

Note: These minutes from the March 13, 2012, regular meeting were approved and executed at the April 10, 2012, regular Meeting of the Board of Trustees.

**Regular Meeting
Board of Trustees
March 13, 2012**

The Public Minutes

**New Hampshire Retirement System
54 Regional Drive
Concord, New Hampshire**

Trustees: Lisa Shapiro, Ph.D., *Chair, presiding*; Danny O'Brien, *Vice Chair, telephonically*; Dean Crombie; Karen McDonough; Kate McGovern, Ph.D.; Brian Morrissey; Cathy Provencher; Tara Reardon; Don Roy; and Jack Wozmak. Dick Gustafson, Ph.D., Keith Hickey, and Hershel Sosnoff, *absent*.

Staff: Larry Johansen, *Director of Investments*; Jack Dianis, *Director of Finance*; Tim Crutchfield, Esq., *Chief Legal Counsel*; Nancy Miller, *Director of Member Services*; Denise Call, *Director of Employer Services*; Heather Fritzky, *Accounting & Finance Reporting Supervisor*; Carolyn Johnson, Esq., *Hearings Examiner*; Bill Spead, *Regulatory Compliance Officer*; Marty Karlton, *Public Information Officer*; John Browne, *Internal Auditor*; and Shannan Hudgins, *Administrative Coordinator*. George Lagos, *Executive Director, absent*.

Guest: Andrew Schulman, Esq.

Chair Lisa Shapiro called the regular meeting of the NHRS Board of Trustees to order at 9:01 a.m., welcoming the group and acknowledging that Trustee Danny O'Brien was participating telephonically as he was out of state. On a motion by Trustee Reardon, seconded by Trustee Provencher, the public and non-public minutes of the February 14, 2012, regular Board meeting were approved.

Chair Shapiro announced that Attorney Andrew Schulman was in attendance to discuss NHRS lawsuits. On a motion by Trustee McDonough, seconded by Trustee Reardon, the Board voted by roll call to enter into non-public session under RSA 91-A:3, II(e) to discuss the HB 2 and HB 1645 lawsuits, as follows:

Ayes: Trustees Shapiro, O'Brien, Crombie, McDonough, McGovern, Morrissey, Provencher, Reardon, Roy and Wozmak.

Nays: None.

On a motion by Trustee Reardon, seconded by Trustee Morrissey, the Board unanimously voted to conclude the non-public session.

Following the conclusion of the non-public session, Chair Shapiro requested the Committee reports. Trustee Provencher opened with the Audit Committee reports, noting that the Committee had not met that morning because there had been no outstanding issues for its consideration,. She referenced the tracking grid, which opened a discussion about the Tracker and its purpose as both a monitoring and planning tool for NHRS. Trustee Wozmak raised a capacity issue as an institution to manage the outstanding items in a timely way. John Browne, *Internal Auditor*, made particular mention of the Executive Team's Action Plans currently being developed, stating that items on the Tracker were to be folded into division plans. Trustee Provencher stated that once the division plans were set and in use, the Board could expect to see tangible progress on outstanding issues on the Tracker. The Business Continuity Plan was of particular concern.

Chair Shapiro next turned to Trustee McGovern for an update from the Benefits Committee. Trustee McGovern stated that the public hearing on revisions to NHRS Ret. Rule 304 should occur at that morning's meeting and requested Atty. Crutchfield's assistance in explaining the rule process. Atty. Crutchfield provided a brief outline of the Rule 304 revision process that had begun in the summer of 2011, progressed through the fall with collaboration with the Office of Legislative Services, which oversees public agency rules, and was now before the Board for a public hearing. He stated that the suggested changes had been publicized with requests for comments, noting there had been none.

Chair Shapiro then opened the public hearing on Rule 304 as presented, at 9:55 a.m., requesting any comments from those present. Hearing none, she closed the hearing and stated that she would entertain a motion to approve the Final Proposal of Ret. 304 as presented. On a motion by Trustee Reardon, seconded by Trustee McGovern, the Board unanimously voted to approve the Final Proposal of Ret. 304. Following the vote, Atty. Crutchfield explained that he anticipated that the rule would come before the Board for adoption after the next JLCAR public hearing scheduled for April 2012.

Trustee McGovern next discussed the Board's prior action last November to allow Mr. Richard Welch to formally address the Board regarding his

appeal. Because of a personal matter brought to Atty. Crutchfield by Mr. Welch's daughter, Atty. Kimberly Welch, Trustee McGovern recommended that he be scheduled to address the Board at its June 2012 meeting, with any documents submitted by April 30, 2012. On a motion by Trustee McGovern, seconded by Trustee Morrissey, the Board unanimously voted to have staff notify Mr. Welch that his presentation would be scheduled for the June 12, 2012, monthly meeting and that any legal brief for the Board's consideration be received at the NHRS office by April 30, 2012.

Chair Shapiro next asked for the Governance Committee update. Trustee Roy, Committee Chair, stated that he had no report to deliver but reminded the Board that the Committee was scheduled to convene immediately following the conclusion of the Board meeting. He stated that the Committee would be finalizing the investment policy.

In Trustee Sosnoff's absence, Larry Johansen, *Director of Investments*, provided the Investment Committee report. In a general overview, he provided the following investment returns: for the quarter ending December 31, 2011, the total fund return of 6.7% exceeded the benchmark by 50 basis points; for the three years ending December 31, 2011, the total fund returned 10.8%, which equaled the benchmark performance; for the three months ending January 31, 2012, marketable assets, which were approximately 90% of the System's assets returned 3.6%, exceeding the benchmark by 40 basis points; and for the three years ending January 31, 2012, the return of marketable assets was 16.4%, exceeding the benchmark return by 50 basis points. He then referenced the NEPC quarterly report regarding the total fund, identifying specific return numbers found in the report for Board members. On page 39: quarter ending December 31, 2011, gross of fees, the total fund returned 6.8%, outperforming the benchmark by 60 basis points; three years ending December 31, 2011, gross of fees, the total fund returned 11.1%, outperforming the benchmark by 30 basis points. Returns, net of fees by asset class started on page 42: total domestic equities returned for the three months ending December 31, 2011, 12.7%, outperforming the benchmark by 60 basis points; three years ending December 31, 2011, 14.7%, underperforming the benchmark by 20 basis points; non-US equity, at the bottom of page 44, 3 months ending December 31, 2011, returned 5.0% outperforming the benchmark by 1.3%; three years ending December 31, 2011, returned 12.5%, outperforming the benchmark by 1.8%. Fixed income on the bottom of page 45, three months ending December 31, 2011, returned 1.7%, outperforming the benchmark by 30 basis points; three years ending December 31, 2011, returned 10.6%, substantially outperforming the benchmark by 2.9%.

He stated that he, Independent Investment Committee (IIC) Chair Harold Janeway, and Trustee Sosnoff had developed a summary that would be presented at the April Board meeting that gave the highlights of investments returns and asset allocation. He noted that the IIC meeting scheduled for March 23, 2012, was primarily devoted to asset allocation including the discussion of market volatility and ways to reduce risk. A report and recommendations from the IIC to the full Board would result from these and other discussion. Trustee O'Brien asked if the summary report would include peer group reports. Mr. Johansen responded that the peer comparisons would continue to be in the NEPC quarterly report, but would not be in the monthly summary developed by Mr. Janeway, and Trustee Sosnoff.

Chair Shapiro requested a report from the Legislative Committee, and Trustee Reardon briefed the Board about the Staff's work with Senators Groen and Bradley in obtaining an actuarial update from the NHRS consulting actuary, Gabriel Roeder Smith & Company (GRS), in response to Senator Groen's amendment to SB 229, the bill proposing a defined contribution plan. Jack Dianis, *Director of Finance*, stated that in response to a follow-up question by Senator Bradley, Staff would be sending a response letter at the conclusion of the Board meeting.

Mr. Dianis continued with a discussion of HB 654, pending legislation seeking a credit by NHRS to employers based on the recertification of employer rates triggered by the implementation of HB 2 in July 2011. He reminded the Board that the House wanted to roll back one month of rates paid by employers to NHRS last July, which the Board formally voted to oppose. He announced that a public hearing was scheduled for Thursday, March 15, at 9:00 a.m., with Senate ED&A. Mr. Dianis confirmed that NHRS would testify against the bill in the Senate as it had in the House.

Mr. Dianis addressed SB 229, the Defined Contribution legislation from the Senate that had been folded in its entirety into HB 1460 and was scheduled for a public hearing before the House special pension committee on Monday, March 19, 2012. He noted that the amendment was introduced by Rep. Hawkins and confirmed that it included Sen. Groen's SB 229 amendment. In response to questions from Chair Shapiro, Mr. Dianis described the accounting and legal issues Staff were focused on for Sen. Bradley and that related documents would be delivered to him that afternoon, including a new Senate bill brief. All documents would also be posted to the NHRS website. An extended discussion ensued that addressed appropriate and comprehensive information that NHRS would make available to all interested parties.

In a reminder to Trustees present, Chair Shapiro asked that each Board member consider committee membership and contact her before the April Board meeting. She noted that the Legislative Committee needed one more member and that the Personnel, Performance and Compensation Committee (PPCC) should be reconfigured with newer members installed.

Atty. Crutchfield opened the discussion of the Operating Reports with Executive Director George Lagos' reports, directing the Trustees to review his materials behind Tab 3. He referenced particularly the action plan as specifically addressing Trustee Wozmak's operational questions, making note that Mr. Lagos expected to roll out the business plan at the April Board meeting. In his legal and compliance update, Atty. Crutchfield stated for the public record that Trustee Shapiro, as named in her official capacity as Board Chair in the recently-filed HB 2 lawsuit, would be indemnified under the NHRS Indemnification Policy. He then addressed staff's preparation for HB 2 implementation, making particular note of the calculations used for determining extra and special duty pay (ESDP) in Group II retirement figures. A lengthy discussion followed that addressed the data behind ESDP, which had only been separately reported, as required by statute, since July 1, 2009, and the potential unintended consequences of HB 2 legislation. Nancy Miller, *Director of Member Services*, confirmed that zeros were used in calculating ESDP for reporting periods prior to July 1, 2009 in compliance with the new statute. She reported that staff had reached out to Groom Law Group for guidance, but were also interested in a better understanding of legislative intent.

Chair Shapiro suggested that NHRS inform the policy makers of the ESDP consequences to retirees, thereby granting them opportunity to adjust legislation. Marty Karlon, *Public Information Officer*, stated that SB 244 contained language to potentially clarify this issue. He also noted that Groom opined that clarification of intent was necessary, and that the bill would likely be revised by the House after cross-over later this month.

Mr. Dianis opened his operating report by stating that Employer Services had been working diligently to resolve any employer-related issues in HB 2 so that implementation could be as smooth as possible. He then discussed the Statement of Plan Assets, pointing specifically to the investment line and its change from month to month. In response to a question from Trustee Provencher regarding the year-over-year gain in real estate assets, Mr. Johansen answered that the increased amount was due to both appreciation and increased investment. Mr. Dianis continued his report by discussing the Administrative Budget, noting necessary adjustments. Chair Shapiro asked for clarification on the

Salaries and Benefits budget line, and Mr. Dianis confirmed that the positive variance was attributable to System vacancies. He confirmed that NHRS contribution figures were up for FY '12 in total. This was a net increase based on rate changes; member contributions were higher, while employer contributions were lower.

Ms. Miller offered a summary of Member Services activities, noting particularly that HB 2 implementation was on schedule with an anticipated cut-over date of March 30th. She spoke to the business data of her executive summary, reminding the Trustees that spring was a traditionally busy season for retirement appointments and preparations. In her IT report, Ms. Miller noted the secure web access for Trustees process was nearly complete. She also stated that the Judicial Retirement Plan administration was moving well, with the audit scheduled for April.

An extended discussion about the increase in refunds from FY '11 to FY '12 revealed an array of information more intuitive than concrete, that included continued economic hardship for both non-vested employees and retirees. If a member chose to withdraw his funds upon separation or retirement, he received only his member contributions and the interest earned on those funds, and none of the employer contributions made on his behalf. Ms. Miller stated that the numbers were small, but worth careful attention and review. Mr. Dianis noted that refunds had decreased in 2011 but increased in 2012, and that staff was tracking refunds carefully, referring specifically to Tab 6, Exhibit 10.

Mr. Johansen stated that his report had been given in the Investment section of the meeting.

After a ten minute recess called by the Chair, she moved to the Consent Agenda. Atty. Crutchfield asked the Trustees not act upon the Porelle recommendation (No. 10) as part of the Consent Agenda due to a recusal order he had received March 9, 2012 after the Board packet had been mailed.

On a motion by Trustee Wozmak, seconded by Trustee Roy, the Consent Agenda – without the Porelle Recommendation – was approved unanimously.

A discussion regarding the Porelle matter and the securing of an independent hearings examiner followed. Atty. Crutchfield presented the recusal order as provided to the Trustees and requested action on that order and not the recommended order in the Board packet. A description of the long-standing case reaching back to the Board's decision in August of 2010 to grant Mr. Porelle's recusal request

regarding Atty. Carolyn Johnson and Atty. Crutchfield ensued. Atty. Johnson described her procedural issues and her request to be recused, and Atty. Crutchfield included a statement regarding his own offer to sit as the Hearings Examiner which was rejected by Mr. Porelle. He provided details of his and Ms. Miller's efforts to secure Atty. Stephen as the hearings examiner in the matter. Atty. Crutchfield presented the standard for recusal under the NHRS rules and the Trustees discussed both the multiple recusals and the need for timely resolution of the matter. Trustee Wozmak asked for clarification of the record as a matter of law, and Atty. Johnson verified that an audio tape of the hearing was considered part of the record unless the need to record the proceedings was waived by the parties, which did not occur in the Porelle matter.

On a motion by Trustee Provencher, seconded by Trustee Reardon, the Board voted to accept the recusal order from Atty. Stephen, as follows:

Ayes: Trustees Shapiro, Crombie, Reardon, McGovern, McDonough, Roy, Morrissey, Provencher and O'Brien, via telephone.

Nays: Trustee Wozmak.

Chair Shapiro led a discussion of the completed matters from the February 14, 2012, Board meeting as provided the Trustees under Tab 6. She stated that the materials provided were greatly appreciated by the Trustees.

Trustee Crombie requested withdrawal of his travel request included in today's materials, noting that he had a conflict with the timing of the conference.

On a motion by Trustee Reardon, seconded by Trustee Morrissey, the Board unanimously approved the travel request by Trustee McGovern.

Following a discussion of the HB 2 requirement that the NHRS submit a quarterly report to the General Court, Chair Shapiro stated that the materials included under Tab 7 were consistent with the prior two reports provided October 1, 2011 and January 1, 2012. On a motion by Trustee O'Brien, seconded by Trustee Provencher, the Board unanimously approved the quarterly report and accompanying documents, subject to updates Staff deems appropriate.

On a motion by Trustee Crombie, seconded by Trustee Morrissey, the meeting adjourned at approximately 12:02 p.m.

NHRS Board of Trustees
March 13, 2012

Respectfully submitted,
Shannan Hudgins