

**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, February 26, 2009 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, February 26, 2009 at 1:30 p.m. for a regular meeting with the following members present:

Patrick Lynch, Chairman	Mark McRae
Mark Bogush, Vice Chairman	Jimmy Meier
John Moors, Secretary	Cindy Miller
Sharon Fox	Tracy Walker
Patrick (P.J.) Gray	

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

1. Approval of the minutes of the January 22, 2009 board meeting. **It was moved by Mr. Gray, seconded by Mr. Walker and by unanimous vote to approve the minutes of the January 22, 2009 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 – 6]. **It was moved by Ms. Miller, seconded by Mr. Walker and by unanimous vote to approve consent agenda items 2 through 6.**

2. Ratified pension benefits.
3. Approved payment to Counsel R. Cohen for legal services rendered during January 2009 in the amounts of:
 - a. \$12,386.59 General Counsel
 - b. \$2,850.00 Parker lawsuit
 - c. \$27.50 Pena lawsuit
4. Noted receipt of investment performance report for the month ended 1/31/2009. Market value of *investments* as of 1/31/2009 was \$1,070,695,721. Investment return as of 1/31/2009 has been -21.6% so far this fiscal year.
5. Bi-ennial (every other year) Pension Verification Questionnaires (PVQ) mailed 2/13/2009. As of 2/20/09, 435 of 1,523 total or 29% have been received.
6. Noted educational sessions to be conducted by Jeff Helms in May at The Corporate Training Center at Hillsborough Community College (HCC) on Davis Islands, 39 Columbia Drive, Tampa, FL 33606.
 - a. Wednesday 05/06/2009 10:00 am & 7:00 pm
 - b. Thursday 05/07/2009 10:00 am & 2:00 pm

Medical Disability

7. Initial hearing for LOD disability applicant R. Knighton, TFR. Noted receipt of Table of Contents for bated-stamped disability application package, including: disability application, qualifying letter, notice(s) of injury, pre-employment physical, firefighter job description, independent medical case manager summary review outline, disability process timeline, medical board reports and medical director's summary.

[Ms. Fox arrived at 1:32 pm]

Mr. Knighton was sworn in and responded to questions from the board. Mr. Meier referred to page 82 in the report by Clinton Davis, and asked Mr. Knighton if he is still a general contractor. Mr. Knighton said no. Mr. Meier asked if as a general contractor he had any workers' compensation claims, and Mr. Knighton said no.

Mr. Lynch, referring to the same report, asked Dr. Bohnker if the degenerative disk is consistent with the injury or if it could have occurred somehow or somewhere else? Dr. Bohnker replied by saying generally when something is considered degenerative, it means it is a long-term issue.

Mr. Gray referred to pages 18 and 20. On page 18, the letter dated May 8th to Dr. Goldsmith, he says that Mr. Knighton is not permanently incapacitated, then 14 days later he wrote another letter saying that he was permanently incapacitated. What happened in those 14 days? Mr. Knighton responded by saying that in his initial meeting with Dr. Goldsmith, he does not think that the doctor was fully familiar with the job duties that firefighters perform. At the second appointment, he went through the job description line by line with Dr. Goldsmith, and that is probably what made him decide that Mr. Knighton isn't capable of performing those duties.

Mr. Lynch then asked Mr. Knighton if Dr. Goldsmith was his attending worker's comp physician. Mr. Knighton explained that he was the second WC attending physician, that Dr. Schulak was the original attending and did the initial surgery. Mr. Lynch referred to page 8 item #10 by saying there was no mention that in 2005 you had any back scans and asked if there was another injury in 2005? Mr. Knighton said that he didn't recall any injury in 2005--2001 was the initial injury on-duty, and then 2006 was the next one.

Mr. Gray then directed to page 68, second paragraph where it said that at this time, the patient has reached all treatment options except a second surgery, which he does not want. Mr. Gray asked Dr. Bohnker if Mr. Knighton had the second surgery, if he would be okay? Dr. Bohnker responded that it's not a solid answer--it's a crapshoot. Other doctors said that fusion surgery might work, which sometimes it works and sometimes it does not. Part of the problem is that with fusion surgery, you can cause other problems, so it's not always strongly recommended.

Mr. Lynch then pointed out page 71. In May 12, 2005 at University Community Hospital, Mr. Knighton said that he had been experiencing lower back pain for two years. Mr. Knighton explained that would have been during his annual physical for the Fire Department. He didn't recall the conversation, but since the initial injury was in 2001, it would make sense. Mr. Lynch then followed up to Mr. Gray's question looking at a note on page 93, Dr. Bohnker notes that each of our IME doctors discussed lumbar fusion surgery but they didn't feel it would necessarily return him to the regular and continuous duties of a firefighter.

It was moved by Mr. Bogush, seconded by Mr. McRae and by unanimous vote that the board finds that there is a disability which permanently incapacitates Mr. Knighton from the regular and continuous duties of a firefighter. It was moved by Mr. Bogush, seconded by Mr. McRae and by unanimous vote that the board finds that the disability was incurred in the line of duty.

[Mr. Moors arrived at 1:43 p.m.]

It was moved by Mr. Bogush, seconded by Mr. McRae and by unanimous vote that the board grant a line of duty (LOD) disability to Mr. Knighton for a back injury effective close of business today.

8. Authorized referral to orthopedic medical board composed of Dr. Brainard, Dr. Fishalow and Dr. Wasylik for LOD disability applicant Aimee Peters, TPD as recommended by Medical Director. **It was moved by Mr. Walker, seconded by Mr. Gray and by unanimous vote to refer Aimee Peters to the orthopedic medical board composed of Dr. Brainard, Dr. Fishalow and Dr. Wasylik for LOD disability applicant Aimee Peters, TPD as recommended by Medical Director.**

Old Business

9. Noted receipt of P&P 802 Legal Opinions – recommended for deletion, based upon discussion at last board meeting. **It was moved by Mr. Meier, seconded by Mr. Walker and by unanimous vote to delete P&P 802.**

New Business

10. Accepted audited financial statements for fiscal year ended 9/30/2008 prepared by Ernst & Young, received 2/16/2009. **It was moved by Ms. Miller, seconded by Mr. Gray and by unanimous vote to accept the audited financial statements for fiscal year ended 9/30/2008 prepared by Ernst & Young.**
11. Noted receipt of listing of upcoming conferences. Disclosure of planned attendance, if any. Ms. Fox disclosed planned attendance at FGFOA Annual Conference, and Ms. Miller disclosed tentative attendance to the same conference. Mr. McRae disclosed attendance at the Public Sector Certificate of Achievement Parts I&II June 9-12. **It was moved by Ms. Miller, seconded by Mr. Walker and by unanimous vote to receive and file item 11.**
12. Noted receipt of request to address the board by retiree G. Wrenn regarding:
- In severe downturns in the market, are funds transferred from non-allocated COLA to allocated COLA, and if not, why not?
 - Request that the board conduct the evaluation of the board administrator in a private meeting.

Mr. Wrenn, a retired firefighter, thanked the board for giving him the opportunity to speak at the meeting. He said that in regards to the allocated fund, he thought that upon retirement an actuary determined how much money it would take to support the retiree for the rest of his or her life, then transferred it from to allocated to unallocated. He asked if in downturns – like lately – is there any consideration given to transferring more from unallocated to allocated? He asked if that was evaluated yearly. Ms. Campbell said that these are actuarial questions to pose to the actuary, Ms. Beattie, when she's here. Ms. Miller asked if in the past has there been a calculation that shows the difference between the allocated and the unallocated in the actuarial reports? Ms. Campbell said that every year there is a balance of both accounts disclosed on the PRAA page. Ms. Miller said that there is a calculation done every year for the retirees to look at and that the actuary will be here in May. Mr. Wrenn told the board that he is just worried about the COLA he already has – about not losing that. **It was moved by Ms.**

Miller, seconded by Mr. Walker and by unanimous vote to specifically address this question when the actuary is present in May.

Mr. Wrenn then requested that the board conduct the Plan Administrator's evaluation in a private meeting. He said that it isn't fair to do this publicly and that he doesn't think anyone has the right to sit in on someone else's evaluation. Mr. Lynch said that he did have a private consultation with Ms. Campbell prior to the evaluation at the meeting. He added that the nine board members cannot meet in private. Ms. Miller gave examples of other directors and managers who are evaluated during public meetings. She said that because we are a sunshine board, everyone can be in the meetings. Mr. Walker asked if the evaluation could be moved to a committee meeting? Mr. Lynch said that it would still have to be an open Sunshine meeting and wouldn't prevent people from attending the meeting. Mr. Walker added that it could be included in the committee meeting in which all professionals are evaluated. Ms. Fox said that the committee recommendations have to come before the board anyway, and that there is no way to avoid discussing it publicly. She added that there is nothing prohibiting ladies and gentlemen from excusing themselves during the evaluation portion of the meeting.

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

[Brief recess at 1:58 – 2:04 p.m. for Public Comment cards to be turned in]

14. Chair's report. None.

15. Attorney's report. None.

16. Plan Administration.

- a. 2009 Board meeting schedule:
 - March 26, 2009
 - April 23, 2009
 - May 28, 2009
 - June 25, 2009
 - July 23, 2009
 - August 27, 2009
 - September 24, 2009
 - October 22, 2009
 - November 19, 2009 *early due to holidays
 - December 17, 2009 *early due to holidays
- b. F&P pension office priorities, projects, deadlines.

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

Mr. George Dragneff addressed the board regarding item 12. He said that the fund is deemed actuarially sound based on design, making it unique to any other plan, but now our fund is beginning to be treated like a regular pension fund, and he believes it is putting our COLA fund at risk. Mr. Dragneff said that if they continue to take money out of our COLA fund, he thinks we will go broke like many other pension funds across the country. He said his pension is covered, but the actives' pension is not. He said that he believes that if the COLA fund is left alone, everything will be fine.

Mr. Grady Snyder addressed the board regarding item 12. He said that he has attended numerous meetings, so he has a feel for what's going on. Mr. Snyder said that Ms. Campbell helped him with his retirement and DROP. He commented on how helpful she and the staff at the pension office have always been, including health insurance every year. He said he wanted to take this opportunity to say that the staff and Ms. Campbell have always been cooperative and helpful.

Mr. Sam Sinardi addressed the board regarding items 3 and 18. He said he wanted to plead with board members on a very important topic, referring to the Pena lawsuit that is currently going on. He said that Mr. Loper was disqualified. Mr. Sinardi added that there has been about \$55,000 spent on attorney's fees from our fund. He said he was told that for a little over \$70,000 this could have been settled. He told the board that if they could settle this thing, then the lawsuits would all be dropped and we would not continue to spend money we don't have.

Mr. Lynch said that as far as he knows, no offers for settlement have been brought forward. Mr. Sinardi said regarding a fair settlement offer, that he would talk to the man who is involved.

Litigation

17. 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. Note receipt of letter dated 1/28/2009 from P. Gonyea transmitting Plaintiff's First Set of Interrogatories. **It was moved by Ms. Miller, seconded by Mr. Gray and by unanimous vote to receive and file item 17.**
18. 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. Note receipt of letter dated 2/5/2009 from J. B. Loper to R. Cohen & P. Gonyea regarding hearing scheduled on Tuesday 2/24/2009 and subpoena duces tecum for hearing for J. Campbell to bring documents, all of which were previously admitted in Plaintiff's First request for Admissions. **It was moved by Ms. Miller, seconded by Mr. Gray and by unanimous vote to receive and file item 18.** Mr. Cohen advised that the Judge granted our motion to disqualify Mr. Loper, and Mr. Cohen and Mr. Gonyea are to prepare the order. Mr. Lynch said that the attorneys did a great job.
19. Executive Session to be held at the end of the regular board meeting [approximate start time between 1:45 p.m. and 2:15 p.m., duration approximately one hour] [a brief recess from 2:15 – 2:20 p.m. was taken so that the court reporter could set up]
 - a. Board counsel requested advice concerning Parker lawsuit and explained the legal requirements for the Closed / Executive Session, limited to litigation expenditure strategy and potential settlement discussions in Case No. 07-007198, John N. Parker, for himself and all others similarly situated vs. the Board of Trustees of the City Pension Fund for Firefighters and Police Officers in the City of Tampa.
 - b. Chairman's announcement that only current trustees, Mark Bogush, Sharon Fox, PJ Gray, 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, Melinda McKenna are authorized to attend the Closed/Executive Session.
 - 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 convened at 2:20 p.m.
[a brief recess was taken 3:25 – 3:30 p.m.]
 - e. Meeting was reopened to the public at 3:36 p.m.
 - f. Board motions, if any. There were none.
20. Executive Session to be held at the end of the regular board meeting, after first Executive Session, approximately one half hour
- a. Board counsel requested advice at 3:37 p.m. concerning Pena lawsuit and explained the legal requirements for the 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. the Board of Trustees of the City Pension Fund for Firefighters and Police Officers in the City of Tampa.
 - b. Chairman's announcement that only current trustees, Mark Bogush, Sharon Fox, PJ Gray, 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 Melinda McKenna are authorized to attend the Closed/Executive Session.
 - 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 3:38 p.m.
 - e. Meeting was reopened to the public at 4:14 p.m.
 - f. Board motions, if any. There were none.

Mr. Gray asked the board attorneys if there is any recourse against Mr. Loper or redress possible from Mr. Loper that the board or members of the pension fund can seek through the court system or through the bar other than suing him. Mr. Cohen responded by saying anybody can file a bar complaint at any time against any attorney. Mr. Gray stated that he felt Mr. Loper violated the canons and ethics of the legal profession and betrayed the Board's trust and the Board's confidence.

[Mr. Meier and Ms. Miller left the meeting at 4:18 p.m.]

21. Educational Session – Securities Litigation and Monitoring to be conducted by Atara Hirsch from the law firm of Abraham, Fruchter & Twersky LLP. One hour of continuing professional education (CPE), start time after regular board meeting and two Executive Sessions

Mr. Lynch introduced Ms. Atara Hirsh, an attorney from the law firm of Abraham, Fruchter & Twersky LLP, a firm that specialize in securities class action litigation and portfolio monitoring services. Ms. Hirsh conducted a powerpoint presentation and responded to questions from the board. The educational session was attended by Mr. Cohen, Mr. Bogush, Ms. Fox, Mr. Gray, Mr. Lynch, Mr. McRae, Mr. Moors, and Mr. Walker.

[Mr. McRae left the meeting at 4:55 p.m.]

It was moved by Mr. Moors, seconded by Mr. Gray and by unanimous vote to invite Ms. Hirsch back to the next board meeting and to put this item on the next board agenda for action. Ms. Fox requested that this item be placed on the April agenda instead when Jay Bowen will be here. The motion maker and seconder agreed to the friendly amendment for the April agenda.

The meeting was adjourned at 5:05 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.

Persons needing a special accommodation to participate in this meeting should contact the F&P pension office at (813) 274-8550 or (888) 335-8550 – toll free, or the Florida Relay Service at (800) 955-8770 – toll free, or dial 711 from any phone (regular phone/land line or cell phone) for the Florida Relay Service. Please make your requests at least five (5) working days before this meeting.

Patrick S. Lynch, Chairman

John Moors, Secretary

Jennifer Molitor
Recording Secretary