

**BOARD OF TRUSTEES FOR THE  
STATE RETIREMENT AND PENSION SYSTEM OF MARYLAND  
MINUTES OF MEETING**

October 19, 2010

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The Board of Trustees for the State Retirement and Pension System of Maryland met in the Boardroom of the SunTrust Building, 120 East Baltimore Street, Baltimore, Maryland, beginning at 9:16 a.m.

The Trustees present included:

|                          |                               |                                   |                    |
|--------------------------|-------------------------------|-----------------------------------|--------------------|
| Nancy K. Kopp, Chairman  | Peter Franchot, Vice-Chairman | David Blitzstein                  | William Brown      |
| John Douglass            | T. Eloise Foster              | Sheila Hill                       | Major Morris Krome |
| Theresa Lochte           | Robert Schaefer               | James Harkins (via telephone)     |                    |
| Thurman Zollicoffer, Jr. | R. Dean Kenderdine, Secretary | F. Patrick Hughes (via telephone) |                    |

Agency Staff members attending included:

|                   |                  |                 |                  |                   |
|-------------------|------------------|-----------------|------------------|-------------------|
| Anne Budowski     | Margaret Bury    | Melody Countess | Brian Feilinger  | Robert Feinstein  |
| Patricia Fitzhugh | Michael Golden   | Ira Greenstein  | Dennis Krysiak   | Mansco Perry, III |
| Howard Pleines    | Kenneth Reott    | Brian Rowe      | Mike Ruetz       | Janet Sirkis      |
| Patrice Sowah     | Michael Thompson | Toni Voglino    | Victoria Willard |                   |

Assistant Attorneys General attending:

|                   |              |                |             |
|-------------------|--------------|----------------|-------------|
| Deborah Bacharach | Rachel Cohen | Melissa Warren | John Kuchno |
|-------------------|--------------|----------------|-------------|

Also attended by:

|                |               |                     |                    |               |
|----------------|---------------|---------------------|--------------------|---------------|
| Melissa Moye   | Dylan Baker   | Anne Gawthrop       | Michael Rubenstein | Chris McCully |
| Robert Palumbi | Randy Mickens | Larry Jennings, Jr. |                    |               |

SB & Company, Tiana Wynn and William Seymour  
Mercer, Douglass Rowe and James Baughman

- Minutes      1.    On a motion made by Ms. Lochte and seconded by Ms. Hill, the Board approved the minutes of the September 21, 2010 open session meeting.
- Administrative Committee Report      2.    Major Morris Krome, Vice-Chairman of the Administrative Committee, reported on the regular meeting held on October 5, 2010.
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- Major Krome reported that the Administrative Committee approved its meeting schedule for calendar 2011.
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- Major Krome reported that Mr. Ira Greenstein presented highlights of the Retirement Agency FY2012 Information Technology Master Plan, covering the required period of FY2012 - FY2017; he noted the major IT goals, included the development of MPAS-2 (data scrubbing) and MPAS-3 (re-engineering business operations).
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- Major Krome reported that Mr. Kenderdine presented a revised format for the reporting of quarterly information on non-budgeted investment manager fees and service related fees. The revised report provides more specific data pertaining to the equity asset class; fixed income asset class and, alternate investments. He complimented staff on the new report format noting that the new format made the fee data more readable and understandable.
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- Major Krome reported that Mr. Golden provided a communications update. He noted that the Agency prepared a letter to the editor responding to an October 4th Sun editorial that recommended the State replace its defined benefit plan with a defined contribution plan. Major Krome noted that work is progressing on an in-house legislative tracking system.
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Administrative  
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Report

Education for individuals who are elected to serve as officers in organizations representing educators. These "elected" employees are no longer placed on an unpaid leave of absence by the Boards and the Boards deem them as their employees and continue to report them on their active payroll to the Agency. With this change in policy, and based on information obtained by the Agency's principal counsel from the System's outside tax counsel, staff believes it is necessary to amend the Board of Trustees regulations related to approved leaves of absence and promulgate a new regulation for members who are elected to office with a professional or employee organization.

On a motion made by Major Krome, and seconded by Mr. Zollicoffer, the Board approved the following regulations (1) amend COMAR Title 22 Chapter 05, .01 to .03 to repeal obsolete references to approving/processing a leave of absence for service in a professional or employee organization; and (2) approve a new regulation - Title22 Chapter 05. 06 - pertaining to Service Credit for Officers of Employee Organizations that provides for the criteria to grant service credits while a member serves as an elected officer and the limitations on granting service credits.



Major Krome, and Mr. Howard Pleines, presented the following additional legislative proposals for consideration to be included in the Board's 2011 legislative package:

**I. Funding Issues**

- ▶ The Board of Trustees received and accepted a report of the Ad hoc Committee on Actuarial Funding Methodology at its August 2010 meeting.
- ▶ While the report was discussed and accepted, the Board did not specifically vote to include specific funding recommendations in the report as part of its 2011 legislative packet.
- ▶ Staff recommends that the Administrative Committee recommend the Board of Trustees submit the following proposal to the JCP with the understanding that all three items be put forward or rejected as one proposal.
  1. Phase out the Corridor Funding Methodology for the Employees' and Teachers' Systems over ten years.
  2. Adopt a 20 year open amortization period (Amortization Method - Level % Open).
  3. Smooth the FY2009 losses over a ten year period, rather than the normal five years.

**II. Social Security Integration Level – Definition**

- ▶ The Social Security Integration Level (SSIL), which is data necessary to determine benefits under the Non-Contributory Employees' Pension System, is defined to mean "with respect to the calendar year in which a member retires or otherwise separates from employment, the average yearly amount of earnings for which old age and survivors benefits would be provided under Title II or the federal Social Security Act for an employee 65 years old in that calendar year."
- ▶ This definition was established when the age for full Social Security benefits was 65, which now is being increased over time to age 67.

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Therefore, staff recommends to revise the definition for the SSIL (SPP §20-101(nn)) to refer to the year in which a member would first be eligible for full benefits, rather than a specific age.

**III. Required Break Prior to Re-employment**

- › In order for participants to receive a retirement allowance, and in order for the System to remain a qualified plan pursuant to the Internal Revenue Code, the System requires that there be a “separation from employment” before a participant may retire.
- › The General Assembly complied by establishing a required minimum break in service of 45 days between the date of retirement and the date the individual may be rehired by the same employer.
- › Recently the Retirement Agency found that a withdrawn employer - whose members at time of the employer’s withdrawal from the System had the right to remain in the System - was permitting its employees to “retire” when eligible, retain their existing positions, and return to employment without any break in service.
- › The Retirement Agency is notifying this withdrawn employer that it may not “retire” its employees and rehire them immediately.
- › The withdrawn employer must be deemed a “participating employer” as it applies to their employees who had remained in the System, and the 45 day break in employment must occur prior to those employees being rehired.

Staff recommends that Sections 22-406(d) and 23-407(d) be amended to add that the 45 day break between retirement and re-employment applies to employees of withdrawn governmental units who remained members of the System.

**IV. Salary Setting Authority – Investment Staff**

- › This initiative was approved by the Board for recommendation to the Joint Committee on Pensions for the 2010 session, but the Joint Committee did not introduce the bill instead agreeing to consider it during the interim.
- › The Agency’s Investment Division is distinct in its functions within State government.
- › Unlike the vast majority of other units of State governments, the Investment Division operates more like an investment management business, managing approximately \$34 billion in assets that are invested globally.
- › The Department of Legislative Services has noted the “unique demands placed on the State Retirement Agency’s investment division to manage a rapidly diversifying portfolio” and stated that “in addition to being a special-funded agency, SRA’s investment division is in a unique position within State government in that it is one of the few divisions that is responsible for making money”.
- › The Investment Division requires the hiring and retention of individuals who have in-depth knowledge of very complex asset classes and investments, as well as very high-level analytical skills of both a quantitative and qualitative sort.
- › The demands for such skills will only increase, as the asset allocation adopted by the Board in 2008 calls for the System to increase its exposure to these complex asset classes and investments.

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Administrative  
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- It is an increasingly high level of responsibility that has been placed with the Board, the Chief Investment Officer and the investment professionals employed by the Investment Division.
- The Board believes that it is essential for the Investment Division to operate competitively in the investment management marketplace.
- These positions are critical to the Agency's mission, requiring a special set of skills and knowledge, and are subject to competitive compensation pressures from employers in both the public sector and private sector.
- Also, under State law, a number of these positions are charged with the same high level of fiduciary responsibility as the fourteen individual Trustees on the Board.
- It is the recommendation of the Administrative Committee that the Board request legislation to be introduced that would amend the Board of Trustees' salary setting authority to include all professional investment staff in addition to the CIO.

On a motion made by Major Krome, and seconded Mr. Zollicoffer, the Board approved the preceding four legislative proposals.

Major Krome reported on the legislative proposal 'redirecting source of funds audit responsibilities'.

**Redirecting 'Source of Funds' Audit Responsibilities**

- In 1990, the General Assembly authorized the State Retirement Agency to examine the records of the boards of education, libraries and community colleges ("LEAs") "to determine whether the State's payments for retirement contributions of the school systems are in accordance with the provisions of Division II of the State Personnel and Pensions Article."
- One specific area of focus of these audits, among others, has been whether an LEA has received other state or federal funds to pay the cost of fringe benefits for a member of the Teachers' System, when the State has already paid those costs to the System.
- In such a circumstance, the LEA is required to reimburse the State for the duplicative payment.
- For the three audit periods 1987-1990, 1991-1994, and 1995-1997, the gross assessment from each audit conducted for duplicate payments was greater than the audit fees, and the Agency recovered its full audit costs.
- However, the Agency was unable to recover its costs for the 1998-2000 audit (loss of \$56,363), and, as a result of a number of legislative changes that have eliminated the possibility of recovery for state duplicate payments, that is likely to be the case in the future.
- The need for audits to determine if the LEA has received payments for employer retirement contributions from other sources is likely to continue as the issue of duplicate payments involving federal aid remains.
- However, the Agency has no administrative oversight of these federal funds, nor does the Agency collect or receive these funds.
- Furthermore, the expenditure of trust fund assets to recover overpayments for the State appears to be in conflict with the original legislative intent that trust assets not be used to conduct these audits.
- Instead, agencies that have oversight and control over these federal

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- funds – the State Department of Education and the Maryland Higher Education Commission – should be charged with this audit responsibility.
- › LEAs are currently required to have an annual “Single Audit” of federal financial assistance programs; their auditors can and should determine if the LEA has received payment for employer retirement contributions that should be reimbursed to the State.

After discussion, Treasurer Kopp deferred the issue pending communication with the Maryland Higher Education Commission.

Major Krome reported that Staff presented a proposal regarding Prohibition against Retroactive Benefit Payments to clarify the law with respect to the “effective date of retirement” for retirees. The Administrative Committee referred the matter back to staff for additional research.



Major Krome reported that the Personnel and Pensions Article, Section 23-206 provides that a librarian or clerical employee of a library is to be enrolled in the Teachers’ Pension System (TPS). The Board’s regulations provide that clerical employees, including material processors, are eligible for membership in the TPS. A recent audit of Frederick County Library, found that employees holding the position of "shelvers" were not being enrolled in the TPS. The Internal Audit staff believes that these positions should be enrolled if they work the required minimum of 500 hours per fiscal year. Administrative staff disagreed. Most who hold these positions are high school or college students (a job requirement is must be at least age 16), or retirees. Shelvers are minimum-wage, part-time, un-benefited positions, the majority of whom do not work 500 hours each year. They are on-call employees who work when needed, and when available. Hours worked per week range from 8 to 17, with no likelihood that they work the same number of hours each week, or that they work every week. Should a shelver work 500 hours in one year, there is no reasonable expectation that he/she will work 500 hours the next year, or in future years. The hours worked are based on the need of the library and the availability of the individual.

On a motion made by Major Krome, and seconded by Ms. Lochte, the Board approved excluding the position of shelver from those positions that are eligible to participate in the State Pension Systems, pursuant to the Board’s authority to deny membership in the TPS for any class of individuals whose employment is temporary or other than a yearly basis, under SPP Article, Section 23-209.

Major Krome reported that the terms for Trustees Lochte and Douglass end in August 2011. As such, an election schedule as is required for all election cycles.

On a motion made by Major Krome, and seconded by Ms. Hill, the Board accepted the following election schedule for the election of two Trustees for the term August 1, 2011 to July 31, 2015.

| Date                     | Action   |
|--------------------------|--|
| October 11, 2010 through | An eligible voter may obtain a nomination form |

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Administrative  
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Report

|   |  |
|---|--|
| January 14, 2011  | from the Executive Director.   |
| March 11, 2011  | Completed nomination forms must be submitted to the Executive Director by an eligible voter by 4:30 p.m.   |
| March 28, 2011  | Executive Director certifies that an eligible voter satisfies the conditions set forth in 22.03.01.06 of the Board of Trustees' Regulations.                   |
| May 13, 2011  | Mailing of election materials to eligible voters, including candidate biographies and personal identification numbers for internet and IVR (telephone) access. |
| May 23, 2011  | IVR (telephone) and website (internet) open for voting.  |
| June 17, 2011   | Last date for voting. Deadline is 4:30 p.m.  |
| July 19, 2011 ( <i>Subject to Board approval of the 2011 meeting dates.</i> ) | Executive Director announces election results at the July meeting.   |

Interim CIO 3. On a motion made by Ms. Hill, and seconded by Comptroller Franchot, the Board ratified the appointment of A. Melissa Moye as Interim Chief Investment Officer effective October 20, 2010. The ratification also included the following: That Dr. Moye, in her capacity as interim Chief Investment Officer, shall have all of the rights, obligations and authority pertaining to the System's Chief Investment Officer as set forth in the State Personnel and Pensions Article and the governing instruments adopted by the Board of Trustees.

GRS 4. Mr. Brian Murphy and Mr. Brad Armstrong of Gabriel Roeder & Smith (GRS), the System's actuary, presented the final results of the State Retirement and Pension System's Actuarial Valuation for the period ending June 30, 2010 and the recommended employer contribution rates for the FY2012 budget.

On a motion made by Treasurer Kopp, seconded by Secretary Foster, the Board certified the Fiscal Year 2012 contribution rates recommended by the System's actuary.

| Fiscal Year 2012 |        |
|------------------|--------|
| Teachers         | 15.45% |
| Employees        | 13.40% |
| State Police     | 61.01% |
| Judges           | 60.37% |
| LEOPS            | 49.26% |

Compliance Risk Presentation 4. Mr. Brian Rowe, Chief Internal Auditor, lead a discussion on the Internal Audit Division's audit plan regarding investment compliance risk.

Mr. Rowe reported in a follow-up to the Board's discussion as to what is meant by "risk" as the term is applied by internal audit as compared to "risk" as it is used in relation to the System's investment portfolio. Internal Audit is

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Compliance Risk  
Presentation

concerned with compliance risk and not portfolio risk. The Charter for the Internal Audit Division provides for internal audits to determine whether the System's network of risk management, system of internal control, and compliance and governance policies and procedures, as designed and represented by management, is adequate and functioning in a manner to ensure that the Systems' investments are consistent with Board policies and are properly safeguarded and reported.

Mr. Rowe reported that to meet these Charter provisions, the Internal Audit Division began a training program to acquire the requisite technical knowledge and skills necessary for its staff to audit the Systems' investments. The initial phase provided formal classroom training in the various asset classes, investment operations (back, middle, and front office), investment programs (e.g., security lending, passive vs. active management) and other technical issues. The training was conducted in Fall 2008 and was very successful.

Mr. Rowe reported that the next phase is to conduct a risk assessment of investments. In auditing, performing a risk assessment is a very crucial stage before beginning any audit assignment. Risk assessment is a *process* of estimating a risk coefficient or score to be associated with each auditable unit within the organization. Risk assessment is typically undertaken to focus attention on significant audit areas, to allocate scarce audit resources to the most important audit areas, and to help with key audit prioritizing decisions such as audit frequency, intensity, and timing. It serves as the basis for developing annual audit plans.

Mr. Rowe reported that the internal audit staff lacks experience in conducting risk assessments of investments, a risk assessment will be conducted in a co-sourcing arrangement with a firm possessing the necessary expertise. The objective is to complete a risk assessment through a "knowledge transfer" process that will enable internal audit to complete future assessments independently.

Treasurer Kopp requested a detailed audit plan at a future Investment Committee meeting.

Mr. Mansco Perry mentioned that a review of the Investment Unit's Procedures Manual may be helpful in understanding how the Investment staff evaluates investment risk.

CIO Report    6. Mr. Mansco Perry, III reported on the portfolio's performance.

Mr. Perry reported that as of September 30, 2010 the total of the trust is \$35.2 billion. The fiscal year-to-date return was 11.5%.

Mr. Perry shared his heartfelt departing remarks. He specifically thanked the Board for their support and his staff for their dedication and hard-work. He also congratulated Dr. Moye and wished her much success.

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Executive  
Director's  
Report

7. Mr. R. Dean Kenderdine reported on recent Agency developments.

Mr. Kenderdine reported that the Sustainability Commission is scheduled to meeting on Wednesday, November 10, 2010 at 12:30 p.m. in the House Appropriations meeting room.

Mr. Kenderdine reported that the Joint Committee on Pensions has scheduled the following two meetings, Tuesday, November 9<sup>th</sup> at 10 a.m. and Wednesday, December 1<sup>st</sup> at 2 p.m.

Mr. Kenderdine reported on, and provided a copy of, the Agency's response to Marta Mossburg's article *Maryland Retirement Fund: Paying for Poor Performance* which criticized the compensation recently awarded the System's Chief Investment Officer and challenged the transparency of the System's method of accounting.

Medical Board  
And  
Supplemental  
Medical Board  
Reports

8. On a motion made by Ms. Hill and seconded by Ms. Lochte, the Board of Trustees accepted all the reports of the Medical Board in connection with applications of members for ordinary, accidental and special disability retirement allowances. The Medical Board's conclusions were reached after its review of the documentation in the file.

**CLOSED SESSION**

The Board met in a Closed Session (12:15 p.m.) in the Boardroom of the SunTrust Building at 120 East Baltimore Street for the purpose of:

1. to approve the closed session minutes, pursuant to State Government Article §10-503(a)(1)(i), the exercise of an administrative function;
2. to receive a litigation update, pursuant to State Government Article §10-508(a)(7)&(8), to consult with counsel to obtain legal advice and to consult with staff, consultants, or other individuals about pending or potential litigation;
3. to discuss the administrative appeals pursuant to State Government Section 10-503(a)(1)(iii), the exercise of a quasi-judicial function.

The Trustees present included:

|                          |                               |                               |                    |
|--------------------------|-------------------------------|-------------------------------|--------------------|
| Nancy K. Kopp, Chairman  | Peter Franchot, Vice-Chairman | David Blitzstein              | William Brown      |
| John Douglass            | T. Eloise Foster              | Sheila Hill                   | Major Morris Krome |
| Theresa Lochte           | Robert Schaefer               | James Harkins (via telephone) |                    |
| Thurman Zollicoffer, Jr. | R. Dean Kenderdine, Secretary |                               |                    |

Agency Staff members attending included:

|                |                |                   |                  |                  |
|----------------|----------------|-------------------|------------------|------------------|
| Anne Budowski  | Margaret Bury  | Melody Countess   | Brian Feilinger  | Robert Feinstein |
| Michael Golden | Dennis Krysiak | Mansco Perry, III | Howard Pleines   | Kenneth Reott    |
| Brian Rowe     | Janet Sirkis   | Patrice Sowah     | Michael Thompson | Toni Voglino     |

Assistant Attorneys General attending: Deborah Bacharach, Rachel Cohen, Melissa Warren, John Kuchno.  
Also in attendance: Melissa Moye.

The Board ended its closed session at 12:50 p.m. and returned to regular session to complete the agenda.

**REGULAR SESSION – APPEALS AND HEARINGS**

The Board reported that during the closed session the Board approved the closed session minutes and decided the administrative appeal of Oliver R. Beales.

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Administrative Appeal of Oliver R. Beales 9. The Board voted to **ADOPT** the Summary Decision issued by Dean Kenderdine, the Executive Director, and **DENY** Mr. Beales' appeal to change his retirement option selection.

Steven B. Marks 10. The Board considered the recommendation of the Administrative Law Judge in connection with the claim of Mr. Steven B. Marks for **ACCIDENTAL DISABILITY** retirement benefits. The Administrative Law Judge's report, a report by the Medical Board, and all related documents submitted by the parties were presented.

Mr. Michael J. McAuliffe, Mr. Steven B. Marks' attorney appeared before the Board to oppose the Agency's position and the Administrative Law Judge's recommendation. Ms. Carla Katzenberg, attorney for the Agency, addressed the Board and argued that the Board should adopt the Administrative Law Judge's recommendations. Following discussion, the Board deferred further consideration to Closed Session.

Carl M. Barnett 11. The Board considered the recommendation of the Administrative Law Judge in connection with the claim of Mr. Carl M. Barnett for **ACCIDENTAL DISABILITY** retirement benefits. The Administrative Law Judge's report, a report by the Medical Board, and all related documents submitted by the parties were presented.

Mr. Michael E. Davey, Esq. and Mr. Carl M. Barnett appeared before the Board to oppose the Agency's position and the Administrative Law Judge's recommendation. Ms. Carla Katzenberg, attorney for the Agency, addressed the Board and argued that the Board should adopt the Administrative Law Judge's recommendations. Following discussion, the Board deferred further consideration to Closed Session.

Judyth M. Brown 12. The Board considered the recommendation of the Administrative Law Judge in connection with the claim of Ms. Judyth M. Brown for **ACCIDENTAL DISABILITY** retirement benefits. The Administrative Law Judge's report, a report by the Medical Board, and all related documents submitted by the parties were presented.

Mr. David F. Albright, Esq. and Ms. Judyth M. Brown appeared before the Board to oppose the Agency's position and the Administrative Law Judge's recommendation. Ms. Jill Leiner, attorney for the Agency, briefly addressed the Board and argued that the Board should adopt the Administrative Law Judge's recommendations.

Alice M. Parks 13. The Board considered the recommendation of the Administrative Law Judge in connection with the claim of Ms. Alice M. Parks' for **ACCIDENTAL DISABILITY** retirement benefits. The Administrative Law Judge's report, a report by the Medical Board, and all related documents submitted by the parties were presented.

Ms. Alice M. Parks did not appear before the Board to oppose the Agency's position and the Administrative Law Judge's recommendation. Ms. Jill Leiner, attorney for the Agency, briefly addressed the Board and argued that the Board should adopt the Administrative Law Judge's recommendations.

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**CLOSED SESSION – APPEALS AND HEARINGS**

The Board met in a Closed Session (1:49 p.m.) in the Investment Unit Conference Room of the SunTrust Building at 120 East Baltimore Street for the purpose of:

1. to discuss the disability appeals pursuant to State Government Section 10-503(a)(1)(iii), the exercise of a quasi- judicial function.

The Trustees present included:

|                               |                    |                |                 |
|-------------------------------|--------------------|----------------|-----------------|
| Peter Franchot, Vice-Chairman | David Blitzstein   | William Brown  | John Douglass   |
| Sheila Hill                   | Major Morris Krome | Theresa Lochte | Robert Schaefer |
| Thurman Zollicoffer, Jr.      |                    |                |                 |

Agency Staff members attending included:

|                    |               |              |               |
|--------------------|---------------|--------------|---------------|
| R. Dean Kenderdine | Anne Budowski | Janet Sirkis | Patrice Sowah |
|--------------------|---------------|--------------|---------------|

Assistant Attorneys General attending: Rachel Cohen

The Board ended its closed session at 2 p.m. and returned to regular session to complete the agenda.

**REGULAR SESSION**

The Board reported that during the closed session the Board reviewed and decided on the following disability appeals:

- |                 |     |   |
|-----------------|-----|---|
| Steven B. Marks | 14. | The Board voted to <b><u>REJECT</u></b> the Administrative Law Judge's Proposed Decision and <b><u>GRANT</u></b> Steven B. Marks' request for accidental disability benefits. |
| Carl M. Barnett | 15. | The Board voted to <b><u>ADOPT</u></b> the Administrative Law Judge's Proposed Decision and <b><u>DENY</u></b> Carl M. Barnett's request for accidental disability benefits.  |
| Judyth M. Brown | 16. | The Board voted to <b><u>ADOPT</u></b> the Administrative Law Judge's Proposed Decision and <b><u>DENY</u></b> Judyth M. Brown's request for accidental disability benefits.  |
| Alice M. Parks  | 17. | The Board voted to <b><u>ADOPT</u></b> the Administrative Law Judge's Proposed Decision and <b><u>DENY</u></b> Alice M. Parks' request for accidental disability benefits.    |
| Adjournment     | 18. | There being no further business before the Board, the meeting adjourned at 2 p.m.   |

Respectfully submitted,



R. Dean Kenderdine  
Secretary to the Board

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