

NEW MEXICO
PUBLIC EMPLOYEES RETIREMENT ASSOCIATION
SPECIAL BOARD MEETING

October 9, 2018

This annual and monthly meeting of the Public Employees Retirement Board was called to order by James Maxon, Chair, at approximately 9:00 a.m. on the above-cited date at the PERA Building, 33 Plaza la Prensa, Senator Fabian Chavez, Jr. Board Room, Santa Fe, New Mexico.

1. Roll Call

Roll call indicated a quorum with the following members present:

Members Present:

James Maxon - County, Chair
Jackie Kohlasch - State
Claudia Armijo - State
Dan Esquibel – Municipal
Patricia French - Municipal
Dan Mayfield - Retiree
Loretta Naranjo Lopez - Retiree
Natalie Cordova – State [arrives following executive session]

Member(s) Absent:

Tim Eichenberg - *Ex-officio*
Maggie Toulouse Oliver - *Ex-officio*
Cathy Townes - State
John Melia - Municipal

Staff Members Present:

Wayne Propst, Executive Director
Susan Pittard, Chief of Staff/General Counsel
Greg Trujillo, Deputy Executive Director
Kristin Varela, Deputy CIO
Trish Winter, Executive Assistant
LeAnne Larrañaga-Ruffy, Director of Equity
Anna Williams, Chief Financial Officer
Karyn Varela, Deferred Compensation Plan Manager

Others Present:

Lenora Chavez
Joan Marentes, Retire APD

2. Approval of Agenda

Ms. French introduced the following motion:

“RESOLVED, that the PERA Board approve the agenda as published.”

Mr. Esquibel seconded.

Ms. Naranjo Lopez objected to item B, “Presentation of Board Direction for Retirement Plan Structure Changes Pursuant to Resolution No. 18-08,” because it lacks transparency and

information. She said the issue should be reviewed via investments.

The motion passed by majority [6-1] voice vote with Ms. Naranjo Lopez voting against. [Ms. Cordova was not present for this action.]

4. Current Business

A. Executive Session – Administrative Appeals – Board will recess to Executive Session under NMSA 1978, Section 10-15-1 (H)(3)

1. Sophie I. Cooper
2. Alan Green
3. Brenda Van Asperen

Mr. Esquibel moved to go into executive session pursuant to NMSA 1978, Section 10-15-1(H)(3). Ms. French seconded. The motion passed by unanimous roll call vote as follows:

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

[The Board met in Executive Session from 9:05 a.m. – 9:30 a.m.]

Mr. Esquibel moved to return to open session. Ms. French seconded and the motion passed by unanimous [7-0] voice vote.

Chair Maxon announced that the only items discussed during executive session were those noted in the agenda.

A. Final Decision on Administrative Appeals

1. Sophie I. Cooper – PERA #1814

Mr. Mayfield introduced the following motion:

“RESOLVED, that in the matter of the appeal of Sophie I. Cooper, the PERA Board adopt the Hearing Officer’s recommended findings of fact and conclusions of law, approve the Hearing Officer’s recommended decision to deny the claimant’s requested change of effective date of retirement to January 1, 2018.”

Ms. Armijo seconded and the motion passed by unanimous [7-0] voice vote. [Ms. Cordova did not vote on this item.]

2. Brenda Van Asperen – PERA #89635

Mr. Mayfield introduced the following motion:

“RESOLVED, that in the matter of the appeal of Brenda Van Asperen, the PERA Board adopt the Hearing Officer’s recommended findings of fact and conclusions of law, approve the Hearing Officer’s recommended decision to grant the claimant’s request for the continuation of PERA disability retirement benefit.”

Ms. Armijo seconded and the motion passed by unanimous [7-0] voice vote. [Ms. Cordova did not vote on this item.]

3. Alan Green – PERA #523786

Mr. Mayfield introduced the following motion:

“RESOLVED, that in the matter of the appeal of Alan Green, the PERA Board adopt the Hearing Officer’s recommended findings of fact and conclusions of law, and approve the Hearing Officer’s recommended decision to deny the claimant’s request that PERA apply a 3 percent interest factor for service credits earned between April 21, 2012 and June 30, 2013. ”

Ms. Armijo seconded and the motion passed by unanimous [7-0] voice vote. [Ms. Cordova did not vote on this item.]

B. Presentation of Board Direction for Retirement Plan Structure Changes Pursuant to Resolution No. 18-08

Chair Maxon said the Board’s work session on Friday, October 5th was very informative and productive. The Board developed direction to staff regarding an agenda for the statewide meetings. Following direction to staff, Chair Maxon requested that staff develop a power point presentation by Thursday, October 11th for the Board’s review and the Board will provide comments back to him on Friday, October 12th. Staff will revise the document for presentation at the first outreach session scheduled for Monday, October 15th.

It was his understanding from the work session meeting that the outreach sessions will present a brief history of the PERA benefits, including tab 2 on page 13 “market value of PERA assets from 2002 -2016” from the work session booklet, and a history of SB 27 including its forecast and impact on the fund. Chair Maxon invited comments from the Board.

Ms. French said that the SB 27 information should include not only the impact it has had on the fund but where the fund would be without the bill.

Ms. Naranjo Lopez said there were only three ways to close the funding gap: investments, contribution rate and benefit rate, and the legislature is the only body that can change contribution and/or benefit rates. She asked why the Board was unwilling to work with investments. It will take 250 years to close the gap based on the proposal before the Board.

Ms. Naranjo Lopez asked that each plan have a separate presentation with its relationship

to the funding gap. She noted that State General and the Firefighters are the least funded plans.

Ms. Naranjo Lopez said Chair Maxon and Mr. Mayfield sent a letter to the retirees dated October 4, 2018 that she received on October 3rd and she took issue with that. She read the letter and provided her comments which are shown in italics:

PERA's solvency has been in the news so much recently that many of you have called me – *Why is this first person? There are two signatures to the letter and a third person listed in the letterhead* – to voice your concerns and ask what is being done. I have attempted to answer all of your calls but may have missed some of you. *First person indicates lack of official Board position or view. It also indicates exceeding authority by using PERA resources without Board consent.*

Regrettably, there is a significant amount of misinformation being provided to retirees about what the Board has been discussing, the true nature of our challenges and the possible recommendations we may make to the Legislature for the 2019 session. *This implies that the letter is speaking on behalf of the full PERA Board as it was written by the Board Chair, someone in apparent authority to speak on behalf of the full PERA Board. It is an official letter written to address misinformation to describe the true nature of our challenges and to describe the possible recommendation we the Board may make to the legislature for the 2019 session. This is misleading in that Wayne Propst and others have already approached the legislature for the 2019 session.*

As a Member of the PERA Board and a retiree myself – *to whom is this referring; Maxon, Mayfield, and/or Propst? All three are listed in the letter in their official capacity* – I want to tell you directly what we have heard from experts, such as our actuaries and investment advisors, and exactly what the Board is considering going forward. *Grounds for censure. If the PERA Board applies the rules to Maxon, Mayfield and Propst the way they applied it to myself and French, the author of this letter should be censured to preserve PERA Board's integrity and prevent further communication to the PERA membership by the PERA Board without the PERA Board review and pre-approval.*

First and foremost, we want to make clear that PERA's current retirees' pension base benefits are not in jeopardy and no one is talking about eliminating the cost-of-living-adjustment. *This reads like an official policy of the PERA Board and it is misleading since Maxon asked Board members for recommendations on how to close the funding gap. Misleading PERA members is grounds for disciplining both PERA staff, Propst and PERA Board members responsible for this letter.* Since 1947, PERA has paid benefits to retirees month after month, through good times and bad. However, we do face challenges that need to be addressed to ensure we have a “forever” defined benefit system for all generations of PERA members. Fortunately, our challenges are manageable. *This indicates that PERA Board has a complete solution to the \$5 billion funding gap.*

Second, despite what you may have heard, PERA cannot invest its way out of its liabilities without taking on significant and ill-advised levels of risk with your money, risk levels that would be counter to the Board's fiduciary duty to you. *This statement is misleading and false. The staff should require the Board to invest under the*

circumstances of a \$5 billion funding gap. The Board has not effectively overseen PERA's Chief Investment Officer. PERA's Executive Director and General Counsel do not have investment knowledge or experience even though their job description includes investing. The largest risk to PERA is the Board shirking its fiduciary responsibility to manage and invest PERA assets under the circumstances of a \$5 billion, nearly 25 percent funding gap. Ill advised is the change nothing strategy proffered by PERA staff to the PERA Board when 40 percent of PERA assets are designed to fail. Expected returns of \$4 billion in bonds and \$750 million of cash are less than 8 percent minimum return mandated by the state legislature. The PERA Board is negligent to the extent that it does not consider institutional grade opportunities to close PERA's \$5 billion funding gap.

The Board has acted prudently in recent years to lower our expected investment return assumption to ensure that we can pay the benefit our members have earned. This is false. Lowering investment return assumptions change the actuary reports, they do not involve investing or managing PERA assets for the benefit of PERA members. The word "ensure" means that the PERA Board is guaranteeing benefits. COLA and other members' benefits previously promised to PERA members are off the table and not subject to negotiation according to this statement. That is one example of the Board being responsible with our retirement monies. Assumptions are not monies.

Third, the current fixed, compounding COLA is being studied because it has out-paced inflation for at least the last 20 years and is the major driver of ongoing unfunded liabilities. Studies are not actions. A more prudent approach would have been to quantify the sources of the current \$5 billion funding gap, including demographic changes in the State of New Mexico. Following such research, the PERA Board could have seen that demographics, more than COLA, have contributed to the current \$5 billion funding gap and including what I recommend is that we look at those different funds and how they impacted the funding gap. I want to see that. We should have that on the table and the members should be able to see that. And by the way, I have gotten several calls on this letter. How poorly it was written and so what I'm saying is from my membership that is telling me how bad we look to them. They are disgusted. In particular, members who retired before 1997 have received COLAs that have exceeded the CPI by a total of 20 percent for the 20-year period preceding 2018. This is likely misleading. Exceeding by a total of 20 percent even in the periods of inflation higher than today seems unlikely. The PERA Board should have opportunities to review data, analysis and reporting before conclusions are communicated to the PERA members. In short, we put much of the COLA liability for the past couple of decades on a "credit card" and that "credit card" bill has come due.

\$20 million in COLA benefits a year versus \$5 billion in unfunded liability. It would take 250 years to close the funding gap by reversing COLA. The real opportunity to close the funding gap was dismissed above making this letter politically biased, misleading, irresponsible and a violation of state law that requires candor and truth when communicating with beneficiaries.

Fourth, simply increasing contributions on current active employees is not a "fix" to the problem. PERA's actuaries estimate that contributions would need to be increased by more than 8 percent to get PERA back to full funding. Contributions levels from employers and employees into PERA are already some of the highest in the nation.

Likewise, one-time cash infusions to PERA, while appreciated, are unlikely to have a significant impact on liabilities. *Misleading to raise false hopes in a one-time cash infusion. Such cash would need to come from the State Treasury and all taxpayers in the State of New Mexico.*

Finally, refinements to the PERA benefit structure are necessary to weather a 10-year projection for an uncertain... – *this statement is unfair. PERA pays 11 professionals and many third-party firms to add certainty. PERA carries \$4 billion of bonds which have low expected default rates, some of the most certain assets in the market* – ...and volatile market – *equity market volatility is below long-term averages. This statement is misleading.* And to manage future cash flow; however, even with refinements, PERA will still offer one of the most generous public pension benefits in the nation. *Misleading in dollar terms. Many other pensions pay significantly more than PERA per retiree.* We believe, we can sustain both the base benefit and some form of COLA going forward. *This contradicts statements above that ensure benefits and take COLA off the table.*

The story of how we got here dates back to the mid-to-late 1990s. *Misleading. How PERA got here is failure to effectively oversee PERA staff, failure to manage and invest PERA assets in light of a large and persistent funding gap, staff misconduct, a distracted board.* At that time, the “good times” – *Misleading. The US Stock Market returned more in 2017 than in the mid- to late-90s with the exception of the dot- com bubble that ultimately corrected.* Investment returns were plentiful and PERA was projected to be 100 percent or greater funded. *PERA is still projected to be 100 percent funded per the state legislature. PERA staff and Board prefer indefinite underfunding to investing.*

Chair Maxon and I – *Personal benefit to Mayfield in violation of state law and PERA policies. These are grounds for censure to prevent further misuse of PERA resources.*

Ms. Naranjo Lopez asked that everything she read be placed on the record. The outreach meeting schedule provided within the letter was not discussed with the Board members. Further, she requested that Chair Maxon, Mr. Mayfield and staff be censured as a result of this letter.

Ms. Cordova said staff and independent experts present information to the Board on a periodic and frequent schedule. Those presenters adhere to high professional standards and many times they are licensed professionals. She said she was truly disappointed to hear Ms. Naranjo Lopez’s disparaging comments. The Board is educated by staff and the actuaries provide data per plan. The Board Chair has certain authorities that were properly executed in regards to communicating with the members. She noted that the investment environment moving forward is not what we had hoped for. Failure of a fiduciary is putting self first, and Ms. Cordova said the Board could not do that. “It is not possible to invest our way of out of this; however, if there is such a plan let’s hear it.”

Ms. Cordova said she read the letter and did not perceive anything false within it. She recognized how difficult this issue is and said this is the Board’s duty. She closed her comment stating it is important to keep in mind what being a fiduciary of this fund really means.

Mr. Esquibel asked whether Ms. Armijo's idea was going to be explored further.

Ms. French pointed out that the state owes the biggest portion of the unfunded liability and that has not been addressed. The state should increase their contributions. Previously, she has asked what it would take to bring Municipal Fire and State General up to 80 percent and has not received an answer.

Ms. French said holding townhall meetings without an agreed upon presentation was unwise. PERA is not going "belly-up" next year and there is time to conduct due diligence and review scenarios rather than rush through without proper review.

Chair Maxon said the intent was not to rush anything through but instead get feedback from the membership. The proposal is to gather input before developing a final plan.

Mr. Esquibel said he was prepared to listen to Ms. Armijo's proposal which he reviewed and found reasonable. He asked what staff was presenting to the membership at the townhalls. Chair Maxon said the idea was to share the history of PERA, where the fund is today and ask for member input. A communications component on how a member can share ideas will be included in the presentation.

Ms. Naranjo Lopez said a lot of members have requested information about individuals whose multiplier increased greatly before retirement. She said that has been an issue. She stated State and Fire are the lowest contributors yet they have the highest benefits.

Ms. Armijo said she has never heard one Board member, including herself, nor staff talk about eliminating the COLA. She said it was important to understand that that discussion never happened. While there have been discussions about revising the COLA and how changes might be made to it, but she has no recollection of eliminating it.

Ms. Naranjo Lopez said that conversation regarding eliminating the COLA occurred at the Board retreat in Taos. She said that meeting was not recorded. Ms. French recalled that during that retreat it was stated that the COLA was on the table, not that it would be eliminated.

Mr. Esquibel introduced the following motion:

"RESOLVED, that the PERA Board approve presentation to the membership to include history of PERA, SB 27, the chart, general education on the plan and where the plan would be without SB 27, etc., and to move forward with the town hall meetings to gain feedback from the membership. The presentation will not include any proposed cuts to the benefits."

Ms. Cordova seconded.

Ms. Cordova said if this is direction to staff to prepare a presentation, the Board needs to be very clear as to what they want to see.

Chair Maxon said requested that staff email the power point to the Board members on Thursday giving the Board 24 hours to review it. Executive Director Propst said staff would

work to have that out to the Board by the close of business today or early tomorrow.

The motion passed by majority [7-1] voice vote with Ms. Naranjo Lopez voting nay. Explaining her vote, Ms. Naranjo Lopez said she hasn't seen the presentation, does not agree with the recommendations and wanted investments included in closing the \$5 million gap.

Mr. Esquibel asked for the amount PERA pays out as a result of COLA. Anna Williams, Chief Financial Officer, said PERA paid out \$242 million last year in COLA – over \$20 million a month.

Ms. French requested staff to provide the dollar amount of COLA paid out since 2015.

4. Other Business

In regards to an email sent out to the Board about refreshments, Ms. French said it has been PERA's past practice that the executive assistant would pass out a list in January and each of the 12 Board members would contribute \$40 for one month. Staff should not be paying for refreshments and she said she was offended by the email. She said it was important to avoid further fueling animosity between the Board and staff.

Executive Assistant Winter said she was unaware of the previous practice and had been using her work as well as personal time to pick up refreshments. Chair Maxon said he would work with the Board to develop a protocol.

Ms. Naranjo Lopez stated, "I am very disgusted with the lack of service that we have received from staff." Speaking from her professional experience, she said the job duties of an executive assistant include taking care of the board.

Ms. Cordova suggested that the Board members bring their own food rather than depend on staff. To her, it was disgusting the Board wanted staff to provide meals/snacks.

Ms. Naranjo Lopez introduced a motion to replace the top two executives and place the CIO on probation based on what she read at the last meeting.

Chair Maxon advised Ms. Naranjo Lopez that her motion was in violation of the Open Meetings Act.

A motion was made to adjourn and the quorum was lost.

5. Adjournment

Chair Maxon declared this meeting adjourned at 10:25 a.m.

Approved by:



James Maxon
Chair, PERA Board

ATTEST:



Wayne Propst, Executive Director