



CITY OF
PORTLAND, OREGON

**OFFICIAL
MINUTES**

A **SPECIAL MEETING** OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **8TH DAY OF AUGUST, 2012** AT 5:00 P.M.

THOSE PRESENT WERE: Commissioner Saltzman, Presiding; Commissioners Fritz; Mayor Adams teleconferenced; 3.

OFFICERS IN ATTENDANCE: Karla Moore-Love, Clerk of the Council; Roland Iparraguirre, Deputy City Attorney; and Steve Peterson, Sergeant at Arms.

<p>886 TIME CERTAIN: 5:00 PM – Refer amendments to the City of Portland Charter, Chapter 5, Fire and Police Disability, Retirement and Death Benefit Plan to the November 2012 General Election Ballot (Previous Agenda 873; Resolution introduced by Commissioner Saltzman) 30 minutes requested</p> <p>Motion to amend Exhibit A to correct structure and format: Moved by Commissioner Saltzman and seconded by Commissioner Fritz. (Y-3) (Y-3)</p>	<p>Disposition:</p> <p>36948 AS AMENDED</p>
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At 5:43 p.m., Council adjourned.

LAVONNE GRIFFIN-VALADE
Auditor of the City of Portland

By Karla Moore-Love
Clerk of the Council

For a discussion of agenda items, please consult the following Closed Caption File.

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Closed Caption File of Portland City Council Meeting

This file was produced through the closed captioning process for the televised City Council broadcast and should not be considered a verbatim transcript.

Key: ***** means unidentified speaker.

AUGUST 8, 2012 5:00 PM SPECIAL MEETING

Saltzman: Hello Mayor.

Adams: Hi Mr. President. How are you?

Saltzman: I'm good. so the mayor is on official city business out of the state. His failure to participate in today's council session would jeopardize the public interest, health, safety or welfare. Therefore, unless there is objection by any member of the council the mayor will participate in today's hearing by teleconference. Both commissioner Leonard and Fish were allowed the opportunity to attend by teleconference, and both are unavailable to participate. Hearing no objection, Karla has the mayor on the line to participate. Do you need to call the roll first?

Fritz: Here. **Saltzman:** Here. **Adams:** Here.

Saltzman: Before we begin I would like to make a motion to accept amended exhibit a.

Moore: We should read the title first.

Saltzman: I'm sorry.

Item 886.

Saltzman: Thank you I would like to make a motion to accept amended exhibit a. There are no language changes contained in this amendment. Only structural and formatting corrections.

Fritz: Second.

Saltzman: A second. Ok. Karla, could you take the roll call on the vote, please?

Fritz: Aye.

Adams: Aye.

Saltzman: Aye. So, this evening we have before us a resolution to refer a charter amendment to the voters of Portland. In the november election. Regarding the fire, police, disability, and retirement system. Otherwise known as fpd&r. In 2006 voters overwhelmingly approved comprehensive reforms to the fpd in our system. And one of the major reforms was to create a similar, i'm sorry, a smaller board of trustees. With meaningful citizen representation. The board has recommended the majority of the changes contained in this amendment for council's consideration, to refer to the november 2012 ballot. Ultimately, however, it is the city council's purview to decide what charter amendments are referred to voters. This amendment respects the commitment to provide fair and reasonable retirement and disability benefits to our police officers and firefighters. While at the same time, being accountable to the taxpayers of the city of Portland. As a report just released by the city auditor finds 26 cents of every property tax dollar is spent on the fpd&r system. The combined effect of this amendment will save the taxpayers of Portland minimum of \$46.6 million over a 25-year period. Contributing to the overall financial health and solvency of the fund. So to provide an overview of the proposed charter amendment, is the director of the fire, police disability retirement system. Linda jefferson, and the chair of the fpd&r trustees, yvonne deckard. Welcome.

*****: Thanks.

Saltzman: Are you going to start?

Linda Jefferson: Good afternoon, commissioner Saltzman, commissioner Fritz, and good evening, mayor Adams. I have prepared a brief presentation this afternoon on the concepts that have been

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introduced in the resolution. I thought I would start out by sharing with you what the objectives were going into this process. We wanted to address the recommendation resulting from the charter directive disability program audit that was the 2006 reform directive there be a disability audit and then a follow up audit so there were some issues that came out of the audit that were recommended as changes to the program so that was one part of the consideration for us working through this process. There were additional concepts that had been proposed prior to and beyond the 2006 reforms. So some of these were issues that were considered by the form board in fact and by the board post reforms. We wanted to improve the clarity in specific sections of the charter and that's been an aspect that's of greatest interest to staff because we want to make sure that we are applying benefit provisions consistent with the charter's intent. And finally to decrease the taxpayer funded liability. So just to share with you briefly our background in methodology. Beginning in 2007 through 2010 the fpd&r staff did develop a list of recommendations in October in October of 2010, the fpdr Board of trustees had a work session where they reviewed the staffs recommendations. And following the work session, the board did direct staff to conduct some research and kind of do a financial analysis of what the, the impact would be of moving forward for they recommended changes. From november 2010 until april 2011, the staff and two of the board members met with labor and other stakeholders to discuss their charter change concepts and related matters, so that was the, the charter change concepts of labor and the other stakeholders to the plan. And in june, from june 2011 until april 2012, the board of trustees analyzed and discussed the staff and stakeholder recommendations, and in april of this year, the board did adopt a list of charter change concepts that they forwarded onto you for consideration. The projected savings of the recommendations that are being introduced to you today is a total of over \$46 million reduction in the taxpayer liabilities over a 25-year period. So beginning with the first concept that is being introduced, is the recommendation to change how final pay is calculated when determining an individual's retirement benefit. What's been recommended is to change the calculation to a factor that is based on the highest of any three consecutive 365 or 366 days period where the most recent day is the last day for which the pay was received, and in the calendar month for, preceding the month in which the fpdr member retires, dies, or otherwise terminates the benefit. What had happened post-reform is that the board of trustees had adopted some administrative rules that had resulted in a change in how the benefits were calculated, and ultimately, resulted in their being, an increase in the benefits, over a period time. Normally, there is a 26 pay period consideration for city employees, but there have been some, some years, actually, there have been three thus far where there's been 27 pay periods, and that's resulted in an increase benefit to the retirees. So that was part of the incentive to go back and look at the ways to make the calculations that would be the, the appropriate way that we believe based on the intent of the charter. So, the estimated present value, 25-year present value savings would be at least \$40 million to the fund. The next section has to do with delaying the entry of new sworn fire and police members, currently, individuals are, are, entered, they enter into fpdr program at the time that they are sworn in. We are recommending that, that entry be delayed for six months. During that six-month period, there is coverage that would be available for any on the job injuries, and that's through the state's worker's compensation program. As you know the city of Portland, is self insured and administered for worker's compensation, and there is, I believe, in adequate benefit coverage for individuals during that six-month period. Of course, beginning with their seventh consecutive month of employment, they would, at that time, enroll into the fpdr program. I might add that this is not an entirely new concept of the city of Portland sworn employees being under the city's self insured worker's comp program. In fact, beginning in the mid 1980s, there were a number of agencies, external to the city, that were annexed into the, the city of Portland. I believe that there were about five or six different agencies and based on information that I still have available to me, at one point, I think that number exceeded 25, both police and fire members who were pers covered for retirement, and therefore, subject workers under

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the Oregon worker's compensation perhaps. The next issue has to do with the determinations. Currently there is a provision in the charter that provides that, that if there is any covered service that's under the Oregon public employee's retirement system, that the individual has worked prior to or maybe subsequent to their employment with the city of Portland, that that be factored in in determining what their retirement benefit is, which, of course, can result in an increase of benefits, and what's been recommended by the board of trustees is that that consideration be removed from the charter because it's, it's not really addressing what the fund's responsibility should be for service to these individuals to the city of Portland. If, in fact, this does move forward, we estimate that the 25-year present value is at least .3 million dollars in savings to the fund. The next item is settlement. Currently, the city council has the sole authority to authorize settlement to discharge any claims against the fpdr. That was new provision with the 2006 reforms. The recommendation of the board is that the administrator be given the authorization, or the approval to settle claims as determined by the board of trustees. In their administrative rule. So, there is no financial impact should that move forward. The next item is to define fpdr three service as equivalent to the fpdr two service. And that's just I think, to provide clarity that there is the same consideration for those individuals who are fpdr three members, as opposed to those who are fpdr, two members when considering whether or not they meet the eligibility requirement for certain occupational disability claims that may be filed. Heart diseases are a good example of that. And there would be no financial impact expected for, for this change. The next item is base pay. The recommendation is to add language that allows for full-time pay to be calculated for part-time members. If there is an individual who, at the time, that they make application for retirement, is in a half time work status, where they had previously worked a full-time schedule, and there may have been some, some time lost resulting, for example, a disability, then, and it was determined that it would be appropriate and a fair consideration for these individuals to base their final pay based on full-time employment rather than part-time employment. The 25-year present value of this change has been estimated at .8 million. There are currently only four part-time members, and they all have a number of years to work before they reach their earliest retirement eligibility. The next recommendation is to just make a minor change in the charter that would allow for an administration of disability benefits to members for service connected and occupational disability benefits on a biweekly or a monthly basis. Currently the charter allows for a biweekly benefit during the first year of disability. But if the member is disabled and eligible for a benefit, after the first year, we can only make the payment on a monthly basis, and for example, there may be an occasion that an individual needs to have some follow-up treatment. They have returned to work. But they may miss time to attend a doctor appointment or a few doctor appointments, and we have established a process where we coordinate our biweekly payments to go out at the same time as regular payroll, and it has really enhanced our ability to administer the benefit, and I believe it's been well received by the members on disability. So, what we are asking is that we have the flexibility to make the payment when due, either on biweekly or a monthly basis, depending on that individual circumstance. This is the same scenario with the non service connected disability benefits. Currently, there is no provision to pay a non service disability benefit on a biweekly basis. The charter only provides for monthly payments currently. And again, it would just be not to increase the benefit, but to allow flexibility in making the payments when due so there would be no financial impact to moving this forward. The next item is making payments of interim disability benefits during the period that an application for service connected or occupational disability benefits is being considered for approval or a denial of the claim. We have a process in place where an individual who is missing time from work, and they filed a claim for fpdr disability benefits, they have to use their accrued leave, their accrued sick leave, during that period prior to the claim's compensability determination. What we're recommending is that we pay an interim disability benefit similar to how it's done in the worker's compensation system. If the claim is, ultimately, accepted, then we would continue to, to make the

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disability benefit payments as appropriate. If the claim is withdrawn or denied then the member would be responsible for repaying the amount of the disability payments back to the fund. We have already had communications with the staff internally, in both bureaus, as well as others who would provide support in that interface, and it is doable. There would be no significant fiscal impact. There may be a very rare situation where someone leaves city employment, and then you may have to pursue recovery of that overpayment. But, I see that as a very rare thing happening. We do have an approval rate of probably about 90% or a little more, so we're talking about a small number of cases where we would have to go through the process of recovering overpaid benefits to these individuals. The way that we make these individuals whole now is we go through a process called restoration of approved leave. It is administratively cumbersome. It involves a lot of hands to make it happen. And to have this be a part of our way of doing business, I think, would be a win-win for everyone involved in the process, including the member. This next section is just a minor change. Currently the language in this particular section, which deals with the medical and hospital expense coverage for approved service connected and occupational disability claims. It talks about occupational injuries or illnesses rather than occupational disability claims. And while it's very clear to me today that the intent was that there be this provision for people who have approved occupational disability claims, which is, a define set of diagnosis, injuries, or illnesses, if someone new comes in tomorrow, they may see it a different way, and we want to make sure that it's clear for anyone at any point going forward, that, that is an appropriate benefit for these particular claims. So, there would be, there would be no fiscal impact for this change. And finally, the recommendation is to change the eligibility requirement for a non service death benefit from ten years to five years. We believe that this would be consistent with the different agencies that we have done research with. And it normally is tied with vesting. So for example if you have someone who is a day or two away from being vest, or maybe they have already been vest, but they are involved in a non work related accident or they die of natural causes, and they are just a few days short of ten years of employment. Currently, they are not, or their survivors are not eligible for the death benefit. And we just feel that, and the board feels it would be appropriated to make that change. The estimated 25-year present value of making this change is estimated at .3 million. So, that brings us to just the summary page all of the recommendations, and the value of moving these recommendations forward. And again, what the net savings of \$46.6 million, which is, we believe, a conservative figure. So, that's the end of my presentation.

Saltzman: Ok, thank you.

Jefferson: Are there any questions?

Saltzman: Thank you. Chair Deckard welcome.

Yvonne Deckard: Good afternoon. Yes, what I can say is that the board worked on these issues for quite some time since the beginning of the, of the initial reform. We worked with the fund manager and staff to look at how to streamline some of the administrative issues that we have from bringing in new, adopting new administrative rules, but to also look at what are ways in which we can, we can streamline the fund and that would better work for the members, as well as have, hopefully, some potential cost savings, and of course, we've been discussing the fund solvency, and we have discussions to do in that arena, but certainly, where we can have some cost savings, that is desirable for the board and for, what we think is good for the members, and we think it goes towards helping out with fund solvency as we move forward. Some of these things as you noticed are -- we have added some minimum benefits. But, we have maintained some savings. We do believe that all but one of these recommendations had unanimous support from the board. The only one that did not was the, the last one from moving from a change of ten years to five years. Whereas myself and trustee delany, we thought this made some sense, but we were -- we think that, you know, we were concerned about cost and just really adding, without having some additional research. It does make sense. People are vested after five years, and in the amount of years that

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you put in, you will have a situation where someone will bump up to that, but we do agree that if there's been someone that's worked, you know, for nine years, and, or 9.5 years, you know, to say that their beneficiaries have no benefits doesn't make a lot of sense, so whereas this would be on the one that did not get unanimous support, and I was one of those that didn't, I understand, you know, why it is in the best interest of, you know, for the fund to move in that direction. I am going to hold any further comments that I have until after we may be hear from some other individuals.

Saltzman: Ok. Questions? Thank you very much. And yeah, if you could both be available to come back up and answer questions. So, as we have invited testimony from current trustee justin delaney. Do we have other trustees here? Bob lemon, you are close enough to being a current trustee, although I guess you are a former trustee now? So if you wish to come up, this would, the time. Do we have any other trustees of the board here? Ok. So justin, come on up. Bob, you are welcome to come up, too. So if you could just give us your name and who you represent on the board of trustees, I think, would be great. Justin.

Justin Delaney: Commissioner Saltzman, commissioner Fritz. Mayor Adams. I am justin delaney. I am one of the two citizen trustees on the fpdr board.

Bob Lemon: I am bob lemon, the former fire trustee.

Saltzman: Go ahead, justin.

Delaney: Commissioners, I do not have any prepared comments other than to echo what board chair deckard said. This was a long consensus building process for the most part. We had a number of stakeholder meetings, and fits and starts, and the goal from our end on the board was, to try to reach some consensus proposals that made sense to everybody. I think that we have arrived at that. Otherwise, I would be available for any questions, and I know you probably have other testimony, and I can be available to respond to that.

Lemon: I would like to say that I would disagree with the chairman, that this was a unanimous, except for the case of the non service, or the death benefit. We never heard, we never discussed what is the definition of final pay now. Its changed since our discussion. It is no longer the month proceeding its the first day of the last day of pay received. And I have never discussed that. And we never discussed that as a board. And then we also a discussion regarding the starting of the six months, but that was never settled and six months was never I don't know how came to that figure because it really has no meaning in the way that our, the fire system works. And I am sure it doesn't in the system, six months is not any significant benchmark, and so I just wanted to clarify that was not voted on, those two things were not voted on by the board. Commissioners I would concur with trustee lemon that the 6 month waiting period was not something specifically the board specifically addressed. I understand that was more recent proposal.

Saltzman: Added by me. Ok thank you both. Now we'll move to public testimony. karla who do we have.

Moore: We have three people signed up, please come on up.

Saltzman: Ok, welcome if you could just give us your name and affiliation and you'll each have three minutes. We'll start with jim forquer.

Jim Forquer: thank you commissioner. Mayor adams, commissioner fritz, commissioner Saltzman. We can spend a lot of time talking about the things that we disagree. I'd like to speak about what we all agree on. Nobody is more concerned about the solvency or long term sustainability of the fund then the people that said before you and the members that we represent. In fact we do agree with a number of proposals that have been placed before you that in some cases improve the long term sustainability of the fund. The major concern that we'd like to speak to is the failure to be given an opportunity to discuss the proposals at the bargaining table. In some cases the development of the proposals was promising but not mutual and inclusive of all major topics. The proper forum as agreed by city negotiators is collective bargaining. Our concern continues to be the lack of stakeholder input and pretending these proposals are not mandatory subjects of bargaining.

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We believe this conversation does not have to be adversarial and continues to be committed to a collaborative process that gives our members a voice at the table. Just like to close with saying that we have been through charter review many times. Each time we have been through charter review the fire unions and police unions have been at the table and we have come to conclusions that went before the voters and all due respect, commissioner Saltzman, you speak to the 80% voter approval and I strongly believe that the reason that was so popular amongst voters was because we were at the table and didn't oppose those changes when they came through. As a result of those changes, we have identified several things that we would I guess say unintended consequences is the term used, that have come up that we again are willing to sit down and talk about and identify a solution that benefits not just the members of the beneficiaries of the plan but also protects the vested interest of the taxpayer who ultimately foots the bill for the firefighters and police officers that serve the city. Thank you.

Bryan Parman, President, Portland Police Commanding Officers Association: Good evening. I'm the president of the Portland police commanding officers association. I don't have any prepared comments. I just wanted to support the two other labor associations. And to let you know the ppcoa is committed to working with the city to resolve these issues but we do believe that conversations that impact the benefits of the membership are best held at the bargaining table. Thank you very much.

Daryl Turner, President, Portland Police Association: Commissioner Fritz, commissioner Saltzman, mayor Adams, i'm daryl turner, Portland police association president. Again I echo the sentiments of my labor union partners. A lot of these are subjects of bargaining and that's where they should be talked about, at the bargaining table. From the beginning we stated that and we asserted that to the fpdr committee, we still assert that. I would hope that that's where we have those conversations, and that they are collaborative. We also want to protect the solvency of this fund but we also want to make sure that we are not coming back in six years or four years and redoing what we're doing now. Thank you.

Saltzman: Thank you all. Is that it for -- anybody else wish to testify? Okay, well, then, we will close the hearing and move to the vote.

Fritz: I would like to hear a response from the h.r. Director on concerns whether this is subject to mandatory bargaining.

Saltzman: Okay. Board of trustee chair deckard and our human resource director anna Kanwit.

Anna Kanwit, Director, Bureau of Human Resources: Like old home week. [laughter] I appreciate that. Anna kanwit, bhr. You want me to address the comments that were made? It's fine. I think the position of the city has been that the portions of the fpdr plan, how that's configured in the charter, is up to the voters to make that decision on. That has been our position on both issues.

Fritz: Has that been tested on previous occasions?

Kanwit: Well, there have been some issues through the grievance process. Yes. There have been -- there's ongoing dispute over what is mandatory subject of bargaining, which pieces fall within the charter and are up to the voters to determine. Yvonne can speak to that with labor and communications that happened in from the board and labor on those issues.

Fritz: This is a question for commissioner Saltzman. If this is challenged in the courts and parts are found to be subject to mandatory bargaining do the other parts go into effect or just the whole thing fall apart?

Saltzman: I think I would direct that to our attorney. Is there severability?

Deckard: That's a question that can -- should address. What the board is clear on is that our fiduciary responsibility as the board is to really look at the fiduciaries of the fund. We don't bargain with labor. We have no bargaining authority for the fund with labor. Our position is that we work collaboratively or try to, but it's really to really manage the fiduciaries of the funds. We see this

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board as previous boards in the past felt that the board and fpdr is a separate entity, and so what I can tell you is that currently, I guess anna can tell me if i'm correct, there isn't anything in any of the labor agreements that talk about frd&r, and there is isn't anything in the chart that gives the board the authority to bargain with labor. It's the board's duty to really set when someone is a member just as the pers board decides when someone becomes a member. So the board is making recommendations as fiduciaries of the funds, not as the bargaining agent of the city.

Fritz: Right. It seems to me you have done due diligence on being fair and providing benefits so parts of this packet that provide more cost to the system and benefit to the beneficiaries as well as the ones that provide cost savings. So what i'm wondering is would the benefits -- maybe this is a question for the attorney.

Saltzman: I think the question is, should these amendments be approved by voters or this amendment, and a provision is challenged in court and struck down to the other provisions of the amendment remain --

Ken McGair, Deputy City Attorney, Office of the City Attorney: Good evening, Ken McGair. I'm from the city attorney's office. What I understand the question to be is if a grievance is filed under the collective bargaining agreement, my answer would be that we're dealing under the collective bargaining agreement and therefore that provision would likely be severable from the whole of the charter reform. So it doesn't sound like a court case that would involve the legality of the actual ballot measure but rather a grievance under the collective bargaining agreement. We have had those ongoing now as anna mentioned for a couple of years. So I think it would be severable.

Fritz: Thank you.

Saltzman: Thank you all. Let's move to the vote.

Fritz: Commissioner Saltzman, I very much appreciate your ongoing attention to this issue its obviously a concern to all taxpayers and beneficiaries that this program provide the benefits promised to our firefighters and police officers who every day put their lives in harm's way. When injured on the job or with death benefits deserve proper compensation. It seems to me this package is further delving into what you have done in the past with previous charter amendments in making sure that we do reflect the responsibilities to all parties. So i'm pleased to vote aye.

Adams: I honor the work of our police and fire partners. We have been aggressive during my time as an elected official with the leadership of commissioner Saltzman to make sure that we are continuously improving this program, and that it remains financially sound. I think that while we might have -- there might be concerns about process, I have not heard a compounding reason not to move this forward for the voters to consider. So i'm pleased to do that today. Aye.

Saltzman: As I said in the introduction, I think this amendment does respect the commitment to our provide fair and reasonable retirement and disability benefits to our police officers and our firefighters. And at the same time being accountable to Portland taxpayers and also keeping in mind that we enacted major reforms in 2006 to address fund solvency. Those amendments take time to work their way through the system as it takes those amendments took effect in 2007 so there's still a lot of people out there covered under our pension fund that have yet to be retired. So it will take time for those benefits to work their way through the system. I think these amendments move in the direction of addressing fund solvency but also being fair and accountable to our city employees. I would like to thank the members of the board of trustees, chair deckard, justin delaney, david dougherty, geff nelson and former trustee jeffrey robertrson and bob lemon for their work and I would like to thank linda jefferson and the entire staff of the fpd&r for their service and shannon callahan from my office for service throughout starting in the 2006 process. I'm pleased to give the voters a chance to consider this amendment. I'm pleased to vote aye. With that we stand adjourned I believe until wednesday, august 22nd. Our next meeting, august 22nd. We're adjourned.

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At 5:43 p.m., Council adjourned.