FIRE AND POLICE DISABILITY AND RETIREMENT BOARD OF TRUSTEES MEETING	MINUTES

This meeting was held remotely via a Zoom webinar platform.

Date and Time: November 14, 2023, at 1:00 p.m.; Meeting adjourned at 3:20 p.m.

Board Members Present:

Catherine MacLeod (Board Chair); Kyle MacLowry (Fire Trustee); Tom Kramer (Citizen Trustee)

Also Present:

Sam Hutchison (FPDR Director); Stacy Jones (FPDR Deputy Director/Finance Manager); Kimberly Mitchell (FPDR Claims Manager); Julie Crisp (FPDR Business Systems Analyst); Julie Hall (FPDR Legal Assistant); Franco A. Lucchin (Sr. Deputy City Attorney); Lorne Dauenhauer (Outside Legal Counsel); Keith Simovic (Moss Adams); Alise Horsley (Moss Adams); Minh Dan Vuong (City of Portland Auditor); Don Porth (President, Retired Firefighters and Widows Association); OpenSignal PDX

Motions Made and Approved:

- Motion by Trustee MacLowry that was seconded by Trustee Kramer and unanimously passed (3-0) to approve the September 26, 2023 minutes.

A text file produced through the closed captioning process for the live broadcast of this board meeting is attached and should be considered a verbatim transcript.

Fire and Police Disability and Retirement

By______________________________

Sam Hutchison
FPDR Director

CLOSED CAPTIONING FILE

[Captioner on standby]

Chair MacLeod: And good afternoon, everybody. Welcome to our November 14, 2023, meeting of the Board of Trustees for the Fire and Police Disability and Retirement Fund. I think we start off by approval of minutes. The last meeting was September 26th. Were there any comments about the prior minutes? All right then, hearing none, does someone want to make a motion to approve those minutes?

Trustee MacLowry: I'll make a motion to approve.

Trustee Kramer: Second.

Chair MacLeod: All right. All in favor say aye. Aye.

Trustee MacLowry: Aye.

Trustee Kramer: Aye

Chair MacLeod: All right. Opposed? All right, prior minutes have been approved. Thank you very much. Should we take a minute to introduce any visitors online here? Julie or Sam, do you know of anybody here?

Julie Hall: Yes, definitely. Today we're going to have Keith Simovic and I think Alise Horsley is also going to be here from Moss Adams talking about the annual audit.

Stacy Jones: But I can introduce them as part of that item as well.

Chair MacLeod: Perfect. Thank you very much. Then let's proceed to our action items, which are brief, being none. So, let's go on to the information items, and I think the first one is the annual audit property from Moss Adams. Stacy, I'll turn it over to you.

INFORMATION ITEM NO. ONE – AUDITOR'S ANNUAL REPORT PRESENTED BY MOSS ADAMS

Stacy Jones: Thank you, Chair MacLeod. Am I the first person to call you that? Well, maybe not ever, but in this context. Congratulations. So, I, for the record, am Stacy Jones. I'm the Deputy Director and also the Finance and Pension Manager, and I'm here today to introduce our external financial auditors who are going to present to the Board as our governing body their findings on our annual financial audit. So, I want to introduce or reintroduce for those of who have met him before, Keith Simovic, who's waving at you right now, he's the lead partner at Moss Adams for our audit engagement, and Keith has been involved in FPDR's annual audit for many years - first as a manager, then as senior manager, and now he is the engagement partner. So, we're really lucky to have that kind of continuity at the leadership level, I don't think that's common in a financial auditor. And I'd also like to introduce Alise Horsley who is here with us as well. Alise is an Audit Manager with Moss Adams and part of the FPDR audit team for a couple years now as well. Anyway, they come every year to the Board. For Trustee Kramer, since this is your first time, they have audited our financial statements for the year beginning July 1, 2022, and ending June 30, 2023, and we have now published our statements with their audit opinion, and they have come to present their opinion and findings to the board. I'll turn it over to you, Keith.

Keith Simovic: Perfect, thanks for that introduction, Stacy. Thank you, Chair MacLeod and other fellow trustees for being here and having us here today to present the results of the June 30, 2023 financial statement audit for FPDR. I'm going to go ahead and share my screen, if I can. We've got a presentation that we're going to walk through with you, although it looks like I cannot share my screen.

Julie Hall: One moment.

Keith Simovic: Okay, while we're working through that, overall, I guess good news overall that you always want to hear that the audit is complete at this point. So, everything is kind of on time and kind of in line with the initial time frame that we had laid out in the planning process. And I really appreciated the team at FPDR for hosting us on-site again this year. It seems almost a little bit rare these days now that we're coming out of the pandemic that we get to say that, as some of our clients are still just having us be remote. A lot of them, though, are kind of ending up in this hybrid format where we're able to spend some time on-site face-to-face kind of like in the good old days prior to the world getting turned upside down. Really appreciated the whole team there, Sam, Stacy, Asha that we worked with very closely in this process as well, hosting us on-site and being able to spend a few of those days right there face-to-face working through our audit procedures, which we think is very, very valuable in this process. We appreciate that. Looks like I should be able to share my screen at this point. Let me see if I can pull this up. All right, is this popping up for everyone?

Julie Hall: Yes.

Keith Simovic: Perfect. Okay. I'll go ahead and move forward here. Just a quick recap, this is kind of the core group of our team, not everyone. We had other staff involved as well, but this is the core group of our team. You heard the introduction for me, thank you, Stacy. And then of Alise as well who you'll get a chance to hear from a little bit, and one update there, she is now an audit senior manager, so a promotion since last year. Very excited to be working with her and in that capacity and here it still says audit manager, so I wanted to throw that out there. Lori Tish as you see on here, she's our concurring reviewer. That's a quality control review. It's a very important piece of our audit process that is not required by professional standards but something that our firm definitely requires and values, just having kind of that outside, what we consider kind of a cold reviewer, someone that's not really involved with the engagement, they're not on-site with the team, with the client at all. They're not working with, you know, Stacy or Sam, or anyone over at FPDR. They're really intended to come in and making sure that we're doing our risk assessment appropriately, that we're following through on all of our procedures that we stated we were going to do in the planning process, that we’re following all of our professional standards and of course they’re reviewing those final deliverables, that set of financial statements and our audit reports, making sure those are appropriate and in line with the governmental accounting standards and that our audit reports reflect the results that we had in our audit file as well, so a very key position. Lori is a partner as well and she actually leads our firm's government services practice. So, a very, very experienced partner that we're excited to have back serving in that role again this year. Then Allen Soutavong, a returning person on the engagement. He was on staff last year and now he's an audit senior, so he got promoted as well and got to be more of an in-charge-type role leading the rest of our staff during our field work. Excited to have him back and a familiar face this year. That's the core group of our team.

A quick recap of what you can expect to receive out of this process when you hire an independent auditor to come in and do an annual financial statement audit, what can you expect to receive in this case. So, a couple of items to note there, one being we issue the independent auditor's report on the fairness and accuracy of FPDR's financial statements. And so that's probably the report you're most familiar with, and that involves us going through, doing our initial risk assessment, looking at the ending activities and balances that are reported, the disclosures, and doing our detail testing back to any contracts, agreements, all the participant information, census file information, actuarial reports, all the substantive documentation to ensure at the end of the day that those financial statements that we have our audit report attached to is a fair and accurate representation of the books and records of the organization of those retirement funds at the end of the year. There's all that detail testing that we have to go through to get to a point where we can offer that opinion on the financial statements. And then Box 2 is kind of related to that service as well, it's not an additional deliverable, but we also have to go through and look at that final document and make sure it's in the right presentation and format and has all of the various disclosures that are required by the governmental accounting standards that FPDR has to follow. So, there's that technical review, just making sure everything in there, should be in there and that you included all the various disclosures that would be required by the GASB. Another important reason for that as well, that information all gets included in the City of Portland's financial report as well. So, their annual comprehensive financial report that they submit to a third party, the GFOA, Government Finance Officers Association, to be able to receive an award for excellence in finance reporting, so there's a number of things they have to follow through on, and of course having all the accurate information and disclosures from FPDR is a big piece of that. So that technical review is really important in that process too.

Box 3, additional reports on internal control over the finance reporting compliance in accordance with government auditing standards. We have to follow government auditing standards whenever we're doing an audit of a governmental entity, and so that report is included as well. And then finally our communication to those charged with governance, it’s an additional letter that we issue as part of every audit that we do, that gives you as the governing body additional information and insights as to how did the audit go. You get that audit report that's attached to your financial statement. It tells you at the end of the day did we give a clean audit report or not, but it doesn't give you the insights into well, what did you encounter along the way? Did you have any difficulties performing the audit? Were there any errors that were noted and corrected in this final set of financial statements that were material? Do you have any recommendations in terms of internal control deficiencies that were identified, if there were? Do you have any material weaknesses in internal controls? Were there new accounting standards that were adopted that would impact the look and feel of your financial statements this year? All of those things are kind of the items covered in that additional communication which we'll go through those here briefly. All right.

High level in terms of the items that we noted within our final reports, this is the important thing that you want to hear out of this process, right. Going through this audit process, you know, any third party that takes a look at this set of financial statements, they want to know, one, did the organization have a financial statement audit performed by an independent auditor, and what was the overall opinion? Did you receive a clean opinion, which is very, very important, right? Gives you more credibility into the accuracy and the fairness of the presentation of your financial statements and the books and records of the organization, right. So, at the end of the day, you'll see in our audit report that we give a clean or unmodified, in our audit speak, opinion on the financial statements and that we didn't have any significant deficiencies or material weaknesses noted. We also want to bring that up and highlight it. Those are the red flag types of items or language that we could use in our audit reports that really brings your attention or highlights more significant issues that could be encountered during this process. We always want to let you know up front, were there any items that kind of rose to the level of what we would call a significant deficiency or a material weakness in internal controls, and we did not in the current year. So, reviewing the internal controls are a big piece of this process. We want to understand the underlying processes, who's involved, what are the checks and balances in place and potentially where could something go wrong. We want to be sitting with your staff and asking the questions of what if someone wanted to do it this way, could that happen? Would that flag you in the system or would someone take a look at that in your current review process. It's a big piece of what we're doing, and if there's anything kind of missing along the way in that process in terms of how the financial statements are put together, and the books and records overall, those are the items that potentially could rise to this level. But we didn't have anything to that degree. Very, very good news there. I would imagine you'd come to expect that over the years with a good system of internal controls and we continue to look at those each and every year.

All right, I'm going to turn it over to Alise, you get to hear from her for a little bit here. She's going to go through our required communications. I mentioned that communication to those charged with governance. This is kind of the highlights of those items that we want to always kind of bring forward. I don't think we can hear you, Alise. I don't think I can hear you. Well, while she's work through that, I can kind of kick things off here.

Keith Simovic: Oh, yeah, you're good now.

Stacy Jones: Yep, we can hear you now.

Alise Horsley: Okay. Now I can't hear you all.

Stacy Jones: Oh, no, well we can hear you loud and clear, but you can't hear us.

Alise Horsley: There we go, now I can hear you. Can you hear me still?

Stacy Jones: Yes.

Alise Horsley: Oh, love technology for all the good things. Sorry about that. So, like Keith said, I'm going to go over the required communications, some of the things that we have to communicate to you. Some of them are explicit and some of them are just extra notes. So, the first one, like he said, our planned scope for the audit and our timing for the audit, it's what we'd set forth in our engagement letter, what we plan do and what the timing on that was. If there were any changes to that, we would mention that here, but there were none. We did all the work that we needed to do in the timing that we planned. Like Keith said, you have a very good team, you guys are very prepared and great to work with. No changes in timing, it kind of matches with the bottom of this worksheet. No disagreements with management and no difficulties in performing the audit. Even though we didn't have any difficulties or disagreements, we have to explicitly say, that's the required communication, if we had any difficulties performing the audit or disagreements with management. We did not have any.

And then I just kind of want to bring to attention, we had a new GASB 96 accounting standard to implement this year, it was subscription-based IT arrangements. I don't know if you remember last year, we had GASB 87, which is the lease standard. It's similar to that but it has to do more with the subscription-based IT arrangements. So, if the organization had any leases in that sort of way, they would have an asset and a liability in their books. But as noted, there's no impact to the organization this year. And then another required communication, if we had any audit adjustments, and we did not have any. And then any audit observations or recommendations that we had, like Keith said on the previous slide, no material weaknesses noted, no audit recommendations, so like I said, great team. Great controls. So, nothing to note there.

Keith Simovic: Thanks, Alise. I was going to add a couple things on top of that. One, just on the no difficulties in performing the audit. I think it's always important to note kind of sitting as kind of an oversight body, you know, everything that we requested during the audit we received. Our team was able to get all the different pieces of documentation, and there's a lot of things that we request. I know Stacy and her team can attest to that definitely. But there's a lot that we request, and all of it has a reason based on our professional standards and our audit approach and everything. And it's really important that we're able to get all of our questions answered and all of those items provided so that we don't have any limitation on the scope of our audit procedures. We need to be able to perform our audit procedures and kind of in line with our risk assessment and our planned audit approach and what our professional standards require us do as well. It's important to note we did get all that documentation that we asked for. We got responses to all the questions that we asked, and typically those are FPDR and staff, they have been very timely at providing those items. There were no limitations on the scope of our audit procedures, so I think that's important to note.

Going back really quick to the accounting policies, that new GASB standard. I don't want to go into too much more detail on what that standard is, but it's one that a lot of the organizations and governmental entities that we work with, spent a lot of time having to evaluate that and did have impacts from it. The City of Portland as a whole had to do this as well. This is something we know the organization spent a lot of time evaluating this saying is there any impact to the city is as a whole and FPDR in this case? And there was no impact overall. This again has to do with any types of IT arrangements where you've got a contract to, basically, use the software but the city doesn't own the software. So, you're making payment over a period of time, kind of like a lease for a software that you don't actually own. That's what this one's getting at. No impact to FPDR. Of course, the city as a whole does.

And in terms of audit adjustments, not having any of that means as we're going through and doing our testing, our opinion at the end of the day says, do we believe the financial statements are free of material misstatement or not? So that term material is very important, that's what drives what could be, what we would call out as an audit adjustment or not. That's a threshold that we set each and every year, and it drives the testing that we're doing, how large our sample sizes need to be, but also what do we call out as a material audit adjustment. So, as we're going through in our testing, we didn't find any material errors where something wasn't recorded in line with the accounting standards or that was recorded in the wrong amount or in the wrong period or incorrect information that we were looking at in the census was sent off to the actuary to kind of drive the final evaluation results. Nothing from that perspective that popped out that was a material error that we noted. I think that shows you that you've got very good controls in place, and we know as we're getting this information those controls are working, right. They're vetting out any potential issues before we see the information. So, there's really kind of a system of controls in place and almost like an internal audit function going on before it's coming to us, which is very important.

Chair MacLeod: Hi, this is Cathy, Trustee MacLeod. I did have one question about materiality. Is that determination in the threshold for materiality, I'm glad the answer is none, but just for the threshold, is that based on FPDR liability only or are you considering also within the scope of the City of Portland as well?

Keith Simovic: No, yeah just because we're issuing an audit just for FPDR, we have to set our thresholds based on FPDR numbers only. So, materiality's always set off of some percentage of a driver, you know, a certain number on your financial statement. Sometimes that could be depending on the organization and whatnot, that could be the assets, the liabilities, your revenues or expenditures. So, typically we're looking at expenditures in this case and basing it off a percentage of that. That can change from year to year, we sit down as a team and we want to be looking at our risk assessment process independently each and every year making sure we're able to say hey, did the risk change at all this year, right? Should we have that percentage that we're using of that driver be a little bit lower so that our testing thresholds and scopes are smaller, or excuse me, our thresholds are smaller but our samples are larger. So that's something we talk about each and every year, what's changed, where does the risk lie this year.

Chair MacLeod: Okay, thank you.

Keith Simovic: Very good question. Real quick, I don't want to go too in-depth with the new accounting announcements, but we always like to let governing bodies know what's going to be changing in the future years for financial recording for all of our organizations that we work with, just to give you a kind of feel for that. I think the good news here is that I think this is the first time in quite some time that I've been able to tell all the governing bodies I've been working with I think it's going to be a quiet couple next few years in terms of the governmental accounting standards that are out there. This one that we just mentioned with GASB 96 and the IT arrangements, that was a big one. Even when there isn't a material impact, it takes a lot of time to evaluate all of your different contracts and seeing if they meet any of the criteria in the standard that would trigger you to change the assets and liabilities in your financial statements and what you're currently recording and disclosing. That was a big one, the lease standard was a big one of course, back when GASB 68, the pension standard got released, that was a huge one, it definitely had an impact. I feel like it's been quite some time since we've had some quiet years from the GASB, it looks like we have that now. So real quick, GASB 100, this one is that's just clarifying when you have any changes in your accounting policies or if you found an error in a previously finalized financial statement, this tells how you to report that out. How far back do you need to adjust information in your financial reports and how do you disclose those. It's giving you an idea and making sure it's consistent across the board and the different entities out there. But gives you an idea of what needs to be disclosed in those cases and how far back do you need to go if you had an error correction. Nothing that will have any impact, unless you run into any of these things in the future. So, no impact that your staff will have to work through in the next period.

GASB 101, this one is being evaluated by the city as a whole as well. It's related to compensated absences, which have been recorded in the past, that's not a new concept of actually recording those and accruing for those on your financial statements. But what's changing with this one a little bit is kind of clarifying what types of compensated absences need to be recorded. When you think about the benefit packages that are out there for your staff, you know, other than just vacation time, sick time, if you've got parental leave, I mean, all these different things potentially that are out there that, you know, a lot of times we've been focused on paid time off or vacation and sick leave, but not some of these other things, bereavement leave, different things like that. It clarifies when those things need to be recorded and accrued for. I wouldn't expect it to have a material impact overall to FPDR, but something that will need to be evaluated going forward but shouldn't be nearly the same level of time and effort that went in the GASB 96 standard, or the GASB 87 lease standard.

Stacy Jones: For us, just so the Board knows, I expect our biggest impact will actually be the PERS contribution liability that we will need to book on any additional compensated absence liability for FPDR 3 police and fire members. I hope that's not too convoluted for everyone. You know, for our own employees it shouldn't be significant, it will be more significant for sort of that ripple down effect for future PERS contributions on compensated absences for those folks.

Keith Simovic: Thank you, Stacy.

Trustee Kramer: This is Tom Kramer. May I ask you a question?

Keith Simovic: Of course.

Trustee Kramer: And I'm sorry if you covered this already. In the effective dates for these new standards, forgive my ignorance, but for example GASB 100, is that effective for the fiscal year beginning in 2024 or ending in 2024?

Keith Simovic: Ending, great question.

Trustee Kramer: So next year?

Keith Simovic: Next year for that first one, but again I don't expect that first one to really have any impact whatsoever. It's really just if you're changing the accounting principles you're using in any case, and a lot of times that's only driven by when there's a new accounting standard adopted, right. So, there's not really anything I think that's coming out or that would have a big impact there. I don't anticipate any error corrections, but this shouldn't have an impact for anything for next year. Great question, though, definitely. We'll have to change that for next year to say at the end of the fiscal year.

Okay, I think that's everything in terms of the new accounting standards. Didn't want to spend too much time on that, just to give you a little heads-up and let you know, you really shouldn't see a whole lot of big changes. Other than that, just again, thank you for everything in this process. I think we've kind of already went through a lot of these items and made comments to this degree. But just that last item, though, tone at the top, very positive overall and we can tell that the right tone is set, that starts from the top on down and filters down into your internal controls. That's a very big piece of kind of our analysis and risk assessment and everything is, what is that tone of the organization and is there that focus on ethics and doing the right thing and having a good set of internal controls. And one way we kind of can evaluate this too is whenever we've had recommendations in the past, and we've had them from time to time, you know, when we've had recommendations, are those addressed or are those hanging out there for multiple years and potentially growing to a bigger issue, right. And our experience has been FPDR staff have typically taken those to heart, made updates as necessary, and we're not finding any of our recommendations that are repeating year after year or growing into bigger issues, right? They're being addressed up front, which is very good news and what you'd come to expect, and that helps in terms of your internal control environment and tone at the top. So definitely nice to see that. Appreciate all the efforts that everyone put into this. Any other questions that we can help answer at this point? All right.

Chair MacLeod: It sounds like, I will add my appreciation for the report. It was very easy to follow. I appreciated the discussion up front about the highlights and the analysis of what happened, particularly because this went from a year where it wasn't a roll forward actuarial report and the new one on which this was based was based on a new valuation, so I appreciated the time spent to explain why those differences were maybe more pronounced than in the prior year. So that's helpful. Any other comments about the report?

Stacy Jones: Chair McLeod, I do just want to send one more thank you to Keith and Alise and the whole team at Moss Adams, for their partnership and guidance, not just in auditing our financial statements which is when you hear from them, but also for the ongoing relationship we have with them throughout the year when questions and concerns come up. It's a relationship of oversight and investigation on their part, as it needs to be, but they have guidance and expertise that we can rely on throughout the year and I value that as a financial manager. Having been in a central oversight role in the past, I think it's so critical to have that independent outside look, and I appreciate that Keith has been willing to engage with us on the tricky stuff and that hopefully that openness also, you know, feeds their understanding that we are being open with everything. And the last thing is that I just want to thank Asha Bellduboset who is our lead financial analyst that the Board doesn't get to see very much because she really leads this entire audit process, and also Svetlana and all the staff who end up being involved in this one way or another. And also, Sam and Chair McLeod who get drug in for fraud interviews and that sort of thing. So, thank you very much to everybody.

Chair McLeod: Thank you, yeah. A lot of time and effort clearly put in to pulling this together. So, thank you very much.

Trustee Kramer: Chair McLeod, may I ask a basic question about the audit report?

Chair McLeod: Absolutely.

Trustee Kramer: The section, I think it begins with management's discussion and analysis. I have a question and a comment. The question is just basic, and that is, is that written by management and edited by the external auditors?

Stacy Jones: It is written by me and reviewed by Asha and reviewed by central accounting over at the Office of Management and Finance, and then also reviewed by Moss Adams, although Keith you might want to speak to the level of review that goes into the MD&A.

Keith Simovic: Yeah, sure. So yes, those always, you know, with any of the clients that we work with, that MD&A section is required by governmental accounting standards. So, management has to put that together and give you extra context as to why did this balance on the balance sheet go up or down or what's causing this, you know, just that underlying context to some of the numbers. And so for us, our audit report, you'll see there's a section that talks about required supplementary information, the MD&A's considered required supplementary information because GASB requires it, but our audit report doesn't cover it. We have to read through it and make sure the different numbers in there tie back to the main financial statements, but just the commentary and things like that, our opinion doesn't cover that. But that's data, that's not unique to FPDR's financial statements, that's what our audit standards require that we can't give an opinion over the MD&A. But we definitely read through it, proofread it, make sure everything kind of jives with what we learned during the audit and if all the numbers kind of tie back to the actual balance sheet income statement that we're looking at.

Trustee Kramer: All right. My comment is especially for me as a new trustee. I thought it was very helpful, thorough, and very well written. I was very glad to have it.

Stacy Jones: Thank you. I'm excited to hear that people read it, let alone that they find it helpful. I used to say to Keith, I'm worried you're the only one who reads - Or no, no one reads it. And Keith said, I read it. And I said, but I pay you to read it, it's not the same thing.

Chair MacLeod: Thank you for that clarification on that, Keith. Appreciate that. Any other questions or comments about the audit report? All right. We don't have to take any action about it, so I'll just add my thanks to Stacy's.

Keith Simovic: Thank you, everyone. Appreciate your time.

Chair MacLeod: All right. Take care.

Director Hutchison: Take care.

INFORMATION ITEM NO. 2 – EQUAL TO OR BETTER THAN (ETOB) TEST FOLLOW-UP DISCUSSION

Chair MacLeod: Okay, next up is a discussion, a follow-up discussion from our May meeting on the equal to or better than, the ETOB test, performed by the actuary in accordance with the prescribed requirements. This is, I'm assuming, going to involve quite a bit of discussion. I'm not certain where I want to start on this. Trustee MacLowry, you had reached out to a couple of the experts on this and communicated back and forth and shared with us questions and answers from Jake Winship at PERS, and I think Aeron, I don't know how to pronounce this last name, Riordon at Independent Actuaries.

Trustee MacLowry: Correct.

Chair MacLeod: And this provided some additional background about the number of safety employers, public employers not in PERS that were subject to this test that included safety employees. So, I was able to verify with Sam recently that only those with safety employees were involved in this analysis. So, we don't need to concern ourselves with any other employers that don't have any safety employers, employees. Maybe I'll turn it over to you, Trustee MacLowry, to speak first and we can perhaps get some perspective from Sam on this and just open it up for discussion.

Trustee MacLowry: Sure, thank you for the introduction. I think I'd like to start with just that background, just in the email that I sent recently, just for everyone listening, that refers back to the May meeting, which was a quote from Jake Winship from PERS. He said towards the end of the meeting "if board members or the board as a whole feels it's appropriate to amend the procedures and the rules governing the ETOB process, I would recommend submitting a letter to that effect with any proposals to the PERS board and our staff will forward and incorporate that into the regular procedures of our board alterations. If there are concerns expressed by the board, I perceive that it would receive some due weight and PERS would direct agency staff to make appropriate amendments to reflect these concerns". He follows up a little bit later, on the next page, talking that "there are currently nine police and fire plans that are exempt from PERS participation. So obviously, that is a small universe and Portland FPDR is the largest of those plans. Certainly concerns, especially as a board, that would be identified and addressed to the PERS board and/or the Secretary of State would be taken seriously and considered but I have no guarantee they would be adopted. But they would certainly be reviewed and given appropriate consideration". So, I sort of felt like that was his way of opening the door to us to consider some other options. And as I sort of ruminated on that for a while, I had some follow-up questions that I sent to him, and he brought Aeron, Mr. Riordon, into the conversation.

But basically, I asked him three questions. The first was, there are nine Oregon public employers that qualify for exemption from PERS. Of those nine, five did not pass the first stage of the ETOB test. Are you able to offer any general information that explains what led to the failure of these agencies? So, his answer to that was that five of the nine public employers did not satisfy the first round. And I would not necessarily categorize this as failing the first round, rather the plan characteristics did not facilitate a side-by-side comparison. It still required more detailed analysis for determination. Four of the five plans did not use defined benefit structure that can be directly compared with PERS. Three of them are defined contribution, City of The Dalles, Union County and Wheeler County, while City of Springfield uses cash balance design. None of these were assessed for the first-round comparison as the method is not applicable for designs other than defined benefit. The fifth plan, City of Seaside, was assessed using this method, but since the percentage of participants compensation, which is considered in the calculation of the benefit is less than that for PERS, a full assessment is required, so they had to go to the second stage. So, the other two real quick. I asked him, of the other eight agencies, how many are enrolled with social security? The answer is, they are confirmed six of the eight are enrolled with Social Security and the other two they're just not sure. And the last question was, can you tell me how many of the other eight agencies also provided a defined contribution element to their employees' pension benefit. And so, all of them to do. The following entities, I take that back, except for the city of

Springfield, the following entities make employer contributions as specified. City of Forest Grove is 6 % to 7%. Springfield is none and they're the one that do the cash balance system, which I'm not as familiar with, I sort of looked it up a little bit, I understand it's a sort of combination of a defined contribution and a defined benefit structure. The city of The Dalles, which only does a defined contribution, is at 16.6%, Selma county 6% to 7%, Union County, 10.8% or 15.1%, plus additional 6% deemed employer pickup, so that's a 16% or 21% pickup employer benefit, Luther County is 20%, and that was the third one that is also just a defined contribution method, Morrow County 6% and the City of Seaside is 7%.

That's essentially the first interaction I had. I did follow up with him about what do they do when they're doing this test? And when for instance the city just has a defined contribution plan and essentially for those plans, this is Mr. Riordon, if I'm pronouncing that correctly, response. The plan does not allow a side-by-side comparison but for a plan with a side-by-side comparison is inconclusive, we perform an actuarial evaluation of the plan features required to be considered. The results are compared to a similar actuarial evaluation of Oregon PERS. All this is to say to give background that if we're just doing, and I made some mention of this at the May meeting, if we're just comparing the defined benefit portions, this test is useless. There's no reason to do the test. It's a 2.8 multiplier for FPDR, a 2% multiplier for PERS. As we know, you've heard analogies of a single leg stool versus a three-legged stool. Many of the agencies around that are involved in Social Security, they have the Social Security, they have their IAP or their defined contribution as well as the defined benefit. So, they have the three-legged stool. It's my feeling, and I would like to discuss it with more with people with more experience and expertise in this, that if there is perhaps a door open to us to petition, whether it's the Secretary of State or the PERS board, to include the Tier 2 IAP into the valuation, that would be a much more appropriate valuation for an equal to or better test. That is a significant part of the PERS Tier 2 benefit, pension benefit. So, if you want to compare these two, that's sort of where my point of view is at this point.

That's kind of what I really wanted to open this discussion. I hope that all makes sense. I know I sort of ran through a bunch of numbers quickly there. I can revisit anything as needed, but I do believe Sam probably has something to add to how this would be achieved through the city structure. But at least conceptually, I'm curious if other trustees are of the same mind that this may be an opportunity to, perhaps, increase the scope of the ETOB test. And it's a very important test, from my point of view, and probably the last time it's going to be very significant as the number of Tier 2 members fall off. That's where I'll leave my initial foray.

Director Hutchison: The next test is scheduled for 2034, so we're looking at about 11 more years from now to make this change happen. Is that what you're doing, or would you be proposing that this test be rerun, change the rules to include this and then have the tests rerun before the 12 years? What's the sequence? So, what are you looking to do? What's the sequence of events that you would like to see happen?

Trustee MacLowry: I would like to see the example, the letter being written that is petitioning a change and having the test rerun, not waiting 12 years.

Director Hutchison: So, you're going to ask for - if you're going to have the test rerun, you have to change the rules as to how the test is done. You have to change the actual evaluation process as described in the administrative rules. You also want them to change the administrative rule to run these tests before then. The thing that, PERS has not run an out of cycle evaluation for quite a while, and they are not prone to run out of cycle valuations unless they can show there's a big issue with the plan that has changed since then that would force, be beneficial to redo. So, part of it is, if you're trying to do this specifically for FPDR and have special rules just for FPDR, or you're changing and want to look at the rules for all the groups, and then you have to convince the other groups yeah, we want to be reevaluated on a different one. I think if they've gone through and passed, are they really going to want to have an interim one before 2034 to evaluate it? I'm looking at what your plan is to do. Are you asking for a special new evaluation just for FPDR using rules just for FPDR, or do you want all the rules changed?

Trustee MacLowry: As I understand it, the rules that are currently governing are part statute, and are part administrative rules for PERS, it would be adjusting those to the specifications that we are talking about. I'm not interested in retesting for other jurisdictions. I mean, my fiduciary duty of loyalty is to the members and the beneficiaries of FPDR. Whether that would require at this state for them to do all nine jurisdictions, I don't know. My interest is specifically for FPDR. I have through local 43 gotten a list of the other local leaders, union leaders for those agencies to reach out to them to get their thoughts on this. I have not made contact yet.

Director Hutchison: Can you keep that last thought of reaching out to other people, because that's something we'll probably need to talk about here in a little bit, just so there's a process for that.

Trustee MacLowry: Sure.

Director Hutchison: But the idea is if you're looking to change the administrative rules, those rules will apply to all groups.

Trustee MacLowry: Correct.

Director Hutchison: They, you know, if you say we're going to, if we want to run it every six years and so in six years it's going to apply to all groups. I don't know, you could try to request and say hey, we'd like you to rerun it for FPDR under these new conditions, but then again, would that carry any weight because if they don't match the rules. So, I'm looking at you'd have to, because I don't think, because I've talked to them before. They are not interested in running out of cycle testing unless there's really a need to a significant plan design change that would prompt it. They don't want to do special requests for special groups. This is for PERS in general across all of PERS and includes ETOB. What I try and present here is if you wanted them to rerun the test for FPDR, they have to change the rules and it would probably force a rerun of the test for everybody else. I don't see how you can convince them to change the rules just for FPDR and leave the other out. I'm not certain. You can ask them to do that, but I don't think it's realistic for that to happen.

Chair MacLeod: Sam, thank you for that perspective. Trustee MacLowry, can we, let's maybe step back and think about what's driving this. It strikes me that there's, you know, concern that in reality, FPDR benefits are not comparable to, you know, for Tier 2, are not greater than or equal to, I mean, which is the purpose of this test, in your mind or in members' minds. So, if the goal is maybe to address that perceived, you know, or that perspective, could we not pursue this a little bit farther without at this point worrying about performing an actual test that might affect everybody, etc.? What could we talk about or get out on the table that would enable us to draw some conclusions that we think might be a more fair or equitable conclusion? And then if it seems warranted, pursue a test change itself. Do you understand what I'm getting at?

Trustee MacLowry: I think I do. And to your first question, I think you asked what the motivation is or what the perceived problem is. I think that the problem is that we don't know what the valuation of PERS would be in relation to FPDR 2 without including the full benefit of the PERS Tier 2 benefit. I'm not saying there's a perceived feeling in the membership that the test is wrong or that it's not being valued correctly. The problem is, we don't know. And I think that it is felt among the people in the membership that are paying attention that the test is fairly worthless in its current state. I can say that, that it's not, that we specifically think that it is, the FPDR benefit is less, but using the test which is supposed to be gauging equal to or better, it's not giving us an adequate representation. So, what I'm looking for is to get a more accurate, appropriate representation of the two benefits.

Chair MacLeod: I appreciate that. One of the challenges, I know for me personally, is that not being an Oregon public employee I don't know the PERS safety plan, you know, off the top of my head. I don't know the provisions. I don't know, are they covered by Social Security? I don't, I mean, I know what their basic formula is 2% of pay. I don't know the final average compensation period. I don't know the maximum number of years of service. I don't know what defined contribution amounts would be provided, etc. I don't know those things off the top of my head. I'm reasonably familiar with, grateful of course, with regular reminders from staff, about what the FPDR various tier benefits are. But because the extent of our involvement with PERS Tier 3 right now is that the plan is making the required contributions to that, I haven't had to become familiar with the actual details of the PERS 3 FPDR Tier 3, and likewise, there's no day-to-day reason for me to be familiar with the Tier 2 PERS Tier 2 benefits. So, for myself I feel unequipped right now to even have a high-level sense of whether or not things are you know, the test itself is adequate, whether just from a high level looking down benefits sure seem like they ought to be comparable. I just don't have enough of a sense about it. Sam, I believe that in our January agenda we've got some comparison of disability benefits coming up, is that correct?

Director Hutchison: Yes, I'll do a high-level comparison of PERS disability and FPDR for people so you can get an idea how the plans are applied to each other and some of the changes there, and how they compare.

Chair MacLeod: Okay. But that is focused on disability, correct?

Director Hutchison: Correct.

Chair MacLeod: Okay. And Trustee Kramer, new to our board but I know you've got strong benefits background. Do you have a familiarity enough with the PERS Tier 2 benefits that you feel we could have some meaningful discussion on it? Or would it be more helpful to have, even if it's a working session, to say let's sit down and help us understand or get something from staff summarizing nuances about what the various benefits are? Or maybe this is all on the ETOB test and it's been six months and I've forgotten and we need to go back and look at those results. So, Trustee Kramer, your thought right now.

Trustee Kramer: Thank you for asking. And no, it is all too new to me and I am too ignorant to have a useful point of view and would want to be guided by more of what the other trustees have to say and certainly what the lawyers and actuaries have to say. I saw Lorne put his hand up and I'd be always interested in what he has to say.

Director Hutchison: Just real quick, can I step in quick. Stacy, can you set up time with Tom just to give him a quick tutorial on ETOB and try to bring him up with what the basics are on this?

Stacy Jones: Yeah, I can chime in here too at the end, but I see that Lorne has had his hand up for a while, and I wonder if, Chair McLeod -

Chair MacLeod: Yes, absolutely.

Lorne Dauenhauer: I think the bigger question is, what's the Trustee's job. If we look at the charter, it says the board of trustees acts as the administrator of the plan. The board of trustees does not have what we call settlor authority over the plan. You're not the body that gets to decide are benefits high enough. Your job is just to administer the plan and to make sure that the plan is being administered in accordance with the terms of the charter. I can appreciate that there may be a perceived or perception that the way PERS is applying the test may be missing the mark, but that's candidly not this body's role. If somebody was to petition PERS and say, we think you need to change the test and they were successful in doing that, and PERS reran the test according to a different set of metrics, and if PERS concluded that we were not equal to or better than, then some significant decisions would have to be made as to what do, because we would be out of compliance with state law at that point. At that juncture, I believe the City Council would have to weigh in as to what we, how we would change the plan to meet up with the State's requirements. Even if ETOB failed, this body wouldn't be the one to decide how to fix it. So, I think, you know, to the extent that there are parties that believe the ETOB test is flawed, I think the best approach is that this body remain neutral because, again, you're not the settlors, your job isn't to say whether these benefits aren't good enough. Your job is to say, are we administering the plan according to its terms? We're required to do an ETOB test. Did we do the ETOB test, yes or no? We did it, looks like we're good. If somebody feels that the ETOB test is flawed, I think they should certainly reach out to PERS, explain why they think it's flawed, and you know, do their level best to change the rules. But I don't think it's the job of this body to do that.

Chair MacLeod: Thank you, those are really helpful comments. It's difficult, we're kind in this odd no man's land sometimes when it comes to these kinds of questions about the plan. Your point about where our role does come into play is to be certain that the ETOB test was run, that we are comfortable that in accordance with the current existing requirements of the plan, by statute or PERS administrative procedure, whichever, that we feel confident that it was conducted appropriately and that we accept the results as being correct in accordance with those procedures and statutes. And based on the information that was presented to us I think it was last November. Sam, do you remember?

Director Hutchison: Yes.

Chair MacLeod: I think that was last November's meeting, at the time I don't recall, we did accept the results of that test as a board, and I recall that our questions were more along the line that Trustee MacLowry has raised today which are, gosh, does this seem like a valid way for the test to be conducted? But as you've indicated here, Lorne, is it our role at all to even question the way in which the way the test is conducted. Or more is our role limited to was it done in accordance with current procedures and requirements, do we have confidence that it was conducted that way and accepting it or not. Go ahead.

Stacy Jones: Trustee McLeod, I really have to jump in here and just say that the board does not have a role to accept the ETOB test, at all.

Chair MacLeod: Okay.

Stacy Jones: But the FPDR board has no role whatsoever with respect to the ETOB test, at all. They came and did that presentation as a courtesy because Sam asked them to because you guys had asked for additional information. We had to pay them for that. They, yeah, no plan, that is something that is done at the direction of the legislature. Obviously if plans fail that test, you know, then you have to put your employees in PERS or you have to change your plan to meet it. So, I just want to a little bit echo what Lorne said, and he said it much more eloquently than I could have. When I was talking to my PERS contact, I could not make her understand that our board might possibly ask to make the test rules more stringent so that our own plan might fail. She kept saying, but which union are you with? Like she was so bewildered by that. I think it's a very appropriate role for a labor union to take up who is looking for additional benefits for their employees. But for a plan to take on that role to seek to fail, in any event, it is certainly a strange position.

Chair MacLeod: It does seem funny when you put it that way. Why would we be taking that position?

Stacy Jones: Yeah, I think I just could not make her understand that. Anyway, that's sort of to the side. But I did just want to jump in and make sure that the board understands that you don't have a role with respect to the ETOB test at all.

Lorne Dauenhauer: I think others have challenged ETOB. Franco, didn’t Del Stevens challenge the ETOB test?

Franco Lucchin: There was never, so a challenge to the ETOB test is governed by those PERS administrative rules, right?

Lorne Dauenhauer: Right.

Franco Lucchin: I'm just going off the top of my head, but I think there's about 180-day opportunity or 90 or 180 days to make that appeal. So that's never happened, but the courts with Mr. Stevens present, because I was there, the Multnomah County Circuit Court, for example, has said in a case that, and you know, it was a case where they were suing the city, they were suing PERS, the state via PERS and the judge there said, no, if you wanted to challenge the ETOB test, the way to do it would be through this appeal procedure that the PERS administrative rules set out, not trying to say go to the office of administrative hearings which was also attempted separately. So, this issue that's been coming back to the board about, I don't know if this is pertaining to the, quote unquote, disability retirement.

Lorne Dauenhauer: That one was, but I think the principle is the same.

Franco Lucchin: Yeah. So that's what those cases were about. There was one at the OAH and then there was a separate one with the same Plaintiff, and Mr. Stevens was there setting up poster boards and things, and the judge made it pretty clear that that was a motion to dismiss we were there on. The court dismissed the lawsuit on the narrower issue, but I think it did implicate the ETOB test. And yeah, so I mean, I don't know that there's been a challenge. But there was an opportunity under the administrative rules to challenge, and that has to be done timely. So, if there were somebody who wanted to make that challenge, they'll have however many days from the next ETOB test do so.

Stacy Jones: And Franco, does that challenge have to be made by someone who's been harmed?

Franco Lucchin: I'd have to look at it more closely, we’re about 11 years off from that.

Director Hutchison: It has to be done through either an employer or a member of the plan.

Franco Lucchin: Yeah.

Director Hutchison: Really the two basic ones to go for.

Franco Lucchin: Thank you, Sam. Yeah. It does have that employer language in there, now that I think about it.

Stacy Jones: So that would be the case where an employer had failed and was appealing their failure, presumably.

Franco Lucchin: Yes, yes.

Lorne Dauenhauer: Or the employee felt like the test wasn't stringent enough.

Stacy Jones: And the employee wanted more benefits, yes.

Lorne Dauenhauer: I think Trustee MacLowry has his hand up.

Chair MacLeod: Yes, please.

Trustee MacLowry: A lot of information to respond to there. I understand what you're saying in terms of the role of the board, and one of the things, Mr. Dauenhauer you said was should the plan fail, FPDR fail, that is not my intent to see if we can make FPDR fail. My intent is to get an accurate representation, and I'd like to know what the actual valuation is with full benefits. With that being said, should that force significant decisions, as you say, to City Council, that to me is not a deterrent. If in fact it were to fail, then it would need to be dealt with because it failed. Then you would have the full knowledge. I would say, though, I think it's in the interest of the participants, and I'm a participate, I'm an FPDR 2 member, but it's in the interest of the participant to know what the full valuation of the PERS Tier 2 is against FPDR 2. And I would restate I have it as a member of this board and Trustee that I had the duty of loyalty, the fiduciary duty of loyalty to the members and to, I'm reading it out of my handbook here, to respect the plan solely in the interest of the participants and the beneficiaries. I'd push back a little bit that there's an interest to move forward and learn this and understand this better and get a more appropriate evaluation. That being said, I see what you and Stacy are saying, why would the plan want to challenge this. So, I'm walking a little bit of a thin line, my feet are on both sides of this. However, I feel that there's value in knowing what actually the full benefit is, not just comparing the defined benefit to defined benefit. If you do that, if that's just what the test is going to be, just no reason to do it. That is pretty clear.

Chair MacLeod: Trustee MacLowry, thank you for your perspective. I do certainly see the, first of all, as trustees we're obligated to serve the members of the plan, but that's within the scope of the plan as currently defined and is operating, not how it might be changed, etc. And while it seems tempting for us to go there, and certainly there seem like there are very practical limitations, I won't say flaws, but certainly limitations with this ETOB test, if nothing else, the fact that it's only performed every ten years alone is something that is kind of a surprise to me. But again, if we need to operate in the scope of our responsibility here, and that doesn't include challenging the test or proposing changes to plan benefits, etc., we certainly as a group can support doing so. But I'm, I'm hearing, and I think I understand, that that's not our role to do that. I would absolutely support and I can understand why participants and their representatives would see that these plans maybe don't seem comparable and the test itself doesn't seem like it might be doing an adequate job of comparing the benefits for PERS 2 compared to FPDR 2. But other than us, you know, supporting whatever, you know, investigation analysis those members want to do, I'm at a loss seeing what the role of our board is to take any action, including writing a letter requesting changes to the test. But this is my perspective, I'm interested in your comments back to that and Trustee Kramer, your thoughts back.

Director Hutchison: Well let me jump in here real quick. I'm going to defer to the board in what action you want to take, and we'll support you as necessary to help you do that. I'm not going to, that's a discussion between yourselves. I want to make sure that we understand what the ETOB test is. It's more of a pass/fail test. There isn't a full analysis of, gee, if this benefit would add this much to the valuation, this benefit, so if you fail the test, PERS has told me directly they will not provide you with any input into how to pass the test, because it's a full actuarial analysis of the plan. And so, when they do the test, you know, they don't look at feature to feature, they look at the actuarial evaluation of the plan. If they come in and change how it's evaluated, it's going to pass/fail. If you fail, you're going to get zero guidance as to what you need to do to make it pass. They will not give it any of that. And how they analyze it may not really help you understand fully why it failed. So, it's not that it's like a school report card that you get from somebody, hey, you could improve this by doing this, this, and this. You're not going to get that from PERS. So, if you get a more detailed test going and you pass it, it's hard to make the assumption why you passed it. If you failed it, they're not going to tell you why you failed or what part of your plan needs to be done. That's your challenge when you fail, we have to do our own analysis to understand where we failed. We can probably get some guidance from PERS, but officially they're not going to do that, is what they told me. And then, you know, why do we have to change the plan. How do we change the plan? If we change the plan, do we need voter approval? That brings in City Council to do it and going from there. And I've read the statute, it's pretty light, it says if you don't do it, you've got rectify the problem. It doesn’t give a timeline and it doesn't tell you how to rectify it. It doesn't tell you how to value how you rectify it. So, the plan isn't going to tell you, yes, you need this additional benefit or yes, you need something to equal to the IAP, which is what you're looking at, Kyle. So, I'm not certain that passing or failing a test gives you any guidance. Really what you need to do to improve your plan. Long story short.

Trustee MacLowry: Just to respond to that, I'm not looking for something similar to the IAP. I think I understand how on the 10,000th level how things are evaluated. And just adding in the IAP through evaluation to what is currently being done with the defined benefit portion of PERS, that's what, I want to put that on the other side of the scale. That's all. And I understand, I'm not talking about Social Security at all. That's a whole other different can of worms. I get that's not where we want to go.

Director Hutchison: I understand, but it's going to be hard. If they change the rules and we pass or we fail, we're not going to be told why we pass or fail except that we either met the actuarial criteria or we didn't meet the actuarial criteria. If we fail, we have to try to understand why and solve the problem. And I'm not certain it's going to give you this thing that you can go back out to members and say here's what the valuation of PERS is, here's what the valuation of FPDR is. That's not the intent of the test is to say we're going to compare A to B and are you equal to or better than A. Fine, you're done. They're not going to give you this data line by line, this is going for worth X number of dollars for you, or this is the kind of pension you get. I think you're looking for information that, and Stacy, correct me if I'm wrong or if you have anything to add, you're not going to get the informing that's going to really tell you what your valuation is.

Stacy Jones: Well just again, even if, you know, and perhaps knowing a bit more than other folks about the structure of PERS and the structure of FPDR, you know, I think it's very unlikely that, you know, even when you added, Trustee MacLowry, I can't give you definitive proof of this without doing it, I'm not an actuary and all those other things, I think it's very unlikely it would fail anyway once you add that on because, you know, just knowing a little bit about how these things work and what they have to do to handle the risk shift on the defined contribution portion, the 6% IAP, you know, that doesn't get to get dropped in at full value because the employee bears the whole risk of investment returns, and they have a method of adjusting for that, whereas in our plan, all of the risk is on us, blah, blah, blah. So, I know enough about it to speculate, but it's unlikely that we would ever fail. But I just want to say if we were to fail, also I mean, City Council would have to then come in and say do we redesign the plan? I mean, I'm sure they would put people in PERS for the remainder of their time. Even now I'm sure that's what they would do. We only have right now 600 and some members, so I think they'd just pick them up and move them into PERS for the remainder of their career. You wouldn't spend a bunch of time redesigning a plan that's closed and only has 600 entrants, I wouldn't imagine. But none of that would be up to the board, it would be up to council. I just want to keep saying that. Council does plan design, not the board. The board could maybe give input, perhaps, if council wanted it. I think the unions would have significant input into that process rather than the board.

Chair MacLeod: Thank you. So, kind of recapping where we were, I mean, this started with Trustee MacLowry' s suggestion that we, as a board, pursue writing a letter requesting a change to the ETOB analysis, how it is conducted, presumably what's included and not included. Lorne, I'd like to circle back to you. From the comments you made earlier, do you see our role as even extending to that point? Or is that something that's more City of Portland? I want to make sure we're not, you know, if it's something within the realm of reason we would do.

Lorne Dauenhauer: That's a good question. And Trustee MacLowry is right, as has been echoed in here, your job to act in the exclusive interest of the plan and the plan's participants. That's absolutely correct. But it's act in the exclusive benefit of the plan and the plan's participants when you are acting in your capacity as trustees, which is limited to administration of the plan. Your job is to make sure the plan is being administered in accordance with its terms, and one of its terms is to make sure you get the ETOB test done. You've done that and maybe you've got issues with how the test is performed, but nevertheless it did pass. It's sort of like, I'm trying to think of analogies, none of them are perfect. But since you just went through the audit process, what if you thought the AICPA procedures for testing for fraud were deficient, right? I mean, would it be in your role to write a letter to the AICP board of governors to encourage them to strengthen the fraud requirements? I mean, it's certainly not something you have to do. Your job is to get an audit and make sure that the audit is done in accordance with the rules of the body that governs the accounting profession, and you do that. Kind of the same thing when you hire an actuary, and when you've hired Milliman to do the actuarial work, you're relying on them to do that work in accordance with their own rules. Here we have a statute that says we need have this evaluated for ETOB, and the body that the state has tasked with that is the PERS board. So again, one can take issue with, you know, how it's being done, one can take issue with the actuarial standards of practice. One can take issue with the AICPA rules, one could take issue with the Oregon State Bar rules. But your job is to make sure that we're jumping through the hoops we're supposed to. Now, if, for example, the union was to write a letter to PERS encouraging them to strengthen the test or use a different standard because the one they're using is outdated or isn't doing the job and, you know, would I say it's the is it this trust body to object to it if you didn't think the, I mean, let's say we all agree that if we test it according to a different standard we'd fail, which I don't know that would be the case, as Trustee MacLowry pointed out, we just don't know. But what if we did know it would fail if we used that metric? And there's a party out there that's encouraging PERS to change its metric to something we know would fail. I think it would be totally outside of the scope of your roles as trustees even to write a letter to PERS objecting to that. You're really kind of impartial in terms of what the rules are, but your job is to make sure that the rules are followed. I guess that's where I'm trying to go with that. I guess if you really believe the rules were not being followed, then I'd have to think about that a bit more.

Stacy Jones: Well, and even that -

Lorne Dauenhauer: If the rules aren't being followed.

Stacy Jones: And even that, Lorne, the responsibility for the ETOB test is not something the FPDR board is charged with. It's not part of the FPDR plan administration. So, I feel like, you know, the legislature has charged the PERS board with testing these. I think that the better analogy, like you were saying, the state fire rules or something. You may have an interest in them, but we have not been charged with implementing them or ensuring their fairness.

Lorne Dauenhauer: Because if you're looking at, your job is to in all instances, you know, make sure that the plan, all decisions that you make are in the sole interest of the plan and the plan's participants, you can carry that too far, right? We should interpret every rule or change the rules to increase benefits because that would be the interest of the participant. Well, yeah, that would, but it's not your job, right? I mean, you are wearing different hats, and I get that you're an advocate on the one hand, but you're on the other hand you're an advocate for making sure the plan is run fairly.

Chair MacLeod: Lorne, I really appreciate your comments. For me that clarifies it that it's just not our place to be submitting comments in favor of or promoting changes or anything -

Lorne Dauenhauer: Like I said, even if somebody was saying you want a change, and you as a body, we don't want that, I wouldn't say that it's your role to challenge it. Your role is to sit back and follow what -

Chair MacLeod: Exactly.

Chair MacLeod: We're neutral operators to make sure the plan is operating in accordance with its current terms. So, my perspective on it is that this is not an action item that the board ought to take. That's my thought on it, but Trustee Kramer or Trustee MacLowry, if you want to make any other comments about what you've heard.

Trustee MacLowry: Well, I think there's definitely food for thought. I will say, my perspective, Mr. Winship who is a PERS employee, he's the expert, opened the door, invited us in and I walked through. That's how this has played out, and it may be how we've gotten to where we are today. And it's in large part what has informed my decision to continue this discussion. I don't have much else to say without repeating myself. I think you probably understand my perspective and point of view. I don't think I've changed my mind. But I certainly understand where you're coming from, at least from the perceived roles of this board, and what may or may not be under our purview.

Chair MacLeod: Okay, thank you very much. So, I think it was an important discussion and I hope that you're successful in pursuing that, you know, through other means as well with members. Should we move on to the next item, information number three. I'm sorry, I misplaced my agenda during that discussion. I think this is definition of spouse follow-up discussion from the January meeting.

INFORMATION ITEM NO. 3 – DEFINITION OF "SPOUSE" FOLLOW-UP DISCUSSION

Julie Hall: Sam, you're muted. Do you want me to share my screen?

Director Hutchison: Yeah, if you could share the definition of spouse document.

Julie Hall: Got it. I can't see what you're seeing. Can you see it?

Director Hutchison: Yes.

Julie Hall: Great. Thank you.

Director Hutchison: This is in your board materials, the definition of spouse. So, this discussion is a follow-up to an issue brought to the board by Lisa Knight, a firefighter, during our January 23, 2023 board meeting. Knight was concerned that the Supreme Court could reverse its prior decision to recognize same-sex marriage. The court case is, if I can say this correctly, Obergefell versus Hodges, which means if that's overturned, could mean that the member same-sex spouse or this is what Lisa Knight was concerned about, could mean that her same-sex spouse would not receive her pension benefits should she die. She had brought this up with State representative Graber who recommended that the FPDR board change the FPDR definition of spouse to include wording contained in the PERS statute. We talked about this for a little while and your directive to me was to speak with the city attorney for further guidance to see if we can make the language and charter more consistent with the statute and what would we need to consider before making the change in their charter. For reference, I have the definition of the FPDR plan, the spouse, definition of spouse in the FPDR plan, and our administrative rules showing you on that document that Julie Hall is sharing with you. So, I've asked Franco, our attorney, to discuss, you know, the definition of spouse in the FPDR plan and lead the discussion. Franco, you want to take it away.

Franco Lucchin: Thank you, Sam. Good afternoon, board. You know, I understand the concern. But ultimately, we don't know what the Supreme Court might do if presented with a case or controversy that implicates the decision. They obviously couldn't just make a ruling without having, they're limited by the constitution to have an actual case that they would have to grant review of. And then the concern is that there would be a ruling that there's no constitutional right, no federal constitutional right to same-sex marriage.

Director Hutchison: Your screen changed.

Franco Lucchin: I think one other thing to add to the discussion, and again, I'm not, I mean, we're talking what might happen someday and how to preemptively address it. The other thing to consider, there's currently a federal constitutional right and Congress also passed the respect for marriage act in late 2022, I believe. So, there's a federal, there's a legal right under federal law as well as the constitutional right that the Supreme Court has identified. There would have to be a case that invalidated rights under the federal legislation and the constitutional right that the Supreme Court has already decided exists. So, there would have to be a number of things occurring in order for this to come to pass. And so, I mean, the ultimate recommendation is that the rules we have are sufficient. And I guess the unknown part is what happens if the constitutional right went away, the federal statutory right went away, what would the IRS do? Because you know, this is obviously a tax qualified plan under the Internal Revenue Code. I didn't think there was anything to do other than I'm glad the concern has been brought up and I looked at the, I think the spousal definition that was being asked about came from ORS 656 actually, the Workers' Comp statute, and I thought, I'm just looking back at my advice that the current definitions in the administrative rules are, you know, they're different than what the Workers' Comp law says, but they're consistent with what the charter says in terms of what a surviving spouse is, without regard to any sort of limitation as to the genders of the spouses.

Director Hutchison: And the charter definition matches the federal and state definitions. So, it's not unique, a lot of this is copied out of state law and mirrors some of the stuff out of federal law.

Franco Lucchin: Yeah, they're not worded exactly the same, but they're consistent. So, I guess what I would say, in sum, is that we've looked at it, those rights currently exist, and there's nothing that this board could do to protect against what might happen at the federal level currently.

Lorne Dauenhauer: I think that's right, Franco. And a lot of this language is pulled out, this is a qualified plan, right, and so it's governed by the Internal Revenue Code. So, a lot of this language, these references to Rev. Rul. 2013-17 and Notice 2014-19, that's all driven by the IRS because we're trying to make sure the plan remains tax qualified. Even before the two cases that were relevant here were

Obergefell and before that Windsor, even before that under Oregon we had Tanner. And Tanner, I believe, said that if somebody couldn't get married that there was a constitutional right in Oregon that somebody could kind of be treated like the surviving spouse for Oregon rules, right? So, if that were to come to pass, if we kind of go back to pre-Windsor and now we're living under Tanner, I think the plan would still have to offer some sort of surviving spouse benefit, even to somebody that's not under federal law considered a spouse. Now that benefit might have different tax consequences that we really couldn't do anything about. But it's not like they wouldn't have protection or that we still wouldn't have a spousal definition that wouldn't necessarily be the one that the Feds used, again, in the I think unlikely event that the Supreme Court were to reverse itself in Obergefell and Windsor. So, it is a good question and it's worth pondering and making sure our participants going to be protected here if the worst, I don't want to make a judgment. If the court were to make that decision. But I do think that in Oregon at least, there is a level of protection that would still exist. Trustee Kramer.

Trustee Kramer: Thank you. I appreciate what the lawyers have said and it's very helpful and very interesting, I think anyway. I have a simple-minded question, and that is about the ordinance that's showing on our screen. Is the ordinance a rule adopted by City Council? It's not of this Board's making.

Franco Lucchin: Yes, it is a rule adopted by City Council that amends the plan.

Lorne Dauenhauer: It's adopted by City Council in response to the tax code changes. One of the, that particular ordinance that that was approved under gives the City Council the ability to amend the plan as necessary to comply with federal and income tax changes, tax code changes. So, this ordinance was specifically adopted in the wake of Windsor.

Trustee Kramer: And so procedurally, following up on what you've told us, both of you Franco and Lorne, what I'm thinking but please correct me if I'm wrong, is if the Supreme Court were to take some action, and I take Franco's point about that's a down the road issue, that could affect the meaning of the ordinance if the Rev. Rul. and the notice cited were no longer valid. And procedurally that could mean that the City Council would have to decide what, if any, action to take. And whatever action we might take with regard to the administrative rule would be subordinate to that action taken by or not taken by the City Council. But is that a fair summary in procedural terms?

Lorne Dauenhauer: I would agree with that, yes.

Director Hutchison: There's one more procedure here. Yes, the council's the one that would make the decision if they could do an ordinance or would necessarily need to do an ordinance. But we here at FPDR would be the ones to help write the ordinance and would coach the council and provide them the legal assistance on that. This isn't one we throw to them and say take care of. We would do all the work up front and provide it to them, and they could then run with it as they see fit.

Lorne Dauenhauer: Right, that's right. And for example, when we've had other tax code changes, which happen from time to time, that require the charter to be revised to comply with those new code requirements, and I work with Sam, and we draft a proposed ordinance for City Council because City Council doesn't know the ins and outs of code Section 401(a). So, we do kind of take the lead and shepherd the City Council to put in place what we need to make sure that the plan remains tax qualified.

Director Hutchison: And the administrative Rule 5.4.04 that you have part of it listed here on this page, because we're going to go over the spouse administrator rules in a future meeting. 5.4.04 was copied pretty much from the ordinance. The one issue that we had, we defined surviving spouse and spouse in four or five different sections of the administrative rules, and unfortunately, all those definitions were not updated at the same time. So, we need to go through and clean up something that should have been done probably ten years ago and get all of the definition of spouse to be one definition. We'll talk about that in January and March, that's just a cleanup trying to get this to comply with that.

So, were there any questions? I think part of it is, the important thing is we feel that this is a solid definition of spouse. It complies with all the state and federal laws that are out there. It's very robust. There is no chance really of any same-sex spouse not getting a spousal benefit under this definition. So, it's very pro same-sex spouse. Nothing we can do to improve it at this point, we just have to wait and see what's going to happen with the Supreme Court. As I said, there's no way the Supreme Court proof this rule. We'll have to come back in and evaluate this ordinance and the rules when the Supreme Court comes through. So, you know, going back to what Lisa knight's concern is, the surviving spouses of same-sex couples are well protected under the plan and will receive a spousal benefit given both this ordinance and the administrative rules, and there's really no need to try to put any of the state statute wording into this, because it would not beef up this definition.

Chair MacLeod: Thank you, I think that makes sense and appreciate the discussion and explanations of it. Any further questions on that? Okay, well let's move along to information item four, which is 2023 legislative update.

INFORMATION ITEM NO. 4 – 2023 LEGISLATIVE UPDATE

Director Hutchison: So, Julie, can you put that document up? So, one of my responsibilities is to monitor all state legislation. I've talked about this is going forward of monitoring it and I actually testify, and I'll go over a little bit more in one of the bills here providing for FPDR. So, there are four bills that passed this year that I think will impact FPDR. The first two bills on this page here impact you as a board, so we'll go through them.

In the past, there's been some discussion, because you know if we have three of you in a room, it creates a quorum and is that considered a meeting that has to be considered a public record. So, this helps clarify some of that. What they had was a couple situations throughout the state with some other boards, is they didn't want to get the quorum together, but they wanted to find a way to deliberate without doing it in public. So, some of the tricks they use is what they call serial electronic communication, which means Tom could send an email to Catherine and they could talk back and forth, and Catherine then sends an email to Kyle, and they talk back and forth, and each email only has two people. But the second the subject is now crossed to a third person, they're considering that a serial electronic written communication and it is subject to public meeting law, and therefore it needs to be shared or those deliberations should have been conducted openly, not through email and trying to bypass the quorum requirement. The intermediaries are the same thing but not using email. It's like to have me go over and talk to Tom and Catherine and then go out of the room and talk to Kyle and Christopher and so I'm an intermediary running it back and forth and that's deliberating and considering that a quorum. So, people are trying to use alternate means to get around the requirement in a public meeting.

The next one is very helpful. This clarifies when a quorum is there when it's not a public meeting. This was not specified before and we had to keep our fingers crossed that somebody wouldn't complain about this. So, if you all attend an educational session, you know, Stacy gives you one and all three of you or four of you are part of it, since it's an educational session, it is not subject to public meeting. It's not considered a meeting, and we don't have to do any sort of side stepping or other issues on that. talking to any other matter that is not related to the governing board or they won't see it in the future. If all of you want to get together and talk about the Portland public school strike, you can do that because that's not ever something you'll deliberate on, it doesn't have any impact on FPDR, and some stuff that are non-substantial in nature. It may be something you mentioned at FPDR, I didn't get the meeting minutes, or I don't agree with that meeting minutes, that could be non-substantive there. It's nice to have that there. I will remind you all as I've had to remind people in the past, when you step off the dais and the meeting is over, you cannot go in the hallway and re-discuss what you just discussed in the board meeting. I had to break up a couple discussions with that. You also have to be aware of if you have somebody who's providing you testimony during the meeting and you want more information, that if three of you go and start talking with this person, that could be considered deliberation. Either you only have two people talk with the person or you have to ask the person to come back to where those discussions and deliberations can be done publicly.

Additional things that are new to it, go back up a page, Julie, the third bullet point, there's going to be the Oregon government ethics commission that will take on oversight of this statute. And they will provide training, which will be good, you don't have to trust what I'm saying here, so we should see in the next six or seven months some training coming from the state explaining the meeting laws in more depth for you.

The next bullet point says if you're a large enough government body with a large enough budget, which we have a $280 million budget, we'll definitely have to be required go through this training. It also gives this commission the opportunity to investigate complaints of compliance with any of the public meeting laws, and also gives them the authority to or any person can file a complaint and the commission can set penalties for it. This was not done in the past, any complaints had to go through the court system. So, you've got a couple things to clarify, one of them being what you can't do, one of them being what you can do, and then the state's going to do it from there. Any questions on that one? I think it's pretty straightforward. You'll get more training. If you have questions, you can ask me and I can help you out and we'll get some of the training from the state by the end sometime mid next year, I'm hoping.

The next one, HB 2806, this expands an executive order list. Executive meetings, excuse me. If you have an executive session of your meeting, you can move all the public out, the meeting is not recorded and press can be there, but they can't report on it. So, there's a series of things. Most common one, there's a lot of stuff in this law, it's got about 15 different reasons for doing it, only about two of them apply to you all with the exception of those new ones, the exception of the ones coming under this thing. Most common one we've used in the past is any litigation. When I came here, we had three big litigations going on I inherited, and so we had to work through those, and we had several executive session board meetings on those. There could be a time that if anywhere we have to get in and discuss a claim, which would be extremely rare to almost never, those would be done by executive session because of the privacy of the information there and stuff that isn't releasable. And if there's any reason we want to talk about each other's performance or there's an issue that comes up with any of my staff performance, that would be an executive session. But this one adds, you can go to executive session for anything relating to security of the governing body or public body, so that's you all, of the body itself, the board, and the board's staff and any volunteers. Anything having to deal with security. It can be security of the meeting, security of the data, security of anything like that. And the reason why that can be done executive, you don't want to share all your secrets of how you're securing data, the building, that type of thing. I don't think we've ever had discussions on those topics, but that's covered. Next page, Julie.

The next one, retiree confidentiality. I've been pushing on this for seven to eight years and it finally took this last year. There's a reason why, we piggybacked on another issue. The part I liked about it and that I testified about three or four times in front of the Senate and Senate committees and House committees, is this exempts public disclosure of personal information of employees and retirees maintained by a retirement system operated by local government. This wording used to say, maintained by PERS. So, if we were asked to provide a retiree's name, address, telephone number, email address, name of their kids, date of birth, all that stuff, we would have had to have released it prior to this bill being passed. Fortunately, we've had people request information and we said no, we'll give you this, not the other part because we think it's confidential. Nobody challenged us on it, but every so often, you'll see it in the paper, they'll do wide sweeps, give me all the data for the benefits you pay and who's receiving them. We get that occasionally for pension. And if I said I'm not going to give you this and they said I need to, I would have lost and we would have had to release it. So, fortunately this is now in state statute, this information's protected, I can give their name, their benefit amount and when they've received it, but none of the personal stuff.

The second bullet point is really what sort of where we got a lot of oomph behind my thought or bullet point above, was to clarify personal information of employees and volunteers, which information is maintained. This used to say maintained by Human Resources. A lot of bureaus in the City of Portland and elsewhere in the state, we maintain a separate set of employee records in our stuff, we do it because if we have a disaster, we need to have access to some information about our employees that we may not be able to get from the HR databases. Those they found by one court decision are not covered, and so if you knew where the record was you could ask and get names, addresses, everything from us. So, this was to plug that loophole and so we managed to convince them that let's put the pensioners on this bill. So that was, I think, a very positive one for our members with it going forward. I will let you know in the 2025 legislature. I'm going to relook and try to get the same thing for Workers' Comp. It says Workers' Comp records are excluded from disclosure, but the way it's described it's Workers' Comp under the State Workers' Compensation system. I need to get some wording to say it's worker’ comp operated by local government, see if I can get that put in there.

So, the next one is HB 2283, it’s PERS. I'm going to turn it over to Stacy, but I'll make a comment, there's a lot of PERS bills come out every year. Almost always one PERS bill is omnibus. It has a million little itty-bitty things in here they want to look at. You have to spend time looking through, because occasionally there's a little nugget of some importance of things. So, I'll ask Stacy to go through this one for you.

Stacy Jones: Sure. This is, I guess, kind of this year's PERS omnibus bill. It was actually a PERS requested bill, so the administration at PERS requested it. So, there was a lot of housekeeping sort of things in here, particularly items, they're doing some technology and database upgrades and things that needed done to clean things up before they did that. But of course, you know, you turn a PERS bill loose on the legislature and some other things were added. I just gave some examples of the small changes that you can see on Sam's list there that relate to public safety retirement, because I thought that might be more interesting to the board. But probably those are not very interesting, a little bit obscure. There is one significant change, and we are still, you know, sort of verifying how this will all ripple through for the City of Portland. The bill requires that the mandatory employee contribution to the IAP program, which we were just talking about in relation to ETOB testing, the mandatory contribution is 6%. That's the defined contribution piece of the PERS pension plan, and you know, the employer must contribute 6% and the employee must contribute 6%. Some employers choose, as a benefit, to pick up that 6% for their employees. And the City of Portland does do that, they pick that up 6%. And that 6% that the city was picking up was not being included in the final average salary in the full formula calculation for employers who were picking it up, including the City of Portland. I actually don't know how PERS felt about this. I can see where for them it's kind of you wind up treating folks differently in terms of calculating their final average salary. For example, state employees, the way this was handled for state employees is that the state increased everyone's salaries by enough to cover the 6%, and then have the employees contribute the 6%. So now that is part of their final average salary, but it is not part of the final average salary for City of Portland employees because the city just pays it separately. So, I can see where from a PERS point of view you wind up in a different place. But you know, you don't get anything for free, so that will increase the final average salary for City of Portland PERS employees, not just public safety employees, but all City of Portland employees. Of course, the ones we care about are the public safety employees who are hired after 2007, and that the cost for those, that all things being equal, that would, you know, result in higher benefits for folks, and then all things being equal, that would result in higher contribution amounts for us as City of Portland. Now, lots of things play into that, contribution amounts, all kinds of things. Investment returns are the big thing, but lots of things. But if everything, if nothing else changed, when Milliman goes and calculates the new contribution rates for the City of Portland, and I won't bore you with the complications because we're also part of a rate group and there's rate collaring and other things like that. But all things being equal, that would increase the contribution rates for the City of Portland. So, we will bear the cost of those increased contributions for sworn employees hired 2007 and later. Now, will some of those be offset by other changes in contribution rates, or will some of that be softened by rate collaring and things like that? We don't know. But all things being equal, if you're going to give people a higher pension benefit, you're going to get charged more for it, you know, that's how a pre-funded pension plan works.

Trustee MacLowry: Stacy, are you calling the contribution rate the same as the employer rate, is that correct?

Stacy Jones: So, there's two pieces, the 6%, and I know it's 9% for public employees.

Trustee MacLowry: That’s the IAP, I'm talking about the defined benefit.

Stacy Jones: No, that has nothing to do, right. But the defined benefit portion, because that's going to be included in the salary, so this is where it comes into the defined benefit, it gets a little crazy. So maybe it's good to give like a concrete example. So, let's say that you make $100,000 a year, and the city puts $12,000 into your IAP, and on top of that, that's their 6%, the city's 6% contribution and your 6% contribution that the city is picking up as an employee benefit. And then on top of that they're making contributions into your defined benefit plan, right, separately. And that's like 23% or 30% or whatever it is. But that's unrelated as you mentioned.

Trustee MacLowry: It's 30, yeah.

Stacy Jones: But they are also paying in 12%, you know, that $12,000, they're putting that into your IAP. So, what's changed is when you go to retire in the defined benefit portion of the formula, the defined benefit portion we're living in now, and they calculate your final average salary, under the old way they would say your salary was $100,000. Now they will say your salary was $106,000 because they will include the portion of the contribution that was the employee contribution in your salary. And it's not as simple as that because the PERS calculation, they do a final average over three years, anyway. But for simplicity, that's how it impacts your defined benefit pension, is it changes what your final salary is for the full formula method for calculating defined benefit. And not everybody goes out with full formula in PERS, there are other calculation methods, but mostly people go out with full formula nowadays. Back in the old days people went out more with money match. But does that make sense, trustee MacLowry, what I'm saying?

Trustee MacLowry: Yep.

Stacy Jones: So, I'm not sure how aware folks were of the impacts this would have, because there are other employers that picked this up. And you know, other employers who won't be impacted at all, like the State of Oregon who just increased people's salaries and then had employees do it, you know, they have already absorbed that impact, or Metro that does not pick up its employees 6%, the employees really do have to pay it out of their salary, and they didn't increase salaries to compensate. It just impacts employers differently. So it just means all things being equal, higher cost for the FPDR fund in the future.

Director Hutchison: Thank you, Stacy. Any questions about any of these bills at this point? If you have some later, go ahead and email me or Stacy and we'll answer them for you. We are going to start another legislative session in January, it's a short session. The odds of anything from PERS or Workers' Comp being included is very low. We'll keep an eye on it, I'll be digging through all the bills, but this is going to be based on some bigger issues with the state, housing, safety, that type of stuff. And that's usually what's done in the short session. Julie, you want to move to the next slide.

INFORMATION ITEM NO. 5 – BOARD PROPOSED MEETING SCHEDULE

Okay, there we go. Down to the public meeting, there we go. So, the next topic we have is the proposed meeting schedule for 2024 for the Board. So, in preparation for the new form of government, with its 12 Council Members, the city will have to remodel the City Council chambers. It's going to start in January, and so the City Council and all groups using the council chambers will meet in room 2500 of the 1900 building. We have the address noted on this document. We're meeting here virtually today because the electronics are being pulled out of the council chambers through November and December and they're going to be installed into the 1900 room, the 1900 building, the 2500 room of the 1900 building, get that straight. And that's supposed to be completed about five days before our January 23rd meeting, or a few days before that. And so, you'll see on January 23rd we are going to go virtual for a couple reasons. If there's a hiccup in the installation, we can't meet there and also, I don't want to be the guinea pig for the new electronics going in. We're going to let City Council do that. City Council will probably have four or five IT and other people trying to make sure it works. We only get one and you've seen a couple times how things can hurt us in a well-established system. So, unless you have concerns, we'll do the January meeting virtually, same time, location, you know, 1:00 p.m. on that date.

The March 26th, May 28th, and July 23rd meetings will all be held at 1:00 on that Tuesday in that 1900 building room, 2500. The September 24th meeting, here's one the challenges that we had is that the 2500 room had a series of people, council had a series, or chamber had a series, and we tried to mesh all the schedules together. We were very successful keeping our fourth Tuesday of the month. September, we kept the fourth Tuesday but there's an evening meeting coming in after us, so since September's the State of FPDR, which is our longer meeting, we're recommending that we're going to start at noon instead of 1:00. So, we have enough time to complete our work without getting forced out before the end of our meeting. And then on November 19th, again this is moved up a week because of Thanksgiving, location and time is to be determined. Again, they're hoping that sometime between September and October they will have the new council chambers available, and we'll see if they are and we'll either move it there or we may keep it. It may be tough to do because, again, the meshing of all the schedules, the third Tuesday may be hard to do. So, we will talk about that as we get closer to November where we're going to be meeting for that. So are there any questions or concerns with this, because I'm going to make the assumption that you all agree with it unless I hear otherwise for you and then we can publish it. We did include the addresses of the parking, two different parking structures next to the 1900 building. And Julie will send you an email telling you where to park and what elevators to use to get to the right floor before that. That will come out just before the March meeting. Any questions or concerns about that? Okay, good.

Chair MacLeod: Thank you.

Director Hutchison: I think we have summary of expenses next, Julie and Stacy.

INFORMATION ITEM NO. 6 – FPDR SUMMARY OF EXPENDITURES

Stacy Jones: Yes. I have to go back to that PERS bill, because I don't know why I was saying there was a matching. It's just 6%. I was like, wait, why am I saying this? I'm thinking of a different pension plan, I've just been looking at it. It's just the 6%, there's no matching from the employer, it's just the 6%. Sometimes the employer picks it up, sometimes they don't. It's just the 6%.

Trustee MacLowry: Currently for fire and police, it's 6% per employee picked up by the city and additional 3% in the employer bucket, and that bucket can go up to 6% max, but it's currently 3% and moves with maturity.

Stacy Jones: Right. Yes. So just for the public safety employees, yes?

Trustee MacLowry: Yes.

Stacy Jones: Just for sworn employees it's 9% all paid by the FPDR fund, but all paid by the city into your IAP. Now, if we just think about, so that's the additional 3%. But for everybody, but the mandatory portion is just the 6% and so that's why I believe, but we'll see how PERS implements this, it's just the 6% that will be included in the final average salary for the FPDR 3 PERS covered folks at fire and police.

Trustee MacLowry: They're in separate buckets as far as PERS is concerned.

Stacy Jones: Yeah. So, I think, exactly, because the 6% is the mandatory piece and the language in the bill says mandatory. So that 3% is extra, so I don't think that portion will get added to their final average salary, but it will still increase their pension, yeah, in the future. Sorry, I just realized that I was – like what in the world was I saying – it's just 6%. I was making it sound like 12% and I didn't want to –

Trustee MacLowry: I'm glad you went back because I was going to have to try to get back to that anyways.

Stacy Jones: I was like, wait a minute, that's not right. I have to correct that. Expenditures, everything looks very much as it usually does at the end of the first quarter. The only thing I'll say, just because folks sometimes have questions about it, is why do we have negative revenues? You look over, you can even see them in the year-to-date total, you can see them in some months - there in taxes and miscellaneous sources, and that is an accounting thing. That is because of the accrual, you know, we have to do accrual-based accounting, so that's where revenue that we collected in the current fiscal year or expenses that we paid in the current fiscal year have to be shifted back to the prior year to comply with accounting standards. And that's just in the case where a revenue was a receivable in the prior year or in the case of an expense because the expense was incurred but not paid in the prior year. I can give you guys examples, but you probably will be bored to tears. It's just an accounting thing and sometimes we have to get kind of deeper in the year before the current year activity is enough to move those balances out of negative territory. So, if you have more questions about that, I can answer them but don't be alarmed when you see negative revenues. That's just the impact of the accounting accrual. And otherwise, everything looks essentially as it normally does at the end of this first quarter. You'll see down under internal materials and services we haven't paid any FPDR 3 PERS pension contributions or return to work light duty yet because we will usually pay those in October, because we pay those on a quarterly basis, as long as we get our billings on time, which we did this year so that was great. Any questions? Yes, Trustee Kramer.

Trustee Kramer: It may just be a small data issue, but on personnel expenses, we're sort of slightly over, if we're running evenly. Is there something we should think there? Are we needing more folks? Are we having to pay more for folks either for more people or more time that would cause us to exceed budget?

Stacy Jones: No. Let me take a look. We're not, we pay biweekly, and there's an accrual in there as well, and the timing, I suspect I don't have it. That's a really sharp question, Trustee Kramer, that I don't have at the tip of my fingertips. I'd have to pop into our personnel thing and look at it. And I will look at that for next time. But I suspect that it's just a timing issue the way that our pay dates have landed and related to the accrual. Because, no, things have gone essentially as expected. We had a high cost of living adjustment, but we expected that and budgeted for it. Yeah, we haven't had any surprises on the personnel side. But I will take a look at that. It's a good question.

Chair MacLeod: Okay. And just to clarify too, the FPDR, it was both return to work and FPDR 3 contributions are both quarterly?

Stacy Jones: Yes, those are both quarterly and it used to be the police and fire bureau, it’s now the Community Safety Division and OMF sends us over a billing for them quarterly, which sounds crazy. The city controller and I are making yet another attempt to see if we can get the SAP programming folks to direct charge us for those things. I don't know why with all this technology we have to, like, go through billings, but we do.

INFORMATION ITEM NO. 7 – FPDR UPDATES

Director Hutchison: All right, so we're done with that. So, I have FPDR updates here. The first one is the status our managed care organization search. Kim, do you want to give an update on that?

Kim Mitchell: Sure, thanks, Sam. So, as you know, MHN Caremark Comp is closing their doors as of December 1st so what we've been working on is trying to find a replacement, managed care organization with a panel who can take over and treat our members. We've been talking to Majoris, I just received a rough estimate of an enrollment fee. What we have to do from there is define the scope of services that they're going to be providing for us on our active and post-retirement cases and really establish an enrollment fee. Some of that will be determined by the services that they provide. And from there, I can set at least an estimate of contract cost, if we're going to go with them, and then get information to you. We would work to determine their FPDR Majoris technology needs. We'd certainly have to get procurement involved. There's a lot of things that would have to align. But what I'd like to do, if possible, is to hold a meeting, a board meeting on December 19th to just say, we have enough information together, we have cost estimates, would you approve us proceeding with finalizing a contract with Majoris for MCO services? Everything would have to align, and what I would estimate is if we don't have key information by December 7th, we wouldn't meet at all because I don't want to waste your time. But what I'm trying to do, and they're working with me on that, is to just establish what services they will provide, get an enrollment fee, and there's a lot that's going to have to go into making those things happen.

So that's where we are. I am on the other side working with Providence to do some advisories, and this is just a backup in case we're not able to have our members enrolled with Majoris by the time MHN closes their doors, and that's pretty much what's going to happen. I'm looking at getting some advisory services so we can continue with necessary pre-certifications and things needed for our members who are currently enrolled with MHN. So, I've got help on the back end and I'm trying to wrap that up in case so that we can work to get things done and contract with Majoris if everything works out.

Director Hutchison: And just so let you know, there are only three MCO providers in the greater Portland area. One is Kaiser and the other is Providence, both which we have contracts with, and Majoris is the third. MHN, the one we were using, was the fourth and they're closing their doors so we're trying to work with Majoris. Kim has done an excellent job of going back and forth with Majoris, educating them of how our plan is different with Workers' Comp and what we need. We're getting close but I didn't feel comfortable enough that we were close to draft a contract that you all could look at. There are some things we need to get answered from them and if we can do a timely, we could have that drafted contract ready for you on December 19th. But you'll hear more about us, it will be a virtual one-topic meeting where we just can present you the contract, you can ask us some questions. I think it could be done in less than 30 minutes, unless you had a lot of information you needed with that. So that's what we're doing. Thanks to Kim for all the work on this. This is quite unexpected for us and not only was she working with Majoris, but again she's working with Providence to help back up and fill in some of the gaps and have them step forward. There will be some additional cost with Providence, but I don't think it will exceed enough that we have to amend the contract. We might, but we'll work on that. So, if that comes through, we'll have to share that with you. So, any questions on that?

Chair MacLeod: No. Thank you, Kim.

Director Hutchison: I want to give you an update on the new form of city government for Portland. If you've been paying attention to the news, City Council a couple weeks ago approved the recommended organizational structure that I shared with you. There were some changes, nothing significant from FPDR's viewpoint on it. So, the next set of work will be trying to take them to the next level, well, actually the next step of work is to budget how to fund this new city government. That's going to be quite an eventful budget season because their latest estimate is $13 million over the original estimate. So, there's a lot of pushback on where to eliminate or reduce that $13 million overestimate. I will be looking at how to implement the service areas where we go through there. Starting July 1, FPDR will officially become part of the Budget and Finance service area. All that impacts is who I report up to, it doesn't impact the team at all, it doesn't impact anything we do. I finally may somebody that's going to try to micromanage me and that will be fun, but we'll go for it from there. We'll keep you up to date as we move through that process.

The search for the new citizen trustee. Let's see, we're vacant. We're reaching out to various networks asking for them to identify people. We're hoping to get three or four people are interested. That is a challenge to do, but once we get a few candidates, we'll start evaluating them and then we'll present options to the mayor because the mayor is the one that makes the final decision, and then the mayor will refer to council for that person to council for approval. I'll keep you updated as we move forward with that.

The board handbooks, that version that you'll have out there is dated August of 2019, four years old pre-pandemic, so we've updated it with information to include some of the new statutes and just get modern language put into it. We can review it in a future board meeting, publish it and probably send it out to you December or January. And then after that, if you all want to make any bigger changes we can, it's a dynamic document that we can change, but I just thought first of all let's get it updated to include some of the new information.

Kyle, you had asked a while ago I think during some of the interviews for the strategic plan, for more information about the 2007 charter change. I've asked Julie Hall to do a lot of research on that to get you all the information that went into the 2007 charter change. Be forewarned, we will see over 30 documents with over 100 to 200 pages of materials. That's how big this went in. We will roll it out and we're not going to send it all to you because my next topic is how we'll do it. That was quite a bit, I learned a lot more about this whole process. The City Council just to let you know, had two citizen committees pour through the FPDR plan to make recommendations for changes. And then they were boiled down and presented with that, and the 2007 reform was partially headed up by a city commissioner, that effort, not necessarily the board.

So, what we're going to do, I've got these big documents I've got to send out to you, we're creating a secure folder that I will post documents in that are for you and you will have the password into that folder. And that's about, and we will keep those documents in that folder, so that will be where we will put them for you, and you can retain them there and have access to them. We'll roll that out to you probably December to January. We'll give you a password. There's been a few other things I've sent to you that have been big collections in the email, we'll post those in there. This was designed to share information with you, and you don't necessarily have to print out all this material, you can go into it and review it as you see fit. And there's some rules on how to use that, but we'll share those with you. Any questions? We're moving pretty fast toward the end. Any questions about the last few items?

Chair MacLeod: I guess one thought, on the very last thing you mentioned with the portal where we can gather information. Will that have a time limit on it, or will it remain available to us indefinitely?

Director Hutchison: No time limit. It will be just where we put important documents for you to look at.

Chair MacLeod: Okay.

Director Hutchison: You know, we'll have to evaluate them and see if there's still value with it, but they will not automatically go away. There is no sunsetting.

Chair MacLeod: Okay.

Director Hutchison: Intentional on that.

Chair MacLeod: Great. Thank you.

INFORMATION ITEM NO. 8 – FUTURE MEETING AGENDA ITEMS

Director Hutchison: Okay. Julie, the scroll down to the next document. After the updates, there we go. So, this is I think the last thing we've got on the agenda is future board meeting topics. I'm presenting to you this and we can update and change this right now, and like I do follow-up with an email to you in the next week or two with this. So, in January the action item is 2024/2025 budget. This is an interesting year because half the budget will go to the old form of government, half the budget will go into the new form of government. As far as FPDR's concerned, that's a nonevent, but the whole budgeting process, Stacy's having to relearn what they're going to be doing and we have to follow in on that.

We've also talked I think before of having Lorne represent on the ASOP number 4 presentation. Mr. Machiz brought it up and says we should be doing something. We'll just have Lorne come in and interpret that provision that Mr. Machiz had brought up. I will also do a review of the disability pension; it will be a comparison between FPDR and PERS. It will not be anything else other than that, and it will be probably, take a pretty simplistic example so you can see how the two work side by side and what kind of benefits are calculated with that. I think some of you wanted to better understand what some of the issues that are being brought up about PERS disability and how we don't have one, but I'll show you what we have if somebody's permanently disabled.

FPDR's strategic plan review, this one we can move if you want, but at some point, we'll review that with you. I do definitely want to give you an overview of the FPDR administrative rule amendment process. We were going to do this I think in September, but we pulled it because of the MCO issue because some of the rules were going to require Kim's time just to help explain and finish up. And so, we'll talk you over the process and give you a sneak peek of the rules or a real high preview of the rules. And then we don't have May down, but the intent was in the May meeting they'd be formally presented to you for approval and adoption.

So, what we had here left on the list is discussion of forming a committee to review the FPDR 2 pension plan, discussion of soliciting a study to compare FPDR disability program to Oregon Workers' Comp, the board handbook review, the impact of unionization, and it's also here, as I said before, we'll have the administrative rules approved. So, if March is pretty thin one, I don't know if you want to move any of these future meeting topics up into March to address, or so. I think January's pretty locked in unless you want to pull something else in. But March is open and May we have not officially scheduled anything except for the Workers' Comp, or not the Workers' Comp, but the rule changes. Any thoughts on what you want to do at the March meeting at this point? Kim just let me know in January we may add the MCO contract approval if we don't have the interim one in December, so I'll add that one. So, it's up to you to let know what you'd like to add to the March meeting. You don't have to add anything now if you don't, we'll have the four meeting topics plus down below if you wanted to address any of those then or anything else, or if you want to leave that open here and reset it in. Tom Kramer.

Trustee Kramer: I'm sorry, didn't mean to interrupt you, Sam.

Director Hutchison: Go for it.

Trustee Kramer: I want to come back to the possible December interim meeting, and I'm sorry if you already said this, virtual meeting if held and 1:00 if held.

Director Hutchison: We'll have to target the time. We'll get back to you with more detail. It will be virtual, it's a simple one because you'll have a copy of the contract ahead of time, you can take a look at it. Usually contract approvals take 15, I think I rarely had any of them go to 30 minutes. This one might because I will give you a hint, the prices may be a little bit more expensive, and we're sort of stuck between a rock and hard spot and if we want a third MCO we may have to pay higher prices than in the past, but those are issues we can talk about. I would plan for a half hour on the 19th, and we'll get back to you with the time.

Trustee Kramer: Thank you.

Director Hutchison: And we'll have that confirmed, I think as Kim was saying, by December 7th we'll confirm whether or not we hold that meeting. So, you just want me to leave the March meeting as it stands here for now or you want to add to it later or would you want to add any other points to that one?

Chair MacLeod: Well, I'm content to wait for now. If others want to make any suggestions or something that you're really wanting to make sure we tackle in March, speak up or send an email around, I guess, afterwards.

Director Hutchison: Yeah, we have time. The only thing for scheduling in advance that may give us time if we need extra time to prep, but we'll make it work if you have a topic that you want to put in there in January.

Chair MacLeod: Yeah, and I'm assuming that the topics for future meetings, topics one and two, would be the ones that would require probably the most prep time. So, I'll defer to others on priorities for that, but I'm assuming those would take more time to prepare for. So again, if others have clearer thoughts about it, please email Sam and let him know.

Director Hutchison: Yeah.

Chair MacLeod: And otherwise, we've got January locked up and potential short meeting in December.

Director Hutchison: Yeah, so in January we'll add MCO contract approval, if needed. I'll add that to the list, and I'll move the strategic plan review to the bottom so if you run out of time or if there's a preference, we can move that. So, I'll reorder it and add the MCO and get this out to you in a couple days.

Chair MacLeod: Okay. It may be that if we end up pushing it, the strategic plan review in March would be a reasonable time to do that.

Director Hutchison: Yes.

Chair MacLeod: Okay. I think with that, it's been a good long meeting, lots of good discussion and information. So, any final thoughts, Sam, before we wrap her up?

Director Hutchison: No, I think we're doing good discussions today. I appreciate your input on getting scheduled items ahead of time. It allows us to better prepare, and I think gives you some information that you want with it as we go forward, because that's something that's been lacking in the past. But other than that, no. Good meeting, I hope everybody has some nice holidays coming up and we'll see you all virtually in January. Again, as usual, if you have questions about anything in this meeting or anything with FPDR, contact me, Stacy, or Kim, we'd be glad to answer those and give you the information that you need, and also Julie's there to contact for information. The four of us are here for you.

Chair MacLeod: Perfect. Thank you very much, everyone. Appreciate it. Happy holidays coming up.

Director Hutchison: Let me get my hand in the picture, there you go.

Stacy Jones: Bye, everybody.