

BOARD OF TRUSTEES
FOR THE
STATE RETIREMENT AND PENSION SYSTEM
OF MARYLAND

MINUTES OF MEETING

November 19 2002

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, at 9:30 a.m. There were present Chairman William Donald Schaefer, Vice Chairman Nancy E. Kopp, T. Eloise Foster, Dr. Nancy Grasmuck (departed 1:10 p.m.), Arthur N. Caple, Jr. (departed 2:10 p.m.), Debra Humphries (arrived 10:10 a.m.), William D. Brown, Carl D. Lancaster, Colonel David B. Mitchell (arrived 9:45 a.m.), Major Morris L. Krome, G. Bruce Harrison, Trustees, and, Peter Vaughn, Secretary. Agency Staff members also attending were Margaret A. Bury Retirement Administrator, Deborah Bacharach, Robert Feinstein, Carla Katzenberg, and Jill Leiner, Assistant Attorneys General, Carol Boykin, Chief Investment Officer, Rick Harrison, Chief Financial Officer, Howard Pleines, Legislative Director, Sherlyn Matesky, Deputy Legislative Director, Thomas Gighotti, Chief Internal Auditor, Mr. Joseph Coale, Public Information Officer, Gary Scribner, Chief Information Officer, and Gwen Mulkey, Executive Associate.

Also present were Mary Jo Neville, Maryland State Teachers Association, Anne Gawthrop, Department of Legislative Services, Michael Dresser, Baltimore Sun, Kay Kimble, Ruth Avent and her attorney Tony Heper, and Dean Kenderdine, Office of the Comptroller.

Prior to the convening of the Board meeting, several members of the Board commented on recent articles in the Baltimore Sun.

Chairman Schaefer stated that of the recent articles ran in the Sun papers some articles were fair and some were unfair. He stated that the System is still strong and that retirees are being paid on time every month. Chairman Schaefer stated that to say that the Trustees were sleeping was an insult, and that there has been no story to reflect that the System is still strong. Additionally, Chairman Schaefer stated that the Board should not micro manage except during difficult times. Chairman Schaefer stated that he would not vote for the RFP at the upcoming Board of Public Works meeting because he feels the time frame for creating is too lengthy and the expense is too high. Chairman Schaefer wants a quick review of the Agency.

Dr. Alemi echo's the sentiment of the Chairman and was disturbed by the inaccuracies of the articles.

Vice Chairman Kopp stated that she is in complete agreement with the Chairman regarding important issues. She feels that the System is strong, but that an external examination of the Board and Agency is necessary.

Major Krome thanked the Chairman and Vice Chairman for their comments at the Joint Committee on Pensions meeting

Mr Caple stated that he felt the System received a fair Joint Pensions Committee on hearing

Minutes 1 Mr Vaughn noted that page 5 needed correction to reflect Mr Vaughn not Mr Rick Harrison made comments regarding the designation of the Contract Monitor for the Fiduciary Audit Services RFP. On motion made by Secretary Foster and seconded by Major Krome, the regular minutes of the meeting of the Board of Trustees for the State Retirement and Pension System of Maryland, held on October 15, 2002, were unanimously approved as amended

Kay Kimble 2 The Board considered the report of the Administrative Law Judge in connection with the claim of Kay Kimble, for accidental disability benefits. The report included a report by the Medical Board and all related documentation submitted by parties to the Administrative Law Judge are presented

Ms Kimble presented her opposition to the Agency's position and the Administrative Law Judge's recommendations. 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 Executive Session.

Mary Buckham 3 The Board considered the report of the Administrative Law Judge in connection with the claim of Mary Buckham, for accidental disability benefits. The report included a report by the Medical Board and all related documentation submitted by parties to the Administrative Law Judge are presented

Ms Buckham's case was heard on its record. 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 Executive Session.

Ruth Avent 4 The Board considered the report of the Administrative Law Judge in connection with the claim of Ruth Avent, for ordinary disability benefits. The report included a report by the Medical Board, claimant's exceptions, and related medical documentation

The Medical Board denied Ms Avent's claim for ordinary disability retirement benefits based on their determination that the medical evidence submitted by Ms Avent did not substantiate that she is permanently incapacitated from performing her job duties. Ms Avent appealed the Medical Board's decision.

Tony Heper, representing Ms Avent presented her arguments opposing the Agency's position and the Administrative Law Judge's recommendations. Ms Jill Leiner, attorney for the Agency, addressed the Board and argued that the Board should accept the Medical Board's report. Following discussion, the Board deferred further consideration to Executive Session.

Caroline Payne

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The Board considered the report of the Administrative Law Judge in connection with the claim of Caroline Payne, for accidental disability benefits. The report included a report by the Medical Board and all related documentation submitted by parties to the Administrative Law Judge are presented.

Ms Payne's case was heard on its record. Ms Jill Leiner, 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 Executive Session.

Default Order

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Mr Vaughn informed the Board that he found good cause to vacate the proposed default order in the case of Barbara Duvall for accidental disability benefits. No action is necessary by the Board. The case will be remanded back to the Office of Administrative Hearings. Attachment A

Remand to
Administrative
Law Judge

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The Executive Director recommended and asked for the Board's approval to remand to the Office of the Administrative Hearings the case of Tina More. On motion made by Mr Brown and seconded by Vice Chairman Kopp, the Board voted unanimously to remand the case of Tina More to the Administrative Law Judge. Attachment B

Investment Committee
Report and
Recommendations

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Mr Arthur Caple, Chairman of the Investment Committee, reported on the meeting held on November 8, 2002. Attachment C

Mr Caple advised the Board that the Real Estate Registry was approved as amended during the Investment Committee meeting of November 8, 2002, and asked for the Board's approval. On motion made by Mr Caple and seconded by Mr Humphries the Board voted unanimously to approve the Real Estate Registry as amended.

Mr Caple reported that the use of Peer Universe was approved during the November 8, 2002, Investment Committee Meeting. On motion made by Mr Caple and seconded by Mr Harrison, the Board voted unanimously to approve the adoption of TUCS universe for public pension plans greater than \$1 billion dollars and the CEM universe for informational purposes, not as a goal of the System.

Mr Caple reported that the Asset Allocation Monthly Assessment was approved by the Investment Committee. On motion made by Mr Caple and seconded by Ms Humphries, the Board voted unanimously to approve the Asset Allocation Monthly Assessment.

Mr Caple reported that the Asset Allocation Proposal was approved by the Investment Committee. On motion made by Mr Caple and seconded by Ms Humphries, the Board voted unanimously to approve the Asset Allocation Proposal.

Mr Caple reported that during the Executive Session portion of the Investment Committee meeting, T Rowe Price and Legg Mason were removed from the watch list. On motion made by Mr Caple and seconded by Mr Harrison the Board voted unanimously to approve the updated watch list.

The Board accepted Mr Caple's report.

On motion made by Vice Chairman Kopp and seconded by Ms Humphries, the Board voted unanimously to meet in Executive Session, to consider the following matters: obtain legal advice and discussion with staff and counsel regarding potential litigation. State Govt Article, Section 10-508(a)(7) authorizes the Board to meet in closed session to obtain legal advice and Section 10-508(a)(8) authorizes the Board to meet in closed session to consult with staff or other individuals about pending or potential litigation.

EXECUTIVE SESSION

The Board met in Executive Session at 11:15 a.m. in the Boardroom of the SunTrust Building at 120 East Baltimore Street to discuss pending or potential litigation, and to obtain legal advice. All of the persons present at the beginning of the meeting were present in Executive Session except the following: Mary Jo Neville, Maryland State Teachers Association, Anne Gawthrop, Department of Legislative Services, Kay Kimble, Ruth Avent and her attorney Tony Heper. Additionally present were, William Kahn, Principle Counsel of the Contract Litigation unit of the Attorney General's Office, and Dana Reed, Deputy Counsel of the Contract Litigation Unit of the Attorney general's office, and Kathy Morris, Assistant Attorney General, Richard Sod, and Larry Hyatt, of Titan Systems Corporation. The Board adjourned its Executive Session at 2:00 p.m. and returned to regular session to complete the agenda.

Executive Director's 9

Mr Vaughn stated that the Legislative auditors finished their work on November 13, 2002. The field work is complete on both the opinion and compliance audit. The Opinion audit is finalized and awaiting signature. The Compliance audit is in its final review. Mr Vaughn advised the Board to expect a final audit Opinion by the end of November. Attachment D.

Mr Vaughn reviewed the Class action suit policy review with the Board. Mr Vaughn asked the Board to review the updated policy proposal, attached to the Agenda. Mr Vaughn stated cost and budget considerations need to be reviewed as well as the cost benefit of approving the new policy. The Board deferred consideration of this issue.

Mr Vaughn advised the Board that the Agency received an adverse circuit court decision in the case of John Stolz vs the SRPS which was attached to the minutes Mr Vaughn stated that considerations for appeal would be presented by Ms Bacharach in Executive Session

Mr Vaughn updated the Board on improving the teleconferencing system in the Boardroom Mr Vaughn stated that Verizon is the State's contractor for telecommunications Mr Vaughn informed the Board that the cost to improve the system would be \$47,000.00

The Board accepted Mr Vaughn's report

Executive
Committee Report

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Mr Brown Chairman of the Executive Committee reported on the meeting held November 12, 2002

Attachment E

Mr Brown reported on potential cuts to the FY2003 budget He noted that the Board had strongly suggested the Retirement Agency prepare for potential reductions to the FY2003 appropriation and FY2004 budget request He presented information pertaining to potential 2% and 4% reductions to the FY2003 budget identified by staff without reducing permanent positions For reductions greater than 4% positions may have to be eliminated

Mr Brown advised the Executive Committee that the RFP for the fiduciary audit is ready to be issued He stated that it was to be posted in Contract Weekly today and the RFP should be ready to be mailed to various vendors by tomorrow

Mr Brown advised the Board that Mr Vaughn waived the requirement for filing an application for a qualifying approved leave of absence for Aretha Thomas and Joyce A Slacum In accordance with Regulation 22 05 01 03 D(4), Mr Vaughn stated that he reviewed the requests and found good cause for the waivers He asked the Board to ratify his decision

On motion made by Mr Brown and seconded by Major Krome the Board voted unanimously to ratify Mr Vaughn's waiver for good cause on filing an application for a qualified leave of absence for Aretha Thomas and Joyce Slacum

Mr Brown advised the Executive Committee that Mr Vaughn recommended denial of the request of Ms Margaret Whittingham for a hearing concerning the limitation of her earnings for 2001 Ms Whittingham claimed that she was not advised of her earnings limitation at retirement nor prior to re-employment following retirement Mr Brown noted that pension law does not give the Board or the Agency the authority to waive the offset of the excess earnings as Ms Whittingham requests Therefore, granting a hearing would not produce the result she is seeking

On motion made by Mr Brown and seconded by Dr Alemi the Board of Trustees voted unanimously to approve Mr Vaughn's recommendation to deny a hearing for Ms Margaret L. Whittingham

Mr Brown reminded the Board that the current actuarial contract is to end August 4, 2003 unless the Board agrees to accept a 1-year extension included under the existing contract (there are two 1-year extensions available)

The Executive Committee directed Mr Vaughn to invite Mr Kalwarski to attend the December Executive Committee meeting He also is to request Mr Dezube and other representatives for Millman USA to attend the December Board meeting The Committee deferred any action until the December meeting

Mr Brown stated that Mr Howard Pleines presented three proposals for inclusion in the 2003 legislative packet The first involves allowing a limited number of individuals who hold accounts in the Employees' and Teachers' Pension Systems and who enrolled in the Optional Retirement Program (ORP) to elect a lump sum benefit in lieu of a small monthly allowance

Mr Brown stated that the second proposal is a technical correction The current transfer law (Title 37) does not specifically state that members may transfer service credits to the enhanced Law Enforcement Officers' Pension System This proposal would clarify that they are permitted to transfer service credits

The third proposal would be introduced only if the Board's proposal to permit retirees to work for any participating employer, including the one from which the individuals retired, without an earnings limitation is rejected by the Joint Committee on Pensions Retirees of the Local Fire and Police System are subject to an earnings limitation if they are employed after retirement by any employer that participates in the State Pension or Retirement System This proposal would correct this inequity, which staff believes was an oversight

On motion made by Mr Brown and seconded by Dr Alemi the Board voted unanimously to accept the Executive Committee recommendation to the Board of Trustees that the three proposals noted above be included in the Board's 2002 legislative packet

Mr Brown noted that Mr Peter Vaughn indicated that legal staff had prepared information related to amending pension law to permit the Board to delegate resolving disability cases He indicated that if this proposal was to be included with the 2003 legislative proposals, it should be considered today The Committee agreed to hold the issue and discuss possible solutions at a future meeting

The Board accepted Mr Brown's report

Committee and
Sub-Committee Reports
and Recommendations

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Vice Chairman Kopp stated that the Board continues to be pleased with the work of the Public Information Officer

Dr. Alemi stated that he would like to see some action regarding the Benefit Improvement Sub-Committee. Mr. Harrison stated that he would like to meet with Governor-elect Ehrlich or his staff to discuss this issue and determine what his ideas are for benefit improvement.

Supplemental
Disability Offset

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The Board, on motion made by Dr. Grasmuck and seconded by Mr. Brown, authorized the reduction of the pensions of affected retirees as provided for under the current law (State Personnel and Pensions Article), effective July 1, 1990. The offsets are based on calendar 2001 earnings that will be offset from pension benefits paid in fiscal year 2003.

Attachment F

Medical Board
Reports

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On motion by Mr. Lancaster and seconded by Mr. Brown, the Board accepted the reports of the Medical Board in connection with applications of members for ordinary, accidental, and special retirement allowances.

Attachment G

Supplemental Medical
Reports

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On motion by Mr. Lancaster and seconded by Ms. Humphries, the Board accepted the supplemental reports of the Medical Board in connection with applications of members for ordinary, accidental and special retirement allowances.

Attachment H

On motion made by Mr. Brown and seconded by Major Krome, the Board voted unanimously to meet in Executive Session, to consider the following matters: deliberations regarding the disability appeals, obtain legal advice and discussion with staff and counsel regarding potential litigation. State Govt. Article, Section 10-503(a)(1) authorizes the Board to meet in closed session to exercise a quasi-judicial function. Section 10-508(a)(7) authorizes the Board to meet in closed session to obtain legal advice, and Section 10-508(a)(8) authorizes the Board to meet in closed session to consult with staff or other individuals about pending or potential litigation.

EXECUTIVE SESSION

The Board met in Executive Session at 3:00 p.m. in the Boardroom of the SunTrust Building at 120 East Baltimore Street to consider the appeals of Kay Kimble, Mary Buckham, Ruth Avent, and Caroline Payne, to discuss pending or potential litigation, to obtain legal advice. All of the persons present at the beginning of the meeting were present in Executive Session except the following: Mary Jo Neville, Maryland State Teachers Association, Anne Gawthrop, Department of Legislative Services, Kay Kimble, Ruth Avent and her attorney Tony Heper. The Board adjourned its Executive Session at 3:40 p.m. and returned to regular session to complete the agenda.

REGULAR SESSION

Kay Kimble

The Board considered the record of Kay Kimble Following a discussion, on motion made by Major Krome and seconded by Vice Chairman Kopp the Board voted to reject the Administrative Law Judge's decision and grant Ms Kimble accidental disability benefits with a vote of seven yeas one nay, and one abstention Chairman Schaefer, Colonel Mitchell, Major Krome, Dr Alemi, and Messrs Lancaster, Brown, and Harrison registered yea votes Vice Chairman Kopp, registered a nay vote, Ms Humphries abstained

Mary Buckham

The Board considered the record of Mary Buckham Following a discussion, on motion made by Major Krome and seconded by Mr Brown the Board voted to adopt the Administrative Law Judge's Proposed Findings of Fact and Conclusions of Law and deny Ms Buckham's request for accidental disability retirement benefits with a vote of 8 to 1 Chairman Schaefer, Vice Chairman Kopp Colonel Mitchell, Major Krome, Ms Humphries, Messrs Lancaster, Brown, and Harrison registered yea votes Dr Alemi, registered a nay vote

Ruth Avent

The Board considered the record of Ruth Avent Following a discussion, a motion was made by Dr Alemi and duly seconded to reject the Administrative Law Judge's decision and grant Ms Avent ordinary disability benefits The motion failed with a vote of 1 to 8 Dr Alemi, registered a yea vote Chairman Schaefer, Vice Chairman Kopp, Colonel Mitchell, Major Krome, Ms Humphries, Messrs Lancaster, Brown, and Harrison registered nay votes

On motion made by Mr Brown and seconded by Mr Harrison, the Board voted to adopt the Administrative Law Judges decision and deny Ms Avent's request for ordinary disability with a vote of 8 to 1 Chairman Schaefer, Vice Chairman Kopp, Colonel Mitchell, Major Krome, Ms Humphries, Messrs Lancaster, Brown, and Harrison registered yea votes Dr Alemi, registered a nay vote

Caroline Payne

The Board considered the record of Caroline Payne Following a discussion, on motion made by Ms Humphries and seconded by Colonel Mitchell the Board voted to adopt the Administrative Law Judge's Proposed Findings of Fact and Conclusions of Law and deny Ms Buckham's request for accidental disability retirement benefits with a vote of 8 to 1 Chairman Schaefer, Vice Chairman Kopp, Colonel Mitchell, Major Krome, Ms Humphries, Messrs Lancaster, Brown, and Harrison registered yea votes Dr Alemi abstained

Other Business

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Adjournment

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There being no further business, the meeting adjourned at 3 40 p m

Peter Vaughn
Secretary to the Board
