

**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, September 25, 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, September 25, 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       | Cindy Miller |

Also present were Mr. Ron Cohen, Board Counsel, Dr. Bruce Bohnker, Medical Director, Special Counsel, Mr. Mark Lenker, CPA, and active and retired plan members.

1. Approved minutes of July 24, 2008 regular board meeting, revised only for page 4, #8, first motion, as noted 09/15/2008. **It was moved by Ms. Fox, seconded by Mr. Walker and by unanimous vote to approve the minutes of the July 24, 2008 board meeting as revised.**

**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 Mr. Walker and by unanimous vote to approve items 2 through 8.**

2. Ratified pension benefits.
3. Noted receipt of investment performance report for the month ended 8/31/2008. Market value of investments as of 8/31/2008 was \$1,554,293,246. Investment return as of 8/31/2008 has been -4.7% so far this fiscal year to date 10/1/2007 – 8/31/2008.
  - a. 09/24/08 Addendum to 08/31/08 Investment Report
  - b. September 18, 2008 Investment Summary
4. Approved payment to Counsel R. Cohen for legal services rendered during August 2008 in the amounts of:
  - a. \$16,710.00 General Counsel
  - b. \$605.00 Maxey lawsuit
  - c. \$687.50 Parker lawsuit
  - d. \$3,190.00 Pena lawsuit
5. Admitted Tampa Police Department members to pension fund effective 9/22/2008 contingent upon: 1) furnishing a list of all medical providers and authorizations to obtain such medical records; and 2) passing a complete medical examination:

|             |   |             |
|-------------|---|-------------|
| Christopher | D | Bivona      |
| Adam        | J | Carroll     |
| Neal        | C | Daley       |
| Jeremy      | A | Fung        |
| Dustin      | L | Kennedy     |
| Matthew     | R | Kirkpatrick |

|          |   |              |
|----------|---|--------------|
| Travis   | D | Lambert      |
| Mercedes | D | Machado      |
| Sean     | A | Mahabir      |
| Thomas   | M | Montellanico |
| Sigure   | R | O'Neal       |
| Omar     |   | Serrano      |
| John     | E | Simpkins     |
| Gian     | F | Wright       |

6. Admitted Tampa Fire Rescue members to the pension fund effective 9/15/2008 contingent upon: 1) furnishing a list of all medical providers and authorizations to obtain such medical records; and 2) passing a complete medical examination:

|             |   |              |
|-------------|---|--------------|
| Ernesto     |   | Alvarez, Jr. |
| Mark        | D | Pattison     |
| Jody        | S | Conn         |
| David       | M | Bindshedler  |
| Robert      | D | Angel        |
| Christopher | B | Gainey       |
| Jared       | D | Howe         |
| Beau        | M | Lasko        |
| Justin      | H | Schindler    |
| Julie       | M | Strojnowski  |
| Steven      | A | McCullars    |

7. Noted trustee elections scheduled for:

- a. Noted receipt of blue flyer Notice of Candidacy for Police Trustee

Michael Bearden

Patrick Gray, Sr.

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<sup>th</sup> Street, Tampa, FL 33612

Tampa Police Department, District 3                      3808 North 22<sup>nd</sup> Street, Tampa, FL 33605

One Police Center    411 North Franklin Street, Tampa, FL 33602

- b. Noted receipt of red flyer Notice of Candidacy for Firefighter Trustee

Mark Bogush

Don Adwell

Kurt Edwards

Fire – 8:00 a.m. – 6:00 p.m.

Tuesday 10/14/2008 (B shift)

Wednesday 10/15/2008 (C shift)

Thursday 10/16/2008 (A shift)

Station 14    2713 E. Annie Street, Tampa, FL 33612                      (District 3)

F & P Pension Office                                      3001 North Boulevard, Tampa, FL 33603                      (Districts 1, 2 & 4)

8. Noted receipt of newspaper article titled 'Wake-up call' on Pensions" from *Omaha World Herald* dated 8/29/2008 (Report estimates shortfall at \$354 million).

Medical Disability

9. Noted receipt of letter dated 9/15/2008 from Medical Director Dr. B. Bohnker regarding line of duty disability applicant B. Lamb, formerly of TPD with recommendations. Also noted receipt of qualifying letter(s), letter to qualifying letter doctor, disability application and timeline.

Mr. Lynch noted that Dr. Bohnker doesn't feel there is enough information to forward the case at this time. Dr. Bohnker discussed some of the items the qualifying letter failed to address and recommended that he be authorized to see Mr. Lamb to discuss. Ms Miller asked if there was anything in the current policies that would prevent the board from so authorizing, and Mr. Cohen advised that there was not.

**Motion by Ms. Miller, seconded by Ms. Fox and by unanimous vote to accept Dr. Bohnker's recommendation to meet with the applicant to help the applicant work through the process.**

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

- a. Noted receipt of financial statements prepared by Mark Lenker of Nobles, Decker, Lenker & Cardoso for the month ended 6/30/2009. Market value of *assets* as of 6/30/2008 was \$1,562,420,927.
- b. Noted receipt of financial statements prepared by Mark Lenker of Nobles, Decker, Lenker & Cardoso for the month ended 7/31/2008. Market value of *assets* as of 7/31/2008 was \$1,549,765,764.
- c. Noted receipt of financial statements prepared by Mark Lenker of Nobles, Decker, Lenker & Cardoso for the month ended 8/31/2008. Market value of *assets* as of 8/31/2008 was \$1,558,461,802.

Distributed at the board meeting and reviewed by Mr. Lenker.

Mr. Lenker reviewed current assets (down \$74 million), net investment performance (down \$343 million), and overall fund performance (down \$350 million) this year compared to last year. Commercial paper positive change of \$646,000. Common stock – negative \$83 million. Corporate bonds and US bonds positive about \$8 million. Realized gains on investments \$46 million vs. a year ago \$114 million. Unrealized gains \$162 million negative vs. a year ago \$101 million positive. Mr. Lenker reconciled to the Bowen, Hanes report, including accruals and non-investible pension fund assets such as the pension fund building. Mr. Lenker responded to questions from the board. **Motion by Ms. Miller, seconded by Mr. Walker and by unanimous vote to receive and file items 10a, b, and c.**

Old Business

11. 60T actuarial rulemaking status/update by R. Cohen.

Mr. Cohen advised that as of yesterday, the workshop has not been rescheduled. He said there is a rumor that it may be October 21<sup>st</sup> but it is unknown where or what time. He said that both he and Ms. Beattie will attend. He advised that both he and the actuary were concerned about the PRAA and the proposed rule language that could affect the PRAA. Mr. Cohen advised that he felt the PRAA has been litigated extensively. Mr. Cohen read from the proposed rules, "The awarding of cost-of-living benefit increases continually provided on an ad-hoc basis does not satisfy the Legislative intent in Section 112.61, Florida Statutes, if the additional liabilities are then to be funded over future years. If such awards are to continue on an ad-hoc basis, the benefit shall be fully paid for not later than fiscal year next following the enactment date of the legal instrument providing the benefit increase, or such benefits are to be anticipated and pre-funded the same as all other pension benefits to satisfy the Legislative intent in Section 112.61, Florida Statutes."

Ms. Fox asked if it will be in Tallahassee or Orlando? Mr. Cohen said he thinks it will be in Tallahassee, and Mr. Lynch advised we will put something out as soon as we know when and where the proposed rulemaking workshop is. **Motion by Ms. Miller, seconded by Mr. Walker and by**

**unanimous vote that any trustee may attend the workshop, and that for Sunshine purposes the board recognize that one or more trustee may be in attendance at the workshop.**

12. Noted receipt of memo dated 4/11/2008 from J. D. Campbell, Plan Administrator to Board Counsel R. Cohen with questions regarding possible Sunshine Violation – June 1, 2005 Executive Session in the Absence of Litigation to Which the Entity is Presently a Party Before a Court [agenda item requested by Trustee P. Lynch].

Mr. Cohen described the situation in which the board decided to go into executive session to discuss pending litigation when the board was not a party to litigation. Mr. Cohen advised that there was no litigation to which the board was presently a party before a court in this matter. Mr. Cohen posed the question if the Board could go into Executive Session under those circumstances, and that in his opinion, the legal answer was no. Mr. Cohen noted that there was a letter to the board from Attorney Steve Wenzel, but it was not a “claims letter” as required under Section 768.28. Mr. Cohen advised that he believes the board was in violation of the Sunshine Law. He suggested that in order to cure it, the board should release the transcript of that executive session and withdraw the letter to Mr. Wenzel resulting therefrom. Ms. Fox said that it doesn’t make sense to withdraw the letter because the letter has already gone out and she doesn’t see how it could be withdrawn. Ms. Miller and Mr. Lynch discussed the methods of corrective action. It was agreed that the board needs to review the letters to and from Mr. Wenzel in this matter and that the board would take this matter up again at the end of the meeting while copies are being made for the trustees. **Motion by Ms. Miller, seconded by Mr. Walker and by unanimous vote to defer item 12 to the end of the meeting.**

13. Donated Vehicle to F&P pension fund requested from TPD [agenda item requested by Trustee P. Lynch]

Mr. Lynch described the need for a staff motor pool type vehicle for the Pension Fund office due increased demands, noting that some staff lack personal transportation, which places a burden on the rest of the staff to meet demands and requirements. Mr. Lynch said that he requested a vehicle that was about to be retired by TPD to be donated to the fund by TPD at no cost to the fund, as TPD has done for three PBA vehicles and for the Police Athletic League (PAL) and other organizations, without committing pension fund money to buy or lease a pool vehicle. Ms. Fox asked where the vehicle would be parked when not in use, and Mr. Lynch said that the vehicle could be parked at another more secure city facility. Mr. Moors inquired as to insurance, and Mr. Lynch said that it would be added to existing insurance. Ms. Miller expressed concerns over using a vehicle from the city’s general fund at taxpayer expense as well as concerns over gas mileage. Ms. Miller said that she would rather spend the fund’s money to purchase a vehicle, perhaps a hybrid. Ms. Miller noted that the administrative costs of this pension fund are low. Ms. Fox suggested buying a vehicle through the City’s auction process. Mr. Walker suggested the alternative of using a courier service. Ms. Campbell advised that a courier service is already used frequently; however, a courier cannot go to a pensioner’s home, hospital room or assisted living facility to assist with filling out paperwork and notarize signatures. Ms. Fox said she would like to know what the mileage could be annually. **Motion by Ms. Miller, seconded by Ms. Fox to obtain bids for hybrid vehicles and to prepare an estimated mileage study. The motion failed to pass due to lack of five affirmative votes by a vote of 4 – 2 with Ms. Fox, Mr. Lynch, Ms. Miller, and Moors in favor of the motion, and Mr. McRae and Mr. Walker opposed. Motion by Ms. Miller, seconded by Ms. Fox and by unanimous vote to prepare a two year estimated mileage study.**

14. Noted receipt of request to appear from Tampa PBA President G. Stout received 9/16/2008 regarding board permission to meet with the fund’s actuary regarding potential benefit enhancement - E-COLA proposal.

Mr. Stout described that one of the major issues with active police officers right now is the high and increasing cost of health care. He said that he has been looking into ways to off-set or help with these costs. He said that he has a rough draft proposal from a pension attorney that the PBA is not prepared to share yet. He said that the proposal involves addressing health care costs for all fire and police pension fund active and retired members. He told the board that the PBA is requesting permission to meet with the fund's actuary to review the proposal and (1) see if it's even feasible, (2) get an estimated fee quote for the actuary to do a study and (3) get an estimated cost of the proposal. After that he would bring it back to the board for further discussion. Mr. Lynch and Ms. Miller clarified that this action by the PBA would be at no cost to the pension board. **Motion by Mr. Walker, seconded by Mr. Moors and by unanimous vote to permit the PBA to meet with Buck Consultants, the pension fund actuary.**

15. Noted receipt of request to appear from retiree J. Mills received 9/16/2008 regarding Association packet distribution.

Mr. Mills advised the board that up until last month, his organization received an agenda packet (without medical information) at around the same time each board member received his or her board packet. He said that last month, this practice was changed so that his association was required to come in and make a public records request for the agenda packet. He told the board that he wanted it to revert back to the way it was when the pension office automatically created a board packet for his organization. Mr. Lynch explained that the packets provided to those other than the members of the board amount to a standing public records request which he and Mr. Cohen do not believe to be appropriate.

Discussion between Ms. Fox, Ms. Campbell, and Ms. Miller about the possibility of making board agenda packets (without medical) available on-line. It was noted that there is a book of the current agenda and packet kept at the pension fund office for the public to review and select items they would like copied, if any. Further discussion over charges associated with public records requests. Ms. Fox asked Mr. Cohen if posting on a website met the public records requirement. Mr. Cohen advised that it does not. Mr. Cohen advised that the pension office is in compliance by making available for public inspection the agenda and package, and charging the statutory rate of 15 cents per page for each requested page copied. Mr. Cohen reminded the board of a previous legal opinion rendered when one organization wanted to see standing agenda items for its organization and possibly the two unions. Ms. Campbell advised that in the past a package had been provided to one retiree organization at no cost as a courtesy, then the group split into two organizations, both of which then received a package as a courtesy with no compensation to the pension fund. Mr. Walker advised that he thinks the two retiree groups should receive them. Ms. Campbell, Mr. Walker, and Mr. Cohen discussed consistency and providing a courtesy copy to the two groups and then addressing the issue again if there are more groups and requests that it becomes cost prohibitive.

**Motion by Ms. Fox, seconded by Ms. Miller and by unanimous vote to research putting the agenda and board packages on the website, and providing a hardcopy to the two retiree groups in the meantime.**

16. Noted receipt of request to appear from retiree D. Ribaya received 9/17/2008 regarding rewrite of existing pension contract.

Mr. Ribaya inquired as to who will be on the committee for the plain language re-write of the pension contract. Committee members are Ms. Fox, Mr. Lynch, and Mr. Walker. Mr. Ribaya said that there are a lot of feelings that people are not going to sign a new contract under any conditions. He said that a better plan would be to leave the contract as is, and use the Summary Plan Description as a definition of what the different sections of the contract say.

17. Chair's call for any new business items from trustees to be placed on next agenda. None.

18. Noted receipt of listing of upcoming conferences. Disclosure of planned attendance, if any.

Mr. Lynch disclosed for the tentatively scheduled 60T rulemaking workshop. Ms. Fox tentatively disclosed for the FPPTA in February. Mr. McRae, Mr. Lynch, and Mr. Walker also disclosed for the FPPTA in February. **Motion by Ms. Miller, seconded by Mr. Walker and by unanimous vote to receive and file Item 18.**

[Brief recess 2:32 – 2:37 p.m. for Public Comment cards to be turned in]

19. Chair's report. None.

20. Attorney's report.

Mr. Cohen advised that he and Mr. Gonyea attended a class certification hearing for the Parker litigation on 9/15/2008. He advised that he and Mr. Gonyea desired that all people be included in the class, and that Mr. Parker will be the class representative of all people in the class. Mr. Cohen also advised that he and Mr. Gonyea are working closely with Mr. Thomas on a stipulation of facts, and that there should be a class certification order issued soon. He said that the notice to all of the class members would come from him in order to keep police officers addresses from public inspection. The judge will have to sign off on the class notice.

21. Plan Administration

a. 2008 Board meeting schedule:

October 23, 2008

November 20, 2008 \*early due to holidays

December 18, 2008 \*early due to holidays

b. F&P pension office priorities, project, deadlines

Ms. Campbell advised the board that pension board trustee elections for fire and police are coming up. She noted that there were three fire trustee candidates and it would not be unusual not to see a majority vote, so there could be a run off for that election. Ms. Campbell advised that there is the annual surge in DROP entries, exits and retirements before September 30 as well as the usual fiscal year end activities. She noted that open enrollment for health insurance is coming up, but that the pension office had very little information on it at this point. Ms. Miller asked if the minutes for the last meeting would be available at the next meeting and Ms. Campbell said they would be. Ms. Campbell noted that the September 17, 2008 agenda cutoff was less than 48 hours after the September 15, 2008 board meeting ended.

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

Retiree G. Snyder requested to address Item 14. He advised that he retired in 1989. He said that he is paying \$14,000 a year for his health insurance. He expressed that he is not surprised to see that active police and fire are beginning to see just how much health insurance is going to cost.

Litigation

22. 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. Class action certification update by Board Counsel R. Cohen. Addressed by R. Cohen in Item 20, Attorney's Report.

23. 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:
- Letter dated 9/2/2008 from Board Counsel R. Cohen to J. B. Loper regarding Rule of Professional Conduct, Conflict of Interest; Former Client.
  - Motion to Disqualify J. B. Loper by Board Counsel R. Cohen dated 9/11/2008.
- Motion by Ms. Miller, seconded by Mr. Walker and by unanimous vote to receive and file Item 23 a and b.**

[Continuation of Item 12 after copies of Wenzel letters distributed to the trustees.]

12. Noted receipt of memo dated 4/11/2008 from J. D. Campbell, Plan Administrator to Board Counsel R. Cohen with questions regarding possible Sunshine Violation – June 1, 2005 Executive Session in the Absence of Litigation to Which the Entity is Presently a Party Before a Court [agenda item requested by Trustee P. Lynch].

Ms. Miller said that after reviewing the letter to refresh her memory, she thinks that at the time the board went into Executive Session it was because it looked as though there was about to be a lawsuit imposed on the board. Ms. Miller read a portion of the letter and reiterated her position that it looked like the board was about to be sued. Ms. Fox said she agreed with Ms. Miller, and that the board behaved reasonably. Mr. Cohen said that if there was notice of a claim as per Section 768.28, it has to sit for six months. **Motion by Ms. Miller, seconded by Mr. Walker and by unanimous vote that any appropriate portions (as determined by Mr. Cohen) of the transcript of the 6/1/2005 Executive Session be made available to the public, and that Mr. Cohen review the letters and respond accordingly.**

Motion to adjourn was made by Ms. Miller. The meeting was adjourned at 2:47 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.

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Patrick S. Lynch, Chairman

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John Moors, Secretary

\_\_\_\_\_  
Jennifer Molitor  
Recording Secretary