

**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, December 13, 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, December 13, 2007 at 1:30 p.m. for a regular meeting with the following members present:

Tracy Walker, Chairman
Patrick Lynch, Vice-Chairman
John Moors, Secretary
Mark Bogush

Sharon Fox
Marc Hamlin
Mark McRae
Jimmy Meier
Cynthia Miller

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

Minutes

1. Approval of the minutes of November 15, 2007 board meeting. **It was moved by Ms. Miller, seconded by Mr. Walker and by unanimous vote to approve the minutes of the November 15, 2007 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 – 8] **It was moved by Ms. Miller, seconded by Ms. Fox and by unanimous vote to approve the Consent Agenda, items 2 – 8.**

2. Ratified pension benefits.
3. Noted that Bowen, Hanes & Co. investment performance report for the month ended 11/30/2007 was not available until 12/11/07 due to early board meeting during the holidays and Wachovia custody report for 11/30/2007 not expected to be available until at least 12/10/2007. Report was distributed at meeting. Market value of *investments* as of 11/30/2007 were \$1,691,940,372. Investment rate of return so far this fiscal year 9/30/2007 – 11/30/2007 as of 11/30/2007 was – 0.1%.
4. Noted receipt of revised policies and procedures previously approved by board. *Please remove and replace in your policy & procedure manuals:*
 - a. Updated Table of Contents.
 - b. 402 – Procedures for Applying for LOD Retirement.
 - c. 815A – Pension Board Chairman Responsibilities & Authority.
5. Noted receipt of updated Officers & Committees.
6. Approved payment to Ronald J. Cohen, P.A. for legal services rendered during November 2007 in the amounts of:

- a. \$385.00 Retiree's litigation.
 - b. \$3,222.30 General counsel services.
 - c. \$24,820.25 Parker lawsuit.
7. Noted receipt of Employee/Employer F&P Pension contribution rate history updated with fiscal year ending 9/30/07 financial statement information approved by Board at 11/15/2007 meeting and 24 year average.
 8. Noted receipt of financial statements for the month ending 10/31/2007 prepared by Mark Lenker of Nobles, Decker, Lenker & Cardoso. Market value of assets as of 10/31/2007 was \$1,736,429,566.

[Mr. Bogush entered the meeting at 1:35 pm]

Old Business

9. Status on research regarding 13th check designation of beneficiary request. Mr. Cohen reported that after researching the matter, the board may allow plan participants to designate a beneficiary for the 13th check benefit—only to the extent that plan members do not have an eligible surviving spouse. Mr. Cohen reviewed the section of the pension contract which specifies that in the event of a retiree's death who is eligible for the 13th check benefit, that the 13th check benefit goes to the eligible surviving spouse, and if none, to the estate. Mr. Cohen advised that he would recommend that the Board put a policy in place before initiating a 13th check designation of beneficiary, and indicated that he would bring a draft policy and draft form to the board for the next meeting for their consideration.
10. Noted receipt of draft letter from Chairman to retirees regarding FY 2004 and FY 2007 13th Checks. Chairman Lynch explained his rationale for drafting this letter for the board's consideration to send to retirees, noting that both he and the pension office have received inquiries regarding the 2004 and 2007 13th checks, and recommended that more accurate information be communicated by the board immediately. **It was moved by Ms. Miller, seconded by Ms. Fox and by unanimous vote to approve the draft letter to be signed by the Chair and Vice Chair.**
11. 13th check payment schedule/timing. Ms. Campbell reported the results of research conducted on the 13th check payment schedule/timing as requested at the last board meeting from three different areas: the fund's actuary, external audit, and Central Payroll. Ms. Campbell advised that the external auditors were on-site at the F&P pension office yesterday to begin the external audit, which is generally received by March 15 of each year. Second, a letter from the fund's actuary dated 12/7/2007 was distributed addressing the possibility of advancing the timing of certification of the 13th check benefit or making a partial payment pending completion of the certification. The fund's actuary indicated that actuarial certification can be made only after the actuarial valuation has been completed in its entirety, specifically because the certification hinges on whether the amount of the 13th check benefit exceeds the net actuarial experience accumulated from all sources of gains and losses (as required by Section 112.61 Florida Statutes). The steps of the valuation process were enumerated, noting that if the externally audited financials are available by March 15, the valuation process generally takes a full 60 days thereafter, which would place certification in the mid-May timeframe for Board approval (by May 31). When asked if Buck would consider the possibility of certifying a preliminary or estimated 13th check amount earlier than mid-May so that a partial payment could be made, the response was that it was not possible because of the requirements for

making the actuarial certification. The actuary advised that whether the “net actuarial experience from all sources of gains and losses” will support payment of the 13th check benefit cannot be established until the experience gain or loss for the prior year has been definitively calculated, which cannot be considered complete until all of the steps in the valuation process enumerated above have been addressed. He advised that either the entire amount of the 13th check can be paid, or none of it can be paid, and as such, it would be neither practical nor prudent to make a partial payment prior to the completion of the valuation. Finally, Ms. Campbell reported that she had discussed 13th check issuance schedule with Central Payroll, and while 13th check distributions (in the absence of litigation) have historically been made at the very end of the month only after regular monthly pension payroll for that month has been run, that Central Payroll was willing to consider moving a 13th check distribution up earlier in the month of distribution before regular monthly pension benefits have been run. Ms. Campbell summarized that all professionals and areas involved in the 13th check process are keenly aware of the importance of the 13th check benefit to participants and the desire to expedite the process as much as possible, while complying with the plan documents, contractual obligations and statutory requirements. **It was moved by Ms. Miller, seconded by Mr. Walker and by unanimous vote to receive and file item 11.**

New Business

12. Noted receipt of COLA calculations to take effect with the January 31, 2008 pension benefit payments as calculated by the fund’s actuary, James Donofrio of Buck Consultants. **It was moved by Mr. Walker, seconded by Ms. Miller and by unanimous vote to approve the 2008 cost of living adjustments (COLAs) as calculated by the fund’s actuary.** Ms. Campbell advised that each participant will receive notification of their COLA increase individually mailed to their home, and that Exhibit 1 with the cumulative COLA by class will be posted on the F&P pension website.
13. Request to address the board by retiree Sam Sinardi regarding 13th check (request received 12/5/07 8:30am from D. Ribaya) Mr. Sinardi withdrew his request with the Chairman.
14. Noted receipt of listing of upcoming conferences. Disclosure of planned attendance, if any. **It was moved by Ms. Miller, seconded by Ms. Fox and by unanimous vote to receive and file item 14.**
15. Policy & Procedure 107 – Appearance Before Pension Board. Public Comment section repealed one year from the date of its enactment 1/25/2008 unless action taken. **It was moved by Ms. Miller, seconded by Mr. Walker and by unanimous vote to eliminate the sunset provision.**
16. Chair’s call for any new business items from trustees to be placed on next agenda. There were none.

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

[Mr. Moors entered the meeting at 1:50 p.m.]

17. Plan Administration.
 - a. 2008 Board meeting schedule
 - January 24, 2008
 - February 28, 2008
 - March 27, 2008
 - April 24, 2008

May 22, 2008
June 26, 2008
July 24, 2008
August 28, 2008
September 25, 2008
October 23, 2008
November 20, 2008 *early due to holidays
December 18, 2008 *early due to holidays

- b. Noted receipt of graphic report of disability applications currently in process. Mr. Meier passed on a compliment to Ms. Campbell regarding the F&P pension office and staff from a disability applicant who was pleased with the level of service provided in his disability counseling and application process.
- c. F&P pension office priorities, projects, deadlines. Ms. Campbell reported on several pension office maintenance projects: there was a recommendation to insert a leaf into the board room table to expand it; however, after contacting numerous carpenters, only three were willing to come out to look at the table to develop a fee quote. Ultimately, only one carpenter actually submitted a fee quote, which he recommended against because it may destroy the aesthetics and compromise the structural integrity of the table, as well as being cost-prohibitive, instead recommending purchasing an entirely new table. Ms. Campbell advised that after discussion with the Chair, she has tasked the pension office building's interior design firm to research potential board room table replacements and provide cost information for possible consideration. Ms. Campbell advised that the pension office building has been in use for nearly ten years now, and the carpet is showing significant wear and tear, particularly in high traffic areas, and the carpet no longer seems to respond satisfactorily to professional cleaning. Ms. Campbell advised that the interior design firm had inspected the building, pulled the drawings and design information from the original construction and had selected a comparable industrial grade carpet in keeping with the design and color scheme of the overall office for consideration at a fee quote of approximately \$17,000 - \$20,000. Ms. Campbell requested board authorization to replace the carpeting in the pension office for a not-to-exceed fee quote. There was discussion regarding the condition of the carpet and obtaining multiple fee quotes from City authorized vendors from the Purchasing section as well as possible diverse business enterprises. **It was moved by Mr. Meier, seconded by Mr. Walker and by unanimous vote to obtain at least three fee quotes from City authorized vendors for future consideration.** Ms. Campbell pointed out the accumulated dirt, dust and moisture damage that has accumulated around the ceiling air conditioner registers, advising that the ducts need to be cleaned for health and clean air purposes, the registers need to be thoroughly cleaned and repainted, and that the affected surrounding ceiling tiles would also likely need to be painted (instead of replacing all or replacing only some which may not match). **It was moved by Mr. Walker, seconded by Mr. Meier and by unanimous vote to obtain at least three fee quotes for future consideration.**

Mr. Moors disclosed that he plans to attend the TECS pension conference in January 2008 at this point since he was not in attendance when upcoming conferences were addressed earlier in the meeting.

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

Mr. Ribaya addressed the board regarding agenda item #6, Mr. Cohen's bills. Mr. Ribaya advised that he made a public records request for the invoice of a \$749 airfare and another request for a letter referenced in the invoice. Mr. Ribaya stated he wants answers now. Mr. Cohen advised that he had received Mr. Ribaya's request, which was faxed to him from the pension office, noting that Mr. Ribaya requested the information by 12/18/2007. Mr. Cohen advised that his staff is locating the invoice and he will provide it to Ms. Campbell when available.

Mr. Vincent addressed the board regarding agenda item #18, the Motion to Tax Costs. Mr. Vincent requested that the board accept the TRF&PA settlement offer of \$60,000 to bring this matter to closure. Mr. Vincent was advised that this matter will be considered in Executive Session following the regularly scheduled board meeting today.

Litigation

18. Motion for Taxable Costs in re: 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. Noted receipt of the following:

- a. Letter dated 11/26/2007 from P. Gonyea of Vernis & Bowling transmitting Plaintiff's Suggested Taxation of Costs and Plaintiff's Notice of Filing of F. Carrington's 11/23/2007 correspondence to Judge Stoddard.
- b. Fax dated 11/28/2007 from R. Cohen transmitting 11/28/2007 letter from F. Carrington to Judge Stoddard and settlement offer to P. Gonyea and R. Cohen dated 11/28/2007 for the Board's consideration.
- c. Executive Session posting at the conclusion of today's regularly scheduled board meeting.
- d. Mr. Meier disclosed that he met Mr. Vincent on the way in to the board meeting this afternoon who requested assistance in resolving this matter.

It was moved by Ms. Miller, seconded by Mr. Moors and by unanimous vote to receive and file item 18.

19. 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.

- a. Noted receipt of fax dated 11/28/2007 from R. Cohen transmitting Case Management Order signed by the court 11/26/2007.
- b. Executive Session posting at the conclusion of today's regularly scheduled board meeting.

It was moved by Mr. Moors, seconded by Mr. Walker and by unanimous vote to receive and file item 19.

20. Executive Session to be held at the end of the regular board meeting [approximate start time between 2:15 p.m. or 2:45 p.m.]

- a. Board counsel request for advice concerning Motion for Taxable Costs in the TRF&PA case and explanation of legal requirements for the Closed / Executive Session, limited to litigation expenditure strategy and potential settlement discussions in Case No. 03-9298, City of Tampa Retired Fire & Police Association, Inc., a Florida Corporation; (TRF&PA) and its Individual Members Bud Maxey, et al vs. Board of Trustees.
- b. Chairman's announcement that only current trustees, Mark Bogush, Sharon Fox, Marc Hamlin, Patrick Lynch, Mark McRae, Jimmy Meier, Cynthia Miller, John Moors, and Tracy Walker, Board Counsel R. Cohen, Co-counsel P. Gonyea, Plan Administrator J. D. Campbell, and a court

reporter are authorized to attend the Closed/Executive Session. Chairman Lynch estimated that the session should last approximately 15-30 minutes.

- c. A court reporter will be 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. A brief recess was taken 2:05 – 2:10 pm for the court reporter to set up.
- d. Closed / Executive Session was convened at 2:10 p.m.
- e. Meeting was reopened to the public at 2:40 p.m.
- f. Board motions, if any. **It was moved by Ms. Miller, seconded by Mr. Moors that the Board accept the stipulation before them and authorize counsel to execute and file with the court. Upon voting, motion carried by a vote of 7-2, with Ms. Fox, Mr. Lynch, Mr. McRae, Mr. Meier, Ms. Miller, Mr. Moors, and Mr. Walker in favor of the motion, and Mr. Bogush and Mr. Hamlin opposed to the motion.**

21. Executive Session to be held at the end of the regular board meeting [approximate start time between 2:30 or 3:00 p.m.]
- a. Board counsel request for advice concerning Parker lawsuit and explanation of 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.
 - b. Chairman's announcement that only current trustees, Mark Bogush, Sharon Fox, Marc Hamlin, Patrick Lynch, Mark McRae, Jimmy Meier, Cynthia Miller, John Moors, and Tracy Walker, Board Counsel R. Cohen, Co-counsel P. Gonyea, Plan Administrator J. D. Campbell, and a court reporter are authorized to attend the Closed/Executive Session. Chairman Lynch estimated that the session would last approximately 1 ½ - 2 hours.
 - c. A court reporter will be 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. A brief recess was taken from 2:43 pm to 2:52 pm.
 - d. Closed / Executive Session was convened at 2:52 pm. A brief recess was taken 3:50 pm – 4:02 pm.
 - e. Meeting was reopened to the public at 4:25 p.m.
 - f. Board motions, if any. Ms. Miller asked Mr. Cohen if he had conducted a *de novo* review concerning payment for the 13th check for the fiscal year ending 9/30/2004, and Mr. Cohen advised that he and Mr. Gonyea had conducted an extensive *de novo* review and had concluded that the pension contract and relevant laws do not require that there not be a makeup to the base plan of previous investment losses for payment of the 13th check as long as all other conditions are met. **It was moved by Ms. Miller, seconded by Mr. Walker and by unanimous vote that based upon Mr. Cohen's de novo review, the Board of Trustees hereby resolves regarding the payment of the 2004 13th Check, that the Board of Trustees now interprets that the pension contract and relevant laws do not require there be a make up to the base plan of previous investment losses for the payment of the 13th check benefit as long as all other conditions are met; that the Board of Trustees understands that if the Board receives a certification from the fund's actuary, that it will be actuarially sound under the Florida Constitution, Section 14 Article X, to pay the 2004 13th check benefit, that the Board understands that there will be required contributions because of this distribution.** Chairman Lynch asked Mr. Cohen if the board has an actuarial certification at this time, and Mr. Cohen responded that the fund's actuary had not yet certified the fye 9/30/2004 13th check benefit.

Chairman Lynch asked if the Board could go ahead and pay the fye 9/30/2004 13th check benefit based upon the *de novo* review and motion just made, and Mr. Cohen responded that the Board can not pay this benefit unless and until the Board receives actuarial certification from the fund's actuary. Chairman Lynch asked when the Board could expect to receive actuarial certification, if any, and Mr. Cohen advised that the matter is being diligently pursued, and he hopes to have a definitive response from the fund's actuary soon. **It was moved by Ms. Miller, seconded by Mr. Walker and by unanimous vote to continue to attempt to resolve this matter utilizing necessary means and professionals.**

Mr. Vincent thanked the board for their consideration and for accepting the \$60,000 settlement offer on the Motion to Tax Costs.

The meeting was adjourned at 4:30 pm.

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 1/24/2008 board meeting, Mr. Cohen and Ms. Campbell made slight revision recommendations, and it was moved by Ms. Fox, seconded by Mr. Walker and by unanimous vote to approve the minutes of the 12/13/2007 regular board meeting with the recommended revisions.