

**MINUTES OF THE
WV CONSOLIDATED PUBLIC RETIREMENT BOARD
BOARD OF TRUSTEES MEETING
MEETING OF JUNE 7, 2017**

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 10:11 a.m. by Chairman David Wyant.

Roll Call was taken.

Trustees present were:

David Wyant, Esquire, Chairman
Jeff Waybright, *representing Auditor John B. McCuskey*
Diana Stout, Esquire, *representing Treasurer John Perdue*
Cabinet Secretary John A. Myers
Andy Bird
Joseph Bunn, Esquire
Captain Michael Corsaro
Michael Haney
Mike McKown
D. Todd Murray
Jeffrey Vallet

Trustees absent were:

Jason Pizatella, *representing Governor James C. Justice, II*
Angela Crank
Joe Lynch
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 Kinslow, CPRB Executive Assistant
Jeaneen Legato, Esquire, CPRB General Counsel
Mark Adkins, Esquire, Bowles Rice
Darden Greene, CPRB Chief Financial Officer
John Beane, CPRB IT Manager
Heather Drake, CPRB Administrative Assistant

Melody Bailey, CPRB Actuary Assistant
Tina Baker, CPRB Internal Auditor
Alysia Miller, CPRB Paralegal
Eric Stringer, CPRB IT Staff
Caroline Brady, CPRB Assistant Manager
Tom Sauvageot, WVIMB Investment Officer
Eric Sanderson, Empower Retirement
Chris Meadows, Empower Retirement
Meir Schecter, LRWL
Ben Lott, LRWL Chief Operating Officer
Tom Zacharias, Deloitte
Satish Lalwani, Deloitte
Davin White, WVEA
Van Ballard, Belle City Counsel

Tab 1: Approval of the April 19, 2017 Meeting Minutes

Mr. Waybright made a motion to approve the minutes of the April 19, 2017 meeting of the CPRB. The motion was seconded by Captain Corsaro. The motion carried unanimously.

Tab 1: Approval of the May 25, 2017 Emergency Meeting Minutes

Mr. Waybright made a motion to approve the minutes of the May 25, 2017 Emergency meeting of the CPRB. The motion was seconded by Cabinet Secretary Myers. The motion carried unanimously.

The minutes are located behind Tab #1.

Tab 2: Reports of the Chairman and Executive Director

Chairman Wyant announced he has formed a new committee, the Delinquent Employers Collection Committee. The members are:

Captain Corsaro, Chairman
Mr. McKown
Mr. Waybright
Mr. Vallet
Ms. Stout

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

1. Executive Director Fleck reported on the April and May 2017 Teachers' Retirement System (TRS) and Public Employees Retirement System (PERS) retirements and

- requested estimate numbers. He reported for April there were 264 TRS estimates and 43 retirements and in PERS there were 195 estimates and 243 retirements. For May, there were 87 TRS estimates and 237 retirements and in PERS there were 21 estimates and 7 retirements.
2. Executive Director Fleck reported to the Board on a furlough bill that is currently in the House during the Special Session and discussed the possible effect on the State, staff and staff's leave balances; and the CPRB's ability to process the retirement checks and other pertinent business of our agency.
 3. Executive Director Fleck announced there was an article in the May addition of Quotes, Notes & Anecdotes of two of the CPRB employees with years of service; John Beane, CPRB Chief I.T. Manager with 35 years of service and Tammy White, CPRB TRS Retirement Advisor with 20 years of service.
 4. Executive Director Fleck announced there were several articles in the June addition of Quotes, Notes & Anecdotes about our COMPASS Computer System going live on May 1, 2017; the bills that effect our agency from the Legislative Session; and the CPRB being recognized for the Certificate of Achievement for Excellence in Financial Reporting (CAFR) for Fiscal Year 2016.
 5. Executive Director Fleck reported on the Teachers' Defined Contribution (TDC) 2017 Educational Meetings. He announced there have been a total of 46 meetings so far this year in TDC, with 544 in attendance. He announced as of May 31, 2017, there were a total of 4,376 participants and \$461,045,094 in total assets in the TDC Plan.
 6. Executive Director Fleck reported on the Delinquent Employers. He announced that Green Acres is continuing to make their payments on time. Mingo County PSD has paid their Employee Contributions in full, but they still owe \$28,733.47 in Employer Contributions.
 7. Executive Director Fleck updated the Board on the COMPASS Computer Project. He announced that Phase 4b, for the active employees and employers went live on May 1, 2017.
 8. Executive Director Fleck announced that Meir Schechter from LRWL was in attendance to give a presentation to the Board regarding the new computer system and its current status. Mr. Schechter provided a PowerPoint presentation for the Board in which he indicated that the project should be considered a success based upon LRWL's experience with other computer system implementations throughout the Country. Mr.

Schechter also indicated that the expectations would be six months to a year before staff and employers would become acclimated to the COMPASS System.

9. Executive Director Fleck reviewed the April and May 2017 financials with the Board. He announced that as of May 31, 2017, we are at 40.75% of budget.
10. Director Fleck reviewed an article from the Charleston Gazette regarding CPRB's new COMPASS Computer System.
11. Executive Director Fleck announced Mrs. Kinslow has updated the Board Member list and has provided one for each of you.
12. Executive Director Fleck announced there are two contracts that are up for renewal that needs the Board approval. The first one is our financial auditor, Suttle & Stalnaker in the amount of \$262,000.00 for a one year renewal beginning July 1, 2017, and is under the same terms and conditions.

Mr. Bunn made a motion the Board approve a one year renewal with the same terms and conditions for Sutter & Stalnaker in the amount of \$262,000.00. Mr. Vallet seconded the motion. The motion carried unanimously.

13. Executive Director Fleck announced the second contract for renewal is Buck/Conduent. This is an open-end contract and we have paid out approximately \$90,000.00 so far and it is for a one year renewal with the same terms and conditions.

Mr. Bunn made a motion the Board approve a one year renewal with the same terms and conditions for the Buck/Conduent contract. Captain Corsaro seconded the motion. The motion carried unanimously.

14. Executive Director Fleck reported on the Legislative Update. He reviewed the current status of the budget bill, the furlough bill and a list of other bills that are in Special Session at the Legislature.

Captain Corsaro asked Director Fleck what is the expected time to get a retirement estimate now that COMPASS has gone live. Director Fleck announced that it takes longer right now, approximately eight to ten weeks, but once we get the new system running smoothly in approximately six months, it will take less time.

Deputy Director Miller announced, it is currently taking approximately six to eight weeks to receive a retirement check.

Captain Corsaro reported that some staff has informed him that it has taken up to three months to receive their estimate.

Deputy Director Miller replied that it does take approximately three months during the transition into the new computer system and while staff are learning the new system.

Captain Corsaro asked the Executive Director to let the Board know where we are with the new computer system and with members receiving an estimate and their retirement checks in a more timely manner.

Executive Director Fleck informed him that he will give a report during the next Board Meeting in July.

The Reports of the Chairman and Executive Director are located behind Tab #2.

Tab 3: Plans Investment Data

Tom Sauvageot, Investment Officer of the West Virginia Investment Management Board (WVIMB) reviewed the Plan's Investment Returns for March and April 2017. He announced that plan returns were up 12.6% to 12.7%, which is above our rate of 7.5%. He announced that things are moving in the right direction.

Eric Sanderson of Empower Retirement reviewed the TDC Investment Data and Investment Performance with the Board for the period ending April 28, 2017.

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 June 6, 2017. The Committee approved the staff's recommendations and made the following recommendations to the Board for their approval.

System	Approved	Denied	Total
PERS	9	3	12
State Police-Plan A	1 Partial Non-Duty	0	1 Partial Non-Duty
TRS	2	0	2
TRS (TDC Transfers)	4	0	4
TOTAL	16	3	19

Mr. Vallet 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. Ms. Stout recused herself from the vote. The motion carried.

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.

Captain Corsaro 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. Murray. The motion carried unanimously.

The Board went into Executive Session at 11:00 a.m.

Chairman Wyant reconvened the Public Session of the June 7, 2017 meeting of the CPRB from Executive Session at 11:20 a.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 on the Agenda, 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 LTHS case of Terri Lawhorn, a PERS member and former employee at the Fayette County Public Defender's Office who entered a plea of guilty to two felony counts of forgery on March 23, 2017. She received a suspended 1 to 10-year sentence and was placed on probation for 36 months. She was also ordered to serve 120 days in the regional jail (on weekends).

Ms. Legato recommended the Board disqualify and terminate the PERS retirement of Terri Lawhorn.

Captain Corsaro made a motion the Board accept the recommendation of Counsel and disqualify and terminate the retirement in PERS of Terri Lawhorn. The motion was seconded by Mr. Murray. The motion carried unanimously.

Ms. Legato updated the Board on the LTHS case of Mark Cowden, a DSRS retiree who was convicted on October 17, 2016 of a federal felony count of Deprivation of Rights while acting under color of law. She announced on May 17, 2017, we appeared for a status conference, at which time Judge Kaufman scheduled another status conference for September 18, 2017, to await the outcome of Mr. Cowden's pending criminal appeal.

Ms. Legato updated the Board on the case of Ollie Hunting v. CPRB. She announced this is a TRS appeal regarding the inclusion of a lump sum settlement as part of the final average salary. By Order entered on May 16, 2017, the Court scheduled this case for oral argument under Rule 19 for September 19, 2017.

Ms. Legato informed the Board that she sent letters to all of the delinquent employers, informing them that they had 15 days to render payment of their employer and employee contributions to the CPRB or a letter will be sent to the State Auditor's Office. Also, the letters were cc'd to their Board of Director's, City Council's and Mayor's.

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

Report from Outside Legal Counsel – Mark Adkins

Mr. Adkins, Outside Legal Counsel with Bowles Rice, updated the Board on the case of Thomas Ward v. CPRB. He 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 has 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 for 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.

Mr. Adkins updated the Board on the case of *Gloria Haney-Nichols v. CPRB*. He announced that in March, Ms. Haney-Nichols appealed the decision of CPRB not to comply with her request to change the coding on her 1099-R, from a code 7 ("normal distribution") to a code 3 ("disability"). Ms. Haney-Nichols has been receiving disability retirement distributions from PERS for several years. CPRB sent her a letter dated March 13, 2017, explaining that CPRB cannot code her 1099-R as a code 3 because it cannot certify her disability. This is because disabilities that meet the requirements of a particular plan administered by CPRB may not meet the standard for a federal disability. A hearing was held before Hearing Officer Gary Pullin on May 23, 2017. At the hearing, it became clear that M. Haney-Nichols had previously received inconsistent tax advice and believed that the coding would make a difference on whether her disability retirement benefits were taxable. By the end of the hearing, Ms. Haney-Nichols seemed to have a better understanding regarding why CPRB had included code 7 on her 1099-R. We are awaiting a decision for the Hearing Officer.

Mr. Adkins 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 Applicants are seeking a declaratory judgment. The parties jointly submitted stipulations to the Hearing Officer and agreed that no witness testimony was necessary. The parties also agreed to waive a hearing. The Applicants filed an Initial Brief; CPRB filed a Response and on January 27, 2017, Counsel for petitioners filed the Applicants' Reply Brief. On March 21, 2017, CPRB submitted a Supplemental Filing providing a copy of the hearing examiner's decision in another related administrative matter, *In Re: Randall W. Myers*. Lonnie Simmons then filed a reply brief on March 30, 2017. The briefing is now complete and we are awaiting a decision from the Hearing Officer.

The parties had previously agreed that no hearing was necessary because the issue raised a legal question and not a factual question. Nevertheless, the Hearing Officer, Gary Pullin, requested a hearing

and a hearing was held on May 25, 2017. At the hearing, the Hearing Officer raised several questions and concluded with a request that the parties provide further briefing on the issue of which version of the statute on “correction of errors” (W.Va. Code 5-10-44) applied to the DNR’s appeal. Petitioner’s brief is due on June 8, 2017. Mr. Simmons agreed that based on his vacation schedule, CPRB could file its response on or about July 10th. Then, Mr. Simmons would have 10 days to file a reply, if he so chooses.

Ms. Stout announced, CPRB just filed an appeal on the VALIC matter, and asked Mr. Adkins if he knew when the Board would hear something. Mr. Adkins informed her that at this time, he did not know.

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

Tab 6: Committee Reports

Accounting & Investment Committee

Chairman Bunn announced the A&I Committee met this morning and has a recommendation for the Board’s approval.

He announced the funds in Vanguard increased above the threshold and need to qualify for a cheaper share class, thus, the A&I Committee approved and recommends the following changes be made regarding the Vanguard accounts:

Transfer the account balances of the Vanguard Small Cap Index Inv, to Vanguard Small Cap Index I;

Transfer the account balances of the Vanguard Large Cap Index Investor to Vanguard Large Cap Index Institutional; and

Transfer the account balances of the Vanguard Interm-Term Bond Index Inv to Vanguard Interm-Term Bond Index I.

He announced lower expenses create opportunity for increased performance of 2 to 4 basis points.

Cabinet Secretary Myers made a motion the Board accept and approve the transfer of the Vanguard accounts recommended by the A&I Committee. Mr. Bird seconded the motion. The motion carried unanimously.

The minutes of the Accounting & Investment Committee are located behind Tab #6.

Delinquent Employers Collection Committee

Chairman Corsaro announced the Delinquent Employers Collection Committee met on May 31, 2017, and discussed various ways of dealing with the CPRB delinquent accounts. He announced there was no action taken during the meeting.

The minutes of the Delinquent Employers Collection Committee are located behind Tab #6.

Executive Director & Actuary Review Committee

Chairman Wyant announced the Executive Director & Actuary Review Committee met on March 7, 2017, and discussed options for placing ads to obtain a new CPRB Actuary, accepted applications, narrowed down the applicants to three and will have final interviews on July 11, 2017.

The minutes of the Executive Director & Actuary Review Committee are located behind Tab #6.

West Virginia Investment Management Board (WVIMB) Representatives Committee

Chairman Murray announced the WVIMB Representatives Committee met yesterday and reviewed applications for representatives to the West Virginia Investment Management Board for 2017 - 2018. The Committee approved and makes the following recommendations to the Board for their approval:

<u>Plan:</u>	<u>Representative:</u>
PERS	Melissa Garretson Smith
TRS	Tony Lautar, Jr.
JRS	Judge John A. Hutchison
Plan A	William J. Scott
Plan B	Reginald Patterson
DSRS	David D. Gentry
EMSRS	Mark Kerns

Captain Corsaro made a motion the Board approve the recommendations presented by the WVIMB Representatives Committee. Mr. Bird seconded the motion. The motion carried unanimously.

The minutes of the WVIMB Representatives Committee are located behind Tab #6.

Tab 7: Other, Old Business

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

Tab 8: Other, New Business

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

Chairman Wyant informed the CPRB staff that he has been getting complaints about the CPRB phone system. The complaints include: that it is difficult to get through to the CPRB staff, difficulty talking to a live person, or getting voice mail.

Executive Director Fleck informed the Chairman that the CPRB has been having trouble with the phones for years now. Executive director Fleck said he has had the same problem, he would call-in and the phones will not even ring, or go straight into voice mail, or his call would go into a loop that was never-ending. He informed the Board that he spoke with John Dunlap, the Director of the Office of Technology (O.T.) and was informed that we are at the top of their list to receive an upgrade of our phone system.

Chairman Wyant directed Executive Director Fleck to keep working on it and to keep the Board informed on the status of the phone system and the upgrade.

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

Chairman Wyant adjourned the June 7, 2017 meeting of the West Virginia Consolidated Public Retirement Board (CPRB) at 11:36 a.m.



David Wyant, Chairman
Consolidated Public Retirement Board



Jeffrey E. Fleck, Executive Director
Consolidated Public Retirement Board