

[THE FOLLOWING SUMMARIZED MINUTES WERE CONDUCTED IN PUBLIC SESSION. THERE WAS NO PORTION OF THE MINUTES THAT WERE IN EXECUTIVE SESSION.]

A regular meeting of the Board of Trustees of the Fire and Police Disability and Retirement Fund was called to order on the 18TH day of November at 1:06 p.m.

Board Members Present Included:

- Mayor Charlie Hales, Chair
- Mr. Jason Lehman, Fire Trustee
- Mr. Robert Foesch, Police Trustee (entered meeting at 1:30 p.m.)
- 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. Kenneth A. McGair, Deputy City Attorney
- Mr. Lorne Dauenhauer, Outside Legal Counsel
- Mr. Gabe Sansone, Fire Liaison
- Mr. Alan Ferschweiler, President PFFA
- Mr. Cal Eddy, Retired Fire Member
- Mr. Ty Walthers, Retired Fire Member
- Mr. Del Stevens, Retired Fire Member
- Mr. Henry Groepper, Retired Police Member
- Mr. Nelson Hall, Attorney
- Ms. Julie Falender, Attorney
- Ms. Maxine Bernstein, Oregonian
- (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. Delaney made a motion that was seconded by Mr. Lehman and passed by a roll call vote of 4-0 to approve the September 23, 2014 minutes.

<i>Aye</i>	<i>Mayor Hales, Mr. Delaney, Mr. Lehman, Mr. Dougherty</i>
<i>Nay</i>	<i>None</i>
<i>Abstain</i>	<i>None</i>
<i>Absent</i>	<i>Mr. Foesch</i>

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There were no General Public Comments.

Action Item No. 1 – Resolution No. 496 – Administrative Rule Amendments to Sections 5.7 and 5.8

Mr. Hutchison stated that he was pulling Resolution No. 496 from the agenda. He explained that he had received an electronic mail message from former Director Linda Jefferson on the subject of preexisting income. He stated that Ms. Jefferson relayed that at the time of the 2006 and 2012 Charter reform discussions, the Board made a decision not to change how preexisting income is offset. He added that he would research the information in Ms. Jefferson’s email and share the results with the Board at its January 2015 meeting.

Action Item No. 2 – Resolution No. 497 – Amend Piracle, Inc. Contract

Mr. Hutchison explained that Piracle, Inc. developed and implemented the FPDR’s Create-a-Check program (which issues the FPDR 1099’s) and provides yearly maintenance and other upgrades. He stated, however, that due to Senate Bill 822, some changes are required on how 1099’s are produced and Piracle is familiar with and has specific knowledge of the FPDR’s system. He added that Piracle’s contract is set to expire and staff would like to extend the contract for an additional two years and increase the contract amount by an additional \$15,000 for a not-to-exceed contract value of \$30,000. Mr. Hutchison also informed the Board that the amended contract would be presented to City Council by ordinance.

Mr. Dougherty made a motion that was seconded by Mr. Delaney and passed by a roll call vote of 4-0 to approve Resolution No. 497.

<i>Aye</i>	<i>Mr. Delaney, Mr. Lehman, Mr. Dougherty, Mayor Hales</i>
<i>Nay</i>	<i>None</i>
<i>Abstain</i>	<i>None</i>
<i>Absent</i>	<i>Mr. Foesch</i>

Information Item No. 1 – Managed Healthcare Northwest Contract Amendment

Mr. Hutchison explained that the Managed Healthcare Northwest (MHN) contract amendment was passed by City Council on October 16, 2014. He explained that the contract amendment was put before City Council because of the dollar impact of the increase and provided some background information. Ms. Mitchell explained the fee schedule FPDR works with and the savings it gets because of the network discount for utilization of MHN network provider discounts.

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Information Item No. 2 – Windsor-Ruling Plan Change

Mr. Hutchison explained that *Windsor* was a Supreme Court decision on the Defensive of Marriage Act. He stated that in June of 2013, the Supreme Court overturned the definition of marriage to include same sex partners. He went on to state that in September of 2013 and April 2014, the IRS made some regulation changes for pension plans requiring pension plans to become compliant with the *Windsor* decision. Mr. Hutchison explained that under Section 5-403 of the Charter, the City Council could amend Chapter 5 of the Charter if it is mandated by law. Therefore, he stated that an ordinance to amend the Charter would be submitted to City Council to comply with the law.

Information Item No. 3 – Proposed 2015 FPDR Board of Trustees Meeting Schedule

Mr. Hutchison went over the proposed meeting schedule. He stated that meetings are scheduled every other month in January, March, May, July, September and November, with the November meeting being a week earlier, prior to the week of Thanksgiving. The other months are open to meetings at the discretion of the Board. The Board had no objection to the proposed meeting schedule.

Information Item No. 4 – FPDR Updates

Mr. Hutchison explained that he had received a draft of the disability audit and he and Ms. Mitchell are reviewing the draft. He added that their goal is to report to the Board on the disability audit in January.

Mr. Del Stevens addressed the Board.

Mr. Stevens stated that he was still very interested in the proceedings of the Pension Board and was present to talk about things that directly affect him and others in the retired ranks. He brought up the issue of board meetings skipped for several months and stated that it was a disservice to members when meetings are not held. He also stated that at the September meeting he asked about compliance with Oregon's public meetings law and wanted to know if anyone had researched whether the FPDR was in compliance. Mayor Hales stated that the FPDR is in compliance with public meetings law. He also advised Mr. Stevens that he missed the Board's discussion about their 2015 meeting schedule and stated that Mr. Stevens should be sure to obtain a copy.

Mr. Stevens then raised the issue of the retirees that repaid the overpayment of their pensions and were left out of the settlement. He read an excerpt from the July 30th Oregonian, *Stronger Economy Lifts PERS Performance*: "in other news the PERS Board voted to take 6.7 million dollars from its contingency reserve to cover overpayments to about 4,000 members because of a miscalculation of their final average salaries by the

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agency. The board voted 4-1 to cover the cost from reserves rather than asking members to pay it back.” He asked the Board why they were so diligent in going after members and using their COLA to repay the overpayments when PERS simply forgave the amount that was owed. He added that the City had bad legal advice at several different junctures on this issue and the issue that he is primarily concerned about is the people that felt bad about the issue and felt that the proper thing to do was to pay the overpayment in full and were then left out of the settlement. He suggested the Mayor work with Risk Management about the fact that the City made a mistake and because of the mistake, good people were damaged. He said the Mayor has the ability to ask that the people that were damaged be made whole. He also asked if Mayor Hales was willing to look into this matter with Risk Management. Mr. Stevens stated that there are about 50 people involved and about \$50,000 in total payoff. Mayor Hales stated that he was willing to look into his suggestions.

Mr. Stevens also raised the issue of the way people on disability are treated. He asked why the Pension Board does not want to look at getting the best benefit it can to a disabled member, i.e. nontaxable disability retirement. Mayor Hales stated that the question has been researched and Mr. Stevens will be getting a letter on that subject.

Mr. Stevens then brought up the directives he submitted to the Board in May to be part of the disability audit. He stated that there was no discussion of it and wanted to understand why. Mr. Foesch stated that his concern was that Mr. Stevens’ suggestion would require a Charter change. Mayor Hales encouraged Mr. Stevens to speak with the Board members about his ideas in a less formal setting than the board meeting.

Information Item No. 6 – FPDR Expenditures

Mr. Delaney asked if staff could add a year-end forecast to the expenditure report so the Board can see what the projection is for the full year. Ms. Hartline stated that she would have staff add another column to the report.

At 1:35 p.m., the Board of Trustees went into Executive Session pursuant to ORS 192.660(2)(f).

Information Item No. 7 – Discussing with Legal Counsel Regarding Possible Litigation

Information Item No. 8 – Discussion with Legal Counsel Regarding Oregon Supreme Court Decision in Miller et al. v. City of Portland

Regular Meeting on November 18, 2014 of the Board of Trustees **PUBLIC SESSION**
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At 1:55 p.m. the Board resumed their regular order of business. There being no further business, the meeting was adjourned at 1:55 p.m.

Samuel Hutchison
Director

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