

**MINUTES OF THE  
WV CONSOLIDATED PUBLIC RETIREMENT BOARD  
BOARD OF TRUSTEES MEETING  
MEETING OF APRIL 25, 2018**

A meeting of the West Virginia Consolidated Public Retirement Board (CPRB), Board of Trustees, was held in the CPRB Conference Room at 4101 MacCorkle Avenue SE, Charleston, West Virginia 25304, on Wednesday, April 25, 2018. The meeting was called to order at 10:07 a.m. by Chairman David Wyant.

Roll Call was taken.

Trustees present were:

David Wyant, Esquire, Chairman  
Captain Michael Corsaro, Vice Chairman  
Jeff Waybright, *representing Auditor John B. McCuskey*  
Cabinet Secretary John A. Myers  
Bill Barker  
Andy Bird  
Michael Haney  
Joe Lynch  
D. Todd Murray  
Jeffrey Vallet

Trustees absent were:

Ann Urling, *representing Governor James C. Justice, II*  
Diana Stout, Esquire, *representing Treasurer John Perdue*  
Joseph Bunn, Esquire  
Mike McKown

A quorum was present.

Due notice had been posted.

Also in attendance were:

Jeffrey E. Fleck, CPRB Executive Director  
Terasa Miller, CPRB Deputy Director  
Janean Legato, Esquire, CPRB General Counsel  
Ronda Harvey, Esquire, Bowles Rice  
Gerald R. Stowers, Esquire, Bowles Rice  
Ben Bailey, Esquire, Bailey & Glasser  
Tim Abraham, CPRB Chief Compliance Officer  
John Galloway, CPRB Chief Financial Officer

Nancy Butcher, CPRB Executive Assistant  
Heather Drake, CPRB Administrative Assistant  
Melody Bailey, CPRB Actuary Assistant  
Alysia Miller, CPRB Paralegal  
John Beane, CPRB I.T. Manager  
Patricia Bowgren, CPRB I.T. Staff  
Tina Baker, CPRB Internal Auditor  
Ray Barron, CPRB Retirement Advisor, PERS  
Craig Slaughter, Executive Director, WVIMB  
Deborah A. Sink, General Counsel, WVIMB  
Chris Meadows, Empower Retirement  
Denise Fortune, Empower Retirement  
Tom Zacharias, Deloitte  
Ken Woodson, Board Actuary  
Van Ballard, Council Member, Town of Belle

**Tab 1: Approval of the March 14, 2018 Meeting Minutes**

Mr. Vallet made a motion to approve the minutes of the March 14, 2018, meeting of the CPRB. The motion was seconded by Mr. Haney. The motion carried unanimously.

*The minutes were located behind Tab #1 of the Board materials.*

**Tab 2: Reports of the Chairman and Executive Director**

Chairman Wyant announced the reappointment of Joe Lynch by Governor Justice. He also announced the appointment of Bill Barker to the Investment Policy Review Committee and the appointment of Ann Urling to the Accounting and Investment Committee. He announced the dissolution of the Military Service Committee. He welcomed Kenneth Woodson, the new CPRB Actuary and he announced the Executive Director & Actuary Review Committee would be meeting on Monday, April 30, 2018, at 2:00 p.m. via telephone.

Mr. Jeffrey Fleck, Executive Director, gave his report to the Board which included the following information:

1. Executive Director Fleck introduced Nancy Butcher, the new Executive Assistant and he thanked Heather Drake for her hard work for the agency and the committee in the absence of the Executive Assistant.
2. Executive Director Fleck announced that the CPRB was recently featured in the Department of Administration's April publication of, "*Quotes, Notes & Anecdotes.*" The article explained the work that the agency does and recognized agency staff for their hard work eliminating the backlog of the 2017 retirements applications.

3. Executive Director Fleck reported on the Metric Chart. He stated that the agency is current with retirement applications and have already processed approximately 75 April retirements. Anticipating the influx of July retirements, the agency is working with the Department of Education to obtain the list of teachers that will be retiring in July to prepare for those retirements.
4. Executive Director Fleck reported on the Teachers' Defined Contribution (TDC) 2018 Educational Meetings. He announced that Chris Meadows of Empower Retirement has held 32 meetings so far, with 403 in attendance. He went on to say that the TDC Plan has 4,297 participants and \$500,575,220 in total assets. He noted that a copy of the TDC quarterly newsletter, "*Financial Footnotes*" was included in the Board materials.
5. Executive Director Fleck reported on the Delinquent Employers. He announced that the Huntington Cabell Wayne Animal Shelter is paid in full and the Green Acres Center continues to make payments per the settlement agreement and agency staff is staying in regular contact with them. The Town of Grantsville will be up-to-date by the end of the week. The list of delinquent employers is short in comparison to what it has been in the past.
6. Executive Director Fleck reviewed the financials for the period ending March 31<sup>st</sup>. The agency is currently at 42.22% of budget. He added that the agency has worked hard to be fiscally responsible and is well below budget for the year.
7. Executive Director Fleck gave a brief Legislative Update. He remarked that Legislative Interims meetings were held on Monday, April 16, 2018, but no Pensions Committee meeting was held. The House of Delegates has yet to name their new Chair of the Pensions Committee.
8. Executive Director Fleck updated the Board on the Alpha Technology Phone System. The switchover will take place in 3 phases, with completion of the project by the next board meeting.
9. Executive Director explained some changes to the CPRB Organizational Chart.

*The Reports of the Chairman and Executive Director were located behind Tab #2 of the Board materials.*

### **Tab 3: Plans Investment Data**

Craig Slaughter, Executive Director of the West Virginia Investment Management Board (WVIMB), reviewed the Plan's Investment Returns through February 28, 2018.

Chris Meadows of Empower Retirement announced that he has been reaching out directly to plan participants and has seen an increase in participants as a result.

Denise Fortune of Empower Retirement announced two funds have been replaced. The change will become effective on June 25<sup>th</sup> and 30 days prior to the effective date, all participants will receive a letter informing them of the change. Also, an app for iPhone users has been developed and an app for Android users is being developed.

*The Plan's Investment Data reports were located behind Tab #3 of the Board materials.*

**Tab 4: Consideration of Current Disability Retirement Applications**

Chairman Todd Murray reported the Disability Committee met on April 25, 2018, and the Disability Committee approved the staff's recommendations of disability retirement applications and make the following recommendations to the Board for their approval:

<b>System</b>	<b>Approved</b>	<b>Denied</b>	<b>Total</b>
<b>DSRS</b>	1 Partial Non-Duty & 1 Partial Duty	0	1 Partial Non-Duty & 1 Partial Duty
<b>PERS</b>	9	2	11
<b>TDC</b>	2	0	2
<b>TRS</b>	10	0	10
<b>TOTAL</b>	<b>23</b>	<b>2</b>	<b>25</b>

Captain Corsaro made a motion the Board accept and approve the Disability Committee's recommendations concerning the disability retirement applications. The motion was seconded by Mr. Lynch. The motion carried unanimously.

*The Disability list was located behind Tab #4 of the Board materials.*

**Tab 5: Legal Counsel Reports**

Chairman Wyant announced he would entertain a motion to go into Executive Session to discuss a legal matter.

Mr. Vallet made a motion the Board go into Executive Session to discuss a legal matter as allowed by West Virginia Code §6-9A-4. The motion was seconded by Mr. Haney. The motion carried

unanimously. Executive Director Fleck requested that certain invited guests stay during Executive Session.

*The Board went into Executive Session at 10:22 a.m.*

*Chairman Wyant reconvened the Public Session of the April 25, 2018, meeting of the CPRB from Executive Session at 11:00 a.m.*

Chairman Wyant announced the Board was in Executive Session to discuss a legal matter as allowed by West Virginia Code §6-9A-4. He announced there were no decisions made during Executive Session.

### **Report of In-House Legal Counsel – Jeaneen Legato**

Jeaneen Legato, In-House Legal Counsel, presented her report to the Board on all pending legal matters. She reported on all current Administrative, Circuit Court, Supreme Court and Less than Honorable Service (LTHS) cases.

Ms. Legato reviewed the Less than Honorable Service (LTHS) case of Carl Westfall, a PERS member and former correctional officer at Western Regional jail. She announced on April 21, 2017, Mr. Westfall entered a guilty plea to one count of *Imposition of Sexual Acts on an Incarcerated Person under Supervision*. On June 9, 2017, Judge Ferguson sentenced him to 3 years probation with a 1-5 year suspended sentence.

Ms. Legato recommended the Board disqualify and terminate the PERS membership of Carl Westfall for LTHS.

Captain Corsaro made a motion the Board accept the recommendation of Counsel to disqualify and terminate the PERS membership of Carl Westfall and to authorize counsel to proceed with LTHS proceedings against him. The motion was seconded by Mr. Waybright. The motion carried.

Ms. Legato reviewed the Less than Honorable Service (LTHS) case of Cassandra Taylor, a PERS member and former Account Tech for the Division of Homeland Security and Emergency Management. She announced on February 26, 2018, Ms. Taylor entered a guilty plea to the felony offense of *Engaging in Fraudulent Scheme* involving the state purchasing card.

Ms. Legato recommended the Board disqualify and terminate the PERS membership of Cassandra Taylor for LTHS.

Mr. Vallet made a motion the Board accept the recommendation of Counsel to disqualify and terminate the PERS membership of Cassandra Taylor and to authorize counsel to proceed with LTHS proceedings against her. The motion was seconded by Mr. Bird. The motion carried.

Ms. Legato updated the Board on the case of *WV State Police v. CPRB*. She reported that on

April 12, 2108, the State Police withdrew their administrative appeal to the Board's *Final Order* which granted Timothy Bradley a duty related partial disability.

Ms. Legato updated the Board on the Randall Myers case. A TRS appeal regarding the inclusion of the value of a county vehicle as part of salary which resulted in excess contributions being submitted and refunded, and the reduction of the annuity to recoup the overpayment. She advised that we are waiting for the case to be dismissed by the Court for failure to perfect the appeal.

*The report of the In-House Legal Counsel was located behind Tab #5 of the Board materials.*

#### **Report from Outside Legal Counsel – Ronda Harvey**

Ronda Harvey, Outside Legal Counsel with Bowles Rice, updated the Board on the administrative appeal of Margaret Johnson who is seeking a refund of her prior tax withholdings on her disability benefits. CPRB denied her request to refund the withholdings. An appeal hearing was held on April 10, 2018, before Gary Pullin, Hearing Officer. No decision has been rendered on this case.

Ms. Harvey updated the Board on the *Allen E. Tackett v. W.Va. Consol. Pub. Ret. Bd.* case regarding Mr. Tackett's attorney's fees. As of this date, nothing has been filed.

Ms. Harvey updated the Board on the *Thomas Ward v. CPRB* case. She announced the Petitioner has remitted payment but has written "Reserved" on in the memo field. He has appealed, and the Court has entered a briefing schedule setting the deadline for Ward to file an appeal brief by June 21, 2018, and the deadline for CPRB's brief is August 6, 2018.

Ms. Harvey updated the Board on the claim of the participants of the Division of Natural Resources (DNR) Law Enforcement Officers, regarding whether subsistence pay was properly included as part of the individuals' pensionable compensation in PERS. The parties submitted their post-hearing briefs and on November 17, 2017, Hearing Officer, Gary Pullin issued his Recommended Decision. Counsel for Applicant, Lonnie Simmons, filed *Applicant's Motion to Amend the Recommended Order* objecting to that decision on December 6, 2017. On December 8, 2017, Hearing Officer Pullin issued his Response of Hearing Officer to *Applicant's Motion to Amend Recommended Decision* denying Applicant's motion to amend. The Board accepted the recommendation and Lonnie Simmons has advised that he plans to appeal the decision to circuit court. On January 22, 2018, Mr. Simmons appealed the Board's decision to circuit court in Kanawha County. The appeal is pending before Judge Jennifer Bailey. CPRB's brief is due on April 30, 2018.

*The report of the Outside Legal Counsel was located behind Tab #5 of the Board materials.*

## **Tab 6: Committee Reports**

### **Internal Audit Committee**

Cabinet Secretary Myers, Chairman of the Internal Audit Committee, announced the Committee met on Tuesday, April 24, 2108, and had recommendations to make to the Board on behalf of the Committee.

Secretary Myers announced the Internal Audit Committee reviewed and approved the Internal Audit of the Annuity Payroll; State Auditor's Report and the Proposed Audit Planning Document, as presented by Tina Baker, Internal Auditor, and recommends that the Board adopt and approve the Internal Audit of the Annuity Payroll.

Mr. Vallet made a motion the Board approve the Internal Audit of the Annuity Payroll. Mr. Haney seconded. The motion carried unanimously.

*The committee report of the Internal Audit Committee was located behind Tab #6 of the Board materials.*

### **Investment Policy Review Committee**

Cabinet Secretary Myers announced on behalf of Ms. Stout, Chair of the Investment Policy Review Committee, met on Monday, April 18, 2108, and had recommendations to make to the Board on behalf of the Committee.

Secretary Myers announced the Committee reviewed and approved the Teachers' Defined Contribution (TDC) System Investment Policy Statement and recommends that the Board adopt and approve the Teachers' Defined Contribution System Policy Statement.

Mr. Waybright made a motion the Board approve and adopt the Teachers' Defined Contribution (TDC) System Investment Policy Statement. Mr. Bird seconded. The motion carried unanimously.

*The policy statement was located behind Tab #6 of the Board materials.*

### **West Virginia Investment Management Board Representative Committee**

Mr. Murray, Chairman of the West Virginia Investment Management Board Representative Committee, announced that the Committee met on Tuesday, April 24, 2108, and had recommendation to make to the Board on behalf of the Committee.

Mr. Murry announced that the Committee reviewed and approved the applications for appointment as representatives to the West Virginia Investment Management Board for Fiscal Year 2019.

Captain Corsaro made a motion and Cabinet Secretary Myers seconded the motion that the

Board approve the applicants for appointment to the West Virginia Investment Management Board as follows:

<u>Plan:</u>	<u>Applicants:</u>
PERS	Melissa Garretson Smith, Charleston, West Virginia
TRS	Tony Lautar, Jr., Parkersburg, West Virginia
JRS	The Honorable Thomas A. Bedell, Clarksburg, West Virginia
State Police Plan A	David Lemmon, Jr., Chapmanville, West Virginia
State Police Plan B	William A. Pendleton, Lewisburg, West Virginia
DSRS	David D. Gentry, Beckley, West Virginia
EMSRS	Mark G. Kerns, Hurricane, West Virginia.

The motion unanimously carried.

*The IMB representative applications were located by Tab #6 of the Board materials.*

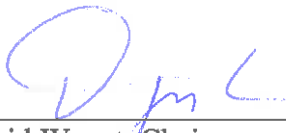
**Tab 7: Other, Old Business**

Chairman Wyant asked if there was any old business to bring before the Board. None was heard.

**Tab 8: Other, New Business**

Chairman Wyant asked if there was any new business to bring before the Board. None was heard.

Chairman Wyant adjourned the April 25, 2018, meeting of the West Virginia Consolidated Public Retirement Board (CPRB) at 11:15 a.m.

  
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David Wyant, Chairman  
Consolidated Public Retirement Board

  
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Jeffrey E. Fleck, Executive Director  
Consolidated Public Retirement Board