Regular meeting on November 27, 2018 of the Board of Trustees
Fire & Police Disability and Retirement Fund
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Minutes – Summary

[THE FOLLOWING SUMMARIZED MINUTES WERE CONDUCTED IN PUBLIC SESSION. THERE WERE NO PORTIONS 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 27th day of November 2018 at 1:00 p.m.

Board Members Present Included:

Jennifer Cooperman, Chairperson
Jason Lehman, Fire Trustee
Catherine MacLeod, Citizen Trustee
Elizabeth Fouts, Citizen Trustee
Brian Hunzeker, Police Trustee

Board Members Absent Were:

None

Also present were:

Samuel Hutchison, FPDR Director
Kimberly Mitchell, FPDR Claims Manager
Stacy Jones, FPDR Finance Manager
Julie Barber, FPDR Sr. Claims Analyst
Franco Lucchin, Senior Deputy City Attorney
Nelson Hall, Attorney, Bennett Hartman Morris & Kaplan
Olivia Wotman, Attorney, Public Safety Labor Group
Jim Lanzarotta, Moss Adams
Keith Simovic, Moss Adams
Kyle MacLowry, PFPA
Collin Beeson, DURO Health
Alan Ferschweiler, President PFPA
Lorne Dauenhauer, FPDR Outside Legal Counsel
Joe Gymkowski, Retired Firefighter
Melissa Gymkowski
Dave Short, Retired Firefighter
Del Stevens, President, Portland Retired Firefighters and Widows Association
Allen Freauff, President, Portland Retired Police and Widows Association
Henry Groepper, Portland Retired Police and Widows Association
Chairperson Cooperman called the meeting to order and introductions of those present at the meeting were made.

Chairperson Cooperman then asked for approval of the minutes.

**Trustee Lehman made a motion that was seconded by Trustee Fouts and unanimously passed to approve the September 25, 2018 minutes.**

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<thead>
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<th>Aye</th>
<th>Trustee Cooperman, Trustee Fouts, Trustee Lehman, Trustee MacLeod</th>
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<tbody>
<tr>
<td>Nay</td>
<td>None</td>
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<tr>
<td>Abstain</td>
<td>None</td>
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<tr>
<td>Absent</td>
<td>Trustee Hunzeker</td>
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There were no General Public Comments.

There were no Action Items.

**Information Item No. 1 – Request of Joseph Gymkowski to Address the Board of Trustees**

Retired Firefighter Joe Gymkowski appeared before the Board. Joe had handouts to provide to the Board and went over the materials. Joe stated that the main purpose of the presentation was to bring the truth forward about the ETOB studies and the truth about FPDR’s previous ETOB test. Joe pointed out that there are over 10,000 PERS police and fire classifications that get a disability retirement but not one FPDR firefighter gets a disability retirement for an in line of duty injury. Joe stated that according to FPDR, Joe is not disabled at this time. The career ending injury suffered and a typical day for Joe was demonstrated.

Trustee Hunzeker asked what Joe’s main overall goal was for the Board to review. Joe asked the Board to look at the FPDR disability retirement and stated that PERS re-evaluates everyone then changes their status according to state law and that the Charter is not following the law. Trustee Hunzeker asked if Joe was asking for FPDR to be re-evaluated to see if they are equal to or better than PERS. Joe replied that one of the requests is to do a true ETOB test for all three FPDR tiers. Trustee Hunzeker also asked Joe to provide the Board with a one page, bullet point type of highlight with what Joe would like the Board to look at and evaluate. Trustee MacLeod asked if it
was Joe’s position or understanding that each of the three FPDR tiers must pass independently or in composite. Joe replied that all three tiers should be looked at separately.

Chairperson Cooperman asked Joe to provide any materials that Joe would like the Board to review to FPDR staff on behalf of the Board. Joe provided binders with the presentation to the Board. [The handouts from Joe’s presentation will be part of the permanent record].

Del Stevens then addressed the Board. Del was speaking personally to make some follow up comments to Joe Gymkowski’s presentation and not as the President of the Retired Firefighters Association. Del was a part of the FPDR reform in 1989 and felt that the City’s thrust at that time was to upgrade benefits but not go into PERS. Del stated the PERS system earns money while the FPDR system does not and Del knew at that time that it was wrong not to go into PERS. But Del stated the financial people at City Hall did not want to spend the money to buy their past service time to put them into PERS and steered them away from PERS. Del stated they ended up with a system that Del did not think was equal to PERS. Del attested to being a witness to Joe’s discussion about a history of unfair benefits. Del also stated the FPDR pension system no longer allows for disability retirement. Del stated that under PERS, a disability pension is nontaxable for life. Del would like to see a task force to look at the FPDR system internally and compare it to the PERS system. Chairperson Cooperman asked Del to provide any materials to FPDR staff.

Trustee Lehman asked about the statement made by both Joe and Del about the disability retirement benefit being removed by the FPDR Director and whether they were referring to the term in the rules that was removed or if the disability retirement benefit was actually removed. Director Hutchison clarified that the FPDR Plan never had a disability retirement component. Director Hutchison explained that the term “disability retirement” was being used when a member on disability was being converted to a service retirement under the Charter. Due to the confusion that term was causing, Director Hutchison had the term removed from the FPDR rules, but no benefit was taken away.

Trustee MacLeod asked whether the taxation of the benefit changes from disability to retirement. Director Hutchison explained that under disability the maximum benefit is 75 percent tax free, and under retirement the maximum benefit is 84 percent but taxable. Director Hutchison also stated that the net benefit that FPDR pays increases when a disabled member goes into retirement but depending on their tax status the benefit could be lower than their after-tax benefit when they retire.
Director Hutchison added that the FPDR disability benefit is 75 percent, whereas a disability benefit for non-FPDR members is about 66 2/3 percent. Under the FPDR system, if a member can no longer work as a firefighter or police officer they would receive a disability benefit until they retire. However, in workers’ compensation that is not the case. If it is determined that you can go back to work in another forum, a lump sum settlement is paid out and disability benefits stopped.

Trustee Hunzeker understood that they need to abide by the Charter and the Plan but so many different things can happen to a police and fire member at any time that it is hard to have a universal system when there are independent people working for the City. Trustee Hunzeker asked if it might be a good idea to explore making it a system that works for each individual person instead of an overall universal system. Trustee Hunzeker added that when you lump sum it and throw in variables, not every variable can be accounted for. Director Hutchison stated that is true for any plan there is and if the Board wants to change the Plan, it is going to have to go to the voters. Trustee Hunzeker stated that as a Board they should always be reviewing how they are doing business and how they are processing things because they have a responsibility to every member and they should not be looking at obstacles as huge issues but rather they should look at obstacles as situations that come up for them to review.

Director Hutchison stated that Charter change is a 2-3 year process and asked whether that is the direction the Board would like to go? Chairperson Cooperman stated that the instructions for the presenters is to give any information they have to FPDR staff for Director Hutchison to distribute to the Board for their review and when Director Hutchison distributes the material to query the Board as to what follow up they would like. Chairperson Cooperman would like to review the information before deciding how to move forward and the rest of the Board concurred.

**Information Item No. 2 – Financial Audit**

Jim Lanzarotta and Keith Simovic of Moss Adams appeared before the Board to explain the external financial audit. Jim talked about the nature of the services they performed and explained the critical areas they looked at and highlighted some of the required communications. Keith went over the different audit areas. Keith added that it was a clean audit with no material errors. He also stated that internal controls are in place and they did not note any adjustments or material weaknesses. Jim went on to state that staff does a good job of staying on top of the accounting standards and thanked staff for their excellent facilitation of the audit process.
Trustee MacLeod stated that the overall pension and OPEB liabilities are not in the financial statements and asked why that is. Jim explained that it goes back to the accounting standards to have the trust fund financials reflect the activity that runs through there. The cash and investments at the end of the year and any obligations they have, like if they owed a benefit payment for June and it didn’t get paid until July 5th, those are the only liabilities. Jim went on to say the trust fund is more what resources were there at the end of the year and what’s the revenue or contributions that came in, what were the benefit payments that were paid and what’s the ending cash and investments available to fund benefits. That bigger actuarial liability is disclosed in the footnotes and that liability is picked up by the employer. Jim added that the Plan itself is not the employer of police and fire members. The trust fund holds the resources and makes the benefit payments, but the ultimate obligation is really a City obligation as the employer of those police and fire members.

Trustee MacLeod asked about PERS and the City’s retiree medical program and the proportionate share of liabilities. Jim replied that all new firefighters or police officers hired after 2006 are going into PERS and so the Fund is collecting enough off of property taxes to make the contributions to PERS on their behalf. Jim added that all of the members hired before 2006 are still on a pay go basis. You have employees here that are paid out of this Fund and there are also members of PERS and so the financial statement does pick up a small obligation as it relates to just the employees that are part of the Plan that administers the benefits. Jim added that the employees that work at FPDR, their portion of PERS is reflected in the financials. However, the firefighters and police officers hired after 2006, their obligation is all picked up in the City’s financial statements because the City pays their salaries the Plan does not. The Plan does pay salaries of the administrative staff that administer the plan.

Chairperson Cooperman thanked the team for their work in putting together the reports.

**Information Item No. 3 – Request of Kyle MacLowry, PFFA**

Kyle MacLowry of the Portland Firefighters Association and Collin Beeson of DURA Health addressed the Board. Kyle shared a firefighter’s perspective and felt that the addition of a DURA Health program could provide a significant positive impact to firefighters.

Collin explained that DURA Health was an occupational medicine company and went over the problems with delay in treatment when an injury occurs. Collin also went over injury intervention
steps and their solutions regarding where, when, how and why. Kyle stated that this was just an initial conversation but a formal request to FPDR will be coming.

Chairperson Cooperman asked how much of the program was applicable to police to which Collin replied 100 percent. Chairperson Cooperman added with a no visit limitation and a workforce that works 24/7, how would DURA Health price their services. Collin stated that they take a price that can sustain their operations and anything above that is cost savings to the City. Chairperson Cooperman also asked if the pricing was based on the number of signed up users. Collin stated that it depends on the model. Trustee MacLeod asked if there was a practitioner involved with every employee. Collin replied that it depends on the plan of care and that the practitioner was usually an athletic trainer with background in physical therapy.

Director Hutchison stated that how FDPR will proceed with this matter was much like a grant request. Director Hutchison added they do have questions that would need to be answered, i.e. How do they work with the Fire Bureau? How does it mesh with the FPDR disability plan? Are there procurement issues? Director Hutchison also stated that the goal was to have a complete package to bring back to the Board. Chairperson Cooperman asked when this matter would be brought back to the Board and Director Hutchison replied they will try to bring it back to the Board in March. Trustee MacLeod asked if Director Hutchison anticipated it to be a pilot program to which Director Hutchison stated that response will come through the ask.

**Information Item No. 4 – Opioid Study Results**

Director Hutchison stated that the opioid epidemic is a big problem and 130 people die every day from opioid overdoses. Director Hutchison provided a quick history and stated that prior to the 1980’s, pain management was not on a lot of physicians’ radar. Director Hutchison wanted a study done to see the impact the opioid epidemic had on the FPDR fund and how opioids were impacting members receiving benefits. Disability Manager Kim Mitchell went over the results of the study and discussed the extended duration of claims, the additional costs for treatment and medical management and what actions staff will take. Trustee Fouts expressed interest in learning more about the extended claim duration. Trustee Fouts stated that the issue is complex and they don’t necessarily have causality that they can prove but felt that it would likely be a bigger cost than the prescription cost overall. Trustee MacLeod asked how receptive claimants were about other alternative pain management methods. Kim stated that claimants are generally receptive and many are refusing opioids and asking for other therapies.
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Information Item No. 5 – Summary of Expenditures

Finance Manager Stacy Jones went over the summary of expenditures and pointed out a large payment in September for $3.8 million in taxes which was FPDR’s share of the Comcast property tax settlement.

Information Item No. 6 – 2019 Board Meeting Schedule

Director Hutchison went over the board meeting schedule. There were no objections or changes to the schedule. The schedule will be finalized, published and provided to the trustees.

Information Item No. 7 – FPDR Updates

Director Hutchison explained that in February 2018, FPDR issued about $300,000 in retro payments when the Fire contract was implemented. One provision in that contract was to increase longevity pay and that additional longevity pay provision was implemented and distributed when it went into effect. However, the PFFA grieved that issue and an arbitrator ordered the City to back date the payments, so FPDR had to again make retro payments to retirees and beneficiaries and pay it back to July 1, 2016. Staff had to recalculate that payment which will be an additional $200,000. Trustee Lehman asked if staff had budgeted for the retro payments to which Stacy replied that they had not budgeted for it but had no concerns.

Director Hutchison then stated that on January 22, 2019 the Oregon Legislature will start its session and FPDR will be monitoring the bills. Legislation regarding PTSD as an occupational disease will especially be watched carefully.

Director Hutchison also provided a follow up to the wellness presentation at the prior board meeting. Director Hutchison followed up with Chief Myers who set up a meeting for Director Hutchison with Dr. Kuehl (Professor of Medicine at OHSU) and Chief Burns on this matter. Director Hutchison stated that the studies done by Dr. Kuehl show that general wellness programs are not successful in reducing healthcare costs but wellness programs that do reduce costs are tailored comprehensive wellness programs that target high risk employees. Director Hutchison went on to explain Dr. Kuehl’s reasons for a comprehensive medical wellness program for firefighters. Director Hutchison went over next steps and stated that Portland Fire wants to create a comprehensive medical wellness program based upon Dr. Kuehl’s study and FPDR has volunteered to assist with the creation of the program and to provide data and data analysis.
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Director Hutchison also stated that the Fire Bureau may ask FPDR to financially support such a program. Director Hutchison also pointed out that there is a transitional duty program that is funded by the FPDR that is well established but is not being utilized to its full extent by the Fire Bureau. Director Hutchison added that with regards to the earlier presentation and the potential request from the Fire Bureau, there will need to be one cohesive effort as FPDR may not be able to fund two separate programs so there will need to be one uniformed approach to this issue. Trustee Fouts stated that when this issue is talked about further they should think about how police members can be involved or included in this effort. Trustee Lehman would like the FPDR to become proactive and come up with some good ideas on reducing disability and having healthy employees.

Del Stevens addressed the Board and provided handouts to the Board. Del briefly went over taxation of benefits and the ETOB study. Del’s desire was to fix this issue so that it meets the intent of the law, which is to have equal benefits. [The material from Del will be made part of the permanent record].

There being no further business, the meeting was adjourned at 3:14 pm.

[Signature]
Samuel Hutchison, Director

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