

Berkshire County Retirement Board Meeting  
November 29, 2023

**The meeting of the Berkshire County Retirement Board was called to order at 8:30A.M. in the Berkshire County Retirement Office, located at 29 Dunham Mall, Pittsfield, MA. Present at the meeting were Michael Ovitt, Chairman and Mark Bashara, Elected Member and Karen Williams, Elected Member. Beth Matson Appointed member and Thomas Gibson participated remotely. Sue Funk, Advisory Board member was absent.**

*A roll call vote was taken to open the meeting at 8:30am*

**PUBLIC COMMENT:**

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

**NEW BUSINESS:**

- 2.) Legal Update: legal update for November with Thomas Gibson Tom Gibson

**Appeals**

There is a new appeal that has been filed involving the attempted purchase of time from a member of the Mass Teachers Retirement Board, Lisa Mendel. She has retired from the Mass Teachers Retirement System and she was a few days short on how much time she needed to reach a certain point at Mass Teachers. She terminated service here as a school secretary on August 31, 1997. She enrolled in MTRS on September 5, 1997, and we transferred all of her deductions and all her time to MTRS. Now she is coming back to us looking for additional time claiming that there was not really a break in service and therefore she should have been credited with time where she was not actually working or being paid in Berkshire County. We reviewed the entire file, we drafted a letter, we do not know when she enrolled in MTRS, we do not know how much time she has at MTRS all we know is what we sent over. She has filed an appeal. We just got notice of that appeal. We intend to make MTRS a necessary party because she is really a member there, and they are the ones that are controlling her creditable service.

Mr. Bartini's case is still pending a decision at DALA.

Michael Ovitt: On that first case? Was she our employee?

Tom Gibson: She was a member in Berkshire County from September 5, 1989, which is the date of her enrollment, until August 31, 1997, at the Mount Greylock Regional School District. At some point, she enrolled in MTRS and now she is looking for more creditable service from us. She does not have a claim with us as far as we can see, so we will defend this case up at the Division of Administrative Law Appeals.

**HERO Act**

The Governor has put in a bill called the HERO Act, which is a broad-based bill that impacts the veterans. Part of that bill reflects the same legislation that has been pending regarding access to buy backs. It lengthens the timeframe for veterans in public service to participate in the Active-Duty Service Buyback Program, which is the Military Service Credit. The program will enable veterans to purchase up to four years of active-duty service toward their state retirement and will mirror the 10-year vesting requirement that appeared in the original legislation and that DALA says still exists in the current statute.

Berkshire County Retirement Board Meeting  
November 29, 2023

**PERAC**

The PERAC Executive Director position that has been posted. Anyone interested in applying to be PERAC's Executive Director has to get their application in by December 1, 2023. There is at least one in-house candidate that has applied.

**RECENT CASES- CRAB**

There was a case recently decided by the Contributory Retirement Appeal Board. We do not know whether it is going to be appealed to the Supreme Court, but Gerry and I are representing a few employees in the City of Somerville. They are granted pay raises after the City Council had voted to approve new pay scales. We should keep an eye on this because it may be something that may happen in other communities in Berkshire County. They get a salary comparison to make sure that their pay was accurate and comparative with other communities. They commissioned a study. The study's results came in, and the pay raises were granted to employees in a form of a city ordinance or a municipal bylaw. The employees accepted the pay raise, continued their employment, and then some went to retire, and when they went to retire, the anti-spiking provision kicked in, and so Somerville and PERAC both had to use a five-year calculation rather than a three-year calculation. The argument was is this in a form of a law. This is not end of career packing on your salary so you can get a bigger retirement. The Division of Administrative Law Appeals read the case and they agreed that a municipal bylaw is a law and that pay raises granted by law are exempt from anti-spiking, and that is right in the statute.

The Contributory Retirement Appeal Board took the case up on its own motion, they just released their decision agreeing that a municipal bylaw is a law and that pay raises granted by that process rather than just like an internal promotion or some other form will be considered exempt from the anti-spiking law.

**Paid Family Medical Leave Act**

There were some other amendments to the Paid Family Medical Leave Act that do not really apply to many municipal agencies. I don't know if any member units in Berkshire County have ever adopted Chapter 175M of the General Laws which allows for deductions from employee's salary to be paid into a trust fund and then when they need paid time off, family medical leave, they can take from this trust fund for compensation. Initially, the determination was that those payments are not regular compensation. The law was amended by Chapter 55 of the Acts of 2023 to allow supplemental pay, specifically vacation, to be joined with Paid Family Medical Leave Act. PERAC issues a memo saying no it's a supplemental payment paid to someone who is out on Paid Family Medical Leave Act. It is not regular compensation.

**Private Entity Treasurers**

We continue to wrestle with the issue of a private entity being hired by a governmental unit in Berkshire County to perform the statutory duties of a treasurer. This is something that has gone on more frequently as less qualified applicants are available for these types of financial positions in cities and towns. Towns that are experiencing a lot of difficulty finding qualified people for the job so some have gone out and hired a private entity. Monterey has done this, and now the question is does that person have a right to be on the Advisory Council. How do we deal with the Advisory Council? Is it the principle of this particular private corporation? It is not even a corporation or an LLC. It is just a person setting up a sole proprietorship and

Berkshire County Retirement Board Meeting  
November 29, 2023

providing these services. Monterey wants that individual to be the Advisory Council representative it is kind of a unique situation. We have engaged in discussions with PERAC who are completely surprised that this even exists and that there would not be one individual person who is bonded and that they would be farming this out to a private entity to perform those services. It only impacts the Berkshire County Retirement System in that one little area of the Advisory Council representation, but maybe also in certifying payrolls and other things it may have an impact. It has issues on a larger scope. Are they subject to state ethics law? Are they subject to any other laws that apply to private contractors who are providing public services? Once you start looking in one area, a couple other doors open up and it is a little bit more complicated than we thought we are continuing to look at this particular issue.

Sheila LaBarbera: Monterey has used a private contractor for a couple of years. The voting issue didn't come up until this last round of COLA base votes, the Advisory Board hasn't had a vote in two or three years.

Michael Ovitt: The main concern is about the Advisory Council representation.

Sheila LaBarbera: Yes for Monterey and Farmington River Regional School district.

Karen Williams: Did Monterey contact the – this office? How do you respond to that?

Sheila LaBarbera: I do not know what to say, whom are we appointing? Is it a person? Is it a business?

Michael Ovitt: So we are ready for a decision then from PERAC.

Tom Gibson: We are still trying to frame the issue properly. PERAC says are we the right person to be asking this question? Should this be something that goes to the Department of Revenue in the Division of Local Services? I mean, have they put their blessing on this particular arrangement? From time to time, these private accounting companies have been hired by municipalities for limited functions to temporarily bail them out when they have a temporary manpower shortage. I have to think that there is some precedent already by the Division of Local Services of the DOR to say this is okay, but I do not think they ever looked at the impact that we have on the Advisory Council in voting. Berkshire County was a source of a letter in 1989 when the acting treasurers were showing up at the Advisory Council and wanting to participate as the Advisory Council members, assistant treasurers, and other employees. There was an opinion rendered back in 1989 that said, no, only the treasurer – this is an opinion from PERA, not PERAC that said only the treasurer is statutorily authorized to act as an Advisory Council member. PERAC has already issued some guidance on this, guiding other personnel in a municipality functioning as an Advisory Council representative but not as a private entity functioning as a treasurer. It is an interesting issue, Mr. Chairman, and we will stay on top of it. I think we can conclude the legal report unless there are any questions the Board members may have.

- 3.) The Board will review a proposed contract for software services with Bay State Pensions. Review is pending approval from legal counsel.

Sheila LaBarbera: Tom has reviewed and tentatively approved the agreement. We did speak with Chris Wallace yesterday. We did make one amendment to support; they offered us two hours a month of free support. They increased it to four hours so we are very comfortable with that.

That is the good news. The rest of the story involves PTG. This came up yesterday, so I spent most of my day yesterday on the phone with Tom Gibson and Chris Lodge. We had sent a termination letter to PTG, a 60-day notice and the Board had questions last month, so I

Berkshire County Retirement Board Meeting  
November 29, 2023

put together an email to Chris Lodge, and I basically put forth the questions that you had regarding their RFQ, and I asked what would you offer us as we phase out and transition after January 1. He was very nice and we talked about how we were going to phase out from PTG to Bay State but we cannot just flip the switch on January 1, Bay State is not ready and PTG knows that. We discussed that in July board meeting. I received the email yesterday, in which basically they gave us two options. We can pay \$71,000 for their services next year payable in full on December 4 with no refunds and no repayment, or we can opt for option two, which is to sign up with them for five years at 200,000+, also nonrefundable, guaranteed, and paid by December 4. I had a discussion with Chris Lodge yesterday said, you are gouging. I was looking at maybe quarterly to even six months, do you have any three-month option, a six-month option so we can phase out? I will let Tom fill in because I know Tom spoke to him, but I basically just said this is punishing, this is gouging. You are going to charge me almost \$25,000 more than we would have paid for a subscription for next year with no added services it is merely just to have their service. I did not quite use the word extortion, but I said we also have to remember one thing we are dealing with a municipal budget. I only budgeted, what, \$56,000, \$57,000 for the subscription payment for next year. Even if I wanted to give you \$71,000, it is not in the budget. Even if I wanted to give you a full year, I certainly do not have it on December 4. I said to him this is not what we talked about when John Reidy was here in July. This is not what we talked about when I spoke to you on the phone. What he said to me was we gave you a great option number 2. We gave you a great cost for that for five years. He was supposed to provide something to me he had to get back to the investors. I was hoping to have something for you this morning, but he has not yet responded to anything.

Michael Ovitt: And what is our ability to continue?

Sheila LaBarbera: It is exactly what John Reidy said. You know, this is – this is critical to our mission to support our membership, so for you to sit there and hold it hostage for an exorbitant amount of public funds.

Michael Ovitt: Is Bay State capable of doing anything sooner?

Sheila LaBarbera: No. They are not if we were a city system maybe because you are only talking about one provider for deductions and things of that nature.

Mark Bashara: I mean, to me, this just pulls back the curtain and reveals their – their company ethics.

Beth Matson: Can I just ask did you get their – that letter to them dated to them 60 days before the contract expired?

Michael Ovitt: Right after the board meeting.

Beth Matson: It was a contractual agreement that there were no questions asked. We were out 60 days. How could they do this?

Tom Gibson: Well, I don't have much to add to that I was contacted by Chris Lodge who asked if he could have a catchup meeting, and that was the title of the of the link he sent me. Can we catch up and talk about some issues? I understand you have clients that are going to be transitioning to Bay State. I do have other clients that have gone to Bay state Pensions. We spent half an hour talking about Berkshire County specifically. He claimed he did not understand what Sheila was asking him and maybe I could clarify that. I went back and referenced this is a business. You have had a monopoly for years; you have had performance issues with some retirement systems. They are frustrated. They have decided to go elsewhere, and you folks have had ample opportunity to come in and explain and make your pitch at MACRS. You made your pitch individually, in Berkshire County. I said one came

Berkshire County Retirement Board Meeting  
November 29, 2023

out and spent a lot of time in Berkshire County – John Reidy – talking about PTG and what is going on at PTG and what their plans are for the future and what their project is going to look like.

As part of that discussion, I said the impression that was conveyed was that even if the Board were to decide to go elsewhere, PTG would assist in that transition, and they would welcome back with open arms if Bay State did not work out, that you would welcome these systems back into your fold. The Board was relying on that representation. I went back and looked at the minutes, as did by the way Chris Lodge, because he had the minutes in front of him when we were talking, so they put their legal hat on and I guess he didn't exactly say that in those particular words, but it was something along the lines of that and it was certainly the impression that was conveyed. I said to him, this is a business decision for you to make, he kept on saying they fired us as of December 31. We are out; we are going to pull the plug on December 31. I do not know what Sheila was asking us to do, I think she is asking you to come in and she is willing to pay for months of services until a transition is done the same way that Tyler and PTG were back when you guys took over from Tyler. So, well, I have to go back and check with the CEO, there is a new CEO in town as Beth is aware because she was very concerned about the individual coming in from outside, Mr. Johnson. He kept on saying he will go back and check with Mr. Johnson, and sure enough, it was sent out Monday at 6 o'clock at night pay upfront for a full year or we are going to pull the plug on December 31. I do not know what more I can say to him regarding business practices and burning bridges, cutting the ties. It is a business decision you have to make, so apparently, they made their business decision. Essentially, as you saw with the emails, just give us this money upfront, nonrefundable, full year, upfront, \$71,000 if you want us to help in this transition. Mark Bashara: So, this just validates as I said that we made the right decision as far as I am concerned so unfortunately, that negates any savings or a lot of the savings we get by going with the other. Do we have any legal recourse as far as – or is this their right to do this and we have to choose or look around?

Tom Gibson: I'm going to go back and take another look at the contract, Mark, to see if there's any type of residual services or transitional services that are in that original hosting agreement. I did not see it the first time I looked, but quite frankly, I was not looking for that. I was looking for the termination information as to how to exit the contract and not incur any liability by going beyond October 1 to do that. I will go back and take another look at it. I am not hopeful if there is anything else there. I think what we have to do, Sheila, I think one of our options would be to contact Chris Wallace and say, look at this. You know, this is partly, you know, your responsibility as well to ramp up the services that you were going to provide us to get this transition done maybe on advanced enhanced schedule.

Sheila LaBarbera: They are going to expedite whatever they need to do to begin to get our data up and running as quickly as possible, What is critical is the January 1 because I can't close out – I don't have enough in PTG to close out as of December.

Mark Bashara: Can we make a counteroffer in the sense of this is what you offered. We are not interested.

Sheila LaBarbera: I kind of did, Mark. It is an approved budget item by the Retirement Board, and it is good until December 31. I said, all that is in the budget is the 56,000 or 58,000.

Berkshire County Retirement Board Meeting  
November 29, 2023

Michael Ovitt: What is our – what is our option as far as withdrawing our 60-day notice? Is there anything there that we can do?

Tom Gibson: Well, you have already terminated the contract. They have made that very clear that they have considered the contract has been terminated by the letter that Sheila sent to them.

Michael Ovitt: And they have accepted it.

Tom Gibson: My discussion proposed essentially, and I thought this was what they were going to come up with, was just go on a month-to-month basis based on the current contract terms, and whether it makes three months, four months, six months, eight months to do this transition successfully, Berkshire County will be responsible to pay, you know and we'll agree to pay you for whatever services you're rendering to them to assist their transition.

Mark Bashara: I think is a strong point for us. Whether or not it gets us anything is that it is not holding the Board or an individual. This is holding up an issue with over 800 retirees plus 1200 active members, which is a public situation. You are not holding an individual or group of individuals, so I would think this would have more validity to our issue because of that.

Michael Ovitt: So, my other question is – you mentioned there were other systems that were doing the same process? Did they do their termination notice as we did?

Beth Matson: I actually have experience in this. We did the same thing here. We did an RFP here. It's what we did, and the Board voted to go with Bay State, and PTG – Stephan reached out and said, you know, who will you go with, and I told him – I told him Bay State, but our contract ended in September because it must have been when they started up here. I knew that I was going to need PTG, so we look at it a little differently here. We paid the year because I knew that I was not going to get a break from them because we are leaving them. We paid for the year and we are looking at it as we have backup and we have insurance in case the other one fails. We are still saving money because Chris Wallace has got two years free. It is not as much as the two years of free service, but it is what it is.

Michael Ovitt: You must not have done a termination notice as we did.

Beth Matson: I did not do we did an RFP, and it was a verbal over-the-phone that we chose Bay State. I did not put anything in writing because I signed the contract. I am with them until September of '24 no matter what. We had to sign that contract.

Michael Ovitt: Right.

Beth Matson: We voted the RFP.

Sheila LaBarbera: It is interesting that you said that, Beth, because they – we signed up in December and was it last year or the year before they started sending us the bill in September, and what I noticed we haven't received an invoice. I did not even have an opportunity to subscribe to 2024 because I had no invoice for 2024.

Beth Matson: That is interesting. By holding it, they are extending the contract. What the contract said, because I read the language here, and I am sure they are all-similar, is that it will automatically renew on that yearly basis. It does not say that it renews when you – when you pay the bill or when you are invoiced. It is whenever the contract – then it automatically renews yearly.

Michael Ovitt: That's – that is in the absence of our 60-day notice of termination.

Beth Matson: That is correct.

Sheila LaBarbera: And to Beth's point, we did not have an opportunity to automatically renew or to pay a bill because we never received one.

Michael Ovitt: All right. So, bottom line is we need software.

Berkshire County Retirement Board Meeting  
November 29, 2023

Karen Williams: What do we do?

Sheila LaBarbera: I am waiting for him to respond all I have in the budget is what I have budgeted.

Mark Bashara: I mean, even if we paid, like you said, how – if everything went well, how much time do you think we would have needed PTG for? Three to four months?

Sheila LaBarbera: Between three and six months.

Mark Bashara: Yeah, so I'm thinking even, to me, Tom, a counteroffer or how we want to put it is a six – agreement to pay six months is generous on our part, yet covers us for what would be, so that we're not trying to – we're taking the higher ground showing we're not trying to shortchange them. We're more than willing to pay what is fair and reasonable, which I think puts us in a better place than saying we'll go month by month or any other option, which would be half of whatever that 57 is, you know?

Sheila LaBarbera: I think we are paying for a year. It is just a matter of how much they are going to try to make us pay for a year.

Beth Matson: And at the end of the day, you are still ahead of the game because you got two years free with Chris.

Tom Gibson: I'm going to meet with PERAC I'm sensitive to what Mark had to say about the impact on the retirees and members, and not only that, but there is an impact on other retirement systems because you have 3(8)c chargebacks, you have all sorts of things that are impacted by this throughout the entire system. I think PERAC has to be aware of that I don't think they have any real legal standing to dictate to PTG anything, but certainly PERAC their opinion is very important, and if they would lean on PTG, it may be helpful to us as well to ensure a smooth transition because that's in PERAC's best interest as well.

Mark Bashara: Well, to me, they – they buried themselves by giving us option 2 because it shows their underlying intent because they cannot say, well; we are just trying to help them. We made it clear to them we are leaving them. Why did they even offer us option 2, which is a five-year? Because they are trying to strong-arm and keep us here. That is my view, you know.

Karen Williams: Well, my concern is that December 4 date, which is Monday.

Sheila LaBarbera: I would hope that there would be some kind of a counteroffer some time during the day today. As soon as I get that, I will send it out to the Board. I will send it to Tom, we can review what it is, and hopefully it is at least within our budget. John Reidy admitted it that they have been charging us more than other boards for a number of years and he gave the excuse that because none of our stuff was bundled; they never offered me a bundled price. They never offered me a prepaid price.

Mark Bashara: And people who are victims – I don't like using that word, victim, but that's what they are because they're being held hostage not so much us because even if we pay more it's coming from the funds of the retirees to pay that.

Tom Gibson: And this has to do with the corporate image as well. I mean, what kind of image do they want to convey to the public pension community especially if they are going to be looking for new business in other jurisdictions, which I think, is part of their plan to expand beyond Massachusetts. Do they really want to have this type of reputation impact that ability to develop more business down the road? I don't think they would – I don't think it's a good corporate decision to have conduct like this, but I'm not a businessman and obviously there's a new sheriff in town there for PTG, and this is what they came up with. So, Sheila, let us see what they have to say today. In the meantime, I will take the Board's advice, go back to PERAC, and make them aware of this situation. We will continue to look

Berkshire County Retirement Board Meeting  
November 29, 2023

at other options I know you've already ramped up Chris Wallace from two hours to four hours of help, but it may well be that we need to lean on him for more assistance to get this transition done.

Tom Gibson: I say this because there are other systems that are going to be impacted by this conduct. I mean if he takes the same position with Berkshire County elsewhere with departing systems the burden should be on Bay State Pensions to be prepared for that because they are going to be asked the same thing by other systems. Come in and help us with this quickly so we are not gouged by PTG.

Mark Bashara: Two things just quickly is, A, I don't know, this is just a question, if our hand gets forced because I think they're playing chicken and who's going to blink first. Second, is I do not know if this is something that would even fall under the Attorney General's office as far as the fact that you have, as I said, these? We are not talking company versus company where it is just the survival of the fittest. You're talking approximately 2000 people who could be adversely affected and the Attorney General's office, even if they can't do anything, if they got a call from them saying, what is this?

Beth Matson: I know I am on a delay. I remember years ago when – when the TACS-PTG thing took – there was something that took place and they were going to upgrade our system and they literally – they said that you're going to pay this, you have no option, and a lot of us took that like they were putting a gun to our heads. This is similar tactics, and some of us have a very long memory of that time and how angry that most of the MACRS community was over that. So, I think once that word gets out that they are pulling this stuff, it may very well do them in.

Michael Ovitt: Given our December 4 deadline?

Sheila LaBarbera: Well, hopefully it will stay within – like I said, whatever their proposal is will stay within the budget that we have proposed for next year. At the very least, I can, you know, manage a payment by December 4 for that. That is not a big deal. You know, I do not know if they are going to set their sights on a payment in December and then a payment in January for that matter, you know, after you set your budget. Michael Ovitt: So, are we the only ones that – are we the only ones that submitted the 60-day termination?

Sheila LaBarbera: I know others have too because there is people that are completely off.

Beth Matson: We signed, but the Board voted to go with them, so we had to. We could not do a partial year.

Mark Bashara: And we had last time, right? Because here is September.

Beth Matson: We paid PTG in September and voted in October to go with Bay State. It was close but there was no way it will be done.

Tom Gibson: Beth has the luxury of time here. We did not have the luxury of time in our decision, and just to go back on Mark's point once about the AG. I actually have a meeting on Friday with the First Assistant AG, not with the AG, but with the First Assistant, to discuss issues involving the Contributory Retirement Appeal Board, and certainly, this would be an opportunity if I can get that on the plate as well. I may take advantage of that to just alert the First Assistant AG that there may be some issue coming up down the road.

Michael Ovitt: So, are we – are we talking about processing pension payroll?

Sheila LaBarbera: Everything will be done.

Michael Ovitt: For January? You are going to be able to run it in December. Worst-case scenario is January. We cannot shut it off until December 31st, right?

Berkshire County Retirement Board Meeting  
November 29, 2023

Sheila LaBarbera: I really hope that this is resolved by December 4 and that we will just move on.

Tom Gibson: I know you have other business, Mr. Chairman, to take care of today. I am going to sign off on the legal unless there is any questions the Board has. We will stay on top of this. I know Sheila has been very diligent in this as well. We will stay on top of this and report back.

4.) The Board reviewed and approved the draft Marcum financial audit for 2022.

Sheila LaBarbera: Everything went very well. There is one little holdup, the Board will approve the draft report today, and then submit that approval along with a management letter. The audit cannot be completed until we have the valuation report from PERAC, and we are waiting on that. I was hoping to have that a week or two ago, but it should be here literally any day, so as soon as that's done, I get the valuation report and send Marcum the management letter (dated the day we receive the valuation report) and you'll have the final audit report hopefully by December.

Mark Bashara: I will make a motion to accept the draft for the Marcum Financial Audit for 2022. Karen Williams: I will second.

**A roll call vote was taken to approve the Marcum BCRS financial audits for 2022. The vote was unanimous.**

5.) The Board will review the proposed 2024 annual budget.

Sheila LaBarbera: The last thing we have is the budget.

Michael Ovitt: PTG?

Sheila LaBarbera: I left that one blank we have to fill that in for December.

Michael Ovitt: Well, what did we budget then? Just to review.

Sheila LaBarbera: We did not budget anything yet.

Mark Bashara: Under service contracts, we do have 57, correct?

Sheila LaBarbera: That was for 2023.

Sheila LaBarbera: For postage. I am going to reduce the postage by \$1500.00. The copier is something that we really need I'd like to do is at least get in the queue so that they know that we're going to order it so that way they will have one on hand for us in January.

Michael Ovitt: Have we heard anything from them saying it is old and decrepit and needs to be replaced?

Sheila LaBarbera: It is functionality. It is really a maintenance issue. That is why I said if there is a town or district or something that would like it, they can have it. I think MacFarlane might even allow them some kind of a maintenance contract for it. The problem is just that the files that we are using to send to print are too big, so they are not working. Right now, I am at the limit for my direct deposit receipts

Karen Williams: How old is it again?

Sheila LaBarbera: Six. Six years old. It is just the capacity for the files that we print are too big for them to process anymore It is at the end of its useful life. It actually has no residual value. Can I trade it in? No – that is why he said if you got somebody that wanted it, they could have it. He said they would even deliver it somewhere if there were somebody that wants it.

Mark Bashara: I mean, can we – can we have the money in there but continue using this one for a while. Sheila LaBarbera: It's – Mark, it is that it is at its end of its useful life, so it is a workflow issue for us at this point

Berkshire County Retirement Board Meeting  
November 29, 2023

Michael Ovitt: the issues that you are having, are they addressed with the new copier?

Sheila LaBarbera: Of course, yes. I mean they look like they are brand new and they look like they should work fine, but they do not have the memory or the internal capacity to deal with the size of the files and the functionality that we need.

Mark Bashara: How's the longevity as far as – well, not longevity, I should say, getting this printer, I know it is hard to predict the future. Is this something that you see meeting the need for a while?

Mark Bashara: Is there anything on it that is upgradable to keep up with things that you are aware of?

Sheila LaBarbera: I mean, there is some updates that they run but there is not much.

Michael Ovitt: it is the copier, scanner, and printer. Just to clarify that there is no better option for the printer then?

Mark Bashara: All right, so I will make a motion to –

Michael Ovitt: This is – this is with the overall budget.

Mark Bashara: And a somewhat similar we discussed about the phone and it is difficult for people who leave messages.

Jill Hersey: So, there's a different voicemail number to use that will control calls, so if you call 1981, it will ring to our phones for three times and then it will go to the auto attendant that I thought – the message. Then if you call 1940, it will go straight to the auto attendant message. I just have a different number that I have to call in to change, but those will both change.

Sheila LaBarbera: I think we have it under control now. We thought it was within the phone system in the phone itself. It is actually with Access Plus.

Michael Ovitt: Ascentek is a blank.

Jill Hersey: that is the one where we have reached out to them regarding seeing what else they have to offer for the cybersecurity services because right now we are just paying for the small antivirus.

Sheila LaBarbera: I do not have anything proposed because we have not completed the cybersecurity audit. Until we get the penetration test in the audit, and I think they will provide us with some recommendations.

Michael Ovitt: Okay. While we are discussing budget, it has been before the Advisory Council.

Michael Ovitt: So, a motion to approve the budget?

Sheila LaBarbera: Sue Funk asked you not to this month?

Karen Williams: We did not agree to that.

Sheila LaBarbera: Okay. She had talked about it last month and she sent an email.

Michael Ovitt: So, that's – that is still open then?

Michael Ovitt: All right. Well, I mean this – this cybersecurity audit is somewhat outside –

Karen Williams: When – when is that happening, the cybersecurity audit?

Sheila LaBarbera: We will talk to them tomorrow, so I do not believe that it is something that is going to take weeks.

Karen Williams: It will happen in December.

Sheila LaBarbera: And I am hoping to have most of this stuff wrapped up within the next week or two, to fill in all the blanks and then everything will be good for your approval in December.

Mark Bashara: Where even if you had an idea or a general on the \$25,000 for the legal counsel do you know what we used for the year? Approximately.

Berkshire County Retirement Board Meeting  
November 29, 2023

Jill Hersey: We had only paid one bill so far for the first quarter for just over \$5000

Mark Bashara: I am going to hope and guess we are well within the range. I think last year this was \$12,000.

Michael Ovitt: So, right now, we have PTG and Ascentek.

Mark Bashara: Well, mentioning about the – deciding the budget, do we need to decide whether we are going to decide on the budget today or hold off? I would think we need to do something on that. Beth obviously can –

Karen Williams: The problem is we do not have some of the numbers available especially with PTG.

Michael Ovitt: So, this – the numbers are not available until December 10?

Sheila LaBarbera: For COLA. We do not get November until the following month.

Michael Ovitt: So, we are – we are forced to wait for that one. That may bring it up or down then. Anybody else have any questions regarding the –?

Karen Williams: Yeah, I mean was ready to vote on the budget today, but with what has happened with PTG and that is a big number.

Sheila LaBarbera: Well, do we have anything for salaries? I mean, is there a discussion?

Mark Bashara: Well, I guess we can discuss it. I guess if we wanted to talk, we could settle the budget as far as salaries today, and then the only outstanding would be PTG and Ascentek. Then that would be settled, and then if we did get salaries settled, then the only thing left would be PTG and Ascentek. We are good with the copier and everything else is pretty much status quo, but that is not just up to me, so. Beth, do you have any input on –?

Beth Matson: I was prepared to vote on the budget today. I am good to discuss salaries and get that over with and we can get through this budget a lot quicker next month.

Michael Ovitt: All right. Can I ask about the COLA? If we use the figures through October, where would we be? Are they – are they published on here?

Karen Williams: 3.2.

Michael Ovitt: And that is through October?

Michael Ovitt: So, is that 11 months' worth? Or is that just – calendar year today or –?

Jill Hersey: Eleven. We go from December to November, so right now; we currently have December to October.

Michael Ovitt: Right, so we are missing two months then. What did we do last year?

Sheila LaBarbera: We had 12 months. We did it in December.

Mark Bashara: Well, whatever comes in isn't going to be anything drastically different I'm guessing for the month of – I can't imagine it's going to be – it may be different but – I mean to start this out, I guess somebody needs to make a motion and set some parameters and then we can go from there. Am I correct? I mean I am willing to make a motion except I do not know how I would say about a two-part? I do not know if you can do a two-part motion because I would make a motion to make a recommendation to the executive director's salary and then I would make a motion to set something for the two staff members' salary.

Michael Ovitt: The obvious is we received a letter from Brian, Jill, and Sheila in our packet. It was – it was within the budget packet. There's an incredible amount of work that was done here, which is nice, but, you know, it's obviously self-serving to some degree but, you know, we're not getting every I don't know. Some of the information is a little bit skewed.

Michael Ovitt: You put that together?

Brian Shepard: The salaries, yes.

Mark Bashara: Did everybody read the letter? Just to make sure. I read the letter. I am guessing you did.

Berkshire County Retirement Board Meeting  
November 29, 2023

Michael Ovitt: Okay. There is a – there is a job posting for Franklin for assistant director.

Brian Shepard: Yes.

Michael Ovitt: Do we have an assistant director?

Brian Shepard: I mean if we are cross training on everything, as you want us to be, we are technically assistant directors. If we can do the job when Sheila is out of office that is an assistant director.

Michael Ovitt: Okay. Well, job classifications, I guess, job descriptions, I guess we – you guys were hired, you know a couple of years ago. The entry level, I think, was in the 40,000 range. We did increase it to a range of, I think, 50 to 60, and you started at 55.

Brian Shepard: Can I ask where it came from?

Michael Ovitt: That was what was out there and that was given to us.

Brian Shepard: Did you have a salary survey though? Did you do the salary survey?

Sheila LaBarbera: We did not do a salary survey.

Michael Ovitt: It was I have seen a hundred salary surveys

Brian Shepard: Well, if you could provide one, that would be great because I put together this one

Michael Ovitt: Did you look back through the notes? The hiring process?

Brian Shepard: There was nothing in the minutes saying that there was any salary survey.

Michael Ovitt: So, you accepted the position, you started out, you have been here going on two years now and we would like to move forward to do that. That is where we started out. You know, I just do not want to spend six months a year discussing salaries. I want to get something in place and I wanted – some reasonable expectations of what goes on beyond the 12-month period of time would be nice because you are spending far too much time producing these reports. I think you can better serve your time you did this in your own time?

Brian Shepard: No. You requested the salary survey last year when the salary discussion came up. All salary surveys were performed last year. The COLA was not - The salary survey was from last year.

Michael Ovitt: Okay.

Brian Shepard: The COLA was done by, I believe, it was Mass Retirees. The board stipend was done from one of the boards, Hampshire County, which I have included and all there.

Michael Ovitt: We just got it back like a couple months ago, right? Did you just present this a couple months ago?

Brian Shepard: Again, after we presented it last year.

Michael Ovitt: Same numbers?

Brian Shepard: I increased it based off the cost of living, which was 7%.

Michael Ovitt: Okay, so it is modified.

Brian Shepard: Yes, which is notated on the center. The text is highlighted. That was the cost-of-living adjustment that was put in place last year. We only got 5%.

Michael Ovitt: What is highlighted is that it is not final. November's numbers will not be available until December.

Jill Hersey: That is the CPI. That is for the COLA. That is not anything for the salary survey.

Karen Williams: I guess I just feel like we went through this a few years ago and we came up with a policy that we would consider the CPI and come up with a COLA, and so I don't know why we keep revisiting this all the time unless we're going to change that method.

Berkshire County Retirement Board Meeting  
November 29, 2023

Michael Ovitt: And every year or every two years, we are far behind what we settled on, you know, within a reasonable amount of time.

Sheila LaBarbera: Stop for just one sec. So, what you have settled on and what you started people at, the COLA is not even keeping up with that. So, if you are going to say, well, you know, we agreed on a COLA. That is just COLA, 7.2%. We did just 5%.

Karen Williams: Right.

Sheila LaBarbera: So, already your 2% behind. What we are showing you though is that the job – it is – the job is paying more, Karen.

Karen Williams: Do not just talk to me about it.

Sheila LaBarbera: I mean, the COLA does not keep up. You do not want to do steps. You do not want to do a salary range. You do not want to do anything but a COLA. We have asked you and provided you information for as long as I have been here and as long as the last two employees have been here, to just kind of give you an idea of what the jobs pay. We are not even in the salary range.

Mark Bashara: Well, that can be debatable, but I am not going to disagree or agree with you. What I am going to do is make a motion. Unless the Chairman has anything else or if Beth has anything to say, then I am going to make a motion, and once that motion is made, if it is seconded, then it opens it up to discussion.

Mark Bashara: You okay with that, Beth? So, I'm going to make a motion that we increase the executive director's salary and staff which, of course, are you two by 3.2%, also to look at increasing the staff's salary but not percentage-wise but a lump sum thing like we did before, okay? I'm not going to – I'm just saying, so everybody gets 3.2%, and then we discuss what it would be – do we given them an extra thousand? 2000? A hundred bucks? Whatever. I do not know, but that can be discussed. I also, as Karen had mentioned, think – would like to – so that we are not going through this every year, maybe look at doing this for a two- or three-year term, okay? So, in other words, whatever we agree – whatever we finally settle on and the Board votes on, that is good for a two- or three-year time, okay? That is what my motion is.

Sheila LaBarbera: I am not sure what your motion is?

Mark Bashara: Okay, so – well, I am saying – so, let – just a conversation – its 3 – so I am not saying this is what it is going to be. I said the 3.2, okay? So, let's say we say 3.2 for three years, so every year or if we did 3.2, 3.5, 4, you know, whatever, for three years or two years, whatever the Board decides, at that point, once it is approved, whatever is finally approved, we're set, you're set, you know what you're getting for the next two to three years. We know, its set in the budget, and we are not going through this so much every year.

Beth Matson: I am going to second that.

Michael Ovitt: We have motion and second, and we can open it up for discussion.

Beth Matson: I am glad you said that, Mark, because I am so tired of discussing staff salary at a retirement board meeting one-half of the time that we meet. I think similar to a contract negotiation that police and fire and collective bargaining agreements go through. They set that contract out for two to three years and it is renegotiated every two to three years. That is when we will come up for discussion, so I am all in on that. As far as – as far as the salaries and what this position paid, I am in a unique position to understand what they are. I also understand what they are in the Berkshires versus what they are in the rest of the state. I know that your salary surveys – you can make a salary survey say anything that you want it to say. The current director in North Adams is making a salary in the mid-70s, so your assistant director in Franklin County which is further east is at a higher amount and they are

Berkshire County Retirement Board Meeting  
November 29, 2023

looking for someone with more experience than what we currently have. That being said, I do believe that the two staff people, Brian and Jill, are underpaid for their positions with what they are currently at. And especially with the two years of service, and I am willing to vote an increase inclusive of COLA or step or whatever you want to call it of 5000 a year for the next two years. I would also like to say about the CPI, I never thought it was a good idea. It was way off last year. The highs and the lows – when it's zero we are not going to give zero, and when it is 12% we are not going to give 12%. I would like to get rid of that tactic and go with the – negotiating the salary every – well, not negotiating – the Board decides the salary every two to three years. That is my input.

Mark Bashara: I think originally when we did the COLA thing, it was to give us a guide and something in between that the reason I was okay with that at the time. At the very end where I wanted to make sure we were not locked in where it said, the Board shall have the ability at any time to make changes, modifications, exemptions. If we wanted to give 50%, we could give 50. If we wanted to give half a percent, we could. This gave it in the middle. But I'm – I'm not disagreeable with getting rid of that, but I think that's something we could address going forward from this, you know, so that we don't have too much on our plate trying to negotiate – not negotiate, but trying to establish salaries plus do away with this. I do not have a problem personally – you know, I am open to – you said 5000 a year for them each year, but that is just a lump sum type. That's – correct? That it could be discussed too why I would be for a little less. I think we are – we are moving in the right direction.

Karen Williams: So, are you saying just – we should – need to make a decision for 2024 and then look at going out three years ?

Mark Bashara: No, making a decision now for two years or three years, yes.

Karen Williams: Okay

Mark Bashara: And then that avoids it. Otherwise, we are back here next year in July, August, whatever, starting to talk about this again. So, its gets – I think you were talking two years, Beth, when you said that?

Beth Matson: Yes

Mark Bashara: And I think two years would be a good starting point because if that works well, then we could always look – after that two years we could always look forward to doing a three-year one, but this is kind of in the middle ground. It at least doubles the time and lets everybody know where they stand, so I am – I would actually be good with going – setting the salaries for two years.

Brian Shepard: Rather than just get the numbers out there, you got some type of actual factual data?

Mark Bashara: Well, I think that's – what he was saying is that numbers – while I am not going to say numbers are correct or incorrect. They could go all over the place. I can tell you from personal experience that when I was chief of police and I would go to the Western Massachusetts Unit, all right, which was for Western Mass, and it goes out as East – as Springfield, which is still a different world from here, if I had ever taken an average chief salary throughout the state or any variation, we were way, way underpaid. There is no way I could have – not just me. I am talking all of the chiefs in Berkshire County I should say, okay, at that time. I do not know now. I had been out nine years. There is no way I could have ever, no matter how I compile things, brought proof to them, even unequivocal proof of here it is, blah, blah, blah, there is no way they would have – the Board, which was the appointing authority in who – I actually had a contract negotiated. They would have even gotten me in this – the realm of what other chiefs were. I mean, back then, the chiefs in this

Berkshire County Retirement Board Meeting  
November 29, 2023

area were maybe 70-75,000. I am talking Agawam, which is not that far from here. They were 130-140,000, and God bless them. All the more power to them. That was double. Then if you went further east, you were talking close to 200,000.

My point with you, Brian, is I am not saying you are wrong in asking that we go to that, but my point is we have to live in the reality. We are in Berkshire County. This is – this is the people we serve, and you know, even with the increase – we went from 14,000 to 16,000, which sounds good, and I think – I think we did the best we could with what we had. I stated it in public and I will state it again, I at some point want to see us go to 18. That only is \$60 a year more, okay? I cannot justify, while I agree with you, my first priority, and I am speaking on my behalf solely, not for any other Board member – my main objective and purpose on this Board is to make sure the retirees can – we can get them as much as possible. If I could get them 50,000, I would. Obviously, that is not happening, but my point is we are talking what you are requesting which you have a right to ask. I mean, you have to advocate for yourself. I respect that. We as fiduciaries in this Board, I feel, have to reach a middle ground, which is something that is reasonable. It might not be what you are looking for, but it's what we feel is fair and at the same time I can look at the retirees and say, well, you know – yeah, you can say, well, we gave them 16,000. It – it's – for each individual, it is pennies on the dollar. Nobody is going to be buying a second home for that \$60 a year.

Jill Hersey: It is still higher than the state average.

Mark Bashara: Yes, but you – you – the state average, it is – we are not talking drastic differences here on average, okay? It is still – these are people on fixed income, what they are getting Social Security-wise 3.2. It is an extra \$15.

Sheila LaBarbera: You have fiduciary responsibility to your staff too. To make sure that you employ the proper amount of staff and that you pay them fairly and properly for the work they perform.

Mark Bashara: Right. Well, the other thing I can – so, we will move off then. I mentioned that, Sheila, because he brought up about that. I will end that there. I guess getting back to where we were the 3.2 for everybody and she mentioned 5000. I personally would be more for 3000 for two years, but that is what this discussion is about if I understand. It is not set in stone, correct?

Karen Williams: Beth, I am curious where you got those numbers – the \$5000.

Jill Hersey: Beth, can I ask what open position is out there and how much the salary –?

Sheila LaBarbera: What is the position that you have in your office that is open, Beth, and how much are you paying for that position?

Beth Matson: I started it as a retirement coordinator-administrative assistant position at \$50,000.

Jill Hersey: No, but the current position that is open.

Beth Matson: \$51,000 yes, which is the current going rate at city hall for a similar appointed position.

Sheila LaBarbera: we didn't have a comprehensive salary survey for Berkshire County like the Town of Williamstown did the going rate for most of the positions in town hall – and some of these are like the assistant collector, the assistant treasurer, and we're talking about lower-level employees, and the average was right around \$65,000. That's Berkshire County, specifically the Berkshire County.

Beth Matson: What are they paying in Clarksburg? Do you know?

Michael Ovitt: So, is that part of the salary survey? I don't think so, right?

Sheila LaBarbera: We just got it. I think we got it yesterday?

Berkshire County Retirement Board Meeting  
November 29, 2023

Michael Ovitt: We are seeing all of the information just on retirement systems.

Brian Shepard: Correct, which is our position. We are not – we do not want to compare it to police.

Michael Ovitt: Well, we cannot – we cannot compare an assistant director to – you guys were hired with no – no experience.

Brian Shepard: We both have financial experience.

Michael Ovitt: Right, at most 32B experience. You guys have come a long ways, so that is why we are trying to address this.

Brian Shepard: And that is why we are asking for fair wages I know, Mark, you said you are first fiduciary responsibility is the retirees, and I respect that.

Michael Ovitt: Well, we just got – we just got lambasted in a letter from our staff saying –

Karen Williams: Well, it made me uncomfortable too. It insinuated that we were taking raises.

Brian Shepard: Well, it makes us uncomfortable that we are not treated we are not paid fair.

Sheila LaBarbera: we tried to start this discussion back in August, because this is the way that we do it every single year. We have asked for – can we put together steps? Can we put together salary ranges? You know, the job is the job and what the job pays. There are some, economic differences, but the reality is that if you want to hire qualified people, you are going to have to pay for them today. The other thing I will say this to the Board – is that we have two really very, very good staff. I would like to retain them. I would like them to feel paid – appreciated and paid well, so that they want to stay here and have a good career because it is absolutely the most difficult thing in the world to find competent people and then train them.

Mark Bashara: So, there is two points that I would like to make. The first, addressing what you are saying about every year. I believe that is why I brought up and we are discussing now about going further so that we will be settled but at least it has not every six months we are talking. We are addressing that issue. The second thing is the statement of fact, and I am going to say this. The executive director, irrelevant of who they may be and the staff, irrelevant, who they may be, past, present, or future, are employed at the discretion of this Board, all right? I think that needs to be set. It is irrelevant of the individuals in this room.

Brian Shepard: Is that a threat?

Mark Bashara: No. You just heard past, present, or future. Past, present, or future. I am not saying names. I am not saying particular. I am saying it is, that is a fact, employed at the discretion of this Board. It is a fact. There is nothing to be debated there. I am not pointing fingers. I am not saying names. I am saying that is how it is, past, present, or future. That is it.

Brian Shepard: I am just confused. What is the point there?

Mark Bashara: The point is just to put – make people aware of the functioning of this Board and the employees whoever they may be.

Sheila LaBarbera: Well, you do not think that we understand that, Mark?

Mark Bashara: We have never discussed this. I do not want you to think –

Sheila LaBarbera: I get it

Mark Bashara: It is just a comment.

Sheila LaBarbera: Okay, we are both one-step further. I want my employees to get more money. I want you to go ahead and vote on it.

Mark Bashara: Yes.

Sheila LaBarbera: But the next question is where you are going with my salary.

Berkshire County Retirement Board Meeting  
November 29, 2023

Mark Bashara: Well, that is what I mentioned for discussion. That is why I brought up 3.2 across the board and then Beth had mentioned – and I did say I am up for doing something different to bring them up – Beth mentioned \$5000.

Karen Williams: And I was wondering where you came up with that number, Beth.

Beth Matson: I think that – because I look at salary surveys as well because I am in the same business. I have employed assistant directors and – I have to say, one thing about the assistant director position, as far as I know that is not the title in Berkshire County. They do not have one, and as far as if Sheila got hit by a bus, I do not know that anybody with two years' experience would be capable of running a county system.

Sheila LaBarbera: I am going to tell you something, and I really hope that all of you take this to heart. Of the two individuals that I have here, either one of them I have complete confidence because they have been cross-trained, they have the ability to operate this system in my absence, both of them. Both of them have the qualities and the potential to be an assistant director right now and if the position were to open to apply for and absolutely operate the county.

Beth Matson: If a county – opened up and they applied in any other county in the state with two years of experience, I do not think they would be likely candidates. That is all I am saying.

Brian Shepard: Did you read the Franklin County Regional Assistant Director position?

Beth Matson: Yeah, they are looking for five years' experience, aren't they?

Brian Shepard: Business or public administration with five years of experience meaning they will both have relative experience.

Michael Ovitt: Public administration?

Brian Shepard: Or business experience. It says business or public administration with five years' experience.

Beth Matson: First of all – assistant director taking a director's position, not applying for an assistant director position. I was saying there is none in Berkshire County and that if you were to go for a director position anywhere in the state it would be unlikely you would be chosen with two years of experience.

Brian Shepard: We are not comparing ourselves to executive directors. We are comparing ourselves to assistant directors

Beth Matson: Just stop freaking arguing about everything that anybody says in this office –

Sheila LaBarbera: I guess you know my takeaway from this is as all of you sit here, as I have done for many years. What I would like you to take away from this is, would you want to be in our positions?

Karen Williams: I have been.

Sheila LaBarbera: But, no, really.

Karen Williams: No, I have been. I can relate to that though.

Sheila LaBarbera: You want to say, let us do away with COLA, I do not like it, trust us; we are going to take care of you. I have been here 28 years, 28 years, and do you know the last time I got a salary adjustment? 2018 – \$15,000 behind my peers and I received \$2500.

Michael Ovitt: Because you were operating out of your step system with the COLA.

Sheila LaBarbera: I have been out of my step since 2008.

Michael Ovitt: We agreed that it was just – that is how much the position can tolerate and we added COLA since then.

Sheila LaBarbera: I stepped out in 2008, Mike.

Michael Ovitt: Stepped out what?

Berkshire County Retirement Board Meeting  
November 29, 2023

Sheila LaBarbera: I didn't have a step raise since 2008.

Michael Ovitt: Since 2008?

Sheila LaBarbera: 2008 it took 10 years to do a \$2500 adjustment when the salary range had expanded in a decade by over 10,000 – almost \$15,000.

Michael Ovitt: So, you haven't had an adjustment since '08?

Sheila LaBarbera: 2018, \$2500.

Mark Bashara: So, I was in your shoes as well even though –

Sheila LaBarbera: No, no, no, no, no. Let us just talk about the Retirement Board.

Mark Bashara: All right.

Sheila LaBarbera: Let us just talk about here. That is what I was going to say, if you were in my shoes, Mark, if that is what happened to you and you do not like it, why would you continue to do it?

Mark Bashara: Well, here is my point.

Sheila LaBarbera: At this retirement system, especially with these two staff, one of the best in the state. You have the audits to prove it and our membership and everybody else. What you are saying to them is what you said to me for 28 years. You step out, trust me, we will take care of you, we will pay you. Do you see a salary? The salary that I make is the starting salary for retirement systems that are much smaller than a county.

Mark Bashara: As I said, as far as the staff goes, and I know Jill is on the phone now, I think we have shown that we are willing to try to work on bringing that up, all right? In the end, my personal opinion, when this kind of stuff at any retirement – anywhere, because in the end it always comes down to money, whether you're talking retirement board, whether you're talking corporation, whether you're talking public service, okay? It is your jobs to advocate for yourself the best you can. I get it. You are not going to come in and say –

Sheila LaBarbera: That opinion is not an argument?

Mark Bashara: No, no. I did not even use that word. I am saying advocate, okay? It is also our job to kind of counter balance what is fair. Now, at the end of the day, you – the three of you are not the highest paid in this state. I am not saying you want that. I am not saying you want that. You would also for living in Berkshire County, if we – if we get their salaries up somewhat, okay, I believe it is a reasonable and fair amount. We may have to agree to disagree, okay, but at the end of the day, people are paid fairly. Now, when you ask about trusting us, the fact that we are willing to go out two years, maybe three years, to me, shows that we are not asking you to trust us. We're putting it right out there in writing what you'd be getting, so it's not like every year we got to come back, well, this year are they going to give us nothing or are they going to ask for this or that. So, to me, that is good faith being shown. We are willing to go a little further. Nobody may agree on the numbers. We might give a little more than we wanted, you may get a little less, but at the end of the day, to me, that shows that you can trust us because we are willing to put it right out there. We are not saying come back every six months or every year and then this is where it is going to be. So, to me, that is good faith part on our side. I would like to continue going on because we – we could debate this until next year.

Sheila LaBarbera: No, that is fine.

Mark Bashara: And – and we are – not lose track of where we were which was Beth mentioning the 5000 – the 3.2 across, 5000 for both of them. Karen had asked. I do not know if your question has been answered by Beth where she got that number.

Beth Matson: Because I was in the position of hiring out here and not in Berkshire County. I think that a fair wage for some – for someone who's been trained as well as Sheila says they

Berkshire County Retirement Board Meeting  
November 29, 2023

are for two years should be in the – closer to 70 in the mid – in the high – mid to high 60. So, that is where I came up with the \$10,000 split over two years.

Mark Bashara: Okay. Well, explaining it the way you did there than I had mentioned, I would be open to doing that. I think what that leads to at that point – I do not know how Mike feels about that– would be addressing your issue.

Sheila LaBarbera: Please.

Mark Bashara: No, that is what I am saying. I am trying to take this step by step. In the end, whether we agree or disagree, I think we need to just keep it calm, discuss it.

Michael Ovitt: So, Mark's motion is for the 3.2% COLA across the board.

Mark Bashara: Right.

Michael Ovitt: Beth – Beth is proposing in lieu of the 3.2 for Brian and Jill to go to a \$5000 per year for the next two years.

Mark Bashara: Are you talking in lieu of the 3.2, Beth? Or 3.2 –

Beth Matson: Yes, it includes – that \$5000 would include the 3.2. Just a flat \$5000 for two years to bring them up \$10,000 over the next years.

Michael Ovitt: Well, 3.2 is about \$1800. \$1836 or somewhere around there.

Michael Ovitt: So, that is a \$2000 jump –

Mark Bashara: Right.

Michael Ovitt: For a salary adjustment.

Mark Bashara: Right. I understand – I am just saying, so, it would be then 3.2 and whatever else that we discussed for you. then, not a 3.2 for Brian and Jill, just the straight 5000. So, if there are 58,000 – I am just using an even number – they go up to 63 this year, next year they would be at 68. Am I understanding that correctly?

Beth Matson: Correct.

Mark Bashara: Okay. So, I guess at this point, if anybody wants to discuss now that I understand that, that would be a motion, but I do not know if there is anything else anybody wants to discuss regarding Sheila's question as far as the 3.2 –

Michael Ovitt: Well, we will have to modify the motion at some point.

Mark Bashara: Okay. I am saying, could we – do we want to get hers in there too and then modify the complete thing?

Sheila LaBarbera: I appreciate it.

Michael Ovitt: we have to – let us clarify the 5000. It is problematic because that amount ends up being a factor of the difference between the COLA. You know, it might be \$3050 this year; it might be \$2675 the next year Because of the difference in the COLA.

Sheila LaBarbera: Right. The COLA this year for them would have been \$1870.

Michael Ovitt: Right.

Sheila LaBarbera: So, it is really a \$3200 raise.

Michael Ovitt: So, a \$5000 increase.

Mark Bashara: So, we would say then – you are saying instead of just the 5000, she said we do 3.2 COLA plus 3200 or something along that line, if I understand it, which would equal five for this coming year? Is that correct?

Michael Ovitt: If you – do you want to break it down?

Beth Matson: Can you just make the motion to increase their salary by \$5000 this year and \$5000 in 2024?

Sheila LaBarbera: we could do that, but once the COLA next year – it is a lot like last year, it is 7%, they are getting \$5000, and they would get a \$500 raise.

Berkshire County Retirement Board Meeting  
November 29, 2023

Michael Ovitt: We – we could set the COLA anywhere between 2-1/2 as a low and 5% as a high.

Michael Ovitt: The Board will use a floor of 2.5% and a cap of 5%.

Sheila LaBarbera: And numbers excluded for extraordinary circumstances.

Beth Matson: I am not talking about a cost-of-living increase. I am talking about a wage adjustment inclusive of the cost-of-living increase for the next two years, so we are going to take the cost of living and CPI increase out of the picture.

Mark Bashara: That is what I thought you were saying, right. We would be talking currently the COLA on Sheila's and then just the straight 5000 each for them.

Beth Matson: Yes

Michael Ovitt: When do we need to – do we need to modify or eliminate our COLA policy then?

Beth Matson: To do that if anybody has the appetite for that.

Brian Shepard: Can I just ask one more question?

Karen Williams: Yes

Brian Shepard: Beth, you just told us that you would think a fair and reasonable salary for us in today's world for me and Jill is high 60's to 70.

Mark Bashara: Well, at this point, not for the whole -your whole career.

Brian Shepard: Yeah, for this point. And you are not even bringing us to that point still. What you just said was a fair amount.

Mark Bashara: She said high 60's to 70. You would be at 60 –

Brian Shepard: So, you will put us at 63. That is low 60's this year.

Mark Bashara: For one year.

Michael Ovitt: To 68 –

Brian Shepard: I understand that, but right now, I'm actually earning less than I was last year because we had a 5% COLA last year and everything else went up about 10 or 11%.

Mark Bashara: Well, so am I, so was Karen, so was everybody, so you are not alone in that.

Beth Matson: 3% is generous.

Mark Bashara: It is not just you, Brian. All of us. If you would just hear me out – strictly to fact, unless you're independently wealthy – not you – I'm talking in general – every one of us, me, Karen – and I don't even know their – I'm willing to bet we've all gone backwards. Sheila, we have all gone backwards with that. What you are trying to do and what most people want to do is at least break even or be a little ahead of the game. We are all trying that. I am saying we are all in that boat. It is not as if we are – I am not going to sit here and say, well, you know, we have to make you guys set above the rest in this. We are trying to get to a reasonable thing. To me, and this is my opinion, we're reaching out saying basically in two years from now you're going to be making \$10,000 more. You may say that is not where you want to be or what you should be, but that is a lot of money to put up. We also have to justify that if people ask what are they making and stuff and I could personally justify and say, well, you know, that puts them close to the range, maybe on the lower end.

Sheila LaBarbera: And you know, just to let you know too, because you brought it up because people have actually said to me –

Michael Ovitt: That you are underpaid?

Sheila LaBarbera: No, but they said, I know you have those positions open in your retirement system, I would have loved to work with you, and I would have loved to work in a retirement board.

Berkshire County Retirement Board Meeting  
November 29, 2023

Michael Ovitt: You forget what we did when we advertised for the positions and you accepted the job where – where it paid.

Brian Shepard: Yes, but when you do it – when you are in a job –

Michael Ovitt: So, did you expect it to go up 20% after –?

Brian Shepard: I would expect that we would be paid fair compared to other retirement systems doing the same job.

Sheila LaBarbera: I think we're on a – in a good position because – also one thing that you did take – you didn't like the letter, but I really hope that you would look at that letter and take to heart some of the things that do happen. We have an audit – a security audit. We went out of our way to get a grant to pay for it.

Michael Ovitt: We gave the retirees a little bit extra.

Sheila LaBarbera: I think it is a great thing.

Michael Ovitt: Which is about a 25% impact of what our percentage is on yours.

Sheila LaBarbera: It is not the money, Michael. It is the process and I think that, you know, the staff and I that there is no appreciation for what we do

Mark Bashara: And we can agree to disagree on that. I am going to say that.

Sheila LaBarbera: Okay. Well, I am not quite sure how you show it, but maybe it would be nice if you did once in a while. The fact of the matter is to feel like you are unappreciated and then to see how you are not paid a comparable average. You look in a salary survey and you are at the bottom of the barrel for a system that is performing. I know you hear it from the membership and I know you hear it from the treasurers that they enjoy working with us, that they enjoy Brian and Jill, they enjoy the technology that we are using to make their jobs easier and to come into conformity with different things. There are many positive things that are happening. We are also fully funded. I mean you have no financial constraints. You are now in a position where you can grant the COLA. You are in a position where in a couple of years you might be able to go to \$18,000, those are all good things. Some of that actually has to do with some of the stuff that we do here.

Michael Ovitt: we are not getting anywhere.

Mark Bashara: No, we are.

Sheila LaBarbera: We are. I think that at some point it is important to hear it too. I mean, the 3(8)c in itself saved you millions of dollars. That goes to your bottom line that cash is not going out of the system that it stays in here and that it helps to fund the system.

Michael Ovitt: So, is that not part of the job?

Sheila LaBarbera: That is one of the most condescending things.

Michael Ovitt: Well, is that not part of the job?

Sheila LaBarbera: It is – but it is condescending.

Michael Ovitt: So, if you did not have to do it –

Sheila LaBarbera: And Beth has already told you that most people will not do it. Actually, it has – not only is it part of my job, I have been doing this since 1996. It is something that you and this system has been able to benefit from because I have taken the initiative to do it.

Mark Bashara: So, we are digressing, I think. So, as far as the letter goes, I am going to keep the comments to myself because it would not be appropriate for me to say my opinion in this. So, I am going to leave that alone, all right? You wrote a letter. That is fine. That is your – your option, your right. Fantastic. I am looking at it more we need to – we need to get it done what we need to do. As far as – you said you're at the bottom of the barrel, once again, I don't think you're at the bottom of the barrel but I – we could – no, just hear me out. We could turn numbers around. This is just my opinion, where there are some people that

Berkshire County Retirement Board Meeting  
November 29, 2023

would not touch your job or your job for which you are paid. Now, this is just speculation on my part. I am sure there are those out there that would – would be happy or satisfied. I am – just speculation – I am not going to pull out a list of people, but that is my opinion. I want to try to keep this back on track. You said a motion would be – amendment to the motion would be made – needed to be made. If I understand it, Beth – So, would it I do not know if you want to make it the 5000 each, no COLA on their part, 3.2 for Sheila. It doesn't mean we can't re – you know, modify that motion, but we have to go in steps unless somebody wants to add something to Sheila's, then I think we could encompass it all in one and at least have something to vote on or to work on because I think we are making progress. Not everybody is going to walk out of here, Kumbaya, but I think in the end we are making progress. I think we are showing good faith in trying to increase what we are, and as I stated earlier, by willing to go two years this time and then maybe further down the road shows that we are – we are not trying to keep it.

Karen Williams: And I am just thinking should we add to that – to not follow the CPI policy anymore?

Sheila LaBarbera: Why don't we just take the CPI policy as a separate?

Karen Williams: A separate motion.

Mark Bashara: Yeah. I agree with that.

Michael Ovitt: If you are including it and then it has to be in addition to, that would be problematic.

Sheila LaBarbera: Provide just a flat amount of money as Beth made that motion, make a flat amount of money and then you are going to make a motion – a separate motion to eliminate the COLA policy. That is a totally different –

Michael Ovitt: Right.

Beth Matson: So, first, let us – I think I want to take this in order. I think the first step of order if we're not following the CPI policy is to revoke it, so I would like to make a motion to revoke the previous CPI policy of the Berkshire County Retirement Board.

Sheila LaBarbera: What is it? Revoke or eliminate?

Mark Bashara: Eliminate, I guess you could say. Is that okay?

Beth Matson: Eliminate.

Mark Bashara: Okay. I would second Beth's motion to eliminate the Berkshire County Retirement System COLA policy.

Michael Ovitt: That was approved August 31st, '22?

Michael Ovitt: Okay. We have motion and second. Any discussion regarding that? All in favor of eliminating.

**A roll call vote was taken to eliminate Berkshire County Retirement System COLA policy. The vote was unanimous.**

Mark Bashara: I will rescind my earlier motion to give a 3.2% across the board and discuss other increases. So, then that clears that up and we are not dealing with it, right? Because that is kind of after the fact.

Mark Bashara: I had said eliminate. I withdraw my former motion to set the COLA at 3.2. I am withdrawing that whole motion.

Beth Matson: Okay. I would like to make a motion to approve a \$5000-per-year increase for both Brian and Jill effective in – at the end of '23 and at the end of '24.

Mark Bashara: Just for two years, right?

Beth Matson: Just for two.

Berkshire County Retirement Board Meeting  
November 29, 2023

Sheila LaBarbera: That is 2024 and 2025, right?

Beth Matson: When does it kick in?

Sheila LaBarbera: January.

Michael Ovitt: So, we have a motion.

Karen Williams: I will second that.

Mark Bashara: I was going to say do we want to get Sheila's in there or have that be a separate –?

Beth Matson: We will do that separate.

Michael Ovitt: We have motion and second. Any further discussion? All in favor.

**A roll call vote was taken to approve a \$5000-per-year increase for 2024 and 2025 for both Jill Hersey and Brian Shepard. The vote was unanimous.**

Mark Bashara: So, we are set on theirs. Now, it's Sheila to discuss, okay. So, what are you currently at? 107? Or something like that?

Sheila LaBarbera: 106.

Karen Williams: 106,015, plus longevity, but that is separate.

Mark Bashara: Okay. So, let me ask you. What are you looking – give me a number. Give us a number. I'm not saying you're going to get it, but if it was – we're not doing the COLA, but whether you want to do the percentage or a lump sum just so we have an idea how – how close or how far apart we are – and two years as we're doing two for them in fairness to you because then that takes care of it, correct?

Beth Matson: Correct, yeah.

Sheila LaBarbera: Well, the – my peers –

Mark Bashara: Well, I am not talking about peers. I am talking about you, what you – I mean, I guess you – if you are – if that is what you are basing it on you should mention that.

Sheila LaBarbera: Right. I am basing it on my peers. I am basing it on my – on my longevity here. I am basing it on my work performance that I have done over the last 28 years, and I feel like it should be somewhere around 120.

Mark Bashara: A \$13,000 – I am just saying roughly.

Michael Ovitt: That is putting it at 5000-6000 dollars below the average.

Sheila LaBarbera: Well, obviously –

Michael Ovitt: No, I am just – I am just saying.

Sheila LaBarbera: Well. Right. Oh, if I had my wish – if I had my wish – It would be 130. Some of my peers have been around are 140.

Mark Bashara: Yeah, I – I wish I was at 50,000 for base for pension for the COLA. But I get it. All right, so at least we know where we are on that so we are not – Beth? Anybody have anything?

Beth Matson: I – I have to say I think that Sheila is being paid a fair salary for her geographic location. I think it is fair. That is just my opinion. I am one person. That is what I think. I also – from my – from the people that I talk to in my circle, they have only gotten 2 and 3% increases for the last several years. I do not know where this 12% increase came from.

Mark Bashara: Is that what it works out? I did not do the math.

Beth Matson: I think a 3.2% cost-of-living increase or whatever is generous.

Sheila LaBarbera: You know, you really discount the geographical location and I wish you would stop that because it's not that significant of an economic difference between the Berkshires I mean, we don't live in –

Berkshire County Retirement Board Meeting  
November 29, 2023

Karen Williams: Wellesley or Brookline.

Sheila LaBarbera: I do not also – I cannot live in Alford. I cannot live in Stockbridge. I can't live in Williamston either and I guess that's kind of the point to what the staff are talking about too is you can make a salary survey, look at it any way you want. Well, all you have ever done is pick apart the pieces that worked to your advantage. Beth the starting salary for most directors is around a hundred thousand dollars a year and those are for simple small systems. They are not county systems that are inclusive of everything that we do.

Mark Bashara: So, what does 3.2% -

Michael Ovitt: 3.2% of your current is about \$3400.

Michael Ovitt: And that is really underfunding it. Would it – would it make sense to give the same 5000? That would over – over two years – That is going to make it close, but it would probably be not keeping up as well.

Karen Williams: So, that would bring her up to about 116. For two years.

Mark Bashara: Right. Well, you know, the whole thing with compromise – I have learned a long time ago, and this is just – compromise is where neither side gets exactly what they want. It's – am I correct? We gave them 5000 for two years as a part of that. I like that because then we are not so much about keeping up this way or that but it is straight across the board, lump sum, and that is what it is. It gets her 116. It is not where she wants to be. It is a little more than I would want to see – not a reflection about your quality of work or anything, okay? You may feel – but I am saying – I am just saying –

Michael Ovitt: I do not want to leave here today with – You know, a jaw-dropping, oh, my God, we are underfunding everything again. This is substantial, and I think we are – we are being responsible to the system as well.

Mark Bashara: I will make a motion to not do the 3.2. Beth, didn't you make a motion? Did you just suggest that?

Michael Ovitt: Right.

Beth Matson: I suggested that.

Mark Bashara: Okay. I would make a motion to do 5000 for two years as we did with them, just the flat rate that we talked about for two years, and then we can revisit –

Sheila LaBarbera: So, basically that is a \$1600 raise? Because the COLA is 3.2.

Mark Bashara: It is above the COLA, correct? I am just saying because I was originally thinking the 3.2, but, to me, the 5000 – did you bring that up, Karen? Or Mike? I am sorry.

Karen Williams: About?

Mark Bashara: The 5000. Somebody said it. Not me. Did you, Mike? I think you just mentioned it, I am saying. Therefore, that is a little above, but as I said, a compromise is – I am willing to go a little more on that part. I will make a motion that I think – I will officially make a motion to give the executive director \$5000 for 2024 and 2025, which would be 10,000 total.

Michael Ovitt: Which is the same that we give to Jill and Brian. Do we have a second?

Karen Williams: I will second.

Michael Ovitt: We have motion and second. Any discussion then?

Mark Bashara: Beth, do you have anything?

Beth Matson: I think that is very, very generous on your part. I – the \$5000 was a reclass to get them in the range of where they – where it is reasonable that they should be. It was not a straight across the board type deal in my mind when I brought it up, but I, again, am one person.

Karen Williams: What – do you have an amount that you think would be more appropriate?

Berkshire County Retirement Board Meeting  
November 29, 2023

Michael Ovitt: Beth proposed 3.2%.

Karen Williams: Oh, so that was 3400, okay.

Beth Matson: Oh, I am sorry. I just think the 3.2 is 3400, so she is at 106-something. That puts her at 109.4, plus longevity puts her up over 110, and I think 3.2 and 3.2 is fair. I think it is more than most director's get.

Michael Ovitt: So, it is going to amount to a 4.7% increase from 3.2?

Karen Williams: Is that longevity – is that the max?

Sheila LaBarbera: I think so.

Michael Ovitt: What is the longevity calculation?

Sheila LaBarbera: Based on service.

Michael Ovitt: What is it –?

Sheila LaBarbera: 1750.

Mark Bashara: So, that is on top?

Karen Williams: So, it is like after you are here five years and you get 1750?

It is like 500 – okay. Increments up to 1750.

Sheila LaBarbera: That is over 25 years.

Karen Williams: And that's – that's considered pensionable wages as well.

Mark Bashara: So, that's – so, that is something I overlooked is the fact that you get your – no, I am just saying that once he said it – but you get the – you have your salary which is 106, you said, something? Then that 17 is on top of that? Or is it 106 including that?

Karen Williams: No. \$107,765. Salary and longevity. For '23.

Michael Ovitt: All right. We have motion and second. Any further discussion?

Sheila LaBarbera: What are we voting on? 5000? That is the motion you have?

Michael Ovitt: Yes.

Michael Ovitt: We have motion and second. All in favor.

Mark Bashara: For the 5000?

Michael Ovitt: We are voting.

Mark Bashara: Yeah, see, I am thinking about the 17 – yeah, I – I brought it up. I will – I will say, I will second it.

Michael Ovitt: We have motion and second. This is the vote to – for 5000 – For two years.

Mark Bashara: Beth had mentioned 3.2. I said 5000. She said she feels that is a little more than generous. I was not aware – I cannot say I never was aware, but I was thinking the 106 was just total. I was not thinking of the 106 plus 107 because money is money and however you put it that is the actual money you are getting. So, that – that's kind of more –

Sheila LaBarbera: The longevity is here based on service.

Mark Bashara: No, no. I get it. I get it.

Sheila LaBarbera: Based on service. You know, I have been here for 28 years.

Michael Ovitt: So, our discussion was over. Do you want to continue that? Or – I mean, the motion – the motion is seconded for 5000.

Mark Bashara: Right.

Michael Ovitt: For the next two years.

Mark Bashara: Well – I am actually going to withdraw that for the 5000 and put it back for discussion because I was not thinking of the 17. I understand its longevity, but in the end, the bottom number is the bottom number. So, it does not mean we cannot get back there –

Brian Shepard: That is your bonus for being here for so long.

Sheila LaBarbera: I know.

Michael Ovitt: So, Mark, are you withdrawing your motion?

Berkshire County Retirement Board Meeting  
November 29, 2023

Mark Bashara: For the 5000, yes.

Michael Ovitt: And then your second?

Karen Williams: I second.

Michael Ovitt: We will withdraw your second. All right, so we are back to discussion.

Mark Bashara: For her salary.

Beth Matson: I will make a motion to approve a 3.2% increase for Sheila for calendar '24 –

Sheila LaBarbera: I said what if the COLA was higher than 3.2?

Michael Ovitt: We – we will choose the COLA policy.

Mark Bashara: So, what is your motion, Beth?

Beth Matson: My motion is to approve a 3.2% increase for calendar '24 and calendar '25 each year.

Sheila LaBarbera: Can we at least – can we at least just do it for 2024 in case that it's, you know, we can at least negotiate something in 2025? You are going to set me at 3.2 for the next year.

Michael Ovitt: That is a whole lot for discussion here.

Beth Matson: I do not want to talk this at the meetings for six months out of 12. We are talking about salary increases and that was why we wanted to go with the two years. I believe that was the vote.

Sheila LaBarbera: And if I felt it was fair then I would say, sure.

Karen Williams: Well, I will – I will second that and then we can discuss it.

Michael Ovitt: So, Beth has made a motion for 3.2%.

Karen Williams: For 2024 and '25.

Michael Ovitt: And then Karen seconded. All right. Discussion.

Mark Bashara: Well, you have explained yourself, Beth, correct?

Beth Matson: Correct.

Karen Williams: And – and because of what Sheila is saying, I would go for a lump sum, not the 5000, but maybe four.

Mark Bashara: I see what you are saying, okay, which kind of –

Karen Williams: So, we are going in between – The 3400 versus the 5000. Over two years.

Michael Ovitt: Say that again?

Karen Williams: \$4000 over two years.

Mark Bashara: So, I – I originally said five. We did away – I withdrew that. Just so I can keep track. Beth had stated 3.2, okay?

Karen Williams: Which this year would be 3400. for '24.

Mark Bashara: And you are saying – 34, so it would be 1200 more overall over the two years.

Mark Bashara: I got you. I get you. But you are basically saying the flat is 4000 for 2024 and 2025.

Karen Williams: Right.

Mark Bashara: Versus the 3 – it is more than a 3.2. It's – it's less than the five that I was –

Michael Ovitt: Are we discussing the motion of 3.2? So, that is still on the table.

Mark Bashara: Well, I am not objectionable to that. That seems to kind of work in the middle there. It kind of gets us a little closer –

Karen Williams: How do you feel about that, Beth?

Beth Matson: I can live with that.

Michael Ovitt: So, I believe, the process would be to withdraw both of those motions again and then get a new motion.

Berkshire County Retirement Board Meeting  
November 29, 2023

Mark Bashara: We will withdraw her motion, right?

Beth Matson: I will withdraw my motion.

Mark Bashara: What was that, Beth?

Sheila LaBarbera: There was a motion for 5000 per year –and you withdrew it.

Michael Ovitt: And the latest motion on the table is for 3.2%.

Beth Matson: I will withdraw my motion for 3.2.

Karen Williams: So, I withdraw my second on that motion.

Michael Ovitt: Okay.

Karen Williams: And then I'd like to propose a new motion that we – in 2024, we increase Sheila's salary by a lump sum of \$4000, and in 2025, increase her salary by the same lump sum amount.

Mark Bashara: I will second Karen's motion.

Michael Ovitt: All right. Motion and second. Any further discussion? All in favor of that motion.

**A roll call vote was taken to approve a \$4000-per-year increase for 2024 and 2025 for Sheila LaBarbera. The vote was unanimous.**

6.) The Board will review the MIIA Cybersecurity Grant.

Sheila LaBarbera: We attended the PRIM conference about a month ago, and Ryan Barrett was one of the keynote speakers regarding cybersecurity and his business, ORAM Cybersecurity Advisors, offers cybersecurity services, and we inquired. They put together a quote for us. It is quote for a penetration test, a vulnerability scan, for the Berkshire County Retirement System. They will scan and audit all of our systems here to find out what we need may need to implement or maybe what we have that we can do better. The good news is I submitted that quote to an insurance company, MIIA, who has a grant program, and they will pay for it. Its \$1897.00 and MIIA will pay for the audit. I just wanted to present all of this to you for your approval so that we can go ahead and take advantage of the grant. We have a phone conference with ORAM tomorrow so we can begin the process immediately.

Michael Ovitt: who is requiring it?

Sheila LaBarbera: We are doing it voluntarily, Mike. We had a great presentation at the PRIM conference and talked about all kinds of different multifactor authentication and things of that nature, but they will scan and audit our whole system just to see if there is anything that is missing.

Michael Ovitt: Does it have anything to do with banking?

Jill Hersey: Part of it. The cybersecurity, passwords and access.

Mark Bashara: Well, as I said a few years ago I think the important thing is showing we are doing our due diligence and at least attempting to be as secure as we can. There is no 100% guarantees, but at least we can say, listen, we did this, we did that.

Sheila LaBarbera: Right, and part of this too with Ryan and his group is to take our insurance application for cybersecurity insurance and they will go over that with us completely to make sure that we are in compliance. So, in case there is ever anything were to go wrong and we have an insurance claim that we would, in fact, be covered because we're actually doing what we are supposed to be doing.

Mark Bashara: Beth, have you had any experience with these tests or things?

Beth Matson: No. This is the first I am hearing of any kind of test like this. It sounds like a good idea. It is reasonably priced and MIIA is paying for it.

Berkshire County Retirement Board Meeting  
November 29, 2023

Jill Hersey: Then based on the testing and how it goes, we currently only have very limited antivirus software for our three computers with Ascentek. This would be system-wide with everybody's email and so on to see where we stand if there is a monthly subscription or something that we can have to boost it more than the current services.

Mark Bashara: And having this in our file, I think, would be good showing. If they do show some substantial weak points that they strongly recommend, then we address those.

Michael Ovitt: Are they promoting a software to monitor?

Sheila LaBarbera: No. Well, nothing yet, Mike. We are just – right now they are just doing the audit and penetration test.

Michael Ovitt: And are we obligated to?

Sheila LaBarbera: No.

Mark Bashara: And this is from MIIA right?

Karen Williams: The grant is.

Mark Bashara: Have you had a chance or do we know anybody that – is this brand new or do you know other retirement systems that have tried this and had good results or were pleased with –?

Sheila LaBarbera: All I know is that I believe they are engaged with PRIM. The insurance company is really the one that is promoting it.

Michael Ovitt: All right.

Beth Matson: Does this company have a – I did not catch the name.

Sheila LaBarbera: ORAM.

Karen Williams: It is in the attachment that you have sent, right?

Beth Matson: I think – many retirement boards that are connected to the cities and towns are on the city and town servers, but you are kind of on your own. It is a good idea.

Karen Williams: So, a security-related question. We were with Adams Community Bank. We have positive pay. Have they ever talked about an ACH block?

Jill Hersey: It is not going to immediately stop anything from hitting the account because they do not know what is real and what's fake until we decide. What happens is it came in just like that fraudulent check that we had last month, and the ACH we had this month, then tomorrow it comes up as a notification to us to say, okay, approve or deny, until then, we can send it back unauthorized or fraudulent, and they'll take care of it.

Karen Williams: It is like an exception that you have to approve. This happened now.

Jill Hersey: We had a fraudulent check last month.

Sheila LaBarbera: Adams Community was here yesterday, and that is what they actually said many communities do the checks but they do not do the ACH.

Mark Bashara: I mean I will make a motion to accept the MIIA cybersecurity grant having ORAM test for vulnerability. Karen Williams: Second.

Michael Ovitt: Discussion-wise, so it is likely if they make a recommendation we are going to have to subscribe to some kind of service.

Sheila LaBarbera: Well, we would not have to, but I think that we have to look and see what they offer.

Michael Ovitt: By accepting the grant, is that these are the terms?

Jill Hersey: No.

Karen Williams: Just to see where we might be vulnerable.

Sheila LaBarbera: Right. Penetration test and audit only.

**A roll call vote was taken to accept the MIIA Cybersecurity grant and engage ORAM to provide the vulnerability and penetration testing. The vote was unanimous.**

Berkshire County Retirement Board Meeting  
November 29, 2023

7.) Directors update: State of MA cyber security training module / PERAC audit/  
Election updates.

Sheila LaBarbera: We just completed the cybersecurity grant we will get started on that tomorrow. The **PERAC audit** is nearing completion. He is no longer here in the office. He is waiting for an IT upgrade of some sort because PERAC's laptop is not able to access Marcum's work papers and he needs the work papers to redo some sampling and reporting. So far, everything seems to be going well. He has not really reported anything that is of any significance.

**The election**, the voting is completed. Voting ended on November 22. We still have some ballots that are rolling in. The tabulation of the ballots will be on Monday, December 4, we will post the results in the – on the webpage and email, and obviously, we will contact the two people who are running.

**Creditable service**, we have a member in New Marlborough who was enrolled in early 2000 then she terminated employment in 2005. She comes back in 2015, but when she came back in 2015, she did not come back as an employee of 20 hours a week or more, and she needed to do that to reestablish membership and she did not do that. We have taken deductions. We should not have done that. We have been trying to get the information on this employee for almost a year. We finally got it and realized that she is working less than 20 hours a week. The issue is what we do with her. One of the options which we don't really want to do, is just to give a refund minus any interest and then wait until she gets a 20-hour-a week-or-more job and then she can buy back that service. It is not fair but that is the law. The Town of New Marlborough is interested in hiring her or would like her to be 20 hours a week. They wanted to wait until July 1, 2024, Tom said no. If they were going to wait that long then you would have to refund the error. If they are willing to hire her starting now at 20 hours a week, we will not do any refunds. We will make sure that the service that she has when she reestablished – when she started paying in the deductions which we do have all the hours, we will go back and make sure the creditable service is correct. We already have the money in her account. We will make sure that that – that is appropriated properly and then set her new membership date as of whatever it is. We will wait and see what the town of New Marlborough wants to do unfortunately, if they decide that they are not going to hire her at 20 hours a week, we do not have any choice but refund the money and she roll it over to OBRA or do something like that. If she is hired in the future, she could do a buyback.

Mark Bashara: How was this discovered?

Jill Hersey: We found it year-end when we audit everybody's accounts, all the active members. There's a report that kick out when deductions overlap, so somebody that looks like they were receiving more service than they probably should have and then lesser service than they should have. She was on one of those reports.

Sheila LaBarbera: Another issue is 111F in Sandisfield. I think that it has been satisfied. The person is out on 111F, is a police officer, had one of those job descriptions.

Michael Ovitt: A public safety position?

Sheila LaBarbera: Yes, I did send that out to Tom. Minimally, it does meet the Group 4 classification. The town managers interested in rectifying that situation, so we sent them some suggestions for an appropriate Group 4 job description and they are going to make that

Berkshire County Retirement Board Meeting  
November 29, 2023

amendment. The person is out on 111F and the town is insured. They were wondering what we do about that, and I said we do not really do anything. We are just going to take the deductions.

Michael Ovitt: As long as they are quoting their wages correctly. If there was a prior position there, the two other people have held that position, I believe.

Sheila LaBarbera: That's the problem the town manager now is going to kind of straighten that out, their initial inquiry is what do we do about 111F, and I said, well, you would have to take care of 111F.

Michael Ovitt: Is the individual back to work? I think, you were probably doing an accident report.

Jill Hersey: Yes, we have a report.

Sheila LaBarbera: Okay, so that is all I have unless anybody has any other questions.

Karen Williams: I do, the letter that you sent out about retirees who had deferred their retirement did not receive ballots for elections.

Sheila LaBarbera: I do not have anybody whose pension is currently shut off. I actually just shut one off because they were going to go over their earnings this month, so I just shut that person off, but I just did it for this payroll. They were already on the voter list, so they have already received a ballot. We double-checked to make sure.

Michael Ovitt: And what is the outcome of the election?

Sheila LaBarbera: We do not know until Monday December 4, 2023. I am going to send out an email to the treasurers today to see if there is anyone who would like to volunteer to help count votes.

Michael Ovitt: So, are you seeing postmarks on the ballots?

Sheila LaBarbera: Yes, we are.

Michael Ovitt: I mean, there has to be some without them. What would go on it, and unless they stamped it by hand, there would not have been any.

Sheila LaBarbera: The post office that's why we have to put a stamp on those envelopes because if there's a stamp on the envelope, the post office is supposed to be required to cancel the stamp.

Michael Ovitt: When I specifically asked that, they would not have stamped it unless I asked.

Jill Hersey: There is only two that have come in and they were after Nov 22.

Sheila LaBarbera: We did not have any, so – but that is why we use stamps. I wish I could use the meter because it would save an awful lot of time.

Michael Ovitt: The consent agenda –

Mark Bashara: So, that is set. So, the only thing left is the approval of that complete budget with Ascentek and whatever PTG comes up, correct?

Karen Williams: Yes

**Consent Agenda Detail:**

**MINUTES:**

a.) The Board minutes of the regular meeting held October 26, 2023, were signed and approved.

*Minutes provided as an attachment to email*

Berkshire County Retirement Board Meeting  
November 29, 2023

**INVESTMENTS:**

b.) The Board received from PRIT a statement of performance for October 2023. The PRIT Fund returned -2.52% for the month of October.

**BANK STATEMENTS:**

c.) The Board received the bank statements for Oct 2023 and the budget for Nov 2023.

**MONTHLY WARRANTS:**

d.) The Board approved payment vouchers:

10-05-2023	\$1,708,276.03
11-01-2023	\$21,969.30
11-02-2023	\$10,225.15
11-03-2023	\$23,585.81
11-04-2023	\$27,042.59
11-05-2023	\$1,699,906.85

**REQUESTS FOR RETIREMENT:**

e.) The Board approved the application for superannuation retirement from Kenneth McAlpine, Williamstown, Facilities Foreman. The retirement will be effective 11/03/2023.

The Board approved the application for superannuation retirement from Patricia McLeod, Williamstown, Library Director. The retirement will be effective 02/23/2024.

**MEMBER TRANSFERS OUT OF SYSTEM:**

f.) The Board approved the notice of transfer of the account of Morgyn Gasperini, a member in SBRSD, to the Mass Teachers Retirement System. The Berkshire County Retirement Board will accept 1 year and 1 month of creditable service. The amount of the transfer is \$2,028.72.

The Board approved the notice of transfer of the account of Martha Guinan, a member in Lee, to the Mass Teachers Retirement System. The Berkshire County Retirement Board will accept 2 years and 11 months of creditable service. The amount of the transfer is \$7,031.84.

The Board approve the notice of transfer of the account of Rebecca Stinnard, a member in CBRSD, to the Mass Teachers Retirement System. The Berkshire County Retirement Board will accept 5 month of creditable service. The amount of the transfer is \$1,164.59.

**REQUEST FOR SERVICE BUYBACK:**

g.) Nicholas Beauchemin, a member in Becket, is eligible to buy back 8 months of prior creditable service. If Mr. Beauchemin pays \$2,584.67 into the annuity savings fund by December 31, 2023, the board will grant 8 months of creditable service.

Brenda Clark, a member in CBRSD, is eligible to buy back 1 year and 9 months of prior creditable service. If Ms. Clark pays \$5,696.07 into the annuity savings fund by December 31, 2023, the board will grant 1 year and 9 months of creditable service.

Berkshire County Retirement Board Meeting  
November 29, 2023

Lee Nunez, a member in Dalton, is eligible to buy back 2 months of prior creditable service. If Mr. Nunez pays \$671.45 into the annuity savings fund by December 31, 2023, the board will grant 2 months of creditable service.

Hans Carlson, a member in Egremont, is eligible to buy back 3 months of prior creditable service. If Mr. Carlson pays \$2,338.64 into the annuity savings fund by December 31, 2023, the board will grant 3 months of creditable service.

Lee Soules, a member in Gt Barrington, is eligible to buy back 1 year and 4 months of prior creditable service. If Mr. Soules pays \$5,289.45 into the annuity savings fund by December 31, 2023, the board will grant 1 year and 4 months of creditable service.

Katherine Couch, a member in Gt Barrington, is eligible to buy back 4 months of prior creditable service. If Ms. Couch pays \$1,285.32 into the annuity savings fund by December 31, 2023, the board will grant 4 months of creditable service.

Michael Kotleski, a member in Gt Barrington, is eligible to buy back 4 years of military service through Chapter 71 of the Acts of 1996, as amended by Chapter 468 of the Acts of 2002, veteran's buyback. If Mr. Kotleski pays \$24,613.68 into the annuity savings fund the Board will grant 4 years of creditable service.

Deanna Strout, a member in Dalton, is eligible to buy back 10 months of prior creditable service. If Ms. Strout pays \$611.57 into the annuity savings fund the board will grant 10 months of creditable service. *\*original buyback calculated in error should have been a 4(2)b, wrong amount of creditable service applied to buyback and the incorrect interest rate used for calculation. \* no interest was applied since the error was ours and buyback was paid in full in 2005\**

**REQUESTS FOR REFUNDS:**

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

J. Rennell	Clarksburg	\$4,683.90 (Partial)
H. Hinkley-Grady	BHRSD	\$17,285.40

**INJURY REPORTS:**

i.) There were no injuries reported in the month of November

**NEW MEMBER APPLICATIONS:**

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

Berkshire County Retirement Board Meeting  
November 29, 2023

7811	Pamela Mulvey	Great Barrington	9/5/2023	Admin Assistant	1
7812	Brianna Laffeche	Lee (Schools)	10/17/2023	Para	1
7813	Jeffrey Snyder	Gt Barrington Fire	10/2/2023	Water Operator	1
7814	Pamela Tambourine	Sheffield	10/18/2023	Board Admin	1
7815	Alissa Kingdon	SBRSD	10/16/2023	Para	1
7816	Rodolfo Rivera Jr.	Richmond	10/30/2023	Custodian	1
7817	Cory Muddiman	Otis	10/2/2023	Equipment Operator	1
7818	Shamus Gaherty	New Marlborough	10/10/2023	Laborer	1
7819	James Forgett	Lenox	10/16/2023	Police Officer	4
7820	Katherine Landers	Lenox (Schools)	10/30/2023	Principal's Admin Asst	1
7821	Shaun Wilcox	Lenox Housing	11/6/2023	Maintenance Mechanic	1
7822	Taylor Marks	Egremont	11/6/2023	Water Dept.	1
7823	Ruth Russell	Williamstown	11/13/2023	Health Officer	1
7824	Jeremy Dion	Dalton Fire	11/13/2023	Laborer/Operator	1
7825	Jennifer Greenberg	New Marlborough	10/30/2023	Administrative Secretar	1
7826	Miriam Deane	SBRSD	10/30/2023	Food Service	1
7827	Eric Raymakers	CBRS	11/20/2023	Custodian	1
7828	Samantha Gale	FRRSD	9/18/2023	Kitchen Assistant	1
7829	Andrea Sholler	BCRHA	9/25/2023	Media Coordinator	1

**RETIREMENT ALLOWANCE APPROVALS:**

k.) The Board received approval from PERAC to grant a retirement allowance to Karen Lobdell, MGRSD, as of 09/08/2023. Annual pension amount is \$14,304.36.

**3(8)c REIMBURSEMENTS:**

l.) There were no Sec 3(8)(c) to reimbursements for November.

**PERAC CORRESPONDENCE:**

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

- #23/2023 Paid Family and Medical Leave (“PFML”) & Supplemental Payments
- #24/2023 Outsourced Chief Investment Officer (OCIO) Policy
- #24a/2023 Outsourced Chief Investment Officer (OCIO) Policy
- #25/2023 Cybersecurity Training
- #26/2023 2023 Pension Fraud Prevention Campaign

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

**TRAVEL & EDUCATION APPROVALS:**

n.) The Board did not approve the travel expense for staff to attend Adams Community Bank’s Holiday Customer Appreciation Celebration on December 5, 2023 at Red Lion Inn.

**MISCELLANEOUS CORRESPONDENCE:**

- o.) -MassPRIM Private Equity Vintage Year 2024-Commitment Deadline.
- MassPRIM 2023 Client Conference Letter
- PERAC Board Election Notice

Michael Ovitt: Sheila, under consent agenda, under travel and education approvals, it said the Board has asked to approve the travel expense for staff to attend the Adams Community

Berkshire County Retirement Board Meeting  
November 29, 2023

Bank holiday customer appreciation celebration on December 5. At the Red Lion Inn. Is that customary? Is it expense? What is the expense?

Karen Williams: Mileage.

Michael Ovitt: I do not remember that being done in the past for mileage going to a holiday party.

Sheila LaBarbera: Then, we will not do it. Say no.

Michael Ovitt: Well, I mean – is that – have you submitted that in the past?

Sheila LaBarbera: Usually, they are at night on a weekend.

Michael Ovitt: The request would just be to take time off from the office to go. When is it?

Karen Williams: December 5. At 8:30am.

Sheila LaBarbera: The other item on the consent agenda that I want to point out is Deanna Strout's buyback. The buyback was done incorrectly back in 2000. The amount of creditable service was not appropriated properly and the calculation for the buyback was not done properly using the wrong interest rate. She is a 42B. She should have gotten full creditable service for her reserve time. She did not. We owe her additional service. She paid it in full on that date with a rollover, she owes us \$611.57 cents because the calculation was incorrect, and my suggestion is that you waive the interest and just allow her to pay the \$611.57 as it would have been paid back in 2000 because it is our error and not hers.

Michael Ovitt: How much would the interest have been?

Sheila LaBarbera: I did not calculate it. We made the error.

Michael Ovitt: And she is still actively employed?

Mark Bashara: She is the Chief at Dalton.

Michael Ovitt: So, how did that come up?

Sheila LaBarbera: It came up because there was another individual who had a calculation in Dalton at the same time, and deductions were taken but the creditable service was incorrect and had to be adjusted, so we found hers at the same time.

Michael Ovitt: So, this was an interest rate calculation error?

Sheila LaBarbera: Not interest rate and it was not properly calculated for the 9% deduction rate at membership and amount of service that she should have received because she is a 42B. She was in civil service, a reserve officer, working, waiting for an appointment, so she is eligible for the full-time creditable service for that and she was not given that. It was prorated.

Mark Bashara: How much creditable service was she getting?

Sheila LaBarbera: We owe her an additional 10.

Michael Ovitt: Do we need a separate vote on that?

Sheila LaBarbera: If you want to pull it off and make a separate vote. That is fine. If you approve the consent agenda, it is outlined in the consent agenda so it would be approved as presented.

Mark Bashara: I will make a motion to accept the consent agenda as presented.

Michael Ovitt: Pulling out the travel?

Mark Bashara: So, N is pulled out – approval of payment for travel and education. I'll make a motion to accept the consent agenda with letter N removed.

Beth Matson: I will second.

**A roll call vote was taken to approve the consent agenda as presented excluding Item N. The vote was unanimous.**

Berkshire County Retirement Board Meeting  
November 29, 2023

The Board engaged in a long discussion regarding the date of the December Board meeting finally determining the meeting will be held on December 28, 2023 at 9am.

The next regular board meeting is scheduled for Wednesday, December 28, 2023 at 9am.

A motion was made by Mark Bashara to adjourn the meeting at 11:08am, Karen Williams: second.

**A roll call vote was taken to adjourn, the vote was unanimous.**

RESPECTFULLY SUBMITTED:

---

Sheila LaBarbera, Executive Director

APPROVED BY:

---

Michael Ovitt, Chairman

---

Mark Bashara, Elected Member

---

Karen Williams, Elected Member

---

Sue Funk, Advisory Council Member

---

Beth Matson, 5<sup>th</sup> Member Appointed

