



Meeting Minutes

Colorado Public Employee's Retirement Association Board

Raymond "Doc" Heath Memorial Boardroom

1301 Pennsylvania Street

Denver, Colorado

November 17, 2023

8:30 a.m.

Trustees Present: Marcus Pennell, Chair, Suzanne Kubec, Vice Chair, Eunice Botchway, Norm Franke, Rebecca Freyre, Julie Friedemann, Nate Geroche, Amy Grant, Taylor McLemore, Timothy M. O'Brien, Jennifer Pasquino, Trina Ruhland, Tracy Rushing, Scott Smith, Dave Young

Staff Present: Matthew Carroll, Kevin Gallaway, Jeremy Hill, Koren Holden, Patrick Lane, Sterling Lenway-Stowe, Amy C. McGarrity, Brenda Meidl, Megan Peitzmeier, Ande Sailer, Michael Steppat, Sarah Wager, TJ Vandenburg, Patrick von Keyserling

Others Present: Luke Bierman, Of Counsel, Cohen Milstein Sellers & Toll PLLC, Katie Comstock, Partner, Aon; Suzanne Dugan, PERA Fiduciary Counsel, Phil Kivarkis, Aon, Partner-Head of Investment Policy Services; Brad Ramirez, Vice President & Actuary, Segal Consulting, Caleb Durling, Partner, Fox Rothschild, LLP

Marcus Pennell, Chair, Board of Trustees, called the meeting to order at 8:30 a.m.

Approval of Consent Agenda

A motion was made by Suzanne Kubec and seconded by Rebecca Freyre that, *"the Consent Agenda be approved with the following items:*

- a. Agenda
- b. September 20, 2023, Board Planning Session Minutes
- c. September 21, 2023, Board Planning Session Minutes
- d. September 22, 2023, Board Meeting Minutes."

Scott Smith moved for an amendment to add action to item 8 of the agenda, Eunice Botchway seconded. Discussion ensued and Scott Smith withdrew the motion to amend the agenda.

A motion was made by Timothy M. O'Brien and seconded by Rebecca Freyre that, *"the Consent Agenda be approved."* The motion was approved.

Public Comment

The following made public comment:

Karl Fisch, PERA Member, regarding the 401k/457b plan.

The following made comments regarding third party contractors: Mike Claudio, Ed.D. Assistant Superintendent, Personnel Support Services, Harrison School District; Ryan Cowell, Deputy Superintendent, Englewood Schools; Drew Adams, Director of Human Resources, Adams County School District 14; Amanda Thompson, Chief Human Resources Officer, Douglas County School District; Todd Fukai, Assistant Superintendent of Human Resources, St. Vrain Valley School District; Amie Baca-Oehlert, President, Colorado Education Association; Michelle Doan, Chief Financial Officer, Pinnacle Charter School; Nikki Schmidt, Chief Financial Officer, Weld RE-4 School District; Bill Sutter, SFO, Chief Financial Officer, Boulder Valley School District; Jeremy Burmeister, Ed.D., Superintendent of Schools,

Platte Valley School District, Weld Re-7; Sally Dowiatt, Special Education Teacher, Thompson School District; Bret Miles, Executive Director, CASE; Shelley Becker, Assistant Superintendent of Business Services/CFO District 2 Harrison School District; Michael Clow, Chief Human Resources Officer, 27 J School District; Chuck Carpenter, Chief Financial Officer; Denver Public Schools

The following made other public comments: Karen Wick, Project Manager, Secure PERA, regarding the Executive Director Search process; Gizelle Herzfeld, Defunding Climate Disaster Coordinator, 350 Colorado, and Merril Glothrum, Colorado Jewish Climate Action, regarding fossil fuel investments.

The Board recessed at 9:49 a.m. and reconvened at 10:00 a.m.

Member Administrative Appeal

Marcus Pennell, Chair, Board of Trustees, announced that the Board would hear an administrative appeal with Megan Peitzmeier, PERA Senior Staff Attorney on behalf of PERA and Theresa Kosak on behalf of Petitioner Timothy Kosak.

The Administrative Appeal involves member information deemed confidential by C.R.S. § 24-51-213(1). The Appellant shall, therefore, have the option to request that the oral argument portion of this hearing be heard in a Closed Executive Session in accordance with the Colorado Open Meetings Act at C.R.S. § 24-6-402(3)(a)(III), as the issues discussed are required to be kept confidential by C.R.S. § 24-51-213(1).

Ms. Kosak requested the Appeal be held in a Closed Executive Session. The Board voted to go into a Closed Executive Session at 10:05 a.m.

In addition to the Trustees, Suzanne Dugan, Esq., Ms. Theresa Kosak, Megan Peitzmeier, staff members Susan Malcolm, Jennifer Schreck, Linda Cruz, and the Court Reporter remained in the meeting. All others present left the meeting.

In accordance with the requirements of due process and pursuant to PERA Rule 2.20, Board members Scott Smith, Jennifer Pasquino, and Suzanne Kubec, who have had previous involvement in the petitioner's appeal, stepped out of the room. Also, the General Counsel and the Interim Executive Director/Chief Investment Officer, who were a part of the Administrative Review process, left the meeting. Rebecca Freyre recused herself from the meeting.

The Closed Executive Session ended at 11:50 a.m.

A motion was made by Trina Ruhland and seconded by Taylor McLemore that, *"the Board adopt and ratify the Findings of Fact, Conclusions of Law and Decision of the Administrative Review Panel to deny Mr. Kosak's request that he be allowed to change his cobeneficiary designation outside of the 60-day window following the issuance of his initial benefit payment during which such a change is allowed, and absent any other qualifying event allowing such a change."* The motion passed.

The Board recessed at 12:05 p.m. and reconvened at 12:45 p.m.

Executive Session

Marcus Pennell, Chair, Board of Trustees, requested the Board go into Closed Executive Session to receive guidance from the General Counsel and Fiduciary Counsel regarding questions and concerns related to the standards of professional and ethical conduct for the Board of Trustees. The Board voted to go into Closed Executive Session at 12:50 p.m.

In addition to the Trustees, the General Counsel, the Director of Internal Audit; the Manager of the Executive Director's Office; and Suzanne Dugan, Fiduciary Counsel; participated in the Closed Executive Session.

The Closed Executive Session ended at 2:33 p.m.

A motion was made by Suzanne Kubec that, *"an alleged violation of the Standards of Professional and Ethical conduct for the Board of Trustees has been brought to the attention of the Board by one of the current trustees. Under section 17a. of the Standards of Professional and Ethical Conduct, the Board may assign this investigation to the Audit Committee. I move to consider this motion."*

Rebecca Freyre seconded the motion with a friendly amendment to add language, *"beyond the Audit Committee to a third party for a full investigation."* Ms. Kubec accepted the amendment to the motion. Ms. Freyre clarified the amendment that the Audit Committee would not be conducting the investigation, and a third party would do such an investigation. Discussion ensued and Ms. Kubec responded to questions.

A motion was made by Suzanne Kubec and seconded by Rebecca Freyre that, *"an alleged violation of the Standards of Professional and Ethical Conduct for the Board of Trustees has been brought to the attention of the Board by one of the current trustees. Under section 17a. of the Standards of Professional and Ethical Conduct, the Board assigns this investigation to the Audit Committee and beyond the Audit Committee to a third party for a full investigation."*

The motion was approved.

2024 Board Election Calendar

Sarah Wager, PERA Director of Internal Audit, provided information regarding the 2024 Board Election.

A motion was made by Dave Young and seconded by Rebecca Freyre that, *"the 2024 Board Election Calendar be approved as it appears in Tab D of the meeting materials."* The motion was approved.

Member Contribution Interest Rate

Amy C. McGarrity, PERA Interim Executive Director/Chief Investment Officer; Matt Carroll, PERA Senior Director of Benefit Services; Koren Holden, PERA Senior Actuary; Joshua Neugebauer, PERA Assistant Director of Investment Administration, provided a presentation regarding the member contribution interest rate. The panel responded to questions.

A motion was made by Rebecca Freyre and seconded by Suzanne Kubec that, *"the Board approve 3 percent as the member contribution interest rate for 2024 pursuant to CRS 24-51-407(4)."* The motion was approved with two votes against the motion by Scott Smith and Jennifer Pasquino.

Asset/Liability Study

Katie Comstock, Aon, Partner, and Phil Kivarkis, Aon, Partner-Head of Investment Policy Services, provided an update on the Asset/Liability Study. Ms. Comstock and Mr. Kivarkis responded to questions.

The Board recessed at 3:30 p.m. and reconvened at 3:45 p.m.

Calendar Year 2024 Committee Preferences

Marcus Pennell, Chair, Board of Trustees, asked that the Board respond to the survey staff will send regarding their preferences on Committee assignments.

Committee Reports

Executive Committee

Suzanne Kubec, Vice Chair, reported the Executive Committee met on November 14, 2023, and approved the September 19, 2023, Committee Minutes. The Committee reviewed the September 2023, Unaudited Financial Statement and Budget Report. Finally, the Committee reviewed the November 16-17, 2023, Meeting Schedule, and Board Meeting Agenda.

Ad Hoc Committee - Executive Director Search

Taylor McLemore, Committee Chair, reported that the Committee met on November 6, and received an update on the Executive Director Search from Hudepohl & Associates.

Audit Committee

Timothy M. O'Brien, Chair, Audit Committee, reported the Committee met the previous day and reviewed the financial audit plan for the 2023 audit by Clifton Larson Allen. The Committee also reviewed the proposed timeline and changes for the Annual Comprehensive Financial Report. The Committee approved the internal audit risk assessment and proposed an audit plan for 2024, reviewed and approved the internal audit proposed budget for 2024, and then reviewed the internal audit activity and compliance with standards. Finally, they met separately with the General Counsel and the Interim Executive Director/Chief Investment Officer.

Benefits Committee

Julie Friedemann, Chair, Benefits Committee, reported the Committee met the previous day. The Committee received an update on the CAP plans.

Julie Friedemann moved that the Benefits Committee recommends that, *"the Board of Trustees approve the amendments to PERA's 401(k) and Defined Contribution Plan and Trust Document and the PERA Deferred Compensation Plan included as Tab C2 and C3 of the Benefits Committee materials dated November 16, 2023."* The motion was approved.

Compensation & Budget Committee

Amy Grant, Chair, Compensation & Budget Committee, reported that the Committee met on October 23, 2023.

Nate Geroche moved that the Compensation and Budget Committee recommends that, *"Board of Trustees approve the proposed 2024 PERA Operating Budget in the total amount of \$110,459,785."* The motion was approved.

Governance Committee

Marcus Pennell, Chair, Board of Trustees, reported that the Committee met the previous day. The Committee approved the proposed changes to the Governance Committee Charter, the proposed forms for 2023 Board Performance Evaluation and the 2023 Board Education Needs Assessment form. The Committee received information about the Governance Committee Workplan. The Committee discussed the proposed revisions to the Charter for the Executive Director and the Executive Director Performance Evaluation process.

Mr. Pennell moved that the Governance Committee recommends that, *“The Board approve the revised Charter for the Governance Committee, as published in Tab B2 of the Committee meeting materials, effective November 17, 2023.”* The motion was approved.

Investment Committee

Rebecca Freyre, Chair, Investment Committee, reported the Committee met the previous day. The Committee reviewed the recommended changes to the CAP Statement of Investment Policy and the Securities Litigation Policy. A report was presented by Callan regarding the fees for the CAP funds. Finally, the Committee discussed fees for internal management and externally-managed public market investments and went into Closed Executive Session to receive information regarding private asset fees.

Staff Reports**Legal Update**

Kevin Gallaway, PERA General Counsel, requested that the Board go into Closed Executive Session. In accordance with the Colorado Open Meetings Act, the Board of Trustees in Open Session is to determine whether it will hold a Closed Executive Session pursuant to C.R.S. § 24-6-402(3)(a)(II). The issues to be discussed involve pending or imminent litigation and specific legal questions regarding issues relevant to PERA addressed to General Counsel.

The Board went into Closed Executive Session at 4:01 p.m. In addition to the Trustees, the Interim Executive Director/Chief Investment Officer, the General Counsel, all the Chief Officers, the Director of Internal Audit; the Manager of the Executive Director’s Office; Koren Holden, Senior Actuary; Megan Peitzmeier, Senior Staff Attorney; Luke Bierman, of Counsel, Cohen Milstein; and Caleb Durling, Partner, Fox Rothschild, LLP participated in the Closed Executive Session. The Closed Executive Session concluded at 4:35 p.m.

Executive Director Report

Amy C. McGarrity, PERA Interim Executive Director/Chief Investment Officer, presented the Executive Director Report and responded to questions.

Market & Portfolio Update

The Market & Portfolio Update is available to Trustees on the Board web portal.

Legislative Update

Amy C. McGarrity, PERA Interim Executive Director/Chief Investment Officer and Michael Steppat, PERA Public and Government Affairs Manager, reviewed the Legislative Update presentation and responded to questions. Extensive discussion ensued regarding contract employees of PERA employers.

A motion was made by Scott Smith and seconded by Dave Young that, *“the Board direct PERA staff to delay implementation of a third-party substitute decision until a comprehensive analysis of third-party contractors across all PERA divisions has been completed.”* Extensive discussion ensued and staff and fiduciary counsel responded to questions. A friendly amendment was made by Trina Ruhland that, *“to request of Staff to come back at the next Board meeting in January, and let us know what information you do, and do not have.”* Mr. Smith rejected the amendment.

The motion failed with three yes votes by Scott Smith, Dave Young, and Eunice Botchway and one abstention by Tracy Rushing.

Extensive discussion ensued and Suzanne Dugan, Fiduciary Counsel, responded to questions.

A motion was made by Dave Young and seconded by Scott Smith, *“the Board of Trustees direct PERA staff to report to the Board on third-party employment practice of employers and what information do we need to know that would guide the Board in setting policy on this practice.”*

Discussion ensued and staff responded to Trustees’ questions. A friendly amendment was made by Suzanne Kubic that the motion be, *“I move that the Board of Trustees direct PERA staff to report to the Board on the known third-party employment practices of PERA affiliated employers and what information we need to know that would give the Board in setting policy on this practice.”* Discussion ensued and Ms. Dugan and Mr. Gallaway responded to questions. Mr. Young withdrew the motion.

Ms. McGarrity and Mr. Steppat continued with the Legislative Update presentation regarding other potential legislation.

Funding Policy and OPEB Funding Policy Update

This item will be moved to the January 2024 Board meeting agenda.

2024 Board Meeting Dates

January 19, 2024

March (14)15, 2024

June (20) 21, 2024

September 18-20, 2024, Planning Session and Board Meeting

November (14)15, 2024

Other Business

With no further business to discuss, Marcus Pennell, Chair, Board of Trustees, adjourned the meeting at 6:45 p.m.

Respectfully submitted by,

Brenda Meidl

Manager of the Executive Director’s Office



Marcus Pennell, Chair, Board of Trustees
Approved at January 19, 2024 Meeting