

**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, March 22, 2007 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, March 22, 2007 at 1:30 p.m. for a regular meeting with the following members present:

Tracy Walker, Chairman	Dan Lombard
Sharon Fox	Jimmy Meier
Marc Hamlin	Cynthia Miller
Patrick Lynch, Vice-Chairman participated telephonically	

Also present were Mr. Mark Lenker, CPA, Mr. Ron Cohen, General Board Counsel, and active and retired plan members.

Minutes

1. Approval of the minutes of the February 22, 2007 regular board meeting. **It was moved by Mr. Hamlin, seconded by Ms. Fox and by unanimous vote to approve the minutes of the February 22, 2007 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 – 11] **It was moved by Ms. Miller, seconded by Mr. Lombard and by unanimous vote to approve the Consent Agenda, items 2 – 11.**

2. Ratified pension benefits.
3. Admitted the following Admit Tampa Fire Rescue members to pension fund effective 2/26/2007 contingent upon: 1) furnishing a list of all medical providers and authorizations to obtain such medical records; and 2) passing a complete medical examination:

Kelly R.	Holbert
Angelo A.	Loscalzo
James J.	McGregor
Therese D.	Meyer
Benjamin L.	Schaer
Aaryn L.	Thompson
Cory B.	Welch
Joshua M.	Wimberly

4. Admitted the following Admit Tampa Police Department members to pension fund effective 3/8/2007 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 R.	Durand
Thomas J.	Farrell
Jason M.	Green
Richard P.	Grohoeki
David A.	Hancock
Jessie J.	Horn
Diane N.	Lopes
Denis	Lopez
Nicole F.	Mills
Noel L.	Ramiro
Richard F.	Robinson
James P.	Smith
Aaron J.	Vega Nieves
Bart W.	Wester

*two names stricken through did not start per TPD.

5. Noted receipt of Bowen, Hanes & Co. investment performance report for the month ended 2/28/2007. Market value of *investments* as of 2/28/2007 was \$1,518,467,579.27. Investment performance so far this fiscal year as of 2/28/2007 was +8.3%.
6. Noted receipt of 13th Check custody account status prepared by Bowen, Hanes & Co. Market value was \$9,052,381.41, with yield of +5.14% as of 2/28/2007. Invested in Wachovia Evergreen Institutional Treasury Money Market Fund.
7. Approved payment to Ronald J. Cohen, P.A. for legal services rendered during February 2006 in the amounts of:
 - a. \$3,398.51 General counsel services.
 - b. \$23,449.05 Retiree's litigation.
8. Noted receipt of letter from former firefighter R. Tucker received 3/1/2007 in the Mayor's office and 3/5/2007 in the F&P pension office. Note excerpts from pension board minutes of 8/26/2004 after multiple letters, research, due diligence and final hearing before the board in 2001. Note that the doctrine of *res judicata* applies.

"21. Noted receipt of letter dated 8/19/2004 to Robert Tucker regarding 1979 refund of pension contributions. **It was moved by Mr. Singleton, seconded by Mr. Ibarra and by unanimous vote to receive and file item 21 and to direct staff never to respond to this former plan member again and to cease all activity on this matter.**"
9. Noted receipt of audited financial statements for the fiscal year ended 9/30/2006 prepared by external auditors KPMG.
10. Florida Public Pension Trustees Association (FPPTA) Certified Public Pension Trustee (CPPT) testing and designation program.
 - a. Congratulations to trustee S. Fox who has successfully passed the FPPTA CPPT basic program and testing and now advances to the intermediate level.
 - b. Congratulations to trustee M. Bogush who has successfully passed the advanced program and testing and is now a CPPT.

11. Congratulations to trustee J. Moors for the Tampa Convention Center receiving the Meeting News 2006 "Top 25 Planners' Choice Award" as described in the *Tampa News* March 2007 issue.

Mr. Meier wished to congratulate Ms. Fox and Mr. Bogush for their FPPTA CPPT achievements in #10 and Mr. Moors for recognition in #11.

Medical Disabilities

12. Initial hearing for LOD disability applicant Muhammad Ali Al-Jumaily, formerly of 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. (rescheduled from 2/22/2007 board meeting to 3/22/2007 board meeting at applicant's request). Mr. Al-Jumaily was sworn in and made a 15 minute opening statement to the board. The Medical Director responded to questions from the Board. After extensive discussion, **it was moved by Mr. Hamlin, seconded by Mr. Lynch, and by unanimous vote that the Board finds that Mr. Al-Jumaily is disabled from the regular and continuous duties of a police officer.** After considerable discussion, including the applicant's responsibility to meet the burden of proof and objective vs. subjective evidence, **it was moved by Mr. Hamlin, seconded by Mr. Lynch that the Board finds that the disability was incurred not in the line of duty (NLD). Upon voting, motion failed to carry due to lack of five affirmative votes by a vote of 3 – 4, with Mr. Hamlin, Mr. Lynch and Mr. Meier in favor of the motion and Ms. Fox, Mr. Lombard, Ms. Miller and Mr. Walker opposed to the motion. It was moved by Ms. Miller, seconded by Mr. Lombard that the Board finds that the disability was incurred in the service (LOD). Upon voting, motion failed to carry due to lack of five affirmative votes by a vote of 4 – 3, with Ms. Fox, Mr. Lombard, Ms. Miller and Mr. Walker in favor of the motion, and Mr. Hamlin, Mr. Lynch and Mr. Meier opposed to the motion.** Board Counsel responded to questions from the Board. Mr. Al-Jumaily was advised that his disability application and initial hearing would be carried forward to a future Board meeting when more trustees could be present.
13. Initial hearing for LOD disability applicant Ken Bowe, TFR. 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. Mr. Bowe was sworn in and responded to questions from the board. The Medical Director responded to questions from the board. Board Counsel responded to questions from the Board regarding the presumption of disability for heart conditions and hypertension. **It was moved by Mr. Lombard, seconded by Mr. Meier and by unanimous vote that the Board finds that Mr. Bowe is disabled from the regular and continuous duties of a firefighter. It was moved by Mr. Lombard, seconded by Mr. Meier, and by unanimous vote that the Board finds that the disability was incurred in the service (LOD). It was moved by Mr. Meier, seconded by Mr. Lombard and by unanimous vote that the Board grant Mr. Bowe a line of duty disability pension for cardiac/hypertension under the presumption effective with his last day on payroll as per policy and past practice.**
14. Initial hearing for LOD disability applicant Bo Solomon, TFR. 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. Mr. Solomon was sworn in and responded to questions from the board. The Medical Director responded to questions from the board. Board Counsel responded to questions from the Board. After considerable discussion, **it was moved by Mr. Lynch, seconded by Ms. Miller and by unanimous vote that the Board finds that Mr. Solomon is disabled from the regular and continuous duties of a firefighter.** There was discussion regarding the applicant's responsibility to meet the burden of proof and objective vs. subjective evidence. **It was moved by Mr. Hamlin, seconded by Mr. Lynch that the Board find that the disability was incurred not in the service (NLD). Upon voting, motion carried by a vote of 6 – 1 with Ms. Fox, Mr. Hamlin, Mr. Lombard, Mr. Lynch, Mr. Meier and Ms. Miller in favor of the motion and Mr. Walker opposed to the motion. It was moved by Mr. Hamlin, seconded by Mr. Lynch and by unanimous vote to grant Mr. Solomon a non-line of duty (NLD) disability pension for bilateral hip disability effective with his last day on payroll as per policy and past practice.** Board Counsel advised Mr. Solomon of his right to request a full hearing. The Plan Administrator explained that Mr. Solomon was currently on a longevity pension (3.15% multiplier x YOS x AFC) pending the outcome of the disability application and hearing(s), which was a higher benefit than the non-line of duty (NLD) disability benefit (2.0% multiplier).

Old Business

15. Retiree's declaratory action. No action requested due to pending litigation/appeal. Noted receipt of Per Curium Affirmed ruling from Second DCA dated 2/28/2007 (affirming lower court's decision). Pension Board prevailed at the Second DCA. Board Counsel to review appeal/motion deadlines at board meeting. Mr. Cohen explained the potential appeal avenues and deadlines associated therewith and recommended that the board stay the course with its previous decision not to pay the 13th check until all appeals have been exhausted and the board has prevailed. Mr. Cohen advised that he would notify the Plan Administrator in writing on or after Monday, April 2, 2007 after verifying with the Second DCA and Florida Supreme Court clerks that no appeal has been filed.
 - a. Mark Lenker to present at board meeting the annualized rate of return/interest/yield calculation for the 13th check account for July 1, 2006 – April 6, 2007 (estimated) [280/365 days]. Mr. Lenker distributed and reviewed the interest calculation for the 13th check escrow account through the actual February 28, 2007 statement, including a projection forward for March 2007 and the beginning of April 2007.
 - b. Ms. Campbell distributed a draft letter to 13th check eligible retirees and surviving spouses, including the interest calculation and tax withholding and direct deposit logistics. After discussion, **it was moved by Ms. Miller, seconded by Mr. Hamlin, and by unanimous vote to approve the draft 13th check letter to be dated 4/3/2007 contingent upon Mr. Lenker's review and concurrence and to approve Mr. Lenker's calculations in #15a. It was moved by Ms. Fox, seconded by Ms. Miller and by unanimous vote to set the 13th check payment in motion for the end of the first week in April, provided that no appeals are filed by the deadlines.**

New Business

16. Committee #2 report – meeting scheduled for 3/20/2007 at 1:00 p.m. Mr. Walker reported briefly on the Committee #2 meeting held on 3/20/2007, two days ago, between Committee #2 and the police and fire union presidents. Mr. Walker reported that he, Ms. Fox, and Mr. Lynch (participating

telephonically), met with both union presidents, and Mr. Lenker and Mr. Cohen (participating telephonically) to discuss potential DROP revisions, including a possible fixed rate of return option, health insurance assistance options, and potential pension contract rewrite. Mr. Walker noted that the minutes of that committee meeting would be available and on the next agenda for approval.

17. Request for legal opinion regarding DROP participant continuing to serve on Board of Trustees in light of a recent Attorney General Opinion, discussed by pension attorney Steve Cypen at January 2007 FPPTA conference. (requested by T. Walker 2/22/2007 1:00 p.m.) Mr. Walker withdrew his request for a formal, written legal opinion of a DROP participant continuing to serve on the Board of Trustees in light of review of the pension contract (special act) and board policies and procedures and past practice and precedent.
18. Noted receipt of Notice of Disciplinary Action, Notice of Separation and pension contribution refund information for former police officer J. Cabble. Refer to Sugarman & Susskind for possible forfeiture proceedings. **It was moved by Mr. Hamlin, seconded by Ms. Miller and by unanimous vote to refer the case of J. Cabble to Sugarman & Susskind for possible forfeiture proceedings.**
19. Noted receipt of listing of upcoming conferences. Disclosure of planned attendance, if any. Mr. Meier advised that he planned to attend the Portfolio Concepts and Management conference by IFEBP in Philadelphia in May. The following disclosed that they planned to attend the FPPTA conference in June in Naples: Ms. Miller, Mr. Lombard, Ms. Campbell, possibly two F&P pension office staff members, Mr. Lynch and Mr. Walker. **It was moved by Mr. Hamlin, seconded by Ms. Miller and by unanimous vote to receive and file item 19.**
20. Plan Administration.
 - a. 2007 schedule

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

[5 minute recess for Public Comment cards to be turned in. 3:05 – 3:10 p.m.]

- b. Plan Administrator's report.

Ms. Campbell reported that the annual report to the state was due by 3/15/2007 and was submitted on time, which if approved, triggers the release of the state premium tax monies (approximately \$6 million last year). Ms. Campbell reviewed that the next challenges for the pension office staff are the 13th check to be issued, followed by the poverty level pension benefit which increases in April.
- c. Ms. Campbell requested that when board members and professionals are participating in committee or board meetings where there is telephonic participation to please speak facing the table and speakerphone rather than facing audience members away from the table as it is very difficult to hear voices that are not projected towards the speakerphone. Ms. Fox noted that while it is a benefit to be able to participate telephonically, much is lost with telephonic participation,

- such as body language and facial expressions, and she feels that it is unreasonable and disruptive to have to keep repeating one's self because those participating telephonically cannot hear.
- d. Ms. Fox asked why Board Counsel was not sitting at the table, as it is disruptive and inconvenient to wait for him to come up to the table to speak and sit back down away from the table repeatedly, noting that it is difficult to hear him speaking while away from the table. Mr. Walker related his understanding and experience of how the seating arrangement came to be and cited Board past practice in this matter. Ms. Fox asked if the Board would be willing to consider seating Board Counsel at the table and offered a motion to that effect. Ms. Miller reminded the Board of the policy that items not on the agenda shall not be considered at that board meeting, and Ms. Miller and Mr. Walker recommended that the item be placed on the next board agenda for consideration.
 - e. Mr. Hamlin thanked the board professionals for their hard work in the litigation and congratulated them on the court victories. Mr. Hamlin noted that the board professionals involved, the actuary, the accountant and attorney and expert witnesses were handsomely paid for their efforts; however, the plan administrator was simply paid her base salary. Mr. Hamlin requested that an item be placed on the next agenda to consider a performance bonus for the plan administrator.

Public Comments Limited to two (2) minutes per person and maximum of ten (10) persons.

Mr. Sam Sinardi wished to thank the board on behalf of his organization's 320 members for the efforts during the litigation and for setting the 13th check payment in motion.

The meeting was adjourned at 3:30 p.m.

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.

Note: Trustee P. Lynch participated in this meeting telephonically from 117 W. Wood Street, Hillsboro, IL 62049.

At the April 26, 2007 board meeting, it was moved by Mr. Moors, seconded by Ms. Miller and by unanimous vote to approve the minutes of the March 22, 2007 board meeting as written.