

**MINUTES OF THE
WV CONSOLIDATED PUBLIC RETIREMENT BOARD
BOARD OF TRUSTEES MEETING
MEETING OF NOVEMBER 16, 2016**

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, and was called to order at 10:04 a.m. by Chairman David Wyant.

Roll Call was taken.

Trustees present were:

David Wyant, Esquire, Chairman
Brittany Vascik, Esquire, representing Governor *Earl Ray Tomblin*
Jeff Waybright, *representing Auditor Lisa Hopkins*
Diana Stout, Esquire, *representing Treasurer John Perdue*
Acting Cabinet Secretary Mary Jane Pickens
Andy Bird
Joseph Bunn, Esquire
Captain Michael Corsaro
Angela Crank
Michael Haney
Mike McKown
D. Todd Murray
David Stover
Jeffrey Vallet

Trustees absent were:

Joe Lynch

A quorum was present.

Due notice had been posted.

Also in attendance were:

Jeffrey E. Fleck, CPRB Executive Director
Terasa Miller, CPRB Deputy Director
Jeaneen Legato, Esquire, CPRB General Counsel
Lenna Chambers, Esquire, Bowles Rice
Gary Pullin, CPRB Hearing Officer
John Beane, CPRB IT Manager
Darden Greene, CPRB Chief Financial Officer
Annamarie Short, CPRB Chief Compliance Officer

Harry Mandel, CPRB Board Actuary
Melody Bailey, CPRB Actuary Assistant
Tina Baker, CPRB Internal Auditor
Alysia Miller, CPRB Paralegal
Eric Stringer, CPRB IT Staff
Caroline Brady, CPRB PERS Assistant Manager
Craig Slaughter, Executive Director, WVIMB
Chris DeWeese, Suttle & Stalnaker
Eric Sanderson, Empower Retirement
Chris Meadows, Empower Retirement
Tom Zacharias, Deloitte

Tab 1: Approval of the August 31, 2016 Meeting Minutes

Mr. Bunn made a motion to approve the minutes of the October 12, 2016 meeting of the CPRB. The motion was seconded by Mr. Murray. The motion carried unanimously.

The minutes are located behind Tab #1.

Tab 2: Reports of the Chairman and Executive Director

The Board heard the report from Jeffrey Fleck, Executive Director which included the following information:

1. Executive Director Fleck reported on the October 2016 Teachers' Retirement System (TRS) and Public Employees Retirement System (PERS) retirement and requested estimate numbers. He reported for October there were 160 TRS estimates and 66 retirements and in PERS there were 236 estimates and 105 retirements.
2. Executive Director Fleck reported on the Teachers' Defined Contribution (TDC) 2016 Educational Meetings. He announced there have been a total of 59 meetings so far this year in TDC, with 857 in attendance. He announced the TDC Reality Investing Statistics as of September 30, 2016, there were a total of 4,451 participants and \$433,589,964 in total assets.
3. Executive Director Fleck reported on the Delinquent Employers. He announced Green Acres Regional Center continues to make their contribution payments as per the agreement. The City of Thomas has caught up on their Employee Contributions, but we are still waiting for payment of their Employer Contributions. Mingo County PSD has now paid their Employee Contributions in full, but they still owe \$51,161.87 in Employer Contributions. He announced our next step would be to have our In-House Counsel, Jeaneen Legato send a letter to The City of Thomas and The Mingo County PSD in regards to making their contributions on

time.

4. Executive Director Fleck updated the Board on the COMPASS project. He announced the COMPASS project is now 84% complete of the overall project status. He announced User Acceptance Testing (UAT) began and will continue until we Go-Live with Phase 4B of the project for the Active Employees. The Employer Reporting is still set to go live March 31, 2017. Before we go live in March, we have to have interfaces in place in order to communicate with OASIS and WVEIS, and we have had difficulty in obtaining these test files from both OASIS and WVEIS.
5. Executive Director Fleck reviewed the PEW Foundation Report, who reports on public pensions. He announced that on page 10 of the report they stated "West Virginia stands apart as having made the most progress on pension funding, increasing its funded ratio from 40 percent to 78 percent from 2003 to 2014". Executive Director Fleck announced, behind the PEW Report is a commentary to the PEW Foundation Report, written by Hoppy Kercheval host of Talkline on the Metro News radio station.
6. Executive Director Fleck reviewed the CPRB's FY2017 Fact Sheet and the accomplishments for 2016 with the Board.
7. Executive Director Fleck introduced Chris DeWeese of Suttle and Stalnaker, CPRB's new Financial Auditors.
8. Executive Director Fleck reviewed the October 2016 financials with the Board. He announced that as of October 31, 2016, we were at 56.32% of budget.
9. Executive Director Fleck reviewed the CPRB's second floor reconfiguration and the Build-out of the second floor offices. We have been working with the DEP to have 30 to 40 of our staff members work at their building while Capitol Business Systems works on the upstairs reconfiguration.
10. Executive Director Fleck reported that due to the reconfiguration of our offices, the December 21, 2016 Board Meeting will be held at the DEP Building in Kanawha City, in the Dolly Sod's conference room.

Captain Corsaro asked Executive Director Fleck what authority the Board has to collect monies that are due to us from employers regarding the delinquencies. Executive Director Fleck responded that we make phone calls to the employers, send letters and if the need arises, we contact the Auditor's office for help.

Captain Corsaro asked the Board if something should be added in the Statute and possibly look to the legislature for legislation to collect those monies that are due to us.

Chairman Wyant directed Executive Director Fleck to look into what other states are doing with delinquent employers and report back to the Board.

Captain Corsaro asked if there are delinquencies from any of the other Plans or was it just PERS and TRS. Executive Director Fleck announced there are others, but they do not owe excessive amounts like the ones that he provides on the report.

Chairman Wyant informed the Director to include all of the Plans on the Delinquency Report to the Board.

The Report of the Executive Director is located behind Tab #2.

Tab 3: Plans Investment Data

Craig Slaughter, Executive Director of the West Virginia Investment Management Board (WVIMB) reviewed the Plan’s Investment Returns for September 30, 2016 for the Board.

Eric Sanderson, of Empower Retirement informed the Board of the fund change that took place last night of the replacement of the PIMCO Total Return Fund with the Western Asset Core Plus Bond Class A Fund. He announced there are over \$20 million in that new fund as of last night and we did communicate this to all of the participants in the TDC Plan ahead of time.

The Plan’s Investment Data reports are located behind Tab #3.

Tab 4: Consideration of Current Disability Retirement Applications

Mr. Murray reported the Disability Committee met on November 15, 2016. The Committee approved the staff’s recommendations and made the following recommendations to the Board for their approval.

System	Approved	Denied	Total
SP – Plan A	1 – Total Duty	0	1 – Total Duty
PERS	8	1	9
TDC	1	0	1

TRS (TDC Transfers)	2*	0	2*
TOTAL	12	1	13

The Committee recommended that Marcella Lincolnogger, a TDC to TRS Transfer, be re-examined in one year with a Board selected doctor at the Board's expense.

Captain Corsaro made a motion the Board accept and approve the Disability Committee's recommendations concerning the disability retirement applications and that Marcella Lincolnogger, a TDC to TRS Transfer, be re-examined in one year with a Board selected doctor at the Board's expense. The motion was seconded by Mr. Haney. The motion carried unanimously.

The Disability list is located behind Tab #4.

Tab 5: Consideration of Appeal to Hearing Officer – Gary Pullin

Chairman Wyant announced he would now entertain a motion to go into Executive Session to discuss medical and legal issues.

Mr. Waybright made a motion the Board go into Executive Session to discuss medical and legal issues as allowed by West Virginia Code §6-9A-4. The motion was seconded by Ms. Vascik. The motion carried unanimously. The Board went into Executive Session at 10:44 a.m.

Chairman Wyant reconvened the Public Session of the November 16, 2016 meeting of the CPRB from Executive Session at 11:31 a.m. Chairman Wyant announced the Board was in Executive Session to discuss medical and legal issues as allowed by West Virginia Code §6-9A-4. He announced there were no decisions made during Executive Session.

Chairman Wyant announced, we will now return to Tab 5 on the Agenda, Consideration of Appeals from the Hearing Officer, Gary Pullin.

Tab 5: Consideration of Appeal to Hearing Officer – Gary Pullin

Hearing Officer Pullin reviewed the appeal of Mary Wurth, a member of the Public Employees Retirement System. The issue presented in this matter is whether or not the Applicant

is totally and permanently incapacitated for employment within the meaning of and within the character and proof required by §5-10-25 of the West Virginia Code and §162-2-3.2a of the Code of State Rules.

Hearing Officer Pullin recommended that the request of Mary Wurth for disability retirement benefits from the Public Employees' Retirement System be denied for the reasons set forth in the August 26, 2016 Recommended Decision of the Hearing Officer

Mr. Bunn made a motion to adopt the recommendation of the Hearing Officer and deny the appeal of Mary Wurth. Captain Corsaro seconded the motion. There was discussion on the motion. The motion carried unanimously.

The Consideration of the Appeal to the Hearing Officer is located behind Tab #5.

Tab 6: Legal Counsel Reports

Work in Progress Reports from 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 updated the Board on the Less than Honorable Service (LTHS) case of Michael Thornsbury, a PERS member with 2 years, 2 months service and a JRS member with 16 years and 7 months service. Ms. Legato informed the Board that on October 26, 2016 she contacted Judge Bailey's secretary and asked if the Court would like for her to arrange a status conference or if the Judge needed any additional information in order to move this case forward. The secretary said no, that the Judge has everything that she needed.

Ms. Legato reviewed the Less than Honorable Service (LTHS) case of Mark Cowden. She announced on October 17, 2016, Mr. Cowden, a DSRS retiree was convicted of one federal felony count of Deprivation of Rights while acting under color of law.

Ms. Legato recommended the Board disqualify, terminate his pension and membership in DSRS and proceed with LTHS against him.

Mr. Bunn made a motion the Board adopt counsel's recommendation and authorize counsel to proceed with LTHS proceedings against Mark Cowden, and to disqualify and terminate his retirement benefits in DSRS. The motion was seconded by Mr. Vallet. Mr. Murray recused

himself from the vote. The motion carried.

Ms. Legato reviewed the Less than Honorable Service (LTHS) case of Nathaniel Corathers. She announced on July 17, 2016, this TRS member was convicted of the felony offense of Sexual Abuse by a Parent, Guardian, Custodian or Person in Position of Trust and Solicitation of a Minor via Computer. On October 14, 2016, Judge Evans sentenced him to 10-20 years for Sexual Abuse and 2-10 years for Solicitation.

Ms. Legato recommended the Board disqualify, terminate his pension and membership in TRS and proceed with LTHS against him.

Captain Corsaro made a motion the Board adopt counsel's recommendation and authorize counsel to proceed with LTHS proceedings against Nathaniel Corathers, and to disqualify and terminate his retirement benefits in TRS. The motion was seconded by Mr. Bunn. Ms. Crank recused herself from the vote. The motion carried.

Ms. Legato updated the Board on the case of Joseph Talbot v. CPRB. She announced this is a Circuit Court case that has been pending in Webster County. On October 7, 2016, the Court issued an *Opinion and Order on Appeal from the Final Order* of the WVCPRB. The Court Affirmed, in part, and Reversed, in part, the Board's *Final Order*. She announced, a copy of the Order is located behind Tab A of this report.

Ms. Legato recommended the Board not appeal this case.

Chairman Wyant asked the Board if they would like to take any action on the case of Joseph Talbot. None was heard.

Ms. Legato updated the Board on the case of Ronald J. Hicks v. CPRB. She announced back in 2014 the Retirement Board agreed to a Settlement involving this litigation which involved the Trooper Recertification's of Disabilities.

Ms. Legato announced it would be her recommendation the Board execute the Settlement Agreement.

Mr. Stover made a motion the Board accept the Settlement Agreement. Captain Corsaro seconded the motion. There was discussion on the motion.

Mr. Bunn made a motion to amend the motion; to accept the Settlement Agreement and to give Executive Director Fleck authority to sign the Settlement Agreement. Captain Corsaro seconded the amended motion. The amended motion carried unanimously.

Chairman Wyant announced we will now vote on the motion as amended. The motion carried unanimously.

The report of the In-House Legal Counsel is located behind Tab # 6.

Work in Progress Reports from Outside Legal Counsel – Lenna Chambers

Lenna Chambers, Outside Legal Counsel with Bowles Rice, reported to the Board on all pending legal matters before the Circuit Court, Supreme Court, U.S. District Court, U.S. Bankruptcy Courts and Administrative and QDRO matters.

Ms. Chambers updated the Board on the case of Allen E. Tackett v. CPRB. She announced that at the last Board meeting she informed the Board that the Court had affirmed the Board's Final Order denying the Petitioner's request for additional military service credit and attorneys' fees. On October 14, 2016, General Tackett filed a Notice of Appeal with the Supreme Court, raising two assignments of error: (1) whether the CPRB's calculation of General Tackett's military service credit must be reversed, and (2) whether General Tackett is entitled to attorneys' fees. Ms. Chambers informed the Board that pursuant to a Scheduling Order issued by the Court, the deadline for perfecting the appeal by filing a brief and Appendix Record is January 17, 2017. The CPRB will have 45 days from the date the appeal is perfected to file a response.

The report of Outside Legal Counsel is located behind Tab #6.

Tab 7: Committee Reports

Accounting and Investment Committee

Mr. Bunn announced the A&I Committee met this morning. Mr. Bunn informed the Board that the A&I Committee discussed the TDC Revenues and how to develop a plan to cover expenses and keep the balance positive. He announced the Committee plans to discuss this further at the January, 2017 A&I Committee Meeting and will report back to the Board on their findings.

The minutes of the A & I Committee are located behind Tab #7.

Executive Director & Actuary Review Committee

Chairman Wyant announced the Executive Director & Actuary Review Committee met

this morning and does not have anything to report at this time. He announced the Committee recessed the meeting until a later date.

The minutes of the Executive Director & Actuary Review Committee are located behind Tab #7.

Tab 8: Other, Old Business

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

Tab 9: Other, New Business

Chairman Wyant asked if there was any new business to bring before the Board.

Mr. Bunn discussed the potential authority to give members access to their retirement funds to pay for them to see a second Board Doctor for disability claims.

Ms. Legato announced this change would have to be brought about with a Legislative Rule and Ms. Chambers informed the Board Members there would be taxation issues. No activity was taken on this matter.

Chairman Wyant asked if there was any other new business to bring before the Board.

Chairman Wyant announced this is the Governor's representative, Brittany Vascik's last Board Meeting. He publicly thanked her for all of her work on the Board. Ms. Vascik thanked everyone and announced that there would be someone to replace her at the December Board Meeting.

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

Chairman Wyant adjourned the meeting of the West Virginia Consolidated Public Retirement Board (CPRB) on November 16, 2016 at 11:55 p.m.



David Wyant, Chairman
Consolidated Public Retirement Board

Jeffrey E. Fleck

Jeffrey E. Fleck, Executive Director
Consolidated Public Retirement Board