

Berkshire County Retirement Board Meeting  
January 26, 2022

**The meeting of the Berkshire County Retirement Board was called to order at 9:00 A.M. in the Berkshire County Retirement Office, located at 29 Dunham Mall, Pittsfield, MA. Present at the meeting were; 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:**

- 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.

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

**The Board returned to regular session at 9:33am.**

Michael Ovitt: Item #2 in Executive Session the Board considered the application for ADR benefits for Kurtis Eckman, Town of Becket, the Board voted unanimously to approve the ADR benefit. Item #3 in Executive session was to accept the application for Involuntary ADR and convene a medical panel for Chad Shimmon, Town of Great Barrington, The Board voted unanimously to approve.

**LEGAL UPDATE:**

- 4.) Board counsel will update the Board on any outstanding legal issues before the Berkshire County Retirement Board.
  - a. **Bartini Appeal Letter** - Thomas Gibson: Mr. Bartini has filed an appeal of the Board's action, that determined that he had excess earnings for the calendar year 2020, and we are currently awaiting a notice from the Division of Administrative Law appeals of the receipt of that appeal. And they will assign a docket number, we will file a notice of appearance on behalf of the Board and will also file a motion to add PERAC as a necessary party to that appeal. The goal is to allow PERAC to do all the heavy lifting here because they're the ones that ultimately make the determination on the excess learnings. Mr. Bartini bringing up the late argument regarding the information that was provided by the town regarding what his salary would be had he remained in service was not correct, he is free to add that issue to his appeal at the Division of Administrative Law Appeals. In the meantime, Sheila has done further work in that regard and asked for updated information from the employer as to what

Berkshire County Retirement Board Meeting  
January 26, 2022

Mr. Bartini would have been paid had he remained in service, further complicating this case is the fact that there is no collective bargaining agreement that sets forth the pay scale or stepping grades for this particular group of officers in the town. So we have to rely on what the town tells us, and we do have up to date letters.

Michael Ovitt: Ok, so he has filed an appeal. So if we can just clarify for the board, is there an automatic stay of collection once these once that's filed?

Thomas Gibson: There's nothing in the statute that that says the Board has discretion on this. It says that the benefit shall be terminated. So we would have no choice, other than to terminate his retirement allowance until such time as we recoup what he has earned an excess funds. I think the recommendation is going to be to stop the pension. Start keeping track of what he owes us. There's two other aspects we may be doing this again next year and adding to the amount of money that he has earned in excess of what he's allowed to earn. The second issue is, this case may not be heard as a Division of Administrative Law Appeals for a year or two, if not longer. And even if it's even after it has heard, we may have to wait for decision for another year or two. So I think the board would be remiss if they continue to pay him pending a determination from the Division of Administrative Law Appeals because even then he could appeal that particular contributory time and appeal board and we'd be looking at another 3 or 4 years of delays at that level of the administrative review process.

Beth Matson: Does he get the annuity portion? Does he have health insurance and does that continue?

Thomas Gibson: Well, PERAC has indicated in the past that when someone's retirement allowances being held, it's the entire payment. However, PERAC also allowed for a Board to carve out health insurance, allow that health insurance premium to be deducted and paid to the employer to continue health insurance for the member. There is some discretion here, and certainly the Board wants to carve out an exception and allow a deduction to pay health insurance that would be okay.

Karen T. Williams: In the letter regarding the repayment plan, was there any deadline for that?

Paul Lisi: I would just say that we gave Mr. Bartini the opportunity to enter a payment plan. I do think that the payroll in February should be held. When I say this is it's not ending his ability for his appeal, it's just working to help repay some of the money, stay on that track at the same time, your appeal's going forward is still in place, correct?

Thomas Gibson: That's correct. He still has his appeal rights and if he prevails, you know, he'll be reimbursed. Matter of fact, he'll be reimbursed with interest under the correction of errors interest.

Mark Bashara: Could send us the draft first, is so we see it before it goes out to him?

Sheila LaBarbera: Once that is been prepared we'll get it out to you.

Gerry McDonough: I just wanted to say, you know there is no automatic stay for decisions like this, but my sense is that he could ask PERAC for a stay during the pendency of his appeal or he could ask DALA for a stay.

Thomas Gibson: Well, PERAC I don't think it would give them a stay. But I think if he wanted to ask the Division of Administrative Law Appeals for a stay, he could do that. He's filed an appeal and has not asked for a stay of the enforcement of that appeal. I've seen CRAB grant the stay of an appeal, but it's not commonly invoked or granted.

Gerry McDonough: I just want the Board to know that he could do it and he does have other avenues. I don't think this board has the ability to agree to stay. I think it's really up to PERAC and this PERAC's responsibility. If he requested at a stay from PERAC, it's a

Berkshire County Retirement Board Meeting  
January 26, 2022

possibility, but it's not likely. But it is out there. It's possibility. He hasn't gotten good professional advice up to this point. He should have a lawyer for this kind of stuff.

Sheila LaBarbera: We would just give him a deadline. If he does not have an agreement, then we don't have any choice but to recoup the whole pension payment.

Michael Ovitt: I believe our obligation is to shut off his pension. The ability we have is to enter into an agreement for repayment of it.

Sheila LaBarbera: The letter is going to say, here's what the Board is offering you and you have until a specific date to sign an agreement, otherwise, on February 28th, you will not be receiving your February pension payment, and we will hold all payments until the obligation that you owe has been fulfilled.

Mark Bashara: The main thing is that he owes the money. He has two options. Either he agrees to the terms of the letter or his full pension is withheld every month until it's paid.

**b. Colello 3(8)c request to PERAC**

Attorney Gibson provided an update to Mr. Colello's case. We wrote a letter to PERAC asking them to proportion the retirement allowance for Mr. Colello, based on the fact that his injuries upon which this application was based, the significant injuries, took place while he was employed for the city of Pittsfield. The Pittsfield Retirement System, in effect, retired him on disability based on one of those events previously. We asked PERAC to invoke the provisions of Section 7-5. I sent a letter to PERAC and I copied Pittsfield retirement on it. Pittsfield Retirement has responded with a with a letter objecting to any proration of the retirement allowance and their counsel has made an argument it was the responsibility of Sheffield to have pre-employment examinations and investigating his employment before they hire them. So we'll see what PERAC has to say on this case. It may not be so interesting from Board Member's point of view but at least from the lawyer's point of view, there's a lot of very interesting legal issues here and it's likely that this might go up on appeal. No matter what PERAC determines and on how they make the determination, it may well be that we will be before the Division of Administrative Law Appeals and the Contributory Retirement Appeal Board and Jerry and I can make a career out of this case right to our retirement, I want the board members to be aware of. Any questions on the on the letters?

Michael Ovitt: I do have one question. Michael Sacco references a physical to go back to work. Or I guess there's a PERAC process to return to work and he didn't go to back to work in Pittsfield before he came to Sheffield. Would that be looked at in a similar manner?

Thomas Gibson: I'm sure they'll make the argument that he was cleared to return to full employment by three physicians appointed by PERAC. It was unanimous that he was no longer disabled, and he could go back to work. So when Sheffield took him, he was not having any issues dealing with the injuries he sustained working for Pittsfield. Our argument is that when he went back there he did. I'm not going to get into the medical because we're not an Executive Session, but it's very clear in the in the record that the events that occurred in Pittsfield, medically, were what they call an index event. And that means something medically, or a Schedule A event, which is also goes into the diagnostic and statistical manual in making these determinations. So we have a good argument, and we'll see what PERAC has to say about it.

**Deborah Ball Trial update.**

Ms. Ball has been brought up on criminal charges, as we are aware of, and its public record. There's a criminal docket, and I have a copy of the criminal docket that was sent to me, by

Berkshire County Retirement Board Meeting  
January 26, 2022

the attorney, who's representing the town in this case. And the matter has been pending now, since 2019, in the Superior Court, and it's what they call trial ready. Meaning that, as soon as the Court is ready to call it for trial, it's ready to go to trial. So, it could be any month now. It could be this month, next month. Unfortunately, the trial court just went back on hiatus from having jury trials. So, that's going to put another delay in this particular case. If she's asked for a jury trial, that we may not see this until the spring or the summer. In the meantime, let's not forget, she continues to eat up her annuity savings fund, the tune of about, \$8,000 a year. If my memory serves me correctly and she had about \$89,000 total contributions. So, by the time this matter is resolved, if she's found guilty, and she's ordered to make restitution to the town, the amount that's going to be available in her retirement account will be less and less every month. If she is convicted, her benefits will terminate.

Sheila LaBarbera: I believe it was expired as of March or April of last year. I don't believe there's anything left. I'll send you all the annuity and pension information.

**PERAC Cybersecurity**

PERAC Memo #1. The very first memo sent out this year had to do with cybersecurity and unfortunately, that happened to one of our clients. I can talk about it generally, it's not anything that's confidential. The e-mail account of the Board Administrator was hacked. Somehow, they rely on the Town Server for their e-mail communications. Someone got into the town server, took over that e-mail address without anybody knowing it. Even the administrator, she continued to receive normal e-mails and sending e-mails, but an e-mail originated under her e-mail address to an investment manager who was running investments for the board. They're not in PRIM and the email said, we need money for capital call for another investment. How much do you have? They said we have \$1.6 million in the account. They said send it all over to this account by wire transfer. The Custodian Bank got involved and thankfully they put a stop to it. This is where personal relationships are really important, no matter how big the corporation is. They took one look at this and said, this isn't right. I know this administrator, she would not do this, this was not her writing, picked up the phone and call the administrator and that's when the plot unraveled. Fortunately, no money was transferred out, but it just further gives you some idea of what the issues are here in the municipal retirement boards and municipalities. Not just through just the County Retirement Boards. I just want you to be aware that it would behoove the board to review the protocols for originating transfers of funds. For verifying transfers of funds to limiting where funds can be transferred to have follow-up phone calls, when those funds are transferred, are ready to be transferred, just to make sure that all the protections that possibly can be in place, are in place.

**PERAC Memo 4 and 4A.**

When PERAC Memo 4 came out, it's the COLA Notice we had the same issue with them in 2012. They use a boilerplate template for the letter. And unfortunately, in that boilerplate letter, the 30-day notice requirement to the legislative body is in that letter. But some of you may recall, that when the COLA is over 3%, which has not been for decades, but when Social Security COLA is over 3%, there is no need to give 30-day notice to the legislative body of the Board's intent to grant that at a meeting. Many retirement systems and Boards provide notice to the legislative body as a courtesy anyway, without worrying about the 30-days where they have to do or not have to. If the Social Security COLA was under 3%, the board would have to give notice to the Advisory Council and couldn't take it up until the 30

Berkshire County Retirement Board Meeting  
January 26, 2022

days to elapse. They did issue 4A, just to clarify that because it should be known that Social Security COLA issue is 5.9%. Many retirement boards are taking the opportunity to increase the COLA base for retirees, especially in those towns with a COLA base, is still \$12 or \$13,000 per year, given the investment returns are reporting 20.54% return. An argument has been made that some of that just should be shared with the retirees and not just go to the benefit of the taxpayers and in the employers who are paying the appropriation. Members are contributing as well as cities and towns as a contributory retirement system. So when the benefit is there maybe it's time to look at increasingly the COLA base. I'm not sure what Berkshire County is at for a COLA base or if that's even an issue for the Board at this particular time.

Mark Bashara: I think we're at \$14,000, I think that puts us kind of in the middle of all the retirements systems. As long as we're not behind I think we're good, being in the middle, plus the fact that we will be fully funded sooner than a lot of others.

Thomas Gibson: Those are important factors. The state and state teachers are locked in a \$13,000 for their COLA base, and that will take an act of the legislature to change that. The Social Security COLA based on the entire Social Security benefit, not just capped at a certain level. I think the average Social Security in Massachusetts last year was around \$19,000, so that's just information for the board to consider and to be aware of.

**Vacation buy backs**

In some municipalities have a program where you can sell back unused vacation time, and it was treated as regular compensation. Then it wasn't treated as regular compensation. And CRAB said, it cannot be regular compensation. The Superior Court said it cannot be regular compensation. Now, they're at the Appeals Court. Well, the Supreme Judicial Court just reached down from on high and took the case up on their own motion. So they are asking for briefs, from anybody in the public. What they call them amicus briefs. Anybody wants to chime in and tell the SJC what they think has until, the end of February. All arguments will be scheduled the beginning of April on this case, before the SJC. And they will be live streamed. If anybody wants to tune in, I can send the link to Sheila, and she can send it around.

**Pandemic 3-year COVID credit**

It's not getting any traction in the legislature. It was difficult to put a cost on it, especially when a member could take it at any time during their career. There was no limitation on it. No limitation on back filling positions is, it was just a three-year credit. A three-year COVID credit bill. It hasn't gotten out of the Legislature or Public Service Committee. It's been recognized that workers who were required to go to work during the pandemic and put their life and your family's life in jeopardy, should be recognized economically. The federal money is scheduled to do that and the Legislature has a dispute over how to give bonuses to both public and private sector employees who were required to go to work during the pandemic. This bill about giving three years of age or creditable service, the public workers who were required to work. I don't think that's going anywhere.

**Attorney Thomas Gibson and Attorney Gerry McDonough left the meeting at 10:20am**

Berkshire County Retirement Board Meeting  
January 26, 2022

5.) The Board will review and approve the 2022 salary for the executive director.

Michael Ovitt: The Board will review and approve the 2022 salary for the Executive Director. So last month my recollection was that it was presented with the budget, and at a 5% request. We didn't really have a presentation or any guidelines for it, and we held it, and continued this meeting. Any Board members want to weigh in on that?

Paul Lisi: So, I would go back to the original motion, to increase the salary by 5%. Which is the standard 3% plus, an additional 2%, which amounts to \$2000, for the 2022 salary for the Executive Director. Karen T. Williams: I would second. Only for the sake of discussion.

Karen T. Williams: I had to leave the meeting last month. But I did read the minutes, I suggested giving Sheila a bonus for the extra hours worked last year, I don't agree with giving her \$5,000, by adding \$5,000 to her salary for 2022, because the implication is that she's going to be getting COLAs in the future based on that amount. Even if we gave her \$5,000 for 2021 and gave her a 3% COLA for this year, we'd still be paying less over the next 3 or 4 years. Does that make sense? Because we'd be giving COLA on a higher salary amount. Beth Matson: It does.

Sheila LaBarbera: A 3% COLA, on \$5000 is what?

Michael Ovitt: \$150. But I guess not having any discussion about it and presenting it in the budget. I guess we were falling back on the need to have some mechanism to evaluate, and some guideline. What came up in the meeting last month was all the additional hours that Sheila is working and whether she's our hourly or salary and if she's eligible for overtime or not? How temporary that? And going forward, how are we going to deal with that? I don't want to hold up a Cost-of-Living Increase, but certainly we know we can't just have Sheila saying I want 5% or I want a bonus, or I want this or that so. Shame on me. Shame on us for not having something in place. I think that still needs to take place, and then going forward, we need to have a process.

Paul Lisi: I would be willing to modify my motion, to bring it to a Cost-of-Living Adjustment of 3% or 2022. And I think Mark, we talked about this last meeting, the topic of the performance reviews and stuff like that is something that we do need to have, but I think it needs to be on a separate agenda item not part of Sheila's salary. It used to be a separate agenda item in general in regard to all employees that work at the retirement system. And how it's going to be administered, what's going to be used and we're going to clearly communicate with the employees what we're going to be performance appraising. So, I'm comfortable, and I've said this many times with performance appraisals, but we have to figure out how we're going to do them, put the procedure in place. So, I would like to make a motion to give Sheila, a 3% Cost of Living Adjustment for 2022, which is a modification to my original motion.

Michael Ovitt: Can we finish our discussion on the original motion? And then we may be done with it, but if you're in agreement with that, can we finish the discussion on the original motion?

Mark Bashara: So, I'm more agreeable to the 3%. I try to simplify things. What I think would be good, which I think it's in line with what Paul was suggesting, and I think other members may or may not agree. Is that we do 3% for this year instead of the 5%. We make a commitment to, seeing that we have time, as we've discussed about the other two employees, doing the reviews and stuff, too. To make an umbrella, where would, at some point this year commit to establishing some kind of performance review for all employees. So, that going forward next year, we're not running into these issues. We do the performance review, and

Berkshire County Retirement Board Meeting  
January 26, 2022

then we discuss, as a board what we're looking to do for raises. But at least this way, Sheila knows what's going on. Personally, at this meeting, we would have an agreement that, so she's not being hung out wondering month to month. I will say she did a good job and stepped up to what needed to be done. Now, there was a lot of changes. But I also believe that the director is well compensated. When you have jobs like that, kind of referring to my position as chief, sometimes you have the advantage of the hours that you do. Unfortunately, this has been a year where it wasn't so beneficial, but I'm not afraid to acknowledge, you've done a good job. You stepped up to the plate. You've done what you have to do and your work and training the people. But I think going forward, for this year, we do the 3% and then make a commitment to setting standards for reviews. We've had a lot on our plate, there hasn't been hardly a meeting we come to where we're not having either disability or setting up new policies. There are a lot of things going on since I've been here, but we need to fit in. Some kind of basic review for all employees, so that when next year comes, this isn't a discussion. We set up the time, we have the reviews, so we know where they stand and what's going on. So that's how I feel about it.

Michael Ovitt: If I can clarify Sheila, what, was the original presentation? Was it a 5% increase or was it somehow a component of COLA and 5% increase?

Shelia LaBarbera: It was just a 5%, annually. We've been doing 3% COLA so then it was –

Michael Ovitt: So we're taking about a COLA then, right?

Sheila LaBarbera: We're talking about a COLA, it's a Cost of Living, Adjustment. It's a 5% increase, whatever you want to call it, that's it.

Michael Ovitt: It's all different. I mean a salary, modification, a one-time bonus, 5% increase in your pay. If there's a COLA on top of that, that makes a difference.

Sheila LaBarbera: We're not making the COLA on top of that. I don't know where that came from. I tried to follow that and discussion. That is not what I proposed. That's not what I asked for.

Michael Ovitt: Just try to clarify it, so we don't miss it or now there's 3% on top of it.

Sheila LaBarbera: No, it's not on top of it. That was what I asked for. Normally, we do 3% and you asked me, how did I come up with 5% and I came up with 5%, because I indicated to all of the different things that I have done, which I believe to be over and above. I've done everything that the board has asked me to do.

Michael Ovitt: That would differentiate a COLA. A COLA isn't performance or work related. That's where I'm going with it.

Sheila LaBarbera: We're splitting hairs here. I don't know what you would call it. It would be 5%. If you take it and multiply it by my salary, it comes out to \$5,000. That's what it is. All I tried to do is equate it to number. It just happened to work out that way, the number of extra hours that I had put in, all of the work that has been done, along with the training of the other two new individuals, and that the retirement system has been able to maintain a level of service prior to the departure of the other two employees because of the extra effort that I had put in. That's all. Doesn't go away. It's still there. I'm still performing the duties that are my responsibility. I would hope that, and I would have hoped that the Board would have acknowledged what I have done in the past year and my performance. As Mark said all of those items didn't just get on the agenda, all that work that you've been doing this past year is because I'm doing it here in the office. That's how it gets to the board agenda. So, the workload that you have is also the workload that I have. So, I thought that there would be some appreciation for that. I am deeply disappointed that there isn't, but you guys have to do what you have to do.

Berkshire County Retirement Board Meeting  
January 26, 2022

Michael Ovitt: Those are two different things, Cost of Living, and your reference was made to Social Security increasing it by 5.9%. That's cost of Living. Performance related increases are totally different, and the job duties and responsibilities that's apples and oranges.

Sheila LaBarbera: And, again, I did note that last month's board meeting. I said that I have not had a salary review since 2018. When we did the salary review in 2018, it was noted that I was significantly behind my peers. I was given an increase, but –

Michael Ovitt: You were given to increase, correct?

Sheila LaBarbera: Yes.

Paul Lisi: Let's just clarify. That was almost little short of five years ago. I mean, at that time, if we look back at those meetings we did. Mark, you've been here for most of the time as I have. We have said every one of these times that we would have this conversation all of the time. Let's do performance appraisals and we, as the board, dropped the ball. I mean, we do. That has to have been something I've said since I've come on. Mark, you have agreed with that statement almost day one when you came out when we started talking about budgets and performance, I mean, coming from the towns, that's how we get our stuff. So, we dropped the ball. We're the people responsible for that, to put the process in place, and how it's done. And she's coming to the board and saying, hey, listen, the COLA increase, the Social Security is 5.9%. I'm looking for 5%. As the board, we asked her reasons as to justify that, she gave those reasons. She isn't saying that she wants, 5%, plus a COLA. And she doesn't want 5% increase in her salary, plus a COLA 3%. She just wants 5%, which equals up to \$5,000. Okay, we're not agreeing on the 5%. I'm saying possibly 3% COLA increase. Then maybe at a different meeting we say, for this work that you've done here, it does justify maybe \$2,500 bonus or salary adjustments. Clearly, we're not adjusting the salary other than, based on the COLA. Which, I understand that. I think that it's a lack of the board for not doing a salary review since 2018. I think most people would agree, salaries don't decrease. They increase from that time. So at the time that I got that data, that position of the Berkshire County Retirement System, granted, as Mark says, compensated well, but to the peers, it is not, and we have to take into consideration the fact that the person in that position does have a master's degree compared to other positions where the individuals did not. So I mean there is some things to look into there. Never come back to the individuals said, hey this is not being done or the performance is not there. So we have we have to own some of this. I own part of the fact that we haven't done this. But I don't think it's abnormal for an employee to come and ask for something. We may not give all of it to her, but I think that if we're going to do something, we need to say, hey, this is what we're going to do, this is what I'm willing to look at and going forward, other than, we just keep saying it, going forward, let's do this, but we never do. If we don't do it, Mark, you know, as well as I do, we're going to have the same discussion next year at this time if we don't put stuff in place and work on it, like you said, sooner than later.

Mark Bashara: I simplify things and that's why I use the word commitment. We need to, within the next meeting or so, to set up something. Now is the time because we have two new employees, so it would be a perfect time. I don't think it'd be a good example to be floundering with them. Wondering how did they do? Or asking Sheila, briefly. It would be to actually, each one sit down. But we have to address what we have in front of us now, which is to me the 3% is okay. I'm agreeable to that. And then we make a commitment. Whether you say formally or informally that within the next couple meetings, without a doubt, and I'll bring it up, I don't have a problem with that. That we worked with Tom and the board and set up something basic that we don't need a 100-page review process here, just something that is



Berkshire County Retirement Board Meeting  
January 26, 2022

up to date, that we can use for the employees. We haven't had any issues with these employees because they're brand new, but we won't encounter this with Sheila next year either because she will know what her review process is. She'll have ample time to prepare her points of view to the board. And then we can sit down, we can look at those points, and we can discuss what we feel is an appropriate increase for her, as well as the other employees. Maybe another one or the other, employees will say, I did all this. While Sheila was out for six months, and I carried the place. That's great. They can relay it to us, we can discuss it then. But we know that the horse is already out as far as I'm concerned for this year. So, to me, we do the 3% and we make a commitment. If it doesn't get a chance to come up, I'll bring it up and I'll ask Sheila to put it on the agenda. Then we will discuss it. I think between us and the board, I don't think any of us can personally come up with a review process, but I'm sure with some help from some legal counsel, we can get something that we can follow for the foreseeable future and then if things need to be updated, I'm sure Legal counsel will let us know. I have no problem acknowledging Sheila has done a good job and she stepped up. But my personal view is she's making six figures. We brought things up to pace and if this was going to be a continuing thing, then, absolutely. But these were unforeseen circumstances, but I'm not afraid to acknowledge she's done a really good job. You take 3% on top of the six-figure salary, it's a lot more than 3% on top of \$50,000 or so. It's not to make less of what she's done. I appreciate it. I know she stepped up to what she did, but I just want to get to settle for now. I committed to saying, we're going to do it. I'm in support of the 3%, and also, maybe not next month, but if not next month, the following month, we put it on the agenda, we get the ball rolling. So that by the time review comes, October, or maybe something like that, before the end of the year. So, we have a couple of months buffer to get it on our agenda and do our piece. Sheila will be reviewing the two employees. So, we can discuss that and then we will be reviewing Shelia.

Beth Matson: I just want to add that I am agreeable to the 3%. I think it's a little risky tying it to the social security increase when a lot of years they'll get 1 or 2%. So to get a big bump and tie it to that as well not equal in my mind. I think, as Mark said, 3% on six figures is very generous. And I believe that it's the norm in Berkshire County. 3% every year, which is almost \$10,000 every 3 years. It's a lot of money. And I'm very agreeable to the 3%. I do appreciate the extra time that was put in. But in my opinion, that's just all part of the job.

Michael Ovitt: Any other discussion regarding Paul's motion? Paul, you would have the opportunity to withdraw that motion or amend it?

Paul Lisi: I amended the motion to 3%.

Michael Ovitt: Right, that was but we were still discussing the original motion.

Paul Lisi: I will make the motion to amend the COLA that I previously proposed for 5% to 3%. Mark Bashara: I'll second that motion.

Michael Ovitt: Ok. Further discussion.

Karen T. Williams: So, Paul, you mentioned something about a bonus That that's not tied to this amendment, or is it?

Paul Lisi: No, that's something we should talk about later on.

Karen T. Williams: Ok, and I just have to say, Sheila, I know you're saying you're not feeling appreciated, but I did say at the last meeting, talking about a bonus for the extra time you work last year. So, and Paul mentioned that as well, so I don't –

Sheila LaBarbera: But if you don't if you don't act on it, Karen, it's –

Karen T. Williams: Well, I know. But that's not out of the question yet.

Mark Bashara: Now we're doing this retro or is this starting February first?

Berkshire County Retirement Board Meeting  
January 26, 2022

Paul Lisi: I think it should be retro to January first, right?

Mark Bashara: I Agree. I said that last time. I just wanted to clarify. So they're, all of a sudden, something came up, and there's a discussion. Well, no, it was this or that. So this way, there's no question, it goes back to January first.

Paul Lisi: Modified the motion that I made then. I will make a motion to approve a 3% COLA increase for Sheila, with a retroactive date back to January 1 of 2022.

Mark Bashara: I second that motion.

Michael Ovitt: Motion and a second of 3% retro to January 1, 2022. Any further discussion on that? All in favor?

Sheila LaBarbera: So, when you talk about the review process, what is the plan for that? When you said we're going to do a review, are we reviewing performance, but are we also reviewing salary, too?

Michael Ovitt: You've done that in the past, Sheila.

Sheila LaBarbera: That's the question that I'm asking you. So, is it a salary review? Along with a performance evaluation?

Michael Ovitt: The motion is strictly for the 3% COLA retroactive to January 1. And in our discussion, that what would be to further discuss of a plan in the future on a future agenda.

Paul Lisi: I think we should vote on this, but at the same time, Sheila as well as Mark, will request that we put this topic on the next month's agenda, for February. It's something that should be talked about. And I think it's fair that you have that ability to ask that question. So, Mark, would you be comfortable asking her with me to put this topic on February's agenda?

Mark Bashara: I'm dealing with one thing at a time. First, I was going to deal with this vote and when we were all done with this, I was going to basically say, how does the board feeling about putting this on next month's agenda? And then, and then seeing if, Tom can come up with a boilerplate. It's not going to be specific to Berkshire County retirement, but I figured do one thing at a time. Right now, we're talking about is your motion if I'm correct, about 3% COLA being retroactive. I want us to vote on that and once we're done with discussion, my exact words were going to be how does the board feel about putting this on next month's agenda? Because I don't feel it's up to you and me and Sheila, but it's up to all of us. Well, the Board, so I figure, let Mike finish what he's doing with this. And we take a vote, and then we can discuss that.

Karen T. Williams: There are two separate issues.

Mark Bashara: That's why I'm saying. I was going to bring that up after.

Michael Ovitt: So our vote or vote is for the 3% COLA for Sheila retroactive to January 1, 2022.

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

Mark Bashara: Now, my next question is, you must have read my mind, Paul, Is the board agreeable to at least get the wheels going. We don't necessarily need to discuss it anymore. We know what we need to do, we need to get something rolling. So, put it on the agenda where we can find out through Tom, I guess, what our next step is so that at least we get it rolling.

Beth Matson: I thought I had asked at the last meeting that we get a sample performance review from Tom.

Mark Bashara: Yeah, if you did, that's fantastic because that's all I'm looking to do. But at least we get the ball rolling. Then maybe the next month, for our March meeting, I would assume by that point, Tom, would have gotten something back to Sheila. We can look at it. If

Berkshire County Retirement Board Meeting  
January 26, 2022

it's agreeable to us, we can hopefully vote on it, and even if we need another month, I will say, by April meeting, unless we run into some major complications, we should have something in place at which will still give Sheila time for the two staff members that work for her and give us time to do what we need to do next year. When I say next year, I'm talking, this September or October.

Karen T. Williams: All right, so reading the minutes, from last month, I thought we'd put Mike on that task.

Sheila LaBarbera: I can ask Tom for that, but in the minutes last month, you ask Michael to do it. I will be more than happy to ask Tom to provide that information directly to you. So, he doesn't have to give it to me, but he can give it directly to you, if you'd prefer me to do that, I will.

Mark Bashara: Well, you're right there. We did ask Mike; I feel is the Chairman and seeing that they were the ones doing it would be appropriate for Mike. Seeing we are discussed it for Mike to do that. I guess we would just say, I don't know if we need to put an agenda. I guess we would just ask the Chairman to do that so that by next meeting or the following we have something to work with.

Michael Ovitt: Right, and collectively, I wanted to have that discussion. Today as well. But collectively, in your experiences, in your own towns or your own employment, try to come up with the best method of who evaluates, what the questions are, and so on and so forth. I think Tom will give us one version. My town used to have a different method, a self-evaluation, similar to what Sheila did with Jill. We're a board of directors, not interacting on a day-to-day basis with Sheila. So, that was the other part of coming up with the right method. The other thing is the salary review, and time and time, again, we're trying to do a comparison to other systems, other responsibilities, other positions. I think that needs to be part of that, as well. Sheila's presented in the past, and we need to compare apples to apples, and see where we're at on an individual basis. So, I think this will be an ongoing item on the agenda, and, hopefully, we'll have a better update for next month's meeting.

Mark Bashara: The two are intertwined. Basically, we would come up with a performance review and salary will be based upon the performance of the salary view. That's what would make sense to me. It's not saying that occasionally we couldn't look at the overall salary to see that we're not way behind, this would happen before, something that I think basically the salary is going to be based upon the performance. We're not going to say, you did a great job, you get 8%, you didn't do a good job, we get 1%, but I think they're intertwined in that sense. The performance review and there has to be other retirement board's that do this. Mike, when you talk to Tom, they must do performance reviews. The board must do performance reviews. If we get something like that, and even if we wanted to tweak it, a little and other board members had ideas, whether they're self-evaluation or whatever, but at least we get the basis of it. So that by next year, we're not dealing with this anymore. We're setting up the time for the reviews. And we have a good basis in this way. All three employees know what to expect of them. And we're not dealing with trying to talk about it every year, we're actually doing something. So am I under the understanding the Mike, are you going to contact, Tom? As was, Karen brought up. I forgot about that. And then, next meeting, I don't know if this is something you would put on the agenda. Mike will update us, or is it just something you're going to bring to us? And it doesn't need to be on the agenda?

Michael Ovitt: We'll definitely bring it forward. But if Beth or Karen or Paul, if you have other evaluation techniques or forms, please consider other options, as well.

Berkshire County Retirement Board Meeting  
January 26, 2022

Beth Matson: Actually, I do, and I probably have it. I can get some performance evaluations from other Boards, most likely. But in what they did for me in North Adams was, have a subcommittee of three members that would sit down with me, go through, I would list to them my accomplishments were, they would list to me things that they had concerns with. And they would take their recommendation to the board, and it didn't lock the board into going with the recommendation of the committee, but the committee did the research on it. So that's how they handled it.

Mark Bashara: It'd be kind of like an advisory committee, where they advise the board.

Beth: Three of us get together and do the intense work, so it's not all five and then they would make their recommendation. Just a suggestion. it seemed to work well.

Karen T. Williams: Beth, is North Adams a five-member board? Beth Matson: Yes.

Sheila LaBarbera: Can't you only have two members? If you have three, that's the majority of the Board?

Beth: You could have a meeting. It's okay to call a meeting.

Mark Bashara: Well, Beth turns in the paperwork to Mike. It's too early at this point because we don't know what Tom is going to bring. Beth has some things, maybe Paul has something to bring. Let's get it all together first and whittle it down from there.

*An item will be placed on the February meeting for a discussion.*

Karen T. Williams: How do we handle if a retiree requests a change in their direct deposit information?

Sheila LaBarbera: They must submit a new direct deposit form. Policies and procedures will be reviewed to help prevent any payroll fraud.

**Consent Agenda Detail:**

**MINUTES:**

a.) The Board minutes of the regular and executive session meetings held December 29, 2021, were signed and approved.

*Minutes provided as an attachment to email*

**INVESTMENTS:**

b.) The Board received from PRIT a statement of performance for December 2021. The PRIT Fund returned 3.03% for the month of December. *A wire transfer of \$4 million has been set up for January 27, 2022. PRIT Investment report provided by email*

**BANK STATEMENTS:**

c.) The Board received the bank statements for December 2021, the budget for January 2022.

**MONTHLY WARRANTS:**

d.) The Board approved payment vouchers:

12-01-2021	\$4,038.80
01-01-2022	\$126,149.45
01-02-2022	\$6,656.24
01-03-2022	\$18,229.83
01-04-2022	\$159,733.13
01-01-2022	\$1,558,083.77

Berkshire County Retirement Board Meeting  
January 26, 2022

**REQUESTS FOR RETIREMENT:**

e.) The Board approved the application for superannuation retirement from Keith Lepicier, Williamstown, Water Dept. Supt. The retirement will be effective 03/16/2022.

**MEMBER TRANSFERS OUT OF SYSTEM:**

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

**REQUEST FOR SERVICE BUYBACK:**

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

**REQUESTS FOR REFUNDS:**

h.) There are no requests for refunds in the month of January.

**INJURY REPORTS:**

i.) There were no injuries reported in January.

**NEW MEMBER APPLICATIONS:**

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

7378	Alexander Drennan	Clarksburg	9/16/2021	Para	1
7391	Jessica Horan	New Marlboro	12/13/2021	Treas & Collector	1
7392	Molly O'Brien	Lenox	12/27/2021	Prog. Coordinator	1
7394	Courtney Norrgard	Richmond	1/3/2022	Perm Sub.	1
7395	Lisa Schwartz	Richmond	1/3/2022	Para	1
7396	Tiffany Hartlage	Lee	1/2/2022	Firefighter/EMT	4
7397	Rebecca Stinnard	CBRSD	1/3/2022	Title 1 Tutor	1
7398	Travis Searing	Richmond	1/3/2022	Highway Laborer	1
7399	Elliot Seward	Richmond	1/3/2022	Cafeteria Helper	1
7401	Nicole Miller	Beckett	11/27/2021	Police Officer	4

**RETIREMENT ALLOWANCE APPROVALS:**

k.) The Board received approval from PERAC to grant a retirement allowance to Cheryl Cachat, DFD, as of 10/02/2021. Annual pension amount is \$21,231.36.

The Board received approval from PERAC to grant a retirement allowance to Arthur Barbieri, Gt Barrington, as of 10/04/2021. Annual pension amount is \$13,500.72.

The Board received approval from PERAC to grant a retirement allowance to Walter Worley, MGRSD, as of 10/20/2021. Annual pension amount is \$11,527.20.

The Board received approval from PERAC to grant a retirement allowance to Lynne Lemanski, Cheshire, as of 10/26/2021. Annual pension amount is \$15,005.52.

The Board received approval from PERAC to grant a retirement allowance to Monty Green, Alford, as of 10/29/2021. Annual pension amount is \$45,651.36.

Berkshire County Retirement Board Meeting  
January 26, 2022

The Board received approval from PERAC to grant a retirement allowance to Gerald Cahalan, Jr, DFD, as of 11/01/2021. Annual pension amount is \$48,072.96.

The Board received approval from PERAC to grant a retirement allowance to Nancy Kulpa, CBRSD, as of 11/02/2021. Annual pension amount is \$23,806.80.

The Board received approval from PERAC to grant a retirement allowance to Nancy Fuore, Lenox, as of 11/15/2021. Annual pension amount is \$14,763.36.

**3(8)c REIMBURSEMENTS:**

l.) The Board received a letter from PERAC ordering the State Retirement Board through the provisions of MGL Sec 3(8)(c) to reimburse the Berkshire County Retirement Board \$12,014.57 a year toward the retirement allowance of Gerald Cahalan.

**PERAC CORRESPONDENCE:**

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

#01/2022	Fraud attempt
#02/2022	2022 Limits under Ch. 46 of acts of 2022
#03/2022	2022 limits under sec 23 of Ch. 131 of 2021
#04/2022	COLA notice
#4a/2022	Clarification of Memo #4 COLA Notice
#05/2022	2022 Interest rate set at 0.1%
#06/2022	Mandatory Retirement 1 <sup>st</sup> Quarter 2022
#7/2022	Buyback and Make up worksheets

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

**TRAVEL & EDUCATION APPROVALS:**

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

**MISCELLANEOUS CORRESPONDENCE:**

o.) -Signatures for Bank account access and authority  
-Annual Comprehensive Financial Report MassPRIM

Paul Lisi made a motion to approve the consent agenda as shown Beth Matson, second.

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

The next regular board meeting is scheduled for Wednesday, February 23, 2022 at 9:00am.

Sheila LaBarbera noted that she would like the Board to consider holding the April meeting on Friday, April 22, 2022, at 8:00am because she will be away the last week of April.

Board asked to be reminded of the change next month.

A motion was made by Paul Lisi to adjourn the meeting at 11:10am, Karen Williams, second.

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

Berkshire County Retirement Board Meeting  
January 26, 2022

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