

**MINUTES OF THE
WV CONSOLIDATED PUBLIC RETIREMENT BOARD
BOARD OF TRUSTEES MEETING
MEETING OF JULY 15, 2015**

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 10:07 a.m. by Chairman David Wyant.

Roll Call was taken.

Trustees present were:

David Wyant, Esquire, Chairman
Joseph Garcia, representing Governor *Earl Ray Tomblin*
Jeff Waybright, *representing Auditor Glen Gainer III*
Diana Stout, Esquire, *representing Treasurer John Perdue*
Mary Jane Pickens, *representing Acting Cabinet Secretary*
Joseph Bunn, Esquire
Angela Crank
Joe Lynch
D. Todd Murray
Andrew Richardson, Esquire
Jeffrey Vallet

Trustees not present:

Andy Bird
Captain Michael Corsaro
David Stover

A quorum was present.

Due notice had been posted.

Also in attendance were:

Jeffrey E. Fleck, CPRB Executive Director
Terasa Miller, CPRB Deputy Director
Candi Moore, CPRB Executive Assistant
Jeaneen Legato, Esquire, CPRB General Counsel
Lenna Chambers, Esquire, Bowles Rice
Jack DeBolt, CPRB Hearing Officer
Ray Keener, CPRB Hearing Officer
Craig Slaughter, WVIMB, Executive Director
Eric Sanderson, Empower Retirement
Norm Buckwalter, LRWL
Tom Zacharias, Deloitte Consultants
Darden Greene, CPRB Chief Financial Officer
Harry Mandel, CPRB Board Actuary

Melody Bailey, CPRB Actuary Assistant
Steve Stockton, CPRB Chief Compliance Officer
Heather Drake, CPRB Administrative Assistant
Alysia Miller, CPRB Paralegal
Eric Stringer, CPRB IT Staff
Caroline Brady, CPRB PERS Assistant Manager
Barbara Moss, CPRB TRS Assistant Manager
Annamarie Short, CPRB Internal Auditor
Chris Bush, CPRB Uniformed Services
Torrie Williams, CPRB PERS Membership
Davin White, WVEA
Phil Kabler, Charleston Gazette
Chris Ade, Lord Abbott
Samuel Speciale, Charleston Daily Mail

Tab 1: Approval of the May 27, 2015 Meeting Minutes

Mr. Murray made a motion to approve the minutes of the May 27, 2015 meeting of the CPRB. The motion was seconded by Mr. Richardson. The motion carried unanimously.

The minutes are located behind Tab 1.

Tab 2: Reports of the Chairman and Executive Director

Chairman Wyant announced he was making a committee appointment and appointed Mr. Vallet to the Internal Audit Committee.

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

1. Executive Director Fleck reported on the May and June 2015 Teachers' Retirement System (TRS) and Public Employees Retirement System (PERS) retirement and estimate numbers. He reported for May there were 95 TRS Estimates and 38 Retirements and in PERS there were 242 Estimates and 155 Retirements. He reported for June there were 142 TRS Estimates and 49 Retirements and in PERS there were 332 Estimates and 153 Retirements.

Andy Bird arrived to the meeting at 10:10 a.m.

2. Executive Director Fleck announced the CPRB has another Department of Administration Employee of the Month; Lionel Adams, who works in our I. T. Division, was selected as the Employee of the Month for June. Acting Cabinet Secretary Pizatella came to the CPRB to award Lionel with his plaque and

certificates. Executive Director Fleck announced in July's issue of Quotes, Notes and Antidotes there was an article on the Tier II legislation that passed during Legislative Session.

3. Executive Director Fleck reviewed the PERS Retirement Seminars with the Board. He announced there had been a record high attendance this year and we were looking into possibly providing monthly seminars. He announced there were so many in attendance that we had to turn people away because we were at full capacity.
4. Executive Director Fleck reviewed the PERS and TRS educational webinars that we held regarding the Tier II legislation and the changes that were made because of Tier II.
5. Executive Director Fleck reviewed the TRS Retirement Seminars that are being held throughout the State.
6. Executive Director Fleck reported on the Teachers' Defined Contribution (TDC) 2015 Educational Meetings. He announced there have been a total of 47 meetings so far this year, with 539 in attendance. Executive Director Fleck reported on the TDC Realty Investing statistics. He announced that TDC has a total of 4,678 participants and \$420,624,592 in total assets.
7. Executive Director Fleck reviewed the TDC Financial Footnotes with the Board for the summer of 2015 quarter.
8. Executive Director Fleck reported on the Delinquent Employers list.
9. Executive Director Fleck reported on the OASIS/KRONOS new payroll system. He announced that our agency was part of the Wave 1 implementation and CPRB is now live with the new leave and payroll system.
10. Executive Director Fleck provided the Board an update on the COMPASS project; he announced the COMPASS project is 52% complete and is on budget so far. He announced that we have completed our design sessions and will be going live in November with the retirees and payroll.
11. Executive Director Fleck announced that the 2015 Fiduciary Training will take place at 10:00 a.m., before the August 26, 2015 Board Meeting and will be presented by Tom Heywood of Bowles Rice Law Firm. He announced the Board Meeting will begin at 11:00 a.m., immediately following the Fiduciary Training.
12. Executive Director Fleck reported that he has asked Annamarie Short, the CPRB's Internal Auditor to serve as Coordinator for the COMPASS User Acceptance

Testing, whereby staff will be trained on the new Computer System. He informed the Board that he had checked with the Internal Audit Committee and the Committee Members and they agreed.

13. Executive Director Fleck reviewed the PEW Foundation Report, who reports on public pensions. He announced the State of West Virginia was one of 4 state experiences mentioned in the report; in 2003 we were last in the Nation, but over the last decade we improved our funding ratio from 40% to 67% and now we are in the middle of the ranking in the Nation. Director Fleck announced this reflects on the good job this Board is doing fiscally to help fund the Plans, especially the TRS Plan. He announced that on page 7 of the report it stated “over the long run, strong contribution policies have allowed West Virginia to make substantial progress in closing its funding gap to make up a portion of the investment losses from the dot-com crash and the Great Recession.”
14. Executive Director Fleck reviewed with the Board the June 2015 CPRB Financials. He announced that as of June 30, 2015, we are at 71% percent of budget.
15. Executive Director Fleck provided an update to the Board regarding GASB 68; he announced Harry Mandel, Board Actuary, and Darden Greene, CFO, have been working with Gibbons & Kawash, to get the numbers needed for participating employers regarding GASB 68.
16. Executive Director Fleck reviewed the updated Board Member Contact list. He announced if any changes needed to be made to please contact Candi Moore, Executive Assistant.

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 May 31, 2015.

Eric Sanderson, Empower Retirement, reported that overall the TDC Investment Funds performed very well in the second quarter.

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 July 14, 2015, and the Committee makes the following recommendations to the Board:

System	Approved	Denied	Total
PERS	13	2	15
STATE POLICE PLAN B	1-partital Non-Duty		1-partital Non-Duty
TDC	1	0	1
TRS	2	0	2
TRS (TDC Transfers)	8	0	8
TOTAL	25	2	27

Mr. Lynch made a motion the Board accept the Disability Committee's recommendations concerning the disability retirement applications. The motion was seconded by Mr. Vallet. Mr. Garcia recused himself from the vote. The motion carried.

Mr. Murray announced the Committee recommends the Board terminate the DSRS total non-duty disability annuity of Scott Myers effective August 1, 2015 due to his 2014 employment earning exceeding the substantial gainful activity amount allowed by WV statute.

Mr. Lynch made the motion the Board terminate the DSRS total non-duty disability annuity of Scott Myers effective August 1, 2015 due to his 2014 employment earning exceeding the substantial gainful activity amount allowed by WV statute. The motion was seconded by Mr. Bunn. The motion carried unanimously.

Mr. Murray announced the Committee recommends to the Board that unless appropriate information is received from Robert Love by July 31, 2015, to discontinue his annuity effective August 1, 2015 until the first day of the month following compliance, and if not received within 1 year from first notice; his disability annuity be terminated on May 1, 2016.

Mr. Bunn made the motion that unless appropriate information is received from Robert Love by July 31, 2015, to discontinue his annuity effective August 1, 2015 until the first day of the

month following compliance, and if not received within 1 year from first notice; his disability annuity will be terminated on May 1, 2016. The motion was seconded by Mr. Richardson. The motion carried unanimously.

The disability list is located behind Tab 4.

Tab 5: Consideration of Appeals to Hearing Officer – Jack DeBolt

Hearing Officer Jack DeBolt reviewed the appeal of Hadden P. Garvin, Jr., as to whether or not the Applicant is entitled to military service credit in the Teachers Retirement System.

Hearing Officer DeBolt recommended that the request of Hadden P. Garvin, Jr., for military service credit in the Teachers Retirement System be denied.

Mr. Bunn made a motion to adopt the recommendation of the Hearing Officer and deny the appeal of Hadden P. Garvin, Jr. Ms. Pickens seconded the motion. There was discussion on the motion. The motion carried unanimously.

Hearing Officer Jack DeBolt reviewed the appeal of Charles P. McCormick, as to whether or not the Applicant is entitled to military service credit for periods of active duty with the Army Reserve.

Hearing Officer DeBolt recommended that the request of Charles P. McCormick, to acquire military service credit for his two periods of active-duty military service be denied.

Mr. Bunn made a motion to adopt the recommendation of the Hearing Officer and deny the appeal of Charles P. McCormick. Mr. Vallet seconded the motion. There was discussion on the motion. The motion carried unanimously.

Hearing Officer Jack DeBolt reviewed the appeal of Thomas N. Rhodes, as to whether or not the Applicant is entitled to military service credit, and also whether or not the applicant is obligated to re-pay benefits which were predicted on the asserted inappropriate award of military service credit.

Hearing Officer DeBolt recommended that the request of Thomas N. Rhodes, to reinstate his military service credit and to cease efforts to recoup overpayments be denied and that there was

no estoppel.

Mr. Vallet made a motion to adopt the recommendation of the Hearing Officer and deny the appeal of Thomas N. Rhodes. Ms. Stout seconded the motion. There was discussion on the motion after a voice vote. Chairman Wyant asked for a show of hands in favor and opposed to the motion. There was 1 in favor of the motion and 7 against the motion. The motion failed.

Mr. Bunn made a motion that we reduce the amount paid to Mr. Rhodes currently, based upon our erroneous belief that he received an honorable discharge.

Chairman Wyant announced he was going to read the legislative regulation that this Board has adopted: "The Board shall accept the recommendation of the Hearing Officer unless an abuse of discretion is found to have occurred or unless the recommendation is found to be based upon an error in facts contrary to law." Chairman Wyant then announced the Board needs to make a motion to address if the Hearing Officer has abused his discretion or was in contrary to the facts of law.

Mr. Bunn made a motion the Board reconsider the previous motion. Mr. Richardson seconded the motion. The motion carried unanimously.

Mr. Bunn made a motion to adopt the recommendation of the Hearing Officer and deny the appeal of Thomas N. Rhodes. Ms. Crank seconded the motion. The motion carried unanimously.

Consideration of Appeals to Hearing Officer – Ray Keener

Chairman Wyant announced that pursuant to Board practice, the Board should go into Executive Session to discuss medical issues and contractual matters.

Ms. Stout asked those staff members involved with the Computer Project to remain in Executive Session. Hearing no objection, the request was granted.

Mr. Vallet made a motion the Board go into Executive Session to discuss medical issues and contractual matters 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 11:00 a.m.

Chairman Wyant reconvened the Public Session of the July 15, 2015 meeting of the CPRB from Executive Session at 11:37 a.m. Chairman Wyant announced the Board was in Executive

Session to discuss medical issues and contractual matters 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 Officer, Ray Keener.

Hearing Officer Keener reviewed the appeal of Michael T. Parker as to whether or not the Applicant is physically or mentally totally and probably permanently incapacitated for employment within the meaning of and within the character of proof required by Section §5-10-25 of the West Virginia Code.

Hearing Officer Keener recommended that the request of Michael T. Parker for disability retirement benefits from the Public Employees Retirement System be denied.

Mr. Richardson made a motion to adopt the recommendation of the Hearing Officer and deny the appeal of Michael T. Parker. 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

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 LTHS case of Gerald Bonnell; on March 20, 2015, a PERS member and former city of Salem road crew supervisor was convicted of the felony offense of conspiracy to commit possession of a telecommunication device by an inmate. During the April 2015 Board meeting, the Board moved to disqualify him from participating in PERS because he rendered *less than honorable service*. Ms. Legato informed the Board that Mr. Bonnell has requested a judicial determination of the Board's decision.

Ms. Legato reviewed the LTHS case of Rex Toney, a TRS member and former Lincoln County bus driver who entered a plea of guilty to the felony offense of *Sexual Abuse in the First Degree*. During the April 2015 Board meeting, the Board moved to disqualify him from

participating in TRS because he rendered *less than honorable service*. Ms. Legato announced that Mr. Toney has also requested a judicial determination of the Board's Decision.

Ms. Legato reviewed the case of the *Russell Grimmett v. CPRB*. Ms. Legato announced opposing counsel's response brief is due on August 11, 2015, and our reply to their response is due on August 25, 2015. Ms. Legato announced oral argument has been scheduled for September 10, 2015 at 10:00 a.m., and yesterday we filed our brief in Circuit Court.

Ms. Legato reviewed the case of the *Cynthia Ringel-Williams v. CPRB*. Ms. Legato reviewed the Court Order Affirming the Boards Final Order. Ms. Ringel-Williams has appealed the decision. Ms. Legato announced that the brief from opposing counsel is due June 29, 2015 and that our brief is due on August 13, 2015 or within forty five days after the filing of opposing counsel. On June 26, 2015, Mr. Katz filed a brief in support of the petition. Our response brief is due August 10, 2015.

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 *Patricia Jones v. CPRB and Judy Vannoy Akers*.

Ms. Chambers updated the Board on the case of *W.Va. Investment Management Board, et. al., v. the Variable Annuity Life Insurance Company of America*. Ms. Chambers announced that a scheduling order is to be issued soon.

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

Executive Director Fleck reviewed with the Board the report from Pullin, Fowler, Flanagan, Brown & Poe on the case of *Cheryl Dougherty, et al. v. CPRB et al.* Executive Director Fleck reported as of June 16, 2015 the CPRB has turned over all of the documents that the court

has asked us to provide. They are now in the process of trying to identify class members and once that process is complete, we will move forward with a motion to the court for approval for a settlement; that date is tentatively set for July 29, 2015.

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

Executive Director Fleck reviewed with the Board the report from Shuman, McCuskey & Slicer on the case of *Manuel Cartelle v. City of Beckley and CPRB*. Executive Director Fleck announced there is a motion to dismiss this case that is pending before Judge Webster. He announced that mediation was held on July 10, 2015 and Deputy Director Terasa Miller attended. The mediation was unsuccessful.

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

Tab 7: Committee Updates

Computer Systems Update Committee

Ms. Stout announced the Computer Systems Update Committee met on July 10th and again this morning to discuss a new Change Order from our vendor, Deloitte Consultants, in regards to the legislation that was passed during the 2015 Legislative Session regarding Senate Bill 529, the Tier II Legislation. The Computer Systems Update Committee has recommended approval of a Change Order but there are additional issues that have been raised by our Consultant, Norm Buckwalter of LRWL. Ms. Stout asked Mr. Buckwalter to review the change order with the Board.

Norm Buckwalter of LRWL and the CPRB Project Manager and Consultant reviewed the new change order with the Board.

Chairman Wyant announced that the changes are necessitated because of the legislative action which was to create Tier II for TRS, PERS, Plan B and the Military TRS credit action. Executive Director Fleck announced that with this Change Order, all of these changes will be fully functional for operation when the new computer system goes live next year.

Ms. Stout made a motion to approve and authorize Executive Director Fleck to execute a Change Order in the form substantially similar to that which we currently have before us, giving he and Board Counsel authority to deal with final negotiation's for technical revisions to this change

order, and in addition, under the “Conditions” on page 2, to strike and delete the sentence that says: “Should the WVCPRB fail to meet any of these conditions or should other WVCPRB caused delays affect the timing, scope, cost or other issues related to this project, Agreement Section 9.6 will apply and a Change Order will be used to address the impacts.” Ms. Stout announced this is above and beyond what the Committee recommended. Mr. Garcia seconded the motion. The motion carried unanimously.

The minutes of the Committee are located behind Tab 7.

Tab 8: Public Comment Received on Title 162 Series 4

Deputy Director Miller reviewed the Public Comment received on Title 162 Series 4 with the Board. She announced that only one public comment was received and it was regarding the Teachers Defined Benefit Retirement System which is covered under Series 4. She announced the public comment received from Andrew Katz of the WVEA and was in regards to the definition of the effective retirement date. Ms. Miller informed the Board that this request is not in compliance with what the Statute says.

Ms. Miller recommended to the Board that we respond to Mr. Katz that we received and considered his public comment. However, pursuant to §18-7A-26, subsection (f), which states: “in no case, however, shall a retirant receive more than four monthly payments which are retroactive after the retirement board receives his or her application for annuity.” We must comply with the Statute and make sure that our legislative rule is in line with the Statute. Therefore, no change will be taken by the Board.

Mr. Richardson made a motion the Board adopt the recommendations of the Deputy Director and to authorize staff to respond to the Public Comment from Mr. Katz that the regulation is subject to the Statute and to authorize staff to submit Title 162, Series 4 to the Governor’s office for approval, then to file it with the Secretary of State’s office without changes. Mr. Vallet seconded the motion. There was discussion on the motion. The motion carried unanimously.

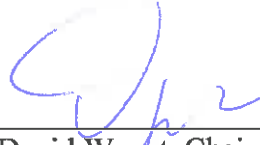
Tab 10: Other, Old Business

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

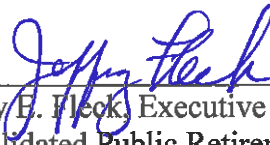
Tab 11: Other, New Business

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

Chairman Wyant adjourned the July 15, 2015 meeting of the West Virginia Consolidated Public Retirement Board (CPRB) at 11:55 a.m.



David Wyant, Chairman
Consolidated Public Retirement Board



Jeffrey E. Fleck, Executive Director
Consolidated Public Retirement Board