

NEW MEXICO
PUBLIC EMPLOYEES RETIREMENT ASSOCIATION
BOARD MEETING

December 29, 2016

This meeting of the Public Employees Retirement Board was called to order by Patricia French, Chair, at approximately 9:45 a.m. on the above-cited date at the PERA Building, 33 Plaza la Prensa, Senator Fabian Chavez, Jr. Board Room, Santa Fe, New Mexico.

1. & 2. ROLL CALL

Executive Director Wayne Propst called roll and a quorum was established with the following members present:

Members Present:

Patricia French, Chair - Municipal
Dan Mayfield, Vice Chair - Retiree
Tim Eichenberg - *Ex-officio*
Dan Esquibel - Municipal
Paula Fisher - State
James Maxon – County
John Melia – Municipal
Loretta Naranjo Lopez - Retiree
Cathy Townes - State
Maggie Toulouse Oliver - *Ex-officio*

Member(s) Absent:

Jackie Kohlasch - State
John Reynolds – State [excused]

Staff Members Present:

Wayne Propst, Executive Director
Susan Pittard, Chief of Staff/General Counsel
Jon Grabel, Chief Investment Officer
Karen Risku, Deputy General Counsel
Jude Pérez, Deputy CIO
Renada Peery-Galon, ASD Director
Natalie Cordova, Chief Financial Officer
Joaquin Lujan, Director of Rates and Credit
Trish Winter, Executive Assistant
David Dana, Assistant General Counsel
Lalleh Dayeny, Investments Division
Karyn Lujan, Deferred Compensation Plan Manager
Kristin Varela, Portfolio Manager
Emily Lopez, Financial Specialist
Mark Montoya, Portfolio Manager

Others Present:

Tom Toth, Wilshire
Paul Lium, Nationwide
Patrick Varela, Santa Fe County Treasurer
Randy Autio, Robles, Rael & Anaya
John Blair, Deputy Secretary of State

3. APPROVAL OF AGENDA

Ms. Fisher introduced the following motion:

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

Mr. Maxon seconded and the motion passed by unanimous voice vote.

4. APPROVAL OF CONSENT AGENDA

[Exhibit 1: Consent Agenda]

Chair French said she reviewed the minutes and found them complete and accurate.

Mr. Maxon introduced the following motion:

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

Mr. Mayfield seconded and the motion passed by unanimous voice vote.

5. CURRENT BUSINESS

A. Oath of Office – Maggie Toulouse Oliver, Secretary of State

Chair French administered the oath of office to Ms. Maggie Toulouse Oliver.

**B. Approval of Ad Hoc Committee’s recommended Scope of Services for
Board Attorney *[Exhibit 2: Scope of Work]***

Ms. Naranjo Lopez said the ad hoc committee met last week and approved the scope of work.

In terms of process, Ms. Toulouse Oliver asked whether determining if a Board attorney should be hired was appropriate before acting on the scope of services. Chair French said the Board started this process earlier this year when some Board members perceived a conflict of interest between the Board and PERA’s legal counsel. She appointed a subcommittee consisting of Board members Naranjo Lopez, Eichenberg and Fisher to consider the matter and the Board acted to have the Robles law firm assist in writing the scope of work.

Ms. Naranjo Lopez said the ad hoc committee has met three times and discussed the issues in depth. She added that the ad hoc committee contacted staff with questions and according to Ms. Naranjo Lopez staff did not respond. She went on to state that it was not

until yesterday that staff posed questions regarding the topic. She learned of the importance of having a board attorney at the Latino Conference that she attended. Whether to hire a Board attorney is a resolved issue, stated Ms. Naranjo Lopez.

Mr. Melia clarified that the Board had not voted to hire an attorney. The staff questions addressed many of his issues regarding a duplication of services and the legitimacy of spending membership money. He understood the Board was seeking fiduciary counsel services related to governance of a public pension and the presented scope of work does not address that issue. Mr. Mayfield agreed that the proposed scope of work fails to address the original issues.

Chair French asked whether staff had the opportunity to review the scope of work. Mr. Propst pointed out that PERA staff did provide input on this issue and referred to a stack of papers consisting of correspondence between staff and Ms. Naranjo Lopez and the ad hoc committee over the course of the last four months on this issue. In fact, all of the issues that have been raised about this matter have been in the public record and presented to the Board previously by staff.

Continuing, Mr. Propst said the ad hoc committee was formed by Chair French on August 25, 2016. Two weeks ago, the Chair requested his assistance in developing a scope of work and in good faith staff met with Randy Autio from the Robles law firm. Fiduciary counsel was not included in the scope of work – the Robles firm has informed the agency that they cannot provide fiduciary counsel to the Board. Not every law firm will be willing to provide fiduciary counsel to a \$14 billion trust fund. It is a specialized area of the law often requiring additional liability insurance.

Chair French said it was not the Board's intent to use this counsel to provide investment opinions.

Mr. Melia said nothing compelling has been presented to justify hiring an attorney for the Board. Stating that Mr. Melia lacked history on the Board, Chair French said the Board attorney would be used when there is a conflict of interest with General Counsel/Chief of Staff and the Board's need for an attorney.

Chair French said it was never her intent to take fiduciary responsibility away from PERA's general counsel.

General Counsel Pittard said fiduciary counsel does not review investments – it is not investment-oriented legal advice. Many large state public pension plans have fiduciary counsel on contract and because it is a very specialized area of the law, there are a handful of national law firms that perform such services for a board of trustees. Fiduciary counsel advise boards on compliance issues with state and federal regulation, conflicts of interest, disclosure requirements and individual board members' fiduciary duties, and advise on a board's fiduciary responsibilities and how they are carried out. A few years ago, staff recommended proceeding with an RFP for these services.

Mr. Esquibel said a Board attorney provides a level of protection on behalf of the membership to address many of the legal issues that come with governance and policy for

PERA. He opined that the proposed scope of services is relevant to where PERA is today – a growing mature pension fund.

Mr. Eichenberg said he brought up the issue of Board counsel in early 2016. He provided an example regarding a settlement where having counsel would have benefitted the Board rather than agency counsel representing the membership. A Board attorney could provide “both sides of the coin” and advise the Board. Based on the size of the fund, Mr. Eichenberg said the cost is “rounding error” to have an attorney available to the Board. Further, calling for executive session appears very restrictive with PERA.

Mr. Mayfield expressed concern that the Robles firm would need to subcontract with another law firm for the fiduciary duties.

Acknowledging that she had not been involved in the series of events that led to this agenda item, Ms. Toulouse Oliver observed there was a lack of clarity as to the specifics of the proposed board attorney. The Board can either accept or reject general counsel’s advice. She suggested creating a policy that mandates a closed session with general counsel in advance of legal decisions.

Randy Autio, Robles, Rael & Anaya law firm, said the scope is a draft based on conversations with the committee and staff. The Robles law firm has a current \$25,000 contract with PERA for litigation work. In response to Ms. Toulouse Oliver’s question regarding the possible cost of the contract, Mr. Autio said their rate is \$150 an hour and overall costs depend on the Board’s utilization of them. He confirmed that Robles is not a firm for fiduciary counsel for retirement funds and such firms are national. Robles could act as the Board’s fiduciary when providing legal advice to the Board but not as a fiduciary to the fund.

For the sake of good governance, Ms. Toulouse Oliver suggested it may not be appropriate to enter into a contract with Robles who wrote the scope of work. Mr. Autio said it is not appropriate for the firm to prepare a scope of work on an RFP; however, it is not prohibited for a small professional services contract.

Placing on the record that she has tremendous respect for Mr. Autio, Ms. Toulouse Oliver said even if permitted under the Government Conduct Act, it wasn’t good governance. She could support a contract that provided advice pertaining to conflicts of interest and had a dollar amount attached. The proposed scope of work appears unnecessarily broad. Clarification is needed on how the attorney’s advice would be sought.

Mr. Melia prefaced his motion stating, “We’re all here to serve our members...any advice that Ms. Pittard is giving the membership is exactly the advice we should be taking as Board members...If we are unsure of whether to follow that advice or not, that’s on us. And if we need to get a second opinion, that’s on us.” Second, he noted that the Board has not voted to hire a Board attorney; rather they did vote to contract with Robles to work on a scope of work. Lastly, not all of the Board members are present and he’d prefer waiting until all were present.

Mr. Melia introduced the following motion:

“RESOLVED, that the PERA Board defer agenda action items 5.B, C and D to a meeting in January or later when the full Board is present, adequately informed and prepared to vote on the topic.”

Ms. Toulouse Oliver seconded and the motion passed by majority 6-4 vote.

E. Investments

The Evaluation Committee recommends that the Investment Committee/Board award contracts for illiquid investment consultant services as follows:

- 1. Albourne America, LLC, for hedge funds across all asset classes excluding credit-oriented hedge funds, and for real returns including real assets, real estate, natural resources, timber, farmland and infrastructure; and**
- 2. TorreyCove Capital Partners, for private equity and for illiquid credit strategies including credit-oriented hedge funds**

PERA CIO Grabel outlined the unanimous recommendation from the evaluation committee which included Board members French, Naranjo Lopez, Esquibel and Townes along with himself, Mr. Propst and Mr. Pérez. Each firm would have approximately half of the PERA’s illiquid portfolio and each firm paid per year \$725,000. The current contract with Cliffwater is \$1.95 million, thus this recommendation provides a \$500,000 annual savings for the PERA trust.

Mr. Grabel reviewed the process, the firms that were interviewed, and the proposed transition process. There were twelve responders that were narrowed to six and following presentations, the committee re-met and narrowed the six finalists to three after which site visits occurred.

The unanimous recommendation is based upon the evaluation criteria which was within the RFP and supporting documentation. The decision to split the mandate was based on the fact the illiquid assets are 35 percent of the portfolio, multiple viewpoints are beneficial and there is benefit to specialization. The overall impression of the two firms is that they are on the rise, have invested significantly in their business, have cultures of innovation, deep domain expertise and conflict free business models.

Mr. Grabel provided background on each of the recommended firms. He highlighted that Albourne was founded in 1994, has 300 employees, 12 offices around the world, and their sole business is non-discretionary alternative investment consulting. Albourne’s technology platform was very impressive providing real time analysis, extensive fund coverage, backroom support, board education, extensive monitoring, granular performance reporting, etc. Albourne is a leader in open protocol/fund transparency.

TorreyCove was founded in 1991, has 54 employees with the sole business of non-discretionary alternative investment consulting. They are more niche focused than Albourne and specialize in private equity, private credit and credit-oriented hedge funds as well as

private equity that is related to energy.

This firm can verify capital calls, limited partnership compliance and real time fee data. Like Albourne, TorreyCove combines technology with a strong belief in high-touch consulting. He noted that they believe in highly tailored investment programs – not a menu-driven approach to investing.

Mr. Grabel reviewed the transition plan stating the contracts would be finalized in January. They would then seek Board approval to terminate the contract with Cliffwater, and work with a 60-day transition period with overlap between the three consultants. At the February IC meeting, the evaluation committee will propose that the two new firms make presentations to the IC, March will be Cliffwater's last meeting reporting performance.

Chair French said she was particularly pleased with the state-of-the-art technology the two consultants offered.

Ms. Townes said she was extraordinarily impressed with staff's opinion of what these new consultants can provide to PERA's staff.

Ms. Naranjo Lopez expressed her appreciation of participating in the evaluation committee and she too was impressed with the technology these two consulting firms offered. She said she was confident TorreyCove and Albourne America are the right decision for PERA.

Having reviewed the report, Ms. Toulouse Oliver said she was extremely impressed with the process and due diligence.

Mr. Esquibel introduced the following motion:

“RESOLVED, that the PERA Board award contracts for illiquid investment consultant services with Albourne America, LLC, for hedge funds across all asset classes excluding credit-oriented hedge funds, and for real returns including real assets, real estate, natural resources, timber, farmland and infrastructure; and TorreyCover Capital Partners for private equity and for illiquid credits strategies including credit-oriented hedge funds.”

Mr. Maxon seconded and the motion passed by unanimous voice vote.

6. Other Business

Returning to the issue of the Board counsel, Mr. Esquibel said the motion to table provided no opportunity for further discussion and he wanted the record to reflect that he supports retaining a Board attorney. Stating he was respectful of Ms. Toulouse Oliver's perspective presented this morning, he asked that she contact staff to ensure the information she desires is provided within the scope of services. Ms. Toulouse Oliver said she would be reaching out to staff and offered her office's assistance.

Chair French asked counsel to outline what is needed to meet in executive session.

Assistant General Counsel David said to have a closed session for a matter under the limited personnel exemption the Open Meetings Act requires that the reason to be set forth in the agenda with reasonable specificity and must be for an individual public employee. The action contemplated, whether “promotion, demotion, investigation, discussion,” must be placed within on the agenda and the specific individual named.

Ms. Naranjo Lopez recalled that at a previous meeting Mr. Eichenberg had requested an executive session be placed on the agenda and that did not occur.

Chair French thanked Ms. Fisher for her service to the PERA membership. Other Board members also echoed their thanks to her. On behalf of staff, Mr. Propst acknowledged Ms. Fisher for her contribution to PERA. Ms. Fisher received a round of applause.

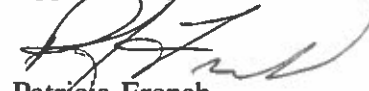
Mr. Melia thanked staff for educating the new cadets that graduated from the Albuquerque Fire Academy. Fourteen of the 16 cadets signed up for PERA’s Smart Save that day.

Ms. Toulouse Oliver introduced the new Deputy Secretary of State, John Blair.

7. ADJOURNMENT

Having completed the agenda and upon motion by Ms. Fisher and second by Mr. Mayfield, Chair French declared this meeting adjourned at 11:20 a.m.

Approved by:



Patricia French
Chair, PERA Board

ATTEST:



Wayne Propst, Executive Director

Attached Exhibit:

Exhibit 1: Consent Agenda

Exhibit 2: Proposed Scope of Work