

NEW MEXICO
PUBLIC EMPLOYEES RETIREMENT ASSOCIATION
BOARD MEETING

August 31, 2017

This meeting of the Public Employees Retirement Board was called to order by Dan Mayfield, Chair, at approximately 11:45 a.m. on the above-cited date at the PERA Albuquerque Office, 2500 Louisiana Blvd., NE, Suite 400, Albuquerque, New Mexico.

2. Roll Call

Roll call established a quorum with the following members present:

Members Present:

Dan Mayfield, Chair - Retiree
James Maxon - County
Claudia Armijo - State
Tim Eichenberg - *Ex-officio* [late arrival]
Dan Esquibel - Municipal
Patricia French— Municipal
Jackie Kohlasch - State
John Melia - Municipal
Loretta Naranjo Lopez - Retiree
John Reynolds - State
Cathy Townes - State

Member(s) Absent:

Maggie Toulouse Oliver - *Ex-officio*

Staff Members Present:

Wayne Propst, Executive Director
Susan Pittard, Chief of Staff/General Counsel
Greg Trujillo, Deputy Director
Dominic Garcia, Chief Investment Officer
Jude Pérez, Deputy CIO
Karen Risku, Deputy General Counsel
Renada Peery-Galon, ASD Director
Dana David, Assistant General Counsel
Trish Winter, Executive Assistant
Joaquin Lujan, Director of Rates and Credit
LeAnne Larrañaga-Ruffy, Director of Equity
Karyn Lujan, Deferred Compensation Plan Manager
Christine Ortega, Portfolio Manager
Mark Montoya, Financial Analyst
Isaac Olaoye, Financial Analyst
Emily Lopez, Financial Specialist
Kristin Varela, Portfolio Manager of Real Returns
Marlena Riggs, Financial Budget Manager
Anna Murphy, Compliance Officer

Others Present:

Jennie Lusk, NM AG Office
Cholla Khoury, NM AG Office
Harvey Leiderman, Reed Smith, PERA Board Fiduciary Counsel
Tom Toth, Wilshire
Paul Cowie, Meketa,
Paul Lium, Nationwide
Andrew Hayward, Albourne
Mark White, Albourne
DL Heshley, FOP
Anna Hanika-Ortiz, LFC
Dianne Creser, Chapter 5
Isabel Clendenin, RPENM
Mike Clendenin, RPENM
John Rivers, RPENM
Steve Cogan, REDW
Jessica Bundy, REDW

3. Approval of Agenda

Ms. Naranjo Lopez questioned the appearance of item 4.B, “Independent Investigator Regarding Unauthorized Board Member Travel to the National Association of Securities Professionals Conference” on today’s agenda. She pointed out that at the previous meeting the motion to approve failed to obtain the necessary majority and the motion to table died for lack of a second. She said the minutes of that meeting were not made available to her.

Mr. Melia recalled that according to the Secretary of State’s comments the decision to hire an independent investigator had been approved at the June meeting and what’s before the Board at this time is selecting an investigator. The item will remain on the agenda until a majority of the Board selects an investigator.

Susan Pittard, Chief of Staff/General Counsel, said the Board Chair has the discretion to place items on the agenda.

Ms. Naranjo Lopez said the integrity of the Board process must be followed and the motion to select an investigator failed and with that action on the item, should be removed from the agenda. The motion to table at the previous meeting failed without a second and she requested that the item be removed from the agenda.

Ms. Armijo said the item is to select a firm to investigate the alleged conduct of a Board member not to remove anyone from the Board.

Ms. Naranjo Lopez mentioned Bernalillo County where women and minority women are being discriminated against and she took issue with that.

Ms. Pittard indicated that an investigation does not necessitate removal of the Board member. An investigation is a necessary process for those Board members who felt there is not sufficient information available to sanction a Board member. She added that a hearing is necessary to remove any Board member.

Ms. Naranjo Lopez recalled that there was a time the Board was seeking to censure her and there was no process for a hearing.

Speaking as a Black woman, Ms. Kohlasch said she did not perceive item 4B.as discriminatory.

Ms. Naranjo Lopez said the issue failed twice and should not be on today’s agenda.

Ms. Kohlasch introduced the following motion:

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

Mr. Maxon seconded and the motion passed by majority voice vote with Ms. Naranjo Lopez voting against. [Mr. Eichenberg was not present for this action.]

4. Approval of Consent Agenda
[Exhibit 1: Consent Agenda]

Chair Mayfield requested the inclusion of the External Legal Services Relating to Investment RFI MQs and Timeline.

Mr. Maxon introduced a motion to approve the consent agenda as amended. Mr. Melia seconded and the motion passed without opposition.

Ms. French raised a point of order and said it was her understanding that items could not be added to the consent agenda without 72-hour notification. Noting it was not a time sensitive matter, Ms. Pittard recommended removing the RFI from the consent agenda.

Mr. Melia introduced the following motion:

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

Mr. Maxon seconded and the motion passed without opposition.

5. Current Business

A. Internal Audit Follow-Up on Previous Audit Findings
[Exhibit 2: REDW report]

Jessica Bundy and Steve Cogan, principals with REDW appeared before the Board. Ms. Bundy said this is a follow-up and status findings on outstanding observations. REDW presented information on resolved as well as unresolved observations. They will continue to work with management and the Audit & Budget Committee to further develop the items. She presented the audit findings, management responses to those findings, and REDW’s follow-up on their observations, and identified those which have been identified as resolved.

There were no questions and REDW was thanked for their report.

D. Independent Investigator Regarding Unauthorized Board Member Travel to

the National Association of Securities Professionals Conference

Chair Mayfield reminded Board members that the Board voted to investigate a possible violation of Board policy related to travel. It is hoped that the investigation will be conducted quickly and results shared upon completion.

Mr. Melia read from a prepared statement: “The inspiration for what I have to say comes from member Naranjo Lopez and Treasurer Eichenberg and so I thank both of you for this. Times like these are not pleasant. Unfortunately, times like these are reality and something that we as Board members must deal with. We have a duty to police ourselves. We have a duty to take seriously and examine situations of potential Board misconduct and we also have a duty of when to administer discipline in order to preserve the integrity and the trust of our Board for the benefit of our members. Recently member French emailed the Board a letter from her attorney. I quickly and regretfully replied to the email that, in my opinion the letter was sent to intimidate the Board. Member Naranjo Lopez then responded to my email informing me that our PERA email address should not be used to express personal opinions. After reflecting on that, I must say that she is 100 percent correct and I apologize for doing so....”

Continuing with his recital, Mr. Melia said while he is entitled to his own opinion he recognizes that his opinion may not be fact. He suggested that personal opinions are driving the actions on this matter and not the facts. An independent investigator can gather the facts and he asked that the Board select that contractor today so the Board can move on to other issues. Further, he requested of staff that they review PERA Board history to ensure any disciplinary action is in line with the past.

Mr. Esquibel said the information in the letter from General Counsel Pittard to Member French was “definitely slanted towards her guilt” including the pictures presented. It was discovered through Ms. French’s rebuttal letter that there were other pictures that should have been presented that were not which may have better informed the Board in its decision making. Further, Ms. French has provided correspondence from the organization to which Ms. Pittard’s letter alleges infractions presenting a different perspective of whether or not there is a need to spend membership money on an investigation.

Mr. Esquibel said it was his opinion that the vote at the June Board meeting was intentionally stalled to ensure a predetermined action and the provided photos were selective in nature.

Mr. Esquibel asked whether it was necessary to move forward and spend membership money since the rebuttal letter addressed the allegations.

Ms. Armijo said the Board voted to have an investigation into this matter and that decision is not on the table. She pointed out that it is inappropriate for a Board member to accuse another Board member, the Chair in particular, of orchestrating a certain outcome. The fact that the Board voted to have an independent investigation demonstrates that there will not be an orchestrated outcome.

The question before the Board is who to use to conduct the already approved investigation, stated Ms. Armijo.

Ms. Armijo introduced the following motion:

“RESOLVED, that the PERA Board use Universal Investigation Services, LLC and commence as soon as possible to resolve the issue in a fair and equitable manner that upholds the Board’s integrity and its duty to self-police and be fair to anyone named in the allegation.”

Mr. Melia seconded.

Ms. Naranjo Lopez petitioned the Board to dismiss the action. There is no evidence that Ms. French has done anything wrong. The information supports she was a moderator for a non-profit organization that helps children. She asked that the Board Chair stop this “personal and discriminatory act immediately.”

If there were no infractions, Ms. Kohlasch said the independent investigation will prove that. That’s the purpose of the independent investigation.

Mr. Reynolds said he wants the Board to focus on strategic asset allocations and at this point there is no choice but to proceed with the investigation and put this “issue to bed.”

Upon a roll call vote, the motion failed [6-4] to obtain the necessary Board majority:

Dan Mayfield	Yes
James Maxon	Yes
Claudia Armijo	Yes
Tim Eichenberg	Not present for this vote
Dan Esquibel	No
Patricia French	No
Jackie Kohlasch	Yes
John Melia	Yes
Loretta Naranjo Lopez	No
John Reynolds	Yes
Cathy Townes	No

Ms. Armijo said it was inappropriate for Ms. French as the member whom the charges are brought against to vote.

Mr. Melia said according to the Secretary of State, the item stays on the agenda until a majority of the Board vote in the affirmative. If Ms. French’s attendance at the conference did not violate any Board policies then that will be the result of the investigation.

Ms. Pittard said it the prerogative of the Board Chair whether this item is placed on the next Board agenda.

Mr. Esquibel said “this is a witch hunt and an assassination of character.” In his opinion there was not enough information to warrant the expenditure of membership funds on this investigation.

Ms. Townes said it was important the Board be prudent with the membership’s assets. The information clearly shows Ms. French participated as a moderator not as a PERA Board

member.

Ms. Pittard said PERA has a strict policy that registration fees that are complementary by industry providers cannot be accepted by the Board. According to the 1999 Attorney General's opinion complementary conference fees cannot be accepted by staff or Board members. To cure the violation of the gift an invoice needs to be received and paid for by the PERA or Ms. French. "That is the concern of the Office of General Counsel," nothing more, stated Ms. Pittard. The investigation issue is not within staff's control and any allegation that it was driven by staff is not true.

Ms. Naranjo Lopez asked why spend \$7,000 on an investigation when the agency could just pay the registration fee.

Mr. Melia said counsel did advise Ms. French that paying the fee would resolve the issue.

Ms. French stated that she understood that from Ms. Pittard's earlier letter and asked Chair Mayfield to approve that payment by placing it on the June consent agenda and he said the 72-hour deadline had been missed. She said she could not see how her positive charitable contribution to unprivileged children could be perceived as wrong.

Ms. French said she did not attend the conference for educational purposes and went simply to moderate. She said she had no idea it would turn into this issue. The fee was \$500 and she was stunned the Board was ready to spend over \$6,000 to investigate her. She confirmed that she went to the conference, moderated at the conference, was in and out and not there for educational purposes. She said she used her own vacation time, paid her own airfare, hotel and meals to accomplish this charitable contribution.

Ms. French suggested the Board pay the fee, terminate this issue and alleviate the membership from needless worry about their money being frivolously spent.

Mr. Melia said there appears to be different versions of the story and he agreed it could have been concluded earlier if the fee had been paid. However, at this point the issue has become laden with emotion and would best be addressed by an independent unbiased investigation.

Ms. Armijo said if this item has to be placed on the agenda every month until it is resolved then that is the course the Board needs to follow. "Part of the way we protect the fund and its members is to protect the integrity of the Board."

Mr. Maxon questioned why Ms. French didn't get prior approval to attend the conference. She responded that she was paying her own way and did not think it was necessary to advise the agency. In retrospect and following receipt of Ms. Pittard's letter she understands she should have advised PERA.

Mr. Melia asked whether Ms. French has provided receipts showing her expenditures for the conference. The conference website indicated that only sponsors were permitted to designate moderators and he questioned Ms. French on that. Ms. French said the president of NASP invited her to moderate not a sponsor.

Mr. Esquibel said the photos provided in the Board packet appeared misleading and in

inferred that staff had provided them. Ms. Pittard clarified that said the photos were provided by a Board member not staff.

Ms. Armijo asked if she was to understand that Ms. French, who has served 13 years on the PERA Board, four of which she was Board Chair, did not understand that she needed to report the travel. Ms. French responded that she did not.

As Investment Committee chair, Mr. Melia said the president of NASP is a principal of a private equity firm that was listed on the website as a NASP sponsor. He encouraged the Board to move forward with a private investigator.

Ms. Armijo requested that the Chair continue this item to the next Board agenda. Ms. Kohlasch agreed. Ms. Naranjo Lopez disagreed stating the motion to select an investigator has failed again.

C. Disability Evaluation Services RFP

Greg Trujillo, Deputy Director, presented an RFP staff developed to improve PERA's disability review services. In July the Disability Committee was briefed on the difficulty of retaining and recruiting new doctors. There have been issues with the MDs that provide medical evaluation services – a doctor passed away, one is moving out of state and another will not be renewing his medical license. A new model being explored by public pension plans is to outsource the medical review process. To explore this process further, PERA issued an RFP and final responses have not been received. At this point two firms have expressed interest.

Mr. Trujillo said until responses are received and reviewed the agency was not sure what the service would look like. Currently the medical service contracts total \$50,000 annually. They have tried to recruit new doctors but have not been successful. Mr. Trujillo anticipated that PERA would enter into a contract with one doctor in addition to the service.

Responding to Board questions, Mr. Trujillo said the Disability Review Committee responsibilities would not change; however, the composition of the committee could be limited to one doctor. He said there may not be any change and the agency will recruit new doctors.

D. Rules Committee Approved Amendments to Board Policies and Procedures

There was no report on this item. Board discussion arrived at consensus to refer the rewrite of the board's Policies and Procedures to fiduciary counsel, Harvey Leiderman for presentation to the full Board at its November 2017 meeting.

E. Approval Resolution No. 17-13 Regarding Authorization to Act on Behalf of PERA in Securities Litigation Matters as Required

[Exhibit 3: Resolution 17-13]

Ms. Pittard said the Attorney General Office has contracted with several national law firms who have access to the PERA portfolio in order to analyze losses and identify possible securities litigation actions that the AGO may seek to initiate. Given the timing of litigation and the necessity of litigants to be nimble, the AGO has asked that the Board delegate the authority to sign on to securities litigation in a named-plaintiff capacity to the executive director and Board Chair in conjunction with working with the AGO and the Office of General Counsel at PERA.

The Board will be fully informed of any action that the AG takes on behalf of PERA. The other two investing agencies have been asked to approve the same type of arrangement.

Cholla Khoury, from the AGO's securities litigation team, said it is the AG's view that there are consumer protections that some of these litigations involve, i.e., a bad corporate actor. At this point they have not had a fund that PERA was involved in. She said many times the deadline for joining a class action as lead plaintiff does not provide adequate time to come before this Board. She said the request before the Board is in essence to join a partnership with the AGO.

Ms. Pittard said the resolution authorizes the delegation to the PERA executive director and Board Chair to sign on as lead plaintiff. All losses that PERA has incurred that are subject to pending class action suits are addressed by PERA's custodial bank. She confirmed that PERA can request that the AG represent PERA; however, this is the converse of that.

[Mr. Eichenberg joined the meeting at this time.]

Ms. Pittard said there would be no fee to the AG; the fee is based on the recovery through the law firm who has a contractual relationship with the AG's office. If time allows this delegation would not be used and the issue would be brought before the Board.

Ms. Khoury said if the AGO withdraws as lead plaintiff they still remain a part of the class action litigation.

Mr. Esquibel introduced the following motion:

“RESOLVED, that the PERA Board approve Resolution 17-13.”

The motion was seconded by Mr. Maxon and passed by unanimous [9-0] voice vote. [Ms. French and Ms. Armijo were not present for this action.]

F. Executive Director's Report

Mr. Propst said his written report was provided and he welcomed questions.

G. Executive Session

- 1. Administrative Appeal – Final Review: under NMSA Section 10-15-1-H (3)**
 - a. Billy R. Garcia**

Mr. Maxon moved to meet in Executive Session. Ms. Naranjo Lopez seconded and the motion passed by roll call vote as follows:

Dan Mayfield	Yes
James Maxon	Yes
Claudia Armijo	Not present for this vote
Tim Eichenberg	Yes
Dan Esquibel	Yes
Patricia French	Not present for this vote

Jackie Kohlasch	Yes
John Melia	Yes
Loretta Naranjo Lopez	Yes
John Reynolds	Yes
Cathy Townes	Yes

[The Board met in executive session from 1:15 to 1:25.]

Ms. Kohlash moved to return to open session having discussed only the item as listed on the agenda. Her motion was seconded by Mr. Maxon and passed by unanimous voice vote. [Ms. French and Mr. Reynolds were not present for this action.]

Ms. Armijo introduced the following motion regarding Billy R. Garcia:

“ RESOLVED, in the matter of the appeal of Billy R. Garcia, that the PERA Board adopt the Hearing Officer’s recommended findings of fact and conclusions of law and approve the Hearing Officer’s recommended.”

Mr. Esquibel seconded and the motion passed by unanimous [9-0] voice vote. [Mr. Reynolds recused himself and Ms. French was not present.]

5. Other Business

Ms. Naranjo Lopez asked which Board member provided the photos regarding the NASP conference to staff. Ms. Armijo said that information will be provided within the independent investigator’s report.

Ms. Naranjo Lopez took issue with the Executive Director providing materials to the LFC without the Board first seeing that information and there was information she had requested from the actuaries that she had not seen. Mr. Propst reminded Ms. Naranjo Lopez that all of the information presented to the LFC had previously been presented to the Board as part of four separate educational sessions, including the Board Retreat in June. He further noted that PERA does not set the agenda for the LFC.

Ms. Townes addressed the Board stating that there has been a tremendous amount of unnecessary discord regarding the independent investigation of the conference and appears it to be a personal vendetta. The negativity generated by this issue has ill effects on everyone involved and she urged the Board to get on with business as professionals.

Ms. Naranjo Lopez repeated her request to know who submitted the conference photos and Ms. French asked why that Board member would not identify themselves.

7. Adjournment

Having completed the agenda, Mr. Reynolds moved to adjourn and Mr. Maxon seconded. The motion to adjourn passed by majority voice vote with Member Esquibel, Naranjo Lopez and French voting against. Chair Mayfield declared this meeting adjourned at 1:40 p.m.

Approved by:



Dan Mayfield
Chair, PERA Board

ATTEST:



Wayne Propst, Executive Director

Attached Exhibits:

Exhibit 1: Consent Agenda

Exhibit 2: REDW report

Exhibit 3: Resolution 17-13