time of the employee commencing employment would suffice to satisfy that that pre-employment physical requirement.

Michael Ovitt is that something that we can gather on the application process?

Thomas Gibson you're supposed to gather that on the application process. Some boards have gone beyond that. And when they have a new hire coming in, that is group 4, as part of the enrollment process, they would ask the employer for a copy of that pre-employment physical so that it is in the member's file, regardless of whether it's ever going to be used 20 years down the road or not. But there's less chance of it disappearing or falling out of the file if it's in the hands of the retirement board. Michael Ovitt I believe we were told that we couldn't require it, or is it that we can require it, just we don't have a copy of it? Sheila LaBarbera we can't require pre-employment physical, but we do ask for them, and we do tell the group 4 employee, that is in their best interest. For members who have gone through the Police Academy, they have physicals on file forever. There really isn't an Academy for Firefighters, but we do suggest a pre-employment physical.

Paul Lisi we can certainly ask, as part of the application process, though.

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Michael Ovitt how does this relate to, 20 years later, we're trying to get it and it's disappeared? Thomas Gibson it's a problem. In the past, we've used affidavits from the current chief of the department to indicate that that when the applicant was hired, they did undergo a pre-employment physical, and the applicant passed it. If there were any evidence of heart disease or cancer on that pre-employment physicals, then the applicant wouldn't have been hired. PERAC had in the past, accepted those type of affidavits. More recently, they're pushing back, saying that someone could pass a pre-employment physical, and still have evidence of high blood pressure, or hypertension. And that's, in fact, been the case in some cases. An employee was disqualified from invoking the presumption because it is pre-employment fiscal 20 years before, he had high blood pressure. Even though the doctor cleared him to become a police officer. That was evidence of hypertension. And he was not able to invoke the hard presumption to go out on disability retirement. PERAC has been pushing back recently in some of these cases. They are looking for more diligent search for those records and if the employer can't find it, then they turn to the employee to say, give me your own personal doctors records to show that you have hypertension when you were hired, or at any time thereafter.

Thomas Gibson another area, the pension obligation bonds. Isn't strictly a legal issue, but the City of Brockton just issued \$300 million worth of pension obligation bonds to pay off their unfunded liability. The city of Quincy just issued \$475 million in pension obligation bonds. The town of Andover either has or is in the process of doing the same. So cyclically, when interest rates are low, many municipalities look to take advantage of that by taking on this fixed debt of a pension obligation bond to pay off their unfunded liability. And in Middlesex County recently we've had some inquiries about that, but we have a different appropriation formula than you do. When we do a system evaluation, we do a per unit valuation which would allow a municipality to separately issue a pension obligation bond and pay off their liability to the Middlesex County Retirement System. I don't think that would be something that could take place in Berkshire County right now because you use the aggregate payroll method of sort of mixing everybody in together in your system evaluation, not separating out separately the assets and liabilities of each member unit. You may get questions on this, Paul, as a treasurer, you may get questions on the pros and cons of this. It's not all good news. Brockton did this in the past in 2005 and did not have a good experience. The city of Worcester did this back in the beginning of the century, right before the market tanked, they went out and issued a pension obligation bonds, and they are stuck with that fixed debt, as well as the retirement appropriation. So it was not a good experience for them either. So this is a mixed view. Even the rating agencies aren't totally on board with, with pension obligation bonds. It's kind of neutral on them. So I just want the Board to be aware that you may be getting questions from your member units, Sheila and Paul Lisi as a member of the Advisory Council, saying, 'what about pension obligation bonds and what about borrowing some money now and pay off all of that unfunded liability? It's an issue that's out there, you just want the Board members to be aware of it.

The other issue is, Social Security COLA is going to be 5.9% this year, which is above the 3% threshold. That would require 30-day advance notice to the Advisory Council. As a courtesy and as a practice, the Board may notify the Advisory Council anyway. But there will be no requirement for the Advisory Council to be made aware of the date that the Board is going to elect to grant the COLA 30 days in advance of that election. It's a technicality, but that's what the statute says, and it's been so long, since the COLA has been above 3%, as we

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mentioned earlier, in our discussion, that people forget what the legal requirements are for notice and not notice of granting that COLA.

Michael Ovitt and that would be for next July, and are we limited to the 3%?

Thomas Gibson: Correct, PERAC will be sending out a memo in January. Advising with the social security COLA is by 5.9%. Once you get that notice from PERAC, then the board is free to elect to grant the COLA for the retirees, up to 3% of the first \$14,000. Effective July 1 of 2022.

Michael Ovitt we still can't exceed the 3%?

Thomas Gibson you cannot exceed 3% of \$14,000 dollars unless the Advisory Council wants to increase the COLA base from \$14,000. And that brings me to my next discussion because, as you know, the PRIT numbers are in, and as of November PRIT has returned, excess of 17% gross. So it's been a very good investment year, and let's hope December maintains those numbers. But accompanying that fantastic investment return this year and last year, and maybe even a year before, is increased pressure to share that bounty with the members and beneficiaries of the retirement system. And there's been some pressure put upon boards to have that COLA base for retiree's increase. I know the Retirees Association has been actively lobbying Retirement Boards to become more active you have no authority to increase the COLA base. That can only be done, by a regional retirement board by the advisory council. They're the only ones that can increase that COLA base.

A few other memos that are in your package PERAC cybersecurity. They're going to start offering courses next year on cybersecurity that board members and administrators can sign up for. They will be more active in that cybersecurity area with their audits. When it comes to do an audit at the retirement systems are going to check on your cybersecurity to see what safeguards you have in place. You're going to check your verifications and you're authorizing signatures for transfers of funds and what you do to reconcile those transfers and things of that nature. So there will be an increased focus next year on cybersecurity and technology and transfers of assets. As we know, there have been two instances this year of retirement funds, retirement systems who were flimflam one out of over \$3 million by a bogus e-mail that originated from a retired board administrator to a money manager telling that manager to transfer funds to a bank account, and that money disappeared. In other retirement system had direct deposit changes coming in. That were bogus, and they had actually implemented some before. It was discovered that they were fake, and the FBI is involved in that right now, investigating that. So, it's always important to ramp up your security, and I know it's difficult in a regional system, your size, to require people to come in person to do a lot of things. But you really have to be careful about thinking, an e-mail, or a fax, or even a telephone call to make any type of changes like that.

Gerry McDonough there is nothing going on in terms of legislation. We're still waiting to see what the Legislature does if anything with the Governor's Veto of the COVID Bonus Bill for Public and Private sector employees. That was enacted by the legislature and the governor vetoed that we're waiting to see now whether the legislature will overturn that, or the governor and legislature will come to a meeting of minds about that. So keeping an eye on that. We are also, in terms of cybersecurity also. PERAC is going to issue some regulations, they claim in 2022. So we will be doing some due diligence and keeping our eyes on those regulations because those could affect you in any number of different ways. And we want to make sure that PERAC takes all the boards requirements and different positions into account when they do issue those regulations.

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Michael Ovitt did I did see something in last month's meeting about the Veterans Buyback extending the period of time past 180 days. Where do you see that moving through the legislature?

Gerry McDonough that has not yet gone. It went from Public Service Committee in the House, the House Ways and Means Committee, so we're waiting to see what else, Ways and Means Committee. There had been a practice in prior years, but maybe those days are all gone by now. Around Veterans Day, the legislature would issue some press releases and signed some bills that had to do with veteran's rights or benefits. And maybe those days have gone by because we've been expecting now for a couple years that the legislature would pass that veterans buyback around Veterans Day, but it hasn't happened. There's no real opposition to that Veterans buyback, and it's something that causes enormous amount of Litigation in other boards and problems with members and we're hoping something gets done about it. But again, it's a wait and see attitude with the legislature here.

Michael Ovitt Is that appealable? What's the activity and other boards?

Gerry McDonough Yes, people appeal it, but they lose.

**Attorney Thomas Gibson and Attorney Gerry McDonough left the meeting.**

5.) The Board will review and approve the proposed budget for 2022.

Michael Ovitt the board will review the proposed budget for 2022.

Sheila LaBarbera: I compared it to the budget from 2021, and then you have the percentage change. In the budget breakout, it gives it the details of what the difference is. The only thing that I haven't really broken out was the staff salaries. But everything else has been updated and broken out for 2022.

Beth Matson My only question would be the legal fees. They look like they jumped up \$10,000, do you anticipate more fees.

Sheila LaBarbera yes we have a number of disabilities.

Mark Bashara: there's no increase for the new element PTG or whatever?

Sheila LaBarbera: The \$62,400 includes the PTG Core, which now includes the deduction module, it also includes the annual service contract for the phones and the copier.

Paul Lisi I will make a motion to approve the proposed budget of \$570,790.00.

Mark Bashara: the reduction in salaries is because we have two new employees, correct? And what did you put in the budget as far as pay increases?

Sheila LaBarbera: Jill and Brian are both at \$55,000. What I would like to propose for them is a one-thousand-dollar increase. \$500 payable at the three months review an additional \$500 of their six-month review. So, at the end of the year, they would be at \$56,000. For myself, I included a 5% increase, which equals about \$5000. Right now, my salary is \$100,134, so it would be \$105,140.

Michael Ovitt asked about a COLA? Sheila LaBarbera: Well, the COLA for this year was 5.9%. With Jill and Brian, they weren't here for the whole year and I wanted to provide them with some kind of monetary incentive for that.

Michael Ovitt asked about probationary period, it is 90 days. Michael Ovitt questioned throwing in an increase midyear? Sheila LaBarbera \$500 in three months it's a nominal. We're talking it's \$10 a week. Paul Lisi it is not uncommon for an employer to give increase in pay associated with 60 days on the job, 90 days on the job. Sheila LaBarbera it is an employee's market right now. And I think that we're very lucky to have the two individuals that we currently have. It's a nominal amount of money, but I think it's a kind gesture, to appreciate the good work that they've done. It's not easy to get employees. It's not easy to

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keep employees right now. Karen T. Williams: I don't disagree with you, Sheila. I get a little leery of setting a precedent and tying these reviews to additional money. That's how I feel about. I thought we had this discussion before, as Mike said, that we weren't going to do that. Sheila LaBarbera in fairness, I think that it was that you're going to start them at a lower salary and then you are going to increase their salary as they went along.

Mark Bashara So, I make a motion that we make a one -time payment, whether we add it to their salary or however, you want to do it for \$500, six months after Jill and Brian's, first day of employment, with a positive review.

Sheila LaBarbera: So, in other words, after the six-month time period has passed, you would take the remaining salary that's left to be paid to them add the \$500 to it, divided by the number of pay periods that are remaining. Each person will get the \$500, just depending on time and it will affect the pay a little bit differently for both people, at the end of the year, they're both their salary starting next January first, they're going to be \$55,500.

Beth Matson Second.

**A roll call vote was taken, and the vote was unanimous.**

Karen T. Williams what's the vacation buy out? Who is that for? Is that for all three of you?

Sheila LaBarbera: In the personnel policies, you are eligible to buy back a week of vacation. I budgeted for all three. Karen T. Williams and they would be eligible for that at the end of 2022. Sheila LaBarbera yes, because their PTO and vacation time as effective as of January one. Mark Bashara: Sheila, where did you end up with your vacation time? Sheila LaBarbera: I bought back two days, I still have five days to carryover.

Karen T. Williams probably won't be a popular comment, but I think the 5% increase for Sheila is high. So you're tying that to the social security COLA?

Sheila LaBarbera: I'm going to tie it to Social Security. I'm going to tie it to a few things here. I went back, and just in from September, since we had this last discussion through last week, I've worked over 100 extra hours since last since September. I've done that, for the last 11 months. In what I would have gotten paid at a regular rate from September through December, would have been over \$5,000. I think that my performance and what I've done for this last year has exceeded what is expected as far as extra hours, I didn't do it a great count between January and August, but I can tell you that the time was probably about the same. At this point, the cola is 5.9%, the inflation rate is 6.8%. I haven't had a salary review since 2018. Personally, I think that I have put in the extra effort that would warrant something a little bit higher than the 3%. The COLA is 5.9% and based on what I've done, and even with all of the extraordinary circumstances that we had over this year, the retirement system continues to perform. Even in the last month we have the three of us as a team have come together and done some things that are extra to make sure that as we get into year-end close, we are prepared. Like I said, refunds, rollovers, transfers, federal tax, pension payroll and all the things that go into year end we are balanced. Our supplementary schedule is balanced. So as we go into the end of this month, we're in pretty good position to make sure that we are staying on target as getting our system closed as we have on or about the same time as we have in the past. So I think that I have put in the extra effort. I think that I have done what has needed and more to get the job done this year.

Karen T. Williams: Did you get a raise last year? Sheila LaBarbera: 3%.

Michael Ovitt I guess before we just hear a 5% figure, maybe that review process or that the justification process should have taken place prior to right now at the meeting.

Sheila LaBarbera: I haven't really been given any guidance on how to do it, so that's how I did it.

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Michael Ovitt: It's the first I've heard about it. Has that discussion taking place with the board?

Karen T. Williams: No, not until today. Sorry, I'm going to have to leave and about five minutes. I have an appointment at 12.

Mark Bashara: I agree with you, Karen. Once again, this is one of those where I'm keeping an open mind, my mind isn't made one way or the other. Being honest, Sheila, you've done the things you've done and that's fantastic. And I'm sure every one of us wholeheartedly appreciates it, and I'm speaking on behalf of all of us but I'm sure we all do. But the 5%, I'd have to have more discussion and think. And, yes, you do a lot of extra things. I reflect back upon my own position when I was chief when it was salary. And lot of times, unfortunately, that's it's kind of the gamble you take with salary. You know. Sometimes. Make out and sometimes you don't. Unfortunately, for you this year, it wasn't a good year for you. In the sense that you didn't make out because you put an extra time and had to do what you had to do, but that's part of a salary job. I know myself, personally, I can't even begin to tell you the weekends I worked on vacations I work. I come back from vacation at one in the afternoon, and I'd be in the office.

Karen T. Williams: Before I go, I really do have to leave. So, maybe we can look at also doing a bonus type, or whatever you want to call it. For this exceptional year, where we lost two, employees hired two new employees, maybe take a look at onetime compensation for the extra work.

Paul Lisi: Before you leave, Karen. And this is what I would say then because I was going to propose the same thing. I would propose for this one time to give a \$5000 bonus or increase or whatever to Sheila. We do have to, in the future going forward, we have to create system. Sheila is following the Board's direction. The board is lacking. We haven't followed our own direction. We said that we were going to performance appraise, Sheila, we have to move forward with that. So there's one time I'm recommending that we give a \$5000 salary increase to Sheila with the same understanding that we're giving our other employees, that this is not a normal thing for this year. Mike, with the understanding that we will as a board, create a performance appraisal, a review system going forward, so that we can review Sheila, so she can understand where she is, what kind of measurements need to be put in place for her to meet up to. I just think it is fair for something to be compensated. I'm extremely comfortable with the fact of the \$5000 figure, as the fact that we are very stuck on the word salary. She is not technically a salaried employee, she has no contract, we have to take into consideration the fact that not being a salaried employee, she is an hourly employee entitled to pay for every hour worked. So, I'm all right his time, with a \$5000 salary increase with the understanding, Mark, like we put in for the other people. As the Board, we're delivering it to her right now, that this is not the norm. We and I do, and we have said it many times. We appreciate everything you do. I would like to make a motion. To increase Sheila salary by a \$5000 for calendar Year 2022 with the understanding that this is not the norm. So to, say, a 5% increase in salary. Salaries increases going forward will be tied to the norm that the Board sets based upon certain things as appraisals and things like that. That is my motion.

Karen T. Williams: Ok. I Have to leave. I look forward to seeing what the decision is. I'm so sorry. **Karen Williams left the meeting**

Michael Ovitt: We have a motion; do we have a second?

Mark Bashara: I'll second it for discussion purposes.

Michael Ovitt, Mark Bashara and Beth Mason had questions regarding a \$5000 bonus plus a COLA, Paul Lisi qualified the statement by saying it was a 5% COLA that equaled \$5000,



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not both. Paul Lisi stated the difference is that she is at the understanding that a 5% salary increase is not the norm. So, it is a difference. And so, Mike, if you want to do this, moving it forward to another meeting, but you want some direction. We all have to know what direction. Because I know you want to know what it's tied to or whatever. But if, if the person creating this doesn't know what she is required to do, how are we supposed to know what we're required to do?

Michael Ovitt: How about the evaluation process? Are you ready for that?

Paul: So, I have a question, we're now building a budget and If we're going to do that, then I'm going to recommend that Sheila gets a 3% increase in her salary. I do not think it is fair of an employee not to get anything until the board comes together and figures out how we're going to do an evaluation process. It's a normal budget time. I'm going to say, then I would recommend that her salary increases by 3%, which is what we have historically done since I've been here. So I would say that it increases by 3%. And we have to be clear in a directive to Sheila and say, this is what we're going to do going forward.

Michael Ovitt: First it was 5%, now it's 3%, from a \$5000 bonus, so we're all over the place here.

Mark Bashara: I agree with you, Paul. She can't be left out hanging, and she finds out and May, she's getting a raise, but because it's December, can we decide, at our January meeting? We all have time to kind of just shake this around. There's been some several ideas put out there, and then at the next meeting, have the definitive salary for her. Like, are we going to give her \$5,000? Are, we going to get 3%? Are we going to give 2%, are we going to not give anything and just give a one-time bonus? I'm just putting things out, and let's say what I'm in support. I think that would be the best because I think right now, we're all over the place, we've been on for two hours almost. We're probably all getting a little tired, so we all know what we need to discuss. We're good with the employees we already discussed here. So we're good, we're not leaving Sheila hanging out in the wind. Which wouldn't be fair to her because it'd be made January. I'd have no problem at whatever we decide at our January meeting to have it retroactive to January first so that she's not losing out a month, because we decided to take a month, so there would be no loss there.

Paul Lisi: My question to this is, Mark, if you want to do that in January, we can. I think we need to deliver. Is there anything, Mike, Mark, Beth, that is required from Sheila in regard to this salary, to come forward to us on an agenda, next month that we need?

Mark Bashara: I agree with Mike would review thing. Maybe going forward for next year, I couldn't agree more. We're giving reviews to the employees and yet, our Executive Director, who is the head of the whole place, who does get a six-figure salary, which is that it is what it is, but we need to have a review. But I agree with you, Paul, that we shouldn't, do that processes this year. What I'd be looking for in the January meeting is for us to come together and decide if we are giving her 2%? Raise 3%? Whatever for this fiscal coming year, retroactive to January first. And that's it. And then we worked with Paul, and we definitely have several months to work on a process to review our Executive Director, so that when next year comes, we can really go by all this, because we have a process. I'm not saying this has to be it, but for November meeting, we have our Review of Sheila, we discuss it. December meeting, after we had our review, we can talk about how she is doing, what's going on, this is what we're going to do. And then we're at a schedule every year.

Paul Lisi: I will say I'm comfortable with putting it off till January. As long as it is resolved in January, I'm not comfortable putting it off any further than that. Mark Bashara: I agree.

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Paul Lisi: My question to you is, you had a great suggestion, and I will say performance appraisals, the person being performance appraised, should know what the performance appraisal consist of. So they can be aware of what they're being performance appraised of. We've always passed them in Richmond. When new hire, always comes in and we always pass them out. This is what you'll be getting each year, a performance appraisal. They know what We're looking for. They know where to ask questions. Again, Mark, I agree with you that the board, how would we do it in Richmond, the board, does it as individuals. Then we come together and do it as a whole. So I'm comfortable with that, as long as we share information and communicate regularly, and again, say in that discussion to Sheila so she knows, going forward. Your raise is attached to performance appraisal, or no in fact it is not. You'll just continue to get a standard COLA. But we have to communicate that clearly. And I am, all right, moving this till January.

Mark Bashara: I think Mike's thing is very important because I think, the review would have to be done either October or November. So that we have probably even be better in October because then that gives us two meetings to discuss the revealing case. Yeah, you never know what we're gonna run into. We always seem to run into something I don't mean that negatively with Sheila. Something else could come up and maybe we can't talk about it November because we have three injury things or something. But that still gives us enough time. To follow along Mike's point of having some kind of set review. So yes, I'm good with January. I also agreed that in the January meeting unless some crazy unforeseen thing comes along. We have her salary settled. We have time to talk about it. But then I don't want Mike's thing of the review to fall by the wayside. Because we were like, we are at the beginning yeah and we've got plenty of time. Before you know, we'll be back to the next year, and we'll be doing the same thing. Mike, is this something you think we would have Tom join for so that we have a professional, proper, some kind of guidance and doing this review going forward for her?

Paul Lisi: Mark, you're bringing up a very good point. That was something. I was not going to bring up. I would have to say, I think you're going to be extremely shocked with Tom's answer.

Mark Bashara: Like a baseline of what to review. That's what I'm saying, like what the as you said, she needs to know what we're going to be doing the review. Mike's idea is obviously spot on because we need to do review. I'm saying, would he be able to give us a list from another system. When we set policies and procedures, you know, 350 police departments, didn't come up with their own policies procedures. Mass Chiefs have a boilerplate, and we would go from there. So I'm wondering, do you think that's something we could discuss with Tom and have a boilerplate set something? And then we could look at it, maybe tweak and say, well, that doesn't mention this, and this is important to us. So let's put that in there.

Beth Matson: I thought we brought this up a few times and my understanding was that Sheila was going to get something from Tom for us to look at.

Sheila LaBarbera: I don't believe that it was for my performance review, that that was for the staff performance reviews.

Michael Ovitt: I thought it was for yours as well, Sheila. I think we need to establish something here, and rather than just throwing a number out there. In fairness to all. The issue that Paul brought up about being an hourly employee and have overtime. Sheila, this is again, something that came up several months ago, that you are working all these extra hours and not being compensated for. Where does that fall? As far as us saying, yup, you can work 80

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hours a week, and we'll pay you, or you're on a fixed amount and you gotta do what you gotta do, like Mark was saying.

Sheila LaBarbera: Is there a question? Michael Ovitt: Yes.

Sheila LaBarbera: So what is the question? The last time we discussed it, Mike, it was that we provided the detail, you didn't have enough information in the detail to substantiate, what both at the time, Bill and myself had worked for extra hours.

Michael Ovitt: So, going forward, what's different?

Sheila LaBarbera: What do you mean what's different?

Michael Ovitt: Did you bring it up? Did you document it? Did you write down it down?

Sheila LaBarbera: I've written down every day. Every day that I work, I've written down everything that I've worked on, and those additional hours, so I have all the detail. Michael

Ovitt: This has been since Jill has been there now that Brian's there?

Sheila LaBarbera: No, since Jill and Brian have been here since December, I've been able to get out for lunch most of the time but January through November I have not. Those are not hours that I even calculated. You understand the amount of work that gets done in this office, you understand that it's a three-person office. So you understand that we haven't had three people for most of the year. The work still got done. I can't close the office and go home because it's a slow day today, and I worked an extra hour the other day so I or take it off. People still have to be here; the office still has to be open. People still call in, services still need to be provided and I've done that.

Paul Lisi: I will just make a motion to table the budget discussion until our January 2022 meeting.

Sheila LaBarbera: You have to approve the budget for 2022 before December 31, 2021.

**Paul Lisi I will make a motion to approve the budget as stated for \$570,790 for calendar year 2022. Understanding that the salary for the Executive Director will be conferred upon again in the January 2022 board meeting. Mark Bashara: I'll second that.**

Mark Bashara: That was unique and the, Mike, I'm asking it sounds to me simple. We know we want to do reviews for Sheila. We have to do that, so I think, either now or next month, we need to have some absolute decision. We're going to talk to Tom, he's gonna get us, as I said of boilerplate of what's going to be, or Sheila is gonna get something from him. And then we over the coming months, we review that and then say, it's perfect as it is or we there's one thing missing that we want to have this added. That way, as Paul mentioned, Sheila will know what is expected of her for the reviews. My whole goal in the next year, when we get to October and November, we're doing a review of her and then we're discussing salary and we're moving on, and we don't have to go through every year. We're looking to do this now for the upcoming 12 months, though.

Paul Lisi: I know we're looking to do a review now for the upcoming 12 months?

Michael Ovitt: We're trying to come up with a number now, that's fair to, Sheila.

Paul Lisi: We're doing that now? You said we were going to be talking about that in January?

Michael Ovitt: We're talking about that now. What are we basing that on?

Sheila LaBarbera: I don't know. The question was, what do you want from me? What is different in January that is different from today?

Mark Bashara: So there's two things here. Come January, there's no way we're going to review Sheila and have everything in time to do that, because then we'd be going way up. So we need to think about this. In January we will discuss it fresh, have a fresh discussion. And

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what we give her. We're not going to have an actual review. So, this one is going to be, kind of, a one and done. But then what I'm saying is once we've got that settled, when we discussed in January, what she gets as the raise, and what we decide. But when we made our decision with her and that's done, and she's all set. I'm saying the next step, right after that, as we need to find out is appropriate for a review of her next year.

Paul Lisi: I'm agreeing with you 100%. I believe that, we should let Sheila reach out to Attorney Gibson to see if he has a review document available that he will be willing to share with Sheila, who will then be willing to presented at our January meeting. Which will then be used for the review at the end of calendar year 2022. So, to say October, like you said, after we've had a few months to look at that. I'm in an agreement with that 100%. I think that works, I think, is smart. I think it gives us time to properly communicate to all parties involved. Just the question is, and this is my biggest concern. Come January 26, we're talking about Sheila's salary, and we're coming right back to the same discussion we're having right now because I'm not sure what does somebody want in front of them? You have to tell Sheila what to get us to bring forward.

Mark Bashara: I think is that instead of because this is regarding Sheila as the Executive Director, and Mike, it's totally up to you. You're the Chairman. I think it should be the chairman that gets the information from Tom, because of course Mike knows we're looking for as I use the word boilerplate, some kind of start process, something in the base on for review. Then once Mike gets that, then he brings it to us, whether it's in February and March, and that's it. It's, really not complicated.

Sheila LaBarbera: I agree with that. Then task, Mike, with the ability to reach out to Attorney Gibson to find like you're saying some kind of boilerplate review that can be used for the Executive Director.

Mark Bashara: Yes, I think you should come to the Chairman, because she has, not saying anything bad, but she has a vested interest in it. So I think it should be the board Chairman, that gets that, and then we take that and discuss it.

Michael Ovitt: But again, what I'm looking at is maybe 2 to 3 different issues, 1 is, what is our usual COLA, if any, rate now.

Paul Lisi: Now, 3%.

Michael Ovitt: We're talking about a salary adjustment because of a change in the workload and whether the salary survey. We've done all this before to say, Sheila is underpaid for the responsibility she has, then this hourly versus overtime. We have no parameters. If we're going to approve overtime, we need to maybe be aware of it and say, you can work up to 10 hours a week more. It can't be open-ended, and it needs to be fair so those are the things that we need to address.

Paul Lisi: I agree there are three issues. The issue for January, isn't those three issues though. The issue for January is taking up a salary for Sheila. The other issues are board issues. They don't have anything to do with Sheila. We have to decide, as a board are, we going to talk to Tom Gibson and create a contract for Sheila.

Michael Ovitt: That's for future, Paul.

Paul Lisi: That's what I just said. The issue for January.

Michael Ovitt: You're talking about that for next year, right?

Paul Lisi: The only thing I'm talking about for January, that we need to go through on then January 26th board meeting, is come up with a salary for Sheila. That's what we need to come up with. We can give her a standard COLA of 3% if we need to as we've done

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historically. We can look back at all of our documents. I don't think it's ever been less than 2.5, it's 3 to 2.5.

Michael Ovitt: We could potentially do that today if these other issues of the hourly versus over time versus salary.

Mark Bashara: We're opening up a can of worms if we're gonna get into overtime and all this stuff that. We could have Tom drawn up a contract with Sheila. All three members in the end, work at the pleasure of the Board, end of story.

Paul Lisi: I want to you understand, I'm not disagreeing with you. You, coming from the police department know that you worked so to say under a contract, you worked in protection of the contract. And so to say at the pleasure of the Board, but also at the pleasure of yourself, because your contract also covered you. Your officers who work underneath you worked at the pleasure of the Board, I'm in a 100% agreement with you. I'm not disagreeing at all. I am just saying the issue for January 26, in my mind, is we need to find a salary for Sheila. After January 26<sup>th</sup>, the last meeting in February, the board needs to then say, these are the other issues we need to work on. We need to contact Tom and say, OK, if we consider Shelia to be hourly, we do legally owe her overtime. And how do we go about creating that policy like Mike is saying. Or do we say, let's create a contract where she's truly salary for her job duties are definitely included in there. Mark, you have had a contract. You always know that end sentence in there, and whatever else is required of you. So that covers you for everything. If you have to stay 20 extra hours a week, well, you're covered. But there are some parameters there, but I mean, I agree with you. We have to work on those issues and tell Sheila what she's going to be measured on going forward. But the only thing for January 26th is just to set a salary.

Mark Bashara: Yes, I agree. The salary in January and then February addresses the issues that Mike has. The issues I see is whether we do a contract, whether we keep it the way it is. I'm just saying, OK, it's worked this many years. Sometimes you don't need to recreate the wheel. This would all be resolved if we had a policy. That's why I don't want to get into it and is sometimes best to let sleeping dogs lie. And just in January, we need to discuss about what we're going to do. Whether it's 3%, 5%, 1%, whatever. So that when we leave, she knows she's got it. And once again, I don't have a problem with it being retro to January first, but I'm saying after that, if Tom gets Mike, a boilerplate and that is setup that we can review next year. Because she knows what's expected of her.

**Paul Lisi I will make a motion to approve the budget as stated for \$570,790 for calendar year 2022. Understanding that the salary for the Executive Director will be conferred upon again in the January 2022 board meeting. Mark Bashara: I'll second that. A roll call vote was taken, and the vote was unanimous.**

*Item j: New Members: Alexander Drennan will be resubmitted in January 2022 with his membership date and job title.*

*Item i: was removed from the consent agenda for a separate vote.*

**Consent Agenda Detail:**

**MINUTES:**

a.) The Board minutes of the regular meeting held November 30, 2021, to be signed and approved.

*Minutes provided as an attachment to email*

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**INVESTMENTS:**

b.) The Board received from PRIT a statement of performance for November 2021. The PRIT Fund returned -0.21 for the month of November. *The monthly redemption amount has been reduced to \$1.2 million and will begin on January 3, 2022. A wire transfer of \$3 million has been set up for December 29, 2021, the remaining assessment balance will be transferred to PRIT in January 2022. PRIT Investment report provided by email*

**BANK STATEMENTS:**

c.) The Board is in receipt of the bank statements for November 2021. The Board is also in receipt of the budget for December 2021.

*Note: copies of cashbooks for November 2021 were emailed to each Board member prior to the meeting.*

**MONTHLY WARRANTS:**

d.) The Board is asked to approve payment vouchers:

11-04-2021	\$1,540,002.47
11-07-2021	\$134.40
12-01-2021	\$146,128.27
12-02-2021	\$50,186.44
12-03-2021	\$50,374.46
12-04-2021	\$1,587,639.74
12-05-2021	\$21,905.79
12-06-2021	\$736.07

**REQUESTS FOR RETIREMENT:**

e.) The Board is asked to approve the application for superannuation retirement from Lisa Becker, FRRSD, Paraprofessional. The retirement will be effective 09/25/2021.

The Board is asked to approve the application for superannuation retirement from Edward Lamarre, MGRSD, custodian. The retirement will be effective 12/31/2021.

The Board is asked to approve the application for superannuation retirement from Bruce Turner, Egremont, selectman. The retirement will be effective 12/31/2021.

**MEMBER TRANSFERS OUT OF SYSTEM:**

f.) There are no requests for transfers in the month of December.

**REQUEST FOR SERVICE BUYBACK:**

g.) There are no requests for service buybacks in the month of December.

**REQUESTS FOR REFUNDS:**

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

James Cook	SBRSD	\$8,882.90
Mark Miller	Otis	\$16,103.00
Rebecca Stone	Clarksburg	\$25,200.54
Sylvie Carrier-Hastings	CBRS	\$13,555.14
Judith Wagner	Dalton	\$25,358.02

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Refunds of deduction errors:

Scott McGowan      Williamstown      \$11461.30

**INJURY REPORTS:**

i.) There was an injury reported in the Town of Dalton in December

**NEW MEMBER APPLICATIONS:**

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

7356	James Atwell	Washington	10/12/2021	Highway Department	1
7357	Terrence Powell	Great Barrington	11/2/2021	Police Officer	4
7358	Rian Dowd	Lenox	10/4/2021	Local Inspector	1
7359	Aaron Coons	Alford	11/8/2021	Highway Department	1
7360	Mackenzie Kupiec	Savoy	10/12/2021	Asst. Teacher	1
7361	Homero Toro	BHRSD	10/27/2021	Asst. Cook	1
7362	Daniel Bergeron	SBRSD	11/1/2021	Custodian	1
7363	Mark Buffoni	Stockbridge	11/15/2021	Transfer Station Attndt	1
7364	Samuel Young	Lenox	8/30/2021	IT Technician	1
7365	Kevin Flynn	Sandisfield	11/18/2021	Town Manger	1
7366	Joseph Sniezek	Lee	12/1/2021	Police Officer	4
7367	Amy Soules	SBRSD	11/22/2021	Sped Esp.	1
7368	Edwardo Rodriguez	SBRSD	11/17/2021	Kitchen	1
7369	Jenna English	Williamstown	11/1/2021	Circulation Manager	1
7370	Toni Garland	Lee	8/23/2021	Para	1
7371	Joshua Tompkins	Clarksburg	9/20/2021	Hwy Labor	1
7372	Cristine Gamari	Clarksburg	8/16/2021	Admin asst	1
7373	Misty Cooper	Clarksburg	8/24/2021	Teacher's Assistant	1
7374	Jessica Wimpenney	Clarksburg	8/27/2021	Para	1
7375	Linda Neville	Clarksburg	8/11/2021	Para	1
7376	Jillian Gummeson	Clarksburg	8/15/2021	Teaching Asst.	1
7377	Cody Wemette	Clarksburg	8/25/2021	Para	1
7378	Alexander Drennan	Clarksburg			1
7379	Casey Bouchard	Mt. Greylock	10/21/2021	Para	1
7380	Michael Paton	Hinsdale	11/8/2021	DPW Laborer	1
7381	Eric Rowlands	Otis	11/3/2021	Laborer	1
7382	Julia Cellana	Mt. Greylock	11/8/2021	Admin Asst.	1
7383	Jeremy Baker	Lee	12/6/2021	Water Operator	1
7384	Eric Kreis	Otis	12/6/2021	Facilities Administrator	1
7385	Andrew Provost	Savoy	12/13/2021	Highway Department	1
7386	Catherine Blake	SBRSD	12/13/2021	ESP (school)	1
7387	Joshua Lang	Lanesboro	12/15/2021	Town Administrator	1
7388	Molly LaFleur	MGRSD	11/29/2021	Office Clerk	1
7389	Jessica Suleski	Dalton	12/20/2021	Admin Asst.	1
7390	Agnes Witkowski	Dalton	12/20/2021	Health Asst.	1

**RETIREMENT ALLOWANCE APPROVALS:**

k.) The Board received approval from PERAC to grant a retirement allowance to Lisa Becker, FRRSD, as of 09/25/2021. Annual pension amount is \$6,362.16.

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The Board received approval from PERAC to grant a retirement allowance to Christopher Colello, Sheffield, as of 10/28/21. Annual pension amount is \$47,314.32.

The Board received approval from PERAC to grant a retirement allowance to Terry Haig, Williamstown, as of 12/01/2021. Annual pension amount is \$21,290.88.

The Board received approval from PERAC to grant a retirement allowance to Frances Sorrentino, Lenox, as of 11/01/2021. Annual pension amount is \$10,133.76.

The Board received approval from PERAC to grant a retirement allowance to David Tatro, Clarksburg, as of 11/08/2021. Annual pension amount is \$10,440.36.

The Board received approval from PERAC to grant a retirement allowance to Sonya Daly, Lee, as of 09/07/2021. Annual pension amount is \$5,268.72.

**3(8)c REIMBURSEMENTS:**

l.) The Board received a letter from PERAC ordering the Pittsfield Retirement Board through the provisions of MGL Sec 3(8)(c) to reimburse the Berkshire County Retirement Board \$491.13 a year toward the retirement allowance of Sonya Daly.

**PERAC CORRESPONDENCE:**

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

#32/2021	Cybersecurity and Internal Controls
#33/2021	Tobacco Company List
#34/2021	2021 Disability Data
#35/2021	840CMR- Medical Testing Fee

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

**TRAVEL & EDUCATION APPROVALS:**

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

**MISCELLANEOUS CORRESPONDENCE:**

o.) Signatures for Bank account access and authority

The Board is notified of the re-election of Paul Lisi Jr. as the Advisory Board Member of the Berkshire County Retirement Board. The 3 yr. term Begins 01/01/2022

Paul Lisi made a motion to approve the consent agenda removing item i, Mark Bashara second.

**A roll call vote was taken, and the vote was unanimous.**

Paul Lisi made a motion to approve item i, an injury report from the Town of Dalton, Mark Bashara second.

**A roll call vote was taken, and the vote was unanimous.**



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

A motion was made by Mark Bashara to adjourn the meeting at 12:15pm,

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