

Berkshire County Retirement Board Meeting
September 28, 2022

The meeting of the Berkshire County Retirement Board was called to order at 9:09 A.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 and Karen Williams, Elected Member. Beth Matson Appointed member, was participating remotely. Paul A. Lisi, Jr., Advisory Board Member was absent.

Mark Bashara: I will make a motion to open the meeting with remote participation, the reason for remote is and it is due to geographical issues. Karen Williams: second.

A roll call vote was taken to approve remote participation due to geographical reasons, the vote was unanimous.

PUBLIC COMMENT:

- 1.) Members of the public had an opportunity to address the Retirement Board as the remote link to the meeting was posted with the agenda. There were no members of the public attending the meeting or connected remotely.

NEW BUSINESS:

The Board called for executive session at 9:45am

- 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: ODR Review Shanna Curley-Graham, Town of Hancock

The Board returned to regular session at 9:55am

The Board took action regarding an ordinary disability application for Shanna Curly-Graham. The Board voted in the affirmative to grant the ordinary disability benefit.

- 3.) The Board will review the proposed updates to the Credit Card Policy and the Parental Leave Policy. PERAC legal had an issue with our credit card policy, so we amended item J. Item J used to say “the Berkshire County Retirement Board reserves the right to the withhold the final payroll checks and pay out of accrued leave until the cards have been surrendered.” We have deleted that from item J. If someone leaves, the credit card would be terminated immediately. If there were any issues regarding credit card usage that may not be appropriate, that it would be dealt with in a legal manner rather than by withholding paychecks. We just need a vote to approve the amendment in this policy.

Mark Bashara: I will make a motion approve the most recent updated, page five updated 9/2022 credit card use policy. Karen Williams: I will second.

A roll call vote was taken to approve the amendment to the credit card policy item j. The vote was unanimous.

The second part of item number three was the Parental Leave Policy.

Regarding the Parental Leave Policy, there were some changes to parental leave prior to or after our original personnel policies were approved back in 2018. The parental leave policy that legal counsel had suggested is before you. The new policy is a little bit more descriptive and the policy is clearer in its intent. There are no material

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changes to the policy. The changes to the parental leave were for private employers, they did not apply to the government agencies.

Mark Bashara: I will make a motion to approve the updated Massachusetts Parental Leave Policy for the Berkshire County Retirement Board. Karen Williams: second.

A roll call vote was taken to approve the update to the Parental leave Policy. The vote was unanimous.

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

Vacation Buyback as Regular Compensation

Was the Berkshire County Retirement Board on May 1, 2018, accepting contributions from employees who are selling back unused vacation time? Sheila LaBarbera: No, we have never accepted deductions on vacation buybacks.

On August 11, 2022, the SJC upheld the CRAB's decision, that such sellbacks of the unused vacation time were not regular compensation. However, a week before that decision the legislature enacted a new section in Chapter 32, Section 106, that would say essentially anybody who was participating in that program will be held harmless, not had their pensions recalculated because of the SJC decision, anybody who was actively participating in a program on May 1, 2018, and was consistently participating in buying back that time, could continue to do so under certain criteria.

First Amendment auditors

Tom Gibson: A group out of New Hampshire, First Amendment auditors, they have been showing up in public buildings, town halls, with video cameras to record interactions with public workers. Their reactions are designed to provoke a response from the public worker that would essentially violate the First Amendment rights to be in a public building to take pictures and upheld public building into interact with public workers. I just wanted Sheila to be aware; the likelihood they are going to show up at all is very low. Our advice is, maintain your professionalism, be courteous and offer to provide whatever public records they are looking for. You have 10 days and you can refer them to your records access officer. You can say, "I will take that request and give it to our Records Access Officer and they will respond to you within the statutory period, which is 10 business days to respond." They do not have to put it in writing. The problem is that they do not put it in writing, and they do not get what they are looking for; they cannot appeal it, because they have no evidence of when that date and what they were looking for. The supervisor of public records will not entertain any appeal, a denial of public record that was based on an oral request.

Fraud Alert

Last Friday, PERAC sent out a fraud alert and this is something to be concerned about because the scammers have now been they trying to change direct deposit information. Green Dot Bank it should raise a big red flag for you. Recently, some boards received requests to change a deposit to the Wells Fargo Bank. The alert that PERAC sent out on Friday is something that we saw in Brookline. Where a custodian in one of the Brookline public schools receive an e-mail from a group, My Pension Appraisals, indicating that it was time for an annual pension review. The language in the request said, we work in conjunction with the Mass

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Teachers Retirement system, which was a red flag right there because they don't belong to Mass Teachers and you're entitled to one-hour free financial planning and advice regarding your retirement. They had this individuals' public e-mail address they knew his job title, they knew where he worked; they got all the information off the website. What it is designed to do really is to get personal information about you, it is a scam, and your members should be made aware of that.

Electronic Signatures

PERAC approved a new Regulation, 8 40 CMR 28, dealing with electronic signatures. PERAC regulations must undergo further review by the legislature and the legislature has 45 days, from when they receive the regulation of PERAC to disapprove it. Sometime mid/late October, you will be receiving a memo from PERAC further detailing what boards should and should not do what they can and cannot do with regard to forms and electronic signatures. In the regulations, the board's is still free to require wet signatures on any documents but it is a good regulation.

Two other regulations that PERAC is working on, are more complicated, CMR 30 and 40 CMR 13. Both are designed to bring PERAC's regulations into compliance with the IRS code because some of them are outdated, so now the PERAC is working on those issues.

Veteran's Buybacks

Back in the 1990's, they changed the Veterans buyback. Veterans who wanted to purchase some of their veteran service needed to be notified from the boards and they needed to respond to that notification about the benefit and the ability to purchase that service within 180 days. Many people have missed that deadline. PERAC submitted some legislation that made it to the House Ways and Means Committee. PERAC filed legislation, which would allow veterans to purchase their time either before they vest or within a year after vesting. Any other employee who is presently employed who wishes to purchase their time; they would have a year from the date of enactment to purchase that Veterans service. We are eager to see this addressed. The bill is if you go onto the mass legislature website is House 5051, it is only a page long.

COLA Increase for Retirees

The 5%, the one-time COLA increase on the base. It is in effect for State and Teacher's but the governor sent that back to the legislature with some recommendations regarding the approval process, right now sitting in the Senate Ways and Means Committee. There is talk about bringing it out and overriding those amendments in an informal session, if there is no opposition to it so that municipalities and County Regional Boards can vote it as originally written. The government wanted a two-thirds vote of all the municipalities in the county system to approve it. If there is one person who objects to put in the informal session, then they cannot vote on it. So, if it is unanimous and no opposition, then they can act on it but we do not know where that stands right now.

PTG Complaint

There has been some complaints filed in Suffolk Superior Court in June and July, by a company and a Principal Company who is associated with PTG. They write code for PTG and there is a dispute over money. They filed complaints, arguing that there is money due to this company and they have named in the complaint a number of boards in Massachusetts, who use PTG as their pension software vendor. Berkshire County was not named. A number of boards have been named about 14 to 18 boards, have been names specifically. PTG never told anybody anything about this. The fact remains that is of great concern to boards and raised many issues regarding the viability of PTG and who really owns the source codes that we use in our software programs. Look at your users on PTG; if Chris Wallace is a user on your software program, we suggest that his access be disabled as soon as possible. We want to take precautions until PTG sits at the table and starts negotiating with this individual.

- 5.) The Board is asked to review and approve the Third Party Recovery proposed for Chad Shimmon. We do not have a proposal before us. We are just waiting for Cabot in Great Barrington to come back with theirs so that the issue itself can be resolved. Karen Williams: I will make a motion to table. Beth Matson: second
A roll call vote was taken to table. The vote was unanimous.

- 6.) The Board is asked to approve the 2021 financial audit prepared by Melanson. They provided us with the final audit, no changes from the final draft. There were no findings for 2021.
Mark Bashara: I will make a motion to approve the 2021 financial audit, prepared by Melanson for the Berkshire County Retirement Board. Karen Williams: second.

A roll call vote was taken to approve the 2021 financial audit prepared by Melanson. The vote was unanimous.

- 7.) The Board will discuss the process of performance evaluations and staff compensation.
A roll call vote was taken to table. The vote was unanimous.

- 8.) PTG software update. Sheila LaBarbera: Things continue to go well. We have gone live right now with six units. We are going to start going out to the towns and districts. We are going to meet with the treasurers and provide some retirement seminars too. For the most part, we are doing very well on. Mostly at this data cleanup work. The treasures seem to be very happy with it. We have a number of treasures who will process their files as part of payroll
Beth Matson: How many do you have to manually set up?
Sheila LaBarbera: I am going to guess, there is probably about eight to ten.
Karen Williams: For me, personally, in the end, I had to enter in hours for the people that were not salaried. Like I said, in the long run, it will probably be better for me. Because people see the hours on their pay stubs and if they have over time, they can see how many hours of overtime. I was just putting in a lump sum for most people.

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Sheila LaBarbera: For the most part, it is working really well. The feedback that I am getting from the treasurers is that, once people are on it, they are happy with it. It is a little bit of work getting there.

Karen Williams: as far as creating a report, it is pushing a button, saving it to a folder on my desktop, and then just uploading that to PTG.

9.) Consent Agenda Detail:

MINUTES:

a.) The Board minutes of the regular session meeting held August 31, 2022, were signed and approved.

INVESTMENTS:

b.) The Board received from PRIT a statement of performance for August 2022. The PRIT Fund returned -2.69% for the month of August.

BANK STATEMENTS:

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

MONTHLY WARRANTS:

d.) The Board approved payment vouchers:

09-01-22	\$121,961.31
09-02-22	\$16,262.12
09-03-22	\$18,438.62
09-04-22	\$25,681.97
09-05-22	\$1,661,100.80

REQUESTS FOR RETIREMENT:

e.) The Board approved the application for superannuation retirement from Susan Cobb, BHRSD, Paraprofessional. The retirement will be effective 10/17/22.

The Board approved the application for superannuation retirement from David Shorey, Becket, Buildings & Grounds. The retirement will be effective 10/21/22.

The Board approved the application for superannuation retirement from Tina Kirby, CBRSD, Accounting Coordinator. The retirement will be effective 11/01/22.

MEMBER TRANSFERS OUT OF SYSTEM:

f.) The Board approved the notice of transfer of the account of Tyler Chrystal, a member in Becket to the Hampshire County Retirement Board. The Berkshire County Retirement Board will accept 2 years and 10 months of creditable service. The amount of the transfer is \$14,178.09.

The Board approved the notice of transfer of the account of Cassidy Starbird-Healey, a member in Dalton to the Pittsfield Retirement Board. The Berkshire County Retirement Board will accept 8 months of creditable service. The amount of the transfer is \$2,084.03.

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REQUEST FOR SERVICE BUYBACK:

g.) Joshua Bradley, a member in Dalton, is eligible to buy back 1 year and 4 months of prior creditable service. If Mr. Bradley pays \$5,445.41 into the annuity savings fund by October 31, 2022, the board will grant 1 year and 4 month of creditable service.

Michael Smith, a member in Lenox, is eligible to buy back 10 months of prior creditable service. If Mr. Smith pays \$4,575.68 into the annuity savings fund by October 31, 2022, the board will grant 10 months of creditable service.

Angela Arena, a member in SBRSD, is eligible to buy back 8 months of prior creditable service. If Mrs. Arena pays \$1,651.09 into the annuity savings fund by October 31, 2022, the board will grant 8 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)

James Collingwood Jr	Sheffield	\$7701.47(Death Refund)
Travis Bourn	Williamstown	\$24,772.14
Daniel Hopkins	Lee	\$29,564.12
Zachary Levesque	W.Stockbridge	\$26,555.52
Kathleen Morawiec	Lee	\$4,736.16
Glen Pratt	Savoy	\$14,841.76
Andrew Snyder	FRRSD	\$9,654.17
Makayla Zonfrilli	Lanesborough	\$3,339.33
Edward Briggs	Wiliamstown Fire	\$1,750.56

INJURY REPORTS:

i.) There were no injuries reported in September

NEW MEMBER APPLICATIONS:

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

7516	Sean Purcell	MGRSD	8/29/2022	Para	1
7517	Katie Brassard	MGRSD	8/29/2022	Para	1
7518	Ryleigh Keating	Richmond	8/29/2022	Cafeteria Helper	1
7519	Timothy Magner	West Stockbridge	8/29/2022	Highway Laborer	1
7520	James Castagna	CBRS	8/23/2022	Custodian	1
7521	Jacob Soldato	Richmond	9/12/2022	Firefighter	4
7522	Shannon Speed	MGRSD	8/29/2022	Para	1
7523	Jessica Horton	MGRSD	8/29/2022	Para	1
7524	Bonnie Clements	MGRSD	8/29/2022	Para	1
7525	Carrie Conklin	Lee (Schools)	8/25/2022	Para	1
7526	Jessica Trombley	Lee (Schools)	8/10/2022	Principal's Secretary	1
7527	Walter C Alward	Lee (Schools)	8/15/2022	Custodian	1
7528	Shannon Gagliardo	Lenox (Schools)	8/10/2022	Food Service Director	1
7529	Nicole Parker	Sheffield	8/22/2022	Administrative Asst.	1
7530	Alyssa Sorrentino	BHRS	8/25/2022	Behavior Analyst	1

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7531	Susanna Keefe	Lenox (Schools)	8/30/2022	Para	1
7532	Julie Broderick	CBRSD	8/29/2022	Para	1
7533	Emily Gunn	CBRSD	8/29/2022	Para	1
7534	Jessica Kratka	CBRSD	8/29/2022	Para	1
7535	Curtis Wells	CBRSD	8/29/2022	Para	1
7536	Eli King	CBRSD	8/29/2022	Para	1
7538	Gabrielle Gingras	CBRSD	8/29/2022	Para	1
7539	Michelle Curley	CBRSD	8/29/2022	Para	1
7540	Kieran Foggon	CBRSD	8/29/2022	Para	1
7541	Jennifer Radwich	CBRSD	8/29/2022	Acct. Coordinator	1
7542	Christine Ciollaro	BCRHA	7/27/2022	Counselor	1
7543	Brennan Dempsey	BCRHA	8/15/2022	Housing Counselor	1
7544	Alicia Jost	BCRHA	8/1/2022	Youth Case Manager	1
7545	Samara Klein	Great Barrington	8/29/2022	Library Director	1
7546	Joseph Aberdale	Great Barrington	8/15/2022	Superintendent of DPW	1
7547	Alyssa Cox	BHRSD	8/25/2022	Para	1
7548	Ashley Daigle	BHRSD	9/12/2022	Para	1
7549	Heidi Nutt	Lenox (Schools)	8/22/2022	Van Driver	1
7550	Kristina Derouin	Lenox (Schools)	9/1/2022	Cook	1
7551	Melonie Heaton	SBRSD	8/29/2022	Educational Support	1
7552	Jeanmarie Maier	SBRSD	8/29/2022	Educational Support	1
7553	Lindy Ann Marcel	SBRSD	8/29/2022	College Internship Coordinator	1
7554	Jessica Dawson	SBRSD	8/29/2022	Server	1
7555	Angela Arena	SBRSD	8/29/2022	ESP	1
7556	Richard DeRose	Dalton Fire	8/29/2022	DPW Laborer	1
7557	Molly DiGiovanni	SBRSD	9/6/2022	ESP	1
7558	Denise Andrus	SBRSD	8/29/2022	Para	1
7559	Alisha Deane	BHRSD	8/25/2022	Para	1
7560	Heidi Ferren	Lenox (Schools)	8/30/2022	Para	1
7561	Max Rhie	MGRSD	8/29/2022	Para	1
7562	Brandon Schneid	CBRSD	9/14/2022	Custodian	1
7563	James Hyatt	Windsor	9/12/2022	Highway Laborer	1
7564	Sabrina Touhey	Lee (Town)	9/19/2022	Administrative Asst.	1

RETIREMENT ALLOWANCE APPROVALS:

k.) The Board received approval from PERAC to grant a retirement allowance to Lorraine Goodfellow, Lenox, as of 06/27/2022. Annual pension amount is \$20,189.88.

The Board received approval from PERAC to grant a retirement allowance to Elizabeth Robinson, Lenox, as of 05/15/2022. Annual pension amount is \$8,985.96.

The Board received approval from PERAC to grant a retirement allowance to Kendra RyBacki, FRRSD, as of 06/21/2022. Annual pension amount is \$8,925.84.

The Board received approval from PERAC to grant a retirement allowance to Mary Oleksak, FRRSD, as of 06/21/2022. Annual pension amount is \$14,213.52.

The Board received approval from PERAC to grant a retirement allowance to Astrid Vaughan, Lee, as of 06/01/2022. Annual pension amount is \$14,411.76.

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The Board received approval from PERAC to grant a retirement allowance to Lynn Browne, Lee, as of 06/30/2022. Annual pension amount is \$12,530.88.

The Board received approval from PERAC to grant a retirement allowance to Jody Pelkey, CBRSD, as of 08/15/2022. Annual pension amount is \$9,402.84.

3(8)c REIMBURSEMENTS:

l.) The Board received a letter from PERAC ordering the Teacher's Retirement Board through the provisions of MGL Sec 3(8)(c) to reimburse the Berkshire County Retirement Board \$277.80 a year toward the retirement allowance of Mary Oleksak.

PERAC CORRESPONDENCE:

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

#23/ 2022	Vacation Buybacks as Regular Compensation
#24/2022	Mandatory Retirement Board Training 4 th Quarter 2022
#25/2022	Tobacco Company List

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 Tyringham 9/29/22, New Marlboro 10/20/22, Assessor's Annual Meeting Retirement Seminar, Lanesborough 10/27/22.

MISCELLANEOUS CORRESPONDENCE:

o.) -PERAC Pension News September 2022.
-The Board is notified of the appeal to DALA of William Bartini regarding his over earnings decision by the Berkshire County Retirement Board.
-PERAC email regarding recent phishing attempts against Retirement Boards.

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

Mark Bashara: Made a motion to approve the consent agenda. Karen Williams: second.
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 10:25am, Karen Williams, second.

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

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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