

**MINUTES**  
**ARKANSAS TEACHER RETIREMENT SYSTEM**  
**BOARD OF TRUSTEES MEETING**

Dr. Richard Abernathy, Chair

**Monday, April 13, 2009**

**1:00 p.m.**

**1400 West Third Street**  
**Little Rock, AR 72201**

**Board Members Present**

Dr. Richard Abernathy, Chair  
Hazel Coleman, Vice Chair  
Dr. Paul Fair  
John Fortenberry  
Steve Kelly, in place for Jim Wood  
Beverly Leming  
Bobby Lester  
Robin Nichols  
Janelle Riddle

**Board Members Absent**

Candace A. Franks  
Dr. T. Kenneth James  
Linda Parsons  
Martha Shoffner

**Consultants Present**

Heather Christopher, Ennis Knupp  
Sam Gallo, Ennis Knupp  
P.J. Kelly, Ennis Knupp  
Joseph Marzano, Ennis Knupp  
Michael Bacine, Franklin Park

**Staff**

George Hopkins, Executive Director  
Gail Bolden, Deputy Director  
Judy Brown, Retirement Payroll Supvr.  
Christa Clark, Chief Legal Counsel  
Suzanne Davenport, Chief Financial Officer  
Wayne Greathouse, Dir. Public Markets  
Clementine Infante, Legal Consultant  
Manju, Dir. Data Processing  
Michael Ray, Dir. Member Services  
George Snyder, Dir. Internal Audit/Risk Management  
Gaye Swaim, Dir. Human Resources  
Leslie Ward, Dir. Private Equity  
Amy Wells, Administrative Assistant  
Earl Williams, Senior Auditor

**Reporters Present**

Mike Wickline, Arkansas Democrat Gazette

**Guests Present**

Mike Mentens, AAEA  
Erika Gee, Attorney General's Office  
Lawrence Colston

- I. **Call to Order/Roll Call.** Chair, Dr. Abernathy, called the Board of Trustees meeting to order at 1:35 p.m. Roll call was taken and members absent were Linda Parsons, Dr. Ken James, Candace Franks and Martha Shoffner.

**Executive Session**

At 1:36 p.m. Dr. Abernathy announced an Executive Session to discuss personnel. The Executive Session was moved on the agenda from item XVII to immediately following the Roll Call. At 2:15 p.m., the regular session

resumed. Dr. Abernathy announced that no action had been taken in the Executive Session.

- II. **Adoption of Agenda.** Dr. Abernathy informed the Board that he would be leaving at 3:30 p.m. and asked that the action agenda items that needed a quorum vote be moved to the front of the agenda. Mr. Hopkins agreed. Mr. Hopkins informed the Board that the press was not notified in the proper time frame before the meeting and took full responsibility for that oversight. If contested, the day's meetings could be ruled invalid. The press had been notified through phone calls by Mr. Hopkins and Ms. Bolden to inform them of the late fax notification.

**Mr. Fortenberry moved for adoption of the Agenda. Mr. Lester seconded the motion and the Board unanimously adopted the motion.**

- III. **Executive Summary.** The Executive Summary was provided for reference with no questions or expansions on the written summary.

- IV. **Approval of Minutes.** Dr. Abernathy requested that Staff add restructuring and reducing committees to the next Board of Trustees Meeting agenda in June. Dr. Abernathy also requested that ATRS Staff work on recommendations for how best to reduce and restructure. Mr. Hopkins said that staff would work on making recommendations at the Board's request, but that the ultimate decisions regarding Board Committees will be the Board's responsibility.

- A. **Correction to Approved Minutes of December 8, 2008.** Mr. Hopkins informed the Board that Clementine Infante has been amending past minutes and resolutions that were found to be incorrect or inconsistent. This is being done for historic transparency. Legislative Audit said that the best way to rectify this situation is to provide the Board with the amended minutes and resolutions for adoption.

**Mr. Lester moved for approval of the corrected Minutes of the Board of Trustees meeting of December 8, 2008. Ms. Nichols seconded the motion, and the Board unanimously approved the motion.**

- B. **Minutes of February 9, 2009.**

**Mr. Lester moved for approval of the Minutes of the Board of Trustees meeting of February 9, 2009. Ms. Nichols seconded the motion, and the Board unanimously approved the motion.**

- V. **Approval of Interest Rate for T-DROP Accounts for 2009-2010 (Resolution 2009-10).** The interest rate for T-DROP is determined annually by rules and regulations of the Board of Trustees. The rules state that the rate shall be 2% less than the System's average rate of return with a maximum of 6% and a minimum of 2%. The rate is determined prospectively based upon the System's rate of return for the immediately preceding twelve-month period ending March 31 prior to the start of the fiscal year. The System's preliminary rate of return for March 31, 2009, was negative, -25.6% according to Ennis Knupp's preliminary March 31, 2009, report. In view of the negative returns, the Board agreed to set the 2009-2010 T-DROP interest rate at 2%, the minimum amount allowed by rules and regulations.

**Ms. Leming *moved* for the *adoption* of Resolution 2009-10 to set the interest rate for T-DROP accounts for 2009-2010 at 2%. Mr. Fortenberry *seconded the motion*, and the Board *unanimously adopted the motion*.**

- VI. **Update on Executive Director Authorization to Conduct Business.** Mr. Hopkins informed the Board that he would like more direction in what the Executive Director and Staff can or cannot do. He requested that the Board look into placing guidelines and restrictions so that the limits are clear. At the February 9, 2009, Board meeting, the Board adopted a resolution giving the Executive Director authority to take action on an interim basis, pending Board review. It was suggested that this recommendation be passed on to the Policy Committee for review.

VII. **Travel Update for ATRS Staff and Board.**

- A. **Travel Policies from Other Retirement Systems.** Mr. Snyder and Ms. Clark compiled a summary of guidelines and restrictions from other retirement systems in the country. The guidelines varied between loose and undefined to very strict. Almost 1/3 of the systems required trustees to attend a specific number of conferences or educational meetings a year. Most systems gave budgeted amounts to each trustee. It was suggested that this item be forwarded to the Policy Committee for review.

Ms. Clark stated that the Board could request new resolutions in regards to Board conference and educational reimbursement policies. The Board stated that the current policies were acceptable.

- B. **Presentation of ATRS Board and Staff Travel Guidelines and Demonstration of TR-1 Preparation.** Ms. Davenport presented instructions on TR-1 forms and information for each section. A training

session on how to fill out TR-1s will be given at the Board retreat in July. Discussion of ATRS Travel Guidelines followed.

- C. **Calendar vs. Fiscal Year.** Mr. Hopkins referred the Board to Arkansas Code §25-16-902 that states that the calendar year is to be used in regards to reimbursement authorization.
- D. **Quarterly Travel Update for Board, Staff, Preretirement Counselors.** Reports on Board travel and Staff travel were given for the quarter ending March 31, 2009.

VIII. **Report of Investment Consultant.**

- A. **March 2009 Portfolio Performance Update.** Mr. Kelly gave a preliminary portfolio performance update for March, 2009. He advised that the numbers for March are not final yet, and that the amounts in his handout are only preliminary figures.

Mr. Marzano gave a report on major indices, indicating that markets were up for March, but down for the quarter. The market sectors that have been giving poor performances recently have been performing better for the quarter. Total fund performance for the month was up 4%, slightly trailing the performance benchmark, although the quarterly numbers are relatively good compared to the quarterly benchmark.

Total U.S. Equity numbers were received only the week before the meeting, so the figures are not complete for the month of March. Relational Investors appear to be doing well for the month. Some changes that will be occurring within the equity portfolio: Oppenheimer Capital will move to the S&P index, while T. Rowe Price will be going global.

Global managers have outperformed compared to the benchmark, specifically Knight Vinke and Lincoln Vale for the first quarter. The Wellington Opportunistic strategy has added value relative to their research equity platform. Going forward, Wellington GRE will no longer be in the portfolio as it is transitioned to the global perspective fund.

Fixed income managers, particularly the new ones, have struggled over the last nine months. However, the strategies have been performing well for this first quarter. PIMCO and Blackrock FIGO are outperforming their benchmarks.

U.S. Equity assets did not meet their long-term policy targets, and fixed income is overweighted as equities have decreased. Part of the funding for the new global mandates will come from fixed income, which will move that policy allocation closer to its long-term target.

- B. **Proposed Guidelines for new Lazard, Bedlam, and D.E. Shaw Mandates.** Mr. Kelly presented the investment guidelines for the new mandates of Lazard, Bedlam, and D.E. Shaw. The key components of evaluation for how the portfolio is managed are the benchmarks, any security limitations, any concentration limit, and limiting the losses to any one investment. The guidelines are fairly standard for the mandates.

**Ms. Leming moved for approval of the Proposed Guidelines for new Lazard, Bedlam, and D.E. Shaw Mandates. Ms. Riddle seconded the motion and the Board unanimously adopted the motion.**

- IX. **Nominations for Investment Manager of the Year Award.** ATRS started a tradition that presents an investment manager of the year award in 2008 to exceptionally performing managers. This year, the choices for investment manager of the year are:

- *Pershing Square:* Despite not being funded for a full year, Pershing Square had an impressive strategy and did an exceptional job of upholding value in a down market. Inception date: 7/2008
- *Nicholas Applegate:* Long-time manager with a long-time strategy. Despite the challenging environment, Nicholas Applegate did an excellent job of beating the benchmark. Inception date: 11/1998
- *ICC Capital:* Very strong long-term performer. ICC did a good job of beating the benchmark and predicting downturns in the market. Inception: 3/1996

**Ms. Riddle moved to nominate ICC Capital for the Investment Manager of the Year Award. Ms. Coleman seconded the motion and the Board unanimously adopted the motion.**

- X. **Investment Committee Report.**

- A. **Hiring Fund of Fund Managers.** Ms. Leming informed the Board that the Investment Committee decided to table the hiring of fund of fund managers until the July meeting.

- B. **Franklin Park Contract.** The Franklin Park contract is up for renewal on July 1, 2009. The contract was scheduled to start at \$800,000 on July 1, 2009, but Mr. Hopkins negotiated with Franklin Park to start at \$750,000 due to the economy and current markets. The terms of the contract did not change except the payments made to Franklin Park will be monthly rather than quarterly.

**Ms. Leming moved to adopt the recommendation of the Investment Committee for approval of the Franklin Park 2009-2010 Contract. Ms. Nichols seconded the motion and the Board unanimously adopted the motion.**

- C. **Peabody Hotel Loan.** In 2000, ATRS loaned the Peabody Hotel \$28,000,000 at 7.5% interest, which will mature on May 1, 2009. Before Mr. Hopkins arrival at ATRS, staff had planned to allow the loan to mature. Due to the volatility in the financial markets and hotel industry, there was not going to be an opportunity for the hotel group to pay the loan by its maturity date. For the last four weeks, Mr. Hopkins and staff have been in the process of reworking the Peabody loan to be of benefit to both parties, and in compliance with Arkansas State law. ATRS is under the Usury Law, which limits any new loans to 5.5%. If the loan is renegotiated under the original terms to give an extension, ATRS can maintain the 7.5% interest rate. However, if any changes are made to the loan, that interest rate would be lost. Staff is working diligently to finish the renegotiations before May 1.

**Ms. Leming moved to adopt the recommendation of the Investment Committee for adoption of Resolution 2009-11 to extend the Peabody Hotel loan. Ms. Nichols seconded the motion and the Board unanimously adopted the motion.**

- D. **Recommendation of up to \$40M in TA XI, L.P.** Mr. Bacine gave an overview of TA XI and informed the Board that the closing date is April 30, which Franklin Park is seeking to meet. The strategy is middle market growth companies. Many private equity firms seek control of their investments, but the middle market growth strategy is more flexible, with firms taking a smaller stake in the investments, allowing room for growth. Franklin Park recommends a commitment of up to \$40 million.

**Ms. Leming moved to adopt the recommendation of the Investment Committee for adoption of Resolution 2009-12 to fund TA XI, L.P for a commitment of up to \$40 million. Dr. Fair**

***seconded the motion and the Board unanimously adopted the motion.***

- E. **Recommendation for Imminent Need Funding for TA XI, L.P Under SB812 if Enacted by 4-13-09.** Under new law, Act 1211 of 2009, TA XI is able to go through the imminent need procurement process as the close date for the contract is April 30, 2009. Ms. Ward explained that the three criteria required for imminent need funding have been met: that there is imminent need, that it is financial appropriate to enter into the contract, and that to forgo the opportunity would be inconsistent with the Board's fiduciary duty to members.

***Ms. Leming moved to adopt the recommendation of the Investment Committee for adoption of Resolution 2009-13 to fund TA XI, L.P. under the Imminent Need funding of Act 1211 of 2009. Dr. Fair seconded the motion and the Board unanimously adopted the motion.***

- F. **Recommendation for Imminent Need Funding for Insight Under SB812 if Enacted by 4-13-09.** This contract had been approved previously, but needs to be funded under the imminent need funding criteria in Act 1211 of 2009.

***Ms. Leming moved to adopt the recommendation of the Investment Committee for adoption of Resolution 2009-14 to fund Insight under the Imminent Need funding of Act 1211 of 2009. Ms. Riddle seconded the motion and the Board unanimously adopted the motion.***

- G. **Update on Arkansas Property Tax Issue.** Mr. Hopkins reported that he has not had a response back on this issue, but that it is normal for negotiations of this level. The tax assessors are still carefully evaluating their position. He spoke with Mike Pierce of the Pulaski County Assessor's Office the week before the meeting to get an update, and was told that they were still investigating.

There would not be a statute of limitations problem if ATRS were to move forward on attempts to collect past due money up to three years. Mr. Hopkins said that staff would strive to resolve this situation, but if it cannot be settled, ATRS would file a lawsuit to get back what ATRS is entitled. If a lawsuit has to be filed, it would be amicable, with both sides working together towards a solution.

- H. **Update of McDonald's Option to Purchase.** There is no update at this time. ATRS is working with the City of Little Rock to replat the property.
- I. **Update on Sale of Chenal Heights Property.** There is one that is less than the appraised value for the property. Staff recommends that the Board not accept an offer under the appraised value.
- J. **Update on Woodland Heights Threshold Issue and Mini-Bus Purchase.** In October 2008, an architectural firm confirmed that the thresholds did not meet city code. There was also a finding that the shower tiles were not properly placed. The staff is investigating these items to determine fault.

The purchase of a mini-bus has not been approved due to modification issues. The seats in the bus are facing each other, and will need to be adapted to face the front. Mr. Hopkins will not move forward until cost of modification is known.

- XI. **FOIA and Executive Session Update for Board Members.** Ms. Erika Gee from the Attorney General's office brought two main components of FOIA to the Board's attention: public records, which is mentioned most often in regards to FOIA, and open meeting rules, which requires Board meetings to be held in public. The safest interpretation is that any two Board members meeting to discuss anything Board related is considered a public meeting and must be made available to the public. This includes meetings for coffee, emails, and telephone calls. Because there is no way to make telephone or email conversations public, neither should be used to discuss Board issues. For public records, all email conversations are subject to FOIA.

Ms. Gee also discussed proper protocol for Executive Sessions. Executive Sessions must only be used for specific personnel issues. A vote should be made to convene an Executive Session. The specific purpose must be announced before going into Executive Session, and if an action is taken, it must be announced to the public. The only people that may be present during Executive Sessions are Board members, the Executive Director, the immediate supervisor of the employee involved, and the employee.

Discussions held in Executive Session are meant to be confidential and kept from the public. If a Board member speaks about the session outside of the boardroom, they are in violation of policy. It may also subject a Board member to personal liability.

Due to the nature of certain ATRS investments, anything that is considered proprietary or trade secret is exempt from FOIA and should be kept confidential.

There are personal and professional penalties for violating FOIA. A new law has been passed that allows for legal fees to be recompensed from state agencies, which may mean more lawsuits against state agencies. It is Act 440 of 2009.

The Board and Ms. Gee discussed the implications of the ATRS Board mentoring policy. Ms. Gee advised that if specific Board issues are discussed, the discussion would need to be released to the public. If Board member information, such as where to park and how to get into the building is the mentoring policy, that type of information is exempt from FOIA regulations.

- XII. **Number of Purchased Years of Service Survey.** Mr. Ray gave a brief overview of other state guidelines regarding purchased service at the Board's request. There was a consensus that ATRS purchased service should be limited to ten years for service types currently limited to fifteen years, and this is a Policy/Legislative Committee item.
- XIII. **Offsite Update.** Mr. Ray gave an update on the Board offsite meeting on July 19-21, 2009. Based upon correspondence with DF&A, it was decided to hold the meetings onsite at the ATRS building.
- XIV. **Legislative Update.** Mr. Hopkins informed the Board that the Governor is continuing to sign ATRS bills into law and gave a brief overview of those bills.
- XV. **Dreamland Academy Update.** Mr. Hopkins gave an update on Dreamland Academy. On April 10, 2009, Dreamland made a payment towards the amount owed to ATRS, and is now almost caught up. The forbearance agreement helped Dreamland to recognize that ATRS is not interested in penalizing the members.
- XVI. **Staff Update.**
  - A. **Medical Committee Report.** The first Medical Committee meeting was on February 11, 2009. There were 16 applicants, 11 were approved and 5 cases were denied. The Medical Committee also met on March 11, 2009. There were 18 applicants, 12 were approved and 6 cases were denied.

**Ms. Nichols moved for approval of the February, 2009, and March, 2009, Medical Committee reports. Mr. Lester seconded the motion and the Board unanimously adopted the motion.**

- B. **Personnel Report.** Ms. Swaim added overtime reports and leave information to the current personnel report at Mr. Hopkins' request.
  - C. **Financial Statements.** Ms. Davenport gave the Board financial reports for December, 2008, January, 2009, and February, 2009. For the meeting, Ms. Davenport reviewed only the February, 2009, numbers.
  - D. **Payroll Reports.** Ms. Brown gave a report on retirement payroll information for February-March, 2009. ATRS added 63 age-and-service retirees in February, 2009, and 46 in March, 2009. There are 4,650 T-DROP participants for both months. The number of payees increased 7.5% from last year.
  - E. **Legal Update.**
    - 1. **Status of IRS Determination Letter.** Ms. Clark filed a request with the IRS that ATRS is a qualified plan and is waiting on a notification letter. Notice has been given that the request has been received, and that an agent has been assigned to ATRS. There is no update as of yet.
    - 2. **Status of Pending Lawsuits.** ATRS was named in a nursing home suit by ATRS Recoveries portfolio. The statute of limitations ran out on all torts from when ATRS sold the nursing homes in December, 2005. On December 31, 2008, ATRS was served with the last of the lawsuits. This has been forwarded to the legal counsel hired by the insurance carrier. The Convacare & Team Health lawsuit is still moving forward.
- XVII. **Executive Session.** The Executive Session was moved on the agenda from item XVII to immediately following the Roll Call.
- XVIII. **Adjourn.**

**Mr. Lester moved to adjourn the Board of Trustees Meeting. Ms. Riddle seconded the motion, and the Board unanimously approved the motion.**

**Meeting adjourned at 4:05 p.m.**

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George Hopkins,  
Executive Director

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Dr. Richard Abernathy, Chair  
Board of Trustees

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Amy Wells,  
Recorder

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Date Approved