

**MINUTES OF THE
WV CONSOLIDATED PUBLIC RETIRMENT BOARD
BOARD OF TRUSTEES MEETING
MEETING OF MARCH 6, 2019**

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, March 6, 2019. The meeting was called to order at 10:05 a.m. by Vice-Chairman Captain Michael Corsaro.

Roll Call was taken.

Trustees present were:

Captain Michael Corsaro, Vice-Chairman
Mike Hall, *representing Governor James C. Justice, II*
Jeff Waybright, *representing Auditor John B. McCuskey*
Deputy Cabinet Secretary Mary Jane Pickens
Andy Bird
Joe Bunn
Michael Haney
Joe Lynch
Mike McKown
D. Todd Murray
Jeffrey Vallet

Trustees absent:

David Wyant, Chairman
Diana Stout
Bill Barker

A quorum was present.

Due notice had been posted.

Also in attendance were:

Jeffrey E. Fleck, CPRB, Executive Director
Terasa Miller, CPRB, Deputy Director
Nancy Butcher, CPRB, Executive Assistant
Jeaneen Legato, Esquire, CPRB, General Counsel
John Galloway, CPRB Chief Financial Officer

Ken Woodson, CPRB, Actuary
Melody Bailey, CPRB, Actuarial Analyst
Alysia Miller, CPRB, Paralegal
John Beane, CPRB, I.T. Manager
Patricia Bowgren, I.T. Staff
Tammy Patton, I.T. Staff
Sharon Whittaker, CPRB, Administrative Assistant
Leah Hoover, CPRB, CSR
Tim Abraham, CPRB, Compliance Officer
Tina Baker, CPRB, Internal Auditor
Ronda Harvey, Esquire, Bowles Rice
Craig Slaughter, Executive Director, WVIMB
Chris Meadows, Empower
Don Jurgens, Empower
Jenni Bailey, Empower
Marybeth Daubenspeck
Gary Pullin, Esquire, Hearing Officer
Anne Charnock, Esquire, Hearing Officer
Phillip Alexander, Retiree

Vice-Chairman Corsaro welcomed Cabinet Secretary Allan L. McVey to the Board and he gave an update on Chairman Wyant.

Tab 1: Approval of the January 23, 2019 Minutes

Mr. Vallet made a motion to approve the minutes of the January 23, 2019 meeting of the Board. The motion was seconded by Mr. Waybright. The motion was adopted.

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

Tab 2: Reports of the Chairman and Executive Director

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

1. Executive Director Fleck introduced Sharon Whittaker, the new Administrative Assistant to the Deputy Director, Terasa Miller.
2. Executive Director Fleck reported on the Metric Chart. He reported that the CPRB has been in contact with the Department of Education requesting a list of potential TRS retirees. He stated that the Department of Education expects approximately 230 retirees on July 1, 2019.

3. Executive Director Fleck reported on the TDC Empower Statistics. He stated that the plan has 4,203 participants and their assets are \$513,301,782.
4. Executive Director Fleck updated the Board on the Delinquent Employers. He stated that Green Acres continues to reimburse according to their agreement. He went on to say that a Legal Letter had been sent to the Ohio County Board of Education regarding their delinquency. Other county boards of education listed on the report have been contacted and payment arrangements are being made regarding their delinquencies.
5. Executive Director Fleck gave an update on O.A.S.I.S. He stated that CPRB staff has been working with O.A.S.I.S. staff to fix errors and our I.T. staff has been working with the Auditor's Office regarding paper checks and the schedule of payment dates.
6. Executive Director Fleck update the Board members on the January and February Financials. He reported that at the end of January the agency was at 56% of its YTD budget and the end of February it was at 60% of its YTD budget.
7. Executive Director Fleck gave an update on the Legislative Session. He advised of the status of the CPRB legislation as well as other legislation that affects CPRB either directly or indirectly.
8. Executive Director gave an overview of the N.A.S.R.A. conference he attended.

The Report of the Executive Director was 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 Preliminary Reports for the period ending December 31, 2018. He stated the month of December ended with a 3.2 percent decrease and the year to date investment returns were flat. He went on to say that it appeared that the January numbers would be around a 4.6 percent increase. He informed the Board that IMB was doing "stress testing" and it would probably take 6-7 months to complete.

Chris Meadows of Empower Retirement gave an update on the TDC Educational meetings. He reported that his on site visits included 15 locations in Kanawha, Cabell and Putnam counties. He went on to say that he had conducted 59 on-site individual sessions, 2 group sessions, 152 distributions and other counseling sessions.

The Plans Investment Data reports were located behind Tab #3 of the Board materials.

Tab #4: Consideration of the Current Disability Retirement Applications

Chairman Murray reported that the Disability Committee met on March 5, 2019, and the Disability Committee approved the staff's recommendations of disability retirement applications and made the following recommendations to the Board for their approval:

| System | Approved | Denied | Total |
|---------------|---------------------|---------------|---------------------|
| EMSRS | 1-Total Duty | 0 | 1-Total Duty |
| PERS | 9 | 2 | 11 |
| TDC | 1 | 0 | 1 |
| TRS | 9 | 0 | 9 |
| TOTALS | 20 | 2 | 22 |

Mr. Bunn made a motion the Board accept and approve the Disability Committee's recommendations concerning the disability retirement applications. The motion was seconded by Mr. Bird. The motion to accept and approve the recommendations carried.

The Disability report and minutes were located behind Tab #4 of the Board materials.

Tab #5: Consideration of Appeals to Hearing Officer Gary Pullin

Hearing Officer Pullin reviewed the appeal of **Phillip W. Alexander**, a participant of TRS, that was overpaid retirement benefits during the period 2011 to 2018 while employed as a professor at Marshall University which required his retirement annuity to be reduced for the entire year. Mr. Alexander requested that the Board's decision that he was a full-time employee of Marshall University from August 2012 through May 2018 be denied and that the decision of the Board to recoup the sum of \$39,836.86, as overpayment of retirement benefits, also be denied.

Hearing Officer Pullin recommended that Phillip W. Alexander's appeal of the Board's decision that his employment at Marshall University was full-time and that his appeal of the Board's decision to recoup \$39,839.86, as overpayment of retirement benefits, be denied.

Mr. Vallet made a motion the Board adopt the recommendation of the Hearing Officer and deny the appeal of Phillip W. Alexander. Mr. Bunn seconded the motion. The motion was adopted.

Hearing Officer Pullin reviewed the appeal of **Linda Birchfield-Modad**, a participant of TRS. Ms. Birchfield-Modad's issue was whether the additional evidence submitted following remand, from the Kanawha County Circuit Court, proves that Appellant, a permanent part-time, non-teaching employee of COGS from 1981 to December 1992, met the definition of "Teacher" under W. Va. Code §18-7A-3 to make her eligible to participate in the Teachers' Retirement System during the fiscal years 1982-1993.

Hearing Officer Pullin recommended that additional development of the record did not disclose evidence that Ms. Birchfield-Modad, as a part-time non-teaching employee, met the definition of "Teacher" under W.Va. Code §18-7A-3(g) or (j) and therefore, her appeal of the Board's decision to reduce her service credit for the fiscal years 1982 to 1993 from 9.264 years to 0.636 years be denied.

Mr. McKown made a motion the Board adopt the recommendation of the Hearing Officer and deny the appeal of Linda Birchfield-Modad. Mr. Haney seconded the motion. The motion was adopted.

Hearing Officer Pullin reviewed the appeal of **Shelia A. Blake**, a participant in PERS. The issue in this appeal was whether the Applicant, who became eligible for benefits at age 62, was entitled to receive retirement benefits commencing on her sixty-second birthday when she did not file an application for retirement benefits until eighteen months after the month in which she turned sixty-two.

Hearing Officer Pullin recommended that Ms. Blake's appeal of the Board's decision to establish the effective date of her retirement as September 1, 2018, be denied.

Mr. Murray made a motion that the Board adopt the recommendation of the Hearing Officer and deny the appeal of Shelia A. Blake. Mr. Bunn seconded the motion. The motion was adopted.

Hearing Officer Pullin reviewed the appeal of **Janice Hirst**, a participant of PERS. The

issue in this appeal was whether the Board's decision to establish Applicant's retirement date as September 1, 2017, and correctly determined that Applicant is not entitled to utilize approximately 3.5 years of accrued sick leave for additional service credit in calculating total years of service at retirement and correctly determined Ms. Hirst is not entitled to annuity payments for July and August, 2017.

Hearing Officer recommended that Ms. Hirst's appeal of the Board's decision to establish the effective date of her retirement as September 1, 2017, her appeal of the Board's decision not to apply her accrued unused sick leave toward additional service credit and her appeal of the Board's decision that she was not entitled to annuity payments for the months of July, 2017 and August, 2017 be denied.

Mr. Bunn made a motion that the Board adopt the recommendation of the Hearing Officer and deny the appeal of Janice Hirst. Mr. Vallet seconded the motion. The motion was adopted.

Hearing Officer Pullin reviewed the appeal of **Ryan Springer**, a participant of PERS. The issue in this appeal was whether the Board should honor his request to purchase military service credit where it was not submitted within the time provided for by the applicable statute because he was misinformed by his employer's representative as to when the request to purchase military service credit was to be submitted.

Hearing Officer Pullin recommended that Mr. Springer's appeal of the Board's decision to deny his request to purchase military service credit be denied.

Mr. Vallet made a motion that the Board adopt the recommendation of the Hearing Officer and deny the appeal of Ryan Springer. Mr. Bird seconded the motion. The motion was adopted.

Consideration of Appeals to Hearing Officer Anne Charnock

Hearing Officer Charnock reviewed the appeal of **Stephen Vigh**, a DSRS participant. The issue in this appeal was whether the Board was correct to commence Mr. Vigh's retirement annuity in May, 2018 following the April, 2018 submission of his retirement application and not February, 2018 because he mailed his application in January, 2018.

Hearing Officer Charnock recommended that Mr. Vigh's appeal of the Board decision to deny his request that his retirement annuity begin in May, 2018 and not February, 2018 be denied.

Mr. Bunn made a motion that the Board adopt the recommendation of the Hearing Officer

and deny the appeal of Stephen Vigh. Mr. Vallet seconded the motion. The motion was adopted.

Executive Session

Vice-Chairman Corsaro announced he would entertain a motion to go into Executive Session to discuss legal matters.

Mr. Haney made a motion the Board go into Executive Session to discuss legal matters as allowed by West Virginia Code §6-9A-4. The motion was seconded by Mr. Waybright. The motion was adopted. *(Due to a conflict of interest, Ms. Legato did not participate in Executive Session.)*

The Board went into Executive Session at 11:22 a.m.

Vice-Chairman Corsaro reconvened the Public Session of the March 6, 2019, meeting of the CPRB from Executive Session at 11:31 a.m.

Vice-Chairman Corsaro announced the Board was in Executive Session to discuss legal matters as allowed by West Virginia Code §6-9A-4 and that no decisions were made during Executive Session.

Tab #6: Legal Counsel Reports

Legal Counsel Reports

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 and Circuit Court.

Ms. Legato updated the Board on the appeal of former Justice Allen Loughry's *Less Than Honorable* case. On January 28, 2019, Mr. Loughry requested that the Board seek a judicial determination as to whether he had rendered *less than honorable service*. On February 28, 2019, CPRB filed a petition in the Circuit Court of Kanawha County, WV.

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

Report from Outside Legal Counsel – Ronda Harvey

Ms. Harvey reviewed the Less than Honorable Service (LTHS) case of Phyllis Doty, a member of TRS and a former superintendent of Logan County School. On August 7, 2018, a

Second Superseding Indictment was filed in the United States District Court for the Southern District of West Virginia alleging eight felony counts: 2 counts of theft concerning programs receiving federal funds, 1 count of mail fraud, 4 counts of wire fraud and 1 count of identity fraud. The indictment alleged that Ms. Doty used money from the Logan County School Board to purchase iPads and iPods, but then sold them on Ebay or gave them as gifts to family members. She was also accused of using school funds to order wedding decorations. On September 4, 2018, Ms. Doty was convicted by a jury on all eight felony counts. March 1, 2019, Judge Faber sentenced Ms. Doty to 42 months, 3 years supervised probation and \$25,000 in restitution.

Ms. Harvey recommended the Board disqualify and terminate the TRS membership of Phyllis Doty for rendering LTHS.

Mr. Vallet made a motion the Board accept the recommendation of Counsel to disqualify and terminate the TRS membership of Phyllis Doty and to authorize counsel to proceed with LTHS proceedings against him. Mr. Bird seconded the motion. The motion was adopted.

Ms. Harvey updated the Board on matters still pending the Circuit Courts of West Virginia and other administrative matters. She updated the Board on the *Allen E. Tackett v. WVCPRB* case. She reported that CPRB is waiting for a decision of Judge Webster with regard to CPRB's *Motion to Dismiss*.

Ms. Harvey also reported to the Board that the DNR subsistence allowance as pensionable compensation in PERS has been fully briefed and is still pending before Kanawha County Circuit Judge Jennifer Bailey.

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

Tab #7: Reports and Minutes from Committees

Mr. Bunn gave a report from the Accounting and Investment Committee. He stated that a transfer of \$287,057.82 from the TDC Revenue Sharing account to CPRB for administrative work on the TDC plan needed to be approved by the Board. Mr. McKown made a motion to approve the transfer. Mr. Lynch seconded the motion. The motion was adopted.

Mr. Bunn also gave an update on the TDC TPA RFP.

The minutes of the Accounting and Investment Committee and the Disability Minutes were located behind Tab #7 of the Board materials.


Tab #8: Old Business

Vice-Chairman Corsaro inquired as to any old business to come before the Board. None was heard.

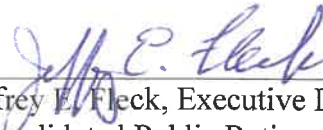
Tab #9: New Business

Vice-Chairman Corsaro inquired as to any new business to come before the Board. None was heard.

There being no further business to come before the board, the meeting adjourned at 11:40 a.m.



David Wyant, Chairman
Consolidated Public Retirement Board



Jeffrey E. Fleck, Executive Director
Consolidated Public Retirement Board