

**MINUTES OF THE MEETING OF THE BOARD OF TRUSTEES
OF THE
TAMPA FIREFIGHTERS & POLICE OFFICERS PENSION BOARD
3001 North Boulevard
Tampa, FL 33603 (813) 274-8550
Thursday, January 27, 2005 1:30 p.m.**

The Board of Trustees of the City Pension Fund for Firefighters and Police Officers in the City of Tampa met in the Pension Office Conference Room on Thursday, January 27, 2005 at 1:30 p.m. for a regular meeting with the following members present:

Marc Hamlin, Chairman
Ron Ibarra, Secretary
Dan Lombard
Patrick Lynch

Jimmy Meier
Cynthia Miller
John Moors
Tracy Walker

Also present were James B. Loper - Board Counsel, Jay Bowen – Investment Manager, Mark Lenker – External CPA, Dr. James Hillman, Medical Director, Dr. Cynthia Lewis-Younger, Associate Medical Director, and active and retired plan members.

Introduction and welcome of new police officer elected trustee Jimmy Meier.

Minutes

1. Approval of minutes of December 16, 2004 Regular Board Meeting. **It was moved by Ms. Miller, seconded by Mr. Moors and by unanimous vote to approve the minutes of the December 16, 2004 regular board meeting as written.**

Consent Agenda Items on the consent agenda shall be acted upon in one motion. If an item requires additional discussion, that item shall be removed from the consent agenda for discussion. [Items 2 – 9] **It was moved by Ms. Miller, seconded by Mr. Walker and by unanimous vote to approve the Consent Agenda, items 2 – 9.**

2. Ratified pension benefits.
3. Admitted Tampa Police Department members to pension fund effective 1/31/2005 contingent upon: 1) furnishing a list of all medical providers and authorizations to obtain such medical records; and 2) passing a complete medical examination:

	DOB	Age
Brennan, James R.	11/28/1970	34
Florence, William C.	12/13/1963	41
Gadoury, Shane D.	01/31/1975	30
Griner, Richard W.	02/24/1973	31
Kohler, Thomas W.	09/12/1974	30
Messmer, Patrick R.	10/29/1979	25
Petry, Phillip L.	10/03/1967	38
Powell, Keith C.	02/24/1978	26
Ridgway, Mathew B.	06/30/1976	28
Schlemmer, John T.	08/02/1966	38

Sosa-Regula, Whitney	05/04/1972	32
Thiel, Alexander S.	09/25/1981	23

4. Congratulated John Moors, Director of Tampa Convention Center for receiving “Planners’ Choice Award”. Noted receipt of *Tampa News* “Tampa Convention Center Wins National Award” article from December 2004 issue.
5. Approved payment to James B. Loper for legal services rendered during December 2004 in the amounts of:
 - a. \$3,538.02 for general counsel services
 - b. \$574.00 for Mashburn appeal
 - c. \$647.59 for retiree’s litigation
 - d. \$102.65 for Youngblood appeal
6. Approved payment to Womble Carlyle Sandridge & Rice in the amount of \$466.00 for legal services rendered during November 2004 in connection with Rock Creek Center.
7. Noted receipt of notice canceling Investment Committee meeting on 1/27/2005 at 12:00 noon. To be tentatively rescheduled to April 28, 2005 at noon prior to 1:30 p.m. board meeting.
8. Noted that Committee #2 meeting has been scheduled for Friday 2/25/2005 at 1:00 p.m. in the pension office conference room. Topics: remarriage after retirement and website.
9. Noted receipt of letter dated 1/13/2005 from Tampa Retired Fire Fighters Association, Inc. inviting trustees to attend General Membership Meeting with guest speaker Jay Bowen on 1/27/2005 at 7:00 p.m. at the Firemen’s Benevolent Association Hall located at 201 E. Yukon Street, Tampa, FL.

Investment Management Presentation by Jay Bowen of Bowen, Hanes & Co.

10. Noted receipt of Bowen, Hanes & Co. investment management report for the month ended 12/31/2004, investment return of +9.4% for this fiscal year, total market value of *investments* as of 12/31/2004 \$1,253,714,218. Mr. Bowen reviewed the investment performance of the portfolio and the firm’s view on national and global economic conditions. Mr. Bowen responded to questions from the Board. **It was moved by Ms. Miller, seconded by Mr. Lynch and by unanimous vote to receive and file the investment management report by Mr. Bowen.**

[Mr. Walker stepped out of the meeting at 1:45 pm]

11. Noted receipt of letter dated 1/12/2005 from Jay Bowen of Bowen, Hanes & Co. proposing amendment to fee schedule of 25 basis points on entire portfolio instead of 25 basis points on first billion and 22.5 basis points on second billion. Mr. Bowen reviewed his request of the board. After discussion, **it was moved by Mr. Ibarra, seconded by Mr. Lynch that the Bowen, Hanes & Company proposed amendment to the fee schedule of 25 basis points on the entire portfolio be approved. Upon voting, motion carried by a vote of 6 – 1 with Mr. Hamlin, Mr. Ibarra, Mr. Lombard, Mr. Lynch, Mr. Meier, and Ms. Miller in favor of the motion, and Mr. Moors opposed to the motion.**

[Mr. Walker returned to the meeting at 2:00 pm]

Financial Statement Presentation by Mark Lenker of Nobles, Decker, Lenker & Cardoso

12. Noted receipt of financial statements prepared by Nobles, Decker, Lenker & Cardoso for the months ended:

- a. 11/30/2004 - total value of *assets* as of 11/30/2004 \$1,224,851,042
- b. 12/31/2004 – total value of *assets* as of 12/31/2004 \$1,257,173,632

Mr. Lenker reviewed the financial statements for the quarter ended 12/31/2004, noting the differences between the NDL&C financials and the BH&Co. investment management report, including accruals, pending trades and reporting of assets vs. investments. **It was moved by Mr. Ibarra, seconded by Mr. Walker and by unanimous vote to receive and file the financial statements for November and December 2004 and the report by Mr. Lenker.**

13. DROP status report

- a. 170 DROP statements sent out prior to 12/31/2004
- b. 38 rollovers / lump sum distributions processed by 12/31/2004
- c. Total rollovers/distributions as of 12/31/2004 \$5.7 million

Mr. Lenker reported that the DROP statements and rollovers had been accomplished in a timely fashion and thanked staff for their commitment and for a job well done on DROP, particularly given a very short turnaround timeframe on the statement and calculations and narrow window to meet the custodian's deadlines. Mr. Hamlin added his thanks to staff and Mr. Lenker, noting that he had received no complaints on this year's DROP. Mr. Lenker also reported that the DROP administrative fee forecast was very close to actual DROP expenses incurred. **It was moved by Mr. Lynch, seconded by Mr. Ibarra and by unanimous vote to receive and file item 13.**

Medical Issues

14. Authorized replacement of orthopedic medical board member Dr. Fishalow by Dr. Brainard as recommended by Medical Director for disability applicant James Bowers, TPD due to scheduling issues. **It was moved by Mr. Ibarra, seconded by Mr. Lynch and by unanimous vote to authorize the replacement of medical board member Dr. Fishalow by Dr. Brainard as recommended by the Medical Director for disability applicant James Bowers, TPD due to scheduling issues.**

15. Authorized referral to orthopedic medical board composed of Dr. Fishalow, Dr. Kriz and Dr. Companioni as recommended by Medical Director for James Zipler, TPD. Noted receipt of disability application, qualifying letter, notice of injury(ies), pre-employment physical, job description and disability application timeline. **It was moved by Mr. Walker, seconded by Mr. Ibarra and by unanimous vote to authorize referral to orthopedic medical board composed by Dr. Fishalow, Dr. Kriz and Dr. Companioni as recommended by Medical Director for James Zipler, TPD.**

Mr. Hamlin asked Mr. Loper to review the heart and lung presumption as there is a new trustee on the board.

16. Continuation of Initial Hearing for LOD disability applicant, D. Smith, TPD. Evaluated by replacement third cardiac medical board member Dr. Dormois. Noted receipt of Medical Board reports, Medical Director's summary, disability application, qualifying letter, notice of injury(ies), pre-employment physical, job description and disability application timeline. Mr. Smith was sworn in. Trustees posed questions of the Associate Medical Director Dr. Cynthia Lewis-Younger. Additional testing, such as a perfusion study recommended by Dr. Dormois was discussed. Ms. Miller asked Mr. Loper to review the board policy on burden of proof and objective medical evidence. Mr. Loper reviewed P&P 402 B – Burden of Proof in Disability Retirement. Ms. Miller asked Mr. Loper to review the options available to Mr. Smith should his disability application be denied at the initial hearing, and Mr. Loper responded that Mr. Smith has the opportunity to request a full hearing and to provide additional evidence at that time. **It was moved by Ms. Miller, seconded by Mr. Ibarra and by unanimous vote to deny the disability application of Mr. Smith that based upon the medical evidence Mr. Smith is not permanently incapacitated from the regular and continuous duties of a police officer.**

17. Initial hearing for LOD disability applicant Julia Sackett, TFR. Noted receipt of Medical Board reports, Medical Director's summary, disability application, qualifying letter, notice of injury(ies), pre-employment physical, job description and disability application timeline. Ms. Sackett was sworn in. Trustees posed questions of the Medical Director Dr. James Hillman. **It was moved by Mr. Moors, seconded by Mr. Lombard that the board finds that based upon the medical evidence, Ms. Sackett is permanently incapacitated from the regular and continuous duties of a firefighter. Upon voting, the motion carried by a vote of 7 – 1 with Mr. Hamlin, Mr. Moors, Mr. Lombard, Mr. Lynch, Mr. Meier, Ms. Miller and Mr. Walker in favor of the motion and Mr. Ibarra opposed to the motion. It was moved by Mr. Moors, seconded by Mr. Lombard that the back disability be found to have been incurred in the line of duty. Upon voting, motion carried by a vote of 5 – 3 with Mr. Lombard, Mr. Meier, Ms. Miller, Mr. Moors and Mr. Walker in favor of the motion, and Mr. Hamlin, Mr. Ibarra and Mr. Lynch opposed to the motion. It was moved by Mr. Moors, seconded by Mr. Lombard that the board grant a line of duty back disability for Ms. Sackett effective close of business today. Upon voting, motion carried by a vote of 5 – 3 with Mr. Lombard, Mr. Meier, Ms. Miller, Mr. Moors and Mr. Walker in favor of the motion, and Mr. Hamlin, Mr. Ibarra and Mr. Lynch opposed to the motion.**

18. Noted receipt of disability application process displayed graphically with status of 8 applicants currently in process. Ms. Campbell noted that one applicant remains at the beginning of the process, as had been the case for several months due to an unacceptable qualifying letter from a medical doctor, a matter communicated repeatedly to the applicant. **It was moved by Mr. Lynch, seconded by Ms. Miller and by unanimous vote to receive and file item 18.**

19. Disability Re-evaluations
 - a. Noted receipt of Status/Update as of 1/20/2005
 - b. Noted receipt of Continuing Disability Review for R. Musumeci prepared by Medical Director.
 - c. Noted receipt of Continuing Disability Review for G. Daves prepared by Medical Director. **It was moved by Mr. Lynch, seconded by Mr. Ibarra and by unanimous vote to receive and file items 19a-19c.**
 - d. Noted receipt of letter received 1/18/2005 from disability re-evaluation Deborah Dunn, TPD LOD retiree regarding disability re-evaluation appointments with Medical Director and

Occupational Therapist specializing in hand function, prefers to be evaluated in North Carolina rather than Tampa. Dr. Lewis-Younger reviewed the previous recommendations to the board that the board had approved. Ms. Campbell reviewed this matter from an administrative standpoint, noting that Ms. Dunn's initial disability re-evaluation did not include a continuing disability letter from a treating physician of Ms. Dunn, despite the board's policy to pay up to \$50 for that letter, and that no medical records or insurance coverage were disclosed. Ms. Campbell and Dr. Lewis-Younger reminded the board that it was the complete lack of any objective medical information that led to the recommendation to be seen by the Medical Director at board expense. Logistics of conducting an evaluation in another state where doctors are not familiar with the Tampa F&P medical requirements and pension plan disability and disability re-evaluation provisions were discussed. Mr. Loper also noted that board P&P regarding disability re-evaluations of disability pensioners out of the Tampa area provides that the board pay for the travel to Tampa. It was noted that since Ms. Dunn is to be seen only by the Medical Director and Occupational Therapist specializing in hand function, that those two appointments could likely be accomplished within the same day, including travel, if Ms. Dunn were to fly to Tampa in the morning, be seen for both appointments, and fly back to North Carolina that afternoon or evening. **It was moved by Mr. Lynch, seconded by Mr. Walker and by unanimous vote that Ms. Dunn's request to be evaluated in North Carolina be denied, that Ms. Dunn be evaluated in Tampa, Florida by the Medical Director and Occupational Therapist specializing in hand functions within 28 days at board expense, and that should Ms. Dunn fail to comply, that the Board proceed with the suspension of pension benefits for failure to comply at the 2/24/2005 board meeting.**

[Recess 3:00 – 3:05 pm]

20. Medical Records review of officer Kimberly L. Jones, TPD.

- a. Noted receipt of Medical Records Review Form dated 12/21/2004 prepared by Dr. Lewis-Younger.
- b. Noted receipt of letter dated 12/21/2004 from Dr. Lewis-Younger to TPD.
- c. Noted receipt of memo from Plan Administrator dated 1/20/2005 with attachments and recommendations.
- d. Noted receipt of excerpt from pension contract regarding medical records, medical board and policy authority, specifically sections 4, 5(H) and 13.
- e. Noted receipt of P&P 201 Medical Examination New Pension Fund Applicants.
- f. Noted receipt of Acknowledgment form signed by new hires regarding admission to fund with contingencies.

It was moved by Mr. Lynch, seconded by Mr. Moors and by unanimous vote to receive and file items 20a – 20f. Dr. Lewis-Younger reviewed the Medical Records Review Form and letter to TPD dated 12/21/2004 citing public safety concerns and responded to questions from the board. Ms. Campbell reviewed the process by which medical records are gathered, including the board's authority in this matter as outlined in items 20d-20f. There was discussion regarding the length of time in obtaining all of the medical records, both disclosed and undisclosed, as well as HIPAA regulations that affected the length of time in this situation. Ms. Campbell recommended that the board accept the recommendations as outlined in 20c. Ms. Miller asked Mr. Loper and Dr. Lewis-Younger if they concurred with the recommendations as set forth in item 20c, and both advised that they did concur. **It was moved by Ms. Miller, seconded by Mr. Meier that the board accept the recommendations of the plan administrator, with the concurrence of board counsel and**

medical director, as outlined in the 1/20/2005 memo contained in item 20c, that the board: 1) schedule a fitness for duty / complete medical examination for Ofc. Jones by the Medical Director immediately to determine current medical status; 2) concurrently have F&P staff obtain medical records from the last two years to the present to be provided to the Medical Director for review; and 3) authorize referral for medical evaluations by the following specialists if so recommended by the Medical Director based upon the current medical exam: a) orthopedist; b) psychiatrist; and c) neurologist. Upon voting, motion carried by a vote of 7 – 1 with Mr. Hamlin, Mr. Ibarra, Mr. Lombard, Mr. Lynch, Mr. Meier, Ms. Miller and Mr. Moors in favor of the motion and Mr. Walker opposed to the motion.

Old Business

21. Retiree's declaratory action. No action requested. For information purposes only due to pending litigation.
- Noted receipt of letter dated 12/17/2004 from J. B. Loper to Carrington & Carrington regarding scheduling of hearing before Judge Arnold.
 - Noted receipt of letter dated 12/20/2004 from J. B. Loper regarding multiple issues, including scheduling of hearing before Judge Arnold on Friday 1/28/2005 at 1:30 p.m.
 - Noted receipt of letter dated 1/17/2005 from J. B. Loper regarding Notice of Serving Trustees' Second Set of Interrogatories to Plaintiff Retiree's' Association.
 - Noted receipt of letter dated 1/18/2005 from J. B. Loper regarding Third Amended Complaint for Declaratory Judgment, 1/28/2005 status conference and potential scheduling.
- It was moved by Mr. Moors, seconded by Ms. Miller and by unanimous vote to receive and file items 21a-21d.**
22. Taylor v. Sloan Income Deduction Order research. Noted receipt of letter dated 1/20/2005 from J. B. Loper with results of research to date in this matter. **It was moved by Mr. Moors, seconded by Mr. Ibarra and by unanimous vote to receive and file item 22.** Ms. Campbell noted that this is now a moot issue as Mr. Sloan has taken a refund of contributions without interest.

New Business

23. Noted receipt of Rock Creek Center quarterly report for October, November, December 2004 prepared by Mike Hendren. Mr. Lynch reported as Rock Creek Center Chair. **It was moved by Mr. Ibarra, seconded by Mr. Lombard and by unanimous vote to receive and file item 23.**
24. Noted receipt of letter dated 1/6/2005 from J. B. Loper to Clerk of Court regarding Motion for Summary Judgment to Dissolve Writ of Garnishment in the matter of Hapner v. Rockhill. (F&P Pension office received writ of garnishment from pension benefits of P. Rockhill -- pension benefits are not assignable or subject to garnishment as per pension contract/special act.) **It was moved by Ms. Miller, seconded by Mr. Lynch and by unanimous vote to receive and file item 24.**
25. Noted receipt of listing of upcoming conferences. Disclosure of planned attendance, if any. Mr. Meier advised that he planned to attend the FPPTA trustees school in February, and Mr. Lombard and Mr. Walker advised that they would be unable to attend the FPPTA trustees school as previously disclosed. Mr. Moors advised that he will attend the February FPPTA trustees school in

February. **It was moved by Mr. Ibarra, seconded by Mr. Lynch and by unanimous vote to receive and file item 25.**

26. Chairman's report - Plan Administrator annual performance evaluation and recommended merit increase. Mr. Hamlin reported that the annual performance evaluation of the Plan Administrator had been completed and recommended a 4.6% merit increase. **It was moved by Mr. Lynch, seconded by Mr. Moors and by unanimous vote to approve a 4.6% merit increase for the plan administrator.**

27. Plan Administration

Noted remainder of 2005 schedule

February 24, 2005	1:30 p.m.
March 24, 2005	1:30 p.m.
April 28, 2005	1:30 p.m.
May 26, 2005	1:30 p.m.
June 23, 2005	1:30 p.m.
July 28, 2005	1:30 p.m.
August 25, 2005	1:30 p.m.
September 22, 2005	1:30 p.m.
October 27, 2005	1:30 p.m.
November 17, 2005	1:30 p.m.
December 15, 2005	1:30 p.m.

The meeting was adjourned at 3:45 pm.

Notice

Any person who desires to appeal any decision of the Board of Trustees with respect to any matter considered at this Board meeting will need a record of the proceedings and for this purpose, may need to ensure that a verbatim record of the proceedings is made which includes testimony and evidence upon which the appeal is based.

February 24, 2005 board meeting: It was moved by Mr. Ibarra, seconded by Mr. Lynch and by unanimous vote to approve the minutes of the January 27, 2005 board meeting as written.