

AGENDA

Municipal Pensions Oversight Board

Meeting of the Board Members

September 16, 2021 – 1:00 P.M.

301 Eagle Mountain Road, Second Floor, Suite 251, Charleston, WV 25311

- I. Call to Order and Roll Call
- II. Approval of Minutes of Meeting on June 17, 2021
- III. Election of Secretary/Treasurer
- IV. Old Business
 - A. Legal - Beckley Firemen's and Beckley Policemen's Pension notice of intent to sue
 1. Status of Attorney General's Opinion Letter
 - B. Legislation
 1. Definition of "base salary" and "overtime and other remuneration" to add to §8-22-16(d)
 2. Suggestion to add language to §8-22-24(d) concerning non-duty permanent disability retirees and responsibilities Pension Boards of Trustees responsibilities
 - C. Compliance Review Updates
 1. Submitted Plans of Action Addressing Compliance Review Recommendations
 - a) Charleston Firemen's Pension, St. Albans Firemen's Pension, South Charleston Policemen's Pension, and Vienna Policemen's Pension and Bluefield Firemen's Pension.
 2. Plans of Action Extensions
 - a) Wheeling Firemen's Pension and Wheeling Policemen's Pension
 3. Plans of Action Past Due
 - a) Parkersburg Policemen's Pension and Parkersburg Firemen's Pension
 - D. Orders Issued
 1. Submitted Plans of Correction Addressed in Order
 - a) Dunbar Firemen's Pension, Dunbar Policemen's Pension, Oak Hill Policemen's Pension, Princeton Policemen's Pension, Star City Policemen's Pension, and Weirton Policemen's Pension
- V. New Business
 - A. Pension Obligation Bond Presentation – Piper Sandler and Stifel and City of Wheeling
 - B. FY2021 Independent Audit Draft
 - C. Legal
 1. Todd Lewis Taylor vs. The City of Charleston, West Virginia Policemen's Pension and Relief Fund
 - D. Investments
 - E. Personnel
 - F. P-Card Expenditures – June and Aug 2021
 - G. Executive Director's Report
- VI. Public Comments
- VII. Adjournment

Pursuant to recommendations made by the West Virginia Ethics Commission, the September 16th meeting will be closed to the public for in-person attendance. Anyone wishing to attend via telephone may call 304-356-2422 to obtain call-in instructions.

MUNICIPAL PENSIONS OVERSIGHT BOARD
Minutes of Meeting
September 16, 2021

The Municipal Pensions Oversight Board (MPOB) met on September 16, 2021, at 1:00 p.m. at 301 Eagle Mountain Road, Suite 251, Charleston, West Virginia. The Chair, Mr. Neddo welcomed everyone and called the meeting to order, noting that a quorum was present. Mrs. Miller called the roll.

ATTENDEES

Board Members:

- Travis Blosser- present
- Jeffrey Fleck- present
- Emily Lambright-present virtually
- David Lanham-absent
- Sarah Long- present
- Jason Matthews-present virtually
- Stephen Neddo-present
- Michael Payne-present
- Craig Slaughter- present

Staff:

- LaRuth Miller, Administrative Assistant- present
- Michelle Painter, Chief Financial Officer- present
- Les Smith, Accountant-absent
- Blair Taylor, Executive Director- present

General Counsel:

- Kelli Talbott, WVAG Office, present virtually

Guests:

- Anthony Carpenter, Brown Edwards- present
- Rob Adams, Brown Edwards-present
- Jordan McClane, Consulting Actuary, Bolton- present virtually
- Jim Ritchie, Senior Consulting Actuary, Bolton-present
- Robert Herron, City Manager, City of Wheeling-present virtually
- Joe Nassif, Managing Director, Piper Sandler & Co.-present virtually
- Omar Daghestani, Managing Director, Stifel, Nicolaus & Company, Inc.- present virtually
- Rushda Mustafa, Vice President, Stifel, Nicolaus & Company, Inc.- present virtually
- John Stump, Esq., Steptoe & Johnson PLLC-present virtually
- Fred Williams, Esq., Snell & Wilmer LLP-present virtually
- Carrie Cecil, Esq., Frost Brown Todd LLC-present virtually

Minute Taker:

LaRuth Miller

Approval of Minutes¹

- Minutes for the MPOB meeting on June 17, 2021, were presented for approval. Mr. Neddo asked for a motion to approve the minutes.

MOTION: Motion to approve the minutes as presented. Moved by Mr. Payne; Seconded by Mr. Fleck; Passed unanimously:

RESOLVED, that the minutes of the June 17, 2021, Municipal Pensions Oversight Board meeting be approved as presented.

Election of Secretary/Treasurer

Mr. Neddo asked for a motion to elect Michelle Painter as Secretary/Treasurer.

MOTION: Motion to elect Michelle Painter as Secretary/Treasurer. Moved by Mr. Blosser; Seconded by Mr. Slaughter.

RESOLVED, that Mrs. Michelle Painter was elected as Secretary/Treasurer for a one year term.

OLD BUSINESS

Legal

Beckley Firemen's and Beckley Policemen's Pension notice of intent to sue.

Mr. Taylor has received a letter from Toriseva Law on Tuesday, September 7 to be added as an attachment to the MPOB's letter requesting an Attorney General's Opinion on Fractional Shares. Mr. Taylor will have the letter completed in the next 10 days and once reviewed, by Ms. Lou Ann Cyrus of Shuman McCuskey Slicer PLLC, he will send it to Attorney General Morrissey.

Legislation

- Mr. Taylor received a request from the Joint Committee on Pensions & Retirement, Senator Plymale, for a definition of base salary and overtime and other remuneration to add to §8-22-16(d). Mr. Taylor and Mrs. Painter completed the request and provided the definition to the Joint Committee on Pensions & Retirement on September 13, 2021.
- Mr. Fleck asked about subsistence pay for dry cleaning uniforms or cell phone bills. Mrs. Painter has seen reimbursement for gym memberships.
- Mr. Taylor brought to the Board's attention that several pension secretaries have non-duty permanent disability retirees not providing tax returns to comply with law §8-22-24(d). Pensions continue to be paid without further reviews. Their attorneys are stating there is not a law that states there can be penalties for not reporting tax returns. The Pension secretaries want language added to code to hold pension in abeyance until tax return is submitted. Mr. Fleck has in the past dealt with retirees not submitting tax returns and will follow up with Mr. Taylor with how it was handled.

Compliance Review Updates

- Mrs. Painter presented. She directed all to the Compliance Review letters provided.

Compliance Reviews were given on the following with items of non-compliance noted.

- Charleston Firemen's Pension is currently seeking a CPA for recalculations for their plan
- St. Albans Firemen's Pension
 - CPA was hired to recalculate their plans and have submitted the recalculations and what the corrected amounts were. They had 15 members that are mostly survivors that they do not have the payroll data for that could not be recalculated. Mrs. Painters asked the Board if they wanted her to take any action or had any suggestions. Mr. Taylor suggested that St. Albans provide a certified letter stating that they do not have access to the payroll data. Mrs. Painter stated she could research when the retirement dates were to see if it is possible that St. Albans would not be able to access the payroll data. Mr. Blosser suggested any letter be signed by the Mayor, the Chief Financial Officer of the municipality, and the Pension Secretary.
- The MPOB has provided the South Charleston Policemen's Pension COLA history for each of its retirees for corrections by the plan. The MPOB continues to work on COLA for each of the current survivors in the plan.
- Vienna Policemen's Pension
 - Recalculations discovered that there was a disability overpayment of over \$800.00 a month. The person retired after July 2017, so the municipality did not have to agree to the overpayments. Vienna reached out to the member to offer a settlement from the municipality's insurance. There has been no response from the member. The monthly pension has been corrected
- Bluefield Firemen's Pension
 - Received their plan of action on September 3, 2021
- Moundsville Policemen's Pension
 - Their recalculations have been submitted. Mrs. Painter took a sample and recalculated the data and had the same results. Mrs. Painter worked with the Pension Secretary to calculate the final amount to be paid to the 8-9 members that were underpaid. The approximate amount is \$50,000. There was one overpayment. There was 1 survivor that was overpaid and another member that was overpaid volunteered to pay her portion back.
- Plans of Action Extensions
 - Wheeling Firemen's and Wheeling Policemen's Pension have been granted an extension for October 31, 2021 and have recently requested an extension for December 31, 2021. Mr. Taylor requested monthly updates in 2020 and has not received any.
 - Wheeling Firemen's and Wheeling Policemen's Pension has hired a CPA and provided them with payroll data but has not provided the payroll data to MPOB.
 - Mr. Taylor suggested that there should be more parameters for extension such as monthly updates.
 - The Municipal Pensions Oversight Board (MPOB) discussed a letter received from Bradley K. Shafer, Esq., counsel for the Wheeling Policemen's Pension Board of Trustees.
 - MPOB members discussed the request and passed unanimously the following motion.

MOTION: Motion to approve Wheeling Policemen's Pension and Relief Fund and the Wheeling Firemen's Pension and Relief Fund be granted additional extensions with the requirement that there be written updates provided to the MPOB on the first day of each month through the end of the extension on December 31, 2021. Moved by Mr. Blosser; seconded by Mr. Payne; Passed unanimously:

RESOLVED, that Wheeling Policemen's Pension and Relief Fund and the Wheeling Firemen's Pensions and Relief Fund be granted additional extensions with requirement that there be written updates provided to the MPOB on the first day of each month through the end of the extension on December 31, 2021.

- Plans of Action Past Due
 - Parkersburg Policemen's Pension and Parkersburg Firemen's Pension plan of action was due August 1, 2021 and MPOB has not received a response to the plan of action or a request for an extension. The City of Parkersburg sent a letter to MPOB that the review will be discussed at their next meeting on September 21, 2021.
- Orders Issued
 - All six Pension Plans have responded to their orders and have all agreed to follow the orders.
 - Dunbar Policemen's Pension is currently seeking a CPA firm to complete the recalculations
 - Dunbar Firemen's Pension is currently reviewing their calculations and have agreed to follow the orders issued to them.
 - Oak Hill Policemen's Pension order is complete
 - Princeton Policemen's Pension order is complete
 - Star City Policemen's Pension has submitted a plan of action. Do not have access to the prior payroll system to go back and recalculate. Mrs. Painter spoke with the City and the former finance person could not retrieve the prior payroll data. Mrs. Painter suggested that they follow the same protocols as St. Albans and provide a certified statement that they do not have access to prior payroll data.
 - Weirton Policemen's Pension will have their calculations by October 1, 2021.

NEW BUSINESS

Pension Obligation Bond Presentationⁱⁱⁱ

- Pension Obligation Bonds (POBs) Presentation was presented by Piper Sandler and Stifel and City of Wheeling.
 - Joseph Nassif of Piper Sandler started the presentation by introducing his team that has been developing the pension obligation bond proposal for municipalities in WV.
 - Mr. Robert Herron, City Manager for the City of Wheeling then gave a brief introduction, thanking the MPOB for allowing the presentation. City of Wheeling closed its pension plans six years ago and believes pension obligation bonds could assist the City in locking down its financial obligations in paying off the obligation in the future.
 - Omar Daghestani then presented a new iteration of pension obligation bonds that have rates that are attractive to municipalities now. This year alone, there are 32 POBs that Mr. Daghestani has worked on to fruition. Mr. Daghestani also discussed common risks associated with issuing POBs
 - Rushda Mustafa described how WV municipalities could capitalize on POBs to generate savings for the municipality long-term. This plan also contemplates a "contingency reserve fund" as a tool that is positive from the bond rating agencies perspective.

- John Stump discussed how a proposal will be provided to the Legislature to allow POBs to be sold by municipalities. There are several areas of the Code which will need changes for this to occur.
- Proposed change for the 1% premium Tax be redirected to pay bond payments instead of to pension plans.
- The MPOB's actuary, Jim Ritchie of Bolton USA made the comment that the discount rate in the actuarial valuation report is not considered an interest rate and that to compare the two is an apples to oranges comparison. The second question Mr. Ritchie asked, how will the 70 million of bonds be invested? Mr. Daghestani indicated the rating agencies do consider an assumed rate of return published in an actuarial valuation report to be an interest rate. Funds at bond closing would be invested with the pension fund with its other investments which would include equities, bonds, and other long-term investments. The proposers of this plan are asking whether between now and 2049 will the fund long-term have a 3.5% or greater return. If so, there is success. If you have a year that does not meet the 3.5% year, the reserve contingency fund would be able to be used to make up any loss.
- The Oversight Board members then had a discussion on the premium tax allocation and how it is currently distributed to firemen's and policemen's pension plans. Mr. Taylor gave the members a brief overview on how pension plans receive the state aid now. The municipality certifies the member contributions have been made to the plan, the municipality has contributed funds to the plan and the municipality has submitted an annual report to the MPOB. Only after each of these items have been certified and completed will the MPOB release the premium tax allocation to the plan. Mr. Slaughter concurs that the incentive structure forces the municipality to meet its financial obligation before receiving the state funds. The MPOB's current methodology for a municipality's plan to receive funding from the state needs to be continued.
- Mr. Slaughter suggests the MPOB remain neutral on the sale of POBs as long as the MPOB can make sure the premium tax is paid to plans to lower unfunded liability of plans first.
- Mr. Blosser indicated the POB group would likely come back to the MPOB for our blessing in the sale of POBs. The POB group is looking for the MPOB to be an approver of Class III and IV cities. Mrs. Painter suggested and members agreed the MPOB should provide education, but not be a decider on who could and who could not sell POBs. Mr. Blosser also agreed the MPOB should not be the decider.

FY2021 Independent Audit Draft

- Mrs. Painter introduced Anthony Carpenter of Brown Edwards who presented the audit report. Mr. Carpenter noted the following:
 - No difficulties were encountered in performing and completing the audit.
 - No material misstatements were identified during the audit.
 - No audit adjustments were made.
 - This is a clean audit.
 - No findings
- Mr. Carpenter asked the Board if there were any questions of Brown Edwards. There were none.
- Mr. Neddo thanked Brown Edwards for the audit presentation.

Legal

- Todd Lewis Taylor vs. The City of Charleston, West Virginia Policemen's Pension and Relief

Fundⁱⁱ

- MPOB has asked to intervene in the case. Judge Webster entered an order allowing the MPOB to intervene. Claimant states the policemen's pension had calculated 19 retirements without using the 20% limiter and thus his retirement should be calculated in the same manner. He claims he had other job offers and detrimentally relied that this method would be used to calculate his pension when he retired. When he sought to retire, he was told his retirement would be calculated in accordance with Code which he claims reduced his retirement benefits. His claim is that his pension should have been calculated the same way the other 19 retirements were calculated. He is claiming the actions of the local pension board of trustees was constructive fraud and he is seeking his retirement be calculated similar to the previous 19 calculations that did not follow the statutory provisions of the code. In addition, he is seeking damages against the local plan.
- Ms. Talbott sought an opinion from BRIM since there was a damage claim in the underlying complaint. The question being Would BRIM be providing counsel? BRIM has indicated they are not involved since the claimant is not seeking damages from the MPOB. The MPOB will continue as an intervenor.
- We have received a discovery request for any audits the MPOB has performed on the Charleston Policemen's Pension Fund and will comply with the request by the due date.

Investments

- Mrs. Painter indicated investment earnings two years ago for the calendar year were approximately \$600,000 and were enough to cover the bulk of our administrative expenses. In calendar year 2020, our investment earnings were approximately \$50,000, an amount which does not cover our expenses. Mrs. Painter suggested to the Board that it consider carving out a portion of the \$29 million balance and investing \$10 million in another Board of Treasury Investments strategy. The Executive Director currently has the authority to invest in any of the Board of Treasury Investment funds. Mrs. Painter will send out the current makeup of the Short-Term Bond Fund for review by the members. If no one objects to the transfer, staff will make a transfer of \$10 million from the WV Money Market Pool to the WV Short-Term Bond Pool at the first available opportunity.

Personnel

- Mr. Taylor introduced LaRuth Miller to the Board. Mrs. Miller is the new Administrative Assistant/Procurement Officer. Mrs. Miller came to the MPOB from the City of Charleston's Sanitary Board, having worked there 10 plus years. Her position there was that of a Customer Service Supervisor. Prior to that, she worked for BB&T as a teller. She has an Associate's Degree in Applied Secretarial Science from WV State University.

PCard Expenditures

- Mr. Neddo stated that all received the information for review and requested a motion to approve.

MOTION: Motion to approve the June and August 2021 PCard expenditures as presented. Moved by Mr. Payne; Seconded by Mr. Blosser; Passed unanimously:

RESOLVED, that the PCard expenditures for June and August of 2021, are approved as presented.

Executive Director's Report

- Mr. Taylor presented. He directed all to the information provided in the Board Packet. Items noted were:
 - There are two regional training events for pension trustees, one on October 5th in Fairmont, WV and one on October 20th in Charleston, WV. Approximately 70 people are signed up for each training session.
 - In the upcoming future I anticipate ramping up travel to local pension meetings to continue training those unable to attend the regional sessions
 - The State of WV is transitioning to Google products for its business suite of software programs. The MPOB staff will learn these new systems.
 - The September 2021 Allocation of state premium tax monies was made and is available on the MPOB website.
 - The website was recently updated by Ms. Vonda Matthews prior to her leaving the office. Mrs. Miller will become the office's webmaster in time and continue the development of the site.
 - The spreadsheet showing pensions payments was presented as well as a spreadsheet showing the first and second quarterly fees charged by investment advisors to pension plans.
 - The Preliminary 7/1/2020 Valuation Results from Bolton Partners provides a snapshot of what the actuarial studies will show in the aggregate when they are released later this month. This data is one fiscal year in arrears as the collections for the actuarial studies lag by one fiscal year.
 - The retroactive DROP summation as well as the DROP letters for each plan (Beckley Fire, Saint Albans Fire, and Wheeling Fire) were presented and now will be provided to the Chairs of the respective Pension Committees of the Legislature.

ADJOURNMENT

Mr. Neddo called for a motion to adjourn:

*MOTION: Motion to adjourn. Moved by Mr. Payne; Seconded by Mr. Blosser;
Passed unanimously:*

RESOLVED, that the September 16, 2021, meeting of the MPOB is adjourned.



Stephen Neddo, Chairman

Minutes approved 12/16/2021
(date)

Referenced documents can be found in the Board Meeting Packet.

ⁱ MPOB Minutes – June 19, 2021

ⁱⁱ Todd Lewis Taylor vs. The City of Charleston, West Virginia Policemen's Pension and Relief Fund

ⁱⁱⁱ Pension Obligation Bond Presentation