

**MINUTES OF THE  
WV CONSOLIDATED PUBLIC RETIREMENT BOARD  
BOARD OF TRUSTEES MEETING  
MEETING OF JANUARY 24, 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, and was called to order at 10:06 a.m. by Chairman David Wyant.

Roll Call was taken.

Trustees present were:

David Wyant, Esquire, Chairman  
Ann Urling, Esquire, *representing Governor James C. Justice, II*  
Jeff Waybright, *representing Auditor John B. McCuskey*  
Andy Bird  
Captain Michael Corsaro, *Vice Chairman*  
Michael Haney  
Joe Lynch  
Mike McKown  
D. Todd Murray

Trustees absent were:

Diana Stout, Esquire, *representing Treasurer John Perdue*  
Cabinet Secretary John A. Myers  
Joseph Bunn, Esquire  
Jeffrey Vallet

A quorum was present.

Due notice had been posted.

Also in attendance were:

Jeffrey E. Fleck, CPRB Executive Director  
Jeaneen Legato, Esquire, CPRB General Counsel  
Ronda Harvey, Esquire, Bowles Rice  
Tim Abraham, CPRB Chief Compliance Officer  
John Galloway, CPRB Chief Financial Officer  
Heather Drake, CPRB Administrative Assistant  
Melody Bailey, CPRB Actuary Assistant  
Alysia Miller, CPRB Paralegal  
John Beane, CPRB I.T. Manager  
Tammy Patton, CPRB I.T. Staff  
Patricia Bowgren, CPRB I.T. Staff  
Tina Baker, CPRB Internal Auditor

Caroline Brady, CPRB Employer Reporting Manager  
Lisa Trump, CPRB Retirement Manager  
Craig Slaughter, Executive Director, WVIMB  
Denise Fortune, Empower Retirement  
Marybeth Daubenspeck, Empower Retirement  
Chris Meadows, Empower Retirement  
Tom Zacharias, Deloitte  
David Driscoll, Conduent  
Troy Jaros, Conduent  
Mike Ciarochi, CPRB Employer Reporting

**Tab 1: Approval of the December 20, 2017 Meeting Minutes**

Captain Corsaro made a motion to approve the minutes of the December 20, 2017 meeting of the CPRB. The motion was seconded by Mr. Waybright. The motion carried unanimously.

The minutes are located behind Tab 1.

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

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

1. Executive Director Fleck reported on the Metric Chart. He announced that staff has worked hard to get the retirements completed. He announced we were at 98% completion of the 2017 retirements and have already processed over 50 January 2018 retirements. He then announced the Refund Section has been working hard and has already processed more refunds through COMPASS in the same amount of time as last year while using the Legacy System.
2. Executive Director Fleck reported on the Teachers' Defined Contribution (TDC) 2018 Educational Meetings. He announced as of January 16, 2018, Chris Meadows of Empower Retirement has held a total of 10 meetings so far, with 55 in attendance. Director Fleck announced as of December 31, 2017, there were a total of 4,322 participants and \$500,050,274 in total assets in the TDC Plan.
3. Executive Director Fleck reviewed the Winter 2017 edition of TDC's Financial Footnotes.
4. Executive Director Fleck reported on the Delinquent Employers. He announced the Wayne County Commission has submitted their October 2017 contributions and will be submitting November and December 2017 contributions, by the end of the week for both PERS and DSRS. Executive Director Fleck announced that he called Larry Walters of the Town of Grant Town, regarding their delinquent contributions for: October, November and December 2017. Executive Director Fleck announced that Green Acres is still making their payments

- on time. Executive Director Fleck announced since the last Board meeting we have received payment on the employee contributions from the Huntington Cabell Wayne Animal Shelter.
5. Executive Director gave an update on the Phone System. He announced Alpha Technology was the lowest bidder and should be awarded the contract by Purchasing at the end of the day on January 24, 2018.
  6. Executive Director gave an Actuarial Recruiting update. He announced we had put out to bid a RFQ to recruit a new Board Actuary. He announced there will be multiple venders, but we will have to use the lowest bidder first.
  7. Executive Director Fleck reported on the Trooper Disability Experience Report. He reported that this study is required by Statute and is reported to the Governor every year for Troopers Plan A and Plan B. Executive Director Fleck announced that Plan A is a closed Plan; there are a total of 596 retirees in this Plan. He reported that Plan B has 595 active members and 10 regular retirees.
  8. Executive Director Fleck reviewed the January issue of the Quotes, Notes and Anecdotes. He announced Heather Drake was the January 2018, Employee of the Month. Executive Director Fleck congratulated and thanked Ms. Drake for her hard work.
  9. Executive Director Fleck reviewed the December 31, 2017 financials with the Board. He announced we are currently at 42.43% of budget.
  10. Executive Director Fleck reported on the Legislative Update.
  11. Executive Director Fleck announced the 1099 R's have been printed and are currently being sent out to all retirees.
  12. Executive Director Fleck updated the Board on the additional space to house the I.T. Department. Executive Director Fleck announced various state agencies will be providing cubicles, so no additional cubicles will need to be purchased. He announced the space should be complete by mid-February.
  13. Executive Director Fleck reminded all Board Members to go online and fill out the Financial Disclosure Statements and send to the Ethics Commission for all Public Officials and Board Members. He announced the deadline to fill it out is February 1, 2018.

The Reports of the Chairman and Executive Director are 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 November 31, 2017. He announced that the returns

are doing well and we were at 6.7% return through November 2017.

Chris Meadows of Empower Retirement reviewed the TDC Educational Meetings for the prior year. He announced he held 93 meetings, met with 323 participants and conducted 787 phone counseling sessions with participants in the TDC Plan for a total of 1,110 participants served. He announced over the last year he has seen assets increase from \$438 million to over \$500 million.

Marybeth Daubenspeck of Empower Retirement gave an update on the outstanding audit item. She then announced that Bill Thorton will be replacing Michael Burroughs in investing consulting. She announced Mr. Thorton has over 20 years of experience and will be attending the next Accounting and Investing Committee Meeting. Ms. Daubenspeck announced Empower will be adding a written guarantee for additional protection of participant accounts against fraud.

The Plan's Investment Data report is located behind Tab 3.

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

Chairman Todd Murray reported the Disability Committee met on January 23, 2018, and made the following recommendations for the Board's approval.

Chairman Murray announced the Disability Committee approved the staff's recommendations of the disability retirement applications and made the following recommendations to the Board for their approval:

System	Approved	Denied	Total
DSRS	1 Total Non-Duty	0	1 Total Non-Duty
PERS	5	1	6
TDC	1	0	1
TRS/TDC	4	0	4
<b>TOTAL</b>	<b>11</b>	<b>0</b>	<b>12</b>

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

Chairman Murray reviewed the MPFRS Recertification Policy with the Board. He recommended

the Board approve and adopt the MPFRS Recertification Policy.

Captain Corsaro made a motion the Board approve and adopt the MPFRS Recertification Policy. The motion was seconded by Mr. Haney. There was discussion on the motion. The motion carried unanimously.

The Disability list is located behind Tab 4.

**Tab 5: Legal Counsel Reports**

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

Mr. Murray 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. Waybright. The motion carried unanimously.

The Board went into Executive Session at 10:35 a.m.

Chairman Wyant reconvened the Public Session of the January 24, 2018 meeting of the CPRB from Executive Session at 11:04 p.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.

Chairman Wyant announced we will now return to Tab 5, 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, Circuit Court, Supreme Court and Less than Honorable Service (LTHS) cases.

Ms. Legato reviewed the Less than Honorable Service (LTHS) case of Crystal Metz, a PERS member and former secretary/bookkeeper for the Public Service District in Clarksburg, WV. She announced on September 11, 2017, Ms. Metz entered a guilty plea and was adjudged guilty of the felony offense of embezzlement in the Circuit Court of Harrison County. Judge Matish has scheduled a sentencing

hearing for January 25, 2018.

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

Captain Corsaro made a motion the Board accept the recommendation of Counsel to disqualify and terminate the PERS membership of Crystal Metz 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 *Randall W. Myers v. CPRB*. She announced this is 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. An administrative hearing was held on November 22, 2017. On January 6, 2017, Hearing Officer Pullin issued a *Recommended Decision* which recommends that Mr. Myers's request to have the value of the county vehicle included as part of his salary should be denied. On January 25, 2017, the Board issued a *Final Order* which adopted the Hearing Officer's *Recommended Decision*. On March 2, 2017, Mr. Myers, by counsel, David Tyson, filed a *Petition for Appeal* in the Circuit Court of Lewis County. On March 14, 2017, we filed a motion to dismiss for lack of jurisdiction due to the petition being untimely filed. On March 31, 2017, we mailed the Court a proposed *Dismissal Order*. On April 4, 2017, opposing counsel filed a response to our *Motion to Dismiss*. On April 10, 2017, we filed a reply to their response. On June 8, 2017, (entered in clerk's office on June 12, 2017), Judge Reger entered an *Order Granting Respondent's Motion to Dismiss*. On June 15, 2017, opposing counsel filed *Petitioner's Motion to Set Aside Dismissal Order*. On June 25, 2017, we filed CPRB's *Response to Petitioner's Motion to Set Aside Dismissal Order*. On July 18, 2017, Judge Reger issued an *Order Denying Request for Oral Argument and Order Denying Motion to Set Aside Dismissal Order*. On August 14, 2017, counsel for Petitioner, filed *Petitioner's Second Motion to Set Aside Dismissal Order* with the Circuit Court of Lewis County and a *Petition for Appeal* with the West Virginia Supreme Court of Appeals. On August 25, 2017, the Court entered a Scheduling Order. Opposing counsel's brief is due on November 22, 2017. Our brief is due on January 8, 2018.

On September 22, 2017, an *Order Denying Second Motion to Set Aside Dismissal Order* was entered by Judge Reger in Lewis County. A copy of the Order is located behind Tab B of her report.

On October 17, 2017, counsel for Petitioner filed a *Petition for Appeal* with the West Virginia Supreme Court regarding the lower court's latest order denying his second motion to reconsider.

On October 24, 2017, we filed *Respondent's Motion to Dismiss Appeal* with the West Virginia Supreme Court of Appeals. On November 7, 2017, opposing counsel filed *Petitioner's Response to Motion*

*to Dismiss and Petitioner's Motion to Consolidate Appeals.*

Ms. Legato informed the Board that the Petitioner currently has two appeals pending; Case No. 17-0707, and Case No. 17-0909. On December 15, 2017, the Clerk's Office, in a telephone conversation, indicated that Case No. 17-0707 will be dismissed by the Court for failure to perfect the appeal.

On January 3, 2018, the Supreme Court issued an *Order* granting our Motion to Dismiss (Case No. 17-0909). Ms. Legato provided a copy of the Order for the Board.

The report of the In-House Legal Counsel is located behind Tab 5.

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

Ronda Harvey, Outside Legal Counsel with Bowles Rice updated the Board on the CPRB's administrative appeal of the Department 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.

Ms. Harvey updated the Board on the *Allen E. Tackett v. CPRB* case. She announced that we won the appeal. On November 17, 2017, the Supreme Court finally entered a Memorandum Decision upholding the circuit court's September 16, 2016 ruling and remanding the case to the circuit court for resolution of Tackett's request for attorney's fees. Recently, General Tackett's lawyer raised the issue of pursuing the attorney's fees. We notified him that we do not believe CPRB is responsible for his attorney's fees and he responded that he will plan to file a motion before Judge Webster. To date, he has not done that, but we expect to receive his motion in the near future.

Ms. Harvey updated the Board on the case of *Thomas Ward v. CPRB*. She announced it appears that the Petitioner actually withdrew his PERS accumulated contributions. Thus, he has no further issue. Attempts have been made to reach Petitioner's counsel to request that he voluntarily dismiss the matter, but were unsuccessful as he failed to return messages. On March 8, 2017, CPRB filed a Motion to Dismiss. Judge Burnside entered an Order requiring Petitioner to respond to the Motion by April 17, 2017. The Court also set a hearing for May 31, 2017.

The Petitioner also failed to appear at the May 31, 2017 hearing on the motion to dismiss. Judge Burnside agreed that dismissal was appropriate. He requested that we submit an order including support for the proposition that Petitioner's withdrawal of his PERS contributions was essentially an abandonment of this claim. Also, at the hearing, CPRB orally amended its motion to request attorney fees and expenses associated with the motion. CPRB's counsel pointed out that CPRB is a fiduciary of the funds and should not have had to expend attorney fees to obtain dismissal. Also, petitioner's counsel had an obligation to respond and appear, but failed to do so; if petitioner was dropping his claim, petitioner's counsel should have advised the Court. It was CPRB's preference to provide the Court with an agreed dismissal order rather than file a motion and appear at a hearing. Judge Burnside also granted this relief and directed CPRB's counsel to file an affidavit of fees associated with the preparation of the motion, appearing at the hearing and the expenses related to those activities.

The affidavit of fees was submitted on June 14, 2017. On June 21, 2017, Judge Burnside entered an *Order Granting Motion to Dismiss* of the West Virginia Consolidated Public Retirement Board, which also grants the attorney's fee award.

Ms. Harvey informed the Board that she sent a letter by certified mail to Petitioner's counsel asking for payment of the attorney's fees award by September 1, 2017. We did not receive payment, and are now beginning the formal collection proceeding. Ms. Harvey attempted to contact Mr. Feuchtenburger, Mr. Ward's attorney, by phone and left messages. On October 3, 2017, counsel wrote to him, enclosing a Motion for Contempt, advising that it has been filed, again requesting that he pay the award and agree to withdraw the Motion if he pays within the next week.

She announced, we did not receive payment, and therefore she filed a *Motion for Contempt* asking the Court to force payment and further penalize Petitioner's counsel.

She announced, the hearing on CPRB's *Motion for Contempt* took place on December 11, 2017. At the hearing, Judge Burnside granted the motion and ordered petitioner's counsel to pay the additional attorney fees and expenses incurred in preparing for and appearing at the contempt hearing.

She informed the Board that she submitted an affidavit of fees in the amount of \$4,391.59, which brings the total fee award to \$7,623.89. Judge Burnside also ordered petitioner's counsel to pay the total within 30 days of the hearing or by January 11, 2018.

Ms. Harvey updated the Board on the case of *IMB and CPRB v. VALIC*. She reported we are still waiting on a decision from the WV Supreme Court of Appeals.

The report of the Outside Legal Counsel is located behind Tab 5.



**Tab 6: Valuations & Recommended Employer Contribution Rates – David Driscoll & Troy Jaros of Conduent**

David Driscoll of Conduent introduced Troy Jaros and announced to the Board that he and Mr. Jaros have been assigned to work with the CPRB on actuary matters until the CPRB hires an actuary to replace Harry Mandel.

Mr. Driscoll and Mr. Jaros reviewed the results from the July 1, 2017 Valuations and Recommended Employer Contribution rates in the 5 retirement systems as shown below:

**PERS**

Mr. Driscoll of Conduent reviewed the results from the July 1, 2017 Valuation in the Public Employees Retirement System (PERS) and recommended its acceptance.

Mr. Murray made a motion the Board accept the Valuation in the Public Employees Retirement System (PERS) as presented by Conduent. The motion was seconded by Mr. Haney. The motion carried unanimously.

**TRS**

Mr. Jaros of Conduent reviewed the results from the July 1, 2017 Valuation on the Teachers Retirement System (TRS) and recommended its acceptance.

Mr. Waybright made a motion the Board accept the Valuation in the Teachers Retirement System (TRS) as presented by Conduent. The motion was seconded by Mr. Lynch. The motion carried unanimously.

**Department of Public Safety Death, Disability and Retirement System (Plan A)**

Mr. Driscoll reviewed the July 1, 2017 Valuation of the Department of Public Safety Death, Disability and Retirement System (Plan A).

Captain Corsaro made a motion the Board accept the Valuation of the Department of Public Safety Death, Disability and Retirement System (Plan A). The motion was seconded by Mr. Waybright. The motion carried unanimously.

**West Virginia State Police Retirement System (Plan B)**

Mr. Jaros reviewed the July 1, 2017 Valuation of the West Virginia State Police Retirement System (Plan B).

Captain Corsaro made a motion the Board accept the July 1, 2017 Valuation of the West Virginia

State Police (Plan B). The motion was seconded by Mr. Waybright. The motion carried unanimously.

**Judges Retirement System (JRS)**

Mr. Driscoll reviewed the July 1, 2017 Valuation of the Judges Retirement System (JRS).

Mr. Waybright made a motion the Board accept the July 1, 2017 Valuation of the Judges Retirement System (JRS). The motion was seconded by Mr. Murray. The motion carried unanimously.

Mr. Driscoll recommended the Board lower the employer contribution rate to 10% in the Public Employees Retirement System (PERS), effective July 1, 2018.

Captain Corsaro made a motion the Board accept the recommendation from Mr. Driscoll of Conduent and lower the employer contribution rate to 10% in the Public Employees Retirement System (PERS), effective July 1, 2018. The motion was seconded by Mr. McKown. The motion carried unanimously.

The Valuations & Recommended Employer Contribution Rates – David Driscoll & Troy Jaros of Conduent are located behind Tab 6.

**Tab 7: Valuations & Recommended Employer Contribution Rates –Presented by Melody Bailey, Actuarial Analyst**

Melody Bailey, Actuarial Analyst for the CPRB announced she was presenting the Valuations and Recommended Employer Contribution Rates for DSRS, EMSRS and MPFRS. She announced she makes the following recommendations:

**DSRS**

Ms. Bailey reviewed the July 1, 2017 Deputy Sheriff Retirement System (DSRS) Actuarial Valuation results.

Mr. Murray made a motion the Board accept the July 1, 2017 Actuarial Valuation results for the Deputy Sheriff Retirement System (DSRS). The motion was seconded by Mr. Waybright. The motion carried unanimously.

**EMSRS**

Ms. Bailey reviewed the July 1, 2017 Emergency Medical Services Retirement System (EMSRS) Actuarial Valuation results.

Mr. Waybright made a motion the Board accept the July 1, 2017 Actuarial Valuation for funding

of the Emergency Medical Services Retirement System (EMSRS). The motion was seconded by Mr. Haney. The motion carried unanimously.

### **MPFRS**

Ms. Bailey reviewed the July 1, 2017 Municipal Police and Fire Retirement System (MPFRS) Actuarial Valuation results.

Mr. Waybright made a motion the Board accept the July 1, 2017 Actuarial Valuation for funding of the Municipal Police and Fire Retirement System (MPFRS) and to maintain the Member and Employer Contribution Rates at 8.5%. The motion was seconded by Mr. Haney. The motion carried unanimously.

### **Tab 8: Actuarial Factors for Plan Administration –Presented by Melody Bailey, Actuarial Analyst**

Ms. Bailey reviewed the Actuarial Factors for Plan Administration for Calendar Year 2018 and recommends the Board adopt the recommendations as presented and approve the extension of the 2017 Actuarial Assumptions for daily administration to 2018 without modifications for the eight (8) Defined Benefit Plans as detailed.

Mr. Waybright made a motion the Board approve the extension of the 2017 Actuarial Assumptions for daily administration to 2018 without modifications for the eight (8) Defined Benefit Plans. The motion was seconded by Captain Corsaro. There was discussion on the motion. The motion carried unanimously.

### **Tab 9: Other, Old Business**

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

### **Tab 11: Other, New Business**

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

Ms. Urling announced she would like to make a motion to recommend to the legislature to consider a statutory change to allow and offer both Pension Committees' Chairman or their designee to become non-voting members on the Consolidated Public Retirement Board of Trustees. The motion was seconded by Mr. McKown. The motion carried unanimously.


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

Executive Director Fleck announced we have the new CPRB Plan Summary sheets ready for the

Board Members and will be taking them to the House and Senate Pension Chairs at the Legislature.

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

Chairman Wyant adjourned the January 24, 2018 meeting of the West Virginia Consolidated Public Retirement Board (CPRB) at 12:25 p.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