

PUBLIC EMPLOYEES' RETIREMENT BOARD  
EDUCATION SESSION AND MEETING MINUTES FOR  
Tuesday, October 21, 2008 and Wednesday, October 22, 2008

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The agenda for this meeting was mailed to every public employer, the news media, and other groups and individuals as requested.

The Education Session and Board Meeting of the Public Employees' Retirement Board was called to order by Chairwoman Susan DeFrancesco at 3:00 p.m., October 21, 2008, in the PERS' Board Room, 5820 South Eastern Avenue, Suite 220, Las Vegas. Members present: Susan DeFrancesco, Charles Silvestri, Elizabeth Fretwell, Purisimo Hernandez, David Kallas, and George Stevens. Members absent: Warren Wish.

October 21, 2008  
Board Education Session

I. INVESTMENTS

- A. Staff discussed the different types of alternative investments that might be found in public pension funds.

II. ADMINISTRATION

- A. Staff reviewed PERS' actuarial funding process.

III. PUBLIC COMMENT

There were no public comments offered.

IV. RECESS

Chairwoman DeFrancesco recessed the meeting at 4:20 p.m.

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October 22, 2008  
Board Meeting

The Retirement Board Meeting of the Public Employees' Retirement Board was called to order by Chairwoman Susan DeFrancesco at 8:00 a.m., October 22, 2008, in the PERS' Board Room, 5820 South Eastern Avenue, Suite 220, Las Vegas. Members present: Susan DeFrancesco, Charles Silvestri, Elizabeth Fretwell, Purisimo Hernandez, David Kallas, and George Stevens. Members absent: Warren Wish.

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I. DISABILITIES

- A. For the record, Susan DeFrancesco disclosed that there are 5 disability requests and 3 reemployment requests that are employees of the Clark County School District but she is unaware of their situations. George Stevens disclosed that Jeannett Bertoch worked for him at one time and did not feel this would interfere with his vote. On motion of David Kallas, the Retirement Board voted unanimously of those present to :
1. Approve permanent and total disability retirement for: Floyd Baxter, Jeannett Bertoch, Sharon Blackmon, Loretta Bradley, Julian Brazil, Teresa Bundy, Don Chamberlain, Alonzo Collins, Efren De Leon, Lenzie Dowden, Janet Horvath, Todd Hubbard, Edward Lefebvre, Terri Mendez, Mariana Meter, Raymond Munoz, Patricia Norris, Rex Schuckert, Jacquelyn Smith, Jamie Stanford, and Robin Wilmer.
  2. Approve reemployment requests by disability recipients: Jacqueline Barker, Linda Evarts, Loris Feinstein, Craig Gifford, Gary Graves, Ernest Hatley, Janet Lockhart, Raymond Lovins, Stanlely Nelson, Bervin Oats, Samuel Phillips, Arthur Wagner, and Rita Wingate.
  3. Deny reemployment requests for disability recipients: Debra Bonsangue, Stanley Nelson, and Elizabeth Thames.
  4. Defer action on Kimburly Vastano until the November meeting at her request.

II. INVESTMENTS

- A. Richard England and Brian Smith of Atlanta Capital Management presented a performance update on their active growth portfolio and an outlook on the current market environment.
- B. Mike Nyeholt and Terry Ragsdale of Capital Guardian presented a performance update on their active core equity portfolio.
- C. Staff provided an investment performance update for the PERS, LRS and JRS as of September 30, 2008. The formal quarterly performance review will take place at the November meeting.
- D. Staff presented the annual investment cost report for 2008. On motion of Charles Silvestri, the Retirement Board voted unanimously of those present to accept the 2008 Investment Cost Report, as submitted.
- E. Staff reviewed the proposed changes to the Investment Objectives and Policies for the Legislators' and Judicial funds. On motion of Charles Silvestri, the Retirement Board voted unanimously of those present to approve the Investment Objectives and Policies for the Legislators' and Judicial funds, as submitted.
- F. Staff discussed the REIT portfolio structure for the Legislators' and Judicial funds. On motion of Purisimo Hernandez, the Retirement Board voted unanimously of those present to:

1. Retain AllianceBernstein to oversee REIT index assets for the Legislators' Retirement System and the Judicial Retirement System.
  2. Authorize the transfer of all REIT assets in the Legislators' Retirement Fund and the Judicial Retirement Fund from Barclays Global Investors to AllianceBernstein.
- G. Staff presented the fiscal year 2009 investment plans for the Legislators' and Judicial funds. On motion of Elizabeth Fretwell, the Retirement Board voted unanimously of those present to accept the Legislators' and Judicial fund fiscal year 2009 investment plans, as submitted.
- H. Staff reviewed the proposed BNY Mellon Custody Agreement Amendment. On motion of Elizabeth Fretwell, the Retirement Board voted unanimously of those present to approve the amendment to PERS, LRS, and JRS custody agreements with the Bank of New York Mellon, Workbench Service Agreement and Service Agreement Addendum.
- I. Staff discussed the proposed changes to the Interim Investment Directives for the PERS, Legislators, and Judicial funds. On motion of David Kallas, the Retirement Board voted unanimously of those present to:
1. Approve the Interim Investment Directives, PERS' fund, as submitted.
  2. Approve the Interim Investment Directives, Legislators' and Judicial funds, as submitted.

### III. BOARD

- A. Staff presented the Annual Retirement Board Governance Compliance Report as prepared by Cortex Applied Research, Inc. On motion of Elizabeth Fretwell, the Retirement Board voted unanimously of those present to accept the 2008 Governance Report prepared by Cortex Applied Research, Inc., as submitted.
- B. There was no update provided as the Sub-Committee meeting was canceled.
- C. Debby Thomsen, PERS' Supervising Auditor, presented background information and results of the twenty point IRS Independent Contractor versus Employee test performed on the City of Boulder's independent contractor Michael Minshall. Of the twenty questions, eighteen were scored in favor of an employee status rather than an independent contractor.

Jeff Winchester and Dustin Clark from the law firm of Fisher & Phillips, LLP, appeared on behalf of the City of Boulder. Mr. Winchester explained that Mr. Minshall was a contracted employee hired by the City of Boulder as an expert to manage the day to day operations of their airport. The City of Boulder classified Mr. Minshall correctly as an independent contractor not an employee as indicated by his contract.

Staff determined through an evaluation of Mr. Minshall's employment records that he worked subject to, and at the will and control of Boulder City. Staff determined that Mr. Minshall met the definition of "employee" in accordance with NRS 286.040. Staff recommends that:

1. Mr. Minshall be considered an employee for purposes of membership eligibility in the System;
2. Boulder City retroactively enroll him into the System for the periods from August 2004 to current; and
3. Boulder City submit the contributions and interest due on behalf of Mr. Minshall to the System.

For the record, Elizabeth Fretwell disclosed that she sits on a board with Mark Ricciardi, Esq., Charles Silvestri disclosed that Mark Ricciardi, Esq. does work for a private school that Mr. Silvestri is a member of its board, and George Stevens disclosed that Mark Ricciardi, Esq. has done work for the County. None of the board members felt this would interfere with their vote on this item. After discussion and questions, on motion of David Kallas the Retirement Board voted unanimously of those present to direct Boulder City to retroactively enroll Michael Minshall into the Public Employees' Retirement System from August 11, 2004 through current and to pay contributions and interest in the amount of \$65,577.93 (per NRS 286.537).

- D. Debby Thomsen, PERS' Supervising Auditor, presented background information and results of the twenty point IRS Independent Contractor versus Employee test performed on the City of Boulder's independent contractor Larry Markotay. Of the twenty questions, eighteen were scored in favor of an employee status rather than an independent contractor.

Jeff Winchester and Dustin Clark from the law firm of Fisher & Phillips, LLP, appeared on behalf of the City of Boulder. Mr. Winchester explained that Mr. Markotay was a contracted employee hired by the City of Boulder as an expert Code Enforcement Officer. The City of Boulder classified Mr. Markotay correctly as an independent contractor not an employee as indicated by his contract.

Staff determined through an evaluation of Mr. Markotay's employment records that he worked subject to, and at the will and control of Boulder City. Staff determined that Mr. Markotay met the definition of "employee" in accordance with NRS 286.040. Staff recommends that:

1. Mr. Markotay be considered an employee for purposes of membership eligibility in the System;
2. Boulder City retroactively enroll him into the System for the periods from May 2002 to current; and
3. Boulder City submit the contributions and interest due on behalf of Mr. Markotay to the System.

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For the record, Elizabeth Fretwell disclosed that she sits on a board with Mark Ricciardi, Esq., Charles Silvestri disclosed that Mark Ricciardi, Esq. does work for a private school that Mr. Silvestri is a member of its board, and George Stevens disclosed that Mark Ricciardi, Esq. has done work for the County. None of the board members felt this would interfere with their vote on this item. After discussion and questions, on motion of David Kallas the Retirement Board voted unanimously of those present to direct Boulder City to retroactively enroll Larry Markotay into the Public Employees' Retirement System from May 1, 2002 through current and to pay contributions and interest in the amount of \$75,119.27 (per NRS 286.537).

- E. On motion of Charles Silvestri, the Retirement Board voted unanimously of those present to approve the minutes of the Retirement Board's 23<sup>rd</sup> Annual Planning Seminar and Board meeting held September 16 and 17, 2008, as submitted.
- F. On motion of David Kallas, the Retirement Board voted unanimously of those present to change the May 2009 meeting dates from the 19<sup>th</sup> and 20<sup>th</sup> to Wednesday and Thursday, May 20<sup>th</sup> and 21<sup>st</sup>, 2009.
- G. There were no changes to the Retirement Board education curriculum calendar.

#### IV. ADMINISTRATION

- A. Staff presented an Independent Contract with the National Institute on Retirement Security. On motion of Charles Silvestri, the Retirement Board voted unanimously of those present to approve the Contract for Services with the National Institute on Retirement Security at a cost not to exceed \$21,600.00, subject to successful negotiation.
- B. Staff reviewed the Annual Human Resources Report. On motion of Purisimo Hernandez, the Retirement Board voted unanimously of those present to accept the Human Resources Report for fiscal year 2008, as submitted.
- C. Staff provided a report on the Consumer Price Index pursuant to NRS 286.5756.
- D. Staff presented the proposed changes to PERS' Official Policies dated July 1, 2008. On motion of Elizabeth Fretwell, the Retirement Board voted unanimously of those present to authorize staff to notify employers of the proposed revisions to PERS' official Policies, in accordance with NRS 286.200.
- E. Staff provided an update on the JAVA language conversion project.

#### V. LEGISLATION

- A. Staff provided an update on the Bill Draft Request List for the 2009 Legislative Session.

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VI. RATIFICATION AGENDA

On motion of David Kallas, the Retirement Board voted 5-yeyes and 1-abstention of those present to approve all items in the Ratification Agenda except item G. David Kallas abstained from this vote. In a separate motion by David Kallas, the Retirement Board voted 5-yeyes and 1-abstention of those present to approve item G in the Ratification agenda. George Stevens abstained from this vote due to his employment with UMC and Clark County.

- A. Approve the Administrative Fund disbursements.
- B. Approve the personnel action taken since the last report.
- C. Approve out-of-state for board member David Kallas to attend the 4<sup>th</sup> Annual Employee Benefits Conference in San Antonio, Texas on November 16-19, 2008.
- D. Approve Investment Performance Guidelines and Fee Exhibit Amendment with UBS Global Asset Management.
- E. Retroactively approve the amendment to the Retirement Board's September 2008 motion to state, "Motion authorizing staff to implement a 75% index/25% active management structure in U.S. bonds."
- G. Approve the University Medical Center's request for a penalty waiver for July in the amount of \$4,353.88.
- H. Approve the White Pine County NRS 474 Fire District's request for membership in PERS, effective October 1, 2008.

VII. DENIALS

VIII. REPORTS

IX. PUBLIC COMMENT

- A. Former Speaker of the Nevada Assembly and former Henderson Police Chief, Richard Perkins, addressed the Retirement Board and commended them on their stewardship of the Retirement System. He also thanked staff for the great job they do on the day to day operations of the System. Mr. Perkins shared his concerns about incorrect information appearing in recent editorials about PERS. He offered his assistance to the Board and staff in putting forth the correct information to the public in any capacity they see fit. Mr. Perkins stated they have all done a wonderful job in running the Retirement System and thanked the Board for their time.
- B. The Deputy Attorney General had nothing to report.

C. Administrative report by Staff.

- Executive Officer:
1. The Executive Officer mentioned that she was invited to the SAGE Commission meeting scheduled for October 24<sup>th</sup> to give an overview of PERS. There is a time certain discussion of PERS planned for 1:00 p.m. in Reno at the UNR campus.

D. Questions and/or comments by members of the Retirement Board.

- David Kallas:
1. Board member David Kallas stated that Ron Cuzze has contacted him with a concern and Mr. Kallas directed Mr. Cuzze to contact PERS' staff. Staff responded that they have not spoken with Mr. Cuzze yet.
  2. Board member David Kallas mentioned his concern with a public employer using non-factual information about the Police/Fire fund. Staff explained that the information being used is a projection of costs which was printed in the 2007 CAFR. Mr. Kallas wanted to apprise the Retirement Board of this situation.

- Charles Silvestri
1. Vice-Chairman Charles Silvestri asked staff to work with the City of Boulder with their outstanding contributions due to the System. Staff is happy to accommodate the City of Boulder.

- Purisimo Hernandez:
1. Board member Purisimo Hernandez questioned if there was information available regarding the IRS delaying the implementation of the normal retirement age regulations. Staff mentioned that there is information available on PERS' website.

X. ADJOURNMENT

The meeting was adjourned by Chairwoman DeFrancesco at 12:55 p.m.

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The following is the time schedule for the meeting:

The October 21, 2008, Retirement Board education session and meeting was called to order by Chairwoman DeFrancesco at 3:00 p.m. and recessed at 5:00 p.m. The October 22, 2008, Retirement Board meeting was called to order at 8:00 a.m. by Chairwoman DeFrancesco. Two breaks were taken at 9:12 a. m. and 11:06 a.m. for approximately seven minutes each. The meeting was adjourned at 12:55 p.m.