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

The regular meeting of the Board of Trustees of the FPDR was called to order at 1:06 p.m.

Board Members Present Included:

Mayor Charlie Hales, Chair
Mr. Jason Lehman, Fire Trustee
Mr. Justin Delaney, Citizen Trustee
Mr. David Dougherty, Citizen Trustee
Mr. Robert Foesch, Police Trustee (entered meeting at 1:15 p.m.)

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. Matt Larrabee, Milliman
Mr. Gabe Sansone, Fire Liaison
Ms. Crystal Viuhkola, Police Liaison
Mr. Alan Ferschweiler, President PFFA
Mr. Dave Short, Retired Fire Member
Mr. Doug Paul, Retired Fire Member
Mr. Del Stevens, Retired Fire Member
Mr. Ken Olsen, Retired Fire Member
Mr. Henry Groepper, Retired Police Member
Mr. Hank Kaplan, Attorney
Ms. Haley Rosenthal, Attorney
Ms. Maxine Bernstein, Oregonian
Mr. Josh Alpert, Office of Mayor Hale - Director of Strategic Initiatives
(Other unknown audience members)

Mayor Hales called the meeting to order and a roll call was taken. Mayor Hales then asked for approval of the minutes.

***Mr. Delaney made a motion that was seconded by Mr. Dougherty and passed by a roll call vote of 4-0 to approve the April 28, 2015 minutes.***

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

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There were no General Public Comments.

**Action Item No. 1 – Resolution No. 500 – Tax Anticipation Notes**

Ms. Hartline explained that each year the FPDR issues tax anticipation notes (TANs) to maintain a positive cash balance until the receipt of the November property tax revenues. She stated that Resolution No. 500 is a resolution for the Board to authorize TANs in an amount not to exceed $31,885,000.

***By a roll call of 4-0 Resolution No. 500 was adopted.***

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

**Action Item No. 2 – Benefit Adjustment Review**

Ms. Hartline provided the Board with a memorandum published on the PERS website by PERS staff about implementation of the *Moro v. State of Oregon (Moro)* decision. She stated that while it was still uncertain what PERS would actually do, the memorandum provides some insight into the direction of PERS staff. She called the Board's attention to the bullet in the memorandum where it states that PERS staff's plan is to pay a 2.0 percent COLA to all benefit recipients effective July 1, 2015 (payable August 1, 2015). Ms. Hartline explained that the PERS Board would be meeting later in the week to make their determination on how the *Moro* decision should be implemented.

Ms. Hartline explained that FPDR One benefits are tied to First Class Firefighter/Police Officer pay and their benefits will increase by 2.1 percent effective July 1. However, for FPDR Two Members, Section 5-312 of the Charter gives the Board discretion in the amount of FPDR Two benefit adjustments, subject to not exceeding the PERS rate for sworn retirees. She provided some background information as follows: Prior to 2011, staff followed the original FPDR Administrative Rule that basically said to do what PERS does and what PERS was doing then was a CPI change up to a 2.0 percent cap with a bank for any CPI change above 2.0 percent for use in lower inflation years. In 2011, the FPDR Administrative Rule was changed for the Board to annually review FPDR Two adjustments. In 2011 and 2012, the Board exercised its discretion to approve adjustments that continued to equal the applicable PERS rate by cohort or retirement year. The CPI increase for 2011 was 1.25 percent and the adjustment rates were 1.25 percent for retirees who retired in fiscal year end 2011 because they had no bank built up and 2.0 percent for all earlier retirees. The CPI change in 2012 was 2.86 percent and 2.0 percent adjustment rates were approved for everyone. Then in 2013, the Oregon Legislature changed the PERS COLA. Senate Bill 822 set the COLA for 2013 at 1.5 percent and the FPDR Board approved 1.5 percent for all retirees. The 2014 and future COLAs were set by Senate Bill 861 as 1.25 percent on the first

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$60,000 of annual base and 0.15 percent on amounts over $60,000. PERS members also got supplementary payments of 0.25 to 0.50 percent, but the FPDR could not approve supplemental payments. The FPDR Board approved 1.25 percent for all. Challenges to the COLA changes were referred to the Oregon Supreme Court (*Moro v. State of Oregon)*. On April 30, 2015, the Oregon Supreme court handed down its *Moro* decision concluding that PERS members have a right to the pre-amendment COLA for work performed before the amendments' effective date (October 8, 2013) but that COLA can be amended for periods of future service.

Ms. Hartline stated that what it means is that pre-amendment PERS retirees get the old method and post-amendment retirees get a blend of the old and new. She added that staff does not know if those rates will remain stable and whether the $60,000 threshold for the post-amendment calculation will remain stable because Senate Bill 861 still requires the PERS board to report COLA recommendations to the Governor and Legislature in 2018.

Ms. Hartline further stated the FPDR Board would need to determine the FPDR Two benefit adjustment methodology for 2015 and whether or not to revisit the 2013 and 2014 adjustments that the Board had reserved the right to do. The Board will then need to decide whether to maintain the annual review of benefit adjustments or determine a methodology for staff to calculate future adjustments. Ms. Hartline then went over the different adjustment options.

Mr. Foesch stated that he believed his motion in 2014 was that if the COLA issue was overturned by the court, the FPDR benefit adjustment would revert to 2.0 percent. Mr. Delaney asked if based on the options Ms. Hartline went over, whether the levy adequacy has been stress tested. Mr. Larrabee stated that he would give the best answer he can, as he has not conducted any analysis because it was still unknown how PERS was going to administratively implement the court's decision in *Moro*. However, he stated that his overview summary of what it does to the levy adequacy analysis is that it is a 20-year analysis in what they call a stochastic or Monte Carlo format where they have all sorts of future variation that they allow in the model for actual investment returns, changes in real market value, etc. He added that the analysis presented to the Board in January 2015 reflected the effects of the legislative changes before the partial overturn by the Supreme Court in *Moro.* He stated that if he were to rerun the analysis now, it probably would look better than the analysis done in 2013 but not as good as was shown to the Board in January of 2015. He added that there is a 5 to 10 percent chance of violating the $2.80 levy limit in some bad scenarios, but when that happens it will typically be happening in the last five years of the 20-year projection.

Public Comment was then taken:

Attorney Hank Kaplan addressed the Board and stated that his firm was involved in the *Moro* case and if the Board was inclined to adopt the PERS blended methodology, he would suggest the Board simply wait and see what PERS was going to do rather than guess.

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However, if the Board was inclined to go with one of the other two methods, then he did not have any discrepancies with the calculations that Ms. Hartline had done.

Mr. Alan Ferschweiler addressed the Board and stated that, while he was not an actuary, it appeared that the financial impact to the FPDR would be close to one percent and it seems like the real market value from 2013 to 2014 to 2015 far exceeded one percent. He added that he realizes until they see what the adequacy is going to be it is difficult to judge that, but it seems like in terms of the real market value if a percent is added to what that is, it would be closer to 2015 than 2013. He also asked if the Board does decide to make a motion, whether it was going to be a combination of different votes versus talking about what they are going to do in 2015 and then on a separate motion having a second one that talks about the past COLAs.

Ms. Hartline reiterated that one option is to wait and see what happens when the PERS board meets on Friday and then come back together for an FPDR board meeting in June. She added that another possibility would be to say 2.0 percent for all for 2013, 2.0 percent for all for 2014 and 2.0 percent for all for 2015 because they do not know what the PERS methodology will be for blending and it is unlikely they would know by the June meeting.

Mr. Foesch stated that he felt they should approve a 2.0 percent adjustment for every year. He added that he felt with rising healthcare costs and everything else, that it was the fair and right thing to do. Mr. Dougherty stated that he did not have an issue with 2013 and 2014 at 2.0 percent. He asked whether legally they are on firm footing if they do the same for 2015. Mr. McGair stated that the Charter language says the amount and timing of the adjustment is at the Board's discretion. Mr. Delaney stated that he agreed with his colleagues on 2013 and 2014, but would not want to get into a potential overpayment situation again so for 2015 would prefer to wait.

Mr. Foesch made a motion, which was seconded by Mr. Dougherty, "that for 2013 and 2014 the COLA be, I guess, increased because it was actually lower than that to the 2.0 percent, per the *Moro* ruling." Mr. Lehman asked whether Mr. Foesch wanted to address the retro payment in his motion. Mr. Foesch stated that "if that's not implied, there would be a retroactive payment to make the retirees whole." Mr. Foesch clarified his motion and stated "a 2.0 percent COLA increase for 2013 and 2014, which would also be retroactive for those years."

Mr. McGair commented on the statement "per the *Moro* ruling" in the motion. He wanted to make clear that the FPDR was not the subject of the *Moro* ruling and that the applicability of the *Moro* ruling to the FPDR was two-fold: 1) To the FPDR Three members directly in terms of the ongoing costs to the OPSRP system; and 2) Indirectly in how it relates to that limit on the percentage rate applied to the COLA that the Board has the discretion to offer.

***The motion to approve a 2.0 percent COLA increase for 2013 and 2014, which would also be retroactive for those years was passed by a unanimous roll call vote of 5-0.***

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

Mr. Foesch stated that in terms of 2015, the Board should approve a 2.0 percent adjustment and take a look at this issue again next year when PERS has made their decision on methodology for future years. Mr. Delaney stated that if a blended methodology is used by PERS for 2015, FPDR goes with a 2.0 percent rate for 2015 and it turns out that there is not a firefighter or police officer that gets 2.0 percent under what is eventually approved by the PERS board, then they would have created an overpayment situation. Mr. McGair replied that there would be a firefighter or police officer with 2.0 percent if they are already retired. Ms. Hartline gave an example of the 30 members who retired in May. She stated that a couple of them would have 2.0 percent because they had 30 years of service prior to October 2013, but most of them would be in the 1.95 to 1.99 range, with an average for the group of 1.96.

After further discussion, Mayor Hales made a motion which was seconded by Mr. Lehman that "we just set a 2.0 percent COLA for this year with the understanding that we're going to watch the PERS deliberations about how they're going to blend rates for future years carefully and return to those questions about how we set the 2016 rate, understanding that we may more exactly follow PERS's route once they determine it. Because, again, we're going to assume they're going to address this in their next meeting or maybe the meeting after that or the meeting after that, but for the next year it gives our members a lot of certainty if we say we're empowered to grant a 2.0 percent COLA. It's actually the staff recommendation for the state to grant a 2.0 percent COLA. So, on the basis that we will revisit the question for 2016 of both methodology and rate, then I would move that we set it at 2.0 percent for this year."

***The motion to 1) approve a 2.0 percent COLA increase for 2015; and 2) revisit the question for 2016 of both methodology and rate was passed by a roll call vote of 4-1.***

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

Mr. Delaney stated that, while he did not disagree with the amounts and it appears the financial impacts are going to be minimal, he would prefer to wait and see how PERS resolves the issue and so voted "no".

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Mr. Dougherty stated that he shares Mr. Delaney's concern but voted "yes" for administrative expediency and wanted the Board to understand that the 2.0 percent cap is discretionary and not just for adopting the highest retiree rate.

**Information Item No. 1 – FPDR Updates**

There were no updates to present.

**Information Item No. 2 – Future Meeting Agenda Items**

Mr. Hutchison advised that there will be no board meeting in June. The next board meeting is scheduled for July 28, 2015. He added that there will be a disability timeliness study report at the July meeting. In addition, he stated that there will be rule changes, most of them fairly minor, for the September board meeting.

**Information Item No. 3 – FPDR Summary of Expenditures**

There was no discussion on this item.

**Information Item No. 4 – Discussion with Legal Counsel of Possible Litigation**

At 2:09 p.m. the Board went into Executive Session pursuant to ORS 192.660(h). At 2:26 p.m. the Board resumed their regular order of business and there being no further business, the meeting was adjourned.

Samuel Hutchison
Director

/kk