

**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, August 23, 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, August 23, 2007 at 1:30 p.m. for a regular meeting with the following members present:

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

Also present were Mr. Ron Cohen, Board Counsel, Mr. Patrick Gonyea, Litigation Counsel assigned by Traveler's Insurance, Mr. Mark Lenker, CPA, and active and retired plan members.

The Chairman requested a roll call, and all trustees were present except for Ms. Fox, Mr. Lynch and Ms. Miller at meeting start time; therefore, a quorum was determined to be present.

Minutes

1. Approval of the minutes of July 26, 2007 regular 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.**
2. Approval of the minutes of August 8, 2007 Committee #2 meeting. **It was moved by Mr. Meier, seconded by Mr. Moors, and by unanimous vote to approve the minutes of the August 8, 2007 Committee #2 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 3 – 10] **It was moved by Mr. Meier, seconded by Mr. Hamlin and by unanimous vote to approve the Consent Agenda, items 3 – 10, except for item 5 for discussion.**

3. Ratified pension benefits.
4. Approved payment to Ronald J. Cohen, P.A. for legal services rendered during July 2007 in the amounts of:
 - a. \$5,034.45 Retiree's litigation.
 - b. \$2,247.80 General counsel services.
 - c. \$5,081.34 Parker lawsuit.
6. Noted receipt of Bowen, Hanes & Co. investment performance report for the month ended 7/31/2007. Market value of *investments* as of 7/31/2007 was \$1,624,005,601.58. Investment performance so far this fiscal year as of 7/31/2007 was +18.0%.

7. Noted receipt of 2007 Pre-Retirement Workshop flyers. Pre-retirement workshops to be held Wednesday 8/29/2007 (A cycle-Police, B shift-Fire) at 2:00 pm and Thursday, 8/30/2007 (B cycle-Police, C shift-Fire) at 10:00 am at the Tampa Convention Center in Rooms 22-23. Flyers mailed to home address for all plan members with ≥ 10 years of service, including DROP.
8. Noted receipt of Supplemental pension contract [Chapter 2007-304], mailed in triplicate with cover memo on 8/9/07, 8/10/07 and 8/13/07. Prepared by Plan Administrator based upon bill signed into law by Governor, contracts reviewed and approved by board counsel, city and both unions prior to distribution.
9. Noted receipt of trustee election date/time/location flyers. Dates, times, locations cleared with department heads prior to publication:
 - a. Police Trustee Election to be held from 12:00 noon – 8:00 p.m.
Thursday and Friday 10/4/07 (B cycle) and 10/5/07 (A cycle) at four locations:

Tampa Police Department, District 1	3818 West Tampa Bay Blvd., Tampa, FL 33614
Tampa Police Department, District 2	9330 North 30 th Street, Tampa, FL 33612
Tampa Police Department, District 3	3808 North 22 nd Street, Tampa, FL 33605
One Police Center	411 North Franklin Street, Tampa, FL 33602
 - b. Fire Trustee Election to be held from 8:00 a.m. – 6:00 p.m.
Monday, Tuesday and Wednesday, 10/15/07 (A shift), 10/16/07 (B shift), and 10/17/07 (C shift) at two locations:

Station 13 (District 3)	2713 E. Annie Street, Tampa, FL 33612
F&P Pension office (Districts 1, 2 & 4)	3001 North Boulevard, Tampa, FL 33603
10. Noted receipt of draft policies and procedures for recommended revision and adoption:
 - a. 109 Disruption of Pension Board Meetings
 - b. 434 10 Year Certain Benefit – Non-Line-of-Duty Death of Vested Member While Active
 - c. 605 Travel / Educational Policy – correct typo and clarify
 - d. 707 Rock Creek Center Appraisals – delete
 - e. 712 Rock Creek Center Land Sales – delete
 - f. 801 Pension Verification Questionnaire – correct typo and clarify

[Item 5 was removed from Consent Agenda for discussion]

5. Status report of bi-ennial (every other year) Pension Verification Questionnaires. Two non-respondents' August 2007 direct deposits will be suspended with checks held at the pension office until PVQ is executed as per policy and past practice/precedent.

Mickie Mashburn

Eric Zimmerman

Mr. Meier asked if there had been any contact made by either non-responder, and Ms. Campbell advised that there had not been. Mr. Hamlin noted that he thought Mr. Zimmerman may be in Iraq.

It was moved by Mr. Meier, seconded by Mr. Hamlin and by unanimous vote to receive and file item 5.

[Mr. Lynch entered the meeting at 1:35 p.m.]

Old Business

11. Motion for Taxable Costs status in Case No. 03-9298, City of Tampa Retired Fire & Police Association, Inc., a Florida Corporation; and its Individual Members Bud Maxey, et al vs. Board of Trustees.
- a. Update on hearing on motions held 7/31/2007. Mr. Walker provided an update on the hearing on motions held on 7/31/2007, stating that he was impressed with the overall legal process.
 - b. Noted receipt of Motion to Disqualify Hon. Ralph C. Stoddard with Attached Affidavit of Larry Vincent in Support Thereof dated 8/8/2007 prepared by Carrington & Carrington (received 8/9/2007).
 - c. Noted receipt of letter dated 8/9/2007 from Board Counsel Cohen to court regarding opposition to Carrington & Carrington Motion to Recuse (received 8/9/2007).
 - d. Noted receipt of Plaintiffs' Motion for Reconsideration dated 8/10/2007 prepared by Carrington & Carrington (received 8/13/2007).
 - e. Noted receipt of letter dated 8/13/2007 from Carrington & Carrington to Board Counsel Cohen regarding possible settlement (received 8/13/2007).
 - f. Noted receipt of letter dated 8/16/2007 from Board Counsel Cohen to Carrington & Carrington regarding possible settlement, requesting specific information (received 8/16/2007).
 - g. Noted receipt of Executive Session posting, during or after today's Board meeting, should the board choose to convene in Executive Session to discuss Carrington & Carrington 8/13/2007 letter (posted 8/16/2007).

Mr. Cohen advised that both he and Mr. Gonyea considered Mr. Carrington's settlement offer to be incomplete, and recommended that the board wait to see if Mr. Carrington sends a more complete settlement offer. Therefore, it was not necessary to convene in Executive Session today on this issue. **It was moved by Mr. Lynch, seconded by Mr. Moors and by unanimous vote to receive and file item 11.**

[Ms. Miller entered the meeting at 1:40 p.m.]

12. Parker lawsuit.
- a. Noted receipt of fax dated 7/27/2007 from Board Counsel Cohen transmitting Plaintiff's Memorandum in Opposition to Defendant's Motion to Dismiss Complaint which was mailed 7/23/2007 (received 7/30/2007).
 - b. Request by Board Counsel to schedule Executive Session 9/27/2007 before or after regularly scheduled board meeting. Mr. Cohen requested that this agenda item be deferred until later in the agenda under item 14.
 - c. Noted receipt of P&P 812 and resolution on ex parte communications.
 - d. Disclosure of ex parte communications by trustees in this matter.
It was moved by Mr. Lynch, seconded by Mr. Hamlin and by unanimous vote to receive and file items 12a, 12c and 12d. Mr. Hamlin disclosed that he had met with Mr. Ribaya last week in his office wherein Mr. Ribaya provided him a copy of the document contained in item 14a of today's agenda. Mr. Hamlin advised that he made no comments and did not agree or disagree with Mr. Ribaya. Ms. Miller disclosed that she had also met with Mr. Ribaya in her office the previous week, and sent the information package over to the pension office for inclusion in the agenda (14a). Mr. Walker disclosed that he had met with Mr. Ribaya, Mr. Mills and Mr. Sinardi. Mr. Bogush disclosed that he had met with Mr. Ribaya, Mr. Mills and Mr. Carter. Mr. Lombard disclosed that he had met with Mr. Ribaya, Mr. Mills and Mr. Carter at the

fire station. Mr. Lynch disclosed that he had met with Mr. Ribaya, Mr. Mills and Mr. Carter. Mr. Moors disclosed that he had met with Mr. Ribaya, Mr. Mills and Mr. Carter. Mr. Meier disclosed that he had received phone calls from Mr. Ribaya and that a package of information had been left for him at the district office.

- e. Board authorization for Board Counsel and Co-counsel to interview trustees on ex parte communications. Mr. Cohen requested board approval to interview trustees individually on the previously disclosed meetings with claimants or potential claimants. Mr. Cohen and Mr. Gonyea advised that it is important that the attorneys interview the trustees and to be fully informed as the trustees may be called as witnesses to testify in the litigation or may be deposed. **It was moved by Mr. Hamlin, seconded by Ms. Miller and by unanimous vote to authorize board counsel and co-counsel to interview trustees individually on the disclosed communications.**

Mr. Cohen reviewed several possible courses that the litigation could take: the judge could grant the motion to dismiss, the judge could deny the motion to dismiss, or the judge could order that a hearing be held before the board which could be either quasi-judicial or administrative in nature. Mr. Cohen advised that it is also possible that the judge directs that a hearing be held before the board, and then the judge could later decide if the hearing was administrative or quasi-judicial. Mr. Cohen advised that the board could waive the quasi-judicial hearing but that would give up some advantage in court. Mr. Cohen also noted that if the motion to dismiss is granted, then there is no litigation, and no ability to convene an Executive Session to discuss. Mr. Cohen advised that both he and Mr. Gonyea have spent a considerable amount of time researching the issue and gathering materials; however, it is crucial that they have an opportunity to speak with Mr. Fernandez before completing their review. Mr. Cohen advised that the limited waiver from non-compete between Mr. Fernandez and Buck is still in process and should be completed soon, but until then, they are unable to speak to Mr. Fernandez and complete their review.

Ms. Miller referred to the 8/16/2006 Buck letter and asked Mr. Cohen if it could be part of this suit and if the subject of subsequent 13th checks could also be part of this suit? Mr. Cohen advised that both subjects could be because the conditions could re-occur. Ms. Miller advised that it is difficult to discuss in open session and recommended that these matters not be discussed until Executive Session. Ms. Miller recommended that an Executive Session be scheduled for the afternoon 9/7/07 instead of waiting until 9/27/07.

[A brief recess was taken 2:10 – 2:15 p.m. for trustees and attorneys to check their schedules.]

It was moved by Ms. Miller, seconded by Mr. Lynch and by unanimous vote to tentatively schedule an Executive Session for 9/7/07 at 1:00 p.m. if needed, based upon completion of legal review of this matter and the advice of counsel.

New Business

13. Committee #2 report by Committee Chair T. Walker (see minutes in #2). **It was moved by Mr. Lynch, seconded by Mr. Walker and by unanimous vote to adopt Committee #2s recommendations as contained in the Committee #2 minutes (item 2 in today's agenda).**
14. June 2005 13th check for fiscal year ending 9/30/2004 (subject of Parker lawsuit). Discussion of procedure and protocol on establishing fact gathering, determination of how to proceed, possible

contents of package of educational information, and possible scheduling of a meeting and/or hearing (requested to be placed on agenda at 7/26/2007 board meeting).

a. Noted receipt of package of information prepared by Tampa Retired Firefighters Association (received 8/16/2007 by Trustee C. Miller, requested to be placed on agenda).

Ms. Miller advised that she had two additional documents to add to the retiree information package: 1) fax that she received from Mr. Ribaya, a 6/2/1998 letter from Mr. Slavin the state actuary to Rosalyn Brown; and 2) a letter dated 8/1/2007 from J. B. Loper to Larry Vincent that she received via email earlier today. The two items were labeled 14b and 14c and copied and distributed to the board and made part of the retiree package.

15. Request to be placed on the agenda by retiree B. Maxey regarding legal opinions (request received 7/30/2007 2:05 pm). Ms. Campbell advised that Mr. Maxey withdrew his request with staff this afternoon.
16. Request to address the board by retiree D. Ribaya regarding 13th check (request received 8/16/2007 12:00 noon). Mr. Ribaya waived his request.
17. Noted receipt of listing of upcoming conferences. Disclosure of planned attendance, if any. The following disclosed that they planned to attend the FPPTA October conference: Mr. Walker, Mr. Bogush, Mr. Moors, Ms. Campbell and staff. The following disclosed that they planned to attend the Florida Division of Retirement conference in October: Ms. Miller, Mr. Bogush, Ms. Campbell and staff, Mr. Lynch, and Mr. Moors. Mr. Bogush and Mr. Lombard disclosed that they planned to attend the FPPTA CPPT Wall Street trip in April 2008. **It was moved by Ms. Miller, seconded by Mr. Hamlin and by unanimous vote to receive and file item 17.**
18. Chair's call for any new business items to be placed on next agenda. There were none.

[Brief recess for Public Comment cards to be turned in.]

19. Plan Administration.

- a. 2007 schedule

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

Ms. Campbell reported that the state premium tax money had been received in the total amount of \$5.93 million, an approximate 4% increase over the previous year.

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

20. Mr. Sinardi addressed the board on agenda item 12, the Parker lawsuit. Mr. Sinardi stated that when members of his group met with the trustees it was to present information that his group has spent hundreds of hours gathering, not to attempt to influence any trustee, but to present information that could possibly save the board money. Mr. Sinardi noted that the money the board spent defending the last lawsuit could be better spent on benefits for all retirees. Mr. Sinardi again requested that the board not get the lawsuit thrown out on a technicality.

Motion to adjourn was made by Mr. Hamlin. The meeting was adjourned at 2:30 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 9/27/2007 board meeting, it was moved by Mr. Lynch, seconded by Ms. Miller and by unanimous vote to approve the minutes of the 8/23/2007 regular board meeting.