

**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 27, 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, August 27, 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. Ron Cohen, Board Counsel, Mr. Mark Lenker, CPA and active and retired plan members.

A moment of silence was observed in remembrance of Corporal Michael J. Roberts, who was fatally shot in the line of duty on August 19, 2009.

1. Approved the minutes of the July 23, 2009 board meeting. **It was moved by Mr. Gray, seconded by Ms. Miller and by unanimous vote to approve the minutes of the July 23, 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 – 9] Ms. Miller requested that item 4 be removed from the consent agenda for further discussion. Mr. Bogush requested that item 7 be removed from the consent agenda for further discussion. **It was moved by Ms. Miller, seconded by Mr. Meier and by unanimous vote to approve consent agenda items 2-9, except 4 & 7.**

2. Ratified pension benefits.
3. Noted receipt of investment performance report for the month ended 7/31/2009. Market value of *investments* as of 7/31/2009 was \$1,216,162,932. Investment return as of 7/31/2009 has been -8.8% so far this fiscal year.
 - a. Addendum distributed at meeting. Market value of *investments* as of 8/26/09 was \$1,252,368,741. Investment return as of 8/26/09 has been -6.6% so far this fiscal year.

[item 4 removed from Consent Agenda for further discussion]

5. Noted receipt of the following P&P approved by Board 7/23/2009. *Please remove and replace in your P&P manuals.*
 - a. 438 – Internal Revenue Code Compliance.
 - b. 806 – Trustee Elections.

6. Noted receipt of blue flyer Notice of Election for Police Officer Trustee election 9/17/2009, including mail in ballot process explanation and information. Final date to sign up to run is 5:00 p.m. Monday 8/31/2009.

[item 7 removed from Consent Agenda for further discussion]

8. Admitted Tampa Fire Rescue members to pension fund effective 8/3/2009 contingent upon: 1) furnishing a list of all medical providers and authorizations to obtain such medical records; and 2) passing a complete medical examination:

Alfonso, Roland D.
Deve, Emmanuel
Farrington, Jermain
Houtz, Holland L.
Irving, Joshua T.
Jones, Christopher A.
Lopez, Jason J.
Martinez, Rigoberto A.
McCauley, Brent A.
Vickers, Holly M.

9. Noted that fiduciary liability insurance renewed 8/2009 – 8/2010 at slightly lower premium of \$97,267. Last year's premium was \$97,324.

[item 4 removed from Consent Agenda for further discussion]

4. State premium tax money
 - a. \$3,126,213.62 Chapter 185 received 8/13/2009.
 - b. \$3,180,109.85 Chapter 175 received 8/14/2009.
 - c. Noted receipt of 28 year historical comparison of state premium tax money received.
 - d. Per Trish Shoemaker Fire/175 decreased 16.65% statewide, Police/185 decreased 1.99% statewide.
 - e. Noted receipt of letter dated 6/30/2009 received 7/6/2009 from Milliman, actuarial firm engaged by Division of Retirement to review backlog of actuarial valuations for state acceptance.
 - f. Noted receipt of response letter dated 7/16/2009 from J. Beattie, actuary from Buck Consultants.

Ms. Miller requested that Ms. Campbell review the process for receiving the State premium tax money since there are some newer trustees. Ms. Campbell explained that each year, the state premium tax money is collected from insurance companies and distributed by the State. There are two triggers for distribution: 1) submission and approval of the annual report to the State that is due by March 15 every year; and 2) submission of the annual actuarial valuation to the State Actuary. Ms. Campbell noted that we have not received a formal, written letter of approval from the State Actuary for a number of years; but we have been receiving the State money consistently each year. This year, the state engaged a number of external actuarial firms to help with the backlog of reviews of actuarial valuations. Milliman, who we have not done business with before, reviewed our 10/01/2007 valuation and had several questions. The Milliman questions were sent directly to Jennifer Beattie of Buck Consultants who responded promptly, and we did receive the state premium tax money on time. This is the first time that anyone other than the state actuary has reviewed our actuarial valuation. Ms. Campbell advised that the state premium tax money is down, but it is down across the state. Ms. Miller asked if it is down across the state in part because the money is derived from insurance

premiums? Ms. Campbell and Mr. Cohen confirmed. **It was moved by Ms. Miller, seconded by Mr. Moors and by unanimous vote approve agenda item 4.**

[item 7 removed from Consent Agenda for further discussion]

7. Approved payment to Counsel R. Cohen for legal services rendered during July 2009 in the amounts of:
 - a. \$8,524.98 General Counsel
 - b. \$11,059.00 Parker lawsuit

Mr. Bogush referenced page 3 of Mr. Cohen's invoices, pointing out that he did some work on guns in the workplace (0.4 hours), and asked for an explanation. Mr. Cohen stated that it had to do with weapons inside the pension office building and that Ms. Campbell was considering implementing a policy as to whether or not staff should be allowed to carry firearms inside the building. Mr. Lynch added that it is also in response to a security survey conducted by the police department months ago regarding guns inside the pension office building. Mr. Cohen advised that a person with a concealed weapons permit can carry their weapon to work; however, there are limits when it comes to carrying it into a city office. He said that the legal information on concealed weapons was reviewed and passed along verbally to Ms. Campbell. **It was moved by Mr. Bogush, seconded by Ms. Miller and by unanimous vote to approve consent agenda item 7.**

Medical Disability

10. Noted receipt of letter dated 7/28/2009 from Medical Director Dr. Bruce Bohnker recommending referral to Medical Board composed of Drs. Jaime Casellas, Allan Goldman and Thomas Truncale for LOD disability applicant Rudy Garrett, TPD. **It was moved by Ms. Fox, seconded by Mr. Gray and by unanimous vote to refer Rudy Garrett to the Medical Board composed of Doctors Casellas, Goldman and Truncale as recommended by the Medical Director.**
11. Noted receipt of status of disabilities in process. Ms. Campbell noted that two disabilities are nearing the initial hearing stage and that there would be one, possibly two hearings on the September agenda. **It was moved by Ms. Miller, seconded by Mr. Gray and by unanimous vote to receive and file item 11.**

Old Business

12. Noted receipt of legal opinion dated 8/19/2009 from Board Counsel Ron Cohen regarding wearing of seatbelts/not wearing seatbelts and gross negligence. [Requested by Board at 5/28/2009 meeting.]

Ms. Fox asked Mr. Cohen if it's true that based on his legal opinion, the board has the ability to make a determination on negligence on a case by case basis? Mr. Cohen confirmed. Mr. Gray asked if it is Mr. Cohen's opinion that not wearing a seatbelt is gross negligence? Mr. Cohen stated that not wearing a seatbelt is a factor that the board, as a jury, can consider. He went on to say that there is no law that states that not wearing a seatbelt is gross negligence, but because not wearing a seatbelt violates a state law and a city policy, that does not, in and of itself, mean you cannot be granted a disability. Not wearing a seatbelt is a factor that can be considered in the case, as well as other factors such as the person's actions at the time of the incident. Mr. Cohen pointed out that a perfect example of this would be the case that recently came before the board where certain trustees voted for that particular disability, but due to the other circumstances of the case. Mr. Gray reminded the board that every officer and firefighter has an affirmative defense to that, no matter what, and that there is a state statute that says that they can

disregard traffic laws while performing their duties. He went on that he is concerned that there are many instances that police officers do not wear their seatbelts for numerous reasons, and it appears that there is an inference that if a person does not have their seatbelt on, that contributed to their injury. Mr. Cohen advised that there are two policies to consider, and the reason that the person is not wearing their seatbelt should also be considered. It is up to the board to look at the fault of the person and then determine whether or not to grant them a disability. Mr. Lynch added that he read the SOP and it is definitive, all police officers are required to wear their seatbelts at all times. He said that the same holds true for firefighters, but the SOP does not take into account reality. He used the example of if his home was burning down, he would want the firefighters to have donned their protective gear en route to the fire (while not wearing a seatbelt) than staying belted in for the drive, and putting on their gear once they arrive at the scene while his house is burning down. He added that the Tampa Fire Rescue SOP does not take into account the paramedics working on a patient in the back of a rescue car, and that is why he appreciates that the legal opinion says to consider it as a factor. **It was moved by Ms. Miller, seconded by Mr. Adwell and by unanimous vote to receive and file item 12.**

New Business

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

Mr. McRae and Mr. Moors disclosed for the Division of Retirement Conference in October. Mr. Lynch disclosed for the Guns and Hoses Conference in September, and Mr. McRae confirmed that he will attend as well (no longer tentative). Mr. Lynch recognized Mr. McRae as the only trustee on the board to receive the Certificate of Achievement in Public Plan Policy (CAPP) by the International Foundation of Employee Benefit Plans (IFEPP), a designation that Ms. Campbell holds. **It was moved by Ms. Miller, seconded by Mr. Gray and by unanimous vote to receive and file item 13.**

14. Special Act pension plan change process.

- a. Noted that the deadline for filing local bills with the local delegation is noon November 20, 2009.
- b. Noted receipt of flowchart showing steps required for any change to the pension contract (special act pension plan).
- c. Narrative of special act pension plan change process:
 - i. Collective bargaining and agreement between City and Unions
(includes ratification vote of union membership)
 - ii. Actuarial Impact Statement (AIS) prepared by pension fund's actuary
(after agreement and language final)
 - iii. Submission of local bill and AIS to local delegation Deadline: noon 11/20/2009
 - iv. To State Legislature for enactment generally spring/March timeframe
 - v. Typically becomes law within two weeks of enactment
without Governor's signature or immediately upon
Governor's signature generally in summer for 10/1 effective date

Ms. Campbell said that this process has been included as educational information mostly for newer trustees. She went on to explain that this is a historical interpretation of how to make changes to the pension plan. Ms. Campbell placed emphasis on the November 20, 2009 deadline for the submission of local bills. **It was moved by Ms. Fox, seconded by Mr. McRae and by unanimous vote to receive and file item 14.**

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

[Brief recess from 1:48 p.m. to 1:53 p.m. for Public Comment cards to be turned in]

16. Chair's report. None.

17. Attorney's report. None.

18. Plan Administration.

a. 2009 Board meeting schedule:

September 24, 2009

October 15, 2009 *early due to conflict with Division of Retirement conference

November 19, 2009 *early due to holidays

December 17, 2009 *early due to holidays

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

c. Direct deposit encouragement project initiated in July. Of 74 non-direct deposit participants in project, 14 have since elected direct deposit.

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

Mr. Bogush asked why public comment cards are not distributed at the end of the agenda? Mr. Lynch responded that it is to allow people enough time to turn in the cards. He also said that it is to keep from having to recess the meeting for the cards to be filled out, reconvene the meeting, and then if there aren't any public comments, adjourn the meeting. Mr. Bogush then asked how a person is supposed to comment on something that has yet to be discussed? Ms. Campbell pointed out that the policy regarding public comments was developed in committee and adopted by the board. Mr. Lynch noted that public comments are toward the end of the agenda except for litigation items.

Litigation

19. 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 the following:

a. Letter dated 7/16/2009 from W. L. Thomas of Akerman Senterfitt, received at F&P Pension 7/31/2009.

b. Order Amending Case Management Order received by F&P Pension 7/31/2009.

Mr. Cohen advised that mediation is scheduled to continue on September 23, 2009, the day before the regular September board meeting. He requested that an executive session be scheduled and posted after the September board meeting, which can be cancelled if there isn't anything to report. **It was moved by Mr. Moors, seconded by Ms. Miller and by unanimous vote to receive and file item 19.**

20. 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 he had nothing new to report regarding item 20.

Motion to adjourn was made by Ms. Miller at 1:56 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