

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

Thursday, June 12, 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
Diann Levandowski, Assistant Fiscal Services Bureau Chief
Hollie Koehler, Internal Auditor
Kate Talley, Legal Counsel
Cynthia Pearson, Executive Assistant

Public

Mike O'Connor, Jessie Luther, AMRPE
Tom Schneider, MPEA
Jerry Williams, MPPA
Diane Fladmo, MEA-MFT
Rick Ryan, Ed Cleary, Rick Hansen, Blaine Cowan, MSFA
Richard Rhodes, Butch Moran, Basin VFD
Mark Murphy, MCAA
K.V. "Ginger" Aldrich, Legislative Services Division
Linda Ulrich, GWRS
Terrence Smith, Big Sky County Water and Sewer
Yvette Englert, Department of Administration – Human Resources

Call to Order

President Scott Moore called the meeting to order at 8:35 a.m.

New Board Member Introductions

The two new Board members, Warren Dupuis and Maggie Peterson, were introduced.

Roll Call

Six members of the Board were present. Member Sheena Wilson was excused.

Public Introductions

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

Public/Member Comment

Terrence Smith of Big Sky County Water and Sewer, a former PERB member, thanked the Board and MPERA staff for their support during his many years of service on the Board. He said it was a privilege and an honor to be a Board member, and he looked forward to attending meetings in the future as a public citizen.

Special Announcement

President Scott Moore reminded all meeting attendees of MPERA's fragrance-free policy, which prohibits the use of scented products such as perfume, body lotion, and after shave.

Consent Agenda

1. Board Meeting Minutes – May 8, 2014
2. Informal Consideration – Basin VFD, Annual Certificate, VFCA
3. Notices of Proposed Amendment of Rules Adopting DCRP and 457(b) Plan Documents and Investment Policy Statements by Reference
 - a. Plan Documents
 - b. DCRP Investment Policy Statement

Member Mike McGinley requested the Informal Consideration of the Basin VFD be pulled from the consent agenda for further discussion.

Motion: *Member Mike McGinley moved to approve the consent agenda as presented, with the exception of the Basin VFD informal consideration.*

Second: *Member Timm Twardoski*
No public comment.

Vote: 6/0

Informal Consideration – Basin VFD, Annual Certificate, VFCA

Diann Levandowski, MPERA Assistant Fiscal Services Bureau Chief, presented information on the informal consideration of the Basin Volunteer Fire Department, which has requested the Board accept a late-filed VFCA annual certificate for FY 2007-2008 and an VFCA amended annual certificate for FY 2008-2009. The annual certificates were signed by the Fire Chief and notarized, and included training documentation by fiscal year as is required.

Ms. Levandowski introduced Richard Rhodes and Butch Moran of the Basin VFD.

Ms. Levandowski said staff recommendation is to grant a year of credited service to the five members listed on the late-filed FY 2007-2008 VFCA annual certificate and also to the one member listed on the amended FY 2008-2009 VFCA annual certificate.

There was discussion regarding how compliance for annual certificates has improved overall due to ongoing education and the issuance of annual statements.

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

Second: *President Scott Moore*
No public comment.

Vote: 6/0

FY 2015 Budget Approval

Barbara Quinn, MPERA Fiscal Services Bureau Chief, presented the agency's proposed budget for Fiscal Year 2015.

Budget Education

Prior to presenting the proposed budget, Ms. Quinn provided the Board with a brief overview of the budgeting process, including budget components, timing, and applicable laws.

Budget Approval

Ms. Quinn presented the Board with the proposed FY 2015 budget, which included the following highlights:

- The FY 2015 total budget is \$8.7 million. There is approximately \$300,000 – 600,000 above the allowable statutory cap of 1.5% of benefits paid (including refunds).
- This is the first year that a carry-over was required for the budget to be in the black. The carryover will be used to fund MPERAtiv, the agency's ongoing special project to create a new retirement computer system. This is the fourth year of the five-year project.
- Some operational costs are higher than normal because it is a legislative year.
- Expenses for temporary employees, actuarial fees, and information technology services are up from past years.

The Board discussed its authority to pass a budget that exceeded the allowable statutory cap. Ms. Quinn said MPERA had consulted with several entities, including legal counsel, DOA Accounting, and the State Information Technology Division, and believed the agency could "reserve" funds for a special project—such as MPERAtiv—if the Board approves.

Dore Schwinden, MPERA Executive Director, assured the Board the budget would be under the allowable statutory cap by the end of FY 2016.

The Board discussed whether it was prudent to pass a budget that exceeded the allowable statutory cap and required a carryover of funds. Ms. Quinn said 61100/Personal Services (primarily employee salaries) would be a reasonable area of the budget to reduce, as it is a large line item and contains some overstated employee salaries due to benefits being calculated on the highest salary earned by the employee.

Motion: *Member Mike McGinley moved to approve the FY 2015 budget with a \$40,000 reduction in the area of 61100/Personal Services.*

Second: *Member Maggie Peterson*

No public comment.

Vote: 6/0

FY 2014 Reserve - MPERAtiv Program

Barbara Quinn, MPERA Fiscal Services Bureau Chief, presented information to the Board regarding the FY 2014 budget reserve.

For FY 2014, the budget is estimated to be under the allowable statutory cap of 1.5% of benefits paid. Generally, any amount remaining under the cap reverts to the pension trust funds. Past decisions have been to set aside the excess budget amount from the current fiscal year to fund the FY 2015 expenses of the MPERAtiv program.

Last year staff recommended allowing a cushion of \$50,000 to remain in the prior year budget for any

unexpected transactions since the general ledger does not officially close until the 3rd week of July. The same is recommended this year.

Specifically, staff recommends that, at a minimum, a balance of \$50,000 rounded to the nearest one hundred dollars will remain in the FY 2014 budget. The remainder of the excess cap as allowed by governmental accounting standards and state policy will be set aside and earmarked for the purposes of funding the MPERAtiv program in FY 2015. It is intended that spending this amount will not impact any future budget or budget cap.

Motion: *Member Mike McGinley moved to approve setting aside a portion of excess funds from the FY 2014 budget for the purpose of funding the MPERAtiv project, as specified in the staff recommendation.*

Second: *President Scott Moore*
No public comment.

Vote: 6/0

GABA Rate Decision for Next Actuarial Valuation

Barbara Quinn, MPERA Fiscal Services Bureau Chief, asked the Board to vote on the GABA rate to be used for the PERS official and supplemental valuations for FY 2014. The possible GABA rates are 3% and 1.5%.

Ms. Quinn provided a list of pros and cons for each GABA rate for the Board's consideration. In addition, the Board was provided with a letter from the actuary providing information for consideration.

President Scott Moore said he thought using 1.5% for the official valuation was unwise, as it would cause the employer and employee additional contributions to cease on January 1, 2015 and there no provision at this time to reinstate the additional funding. Other Board members agreed.

Motion: *President Scott Moore moved to use the rate of 3% in the PERS official valuation and 1.5% in the PERS supplemental valuation.*

Second: *Member Timm Twardoski*
No public comment.

Vote: 6/0

Administration of PERS Defined Contribution Retirement Plan, Deferred Compensation/457 Plan

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

Fund Replacement

Ms. Davis stated the Employee Investment Advisory Committee (EIAC) supports replacing the Vanguard Total Bond Index Fund with Prudential Fixed Income Fund in the Defined Contribution Retirement Plan, effective September 29, 2014. This is based on a recommendation from Wilshire Consultants. The Vanguard Total Bond Index Fund has been on probation status since the fourth quarter of 2013 due to poor performance and failure to meet standards outlined in the 401(a) investment policy statement.

Ms. Davis provided the Board with a timeline for the transition, as follows:

- July 1, 2014 - Written notification of fund termination to participants currently investing in Vanguard Total Bond Index Fund.

- July 31, 2014 - Add new Prudential Fixed Income Fund to fund options.
- September 29, 2014 - Transfer any remaining investments from Vanguard Total Bond Index Fund to Prudential Fixed Income Fund. At close of market, remove Vanguard Total Bond Index Fund from option list.

Staff recommendation is to implement the fund replacement, following the timeline provided.

Motion: *Member Warren Dupuis moved to accept the recommendation to replace Vanguard Total Bond Index Fund with Prudential Fixed Income Fund in the Defined Contribution Retirement Plan.*

Second: *Member Melissa Strecker*

No public comment.

Vote: 6/0

EIAC Re-Appointment

Ms. Davis asked the Board to approve the re-appointment of Diane Fladmo, Director of Research & Bargaining - MEA-MFT, to the Employee Investment Advisory Council (EIAC). Ms. Fladmo has been a member of EIAC since 2011 and is one of two labor representatives on the council. The re-appointment would be for the three-year term beginning August 1, 2014 ending July 31, 2017.

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

Second: *Member Warren Dupuis*

The Board and the public conveyed appreciation to Ms. Fladmo for her excellent service to EIAC.

Vote: 6/0

Contract Approval

Melanie Symons, MPERA Chief Legal Counsel, presented the following new contracts for the Board's approval.

Investment Consultant – DC Plans

Ms. Symons said the contract for the new vendor, Buck Consultants, has not been finalized. The contract must be in place by June 30, 2014 and, therefore, the Board will need to hold a special meeting by the end of the month to approve the contract.

Recordkeeping/Administration – DC Plans

Ms. Symons said the contract for Great-West has been finalized and is ready for approval.

Motion: *President Scott Moore moved to approve the contract for recordkeeping/administration of the DC Plans.*

Second: *Member Melissa Strecker*

No public comment.

Vote: 6/0

Kate Talley, MPERA Legal Counsel, presented the following FY 2015 contract renewals for the Board's approval.

Agency Legal Services

Ms. Talley said the contract renewal for Montana Department of Justice, Legal Services Division, Agency

Legal Services Bureau, has been finalized and is ready for approval.

Motion: *President Scott Moore moved to approve the contract renewal for agency legal services.*

Second: *Member Timm Twardoski*

No public comment.

Vote: 6/0

Tax Consultant

Ms. Talley said the contract renewal for Ice Miller has been finalized and is ready for approval.

Motion: *Member Mike McGinley moved to approve the contract renewal for the tax consultant.*

Second: *Member Maggie Peterson*

Tom Schneider, MPEA, reminded the Board of the importance of tax qualification from the Internal Revenue Service. He said he felt Ice Miller was among the best tax consultants.

Vote: 6/0

Actuary

Ms. Talley said the contract renewal for Cheiron has been finalized and is ready for approval.

Motion: *President Scott Moore moved to approve the contract renewal for the actuary.*

Second: *Member Maggie Peterson*

No public comment.

Vote: 6/0

AMRPE vs. State

Melanie Symons, MPERA Chief Legal Counsel, asked the Board to make a determination on whether to release the identity of participants eligible for, and who have purchased, 1 for 5 service. This information was requested by the plaintiff in the first set of discovery.

Ms. Symons said the staff recommendation is as follows:

1. Yes, to release of PERS Retiree Information
2. Yes, to release of PERS members eligible to purchase 1 for 5 Service
3. No, to release of PERS members who have purchased 1 for 5 Service
4. Yes, to release addresses with a disclaimer that the information cannot be used for a mailing list

The Board agreed #3 could be released as a number, but not as individual names. Ms. Symons said that was acceptable.

Using himself as an example, Mark Murphy, MCAA, told the Board he would be willing to waive his right to privacy in order to provide information that would assist the lawsuit, which was "personal" to him.

Motion: *Member Mike McGinley moved to release information in the AMRPE vs. State lawsuit, limiting the release of #3 to a number of members but not individual names, as discussed.*

Second: *Member Melissa Strecker*

No public comment.

Vote: 6/0

President Scott Moore called for a 15-minute break beginning at 10:30 a.m.

Board Committee Appointments

President Scott Moore announced the following committee appointments for the upcoming year.

Audit

Mike McGinley, Chair
Scott Moore
Warren Dupuis

Legislative

Sheena Wilson, Chair
Scott Moore
Maggie Peterson

Personnel

Timm Twardoski, Chair
Sheena Wilson
Maggie Peterson

Policy

Melissa Strecker, Chair
Warren Dupuis
Mike McGinley

Committee Updates

Audit Committee

Chairman Mike McGinley said the committee will meet today (June 12).

Legislative Committee

Chairwoman Sheena Wilson was absent, and no report was made.

Personnel Committee

Chairman Timm Twardoski reported MPERA's Labor Management Committee (LMC) will no longer have a Board member present. He requested that the Personnel Committee be kept informed of future LMC agendas and minutes.

The Personnel Committee met on May 19 to work on executive director recruitment, selection, and performance appraisal in order to improve those processes. Yvette Englert, Department of Administration – Human Resources, made a presentation to explain the committee's proposed process and timeline for performance appraisal of the executive director. (A copy of the presentation handout is available upon request at MPERA's office.)

Policy Committee

Chairwoman Melissa Strecker said a committee meeting will be scheduled in the near future, possibly in September.

Board Strategic Plan – Working Group Updates

Progress updates were provided for the following Strategic Plan Work Groups:

- Goal 1 – Governor Office Relations – *Dore Schwinden, MPERA Executive Director, said he has recently had successful meetings with the Governor’s Office to discuss a number of topics. The Board feels the relationship is improving.*
- Goal 2 – Board Meeting Schedule – *While the Board has yet to achieve an every-other-month schedule, there is optimism it can be achieved.*
- Goal 3 – Educate Stakeholders – *Work is being done to educate stakeholders and, as a result, some indicators of progress can be seen.*
- Goal 4 – Implement MPERAtiv – *This project is ongoing. One of the vendors, Sagitec, has been relocated to a more satisfactory office space.*
- Goal 5 – Legislation GWPORS/SRS – *Legislative Committee is continuing to work in this area.*
- Goal 6 – Repair HB 454 – *Legislative Committee is continuing to work in this area.*
- Goal 7 – Transition Executive Director – *This has been successfully completed with the hiring of a new executive director.*
- Goal 8 – Board/Staff Relations – *There have been recent opportunities for the Board and MPERA staff to share time together, and the Board would like to see more of these types of interactions.*

GASB Verbal Update

Diann Levandowski, MPERA Assistant Fiscal Services Bureau Chief, provided the following update:

- Employers received a memo from MPERA and TRS explaining the impacts of GASB 67 and 68, as well as a Legislative Audit Division explaining audits of census data (demographics).
- MPERA continues to meet with Teachers Retirement System (TRS), State of Montana Accounting, and Legislative Audit Division to discuss pertinent issues.
- Information on GASB has been posted to MPERA’s website.

Ms. Levandowski confirmed to the Board that everything is on track and proceeding as planned.

There was discussion about the impacts of GASB 67 and 68, including how the liability will be recorded for accounting purposes. Member Mike McGinley recommended there be additional training for the Board on this topic.

Executive Director’s Verbal Update

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

- Mr. Schwinden has attended several stakeholder meetings. He met with MPEA at their convention on May 16-17 in Billings, where he was a guest speaker. He met with the Legislative Audit Committee on May 23 to respond to the FY 2013 Financial Audit. In addition, he attended the SAVA Interim Committee meeting on June 5, where he responded to (1) Senator Dee Brown’s request for public access to Board meetings via internet streaming, and (2) the LC 03 committee bill.
- June Dosier, MPERA Information Technology Bureau Chief, attended the Legislative Fiscal Committee meeting on June 6. There were no questions asked about the MPERAtiv project.
- Several MPERA employees attended the Labor Management Committee training on May 21-22, presented by a federal mediator. MPERA’s own Labor Management Committee met on June 3.
- MPERA employees will attend all-staff training by national motivational speaker Steve Beck on June 17. The Board is invited.
- There have been three staffing changes. A new receptionist is being hired to replace Donna Budt, who retired in May. Cacie Cain, who was working as a temporary employee, has been hired as the imaging

clerk. Joyce Love, DB Accounting Technician, has accepted employment at TRS and will be leaving MPERA on June 13.

- At the suggestion of a couple of Board members, MPERA's executive staff will be moving to the north end of the office suite, switching offices with the legal staff. The motive for the moves is for the executive staff to be closer to the Board Room and the main entrance where the public comes for service.

Litigation Update

Kate Talley, MPERA Legal Counsel, reported on the progress of the *Fauque* case. A decision from the Supreme Court is anticipated in a few months.

Melanie Symons, MPERA Chief Legal Counsel, gave an update on three separate lawsuits. Materials were provided in the Board packet, as follows:

- *AMRPE lawsuit regarding GABA* – Scheduling Order
- *Gary - Bedunah* – Complaint and Demand for Jury Trial
- *Wrzesien* – Motion for Summary Judgment and Supporting Brief; Plaintiffs' Cross-Motion for Summary Judgment; Plaintiff's Combined Brief Opposing Defendants' Motion for Summary Judgment and Supporting Plaintiffs' Motion for Summary Judgment

Informational Items

There was no discussion by the Board on the following items: MPERAtiv Written Update; Conference Reports (APPFA, GFOA, PRISM); Operational Board Summary; and Interim Newsletter.

The date of the next SAVA Interim Committee meeting has been changed to August 15.

There will be no Board meeting in July.

Adjournment

President Scott Moore adjourned the open meeting at 12:00 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 12:35 p.m.

Members Timm Twardoski and Sheena Wilson were absent due to scheduling conflicts.

Consent Agenda

- Closed Meeting Minutes – *May 8, 2014*
- Disability Report
- Finalized Service Retirements/Death Benefits

Motion: *Member Mike McGinley moved to approve the consent agenda as presented.*

Second: *President Scott Moore*

Vote: *5/0*

Disability Denial - BH

Sarah Skubinna, Disability Examiner, gave the Board a general overview of the disability denial process.

Ms. Skubinna presented information on the disability claim of BH, who resigned due to alleged back pain.

Ms. Skubinna stated she had refrained from making a recommendation due to a conflict of interest. However, two physicians reviewed the records and provided recommendations.

She noted this is an initial review, and the claimant can appeal the Board's decision.

Motion: *Member Melissa Strecker moved to deny the disability claim of BH, as presented.*

Second: *Member Warren Dupuis*

For clarification, Mr. Dupuis stated the claim was denied based on the medical opinions provided; however, the claimant has the right to appeal.

Vote: 5/0

Informal Consideration – Employer Appeal of Interest - Mandatory Retro, PERS, TF

Patricia Davis, MPERA Member Services Bureau Chief, presented information on the informal consideration of TF. The claimant's employer is appealing interest charged on the collection of mandatory PERS contributions for TF. Specifically, the employer has been billed \$26,511.16, of which \$7,839.76 is due for employer/employee contributions and \$18,671.40 is accrued interest on those contributions. The agency is requesting the Board consider a waiver of the interest only.

Staff recommendation is payment of the interest due, but to offer the ability to repay the interest over a 10-year period as allowed under Board policy.

The Board discussed that \$18,671.40 is a large amount of interest, but waiving the interest would be an unfair exception as other employers have been required to pay interest.

Ms. Davis noted that MPERA's letter contains an error, and it should say 7.75% interest rather than 8%.

Motion: *President Scott Moore moved to deny the request for interest to be waived, with the employer being offered the ability to repay the interest over 10 years.*

Second: *Member Warren Dupuis*

Vote: 5/0

Board Approval – Service Credit for Lost Time, PERS, CF

Patricia Davis, MPERA Member Services Bureau Chief, presented information on the request of CF to be awarded service credit for lost time.

CF was awarded back pay through an arbitration agreement with the State of Montana. The agreement gave CF full back pay on benefits from the date of discharge to the date of reinstatement, a period of about 17 months. MPERA was not notified by the employer, and only recently learned of the situation.

MPERA has received full payment of employer and employee contributions necessary to award approximately 17.5 months of service credit and 17 months of membership service. Staff

recommendation is to approve the award of full service credit and membership service.

Motion: *President Scott Moore moved to approve the award of full service credit and membership service to CF, as presented.*

Second: *Member Maggie Peterson*

Vote: *5/0*

Legal Cases Update

Melanie Symons, MPERA Chief Legal Counsel, gave an update on the case of *Gary - Bedunah*.

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 1:00 p.m. The next regular meeting will be August 14, 2014.