

**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, July 26, 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, July 26, 2007 at 1:30 p.m. for a regular meeting with the following members present:

Tracy Walker, Chairman
Patrick Lynch, Vice-Chairman
Mark Bogush
Sharon Fox

Jimmy Meier
Cynthia Miller
John Moors

Also present were Mr. Jay Bowen, Investment Manager, Mr. James Donofrio, Actuary, Jennifer Beattie, Actuary, Mr. Mark Lenker, CPA, Mr. Ron Cohen, Board Counsel, and active and retired plan members.

Minutes

1. Approval of the minutes of June 28, 2007 regular board meeting. **It was moved by Mr. Lynch, seconded by Ms. Fox, and by unanimous vote to approve the minutes of the June 28, 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 – 4] **It was moved by Ms. Miller, seconded by Mr. Lynch, and by unanimous vote to approve the Consent Agenda, items 2-4.**

2. Ratified pension benefits.
3. Approved payment to Ronald J. Cohen, P.A. for legal services rendered during June 2007 in the amounts of:
 - a. \$657.50 Retiree's litigation.
 - b. \$1,317.21 General counsel services.
 - c. \$1,490.00 Parker lawsuit.
4. Noted status report of bi-ennial (every other year) Pension Verification Questionnaires. As of 7/18/2007, 1628 out of 1632 have been received (99.8%), including in-home visits for homebound and hospital visits for hospitalized retirees and surviving spouses. Third and final notices sent certified mail, return receipt, followed by continued phone campaign for non-responders. Four PVQs remain outstanding:

Mickie Mashburn
Chris Milana – due back from Iraq 7/22/07
Lynda Milana – due back from Iraq 7/22/07
Eric Zimmerman

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

5. Noted receipt of Bowen, Hanes & Co. investment performance report for the month ended 6/30/2007. Market value of *investments* as of 6/30/2007 was \$1,660,691,580. Investment performance so far this fiscal year as of 6/30/2007 was +20.3%.
 - a. Noted receipt of bond portfolio rating information and recommendation to hold.
 - b. Addendum to 6/30/2007 investment report as of 7/25/2007 received the day of the board meeting from Bowen, Hanes was distributed.

[Mr. Moors entered the meeting at 1:35 pm, Ms. Miller stepped out of the room from 1:35 – 1:45 pm]

Mr. Bowen reviewed the portfolio's investment performance as of 6/30/2007 and reviewed the Bowen, Hanes view of the overall economy, noting that September is historically a weak and volatile month. Mr. Bowen briefly reviewed the subprime lending issue, advising that the BH&Co. view is that it is having a small impact in the aggregate on a solid, diversified economy. Mr. Bowen advised that the BH&Co. view is that the market fundamentals are positive in the globally integrated international economy. Mr. Bowen complimented the Board on staying the course with its investment strategy and not becoming involved in high risk investments such as hedge funds. Mr. Bowen advised that based upon the recent *Fortune* article, BH&Co. has added the cumulative inception to date percentage figure to the front page of the monthly report. Mr. Bowen responded to questions from the board. **It was moved by Mr. Lynch, seconded by Ms. Miller, and by unanimous vote to receive and file items 5 and 5b and to approve item 5a.**

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

6. Noted receipt of financial statements for the months ended:
 - a. 5/31/2007. Market value of *assets* as of 5/31/2007 was \$1,671,607,510.
 - b. 6/30/2007. Market value of *assets* as of 6/30/2007 was \$1,665,109,102. To be reviewed by Mr. Lenker at board meeting.

Mr. Lenker reviewed the 6/30/2007 financial statements for the board and reconciled them to the BH&Co. investment management report, noting that the financials include the accrual of interest and dividends and non-investible assets such as the pension office, which are not included in the BH&Co. report. Mr. Lenker echoed Mr. Bowen's comments on the volatility of the market as evidenced by the unrealized gain/loss component of the financials. **It was moved by Mr. Lynch, seconded by Mr. Moors and by unanimous vote to receive and file items 6a and 6b.**

Actuarial Valuation Presentation by Jennifer Beattie and James Donofrio of Buck Consultants

7. Noted receipt of actuarial valuation as of 10/1/2006 to set contribution rates for 10/1/2007 – 9/30/2008.
 - a. Established contribution rates for 10/1/2007 – 9/30/2008 as calculated by actuary. Mr. Donofrio introduced himself and Jennifer Beattie to the board, explaining that Jose Fernandez has voluntarily left Buck Consultants to work for another actuarial firm. Ms. Beattie distributed a handout of highlights from the 10/1/2006 actuarial valuation and reviewed it for the board. Ms. Beattie noted that the valuation reflects that the fund is fairly stable and consistent and that there had been no assumption changes or plan changes since the last valuation. Ms. Beattie and Mr. Donofrio pointed out that the five year smoothing method dampens the volatility of investment returns and the effect on contribution rates, and as evidenced by the graphic, smoothing is working exactly as expected. Ms. Beattie advised that there had been actuarial experience losses in the fund during this valuation period from several sources: the investment

return of less than 10% for the fiscal year and assumptions differing from actual experience, which is to be expected. Ms. Beattie reviewed the market value of assets and the breakdown of the different components of the fund: base, PRAA, DROP and 13th check, and the allocation of money coming into the fund. Ms. Beattie reviewed the calculation of the annual cost of the fund and the contributions required to maintain actuarial soundness of the fund for the fiscal year beginning 10/1/2007 and ending 9/30/2008. The employee contribution rate for the fiscal year 10/1/2007 – 9/30/2008 was calculated at 2.61% of pay as compared to 2.05% of pay for the current fiscal year ending 9/30/2007. Ms. Beattie responded to questions from the board. Ms. Miller asked the status of the actuarial services contract, and Ms. Campbell advised that the board's contract for actuarial services is with Buck Consultants and that Ms. Beattie's name came before the board a year ago to be designated as an actuary on the account as required by the contract. **It was moved by Mr. Lynch, seconded by Ms. Miller and by unanimous vote to receive and file and approve item 7 and to establish the employee contribution rate at 2.61% of pay as recommended by the actuary for the fiscal year 10/1/2007 – 9/30/2008.**

Old Business

8. Motion for Taxable Costs status. Hearing scheduled for Thursday, July 31, 2007 at 10:30 a.m. Noted receipt of the following distributed at the board meeting:
 - a. Plaintiff's Motion to Dismiss Trustee's Motion to Award Costs or Alternatively Plaintiff's Motion to Strike Parts Thereof filed by Mr. Carrington 7/20/2007 (received by pension office 7/23/2007).
 - b. Plaintiff's Response to Trustee's Motion to Award Costs filed by Mr. Carrington (received by pension office 7/26/2007).
 - c. Notice of Hearing on Plaintiff's Motion filed by Mr. Carrington 7/20/2007 (received by pension office 7/23/2007). Plaintiff's Hearing on Motion in 8a is scheduled for Thursday, July 31, 2007 at 10:00 a.m., before Trustee's Motion for Taxable Costs hearing at 10:30 a.m.Mr. Cohen reviewed Mr. Carrington's recent filings in which Mr. Carrington argues in part that the Board should not be able to pierce the corporate veil of the association and was vindictive in naming eleven individuals without rhyme or reason, although Mr. Cohen noted the specific Board direction was to file against the Association, its officers and directors. Mr. Cohen pointed out that in paragraph 16 of the motion in 8a, that Mr. Carrington seeks as an alternative to have the taxable costs assessed across the 500+ members on the list of association members that was filed before Judge Little in 2004. Mr. Cohen advised that he and Mr. Gonyea have been preparing for this hearing, that Mr. Gonyea would take the lead in arguing the motion, and that three of the four expert witnesses whose fees comprise a large portion of the taxable costs will attend the hearing to testify as to their fees (Mark Lenker - CPA, Larry Wilson – Actuary, and Randall Stanley – Actuary). Mr. Cohen advised that Jose Fernandez was not available on 7/31/2007 to appear at this hearing. **It was moved by Mr. Lynch, seconded by Ms. Miller and by unanimous vote to receive and file item 8.**

New Business

9. Parker lawsuit. Noted receipt of Defendant's Motion to Dismiss Complaint prepared by Board Counsel Cohen. No action requested due to pending litigation. Mr. Cohen reviewed the motion to dismiss that he prepared, advising that the motion was not a delay tactic, but rather to hopefully move the matter along more quickly. Mr. Cohen apologized for not sending a cover letter of explanation to

the board. Mr. Cohen advised that filing this motion was prudent and appropriate in his opinion, that he had not been directed to waive any defenses, and that he would take the same action again given the circumstances. Mr. Cohen advised that he would still like to meet with or talk to Jose Fernandez before scheduling a limited Executive Session before the board. Ms. Campbell advised that Buck Consultants has a non-compete agreement by which Mr. Fernandez must abide; however, Buck had agreed to waive the non-compete only to the extent that Mr. Fernandez provides litigation support, the draft contract of which Buck is preparing and should be completed within another two or three weeks. Two trustees expressed frustration at not knowing what was going on with this litigation while being asked by members about it. Mr. Cohen advised that at the last board meeting, the suit had only been filed about a week before that meeting, so he was not prepared to discuss it then with the board in detail, and even as of today, he has not yet had access to Mr. Fernandez. When asked what the next steps in the process could be, Mr. Cohen advised that the court could grant or deny the Trustee's motion, and if granted, he would recommend that the board hold a hearing under policy 108 for the board to carefully consider the matter and hoped that Mr. Parker would request such a hearing. Mr. Cohen advised that Mr. Parker could also appeal the court's decision on the Trustee's motion to dismiss. Mr. Cohen advised that a hearing has not yet been set down on the Trustee's motion to dismiss, and that he has not yet received a response from Mr. Parker's attorney on the Trustee's motion as of this morning. Mr. Walker and Mr. Bogush asked to be educated on this issue, and Mr. Cohen advised that his research is still ongoing. Mr. Cohen noted that he could have asked for an extension of time to file a response to the suit, and in fact Mr. Gonyea suggested it, since it was expected that the insurance carrier would assign Mr. Gonyea to the case, but that Mr. Cohen did not request an extension. Mr. Cohen reiterated that a hearing before the board could resolve this matter far more quickly and less expensively than protracted litigation, but Mr. Parker has not requested a hearing before the board. Mr. Cohen advised that the board has a fiduciary responsibility to pay benefits that members are entitled to and a fiduciary responsibility not to pay benefits that members are not entitled to, and that he was not waiving any defenses, such as subject matter jurisdiction. Mr. Cohen advised that Mr. Gonyea has now been assigned to the case by the insurance carrier and that he and Mr. Gonyea would move forward and keep the board informed. Mr. Bogush requested that he receive litigation information sooner, such as 8a, 8b, 8c handed out today, because he needs more time to read and understand them. Ms. Campbell responded that two of the items had been received after board packages had gone out, and one item had been received today about twenty minutes before the board meeting and asked how could something be distributed that the pension office has not yet received? Mr. Bogush restated that he wants to receive his board information in a more timely fashion rather than as one board package per month, and Ms. Campbell agreed to do so. **It was moved by Mr. Lynch, seconded by Ms. Miller and by unanimous vote to receive and file item 9.**

10. Request to be placed on the agenda by retiree S. Sinardi regarding payment of 13th check, requesting that Board state reason why 13th check was not paid. (request received 7/13/2007)
 - a. Noted receipt of letter dated 5/27/2005 signed by Chair, Vice Chair, and Secretary as approved by the Board sent to all eligible 13th check recipients at that time.Mr. Sinardi requested that the board move quickly to resolve this matter, noting that the actuary, Mr. Fernandez recommended twice that the board clarify the pension contract on the 13th check, so Mr. Sinardi believes that indicates that the actuary had doubts. Mr. Sinardi advised that he believes that if this 13th check is owed, it should be paid, but if it is not owed, it shouldn't be paid, but that the board should not try to get out of it on a technicality. Mr. Sinardi advised that he thinks that a hearing before the board would be a waste of time, suggesting that there could be hundreds of hearings if the board were to require every retiree to come before the board for a hearing.

Mr. Walker responded to some of Mr. Sinardi's concerns and asked Mr. Cohen to address several as well, noting that a hearing before the board is not a technicality, rather an opportunity for the board to review information thoroughly before going to court, and that 1600 hearings would not need to be held for all 1600 retirees. Ms. Miller restated that the board reviewed the information available to them at the time, including actuarial information, made a determination that the 13th check was not due and payable at that time, and that the next step in normal due process would be a hearing before the board--if there is any pensioner who thinks the board made the wrong decision, they would come before the board for a hearing. Ms. Miller asked Mr. Cohen if that was a fair summary and if a hearing before the board would be the most appropriate next step rather than court, and Mr. Cohen agreed with that assessment. Mr. Lynch confirmed with Mr. Cohen that an agenda appearance request or public comment request is not a hearing before the board, that no evidence is presented or testimony taken, and Mr. Cohen concurred with that statement.

11. Noted receipt of listing of upcoming conferences. Disclosure of planned attendance, if any. There were none.
12. Chair's call for any new business items to be placed on next agenda. There were none.

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

13. Plan Administration.

a. 2007 schedule

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

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

14. Mr. Ribaya addressed the board regarding agenda item 9, the Parker lawsuit. Mr. Ribaya requested that Mr. Cohen meet with his retiree's association board to discuss this issue. Mr. Cohen advised that he would need specific board direction to do so. There was no pension board motion to do so. Mr. Ribaya advised that his association has not filed and is not going to file any litigation or for a hearing because they are afraid to jeopardize their membership.

Ms. Miller asked Mr. Cohen if a trustee were to request a hearing, would that be appropriate and how would that affect hearing and appeal time limits? Mr. Cohen responded that his immediate reaction is that the board could hold an informational and educational session, but he would like to review the matter further before giving a definitive answer on hearings and appeal time limits. **It was moved by Ms. Miller, seconded by Mr. Lynch and by unanimous vote to place this topic on next month's pension board agenda to discuss procedure and protocol on establishing a fact gathering meeting and how to proceed on the 2005 13th check determination.** Mr. Walker sought to clarify the motion, and Ms. Miller restated the intent of her motion was to put the topic on the next agenda to discuss protocol for fact gathering and scheduling a meeting in the future and for the board to decide how to proceed with the advice of counsel. Ms. Miller noted that there are several newer trustees, Mr.

Meier, Ms. Fox and Mr. Bogush, who could benefit from an educational session for the board to provide background.

15. Mr. Vincent addressed the board regarding agenda item 9, the Parker lawsuit. Mr. Vincent advised that his group is in agreement with the Parker lawsuit, that he believes that there is nothing in the law, the pension contract or policies and procedures to cover why the 13th check in dispute wasn't paid. Mr. Vincent advised that he believes Mr. Loper misinterpreted 112.61, advised that he thinks that the multiplier increase in 2004 while the fund was in a loss mode was improper, and advised that he believes Mr. Loper amended Section 27 of the pension contract without legislation to cover his tracks.

Ms. Campbell sought to clarify the previous board motion, that it is to put on the next agenda how to fact gather, to establish protocol on fact gathering and possibly schedule a meeting in the future, not scheduling an educational session or equivalent of Steering Committee to be held at the August board meeting. Ms. Miller reiterated that the agenda item for next month is to establish protocol and have discussion whether or not to schedule a meeting in the future, while Mr. Cohen will continue to do research, including working with Mr. Fernandez and any other professional necessary. Mr. Lynch advised that when he was new to the board, he had to come up to speed on the litigation and become educated, and that background documents could be provided to newer trustees to help them. Ms. Miller reiterated that this topic is to be placed on the agenda next month to talk about how to proceed and what information to gather, and that the topic is on the agenda for next month to talk about what those documents might be.

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.

At the 8/23/2007 board meeting, it was moved by Mr. Moors, seconded by Mr. Meier and by unanimous vote to approve the minutes of the July 26, 2007 regular board meeting as written.