

**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 27, 2008 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 27, 2008 at 1:30 p.m. for a regular meeting with the following members present:

Patrick Lynch, Chairman	Sharon Fox
Tracy Walker, Vice-Chairman	Mark McRae
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, Dr. Bruce Bohnker, Medical Director, and active and retired plan members.

Minutes

1. Approval of the minutes of February 28, 2008 board meeting. **It was moved by Mr. Meier, seconded by Mr. Walker and by unanimous vote to approve the minutes of the February 28, 2008 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. Fox, seconded by Mr. Moors 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 February 2008 in the amounts of:
  - a. \$5,474.41 Parker lawsuit.
  - b. \$23,619.88 General counsel services.
4. Noted receipt of investment performance report and investment summary for the month ended February 29, 2008 from Bowen, Hanes & Co. Market value of *investments* as of 2/29/2008 was \$1,584,780,410.54. Investment return as of 2/29/2008 has been -4.9% so far this fiscal year to date 10/1/2007 – 2/29/2008.

Medical/Disability Issues

5. Initial hearing for LOD disability applicant M. Sanchez, Jr., formerly of TPD. Noted receipt of Medical Board reports, Medical Director's summary, disability application and qualifying letter, summary review outline prepared by Independent Medical Case Manager, injury report, post-offer pre-employment physical, police officer job description and disability application process timeline.

Mr. Sanchez was sworn in. The Medical Director responded to questions from the board. **It was moved by Mr. Meier, seconded by Mr. Moors and by unanimous vote that the board finds that Mr. Sanchez is disabled from the regular and continuous duties of a police officer. It was moved by Mr. Meier, seconded by Ms. Fox and by unanimous vote that the board finds that Mr. Sanchez's disability was incurred in the service (line of duty). It was moved by Mr. Meier, seconded by Ms. Fox and by unanimous vote that the board grant Mr. Sanchez a line of duty neurological disability pension effective his last day on payroll.**

6. Recommended amendments to disability policies. Noted receipt of the following:
  - a. Letter dated 3/20/2008 from Board Counsel Cohen regarding proposed revisions to Policies & Procedures (P&P) 408 and 409, and proposed draft new P&P 435 and 436.
  - b. Policy & Procedure 408 – Bi-ennial Re-evaluation of Disability Retirees – recommend deletion.
  - c. Policy & Procedure 409 – Re-evaluation of Disability Retirees – recommend amendments.
  - d. Policy & Procedure 435 – Disability Pensioners Working Elsewhere As Certified Firefighters or Police Officers draft - recommend adoption.
  - e. Policy & Procedure 436 – Complaints About Disability Pensioners' Physical Activities draft - recommend adoption.

Mr. Cohen reviewed the attached existing policies and proposed revisions and proposed new policies, explaining that P&P 409 – Re-evaluations of Disability Retirees currently covers two different situations: 1) bi-ennial re-evaluation of disability retirees and; 2) persons who have accepted positions in other fire or police departments that require certification. Further, if a disabled retired member regains his or her health and is able to perform duties in the fire or police department, they are to notify the pension office immediately. Mr. Cohen noted when the Board receives specific information that a disabled retiree is working elsewhere as a certified police officer or firefighter, it raises concerns that perhaps they are no longer disabled; however, even if there is a good explanation, it is believed that the Board should get to the bottom of the matter as quickly as possible, both for the benefit of the Board of Trustees and the disabled member. Mr. Cohen recommended that P&P 409 be revised as proposed to address only the bi-ennial re-evaluation of disability retirees to clearly separate the issues of regaining of full health vs. employment elsewhere as P&P 409 may not provide an expeditious method of resolution.

Mr. Cohen outlined the in-depth process of P&P 409 for the bi-ennial re-evaluation, which is lengthy and time consuming, as compared to a more expeditious process set forth in proposed draft P&P 435, which is more streamlined and less cumbersome yet sets forth appropriate due diligence and could be completed more quickly, less expensively and bring more rapid closure for both the Board and the disabled member. Mr. Cohen restated that the Board has an obligation to look into the matter as part of their fiduciary duty. Mr. Cohen noted that P&P 408 overlaps with P&P 409 and recommended that 408 be deleted.

Mr. Cohen advised that the Board's duty is to grant disabilities to those disabled and not grant disabilities to those not disabled, noting that the best time in the process to prevent abuse of the disability pension process is at the beginning of the process more so than after the disability has been granted. Mr. Cohen advised that he believes that the current disability process is quite thorough and the Medical Board reports are generally quite clear.

Mr. Cohen reviewed P&P 436 Complaints About Disability Pensioners' Physical Activities outlining several scenarios of such possible complaints, noting that there is significant possible abuse for a variety of reasons, some of which could be personal dislikes or grudges; hence, the inclusion of the Supreme Court standard of a sufficient indication of reliability. Mr. Cohen reviewed portions of the policy intended to prevent arbitrary and capricious or malicious unfounded anonymous complaints. Ms. Fox recommended that a sentence regarding failure to provide the requested release and the consequences thereof be included in P&P 436 so that 436 has the same accountability and consequences contained in P&P 435.

Mr. Walker expressed concern that the age 46 limit on re-evaluating disabilities may present an age discrimination issue and asked where that age came from. Mr. Cohen responded that it seems to be that age 46 was the time at which a vested member could otherwise begin drawing a pension. Mr. Walker asked if a member was hired at age 18 and put in 20 years, taking a longevity retirement at 20 & out, could they still be subject to disability re-evaluation until age 46 or would their re-evaluation potential end at age 38? Mr. Cohen advised that is a good point, and that he would look at it further.

[Ms. Miller entered the meeting at 2:00 p.m.]

Mr. Walker referred to Section 633 of the Florida Statutes where firefighter certification can be issued by the state, even if the person is disabled, if they serve in a supervisory or managerial type of position, referring to the state's website. Mr. Walker pointed out that the state can issue certification even if a person has physical limitations or is disabled. Mr. Walker asked if a complaint was filed on either of the two disability pensioners that the board is having re-evaluated. It was noted that no complaint had been filed with the board of trustees or pension office; however, the board was made aware of the issue through the media, specifically reporter M. Deeson, as well as newspaper articles. Mr. Bogush and Mr. Walker expressed concern that at present anyone could go to the media to initiate an "investigation" even if completely unfounded. Mr. Bogush suggested that the method of filing complaints contained in draft P&P 436 also be included in draft P&P 435 so that there is a clear and consistent method by which complaints can be filed with the board. Mr. Walker asked what happens if the pension board finds someone no longer disabled and votes to suspend their pension, but then the City won't hire them back for some reason—what would happen then? Ms. Campbell pointed out that Mr. Hamlin had raised that very question in a recent board meeting wherein a police officer has lost certification for some reason and would not be rehired by the City or department no matter how the pension board voted. Mr. Cohen responded briefly and noted that there are times when a court will decide those matters. Ms. Fox asked if this question could be addressed if and when the situation actually occurs, and it was agreed by consensus.

On P&P 409, Mr. Bogush asked if there was any requirement by the state that disabilities be re-evaluated, advising that if not required perhaps the board should consider stopping the practice as it does not seem to have any effect, is fairly expensive, and does not seem to result in returning disabled pensioners to full duty. Ms. Miller provided some history that during her tenure as Internal Audit Director, there was an internal audit of F&P pension (an audit from which she recused herself since she was a sitting trustee on this board), and one of the audit recommendations was that there be periodic re-evaluations of disabilities of at least a random sample. Ms. Miller advised that it is also a good business practice and a recommendation arrived at independently by

internal audit as well as demonstrating fiduciary responsibility by the board. Mr. Bogush reiterated that he feels that the re-evaluation process should be eliminated. Mr. Moors also recounted some history that the Board wanted to be proactive in this area, and if there have been no significant problems or anyone's disability pension being suspended, then perhaps that is confirmation that the disability process is working well. Ms. Fox advised that while she is sympathetic to the situation, that the board has a fiduciary duty to the fund and its participants and needs to conduct due diligence in this matter. Ms. Miller and Mr. Moors also echoed those sentiments.

Ms. Campbell advised that in P&P 409 there is a section indicating that the board will pay up to \$50.00 for a disability re-evaluation qualifying letter from the disability pensioner's doctor and recounted the thinking at that time—if the Board is asking for this kind of letter, they should pay for all or part it, and \$50.00 would likely cover a copay or office visit. However, \$50.00 is not likely sufficient any longer since health insurance is not likely to cover what was a work-related injury or claim, and Workers Comp is not likely to cover a pension matter, so a disability pensioner could be billed significantly more than \$50.00 out of pocket to secure this letter. Ms. Campbell asked if the Board would consider increasing the \$50.00 limit to something higher, and Dr. Bohnker was asked for his input, and \$200.00 was the limit agreed upon by consensus.

Mr. Meier came back to Mr. Walker's question relative to age 46 for disability re-evaluation, specifically relating to the 20 & out provision. Ms. Campbell noted that under the present policies and procedures it is possible that someone is hired at age 18, becomes disabled very early in their career, goes out on disability, and then is subject to random bi-ennial re-evaluations for the next 26 years (until age 46) even if the disability is obviously not cured, such as an amputation. Mr. Walker noted that the trend around the country for police and fire seems to be hiring older, experienced officers who may have physical limitations, but why should they not be subject to disability re-evaluation because they are over the age of 46? Ms. Campbell asked Mr. Cohen if the age 46 limit for disability re-evaluations in P&P could legally be amended to be either: 1) retirement at 10 years of service and age 46; or 2) 20 & out regardless of age? Mr. Cohen advised that he had not considered the age 46 limit, but would research it and report back to the board. Ms. Fox recommended that these policies be deferred to the next meeting to be updated with the changes discussed today and provide Mr. Cohen time to research the age 46 issue. **It was moved by Ms. Fox, seconded by Mr. Walker and by unanimous vote to defer action on the proposed draft policies & procedures/revisions until the next board meeting.** Ms. Campbell requested that the board consider formally increasing the \$50 limit in P&P 409 today rather than deferring action on that item for another month. **It was moved by Mr. Moors, seconded by Mr. Walker and by unanimous vote to increase the \$50.00 limit in P&P 409 to \$200.00. It was moved by Ms. Miller, seconded by Mr. Walker and by unanimous vote to receive and file items 6a-e.**

### Old Business

7. State premium tax monies.
  - a. Noted receipt of email dated 3/11/2008 from S. Fox regarding City of Tampa 2007 calendar year payroll figures for police and fire, including benefits.
  - b. Noted receipt of excerpt from 2007 annual report to state reflecting City of Tampa total 2007 calendar year payroll for police and fire, including benefits and excerpt from 2006 annual report for comparison.

- c. Noted receipt of letter received by F&P pension office on 3/12/2008 from S. Sinardi and D. Ribaya to B. Wise, Finance Director regarding reporting of City of Tampa 2007 calendar year payroll.

**It was moved by Ms. Miller, seconded by Mr. Walker and by unanimous vote to receive and file items 7a-c.**

- d. Presentation of operation of the chapter money and supplemental distribution by Board Counsel Cohen as requested by Trustee M. Bogush at last board meeting. Mr. Cohen made a powerpoint presentation explaining the operation of the Chapter 175 state premium tax money and supplemental distribution as requested and responded to questions from the board. Mr. Cohen explained that Section 175.122 limits the initial fire premium tax distribution to no more than 6% of fire department payroll, and no less than 50% of the total premium taxes collected. Mr. Cohen noted that all moneys not distributed to the cities/districts as a result of the limitation are transferred to the Firefighters' Supplemental Compensation Trust Fund (SCTF), which is administered by the Department of Revenue (DOR) not the Division of Retirement. Each year, on or before 10/1, the DOR determines the required budget to properly fund the educational incentive programs that it administers and calculates the amount of excess funds in the SCTF, if any. These excess funds are then redistributed to the cities/districts in proportion to how much was contributed during the year and shall be deposited into the firefighters' pension plan. Mr. Cohen advised that there is no statutory definition for the term "payroll" in Chapters 175 or 185, with the only limitation to the statutory "fire department payroll" reference is payroll amounts of members included in FRS are not included. Mr. Cohen pointed out that only Chapter 175 has a supplemental disbursement, not 185 for police, so this presentation addresses only Chapter 175. Mr. Cohen reviewed 3 possible 175 initial distribution scenarios and reviewed numerical examples, including the 7.3% service charge levied by the state from the total gross premium taxes collected. Mr. Cohen noted that if the SCTF receives more money than required to fund the program, which is educational incentives for firefighters, the SCTF refunds that excess money, if there is any, to eligible cities/districts in proportion to the amount that was contributed to the SCTF for that year—and in some years there may not be any money left over. Mr. Cohen referred to the excerpts from the statutes contained within the presentation in response to the questions from trustees last month. Mr. Cohen advised that there is no way to predict what the next initial distribution or supplemental distribution, if any, might be since it is unknown how much state premium tax money has been collected or how much money the SCTF needs to fund its program. Mr. Cohen was thanked for his informative presentation and Ms. Fox was thanked for her efforts.

**It was moved by Mr. Moors, seconded by Mr. Walker and by unanimous vote to receive and file item 7d.**

#### New Business

8. Noted receipt of request to address the Board by D. Ribaya for ten minutes regarding 13<sup>th</sup> check for DROP plan members (request received 3/20/2008 am). Mr. Lynch advised that as Chairman he declines the request for ten minutes, advising Mr. Ribaya that he has five minutes. Mr. Ribaya distributed a two page document to the board with interest calculations on the first page and DROP/13<sup>th</sup> check questions on the second page. Ms. Fox requested that the Board address this topic at a later time since it is a great deal of information handed out moments ago. Mr. Ribaya noted that there was a deadline on page 2 of his handout. Ms. Miller asked Mr. Lenker if he had any initial reactions or if he needed more time to review the information, and Mr. Lenker advised that he would like to have time to review. Ms. Fox advised that she felt that these questions appear

to be more personal tax planning advice rather than the board issues, and Mr. Lynch agreed. Mr. Lenker reviewed briefly what the questions appeared to be, advising that if income taxes were withheld from a person's 13<sup>th</sup> check, that the individual could recover any tax refund due, if there is any, when filing their next tax return, depending upon the individual taxpayer's tax situation and return. Mr. Lenker advised that the fund has no obligation to make a plan participant whole for income taxes withheld from the 13<sup>th</sup> check, if there were any. Ms. Campbell phrased a question differently, if a DROP participant has already taken a rollover of their DROP proceeds to another institution, and no longer has assets within the pension plan, could this 13<sup>th</sup> check be rolled over? Mr. Lenker advised that his initial reaction was that no, those DROP participants would not be eligible to rollover this 13<sup>th</sup> check. Mr. Lenker reminded the board that individual taxpayers are on a cash basis and are taxed on income when received. Mr. Lenker advised that having just received this document moments ago, he would like to have time to review and respond. Mr. Lenker noted that even if the 13<sup>th</sup> check were eligible for rollover, the individual would have to make that decision. Ms. Miller summarized her understanding that if a member is still in DROP and there is an active DROP account when 13<sup>th</sup> check is paid, it accrues to the DROP account, and could then be rolled over with the entire DROP proceeds; however, if a member is no longer in DROP and does not have a DROP account, then there is no DROP account to accrue it to. Mr. Lenker stated that is a fair summary; however, he has not reviewed any IRS special rulings that there might be on this topic.

Mr. Bogush advised that he would like an answer immediately. Mr. Lenker pointed out that tax withholding was not a penalty, but federal income tax withheld and differentiated the concepts of tax deferral vs. tax withholding vs. penalty. Mr. Walker recounted his recollection of part of this topic at the pre-retirement workshops that Mr. Lenker participates in, specifically the concept of constructive receipt--if someone is entitled to mustering out pay at the end of the year, they couldn't delay receipt of that payment until after the first of the year to avoid higher taxes. Mr. Walker asked how this 13<sup>th</sup> check payment was different? Mr. Lenker advised that in this case, the participant had no choice whether to take this 13<sup>th</sup> check distribution or not, the decision was made by the Board, and it was paid out by the Board 2/15/2008, so this is not a participant's constructive receipt decision. Ms. Miller used the example of school teachers in another county where pay rate errors were found and received corrected pay in 2008—those teachers received the corrected pay as taxable income in 2008, but they don't go back and amend their 2007 return, even if the pay applied to 2007. Mr. Lenker advised that description/example is accurate.

Mr. Lynch suggested that a special board meeting be called to discuss this after the fund professionals have had an opportunity to review but before 4/15/08. Mr. Lenker reminded the board that it is tax season and his schedule is somewhat limited at present and suggested that perhaps the board consider posing these questions of Ice Miller, particularly since Ice Miller also reviewed the DROP and 13<sup>th</sup> check prior to implementation. Ms. Fox stated that she believes that this is a personal income tax question and not the responsibility of this board, and Mr. Lynch agreed. Mr. Bogush noted that not everyone on a fixed income has tax counsel. Ms. Fox responded that regardless, individuals are responsible for filing their own tax returns, and as such this is an individual responsibility.

Mr. Lenker pointed out that the minimum tax rate is typically 15%, and since this 13<sup>th</sup> check is stacked on top of regular income, that some individuals could probably be in a higher tax bracket, although most will likely end up paying 15% or more when their individual tax returns are filed.

Mr. Walker asked if line of duty disability pensioners have federal income tax withheld, and Mr. Lenker responded that he did not think so. Ms. Campbell concurred that LOD disability pensions are not taxable income and no federal income taxes are withheld. Ms. Miller pointed out to Mr. Bogush and Mr. Walker that at this point there is not anything else that this board can do, even if Ice Miller and/or Mr. Lenker were to give a different answer, the board really couldn't do anything with it, that would be an individual responsibility. Mr. Bogush asked if a DROP participant could roll over this 13<sup>th</sup> check benefit and requested that an answer be provided to them as a courtesy, noting that some may use tax software and don't have tax counsel. Mr. Lenker advised that the most recent 13<sup>th</sup> check (paid 2/15/2008) does not affect the 2007 tax return due 4/15/2008, it is income received in 2008 which would be dealt with on the 2008 return due 4/15/2009. Mr. Lenker suggested that each person contact their own custodian to see if the custodian would accept this 13<sup>th</sup> check benefit as a rollover, noting that the answer is probably no. Mr. Cohen advised that he wished that he had known these questions sooner so that they could be given proper and thoughtful consideration. **It was moved by Ms. Miller, seconded by Mr. Walker that the questions on page 2 of Mr. Ribaya's letter be submitted to Ice Miller, with the 3 key areas to be asked: rollover eligibility, notice and deadline with the Ice Miller telephone conversation conducted by Mr. Cohen, Ms. Campbell and Mr. Lenker (if available) for a not to exceed fee of \$5,000 with the appropriate disclaimers that this is not to be considered personal tax or financial planning advice, with the results published on the website and on the notice board in the office as education for the board and members, and that this issue does not require a meeting of the Board of Trustees. Upon voting, motion carried by a vote of 6 – 2 with Mr. Bogush, Mr. Meier, Mr. McRae, Ms. Miller, Mr. Moors, Mr. Walker in favor of the motion and Ms. Fox and Mr. Lynch opposed to the motion.** Ms. Fox stated that she would like information like this in advance so that there is time to review, noting that it is not appropriate to ask this board to rule on the fly on technical matters and asked for common courtesy to be extended to the board. Ms. Campbell noted that P&P 107 does not require submission of documents in advance by those requesting an agenda appearance, simply name, affiliation, topic and action desired by the board, and asked if the board wanted to consider amending its policy? Mr. Lynch suggested a policy change, but it was agreed by consensus that a policy change was not necessary at this time. **It was moved by Mr. Moors, seconded by Mr. Walker and by unanimous vote to receive and file item 8.**

9. Audited financial statements for the fiscal year ended 9/30/2007 by Ernst & Young – distributed at board meeting, not received by agenda cutoff and board package distribution, received day of board meeting shortly before start time. Ms. Miller asked if this item could be deferred or if there were pressing deadlines. Ms. Campbell advised that the audited financials are time critical, not only for the state, but also for the actuary. Mr. Lynch pointed out that the actuary has 60 days from receipt of the audited financials to prepare the valuation and if this item is deferred for a month, the June 30<sup>th</sup> 13<sup>th</sup> check deadline could not be met. **It was moved by Ms. Miller, seconded by Ms. Fox and by unanimous vote to receive and file item 9.**
10. Noted receipt of listing of upcoming conferences. Disclosure of planned attendance, if any. Ms. Miller undisclosed the May Division of Retirement conference. Mr. Moors disclosed that he planned to attend the May Division of Retirement conference. Ms. Fox disclosed that she planned to attend the May FGFOA conference. Ms. Campbell disclosed that she would like to attend the April U. S. Pensions Summit. **It was moved by Mr. Moors, seconded by Ms. Miller and by unanimous vote to receive and file item 10.**

11. Chair's call for any new business items from trustees to be placed on next agenda – none.

[Brief recess for Public Comment cards to be turned in. Recess 3:06 pm – 3:12 pm]

12. Chair's report – none.

13. Attorney's report – none.

14. Plan Administration.

a. 2008 Board meeting schedule:

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. F&P pension office priorities, projects, deadlines. Ms. Campbell reported that the month of March had been extremely busy and hectic at the pension office, as it is each year. Ms. Campbell advised that there were multiple priorities, projects and deadlines occurring at the same time: the annual report to the state, the March monthly pension payroll, and the external audit. Ms. Campbell advised that the 13<sup>th</sup> check designation of beneficiary mailing had been accomplished, which included copying, collating, folding, stuffing, labeling thousands of pages including the cover letter, policy and procedure, form and frequently asked questions. Ms. Campbell advised that the mailing was spread out over four days after the annual report and March pension payroll deadlines had been met, with T&I generating the labels after pension payroll closeout so that address changes up to that point were captured. Ms. Campbell noted that the mailing was generating a high volume of calls and walk-ins. Ms. Campbell advised that the entire F&P pension office staff had really stepped up to the plate, met the challenges and done an admirable job, noting that these additional priorities, projects and deadlines are in addition to the normal ongoing daily operations including processing new hires, disability applications, retirements, DROP entries and exits, disability re-evaluations, etc.

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

Mr. Ribaya addressed the board regarding agenda item #8. Mr. Ribaya advised that he only found out about this situation last Friday, and that in all fairness to F&P staff, when he asked to see two personnel files of DROP participants, staff had to redact social security numbers and bank account numbers, which is time consuming, advising that he had only come in yesterday to review the files and typed up this handout this morning. Mr. Ribaya advised that he had talked to his CPA about this matter, not concerning him but concerning DROP participants who have left, some of whom are police officers that they cannot get personal information for. Mr. Ribaya advised that he thought that the DROP people were not notified about the \$5,700 13<sup>th</sup> check, and since he is not a tax attorney, suggested that the board go to Ice Miller to ask if that \$5,700 could be rolled over since the 13<sup>th</sup> check

occurred while they were in DROP. Mr. Ribaya related that when his wife retired from the Florida Retirement System, she received notice from the plan administrator that DROP participants could roll over money or not and to his knowledge this was not done here. Mr. Ribaya advised that he believed that it was his association's obligation to ask this on behalf of their 11 members who were in DROP rather than have those 11 people each come to the board.

Mr. Mills addressed the board regarding agenda item #1. Mr. Mills asked what happens to the 13<sup>th</sup> check if an eligible surviving spouse is alive on October 1 but dies before the 13<sup>th</sup> check is paid. Ms. Campbell advised that in that instance the 13<sup>th</sup> check would be paid to the eligible surviving spouse's estate, and Mr. Cohen and Mr. Lenker agreed. Mr. Mills asked if the 13<sup>th</sup> check designation of beneficiary form would be mailed to eligible surviving spouses, and Mr. Cohen advised that it would not be since there is no choice in the matter.

Mr. Sinardi addressed the board regarding agenda item #1. Mr. Sinardi asked how to complete the 13<sup>th</sup> check designation of beneficiary form so that his eligible surviving spouse was first and then to leave it to a trust if she dies before him. Ms. Campbell advised that the eligible surviving spouse is automatically the recipient, so even if someone puts another person as the primary beneficiary, it would not matter—the 13<sup>th</sup> check would automatically go to the eligible surviving spouse. Mr. Cohen and Mr. Lenker agreed. Mr. Sinardi asked if he should put the trust first and then split between his children or if he should put his wife and then the trust. Ms. Fox pointed out that those are personal decisions and that the board cannot provide personal tax or financial planning advice. Ms. Campbell advised that even though the 13<sup>th</sup> check automatically goes to the eligible surviving spouse that many spouses want to see their name as primary beneficiary (even though that is automatic) and then some other contingent beneficiary or beneficiaries. Ms. Campbell used the example of a retiree being married to Sally, who meets the definition of "eligible surviving spouse", but the retiree wants to name Susan as the primary beneficiary—Sally as the "eligible surviving spouse" would receive the 13<sup>th</sup> check benefit even if Susan had been listed as primary beneficiary since the 13<sup>th</sup> check goes to the "eligible surviving spouse." Mr. Cohen and Mr. Lenker concurred that an eligible surviving spouse could be listed as primary beneficiary and a trust or other person(s) could be named as contingent beneficiary(ies). The consensus was that the 13<sup>th</sup> check designation of beneficiary is a personal decision; however, the eligible surviving spouse is the automatic recipient. Mr. Sinardi asked what happens if a retiree is alive on an October 1 for the 13<sup>th</sup> check, but then passes away before it's paid, and then the eligible surviving spouse passes away also before it's paid? Mr. Lynch pointed out that Mr. Mills had essentially just asked that question, that it would go to the eligible surviving spouse's estate.

Ms. Miller responded to Mr. Ribaya's public comment item and sought to confirm that the population in question are those DROP participants who were in DROP in 2005 but are not in DROP now, and asked the approximate number of DROP participants who might be affected, noting that Mr. Ribaya indicated that by their count it was 43. Ms. Campbell confirmed that approximation. Ms. Miller suggested that a carefully worded notice be drafted to set forth the key points of the trustees' earlier motion to advise those potentially affected and to advise them that we are looking at it and to recommend that they obtain their own tax advice. Ms. Fox suggested that it be communicated to those possibly affected to contact their custodian, but Mr. Cohen recommended against specifying the custodian, but that we will do our best to research the matter and get advice quickly. **It was moved by Ms. Miller, seconded by Mr. Meier that a very carefully worded notice be provided to the possibly affected DROP participants drafted by Mr. Cohen and Ms. Campbell with the concurrence and signature of the Chair and that it be posted on the website and notice board at the pension office and mailed to those potentially affected who**

**have retired and left DROP. Upon voting, motion carried by a vote of 7 – 1 with Mr. Bogush, Ms. Fox, Mr. McRae, Mr. Meier, Ms. Miller, Mr. Moors and Mr. Walker in favor of the motion, and Mr. Lynch opposed to the motion.**

Litigation

15. 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.
  - a. Noted receipt of letter dated 2/28/2008 from P. Gonyea to F. Carrington regarding scheduling a 30 minute hearing on Trustees' Motion for Sanctions.
  - b. Noted receipt of letter from F. Carrington to P. Gonyea regarding scheduling a 2 ½ hour evidentiary hearing on Trustees' Motion for Sanctions.  
Mr. Gonyea advised that he had tentatively set the motion down for hearing before the judge in June; however, there was a schedule conflict and he is attempting to reschedule. **It was moved by Ms. Miller, seconded by Mr. Moors and by unanimous vote to receive and file item 15.**
  
16. 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. Noted receipt of:
  - a. Executive Session posting at the conclusion of today's regularly scheduled board meeting. **It was moved by Ms. Miller, seconded by Mr. Walker and by unanimous vote to receive and file item 16a.**
  - b. Seven page letter from opposing counsel Mr. W. L. Thomas received by the F&P pension office 3/25/2008 and cover memo from Board Counsel Cohen. **It was moved by Ms. Miller, seconded by Mr. Walker and by unanimous vote to receive and file item 16b.**
  
17. Executive Session to be held at the end of the regular board meeting [approximate start time between 2:15 p.m. and 2:45 p.m.]
  - a. Board Counsel request for advice concerning Parker lawsuit and explanation of 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.
  - b. Chairman Lynch announced that only current trustees present, Mark Bogush, Sharon Fox, 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, M. McKenna, are authorized to attend the Closed/Executive Session and estimated the length of the Executive Session to be approximately 60-90 minutes.
  - c. 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.
  - d. Closed / Executive Session was convened at 3:34 p.m.
  - e. Meeting was reopened to the public at 4:33 p.m.
  - f. Board motions, if any. There were none.

Motion to adjourn was made by Ms. Miller. The meeting was adjourned at 4:33 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 4/24/2008 meeting of the Board of Trustees, it was moved by Ms. Miller, seconded by Mr. Walker and by unanimous vote to approve the minutes of the 3/27/2008 board meeting as amended, deleting the word Florida in front of Supreme Court on page 3, line 4.