

**MINUTES OF THE MEETING OF THE BOARD OF TRUSTEES
OF THE
TAMPA FIRE & POLICE PENSION FUND
3001 North Boulevard Tampa, FL 33603 (813) 274-8550
May 22, 2019 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 Wednesday, May 22, 2019 1:30 p.m. for a regular meeting with the following members present:

Greg Reed, Chairman
Douglas Burkett
John Cannon
Sharon Fox

Trevor Hall
Patrick Messmer
Dennis Rogero
Ocea Wynn

Also present were Dr. Bruce Bohnker, Medical Director, Mr. Timothy Bowen, Actuary, Ms. Amanda Brown, Actuary, Mr. Joseph Griffin, Actuary, Mr. Robert Klausner, General Counsel, Mr. Mark Lenker, External CPA, and active and retired plan members.

Public Comments: Pursuant to Florida Statutes, Section 286.0114(4) members of the public may comment on items requiring Board action, other than ministerial matters. Speakers are limited to two minutes each, and not more than 20 minutes will be set aside for comments, without further Board approval. Speakers shall fill out a card identifying the speaker and the agenda item(s) they wish to address. Speakers may also submit a card supporting or objecting to an item without speaking. Rules of conduct are available from the Plan Administrator.

The statements made by speakers under Public Comments are solely the opinion of each speaker and do not necessarily reflect the views of the Board of Trustees, its staff, or its professionals.

Mr. Steve Mason, Retired Firefighters' Association, thanked the members of the Board for the job they have done this year. He opined that the Board consists of the best people to get the job done and advised that the retirees appreciate the hours put in. Mr. Mason also thanked the pension office staff for always being available to help and keeping retirees well informed.

1. Approved the minutes of the April 24, 2019 regular board meeting. Ms. Corry advised that minor corrections were made to the minutes including the removal of a double negative and correctly identifying a speaker. **It was moved by Mr. Burkett, seconded by Mr. Cannon and by unanimous vote to approve the minutes of the April 24, 2019 board meeting, as amended.**

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 – 4] **It was moved by Ms. Messmer, seconded by Mr. Cannon and by unanimous vote to approve consent agenda items 2 through 4.**

2. Investment Management Report from Bowen, Hanes & Co. Inc. Noted receipt of the following:
 - a. Investment management report for the month ended 04/30/2019. Market value of *investments* as of 04/30/2019 was \$2,124,641,723.32. Investment return has been +1.6% on the total portfolio so far this fiscal year.
 - b. Addendum distributed at meeting. Market value of investments as of 05/21/2019 was \$2,083,578,735 and investment return has been -0.3% (*negative 0.3%*) on the total portfolio so far this fiscal year.

3. Approved billing for General Counsel services rendered by Klausner, Kaufman, Jensen & Levinson during April 2019:
 - a. General – \$12,204.71
 - b. Appel – \$1,245.00
 - c. Bulger – \$2,940.00
4. Noted receipt of Disability Process Timeline of disabilities in process as of 05/14/2019.

[Items 7 and 8 taken out of order]

7. Discussion regarding Formal Hearing for disability applicant K. Truong. Mr. Michael Srebnick, legal advocate for the Board, participated telephonically. Mr. Klausner advised that the Fund's legal advocate has reviewed the file supplied by staff, and believes that the greater weight of the evidence is in favor of the disability applicant. Mr. Srebnick provided a brief review of the file and opined that the evidence supports finding that the disability is a product of his duties as a police officer. Mr. Srebnick advised that he did give greater weight to the reports of the doctors who actually treated and spent time with the applicant. He also opined that the record does not give any indication of long-term alcohol abuse, but appears to indicate that the alcohol abuse started within the last two years in reaction to the issues at hand. A discussion ensued regarding the applicant's major depression disorder and past issues with supervisors. Mr. Srebnick opined that the record indicates that all of the physicians agree that the supervisor issues were an aggravation of his underlying depression disorder. Mr. Klausner advised that there is 2nd DCA ruling that the aggravation of a pre-existing condition is an acceptable cause.

[Mr. Srebnick ended his call at 1:57 p.m.]

8. Noted receipt of agenda appearance request by K. Truong, TPD, regarding update of health issues and Formal Hearing. Mr. Truong was sworn in and explained that he submitted this request because as of May 1, 2019, he is no longer insured by the City. He continued to explain that while he has been complying with the Board's previous requests and has seen some improvement, he will be unable to continue to do so without insurance to help pay for treatment and medications. Mr. Truong advised that he has made several attempts to schedule a formal hearing without success, but his treating physician is prepared to testify on his behalf. Ms. Ernst advised that the legal review of the file had to be completed before the hearing could be scheduled and it just so happened that Mr. Srebnick was prepared to discuss the matter today. Mr. Klausner advised that the Board has the ability to address the matter at this meeting. Additional discussion ensued regarding treatment and medications since the informal hearing. It was noted that Mr. Truong is currently on leave without pay from the City and is not eligible for longevity retirement due to his age. Mr. Rogero provided comments and opined that the Board should listen to their hired subject matter experts, who were able to provide sufficient evidence to support their findings. Mr. Burkett concurred, noting that there is a specific incident that the PTSD diagnosis can be tied to. Ms. Fox expressed concerns about setting a precedent of reversing a vote without going to a formal hearing, but noted that a formal hearing would not be appropriate in this case since the Fund's position has already been stated. Dr. Bohnker was sworn in and provided comments, noting that this case surrounds a complex area of medicine. Mr. Messmer inquired about the final order that resulted from the informal hearing and Mr. Klausner advised that the order stands and a separate final order granting the benefit will be entered.

It was moved by Mr. Messmer, seconded by Mr. Burkett and by unanimous vote that the Board finds that there is a disability that occurred in the line-of-duty that permanently incapacitates K. Truong from the regular and continuous duties of a police officer.

It was moved by Mr. Messmer, seconded by Mr. Burkett and by unanimous vote that the Board grant K. Truong a line-of-duty disability pension due to PTSD effective close of business today.

[Brief recess from 2:36 p.m. to 2:38 p.m.]

5. **Actuarial Valuation Presentation** by Joseph Griffin, Actuary, and Tim Bowen, Actuary – Foster & Foster Distributed and discussed at board meeting by actuary:
- a. Annual actuarial valuation for the fiscal year ended 09/30/2018.
 - b. Highlights of annual actuarial valuation for the fiscal year ended 09/30/2018.
 - c. Established the employee contribution rate for fiscal year 10/1/2019 – 09/30/2020 as recommended by the actuary based upon actuarial and statutory requirements and the 09/30/2018 actuarial valuation just presented and approve the plan administrator to email all active members the contribution rate for fiscal year ending 09/30/2020.
 - d. Noted receipt of draft letter to eligible retirees and eligible surviving spouses regarding the payment or non-payment of the 13th check for fiscal year ending 09/30/2018.

Mr. Griffin provided an introduction, noting that the valuation establishes funding status, develops minimum funding requirements, and determines contribution rates for fiscal year ending 2020. Membership data used in the valuation was reviewed, including the size of the membership, average earnings of active members, and average monthly pension benefits of retired members. Mr. Griffin reviewed the Fund's asset allocation noting that all member, city, and state contributions and returns from 1-5% are allocated to the base account, returns from 5-10% and above 11% are allocated to the COLA account, and returns from 10-11% are allocated to the 13th check account, if certain conditions are met. He also reviewed investment returns, noting that when the Fund experiences negative returns there has to be a makeup payment to the base plan before COLA account receives investment earnings. Mr. Griffin advised that as of 2018, all makeup payments have been satisfied. Mr. Bowen provided an overview of plan experience, noting that over the last year there has been an overall decrease in unfunded liabilities. He noted that the changes to assumptions were those approved by the Board earlier this year based on the results of the experience study and there were no plan provision changes. Funded status was also reviewed and it was noted that the Fund was 96% funded on a market value basis and 94% funded on an actuarial basis. Contribution requirements were discussed and it was noted that due to statutory requirements to fund the normal cost of the plan, the plan has a low-end range of 9-13%. **It was moved by Mr. Rogero, seconded by Mr. Burkett and by unanimous vote to accept the annual actuarial valuation results, as prepared by Foster & Foster.**

It was moved by Ms. Fox, seconded by Mr. Burkett and by unanimous vote to adopt the employee contribution rate of 9.93% for fiscal year ending 09/30/2020, as recommended by Foster & Foster.

Ms. Ernst advised that she will send an email to all active members notifying them of the new contribution rate at the conclusion of the meeting.

Mr. Griffin reviewed the 13th check certification letter, noting that all three conditions for 13th check payment were met and advised that eligible retirees will receive \$10,840 and eligible surviving spouses will receive \$5,420. **It was moved by Mr. Burkett, seconded by Mr. Messmer and by unanimous vote to approve the 13th check payment, as certified by Foster & Foster.**

Medical Disability

6. Informal hearing for LOD disability applicant S. Croy, TFR. Noted receipt of disability application, qualifying letter, notice of injury reports, pre-employment physical, job description, sample letter to Medical Board, Medical Board reports, Medical Director's summary, medical records, and other documents related to the case.

Mr. Croy was sworn in and responded to questions from the Board. Mr. Klausner noted that he advised the applicant that there is one trustee who is not present and the approval of his application will require five affirmative votes. Mr. Croy elected to continue with the informal hearing.

It was noted that Mr. Croy reported seeing a chiropractor in his pre-employment physical and Mr. Croy confirmed that it was not due to an injury. It was also noted that Dr. Moreno advised that Mr. Croy could improve with surgery, but no non-surgical options were identified. Dr. Bohnker was sworn in and noted that while Dr. Moreno offered a fusion, none of the other doctors felt it would be meaningful.

It was moved by Mr. Hall, seconded by Mr. Messmer and by unanimous vote that the Board finds that there is a disability that occurred in the line-of-duty that permanently incapacitates S. Croy from the regular and continuous duties of a firefighter.

It was moved by Mr. Hall, seconded by Mr. Burkett and by unanimous vote that the Board grant S. Croy a line-of-duty disability pension due to cervical spine injuries effective close of business today.

[Items 7 and 8 taken out of order]

9. Noted receipt of agenda appearance request by R. Floyd, formerly TFR, regarding a rehearing of the informal hearing.

Mr. Floyd participated by phone and advised that he would like another opportunity to come before the Board at an informal hearing to further discuss his request for line-of-duty disability retirement. Mr. Floyd explained that he understood that questions raised at the informal hearing would be addressed by the IME reports and Medical Director's Summary. He noted that while he was advised that he would have an opportunity to make an opening statement, he did not know that he would need to provide a summary of his case and was unprepared to do so. Furthermore, Mr. Floyd advised that he did not understand the ramifications of moving forward without all nine trustees being present at the informal hearing. It was noted that the Fund's attorney did meet with Mr. Floyd briefly before the meeting to explain that all nine trustees were not present and that he would need five affirmative votes in order for his application to be approved and Mr. Floyd elected to proceed. Mr. Floyd reiterated that he did not fully understand the implications. It was noted that Mr. Floyd should be sworn in and Mr. Klausner confirmed that this can be done by phone as long as someone recognizes his voice. Ms. Corry advised that she can confirm that Mr. Floyd is the person on the phone and he was sworn in. Mr. Messmer asked Mr. Floyd if he is aware that the Board has a policy regarding how disability hearings are conducted and Mr. Floyd confirmed that he is aware. Mr. Messmer asked Mr. Floyd if he reviewed the policy prior to his hearing and Mr. Floyd advised that he did review the policy, but having worked through worker's compensation processes, he thought the hearing was a formality. Mr. Klausner advised that unless a motion is made for rehearing, the original order stands and Mr. Floyd will have an opportunity to come back before the Board at a formal hearing. He noted that an attorney is not required for a formal hearing, but advised that the Fund will be represented by counsel. No further action was taken. **Item 9 was received and filed.**

Old Business

10. Committee #3 report. Nothing to report.
11. Committee #1 report. Ms. Ernst advised that the committee has not met and is still gathering information.
12. Steering committee report.

Mr. Messmer advised that the committee met on Monday to go over issues that came up with the new pension administration system (PAS) implementation. He advised that the committee discussed the DROP administrative fee and whether or not the cost of the DROP module within the PAS should be charged back to the DROP participants. The committee agreed that this was a cost of doing business and recommended the exclusion of the cost of the DROP customization in the new PAS from the DROP administrative fee.

Mr. Messmer advised that the committee also discussed the buy-back calculation fee. He advised that while the actuary will be certifying the methodology and assumptions used to calculate the cost of service purchases with the PAS, he will no longer be performing the individual calculations. For this reason, the committee agreed to recommend that the buy-back calculation fee be eliminated with the implantation of the new PAS and refer policy 439 to committee 3 for revision.

Mr. Messmer advised that issues with direct deposit and tax withholding for 13th checks were briefly discussed. It was noted that the current policy allows for separate direct deposit directives for this payment, but the new PAS cannot accommodate this. This also holds true for separate tax and mailing directives for 13th check. Mr. Messmer advised that the committee agreed to refer the tax issue to counsel and table discussion until their input is available. The committee also agreed to recommend the disallowance of 13th check specific payment directives and to refer policy 427 to committee 3 for revision.

Ms. Ernst advised that the committee also discussed the calculation of service credit. She explained that the PAS uses a decimal system that calculates service down to the day, as opposed to the nearest whole month. She advised that the current practice is long-standing and she felt it was important to get Board input. She further advised that most plans use the decimal system and this would also reduce the amount of customization needed.

Ms. Ernst advised that these decisions need to be ratified by the Board in order to proceed with certain work on the PAS. Discussion ensued. Mr. Lenker advised that the bulk of the DROP administrative fee is staff time and most of that work will be automated in the PAS. It was noted that the direct deposit issue and buy-back fee will be further discussed by committee 3. **It was moved by Ms. Fox, seconded by Mr. Hall and by unanimous vote to accept the recommendations of the steering committee and to approve using the decimal system for calculating service credit.**

13. Forfeiture Proceedings – Noted receipt of Amended Proposed Final Administrative Order Forfeiting Retirement Benefits for E. Houston, formerly TPD.
 - a. Respondent's Exceptions to the Amended Proposed Final Administrative Order dated 04/16/2019.
 - b. Board of Trustees' Advocate's Response to Respondent's Exceptions to Amended Propose Final Order dated 05/10/2019.

Mr. Klausner advised that if the Board needs to make a motion to adopt or deny the exceptions. It was noted that all typographical errors were identified and corrected. **It was moved by Mr. Messmer,**

seconded by Ms. Fox and by unanimous vote to deny exceptions and authorize the entry of the final order as written.

New Business

14. Note receipt of listing of upcoming conferences. Disclosure of planned attendance, if any. Mr. Hall confirmed his attendance at the Klausner Client Conference and Mr. Rogero tentatively disclosed for the same. **Item 14 was received and filed.**
15. Chair's call for any new business items from trustees to be placed on next agenda. None.
16. Chair's report. Nothing to report.
17. Plan Administration.
 - a. Update on PAS implementation.
 - b. Outstanding PVQs.

Ms. Ernst advised that the pension administration system (PAS) project is moving along, with only one more week of requirements gathering left. She noted that the first training session has been scheduled for the last week of June and anticipates the document management module to go live in September or October. Ms. Ernst also advised that she has the indemnification agreement and will forward it to the City in the morning.

Ms. Ernst advised that there are seven outstanding pension verification questionnaires (PVQs) and checks for those members will be held in the office for pick until a completed form is received.

Ms. Ernst advised that she was informed by the City that there is a contract in place for a vendor to review all documents published to the City's website for ADA compliance at a cost of \$3-5 per page. She noted that F&P Pension has the third highest volume of documents of any department in City and for this reason, staff will begin to remove some of the published information. Ms. Ernst commented that there will be future Board discussion to determine how much information should be published on the Fund's page. It was noted that the removal of information from the webpage will likely generate more public records requests, but many of these documents are available electronically.

Ms. Ernst stated that the boardroom cabinets would likely be disassembled next month due to the AV system install. Mr. Hall advised that the building remodel was moving forward with a design meeting to be scheduled in the next couple of weeks.

18. Attorney's report. Mr. Klausner provided an update on the firefighter cancer presumption bill. He advised that if a firefighter presents with cancer, unless subject to exemption, will be deemed disabled in the line of duty.

Litigation

19. Artz Lawsuit
Update by plan attorney, if any.

2nd District Court of Appeals Case No. 2D15-1342
Hillsborough County Circuit Court Case No.07-012048

Mr. Klausner advised that a motion to dismiss was heard last week on one remaining count and the court indicated that a ruling would be issued "in due course."

Florida Relay Service may be found on their website: www.ftri.org Please make your request at least five (5) working days before the scheduled meeting date.

2019 Board meeting schedule – meetings begin at 1:30 p.m.

June 26, 2019

July 24, 2019

August 28, 2019

September 25, 2019

October 23, 2019

November 20, 2019 (early due to holidays)

December 18, 2019 (early due to holidays)