

**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, September 22, 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, September 22, 2005 at 1:30 p.m. for a regular meeting with the following members present:

Marc Hamlin, Chairman
Eric Hull, Vice Chairman
Ron Ibarra, Secretary
Dan Lombard

Patrick Lynch
Jimmy Meier
Cynthia Miller
John Moors

Also present were Mark Lenker – Nobles, Decker, Lenker & Cardoso, James B. Loper – Board Counsel, Dr. James Hillman - Medical Director, and Dr. Cynthia Lewis-Younger – Associate Medical Director, and active and retired plan members.

Minutes

1. Approval of minutes of August 25, 2005 Regular Board Meeting. **It was moved by Mr. Lynch, seconded by Mr. Moors, and by unanimous vote to approve the minutes of the August 25, 2005 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 Mr. Lynch, seconded by Ms. Miller 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 9/19/2005 contingent upon: 1) furnishing a list of all medical providers and authorizations to obtain such medical records; and 2) passing a complete medical examination:
 - Patrick E. Maher
 - Sarah E. Small
 - Bryan A. Baldie
 - Michael J. White
 - Jamie Lynn Pope
 - Nicholas Wilson
 - Jeffrey A. Bartlett
4. Noted receipt of monthly financial statements prepared by Mark Lenker of Nobles, Decker, Lenker & Cardoso. Total market value of *assets* as of 7/31/2005 \$1,330,160,442.

5. Noted receipt of Bowen, Hanes & Co. investment management report for the month ended 8/31/2005, investment return of +17.8% for this fiscal year, total market value of *investments* as of 8/31/2005 \$1,335,556,179.
6. Approved payment to James B. Loper for legal services rendered during August 2005 in the amounts of:
 - a. \$3,507.00 for general counsel services
 - b. \$5,770.39 for retiree's litigation
7. Approved payment to Womble, Carlisle for legal services rendered during July and August, 2005 in connection with Rock Creek Center:
 - a. \$4,146.40 in July
 - b. \$320.47 in August
8. Noted receipt of independent property appraisal of Rock Creek Center prepared by Dick Foster of Foster Rich & Company received 9/14/2005.
9. Noted trustee election results for the terms beginning November 1, 2005 and ending October 31, 2008.
 - a. Congratulations to Marc J. Hamlin who was unopposed.
 - b. Congratulations and welcome to Mark S. Bogush who was unopposed.

Medical Issues

[Mr. Ibarra entered the meeting at 1:40 p.m.]

10. Initial hearing for James Zipler, TPD LOD disability applicant. 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. Zipler was sworn in and responded to questions from the board. The Medical Directors responded to questions from the board. After discussion, **it was moved by Mr. Lombard, seconded by Mr. Meier that Mr. Zipler does have a shoulder disability that permanently incapacitates him from the regular and continuous duties of a police officer. Upon voting, motion carried by a vote of 6-2, with Mr. Hamlin, Mr. Ibarra, Mr. Lombard, Mr. Meier, Ms. Miller, and Mr. Moors in favor of the motion, and Mr. Hull and Mr. Lynch opposed to the motion. It was moved by Mr. Lombard, seconded by Mr. Meier that the disability was incurred in the service. After extensive discussion, questions of Mr. Zipler and the Medical Directors, and of Board Counsel regarding board policy and procedures, and call for the question, the motion did not carry by a vote of 4-4, with Mr. Hamlin, Mr. Ibarra, Mr. Lombard, and Mr. Meier in favor of the motion and Mr. Hull, Mr. Lynch, Ms. Miller, and Mr. Moors opposed to the motion.** Since the motion failed to carry by five affirmative votes, Mr. Zipler was advised that he remains in the initial hearing phase and was encouraged to produce additional documentation such as witness affidavits supporting the line of duty nature of his disability.
11. Initial hearing for Steven Moores, TPD LOD disability applicant. 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. Hamlin

disclosed that he had ex parte communications with the applicant regarding the disability application process only without discussing any facts or merits of the case. Mr. Moores was sworn in and responded to questions from the board. Board members also posed questions to the Medical Directors. After discussion, **it was moved by Mr. Meier, seconded by Mr. Hull and by unanimous vote that Mr. Moores does have a knee disability that permanently incapacitates him from the regular and continuous duties of a police officer. It was moved by Mr. Meier, seconded by Mr. Lynch and by unanimous vote that the disability was incurred in the service. It was moved by Mr. Meier, seconded by Mr. Lynch and by unanimous vote to grant Mr. Moores a line of duty disability effective close of business today.**

12. Noted receipt of draft proposed revisions to vision guidelines. Slight modifications proposed by TFR to be more NFPA-conformant in conjunction with a new form and process being created by TFR personnel. Medical Director reviewed medical portion, evaluated against existing approved medical standards, recommended greater clarity and more specific definitions. Captain Mauger of TFR personnel discussed possible revisions to vision guidelines for firefighters as proposed by TFR. Dr. Lewis-Younger explained the research and evaluation process and recommended greater clarity and more specific definitions throughout the vision standards. Ms. Campbell advised that she had been requested to review some draft employment forms by Captain Mauger which included NFPA vision standards. Ms Campbell explained that the existing vision standards as set forth by the Board of Trustees under the direction of the Medical Director with input from City of Tampa Personnel, TPD Personnel, and TFR Personnel are part of the overall medical guidelines administered by the Board of Trustees and Medical Director. Ms. Miller recommended that this issue be referred to Committee #1 with involvement of all the previously mentioned involved parties to be brought back before the full board at some point in the future. Ms. Campbell noted that due to competing priorities and difficulty scheduling multiple calendars that this committee meeting would not likely be scheduled until November, December 2005 or after. **It was moved by Ms. Miller, seconded by Mr. Moors and by unanimous vote to refer this matter to Committee #1.**

Old Business

13. Retiree's declaratory action. No action requested. For information purposes only due to pending litigation. Noted receipt of the following:
- Letter dated 8/25/2005 from J. B. Loper transmitting letter from T. Carrington regarding appearances for 8/29/2005 11:00 am hearing (T. Carrington in person, F. Carrington by phone).
 - Letter dated 8/29/2005 from J. B. Loper to defendant witness distribution list regarding scheduling of trial for 10/17/2005 – 10/21/2005 starting at 8:30 a.m. each morning before Judge Stoddard.
 - Letter dated 8/29/2005 from J. B. Loper to T. Carrington regarding Draft of Order Resetting Cause for Trial and Pre-Trial (Non-Jury Trial).
 - Letter dated 9/6/2005 from J. B. Loper to Court transmitting Order Resetting Cause for Trial and Pre-Trial (Non-Jury Trial) accepted by Carrington & Carrington.
 - Fax dated 9/16/2005 from T. Carrington to James Loper regarding no settlement negotiations taking place presently.

It was moved by Ms. Miller, seconded by Mr. Hull and by unanimous vote to receive and file item 13.

14. Noted receipt of article from Tampa Tribune dated 9/11/2005 and correction dated 9/14/2005. **It was moved by Mr. Moors, seconded by Mr. Lynch and by unanimous vote to receive and file item 14.**
15. Rock Creek Center Committee Chair report
 - a. Mr. Lynch reported that the large sale is still anticipated to close by 10/6/05. He distributed a newspaper article regarding the park and noted that the latest RCC Committee meeting minutes would be available for the next board meeting. **It was moved by Mr. Lynch, seconded by Mr. Moors and by unanimous vote to receive and file the RCC Chair's report as item 15a.**
 - b. Mr. Lynch explained that the buyers were interested in some but not all of the furniture in the sales office and that they had written a letter proposing purchasing said furniture for \$100 and that they would cover all repairs to the sale office necessary. **It was moved by Mr. Lynch, seconded by Mr. Meier and by unanimous vote to approve the sale of some of the sales office furniture for \$100.**
 - c. Mr. Lynch reported that the Rock Creek Center Committee recommendation was to extend Mr. Hendren's existing contract by 90 days to accommodate the large sale which would cross over to the new fiscal year, with one additional 90-day extension possible for the sole remaining parcel currently under option to Portrait Homes. **It was moved by Mr. Ibarra, seconded by Mr. Meier and by unanimous vote to approve the contract extension recommendations made by the RCC Committee.** As a point of clarification, Ms. Miller noted that should the large sale close that Mr. Hendren would no longer have a sales office to work from to attempt to complete the Portrait Homes option. Ms. Miller confirmed that there would be no pension fund expenses incurred on Mr. Hendren's behalf for office expenses. Mr. Lynch confirmed that there would be no additional pension fund expenses incurred on behalf of Mr. Hendren for office expenses.
16. Communicating F&P pension contribution rate for the period 10/1/2005 – 9/30/2006 based upon the results of the 10/1/2004 actuarial valuation and the actuarial requirements to maintain the actuarial soundness of the base plan. Noted receipt of email dated 8/26/2005 to TPD sworn personnel. **It was moved by Ms. Miller, seconded by Mr. Moors and by unanimous vote to receive and file item 16.**

New Business

17. Request to address the board by retiree Sam Sinardi regarding 13th check. Noted receipt of fax dated 9/14/2005. Mr. Sinardi advised that his organization represents 300 members who are all concerned about the 13th check status and wants specific answers from the Board of Trustees. Mr. Sinardi said that based on his calculations the June 2006 13th check could potentially be as high as \$6,000 and his organization is being bombarded with questions about it. Mr. Sinardi said that his understanding is that if plaintiffs prevail in this declaratory action, that there would not be a 13th check in June 2006. He asked if the dec action was not resolved by June 2006, would the 13th check be retroactive? Mr. Hamlin stated that there are three conditions that must be met in order for a 13th check to be issued in June 2006: 1) make up the remaining approximately \$1.6 million to the base fund; 2) have an investment return that reaches 11, 12, and 13% after the make up; and 3) the fund must demonstrate cumulative actuarial gains. Mr. Hamlin noted the time frame by which this information will be available: 1) financial statements for the fiscal year ending 9/30/05 will not be prepared by the external CPA and approved by the board until November; 2) the actuarial evaluation for fiscal year ending 9/30/05 to determine "the base plan liabilities for persons eligible for the 13th check" and the

calculation of cumulative actuarial gains or losses will not be prepared, finalized and approved until approximately March or April 2006; and 3) by policy and according to the pension contract, the Board of Trustees will announce the amount of the 13th check, if any, no later than 5/31/06. Therefore, it would be premature and irresponsible to speculate on an amount of a 13th check if any at this time. Mr. Hull said that he is aware of no provision in the pension contract regarding retroactivity of a 13th check. Mr. Loper confirmed that if plaintiffs prevail in the dec action, that it would further delay by a number of years any future potential 13th checks.

18. Noted receipt of proposed draft amendment to Board Policy 307 Definition of “In The Service” Pension Coverage to specifically address disaster relief and recovery, for greater clarity and to eliminate ambiguity.
 - a. Noted receipt of bullet list of specific examples and questions for board discussion.
 - b. Noted receipt of several postings / pleas for assistance in hurricane relief upon which some of the questions in the above bullet list are based.

Ms. Campbell explained that she had been contacted by Captain Mauger, TFR personnel regarding line of duty disability coverage for the Katrina hurricane relief. Ms. Campbell advised that TFR needed an immediate response prior to deciding whether or not to send multiple types of teams for different tasks and entities. Ms. Campbell advised that she conferred with Mr. Loper on board Policy #307 – Definition of “In the Service” Pension Coverage and that both agreed that there was ambiguity and recommended specific language to address disaster relief and recovery, for greater clarity and to eliminate ambiguity. Ms. Miller suggested that this matter be referred to committee for greater research and discussion. Ms. Campbell advised that in light of ongoing disaster relief and recovery and some people making potentially life-altering decisions immediately need greater clarity to assist with their decision making purposes now. For example, FEMA is soliciting for two man teams, and private companies are soliciting for law enforcement officers as well as many other situations as outlined in the handout 18b. Ms. Campbell stated that once a participant enters DROP, that they have no line of duty death or disability coverage whatsoever, as per the pension contract, the DROP application which is signed and notarized and initialed on each page, and the DROP policy. Ms. Campbell advised that the DROP issue had factored into some plan members’ decision making, but that the department needs greater clarity regarding disaster relief and recovery. Ms. Campbell requested that the board consider adopting the proposed amendment to P&P 307 now as prepared by she and Mr. Loper, and to refer items 18a and 18b to committee for greater research and discussion. There was discussion regarding pay status whether someone is paid by the City of Tampa, or paid by a third party, and worker’s comp considerations. **It was moved by Ms. Miller, seconded by Mr. Lynch and by unanimous vote to adopt the proposed draft amendment to P&P 307 with the addition of “and being paid by the City of Tampa.” It was moved by Mr. Lynch, seconded by Mr. Hull and by unanimous vote to refer item 18a to committee. It was moved by Ms. Miller, seconded by Mr. Lynch and by unanimous vote to receive and file item 18b.**
19. Approved annual engagement letter for external audit by KPMG at a cost of \$8,000.00 - completion deadline of 2/17/2006. **It was moved by Mr. Lynch, seconded by Mr. Moors and by unanimous vote to approve the engagement letter as written.**
20. Noted receipt of listing of upcoming conferences. Disclosure of planned attendance, if any. Ms. Miller disclosed she will be attending the Public Funds Roundtable in January. Mr. Hull disclosed that he will not attend the FPPTA conference or the Division of Retirement Conference in October. Mr. Lynch disclosed that he plans to attend the Division of Retirement Conference in October. Mr.

Meier welcomed Mark Bogush as a new trustee and recommended that although he does not take office until November 1, 2005 he be authorized to attend the October conferences. Ms. Miller asked what past practice was in this matter. Ms. Campbell advised that past practice has been to authorize newly seated trustees to attend the October FPPTA Trustees school and the October Division of Retirement schools prior to taking office November 1, as they are valuable training opportunities for new trustees, otherwise they would have to wait until February or March the following year for the next FPPTA or Division of Retirement Conference. **It was moved by Ms. Miller, seconded by Mr. Lynch and by unanimous vote to receive and file item 20 and to authorize any new trustee so interested to attend the October FPPTA or Division of Retirement conferences.**

21. Plan Administration.

- a. 2005 schedule
 - October 27, 2005 1:30 p.m.
 - November 17, 2005 1:30 p.m.
 - December 15, 2005 1:30 p.m.
- b. Ms. Campbell announced that the Board of Trustees prevailed in the Robert Crook forfeiture case, which Mr. Crook had appealed to the Second District Court of Appeals.

The meeting was adjourned at 3:00 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.

November 17, 2005 board meeting: It was moved by Ms. Miller, seconded by Mr. Lynch and by unanimous vote to approve the minutes of the September 22, 2005 board meeting as written.