

**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, July 23, 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, July 23, 2009 at 1:30 p.m. for a regular meeting with the following members present:

Patrick Lynch, Chairman	P.J. Gray
Mark Bogush, Vice Chairman	Mark McRae
John Moors, Secretary	Jimmy Meier
Wes Adwell	Cynthia Miller
Sharon Fox	

Also present were Mr. Jay Bowen, Investment Manager, Mr. Ron Cohen, Board Counsel, Mr. Mark Lenker, CPA, and active and retired plan members.

The board recognized trustees Fox and McRae, and F&P staff member O'Keefe, for achieving their Certified Public Pension Trustee (CPPT) certification from the Florida Public Pension Trustees Association (FPPTA).

1. Approved the minutes of the June 25, 2009 board meeting. **It was moved by Mr. Gray, seconded by Ms. Miller and by unanimous vote to approve the minutes of the June 25, 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] Ms. Miller requested that item 4 be removed from the consent agenda for further discussion. **It was moved by Mr. Moors, seconded by Ms. Miller and by unanimous vote to approve consent agenda items 2, 3, 5 and 6.**

2. Ratified pension benefits.
3. Noted receipt of Committee listing revised 6/24/2009 by Chair to incorporate newly elected fire trustee Wes Adwell.
5. Approved payment to Counsel R. Cohen for legal services rendered during June 2009 in the amounts of:
 - a. \$12,624.81 General Counsel
 - b. \$2,066.70 Parker lawsuit
 - c. \$82.50 Pena lawsuit

6. Noted receipt of flyer for educational sessions to be conducted by Jeff Helms and J. Campbell in August at The Corporate Training Center at Hillsborough Community College (HCC) on Davis Islands, 39 Columbia Drive, Tampa, FL 33606.
 - a. Wednesday 08/12/2009 10:00 am & 6:00 pm
 - b. Thursday 08/13/2009 10:00 am & 2:00 pm

[item 4 removed from Consent Agenda for discussion]

4. Investment Management. Noted receipt of the following:
 - a. Investment performance report for the month ended 6/30/2009. Market value of *investments* as of 6/30/2009 was \$1,147,805,217. Investment return as of 6/30/2009 has been -14.3% so far this fiscal year.
 - b. Investment Summary dated 7/6/2009 prepared by Bowen, Hanes, & Co., Inc.
 - c. Bond portfolio information dated 7/14/2009 and recommendation by BH&Co. to hold.
 - d. Article dated 6/29/2009 titled "The Big Squeeze" from *Barrons* regarding illiquid investments such as timberland, private-equity, commodities.
 - e. Addendum distributed at meeting. Market value of *investments* as of 7/22/2009 was \$1,187,735,828. Investment return as of 7/22/2009 has been -11.3% so far this fiscal year.

Mr. Bowen advised that the fund's performance has improved even since the addendum was published, but it does look like we will have a second down year, which has happened before. Mr. Bowen said he will make sure that the portfolio is positioned to take advantage of what happens after the bear market. In 2001/2002 when we suffered down years, we were down 19% and then 8% respectively. He clarified that from a percentage standpoint, the fund took a bigger hit those years than it did this year. Mr. Bowen went on to say that the fund has a good shot at hitting a single digit loss this year. He said the way to make the money back is through common stock. He continued that the key for investors is to position the portfolio so it will do better in the bull market when it comes around. Mr. Bowen said that he understands how painful it is to suffer two down years in a row, but this has happened in the past, they were bigger losses, but the fund ended up bigger than ever a few years later. The important issue at hand is that the focus is placed on the long-term commitment to equities.

The quarterly letter indicated that the market is looking at an unprecedented situation, and this won't be normal type of recovery. Typically, these recessions recover within 11 months of beginning, but we have suffered 18 months, which is a lot different than the traditional type of recession. Mr. Bowen said that the good news is for the first time in 4 years, according to the index of leading economic indicators which are more forward-looking, the index has been up 3 months in a row. He pointed out that it seems as if things are not getting worse and there has been some stabilization. He said that we are in an interrelated global economy, and we have companies in our portfolio that are not dependent upon the United States. Although things are not getting any worse, the fund is not going straight back up, but it is going up. He said that the other things that have helped are the earnings reports that have come out over the last couple of weeks are a little better than what was expected. Normally when you come out of a recession, the unemployment rate starts to come down, but this time

it's different. Mr. Bowen said that we will not have the job growth that is expected, but having said that, there are certain sectors and industries that will do well. He said that there is so much uncertainty in taxes and healthcare that businesses are frozen and there isn't much incentive to create jobs, however that could change once we get some clarity on these uncertainties. Clarity on these issues is necessary in order to have a better fiscal 2010. He said that in the meantime, we are trying to focus on the industries, sectors, and companies that can do well in this environment, such as those with international business plans, which is a very important part of the portfolio. Mr. Bowen stated that infrastructure is going to be big, it's going to go on for a long time, and the manufacturing sector is stable. He assured the board that the strategy that has been employed over the past 35 years will continue to be valid.

Mr. Bowen expressed concern that with the amount of money that the Fed has created, there will be long-term inflation consequences. A few years ago, the Fed let the inflation rate stay low for too long, and this is something that Mr. Bowen will be following very closely. He said that this could impact the way the portfolio is structured in the next 3 years, with more emphasis being put on industries that do better in a high inflation environment.

[item 10 taken out of order]

10. Securities litigation and monitoring. *From 4/23/2009 minutes: **It was moved by Ms. Miller, seconded by Mr. Walker and by unanimous vote to receive and file all of the information received and to put the topic on a later agenda for general discussion without a presentation.** Ms. Miller added that this would require a request for proposal. Mr. Bogush added that he wants to table this until after the June FPPTA conference. It was agreed to move to the July agenda.*
- a. Noted receipt of email dated 5/7/09 from Atara Hirsch transmitting Amicus Curiae brief in Telxon Corp. action.
 - b. Noted receipt of article dated 5/13/2009 entitled "A Blatant Extortion" from *Wall Street Journal* regarding securities litigation provided by Bowen, Hanes & Co., Inc.
 - c. Noted receipt of article dated 5/3/2009 entitled "He Fought the Tort Bar—and Won" from *Wall Street Journal* regarding securities litigation provided by Bowen, Hanes & Co.

Mr. Bowen then addressed the issue of securities litigation and monitoring. He referenced the two articles he provided to follow up on the presentation (items 10b & 10c on today's agenda). The articles give examples of how lawsuits can wreck a company and its shareholders. The third article (item 4d on today's agenda) talks about what's going on in some big endowment funds and the disastrous effect of alternative investments. Mr. Bowen explained that many of these types of investments are illiquid and cannot be accurately valued. Mr. Bowen commended the board for having the wisdom over the last few years to stay out of alternative investments.

Ms. Miller asked Mr. Bowen about sales and purchases, noting it looks like some positions have been sold and replaced by something new? Mr. Bowen explained that it is a matter of trying to position the portfolio for the environment that seems to be unfolding. He said that

it's not that he doesn't like the companies that he sold, but because we can only have 65% in stocks, you have to decide what equities you want to keep more. He pointed out that BB&T was switched for Metlife and Corning, which we owned in the past. He explained that Harris (high quality electronics) and MTS (smaller technology-oriented company) holdings were increased. He went on that new positions will be taken that really fit into what we are trying to do. Ms. Miller pointed out that with BASF and BB&T, they were bought higher than what we sold them for, resulting in realized losses, and she would like to see a column containing the original purchase price in the quarterly transaction report. **It was moved by Ms. Miller, seconded by Mr. McRae and by unanimous vote that quarterly transaction reports reflect the original purchase price as well.**

Mr. Gray, referring to the articles that were distributed, said that the articles seem to be on opposite sides of the spectrum from the law firm marketing to us and asked who's looking out for our fund? Is Bowen, Hanes & Company actively doing so? Have we ever been involved in these kinds of lawsuits? Mr. Bowen replied that we have participated, but it's rare. Basically, this is done automatically by the custodian, who files for the fund to participate. He said that it's been insignificant because we don't own stock in questionable companies or buy investment products that lead to fraud or scandals due to the solid research and close daily monitoring of our portfolio. Mr. Bowen said that he would not hesitate to sell a security if he thought anything was fraudulent, and the portfolio is structured in high quality companies. Mr. Bowen noted that the portfolio would be much bigger without class action lawsuits.

When asked about securities fraud, Mr. Lenker advised that he agrees with Mr. Bowen. He said that he does not see the high-quality companies being sued, but some companies do get tied up in litigation, which often lacks substance. On the potential for fraud in this fund, Mr. Lenker noted that when the plan was set up, the investment advisor, custodian, investment performance evaluator and CPA all separate/independent and are constantly looking at different pieces of the fund and information coming together that serve as checks and balances and controls. There is also the annual external audit. Because of these fail-safes and checks and balances, the opportunity for fraud in this fund is very limited.

Mr. Lynch asked where the litigation comes from? Mr. Bowen said that typically, the SEC has uncovered fraud and can initiate litigation. A list is then generated of shareholders and their custodians. Mr. Gray expressed that he is satisfied with the answers to his questions and the system currently in place. Mr. Lynch asked how it is that Bernie Madoff beat the SEC? Ms. Miller said that it's possible that Bernie Madoff kept more than one set of books. Mr. Bowen explained that rampant litigation is one of the reasons why the United States is so uncompetitive internationally. Mr. Cohen stated that the custodian will get notice if a lawsuit is brought and it proceeds as a class action. The custodian fills out a proof of claim so that the fund gets its share, if there is any recovery, and it seems that has been happening. He went on that no case has held that it is a part of your fiduciary responsibility to be a lead plaintiff, you are only required to collect money if it is offered to you. With active securities litigation monitoring, if the law firm wins, they get a percentage of the winnings, and the fees and

percentages are enormous. Mr. Cohen expressed that he does not have an opinion one way or the other on whether or not the board should participate in securities litigation monitoring.

It was moved by Ms. Miller, seconded by Mr. Gray and by unanimous vote to receive and file items 4a-e.

It was moved by Ms. Miller, seconded by Ms. Fox to receive and file items 10a-c and take no further action. Upon voting, the motion carried with a vote of 8-1 with Mr. Adwell, Mr. Bogush, Ms. Fox, Mr. Gray, Mr. McRae, Mr. Meier, Ms. Miller and Mr. Moors in favor of the motion and Mr. Lynch opposed to the motion.

7. Financial Statement Presentation by Mark Lenker of Nobles, Decker, Lenker & Cardoso
 - a. Noted receipt of financial statement for the month ended 5/31/2009. Market value of *assets* as of 5/31/2009 was \$1,152,619,286.
 - b. Noted receipt of financial statement for the month ended 6/30/2009. Market value of *assets* as of 6/30/2009 was \$1,151,637,251.

Mr. Lenker went over what the accountant's report is all about for the purpose of informing newer trustees. Mr. Lenker explained that the accountant's report is a compilation of all of the financial information put into a financial statement format. Basically, information is taken from the custodian, BH&Co., and staff which maintains the fund's general accounting system and from that, financial statements are created. Mr. Lenker stated that because his firm is actively involved in the fund operation, they are not completely independent. The fund then takes the financials and has an external audit every year by one of the Big 4 accounting and auditing firms. This has been in practice for several years, and it's been a very smooth process. He went on to explain that one of the steps consists of taking BH&Co.'s report and reconciling that to the custodian's report. Mr. Lenker explained that there's a difference in numbers for several reasons. The BH&Co. report does not include the accrual of interest and dividends, because to BH&Co. it is unrecognized, but the custodian does recognize them. Another factor is BH&Co.'s treatment of pending trades, and pricing differences between different pricing services compared to that of the custodian. Once all of those items are reconciled, there are still assets that are not investible, such as the F&P Pension office building. All of this is done each month to make sure that things are consistent.

Mr. Lenker stated that the Dow Jones Industrial Average gives a general idea of what's going on in the market and the fund. Currently, we are starting to see more positive monthly results, which are attributed to what's going on in the overall market. At present the fund is at 74% of what it was one year ago. The fund is seeing the impact of the overall market, but when you look at individual components of this year versus last year, the major component is common stocks. Mr. Lenker remarked that common stocks have a dramatic impact on the fund because they make up to 65% of the fund on a cost basis. Changes in the fixed income area have also taken place, primarily in corporate bonds. This has happened because the yield in government securities has gone down drastically.

Mr. Lenker explained realized and unrealized gains and losses. He advised that interest is down this year compared to last year due to the interest rates declining. He noted that the investment fees are paid quarterly, and that will come through in July's statements. The investment counselor fees are down this year due to the fact that the portfolio value is down. Contributions are up this year. Also, there isn't a 13th check this year, but it must be kept in mind that in the prior year, there were two distributed. Mr. Adwell asked about the custodial statements? Mr. Lenker explained that the custody statements are sent every month to the pension office, to the external CPA, to the City of Tampa and are also provided to the external auditors. They account for transactions of what is bought and sold, interests and dividends, contributions, and disbursements, etc. Mr. Gray asked if the investment counselor fee is the fee that is paid to Mr. Bowen? Ms. Campbell replied yes. He asked if that fee is based upon performance? Ms. Campbell responded that the fee is based on the market value of the portfolio, and the smaller the portfolio, the less money BH&Co. makes. Mr. Gray asked if that is standard in this industry? Mr. Lenker replied that it is normal to pay on a percentage basis for an investment manager and historically, this fund has been below the industry average. Mr. Cohen said that usually there is more than one manager, and the fee is based upon what type of style manager you are and how much in assets they manage for you. **It was moved by Ms. Miller, seconded by Mr. Gray and by unanimous vote to receive and file item 7a-b.**

Medical Disability

8. Noted receipt of memo from Medical Director Dr. Bruce Bohnker recommending referral to orthopedic Medical Board composed of Drs. R. Brainard, M. Wasyluk and G. Canizares for LOD disability applicant Shawn Day, TFR. **It was moved by Ms. Fox, seconded by Mr. Gray and by unanimous vote to refer Shawn Day to the orthopedic medical board as recommended by the Medical Director composed of Dr.'s Brainard, Wasyluk, and Canizares.**
9. Noted receipt of status of disabilities in process. **It was moved by Mr. Gray, seconded by Mr. Meier and by unanimous vote to receive and file item 9.**

[Mr. Moors stepped out of the room briefly, not present for votes on #8 and #9]

Old Business

[item 10 taken out of order]

11. Investment manager. *From 6/25/2009 minutes: **It was moved by Ms. Miller, seconded by Mr. Gray and by unanimous vote to recirculate the memo asking the Unions and the City Administration to change the pension contract from "a nationally recognized professional investment counsel" to language meaning more than one.** From 6/25/2009 minutes: Ms. Miller asked the discussion of changing "a" to mean one or more nationally recognized investment manager to be placed on a future agenda.*
 - a. Noted receipt of memo dated 3/28/2005 to City and Unions requesting consideration of Section 6 change and Investment Committee minutes dated 3/11/2005 regarding same.

It was moved by Ms. Miller, seconded by Mr. Adwell and by unanimous vote to receive and file item 11.

Ms. Campbell asked for clarification due to the motion in bold above, but later in the same meeting, the issue was requested to be placed on the next agenda. She asked if she could now recirculate the information and request?

During discussion, Mr. Cohen stated that he has never given a formal legal opinion on the pension contract saying “a” nationally recognized investment counselor, and it is still unclear to him whether that could mean one or more. Mr. Cohen stated that the contract is to be read with the general rules of prudence. Mr. Cohen reiterated that he has not read old legal opinions, but this is what he understands to be the opinion that the board adopted and has operated under for 35 years. Ms. Miller held that this issue needs clarification, because based upon the previous opinion, this board acted and voted certain ways, so she would like to request clarification. Ms. Campbell suggested that the safest and easiest way to go about handling this issue would be to change the language of the pension contract while it’s open for collective bargaining. Mr. Moors announced that he agrees with Ms. Campbell. Mr. Moors affirmed that this issue has been around since he’s been on the board, and he would like to see this move forward and get into the hands of those who can make this change. Ms. Miller went on the record to say that she agreed with the changes in language, but that she doesn’t necessarily want to hire another manager. Mr. Moors went on to say that this language change would give future boards the opportunity to hire more than one money manager should they desire to do so. Mr. Gray asked if the unions have brought up this matter? Mr. Meier responded that it has not yet been brought up in negotiations this time and that there are some other pension enhancements being discussed. He also said that the language is being prepared. **It was moved by Mr. Gray, seconded by Mr. Moors and by unanimous vote to re-send the information and request to the Unions and the City Administration.**

[Brief recess from 3:05 p.m. – 3:10 p.m.]

12. Discussion of consistent poor voter turnout for trustee elections and discussion of alternatives, such as full mail-in balloting in lieu of multiple poll locations open for extended hours staffed by poll workers.

<u>Election Costs</u>	2007	2008	2008	2009
	Fire	Police	Fire	Fire
Total Votes Cast	309	397	265	201
Total Eligible to Vote	1,209	1,683	1,211	1,193
Percent Turnout	26%	24%	22%	17%
Total Cost	~\$4,000	\$4,856.84	\$4,275.51	\$3,976.12
Cost Per Vote	~\$13.00	\$ 12.23	\$ 16.13	\$ 19.68

- a. Noted receipt of memo dated 6/24/2009 from Plan Administrator with recommendations regarding trustee elections, proposed expense reductions, and alternative method to attempt

- to increase voter participation. Includes attachment of P&P 806 Pension Board Elections, in place since 1976, and excerpt from Section 5(C) of the pension contract.
- b. Noted receipt of narrative setting forth how F&P Pension envisions full mail balloting would work and timeline and cost comparison of old method and proposed new method.
 - c. Presentation made at board meeting by Ms. Campbell as requested by Mr. Bogush last month.
 - d. Election survey and results from retiree website were distributed at the meeting.

Ms. Campbell presented her proposal of a mail-in ballot election. She provided the board with a sample of a county election mail voting, explained what the current F&P Pension procedure is, and then explained the proposed procedure. She stated that with the mail-in ballot proposal, we could combine several processes and mailings making it easier to vote and saving considerable expense. Ms. Campbell explained to the board that there are security measures in place and solid crosschecks for fraud prevention. She said that she would like to test this proposed procedure with the upcoming police election for Mr. Meier's seat on the board. Mr. Cohen explained that the pension contract talks about "meetings" vs. "elections," and it appears that absentee ballots have not been contested. Mr. Adwell asked if the polls were open, if that would constitute a meeting? Ms. Campbell stated that the pension contract should be changed from "meeting," to "election" to clearly differentiate between the two because "meeting" implies agenda, notice, posting, quorum, and minutes, and suggested that the board err on the side of caution. Ms. Campbell pointed out that going back for decades, elections have not been held at a board "meeting," and asked if trustees are willing to volunteer to hold a marathon meeting on election days, with a quorum present at all times? The consensus was no.

Mr. Cohen said that someone may or may not challenge an election. Mr. Adwell asked if one day of open polls would suffice? Mr. Meier offered that due to past practice of conducting elections, which has been in place for a number of years, the board should be protected from challenge. Mr. Cohen agreed that past practice would help in the instance of a challenge, but a language change is definitely important.

Mr. Gray asked if all actives and retirees would get the mail-in ballot? Ms. Campbell replied yes, and they would be mailed out first class "do not forward" so that mail with bad addresses are returned to the pension office. Mr. Gray's opinion was that if actives aren't voting now when all they have to do is walk right past the table, why would they do so with a mail-in ballot? He stated that he supports mailing ballots to the retirees, but not for actives. Mr. Lynch suggested having the elections at one location and adjust the times in a sort of hybrid version of the procedures. Mr. Bogush said that actives can make the time to get to the pension office to vote. Mr. Gray reminded everyone that every employee has the opportunity to request an absentee ballot. Mr. Meier said that he thinks it would be best to have one method and one style of voting for both retirees and actives. He thinks it best to send out the mail-in ballots without a stamp with the option to drop off the ballot at the office, and have the ballots counted by a staff member of the Supervisor of Elections. Ms. Campbell explained that a hybrid version doesn't save any expense and that she does want to treat everyone equally. Mr. Bogush asked board counsel if the current procedure qualifies as a meeting? Mr. Cohen responded that reading the contract strictly, no, but it is a practice that has developed over a number of years

and the board might be in better shape doing that than changing it. He said that if someone wanted to challenge it now, there would be 32 years of past practice and precedent to overcome. Ms. Fox suggested that polls be open for a twelve-hour period on one day and that everyone be notified, so that if someone were unable to make it on election day, he or she could request an absentee ballot. She clarified that would save the expense of additional locations and times, and it wouldn't change the procedure as much as the proposal. Ms. Campbell told the board that one of the retiree associations put a survey out on the website as to why people didn't vote (item 12d handed out at meeting). The general responses were that there is insufficient time for the absentee ballot process, and it was too complicated. She explained that she would just like to try the proposal once, and if it doesn't work, revert back to the old process. **It was moved by Mr. Meier, seconded by Mr. Adwell to do a full mail ballot as proposed, mailed to each active and retiree, with an unstamped return envelope.** Mr. Lynch explained that doing some sort of hybrid could preserve some of the current procedure, and that doing a full mailing may be straying too far away from past practice, in his opinion. Mr. Meier pointed out that the ballots can still be turned in at the pension office. Ms. Miller suggested that a live ballot be available. A friendly amendment was offered and accepted by the motion maker and seconder **that the pension office be open on election day, staffed by poll workers from the Supervisor of Elections office, for members to cast a ballot live.** Mr. Cohen noted that a challenge would most likely occur if that vote is close. Mr. Gray suggested that the candidates be asked ahead of time if they agree not to challenge the election. Ms. Miller asked what would happen if the candidates didn't agree? Mr. Cohen explained that he doesn't want the board to think that this is illegal, but the board can be attacked; however, should that occur, there is plenty to say in favor of the board. Mr. Bogush asked if there are poll workers in place? Ms. Campbell responded yes, for one day on 9/17/2009. Mr. Cohen explained that he didn't mean that elections have been done wrong, but it's a possibility. He continued that if he felt like it was clearly illegal, he would advise the board. **Upon voting, the motion carried by a vote of 8-1 with Mr. Adwell, Mr. Bogush, Ms. Fox, Mr. Gray, Mr. McRae, Mr. Meier, Ms. Miller and Mr. Moors in favor of the motion and Mr. Lynch opposed to the motion.** Ms. Miller asked if this is a possible contract change? Ms. Campbell replied that it should be added to the list of things that need to be changed for the City and unions. **It was moved by Ms. Miller, seconded by Mr. Meier to amend policy 806 as recommended and to pass on the information for the unions and the administration for possible pension contract change. Upon voting, the motion carried by a vote of 8-1 with Mr. Adwell, Mr. Bogush, Ms. Fox, Mr. Lynch, Mr. McRae, Mr. Meier, Ms. Miller, and Mr. Moors in favor of the motion and Mr. Gray opposed to the motion.** Ms. Fox pointed out that the policy change does not reflect everything that has been discussed today. Ms. Miller explained that the policy only reflects that the ballots are being mailed. Ms. Fox stated that mail ballots may be used. Ms. Campbell clarified that mail ballots will be used. Ms. Campbell explained that the intent is that every person gets a mail ballot at his or her home address, and there would not be another ballot issued. Ms. Miller stated that ballots need to be available in the pension office in case someone loses the one that was mailed. Mr. Lynch said there is a process for dealing with the returned mail. Ms. Miller suggested that the policy read "alternatively, a member may vote in person at the pension office on a designated election day." Ms. Campbell concluded that the pension office uses poll workers from the Supervisor of Elections. She also stated that she is committed to continuous process improvement. **It was**

moved by Ms. Miller, seconded by Mr. Meier to amend P&P 806 with the additional changes as discussed. Upon voting, the motion carried by a vote of 8-1 with Mr. Adwell, Mr. Bogush, Ms. Fox, Mr. Gray, Mr. McRae, Mr. Meier, Ms. Miller, and Mr. Moors in favor of the motion and Mr. Lynch opposed to the motion.

New Business

13. Adoption of new Policy 438 – Internal Revenue Code Compliance, written by special tax counsel Ice, Miller, Donadio & Ryan. Adoption by board required by 7/25/2009.

Ms. Campbell announced that Mr. Cohen has run into this situation with some of his other clients. Ice Miller changed their interpretation of the deadline for adopting this policy. She said that it is purely tax code compliance and noted that the board has adopted tax qualification policies from Ice Miller in the past. Ms. Miller asked Mr. Cohen if the board should adopt this policy? Mr. Cohen said that because he is not a tax lawyer, he does not know. Ms. Miller asked Mr. Cohen if his other clients are going to adopt the policy? Mr. Cohen replied that one says they want Ice Miller to be appear before them for an explanation. Ms. Miller asked if Ice Miller is a recognized specialist in tax law? Mr. Cohen agreed and said that he has been impressed with them and has even brought them in on other clients. **It was moved by Ms. Miller, seconded by Ms. Fox and by unanimous vote to adopt Policy 438.**

14. Noted receipt of letter dated 7/1/2009 from Trish Shoemaker, Division of Retirement, to all participating Chapter 175 & 185 Cities, Districts and Boards regarding recent statute changes.
- a. Noted: Division of Retirement will be holding a conference in October addressing these changes on Wed/Thurs/Fri 10/21, 10/22, & 10/23/09, which conflicts with Thurs 10/22/09 board meeting. Due to the importance of issues upon which the Division will be offering guidance, recommend rescheduling 10/22/09 board meeting to Thursday 10/15/09 at 1:30 pm.

Ms. Fox said that the information is important and will be important for board members to understand. **It was moved by Ms. Fox, seconded by Ms. Miller and by unanimous vote to move the October board meeting to October 15, 2009 at 1:30 p.m.**

15. Noted receipt of request to be placed on the agenda dated 7/15/2009 from Trustee M. Bogush regarding P&P 815 & 816.
- a. P&P 815 – Pension Board Chair Emergency Authority.
 - b. P&P 816 – Pension Plan Administrator Authority.

Mr. Bogush addressed the board regarding Mr. Cohen's invoices on this agenda. He stated that around the same time last year, a similar situation occurred when Mr. Cohen was asked to do some work on public records and the board never received any explanation. Again, another invoice that costs a lot of money comes up for approval and the board doesn't know what it's for. He continued that he is aware of the policy that he thinks says that the Plan

Administrator can spend up to \$2,000 and the Chairman can spend up to \$10,000, but thereafter, the board needs to be advised. Mr. Lynch quoted policy 816 and specifically brought up the points that the plan administrator has the authority to work with board counsel on an as needed basis, in time critical situations and during any unusual occurrence for which a policy already isn't established or there is no precedent. Ms. Fox added that all of the attorney's invoices come before the board, and the board has the ability to approve them or not. She expressed that she doesn't believe anything has been done inappropriately. Mr. Bogush said that in early May, some issues started accumulating on bills, and nobody was notified. He pointed out that May's billing wasn't on May's agenda. He acknowledged that it is correct that the fund is always behind a month in billing. He said that he's looking at the policy, and he thinks nobody on the board has a blank check. He went on to say that this has occurred twice in one year's time and he wants to know how? Mr. Lynch responded that at the last meeting there was a motion to approve the bills contingent upon Mr. Cohen meeting or talking with trustees if they so desired an explanation of what the issues were.

Ms. Miller advised that she instigated the initiation of the policy in question due to issues with the previous board counsel, previous chairmen, and previous board. She said that it is rare now that the board asks Mr. Cohen for a written legal opinion, but we do ask him to investigate certain issues, and she thinks that it is very appropriate for the chairman to direct someone to do certain work. However, at the next meeting after the request has been made, the individual board members should be advised. She announced that she believes that both Mr. Bogush and Mr. Lynch are correct, but if it takes six weeks for the board to find that something has been assigned to the attorney, it could be a problem. Ms. Miller clarified that she believes that the board needs to rely on Mr. Cohen to brief each member individually under attorney client privilege. She said that she believes that this is a matter of better communication. Ms. Fox said this used to occur in prior years when there was an issue building, and the attorney would call each trustee individually to advise them, so it wasn't a surprise to the board at a meeting. She stated that she doesn't disagree with Mr. Bogush, but some things take longer than others, and that it is out of the board's control at times. Mr. Bogush replied that he doesn't have any argument that the money wasn't well spent, but two months to get the bill without the board knowing what's going on is a problem to him. He said that there was an opportunity at the May meeting for the board to be made aware that Mr. Cohen was working on some issues. He added that he is just asking for notification. Mr. Cohen stated that he is happy to call trustees individually if that is what they want. He asked if the trustees wanted to be notified when the invoices reach \$2,000 or \$10,000? Mr. Lynch brought up the policy on communications with professionals. Ms. Miller responded that if there is a new assignment that is going to cost more than \$2,000, the board should be notified of that between meetings. Ms. Fox added that Mr. Cohen making a phone call to 9 trustees would cost the fund even more money. She said it was her understanding that this dealt with the Plan Administrator's and the Chairman's limits, but work shouldn't stop immediately upon reaching \$10,000, because that would be a disservice to the board. Mr. Gray announced that he would prefer that an emergency meeting be called. Mr. Bogush asked that the board be advised by the chairman at the next meeting after a new assignment has begun, so they know what's going on, as opposed to having board counsel make 9 individual phone calls. Ms. Miller clarified that it is not Mr. Cohen's invoices in total, it is only if a new assignment

is taken on. Mr. Cohen disclosed that there were two public records requests that required research and redaction and we may have spent more than \$2,000 worth of time on it.

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

Mr. Lynch noted that the Financial Planning and Educational Workshops are not listed on the upcoming conference sheet, but they have been posted as public meetings if trustees want to attend. Mr. Bogush, Ms. Campbell, Ms. Fox, Mr. Gray, and Mr. Lynch disclosed for the Division of Retirement Conference and Mr. Adwell and Ms. Miller tentatively disclosed. Ms. Fox disclosed that she will be attending the CPPT CEU Wall Street Conference in March 2010, and Mr. McRae asked to be put on the waitlist with FPPTA for that trip. Mr. Gray disclosed that he will be conducting an on-site visit of Bowen & Hanes on August 25, 2009. Ms. Fox disclosed that she will be attending one of the Financial Planning and Educational Workshops by Mr. Jeff Helms. Ms. Miller announced that she will not be attending the State and Local Government Accounting Conference due to cost. Mr. McRae disclosed that he would also like to visit Bowen Hanes along with Mr. Gray. Mr. Cohen strongly recommended against both conducting an on-site visit at the same time due to Sunshine concerns. Ms. Miller and Ms. Campbell also recommended against it. Mr. Cohen explained that if they did attend together, they would have to refrain from discussing any issues that may come before the board in the foreseeable future, which would be very difficult. **It was moved by Mr. Gray, seconded by Ms. Miller and by unanimous vote to receive and file item 16.**

17. Chair's call for any new business items from trustees to be placed on next agenda.

Ms. Miller requested that proxy voting be placed on the October agenda when Mr. Bowen is here. Ms. Campbell stated that there is a proxy voting policy attached to Mr. Bowen's contract. Ms. Miller asked if the board receives information on how Mr. Bowen is voting? Ms. Campbell responded that the board does not receive that information at this time. The BH&Co. policy is that they will vote proxies in the best interest of shareholders unless BH&Co. thinks that it is not appropriate, in which case they will notify the Board.

[Brief recess for Public Comment cards to be turned in from 4:13 p.m. - 4:18 p.m.]

18. Chair's report. None.

19. Attorney's report. None.

20. Plan Administration.

- a. 2009 Board meeting schedule:
August 27, 2009
September 24, 2009
~~October 22, 2009~~ **October 15, 2009**
November 19, 2009 *early due to holidays
December 17, 2009 *early due to holidays

- b. F&P pension office priorities, projects, deadlines.
 - c. Note receipt of direct deposit encouragement flyer, periodic project, sent 7/7/09 to 74 participants.
Statistics: out of 1,533 benefits paid in June 2009
- | | | | |
|----|--------|-------------|---|
| 46 | (3%) | \$23,474.97 | have no direct deposit at all, with the entire check being mailed |
| 28 | (1.8%) | \$96,069.06 | have partial direct deposit, with the remainder being mailed |

Ms. Campbell reiterated that the October 22 board meeting will now be held on **October 15, 2009.**

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

Mr. Gene Wrenn, regarding agenda item 11, expressed concern that he thinks there is some kind of movement by the City trying to get rid of Mr. Bowen. He stated that he believes that Mr. Bowen and Mr. Lenker have done well for the pension fund, and it scares him to think that someone is messing with them. Mr. Lynch reassured Mr. Wrenn that the board is only interested in clarification of pension contract language, not in getting rid of Mr. Bowen or Mr. Lenker. He went on to say that their performance speaks for itself.

Mr. Larry Vincent, who addressed the board regarding agenda items 11, 12, and 21, went on the record to say that Mr. Bowen's record is impeccable. He wanted to express that he thought it best not to tinker with something that isn't broken. Mr. Vincent thanked Ms. Campbell for her attempts in straightening out the election process and believes that her proposal is a good solution. He stated that those who cannot provide their own stamp for mailing in their ballot do not deserve to vote. He also thanked the board saving money by going green on agendas and minutes. Mr. Vincent referenced the Parker Lawsuit and stated that he received some information recently, and if this information is correct, he is astounded at what this lawsuit has cost the pension fund. He said that there has been tremendous cost in legal fees, and he thinks the previous counsel spent money on frivolous stuff and this has added up to a small fortune. The legal wrangling is costing the pension fund a huge amount of money and it needs to come to an end. Mr. Vincent stated that he isn't sure why the money was withheld in the beginning, but the retirees are still owed money and they would like to get paid. He concluded with he would like legal expenses to stop and everyone move on.

Litigation

- 21. 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. Update by board counsel, if any.

Mr. Cohen informed the board that mediation is scheduled for tomorrow, July 24, 2009. He explained that mediation, by Florida law, is closed and confidential. If any agreement is reached, it would be brought to the board for approval. Mr. Cohen stated that deadlines in the

case management order will be moved back for mediation, and every effort will be made to try to resolve the case without costing more money, but we may have to go to trial on some matters.

22. 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. Update by board counsel, if any.

Mr. Cohen advised that he had nothing new to report under item 22.

Motion to adjourn at 4:27 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

Tiffany S. Corry
Recording Secretary