

PUBLIC EMPLOYEES' RETIREMENT BOARD
100 N. Park Avenue, Room 201
Helena, MT 59601

Thursday, August 14, 2014

MINUTES

Scott Moore, President
Warren Dupuis, Member
Mike McGinley, Member
Maggie Peterson, Member
Melissa Strecker, Member
Timm Twardoski, Member
Sheena Wilson, Member

MPERA Staff

Dore Schwinden, Executive Director
Melanie Symons, Chief Legal Counsel
Barbara Quinn, Fiscal Services Bureau Chief
Patricia Davis, Member Services Bureau Chief
June Dosier, Information Technology Bureau Chief
Hollie Koehler, Internal Auditor
Jenny Weigand, Education & Training Supervisor
Kate Talley, Legal Counsel
Fallon Stanton, Legal Counsel
Ali Rice, DC Accountant
Cynthia Pearson, Executive Assistant

Public

Mike O'Connor, Jessie Luther, AMRPE
Jerry Williams, MPPA
Diane Fladmo, MEA-MFT
Sheryl Wood, MACO
K.V. "Ginger" Aldrich, Sheri Scurr, Legislative Services Division
Donald Eibsen, Buck Consultants
John Borne, Ann Cappel, Great-West Financial
Mariko Boswell, Brett Gorman, Sasha Talcott, PIMCO
Mark Pherson, Transamerica Stable Value Solutions (*via phone*)
Carmelina Ward, State Street Bank-Kansas City (*via phone*)
Karl Siderits, Jefferson City Volunteer Fire Department
Yvette Englert, Department of Administration – Human Resources

Call to Order

President Scott Moore called the meeting to order at 8:30 a.m.

Roll Call

Six members of the Board were present. Member Warren Dupuis was excused.

Introduction of New Attorney

MPERA's new legal counsel, Fallon Stanton, was introduced.

Public Introductions

At the Board's request, public attendees introduced themselves.

Public/Member Comment

There was no public comment.

DC Plans – Annual Vendor Updates

Presentations were given by five vendors to inform the Board on services being provided.

Buck Consultants, represented by Donald Eibsen

Great-West Financial, represented by John Borne and Ann Cappel

PIMCO, represented by Mariko Boswell, Brett Gorman, and Sasha Talcott

Transamerica Stable Value Solutions, represented by Mark Pherson (*via phone*)

State Street Bank-Kansas City, represented by Carmelina Ward (*via phone*)

Presentation materials are available upon request at the MPERA office.

Informal Consideration – Jefferson City VFD, Annual Certificate, VFCA

This agenda item was pulled from the Consent Agenda and presented early to accommodate Karl “Bud” Siderits, Fire Chief of the Jefferson City Volunteer Fire Department, who was present to provide information to the Board.

Barbara Quinn, MPERA Fiscal Services Bureau Chief, presented information on the informal consideration of the Jefferson City VFD, which has requested the Board accept a VFCA amended annual certificate for FY 2009 and a late-filed VFCA annual certificate for FY 2010. The annual certificates were signed by the Fire Chief and notarized, and included training documentation by fiscal year as is required.

Mr. Siderits provided background information and responded to questions from the Board.

Ms. Quinn said staff recommendation is to grant a year of credited service to the two members listed on the amended FY 2009 VFCA annual certificate and also to the eight members listed on the late-filed FY 2010 VFCA annual certificate.

There was discussion regarding ways to improve VFCA record-keeping through educational opportunities.

Motion: *Member Melissa Strecker moved to grant credited service for the VFCA annual certificates, as presented.*

Second: *Member Sheena Wilson*

No public comment.

Vote: 6/0

Consent Agenda

1. Board Meeting Minutes – *June 12, 2014; June 30, 2014*
2. Informal Consideration – Culbertson VFD, Annual Certificate, VFCA
3. Informal Consideration – Twin Bridges VFD, Annual Certificate, VFCA
4. Informal Consideration – Jefferson City VFD, Annual Certificate, VFCA
5. Deferred Compensation (457) Plan Adoption Agreement – Medicine Lake Schools
6. PERS Local Government Contract – Flathead Joint Board of Control

7. Out-of-State Travel – NAGDCA Conference, San Antonio, September 14-17 – Warren Dupuis, Melissa Strecker, Dore Schwinden, Melanie Symons, Jenny Weigand
8. Out-of-State Travel – Institutional Investor Forums, San Francisco, CA, September 15-17, Patricia Davis
9. Out-of-State Travel – P2F2 Conference, Nashville, TN, October 26-29 – Barbara Quinn
10. Notices of Amendment of Rules Adopting DCRP and 457(b) Plan Documents and the DCRP Investment Policy Statement by Reference
 - a. Plan Documents amended to define “Participants” and to incorporate amendments - Notice of Adoption, Adoption Order
 - b. DCRP Investment Policy Statement amended to include a Socially Responsible Investment Option - Notice of Adoption, Adoption Order

President Scott Moore noted the Board already acted on item #4 (Informal Consideration – Jefferson City VFD, Annual Certificate, VFCA) and further requested that item #10-b (DCRP Investment Policy Statement amended to include a Socially Responsible Investment Option) be pulled from the consent agenda for further discussion by the Board later in the meeting.

Motion: *Member Sheena Wilson moved to approve the consent agenda as presented with the exception of item #10-b, which was pulled for further consideration.*

Second: *Member Timm Twardoski*

No public comment.

Vote: 6/0

Board/Staff Luncheon

President Scott Moore called for a break from noon – 1 p.m. MPERA staff and DC Plan vendors joined the Board for a potluck lunch.

Informal Consideration – Georgetown Lake Fire Service Area VFD, Annual Certificate, VFCA

Barbara Quinn, MPERA Fiscal Services Bureau Chief, presented information on the informal consideration of the Georgetown Lake Fire Service Area Volunteer Fire Department, which has requested the Board grant service years to the members listed on late filed annual certificates for FY 2009, FY 2010, FY 2011 and FY 2012. The annual certificates were signed by the Fire Chief and notarized, and included training documentation by fiscal year as is required.

Ms. Quinn introduced Fire Chief Bart Bonney, who was present to provide information and answer questions from the Board.

Ms. Quinn noted that, under current law, informal consideration can only be given to the three prior years for late-filed annual certificates. In addition, annual certificates may only be amended one time. This makes it difficult to add any members who were dropped or overlooked, so it is important to ensure the member rosters are complete. If the consideration is grandfathered, then more years can be considered.

Kate Talley, MPERA Legal Counsel, explained that the law changed in 2011 to limit the prior years to only three and those VFD who were involved in the annual certification process before the law changed were grandfathered and, therefore, not limited to three years. The Board inquired as to whether the four years of late-filed annual certificates met the intent of the law.

Motion: *Member Mike McGinley moved to grant service credit to members of the Georgetown Lake Fire Service Area VFD for FY 2010, FY 2011 and FY 2012.*

Second: *Member Sheena Wilson*

The Board continued to discuss why four prior years of late-filed certificates were requested to be approved if only three prior years can be considered. There also was discussion regarding whether FY 2009 should be considered as it appears the Georgetown Lake VFD was attempting to prepare the paperwork for submission at that time. President Scott Moore asked the Board to consider what would be consistent and equitable treatment based on past Board actions in similar matters.

Vote: 3/3. *Motion fails. President Scott Moore, Member Sheena Wilson and Member Melissa Strecker opposed.*

Ms. Quinn clarified the timeline of the documentation submitted for annual certification. She also noted that communication between MPERA and the Georgetown Lake VFD diminished around 2009 and was reinitiated around 2012.

The Board asked Melanie Symons, MPERA Chief Legal Counsel, to provide her thoughts and recommendations. She stated she would probably approve all years of annual certification, not just the four years currently requested by Georgetown Lake VFD.

There was further discussion regarding the law governing late-filed annual certificates.

Motion: *President Scott Moore moved to grant service credit to members of the Georgetown Lake Fire Service Area VFD for FY 2009, FY 2010, FY 2011 and FY 2012 as presented.*

Second: *Member Melissa Strecker*

Vote: 3/3. *Motion fails. Members Mike McGinley, Maggie Peterson and Timm Twardoski opposed.*

The Board asked for further legal guidance to help better understand the various timing issues of this request. Fallon Stanton, MPERA Legal Counsel, stated she believed the Georgetown Lake VFD had timely filed the FY 2007 annual certificate and all that was missing then was the department's documentation of VFCA-qualified status. Therefore, FY 2007 also should be considered for approval.

Ms. Quinn said the Georgetown Lake VFD received VFCA-qualified status in 2009, so she thought approval should begin in that year and move forward as long as communication had continued.

Ali Rice, MPERA DC Accountant, provided background information regarding how MPERA determined the years of late-filed annual certification to include in the request.

Ms. Quinn said she felt there were two ways to look at the situation, depending on whether there was continuous communication: (1) allowing for the three prior years from the most current filed year, which would be FY 2010, FY 2011 and FY 2012, or (2) allowing for all years beginning with the year the VFD received VFCA-qualified status, which would be FY 2009, FY 2010, FY 2011 and FY 2012.

Motion: *Member Mike McGinley moved to grant service credit to members of the Georgetown Lake Fire Service Area VFD for FY 2009, FY 2010, and FY 2011 only.*

Second: *None*

Vote: *No vote taken. Motion fails.*

When asked by the Board for his thoughts, Fire Chief Bonney stated he would be satisfied to receive approval for the three years prior to his starting work at the Georgetown Lake VFD, which happened in 2012.

Motion: *President Scott Moore moved to grant service credit to members of the Georgetown Lake Fire Service Area VFD for FY 2010, FY 2011 and FY 2012.*

Second: *Member Mike McGinley*

Vote: *5/1. Motion passes. Member Melissa Strecker opposed.*

The Board requested training at a future meeting on VFCA annual certification, so as to better understand the process and, ultimately, to provide more equitable treatment to volunteer fire departments on this issue.

Notice of Amendment of Rules – Socially Responsible Investments

Melanie Symons, MPERA Chief Legal Counsel, provided information on the proposed amendment by rule of the DCRP Investment Policy Statement to include a socially responsible investment option. Ms. Symons explained that the SAVA Interim Committee would be discussing this topic at their meeting tomorrow (August 15) and asked for this item to be pulled from the Board's agenda until such time as SAVA takes action on rules regarding socially responsible investments.

Both Melanie Symons, MPERA Chief Legal Counsel, and Dore Schwinden, MPERA Executive Director, provided insight into SAVA's discretion in the rule making process and its impact regarding this topic.

President Scott Moore asked Ginger Aldrich of Legislative Services Division what possible objection there might be to adding a socially responsible investment option. Ms. Aldrich responded that she thought there would be no objection and it would merely be an opportunity for SAVA to discuss the matter and learn more about these types of investments, which tend to be defined in a variety of ways. She said it would be feasible for the Board to give its approval today and authorize MPERA to refrain from sending the proposed rule amendment to the Secretary of State's Office until after SAVA discusses the matter.

Member Sheena Wilson suggested the Board handle the matter through a brief conference call once SAVA has taken action.

Motion: *Member Sheena Wilson moved to postpone the Board's action on the proposed amendment by rule of the DCRP Investment Policy Statement to include a socially responsible investment option until after SAVA meets.*

Second: *President Scott Moore*

No public comment.

Vote: *6/0*

DC/457 Plans Administration

Patricia Davis, MPERA Member Services Bureau Chief, presented information on administration of the Defined Contribution Retirement Plan and the Deferred Compensation/457 Plan.

Transamerica Contract Extension

Ms. Davis asked the Board to extend Transamerica's contract for wrap services, which expires on September 3, 2014, through the end of 2014 (an additional four months).

Motion: *Member Sheena Wilson moved to extend the Transamerica contract through December 31, 2014.*

Second: *Member Melissa Strecker*

No public comment.

Vote: *6/0*

EIAC Re-Appointment

Ms. Davis asked the Board to approve the re-appointment of Barbara Wagner, Economist for the

Department of Labor & Industry, to the Employee Investment Advisory Council (EIAC) for a three-year term beginning August 1, 2014 and ending July 31, 2017. Ms. Wagner has been a member of EIAC since 2009.

Motion: *President Scott Moore moved to accept the recommendation to re-appoint Barbara Wagner to EIAC for a three-year term.*

Second: *Member Sheena Wilson*

Vote: 6/0

Election of Board Officers

President Scott Moore noted the position of Board Vice President is currently unfilled and asked the Board to consider making an appointment at this time.

Motion: *Member Timm Twardoski moved to nominate Mike McGinley for the position of Board Vice President.*

Second: *Member Sheena Wilson*

Vote: 5/0. *Motion passes. Member Mike McGinley abstained from the vote.*

FY 2014 Budget – Final Review

Barbara Quinn, MPERA Fiscal Services Bureau Chief, reported on the agency's final budget for Fiscal Year 2014. She noted that some minor changes by the Office of Budget and Program Planning had occurred since this budget was given to the Board, so the bottom line is off by about \$10,000.

She said overall operating budget for FY 2014 is in good shape. There are very few areas of overspending. There are, however, a few areas where underspending is noted, such as medical services, printing, office supplies, postage/mailing, travel, office rent, and construction; these areas have been adjusted in the FY 2015 budget.

Ms. Quinn also discussed the budget for the MPERAtiv Project and the MPERAtiv carryover, as well as the expenditures related to the DC Plans.

Investments Verbal Update

Member Sheena Wilson reported the Board of Investments is seeing excellent performance from investments, with more than a 13% return over the past five years. She extended an open invitation to attend BOI meetings; the next one is scheduled for August 19-20. She noted that Dore Schwinden, MPERA Executive Director, will be presenting information to BOI at their October and November meetings.

Committee Updates

Audit Committee

Chairman Mike McGinley said the committee met on June 12, and plans to meet next on October 9.

Legislative Committee

Chairwoman Sheena Wilson reported the committee will meet today (August 14) after the Board meeting. No future meetings are scheduled at this time.

Personnel Committee

Chairman Timm Twardoski said the committee plans to meet in the next couple of weeks to continue its work on the performance appraisal process for MPERA's executive director.

Policy Committee

Chairwoman Melissa Strecker set the committee's next meeting for October 8 at 4 p.m. (the day prior to the Board's October meeting).

There was discussion about whether there is need for a Board Retreat, including possible formats.

Executive Director's Verbal Update

Dore Schwinden, MPERA Executive Director, provided the Board with informational updates.

- He complimented the MPERA staff for working hard, and for being motivated and accountable. He said he was hearing very few staff complaints and handling very few personnel issues.
- There have been three staffing changes. A new attorney, Fallon Stanton, has been hired. Catherine Grose is the new accounting tech. The new receptionist is Celeste Quist.
- Three job positions are currently in the hiring process: information systems processor, accountant, and Member Services Bureau supervisor.
- MPERA's Labor Management Committee is now meeting monthly instead of quarterly. The committee is making significant progress on career ladders for the agency.
- He will attend the SAVA Interim Committee meeting tomorrow afternoon (August 15). SAVA will be discussing the legislative package for draft authorization; socially responsible investments and rule adoption for the DC Plans; and a committee legislative bill with employee/employer contribution triggers.
- He has been working with the Department of Administration in several ways, including attending bi-weekly senior management meetings; coordinating with the Health Care and Benefits Division on continuing education presentations; and meeting with the State Human Resources Office and the State Information Technology Services Division on a variety of issues.
- He attended the National Association of State Retirement Administrators (NASRA) conference, which provided superb information and peer networking.
- He is working with Cynthia Pearson, MPERA Executive Assistant, to explore ways to provide official Board meeting minutes in a digital (rather than written) format. Several State boards use audio recordings as meeting minutes, with the benefits of immediate public access and more accuracy for legal purposes.
- Both DOA and MPERA are having summer picnics, and the Board is invited to attend.

Litigation Update

Kate Talley, MPERA Legal Counsel, reported on the progress of the *Fauque* case. The Montana Supreme Court issued a favorable decision that affirmed the District Court and the Board's decision denying disability benefits based on exceptions to the general rule affording more weight to the opinion of an individual's treating physicians than non-treating physicians like the Board's medical consultant in this case. The Board commended Ms. Talley on her fine work.

Melanie Symons, MPERA Chief Legal Counsel, gave an update on four separate lawsuits:

- *AMRPE lawsuit regarding GABA* – Discovery is almost completed in the lawsuit. There will be a motion in the next couple of weeks.

- *Gary - Bedunah* – The complaint was dismissed and the case settled. The lawsuit could potentially be re-filed.
- *Wrzesien* – The case is now in front of the District Court judge, following receipt of responses and replies to cross-motions for summary judgment.
- *Donaldson* – The lawsuit has been amended a second time and now MPERA is no longer included. There is now a second District Court lawsuit.

MPERAtiv Written Update

June Dosier, MPERA Information Technology Bureau Chief, answered questions on the MPERAtiv Project's likelihood for timely completion, as well as about staffing changes for Ventera's project manager.

Informational Items

There was no discussion by the Board on the following items: Conference Reports (NAPPA); Operational Board Summary; and Interim Newsletter.

There will be no Board meeting in September. The next Board meeting will be October 9.

Adjournment

President Scott Moore adjourned the open meeting at 3:05 p.m.

CLOSED MEETING SUMMARY

The following portion of the meeting relates to matters of individual privacy. The Board President determined that the demands of individual privacy clearly exceed the merits of public disclosure. As such, this portion of the meeting was closed at 3:15 p.m.

Consent Agenda

- Closed Meeting Minutes – *June 12, 2014*
- Disability Report
- Finalized Service Retirements/Death Benefits

Motion: *Member Sheena Wilson moved to approve the consent agenda as presented.*

Second: *President Scott Moore*

Vote: *6/0*

Informal Consideration – PERS, Benefits from Deceased Parent's Retirement Account, CO

Melanie Symons, MPERA Chief Legal Counsel, presented information on the informal consideration of CO, who is requesting the Board to reverse a March 2014 determination by MPERA that denied entitlement to the accumulated contributions in the PERS retirement account of CO's parent.

MPERA staff had incorrectly notified CO regarding entitlement to receive accumulated contributions from CO's parent's retirement account. MPERA also incorrectly paid CO a full month's death benefit payment for which he was rightfully only entitled to a portion.

Staff recommendation is to not pay CO the accumulated contributions because, despite erroneous communication from MPERA, CO is not entitled to this money under the law. Staff further recommends

not collecting the overpaid portion of the final death payment from CO, so as not to further aggravate a contentious situation.

Motion: *Vice President Mike McGinley moved to deny CO the accumulated contributions that are not rightfully owed, and to not require repayment from CO for the overpaid portion of the final death payment received.*

Second: *Member Maggie Peterson*

Vote: 6/0

Informal Consideration – PERS, Interest Waiver Request, AF

Patricia Davis, MPERA Member Services Bureau Chief, presented information on the informal consideration of AF. AF's employer is appealing interest charged on the collection of AF's mandatory PERS contributions. The employer stated that they were under the mistaken impression that no contributions were required for AF's employment.

In April 2014, MPERA discovered that AF's mandatory PERS contributions for a period of time in 1995 - 1996 had never been made and, subsequently, MPERA issued a bill for \$17,968.68 to the employer for required contributions and interest. Of the total billed, \$7,839.76 is due for employee and employer contributions and \$13,362.62 is accrued interest on those contributions.

Staff recommendation is to require payment of all contributions and interest due, and to offer the employer the ability to repay the interest over a ten-year period as allowed under Board policy.

Motion: *President Scott Moore moved to require the employer to pay the total amount of interest owed, with the ability to repay the interest over 10 years.*

Second: *Member Melissa Strecker*

Vote: 6/0

Request for Continuance of Informal Reconsideration – PERS, BH

Patricia Davis, MPERA Member Services Bureau Chief, presented information on the request for additional time on Informal Reconsideration by BH, who is appealing the Board's decision in June 2014 to deny disability benefits.

Under law, BH is required to submit additional information to the Board by no later than 21 days prior to the Board's September 11, 2014 meeting unless the Board grants an extension of time. BH is currently out of state and is requesting the Board grant the ability to present the case at the latest possible Board meeting, which is December 11, 2014.

Staff recommendation is to grant the extension of time as requested by BH.

Motion: *Member Timm Twardoski moved to grant BH an extension of time— not to surpass December 2014—for the informal reconsideration.*

Second: *Member Melissa Strecker*

Vote: 6/0

Legal Cases Update

Melanie Symons, MPERA Chief Legal Counsel, and Kate Talley, MPERA Legal Counsel, had no additional updates beyond what was reported in the open meeting.

Adjournment

President Scott Moore adjourned the closed meeting at 3:40 p.m. The next regular meeting will be October 9, 2014.