

**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, October 25, 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, October 25, 2007 at 1:30 p.m. for a regular meeting with the following members present:

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

Also present were Mr. Ron Cohen, Board Counsel, Mr. Patrick Gonyea, Co-counsel, Mr. Mark Lenker, CPA, Mr. Jay Bowen, Investment Manager, and active and retired plan members.

Minutes

1. Approval of the minutes of September 27, 2007 regular board meeting. **It was moved by Mr. Lynch, seconded by Ms. Miller and by unanimous vote to approve the minutes of the September 27, 2007 regular board meeting as written.**
2. Approval of the minutes of the September 27, 2007 Executive Session. **It was moved by Mr. Lynch, seconded by Ms. Miller and by unanimous vote to approve the minutes of the September 27, 2007 Executive Session 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 – 7] **It was moved by Mr. Lynch, seconded by Ms. Miller and by unanimous vote to approve the consent agenda, items 3 – 7.**

3. Ratified pension benefits.
4. Noted receipt of financial statements for the month ended 8/31/2007 prepared by Mark Lenker of Nobles, Decker, Lenker & Cardoso. Market value of *assets* as of 8/31/2007 was \$1,633,560,771.
5. Noted receipt of supplemental distribution of Chapter 175 state premium tax money received 10/1/2007 in the amount of \$756,997.54, deposited immediately into fund.
6. Approved payment to Ronald J. Cohen, P.A. for legal services rendered during August 2007 in the amounts of:
 - a. \$2,057.80 General counsel services.
 - b. \$32,077.23 Parker lawsuit.
7. Noted receipt of red flyer containing firefighter trustee election results:

Dan Lombard	59
Mark McRae	250

8. Investment Management Presentation by Jay Bowen of Bowen, Hanes & Co.
 - a. Noted receipt of Bowen, Hanes & Co. investment performance report for the month ended 9/30/2007. Market value of *investments* as of 9/30/2007 was \$1,701,890,220.31. Investment performance for fiscal year ended 9/30/2007 was +23.7%. Mr. Bowen reviewed the investment performance of the fund over the fiscal year, advising that although September is typically a volatile month, that the fund ended the fiscal year in a very good position. Mr. Bowen advised that BH&Co. believes that we have entered an economic slowdown, noting recent disappointing earnings reports, the subprime lending issue and market uncertainty. However, Mr. Bowen noted that the global economy continues to grow. Mr. Bowen advised that in a recent study, the median investment management fees of small pension funds (defined as \leq \$1.8 billion by *Pensions & Investments*) was 35 basis points, pointing out that the BH&Co. fees are only 25 basis points. Mr. Bowen responded to questions from the board. Mr. Bowen credited the board with their unwavering focus on the long term investment goals and their unwavering commitment to the Bowen, Hanes top down investment approach and broad discretion and trust given to BH&Co. in the investment of the total portfolio. **It was moved by Mr. Lynch, seconded by Mr. Hamlin and by unanimous vote to receive and file item 8a.**
 - b. Approval of bond portfolio rating information and hold recommendations dated 10/12/2007. **It was moved by Mr. Lynch, seconded by Mr. Moors and by unanimous vote to approve item 8b.**
 - c. An addendum to the 9/30/2007 investment performance report was distributed.
 - d. A handout of a comparison to a universe of other municipal pension funds of greater than \$1 billion was distributed and reviewed by Mr. Bowen.
It was moved by Ms. Miller, seconded by Mr. Lynch and by unanimous vote to receive and file items 8c and 8d.

Mr. Walker thanked Mr. Bowen for the outstanding investment performance of Bowen, Hanes & Co., noting that BH&Co. does an excellent job as all of the fund's professionals do. Mr. Bowen was presented with a plaque of appreciation from the Tampa Retired Firefighters Association.

Medical Disability

9. Authorized replacement Medical Board member Dr. Horacio Arias to replace Dr. Mary Steadman who is no longer interested in serving on medical board due to other professional interests and time commitments for LOD disability applicant M. Sanchez, formerly of TPD. **It was moved by Mr. Lynch, seconded by Ms. Miller and by unanimous vote to authorize replacement Medical Board member Dr. Horacio Arias to replace Dr. Mary Steadman for LOD disability applicant M. Sanchez, formerly of TPD.**
10. Authorized referral to Medical Board composed of Dr. Wasylik, Dr. Kriz and Dr. Fishalow as recommended by Medical Director for LOD disability applicant P. Sanzone, formerly of 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 Ms. Miller, seconded by Mr. Lynch and by unanimous vote to authorize referral to Medical Board composed of Dr. Wasylik, Dr. Kriz and Dr. Fishalow as recommended by Medical Director for LOD disability applicant P. Sanzone, formerly of TFR.**

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. Noted receipt of fax dated 9/27/2007 from F. Carrington regarding possible fidelity bond.
 - b. Noted receipt of fax dated 10/15/2007 from R. Cohen transmitting fax dated 10/12/2007 from F. Carrington regarding settlement offer.
 - c. Noted receipt of fax dated 10/17/2007 from F. Carrington requesting to be placed on the agenda to address the board at 10/25/2007 board meeting. [15 minutes per previous request]
 - d. Noted receipt of fax dated 10/17/2007 from R. Cohen to F. Carrington advising that he has been placed on agenda. (Note that agenda is routinely faxed to Carrington & Carrington approximately six days prior to each board meeting, fax confirmation attached.)
 - e. Noted receipt of Executive Session posting after today's Board meeting, should the board choose to convene in Executive Session to discuss Carrington & Carrington settlement proposal.
 - f. Noted receipt of fax from F. Carrington dated 10/19/2007 regarding Plaintiffs' Supplemental Response to Trustees Motion to Award Costs and letter regarding witnesses to be called at hearing. (distributed at the board meeting, received after agendas and board packages distributed).

Mr. Cohen reported that there is a hearing on the motion to tax costs before Judge Stoddard on October 30, 2007 at 1:30 p.m. Mr. Cohen also reported that yesterday he and Mr. Gonyea filed a motion for sanctions to recover the taxable costs associated with the July 2007 hearing which was ended prematurely by Mr. Carrington's request that the judge be recused without basis in law or fact. Mr. Cohen advised that the motion for sanctions may or may not be heard by Judge Stoddard at the October 30, 2007 hearing.

It was moved by Mr. Lynch, seconded by Ms. Miller and by unanimous vote to receive and file items 11a-f.

It was moved by Mr. Moors, seconded by Ms. Miller and by unanimous vote to waive the five minute agenda item rule to allow Mr. Carrington the fifteen minutes to address the board that he requested.

Mr. Carrington addressed the board requesting that they accept the settlement offer made by his client, advising that the association is taking collections and donations and they can see how much was collected but not before Monday. Mr. Carrington advised that he was attempting to get a bank to do a promissory note, which he is willing to co-sign. Mr. Carrington advised that his client had removed the individual trustee and professional names as a courtesy early in the litigation and requested that the board extend the same courtesy to his clients by removing the eleven named individuals from the taxable costs. Mr. Carrington apologized to the board, advising that no insults were intended towards the board or professionals but that website postings, emails and conversations were out of his control. Mr. Carrington advised that he and his clients felt that much of this litigation and expenses were driven by the board's former attorney. Mr. Carrington requested that the board accept his client's settlement offer and end this matter.

12. Parker lawsuit. Noted receipt of Executive Session posting for 10/25/2007 at the conclusion of the regular board meeting, approximately 2:30 to 3:00 p.m. start time. Mr. Cohen requested that this agenda item be moved to the end of the agenda prior to the Executive Session. **It was moved by Ms. Miller, seconded by Mr. Lynch and by unanimous vote to move this agenda item to the end of the agenda prior to the Executive Sessions.**

New Business

13. Approval of recommended revision to P&P 402 – Procedures for Applying for LOD Retirement to include Doctors of Osteopathy (D.O.). **It was moved by Ms. Fox, seconded by Mr. Lynch and by unanimous vote to approve the recommended revision to P&P 402 – Procedures for Applying for LOD Retirement to include Doctors of Osteopathy (D.O.).**
 - a. Noted receipt of fax dated 10/17/2007 from Medical Director Dr. B. Bohnker recommending this change and page of supporting documentation. Plan Administrator and Board Counsel concur. **It was moved by Mr. Lynch, seconded by Ms. Fox and by unanimous vote to receive and file item 13a.**
14. Request to address the board by retiree D. Ribaya regarding 13th check (request received 9/28/07 9:30 a.m. from D. Ribaya and again 10/17/2007 12:35 p.m. from B. Mills). Mr. Ribaya addressed the board regarding concerns about the direction that this pension fund and board are going in and expressed his disappointment that the Parker lawsuit has been going on for four months without resolution. Mr. Ribaya reviewed the expenses involved in the Parker lawsuit so far including legal fees and actuarial fees and fiduciary liability insurance. Mr. Ribaya reviewed portions of a draft of a case management report from Mr. Parker's attorney and pointed out the good faith estimate of attorney's fees and costs, in which Mr. Thomas estimates his legal fees at \$1,312,500, Mr. Cohen's estimated fees at \$412,500 and Mr. Gonyea's estimated fees at \$262,500 in addition to the estimated out of pocket expenses of \$200,000 for each side. Mr. Ribaya requested that the board end the 13th check litigation today.
15. Request to address the board by retiree S. Sinardi regarding 13th check (request received 9/28/07 9:45 a.m. from D. Ribaya and again 10/17/2007 12:35 p.m. from B. Mills). Mr. Sinardi addressed the board regarding the Chapter 175 and 185 state premium tax monies and encouraged the board to look at the department payroll numbers so that the fund could try to get more money. Ms. Miller pointed out that the Chapter 175 and 185 monies are based upon a percentage of insurance premiums collected in the City of Tampa, and clarified that he was really referring only to Chapter 175 money for fire and not Chapter 185 money for police. Mr. Sinardi advised that the Miami Fire Department payroll is \$97 million when the Tampa Fire payroll is only \$41 million and encouraged the board to include items such as health insurance premiums and pension contributions in that payroll number. Ms. Campbell advised that this subject had been brought up the previous week at the Florida Division of Retirement Conference in St. Petersburg when the former board attorney addressed the audience during the Q&A section at the end of Monday's session, citing the Miami Fire payroll, Orlando Fire payroll and Tampa Fire payroll numbers and she understood him to recommend that 175 plans consider increasing their fire department payroll number reported to the state so that the 6% of payroll limitation on the first distribution of 175 money does not apply and 175 plans get all of their state premium tax money in the first distribution instead of having a

second supplemental distribution a month or two later, noting that the Division of Retirement has not promulgated specific rules defining the payroll figure, nor are there legislative or judicial rulings. Mr. Sinardi requested that the board consider engaging economist L. Jessup to develop a higher fire payroll number and advised that he would be meeting with Mr. Jessup soon. Ms. Miller noted that the information on the state report and payroll are public record and recommended that Mr. Sinardi make a public records request. There was no board direction or motion on this matter.

16. Request to address the board by retiree B. Mills regarding 13th check (request received 10/17/2007 12:35 p.m.) Mr. Mills requested that the board consider developing a designation of beneficiary form only for the 13th check benefit so that an unmarried plan member can have the 13th check go to a significant other without having to go to the estate or through probate. Mr. Cohen briefly reviewed the plan provisions. **It was moved by Ms. Miller, seconded by Mr. Lynch and by unanimous vote to direct Board Counsel Cohen to research the issue, to place this item on the next agenda, and if Board Counsel determines that this can be done to authorize the Plan Administrator to develop an appropriate form.**
17. Request to address the board by retiree B. Maxey regarding legal opinions (request received 10/18/2007 11:10 am). Mr. Maxey recommended that all legal opinions be put in writing as he had suggested a couple of years ago. Mr. Maxey advised that he had contacted PERC regarding Mr. Loper's legal opinion on the PERC/Tallahassee case and that PERC advised Mr. Maxey that Mr. Loper's interpretation was not correct. Mr. Maxey requested that the board review the case and Mr. Loper's previous legal opinion and get a new correct written legal opinion. Mr. Maxey also recommended that the board obtain a legal opinion from the state attorney general on any opinion that adversely affects pensioners. Mr. Maxey requested that the board consider his requests and respond in writing. There was no board direction or motion on this matter.
18. Noted receipt of listing of upcoming conferences. Disclosure of planned attendance, if any. There were none. **It was moved by Ms. Miller, seconded by Mr. Lynch and by unanimous vote to receive and file item 18.**
19. 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.]

20. Plan Administration.

a. 2007 schedule

November 15, 2007 1:30 p.m. *early due to holidays

December 13, 2007 1:30 p.m. *early due to holidays

Ms. Campbell advised that the previous week had been a hectic and very heavy week at the pension office with three competing priorities and deadlines within the same week: fire trustee elections over three days at two locations which also increases the walk-ins requesting additional service or information while in the pension office; the October pension payroll was due—the utmost priority of this office is getting pensioners paid; and agenda cutoff and board packages—all while open enrollment for health insurance was underway. Ms. Campbell advised that although it was a particularly challenging and difficult week for the entire staff, that all deadlines and priorities were met.

- b. Noted receipt of disability graphic of applications in process. **It was moved by Ms. Miller, seconded by Ms. Fox and by unanimous vote to receive and file item 20b.**
- c. Pension office building maintenance. Ms. Campbell reported that there had been substantial landscaping and clearing work done recently at the pension office, including trimming trees, thinning out shrubs, and replacing the mulch. Ms. Campbell advised that the low shrubs around the entrance to the building had grown thick enough to provide a home for several non-poisonous black snakes that frequented the front porch of the pension office as well as actually getting inside the building, which the clearing and thinning should take care of. Ms. Campbell reported that there had been yet another water leak in the office; however the damage was not as severe as the last time, noting that the building is at an age where maintenance costs are expected to increase over time.

Mr. Walker thanked trustee Dan Lombard for his service to the board and extended his appreciation for his efforts.

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

Mr. Ribaya addressed the board regarding agenda item 14, reading from the draft case management report from Wayne Lee Thomas that Mr. Thomas's estimated legal fee figure of \$1,312,500 was developed by multiplying his \$350 hourly rate times 1,500 hours times a 2.5 multiplier = \$1,312,500.

[agenda item 12 moved to end of meeting at board counsel's request and approved by the board]

- 12. Parker lawsuit. Noted receipt of Executive Session posting for 10/25/2007 at the conclusion of the regular board meeting, approximately 2:30 to 3:00 p.m. start time.
 - a. Noted receipt of letter dated 10/22/2007 from the City of Tampa from Assistant City Attorney J. Gerwitz regarding the City's position that it is not an indispensable party in the Parker lawsuit and requesting that attorney T. Gonzalez be kept apprised of motions, filings, and the progress of the case.

Mr. Cohen advised that he and Mr. Gonyea and Mr. Thomas had held a case management meeting to discuss scheduling and other issues before the case management conference before the judge scheduled on 11/7/07. Mr. Cohen advised that this lawsuit is in the complex business litigation track, and that there are three tracks: track 1 - expedited, which is 12 months from filing; track 2 - which is the normal track of 18 months, which Mr. Thomas requested; and track 3 - 24 months. Mr. Cohen advised that the attorneys have to do a report for the court outlining discovery and timelines, a draft of which has to be submitted to the court by Monday. Mr. Cohen advised that at this point the anticipated trial date would be January 2009, but if more items or issues arise, the case may go to the third track, which is 24 months.

Mr. Cohen stated that the board has an obligation to pay benefits that participants are entitled to and not to pay benefits that participants are not entitled to, and that this fiduciary duty is an important and solemn duty which the board takes very seriously.

Mr. Bogush disclosed that he had just spoken to Mr. Ribaya about this case but offered no opinion. Mr. Lynch made the same disclosure.

Litigation - Case No. 03-9298, City of Tampa Retired Fire & Police Association, Inc., a Florida Corporation; and its Individual Members Bud Maxey, et al.

Mr. Cohen advised that he is asking the board for advice concerning litigation on the taxable costs issue and explained the legal requirements for the Closed / Executive Session, limited to potential settlement discussions related to the recovery of taxable costs in Case No. 03-9298, City of Tampa Retired Fire & Police Association, Inc., a Florida Corporation; and its Individual Members Bud Maxey, et al.

Mr. Walker announced that only current trustees present, Mark Bogush, Sharon Fox, Marc Hamlin, Patrick Lynch, Jimmy Meier, Cynthia Miller, John Moors, and Tracy Walker, Board Counsel R. Cohen, Co-counsel P. Gonyea, Plan Administrator J. D. Campbell, and the Court Reporter M. McKenna are authorized to attend the Closed/Executive Session.

A court reporter was present to take a verbatim transcript of the Closed / Executive Session. The transcript will not become a public document until the conclusion of this litigation in its entirety.

Mr. Walker announced that the board was going into executive session for approximately 30 minutes to one hour beginning at approximately 3:15 p.m.

Executive Session on Taxable Costs re: Case No. 03-9298, City of Tampa Retired Fire & Police Association, Inc., a Florida Corporation; and its Individual Members Bud Maxey, et al.

The closed Executive Session on Taxable Costs was convened at 3:15 p.m. and reopened to the public at 4:10 p.m.

It was moved by Mr. Hamlin, seconded by Ms. Miller to deny the settlement offer, to proceed with the hearing on the motion to tax costs and to direct the attorneys to continue due diligence in this matter. Upon voting, motion carried by a vote of 7 – 1 with Ms. Fox, Mr. Hamlin, Mr. Lynch, Mr. Meier, Ms. Miller, Mr. Moors and Mr. Walker in favor of the motion and Mr. Bogush opposed to the motion

Litigation - Parker Lawsuit Case No. 07-007198, John N. Parker, for himself and all others similarly situated vs. the Board of Trustees of the City Pension Fund for Firefighters and Police Officers in the City of Tampa.

Mr. Cohen advised that he is asking the board for advice concerning the Parker lawsuit and explained the legal requirements for the Closed / Executive Session, limited to litigation expenditure strategy and potential settlement discussions in Case No. 07-007198, John N. Parker, for himself and all others similarly situated vs. the Board of Trustees of the City Pension Fund for Firefighters and Police Officers in the City of Tampa.

Mr. Walker announced that only current trustees present, Mark Bogush, Sharon Fox, Marc Hamlin, Patrick Lynch, Jimmy Meier, Cynthia Miller, John Moors, and Tracy Walker, Board Counsel R. Cohen, Co-counsel P. Gonyea, Plan Administrator J. D. Campbell, and the Court Reporter M. McKenna are authorized to attend the Closed/Executive Session.

A court reporter was present to take a verbatim transcript of the Closed / Executive Session. The transcript will not become a public document until the conclusion of this litigation in its entirety.

Mr. Walker announced that the board was going into executive session for approximately 30 minutes to one hour beginning at approximately 4:10 p.m.

The closed Executive Session on the Parker Lawsuit was convened at 4:10 p.m. and reopened to the public at 5:00 p.m.

It was moved by Mr. Hamlin, seconded by Mr. Lynch and by unanimous vote to direct the attorneys to continue research and due diligence in this matter and to waive a jury trial.

The board meeting was adjourned at 5:00 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 November 15, 2007 board meeting, it was moved by Mr. Moors, seconded by Ms. Miller and by unanimous vote to approve the October 25, 2007 minutes as written.