

**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 24, 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, September 24, 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. Patrick Gonyea, Mr. Mark Lenker, CPA, Dr. Bruce Bohnker, Medical Director, and active and retired plan members.

Mr. Patrick Lynch began the meeting by presenting Mr. Jimmy Meier with a plaque and thanking him for his years of dedicated service on the pension board.

1. Approved the minutes of the August 27, 2009 board meeting. **It was moved by Mr. Gray, seconded by Ms. Miller and by unanimous vote to approve the minutes of the August 27, 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 Ms. Fox and by unanimous vote to approve consent agenda items 2-6.**

2. Ratified pension benefits.
3. Noted receipt of investment performance report for the month ended 8/31/2009. Market value of *investments* as of 8/31/2009 was \$1,239,618,788.56. Investment return as of 8/31/2009 has been -7.2% so far this fiscal year.
 - a. Addendum distributed at meeting. Market value of *investments* as of 9/23/09 was \$1,283,883,892. Investment return as of 9/23/09 has been -3.9% so far this fiscal year.
4. Noted receipt of financial statements for the month ended 7/31/2009 prepared by Mark Lenker of Nobles, Decker, Lenker & Cardoso. Market value of *assets* as of 7/31/2009 was \$1,221,257,364.
5. Approved payments to Counsel R. Cohen for legal services rendered during August 2009 in the amounts of:
 - a. \$5,288.20 General Counsel
 - b. \$422.50 Parker lawsuit

6. Admitted Tampa Police Dept. members to pension fund effective 09/21/2009 contingent upon: 1) furnishing a list of all medical providers and authorizations to obtain such medical records; and 2) passing a complete medical examination:

Allen,	Daniel L.
Barry,	Mark C.
Bousquet,	Jeffrey M.
Butler,	Shanta A.
Cannon,	Julius C.
Carlson,	Keith D.
Diaz,	Gustavo E.
Elam,	Marcus R.
Furby Jr.,	Dennis D.
Klimkoski,	Matthew
Noble,	Gregory N.
Rahmings,	Delecia R.
Ratliff III,	Alfred T.
Simmonds,	Bradley R.
Stanjeski,	John H.

Medical Disability

7. Initial hearing for LOD disability applicant Shawn Day, TFR. Noted receipt of date-stamped disability application, qualifying letter, notices of injury, pre-employment physical, firefighter job description, disability process timeline, summary review outline by independent medical case manager, sample letter to Medical Board, Medical Board reports, and Medical Director's summary.

Mr. Day was sworn in and responded to questions from the board. Mr. Meier referenced page 38 of the disability package and asked Mr. Day what disability the honorary discharge for health reasons was for? Mr. Day responded that it was for his left knee. Mr. Meier clarified, asking if it was not for his shoulder? Mr. Day said no. Mr. Meier referenced page 40 and asked Mr. Day if the surgery was for his knee and Mr. Day said yes it was.

It was moved by Mr. Bogush, seconded by Mr. Gray and by unanimous vote that the board finds that there is a disability which permanently incapacitates Mr. Day physically from the regular and continuous duties of a firefighter.

It was moved by Mr. Bogush, seconded by Mr. Gray and by unanimous vote that the board finds that the disability was incurred in the line of duty.

It was moved by Mr. Bogush, seconded by Mr. Moors and by unanimous vote to grant a line of duty (LOD) disability to Mr. Day for a shoulder injury effective close of business his last day on payroll as per policy, past practice and precedent.

New Business

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

Mr. Adwell disclosed tentatively for the FPPTA Trustees School from February 7-10, 2010 in Jacksonville. Ms. Campbell disclosed for two F&P staff members, Ms. Corry and Ms. Ernst, to attend the FPPTA Trustees School in Bonita Springs October 4-7, 2009. Ms. Campbell also disclosed for two F&P staff members (to be determined) to attend the Division of Retirement 41st Annual Conference in Orlando October 21-23, 2009. Mr. McRae disclosed for the IIR 18th Annual Forum in San Francisco December 12-15, 2009. **It was moved by Ms. Miller, seconded by Ms. Fox and by unanimous vote to receive and file item 8.**

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

Ms. Miller advised the board that there was a city council budget meeting last evening where there was a motion to ask Ms. Miller and Ms. Bonnie Wise to have a workshop January 28, 2010 before city council. Ms. Miller requested that this item be placed on the next agenda, advising that she will forward the information and the request to Ms. Campbell.

[Brief recess from 1:45 p.m. to 1:47 p.m. for Public Comment cards to be turned in.]

[Mr. Lenker arrived at 1:45 p.m.]

10. Chair's report. None.

11. Attorney's report. None.

12. Plan Administration.

- a. 2009 Board meeting schedule:
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. Noted receipt of blue flyer with police trustee election results:
- | | |
|--------------------|-----|
| Roderick A. Glyder | 106 |
| Richard Griner | 259 |
| Blank/Void | 6 |

Ms. Campbell advised that there have been a lot of walk-ins recently of active police and fire to make optional form of payment elections and ask questions after the recent line of duty death. Ms. Campbell further advised that we are running out of available space to meet with people, using the conference room, back office, kitchen and lobby area because at times there have been 3-4 appointments per day plus walk-ins at the same time. We have also been busy with three new hire groups within a one-month period. There has also been an unusual amount of DROP activity, and the next ratify list will be even longer than September's. Disabilities are on-going, and Bo Solomon is scheduled for a full hearing in December.

Ms. Campbell said that the new trustee election method was a technical success, with an increase from 17 to 22 percent participation. She noted that only three ballots were cast in-person at the pension office on election day. She also noted that there was no attempted fraud, and we had an approximately 44% decrease in costs. Ms. Campbell stated that the pension office does not endorse candidates. She said she wanted everyone to know that there was no campaigning done by or from the pension office, and that no mailings [no 1) first class, no 2) interoffice mail, and no 3) email] were done by or from the pension office. We also did not send out any emails, nor did we provide email addresses to anyone. There were no labels requested or provided by the pension office. Ms. Campbell thanked the trustees for being willing to try this new process for elections. Ms. Campbell concluded by thanking the trustees for exceptional attendance at the board meetings over the past fiscal year, noting that few issues had to be carried forward due to insufficient votes/attendance.

Discussion followed. Mr. Meier advised that regarding the election, he had a large number of people ask him about email endorsements sent out by the chairman. He said that he doesn't think that any sitting board member should send out unsolicited email endorsements. He added that he thinks the board might want to consider making a policy change to address this issue. Mr. Lynch told Mr. Meier that he sent emails from his personal email list via his personal email. He said that he did not identify himself as a trustee or as the chairman. Mr. Meier said that people were asking him if it was illegal or unethical, and that he thinks the board may want to address it. Ms. Campbell added that she also received complaints from people asking why the pension office gave out their email address (which we did not). She told the board that she made it clear to callers that this office does not maintain email addresses, as there is no email field available in our mainframe system, and that the pension office did not release any email addresses. Mr. Meier restated that he thinks Mr. Lynch's endorsement activities did not pass the "sniff test."

Mr. Bogush asked Mr. Cohen if he had any input on this issue. Mr. Cohen said that legally anybody has a right to endorse another candidate. He said there might even be serious first amendment restrictions on a policy prohibiting it. Legally, there is nothing wrong with it. He said there could be if it was done for any improper purpose.

Public Comments Limited to two (2) minutes per person and maximum of ten (10) persons. None.

Litigation

13. 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 said he did not have any updates.
14. 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. Noted receipt of posting for Executive Session to be held at the end of today's regular board meeting, if necessary.

- a. Board counsel request for advice concerning Parker lawsuit and explanation of 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, Wes Adwell, Mark Bogush, Sharon Fox, PJ Gray, Patrick Lynch, Mark McRae, Jimmy Meier, Cynthia Miller, and John Moors, 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 will be 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 1:59 p.m.

[Brief recess from 4:05 p.m. to 4:10 p.m.]

- e. Meeting was reopened to the public at 4:14 p.m.
- f. Board motions, as follows:

It was moved by Mr. Meier, seconded by Mr. Gray and by unanimous vote to approve the mediated partial settlement agreement that was conducted yesterday on the interest in the Parker lawsuit, and to move forward with the rest of the case.

Mr. Cohen added that there are 243 people who opted out of the class, and now that agreement has been reached on the amount of interest on the 13th check, he and Mr. Gonyea want the board's approval to work on resolving the issues with the opt outs whereby they would be paid the same amount of interest that is in the partial mediated settlement agreement. He added that he and Mr. Gonyea would bring recommendations to the board at the meeting on October 15. **It was moved by Mr. Gray, seconded by Mr. Moors and by unanimous vote to direct the attorneys to conduct the necessary review for offering a settlement with all opt outs consistent with the amounts in the agreed upon partial mediated settlement agreement and, if deemed appropriate, offer a settlement contingent upon signing an appropriate release.**

Ms. Campbell reviewed the probable timeline of events for payment of the remaining principal and interest if everything goes perfectly with the approval by the court, the fairness hearing, the judge's ruling, and if there are no appeals. Given a perfect scenario and no appeals, the earliest the payment would be May 2010. Ms. Campbell reviewed a graphic representation of the timeline, which was affirmed by the board's attorneys, and advised that the timeline and the partial mediated settlement agreement will be placed out on the F&P website ASAP.

Motion to adjourn made by Ms. Miller at 4:21 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 M. Molitor
Recording Secretary