

**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 28, 2008 12:00 noon**

**Reconvened at The Corporate Training Center
HCC (Hillsborough Community College) at Davis Islands
Room 125 at The Corporate Training Center located at 39 Columbia Drive, Tampa, FL 33606
Monday, September 15, 2008 12:30 p.m.**

A. EXECUTIVE SESSION – Motion for Sanctions

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 28, 2008 at 12:11 p.m. for an executive session with the following members present:

| | |
|-----------------------------|----------------|
| Patrick Lynch, Chairman | Marc Hamlin |
| Tracy Walker, Vice Chairman | Mark McRae |
| Sharon Fox | Jimmy Meier |
| Mark Bogush | Cynthia Miller |

Also present were Board Counsel R. Cohen, Co-counsel P. Gonyea, and J. D. Campbell, Plan Administrator.

- I. Open Session - Board Counsel Cohen explained the legal requirements for the Closed / Executive Session.
- II. Closed / Executive Session for Pending Litigation

Limited to potential settlement discussions related to Motion for Sanctions in Case No. 03-9298, City of Tampa Retired Fire & Police Association, Inc., a Florida Corporation; and its Individual Members Bud Maxey, et al.

Pursuant to Section 286.011(8), Florida Statutes, only current trustees present (Mark Bogush, Marc Hamlin, Sharon Fox, Patrick Lynch, Mark McRae, Jimmy Meier, Cynthia Miller, and Tracy Walker), Board Counsel R. Cohen, Co-counsel P. Gonyea, Plan Administrator J. D. Campbell, and the court reporter 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.

Chairman Lynch announced that the board was going into executive session for approximately one half to one hour beginning at 12:11 noon

[Mr. Hamlin arrived at 12:27 p.m.]

- III. Open Session

Chairman Lynch reopened the session to the public at 12:39 p.m.

Board Counsel Cohen advised that the board would need to address the trespass issued to retiree D. Ribaya and recommended that the board not make any motions from Executive Session until after both executive sessions today, during the regular board meeting expected to begin at approximately 1:30 p.m. Mr. Bogush asked Mr. Cohen if he is personally liable if Mr. Ribaya sues over the trespass. Discussion was halted and **motion by Ms. Miller, seconded by Mr. Meier to defer any motion that may arise from Executive Session today until sometime after the regular board meeting, which is open to the public, convenes at or after approximately 1:30 p.m. this afternoon. Upon voting, motion carried by a vote of 7 – 1 with Mr. Hamlin opposed.**

Board motions, if any. There were none.

[12:46 p.m. a brief Recess was taken]

B. EXECUTIVE SESSION – Pena Lawsuit

I. Open Session

Explanation of Legal Requirements for Closed / Executive Session

Limited to litigation expenditure strategy and potential settlement discussions in Case No. 08-013997, Fred Pena, for himself and all others similarly situated vs. Board of Trustees of the City Pension Fund for Firefighters and Police Officers in the City of Tampa.

Only the following shall be authorized to attend the Executive Session: Trustees M. Bogush, S. Fox, M. Hamlin, P. Lynch, J. Meier, M. McRae, C. Miller, T. Walker, Plan Administrator J. Campbell, Board Counsel R. Cohen, Co-counsel P. Gonyea and a Court Reporter.

II. Closed / Executive Session for Pending Litigation

Chairman Lynch announced that the board was going into executive session for approximately one half to one hour beginning at 12:59 p.m.

III. Open Session

Board motions, if any. There were none.

Chairman Lynch reopened the session to the public at 1:37 p.m.

[a brief recess was taken]

C. Regular Monthly Board Meeting beginning at 1:55 p.m.

26. Chair's Report

The Chairman, Mr. Lynch, began the meeting and explained that items would be taken out of order due to events that took place within the past week. He said that Mr. Cohen had some concerns about the incident. Mr. Cohen advised that a retiree who regularly attends the monthly board meetings had been trespassed from the F&P Pension Office Building and that meant that the retiree would not be allowed to come to this building. At the time he was trespassed he was told he could make public records requests. He explained that the trespass

was the result of concerns staff expressed about their own safety. Mr. Cohen explained that he advised that the police be contacted.

Mr. Cohen went on to explain that the retiree requested that he be allowed to attend the meeting today. Mr. Cohen further advised that he met with the State Attorney's Office. He went on to discuss the issues regarding first amendment issues and government in the sunshine. He recommended moving the meeting outside of the pension office building to a secure location. Mr. Lynch added clarification on what the issues are before the board. Mr. Lynch further stated that his concern is for the safety of the staff.

There was a general discussion between the trustees about the issues regarding the trespass, and moving the location of the meeting. Mr. Bogush stated he thought the meeting should be adjourned and rescheduled somewhere that Mr. Ribaya could attend. Mr. Cohen stated that Mr. Lynch, as chairman, has the authority to recess the meeting so that a new time and location could be selected. Ms. Miller expressed displeasure at the lack of notification to the board members. Mr. Cohen stated that Ms. Campbell was not informed before today's meeting of the position that Mr. Cohen was going to take today.

[The meeting was recessed at 2:15 p.m. The meeting is to be rescheduled to a future date at an alternate location.]

Continuation of the August 28, 2008 regular board meeting on September 15, 2008 at 12:33 p.m.

The meeting was reconvened at The Corporate Training Center at Hillsborough Community College at Davis Islands located at 39 Columbia Drive, Tampa, FL 33606 on Monday, September 15, 2008 at 12:33 p.m. 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 |

A moment of silence was observed in remembrance of F&P Pension office family member Helen V. Basford who passed away July 29, 2008.

Mr. Bogush asked if he could record the meeting for retiree D. Ribaya. Mr. Lynch and Mr. Cohen so acknowledged, provided that the recording did not disrupt the meeting. Mr. Cohen also advised that if there were any persons participating or listening to the meeting via telephone that they be duly advised that they are being recorded.

26. Chair's Report (Item taken out of order)

The Chairman, Mr. Lynch, began addressing the issue that caused the meeting to be relocated. Mr. Bogush said that he wanted the board members to see all documentation relating to the incident. Ms. Miller asked to vote on any items taken out of order and expressed that she would prefer to handle the board business first. Mr. Lynch agreed to take the agenda items in order.

1. Approval of the minutes of July 24, 2008 regular board meeting. **It was moved by Mr. Moors, seconded by Mr. Walker and by unanimous vote to approve the minutes of the July 24, 2008 board meeting as written.**
2. Approval of minutes of the August 14, 2008 Executive Session re: Motion for Sanctions in Case No. 03-9298, City of Tampa Retired Fire & Police Association, Inc., a Florida Corporation; and its Individual

Members Bud Maxey, et al. **It was moved by Ms. Fox, seconded by Mr. McRae and by unanimous vote to approve the minutes of the August 14, 2008 Executive Session.**

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 – 8] **It was moved by Ms. Miller, seconded by Mr. Walker and by unanimous vote to approve items 3 through 8.**

3. Ratified pension benefits.
4. Noted receipt of investment performance report for the month ended 7/31/2008. Market value of *investments* as of 7/31/2008 was \$1,545,485,149. Investment return as of 7/31/2008 has been -5.1% so far this fiscal year to date 10/1/2007 – 7/31/2008.
5. Approved payment to Counsel R. Cohen for legal services rendered during July 2008 in the amounts of:
 - a. \$14,153.39 General Counsel
 - b. \$55.00 Maxey lawsuit
 - c. \$900.54 Parker lawsuit
 - d. \$1,850.00 Pena lawsuit
6. Noted receipt of letter dated 8/3/2008 from retiree and spouse Mr. & Mrs. Roger Weaver regarding appreciation for exceptional, qualified, compassionate and efficient staff.
7. Noted receipt of memo to Board of Trustees dated 8/20/2008 regarding dates, times and location for remaining three sets of quarterly pre-retirement workshops to be conducted in December 2008, February 2009 and May 2009 by Jeff Helms under contract with the board, all to be held at The Corporate Training Center at Hillsborough Community College (HCC) on Davis Islands, 39 Columbia Drive, Tampa, FL 33606.
8. Noted that trustee elections are tentatively scheduled for:
 - a. Police – 12:00 noon – 8:00 p.m. Monday 10/6/2008 (B cycle) and Tuesday 10/7/2008 (A cycle)

| | | |
|-------------------------------------|-----------------------------------------------------|--|
| 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 – 8:00 a.m. – 6:00 p.m.

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|--------------------------------|---------------------------------------|----------------------|
| Tuesday 10/14/2008 (B shift) | | |
| Wednesday 10/15/2008 (C shift) | | |
| Thursday 10/16/2008 (A shift) | | |
| Station 13 | 2713 E. Annie Street, Tampa, FL 33612 | (District 3) |
| F & P Pension Office | 3001 North Boulevard, Tampa, FL 33603 | (Districts 1, 2 & 4) |

Mr. Bogush brought to the board's attention an error on a motion on the minutes just approved in Item 1 on a line of duty disability. **Motion by Ms. Miller, seconded by Mr. Walker and by unanimous vote to approve the minutes in item 1, except for a motion in question in #8 which will be researched and verified and brought back before the board at the next meeting.**

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

9. Noted receipt of financial statements prepared by Mark Lenker of Nobles, Decker, Lenker & Cardoso for the month ended 6/30/2008. Market value of *assets* as of 6/30/2008 was \$1,562,420,927. Mr. Lenker was unable to attend the meeting today, deferred by consensus to the next board meeting.

Disability Re-evaluations

10. Completion of Bi-ennial Disability Re-evaluations of random sample of disability retirees under the age of 46. Noted receipt of the letters dated 7/18/2008 from Medical Director Dr. B. Bohnker regarding medical records review and Medical Director's finding that each of the following continue to be incapable of performing the regular and continuing duties of a firefighter or police officer:
- a. J. Alatorre
 - b. J. Bryan, III
 - c. M. Eichenberger
 - d. J. Sackett

Motion by Ms. Miller, seconded by Ms. Fox and by unanimous vote to receive and file item 10.

11. Noted receipt of letter from Medical Director recommending that bi-ennial disability re-evaluation retiree K. Jackson be physically examined by Medical Director. **Motion by Ms. Fox, seconded by Ms. Miller and by unanimous vote to approve Medical Director's recommendation for bi-ennial disability re-evaluation retiree K. Jackson to be seen by the Medical Director.**

12. Noted receipt of letters from Medical Director B. Bohnker regarding medical records review and Medical Director's finding that each of the following continue to be incapable of performing the regular and continuing duties of a firefighter:
- a. A. Bennewitz
 - b. G. Clegg

Motion by Ms. Miller, seconded by Mr. Walker and by unanimous vote to receive and file item 12.

Old Business

13. Noted receipt of email dated 7/29/2008 from actuary J. Beattie of Buck Consultants in response to question from D. Ribaya directed from the Board of Trustees at the 7/24/2008 board meeting and supporting documentation for background and reference.

Mr. Lynch noted that there was a typo in Ms. Beattie's response in which her reference to the Parker lawsuit should have been to the Maxey lawsuit. Mr. Bogush asked if when the \$774,000 was set aside as 13th check money, it goes into a separate account or if it is just earmarked and continues to be invested.

Motion by Ms. Miller, seconded by Mr. Walker and by unanimous vote to defer item 13 until the next board meeting that both Mr. Lenker and Ms. Beattie can be present and prepared to address the question.

14. Noted receipt of letter dated 8/8/2008 from retiree D. Ribaya regarding J. Beattie, actuary's response to question from D. Ribaya directed by Board of Trustees 7/24/2008.

Ms. Miller asked if the questions in the 8/8/2008 letter from D. Ribaya have been referred to Ms. Beattie for research and preparation of a response and the answer was no, there was not yet board direction or a fee quote. **Motion by Ms. Miller, seconded by Mr. Walker and by unanimous vote to refer questions 1 through 4 and the initial question, number 5 – first paragraph only, to the Ms.**

Beattie, the actuary and Mr. Lenker, the accountant, for research and response from the independent disciplines. Mr. Lynch said that he thought there would probably be substantial costs associated with researching and responding to all of the questions, and Ms. Miller disagreed, noting that the actuary should be visiting the board shortly and hoped they would take that into consideration.
Motion by Mr. Walker, seconded by Ms. Miller to receive and file item 14.

15. Noted receipt of letter dated 8/12/2008 from retiree D. Ribaya regarding 6/30/2006 delayed 13th check.
Ms. Miller asked Mr. Cohen if any of the issues raised here are subject to the pending litigation. Mr. Cohen said that parts of all of the letters involve parts of each of the pending lawsuits. He recommended that Mr. Gonyea speak with Mr. Lenker and Ms. Beattie regarding the parts that are pending litigation and whether those should be addressed in closed executive session. Ms. Miller clarified with Mr. Cohen that this applies to agenda items 13, 14, and 15. **Motion by Ms. Miller, seconded by Mr. Walker and by unanimous vote for Board Counsel to coordinate with the accountant and actuary to determine which matters need to be handled in executive session and which matters can be handled at a regular board meeting. Motion by Ms. Miller, seconded by Mr. Walker and by unanimous vote to receive and file items 13 and 15.**

New Business

16. Question regarding constructive receipt of retroactive pay fire union increase estimated to be paid in September or October 2008. [agenda item requested by Trustee T. Walker]
Discussion between Mr. Walker, Ms. Campbell, and Mr. Lynch regarding the timing of when the retroactive pay is made and DROP dates. Ms. Campbell said that if someone were to enter DROP on or before September 30, 2008 and the constructive receipt is not prior to September 30, 2008 then according to the current process, there would be no pension contributions withheld after DROP entry and it would not count toward the pensionable final average compensation. Mr. Walker advised that he didn't think that all of the retro pay would be paid before 9/30/2008.
17. Request for commuted lump sum value of regular monthly pension benefits to active member retiring. Currently only available to Estate or Beneficiary of 10 Year Certain benefit (finite number of payments - 120) or de minimus benefits of less than \$100 per month or if the single-sum value of the accrued pension is less than \$5,000 for firefighters and \$2,500 for police officers. [agenda item requested by Trustee T. Walker]
Mr. Walker asked Mr. Cohen what it would take to provide a lump sum payment option for regular retirements. Mr. Cohen stated that according to his review of chapters 175 and 185 and his conversation with Patricia Shoemaker at the Division of Retirement Services, a commuted lump sum value for regular retirements may be allowed. He further stated that Ms. Shoemaker advised that once the board gives it to one person, it is likely that others will also want a commuted lump sum value of monthly pension benefits. He said that if it's allowed, the actuary needs to calculate or estimate the cost impact on the fund. Discussion followed about obtaining an actuarial impact statement and changing the policies to accommodate the possible change. Further discussion on whether the change is allowed versus required by contract (permissive, prohibited or silent). Ms. Fox asked Mr. Cohen if the board could set special circumstances under which the commuted lump sum value is paid to regular retirees. He said the law and contract provide for the "best circumstances of the retiring member" and he believes this gives the board the discretion to set parameters. Mr. Cohen strongly recommended that the board address this possibility consistently and not haphazardly. Mr. Lynch and Ms. Miller discussed setting the parameters prior to sending it out for actuarial study, and then giving it to a committee. Mr. Lynch assigned Mr. Meier to replace Mr. Hamlin on the Steering Committee. **Motion by Ms. Miller, seconded by Mr. Walker and**

by unanimous vote to refer this issue to the Steering Committee for a meeting to be scheduled (not in the next two weeks).

18. Question of joint annuitants who are not also eligible surviving spouses eligibility for 13th check benefits. [agenda item requested by Trustee T. Walker]
Discussion as to whether a spouse can be both joint annuitant and eligible surviving spouse and thereby eligible for a 13th check. But a joint annuitant who is not also an eligible surviving spouse does not appear to be eligible for a 13th check. Ms. Fox advised that she would like clarification from Mr. Cohen on the definitions. Mr. Cohen advised that the contract language is murky at best, and that he would need to research the matter carefully. **Motion by Ms. Miller, seconded by Mr. Walker and by unanimous vote to have Mr. Cohen research and clarify the definitions.**
19. Question of eligible surviving spouse monthly pension benefits ceasing upon remarriage (if police officer or firefighter not killed in the line of duty) and 13th check eligibility. [agenda item requested by Trustee T. Walker]
Mr. Walker explained that his position is that benefits should not cease upon remarriage as a moral issue. Ms. Miller and Mr. Cohen discussed that a change to the contract/change to benefits would have to be negotiated and agreed upon by the unions and the City. **Motion by Mr. Walker, seconded by Ms. Miller and by unanimous vote to have Mr. Cohen further research this issue.**
20. Consideration of rewrite of existing pension contract in plain language that is understandable (without changing any benefits). [agenda item requested by Trustee T. Walker]
Discussion by Mr. Walker and Mr. Lynch to send this topic to committee for further consideration. Ms. Fox said she would work on it if it's the desire of the board, and further expressed that this would be a very difficult, if not impossible, undertaking. Mr. Meier asked Mr. Cohen if any other pension plans have done this. Mr. Cohen said that he knew of one that did so with limited success. Mr. Cohen recommended that the board could consider hiring someone like an English major to rewrite the contract, but the project would have to work through both the City and unions. Mr. Cohen advised that a coherent plan document should have headings and major categories set forth in a logical manner such as administration, benefits, definitions, etc. **Motion by Mr. Walker, seconded by Ms. Miller and by unanimous vote to refer this issue to Committee 2 for further consideration.**
21. Chair's call for any new business items from trustees to be placed on next agenda. Mr. Bogush requested that the D. Ribaya trespass be placed on the agenda.
22. Noted receipt of listing of upcoming conferences. Disclosure of planned attendance, if any. Florida Division of Retirement conference scheduled in September was cancelled due to a potential tropical storm and rescheduled for December 1, 2, and 3, 2008 at the same location in Orlando. Ms. Fox undisclosed the December Division of Retirement conference and October FPPTA. Mr. Moors undisclosed October FPPTA. Mr. McRae disclosed for October FPPTA. Mr. Lynch undisclosed for December Division of Retirement. **Motion by Mr. Moors, seconded by Ms. Miller and by unanimous vote to receive and file item 22.**
23. Request to address the board by retiree C. Dabbs dated 7/30/2008 regarding information from the minutes on the last to [sic] hearings reference my disability retirement. Noted receipt of excerpt from 7/22/2004 minutes #27 for background. Mr. Dabbs was not present at this meeting. **Motion by Mr. Moors, seconded by Mr. Walker and by unanimous vote to receive and file item 23.**

24. Request to address the board by retiree T. DePolis dated 8/20/2008 regarding the relationship between the TRF&PA and the board and requesting the board to act responsibly. Mr. DePolis rescinded his request to address the board. **Motion by Mr. Moors, seconded by Mr. Walker and by unanimous vote to receive and file item 24.**
25. Request to address the board by retiree J. J. Oliva dated 8/20/2008 regarding sanctions settlement. Mr. Olivia requested to defer his address to the board until after item 29 on the agenda. **Motion by Ms. Miller, seconded by Mr. Bogush and by unanimous vote to defer request until after item 29.**

[Brief recess for Public Comment cards to be turned in 1:20 – 1:29 p.m..]

26. Chair's report.

Mr. Lynch addressed the board regarding his own actions and the circumstances of the trespass of retiree D. Ribaya. Mr. Lynch recommended hiring a security company and/or consultant to staff the pension office. He also recommended installation of a metal detector at the front door of the pension office (recommended per a previous security assessment) and consideration to meeting elsewhere in a more secure location. Mr. Bogush said that he and the other board members have not seen the documentation/evidence relating to the trespass. He stated that there was a 44-page phone log regarding Mr. Ribaya that the board members may not have seen. He said that he believes the security measures in place are very good. He further stated that in reviewing the documents he was given, he doesn't see any threat to anyone. He went on to say that he wants each board member to review all documents relating to the matter before making any decisions. Ms. Fox asked for Mr. Cohen's input. Mr. Cohen advised that it is a crime to disrupt a public meeting, and that while some cities and county commissions have trespassed members of the public from meetings, the situation has not been legally tested yet and there are no cases precisely on point. Mr. Cohen stated that assault and battery could be prosecuted. Mr. Cohen said that he thinks the board should lift the trespass order, take appropriate security measures, and allow Mr. Ribaya access to the office for meeting and public records. He reviewed a case from 1996 which he believes is analogous to the situation faced by this pension board. He said that he thinks each person has the right to inspect public records and to inspect them in the same manner as everyone else rather than setting an off-site inspection location. Mr. Moors said that there are security firms out there that the pension office could use. Mr. Moors agreed that the trespass should be lifted, but also that the staff should be able to feel secure. Mr. Cohen advised that he has considered many ideas, such as changing the physical structure of the office, but is afraid that there are few tools to work with in this matter. **Motion by Mr. Moors, seconded by Ms. Miller to lift the trespass and allow the plan administrator and chair to coordinate additional security for the office. Motion carried by a vote of 7 – 1 with Mr. Meier opposed. Motion by Ms. Miller, seconded by Mr. Walker and by unanimous vote to make security survey available to inspection by trustees at the pension office [exempt from public disclosure], and for the chair and plan administrator to make further recommendations for security to be brought before the board at a future meeting.**

Mr. Bogush stated that he believes this could have been handled by a conversation with Mr. Ribaya instead of a trespass and asked about the call log. Ms. Campbell advised that as a standard business practice, complaints, issues, and problems are documented for future reference if necessary. Ms. Campbell cited an example wherein a plan member thought he had taken a certain action (gone into DROP) over a year before; however, after thorough research, inquiries and exploration, it could not be substantiated in any way. Ms. Campbell advised that documentation of such matters is a necessary business step, and Mr. Lynch agreed, noting that in the situation just mentioned, he appreciated the thorough documentation so that he could be prepared to respond to questions from a coworker. Mr. Walker stated that documentation is a good thing and is necessary. Mr. Bogush stated he thinks people

should be notified if there is a contact log. He suggests that the other board members review the contact log for Mr. Ribaya. Ms. Campbell added that no other pensioner accesses the pension office with the frequency of Mr. Ribaya and that part of the documentation of contacts are documenting public records requests. Ms. Fox addressed Mr. Ribaya formally and on the record. She asked him to be cognizant that there is a perception by the staff that he is encroaching on safety issues with the staff. She asked that due to his frequent contact with the pension office, she requests that he be polite, be on his best behavior and be aware of the staff's perception. Mr. Lynch asked Mr. Bogush if he felt that this issue had been addressed and did not need to be on the next agenda as Mr. Bogush had requested in agenda item #21 earlier in the meeting, and Mr. Bogush agreed.

27. Attorney's report. Mr. Cohen advised the board that the actuarial rule-making workshop that was scheduled to follow the conference in Orlando in September was cancelled and has not been rescheduled yet. Mr. Cohen also advised that he thinks the issues raised in the proposed rules need to be addressed by Ms. Beattie, the mortality tables as one example. He said that he and Ms. Beattie think the PRAA may be affected. He said she will be present at our October meeting. Discussion between Mr. Cohen, Mr. Lynch, and Ms. Fox about the rulemaking workshop. **Motion by Ms. Miller, seconded by Mr. Walker and by unanimous vote for Ms. Campbell to coordinate with Ms. Beattie participation in either the September or the October board meeting in relation to the 60T Rulemaking Workshop.**

28. Plan Administration.

- a. 2008 Board meeting schedule:
 - 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 advised that this is a particularly busy time for the F&P pension office with the yearly surge in September retirements, DROP entries, and DROP exits, plus two trustee elections, high volume monthly pension payroll, and health insurance open enrollment.

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

Retiree G. Wotherspoon addressed the board regarding Item 20. He stated that he is opposed to a re-write of the pension contract. He recommended instead that the contract should be interpreted through parables. He stated he will not sign a new contract.

Retiree D. Ribaya addressed the board regarding Items 14 and 15 which he said he believes have nothing to do with the Parker lawsuit or the Pena lawsuit.

Litigation

29. 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. Executive Session posting - scheduled 12:00 8/28/2008, before board meeting, approximate length 30 minutes to one hour.
 - b. Letter dated 7/24/2008 from L. Vincent, President of TRF&PA regarding proposed settlement of motion for sanctions.

c. Letter dated 8/22/2008 from P. Gonyea regarding rescheduling of hearing on Motion for Sanctions. **Motion by Ms. Miller, seconded by Mr. Walker and by unanimous vote to receive and file item 29.** Mr. Cohen advised of potential sunshine issues. He said that because of the trespass issue at the August 28, 2008 meeting at the F&P pension office, and the executive session(s) that took place, there could be a challenge on the executive sessions. He stated we may need to have another executive session to discuss the items discussed on August 28, 2008 again. Ms. Fox said in relation to the lawsuits or potential lawsuits, that there comes a point when the board must continue to conduct business as a fiduciary. Ms. Fox pointed out that if retirees wanted to keep suing the board and spending their retirement funds on lawsuits, they may do so, but the board must continue to conduct business. Ms. Miller stated that she believed that the board acted in good faith and felt that the Executive Session(s) not be re-held and asked if any of the trustees wanted to re-hold the Executive Session in this matter, and there was no suggestion by any trustee to do so. Mr. Bogush advised that he had a conversation with Mr. Vincent, and as a result Mr. Bogush is supporting the settlement. **Motion by Ms. Fox, seconded by Mr. Moors and by unanimous vote to accept the \$5,000 settlement offer that was made by the Tampa Retired Fire and Police Association vs. the Board of Trustees with all appropriate legal documents to be prepared by board counsel in order to resolve this matter fully. Motion by Mr. Walker, seconded by Ms. Miller and by unanimous vote for certain portions of the executive session transcripts be released (in this case only) subject to review and determination by counsel and as deemed necessary and appropriate by Board Counsel.** [Portions relating to mediation must be redacted by Board Counsel.]

25. Mr. Oliva rescinded his request to address the board. [agenda item deferred from earlier in meeting]

30. 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 letter dated 7/15/2008 from J. Flynn of Buck Consultants in response to letter from Board Counsel R. Cohen regarding Parker v. Board of Trustees. **Motion by Ms. Miller, seconded by Mr. Walker and by unanimous vote to receive and file item 30.**

[Mr. Meier left the meeting at 2:15 p.m.]

31. Pena Lawsuit, Case No. 08-013997, Fred Pena, 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 the following:

- a. Executive Session posting – scheduled approximately 12:30 – 1:00 p.m. start time today at the conclusion of the noon Executive Session and before the regularly scheduled board meeting.
- b. Letter dated 7/18/2008 from J. B. Loper to R. Cohen transmitting First Amended Complaint without Exhibits (9 pages), Exhibit 7 and Exhibit 9.
- c. Letter dated 8/6/2008 from P. Gonyea transmitting Answer and Affirmative Defenses to Plaintiff's First Amended Complaint.
- d. Letter dated 8/7/2008 from J. B. Loper to R. Cohen and P. Gonyea requesting meeting.
- e. Letter dated 8/8/2008 from P. Gonyea regarding being acknowledging being retained by Board of Trustees in this litigation.
- f. Letter dated 8/13/2008 from P. Gonyea transmitting Plaintiff's Response to Defendant's Defenses.
- g. Letter dated 8/13/2008 from P. Gonyea to J. B. Loper regarding unavailability due to prior commitments for requested meeting date and time.
- h. Letter dated 8/13/2008 from J. B. Loper to P. Gonyea requesting other meeting dates.
- i. Letter dated 8/15/2008 from P. Gonyea enclosing Plaintiff's First Set of Interrogatories.

- j. Letter dated 8/18/2008 from P. Gonyea enclosing correspondence from J. B. Loper providing his (Loper's) interest calculations on this 13th check issue.
- k. Letter dated 8/13/2008 received 8/20/2008 from Travelers Insurance declining coverage in Pena complaint.
- l. Email dated 8/21/2008 from P. Gonyea transmitting email from J. B. Loper to R. Cohen and P. Gonyea transmitting six motions for sanctions.
- m. Plaintiff's First Motion for Sanctions.
- n. Plaintiff's Second Motion for Sanctions.
- o. Plaintiff's Third Motion for Sanctions.
- p. Plaintiff's Fourth Motion for Sanctions
- q. Plaintiff's Fifth Motion for Sanctions.
- r. Plaintiff's Sixth Motion for Sanctions.

Motion by Ms. Miller, seconded by Mr. Walker and by unanimous vote to receive and file item 31.

Motion to adjourn was made by Mr. Walker. The meeting was adjourned at 2:20 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.

Patrick S. Lynch, Chairman

John Moors, Secretary

Jennifer Molitor
Recording Secretary