

NEW MEXICO
PUBLIC EMPLOYEES RETIREMENT ASSOCIATION
SPECIAL BOARD MEETING

October 8, 2019

This monthly meeting of the Public Employees Retirement Board was called to order by Jackie Kohlasch, Chair, at approximately 10:10 a.m. on the above-cited date at the Albuquerque PERA Building, 2500 Louisiana Blvd., Suite 400, Albuquerque, New Mexico.

1. Roll Call

Roll call followed the Pledge of Allegiance and indicated a quorum with the following members present:

Members Present:

Jackie Kohlasch - State, Chair
John Melia - Municipal, Vice Chair
Claudia Armijo - State
Lawrence Davis - Municipal
Patricia French - Municipal
Dan Mayfield - Retiree
Steve Neel - State
Loretta Naranjo Lopez - Retiree
Shirley Ragin - County
David Roybal - State

Member(s) Excused:

Tim Eichenberg - *Ex-officio*
Maggie Toulouse Oliver - *Ex-officio*

Staff Members Present:

Wayne Propst, Executive Director
Greg Trujillo, Deputy Executive Director
Misty Schoepner, Deputy General Counsel

2. Approval of Agenda

Mr. Davis introduced a motion to approve the agenda as published. Ms. Ragin seconded.

Under discussion of the motion, Ms. Naranjo Lopez stated that the agenda item was not posted on the NM PERA website which constitutes a violation of the Open Meetings Act. She stated it violated the public trust and the agenda listing is false and misleading with the intent to defraud the public. For the record Ms. Naranjo Lopez stated:

Reed Smith is not fiduciary counsel to the Board. Reed Smith's letter of October 7, 2019, that requests such appointment – he's requesting for fiduciary counsel to the Board. So I'm saying he is not fiduciary counsel. I would like the announcement to read, 'that 40,000 retirees and current members and their families are suing New Mexico PERA's certain senior staff in federal court for stealing the members' pension.' That's what I'd like it to read, at the very least, the title of the lawsuit. Reed and Smith is an attorney for staff by its conduct. We are exposed as a Board and we need to hire separate counsel to represent the Board. I would like to request the budget for the Board. Harvey Leiderman

stated in his letter to the Attorney General that he was fiduciary counsel to the Board. This statement was false and misleading and the public should know. The Board never designated counsel. The public needs to know that he represented staff and he doesn't represent me.

Asking whether Mr. Leiderman was on the phone line, Ms. Naranjo Lopez said she'd like him to know that he's fired.

Chair Kohlasch stated that Mr. Leiderman was not on line. Ms. Naranjo Lopez stated the information she received advised that he would be on line and Chair Kohlasch confirmed that was accurate and he will be once the Board moves into executive session.

Ms. Naranjo Lopez repeated that she wanted it on the record that she wants Mr. Leiderman fired.

Ms. Naranjo Lopez displayed a copy of the NM PERA website information that, she stated failed to show specificity for this meeting. The agenda states "discussion" and then next to it is "action," action for what, she asked.

The motion to approve the agenda passed with Ms. Naranjo Lopez casting the sole "nay" vote.

5. Current Business

Board will recess to Executive Session NMSA 1978 Section 10-15-1 (H)(7)

A. Discussion with Counsel regarding pending litigation: *The Retired Public Employees of New Mexico, Inc. v The Public Employees Retirement Association of New Mexico Board; Wayne Propst, in his individual capacity, and Susan Pittard, in her individual capacity, United States District Court for the District of New Mexico, Case No. 1:19-cv-00891*

Ms. Armijo moved to go into Executive Session as listed in agenda item 5.A. Ms. French seconded the motion. The motion to meet in Executive Session passed by unanimous roll call vote as shown:

Jackie Kohlasch	Yes
Claudia Armijo	Yes
John Melia	Yes
Lawrence Davis	Yes
Patricia French	Yes
Dan Mayfield	Yes
Steve Neel	Yes
Loretta Naranjo Lopez	Yes
Shirley Ragin	Yes
David Roybal	Yes

Harvey Leiderman participated in the Executive Session telephonically.

[The Board met in executive session from 10:15 to 11:55]

Chair Kohlasch announced the Board was returning to open session and requested roll call:

Jackie Kohlasch	Present
Claudia Armijo	Present
John Melia	Present
Lawrence Davis	Present
Patricia French	Present
Dan Mayfield	Present
Steve Neel	Present
Loretta Naranjo Lopez	Present
Shirley Ragin	Present
David Roybal	Present

Chair Kohlasch stated that the only items discussed during closed session was litigation and confirmation that Members French, Naranjo Lopez and Mayfield, resigned from their leadership positions on the RPENM Board. Additionally, Reed Smith will serve as co-counsel.

Ms. Naranjo Lopez stated for the record, that “Reed and Smith is an attorney for staff by its conduct. We are exposed as a Board and we need to hire separate counsel to represent the Board. And Harvey Leiderman stated in his letter to the Attorney General that he was fiduciary counsel to the Board. This statement is false and misleading. The public should know and the Board never designated counsel. The public needs to know he represented staff.”

Ms. Naranjo Lopez informed Mr. Leiderman that he does not represent her and added, “I’m firing you.” She asked Mr. Leiderman whether he wrote the “hostile email to Member Armijo? I’d like to know, did you in any way advise staff or any board member. I would like a copy of all of your work papers and all emails and what percentage of time did you spend with Board versus staff and I just would like to state that the Reed Smith engagement letter did not name the chief of staff and general counsel, whose named defendant in this lawsuit, and he should not have contacted her since the inception of the engagement.”

According to the Board’s policies and procedures, Mr. Davis said that an individual Board member does not have the authority to request information from fiduciary counsel. If the Board wants the information, it was his understanding they could, as a Board, request it.

Ms. Naranjo Lopez disagreed stating that Board member Eichenberg requested that Mr. Leiderman send a letter to the AGO and it happened. “I want him fired.”

Ms. Armijo said Ms. Naranjo Lopez has one valid point in that the item was not properly agenized. She asked that staff write a script for going in and out of executive session and that the general topic of executive session be properly stated on the agenda.

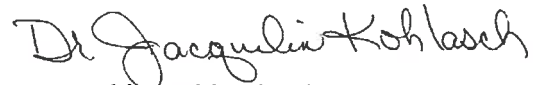
A discussion of whether the agenda was noticed 72 hours in advance of the meeting on the PERA website ensued. Ms. French said while she saw the meeting listed on the website she was unable to pull up the agenda; although, the agenda was available on the Board portal. Mr. Davis and Mayfield noted they had no trouble finding the agenda on the website. Recognizing

there may be disagreement on this, Ms. Naranjo Lopez said she printed the screen to support her statement.

6. **Adjournment**

Having completed the agenda, Chair Kohlasch declared this meeting adjourned at 12:05 p.m.

Approved by:



Jackie Kohlasch, PhD
Chair, PERA Board

ATTEST:



Wayne Propst, Executive Director