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A regular meeting of the Board of Trustees of the Fire and Police Disability and Retirement Fund was called to order on the 28th day of April at 1:07 p.m.

Board Members Present Included:

Mr. Justin Delaney, Citizen Trustee, Chair ProTempore
Mr. Jason Lehman, Fire Trustee
Mr. David Dougherty, Citizen Trustee

Trustees Absent Were:

Mayor Charlie Hales
Mr. Robert Foesch, Police 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, FPDR Outside Legal Counsel
Mr. Gabe Sansone, Fire Liaison
Ms. Crystal Viuhkola, Police Liaison
Mr. Ken Rust, City of Portland Chief Financial Officer
Mr. Alan Ferschweiler, President PFFA
Ms. Haley Rosenthal, Attorney
Mr. Doug Paul, Retired Fire Member
Mr. Dave Short, Retired Fire Member
Mr. Joe Gymkowski, Fire Member
Mr. Del Stevens, Retired Fire Member
Mr. Henry Groepper, Retired Police Member
Ms. Maxine Bernstein, Oregonian

Mr. Delaney called the meeting to order and asked for approval of the minutes.

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Mr. Lehman made a motion that was seconded by Mr. Dougherty and unanimously passed to approve the minutes of the January 27, 2015 Board meeting.

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

Introduction of visitors was made followed by a General Public Comment.

Mr. Joe Gymkowski addressed the Board regarding the presentation by Milliman at the March 24, 2015 board meeting. He cited Milliman as stating that the "FPDR is rather unique in the sense that they give a pension for a nonservice-connected pension and it was very unique" and that "there's no one else around that has that". However, Mr. Gymkowski informed the Board that he had a document from the PERS website that talks about nonservice disability retirement and disability retirement. He added that it shows PERS, throughout the state, does give a nonservice disability pension and perhaps the Board can look further into that. Mr. Gymkowski then stated that at the last board meeting he spoke to the Mayor about a letter he received which stated that he was going to be retired. He explained that he was medically separated from the City on May 27, 2005 and is no longer a City employee. He went over the various events that occurred since his medical separation. Mr. Gymkowski then stated that he recently received a letter from FPDR that on his 30th anniversary he was going to be retired and his disability checks were going to be stopped. He stated that he did not understand how the City can retire him on one side and say he is a civilian and then five years later the FPDR wants to change his status and retire him. He said the Charter was being applied differently. He added that the Oregon statutes spell out very clearly how it is supposed to be.

Mr. Hutchison explained that he sent a letter to Mr. Gymkowski because he wanted to be very clear, per the Charter, that Mr. Gymkowski's disability benefits end when he reaches his 30-year anniversary which is his disability retirement age. He stated that they are required by the Charter to terminate his disability benefits when he reaches his 30-year anniversary so he urged Mr. Gymkowski to come into the FPDR offices to sign his pension application for his retirement benefits.

Mr. Gymkowski then went on the record to say that he would rather have no money than take the risk of losing everything and doing something wrong that would affect him for the rest of his life. He stated that he understands FPDR is following the Charter but the City also followed the Charter in 2010 when he was separated from the City and he does not understand what is happening.

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Mr. Del Stevens then addressed the Board. His first two issues will be addressed in Information Item No. 4. Mr. Stevens then raised the issue of a disability that is nontaxable. He stated that it is important to people that are disabled, that there was potential savings to the Fund and it was an issue that should be looked at. He hoped that Board would take the issue seriously because it is part of their fiduciary responsibility.

Action Item No. 1 – Disability Audit Report (FPDR Response)

Mr. Hutchison provided an explanation of the audit and went over the scope of the audit. He clarified that the audit was only looking at workers' compensation type of benefits and it was not looking at anything having to do with pension benefits. He added that as stated by Milliman at the last board meeting, the program is working as intended.

Ms. Mitchell walked through the FPDR responses to the disability audit. She stated that FPDR's response corresponds with the Milliman audit recommendations outlined in appendix A of the audit report. She went through the eight items highlighted in the FPDR response.

1) Create Technical Claims Manual – Ms. Mitchell stated that staff currently uses a procedures manual that originated as a written tool kit. However, it is voluminous and new staff that do not have the institutional knowledge of where information would be may have some challenges. She added that the audit has renewed their dedication to work on a technical manual that will be used as a primary source for training FPDR disability staff.

2) Management Report Implementation – Ms. Mitchell stated that staff does recognize the benefit of having reports to compare and monitor work product and measure program activities successes for improvement. She added that she will be meeting with disability staff and the Director to review the recommendation and identify reports that will support their work and mission.

3) Formal Training Program – Ms. Mitchell stated they currently use a one-on-one need based training program but as part of the creation of a technical claims manual, will also use that as a training manual for staff and new hires.

4) Claim Reassignment – Ms. Mitchell explained that one of their goals in late 2012 was to bring the medical bill audit in-house and that they anticipated the person doing the medical bill audit program would at some point be able to handle medical only claims. She added that afforded a training opportunity and a path for growth for that person, but it also helped reduce the number of claims assigned to each analyst. She went on to state that once the medical bill audit program was fully functioning and running, claim reassignment was initiated and completed in

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November 2014. The claim reassignment readjusted the claim count to that recommended by Milliman in their report.

5) Automated Diary System – Ms. Mitchell stated that they currently do not have an automated diary system. She stated that staff uses Outlook and database fields to track and review claim activities. She stated that an automated diary system may be cost prohibitive but she and Mr. Hutchison will discuss the potential benefits.

6) New Initiatives/Program Evaluations – Ms. Mitchell stated that FPDR management and the Board, even prior to the audit had recommended and recognized the benefit of tracking the success of the disability program with particular attention to the return-to-work program. She added that staff have started to look at how they have captured information regarding their transitional duty program historically and will continue to work to identify metrics for evaluation and reporting on the transitory duty program so they can see where there is room for opportunity and to report the successes of the program.

7) Member Accountability – Ms. Mitchell explained that Milliman reported on the savings opportunities that might be experienced by suspending or terminating benefits for members who are not complying with their obligation to report earnings or wage information when they are obligated to seek employment. She added that she and Mr. Hutchison have identified a few cases where noncompliance with providing information to FPDR has had some past practice implications that have resulted in their inability to immediately suspend or reduce benefits. However, they have increased their focus on member compliance and are working to provide members with samples of information on how they can report information to staff.

8) Manual Accounting Functions – Ms. Mitchell stated that prior to the audit, FPDR management had recognized the need to identify key functions of the disability accountant desk to ensure accurate benefit calculations. She added that a consultant was hired in October to review the disability payment processes and the review was completed in January. She also stated that the FPDR management team has reviewed the consultant’s recommendations and Ms. Hartline will be providing an overview of the findings in Information Item No. 1.

Ms. Mitchell stated that the director, herself, the analysts and liaisons respect their roles and responsibilities, have good morale, teamwork and support at the individual and program level. She added that they would provide a follow up report at the September board meeting with the State of FPDR presentation.

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Mr. Hutchison complimented Ms. Mitchell and her staff. Mr. Delaney stated that Milliman audits public and private programs and he is familiar with their work and to have them comment that FPDR is "significantly better than more programs in claims handling" is a huge compliment. He added that what pleases him most is: 1) return to work success and 2) that FPDR is not overstaffed for claims. He congratulated staff for their good work.

General Public Comment:
Mr. Joe Gymkowski addressed the Board to clarify his earlier testimony that Oregon PERS does have a nonservice disability retirement that is very similar to FPDR and the information he shared with the Board is from the PERS website.

Mr. Del Stevens addressed the Board and wanted to point out that at page 2 of the Milliman report (Summary of Interviews) it states that "All interviewees agreed that the purpose of FPDR and the Board is not to look for ways to reduce benefits to members, but rather to administer benefits to which members are entitled in a fair and efficient manner." Mr. Stevens asked the Board if they felt there might have been some instances where benefits have been reduced and savings are projected because of that and if so, the report should acknowledge that fact. Mr. Delaney disagreed with Mr. Stevens.

Mr. Stevens then stated that page 23 of the Milliman report (Limitations) states, "Milliman's work has been prepared solely for the internal use of the FPDR. No portion of Milliman's work may be provided to any other party without Milliman's prior written consent…" Mr. Stevens felt that if the report was a public document, the limitations statement was an unreasonable condition and strongly objected to it.

Mr. McGair explained that the limitation is directed at 10(k)'s and stock offerings and that the information cannot be used by third parties to rely on in that context. However, for the FPDR's context, there is an Oregon Public Records Law that would supersede the limitation.

Mr. Stevens then stated that the report mentioned that a few interviewees felt that retired members might not have an advocate or board representation and want to ensure that retired members' rights and interests are protected. Mr. Stevens asked if the Board was looking at options for retired fire and police members to participate on the Board. Mr. Delaney stated that he agreed with the general sentiment that the retirees deserve representation but the Board did not have the ability to change the composition of the Board. Mr. Lehman stated that as a trustee he represents all fire members and that includes retired firefighters.

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Mr. Dougherty made a motion which was seconded by Mr. Lehman and passed by a roll call vote of 3-0 to approve the Disability Audit Report as well as the FPDR's response.

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

Information Item No. 1 – Presentation by Ken Rust, Chief Financial Officer for the City of Portland

Mr. Ken Rust, Chief Financial Officer for the City of Portland addressed the Board. He explained his position with the City and touched on the FPDR Charter reform efforts. He then went over the City's Comprehensive Annual Financial Report (CAFR) and explained how it affects the City's financial condition. He stated that the good news for the CAFR published in December 2014 for fiscal year ending 2014 is that the City received an unmodified opinion from their external auditors as to the fairness and accuracy of the City's financial statements that have been prepared in accordance with the generally accepted accounting principles (GAP). He added that the unmodified opinion is an integral part of the City's AAA bond rating which also affects the cost of borrowing for different programs. He also stated that the City has received the Government Finance Office Association (GFOA) certificate of excellence in financial reporting for 33 consecutive years. Mr. Rust stated that from that standpoint, the CAFR is a very sound document in terms of the summary of the City's financial health, but it also includes some perplexing news. He explained the City's net position and that what they have seen over the last ten years is that the total net position for the City's governmental activity has been declining. He explained the cause of the decline and stated that it was driven by three factors: 1) if bonds are issued or a liability incurred and they don't have an offsetting asset, that decreases the net position; 2) if they recognize non-cash expenses such as depreciation but do not replace assets on the same kind of basis, then their net position can decline; and 3) the biggest thing affecting the decline is the way the City is obligated to report pensions.

He went over the FPDR's liability and how that looks on the City's balance sheet. He explained what will happen with implementation of a new Governmental Accounting Standards Board (GASB) standard called GASB 68. He stated that GASB 68 will require the City to place all of the FPDR liability onto their balance sheet and it will wipe out a large portion of the City's net position. He went on to explain that one of the challenges is that FPDR is a unique pension system and the City does not get credit for the receivables, the tax levy, that they are able to impose and collect every single year. Mr. Rust stated that, in his point of view, the most important thing is that because of the

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adequacy of the levy, because of the reforms that have been put into place and the pattern of those reforms, there is not an impairment of the City's General Fund to pay those liabilities when due. He added that the key is that as long as there is not an impairment, even though they do not have the assets backing the claims of the future pension costs, they have a funding plan that is not going to create a problem for other services.

Information Item No. 2 – Disability Payment Processes Audit Report

Ms. Hartline went over the disability payment processes audit report and stated that it is a companion piece to the disability program evaluation. She explained that the consultant found that payments are timely and accurate but some tasks are delayed and recommended that staff make the FPDR database their primary repository for payment related information and, once that is done, to begin to eliminate their spreadsheets. Ms. Hartline stated that staff is in the process of making better use of the database's current technology and making enhancements to the database for payment processing and reporting. She also stated that they will also be adding additional functionality to the database and a summary of results will be presented in the State of FPDR in September.

Information Item No. 3 – 2015 Legislative Session

Ms. Hartline provided a summary of the 2015 legislative bills. She explained that SB 370 would allow domestic relations orders to assign death benefits to a former spouse if a member dies before retirement. She added that the increased cost to FPDR would be the requirement to pay a death benefit that was not otherwise payable. Mr. Hutchison stated that the FPDR's position on SB 370 is neutral because they submitted rewritten sections to the bill to make sure it would fit into the plan and could to be administered.

Ms. Hartline also went over HB 2836, which would allow FPDR 3 members who are in OPSRP to receive service credit for periods of workers' compensation or FPDR service or occupational disability if the member returns to work. Currently, an FPDR 3 member out on disability for more than a half a month receives no service credit even upon return to active duty.

Mr. Delaney asked Mr. McGair to find out, on the bills listed as having an FPDR impact, whether the City has officially submitted a statement or provided testimony on them. Mr. McGair stated that the City prepares a legislative package with its priorities and he did not believe any of the bills were listed as a priority and so the City's position was potentially neutral. He added that each bureau, including his office, has the ability during the legislative session to flag something and advise the Government Relations Office that it is of grave importance to them.

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Ms. Hartline stated that there were several active workers' compensation bills, which did not have much activity last session, and none of them has any impact on FPDR. She also went over went over SB 496, which would improve FPDR members' access to the Public Safety Memorial Fund's benefits. Ms. Hartline also stated that there has been some confusion about when an OPSRP member's payroll contributions would start and HB 3495 would resolve that issue.

Public Comment:
Mr. Alan Ferschweiler, President PFFA, clarified that HB 2836 is a bill that relates to all OPSRP members in the City, not just the FPDR OPSRP members. In addition, he added that the Legislative Revenue Office has reviewed the proposed legislation and has determined that there would be no impact on state or local revenues. Mr. Ferschweiler then stated that concerning SB 370, his organization's position, like the FPDR, is neutral.

Information Item No. 4:

Mr. Hutchison went over the FPDR's response to four issues raised by citizens at the January 27, 2015 board meeting.

1) Schedule change and cancelling board meetings – Mr. Hutchison explained that there is nothing in the Public Records Law that requires a governing body to hold a set number of meetings. The law only requires that if the governing body of a public body meet, whether a regular or special meeting, the public be given notice of the time and place of such meeting. Mr. Hutchison also shared the FPDR's procedure for notice of the meetings and explained that the agenda for the meeting is emailed to a large group of people, posted on the FPDR website and published in the Daily Journal of Commerce.

2) Overpayment Situation – Mr. Hutchison stated that there is nothing FPDR can do regarding the overpayment situation and he was deferring to the Mayor's office on this matter.

3) PERS forgiving overpayment – Mr. Hutchison explained that PERS did make a decision to forgive a pension benefit calculation overpayment, but that PERS and FPDR are different retirement funds. He stated that PERS did not technically forgive the overpayment, but rather they elected not to go to the retirees to get the overpayment back and elected to go to the fund that the employers have established and get their overpayment back.

   Mr. McGair stated that the overpayment has to be recouped by the Plan somehow, either by employer assets or from the people who are overpaid. He added that the FPDR does not have employer contributions and that was part of the calculus that

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went into the IRS' decision on the overpayment recovery issue. He further stated that in the PERS system, aside from a reserve fund where they can make up the difference from that reserve, they also have the ability by statute to recoup payments from the members automatically.

4) Urban renewal properties or tax abatement – Mr. Hutchison stated that releasing urban renewal properties onto the general rolls does not affect the real market value subject to the FPDR levy.

Public Comment:

Mr. Stevens stated that he did not believe the issues that were brought up had been carried to their full completion. He went on to say that when the Pension Board is brought into court they often times will say that they are independent and at other times the City will say the Pension Board works for them, that they are part of the City. With regards to the overpayment recovery, he stated that the Pension Board decided to act and take the overpayment out of the members' COLA, which was illegal as was pointed out by Attorney Greg Hartman (the former union attorney), but they went ahead and did it and in the process of working through that went to a class action lawsuit. Mr. Stevens stated that he was one of the first to make the repayment because he did not want the Fund to be disqualified by the IRS and convinced others to make the payment. However, he said that the people that voluntarily made the overpayment were left out of the class action lawsuit. He stated that he asked the Mayor about it and the Mayor said the Board's hands are tied. Mr. Stevens stated that at a prior meeting he suggested that Risk Management look into the issue. He added that Risk Management is available to indemnify the City when bad decisions are made. He submitted that the Pension Board is part of the City and the City is the employer and the City is the responsible party to make the issue right. He asked that the Board use their positions to encourage the Mayor to follow through to make sure Risk Management addresses the issue and corrects the injustice that occurred.

Mr. Lehman asked if Mr. Stevens has addressed City Council on the issue. Mr. Stevens stated that he is waiting for the Mayor to report back to him. Mr. Dougherty stated that the Pension Board is not held to a different standard than PERS, they just have different remedies available to them and they are a different entity. He added that the Board has no ability to do anything on the overpayment issue and there is nothing further for the Board to do. Mr. Delaney stated that it was an overpayment and the members were not due the funds that were paid. He added that he appreciates that Mr. Stevens did the right thing and paid the overpayment amount back.

Mr. Stevens stated that his next issue was about the notices for the meetings. He stated that many older people in the pension system do not have a computer and the Daily

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Journal of Commerce is read primarily by government employees and business people. He asked why it would be a problem to have the meeting notices published in the Oregonian. He stated that many people do not come to the meetings because they do not know when the meetings are.

Mr. Doug Paul disagreed with Mr. Stevens. He stated that the meeting notice he receives via email from the FPDR is forwarded to the secretary of the retiree association, which is then sent to approximately 600 members. He added that the information is getting out and the retirees that are concerned are the ones present at the meetings.

Mr. Joe Gymkowski addressed the Board and stated that he knows the FPDR is required to follow the Charter and they are not required to follow PERS rules and regulations, but they are required to be under the law of ORS and that FPDR has to be equal to or better than PERS in their aspects. He said the two major aspects are retirement pension and disability pension and now the FPDR is not using the term, disability retirement. However, that he can produce hundreds of documents that say FPDR disability retirement. He added that it is the same thing as pension retirement. He stated that he has notes at his home telling him that he was going to get a disability pension in his 30th year, but now he is being told he will be getting a pension retirement. Mr. Hutchison explained that there has only been one pension, however, how you enter the pension is in two different ways: from service (on or after 55 or age 50 with 25 years of service) and from disability (on the earlier of 30 years of service or date FPDR Two member attains social security retirement age). Mr. Gymkowski stated that he has already spoken to the EEOC office and they said if he is a civilian already he cannot be forced to retire a second time and his income is less. Ms. Bechthold stated that she thinks some things are getting a bit jumbled and she will review Mr. Gymkowski's file. Mr. Delaney asked that after Ms. Bechthold's review of the file, something is put in writing so it is clear to Mr. Gymkowski and the Board.

Mr. Gymkowski had a comment on FPDR's compliance with the equal to and better than statute. Mr. Hutchison stated that the FPDR is in compliance and they have a ruling from PERS so stating.

<u>Information Item No. 5 – Legal Update</u>

Mr. McGair provided an update regarding a member's reversionary interest in their alternate payees benefit when the alternate payee predeceases the member. He explained that there was a claim in the Office of Administrative Hearings by two retired firefighters as well as grievances filed by the PPA, PPCOA and PFFA on this issue. He stated that the direction of the Board was to reach a global settlement of the issue. He added that in an attempt to reach a global settlement, they had proposed something that was financially neutral on an individual basis, but a little different if you looked at the plan as a whole.

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However, the settlement proposal was rejected by the PPCOA. Mr. Hutchison stated that he was disappointed the settlement proposal was not accepted because Attorney Kaplan and the FPDR attorneys worked hard to come up with a resolution that he felt was fair to everyone. Mr. McGair stated that he and FPDR are not interested in piece-mealing this issue and Mr. Hutchison stated that the settlement discussions are done. Mr. McGair also stated that the settlement discussions on this issue as well as the overpayment issue were conducted with the opposing side being represented by legal counsel. He added that everything in the overpayment settlement was the result of a negotiation, including who was in the class and the decision about who was in the class was made by the plaintiffs' attorney, not by him or anyone from his office.

Public Comment:

Alan Ferschweiler, President of the PFFA signed up for comment, but was not present when the time for public comment was held.

Mr. Stevens addressed the Board and stated that earlier a statement was made that the Pension Board does not reduce benefits to save money and he offered the alternate payee issue as an example. He stated that when the benefit package for the pension plan reform was put together it was specifically included that if a member went through a divorce and his ex-wife would die prior to him, that the portion of the pension that she received would be restored to the member. Mr. Hutchison stated that the settlement was looking to restore as much of the benefit as they could to keep it in compliance with state statute, but the settlement was rejected by the PPCOA.

Information Item No. 6 – FPDR Updates

There were no updates to present.

Information Item No. 7 – Future Meeting Agenda Items

Mr. Hutchison stated that approval of Tax Anticipation Notes and the Annual Benefit Adjustment will be on the May agenda. He also recommended the trustees leave the June 23, 2015 date available for a potential board meeting contingent upon the Supreme Court decision on the COLA issue. Mr. Delaney asked Mr. Hutchison to get a communication out to the bureaus to let members know the COLA decision might be delayed this year.

Mr. Hutchison also stated that he anticipates a disability claim timeliness study on the July agenda and administrative rules (trustee election and other clean up rules) on the September agenda. Mr. Lehman asked Mr. Hutchison to email the Board regarding a potential meeting on June 23, 2015.

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There being no further business, the meeting was adjourned at 3:32 p.m.

Samuel Hutchison
Director

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