

TEACHERS' RETIREMENT BOARD MEETING

SEPTEMBER 21, 2007

CALL TO ORDER

Chairman Scott Dubbs called the meeting to order at 8:30 a.m., in the Teachers' Retirement System Conference Room, 1500 East Sixth Avenue, Helena, Montana.

BOARD MEMBERS PRESENT:

Chairman, Scott Dubbs
Mona Bilden
Darrell Layman
Kari Peiffer
Tim Ryan
James Turcotte

STAFF PRESENT:

David L. Senn, Executive Director
Tammy Rau, Deputy Executive Director
Dave Ohler, Legal Counsel
Janet Cooper, Benefits Officer
Dan Gaughan, Accounting/Fiscal Manager
Bill Hallinan, Information Technology Manager
Karla Scharf, Retired Payroll Manager
Johnelle Sedlock, Benefits Officer
Carol Van Liew, Retired Benefits Technician

OTHERS PRESENT:

Charlotte Thomas, Retired Teachers' Association
David L. Gay, TRS Member
LouAnn Gay, Spouse/TRS Member
Darrell Rud, State Administrators of MT
Michael Laden, TRS Member
Geni Laden, Spouse/TRS Member
Richard Larson, Attorney for Michael M. Laden, MEA-MFT
Michael Hodges, Self & MEA AFT
Kathy Braun, OPI
Denise Pizzini, future TRS Attorney

CALL TO ORDER

ADOPT AGENDA - Chairman Scott Dubbs called the meeting to order at 8:30 am. He asked for additions or changes to the Agenda for September 21, 2007. Seeing none, Chairman Dubbs requested a motion to adopt the Agenda. Mrs. Kari Peiffer moved that the agenda be approved. Seconded by Mrs. Mona Bilden, the motion

carried unanimously.

APPROVAL OF MAY 18, 2007 MINUTES - Chairman Dubbs called for changes to the May 18, 2007 Board Meeting Minutes. There was none.

MOTION/VOTE: Mr. Tim Ryan moved that the May 18, 2007 Board Meeting Minutes be adopted. Seconded by Mr. Darrell Layman, the motion carried unanimously.

PUBLIC COMMENT

Chairman Dubbs called for public comment on Board related items. There were no comments.

Mr. Senn informed the Board that Attorney David Ohler will no longer be the TRS attorney, and introduced Denise Pizzini as the new TRS Counsel. The Board welcomed Ms. Pizzini.

INDIVIDUAL PETITIONS

Michael Laden Appeal

Mr. Senn informed the Board that Mr. Laden is appealing his retirement date. It was staff's determination that Mr. Laden was in a 'leave without pay' status on June 1, 2007; therefore, he was in a position reportable to the Teacher's Retirement System until June 1, 2007 and not eligible for retirement benefits until July 1, 2007, the first day of the month following termination.

Staff was informed that the end of school term for Cut Bank Schools was June 1, 2007. Scott Laird, Business Manager, provided TRS with a letter, dated July 10, 2007, stating that Mr. Laden 'took June 1 as Leave Without Pay'.

Attorney Rick Larson, MEA-MFT, represented Mick Laden in his appeal. Mr. Larson explained that Mr. Laden took leave for medical reasons on June 1, 2007, was not paid for working June 1, 2007, and that he was not under contract on June 1, 2007. He pointed out that he received a cut in his contract pay.

Mr. Larson presented a second letter from Mr. Laird proposing that there were some misconceptions with his July 10, 2007, letter. The second letter stated Mr. Laden terminated his contract on May 31, 2007, and his contact was reduced accordingly.

Chairman Dubbs asked the Board for questions and discussion. Mrs. Mona Bilden asked Mr. Senn if we have similar cases where other retirees quit in May, and the school contract ended June 1, 2007. Mr. Senn indicated there no similar cases that he knew of. Janet Cooper confirmed that staff does base termination as the completion of a contract, which ends the last day of school.

Mr. Laden asked if there were teachers who did retire in April. Mrs. Cooper answered that members retire every month of the year.

Mr. Tim Ryan expressed concerns with setting precedence. If the Board was to approve this appeal, we would be sending out a message that it is okay to retire a day or so early, without pay, and then receive an extra month of retirement pay.

Mr. Dubbs asked if the school terminated benefits on May 31, 2007, or did these benefits continue through June 1, 2007. Was his insurance prorated since he did not work a full contract?

Mr. Laden stated his health benefits did continue because he was paying for them.

Mr. Dubbs voiced his concern and indicated that the position the Board faced was that they could not have a door open where retiring members could choose to miss a day or two of school to reap an additional retirement check. Mr. Dubbs voiced his concerns that the Cut Bank School's information and position regarding Mr. Laden's contract was vague. The Board needs to know if Mr. Laden's contract included salary and benefits.

Regarding his contract, Mr. Laden pointed out that he could quit at anytime and his pay would have been prorated accordingly. If he had retired April 30, 2007, he would have received retirement benefits in May 2007.

Mr. Laden read a letter provided by D. Scott Laird, Business Manager of the school, dated September 19, 2007, which clarified his earlier statements that Mr. Laden was not at the school on June 1 and was not paid for that day.

MOTION/VOTE: Mr. Ryan moved that the Board request further clarification from the Cut Bank School District regarding salary and benefits paid Mr. Laden, past practices of the District, verification of Mr. Laden's last day of pay, and any other information that would have a bearing on Mr. Laden's case. Mr. Ryan further moved the Board postpone their decision until the next Board meeting. Seconded by Mr. Layman, the motion carried unanimously.

David Gay Appeal

Mr. Senn summarized for the Board Mr. Gay's situation, explaining staff found that Mr. Gay's duties as technology coordinator/aide since 1998 were not reportable to the TRS and that his service must be transferred to PERS. Mr. Gay had been employed as a technology coordinator since 1998 with wages reported to TRS.

Mr. Gay, along with his spouse, LouAnn Gay, passed out a packet to the Board regarding his appeal explaining the process they had gone through preparing for retirement. Mrs. Gay provided handouts from the superintendent of the district that showed student contact times and verified Mr. Gay's assistance in networking

classes that he taught, documenting that Mr. Gay had contract with students and he taught 'SISCO' classes.

MOTION/VOTE: Mr. Turcotte moved to grant Mr. Gay's appeal. Seconded by Mr. Ryan, the motion carried unanimously.

Mr. Dubbs commented that the question regarding technology coordinators is still not resolved. The Board discussed issues involving teachers who are part-time technology coordinators and whether they should contribute to PERS or TRS.

MOTION: Mr. Turcotte moved that the Board look into the technology coordinator issue and work to resolve the concerns of retirement system membership. He further moved to grandfather existing technology coordinators reporting to TRS. Seconded by Mr. Layman.

Discussion:

Mr. Dubbs pointed out that in smaller schools technology coordinators have other duties as well, and to open the door for a position that is 'clearly' a PERS position would not serve TRS.

The Board discussed the area of technology coordinators and agreed they needed to consider what ramifications there would be if individuals were required to change retirement systems.

WITHDRAW MOTION/MOTION/VOTE: Mr. Turcotte withdrew his previous motion. He moved that staff research the technology coordinator issue and come up with recommendations to resolve the TRS/PERS membership concerns. He further moved that staff recommendations include what to do with existing technology coordinators reporting to TRS. Seconded by Mr. Layman, the motion carried unanimously.

William Colter Appeal

Mr. Senn summarized for the Board Mr. Colter's appeal, explaining that Mr. Colter's application for retirement was suspended when staff discovered that Charlo Public Schools had split the Superintendent's position into two contracts for the 2007-08 school year, one contract as the part-time Superintendent (\$25,000) and a second for Director of Buildings and Grounds (\$35,000).

Mr. Senn informed the Board that a questionnaire was sent to the Charlo School Board Chairman, Mr. Gregg B. Shafter, regarding the hiring of the Superintendent. Question number 9 asked if the previous Superintendent was part-time or full-time and asked if the previous Superintendent had additional duties other than those specified in the current job descriptions, and what those duties were. Mr. Shafter responded that the carving out of the Buildings and Grounds is something that developed over the past two to three years, materializing with the hiring of Mr.

Colter, confirming that the Superintendent's position had been divided into two positions when Mr. Colter was hired.

Mr. Colter shared with the Board his background information and what led to his need to address the TRS Board. Before signing the contract for the Buildings and Grounds position, he stated he met with the Charlo School Board and they assured him there were two different positions. He was hired as the Superintendent contributing to TRS and was also hired as the Director of Building and Grounds contributing to PERS.

Mr. Colter shared a letter from the School District, in which the District asked, that they be compared to other schools. The letter from the District pointed out that there are other schools with similar contracts and the members have not been denied retirement benefits. The District argued that the Director of Buildings and Grounds is not a TRS position.

Mrs. Peiffer asked Mr. Senn, had they only offered Mr. Colter only the Director of Building and Grounds, and not the Superintendent's contract, would his contributions be entirely PERS? Mr. Senn informed the Board that we would never have been aware of the contract. Mr. Senn added that Mr. Colter indicated in several of his correspondence that other districts were doing this same thing. He informed the Board that this was the first he has heard of this.

Mr. Ryan asked Mr. Colter, since he had stated he had examples of other school districts that had the same kind of contracts with people receiving retirement benefits, would he share them with the Board. Mr. Colter stated he would have to talk to legal counsel and see if he could get the names, but he knew of three or four Superintendents that were doing the same thing; they had the same contracts and were receiving retirement benefits.

In clarifying, Mrs. Peiffer asked, if he had meant a third-time superintendent and two-thirds PERS contracts. Mr. Colter confirmed this was what he meant.

Mr. Dubbs asked, if the Charlo School District had other administrators to cover the administrative duties that a superintendent would do while he is the Director of Buildings and Grounds.

Mr. Colter responded that he had a full-time 8th grade principal and a half-time high school principal.

Mr. Dubbs pointed out that Mr. Colter mentioned that other superintendents also had jobs that were divided up. Mr. Dubbs asked if that was correct. Mr. Colter responded that was correct. Mr. Dubbs then asked if those individual's salaries were reported entirely to the TRS. Mr. Colter answered that the Board would have to talk to them, because he had not read how the other contracts were worded.

Mr. Layman asked, since Mr. Colter carried two hats, when a decision was going to be made, did he act like a Superintendent or the Director of Buildings and Grounds?

Did Mr. Colter wear one hat that covered him as Director of Building and Grounds when he spoke to insurance adjusters, or did he, as the Director of Building and Grounds refer insurance adjusters to the Superintendent, which was also Mr. Colter, to make the recommendation to the school board? Who made that recommendation? How did he separate the two positions?

Mr. Colter responded that no matter what, he presents all the information to the School Board under both hats and they make the decisions.

Mr. Layman asked if the school board addressed him as the Superintendent or as the Director of Building and Grounds. Mr. Colter answered they addressed him as both.

Ms. Peiffer asked when they were recruiting Mr. Colter was it ever discussed that he would have the superintendent position, he would have buildings and grounds position, and he would also have his retirement? Mr. Colter answered that when he walked around the school grounds with the Board Chair, before taking the position, he asked the Chairman what his plans were and was told they were looking for someone with a construction or maintenance background or they would have a difficult time making changes.

Mrs. Bilden stated that no one is questioning Mr. Colter's hard work or the need of Charlo Schools, but what she was hearing was the need for a full-time superintendent's job. She added that if more and more districts start doing this, one-third time superintendent and then adding another title, and then another title, when basically it was in reality a full-time superintendent position, it would have adverse ramifications for the retirement system. Mr. Colter commented that was not how he saw it and felt that in no way did he break the law. Mrs. Bilden answered that she did not say he broke the law, what she heard in the job descriptions is that he is a full-time superintendent. He added he does not think he is doing a full-time superintendent's job.

Mr. Ryan noted that the Board was sympathetic to the problems that smaller school districts are having, unfortunately, the Board has a responsibility to all the members of the TRS, and they need to deal with the actuarial under-funding and the issues that have caused that. These are the types of issues that cause the TRS to be used as a vehicle to hire retired members full-time and allow them to collect retirement benefits. The TRS Board member's first responsibility has to be the fiduciary responsibility to all of the members of the TRS.

Mr. Colter responded that there are many people doing the same thing he is doing, and he followed their example by what he was offered. He wanted to know why these other people have never been called up before the TRS Board. He added he talked with three or four of them already and there had been no problem.

Mr. Ryan asked Mr. Colter to give the Board some examples.

Mr. Layman asked Mr. Colter, if they offered him a single contract for the combined amount, would he have accepted it? Mr. Colter answered he would not have accepted it because he could not be a full-time superintendent and spend the time he needs to be the Director of Buildings and Grounds.

MOTION/VOTE: Mr. Ryan moved to deny Mr. Colter's petition. Seconded by Mr. Turcotte, the motion carried unanimously.

EXECUTIVE DIRECTOR'S REPORT

Mr. Senn informed the Board that based on preliminary valuation results as of July 1, 2007, the amortization period will be 28.6 years.

ADMINISTRATIVE RULES

Mr. Senn informed the Board that the deadline for comment on the first set of proposed administrative rule changes in the Board's packet was September 20, 2007. Mr. Senn reported, to date, no comments had been received. The effective date of the proposed changes will be October 5, 2007.

Mr. Senn asked the Board and public for any questions or comments on the proposed rule changes. No comments were received.

Mr. Senn reviewed a second set of proposed changes that will be noticed for adoption without hearing as soon as possible.

SAVA COMMITTEE MEETING

Mr. Senn reported that the State Administration and Veterans' Affairs Committee (SAVA) met June 21, 2007. The committee adopted a study plan for House Joint Resolution 59, which was the retirement system study bill passed by the 2007 Legislature. The committee's Workplan called for completion of hearings on plan design and proposed legislation by April 2008. The committee will meet on Oct 20 to take testimony from the various stakeholders on plan design and any changes they believe needed to be made to the retirement systems administered by the State.

Mr. Senn informed the Board that he and Mr. Dubbs had met with school administrators, MEA-MFT, and several superintendents in August. The group discussed the needs of school districts and how they could use the retirement system to retain qualified teachers and administrators.

Mr. Darrell Rud, School Administrators of Montana, indicated they had a proposal in progress, taking input from Mr. Senn and everyone else at that meeting. He informed the Board they have had only one other sub-meeting in Billings with some of the superintendents to get ideas from the field. At this time, they are collecting data to help them formulate a message to give to the SAVA committee in October.

Mr. Senn passed out a report on retirees by agency type, showing administrators and teachers, and whether they currently reside instate or out-of-state.

LEGAL COUNSEL REPORT

Mr. Ohler informed the Board that regarding the Farrier case, Monday, Sept. 24, 2007, would be the last day for Mr. Farrier to file an appeal. To date, he had not seen an appeal.

Mr. Ohler expressed appreciation to the Board for allowing him to attend the NAPPA Conference in Vail. He shared information regarding the Pension Protection Act of 2006, and an exotic issue from the Texas retirement systems where Federal Victim Restitution Act trumped state law so that if a person was convicted of a federal crime, the federal prosecutor could reach in and seize retirement benefits to pay victims. Mr. Ohler recommended that his replacement attend the NAPPA conference next year.

The Board extended best wishes to Mr. Ohler.

HB13 ADJUSTMENTS

Mrs. Tammy Rau explained to the Board that during the last legislative session HB13 passed which granted not only a 3% increase in salary for state employees for the 2007 and 2008 fiscal years, it also included a .06% discretionary funding that state agencies could use to increase employee salaries based upon, but not limited to, market progression, job performance, or employee competency.

Mrs. Rau recommended to the Board that in the 2008 fiscal year the Board use the .06% increase for retention, applying it to all staff. The second year she recommended using the money to bring staff up to their target market ratio. Mrs. Rau reminded the Board that TRS had target market ratios set based upon years of service, and that range went from 0-9 years of service. After 9 years of service, staff should be at 100% of market.

Mr. Ryan asked how broad the research was to the comparable salaries in the private sector. Mrs. Rau informed the Board that when they did the salary survey it included public retirement systems in seven surrounding states. They also picked up the State Fund, tossed out high/low ends, and used the state's market rate as part of that survey. Mrs. Rau expressed confidence that the information they used was reliable and competitive market salaries for Montana. Mrs. Rau pointed out that the majority of the TRS staff was at 85% of market. Mrs. Rau informed the Board HB13 will be effective October 1, 2007.

MOTION/VOTE: Mr. Ryan moved to adopt the proposal of the two year plan for the 0.6% adjustments as recommended by staff. Seconded by Mrs. Peiffer, the motion carried unanimously.

BOARD OF INVESTMENTS

Mr. Turcotte shared with the Board that returns for the last fiscal year was just under 18%. Mr. Turcotte gave an in-depth review of asset allocations within the portfolios for the retirement plan, which was approaching the ranges that has been established for the various asset classes.

NCTR TRUSTEE WORKSHOP

Mr. Dubbs reported the NCTR Trustee Workshop in Boston was geared specifically to trustees. It was a small setting with 80-90 people, so he was able to network with states that were comparable with TRS. The conference offered discussions on communication and issues that related to trustees. Mr. Dubbs shared with the Board a book about Social Security, discussing where the system was at and what needed to happen with Social Security by 2040.

Mr. Dubbs added that in Montana we seldom have a discussion on how important our Social Security System is to our retirement. Understanding the Social Security issues is important and we should do more in-service as well and show how this affects retirees. Mr. Senn offered to get copies of this book and see that the Board and staff receive a copy.

GFOA CONFERENCE

Mrs. Rau reported to the Board she attended the GFOA Conference involving classes on management, enhancing employee programs, skills and knowledge, and looked at how important personality was to the hiring process as opposed to experience. Mrs. Rau expressed this was a good conference and was one she'd like to attend again in the future.

NEXT MEETING DATE

Next Board meeting date will be November 16, 2007. The Board concurred that this date worked for them.

FINANCIAL STATEMENTS/BUDGET/TRAVEL REPORT

Mrs. Rau asked the Board if they had any questions regarding the Financial Statements and budget previously submitted. Mrs. Rau pointed out the Board packet included the Financial Statements for the Fiscal Year ending June 30, 2007, as well as the budget reports.

Mr. Ryan asked what the intangible assets were. Mrs. Rau stated TRS wrote off over \$501,000 of the PeopleSoft projects that were no longer in production and added Alfred's enhancements to the Pension Plus programs.

Mr. Layman commented that the Board really appreciated Mr. Turcotte's report. He asked what the possibility was that he could give a short seminar on understanding the numbers the Board deals with at a future meeting. Mr. Ryan suggested Mr. Turcotte define some of the terms along with his reports at future meetings, particularly now that the whole landscape has changed from internal management to external managers.

At 1:47 PM Chairman Dubbs left the meeting. Vice-Chair, Mrs. Kari Peiffer, chaired the remainder of the meeting.

APPLICATIONS FOR RETIREMENT BENEFITS

Mr. Senn reported to the Board that the applications for benefits list was modified and sorted by retirement type, by school district, and by service. The Board discussed the average age that has been creeping up each year, and also early retirements. The Board voiced an overall feeling that they liked the change of the report. The Board also discussed the varying degrees of termination pay and how they differ from school district to school district.

CLOSED MEETING

Vice-Chair Peiffer directed the meeting closed at 1:53 PM to review disability applications since the individual's right to privacy of information clearly exceeds the merits of public disclosure.

OPEN MEETING

Discontinue Disability Review /Application for Disability Retirement Benefits – Vice-Chair Peiffer directed the meeting reopened to the public at 2:03 PM.

MOTION/VOTE: Mr. Ryan moved that Anne C. Rusoff, Margaret A. Simmons, and Craig Wren be 'excluded' from future annual earnings and medical reporting requirements. Second by Mr. Layman, the motion carried unanimously.

MOTION/VOTE: Mr. Turcotte moved that the disability application for Melinda J. Juneau be disapproved. Seconded by Mrs. Bilden the motion carried unanimously.

MOTION/VOTE: Mrs. Bilden moved that the disability application for Karla D.

McGraw be approved. Seconded by Mr. Turcotte the motion carried unanimously.

ELECTION OF OFFICERS

MOTION/VOTE: Mrs. Mona Bilden moved to nominate Mr. Tim Ryan as the next chairman of the TRS Board. The motion was second by Mr. Turcotte, the motion passed unanimously.

MOTION/VOTE: Mr. Tim Ryan moved to nominate Mrs. Kari Peiffer for Vice-Chair of the TRS Board. The motion was second by Mr. Turcotte, the motion passed unanimously.

ADJOURNMENT

There being no further business, Mr. Layman motioned to adjourn the meeting. The motion was second by Mrs. Bilden, the motion passed unanimously and the meeting was adjourned at 2:10 PM.

Chairperson _____

Executive Director _____