

**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 28, 2006 1:00 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 28, 2006 at 1:00 p.m. for a regular meeting with the following members present:

Marc Hamlin, Chairman	Sharon Fox
Patrick Lynch, Vice-Chairman	Dan Lombard
John Moors, Secretary	Jimmy Meier
Mark Bogush	Cyndy Miller
	Tracy Walker

Also present were Ron Cohen – Interim General Board Counsel, Dr. Cynthia Lewis-Young, Medical Director & Dr. Bruce Bohnker, Medical Director, and active and retired plan members.

Minutes

1. Approval of minutes of the August 24, 2006 regular board meeting.
 - a. Noted receipt of fax dated 9/28/2006 from J. B. Loper regarding Trustees' Motion for Award of [Taxable] Costs and requesting an amendment to the 8/24/2006 minutes item #20. Mr. Cohen was asked if item #20 in the minutes as written were accurate, and Mr. Cohen responded that the minutes were accurate as written in #20.

Ms. Campbell noted that in #28, the first motion should read "It was moved by Mr. Lynch, seconded by Mr. Walker that the pension board authorize the unions to utilize Buck Consultants for actuarial cost studies for potential benefit improvements. A friendly amendment was recommended 'at no cost to the pension board.' Mr. Lynch withdrew his motion." **It was moved by Mr. Lynch, seconded by Ms. Fox and by unanimous vote to approve the minutes as written with the amendment to the first motion in #28 as discussed.**

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 – 10] Mr. Hamlin advised that he wished to remove items 5 and 5a from the consent agenda for further discussion. **It was moved by Mr. Lynch, seconded by Ms. Miller and by unanimous vote to approve the consent agenda, items 2 – 10, except items 5 and 5a.**

2. Ratified pension benefits.
3. Noted receipt of financial statements for the month ended 7/31/2006 prepared by Mark Lenker of Nobles, Decker, Lenker & Cardoso. Market value of *assets* as of 7/31/2006 \$1,385,693,316.
4. Noted receipt of investment performance report for the month ended August 31, 2006. Market value of *investments* as of 8/31/2006 \$1,403,412,824. Investment performance fiscal year to date as of 8/31/2006 +7.9%.

- a. Noted investment performance for the month ended August 31, 2006 for the 13th check account. Market value as of 8/31/2006 \$8,761,771, yield 4.84% as of 8/31/2006.

[items 5 and 5a were removed from the Consent Agenda]

6. Approved payment to Ronald J. Cohen, P.A. for legal services rendered during August, 2006 in the amounts of:
 - a. \$7,137.50 Retiree's litigation.
 - b. \$8,722.10 General counsel services.
7. Approved payment to Womble, Carlisle for legal services rendered during August 2006 in connection with Rock Creek Center in the amount of \$517.50.
8. Admitted Tampa Police Department members to pension fund effective 8/31/2006 contingent upon: 1) furnishing a list of all medical providers and authorizations to obtain such medical records; and 2) passing a complete medical examination:

Mark T.	Bianchi
Marc J.	Bujnowski
Chris	Cundiff
Warren G.	Boswell
William	Copulos
Timothy G.	Faughnan
Thomas F.	Gilbert
Chad	Smith
Dwayne A.	Dobson

9. Admitted Tampa Police Department members to pension fund effective 9/18/2006 contingent upon: 1) furnishing a list of all medical providers and authorizations to obtain such medical records; and 2) passing a complete medical examination:

David	Bradley
Eliezer	Carrasquillo
Leonard E.	Dehart

10. Noted receipt of results of trustee candidacies for terms 11/1/2006 – 10/31/2009:
 - a. Cynthia Miller has been reappointed by the Mayor.
 - b. Tracy Walker, TFR was unopposed.
 - c. Jimmy Meier, TPD was unopposed.

[items 5 and 5a were removed from the consent agenda for further discussion]

5. Approved payment to James B. Loper for legal services rendered during August 2006 in the amount of \$1,426.46 for Retiree's litigation. [contract expired 6/30/2006, not renewed] Noted receipt of 13 page fax dated 9/21/2006 including invoice and supporting documentation.

- a. Noted receipt of letter dated 9/25/2006 from Mr. Hamlin to Mr. Loper advising that any future billable work on the Tampa F&P account must be authorized in advance by the Chairman, which has been discussed and agreed upon with Mr. Cohen and Mr. Gonyea.

It was moved by Ms. Miller, seconded by Mr. Walker and by unanimous vote to approve items 5 and 5a.

Medical Disabilities

11. Initial hearing for LOD disability applicant J. Dickie, TPD. Noted receipt of Medical Director's summary, Medical Board reports, disability application, qualifying letter, notice of injury(ies), summary review outline, pre-employment physical, job description, and disability application timeline. Ms. Dickie was sworn in to responded to questions from the board. Mr. Lynch disclosed that Ms. Dickie is his supervisor as well as a personal friend and that they have discussed the disability process, but not the merits of the case. Mr. Meier made a similar disclosure that Ms. Dickie is a personal friend but they had not discussed the merits of the case. **It was moved by Ms. Miller, seconded by Mr. Lombard and by unanimous vote that the board finds that Ms. Dickie is permanently incapacitated physically from the regular and continuous duties of a police officer. It was moved by Ms. Miller, seconded by Ms. Fox and by unanimous vote that the board finds that the disability was incurred in the line of duty. It was moved by Ms. Miller, seconded by Mr. Lombard and by unanimous vote to grant Ms. Dickie a line of duty disability for shoulder injuries effective close of business today.**
12. Bi-ennial disability re-evaluation project
 - a. Results of research by interim general board counsel into due process issues. Recommends policy revisions to P&P 108, 409, and 801 - for clarity – recommend deferral until October board meeting after appellate brief has been filed. **It was moved by Mr. Lynch, seconded by Ms. Miller and by unanimous vote to receive and file item 12a and to defer the item until after the appellate brief has been filed.**
 - b. T. R. Higgins – Results into research of exception granted by prior plan administrator. Noted receipt of Medical Director's Medical Records Review form finding continuing disability and unlikelihood to pass new hire medical exam. No further action recommended. Ms. Campbell advised that a certified letter was not sent to T. R. Higgins in light of the due process question, which has been deferred. Ms. Campbell explained that based upon the review of the file and discussions with T. R. Higgins that an exception had been granted by the previous plan administrator wherein T. R. Higgins submitted a customized authorization to release medical records, and records provided to the Medical Director were limited. Ms. Campbell advised that she provided the Medical Director with the medical records in the area of disability that the pension office had received to date for the Medical Director's review and to determine if additional records may be necessary to establish a continuing disability. The records provided were sufficient for the Medical Director to make his determination. Ms. Campbell thanked Dr. Bohnker for his prompt review and response, noting that the Medical Director's Medical Records Review form indicates a finding of continuing disability and unlikelihood that T. R. Higgins would pass a new hire medical examination, and recommended that no further action be taken in this matter. **It was moved by Mr. Lynch, seconded by Ms. Fox and by unanimous vote to receive and file item 12b and to take no further action in this matter.**
 - c. Noted that all other disability re-evaluations had been submitted to Medical Director for review, results/recommendations due by October board meeting. Ms. Campbell noted that all

of the re-evaluations had been received today from Dr. Bohnker, that they will be on the next agenda for board approval, and thanked Dr. Bohnker for his prompt turnaround of these disability re-evaluations.

Old Business

13. Retiree's declaratory action. No action requested due to pending litigation/appeal. Noted receipt of the following:
- a. Letter dated 8/30/2006 from Chairman to J. B. Loper regarding withdrawal from representation and transition as directed by the board at 8/24/2006 meeting.
 - b. Email dated 8/30/2006 from R. Cohen to J. B. Loper requesting all remaining material to be copied by an external copy service with payment to copy service to be made directly by R. Cohen.
 - c. Letter dated 9/6/2006 from J. B. Loper to R. Cohen regarding R. Cohen making own arrangements to have file copied by external copy service.
 - d. Letter dated 8/31/2006 from R. Cohen to J. B. Loper regarding motion to withdraw.
 - e. Letter dated 9/1/2006 from J. B. Loper to Second District Court of Appeals transmitting Motion to Withdraw.
 - f. Letter dated 9/13/2006 from J. B. Loper to Second DCA transmitting Stipulation for Substitution of Counsel and copy of Order Permitting Substitution of Counsel signed by Judge Stoddard in circuit court.
 - g. Appellant's Motion to Exceed Page Limit submitted by Carrington & Carrington on 9/5/2006 to Second DCA.
 - h. Order of the Second District Court of Appeals dated 9/22/2006 granting Attorney Loper's motion to withdraw as counsel; denying TRF&PA's motion to exceed page limit; striking the TRF&PA's initial brief; and directing that an initial brief in compliance with the page limit shall be served within 10 days.

It was moved by Ms. Miller, seconded by Mr. Lynch and by unanimous vote to receive and file items 13a-h.

14. Motion to Tax Costs update by R. Cohen, Litigation Counsel. No action requested due to pending litigation/Motion to Tax Costs. Noted receipt of the following:
- a. Letter dated 8/31/2006 from P. Gonyea transmitting correspondence from Carrington & Carrington regarding Plaintiffs' Motion to Stay the Taxation of Costs.
 - b. Letter dated 9/1/2006 from R. Cohen to Judge Stoddard transmitting Stipulation for Substitution of Counsel.
 - c. Order Permitting Substitution of Counsel on Motion and Stipulation signed by Judge Stoddard on 9/11/2006.

It was moved by Ms. Miller, seconded by Mr. Lynch and by unanimous vote to receive and file item 14.

15. Rock Creek Center Committee report. Mr. Lynch reported that the Rock Creek Center Committee had met earlier today as scheduled. Mr. Lynch explained that Mr. Hendren's Marketing and Management Agreement for Rock Creek Center expires 9/30/2006, and that since a vast majority of the property has been sold, there is no need for a management agreement any longer. Mr. Lynch advised that the committee recommends a simple, straightforward broker agreement for an 8% commission to be split between Mr. Hendren and the buyer's broker to be drafted by Dennis

McNames of Womble Carlisle for the remaining 23 acres, if it does not close prior to 10/31/2006. Mr. Lynch agreed to verify with Mr. McNames that the errors and omissions (E&O) insurance currently held by Mr. Hendren is sufficient if the sale does not close by 10/31/2006. **It was moved by Mr. Lynch, seconded by Ms. Miller and by unanimous vote to receive and file the Rock Creek Center Committee report.**

16. Committee #2 report – RFP for legal services. Committee recommended that full board interview all four (4) respondents to RFP, scheduled for today, 9/28/2006 2:00 – 5:00 p.m. Mr. Walker advised that Committee #2 had met on 9/14/2006 as scheduled and arrived at the consensus that all four respondents to the RFP would be presented to the board for interviews.
17. Status report on KPMG external audit fees. Plan Administrator successfully negotiated fiscal year ending 9/30/2006 external audit fee down from \$17,500 to \$12,000 – a cost savings of \$5,500. Ms. Fox and Mr. Lynch thanked Ms. Campbell for her efforts and cost savings to the fund.
18. Chairman's report. (request received 8/28/2006 am) Mr. Hamlin advised that as agreed upon in the 8/24/2006 board meeting, he had met to review P&P 607 with two F&P staff members, Elizabeth Bass and Kimberly Bogush, on 8/25/2006 and with the other two F&P staff members, Helen Basford and Helena Basford, on 8/28/2006, all of whom signed off on the policy and had no questions for him related to the policy or process. Mr. Hamlin advised that three staff members indicated that the friction between Ms. Bogush and Ms. Campbell is creating an uncomfortable environment, and that all three felt that it was due to Ms. Bogush resisting supervision from Ms. Campbell. Mr. Hamlin advised that this information was not solicited from the three staff members, that it was provided by them voluntarily. Mr. Hamlin advised that all three staff members gave Ms. Campbell a tremendous vote of confidence. Mr. Hamlin advised that he reported these findings to Ms. Campbell and that Ms. Bogush's employment was terminated on 8/28/2006. Mr. Hamlin advised that on 8/29/2006 Ms. Bogush elected to take a deferred retirement so that she could be compensated for one half of her accumulated sick leave. Mr. Hamlin advised that he received an email from Ms. Bogush on 8/30/2006 appealing the personnel action which led to her deferred retirement, and he held a hearing with Ms. Bogush on 9/5/2006 at which time she did not ask for her job back, but rather asked that the personnel action, which had already been changed from a termination to a deferred retirement, be changed to a personal leave of absence. Mr. Hamlin advised that since he is unfamiliar with civilian policy that he contacted Sarah Lang of Human Resources and reviewed the situation and request with her. Mr. Hamlin advised that Ms. Lang stated that it would be highly inappropriate and not good practice, that personal leaves of absence generally require four week's notice, and are not usually used in lieu of a termination. Ms. Lang advised that the change from termination to deferred retirement was reasonable and common practice within the City. Mr. Hamlin advised that he also reviewed this matter with Mr. Cohen; therefore, he, as Chairman, denied Ms. Bogush's request based upon the advice of counsel and Sarah Lang. A certified letter advising such was sent to Ms. Bogush, and she did not request to appeal to the board; thus ending the appeal process as far as P&P 607 is concerned. **It was moved by Mr. Lynch, seconded by Ms. Miller and by unanimous vote to receive and file item 18.**
19. Noted receipt of letter dated 9/5/2006 from K. Harrison of Sugarman & Susskind regarding research results into A. Levine possible forfeiture. Mr. Hamlin pointed out that in Mr. Harrison's opinion, forfeiture is not appropriate at this point because Mr. Levine was not charged with or convicted of a forfeitable offense. **It was moved by Mr. Lynch, seconded by Mr. Walker to**

receive and file item 19. During discussion, it was asked if perhaps additional charges could be filed from the theft from employer aspect due to the TFR bulletproof vests found in Mr. Levine's possession that he admitted belonged to TFR. Mr. Hamlin noted that the current charges filed are far more serious than theft, but he would keep the board apprised if additional charges are filed that may warrant further forfeiture proceedings. **Motion carried by unanimous vote.**

[Mr. Bogush entered the meeting at 1:20 p.m. Mr. Moors entered the meeting at 1:25 p.m.]

20. Request to address the board by K. Durkin, President West Central Florida PBA and L. Parker, President IAFF Local 754 regarding actuarial studies. Noted receipt of letter dated 8/24/2006 from K. Durkin handed out at 8/24/2006 board meeting, redistributed for board convenience. (request received 9/7/2006 at 12:50 pm).

a. Noted receipt of letter dated 9/19/2006 from Buck Consultants to L. Parker, President IAFF Local 754 with fee quotes for eight (8) potential benefit improvement scenarios. (received by pension office 9/20/2006 10:46 am)

There was discussion regarding the eight potential benefit improvement scenarios, the parties that would benefit from these scenarios (active, DROP, retired, or some combination thereof) and Mr. Parker asked the board to consider paying for all of scenarios 3, 6 and 7, and to consider paying for half of scenarios 1 and 4. There was further discussion on the board's role in administering the plan as compared to becoming involved even peripherally with collective bargaining, and going against past practice and precedent wherein the board reimbursed the unions for actuarial studies only upon enactment of a plan change through Tallahassee. Mr. Walker pointed out that the board should have some control in the actuarial process so that it does not run rampant and into the hundreds of thousands of dollars of fees, as had occurred previously when the board had no involvement. **It was moved by Mr. Lynch, that the board pay for one half of items 1, 4 and 7 not to exceed \$5,000. Motion died for lack of a second.** Mr. Hamlin recapped the discussion thus far. **It was moved by Mr. Walker, seconded by Mr. Moors that the board authorize payment for half of scenario 1 and 4, and for all of scenarios 3 6 and 7 not to exceed \$11,500.** There was further discussion regarding the board's role. Ms. Miller wished to state on the record that although she has the utmost respect for retirees and the unions, that this matter is beyond the scope of the board's authority in her opinion. **Upon call for the question, motion carried by a vote of 6 – 3 with Mr. Bogush, Mr. Hamlin, Mr. Lombard, Mr. Meier, Mr. Moors and Mr. Walker voting in favor of the motion, and Ms. Fox, Mr. Lynch and Ms. Miller opposed to the motion.**

New Business

21. Noted receipt of letter dated 8/21/2006 from attorney S. Wenzel representing certain DROP participants withdrawing any threat contained in 7/18/2005 letter to J. Loper and Board of Trustees. (received 8/24/2006 pm) **It was moved by Mr. Lynch, seconded by Ms. Fox and by unanimous vote to receive and file item 21.**

22. Request to address the board retiree K. Maskrey regarding 13th check. (request received 9/1/2006 5:00 pm). Mr. Maskrey asked the board to change their decision on withholding the 13th check because it would do so much to help retirees who are struggling to make ends meet in this ever increasingly expensive world. Mr. Maskrey asked the board to open their hearts and change their minds.

23. Noted receipt of letter dated 9/15/2006 from trustee P. Lynch requesting sending a letter to all eligible plan participants that have not enrolled in one of the optional forms of payment. (request received 9/15/06 2:00 pm) Mr. Lynch noted that there are many plan participants who have not taken advantage of the optional forms of payment who may or may not have a spouse, and suggested sending a letter out reminding them that optional forms are available. Ms. Campbell recommended several approaches to accomplishing such a large project, including sending letters in batches of say 50, working through the alphabet for those with \geq ten years of service and holding small workshops weekly at the pension office for the individualized attention. Ms. Campbell advised that the pension office should not mail out 1,500 letters at once and become overwhelmed at the same time that open enrollment is taking place. Ms. Campbell proposed several alternatives, which would be adjusted after each experience to determine the best, most efficient, and most effective course of action. Mr. Meier and Ms. Fox asked if the optional forms are discussed in new hire orientation, and Ms. Campbell responded that optional forms are not presently covered in depth in new hire orientation—the new hires are already so overwhelmed with the paperwork that they have to complete to sign up for the pension, followed by Employee Relations, the departments, and supply, that she saw little value in further expanding the F&P new hire orientation. Ms. Campbell advised that the optional forms frequently asked questions (FAQ) could be included as part of their take home documentation, and that it could be covered briefly, but brand new hires are rarely in the frame of mind or position to make such an important decision on the spot. Ms. Campbell agreed to supplement the new hire orientation to include optional forms, and committed to continuous process improvement in the larger scale project of \geq 10 years of service as knowledge and experience are gained on how it is received. **It was moved by Ms. Miller, seconded by Mr. Walker and by unanimous vote to delegate the authority and flexibility to the Plan Administrator to accomplish the optional forms of payment coverage project for those with greater than or equal to ten years of credited service in whatever manner she chooses to be completed within nine months with quarterly reports to the board.**

24. Noted receipt of emails and statute excerpts from trustee P. Lynch regarding Automatic External Defibrillator (AED). Trustee Lynch recommends purchase of an AED for the pension office. (request received 9/17/2006 9:47 pm) Ms. Campbell recommended coordinating with TFR supply on the best AED model to purchase and recommended that it be in place by January 2007 with a not to exceed fee of \$5,000 since she understands that new models were coming out in the November, December timeframe. **It was moved by Mr. Lynch, seconded by Ms. Miller and by unanimous vote to authorize the Plan Administrator to purchase an AED for the pension office by January 2007 for a not-to-exceed fee of \$5,000 to include training on its usage for all F&P pension office employees.**

Chairman Hamlin recommended that the remainder of the agenda be deferred until next month as it is now time to switch gears for the legal services presentations beginning at 2:00 p.m. for the responders to the proposal for general board counsel services. Mr. Bogush disagreed and advised that he would like to hear some explanations on agenda items 27 and 29 before the presentations begin.

[item 27 was taken out of order]

27. Noted receipt of letter dated 9/19/2006 from attorney R. Reder, representing J. B. Loper, requesting that letter be placed on and attached to the September agenda and requesting that the Board issue a

public apology. (request received 9/19/2006 12:50 pm) Mr. Cohen was asked to respond to this issue and explained the method by which counsel is to withdraw or substitute in a case, in his legal opinion. Mr. Cohen advised that when engaged in the PRAA appeal, he filed a Notice of Appearance, which is the appropriate thing to do under the rules. Mr. Cohen advised that he believed the proper way for Mr. Loper to remove himself from the case was Withdrawal of Attorney as opposed to Substitution. Mr. Cohen read some of the judicial rules into the record and noted that client consent is not required in a Motion to Withdraw, but notice to the client is appropriate. Mr. Cohen pointed out in Mr. Reder's letter that Mr. Reder admits that the method by which Mr. Cohen proceeded was technically correct. Mr. Cohen advised that Mr. Loper disagreed with the method Mr. Cohen proscribed, and in fact, disputed the Acting Chairman's authority contained in the 7/12/2006 letter, after which Mr. Cohen discussed the matter with the Chairman and Plan Administrator and by consensus chose to take no further action until the board had ratified the 7/12/2006 letter of the Acting Chairman, which has since occurred. Mr. Cohen advised that he believes that the court's rules that he followed were correct, the motion was granted, and he wouldn't do it any other way. Mr. Cohen advised that he felt no apology was necessary. Mr. Bogush questioned the 7/12/2006 letter, as he (Mr. Bogush) was under the assumption that Mr. Loper still represented the board after the June 2006 board meeting. **It was moved by Mr. Meier, seconded by Ms. Fox to receive and file item 27.** During discussion, the general recollection of the board was something entirely different--that Mr. Loper no longer represented the board after the expiration of his contract 6/30/2006. Ms. Campbell quoted from the 6/22/2006 board meeting minutes, which have previously been approved unanimously by the board:

"15. Committee #2 report – T. Walker. Mr. Walker reported that on June 15, 2006 Committee #2 met to discuss the annual review of professionals that are under contract with the board. Mr. Walker stated that it was a unanimous decision to recommend to the board to renew all professional contracts with the exception of the legal services and to issue an RFP for legal services. Mr. Walker also recommended that the board assign Mr. Ron Cohen as interim general board counsel for 90 days until the RFP process is complete and to assign Mr. Cohen as co-counsel until the litigation and appeal process is seen through its completion. Mr. Hamlin asked Mr. Walker if it was agreed that Committee #2 would be handling the RFP process for legal services through its entirety. Mr. Walker confirmed that Committee #2 would oversee the RFP process. **It was moved by Mr. Lynch, seconded by Mr. Lombard and by unanimous vote to approve the recommendation of Committee #2.**"

After call for the question, motion to receive and file item 27 carried by unanimous vote.

[item 29 was taken out of order]

29. Noted receipt of letter dated 9/20/2006 from J. B. Loper regarding Trustee's Motion for Award of [Taxable] Costs. Mr. Bogush advised that when Ms. Campbell informed him that Mr. Keene had been omitted from the motion to tax costs, that no explanation was given, there was some speculation, but no clear explanation. Mr. Bogush referred to page 2 of the 9/20/2006 letter wherein Mr. Loper explained that it would be contrary to law to pursue taxable costs from someone who was not a party. Ms. Campbell asked the entire board if there was any board member around this table who came away from the Executive Session when the board voted to pursue taxable costs with the impression that David Keene was to be excluded, or any indication by Mr. Loper that would be the case, even though Mr. Keene had been specifically named during discussion several times. Ms. Campbell pointed out that upon review of the verbatim transcript, at no time did Mr. Loper indicate in any way that Mr. Keene would be excluded, even when specifically named several times. Mr. Lombard recalled that during discussion, that he was leaning towards Mr. Loper's recommendation

to name every single member of the organization, and recalls specifically asking if Mr. Keene would be included. Mr. Lombard recalled that the board discussion leaned towards simply pursuing officers and directors of the association, and he specifically asked if Mr. Keene was an officer of that group. There was general agreement around the table of Mr. Lombard's recollection.

Mr. Bogush then questioned the \$13,000+ bill from Larry Wilson and the discrepancy in explanations between Mr. Loper and Ms. Campbell. Ms. Campbell advised that Mr. Wilson had not billed five months after the trial, noting that originally Mr. Wilson worked with ASA, who then merged with AON, and then moved to Gabriel, Roeder, Smith & Co.—none of which were companies that he could bill under—rather that he would have to bill independently, which he had not gotten around to doing after two years of ongoing litigation preparation and trial, and may not have ever gotten around to. Ms. Campbell advised that she spoke with Mr. Wilson on May 30, 2006, and at that time he had not yet prepared any bill. Ms. Campbell questioned the propriety of including an invoice that had not been paid—in fact an invoice that had not yet even been prepared—in a motion to tax costs—how can we ask the court for reimbursement for something that has not been paid, much less not even been billed yet? Ms. Campbell advised that three hours later on that same day, Mr. Wilson left her a voice mail that Mr. Loper had directed him to bill immediately and to bill electronically. Ms. Campbell advised that for accounts payable purposes, pension bills are paid once per month at the end of the month, with cutoff falling in the middle of the month. Having not received an invoice from Mr. Wilson prior to May 15, 2006 meant that he would not have been paid with the May 31, 2006 check cycle, and that even if he billed May 30, May 31 or June 1, the absolute earliest an accounts payable check would be cut would be at the end of June, so the billing date at that point in time had no bearing on payment. Ms. Campbell again questioned the timing of the direction and the propriety of including an invoice that had not been generated or paid in a motion to submit to the court. Ms. Campbell pointed out that Mr. Loper had asked for billing breakdowns from her for several professionals: Harold Bowen, Larry Wilson, Jose Fernandez and Randall Stanley. Ms. Campbell advised that Bowen Hanes had not billed anything at all, had repeatedly said that they were not going to bill, had so advised Mr. Loper several times and were rather annoyed that Ms. Campbell asked the same question yet again on his behalf. Ms. Campbell reminded the board that professionals involved in the litigation were directed unanimously by the board to bill in broad, general terms, based upon the advice of board counsel, so that no litigation strategy was given away. Mr. Fernandez and Mr. Stanley followed that specific board direction and billed in broad, general terms. Ms. Campbell advised that she was unable and unwilling to create, fabricate or estimate whatever costs Mr. Loper intended to include in the motion to tax costs based upon the broad general invoicing that was done specifically at board direction, based upon the advice of counsel. Both Mr. Fernandez and Mr. Stanley were then directed by Mr. Loper to rebill directly to Mr. Loper so that trial-related costs could be identified for inclusion in the motion—in direct contradiction to the previous board direction on billing, which was based upon the advice of counsel. Ms. Campbell advised that this was an extremely frustrating exchange for all professionals involved, following one set of explicit directions from the board based upon the advice of counsel for an extended period of time, changing directions in mid-stream in an urgent/time-sensitive situation for the motion to tax costs, and contradictory directions from the board and the attorney.

Mr. Loper pointed out that he was the attorney that moved to include the individual members of the retiree's association as plaintiffs, that no other attorney made that motion, so he is the one responsible for providing the board the opportunity to pursue taxable costs. Mr. Loper advised that Jose Fernandez emailed him an itemization for travel and taxable costs, and that Randall Stanley had also emailed him an itemization, and that Mr. Wilson had told him at trial that he would bill at some point.

Mr. Lombard asked to respond to Mr. Loper, stating that he takes legal advice from Mr. Loper, not from Jennifer Campbell, that he sits next to Mr. Loper as the attorney, and listens to him as the attorney. Mr. Lombard reiterated that he takes legal advice from Mr. Loper, not from Jennifer Campbell, and that if Mr. Loper knew that David Keene wasn't going to be included on the motion, then he should have told the board and Mr. Lombard that day. Mr. Lynch asked what the benefit is of obtaining independent counsel as Mr. Loper requests in his letter other than making more money for attorneys. Mr. Loper responded that the purpose would be to get the facts and truths, that if Ms. Campbell is telling people that Mr. Loper omitted David Keene because he is a personal friend of Mr. Loper's, that is not true because he would have liked to have pursued Mr. Keene based upon some of his comments relative to Mr. Loper in various forums. Several trustees said that Mr. Loper saying that was the first time that they had heard it. Mr. Cohen was asked if he thought having an independent investigation would be appropriate at this point. Mr. Cohen advised that no, the motion to tax costs is pending, and it is what it is. Mr. Cohen and Mr. Gonyea are going to argue it at some point, and he doesn't think that going any farther than that is necessary from a legal standpoint. Mr. Cohen advised that he and Mr. Gonyea will have to speak to the actuaries about the bills in connection with due diligence in arguing the motion. Mr. Cohen pointed out that the board has heard both sides of the story today, and he doesn't think an investigation is necessary, and that unless the conversations were duly legally recorded, the board is right back to hearing two sides of the same story. **It was moved by Mr. Lynch, seconded by Ms. Miller, to receive and file item 29 and to take no further action. Upon voting, motion carried by a vote of 8 – 1 with Mr. Bogush, Ms. Fox, Mr. Hamlin, Mr. Lombard, Mr. Lynch, Mr. Meier, Ms. Miller, and Mr. Moors in favor of the motion, and Mr. Walker opposed to the motion.**

[Chairman Hamlin pointed out that it is now 2:25 p.m. and the legal services RFP respondents were waiting outside for presentations that were to have begun at 2:00 p.m.]

It was moved by Ms. Miller, seconded by Mr. Lynch to defer agenda items 25, 26, 28, 30, 31, and 32 to the next meeting. During discussion, Mr. Lynch asked Ms. Campbell if any of these questions could be answered quickly without having the members wait another month? Ms. Campbell advised that it appeared that agenda item 25 was resolved with the board action taken in item 20, and that agenda item 26 is answered in part in agenda item 4a. Mr. Mills interrupted the meeting and was gavelled out of order by the Chairman and advised to be professional or he will be asked to leave, and Mr. Mills agreed. Mr. Bogush advised that these members had followed the rules to get on the agenda and that they deserve to be heard today rather than being deferred for a month. Mr. Hamlin advised that the board would now break for the RFP portion, and reconvene for the remainder of the agenda afterwards; however, he has to leave the meeting at 5:00 p.m. Loss of quorum was discussed briefly. Although he also needed to leave by 5:00 p.m., Mr. Lynch agreed to stay for the remainder of the meeting as Acting Chair. By consensus, the board took a recess prior to the legal services RFP presentations and agreed to reconvene afterwards for the remainder of the agenda.

[the meeting was recessed at 2:25 p.m. for the legal services RFP]

[the meeting was reconvened at 5:05 after the legal services RFP with the following seven (7) trustees present: Bogush, Fox, Lombard, Lynch, Meier, Miller, Walker]

25. Request to address the board by retiree S. Sinardi regarding payment for actuarial studies. (request received 9/18/2006 9:49 am) Mr. Sinardi thanked the board on behalf of the 300 retirees that he

represents for the board's agreement to pay for some actuarial studies in agenda item 20 previously in the meeting.

26. *Request to address the board by retiree J. Mills regarding 13th check interest rate. (request received 9/18/2006 9:49 am)* Deferred to the next meeting since Mr. Mills was not present.

[agenda items taken out of order]

28. *Request to address the board by retiree J. Parker regarding criteria for subjects to be placed on the agenda and in the minutes of the committee and board meetings. (request received 9/19/2006 2: 20 pm)* Deferred to the next meeting since Mr. Parker was not present.

30. *Note receipt of request to address the board by retiree D. Ribaya regarding F&P policy on public records requests. (request received 9/21/2006 11:32 am) Note receipt of board P&P 818 – Public Records Requests.* Deferred to the next meeting since Mr. Ribaya was not present.

31. Noted receipt of listing of upcoming conferences. Disclosure of planned attendance, if any. Mr. Walker advised that he planned to conduct an on-site visit of Bowen, Hanes & Co. in the near future. Mr. Lombard, Mr. Lynch and Mr. Meier advised that they planned to do so also in the near future as well. Ms. Campbell reminded the board that if two or more trustees attend together that it must be a posted, noticed item. Mr. Lynch disclosed that he planned to attend the FPPTA conference in October as well as January. Ms. Campbell advised that although the Division of Retirement conference in Orlando conflicts with the October board meeting that there may be benefit to attending the last day of the conference to learn about the recent pension reform legislation and that she may try to attend, and Mr. Walker advised that he may try to attend also, and Mr. Lynch advised he may try to attend part of it as well. **It was moved by Ms. Fox, seconded by Mr. Walker and by unanimous vote to receive and file item 31.**

32. Plan Administration.

- a. 2006 schedule
- | | |
|--------------------|--|
| September 28, 2006 | 2: 00 – 5:00 p.m. RFP for General Board Counsel Interviews |
| October 26, 2006 | <u>12:00 noon</u> educational workshop with Medical Directors |
| | Lunch will be served during educational session |
| October 26, 2006 | 1:30 p.m. |
| November 16, 2006 | 1:30 p.m. *early due to holidays |
| December 14, 2006 | 1:30 p.m. *early due to holidays |
- b. Pre-retirement workshops were conducted 9/14/06 and 9/15/2006 at the Tampa Convention Center. Ms. Campbell advised that the pre-retirement workshops were a success and thanked Mr. Hamlin and Mr. Lynch for attending both workshops.

The meeting was adjourned at 5:15 p.m.

October 26, 2006 board meeting: It was moved by Mr. Lynch, seconded by Ms. Fox and by unanimous vote to approve the minutes of the September 28, 2006 board meeting as written.