

NEW MEXICO
PUBLIC EMPLOYEES RETIREMENT ASSOCIATION
Board Meeting
December 8, 2020

1. This PERA board meeting was held on the date cited above via Zoom tele/videoconferencing. David Roybal, Vice-Chair, called the meeting to order at approximately 12:11 p.m. and adjourned at 1:55 p.m.

2. **Roll Call**

Trish Winter, Executive Assistant, undertook the roll call. Meeting attendance met quorum, with the following members present:

Members Present:

John Melia, Chair – left at 1:00pm
David Roybal, Vice Chair
Claudia Armijo
Lawrence Davis
Paula Fisher
Patty French
Dan Mayfield - left at 12:45pm
Loretta Naranjo Lopez
Steve Neel
Maggie Toulouse Oliver
Tim Eichenberg
Shirley Ragin arrived at 12:19pm – left at 1:00pm

Staff Members Present:

Wayne Propst, Executive Director
Greg Trujillo, Deputy Director
Dominic Garcia, CIO
Kristin Varela, Deputy CIO
Susan Pittard, Chief of Staff/General Counsel
Anna Williams, ASD Director/CFO
Trish Winter, Executive Assistant
LeAnne Ruffy Larranaga, Portfolio Manager
Joaquin Lujan, Portfolio Manager
Karyn Lujan, SmartSave Plan Manager
Frank Mihail, Portfolio Manager
Isaac Beckel, Investment Analyst
Isaac Olayoe, Investment Analyst

Others Present:

Francis Page
Susan Ireland, Datagain

3. **Approval of Agenda**

Ms. French moved Item 5.A.1 and 2 be removed from the agenda, based on the original motion to approve the Executive Director's resolution did not pass. Citing Robert's Rule of Order, Ms. French this action was out of order. On item 5.A.2, for the same reason, Ms. French said this would also be out of order.

Mr. Davis provided additional insight that while it was referred back to the Rules Committee, in his role as the Chairman of the Rules Committee he felt their work was done and the best document was provided to the full Board.

Mr. Davis acknowledged that while some concerns were raised by members at the last Board meeting, he noted a procedure and process to voice concerns prior to the document's completion was allowed by the Rules Committee over a full year, and that no input was offered in that time period. He saw no reason why the document could not be amended as a full board. He further stated that sending it back to the Rules Committee was a waste of time.

Mr. Davis further stated that the Executive Director and staff need the clarification provided by this document to work effectively and therefore it should be amended at the full board and completed. He asserted that due diligence had been completed, and if the matter was deferred or removed from today's agenda, it will further extend the timeline over one year.

Ms. Armijo commented that if the Board is not comfortable removing these agenda's items based on Robert's Rules of Order, that she had another discussion item where she would separately move to remove Agenda Item 5.A.1, the Executive Director Resolution.

Ms. Armijo explained the research she had completed spells out the Executive Director's delegated authority in the New Mexico Administrative Code under Title 2, Chapter 80, Part 1800. Ms. Armijo then questioned why a resolution would be done when such a rule already existed. She further highlighted Chapter 80 Part 200.10, "Except as otherwise provided in the Public Employees Retirement Act and Rules and Regulations periodically adopted in accordance therewith, the Board may provide for its organization, operation and procedures by vote of the Board at any meeting of the Board."

Ms. Armijo stated it was her belief that if a resolution was passed that expands the authority given to the Executive Director, it would be invalid because of the conflict she highlighted and stated it would be an attempt to corrupt PERA processes.

Mr. Roybal expressed his desire to move forward and felt that it would be beneficial to discuss the matter as the entire Board. Mr. Roybal and Ms. French debated the authority of the Chair to place an item on the agenda as per Robert's Rules of Order. Ms. French restated her position.

Mr. Melia commented that it was his job as the Chair to set the Agenda, and that this was the Agenda he set, and that the rules are in place to remove or amend any item, and that the Agenda is set as is.

Ms. Naranjo Lopez commented that the Agenda is set by the Board and highlighted her recommendations for the public comment section, and that it would be beneficial to discuss at the Rules Committee. Ms. Naranjo highlighted her recommendation that the Constitution be followed.

Ms. Naranjo Lopez noted she raised many issues, along with issues with the Executive Director resolution, that can be discussed and dealt with at the Rules Committee that have not been dealt with, and doesn't feel this is the time. Ms. Naranjo Lopez suggested it be sent back to the Rules Committee.

The Chair noted there were no requests for any changes, he closed discussion in the interest of time and called for a voted for Ms. French's motion to remove Items 5.A.1 & 2 from Agenda. Ms. Claudia Armijo seconded.

During the roll call vote, Mr. Davis requested clarification from legal staff on Robert's Rules of Order. Susan Pittard, Chief of Staff/General Counsel, indicated Ms. French was correct in her quotations from Robert's Rules of Order, and provided the opinion that as these were the recommendations of the State Attorney General as well as the State Auditor, the Board might want to consider suspending the rules to have a delegation of authority in place until the Board undertakes a public administrative rulemaking that the Board wants to undertake.

Ms. French requested clarification from Ms. Pittard on suspending the rules, requesting staff indicate where in Robert's Rules of Order suspending the rules is allowed. Ms. French emphasized how Ms. Pittard had said she was correct with her previous remarks.

Ms. Pittard then provided the citation in Robert's Rules of Order Pages 260-267, and indicated that the Board had done that in the past, specifically when taking a vote about changing the nominating procedure.

Ms. French requested more information from legal staff. Ms. Winters attempted to finish the roll call vote at the direction of the Chair. Ms. French wanted clarification before voting on when in the past the rules had been suspended. Ms. French then again noted that Ms. Pittard had stated that she was correct, and again voiced her concerns about violating Robert's Rules of Order.

Ms. Pittard commented that she did not feel Ms. French was correctly characterizing her remarks. Ms. Pittard stated that the minutes reflect that the proposed public comment policy be referred back to the Rules and Administration Committee. Further, if a motion 'fails' or is defeated, a motion to rescind may be made used to reconsider the previous action. This is in contrast to a motion for reconsideration, which can only happen at the same meeting as when the prior action was taken.

Ms. Naranjo Lopez stated that on page 260, under Suspend the Rules, Section 25, "When Assembly wishes to do something during a meeting, that it cannot do without violating one or more of its regular rules, it can adopt a motion to suspend the rules interfering with the proposed action, provided that the proposal is not in conflict with the organization's bylaws or constitution with local state or national law prescribing procedural rules applicable to the organization or assembly, or with the fundamental principal of Parliamentary law." Ms. Naranjo Lopez then stated her belief that the rules can't be suspended. Ms. Pittard disagreed with Ms. Naranjo Lopez's interpretation.

Ms. Pittard, at the request of the Chair, provided clarification related to the duties of the Executive Director, noting NMAC 2.80 1800.8(c). Ms. Pittard stated the resolution before the board is a proper delegation of substantive functions of the Executive Director. Ms. Pittard noted a long-term goal of the Board could be to codify the Executive Director's authority in administrative regulation and have a public hearing so there clarity as to what the Executive Director can and cannot do, but until that time, the Board may pass a resolution giving specific authority to the Board by proper delegation.

Ms. Naranjo Lopez again put forward her previously stated position and requested a response in writing, noting previous requests she had made to have something put in writing had been ignored.

The Chair requested Ms. Winter continue with the recorded vote of the motion.

The motion passed by a roll call vote as follows:

John Melia	No
David Roybal	No
Claudia Armijo	Yes
Lawrence Davis	No
Paula Fisher	Yes (via chat)
Patty French	Yes
Loretta Naranjo Lopez	No
Steve Neel	No
Shirley Ragin	No
Maggie Toulouse Oliver	Yes
Tim Eichenberg	Yes

Madam Secretary stated her agreement with those who voted no and that it was unclear to her whether this was the same resolution that failed originally, and would like to see the Rules Committee review this resolution to see what changes can be made to make it a fresh resolution and to bring it back as soon as possible in the new year to clarify those duties moving forward.

Ms. Claudio Armijo moved to approve the Agenda, as amended. Ms. Loretta Naranjo Lopez seconded. The motion passed by a roll call vote as follows:

John Melia	Yes
David Roybal	Yes
Claudia Armijo	Yes
Lawrence Davis	Yes

Paula Fisher	Yes (via chat)
Patty French	Yes
Loretta Naranjo Lopez	Yes
Shirley Ragin	Yes
Steve Neel	Yes
Maggie Toulouse Oliver	Yes
Tim Eichenberg	Yes

4. Approval of Consent Agenda

Ms. Naranjo Lopez removed Item 1 from the consent agenda (November 2020 minutes). Ms. Patty French moved to approve the amended Consent Agenda, second by Claudia Armijo. The amended Consent Agenda was approved by a roll call vote as follows:

John Melia	Yes
David Roybal	Yes
Claudia Armijo	Yes
Lawrence Davis	Yes
Paula Fisher	Yes (via chat)
Patty French	Yes
Loretta Naranjo Lopez	Yes
Shirley Ragin	Yes
Steve Neel	Yes
Maggie Toulouse Oliver	Yes
Tim Eichenberg	Yes

6. Unfinished Business

A. Items Removed From Consent Agenda if Necessary

Ms. Naranjo Lopez wanted to note that she had voted no on the Consent Agenda for the minutes for the previous month. Ms. Naranjo Lopez further noted that her whistleblower statement was attached to the record, but would like the entire seven paragraphs included in the minutes. Ms. Naranjo Lopez further clarified the minutes are typically abbreviated, and that last time it was verbatim, so her whistleblower statement should be included. Ms. Naranjo Lopez then suggested that it be taken to the Rules Committee to be clear on what needs to be followed regarding the minutes.

Ms. Naranjo Lopez also highlighted a request she made on Page 15 in previous meetings' minutes, noting she did not receive an average of what each Board member does for education and training, including publications. Ms. Naranjo Lopez wanted it to be clear in the minutes that for Board education training, in order that staff doesn't have leverage over the Board and the appearance of quid pro quo, Ms. Naranjo Lopez put \$10,000. Ms. Naranjo Lopez stated she was not sure what the average is.

Ms. Naranjo Lopez requested that the Rules Committee, as part of looking at Board education and training, that an average be given.

Members expressed confusion over Ms. Naranjo Lopez's request. Ms. French stated that the minutes are not verbatim. Ms. French requested Ms. Naranjo Lopez correct any inaccurate statements so they can be corrected. Ms. Naranjo Lopez requested seven paragraphs be added to the minutes, and stated she found the minutes to not be clear at all and that there was no balance.

Ms. Naranjo Lopez requested that in the minutes on Page 14, where it said "Ms. Naranjo Lopez said she would like to amend Item 7(a)" so that it includes the words "education, training and subscriptions".

Ms. Patty French moved the Approval of November 2020 minutes with the stated clarifications on Page 14, subscriptions and that Ms. Naranjo Lopez's statement remain an attachment at this time, to be addressed by

the Rules Committee at the next meeting. Ms. French further stated that she thought the new vendor did a great job. The motion was seconded by Ms. Claudia Armijo. The motion passed by a roll call vote as follows:

David Roybal	Yes
Claudia Armijo	Yes
Lawrence Davis	Yes
Paula Fisher	Yes (via chat)
Patty French	Yes
Loretta Naranjo Lopez	Yes
Steve Neel	Yes
Maggie Toulouse Oliver	Yes
Tim Eichenberg	Yes

7. **New Business**

Ms. French moved to recess into Executive Session, seconded by Mr. Davis. The motion passed by a roll call vote as follows and the Board recessed into Executive Session from 1:00 p.m. to 1:30 p.m.:

David Roybal	Yes
Claudia Armijo	Yes
Lawrence Davis	Yes
Paula Fisher	Yes
Patty French	Yes
Loretta Naranjo Lopez	Yes
Steve Neel	Yes
Maggie Toulouse Oliver	Yes
Tim Eichenberg	Yes

Trish Winter, Executive Assistant, undertook the roll call to resume the Board meeting. Meeting attendance met quorum, with the following members present:

Members Present:

David Roybal, Vice Chair
Claudia Armijo
Lawrence Davis
Paula Fisher
Patty French
Loretta Naranjo Lopez
Steve Neel
Maggie Toulouse Oliver
Tim Eichenberg

A.1: Administrative Appeal Final Decision

Mr. Lawrence Davis moved that on the matter of the Appeal of Miguel A. Tavarez, PERA ID 137627, the Board rejects the hearing officer's recommended findings of fact and conclusions of law, denies the hearing officer's recommended decision, and would remand the matter to the hearing officer for further proceedings and the taking of further evidence. The motion was seconded by Ms. Claudia Armijo. The motion passed by a roll call vote as follows:

David Roybal	Yes
Claudia Armijo	Yes
Lawrence Davis	Yes
Paula Fisher	Yes
Patty French	Yes
Loretta Naranjo Lopez	Yes
Steve Neel	Yes

Maggie Toulouse Oliver Yes
Tim Eichenberg Yes

B.1: Executive Director's Report

Mr. Wayne Propst, Executive Director wished everyone Happy Holidays and safe travels, and looks forward to seeing everyone in January.

Ms. Naranjo Lopez asked the Executive Director if he was involved in the legislation that looks to change the makeup of the Board to be appointed. Mr. Propst responded that he was not aware of any legislation to change the makeup of the Board. Ms. Naranjo Lopez indicated changes for the Board to be appointed by the Board, and repeated her question to Mr. Propst. Mr. Propst repeated his initial response.

Ms. French requested Mr. Propst send condolences on behalf of the staff and the Board to acknowledge the recent passing of Dr. DeWitt. Mr. Propst indicated he would handle that request. Mr. Eichenberg suggested an honorary tree planting. Mr. Propst indicated he would get that done. All members of the Board expressed agreement.

Mr. Davis thanked Mr. Propst and his staff for his hard work, and extended holiday greetings. This sentiment was echoed by all board members.

The Chair acknowledged and recognized Members French, Armijo and Mayfield for their years of service and hard work to the Board. This sentiment was echoed by all board members.

Members French and Armijo thanked their fellow members for their cooperation and fellowship over the years.

Thanks were expressed to all staff at PERA for their hard work.

7. Adjournment

Having completed the Agenda and with no further business to come before the Board, Chair Roybal declared the meeting adjourned.

Approved by:



John Melia
Chair, PERA Board

ATTEST:



Wayne Propst, Executive Director

Exhibits attached