

**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, November 16, 2006 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, November 16, 2006 at 1:30 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	Cynthia Miller
	Tracy Walker

Also present were Dr. Cynthia Lewis-Younger, Medical Director & Dr. Bruce Bohnker, Medical Director, Mr. Mark Lenker, CPA, and active and retired plan members. Ron Cohen, General Board Counsel participated telephonically.

Election of Board Officers

Chairman
Vice Chairman
Secretary

It was moved by Mr. Lynch, seconded by Mr. Meier to nominate Marc Hamlin to serve as Chairman. It was moved by Mr. Bogush, seconded by Mr. Lombard to nominate Tracy Walker to serve as Chairman. There being no further nominations, upon voting, both motions failed due to lack of five affirmative votes. Mr. Hamlin, Mr. Lynch and Mr. Meier voted for Mr. Hamlin. Mr. Bogush, Mr. Lombard, Ms. Miller and Mr. Walker voted for Mr. Walker. By consensus, the board members present agreed to revisit this matter later in the meeting when all nine trustees could be present.

It was moved by Mr. Meier to nominate Mr. Walker as Vice Chair. Mr. Bogush recommended waiting until the issue of Chairman had been resolved before addressing the Vice Chair election, and by consensus, the board agreed, and Mr. Meier withdrew his nomination.

It was moved by Ms. Miller, seconded by Mr. Bogush and by unanimous vote to nominate John Moors to serve as Secretary.

Minutes

1. Approval of the minutes of the October 26, 2006 regular board meeting. **It was moved by Mr. Lynch, seconded by Mr. Walker and by unanimous vote to approve the minutes of the October 26, 2006 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 – 5] **It was moved by Mr. Lynch, seconded by Ms. Miller and by unanimous vote to approve the Consent Agenda items 2-5.**

2. Ratified pension benefits.
3. Congratulated trustee D. Lombard who has completed the advanced program and testing and earned certification through the Florida Public Pension Trustees Association (FPPTA) as a Certified Public Pension Trustee (CPPT).
4. Approved payment to Ronald J. Cohen, P.A. for legal services rendered during October, 2006 in the amounts of:
 - a. \$2,970.00 General counsel services.
 - b. \$54,001.09 Retiree's litigation.
5. Noted that investment performance report from Bowen, Hanes & Co. for the month ended October 31, 2006 will not be available until board meeting day due to November meeting being held early due to the holidays and custody statement from Wachovia not being available until 11/14/2006. The Bowen, Hanes & Co. investment performance report for the month ended 10/31/2006 was distributed at the meeting, and the market value of *investments* as of 10/31/2006 was \$1,475,289,758, with a rate of return so far this fiscal year of +3.7%.

Medical Disabilities

6. Authorized referral to medical board composed of Dr. Fishalow, Dr. Kriz, and Dr. Wasylik as recommended by Medical Director for LOD disability applicant B. Solomon, TFR. 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. Lynch, seconded by Mr. Walker and by unanimous vote to approve the medical board composed of Dr. Fishalow, Dr. Kriz, and Dr. Wasylik as recommended by Medical Director for LOD disability applicant B. Solomon, TFR.**
7. Authorized referral to medical board composed of Dr. Dormois, Dr. Nobel and Dr. Harrison as recommended by Medical Director at board meeting for LOD disability applicant K. Bowe, TFR. 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. Lynch, seconded by Mr. Walker and by unanimous vote to approve the medical board composed of Dr. Dormois, Dr. Nobel and Dr. Harrison as recommended by Medical Director for LOD disability applicant K. Bowe, TFR.**

[Ms. Fox entered the meeting at 1:50 p.m.]

Financial Presentation by Mark Lenker, CPA – Nobles, Decker, Lenker & Cardoso

8. Noted receipt of financial statements for the months ended:
 - a. 8/31/2006 **It was moved by Mr. Lynch, seconded by Ms. Miller and by unanimous vote to receive and file item 8a.**
 - b. 9/30/2006 – to be distributed and reviewed by Mr. Lenker at board meeting. Mr. Lenker distributed the *annual* financial statements for the fiscal year ended 9/30/2006 and reviewed it with the board. Mr. Lenker distributed the *monthly* financial statements for the month ended 9/30/2006, reviewed the monthly report in detail, and responded to questions from the board. The market value of *assets* as of 9/30/2006 were \$1,432,017,730. **It was moved by Mr. Lynch, seconded by Mr. Bogush and by unanimous vote to approve the annual financial statements for**

the fiscal year ended 9/30/2006 as prepared by Nobles, Decker, Lenker & Cardoso. It was moved by Mr. Lynch, seconded by Ms. Miller and by unanimous vote to approve the monthly financial statements for the month ended 9/30/2006 as prepared by Nobles, Decker, Lenker & Cardoso.

9. Board approval of the following DROP statement components as per board policy and procedure:
 - a. DROP investment return calculation for fiscal year ended 9/30/2006. To be distributed and reviewed at meeting by Mr. Lenker. Mr. Lenker distributed the DROP investment return calculation for the fiscal year ended 9/30/2006, reviewing and explaining each component. **It was moved by Mr. Lynch, seconded by Ms. Miller and by unanimous vote to approve the DROP investment return calculation of +8.95% for the fiscal year ended 9/30/2006 as prepared by Nobles, Decker, Lenker & Cardoso.**
 - b. DROP administrative fee calculation for fiscal year ended 9/30/2006. To be distributed and reviewed at meeting by Mr. Lenker. Mr. Lenker distributed the DROP administrative fee calculation for the fiscal year ended 9/30/2006, reviewing and explaining each component. The calculated figure was 0.0007 for fye 9/30/2006 as compared to 0.0013 the previous fiscal year. **It was moved by Ms. Miller, seconded by Mr. Lynch and by unanimous vote to approve the DROP administrative fee calculation for the fiscal year ended 9/30/2006 at 0.0007 as calculated by Nobles, Decker, Lenker & Cardoso.**

[Mr. Moors entered the meeting at 2:05 p.m.]

10. 13th check interest calculation for period of 7/1/2006 – 9/30/2006. To be distributed and reviewed at meeting by Mr. Lenker. Mr. Lenker distributed the 13th check interest calculation for the quarter of 7/1/2006 – 9/30/2006, and reviewed the components of the calculation and responded to questions from the board. **It was moved by Mr. Lynch, seconded by Ms. Miller and by unanimous vote to approve the annualized 13th check interest calculation of 5.11% for the quarter of July 1, 2006 – September 30, 2006 (92 days out of 365 day year contained in July, August and September, 2006).**

The issue of nominations of Chairman and Vice Chairman was taken up again since the full nine member board was now present. **It was moved by Ms. Fox to nominate Mr. Hamlin as Chairman.** Mr. Hamlin thanked Ms. Fox for the vote of confidence, but requested that his name be withdrawn from consideration so that there is not a divided board. **It was moved by Mr. Bogush, seconded by Mr. Lombard and by unanimous vote to nominate Tracy Walker to serve as Chairman of the Board of Trustees. It was moved by Ms. Fox, seconded by Mr. Meier and by unanimous vote to nominate Pat Lynch to serve as Vice Chairman of the Board of Trustees.**

11. Noted receipt of COLA calculations for January 2007 as calculated by the actuary, Jose Fernandez of Buck Consultants. **It was moved by Mr. Lynch, seconded by Ms. Fox and by unanimous vote to approve the COLA calculations for January 2007 as calculated by the actuary, Jose Fernandez of Buck Consultants.**

Old Business

12. Retiree's declaratory action. No action requested due to pending litigation/appeal. Noted receipt of reply brief to Second DCA prepared by R. Cohen, Board Counsel. **It was moved by Mr. Lynch, seconded by Mr. Meier to receive and file item 12. During discussion, Mr. Bogush asked Mr. Cohen if there is the option to pursue taxable costs on the appeal, and Mr. Cohen**

advised that yes, that option is available on the appeal to the Second DCA--separate and apart from the existing Motion to Tax Costs in Hillsborough County Circuit Court. Upon voting, motion carried by unanimous vote.

13. Board consideration of reinstating off-duty police officer for board meetings.

Historical expenditure on off-duty police officers for F&P pension board meetings:

For fiscal year ending 9/30/98	\$1,508.90
For fiscal year ending 9/30/99	\$1,953.20
For fiscal year ending 9/30/00	<u>\$1,359.60</u>
3 year average	\$1,607.23

Standing order for off-duty police officer ceased 11/14/2000.

Carried forward from 10/26/2006 agenda due to lack of five affirmative votes.

Ms. Campbell provided the history of off-duty police officers for board meetings and a three fiscal year historical expenditure. Mr. Lombard expressed that he felt that it was a small price to pay for safety and security. Ms. Miller advised that she would support reinstating off-duty police officers. Mr. Bogush advised that he believes that the discretion should be left to the Chairman, if the Chairman feels that a meeting may be controversial. Mr. Meier advised that he would not support off-duty police officers as it appears to have been an isolated incident. Mr. Moors advised that he would support reinstating off-duty police officers for board meetings. Ms. Campbell advised that one way of viewing the matter financially is to consider that the eight year old Xerox machine had to be replaced recently since Xerox would no longer service the old copier, and that the new Xerox machine lease represents a cost savings of \$218.22 per month, or \$2,618.64 per year, which could cover the expense of off-duty police officers. After discussion, **it was moved by Mr. Lynch, seconded by Mr. Moors to reinstate off-duty police officers for pension board meetings. Upon voting, motion carried by a vote of 6 – 3 with Mr. Hamlin, Mr. Lombard, Mr. Lynch, Ms. Miller, Mr. Moors and Mr. Walker in favor of the motion and Mr. Bogush, Ms. Fox and Mr. Meier opposed to the motion.**

14. Pension Protection Act of 2006 – exclusion of health insurance premiums from taxable income up to \$3,000 from eligible retirement plans – needs to be further evaluated by special tax counsel for applicability to this fund due to Humana contract with City of Tampa, not the pension fund, and premiums are withheld from pension benefits and paid to Risk Management, who then pays Humana. Difficulty: legislation specifies “paid directly to insurer” from pension benefit, and that is not the case here. Ms. Campbell advised that she had discussed this matter with Risk Management and other city staff, and the consensus was that since the pension fund does not pay Humana directly, that loophole would probably not require the pension fund to comply, and that the programming involved to accomplish it would be quite difficult. In other words, evaluating it from a cost/benefit analysis standpoint, it might not be cost-effective. Ms. Campbell advised that she had also discussed this issue at length with Mr. Cohen, who is of the opinion that simply by using Risk Management as a conduit to send the health insurance premiums to Humana should not obviate the need for the pension fund to comply. Mr. Lenker advised that he is of the opinion that the city and pension fund should comply, no matter what effort is involved in programming, as this is a small tax exemption benefit provided by federal legislation to provide some relief from the rising costs of health insurance for retirees. Mr. Lenker recommended that the board take whatever steps are necessary to make this benefit available to retirees, noting that there is no cost to the pension fund, simply a tax exemption/reduction being made available to retirees. Ms. Campbell recommended that the matter be referred to Ice, Miller, Donadio and Ryan, the fund’s special tax counsel for evaluation and recommendation. Ms. Campbell advised that she had held a brief telephone call with Mary Beth

Braitman of Ice Miller, who provided a wealth of information and several methods by which to accomplish this that their firm's clients are using across the country, and to ask if their firm would be interested in assisting the fund on the implementation and compliance project if the board so approved. **It was moved by Ms. Miller, seconded by Mr. Lynch that: 1) the Plan Administrator schedule a meeting directly with Bonnie Wise, the Finance Director and Kimberly Crum, the Director of Human Resources, Mr. Cohen and Mr. Lenker to discuss this matter; and 2) refer the matter to Ice Miller only after the above meeting has been held. Motion carried by unanimous vote.**

15. Policy change requested by retiree S. Sinardi 10/26/2006 regarding board consideration of giving four groups—both retiree's associations and both unions—a standing limited time slot at the end of each meeting to address questions that have arisen during the meeting. Matter was referred to Committee #2, which has been unable to meet since the last board meeting due to a death in the family of the committee chair. Mr. Hamlin extended condolences to Mr. Walker upon the recent death of his father-in-law, retired firefighter G. Jordan.
16. Noted receipt of request to address the board by retiree D. Ribaya regarding public records requests (received 11/1/2006 at 1:00 p.m.) [same topic as 10/26/2006 agenda].
Noted receipt of backup documentation from pension office staff:
 - a. Verbal telephone request received 9/21/2006 8:45 a.m., requested to have the following afternoon. See telephone message and staff write-up attached.
 - b. Second verbal telephone request received 9/21/2006 10:12 a.m. Dissatisfied with response, requested to be placed on agenda regarding public records requests. See telephone message and staff write-up attached.
 - c. Received fax public records request 9/21/2006 at 11:32 a.m. requesting by noon the following day. See copy of fax attached.
 - d. Verbal telephone call 9/22/2006 1:29 p.m. asking status, advised by staff it would be available by 3:00 p.m. that day, 9/22/2006, after board packages were copied and assembled. See telephone message attached.
 - e. Verbal telephone call 9/22/2006 2:30 p.m. asking if available to be picked up yet. Advised that it would be ready by 3:00 p.m. as stated. See telephone message attached.
 - f. Telephone call 9/25/2006 8:29 a.m. asking if request was ready. Advised that yes, request was ready to be picked up last Friday 9/22/2006 at 3:00 p.m. as stated. Also asked if board package was ready to be picked up, advised that it was. See telephone message attached.
 - g. Picked up public records request and board package on 9/25/2006. See public records request form signed and dated by Dennis Ribaya 9/25/2006.
 - h. Board Policy & Procedure 818 – Public Records Requests.
Mr. Ribaya advised that he did not wish to address the board.

New Business

17. Noted receipt of draft proposed Health Insurance Assistance Fund prepared by trustee P. Lynch (obtained from leoaffairs.com). Board consideration of submitting to appropriate pension fund professionals for review and comment on viability, legality, Chapter 175 and 185 issues, tax qualification issues, etc. Mr. Lynch advised that he prepared this document in his role as 2nd Vice President of the WCFPBA, and that since negotiations are ongoing, it would likely be premature to involve any board professionals at this point. **It was moved by Ms. Fox, seconded by Mr. Lombard and by unanimous vote to receive and file item 17.**

18. Noted receipt of request to address the board by retiree J. Ballinger regarding recognizing the good deeds of the pension fund and thank the trustees for their uncompensated efforts. (request received 11/9/06 7:11 am) Mr. Ballinger read a statement into the record thanking the trustees who selflessly serve on a volunteer board during highly controversial times. Mr. Ballinger noted that the two opposing retiree groups seldom speak to one another any more, both have used personal attacks as part of their strategy, and appear to have used public records requests injudiciously. Mr. Ballinger expressed his opinion that, whether intended or not, these actions serve to distract the very office that ensures retiree's checks are delivered on time, and thanked the board for a so-far flawless operation in that regard. Mr. Ballinger pointed out that it appears to him that both retiree groups have shown a tendency to not know when to cut their losses, admit defeat, and move on. He noted that one group filed a lawsuit that disputed how the fund reacted to negative investment returns—noting that the decisions were made by nine fiduciaries, advised by the professionals who serve the fund, most of whom are also fiduciaries. He noted that the decision was approved by the State Division of Retirement, and now a judge has heard both sides and found no merit in the case, yet this group vows to appeal to the Supreme Court, and in the process will delay a sizeable 13th check to many who desperately need it. Mr. Ballinger stated that persistence is a fine thing, but there are rational limits. He noted that the other retiree group's agenda has evolved toward the defense of their long-standing friend, the former board attorney. He expressed his opinion that loyalty is also a fine thing, but there are rational limits. Mr. Ballinger provided some history from his time on the board nearly a decade ago when he recommended that an RFP be issued for the board attorney and his reasoning at that time, noting that he was soundly defeated, but he accepted defeat quietly and moved on. Mr. Ballinger advised that he believes that the former board attorney undid himself, and that nine trustees apparently independently arrived at the same decision that he had reached himself almost a decade earlier. Mr. Ballinger suggested to both retiree groups--you win some and you lose some, and Kenny Rodgers' advice on "know when to fold 'em" seems to be applicable advice. Mr. Ballinger stated "To the Trustees I say this: Thank you again. I appreciate the complexity of your work and the difficulty of your decisions. I may not always agree with you, but I appreciate your effort and sacrifice, and know you make those decisions in good faith. Take heart: We're way overdue for something rational to happen." In closing, Mr. Ballinger advised that he did not mean to ignore the other retiree groups, noting that the DROPs that got DROPPed are acting with as much passion, but with rationality and restraint, and it is with this group that he has genuine sympathy. He noted that what happened may have been legal, but advised that he felt promises ought to be kept.
19. Noted receipt of request to address the board by retiree J. Mills regarding correction to pension minutes. (request received 11/9/2006 at 9:25 a.m.) Mr. Hamlin advised that Mr. Mills has requested that this agenda item be deferred to the next meeting.
20. Noted receipt of listing of upcoming conferences. Disclosure of planned attendance, if any. Ms. Miller undisclosed the Opal Financial conference. The following advised that they planned to attend the FPPTA conference in January: Mr. Bogush, Ms. Campbell, Ms. Fox, Mr. Hamlin, Mr. Lynch, and Mr. Meier. **It was moved by Mr. Lynch, seconded by Mr. Walker and by unanimous vote to receive and file item 20.**
21. Plan Administration.
- a. 2006 schedule
 - December 14, 2006 1:30 p.m. *early due to holidays
 - January 25, 2007 1:30 p.m.

February 22, 2007	1:30 p.m.
March 22, 2007	1:30 p.m.
April 26, 2007	1:30 p.m.
May 24, 2007	1:30 p.m.
June 28, 2007	1:30 p.m.
July 26, 2007	1:30 p.m.
August 23, 2007	1:30 p.m.
September 27, 2007	1:30 p.m.
October 25, 2007	1:30 p.m.
November 15, 2007	1:30 p.m. *early due to holidays
December 13, 2007	1:30 p.m. *early due to holidays

- b. AED status, purchased and brief training by vendor conducted. After discussion, it was determined that the AED would be mounted on the wall in the hallway off the lobby of the pension office in a highly visible location directly above the fire extinguisher for accessibility.
- c. Noted receipt of graphic representation of disability applications currently in process.
- d. Ms. Campbell asked Mr. Lynch and Mr. Bogush for their new assignment locations and shift cycles so that the trustee roster can be updated with their promotions. Mr. Lynch advised that he is now on B cycle Street Anti-Crime Squad (SACS), and Mr. Bogush advised that he is now at Station 9, B shift.

The meeting was adjourned at 2:40 p.m.

December 14, 2006 board meeting: It was moved by Ms. Miller, seconded by Mr. Lynch and by unanimous vote to approve the minutes of the November 16, 2006 board meeting as written.