

NEW MEXICO
PUBLIC EMPLOYEES RETIREMENT ASSOCIATION
BOARD MEETING

August 30, 2018

This monthly meeting of the Public Employees Retirement Board was called to order by James Maxon, Chair, following the morning study session at approximately 12:00 p.m. on the above-cited date at the PERA Albuquerque Office, 2500 Louisiana Blvd. NE, Suite 400, Albuquerque, New Mexico.

1. Roll Call

The Pledge Allegiance led by State Treasurer Tim Eichenberg preceded roll call which indicated a quorum with the following members present:

Members Present:

James Maxon, County, Chair
Claudia Armijo - State
Natalie Cordova - State
Tim Eichenberg - *Ex-officio*
Dan Esquibel - Municipal
Patricia French - Municipal
John Melia - Municipal
Dan Mayfield - Retiree
Loretta Naranjo Lopez - Retiree
Cathy Townes - State

Member(s) Absent:

Jackie Kohlasch - State [excused]
Maggie Toulouse Oliver - *Ex-officio*

Staff Members Present:

Wayne Propst, Executive Director
Susan Pittard, Chief of Staff/General Counsel
Greg Trujillo, Deputy Director
Karen Risku, Deputy General Counsel
Dana David, Investment Counsel
Dominic Garcia, Chief Investments Officer
Renada Peery-Galon, ASD Director
Kristin Varela, Deputy CIO
Trish Winter, Executive Assistant
Joaquin Lujan, Portfolio Manager
LeAnne Larrañaga-Ruffy, Director of Equity
Karyn Lujan, Deferred Compensation Plan Manager
Christine Ortega, Portfolio Manager
Anna Williams, Chief Financial Officer

Anna Murphy, Portfolio Manager

Others Present:

Tom Toth, Wilshire Associates
Rose Dean, Wilshire Associate
John Garrett, Consulting Actuary
Jonathon Craven, Consulting Actuary
Paul Lium, Nationwide
Lenora Chavez, Retiree
Jack Brodeur, AFSCME retiree
John Doran, AFSCME

2. Approval of Agenda

Recognizing the time of day and the extensive study session that occurred in the morning, Ms. Cordova introduced the following motion:

“RESOLVED, that the PERA Board approve the agenda with the removal of item 4.A, Termination of Contract No. 1960600015, Reed Smith, LLP.”

Mr. Melia seconded. The motion failed by majority [4-6] voice vote.

Mr. Melia introduced the following motion:

“RESOLVED, that the PERA Board amend the agenda changing item 4.A to a discussion rather than an action item”

Ms. Armijo seconded and the motion passed by majority voice vote.

3. Approval of Consent Agenda

[Exhibit 1: Consent agenda]

Mr. Esquibel introduced and Mr. Mayfield seconded the following motion:

“RESOLVED, that the PERA Board approve the consent agenda.”

The motion passed with Ms. Naranjo Lopez and Mr. Eichenberg abstaining. Ms. Naranjo Lopez stated her abstention was regarding the minutes.

4. Current Business

A. Termination of Contract No. 1960600015, Reed Smith, LLP

Ms. Armijo said she requested that this item be placed on the agenda because of concerns that she shared with other Board members regarding the RFP process. She noted that she served on the RFP selection committee and voted favorably for the contractor. Following comments from other Board members, Ms. Armijo said she began to question the process. In her opinion,

there was no procurement violation; however, the RFP should have been advertised for a longer period of time in professional publications to attract more offerors. She noted there was an error in the RFP which could be considered incidental or not.

With potential changes to PERA's benefit structure, Ms. Armijo said it was appropriate to discuss this matter and air the Board's concerns.

Mr. Melia said he appreciated the concerns raised by Ms. Armijo and agreed the process could have been done better. Notwithstanding, he noted there were no violations to the procurement code and the process was valid. He too was a member of the evaluation committee.

Ms. Armijo said the question is process not performance. She said perception matters and the issuance of an RFP is an important process. If the RFP had been published in professional periodicals, as was the RFI, there may have been more responders. She acknowledged that this is a specialized legal field and there are not a lot of lawyers within it.

Ms. Cordova noted that RFPs and their responses vary greatly. Staff followed the statutory RFP process in place. There was mention of further direction to staff, which she felt would be micromanaging.

It was staff that advised the Board that fiduciary counsel would probably not be found in New Mexico. Ms. Armijo said with that information it was unwise to publish the RFP in the *Albuquerque Journal*. It is an important contract and everyone on the Board should have total confidence in the process employed and the result obtained.

Mr. Eichenberg said he was the first one to say the process was too quick. He said having only one responder did not concern him as much as the speed in which the RFP was issued. According to Mr. Eichenberg, at the recent PERA Board retreat, when he asked Harvey Leiderman, who provides legal advice and is not licensed in the state, which attorney are you working through in New Mexico, Mr. Leiderman answered that he worked under PERA General Counsel.

General Counsel Pittard stated that neither the contract nor the RFP require the contractor/vendor to be licensed in the state of New Mexico. The selected vendor is not practicing law in New Mexico and instead is providing advice to the pension board based on a body of knowledge regarding fiduciary responsibilities. In fact, none of the responders to the RFI had a license in the state. Ms. Pittard said the fiduciary counsel does not work under her direction and the contract does not state that.

Ms. French stated she appreciated that Ms. Armijo brought this item up for the entire Board to review. As a Board, Ms. French said it was particularly important they be transparent. If there is a doubt or perception based on the RFP timeline that the vendor was pre-selected, Ms. French said that is very troubling.

Ms. Naranjo Lopez said at the retreat Mr. Leiderman stated that he had not penned a letter regarding the censure that contained his signature. She said he stated things on record that

he could not defend because he did not conduct the full investigation. Ms. Naranjo Lopez stated that, “staff never exposed that they knew Harry [sic] Leiderman before he was even presented to us. I don’t know if that would have caused a conflict of interest but I know that one of the Board members has worked with him under New Mexico PERA...” She said the Board should have been given that information before considering him and the fact he signed the censure document requires an independent investigation.

Ms. Armijo pointed out that the agenda item is about the RFP process and she did not have any facts that Mr. Leiderman has acted inappropriately.

Mr. Esquibel asked if the Board could go without fiduciary counsel while a new RFP is issued. He said there is obviously Board disagreement on this issue.

Renada Peery-Galon, ASD Director, said she reviewed the concerns outlined by Ms. Armijo regarding the RFP process. She advised the Board that she was contacted by a company that places RFPs on a national database, which is an expected occurrence. She discussed the difference between an RFP and RFI. The basis of the procurement code is equitability of services. There was an error in the timetable/sequence of events referring to the “responsible party” rather than “potential offeror” or “PERA/potential offeror.” DFA approved the contract for this RFP and DFA had no issues with the sequence of events. She said she discussed the issue with the DFA deputy chief counsel who referred to it as a “technical irregularity” since the “error” was explained correctly in the next paragraph of the RFP. There were no protests and the DFA deputy chief counsel opined it a “sound procurement.”

Ms. Peery-Galon said the process followed statute and the rules and the Board should feel confident in the procurement process. If, however, the Board chooses to terminate this contract, it should not do so based on the procurement process.

Ms. Naranjo Lopez said her statements regarding fiduciary counsel are in addition to Ms. Armijo’s. She said the RFP should be re-released because “... Leiderman was not given direction by the Board to comment on the censures, which I consider illegal. Universal gave a report that was ignored by Harry [sic] Leiderman. It was not ethical or legal and it was unfair, his statements to the Board.” On the basis of those facts, Ms. Naranjo Lopez requested an independent investigation and the RFP should be re-issued.

Ms. Armijo said this discussion regarding process is important and strengthens the transparency of the Board. She recognized that the pension benefit structure was of greater importance for the Board’s focus at this time.

Chair Maxon thanked the Board for a good discussion on this item.

B. Approval of FY20 Budget Request

Ms. Peery-Galon acknowledged her staff’s expertise and thanked them for their diligence. She presented the FY20 budget request starting with the S-8 and S-9 financial summaries. The total agency request is \$36,359,700 which is essentially flat from the FY19 operating budget. The E-4 form provides greater detail within the three categories: 200, personal

services and employee benefits; 300, contractual services; and 400, other. She noted a 3.9 percent decrease from the general fund which supports the social security administration. That position is vacant and is budgeted at a mid-point salary. There was a 5 percent vacancy rate for full-time classified positions. The majority of contractual services are professional service contracts for investment manager fees. There is a 3.9 percent decrease in contractual services which is a result of the realignment of asset allocations and renegotiations of manager fees. The medical consultants' line item shows an increase as it is anticipated there it may be necessary to have an outside contractor assist with medical file review. In the 400 category there is an increase to replace the Board iPads and Boardroom televisions. Property insurance decreased, utilities increased, as well as a decrease in rental equipment.

Ms. Peery-Galon reviewed the E forms that have to do with expansion requests, noting the agency is requesting \$478,200 for the three exempt FTE investment associate positions. She noted the form contains a description of the positions. The agency currently has 84 FTEs and 12 are exempt employees.

Ms. French asked when the portfolio manager positions were designated exempt. Ms. Peery-Galon recalled that occurred last year. CIO Garcia said the exempt employees have assumed additional responsibilities and the change aligns well with what staff is working to produce with the portfolio.

Ms. Peery-Galon explained in-pay-band increases stating employees who have additional responsibilities and performed well may have received an increase. The increase cannot exceed 10 percent of the current salary.

Mr. Esquibel asked whether the recent storm event caused any problems to the PERA Building. Ms. Peery-Galon said there were no issues and the budget contains building maintenance. Executive Director Propst confirmed that Wayne Lloyd's corrections to the building have held up well.

Mr. Eichenberg commended PERA staff for keeping the budget flat.

Mr. Esquibel introduced the following motion:

“RESOLVED, that the PERA Board approve the FY20 Budget Request.”

Mr. Melia seconded. The motion passed by majority [7-3] with Members French, Naranjo Lopez and Armijo voting against.

To accommodate those needing to leave soon, Chair Maxon requested a motion to move item M, Executive Session, to follow B.

Ms. French introduced the following motion:

“RESOLVED, that the PERA Board amend the agenda and hear item M next.”

Mr. Melia seconded. The motion passed by without opposition.

M. Executive Session - Attorney Reports

1. Discussion of personnel matters - NMSA 1978, Sections 10-15-1 (H) (2) – Executive Director Evaluation

Ms. Townes moved to meet in executive session to discuss the matter listed above. Her motion was seconded by Mr. Mayfield and passed by unanimous roll call vote as follows:

James Maxon	Yes
Jackie Kohlasch	Excused
Natalie Cordova	Yes
Cathy Townes	Yes
Claudia Armijo	Yes
Tim Eichenberg	Yes
Dan Esquibel	Yes
Patricia French	Yes
Dan Mayfield	Yes
John Melia	Yes
Loretta Naranjo Lopez	Yes
Maggie Toulouse Oliver	Absent

[The Board met in Executive Session from 1:25 p.m. to 2:45 p.m.]

Returning to open session, Chair Maxon announced that the only matter discussed during executive session was that as noted in the agenda.

Ms. Townes moved to return to open session and Mr. Melia seconded. The motion passed by unanimous [7-0] voice vote. Members Cordova, French, and Naranjo Lopez were not present for the remainder of the meeting.

Ms. Pittard said the nine resolutions items D through K are presented on an annual basis. She asked that item C be handled as a sole item and the others could be grouped.

C. Approval of Resolution No. 18-08 Regarding PERA Board’s Commitment to Solvency

Mr. Melia introduced the following motion:

“RESOLVED, that the PERA Board approve Resolution No. 18-08 regarding the Board’s commitment to solvency.”

Mr. Mayfield seconded.

Chair Maxon said that Board is heavily committed to reducing PERA’s liability by 2043 and will be focused on sustaining the member benefits. The resolution memorializes the Board’s resolve to reduce the fund’s unfunded actuarial accrued liability.

The motion passed by unanimous [7-0] voice vote.

- D. Approval of Resolution No. 18-09 Concerning Interest on Repayments for Reinstatement of Forfeited PERA Service Credit**
- E. Approval of Resolution No. 18-10 Concerning Interest on Repayments for Reinstatement of Forfeited JRA Service Credit**
- F. Approval of Resolution No. 18-11 Concerning Interest on Repayments for Reinstatement of Forfeited MRA Service Credit**
- G. Approval of Resolution No. 18-12 Concerning Interest Rate as Applied to Unremitted or Late PERA Contributions**
- H. Approval of Resolution No. 18-13 Concerning Interest Rate as Applied to Unremitted or Late JRA Contributions**
- I. Approval of Resolution No. 18-14 Concerning Interest Rate as Applied to Unremitted or Late MRA Contributions**
- J. Approval of Resolution No. 18-15 Concerning Interest Rate of Unremitted Member Contributions for Legislative and Lieutenant Governor Service**
- K. Approval of Resolution No. 18-16 Concerning Rate of Interest on Overpayment of Benefit**

Mr. Mayfield introduced the following motion:

“RESOLVED, that the PERA Board approve Resolutions 18-09 through 18-16 as listed above.”

Ms. Armijo seconded and the motion passed by unanimous [7-0] voice vote.

L. PG&E Litigation Update

Dana David, PERA Investment Counsel, said in accordance with Board Resolution 17-13 staff was delegated authority to act on behalf of PERA in securities litigation matters. PERA and the AGO have agreed to pursue class action litigation against PG&E Corporation to recover losses sustained by PERA in an approximate amount of \$4 million attributable to holding of PG&E securities between April 29, 2015 and June 8, 2018. The law firm of Labaton Sucharow represents PERA and has filed motions to apply for lead plaintiff status. Under the terms of the contract, PERA will not incur any out-of-pocket expenses related to the representation.

Mr. David said the filed complaint alleges that PG&E made certain misrepresentations that resulted in a reduction in the price of their stock. PG&E said it had taken actions to avoid fires caused by vegetation coming into contact with its electrical facilities/power lines and the complaint alleges they did not. Fires in Northern California were attributed to PG&E’s failure to conduct its line maintenance removal of vegetation materials. Their common stock lost 22.7 percent of its value.

Mr. David explained that the attorneys will take their fees and costs out of any award. He understood that PERA had the highest in total amount of losses; however, until all the motions are filed that is not certain.

5. **Other Business**

None was offered

6. **Adjournment**

Chair Maxon declared this meeting adjourned at 2:55 p.m.

Approved by:



James Maxon
Chair, PERA Board

ATTEST:



Wayne Propst, Executive Director

Attached Exhibits:

Exhibit 1: Consent Agenda

Any person with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact Trish Winter at 476-9305 at least one week prior to the meeting, or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact Ms. Winter if a summary or other type of accessible format is needed.