

**MINUTES OF THE  
WV CONSOLIDATED PUBLIC RETIREMENT BOARD  
BOARD OF TRUSTEES MEETING  
MEETING OF DECEMBER 17, 2014**

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 10:03 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*  
David Fletcher, *representing Auditor Glen Gainer III*  
Diana Stout, *representing Treasurer John Perdue*  
Andy Bird  
Joseph Bunn, Esquire  
Angela Crank  
Joe Lynch  
D. Todd Murray  
Andrew Richardson, Esquire  
Jeffrey Vallet

Trustees not present:

Jason Pizatella, *Acting Cabinet Secretary*  
Captain Michael Corsaro  
David Stover

A quorum was present.

Due notice had been posted.

Also in attendance were:

Jeffrey E. Fleck, CPRB Executive Director  
Candi Moore, CPRB Executive Assistant  
Jeaneen Legato, Esquire, CPRB General Counsel  
Anne Charnock, Esquire, Hearing Officer  
Lenna Chambers, Esquire, Bowles Rice  
Craig Slaughter, Executive Director, WVIMB  
Andrew Wyne, Great West Retirement Services, Outreach Officer  
Eric Sanderson, Great West Retirement Services

Tom Zacharias, Deloitte  
Anthony Carpenter, Gibbons & Kawash  
Bob Denyer, Gibbons & Kawash  
Leon Wexler, LRWL  
Norm Buckwalter, LRWL  
Gary Ledford, LRWL  
Molly Poe Esquire, Pullin, Fowler, Flanagan, Brown & Poe  
Gary Pullin Esquire, Pullin, Fowler, Flanagan, Brown & Poe  
Misty Peal, WVEA  
Harry Mandel, CPRB Actuary  
Melody Bailey, CPRB Actuary Analyst  
Heather Drake, CPRB Administrative Assistant  
Alysia Miller, CPRB Paralegal  
Darden Greene, CPRB Chief Financial Officer  
John Beane, CPRB Chief IT Officer  
Annamarie Short, CPRB Internal Auditor  
Steve Stockton, CPRB Compliance Officer  
Eric Stringer, CPRB IT Staff  
Caroline Brady, CPRB PERS Assistant Manager  
Torrie Williams, CPRB PERS Membership  
Vicki Sutton, CPRB TRS Manager

**Tab 1: Approval of the November 5, 2014 Meeting Minutes**

Mr. Vallet made a motion to approve the November 5, 2014 minutes of the CPRB. The motion was seconded by Mr. Bunn. The motion carried unanimously.

The minutes are located behind Tab 1.

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

Chairman Wyant announced to the Board he had some changes regarding Committee Appointments. He announced that he was removing Joe Garcia from the Disability Committee and appointing Andrew Richardson to the Disability Committee.

Chairman Wyant then announced he was removing Andrew Richardson from the Accounting and Investment Committee (A&I).

Chairman Wyant announced David Fletcher is here on behalf of Auditor's Office. Mack Parsons who sat in that chair for years is retiring. Chairman Wyant announced he would like to publicly thank Mack Parsons for all of his service to the Board and wish him well, and welcomed Mr. Fletcher back again to the Board.

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

1. Executive Director Fleck reported on the November 2014 Teachers' Retirement System (TRS) and Public Employees Retirement System (PERS) retirement and estimate numbers. He reported for November there were 98 TRS Estimates and 118 Retirements and in PERS there were 186 Estimates and 127 Retirements.
2. Executive Director Fleck announced the 2015 Board Meeting Dates have been set and a copy of that schedule has been provided for each of you. He announced the first Board Meeting is January 14, 2015 and is also the first day of the Legislative Session.
3. Executive Director Fleck reviewed the Teacher's Retirement System (TRS) Pension Press with the Board.
4. Executive Director Fleck reviewed the Teachers' Defined Contribution (TDC) 2014 Educational Meetings with the Board. He announced there have been a total of 91 meetings so far this year, with 1,061 participants. Executive Director Fleck reported on the TDC Reality Investing statistics. He announced that Reality Investing had a total of 4,764 participants and \$403,224,721 in total assets.
5. Executive Director Fleck reviewed the Delinquent Employers list with the Board.
6. Executive Director Fleck reviewed with the Board the report on the Disability Retirement Experience Annual Report for the West Virginia Death, Disability and Retirement Fund (Plan A) and the West Virginia State Police Retirement System (Plan B) for Fiscal Year 2014 that is required by Statute.

*Board Member David Stover arrived to the meeting at 10:04 a.m.*

7. Executive Director Fleck updated the Board on the Military Service Credit. He announced the CPRB sent a letter out to over 15,000 retirees informing them of the Supreme Court Decision on the Military Service Credit. He announced that we have received 800 responses so far and this will be on-going in the future as more find out they are eligible for the Service Credit.
8. Executive Director Fleck reported to the Board on the Computer Update. He announced the Computer Project was at 17% completion. He commended staff on the application and design; he announced they have had 168 application design sessions so far. He announced that construction of Phase 4(a) will begin in January

2015. There will be a design demonstration given to all staff in January 2015, as to the progress so far. He announced that he had a contractual matter that he would like to discuss in Executive Session.

9. Executive Director Fleck reported to the Board on the November 2014 CPRB Financials. He announced that we are at 89% percent of budget as of November 30, 2014.
10. Executive Director Fleck reported to the Board on the November and December Legislative Interims. He announced that he had the pleasure to meet the new Senate Pensions Chair, Senator Ed Gaunch; he met for over an hour and had the opportunity to discuss various pension issues with him, gave the Senator some background information on the CPRB and discussed the 9 plans that we administer.

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

*Board Member Captain Corsaro arrived to the meeting at 10:05 a.m.*

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

Craig Slaughter, Executive Director of the West Virginia Investment Management Board (WVIMB) reviewed with the Board the Plan's Investment Returns for the period ending October 31, 2014.

Eric Sanderson of Great West reported to the Board that the three divisions of Great West Financial Retirement Services of Putnam and JP Morgan's Retirement Plans Services Division had recently been rebranded under the name of Empower Retirement. He informed the Board that the name change will go into effect on February 5, 2015.

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

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

Mr. Murray reported the Disability Committee met on December 16, 2014, and the Committee makes the following recommendations to the Board:

<b>System</b>	<b>Approved</b>	<b>Denied</b>	<b>Total</b>
<b>PERS</b>	13	1	14
<b>TDC</b>	1	0	1
<b>TRS</b>	4	0	4
<b>TRS/TDC Transfers</b>	8	2	10
<b>TOTAL</b>	<b>26</b>	<b>3</b>	<b>29</b>

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

The disability list is located behind Tab 4.

Chairman Wyant moved the agenda to address Tab # 8.

**Tab 8: Gibbons & Kawash – Review of Financial Audit – Bob Denyer, CPA**

Mr. Bob Denyer of Gibbons & Kawash reviewed the audit of the financial statements for the year ending June 30, 2014 for all of the Plans regarding how GASB 67 will affect the CPRB Plans and the Valuations and the funding requirements for the Plans for reporting purposes. He reported there will be more volatile reporting on the status of the Plans with GASB 67.

Chairman Wyant announced to the Board that GASB 67 shows how the unfunded liability affects each entity in their financial reporting.

Mr. Denyer announced that in their Auditor's review, Gibbons & Kawash expressed an unmodified opinion on the financial statements. He announced Gibbons & Kawash have no significant deficiencies or material weaknesses to report to you regarding this audit.

Chairman Wyant asked Mr. Denyer if overall the report was a clear report. Mr. Denyer answered yes; it is an unmodified opinion which is the best level that can be provided.

Chairman Wyant moved the agenda to address Tab # 5.

**Tab 5: Consideration of Appeals to Hearing Officers – Anne Charnock**

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

Mr. Bunn made a motion the Board go into Executive Session to discuss medical issues, legal matters and a contractual matter as allowed by West Virginia Code § 6-9A-4. The motion was seconded by Mr. Fletcher. The motion carried unanimously. The Board went into Executive Session at 10:41 a.m.

Chairman Wyant reconvened the Public Session of the December 17, 2014 meeting of the CPRB from Executive Session at 12:37 p.m. Chairman Wyant announced the Board was in Executive Session to discuss medical issues, legal matters and a contractual matter as allowed by West Virginia Code § 6-9A-4. He announced there were no decisions made during Executive Session and we will now return to Tab #5 on the Agenda, Consideration of Appeals to Hearing Officers.

**Tab 5: Consideration of Appeals to Hearing Officers – Anne Charnock**

Hearing Officer Charnock reviewed with the Board the Appeal of Kathy S. Lefler on whether or not the Staff was correct to deny Applicant's application for disability retirement because Applicant did not leave employment as a result of disability.

Hearing Officer Charnock recommended the request of Kathy S. Lefler, for disability retirement benefits from the Teacher's Retirement System, be denied.

Captain Corsaro made a motion the Board accept the Hearing Officer's Recommended Decision and deny the appeal of Kathy S. Lefler. Mr. Lynch seconded the motion. The motion carried unanimously.

The Appeals are located behind Tab 5.

**Tab 6: Legal Counsel Reports**

**Work in Progress Reports from In-House Legal Counsel – Jeaneen Legato**

In-House Legal Counsel, Jeaneen Legato 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 update on the case of Michael Whalen v. CPRB. Ms. Legato informed the Board that on December 8, 2014, we filed a Verified Writ of Prohibition and a Motion for Expedited Relief with the West Virginia Supreme Court. On December 11, 2014 the Supreme Court, in a separate order, issued a Scheduling Order and directed the two respondents, which are plaintiff's counsel and Judge Nibert to file a response to our petition of Writ of Prohibition by December 29, 2014. The Board also filed a Motion for Stay proceedings pending the appeal at the Supreme Court; we also filed a Motion for Relief from Judgment in the Circuit Court of Mason County with Judge Nibert. The Board also filed a regular Petition for Appeal with the West Virginia Supreme Court in addition to the Writ of Prohibition. Judge Nibert's office called yesterday and scheduled a hearing on the Motion of Stay for January 30, 2015 at 10:30 a.m.

Ms. Legato reviewed the update of the case of Richard Clark v. CPRB. Ms. Legato informed the Board that on December 5, 2014 Judge Waters presided over a telephonic hearing at which time he ruled that the Board's Final Order should be reversed and Mr. Clark's disability onset should be November 9, 2009 rather than April 14, 2011. The Court further denied opposing counsel's request for attorney fees. The Court directed opposing counsel to prepare the Order.

Ms. Legato reviewed the update on the case of Jerry McClure v. CPRB. Ms. Legato reported to the Board that Mr. McClure had been denied a TRS annuity because he transferred from TDC to TRS and failed to work the one hour that is statutorily required before you are eligible to receive a TRS annuity. He filed an Appeal on May 15, 2014, by counsel, in the Circuit Court of Kanawha County and the case was assigned to Judge Webster. On May 22, 2014 we filed the Administrative Record. On November 13, 2014, Judge Webster entered an Opinion and Order Affirming the Administrative Order.

Ms. Legato reviewed the update on the case of the Mingo County Commission and Sheria Maynard v. CPRB. Ms. Legato announced that on December 4, 2014, she attended a hearing in Mingo County, which was presided over by Judge Thompson. Ms. Maynard and her counsel were notified by the Court and the Court's Order to be present; however, they did not attend the hearing. Judge Thompson directed counsel's for the parties to submit Proposed Orders within thirty days. Ms. Legato announced to the Board that The Boards Proposed Order is due January 5, 2015.

Ms. Legato reviewed the update on the case of *Joseph Talbot v. CPRB*. Ms. Legato announced to the Board that on October 23, 2014, opposing counsel filed a Petition for Appeal in the Circuit Court of Webster County. On November 6, 2014, The Board filed the Administrative Record. A notice of a Status Conference is set for January 13, 2015 at 11:15 a.m., in Webster County.

Ms. Legato reviewed the Less Than Honorable Service (LTHS) case of Kara Brumley, a member of PERS. On October 15, 2014 Kara Brumley a former social worker, entered a guilty plea and was adjudged guilty of 2 counts of the Felony Offense of Sexual Abuse by a Parent, Guardian, Custodian, or Person in Position of Trust. On December 10, 2014 Judge Webster sentenced her to 2 concurrent terms of 10 to 20 years of imprisonment. She pled guilty to having sexual intercourse with someone who was in her care, custody, and control as a guardian through DHHR; he was a 16 year old boy.

Ms. Legato recommended the Board disqualify and terminate the pension of Ms. Brumley's membership in PERS and proceed with Less Than Honorable Service against her.

Mr. Fletcher made a motion the Board adopt counsel's recommendation, authorize counsel to proceed with Less Than Honorable Service proceedings against Ms. Brumley to terminate her retirement benefits in PERS. The motion was seconded by Mr. Murray. The motion carried unanimously.

Ms. Legato reviewed the case of Mark Plants, the former Kanawha County Prosecuting Attorney. By order entered by a three judge panel on October 14, 2014, with an effective date of November 14, 2014, the Court removed Mr. Plants from office as the Prosecuting Attorney for Kanawha County on the basis of Malfeasance in Office and Neglect of Duty. Chapter 5, Article 10, Section 49 of the West Virginia Code states "Removal for malfeasance and or neglect of duty shall immediately have his membership terminated permanently by the board of trustees and shall never be eligible for an annuity." It further states that he is eligible for refund of his contributions.

Ms. Legato recommended that pursuant to West Virginia Code §5-10-49, the Board proceed with termination of Mr. Plant's membership in the Public Employee Retirement System (PERS).



Captain Corsaro made a motion the Board authorize counsel to proceed with termination of Mr. Plant's membership in the Public Employee Retirement System (PERS) pursuant to West Virginia Code §5-10-49. The motion was seconded by Ms. Stout. 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**

Outside Legal Counsel, Lenna Chambers, 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.

Outside Counsel, Lenna Chambers an updated of the case of *W.Va. Investment Management Board, et. al., v. the Variable Annuity Life Insurance Company of America.*

Ms. Chambers reviewed and updated the case of *James Owens v. CPRB.* Ms. Chambers announced this case was dismissed and the case is no longer pending.

Ms. Chambers reviewed claim of a PERS retiree who had received a letter from the CPRB regarding the military service credit ordered by the Supreme Court and asking for the service credit to be issued to him. His claim is based on the case of *Wood v. CPRB.* Ms. Chambers recommended the Board recognize the period of December 8, 1978 through January 1, 1981 as an additional period for military service credit purposes for armed conflict under PERS.

Captain Corsaro made a motion the Board recognize and include those periods enumerated in the VFW guidelines to determine the CPRB's periods of armed conflict for military service credit. This would include May 7, 1975 through December 31, 1980. Mr. Richardson seconded the motion. There was discussion on the motion.

Mr. Richardson made a motion to table the motion. Mr. Fletcher seconded the motion. There were 2 in favor and 7 opposed to the motion to table. The motion to table the motion failed.

Chairman Wyant announced the original motion is before the Board. There was discussion on the motion. The motion carried, with Mr. Richardson voting no.

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

Chairman Wyant reported on the report from Pullin, Fowler, Flanagan, Brown & Poe on the case of Cheryl Dougherty, et al. v. CPRB et al. There is ongoing litigation and some settlement discussions that are occurring. There is no need for the Board to take any action at this time.

The report from Pullin, Fowler, Flanagan, Brown & Poe is located behind Tab #6.

Executive Director Fleck reported on the report from Shuman, McCuskey & Slicer on the case of Manuel Cartelle v. City of Beckley and CPRB. Executive Director Fleck informed the Board that counsel for BRIM is filing a motion in Circuit Court to dismiss this case on several grounds.

The report from Shuman, McCuskey & Slicer is located behind Tab #6.

#### **Tab 7: Committee Updates**

##### **Accounting and Investment Committee**

Mr. Vallet announced that the Accounting and Investment Committee met this morning. Mr. Vallet reviewed with the Board that Great West sent out two letters to our participants; the first letter was notifying participants the Fee Holiday for Reality Investing Advisory Services would no longer be paid by the Board and the second letter was regarding the participants needing to opt back into the Plan by January 2015.

Mr. Vallet announced that at the next A&I Committee meeting the Committee will be looking at various investment options; with three funds on watch and based on their performance by the next meeting; the Committee may come back to the Board for action on those funds.

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

#### **Tab 9: 2015 Proposed Legislation**

Director Fleck announced he has 3 proposed pieces of legislation that he will review for the Board.

Director Fleck reviewed the proposed legislation for §5-10-A-2 Less Than Honorable

Service (LTHS) with the Board and recommended the Board's approval.

Ms. Vascik made a motion the Board approve the proposed modifications and submit it to the appropriate legislative body. The motion was seconded by Mr. Richardson. The motion carried unanimously.

Director Fleck then reviewed §8-22A-6 the Municipal Police Officers and Firefighters Retirement System (MPFRS) proposed legislation with the Board and recommended the Board's approval.

Mr. Richardson made a motion the Board accept the proposed changes to MPFRS proposed legislation and submit it to the appropriate legislative body. The motion was seconded by Mr. Lynch. The motion carried unanimously.

Director Fleck reviewed §15-2A-9 the State Police Plan B proposed legislation with the Board and recommended the Board's approval.

Captain Corsaro made a motion the Board approve the proposed changes and submit it to the appropriate legislative body. The motion was seconded by Mr. Lynch. The motion carried unanimously.

**Tab 10: Other, Old Business**

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

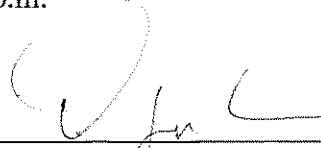
**Tab 11: Other, New Business**

Chairman Wyant announced that he would entertain a motion for a Change Order to the LRWL Contract for the computer upgrade project.

Ms. Vascik made a motion the Board modify the LRWL Contract to hire a Change Management Officer at .75 FTE at \$180.00 per hour and also a Contingency Project Manager at .25 FTE at \$210.00 per hour with a total change of \$698,400.00. The motion was seconded by Ms. Stout. The motion carried unanimously.

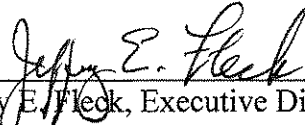
Chairman Wyant asked if there was any other new business to bring before the Board. None was heard.

Chairman Wyant adjourned the December 17, 2014 meeting of the West Virginia Consolidated Public Retirement Board at 1:15 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