[***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 28th day of May 2019 at 1:06 p.m.

Board Members Present Included:

Jason Lehman, Chair Pro Tempore
Catherine MacLeod, Trustee
Brian Hunzeker, Police Trustee
Elizabeth Fouts, Trustee

Also present were:

Samuel Hutchison, FPDR Director
Kimberly Mitchell, FPDR Claims Manager
Stacy Jones, FPDR Finance Manager
Frank Del Carlo, FPDR Fire Liaison
Crystal Viuhkola, FPDR Police Liaison
Hank Kaplan, Attorney, Bennett Hartman Morris & Kaplan
Anil Karia, Attorney, Public Safety Labor Group
Lorne Dauenhauer, FPDR Outside Legal Counsel
Franco Lucchin, Sr. Deputy City Attorney
Mark Amberg, Sr. Deputy City Attorney
Dave Short, Retired Fire Member
Del Stevens, President, Portland Retired Firefighters and Widows Association
Joe Gymkowski, Retired Fire Member
Henry Groepper, Retired Police Member
Al Freauff, President, Portland Retired Police and Widows Association
Kristin Johnson, Office of Commissioner Hardesty
Josh Harwood, City Economist

Trustee Lehman called the meeting to order and a roll call of the trustees was taken. Director Hutchison explained that the Mayor's designee, Jennifer Cooperman, had resigned from the board. The Mayor's office is working on another designee for the Mayor, but the appointment will need to be confirmed by City Council. Trustee Lehman was designated Chair Pro Tempore for the meeting.

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***Trustee MacLeod made a motion that was seconded by Trustee Fouts and unanimously passed to approve the March 19, 2019 minutes.***

| | |
|---|---|
| *Aye* | *Trustee Lehman, Trustee MacLeod, Trustee Fouts, Trustee Hunzeker,* |
| *Nay* | *None* |
| *Abstain* | *None* |
| *Absent* | *None* |

Introductions of those present at the meeting were then made.

General Public Comments:
Trustee Lehman welcomed Joe Gymkowski ("Joe") and explained that public comments were limited to three minutes. Joe addressed the board and thanked the board for the opportunity to speak to them and stated that it was a difficult process to get before the board. Joe apologized for missing the January meeting and also explained the inability to attend the March meeting. Joe then officially asked to be put on the board's July meeting agenda to respond to the questions that were asked at the November board meeting. Joe stated two questions were never answered and if the board wanted an answer to those questions, Joe would come back to answer them. Joe stated that it would take about 10 minutes to answer those questions.

***Trustee Hunzeker made a motion that was seconded by Trustee Fouts and unanimously passed to allow Joe Gymkowski to be placed on the July agenda.***

| | |
|---|---|
| *Aye* | *Trustee Lehman, Trustee MacLeod, Trustee Fouts, Trustee Hunzeker,* |
| *Nay* | *None* |
| *Abstain* | *None* |
| *Absent* | *None* |

Joe will be back for the July meeting with some handouts and stated that it will take about 10 to 15 minutes to give the board details of what was asked at the November meeting. Trustee Lehman stated that the board had nothing on the July agenda at the present time and asked Joe if there would be a problem if Joe was placed on the September agenda to which Joe replied that it would not be a problem. Joe has material from over five years of research and just wants to present those facts to the board, especially the new members. Joe also added that this year PERS is expanding the police and fire classification and explained that a dog catcher will now get a fire and police pension under PERS. Joe asked about their own members and why don't they get the benefits that the law requires. All Joe is asking for is what the law requires and appreciates the board's willingness to listen and also stated that there is a workable solution.

Trustee Hunzeker asked if Joe wanted to have a test under a format that Joe would describe as different than the format that has been used in the past. Joe stated that the request was that the facts that were presented in the prior PERS test were not valid. Trustee Hunzeker clarified that if they had the same test done and the facts that Joe was speaking of were added or subtracted into the same test under a preliminary audit, whether that would satisfy Joe's question, and would Joe accept whatever answer comes back from that test. Joe agreed and stated that as long as it complied with the law. Trustee Hunzeker then asked that Joe provide a very succinct request on what Joe is asking the board to evaluate and test against and provide it to the trustees prior to the July or September meeting. Joe will provide the board with what the test is supposed to be, the process and what the law says. Trustee Hunzeker reiterated that Joe provide clear and succinct information and felt it was the board's responsibility to at least listen to Joe's concerns, but that Joe would also need to understand the board's position as well. Trustee Lehman asked Joe how much time he would need to present the information to the board. Joe replied 10-15 minutes. Trustee Lehman directed staff to have Joe placed on the next regular board meeting agenda for 15 minutes.

Del Stevens ("Del") then addressed the board. Del wanted to express the fact that there are a lot of retired firefighters and police who have the same concerns that Joe has about their benefits and the comparison to the PERS benefits. Del added that it is appropriate to occasionally review those and look back to see if the tests that have been done in the past were done correctly and if the standards that were used were properly applied. Del stated that there is nothing wrong with making sure that they are in conformity with the law. Del went on to state that in 1990 the FPDR pension was reformed and the intention of the reform was to make it as good or better than PERS. At the time they went through the process, Del didn't feel that they met the standard but reluctantly voted for the change. Del stated that after it was passed by the members of fire and police and the voters, it turned out that the new pension did not meet the standard, it did not pass. Del stated that what was done at that time was an exemption was given so that Portland did not have to conform to the law if they gave future benefits that PERS would give in conforming to meet the law. Since then PERS has made several changes and FPDR has not responded in kind and added the same benefits. Del added that this is a matter of concern to all of the retired members and Joe has done a lot of research and compiled a lot of information, so the board should give it the attention that it deserves.

Trustee Hunzeker asked if Del would be willing to come in for some sort of work session and focus solely on that specific topic. Del added that it was an excellent idea and stated that the

Retired Police Association should also be included. Trustee Hunzeker stated that time doesn't cost any money and felt that the board should cost themselves a little bit of time and energy instead of investing funds into research and things of that effect on something they are not yet clear about.

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

Stacy Jones ("Stacy"), FPDR Finance Manager, went over the resolution to authorize staff to issue tax anticipation notes (TANs) which are short term municipal bonds backed by anticipated property tax receipts. Stacy explained that 98 percent of FPDR spending is funded with property tax revenue, but because most property tax revenue comes in in the middle of November and the fiscal year starts July 1, cash is needed to take FPDR from July 1 to mid-November. Stacy added that staff comes to the board every year to authorize the TANs issuance and that City Council also has to authorize the bonds. Staff was asking the board to authorize the full budgeted amount, which this year is $52.9 million, but will finalize the actual amount over the next month or so.

Trustee Lehman posed a question from a retiree who asked if 1) there was a way to increase the levy one year and carry a balance so they did not have to have TANs issued every year and 2) does the Fund always make money. Stacy stated that the first part of the question was legal, and they have never pursued the legal question because the answer to the second question is so clear. They continue to do it the way they do because there is a financial benefit and there has always been a positive interest spread. Could that flip on FPDR at some point, yes, but Stacy's opinion is that it is unlikely that it would flip for more than a year or two. Stacy felt that as long as they maintain their credit worthiness they are going to pay less overall on TANs than they are going to earn in the treasury pool. Stacy stated that it would be less financially advantageous to build up the fund balance and also there is the legal question of whether the Charter would allow that since the Charter specifically says that they can only raise the funds they need. Trustee Hunzeker stated that it might be a question they want answered before they run into the negative. Stacy stated that if they ran into the negative, it would be during the fiscal year and they would have time to look into it before it came back to the board. Stacy also stated that staff can tell you the interest rate being paid on TANs as soon as it is issued, but the interest rate that they are going to earn on the City treasury pool won't be known until the end of the next fiscal year for the overall year.

Trustee Fouts asked how the $52 million not to exceed number on the resolution was reached. Stacy explained that the number is four and a half months of expenses, less beginning fund balance and it is done when staff budgets in January. Stacy went on to explain that there is a timing and methodology difference when that budget number is determined, but it has been historic practice to ask the board to authorize that number. However, when staff does the actual cash flow analysis several months later, the amount is typically less. Staff will also ask City Council to authorize the same amount, $52.9 million, but staff does need to be careful to stay within the IRS arbitrage rebate limits. Stacy stated that is the answer to the other question of why not issue for as much as possible and make even more money, but they can make only so much money and not get into trouble with the IRS.

Chair Lehman asked whether in the future some language can be added in the resolution that explains that the amount actually used for TANs will only be the amount actually needed, not the not to exceed amount. Stacy stated that they will add wording to that effect for the resolution next year.

Trustee MacLeod asked for some clarification on the IRS limit. Stacy explained that they use the working capital definition which means that the low point in the cash balance has to be five percent or less of the prior year operating expenses because they have to qualify for an exception. The exception rules are that you have to be using the money for local governmental purposes. Stacy went on to say that five percent of the current year expenditures will be $7.5 million and if they have more than $7.5 million at the very low point then the FPDR is in trouble with the IRS. However, staff is excessively careful not to hit that number and Debt Management is always very careful taking a second look at FPDR's numbers.

Public Comment:
Joe addressed the board and asked a question about bonds. Joe was reading about FPDR bonds through Moody's and came across a five-year bond issued by FPDR for PERS members post medical benefits. Joe asked if someone either on the board or administration can answer whether FPDR bonds are being floated for additional benefits for PERS members post medical benefits. Trustee Lehman asked Joe to provide staff with the information Joe was referring to before the next board meeting so staff can look into it.

Al Freauff ("Al") addressed the board and stated that Trustee Lehman had already presented the questions Al had and felt the questions were answered by Stacy.

***Trustee MacLeod made a motion that was seconded by Trustee Fouts and unanimously passed to adopt Resolution No. 524.***

| | |
|---|---|
| *Aye* | *Trustee Lehman, Trustee MacLeod, Trustee Fouts, Trustee Hunzeker,* |
| *Nay* | *None* |
| *Abstain* | *None* |
| *Absent* | *None* |

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

Trustee Lehman explained that for the annual adjustment review there will be a presentation by staff and then the board will go into Executive Session to hear from legal counsel and then will go back to the regular order of business to hear any comments. Director Hutchison clarified everyone's role on this matter and stated that the board is the decision maker and staff will be the information givers/clarifiers and will implement whatever decision the board makes.

Stacy explained that at the March meeting, the board deferred making a decision on the July 1 COLA for FPDR Two beneficiaries so staff could bring back some additional information on the two percent COLA limit that the Charter allows. Stacy then went over the slide presentation and stated that the first five slides of the presentation attempt to summarize the additional information about the two percent option and compare it to the FPDR Two COLA method which is the blended PERS method that FPDR has been using for the last three years. Stacy stated the next five slides were prepared by Milliman and give a little more detail about some of the information that Stacy summarized on the slides.

Stacy recapped that the FPDR Two COLA method typically gives up to 2.0 percent on the percent of service that occurred before 2013 and 1.25 percent on the percent of service that occurred after 2013 and is modified from the PERS methodology. Stacy stated that if you just look at one year, the impact between a 2.0 percent COLA versus the FPDR Two COLA method is not very different and that is because 85 percent of the current FPDR Two beneficiaries are going to get 2.0 percent either way because all of their service was before October of 2013 and at least 1.9 percent for the vast majority of current retirees. Where they start to look different is when it gets out into the future where the difference between the two approaches emerges over time. Stacy also stated that the Charter is written to require the sequential stand-alone individual year decisions on the COLA, which is kind of a strange way to approach a COLA methodology but felt that in recognition of that strangeness the board has historically prioritized consistency by trying to use a consistent

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COLA approach while still exercising their responsibility to make a decision every year and consider the options every year. Stacy also stated that consistency is a value for both the members who are trying to plan for their retirements and also for the FPDR in terms of managing its finances. Stacy then went over the long-term impact of the FPDR Two COLA method and the 2.0 percent method and added that the FPDR's current inflation assumption is 2.75 percent.

Trustee Lehman asked where the 2.75 percent number comes from. Stacy explained that the number comes from Milliman. Trustee MacLeod explained that when you're preparing the actual valuation you need to make projections in the very long term about inflation as both the component of the discount rate that they use to value liability, salary increases, etc., not just COLA, so a variety of things come into play so Milliman is just making an assumption that the long term cost of living increase is going to be 2.75 percent per year which is separate from the Plan's definition of COLA for benefit purposes. Trustee Lehman asked how Milliman comes up with that number. Trustee MacLeod replied that every actuary will have their own methodology, but there is information available. Before coming to the meeting, Trustee MacLeod took a look at what CPI-Urban rates have been and stated that it looks like over the past ten years inflation has been about 1.5 percent per year, but historically over 30+ years, it may be 2.0 to 2.5 percent. Stacy added that there is a variety of methodologies and a variety of models and nobody knows exactly what long term inflation is going to look like and 2.75 percent is reasonable.

Trustee Lehman stated that it is denoting pension maintenance over 30 years and wondered if the number affects the rest of the table. Stacy replied that it does and added that until very recently the City used three percent as a long-term assumption, but on the advice of Milliman FPDR dropped it. Stacy added that they need to understand that it is an assumption. Going over the tables, Stacy explained that the reason 30 years was used was because that is the average length of time between retiring and death.

Stacy then explained that staff had Milliman rerun the numbers from their latest calculation of the plan liability using a 2.0 percent COLA and Milliman and came up with a $3.39 billion plan liability which is about $65 million more than what they presented at the January board meeting. Stacy added that at the 20th year of the analysis (2038), the real market value property tax levy rate is slightly higher with the 2.0 percent COLA method and the likelihood of exceeding the FPDR's RMV cap of $2.80 is just a tiny bit higher. The assessed value property tax rate which is what taxpayers' property tax payments are based on is also slightly higher.

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Trustee Hunzeker asked if they went back 20 years, whether they would still be at the 2.75 inflation rate. Stacy stated that they were lucky to have the City Economist in the room and the City Economist ran the numbers and it is 2.25 percent over the last 20 years. So, the number is lower than the 2.75 percent inflation assumption that staff has assumed going forward and it was 80 percent pension maintenance at 2.75 percent inflation. If inflation is less than that, it is going to be more, maybe 90 percent pension maintenance. If inflation is higher than that over the long run it is going to be less, maybe 75 percent pension maintenance. Stacy stated that if the board just wants to think of this as a one-year decision, they are not talking about big differences. The differences emerge over time.

Trustee MacLeod stated that the COLA adjustment is a one-year decision and asked if the board decided to leave it as modified PERS today and a year from now went to 2.0 percent, what would be the impact on an individual; would they always be somewhat less than someone who had 2.0 percent all along because they are building from the benefit that they had the year before. Stacy explained that everyone that is a current retiree gets that COLA so if the board said they want to stick with the modified methodology this year but want to go to 2.0 percent next year, then every single beneficiary of the plan next July 1 is going to get 2.0 percent regardless of when they retire and regardless of how their service is split out. Trustee MacLeod clarified, and Stacy agreed, that likewise if the board were to make a change to 2.0 percent this year and go back to the modified methodology in the future, a similar thing would happen. Whatever benefit they were at, at the present, the then applicable COLA would be applied to them.

At 2:16 P.M. THE BOARD WENT INTO EXECUTIVE SESSION PURSUANT TO ORS 192.660(2)(h). AT 2:46 P.M. THE BOARD CAME OUT OF EXECUTIVE SESSION AND RESUMED THEIR REGULAR ORDER OF BUSINESS.

Public Comment:
Attorney Hank Kaplan ("Hank") addressed the board. Hank was present on behalf of the Portland Fire Fighters Association Local 43 and did not have much to add to the discussion but had one question. Hank stated that this matter is a policy issue, not a legal one and it is a question of whether or not and to what extent the board is determined to maintain purchasing power for FPDR Two members. The question Hank had was that in the past three or four years that this issue has come up, there has never been a question or an answer to the question of what happens if the rate of inflation is below 1.25 percent. Under PERS, if the rate remained flat for a long period of time, after you've caught up with your lost purchasing power through their bank system then the rate can drop below that 1.25 percent. Hank added that FPDR used to have a banking system as well

to keep track of lost purchasing power. Hank stated that there is no possible scenario in which they can actually catch up with lost purchasing power regardless of what the inflation rates do. Stacy stated that staff's understanding of the PERS method is that 1.25 percent is 1.25 percent irrespective of inflation. Stacy stated that they do not work for PERS but believes that what PERS does is take the percent of service that occurred before 2013 and apply that to the old PERS method which could be less than 2.0 percent for a newly retired person because they are still employing the COLA banking on that old method. Stacy stated that FPDR has been applying the COLA banking, but only to the application to service before 2013. The 1.25 percent is to the percent of service after 2013 and just is 1.25 percent irrespective of inflation.

Trustee Fouts asked about the risks of moving away from their prior methods and managing of the Fund long term. Stacy would not characterize it as a risk, but as something the board needs to consider as part of their fiduciary responsibility. Stacy added that it is going to cost about $65 million over the life of the plan if the board adopted a 2.0 percent COLA path, but if it is a one-year decision, the cost is about a couple hundred thousand dollars. Stacy also stated that there is no greater risk of Fund insolvency.

***Trustee Hunzeker made a motion "that the Board has understood its discretionary abilities on a year-to-year basis and on a non-precedent setting type of future outlook on the Fund and given the unusual circumstances of the current economy, the current growth, I would make a motion that we step away for a minimum of this current year from the modified PERS to a just flat 2.0 percent pay raise to be effective July 1 or the next fiscal year. Again, using the board's discretion of having a year-to-year analysis of the growth of the Fund, the growth of the economy and for the benefit of the members in the current unusual economy. So, I would make a motion of a 2.0 percent raise effective July 1". Trustee Fouts provided a second to the motion with the "understanding that our formula, our modified PERS formula, has worked well for us in the past and that this is an exercise of discretion just for one year. I second the motion for a 2.0 percent increase."***

Trustee MacLeod concurred with Trustee Fouts and Trustee Hunzeker's comments and stated that "this is in reflection of the unusually high inflation relative to recent prior years that we want to just make this move without really throwing the modified PERS methodology out in perpetuity. We just want to consider this change for this year." Trustee Lehman stated, "I agree this is our duty to address this every year and I believe that due to inflation this year that the 2.0 percent would be appropriate."

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A roll call vote was then taken:
Trustee Fouts: Aye
Trustee Hunzeker: Aye
Trustee Lehman: Aye
Trustee MacLeod: Aye

***The motion was unanimously passed by a roll call vote of 4-0.***

| | |
|---|---|
| *Aye* | *Trustee Lehman, Trustee MacLeod, Trustee Fouts, Trustee Hunzeker,* |
| *Nay* | *None* |
| *Abstain* | *None* |
| *Absent* | *None* |

Trustee MacLeod stated that the next time they review this subject if they could circle back to a discussion on a minimum aggregate COLA for any particular participant. Trustee Hunzeker agreed and would love to have a work session on that. Trustee Lehman asked that staff follow up on it and decide maybe next winter or spring to have a work session and discuss this with all the players and see if the board wants to move forward or not with possibly a Charter change or what they can do within the rules.

Director Hutchison stated that they normally start the COLA discussion in March and can make it part of a board meeting or a work session. Director Hutchison added that staff will work with whomever the board chair is at that time and work out a process. Trustee MacLeod was not necessarily pursing a Charter change so much as working into the subsequent years motion, to have as part of the discretion of the board, whether or not they would like to have a minimum COLA applicable to any affected participant that would not be less than perhaps 1.5 percent as opposed to just letting the formula work any way that it might. Stacy clarified whether it would be accurate to say that next year the board would want to look at the 2.0 percent option again, the blended COLA method that has been used in the three years before that, and the blended COLA method with a floor to which Trustee MacLeod replied “yes”.

**<u>Information Item No. 1 – FPDR Summary of Expenditures</u>**

Stacy updated the board on the budget and stated that there were tiny changes to the budget, mostly for the internal service funds. In addition, staff shifted $500,000 out of the FPDR interagency agreement budget to the Police Bureau for PERS contributions because they are continuing to have very high end police officer vacancy rates and the Police Bureau has not been able to hire as many people as they projected in the current year and, in fact, City Council sort of pre-captured some of those vacancy savings from the police budget for next year. In order to make all that work in terms of balancing the budget across the whole City, FPDR dropped that budget by $500,000 and shifted that money into the pension budget. Stacy added that it is what they have to do to make budgets work across the whole City and the way FPDR's budget intersects with the Police Bureau budget.

Stacy then went over the expenditure report and pointed out that because of timing, neither Police nor Fire got their third quarter billings to FPDR in time before staff closed out April. Stacy also pointed out the higher fund balance and explained that it is mostly because of the Comcast payment that she previously went over with the board. Trustee Lehman asked whether the lower disability number was because of a billing issue or were disability benefits dropping. Stacy explained that disability benefits are running low and there are some billing issues but thought that disability benefits will come in under budget and that was the case last year as well.

**Information Item No. 2 – Update to Board Handbook**

Director Hutchison stated that this item will be deferred to the next board meeting. There will be more clarification on what constitutes a board meeting and what constitutes a quorum.

**Information Item No. 3 – Legislative Updates**

Director Hutchison stated that Senate Bill 507 (PTSD presumption) passed the Senate and it is currently sitting in the House. Director Hutchison felt there is a high probability it will pass through the House as well. In addition, there is a PERS bill (Senate Bill 1049) that is designed to lower employer contribution that will impact PERS benefits for some people. Director Hutchison will discuss the bill further with the board if it passes the House.

**Information Item No. 3 – FPDR Updates**

Director Hutchison stated that the Mayor's office is looking for a new designee for the Mayor. Once that designee is identified that person's appointment will have to be approved by City Council. Director Hutchison will notify the board when the appointment is made.

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**Information Item No. 4 – Future Meeting Agenda Items**

Director Hutchison stated that there are no agenda items for July. For the September meeting, the agenda items are State of FPDR, legislative bills, board handbook and request by Joe Gymkowski. Director Hutchison will notify the board by the end of June about cancelling the July meeting.

Trustee Fouts asked about the status of training for the board members. Director Hutchison stated that staff is working on that and hopes to get the classes set in the next few months.

Trustee Hunzeker brought up the State of FPDR and stated that staff provides information on statistics of claims brought to FPDR, i.e., claims approved and denied. Trustee Hunzeker did a little history checking and understood that there was a board agreement with FPDR that timeliness would not be an issue with claims filed. Trustee Hunzeker wanted to make sure that claims are not being denied solely on timeliness issues. Director Hutchison stated that staff will talk about that and if there is more specific information in the State of FPDR that the board would like, staff will incorporate that in.

There being no further business, the meeting was adjourned at 3:10 pm.

Samuel Hutchison
Director

/kk