

AGENDA
Municipal Pensions Oversight Board
Meeting of the Board Members

December 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 September 16, 2021
- III. 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
 - 2. Todd Lewis Taylor vs. The City of Charleston, West Virginia Policemen's Pension and Relief Fund
 - 3. Terence F Brown vs. WV Municipal Pensions Oversight Board, Blair Taylor, City of Weirton & Harold E. Miller
 - B. Legislation
 - 1. Definition of "base salary" and "overtime and other remuneration" to add to §8-22-16(d)
 - 2. Proposed change to allow retirees of "closed" plans to vote in the election of trustees §8-22-18
 - 3. Proposed change to require non-duty disability pension to be held in abeyance if the member fails to provide his/her tax return by April 15 of any year §8-22-24(d)
 - 4. Proposed change of existing DROP evaluations from annual to once every 5 years §8-22-25A (suggested by Bolton)
 - 5. Propose same protections for municipal police and fire pensions as exists in state pension plans against garnishments, assignments, attachments, etc. The one exception allowed are qualified domestic relations orders as defined in Section 414(p) of [26 USCS 414 (p)] of the Internal Revenue Code
 - C. Compliance Review Updates
 - 1. Submitted Plans of Action Addressing Compliance Review Recommendations
 - a) Charleston Firemen's Pension, Charleston Policemen's Pension, St. Albans Firemen's Pension, South Charleston Policemen's Pension, Vienna Policemen's Pension, Parkersburg Policemen's Pension, Parkersburg Firemen's Pension, Weirton Policemen's Pension, Dunbar Firemen's Pension, Dunbar Policemen's Pension,
 - 2. Plans of Action Extension Requests
 - a) Wheeling Firemen's Pension and Wheeling Policemen's Pension
 - b) Huntington Policemen's Pension
- IV. New Business
 - A. Personnel
 - B. P-Card Expenditures – June and Aug 2021
 - C. Executive Director's Report
- V. Public Comments
- VI. 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.

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 - 6. * Potential legislation to make the MPOB responsible for calculating pensions, disability pensions, survivor benefits, and COLAs and pursue a change in the formula used to calculate retirement pensions.
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* *Item 6 under Legislation was added to the original agenda less than three days prior to the meeting.*

MUNICIPAL PENSIONS OVERSIGHT BOARD

Minutes of Meeting

December 16, 2021

The Municipal Pensions Oversight Board (MPOB) met on December 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 virtually
Craig Slaughter – present

Staff:

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

General Counsel:

Kelli Talbott, Senior Deputy Attorney General – present virtually

Guests:

Jordan McClane, Consulting Actuary, Bolton – present virtually
Jim Ritchie, Senior Consulting Actuary, Bolton – present

Minute Taker:

LaRuth Miller

Approval of Minutesⁱ

Minutes for the MPOB meeting on September 16, 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. Slaughter; Seconded by Mr. Blosser; Passed unanimously.

RESOLVED, that the minutes of the September 16, 2021, Municipal Pensions Oversight Board meeting be approved as presented.

OLD BUSINESS

Legal

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

- MPOB has not received any communication on the request for an Attorney General's Opinion.

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

- Kelli Talbott indicated the case is in a holding pattern in Judge Webster's Court. The pension participant that filed a lawsuit against the City of Charleston regarding the calculation of his benefits. The MPOB moved to intervene and that was granted. The plaintiff's attorneys sent the Charleston Policemen's Pension and MPOB discovery requests asking for audits that the MPOB may have performed. The MPOB did not complete an audit but did complete a compliance review that was presented to the Attorney. The Charleston Policemen's Pension also presented their discovery requests that the MPOB has reviewed. Kanawha County Circuit Court requires the plaintiff to move the lawsuit along by contacting the judge to schedule the pre-trial and trial.

Terrence F Brown vs WV Municipal Pensions Oversight Board, Blair Taylor, City of Weirton & Harold E. Miller.

- MPOB and Mr. Blair Taylor have been dismissed along with the City of Weirton and Harold E Miller. The Judge suggested Terrence F Brown refile or add to the lawsuit. Terrence Brown added Mr. Miller and the Weirton's Policemen's Pension and Relief Fund. The MPOB is still dismissed from the lawsuit.

Legislation

Potential Bills

- 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 and discussed at December 2021 meeting. The definition will be discussed in the upcoming legislation.
- Proposal to allow retirees of closed plans to vote in the election of trustees was presented by retired Parkersburg Police Officer to Senator Azinger. The MPOB recommends the retirees be allowed to vote because eventually there won't be any active participants in the closed plans.
- Mr. Taylor brought to the Board's attention that several pension secretaries have nonduty permanent disability retirees not providing tax returns to comply with law §8-22-24(d). Pensions continue to be paid without further reviews. Several pension secretaries have indicated their attorney states the law does not provide for a penalty for not reporting the tax return and thus the Trustees cannot temporarily stop a non-duty related pension for this failure. The Pension secretaries want language added to code to hold pension in abeyance until tax return is submitted.
- Bolton suggests the DROP evaluations occur every 5 years instead of 1 year. The change in the DROP information is a marginal change every year. The 5-year change will cut annual costs to the MPOB except during the year the DROP evaluation occurs. MPOB has not received any questions about the DROP information from legislators.

- Current state law for all state pension retirees provides protection that their existing retirement cannot be garnished. Municipal Police Officers and Firefighters retirements is not protected by similar Code. Blair referenced federal law 4.14P Internal Revenue U.S. Code Qualified Domestic Relations Order. Recommendation to create similar language for the municipal police and fire pensions and their retirees for similar protection. The Joint Committee on Pensions and the Co-Chairs support adding this language to the municipal policemen's and firemen's pension funds.
- Senator Nelson and Delegate Storch would like the Board's opinion on introducing legislation to require the MPOB to calculate pensions and survivor benefits. Mr. Taylor suggested looking at the code and change pension calculations. Bolton gave a cost estimate of \$47,000 to design up to three different possibilities to change pension calculations. Mr. Taylor spoke with Mr. Neddo about police officers/firefighter being able to calculate a reasonable estimate of their pension prior to retiring. The current formula for calculating pension is complicated and needs to be changed. Mr. Fleck responded that MPOB calculating pension for firefighters/police officers would cause MPOB to act more like administrators, more staff required and a large cost to implement the change. Mr. Neddo suggests that we work on simplifying the formula for calculating pension due to most of the lawsuits stemming from the calculation of pension. Mr. Richie from Bolton agrees the formula can be simplified for calculating pension. Mr. Blosser indicated he was under the impression that MPOB would simplify the formula and not calculate pensions for firefighters/police officers, but MPOB would just review to determine if the firefighters/police officers calculation are correct. Mrs. Painter stated most of the trustees are not calculating pensions, but in fact municipal staff perform the calculations. Mrs. Painter stated it would take one additional employee for MPOB to calculate pensions for and survivor benefits.

MOTION: Motion to move forward on the first five items of the legislative agenda. Moved by Craig Slaughter; Seconded by Travis Blosser; passed unanimously:

RESOLVED, the Executive Director is to present the first five items on the Legislative agenda to each Pension Committee for Legislative action.

MOTION: Motion to accept the Bolton's proposal to provide several methods to simplify the formula to calculate firefighter's and police officer's pensions. Moved by Travis Blosser; Seconded by Craig Slaughter; passed unanimously:

RESOLVED, to issue a change order on our actuarial services contract with Bolton to provide methods that change and simplify the formula used to calculate firefighter's and police officer's retirement pensions.

Compliance Review Updates

- Mrs. Painter presented. Mrs. Painter and Mr. Smith only have a few compliance reviews left for 2021 to be completed that would leave 16 compliance reviews to complete for 2022. Many of the pension plans have not provided the MPOB with copies of rules and regulations as they do not exist in many of the plans. Staff is following up with plans that have been reviewed and have items that need completed to come into compliance, including providing copies of rules and regulations. Mr. Taylor gave accolades to Mrs. Painter for accomplishing all but 16 compliance reviews in two years. Ms. Painter thanked Mr. Smith for his work towards this success. The remainder of compliance reviews are to be completed in 2022, well within the 3-year goal.

- Plans of Action Extensions
 - Wheeling Firemen's and Wheeling Policemen's Pension have been granted an extension for March 31, 2022.
 - Huntington Policemen's Pension has been granted the 1st extension for February 28, 2022.

MOTION: Motion to approve Wheeling Policemen's Pension and Relief Fund and the Wheeling Firemen's Pension and Relief Fund be granted one-time extension for March 31, 2022, and the 1st extension for Huntington Policemen's Pension and Relief fund for February 28, 2022, Moved by Mr. Jeffrey Fleck; seconded by Mr. Craig Slaughter.

RESOLVED, that the Wheeling Policemen's Pension and Relief Fund and the Wheeling Firemen's Pensions and Relief Fund be granted an extension for March 31, 2022, and Huntington Policemen's Pension and Relief Fund for February 28, 2022.

NEW BUSINESS

Personnel

- Mr. Taylor requested to have the topic of "personnel" be a standing item on the June meeting agenda each year. A general discussion followed on whether the Board should have a subcommittee on Personnel. It was determined not to have a standing subcommittee on personnel. All were in favor of having a Personnel as a standing agenda item in June of each year.

PCard Expenditures

MOTION: Motion to approve the PCard expenditures as presented. Moved by Mr. Travis Blosser; Seconded by Mr. Craig Slaughter; Passed unanimously:

RESOLVED, that the PCard expenditures for September, October, and November of 2021, are approved as presented.

Executive Director's Report

- Disabilities have been lighter this calendar year (16) although 2 came in this month.
- Mr. Taylor has a meeting with the Office of Technology December 17, 2021, with Josh Spence and Janelle Jones to continue use of Microsoft Office 365 as the MPOB's constituents are not state employees and their continued use of the industry standard Microsoft Office. Ms. Painter pointed out our use of Quick Books requires a non-cloud based network storage system and it is not compatible with Google Workspace. Mr. Slaughter indicated should the motion pass, it is the within the Executive Director's purview to pursue the exemption through the Legislature or through other administrative means.

MOTION: Motion to approach the co-chairs joint pension committee for exemption for MPOB to utilize Microsoft Office products for the Municipal Pensions Oversight Board. Moved by Mr. Travis Blosser; Seconded by Mr. Craig Slaughter; Passed unanimously:

RESOLVED, the motion to approach the co-chairs joint pension committee for exemption for MPOB to utilize Microsoft Office products.

- MPOB conducted two regional trainings in Charleston and Fairmont with approximately 130 attendees. MPOB conducted a survey with the attendees about the regional trainings. Mr. Taylor will travel to train the trustees that did not attend the regional training. One of the outcomes from the trainings is the knowledge that current WV Code requires employed firefighters and police officers that return to work after active military duty provide a doctor exam to ensure they are competent to return to work. A vendor has been hired to conduct the exams for \$145.00. MPOB did not have to bid for the conducting of medical exams due to an exemption.
- A DROP application was received from Clarksburg that has been provided to Bolton. Bolton will review and give the information to the Board Members in the March meeting.
- LaRuth Miller will be receiving website training.
- GASBs are complete except for Nitro Police and Fire.
- Jim Ritchie, of Bolton, gave an overview of the Consolidated Actuarial Valuation.
 - Mr. Ritchie gave an overview of the Consolidated Actuarial Valuation Report for the Year Beginning July 1, 2020, document, and a brief description of the results of the plans and how much they were funded. Funded percentage on average increased 3% for each of the plans, roughly 1% of the increase in funded status is due to new actuarial assumptions. Most every plan has increased its funded status over the past 10 years, those using the Standard and Optional funding plans have increased more than those using the Alternative funding or the Conservation funding.
 - Mr. Ritchie recommends that legislature change the state code to allow municipalities that use the Conservation funding policy to switch to the Optional funding policy. Mr. Blosser would like the Board to review this idea in future years.
 - Bolton recommends the smaller plans invest with the Investment Management Board for greater rates of return.
 - Board members and Jim Ritchie discussed discouraging the use of the Alternative and Conservation funding policies.
- Mr. Taylor provided the Board members with the Consolidated Report Summary of Plan Statistics as of July 1, 2020. A discussion ensued on the funded status of several of the better funded plans and several of the most poorly funded plans.

ADJOURNMENT

Mr. Neddo called for a motion to adjourn:

*MOTION: Motion to adjourn. Moved by Mr. Jeffrey Fleck; Seconded by Mr. Travis Blosser;
Passed unanimously:*

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



Stephen Neddo, Chairman

Minutes approved 3/17/22
(date)

Referenced documents can be found in the Board Meeting Packet.

ⁱ MPOB Minutes – September 16, 2021

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

ⁱⁱⁱ Terrence F Brown vs WV Municipal Pensions Oversight Board, Blair Taylor, City of Weirton & Harold E. Miller