

**NEW MEXICO  
PUBLIC EMPLOYEES RETIREMENT ASSOCIATION  
BOARD MEETING  
Thursday, October 29, 2020**

1. This monthly meeting of the Public Employees Retirement Board was held on the date cited above via Zoom tele/videoconferencing. John Melia, Chair, called the meeting to order at approximately 9:00 a.m.

**2. & 3. Pledge of Allegiance and Roll Call**

Roll called followed the Pledge of Allegiance, led by Dan Mayfield. Meeting attendance met quorum, with the following members present:

**Board Members Present:**

John Melia, Chair  
David Roybal, Vice Chair  
Claudia Armijo, State Member  
Lawrence Davis, Municipal Member  
Paula Fisher, State Member  
Patty French, Municipal Member  
Dan Mayfield, Retiree Member  
Loretta Naranjo Lopez, Retiree Member  
Steve Neel, State Member  
Tim Eichenberg, Ex-officio

**Members Excused:**

Shirley Ragin, County Member  
Maggie Toulouse Oliver, Ex-officio

**Staff Present:**

Wayne Propst, Executive Director  
Greg Trujillo, Deputy Director  
Susan Pittard, General Counsel/Chief of Staff  
Ron Gallegos, Chief Technology Officer  
Anna Williams, ASD Director/CFO  
Dominic Garcia, CIO  
Kristin Varela, Deputy CIO  
Misty Schoeppner, Deputy General Counsel  
Trish Winter, Executive Assistant  
LeAnne Larranaga-Ruffy, Portfolio Manager  
Frank Mihail, Investment Associate  
Angela Romero, Manager Abq. Officer  
Jessica Perea, User Admin  
Christina Gauthier, Outreach  
Karyn Lujan, SmartSave Plan Manager

**Others Present:**

Tom Toth, Wilshire Consulting  
Ernie Marquez, Automated Election Systems  
John Garrett, Cavanaugh Macdonald  
Micki Taylor, Cavanaugh Macdonald  
Caitlin Gutierrez, REDW  
Susan Ireland, Datagain  
Francis Page, newly elected Board member  
Pilar Sorenson, Private Equity Stakeholders Project  
Roman Movshovich  
Maja Ben  
Andrew Paulson

**4. Approval of Agenda**

Ms. Naranjo Lopez made a motion to remove the agenda items under 6.A Rules & Administration Committees, these being the Executive Director Resolution and Public Comment Section in Board Policies and Procedures. Ms. Naranjo Lopez began to voice concerns around these items and to read a statement she had prepared inviting IPOC to investigate PERA staff, the Board, and the auditor. Chair Melia reminded Ms. Naranjo Lopez the matter at hand was the approval of the agenda, and that the time for discussion of each item would be allowed for within the meeting. Ms. Naranjo Lopez restated her motion was to remove the items from the Agenda, and that she wished to finish reading her statement to support the removal of the items from the agenda. The motion to remove agenda item 6.A was not seconded.

Mr. Davis moved to approve the agenda as published. Mr. Mayfield seconded the motion. The motion to approve the agenda passed by a roll call vote of eight to one.

|                       |               |
|-----------------------|---------------|
| John Melia            | Yes           |
| David Roybal          | Yes           |
| Claudia Armijo        | Yes           |
| Lawrence Davis        | Yes           |
| Paula Fisher          | [no response] |
| Patty French          | Yes           |
| Dan Mayfield          | Yes           |
| Loretta Naranjo Lopez | No            |
| Steve Neel            | Yes           |
| Tim Eichenberg        | Yes           |

Ms. French advised at her vote that she was voting “Yes” because would like to raise, discuss, and clarify her issues also concerning and items raised by Ms. Naranjo Lopez.

Ms. Armijo queried the participants of the virtual Zoom meeting calling in from a specific phone number. Micki Taylor, Cavanaugh Macdonald, confirmed due to internet problems they had called into the meeting by phone rather than video.

**5. Approval of Consent Agenda**  
*[Exhibit 1: Consent Agenda]*

Ms. Naranjo Lopez requested Item 5C on the Consent Agenda be moved to the regular Agenda as item 7B. Chair Melia confirmed the item would be moved.

Mr. Davis moved to approve the consent agenda as amended. Mr. Roybal seconded the motion. The motion to approve the consent agenda passed by a unanimous roll call vote.

|                       |     |
|-----------------------|-----|
| John Melia            | Yes |
| David Roybal          | Yes |
| Claudia Armijo        | Yes |
| Lawrence Davis        | Yes |
| Paula Fisher          | Yes |
| Patty French          | Yes |
| Dan Mayfield          | Yes |
| Loretta Naranjo Lopez | Yes |
| Steve Neel            | Yes |
| Tim Eichenberg        | Yes |

**6. Reports of Committees**

**A. Rules & Administration Committee**

**1. Executive Director Resolution**

*[Exhibit 2: Memorandum, Rules & Administration Chair, September 8, 2020]*

Ms. Naranjo Lopez spoke to her earlier request to remove this item, stating that it violates the statutory obligation by the Board to oversee staff and PERA’s vendors and that we cannot rewrite the laws. She questioned whether the Board attorney’s advice allows the Executive Director to be the Board’s Secretary as part of this resolution, saying this is confusing to the public as it could be

conceived as a thirteenth Board member, which is not allowed by statute. She said Resolution 20-15 states that the Executive Director is a liaison between the Board the Legislature, but does not state and should that the Executive Director cannot go to the Legislature without a Board action allowing the Executive Director to speak on any issue about New Mexico PERA in general. She said the Board already has a Chair to speak on their behalf, along with the Vice-Chair and the Rules Committee Chair. To further emphasize, Ms. Naranjo Lopez then read her statement [*Exhibit # 3*

Chair Melia responded to Ms. Naranjo Lopez by saying that he wanted any PERA members listening to the meeting to know that probably 97 percent of what Ms. Naranjo Lopez had just said was a complete absolute lie and that she was a disgrace to the PERA Board. He said that it blows his mind how she was allowed to serve on the Board as a fiduciary when almost everything she does is a vindictive lie to tear people down.

Ms. Armijo called Chair Melia to a point of order.

Chair Melia stated that as a Board serving almost 100,000 PERA members, for Ms. Naranjo Lopez to lie every single time is not okay, as her voting members do not hear anything except what she saying. He said he would not let Ms. Naranjo Lopez continue to lie, slander, and libel other Board members and staff as it was false. He said Ms. Naranjo Lopez's lawsuits have been dismissed, her investigations had found nothing, yet she continues to lie about it and raise it. Chair Mela reiterated that it was important that any PERA members listening to the meeting to seek the truth, and not take Ms. Naranjo Lopez's word for granted. He then invited Mr. Davis to speak.

Ms. Naranjo Lopez asked if she could respond that she has never filed a lawsuit. She said she did not appreciate being called a liar, because she is not, and that everything that she stated is on record.

Ms. Armijo said, under the Board's drive to be collegial, she thought it was inappropriate for Chair Melia to call Ms. Naranjo Lopez a liar and speak as he did. She said she understood that what Ms. Naranjo Lopez said may have made the Chair and others angry, however, Ms. Naranjo Lopez had been allowed by Chair Melia to read her statement. She reiterated that the Board should not be calling each other liars and making allegations about each other and asked that the Board return to some decorum and civility.

Responding to Ms. Armijo, Chair Melia said Ms. Armijo knows Ms. Naranjo Lopez is a liar, and everyone knows that she is a liar. He said he is not going to allow Ms. Naranjo Lopez to accuse him of nonsensical things without responding that it is not true, and that Ms. Naranjo is a complete baseless liar. He said he appreciates that's her opinion on it, but from now on, any time his name is raised with a lie attached to it, he would call her out for the liar that she is.

Ms. Naranjo Lopez replied she was not stating anything that is not on record.

Chair Melia said the only record is what Ms. Naranjo has created, that is fake.

Ms. Naranjo Lopez asked for a copy of the letter Chair Melia presented to IPOC because the Board had not seen it.

Ms. French asked to move on to the agenda item. Chair Melia asked Mr. Davis to speak.

Mr. Davis, Rules & Administration Committee Chair, spoke his Memorandum dated September 8, 2020, to the Rules & Administration Committee [*Exhibit 4: PERA Board of Directors Election Report, Automated Election Services*] regarding the guidance given to the Board by the

Office of the State Auditor (OSA) and the NM Attorney General's Office (NM AG) to clarify the Executive Director's authority.

Mr. Davis said work on the attached proposed Resolution document, which clarifies the Executive Director's authority and specific duties, as well as outlining general duties, has been underway for over a year. He noted that the item G in the Resolution clarifies the Board's role, authority, and process for establishing and adjusting the Executive Director's compensation.

Mr. Davis said he, along with staff, had reviewed how other public pension funds and local governing bodies delegate and clarify the chief administrator's authority. He said he believed the proposed Resolution document attached accomplishes the clarity recommended by both the State Auditor and the Attorney General's Office to clarify the duties and outline the authority for the Executive Director, and to be compliant with the law and the New Mexico Administrative Code. Mr. Davis said the document had been prepared to establish the responsibilities and accountabilities of the Executive Director and is incorporated into the Board's policies and procedures by reference.

Ms. Armijo said she had legal questions about the resolution and confirmed the presence of Susan Pittard, General Counsel, and Misty Schoeppner, Deputy General Counsel at the meeting.

Ms. Armijo thanked Mr. Davis for his letter and recommendation of the Resolution and said that she understood the impetus for moving it forward. She asked Mr. Davis if the Board passed the Resolution, what are the main provisions within it that would provide clarity, and what unclear situations those provisions will prevent.

Responding to Ms. Armijo, Mr. Davis said the Resolution specifically outlines the fiduciary duties and authority the Board authorizes the Executive Director to perform in administering the Plan. He noted it had been questioned in the past whether the Executive Director had the authority to hire and set the compensation for staff, and the Resolution clarifies that. He said the Resolution also clarifies the Executive Director's authority to negotiate, enter into, amend, and terminate operational contracts. Mr. Davis said the Resolution also addresses the process for setting the Executive Director's compensation, which has been an ongoing item for the Board, and was the impetus for the State Auditor and Attorney General investigations and subsequent findings there was no process. He said the Resolution clarifies that the Executive Director does not have the authority to set their own compensation, that it is a responsibility and process for the Board, and has been written in a way to mirror the language in the Board Policies and Procedures. Mr. Davis said the Resolution clarifies what the Board is delegating to the Executive Director, and therefore items the Executive Director accountable to the Board for within the charter.

Ms. Armijo then asked Mr. Davis what other public pension funds were reviewed by himself and PERA staff, as referred to in his letter. Responding to Ms. Armijo, Mr. Davis said a few Executive Director Charters had been reviewed from around the nation, and that he had asked staff to draft this Resolution to most closely the language and position of that within Colorado's Executive Director Charter.

Ms. Armijo asked Mr. Davis if he had personally reviewed Colorado's equivalent of the New Mexico PERA Act, which is the law that gave the Colorado PERA Board the authority to delegate duties to the Executive Director. Responding to Ms. Armijo, Mr. Davis said he, personally, did not review that law. Ms. Armijo asked Mr. Davis if he was advised that the law is identical or mostly identical to New Mexico's PERA Act. Responding to Ms. Armijo, Mr. Davis said he was not advised of that either.

Addressing Ms. Pittard, General Counsel, Ms. Armijo said she understood the Resolution is trying to create clarity for PERA's Executive Director and the Board, and that is a good idea, but that it would be helpful to herself and other Board members to understand the hierarchy of laws and rules

and policies, and resolutions. Ms. Armijo asked Ms. Pittard if the Board were to pass this Resolution and then became aware that a provision within it conflicted with the Board's already adopted and in effect policies and procedures, which one in the legal hierarchy would be considered controlling, the Resolution or the Board's Policies and Procedures. Responding to Ms. Armijo, asked Ms. Pittard if she meant if this resolution were to conflict with Board Policies or Statutory Authority.

Responding to Ms. Pittard, Ms. Armijo said no, that her question was specific that if something in the Resolution conflicts with one of the Board's policies that were adopted and went into effect April 2019, which would control – the Board Policies & Procedures or this Resolution. Responding to Ms. Armijo, Ms. Pittard said the Board Policies, but if it was believed there was a conflict, then that should be corrected now.

Ms. Armijo thanked Ms. Pittard for the information, and that she wanted to know what is going to control, which had been answered. That is, if there is a conflict in the Resolution with the existing Board Policies and the Board passes it, the policies will control. Ms. Armijo then asked if the Board passed the Resolution and identify that part of it conflicts with the Board's rules that are codified under the New Mexico Administrative Code, which hierarchy of legal weight would be considered controlling – the Resolution or the Board's rules that are codified in the Administrative Code? Responding to Ms. Armijo, Ms. Pittard, said the Administrative Code would control.

Ms. Armijo thanked Ms. Pittard for the clarification, and speaking to Board members Ms. Armijo explained the Board has rules that they as a Board promulgated legally, a very arduous and laborious process, and those rules are codified in the New Mexico Administrative Code.

Ms. Armijo then asked Ms. Pittard if the Board then become aware that a provision in this Resolution, if passed, conflicts with the PERA Act or any other state law, which will be controlling – the Resolution or the PERA Act or other state law? Responding to Ms. Armijo, Ms. Pittard said that statutory law will prevail over the resolution. Ms. Armijo stated for clarity if the Board passes the Resolution and there is a conflict with the PERA Act, which the enabling statute, or any other state law, that law will control, not the Resolution.

Ms. Armijo then asked Ms. Pittard if the Board became aware that a provision in this Resolution conflicts with Section 22 of Article 20 of the New Mexico Constitution, which would be considered controlling – the Resolution or the New Mexico Constitution. Responding to Ms. Armijo, Ms. Pittard said it was the Constitution of the State of New Mexico.

Addressing the Chair and the Board, Ms. Armijo said her point of the legal questions was so Board members understood, and as Mr. Davis had articulated in his letter, the need for care and to create clarity rather than further conflict as was identified by both the State Auditor and the AG's office. She said that the Board needs to be cognizant of every provision in the Resolution before they pass it on whether there are any conflicts with the Constitution, the PERA Act, other state law, the codified rules of the New Mexico Administrative Code, the Board Policy & Procedures, as they would control, as noted by General Counsel.

Referring to the proposed Resolution, Section 1, General Delegation, Ms. Armijo quoted "The day-to-day administration of the PERA is delegated to the Executive Director, who shall be the executive and administrative head of the system." Then referring to the law set by Legislature under the PERA Act, 10-11-131B Ms. Armijo quoted, "The retirement board shall appoint an executive director who shall be the chief administrative officer for the retirement board and the association." Ms. Armijo then quoted from the New Mexico Administrative Code, 2.80.1800.8, General Provisions, paragraph A, "The executive director shall be the chief administrative officer of the board and of the association." Summarizing, Ms. Armijo, said the law clearly states that the Executive Director is the chief administrative officer. The codified rules in the New Mexico Administrative Code, second only to the law, also said the Executive Director shall be the chief administrative officer.

Ms. Armijo said she then questioned the meaning of the titles in the proposed Resolution given to the Executive Director, that is the Executive Head of the System and Administrative Head of the System, and how are they different from the Legislature, as PERA rules that already say the Executive Director shall be the chief administrative officer. Ms. Armijo said her search of New Mexico laws, resulted in 13 different New Mexico statutes where the Legislature has designated someone as an executive head, and 18 different laws where the Legislature has designated someone as an administrative head. She said that of those designations, they are primarily used when they are referring to the Governor as the administrative head of the state or a Cabinet Secretary. Noting there is a key difference between the PERA Executor and the Governor or a Cabinet Secretary, she said the Governor has extensive broad executive authority and Cabinet Secretaries appointed must be confirmed by the Senate. Whereas the PERA Board appoints the Board's Executive Director, but that Executor Director does not rise to the level of authority and power of a member of the Governor's cabinet, which is why the PERA Executive Director does not have to be confirmed by the senate. Ms. Armijo said if the Legislature had wanted the PERA Executive Director to hold the title of Executive Head or Administrative Head, it could have and would have indicated that in the PERA Act.

Ms. Armijo said in her view, the Board adopting a Resolution declaring that the PERA Executive Director holds a title normally attributed by the Legislature to the Governor or a Cabinet Secretary creates a lack of clarity contrary to the goal of this Resolution. She asked that the Board understand that referring to PERA's Executive Director as an Administrative Head or an Executive Head created confusion by taking a term commonly used by the Legislature, but purposely not used by the Legislature in the PERA Act. She said this, without any legislative authority, is trying to increase the powers and duties of PERA's Executive Director beyond what the Legislature intended.

Ms. Armijo asked Mr. Davis what he thought the titles in the proposed Resolution mean, how they were different than what the Legislature already says, which is that the PERA Executive Director is the chief administrative officer for the Retirement Board, and why the titles were elevated without the legislative authority to do so.

Responding, Ms. Pittard said the Resolution document that Ms. Armijo was referring to was the original one prepared by fiduciary counsel and not the current version before the Board. Ms. Pittard referred to the current proposed Resolution document with redline changes on the screen before the Board, as adopted by the Rules & Administration Committee adopted, and addressed the concerns just raised by Ms. Armijo. Ms. Armijo replied she was the Resolution document she was referring to was the one she had accessed via packet available on the Board portal.

Responding to Ms. Armijo's question on the document, Mr. Davis confirmed that the current proposed Resolution addresses the concerns she raised, and now says, "the chief administrative office for the Board and the association".

Referring to Ms. Armijo's earlier question on the review of Colorado's laws as applied to Executive Directors, Mr. Davis reiterated an extensive search had been done. He said that the PERA legal staff reviewed New Mexico, statute, rules and regulations, and the Constitution, which resulted in the changes just mentioned. Mr. Davis expressed disappointment that the Board had not worked together as a team in the previous six months, on multiple occasions when he had requested Board member input on the Executive Charter for the Executive Director. He said as no Board member input been received, PERA staff had continued with the proposed Resolution.

Ms. Armijo confirmed the current proposed Resolution on the meeting screen was not the version she reviewed from the Board materials in the portal, therefore she was not familiar with it. She said her earlier questions on the legal consequences of any conflicts that might be in this resolution were still a good idea.

Ms. Armijo asked Mr. Davis if the current proposed Resolution document said, as per the earlier document, that Executive Director sets the Board’s agenda? Responding to Ms. Armijo, Mr. Davis said no, that the setting of the Board’s agenda had always been the responsibility of the Chair.

Ms. Armijo said that she would be voting no on the proposed Resolution. Firstly, because she had reviewed the incorrect Resolution, which is frustrating given the time spent on a document accessed via the packet on the Board portal for the meeting. Ms. Armijo said she would revisit the Board portal to establish where she found the Resolution. Secondly, Ms. Armijo said she would be voting “no” because she was not confident that the document before the Board did not conflict with the Constitution, statute, Code, or PERA’s Policies and Procedures. Speaking to Mr. Davis’ point that the Resolution is intended to clarify that the Executive Director does not and cannot set his or her own salary, Ms. Armijo said that doesn’t need to be in a Resolution because it is in the law under the PERA Act.

Chair Melia asked Ms. Pittard to advise whether the Resolution conflicts with any Board policies, rules, statutes, or the Constitution. Ms. Pittard responded that it was drafted to track the statutory and regulatory schemes that govern the PERA association.

Ms. Armijo asked Ms. Pittard whether if, in her legal opinion, any of the provisions in the proposed Resolution conflict with any of the controlling law, Constitution, policies, or administrative code. Ms. Pittard responded that it does not.

Ms. French called for the question and asked for confirmation the proposed Resolution was an action item, and whether a motion and second was made before opening for discussion. Chair Melia confirmed the motion had not yet been made and asked the speaker if she would like to make one.

Mr. Davis said he did not consider it right to members, or the public, to not take a vote or vote no due to unpreparedness. He said he had seen the current documents on the Board portal, but he was not sure if there had been a technical glitch. He reiterated that the process of reviewing the Resolution had been underway for six months, and both himself and PERA staff had sent previous emails and communications to Board members asking for input. He said he was disappointed that Ms. Armijo, as a Board member familiar with the Board portal process, who was always well prepared, articulate, asking questions, and who does a great job for members, would give being unprepared as a reason not to vote or give a no vote, particularly given the duration of the process at hand.

Acknowledging that Ms. Naranjo Lopez often raises the Board’s need to address the \$6 billion unfunded liability, Mr. Davis said he was unhappy with the constant delays to conducting this business and policy reviews caused by the time taken due to Board members unpreparedness, focus on nitty-gritty details, and the Board’s inability to work together. Mr. Davis said when he initially became a Board member, he had wanted to use his experience and time to better the Board. He acknowledged all Board members were stressed for time. He said he had done his best to move the Resolution forward, so the Board could focus on the unfunded liability. Mr. Davis said he wished the Board could work well together to pass policies, to be able to address the funding of the pension for members.

Mr. Mayfield moved to approve the Executive Director Resolution. Mr. Davis seconded the motion. The motion to approve the Executive Director Resolution did not pass with a roll call vote of five to five.

|                |     |
|----------------|-----|
| John Melia     | Yes |
| David Roybal   | Yes |
| Claudia Armijo | No  |
| Lawrence Davis | Yes |
| Paula Fisher   | No  |

|                       |     |
|-----------------------|-----|
| Patty French          | No  |
| Dan Mayfield          | Yes |
| Loretta Naranjo Lopez | No  |
| Steve Neel            | Yes |
| Tim Eichenberg        | No  |

Chair Melia said he would put the item on the next Board meeting agenda. He suggested members review and direct questions to Mr. Davis offline before the next meeting to progress the final Board approval of the document.

Ms. French asked Chair Melia if the reason why items that failed at Board vote were routinely be placed on the agenda of the next Board meeting was in the hope that they would pass at subsequent votes and if this was to be normal procedure. She said normally if an item is voted down, the matter dies.

Responding to Ms. French, Chair Melia advised this particular item, the Executive Director Resolution prepared by the Chair of the Rules Committee in response to the recommendations for clarification of the role received from the Attorney General and the State Auditor, and as such a Resolution needs to be passed and put in place. Chair Melia suggested Ms. French may not understand what the Board was being asked to vote on, and again, that this was an item that had to be passed by the Board. Chair Melia reiterated his suggestion that Board members work with Mr. Davis offline before the next Board meeting to discuss any issues with the document that may need clarification or adjustment. Saying he knew the reason Ms. Armijo had voted no, he invited Ms. French to discuss her issue with the Resolution.

Ms. French said she thought everything in place to let the Board know how raises are given to the Executive Director, and she did not think that was ever a question, but she did not want to address the matter at this time.

Responding, Chair Melia referred to a letter written by Ms. French that she was not sure when Mr. Propst was given a raise, and that indicated confusion. Given that, he questioned Ms. French's statement that she did not think there was ever a problem with the Executive Director getting a raise as ludicrous.

Ms. French replied that she didn't think this Board meeting was the appropriate time or place to address it, but what Chair Melia said was correct the time the Executive Director was given a raise. She said she did not know at the time, and the proper process and procedure were brought to the attention of the full Board. Ms. French said, at the time, she was depending on PERA's legal counsel for advice on the way it could be done, clarification had been provided, and she was not arguing that point.

Chair Melia said, again, given the feedback from two state agencies that clarification was needed in the Executive Director Resolution it was a matter that needed to be fixed, and could not die.

Ms. French questioned Chair Melia if the current agenda item did fail or die, then it would automatically go back to the old Resolution. Chair Melia said there is no current Resolution.

Ms. French said her point was there is already something in place concerning the Executive Director. She said that she was asking for clarification on the issue of it was voted down, then it dies.

Chair Melia said it was voted down because, as Ms. Armijo said, members did not have a chance to review it. Ms. French responded that is not why she voted it down.



Chair Melia restated that the proposed Resolution was an important document to the organization that people had worked hard on. He said he would ensure the right copy of the document was on the Board portal, and Board members with questions, issues, concerns should work with the Chair of the Rules Committee to address those before the next Board meeting. He said that way, at the next Board meeting, members could vote and approve an Executive Director Resolution that clearly defines the role, to be in compliance with the recommendations made by the Attorney General and the State Auditor, and move forward as a Board to better serve members.

Ms. French again questioned whether if a vote on a motion fails, the item does, and said that does not appear to happen. Chair Melia responded that, as already answered, it depends on what the item is being voted on, some can be left to die and others cannot, and given Ms. French's experience on the Board she would know that.

Speaking to Mr. Davis, Ms. Armijo said she appreciated the work he and the Committee had done, and what they were trying to do. Ms. Armijo said she did not appreciate Mr. Davis characterizing her as being unprepared. She said, as with the Chair calling Ms. Naranjo Lopez a liar, members of the Board could avoid that. She said she had not accused Mr. Davis of anything ill will in his work on the Board.

Ms. Armijo said she wanted the meeting audience and fellow Board members to know that she had just, again, pulled the Board meeting packet from the Board portal, and could only see the earlier version of the Resolution she had reviewed. Speaking to the documents in the packet as she scrolled through, Ms. Armijo noted that the documents from the State Auditor and Attorney general were not legal opinions.

Ms. Armijo reiterated that she was not unprepared, that due to a mistake in the documents presented on the Board portal, she had not reviewed the right documents. She said it was not her intention to delay the execution of the Resolution. She said her intention always has been and will continue to be, that the Resolution aligns very closely with the law. Ms. Armijo said she will find and review the latest version.

Chair Melia acknowledged that Ms. Armijo had thoroughly read and spent time reviewing the document that she had read and that receiving the wrong document was not her fault. He asked Ms. Winter to ensure that the correct document was on the Board portal for members to review. Chair Melia asked Board Members, again, to read the document and communicate any questions or issues with Mr. Davis before the next meeting to be able to present a polished document to vote on and move forward at the next meeting. He asked Ms. Winter to communicate with Board members via email before the next Boarding meeting regarding the final draft document.

Mr. Davis again asked that the Board work together with their various strengths and insight to formulate the best Executive Director Resolution that the Board could support and get behind. Speaking to Ms. Armijo's earlier question about the wording around the delegation of the agenda to the Executive Director, he said they should look at the language used and amend as necessary. Mr. Davis said they could produce the best product by working together to include amendments that may be needed for the Resolution to pass at the next vote.

## **2. Public Comment Section in Board Policies and Procedures**

Mr. Davis, Rules & Administration Committee Chair, spoke to the draft document "Procedures for Public Comment at Board Meetings" presented to the board. He spoke about how PERA Board Policies and Procedures are lacking around accepting public comment, and that this should be a key component as the Board needs to hear from members and the public. Mr. Davis acknowledged Ms. Naranjo Lopez had previously expressed concerns on the Board not consistently seeking public comment or having a relevant policy. Mr. Davis asked for Board members' reviews of

the draft procedure as presented, which outlined the Board Chair's authority in managing public comment. He said he would stand for questions and was open to working with any Board members to amend the language in the draft document.

Mr. Mayfield moved to approve the Public Comment Section in Board Policies and Procedures. Mr. Davis seconded the motion.

Ms. Naranjo Lopez said, as she had stated earlier, for the 6.A.2 public comment sections of the agenda, the U.S. Constitution First Amendment and state law under the Open Meetings Act states that the public comments are unrestricted. She said on this basis that items 2, 4, and 6 in the draft Procedures need to be removed. Ms. Naranjo Lopez said that under statute, the Board Chair is the coordinator, each Board member is allowed to ask questions of each other, answer questions, and request for a member to speak. She said that while the Opens Meeting Act does not guarantee citizens the right to speak at public meetings, most public bodies in New Mexico do include time for public comment. She said when a form is made available for public speech, citizens have a First Amendment right to speak freely. Ms. Naranjo Lopez said public bodies risk running afoul of the First Amendment if they attempt to regulate citizens' speech based on its content or the identity of the speaker. She asked that this be tabled, so the language can be reviewed and removed as necessary to ensure that the Board is not violating the Constitution.

Ms. French said she also has concerns about the draft Procedure. She first referred to an email sent by the Chair to the AG asking does public comment have to be allowed for under the Open Meetings Act. She that is true, that public comment does not have to be allowed for during meetings, however, that the Board is here for members and wants to hear from members. She said she thought limiting what they can say would violate their right to freedom of speech. Ms. French said her second issue was that the draft Procedure says if any Board member needs clarification from public comment, that they must go through the Chair. She, as an elected official she is always receiving calls from people wishing to talk about PERA, and neither she nor they should have to go through the Chair to speak about PERA matters. She also said if she needs clarification on a comment, she would go directly to the relevant member, rather than receive secondhand information. She posed three questions to the Board: What are we afraid of? Why are we trying to mute them? Why are we saying that we have to do this?

Responding to Ms. French, Chair Melia said he believed that the phrase "going through the Chair" was just using Robert's Rules of Order formal terms for meetings to seek clarification.

Ms. French clarified that this meant while they were speaking at a meeting. Mr. Davis and Chair Melia confirmed this as correct. Ms. French said she understood and did not have an issue with that.

Chair Melia said the point around public comment during Board meetings is that it is strictly that an opportunity for PERA members to comment, but that it is not a Q&A session, particularly due to time issues. He said if any PERA member has any questions for board members, that all emails of Board members are posted on the website, PERA members can feel free to contact and ask questions any Board members.

Ms. French said she appreciated Chair Melia comments, but as the draft Procedure says PERA member comments have to be short and concise, it would not allow them to speak freely. She said as the meeting in progress was the Annual Members Meeting, this was the day for PERA members to address the Board with anything they have to say whether congratulatory for work done, or not. Chair Melia responded that they can.

Ms. French said PERA members should be allowed to speak freely, and that members have something to say about a staff member, or the Board, they could cope with it. She noted there should

be restrictions around swearing, use of profanity, and the elements needed for decorum. Ms. French said to state what PERA members can and cannot speak about is violating their freedom of speech. She not allowing PERA members to attend and say what they want could result in members using other avenues, such as social media, emails that are IPRA and the Santa Fe New Mexican. Ms. French said as elected officials, it was the Board members' job to be there for members, represent members, and hear complaints whether they want to or not. She said she thought the draft Procedures was trying to muffle members, which would not help, and that members would view it as something being wrong, which was not the point, which is trying to allow them a chance to speak.

Responding to Ms. French, Chair Melia said he agreed with her, but that while he thought it was important to allow PERA members to say what they want to say, there is a fine line in not allowing public comments that are derogatory comments, lie, slander staff or Board members, aggressive, or make baseless accusations that risk potential lawsuits, or could make Board members or staff could feel intimidated or harassed. He said he thought that was the intent of the proposed Section. Chair Melia reiterated that he thought it was important that it was kept to public comment and not a Q&A, so Board members and staff were not put in situations of maybe attempting to answer investment questions they may not be qualified in or have sufficient information on data on hand to respond at that moment.

Ms. French said she agreed with Chair Melia and could understand what he was saying, but that she thought to muffle, or muzzle public comments was a violation of freedom of speech. She said if PERA members want to say they have a problem with staff or the Board, as long as it was not hateful, they should be able to do so. She referred to Ms. Naranjo Lopez's comment that a person cannot be told what they can and cannot talk about.

Chair Melia commented that while there is freedom of speech, when a person comes to a building that is on private property and attends a Board meeting they have to play by the rules. He pointed out the difference between standing outside the area and speaking freely, but the distinction on entering a different venue. He said as the Board meetings are run under Robert's Rules, the person running the meeting has to ensure the agenda is followed.

Ms. French agreed with Chair Melia on the difference within meetings and said the Chair should cut people off if they get out of line. Chair Melia agreed that was correct.

Ms. French reiterated she did not think it should be in writing that people can only talk about certain things. She said if the public was going to be allowed to speak, it was the Chair's role to cut them off if necessary. Chair Melia said he agreed.

Ms. French said again she did not think it should be in writing that PERA members cannot say anything about the staff and cannot do this or that. She said this would force people to use social media and did not think that was something the Board would want people to do.

Chair Melia agreed with Ms. French and said he had been hesitant to place the item on the agenda as an action item, that it maybe should have been informational first to obtain the opinions of Board members. He suggested as there seemed to be varied Board member opinions that the item be voted down, and brought back, or whatever was the pleasure of the Board.

Speaking to Ms. French, Mr. Davis agreed the document should be amended and suggested the Board remove or revise any lines as necessary, and then move the document as amended.

Ms. French reminded the Board that there was already a motion on the floor to accept the proposed Section as is.

Mr. Davis said while there is already a motion and move and a second, there could be a motion to amend within the motion. He said he wished to keep it moving forward so the Board could move onto bigger items they needed to address. Mr. Davis suggested as Ms. French had read the document, they could make an amendment, and move it forward.

Ms. French asked Chair Melia the documents presented under 6.A.1 and 6.A.2 had both already been approved by the Rules Committee. Chair Melia confirmed they had.

Ms. French asked Chair Melia if the documents should go back to the Rules Committee with any recommendations or changes the full Board would like to see, so the Rules Committee can then agree or disagree.

Chair Melia responded that he did think they had to, that it depended on the Rules Committee. He said because he had been hesitant about placing the document on the agenda as an action item he had previously spoken with Mr. Davis and was advised the Rules Committee felt confident in the document they had prepared. He asked Ms. French whether she would like to amend at this time or whether more time was needed.

Ms. French responded no, that if the Board wants to make drastic changes then it should go back to the Rules Committee to see if they approve of any amendments because if they don't approve of the amendments, it could not come back to the Board.

Ms. French spoke of a remark made previously by Chair Maxon, that members would be heard. Ms. French said again that she did not think limitations should be stated and would send the wrong message to PERA members. Ms. French also said she did not think many PERA members had attended Board meetings in the past, so it had not been an issue. She said she did not like the current document, and she thought the proposed wording was trying to cut people off from speaking. She said if a PERA member wants to speak, they should be heard by the Board, with the Chair managing speakers in the meeting as appropriate.

Chair Melia said he did not think drastic changes to the document were needed. He suggested a vote be taken on the document to establish how the Board felt.

Ms. Naranjo Lopez asked if the person who made the motion could reconsider the tabling of the item so the items that she had stated needed to be removed could be reevaluated. She said that way, they would have approval from the rules, and the legal department could ensure the document was following state statute. Ms. Naranjo Lopez said she agreed with Ms. French that the Rules Committee should review and approve any amendments before the Board makes a motion. She suggested public comment could continue to be included on the agenda if stated by the Board.

Mr. Davis clarified that did not consider or recommend that the document go back to the Rules Committee. He said he supported the initial idea, raised by Ms. Naranjo Lopez, as other public bodies also listen to public comment. He said he encouraged public comments and they should not be restricted in terms of being open for PERA members to say what they wished to the Board, but there are limitations to freedom of speech, such as openly threatening a Board member or other state official. He said while the document may not be perfect, the Rules Committee had done due diligence during the six-month process and expressed concern over further delays. Mr. Davis said he highly advised for public comment to not be taken without rules and regulations in place on what can and cannot be done, saying ambiguity and lack of policy had caused problems for the Board in the past.

Ms. French responded that over the years this had not been an issue. She said she did not think the Board should make issues or create animosity towards PERA members without any proof or evidence of it. She said she did not think rules needed to be in place to hear from PERA members.

She said she thought if the Board want to do this, they could tell PERA members to seek social media if they want to.

Responding to Ms. French, Chair Melia said he did not agree. He said public comment is allowed at Board one meeting a year, and on multiple previous occasions someone has gotten up and crossed the line with Board members or staff, made people feel intimidated, made threats, and used curse words. He said unlike City Council and other locations, PERA Boardroom does not have security.

Chair Melia said he agreed with Mr. Davis on having guidelines, rules, and expectations in place before allowing public comment. He said the meeting in progress would be open to public comment without rules in place, and that would be okay. However, for the rest of his tenure as Board Chair, one more meeting, he would not be allowing public comment without rules in place.

Chair Melia reminded the Board that the main aspect of this proposed Section is to allow PERA members to speak. Saying that no idea or policy is perfect the first time, he suggested the Board pass the proposed Section, try it and then revise as and when necessary as a work in progress. He asked the Board to consider whether it was more important to have a perfect document or to start allowing members to speak.

Ms. Armijo said she agreed with most of Chair Melia's comments, but that she did not think the right course of action was to pass the document, and then figure out if it was acceptable. She said she thought Board meetings often demonstrate that the Board deliberates, and do not just go back and quickly fix things. Ms. Armijo said she agreed with Ms. French and Ms. Naranjo Lopez that ideally after the input provided by the Board at that time, the document would be referred back to the Rules Committee to address the Board's concerns. As a sidenote, she noted that she had the correct document in her Board packet. She acknowledged the work and content the Rules Committee had already prepared for the document, but that the Committee should review and work on the serious issues identified by the Board.

For the meantime, Ms. Armijo said she thought at any meeting where public comment was taken, it would be adequate for the Board Chair to make a statement setting the ground rules and advising the public of the constraints in place, and as listed in the proposed Resolution, such as vulgar language, and threatening behavior. She said she thought the current Chair was very capable of doing so, and that was what was needed.

Ms. Naranjo Lopez said she thought the document should be tabled.

Referring to specific sections of the proposed Section, Ms. Naranjo Lopez said the Rules Committee should consider taking out the words "if any" at point number 2 and adding a period to the sentence to read "... they represent." Then "If any, and the topic or issue on which they desire to comment" so that members can comment on anything under the Constitution. Regarding the wording of point number 4, "Public comment concerning a published agenda item is limited to the portion of the agenda item designated..." Ms. Naranjo Lopez said we cannot tell members what say, and that needs to be taken out. Regarding the wording, "The Chair shall retain the right to stop any speaker who raises an issue that is not under the purview of the Board..." Ms. Naranjo Lopez said that is subjected to the Chair, and that a member has the right to speak on anything they want, she thought the whole paragraph needed to be taken out. Concerning her request for the removal or amendment of the wording, "Questions asked by the public, when possible, will be answered by the Board Chair or referred to the Executive Director or appropriate staff member for response." Ms. Naranjo Lopez said the Board has a right to provide answers if it were felt it could be answered then and there. She suggested rewording this to say it can be deferred or answered immediately if preferred. Regarding the wording, "Public comment will be received without Board comment or response", Ms. Naranjo

Lopez said if a member requests comment from a Board member, the member should be able to speak.

Ms. Naranjo Lopez said she thought there were issues with another point as well, and that the documented needed more discussion and should go back to the Rules Committee. She said she did not want the document denied but carefully reviewed.

Ms. Naranjo Lopez referred to and agreed with Ms. French's earlier comment that once an item is denied, it does not come back onto the Board agenda. She also referred to 6.A.1, saying there was no reason for a Resolution when there are already Board policies regarding the Executive Director. In reply, Chair Melia said the discussion on those items was done, and there would be no further discussion.

Chair Melia confirmed the motion made by Mr. Mayfield and seconded by Mr. Davis to approve the Public Comment Section in Board Policies and Procedures as is without amendments.

Mr. Davis reiterated that he would not recommend that the Board take any public comment without any policy in place and said he does not know of another Board without one. Replying to Mr. Davis, Chair Melia said they would not be.

The motion to approve the Public Comment Section in Board Policies and Procedures did not pass with a roll call vote of five to five.

|                       |     |
|-----------------------|-----|
| John Melia            | Yes |
| David Roybal          | Yes |
| Claudia Armijo        | No  |
| Lawrence Davis        | Yes |
| Paula Fisher          | No  |
| Patty French          | No  |
| Dan Mayfield          | Yes |
| Loretta Naranjo Lopez | No  |
| Steve Neel            | Yes |
| Tim Eichenberg        | No  |

Chair Melia said as with the previous item that did not pass, that it was important to develop policy that all Board members feel comfortable with. He asked Board members to communicate with Mr. Davis in reviewing this document so it could be put in place to allow for public comment at Board meetings.

Ms. French asked for clarification on whether the item would be placed again on the next Board agenda. Chair Melia confirmed the document would go back to the Rules Committee as requested, and an improved and revised document would be brought back. Ms. French confirmed she agreed the document should go back to the Rules Committee.

Chair Melia again asked the Board to provide input to the Rules Committee so a document could be in place for the next meeting that the Board felt comfortable with, and to start allowing public comment.

## **7. Unfinished Business**

### **A. Approval of \$200 Annual Periodical Subscription Budget for Board Members**

Ms. Naranjo Lopez, reading a statement, said she had requested this for over a year while at the same time the majority of the Board members had been enjoying a subscription to Wall Street Journal and free travel without Board approval. She asked if this was how the Executive Director controlled the Board and said controlling the timing of expense approval is one of the ways the Executive Director controls the Board. She said she would like to amend the motion.

Chair Melia said to Ms. Naranjo that she was not talking about the magazine subscription and that there was no current motion on the floor. As Ms. Naranjo Lopez continued to speak of matters not on the meeting agenda, Chair Melia asked for Ms. Naranjo Lopez to be muted from the videocall. He then explained to her that the current agenda item was the \$200 Annual Periodical Subscription Budget for Board members, not travel, or the Executive Director. He said to Ms. Naranjo Lopez that when she returned to the videocall the agenda item was all that would be discussed.

Asking the full Board if there was a motion at that time, Mr. Davis moved to approve, and Mr. Mayfield seconded.

Returning to the videocall Ms. Naranjo Lopez asked why she had been removed from the call. Chair Melia said he had explained. Ms. Naranjo Lopez said that she had requested an amendment and wanted to make her statement.

Chair Melia said there was a motion and a second to approve the \$200 Annual Periodical Subscription Budget for Board Members, and invited Ms. Naranjo Lopez to amend that or comment on the current agenda item only.

Ms. Naranjo Lopez said she would like to amend item 7.A. to \$10,000 a year per Board member, at the Board member's discretion provided they document how each expense benefits PERA and its members. She said this should remove the staff's leverage over the Board and the appearance of quid pro quo. She said she has requested for over a year, while at the same time the majority of the Board members have been enjoying the subscription of Wall Street Journal or free travel without Board approval. She asked if this is how the Executive Director controls the Board and said that controlling the timing of expense approval is one of the ways the Executive Director controls the Board.

Chair Melia asked for Ms. Naranjo Lopez's audio to be muted.

Ms. Armijo said that Ms. Naranjo's Lopez comment was not a motion, that it was a novel. Speaking to Ms. Naranjo Lopez, she said she did not understand her motion because it was going on and on and asked for conciseness.

Ms. Naranjo Lopez said she would read her statement again.

Chair Melia asked Ms. Naranjo Lopez not to read her statement again. He said as he understood there was a motion to approve the \$200 Annual Periodical Subscription Budget for Board Members. He asked Ms. Naranjo Lopez to confirm she was asking for an amendment to increase from \$200 to \$10,000 per Board member.

Responding to Chair Melia, Ms. Naranjo Lopez confirmed this amount and said she had a further comment.

Ms. French asked if there was a second to the amendment, because if not any further discussion at length would be moot.

Chair Melia asked the Board whether there was a second to increase the Annual Periodical Subscription Budget for Board members to \$10,000 per Board Member. There was no seconder.

Ms. French asked for clarification that Ms. Naranjo Lopez was asking for \$10,000 for.

Chair Melia responded that the agenda item was for magazine subscriptions.

Ms. Naranjo Lopez said it was for expenses benefit for PERA and its members.

Chair Melia and Vice-Chair Roybal noted that was not the agenda item. Chair Melia stated the amendment dies.

Mr. Roybal asked for further clarification before taking to vote whether the budget was \$200 per Board member or \$200 for all 12 Board members as a whole. Chair Melia responded that his understanding was it \$200 was per Board member.

Chair Melia asked for any other comments about the motion and second that has been made.

Ms. Naranjo Lopez said the subscriptions are higher than \$200, and Board members could not obtain publications with that amount. She said had asked for information on the cost of subscriptions at the last meeting and not received it. She said there was information on the Board portal of subscriptions being approximately \$300 for the Wall Street Journal and Barron's.

Chair Melia responded that Ms. Winter, Executive Assistant, had sent Board members an email to say a bulk member rate had been obtained for the Wall Street Journal. He said Ms. Naranjo Lopez would be able to buy the subscription she had requested with the \$200 annual budget.

Chair Melia said he thought the bigger issue was that that \$200 per Board member would be coming out of the trust fund and PERA members' money, so the Board needed to be careful with how that was spent on magazine subscriptions. He noted that people would feel differently about the dollar amount, and some people may think none should be spent.

Chair Melia said there was a motion and a second for a \$200 Annual Periodical Subscription Budget for Board Members and called for a vote.

Mr. Eichenberg said he had seen the email to Board members from Ms. Winter for the electronic version of the Wall Street Journal. He asked Ms. Winter what the individual expense was, whether Board members could receive a paper copy of this publication instead of electronic and if other periodicals had been investigated.

Ms. Winter replied that the corporate deal acquired for the Wall Street Journal was for digital access only and was \$240 per subscription for between 10 to 30 subscriptions. She said the delivery of the hard copy was significantly more, and while she had not looked further into the higher rates, she could do so.

Mr. Eichenberg asked about the \$240 per subscription, which exceeded the amount of money allocation as per the motion.

Ms. Winter said her understanding was the \$200 annual subscription rate was for items in addition to the Wall Street Journal. She said the Wall Street Journal subscription rate had been obtained on a deal for staff and the Board.



Mr. Eichenberg thanked Ms. Winter and said he had not that understood the item excluded the Wall Street Journal. He asked Ms. Winter what other periodicals were on the list that was looked at, giving P&I as an example.

Ms. Winter responded that P&I is a publication all Board members receive for free, along with IFEBP. She said she looked at Barron's, which has different titles that Board members could choose from within the \$200 subscription budget.

Mr. Davis said, for budgetary and appropriating authority purposes, he wanted to clarify that the Board's expenses would need to be adjusted to accommodate the \$200 or whatever was approved. He said he wanted to clarify that the Board did not have the authority to appropriate money to themselves, and that authority comes down from the Legislature. He said if the Board approved the \$200 per member, the PERA staff will have to adjust their budgetary expenses to accommodate this and operate within the budget approved by the Legislature.

Ms. Naranjo Lopez said she had not seen the email from Ms. Winter about the Wall Street Journal subscription and would like to be able to receive that. She asked if the \$200 was specific to certain publications. She said she was not interested in P&I and did not want to be a part of that organization because they discriminate against women of color. She asked if she could get the Wall Street Journal and Barron's for the \$200, and said the reason why she wanted it opened up for educational training, was that she understood from the email from Ms. Winter that it didn't cover those magazines. She then said she did not receive the email saying there was a discount, but that she would like to get the Wall Street Journal and Barron's, and asked for clarification if that was what she was approving.

Chair Melia responded that the electronic subscription to the Wall Street Journal was agreed upon at the last Board meeting. He said the current motion was to approve an additional \$200 Annual Periodical Subscription Budget per Board member, and with that, the money would come out of the trust fund, needed to be transferred and accounted for from within the budget already approved by the Legislature.

Ms. Naranjo Lopez asked for confirmation she was able to receive the Wall Street Journal. Chair Melia responded that she could by responding to Ms. Winter's email.

Ms. Naranjo Lopez asked for clarification that she would be approving the \$200 as stated for Barron's or any other publications that could be purchased within that amount. Chair Melia responded that the materials have to be related to educational purposes for serving the Board.

Ms. Naranjo Lopez agreed and said that is why she had requested the Wall Street Journal and Barron's for the Board, that she wanted to ensure they were able to receive information needed. She agreed with the motion but wished she had been able to speak with staff prior.

Chair Melia responded that Ms. Naranjo Lopez is able to speak with staff any time she wishes. He then called for a vote.

Mr. Eichenberg asked if PERA staff could advise whether the total amount of money was available for this expenditure.

Ms. Williams, Administrative Services Director/CFO, responded that currently there was a total of \$14,000 available for all FY21 in Board training, and it would come from there. She confirmed there had been no Board training expenditure from this budget to date this financial year because there had been none.

Mr. Eichenberg then congratulated Ms. Williams on recently receiving an award.

Following up on Ms. Williams' comment regarding Board training, Chair Melia said it was important to state for the record there had been multiple in-house Board training, but due to the current pandemic, no external parties had been paid to come in for Board training.

Ms. Fisher then reconfirmed with Chair Melia that the Wall Street Journal was approved at the last Board meeting and that this \$200 was in addition to that.

Ms. Naranjo said she also wanted to state for the record that Board members also have conference registration fees, which is why she raised the amount of \$10,000, however she didn't expect Board members would go that high. She said she had found the item confusing.

The motion to approve the \$200 Annual Periodical Subscription Budget for Board Members did not pass with a roll call vote of seven to three.

|                       |     |
|-----------------------|-----|
| John Melia            | No  |
| David Roybal          | No  |
| Claudia Armijo        | No  |
| Lawrence Davis        | No  |
| Paula Fisher          | Yes |
| Patty French          | Yes |
| Dan Mayfield          | No  |
| Loretta Naranjo Lopez | Yes |
| Steve Neel            | No  |
| Tim Eichenberg        | No  |

During the vote, Ms. Fisher said she had voted "Yes" for if she used it, but if not, then the money would still be there.

After the vote was declared, Ms. Armijo explained the reason she had voted not to approve the item was her understanding that access to The Wall Street Journal was already approved. She said she respects and agrees with Ms. Naranjo Lopez's goal that all Board members be informed. She said, in her opinion, serving on the Board is public service. So, to the extent that Board members want access to periodicals above and beyond the Wall Street Journal, she thought Board members could take that on as part of public service, and not use trust fund monies.

Ms. French said that the reason she voted yes was because due to the pandemic, Board members have not been able to attend conferences and further education. She acknowledged the staff and in-house training but said that is not the same as having national or international training. She said she would not have taken advantage of the subscription, but that it may help new Board members, particularly with not knowing when the pandemic would end. She acknowledged Ms. Winter's earlier mention of IFEBP and said they great organization, and that their materials include educational information from national and international Boards all over the nation, all over the world.

Speaking to the Board, Chair Melia said he wanted to ensure that everybody understood that two online electronic subscriptions were currently available – for Pensions & Investments, and Wall Street Journal online. He said if Board members wanted to have a subscription setup or activated, all they need to do is contact Ms. Winter.

Ms. Naranjo Lopez said she wanted to finish her earlier statement and began reading. Chair Melia interjected, saying that the meeting would move to item 7.B. and Ms. Naranjo Lopez's statement did not relate to the agenda.

Ms. Naranjo Lopez then said she would like an investigation on all expenses reimbursed for the majority of the Board. Chair Melia responded to Ms. Naranjo Lopez that she did not need an investigation, she could ask Ms. Williams to provide her with the expenses. Ms. Naranjo Lopez replied she was asking for the record.

Chair Melia asked Ms. Williams to provide Ms. Naranjo Lopez all Board expenses thus far for the year. Ms. Williams confirmed she would email expenses to the Board.

**B. Items removed from Consent Agenda if necessary**

Chair Melia asked Ms. Naranjo Lopez to speak to her concerns, questions, or comments regarding the removal of the Ethics Training for November 17<sup>th</sup>, 2020, from 1:00 to 3:00 pm from the Consent Agenda to the Board agenda.

Ms. Naranjo Lopez asked who was providing the ethics training.

Chair Melia said that he and Mr. Roybal, Vice-Chair, and discussed bringing in external people to provide the Board training and direction as per the audit findings, and asked Mr. Propst to speak to the question.

Mr. Propst said that Mr. David Marquardt, who had been asked to do ethics training for staff in the past, would be providing the training. He said the training was a requirement for Board members, and most members would be aware of that. He said Ms. Winter had researched training available and found two entities, including Mr. Marquardt, who were willing to do the Board training. He said believed the cost for Mr. Marquardt was about \$800, and the cost for the other organization was closer to \$3,000. He said they had recommended Chair Melia and Vice-Chair Roybal that Mr. Marquardt as he had done a good job for staff, and it was thought he would do a good job for the Board also.

Ms. Naranjo Lopez confirmed Mr. Propst's response to her question was accepted.

Ms. Armijo asked if other meeting participants such as Mr. Propst could be identified during the virtual meetings. She said she had not seen Mr. Propst listed as a participant and would like to have known in case she wanted to direct a question to him as Executive Director. She said she could see Ms. Pittard, General Counsel, was present and now assumed because the mic was open they may be together, but that he could also have been with Mr. Neel or anyone else unmuted.

Chair Melia queried whether Ms. Armijo was referring to the ethics training. Ms. Armijo clarified that she was referring to the virtual Board meetings and that this was not the first time she had not known whether Mr. Propst was on a call because he's not identified as a participant, and she had presumed he wasn't present. She said she would like to know when a meeting starts who was present. Chair Melia said he understood Ms. Armijo's point and it was a good one.

Mr. Propst said he had just heard from Mr. Trujillo, and that he and other staff show on the attendee's side of the meeting rather than the panelist side, which may lead to some confusion. He said they would ensure that any staff taking part in the call were included in the preparation of the minutes.

Chair Melia said for future meetings, as long as meetings are being held virtually, everyone participating could identify themselves before the meeting at the time of roll call, and asked Ms. Winter to remind him for the next meeting agenda to include an identification of everyone on the call.

Chair Melia asked if there was a motion to approve the Ethics Training for November 17, 2020, from 1:00 pm to 3:00 pm. Mr. Eichenberg moved to approve. Mr. Roybal seconded the motion.

The motion to approve the Ethics Training for November 17, 2020, from 1:00 pm to 3:00 pm. was passed by roll call vote.

|                       |               |
|-----------------------|---------------|
| John Melia            | Yes           |
| David Roybal          | Yes           |
| Claudia Armijo        | Yes           |
| Lawrence Davis        | Yes           |
| Paula Fisher          | [no response] |
| Patty French          | Yes           |
| Dan Mayfield          | Yes           |
| Loretta Naranjo Lopez | Yes           |
| Steve Neel            | Yes           |
| Tim Eichenberg        | Yes           |

During the vote, Ms. Naranjo asked for clarification on whether the item was on the Consent agenda. Ms. Winter confirmed it was 5.C. on the regular agenda that was removed from the Consent Agenda.

## **8. New Business**

### **A. Resolution No. 20-03 Calling for Annual PERA Board Meeting**

Chair Melia advised all Members had the Resolution and had a chance to read it, and said unless he had to read it into the public for the record, in light of time constraints he would ask for a motion to approve.

Mr. Mayfield moved to approve Resolution No. 20-03 Calling for Annual PERA Board Meeting. Mr. Neel seconded. The motion to approve Resolution No. 20-03 Calling for Annual PERA Board Meeting was passed by a unanimous roll call vote.

|                       |     |
|-----------------------|-----|
| John Melia            | Yes |
| David Roybal          | Yes |
| Claudia Armijo        | Yes |
| Lawrence Davis        | Yes |
| Paula Fisher          | Yes |
| Patty French          | Yes |
| Dan Mayfield          | Yes |
| Loretta Naranjo Lopez | Yes |
| Steve Neel            | Yes |
| Tim Eichenberg        | Yes |

### **B. Public Comment**

Chair Melia opened the opportunity for members to make a public comment by noting the difference in having the virtual meeting via Zoom. He said that any members who wanted to speak would be provided the opportunity to say what they wanted to say, and asked for people to be respectful of each other, with no name-calling, threats, or aggression while speaking. He reminded participants that there was a five-minute time allocation, that the time was for making public comment, not Q&A, and asked for patience with the virtual process.

Mr. Trujillo said the only attendee wishing to make a public comment was Pilar Sorenson.

Chair Melia welcomed Ms. Sorenson and invited her to speak.

Ms. Sorenson introduced herself and said she worked with the Private Equity Stakeholder Project. She said she wanted to follow up on a comment she submitted in August in regard to Starwood Capital, a real estate firm that PERA has invested with. Ms. Sorenson said Starwood Capital is one of the largest residential landlords in the country with more than 75,000 apartment units and single-family rental homes across the U.S.

Ms. Sorenson said on September 1, the U.C. Centers for Disease Control and Prevention, or the CDC, announced a moratorium on residential evictions through the end of the year to help limit the spread of COVID-19, noting “In the context of a pandemic, eviction moratoria—like quarantine, isolation, and social distancing—can be an effective public health measure utilized to prevent the spread of communicable disease. Eviction moratoria facilitate self-isolation by people who become ill or who are at risk for severe illness from COVID-19 due to an underlying medical condition. They also allow State and local authorities to more easily implement stay-at-home and social distancing directives to mitigate the community spread of COVID-19. Furthermore, housing stability helps protect public health because homelessness increases the likelihood of individuals moving into congregate settings, such as homeless shelters, which then puts individuals at higher risk to COVID-19.”

Ms. Sorenson said despite the CDC eviction moratorium, affiliates of Starwood Capital have continued to file on advanced residential eviction cases. She said they had identified several eviction actions filed by Starwood Capital affiliates in Arizona and Georgia after the CDC eviction moratorium was announced. She said in addition Starwood affiliates have continued to advance a number of eviction cases that had been filed over summer. She earlier that week the company sought writs to remove multiple residents from their homes in suburban Atlanta. She said the majority of these cases are evictions for nonpayment of rent, which are specifically covered by the CDC eviction moratorium. She said this appears to be a pattern for Starwood Capital, and that in fact, in July the Washington Post reported that Starwood Capital had filed eviction actions in April, despite the earlier Cares Act eviction moratorium.

Ms. Sorenson said an organization violating the CDC eviction moratorium may be subject to a fine of up to \$250,000 per event. She said they had raised this issue directly with Starwood Capital, but the company appears to be undeterred in moving forward with these evictions.

Ms. Sorenson said Starwood Capital is in the process of raising a new real estate fund and may come back to PERA seeking additional capital. She said they believe that investors should ask how Starwood Capital will mitigate the regulatory and headline risk created by its evictions of residents in spite of eviction moratoria.

Ms. Sorenson said, in addition, that they ask the PERA ask Starwood Capital to halt residential evictions during the pandemic and enable residents to stay in their homes to fight the spread of COVID-19.

Chief Melia thanked Ms. Sorenson for her attendance, comments, and for making the board aware. He said the Board had already asked the PERA CIO to obtain further information around this matter, and Board would be following up with the CIO and investment staff.

Mr. Trujillo instructed the public who may be on the call how they could show electronically that they wished to speak.

Mr. Eichenberg asked for confirmation of which financial company Pilar Sorenson was from.

Ms. Sorenson responded that she worked for a nonprofit organization called the Private Equity Stakeholder Project and that they work with other community organizations or labor

organizations who want more research and communication with investors if there are any issues with portfolio companies in their community.

Thanking the Chair, Mr. Eichenberg acknowledged that the public comment should not include Q&A, he said he had missed Ms. Sorenson's introduction.

Chair Melia said this was a unique situation and asked the Board if anybody else wanted to ask Ms. Sorenson a question about where she was from. Speaking to Ms. Sorenson, Chair Melia, said again he knew the CIO was looking into it and the Board would be receiving more clarification and understanding around Starwood.

Ms. Fisher asked Ms. Sorenson if her company, the Private Sector Equity Project had assisted many other Boards and other entities that have portfolios.

Ms. Sorenson responded that yes, whenever there is an issue brought to them, they were doing due diligence on it, and that part of that was uncovering and discovering what other institutional investors have contributed to a particular fund, and they work to inform them of any issue with a particular portfolio company. She said that they had worked with multiple other public pension funds and other institutional investors across the country.

Chair Melia asked Ms. Sorenson if she had been able to contact the PERA CIO, Dominic Garcia, directly and had his information.

Ms. Sorenson responded that she had had a conversation with Mr. Garcia a few months prior. She said that they had decided internally to proceed around this time to start re-contacting public pension Boards. She said knowing that she could do public comment at this meeting, she did contact Mr. Garcia the day before the current Board meeting because they had talked about it previously.

Ms. French asked Ms. Sorenson if her organization had a brochure or more information about what they do that she could email to the Board or herself. Ms. Sorenson said she would send this. Ms. Fisher said she would like further information also. Chair Melia said further information on the organization would be good for all Board members.

Addressing PERA staff, Mr. Davis asked how much money was invested in the organization referred to. Mr. Garcia responded that PERA has been invested in the organization since 2008 and has invested approximately \$123 million over that time.

Chair Melia confirmed with Mr. Trujillo no further people were wishing to make a public comment.

### **C. 2020 Board Election**

*[Exhibit 4: PERA Board of Directors Election Report, Automated Election Services]*

#### **1. Final Election Report by Automated Election Services**

Mr. Ernie Marquez, Automated Election Services, presented the results of the 2020 PERA Board of Directors election. He said for the 2020 PERA Board Elections there were 62,434 ballots issued, 26,803 for the municipal position, and 35,631 for the retiree position. He said there was a total of 16,961 mail ballots received by the September 18 deadline. He gave the breakdown of the ballots by positions as follows; the municipal position 2,743, the retiree position 14,218. He said the returned municipal position mail ballots make up 4.39% of the total ballots issued, and the retired positioned to make up mail ballots make up 22.77%. He referred Board members to the documents within the Board packet for further election tally results.

Mr. Marquez noted that this was the first year that a signature was required on envelopes from members. He said considering the number of ballots that came back, and it was the first year a signature was required on the envelope, there were only a total of 306 unsigned mail ballots or 1.80%.

Mr. Marquez said he would be sending the official election results, including the voting machine tabulation tapes, hand tally sheets, and reports to Mr. Trujillo. He said all ballots and envelopes would be stored for the required one-year timeframe should they need Board review.

Mr. Marquez also said that the State election ballot is all printed and will be mailed out on November 10, 2020.

Thanking Mr. Marquez and his team for their work, Chair Melia noted that with each election the process has been smoother.

Ms. French moved to accept the final Election Report by Automated Election Services. Ms. Fisher seconded the motion.

The motion to accept the final Election Report by Automated Election Services was passed by a roll call vote.

|                       |               |
|-----------------------|---------------|
| John Melia            | Yes           |
| David Roybal          | Yes           |
| Claudia Armijo        | [No response] |
| Lawrence Davis        | Yes           |
| Paula Fisher          | Yes           |
| Patty French          | Yes           |
| Dan Mayfield          | [No response] |
| Loretta Naranjo Lopez | Yes           |
| Steve Neel            | Yes           |
| Tim Eichenberg        | Yes           |

## 2. Certification of Municipal Election

Mr. Marquez advised that the results of the election for the Municipal Board position as follows: Christopher Daniel received 1,299 votes (47.39%), being 1,287 machine cast and 12 hand tallied. Roberto Ramirez received 1,442 votes (52.61%), being 1,427 machine cast and 15 hand tallied. Mr. Marquez congratulated Mr. Ramirez as the winner of the Municipal Board position.

Ms. French moved to approve and certify that Mr. Roberto Ramirez won the Municipal election with a total of 1,442 votes to Mr. Daniels 1,299 votes. Ms. Fisher seconded the motion. The motion to approve and certify the election results of the Municipal Election was passed by a roll call vote.

|                       |               |
|-----------------------|---------------|
| John Melia            | Yes           |
| David Roybal          | Yes           |
| Claudia Armijo        | [no response] |
| Lawrence Davis        | Yes           |
| Paula Fisher          | Yes           |
| Patty French          | Yes           |
| Dan Mayfield          | Yes           |
| Loretta Naranjo Lopez | Yes           |
| Steve Neel            | Yes           |
| Tim Eichenberg        | Yes           |

Chair Melia thanked the participants for running the election and congratulated Mr. Ramirez.

Mr. Davis noted that candidate contribution reporting had been received there were no documents from Robert Ramirez's in the Board pack. He asked that if it had been received, it be sent to Board members. Ms. Winter said the information had been requested from Mr. Ramirez, but not received to date. She said she would continue to follow up with Mr. Ramirez and send it to the Board when received.

### **3. Certification of Retiree Election**

Mr. Marquez advised that the results of the election for the Retiree Board position as follows: Francis Page received 10,110 votes (71.2%), being 9,944 machine cast and 166 hand tallied. Daniel Mayfield received 4,090 votes (28.8%), being 4,016 machine cast and 74 hand tallied. Mr. Marquez said the hand tallied ballots reported come from ballots that may have been cut or marked in a way that could not be determined by machine. Mr. Marquez congratulated Mr. Page as the winner of the Retiree Board position.

Ms. French moved to approve and certify that Mr. Francis Page won the Retiree election with a total of 10,110 to Mr. Mayfield's 4,090 votes. Ms. Armijo seconded the motion. The motion to approve and certify the election results of the Retiree Election was passed by a roll call vote.

|                       |     |
|-----------------------|-----|
| John Melia            | Yes |
| David Roybal          | Yes |
| Claudia Armijo        | Yes |
| Lawrence Davis        | Yes |
| Paula Fisher          | Yes |
| Patty French          | Yes |
| Dan Mayfield          | Yes |
| Loretta Naranjo Lopez | Yes |
| Steve Neel            | Yes |
| Tim Eichenberg        | Yes |

Chair Melia thanked both candidates for running in the election, noting it was an important position to hold and that it was always good to have candidates who are trying to make a difference, and congratulated Mr. Page on winning.

### **4. Introduction of Newly Elected Municipal and Retiree Board Members**

*[Exhibit 5: Statement of Francis Page]*

Mr. Trujillo confirmed Mr. Page was on the meeting call as an attendee.

On behalf of the Board, Chair Melia congratulated and welcomed Mr. Page and Mr. Ramirez, and said they were looking forward to working with them. He said PERA staff would be in touch, and but they should also contact staff in preparation for starting in January 2021. Chair Melia invited Mr. Page and Mr. Ramirez to tune into the meeting in the meantime, and if they have any questions, comments, or concerns, to contact and become involved with any of the Board members as soon as possible.

Mr. Page played the audio of his written statement *[Exhibit 5]*.

Chair Melia thanked Mr. Page and said Mr. Propst and Ms. Winter would be making contact, if they had not already, and said he could call or email him or any of the other Board members at any time.



#### **D. Acceptance of Judicial, Magistrate, Legislative and Volunteer Firefighters Experience Study Results**

Mr. John Garrett and Micki Taylor, Cavanaugh Macdonald, presented the Experience Study for the Judicial, Magistrate, Legislative, and Volunteer Firefighter systems.

Noting that there was a fairly short report, Mr. Garrett explained that when they undertake the main experience study for the PERA system, they cover economic assumptions, which are very material to the valuation results, as well as mortality since the smaller plans don't have enough mortality experiences on their own to set a mortality rate, so they combine all of the experience of all the PERA systems and perform the mortality study at that point. Mr. Garrett said the timing of this particular study for the smaller plans is a little briefer, and cover the demographic assumptions that pertain to those specific plans and the need to provide assumptions for determining the valuation results in those plans. Mr. Garrett said the report covers judicial, magistrate, legislative, and volunteer, in that order. He noted the changes were modest and fairly modest impacts on the funding results.

Mr. Garrett said, in summary, for the Judicial retirement system they looked at the material assumptions that affect that plan and recommend no change to rates of withdrawal of Judges in that system. He said they do recommend a slight increase in the rates for Judges who retire in a year. He said the assumption they had was not picking up a trend in increased rates of retirement for those over 43, so they recommend a slight adjustment to those. He said typically the rates went from an assumption of 15% to 20% per year. Mr. Garrett said as part of the economic assumptions, they had a decrease in the rate of inflation, and that has waterfallen into some adjustments to the salary scales for the two of the four plans that rely on salary increase. He said for the Judges and Magistrates, they use an annual pay that is provided in the data and assume what their future salary increases are. He said the other two plans are pay independent, and they do not make a salary assumption for the Legislative plan or the Volunteer Firefighter Plan. Mr. Garrett said on the salary increase assumption for the Judges they recommended a decrease in that assumption from a 4% to a 3.25% annual rate. He said the 3.25% represents two components. One being inflation, which they assume as a 2.5% rate of inflation, and then added to that is an across the board rate of increase of 0.75%. He said the impact of this was an increase to the actuarial determined contribution rate for that plan of about 64 basis points.

Mr. Garrett said on the Magistrate side, a smaller plan, they recommended no change in withdrawal rate and no change in the retirement rate. He said the recommended a decrease in the salary increase assumption for the Magistrates from 3.5% to 3.2%, compromised of 2.5% inflation and 0.75% of across the board salary increase. He said this had a slight decrease in the cost to the Magistrate's plan from 42.4% down to 42.1%.

Mr. Garrett said they had been looking at the Legislative plan for a long time, and that it is not a plan where any one dataset can be a striking difference of what has been seen over many experience studies. He said they put this in the context of looking at several sets of data from the Legislative plan, and are convinced that retirement assumption, assuming 100 percent retire at first eligibility, which is as conservative as you can be and that it's no longer necessary to be that conversation. He said the plan is well-funded. He said they recommend dropping the 100 percent rate of retirement down to 50 percent at first eligibility. He said the bigger impact to the Legislative plan was an increase to the administrative expense. He said they a surcharge that had to load to the normal cost of the plan, representing the payments that are associated with the administrative expenses of those plans. He said they recommend increasing the administrative expense from \$6,000 to \$40,000.

Mr. Garrett said on the Volunteer Firefighters plan the withdrawal rates are scattered between people that have less than five years of service and those that have five or more. He said they recommend a slight reduction in the expected rates of withdrawal for those with less than five years of service. He for those with more, they are bending the curve a little bit and reducing the rates at earlier ages and increasing the rates at older ages. He said the rates of retirement for Volunteer Firefighters

had been overestimated each year, so they recommend a slight decrease to those. He said the bigger impact item was that they also make an assumption due to Volunteer Firefighters typically showing up data with a period of service and that they don't always get credit for a full year of service in a year, that it depends on how many fires they are called out for. He said they had been assuming that each year a person accrues 0.75, so three-quarters of a year's worth of service, and that had been overstating how much service accruals the active members have. He said they recommend dropping that down to 0.65 or just under two-thirds of a year for every year going forward. Speaking to the administrative expenses, Mr. Garrett said they recommend an increase from \$45,000 up to \$60,000.

Mr. Garrett said the Legislative and Volunteer Firefighter plans are super well-funded, and the impact is only in the metrics of liabilities and does not have any cost impact to adopting the new rates. He then stood for questions.

Ms. Naranjo Lopez recommended that the Board look at an independent service provider to report directly to the Board without undue influence for staff and that these reports should be thrown out.

Mr. Mayfield moved for the Acceptance of the Judicial, Magistrate, Legislative, and Volunteer Firefighters Experience Study Results. Mr. Neel seconded the motion.

The motion to accept the Judicial, Magistrate, Legislative, and Volunteer Firefighters Experience Study Results was passed by a roll call vote of nine to one.

|                       |     |
|-----------------------|-----|
| John Melia            | Yes |
| David Roybal          | Yes |
| Claudia Armijo        | Yes |
| Lawrence Davis        | Yes |
| Paula Fisher          | Yes |
| Patty French          | Yes |
| Dan Mayfield          | Yes |
| Loretta Naranjo Lopez | No  |
| Steve Neel            | Yes |
| Tim Eichenberg        | Yes |

#### **E. Acceptance of FY20 Actuarial Valuations**

*[Exhibit 6: FY20 Actuarial Valuations, Cavanaugh Macdonald presentation]*

Mr. John Garrett and Micki Taylor, Cavanaugh Macdonald, presented the FY20 Actuarial Valuations. *[Exhibit 6]*.

Speaking to page three of the presentation, General Observations of Valuation, Mr. Garrett said this is primarily PERA shown, but they do have the details of the Judges, Magistrates, Volunteer Firefighter, and Legislative plans as well. He said those valuations have been prepared and delivered as a draft and they were able to take questions on these.

Mr. Garrett said, in general, as with most plans in the country there had been further investment volatility to deal with during the year, and that the Actuarial Value of Assets, used for determining the status of the plan was smoothed over a four period of market gains and losses.

Mr. Garrett reported on the investment experience a 5.45% rate of return, and said they currently assume that rate is 7.25% per year, representing a loss of about 1.8%. He said because of the smoothing, when the assets are volatile, and when they're deferring more losses than they are gains, there will be an Actuarial Value that is higher than market value. And in years where more gains and loss might be deferred, which has been a while, but were close last year, then there would be an

Actuarial Value that is below the market value. He said now, there is Actuarial Value that is about \$1.09 billion larger than the market value, which means that is a margin that has to be absorbed into funding. He explained that is recognized in each future year, so with three years left to recognize that \$1 billion, and with a four-year smoothing, one year is recognized in this valuation, and with three years left, that will be a headwind to the valuation results going forward. He said there are roughly \$390 million of losses to recognize next year in 2021, about \$380 million in 2022, and about \$330 in 2023, so right now they are facing potential headwinds. He said to offset that, significant market gains would have to be large enough to offset that recognition. He said it is currently scheduled based on the losses that have occurred.

Mr. Garrett reported on the non-investment experience side, looking at an expectation of who retires, pay increases, withdrawals, and disability rates, and the year was an increase to the UAAL of \$301 million. He said this was primarily driven by rates of salary increases during the FY2020 where pay increases were larger than anticipated, and more retirements than expected. He because of this there are more new entrants hired into the place, which are not a loss but they do add liability for the fraction of the year when they come into the plan. He said, to simplify things they assume everybody who is hired comes in on January 1, then at the end of the year valuation, all of the new entrants have half a year so there is a liability associated when the first valuation is done to a partial year of service.

Referring to the legislative changes in the passing of Senate Bill 72, Mr. Garrett said the net result of that on the liabilities of the plan as of 2020 was a \$788.5 million decrease to the UAAL. In addition, Mr. Garrett said part of Senate Bill 72 had a structure of contribution increases starting July 1, 2020, for state general and deferred two years for the Municipal plans that would increase the contributions in total from employees, if split equally, by 4% in steps of 0.5% from each year.

Mr. Garrett said when you do a valuation, the valuation is really a one day look at what the plan says. He said they do a valuation as of June 30, the last day each fiscal year, and at that point, they take into account in the valuation what is known. He said as of June 30, this valuation reflects only the 1% increase from the state general that will occur in this upcoming year as if that will be received forever. He said when they are determining this, it does not really reflect the increases that occur in the future. He said when they do projections, they do show those and can model those in projects in the asset-liability model, which will be provided in November.

Mr. Garret said when the present value of the future contribution increases that will be associated with Senate Bill 72, that it has a value as of July 1, 2020, of \$967 million, which has not been reflected in that. Or, in other words, all the contributions they expect to pay off is over \$3.7 billion of the unfunded liability between now and 2024.

Mr. Garrett said there had been an improvement in the funded ratio from 69.9% to 70.3% due to changes and the decrease in liability and offset by losses. He said projections had anticipated a 70.4% funding ratio from the market rate of return for 2020, however, it was less because of demographic losses not considered in the projections that was based on.

Regarding the amortization for PERA's UAAL, Mr. Garrett said in total, based on the statutory rates as of July 1, 2020, will increase by a significant amount. He said within the PERA funded period, the time it takes to fully amortize the unfunded liability, it went from infinite last year (meaning there is not enough money coming in to pay the interest on the UAAL) to a finite number of 106 now. He said that the measure is less because the valuation does not consider the changes due to tier two people coming into the plan in the future and future contributions. He said the projections in the ALMs that will be performed will be better indicators of the progression of the funded ratio, and how long the Board should be expecting the current statutory rates would be sufficient to fund the unfunded liability or fully amortize it.

Mr. Neel said he understood how the investment and been broken down and amortizing that over four years through smoothing. He asked Mr. Garrett, looking back to four years ago, what was falling off and would be positive or negative. As he was calling in by cellphone, Mr. Garrett was not able to provide the detail from 2016 at that time and said they would follow up with that information.

With regard to assumptions around inflation, Mr. Neel asked Mr. Garrett, to highlight his view of inflation.

Mr. Garrett responded that they go into more detail on inflation when they study that with the economic experience study for PERA. He said looking at it today, he thought long term inflation rates are still being experienced at around 3%, but that need to pull from that what future expected trends may be. He said in the modern area of the Fed, since 1981, those rates have been well below 3%, at 2.4% or 2.3%. He said the modern Fed, with its pro-active stance on controlling inflation, has been successful in moderating it.

Mr. Garrett said the other item they look at studies for future inflation, and in particular the Social Security Administration who project what they feel the rate of inflation is. He said as a wage-based program, inflation is as important to social security as it is to a pension plan. He said the Social Security Administration rates were 2.6%, this year has gone down to 2.4%. He said that 2.5% is a common assumption for a rate of inflation for pension plans, and they are not trying to assume what inflation will be next year or even in three years. He says they use this to move salaries and expect payroll growth of a system for a very long period of time. He said he would recommend the Social Security Administration's Trustees Report published by the Chief Actuary annually to all trustees around the country because it is probably one of the largest pension types or benefits structured systems. He said the SSA report does a good job of looking forward to economic assumptions that actuaries use in public pension plans.

Mr. Neel asked what the Fed targeting was in relation to their inflation rate.

Mr. Garrett responded that the Fed has said they are targeting between 2.0% to 2.5% using person consumption expenditures (CPE) measures as their target. Whereas they use the consumer price index (CPI), a different measure of inflation which is typically 0.2% to 0.4% higher than that. He said on that measure, he thought they were within a reasonable range to 2.5%.

Speaking to the pie charts shown on page four of the presentation, Mr. Garrett said these broke up into the plan into the component parts of the present value of benefits, which is the value today and the actuarial valuations of every benefit that is expected to be paid in all future years, so all the retirees and retirement benefits. He said for current actives there is an assumption that some are going withdraw and take their money, some will withdraw have benefit paid at their retirement date, some will become disability benefits starting immediately, and some will make it to retirement and draw their retirement benefits for the rest of their lives.

Mr. Garrett said when they consider all the possible benefits to be paid from the system, the value of that is \$25.3 billion, as shown in the pie on the left of page 4. He said that is broken into two parts to show the portion of that that has already been earned by service performed. He said the retirees are over 70% of the accrued liability, the main part is the actuarial accruals. He said actuarial accrued liability is \$22.4 billion, the larger piece of the pie graph showing the present value of benefits. Speaking to the smaller segment of the pie graph to the left of page 4, he said that was about \$2.9 to \$3.0 billion of accruals that have not yet been earned by the active members. He said that is the present value of future normal costs. He said the two pieces combine to equal the present value of benefits, and are broken out because as a metric of how well-funded the plan is they now compare what has accrued by the members, the \$22.4 billion, to how much is on hand in assets. He said this shows there was \$15.7 billion in assets, which refers to the plan 70.3% funded. He said the remaining portion of that liability is called the unfunded actuarial accrued liability, to be funded through

additional contributions in future years. He said the two smaller slices of each side of the pie are the present value of normal costs and the UAAL, which is the statutory rates that are covered to fully fund the \$25.3 billion at present value benefits.

Speaking to slide five of the presentation, Mr. Garrett said these graphs showed how stable the populations have been moving. He said the large plans move much as expected, and every year they anticipate through assumptions and based on the activity that they have looked at in numerous studies performed, and see that approximately 2,000 people retire each year in PERA. He said they expect the retirees to grow each year as people attain eligibility for retirement, and that the probability of each one to elect to retire at that point or defer to the next year or beyond is part of the actuarial valuations. He said they anticipate the ratio will continue to decline.

Referring to the graph showing State General, Mr. Garrett noted the ratio in 2013 was 1.3, meaning there were 1.3 active members per every retiree. He said that ratio is declining now where there are more retirees than there are active members, to a ratio of 0.95. He said that is not necessarily indicative of anything wrong with the plan, that it is fully anticipated and that is why the plan has \$15 billion of assets to pay those benefits. He said if talking about social security, and how critical that is to how many actives you have to retirees, it is because social security is a poorly funded plan that doesn't have that level of 70% of the present value of benefits or actuarial liability in assets, that they have a tiny fraction of that. He said in a funded plan this is not a worry, and they anticipate the decline will start to slow in future years and reach an equilibrium point where the number of actives coming into the plan matches the number of retirees.

Referring to the State Police/Corrections graph on slide five, Mr. Garrett said this year because it is a much smaller plan and there was a movement of people in Senate Bill 72 that provided some members of State General, the Juvenile Probation Officers, an opportunity to move into State Police, that they took that into account in this valuation as it is going to happen as part of the Bill and actuaries should be looking known events. He said that even though he thought there was going to be an election between now and 2021 that it would eventually be likely that will occur, so they have already taken it into account in the valuation. He said the shift in active members skewed the results and will see that in smaller plans.

Referring to the Legislative Division graph on slide five, Mr. Garrett said more PERA were filling the seats, 118 this year compared to 99 last year, so the ratio of actives to retirees bounced back up.

Referring to the Municipal General graph on slide six, Mr. Garrett said along the plan, the steady decline can be seen in the ratio of actives to retirees.

Referring to the Municipal Police and Municipal graphs on slide six, Mr. Garrett said they both stayed about the same and against some of the other plans there was not going to be a quite as predictable trend.

Mr. Neel said, looking at the two slides, he saw this as being critical for PERA as they look at managing the program going forward. He said what is being seen in technology, drones, and everything else, that he thought that there will probably be a reduction in public sector employees seen, as has been seen in the private sector. He said this shouts that the fund must be as well-funded as possible. He said there a lot of discussions about pay as you go plans and so forth, but he thought this highlighted the conundrum that eventually technology will impact state government, local government, and county governments, and that as such PERA needs to prepare the fund to weather those long term reductions in FTE and so forth. He said he thinks that this coming down the track, and PERA needs to be extra cognizant of it. He said looking at the State General, where the ratio was at 1.3 in 2013 and 0.95 now, that he thinks there will be a continuation of this in the future. Mr. Neel

said that was a general comment that he had on this and reiterated that he thought it was absolutely critical.

Responding to Mr. Neel, Mr. Garrett said he raised a good point that probably the biggest worry of plans today is how are active members or what is the workload or numbers going to look like. He said workforce management, and particularly during the pandemic, the actions by governments to change the workforce and the management of it is probably more critical than the impact of COVID on retiree mortality rates. He said he agreed, that the key to the future is the active members, the payroll because the payroll drives how much contributions come into the plan from the employee and the employer, so he thought it was a very good point.

Ms. French, referring to the graphs on page five, asked Mr. Garrett about his comment that some people left State General and went into the State Police and Corrections, so it lowered State General by a small amount the state's unfunded liability. She asked if this also lowered the State Police and Corrections funding status.

Responding to Ms. French, Mr. Garrett said it did. He said when people move from one benefit program and then can accrue benefits in a different program, they value both those. He said the numbers are that they pulled out the people under Senate Bill 72 who would be afforded benefits in the Adult Corrections State Police program. He said the drop of State General was a decrease in the unfunded liability to State General by approximately \$57 million. He said this was an increase to the State Police of \$68.5 million or a net increase of \$11.5 million, the difference being the benefits accruing to these members in future years. He said there was no retroactive allocation to it, that it was just the value of their benefit going forward, and their ability to apply earlier had the higher liability than what they had accrued in State General up to the point they transferred. He said they were transferred effective 7/1/2020, but with the idea that they are not going to accrue the State Police type of benefits until 7/1/2021.

Ms. French commented about taking liability that the state owes the fund and putting it in State Police and Adult Corrections because they were over 100 percent funded. She said this lowered the state's unfunded liability which they owe PERA from the past, but that Mr. Garrett was saying that when they go over to State Police and Corrections that they are just going forward, correct? She asked Mr. Garrett what happened to the unfunded liability that they owed when they were in the State General, and whether that was also shifted over to the State Police and Corrections.

Responding to Ms. French, Mr. Garrett said the net effect was they summed the unfunded liability of State General and State Police before Senate Bill 72, and that sum is \$11.5 million larger, so the state actually added to their liability by that amount. He said the net movement was a \$57 million reduction in State General, and a \$68.5 million increase to State Police. He said in total, the state has actually picked up additional liability due to that.

Ms. French thanked Mr. Garrett and said that was an interesting fact.

Ms. Fisher pointed out that the switch that was being referred to from Senate Bill 72 going into the State Police and Corrections from Juvenile and Probation has not yet been voted on to happen, and is not currently a part or should be a part at this time based on the data presented.

Responding to Ms. Fisher, Mr. Garrett said for actuarial calculations when an actuary has a pretty large contingency that an event is going to happen in that next year that they should that into account, especially when it moves the liability. He said in this case the \$11.50 million is not hugely material to the whole plan that has \$22.4 billion of accrued liable. He said they felt they would, and that if they did not, they would probably be questioned by auditors on why it was not taken into account.

Ms. Fisher said she understood it was for actuarial purposes, however, her point was that there has been no vote on this as they have been told they are supposed to. She asked whether this should have happened by the vote, and she hoped people understand that that is not the actual members going forward.

Ms. Armijo asked unless there was a technical issue, if staff could display on the screen the PowerPoint presentation being referred to by Mr. Garrett. Mr. Trujillo responded that the PowerPoint was on the screen, and he was able to see it. Ms. Armijo said she was seeing it but then it disappeared and would check her settings.

Ms. French said she was trying to find the documents on the Board portal trying to find the presentation, and asked Ms. Winter what page they were on. Mr. Garrett responded he was on page seven of the PowerPoint slides. Ms. Winter responded that in the entire Board packet she believed it was page 62 of 309. Ms. Armijo commented that in the Portal document she had just accessed, it was page 77 of 324.

Speaking to slide seven of the presentation, Mr. Garrett said this showed the historical membership data for the other three smaller plans, the Judicial, Magistrate, and Volunteer Firefighter Funds. He said with small groups, again, the trend is not going to be as clear, but there is some decline seen in the active member to retiree ratio for Judges and Magistrates, and the Volunteer Firefighters has dropped down to 5.2 from 5.7, a bigger drop. He said, again, that is a well over-funded plan, and it was not an issue.

Speaking to the graphs on slide eight of the presentation, Mr. Garrett said these compare the historical payroll of the active members in each division and each separate fund to the amount of benefits that are being paid out to the retirees. Regarding State General, he said what is seen is a continual increase. He said sometimes, depending on the changes in payroll, there will be a widening or a narrowing of the difference seen between these two lines, but the key was that if this was a pay as you go plan State General would be costing 58.5% of pay, which is much larger than what is being funded into the plan now. Regarding State Police and Corrections, he said that showed a bigger widening, primarily due to the shift of those members from State General, which dropped the percentage of payroll cost to 46.8. Regarding the Legislative Division, he said that does not really have a payroll, but the continual increase can be seen in the payouts to retirees and beneficiaries of the Legislative Division.

Speaking to graphs on slide nine of the presentation, Mr. Garrett said the Municipal General was, once again, stable. He said Municipal Police and Municipal Fire both had a little bit larger increase in payroll, which widened the gap. He said you could see some significant numbers as far as if there was not \$15 billion-plus in assets, how much would it be costing to fund these plans on a pay as you go basis, and would be much greater just to pay the cashflow.

Speaking to the graphs on page 10 of the presentation, Mr. Garrett said these show the historical payroll versus payouts of Judicial, Magistrates, and the Volunteer Firefighters. He noted that the Volunteer Firefighter is not a pay-related plan, so the graph did not have that line. He said that it can be seen that over 70% of payroll for the Judges and the Magistrates funded the benefits being paid to the retirees and beneficiaries.

Speaking to the graph on page 11 of the presentation, Mr. Garrett said this showed net external cash flow, which he defined as the sum of all the money coming into the plan through contributions, which does not include any investment returns and is just the amount of money coming into the plan from contributions, and the amount of money going out to the beneficiaries, retirees, and administrative expenses. He said they look at the net cash flow as a percent of average market value, and that they make a big deal about cashflow when they present the ALM because monitoring cash flow is an indicator or where the plans are going. He said that through the discussions of the asset-

liability modeling's that is known that there is a limit to how much a plan can sustain a negative cashflow.

Mr. Garrett said for the PERA plans, assuming a 7.25 rate of investment return annually, that is first taken away by covering the negative cashflow. He said looking at State General with about 5.4% negative cashflow in this one year, that a lot of the expected count would cover the negative cash flow, so very little is left to grow the assets. He said this was an issue seen with PERA in total because State General is a significant portion of PERA. He said with the changes to Senate Bill 72, it should be seen that growth in the benefit payments to retirees and beneficiaries with the cost of living adjustments are not going to be tied to how well the investments are performing. He said the key to that was stabilizing that negative net external cashflow in years where the fund is not doing well. He said this is a year where market returns were lower than expected, so the negative cashflow should be expected because when market values go down it will nominally move that ratio, making these ratios a little bit higher. He said they know the plans can sustain long term at about 4.5% negative cashflow. He noted that State General is a little beyond that, and that Judges and Magistrates are the other two funds that are in excess of what they think long term is sustainable. He said Senate Bill 122 was passed and taken into account in the valuations for the Judges and Magistrates plan, and they had some additional contributions. He said \$1.2 million is funded into each of those until they are 100 percent funded. He said this was a measure of what happened up to June 30, 2020, so going forward some improvement should be seen in the measures for the Judges and Magistrates funds.

Ms. French asked to go back to slide eight in the presentation and that regarding the Legislative Division, said she did not see a red line and asked where the revenue was.

Responding to Ms. French, Mr. Garrett responded there is no revenue, that it was measuring the benefits paid to the plan by their payroll. He said the Legislatures plan does not provide benefits as a percent of salary, that it has benefits that are a percent of the per diem expenses. He said as it is not really a net payroll that is being provided, similar to the Volunteer Firefighter plan that does not have a payroll number because it is not a salary-related plan.

Ms. French said that it was paid for by the Legislature and used to be oil and gas, but that she did not know how it was paid for currently. She said that meant a certain amount was coming in and asked if that was being shown or if they were just showing how much is going out

Responding to Ms. French, Mr. Garrett said this did not show the amount of revenue coming into the plan or the amount of contributions paid into the plan. He said this was simply comparing the benefits being paid from the plan to the payroll of the active members in the plan, and that percent of the ratio of those items is really the pay as you go cost, that is if there were no assets, how much it would cost to fund the plan. He said you could say that without assets, the Legislative Division plan would cost just over \$2 million a year, whereas the other can be shown as percentage of payroll. He said because they are payroll related plans the annual salaries can be summed up of all the active plan members. He said the Legislative Division plan is not a salary plan, and neither is the Volunteer Firefighters.

Ms. French said she understood that looking at the annual payroll but asked if on the Legislative Division the annual contribution should be looked at because their contribution is annually.

Responding, Mr. Garrett said they could show that. He said he thought it would be evident in the valuation report for them because when they look at the asset reconciliation they show how much is paid from the plan in benefits and how much is received in contributions for each of those. He said this chart was just trying to give an indication of how much is a comparison of the active payroll in total, and how much is paid out to the beneficiaries and retirees of the plan.



Speaking to the graph on slide 12 on the presentation, Mr. Garrett said this showed a graphical representation of the difference between the market value of assets and the actuarial smoothed value of assets. He said this should go back and forth in years that the market returns are more volatile with deeper spikes and greater peaks, and that the actuarial value of assets typically would draw a line that is above the bottoms and below the peaks in the market return lines. He said at the beginning of this year, as of June 30, 2019, the actuarial value and market value were close, approximately \$40,000 different and a small amount to the size of the fund. He said this year has opened up a spread between the market value and the actuarial smoothed value, and that is when they were deferring the losses to have an actuarial value of assets that is higher than the market value. He said that spread that can be seen is that portion of losses that are yet to be recognized, and are \$390 million in 2021, \$370 million in 2022, and about \$330 million in 2023, which should be anticipated as there is a headwind based on those losses, and unless they are offset by spectacular returns that would result in some future expected declines in the funded ratios.

Speaking to the results of the State Divisions on slide 13, Ms. Taylor said the first line, normal cost, is basically the costs for the upcoming year with a one-year accrual. She said next is the expected expenses, and looking at Legislative the increase due to the experience study as discussed by Mr. Garrett could be seen, which makes the expected expenses more in line with what is actually being seen. She said next is unfunded liabilities, which had some increases in State General and State Police, and a decrease in Legislative. She said those changes would have been different without Senate Bill 72, and a bigger increase in State General would have been seen. Referring to the funding years, she noted that State General has been infinite, but State Police and Legislative are well-funded show zero. She noted the slight decrease in the funded ratios for State General and State Police, and a slight increase in Legislative which had the effects of Senate Bill 72, and the experience study, both of which caused decreases in their liability and increases in their funded ratio. She said the next line shows the total contribution rates and pointed out that it shows a 25-year funding rate. She said before 2020, a 30-year funding rate was used. She said that will give an increase in the amortization of UAAL, but all in the rates for State General did not increase too much, which was helped by Senate Bill 72 because the asset loss could have made it decrease. She said State Police showed just a slight increase and Legislative was well-funded.

There were no further questions from the Board members on the presentation.

Mr. Davis moved to accept the FY20 Actuarial Valuations. Mr. Mayfield seconded the motion.

Ms. French read the following comment on behalf of Ms. Armijo who had to step away from the meeting that she “wanted to clarify that the Legislative retirement benefits are not all in gas proceeds, that the benefits are paid with general fund money, the Legislative benefits are guaranteed and the amount necessary to cover the cost of the benefits is paid to the trust out of the general fund.” Ms. Fisher said Ms. Armijo may be clarifying what she had said that she thought that it was paid from oil and gas. Ms. Fisher said Ms. Armijo is saying the Legislative pension comes from the General Fund.

The motion to accept the FY20 Actuarial Valuations was passed by a roll call vote by seven to one.

|                |               |
|----------------|---------------|
| John Melia     | Yes           |
| David Roybal   | Yes           |
| Claudia Armijo | [No response] |
| Lawrence Davis | Yes           |
| Paula Fisher   | Yes           |
| Patty French   | Yes           |
| Dan Mayfield   | [No response] |

|                       |     |
|-----------------------|-----|
| Loretta Naranjo Lopez | No  |
| Steve Neel            | Yes |
| Tim Eichenberg        | Yes |

**Executive Session – Board recess to Executive Session pursuant to NMSA 1978, Section 10-15-1(H) (3)**

Chair Melia advised the Board had an Administrative Appeal Final Review and asked for a motion to go into Executive Session. Ms. Fisher moved to go into Executive Session as above. Mr. French seconded the motion. The motion passed by roll call vote.

|                       |               |
|-----------------------|---------------|
| John Melia            | Yes           |
| David Roybal          | Yes           |
| Claudia Armijo        | Yes           |
| Lawrence Davis        | Yes           |
| Paula Fisher          | Yes           |
| Patty French          | Yes           |
| Dan Mayfield          | [No response] |
| Loretta Naranjo Lopez | Yes           |
| Steve Neel            | Yes           |
| Tim Eichenberg        | Yes           |

*[Break in meeting recording. The Board returned from Executive Session at 1:04 pm]*

Mr. Davis moved to come out of the executive session. Ms. Armijo seconded the motion. The motion passed by a unanimous roll call vote.

|                       |          |
|-----------------------|----------|
| John Melia            | Yes      |
| David Roybal          | Yes      |
| Claudia Armijo        | Yes      |
| Lawrence Davis        | Yes      |
| Paula Fisher          | Yes      |
| Patty French          | Yes      |
| Dan Mayfield          | Yes      |
| Loretta Naranjo Lopez | Yes      |
| Steve Neel            | [Absent] |
| Tim Eichenberg        | Yes      |

Chair Melia noted for the record nothing was discussed during the executive session except the Administrative Appeal as per the agenda.

**F. Final Decision on Administrative Appeal**

1. Salina Yardman

Ms. Naranjo Lopez referred to a memorandum dated October 19 from Marah and said she only had the first page. She queried if she needed to see a full document and whether she had the correct one.

Ms. Armijo advised Ms. Naranjo Lopez she needed to make a motion.

Ms. Naranjo Lopez moved that the Board remand the Administrative Appeal for Salina Yardman back to Disability Board and asked if she got that right. Responding, Ms. Armijo said she could not speak to whether she meant to make that motion.

Mr. Davis moved that in the matter of the Appeal of Salina May Yardman, PERA ID 25457, the Board Remand the Hearing Officers Recommendation and Conclusion to the Hearing Officer for further findings, conclusions, and clarifications pursuant to 2.80.1500.110D6 NMAC. Ms. Armijo seconded the motion. The motion passed by a unanimous roll call vote.

|                       |          |
|-----------------------|----------|
| John Melia            | Yes      |
| David Roybal          | Yes      |
| Claudia Armijo        | Yes      |
| Lawrence Davis        | Yes      |
| Paula Fisher          | Yes      |
| Patty French          | Yes      |
| Dan Mayfield          | Yes      |
| Loretta Naranjo Lopez | Yes      |
| Steve Neel            | [Absent] |
| Tim Eichenberg        | Yes      |

#### **G. Executive Director's Report**

*[Exhibit 7: Executive Director's Report]*

Speaking to the Executive Director's Report, Mr. Propst said there was nothing unusual in the report. He said contributions and benefit payments are relatively stable, and refunds are generally within the range expected.

Speaking to other updates not contained in the Executive Director's Report, Mr. Propst said FY20 Appropriation requests were scheduled to be heard by the Legislative Finance Committee Meeting on the morning of October 29, 2020. He said this meeting was rescheduled for Tuesday, November 16, 2020, and FY20 budget requests would be heard then.

Mr. Propst advised at the final meeting of the Investments and Pension Oversight Committee had also been moved November 6, 2020, to November 24, 2020. He said the Committee had asked for a report the Valuations from Cavanaugh McDonald just approved by the Board. He said the Committee would be updated on the FY20 valuation results.

Mr. Propst said that the Investment Committee will be having an educational session on Tuesday, November 10, 2020, and the public meeting notice would be going out on October 29, or October 30, 2020.

Regarding the Disability Committee Meeting, Mr. Propst advised on November 10, 2020. He said he hoped those would not conflict, and that any Board members who were not part of the Investment Committee will also be able to participate in the educational session.

There were no questions from the Board.

#### **9. Adjournment**

Having completed the Agenda and with no further business to come before the Board, Chair Melia declared the meeting adjourned at 1:12 pm.

Approved by:

  
\_\_\_\_\_  
John Melia, Chair, PERA Board

ATTEST:

  
\_\_\_\_\_  
Wayne Propst, Executive Director

Exhibits attached:

[Exhibit 1: Consent Agenda]

[Exhibit 2: Memorandum, Rules & Administration Chair, September 8, 2020]

[Exhibit 3: LNARANJOLOPEZWhistleblowerDisclosure1062020]

[Exhibit 4: PERA Board of Directors Election Report, Automated Election Services]

[Exhibit 5: Statement of Francis Page]

[Exhibit 6: FY20 Actuarial Valuations, Cavanaugh Macdonald presentation]

[Exhibit 7: Executive Director's Report]