

Berkshire County Retirement Board Meeting
November 30, 2021

The meeting of the Berkshire County Retirement Board was called to order at 1:00 A.M. in the Berkshire County Retirement Office, located at 29 Dunham Mall, Pittsfield, MA. Present at the meeting were; Paul A. Lisi, Jr., Advisory Board Member. Michael Ovitt, Chairman, Mark Bashara, Elected Member, Karen Williams, Elected Member and Beth Matson Appointed member participated remotely. Also present and participating remotely were Thomas Gibson and Gerald McDonough Retirement Board Counsel. Also present and participating remotely were Sandra King and Ken Hill from PERAC. A roll call vote was taken to open the meeting. The vote was unanimous.

PUBLIC COMMENT:

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

NEW BUSINESS:

1.) The Board conducted a hearing @ 1pm to review the PERAC determination of 2020 excess earnings for William Bartini. Mr. Bartini was present at the meeting representing himself. Michael Ovitt stated the first item on the agenda is the matter of the 2020 Excess Earnings of William Bartini, a former Police Sergeant of the Town of Great Barrington, who is receiving an accidental disability retirement allowance. The Board has been notified by PERAC that Mr. Bartini had earnings in 2020 which exceeded the statutory limitations. Mr. Bartini was notified of the Board's obligations to either offset that amount from his future payments, or to accept a repayment from him. Mr. Bartini has requested a hearing on the matter, which brings the parties here to today. We are conducting this proceeding with parties participating remotely under Chapter 20 of the Acts of 2021. At the conclusion of the proceedings, the Board may vote or take the matter under advisement for further deliberation. For the record, I am Michael Ovitt, Board Chairman, and joining with me today are Board members Paul Lisi, Mark Bashara, Karen Williams and Beth Matson. Our Administrator Sheila LaBarbera is also present. We are also joined remotely by the Board's counsel, Tom Gibson and Gerald McDonough, and representatives from PERAC. I see that Mr. Bartini is also present. This proceeding will be conducted on an informal basis, and the formal rules of evidence will not be applied. The Board will ask its counsel Tom Gibson to present the case and to mark pertinent documents in the Board's file. After that, both Mr. Bartini and PERAC will be allowed to make a presentation.

Mr. Bartini, because the exhibits contain personal and confidential information which is exempt from public disclosure, we will conduct this proceeding in executive session under the appropriate provision of the public records law, unless you wish to have an open hearing. What is your position?

Mr. Bartini requested executive session.

There was a motion made by Paul Lisi to go into executive session under Purpose # 7 of the open meeting law, to comply with the statute exempting confidential information from public disclosure. The motion was seconded by Karen Williams. A roll call vote was taken to enter into Executive Session. The vote was unanimous.

The Board entered executive session @ 1:03pm.

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The Board returned to regular session at 2:02 PM.

Chairman, Michael Ovitt, left the meeting at 2:03 PM.

2.) The Board will review and approve the 2020 Financial Audit for the Berkshire County Retirement System prepared by Melanson. **On motion, made by Beth Matson to accept the 2020 audit of the financial condition of the Berkshire County Retirement System. Seconded by Mark Bashara. A roll call vote was taken, and the vote was unanimous.**

3.) The Board will review the proposed budget for 2022.

-Mr. Lisi expressed a concern regard the Scarafoni contract and asked if there has been a new lease for the next 3 years to continue renting the office space and asked what the escalation clause in the automatic lease renewal was.

-Mr. Lisi asked for clarification regarding the significant increase in the MACRS Fiduciary Insurance. Ms. LaBarbera states that she has had conversations with their insurance representative and has been told that a significant increase is likely this year, but because the insurance company does not begin the process of review until January, a definite total for the increase is still unknown.

-Mr. Lisi asked for a comparison of the proposed and actual cost, with percentage of increase, for 2021 before the December 29th meeting.

-Ms. LaBarbera commented that the quote of \$19,500 for accounting services is not a definitely number. She has tried to get quotes from other institutions but has not had luck finding another business to do it.

-Ms. LaBarbera asks the board to recognize that administrative expenses are expected to be larger in the coming year due to the increase of cost in business supplies. A comparison between the years will be put together for the Board.

-Mr. Lisi asks for more information and details regarding the breakdown of costs for areas such as the cost of insurance plans, and retiree MedEx.

On motion, made by Mark Bashara to table the discussion for the proposed 2022 budget for the Berkshire County Retirement System until the December 29th meeting. Seconded by Beth Matson. A roll call vote was taken, and the vote was unanimous.

Mark Bashara has temporarily excused himself from the meeting at 2:35 pm.

4.) The Board reviewed and approved two requests for Option 12(2)d retirement benefits. The first request is from Dawn Barbieri, who based on public record, has passed away on October 24, 2021. Her spouse is making a request for the 12 D survivor benefit. The second is for Patsy Worley, who has passed away on October 20, 2021, the proper documentation for an Option D Election for her son is on file and in order. Both individuals had visited the office to provide Ms. LaBarbera with the proper documentation. Ms. LaBarbera has prepared and completed the calculations for both parties.

On motion, made by Karen Williams to approve the two requests for an Option 12 (2)(d) retirement benefit for the survivors of Ms. Barbieri and Ms. Worley. Seconded by Beth Matson. Mark Bashara was absent for the vote. A roll call vote was taken, and the vote was unanimous.

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LEGAL UPDATE:

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

The Board Counsel updated the Board on the following:

a.) Garland Cummings and Patricia Brown pension recoup. Ms. Brown has received communication regarding the repayment amount of \$5,000 via United States Postal Service mailing and e-mail. Neither form of communication was returned or responded to and legal counsel suggests Ms. Brown is waiting for the Board to take legal action to enforce a collection against her in the state of California. At this point, Mr. Gibson recommends that the board begin a cost-benefit analysis as to whether or not it is worthwhile to retain counsel in California to pursue a payment from Ms. Brown. Mr. Gibson communicates that he was unable to locate a collection agency that would take this case on a contingency fee basis and if the board were to contact a collection agency and a legal team on an hourly basis, the \$5,000 that is owed will not recover the cost. The suggestion to the board was to file a complaint with the local District Court and have someone else stand in to represent the board for the day, however the Board has already spent about 50% of the amount owed just on discussions with legal counsel, communication between legal and Ms. Brown, and having to use their resources to research and locate Ms. Brown. Based on this information the Board feels comfortable noting that the Board and their legal counsel have made every effort to collect the amount owed by Ms. Brown without spending over the \$5,000 that would be owed.

On motion, made by Paul Lisi to not formally proceed with retention of counsel in California to collect the \$5,000 overpayment made to Patricia Brown at this time, but to keep the option open to pursue payment if Ms. Brown were to return to Massachusetts. Seconded by Beth Mason. A roll call vote was taken, and the vote was unanimous.

b.) The Town of Becket request for EMS Group Four Classification. The Town of Becket has made a request to reclassify their EMS employees into Group 4. Mr. Gibson noted to the board that legal counsel will have a recommendation to the Board by December 29th, based on the interpretations from a 2006 Bill and the classification portion of Chapter 32, Section G(3). Mr. Gibson has asked for copies of the job descriptions to review in preparation for his determination. Mr. Lisi suggests that education be provided to the Town of Becket Select Board because the re-classification of EMS/Ambulance Attendees would be affected by the Board changing their assessment method and the cost could potentially increase. Mr. Lisi also has hesitations about sending the Board's decision to just the administrator and Becket EMS services and not also to the Becket Select Board. Ms. LaBarbera states that when she and legal counsel prepare the information, the documents will be shared with the Select Board as well.

c.) A court date for Debbie Ball is scheduled in Great Barrington for January 6, 2022. Mr. Gibson will reach out to legal counsel in Great Barrington and will provide the Board with an update on his findings.

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d.) Legal counsel updated the Board on the following:

- At the end of October, the legislature heard sixty-four bills regarding the group classifications changes. The chairperson of the house committee made it clear that the committee was going to entertain any changes to group classifications, unless it was accompanied by an actuarial study on the economic impact of the changes.
- Several Bills related to sellbacks of unused sick time and vacation time. Bills have been filed that will amend the definition of regular compensation to include sellbacks of unused sick time and vacation time.
- The O'Leary v. CRAB case is still pending the Appeals Court.
- Legislature did not have a change to make a decision regarding the disbursement of the \$500 million to be paid to private and public sector workers who were required to report for duty and provide essential services during the pandemic. Whatever the decision is, the payment will not be included as regular compensation and will be classified as a bonus.
- The Veterans Bill regarding buying back veteran's service is still underway. The proposed legislation would extend the deadline from 180 days to a year after they were to get vested.
- The cost-of-living adjustment for Social Security was approved for 5.9% for retirees. Next year, the Board will be empowered to grant up to 3% of its base to retirees in Berkshire County, without the need of providing a 30-day notice to the Advisory Council.
- Medicare premiums have increased by about \$20 a month, which would increase the total premium for Medical Part B to \$170 a month.

Discussion of the Consent Agenda, Karen makes a note that she was not present for the October 15, 2021 meeting, noted for the consent item approvals:

- a. Board members will be voting on the Consent Agenda Items A through O and that Ms. Williams that while voting on item A, the record should note that she was not present for the October 15, 2021 board meeting.
- b. In regard to Consent Agenda Item F, the item for Kemp is going to be changed to service ending in Stockbridge.

Mr. Bashara returned to the meeting at 2:38 pm.

On motion, made by Karen Williams to approve the Consent Agenda Items A through O. Seconded by Beth Matson. A roll call vote was taken, and the vote was unanimous.

Consent Agenda Detail:

MINUTES:

a.) The Board minutes of the regular meeting held October 15, 2021 October 22, 2021 and October 27, 2021, were signed and approved.

Minutes provided as an attachment to email

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INVESTMENTS:

b.) The Board received from PRIT a statement of performance for October 2021. The PRIT Fund returned 2.64% for the month of October.

Investment report provided as an attachment to email

BANK STATEMENTS:

c.) The Board received the bank statements for Oct 2021 and the budget for Nov 2021.

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

MONTHLY WARRANTS:

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

10-05-21	\$61,046.15 (corrected)
10-07-21	\$16.20
11-01-21	\$298,812.43
11-02-21	\$13,800.08
11-03-21	\$74,142.62
11-04-21	\$1,450,968.74
11-05-21	\$4,298.33
11-06-21	\$24.45

REQUESTS FOR RETIREMENT:

e.) The Board approved the application for superannuation retirement from Terry Haig, Williamstown, DPW Clerk. The retirement will be effective 12/01/2021.

The Board approved the application for superannuation retirement from Sonya Daly, Lee, Paraprofessional. The retirement will be effective 09/07/2021.

MEMBER TRANSFERS OUT OF SYSTEM:

f.) The Board approved the notice of transfer of the account of Kyle Kemp, a member in Stockbridge to State Retirement Board. The Berkshire County Retirement Board will accept liability for 5 years and 10 months of creditable service. The amount of the transfer is \$32,805.80.

The Board approved the notice of transfer of the account of Jennifer Culver, a member in Lenox to MTRS Retirement Board. The Berkshire County Retirement Board will accept liability for 4 years and 3 months of creditable service. The amount of the transfer is \$32,989.09.

The Board approved the notice of transfer of the account of Kelli Robbins, a member in Lanesboro to Worcester Regional Retirement Board. The Berkshire County Retirement Board will accept liability for 3 years of creditable service. The amount of the transfer is \$65,952.72.

The Board approved the notice of transfer of the account of William Flynn, a member in Berkshire County Retirement to Adams Retirement Board. The Berkshire County Retirement Board will accept liability for 25 years and 5 months of creditable service. The amount of the transfer is \$129,254.99.

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The Board approved the notice of transfer of the account of Gregory Boino, a member in CBRSD to MTRS Retirement Board. The Berkshire County Retirement Board will accept liability for 7 years and 2 months of creditable service. The amount of the transfer is \$37,809.83.

REQUEST FOR SERVICE BUYBACK:

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

REQUESTS FOR REFUNDS:

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

Jill Johnson	CBRSD	\$13,499.85
Jill Johnson	CBRSD	\$3000.00
Steven LeCompte	Lee	\$1943.56
Hope Loy	BHRSD	\$5,014.46
Janet Peeples	Hancock	\$16,430.13
Jody Pegorari	BHRSD	\$9606.20
Marjorie Pero	Lenox	\$7316.20
Bruce Reynolds	Lee	\$18495.28
Kyle Taylor	CBRSD	\$2216.24

Refunds of buyback and deduction errors:

Rhonda Bilodeau	CBRSD	\$9.46
Stephanie Burdick	Lee	\$2.45
Sonya Daly	Lee	\$115.04
Gabrielle Tagilieri	Dalton	\$6.08

INJURY REPORTS:

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

NEW MEMBER APPLICATIONS:

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

7339	James Peltier	Dalton Fire	9/27/2021	Fire Chief	4
7340	Ariana Rinaldi	MGRSD	10/4/2021	Paraprofessional	1
7341	Sue Warner	MGRSD	10/22/2021	Paraprofessional	1
7342	Daniel White	CBRSD	10/14/2021	Custodian	1
7343	Taylor Dodge	CBRSD	10/28/2021	Paraprofessional	1
7344	Dolores Mangano	CBRSD	10/14/2021	Paraprofessional	1
7345	Lori Audet	MGRSD	10/4/2021	Paraprofessional	1
7346	Gail Tyer	Lee	10/21/2021	Cafeteria Worker	1
7347	Margaret Zamierowski	Stock Housing	10/17/2021	Resident Serv. Cord.	1
7348	Adam Stevens	CBRSD	10/28/2021	Custodian	1
7349	Sakan Sadowsky	Lanesborough	10/5/2021	Police Officer	4
7350	Michele Henderson	Lanesborough	10/18/2021	Town Secretary	1
7351	Timothy Herrmann	Florida	8/25/2021	Long-Term Substitute	1
7352	Angel Falzone	SBRSD	10/5/2021	Student Service Sec	1
7353	Keith Kulak	Richmond	11/15/2021	Paraprofessional	1
7354	Leah Brooks	Lee	8/23/2021	Paraprofessional	1

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7355 Brian Shepard

BCRS

11/29/2021 Retirement Coordinator

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RETIREMENT ALLOWANCE APPROVALS:

k.) There are no PERAC approvals for the month of November.

3(8)c REIMBURSEMENTS:

l.) There are no 3(8)c reimbursement approvals for the month of November

PERAC CORRESPONDENCE:

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

#30/2021 Investment Fraud Alert

#31/2021 2021 Pension Fraud Prevention Campaign

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

TRAVEL & EDUCATION APPROVALS:

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

MISCELLANEOUS CORRESPONDENCE:

o.) Copy of the PERAC Actuarial Report of the Berkshire County Retirement System as of January 1, 2021.

Copy of the PERAC pension news October 2021

Copy of the VOICE Retirees Association News Letter.

On motion, made by Paul Lisi that the Board authorizes the Executive Director to fill out the Prosper Enrollment Form for the new employee, Brian Shepard, so that he can begin his training in Prosper. Seconded by Beth Matson. A roll call vote was taken, and the vote was unanimous.

On motion, made by Karen Williams to adjourn the meeting at 2:47 pm. Seconded by Beth Matson. A roll call vote was taken, and the vote was unanimous.

The next regular board meeting is scheduled for Wednesday December 29, 2021 at 9:00am.

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RESPECTFULLY SUBMITTED:

Sheila LaBarbera, Executive Director

APPROVED BY:

Michael Ovitt, Chairman

Mark Bashara, Elected Member

Karen Williams, Elected Member

Paul A. Lisi, Jr., Advisory Council Member

Beth Matson, 5th Member Appointed