[*THE FOLLOWING SUMMARIZED MINUTES WERE CONDUCTED IN PUBLIC SESSION. THE EXECUTIVE SESSION PORTIONS OF THE MINUTES ARE CONFIDENTIAL AND NOT INCLUDED*]

A regular meeting of the Board of Trustees of the Fire and Police Disability and Retirement Fund was called to order on the 27th day of May 2014 at 1:03 p.m.

Board Members Present Included:

Mayor Charlie Hales, Chair
Mr. Jason Lehman, Fire Trustee
Mr. Robert Foesch, Police Trustee
Mr. Justin Delaney, Citizen Trustee
Mr. David Dougherty, Citizen Trustee

Also Present Were:

Mr. Samuel Hutchison, FPDR Director
Ms. Kimberly Mitchell, FPDR Claims Manager
Ms. Nancy Hartline, FPDR Finance Manager
Ms. Derily Bechthold, Deputy City Attorney
Mr. Ty Walthers, Retired Fire Member
Mr. Joe Gymkowski, Fire Member
Mr. Del Stevens, Retired Fire Member
Mr. Lorne Dauenhauer, Outside Legal Counsel
Mr. Gabe Sansone, Fire Liaison
Mr. Matt Larrabee, Milliman
Mr. Scott Preppernau, Milliman
Ms. Julie Falender, Attorney
(Other unknown audience members)

Mayor Hales called the meeting to order and roll call of the trustees present was taken. Mayor Hales then asked for a motion to approve the minutes. Mr. Lehman had one correction to make to the minutes. He stated that in the list of names of those present at the meeting, the name of "Gabe" Kaplan should be "Hank" Kaplan.

Mr. Dougherty made a motion, which was seconded by Mr. Foesch and passed by a roll call vote of 4-0 to approve the March 25, 2014 minutes as amended. (Mr. Delaney abstained from the vote).

Aye	*Mr. Dougherty, Mayor Hales, Mr. Foesch, Mr. Lehman*
Nay	*None*
Abstain	*Mr. Delaney*
Absent	*None*

[*THE FOLLOWING SUMMARIZED MINUTES WERE CONDUCTED IN PUBLIC SESSION. THE EXECUTIVE SESSION PORTIONS OF THE MINUTES ARE CONFIDENTIAL AND NOT INCLUDED*]

General Public Comment was then taken.

Mr. Ty Walthers addressed the Board regarding the issue of the tax offset settlement and the issue regarding those members that elected to pay the full amount of the overpayment in advance but did not get any kind of refund as the other members in the class action. He stated that the last time the issue was discussed Mayor Hales indicated he would give some consideration as far as directing the issue to City Council and he wanted to make sure the issue does not disappear from the radarscope.

Mayor Hales stated that the City Attorney essentially has said that they do not have a legally defensive option for those members that did pay the full amount of the overpayment as much as he would like that. Mr. Hutchison explained that he and other people in the City have looked at all the options and were unable to identify any other solution.

Mr. Del Stevens then addressed the Board. He stated that he would like to address the same issue that Mr. Walther raised. He stated that he spoke to a lot of people when the overpayment issue came up and told them that repaying the overpayment was the right thing to do and so a lot of them did make the repayment and it is embarrassing having those people ending up losing two or three thousand dollars because they were trying to do the right thing. He added that the judge considering the scope of the class action was also troubled that a settlement was entered into that left out the people that had paid the full amount willingly. Mr. Stevens also stated that he did not think that people of good intentions and good moralities should be punished for doing the right thing.

Mr. Foesch stated that it is important to remember that the basis of the lawsuit was because the collection of the overpayment, according to the Plaintiffs' attorneys, was inappropriate. He added that it is unfortunate that the people that decided to repay the overpayment voluntarily are the ones that are being penalized because they were not harmed. He stated that those people were not harmed according to the theory that the Plaintiffs' attorney used and that is why the Board cannot fix it. He added that if the Board could fix it, they would.

Mr. Gymkowski then addressed the Board. He stated that he was not involved in the issue but had he been he too would have paid the overpaid sums up front. He said look at the members who did the right thing, they were harmed because they are still out the money.

Mr. Ty Walthers made a final comment. He stated that it was Mr. Hartman, who for no charge to the City, advised the City that this issue of how they were going to take the money out of pension checks could not be done and that it was not legal, and the City ended up paying him $250,000 to prove him to be correct. He added that he understands

[*THE FOLLOWING SUMMARIZED MINUTES WERE CONDUCTED IN PUBLIC SESSION. THE EXECUTIVE SESSION PORTIONS OF THE MINUTES ARE CONFIDENTIAL AND NOT INCLUDED*]

that this was a settlement and it was not necessarily black and white. However, he stated that his concern is whether the advice the Board received when they addressed this issue was sound advice.

Mr. Foesch stated that if the Plaintiffs' attorneys thought that the people that had made voluntary payments could be part of the settlement, they would have been included in the settlement. He stated that he believed the Plaintiffs' attorneys did not even think that was legally possible based on the theory they were presenting to the court.

Mr. Walthers stated that the Bennett Hartman law firm advised the retirees not to make the lump-sum payment but that message was mostly issued through email and not everyone received that message. All those retirees received was the request from FPDR management staff to please pay back the entire amount.

Mr. Stevens stated that the next issue he wanted to raise was the issue of taxability of disability retirement benefits. He stated that last year he shared some information about other systems not taxing disability retirement benefits and he asked the Board to report back their findings on this issue. He stated that he has a summation that was done by FPDR but it is a one-sided summary and does not look at the possible advantages for the City, nor does it look at the immeasurable impact that a disabled member would receive from having his pension protected tax-wise. He also gave examples of retired fire and police members who would benefit from being in a tax-protected status. He further stated that when he sat on the Board he looked for ways to help people. He added that a pension that is tax-protected would mean the world to a disabled member and if the City does not want to do it, he believes there are other avenues.

Mr. Gymkowski stated that he would like someone to define a tax-advantaged disability benefit. He stated that he looked at the Charter, state benefits and federal law and could not find that language anywhere. He added that he is a disabled firefighter and stated that your life is changed when you are on disability.

Ms. Hartline explained that the term "tax-advantaged disability benefit" just refers to the fact that the FPDR Two service and occupational disability benefit is not a taxable benefit to the member. Mayor Hales asked how they could improve it if it is not already a taxable benefit. Ms. Hartline explained that the disability benefit is already not taxable. She stated that she thought the member's request is that a disabled member be able to remain on disability and not move to the taxable pension benefit as the Charter now requires.

Mr. Hutchison provided some general background. He stated that Mr. Stevens was referring to what the City of New York has for its firefighters and it is a radically different system. He added that it would require a significant rewrite of the Charter to do it and that there are a lot of issues with the system the City of New York has. Mr.

[*THE FOLLOWING SUMMARIZED MINUTES WERE CONDUCTED IN PUBLIC SESSION. THE EXECUTIVE SESSION PORTIONS OF THE MINUTES ARE CONFIDENTIAL AND NOT INCLUDED*]

Hutchison stated that the New York system may be advantageous to some of the members, but it actually raises the price of the plan. In addition, a side effect to that plan is that 85 percent of all retirees retire while on disability because it was more lucrative to go out on disability than to stay and work their full 25 years. Mr. Hutchison stated that the next level would involve bringing in some consultants or actuaries to help take a look at this issue. Mr. Lehman stated that he would talk to those that provided public comment on this issue and get more specifics about what they want out of it and bring it back to the group.

<u>Action Item No. 1 – FPDR Experience Study</u>

Mr. Matt Larrabee and Mr. Scott Preppernau of Milliman presented their Actuarial Experience Study. Mr. Larrabee stated that the actuarial experience review assists them in setting assumptions that they will use in the upcoming 2014 valuation work for the system. Mr. Larrabee went through the economic assumptions. He recommended no change to the current assumptions for inflation and real wage growth. However, concerning the economic assumption regarding the discount rate, Mr. Larrabee stated that there are some new rules coming in from GASB that will affect the FPDR financial report for 2014 fiscal year end. He explained the new GASB standard and stated that the new standards change how the discount rate should be set, so they were holding open their recommendation for a discount rate assumption. Mr. Larrabee stated that they are going to look at that as of June 30, 2014 in concert with OMF, the City Controller and the financial reporting professionals.

Mr. Preppernau went over the demographic assumptions. He explained the components of salary increases due to merit/longevity, retirement rates, retirement elections, pre-retirement withdrawal, disability and mortality. Mr. Larrabee stated that they will be returning in January 2015 with the valuation results and levy adequacy analysis.

Mr. Delaney made a motion, which was seconded by Mr. Lehman.

Mr. Stevens asked the cost of Milliman doing the actuarial study. Mr. Larrabee replied that he believed the once every five year study charge was $35,000. Mr. Stevens also asked if perhaps Milliman would be able to look at the disability tax-free issue. Mayor Hales stated that staff could have that conversation with him as they were in the middle of taking a vote.

The motion unanimously passed by a roll call vote of 5-0 to accept the recommended changes in the actuarial assumptions.

[***THE FOLLOWING SUMMARIZED MINUTES WERE CONDUCTED IN PUBLIC SESSION. THE EXECUTIVE SESSION PORTIONS OF THE MINUTES ARE CONFIDENTIAL AND NOT INCLUDED***]

Aye	*Mayor Hales, Mr. Delaney, Mr. Foesch, Mr. Lehman, Mr. Dougherty*
Nay	*None*
Abstain	*None*
Absent	*None*

<u>Action Item No. 2 – Resolution No. 489 – Tax Anticipation Notes</u>

Ms. Hartline explained that staff was requesting authority to work with the Office of Management and Finance to issue tax anticipation notes that provide the cash needed to operate from late August to the middle of November when tax revenues arrive. She stated that the amount requested in the resolution is the budgeted amount of about $31.25 million. Ms. Hartline added that staff would continue to refine the amount until shortly before the rating agency presentation. She also stated that last year the FPDR borrowed $27 million and this year they anticipate about $25 million.

Mayor Hales called for a roll call on Resolution No. 489 authorizing the FPDR to borrow up to $31,258,000 to meet the obligations of the Board of Trustees.

Aye	*Mr. Delaney, Mr. Foesch, Mr. Lehman, Mr. Dougherty, Mayor Hales,*
Nay	*None*
Abstain	*None*
Absent	

<u>Action Item No. 3 – Resolution No. 490 – Delegation of Authority to FPDR Director</u>

Ms. Hartline explained that Charter Section 5-203 says that no checks shall be drawn on the FPDR except by an order of the Board, which is then entered into the record of the Board's proceedings. She stated that the language dates back to the 1948 ballot measure and through 2006 the previously constituted Board authorized expenditures as part of its consent agenda and there was also the Expediting Committee that made the claims decisions. She added that starting in 2007, the Board no longer authorized specific expenditures. Instead, staff reported the expenditures to the Board as an information item in the Board materials and even that reporting stopped in the fall of 2012 when FPDR converted to the new database. She further explained that the resolution will authorize the director to make the payments for benefits and administrative expenses and that the director will provide a report to the Board of a monthly summary of expenditures in each meeting.

Mayor Hales called for a roll call on Resolution No. 490 authorizing the FPDR Director to make pension, disability and administrative expense payments.

[*THE FOLLOWING SUMMARIZED MINUTES WERE CONDUCTED IN PUBLIC SESSION. THE EXECUTIVE SESSION PORTIONS OF THE MINUTES ARE CONFIDENTIAL AND NOT INCLUDED*]

Aye	*Mr. Foesch, Mr. Lehman, Mr. Dougherty, Mayor Hales, Mr. Delaney*
Nay	*None*
Abstain	*None*
Absent	*None*

Action Item No. 4 – Resolution No. 491 – Disability Audit Contract Authorization

Mr. Hutchison went over the disability audit contract. He stated that the contract will have a not-to-exceed amount of $65,000 and approval of the resolution would give him authority to start the process. Mr. Delaney added that the disability audit contract was done through a competitive bid process, that there were multiple bids submitted and Milliman came out on top.

Mayor Hales called for a roll call on Resolution No. 491 authorizing the FPDR Director to negotiate and administer an agreement for disability audit services with Milliman in an amount not to exceed $65,000.

Aye	*Mr. Lehman, Mr. Dougherty, Mayor Hales, Mr. Delaney, Mr. Foesch*
Nay	*None*
Abstain	*None*
Absent	*None*

Information Item No. 1 – FPDR Update

There was no discussion on this item.

Information Item No. 2 – Future Agenda Items

Mr. Hutchison provided an update for future agenda items. He stated that there would be no meeting planned for June, general business in July, no meeting planned for August and a smaller set of rules scheduled for the September meeting along with the State of FPDR presentation. He added that he would be sending out a formal request to the Board in June asking if there was anything the Board would like to see addressed in the State of FPDR presentation.

Information Item No. 3 – FPDR Summary of Expenditures

There was no discussion on this item.

[*THE FOLLOWING SUMMARIZED MINUTES WERE CONDUCTED IN PUBLIC SESSION. THE EXECUTIVE SESSION PORTIONS OF THE MINUTES ARE CONFIDENTIAL AND NOT INCLUDED*]

Information Item No. 4 – Consult with Legal Counsel Regarding Alternate Payee Grievance

At 2:21 p.m., the Board of Trustees went into Executive Session pursuant to ORS 192.660(2)(f). At 3:11 p.m. the Board resumed their regular order of business. There being no further business, the meeting was adjourned at 3:11 p.m.

Samuel Hutchison
Director

/kk