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>> Mayor Reed: Good morning. I'd like to call the city council meeting to order. February 7th, 2012. We have a little bit different order today than we usually do. We'll have the usual labor update but we also have two or three items off the regular agenda that we'll take this morning and we will then go into closed session. And we will not be back into open session today. So there is no afternoon meeting unless of course the closed session goes into the afternoon in which case that will be, is what it is. We are in a different order, little bit different sequence and I think most of the business items are unlikely to have a lot of public testimony. So with that, we're going to do our traditional opening of the meeting today with the pledge of allegiance. Please stand. [pledge of allegiance]

>> Mayor Reed: So we need to do the orders of the day. I think there are only three items off the consent calendar that we will take up. That's 2.6, the retirement board report from Councilmember Constant 2.8 and 2.9, all of which will be heard after 3.2, which is the labor negotiations update. So with that I don't think there are any other changes to the orders. There a motion? Motion to approve orders of the day. All in favor, opposed, none opposed, that's approved. 3.1 is a report of the City Manager.

>> City Manager Figone: Mayor I have no report today, thank you.

>> Mayor Reed: Okay 3.2 labor negotiations update.

>> Gina Donnelly: Good morning mayor, members of the city council, Gina Donnelly deputy director of employees relations. There are no new proposals to report, but we are continuing in mediation with all 11 bargaining units with a goal of reaching agreement on or before Tuesday, February 21st, in order to allow the council an opportunity to consider changes to the ballot measure. Thank you.

>> Mayor Reed: Thank you. Item 2.6, a report of the retirement boards activities. Councilmember Constant.

>> Councilmember Constant: Thank you, mayor. This report covers the Police and Fire retirement board meeting of February 2nd. There are a few items of note. First there was an update from the chief investment officer discussing the plan's returns and performance for the 2011 for the calendar year not the fiscal year. On a

preliminary basis they still have to make a few things to make sure everything's verified. The return was point -- I'm sorry, 0.6%. So just over one half of 1% positive return. However, that is a gross return. So once you subtract the standard fees and things of that nature, the return will be a negative, net return, just to point out that the assumed rate of return during that calendar year was 7.75%. So as you can see it's significantly below the assumed rate of return. There is a discussion of proposed government accounting standards board's new standards for financial reporting. And there is a move to make a clear separation of the reporting of accounting status versus the reporting of funding status in the calculation for funding. What this will do is on the accounting side, all these changes are on the accounting side only, will require a faster recognition of gains and losses, right now we smooth losses over five years, and gains over five years. But there will be a mix of how the gains and losses will be recognized. Primary split between active employees and retired employees, and what it basically means is that the gains and losses will show more timely on the financial reports, so it will give a more timely information for those outside users of our financial statements, people that are looking at the City's financial position to make determinations of our stability, what it's going to do for us is show significantly more volatility in our reporting. This will put us government reporting more closer to the private sector's reporting standards. They did stress however, that it will not change the calculations that we do for valuation and funding methods, only for the accounting methods that will show up on our CAFRs, both on the retirement CAFRs that will flow through to the City's CAFRs. There was quite a lengthy discussion about the 2011 valuation study. As I have reported in previous occasions, the board had considerable discussion about what assumption rates to use. Again, at this board meeting there was a lengthy discussion on whether to select a 7.5 or a 7.25 assumed rate of return in the valuation. The board was sharply divided at a 6-5 vote to choose -- I'm sorry, not 6-5, 4-5 vote because there's only 9 of them, a 4-5 vote to select a 7.5 rate of return. This suggestion went against the advice of the actuary, the professional staff and the investment committee. The actuary was very emphatic, that he believed that the risk profile needed to be taken down. His direct quote was that he was more comfortable taking risk off the table at this time. He referenced, there was considerable discussion about the volatility of the Police and Fire plan. He, again, stressed that the volatility that is exhibited in the plan really leads to a lower assumption rate. So that the risk profile is lowered. He added that the Police and Fire plan has a generally higher leverage compared to other plans, and specifically the Federated plan, because of the early retirement age of the members in that plan. So what this means is, the valuation will be conducted at 7.5% rate of return. And that rate of return is below the 50th

percentile. In other words, it's more likely than not, the retirement board will miss achieving that 7.5% rate of return. What it means in dollars and cents is employee rates for next fiscal year will increase from the current 10.6% of payroll to 11.3% of payroll. The City's contribution rate will increase from the current 50.4% to 57.5% of payroll. Making the total percentage of payroll for contributions for the Police and Fire retirement plan to be 68.8% of payroll. Again it was a very heated discussion, and quite a bit of disagreement over the rate to be selected. But what was most important was, everybody, those who voted for and those who voted against the rate of return that was selected, including the actuary and staff, all agree that the rate will continue to be lowered and that this is just one more step in several steps of lowering the assumed rate of return, and staff and the actuary believe that that rate of return will get into the 6% range, somewhere between 6 and 7%. What that means in the long term for the City's side is that contribution rates will continue to rise as the assumed rate of return continues to be lowered. On the positive note, that means that we have a greater likely hood of achieving that rate of return which should minimize unfunded liabilities as we move to the future. Going on to the next topic. There was significant discussion around a payroll audit that has been occurring for quite some time. This is related to the FLSA overtime issues, particularly with the fire department. The board is concerned that this is taking quite a bit of time, they are concerned that there is very little movement from the City's finance department and that is where they are waiting on getting information so that they can conclude what is their liability, the size of their liability and who that liability is owed to. It can range from just a few dollars to some members, retired members of the plan and others, a significant amount of money. Additionally, the board scheduled a retreat for March 7th in which they planned much deeper discussions particularly in the areas of plan performance, and other issues that they've been concerned about over the last several months. Also warranted to report that there was a sudden resignation of the police representative on the board, Conrad Taylor. His resignation, I believe everyone got a copy of his resignation letter, he cited several concerns that he had, concerns that came from various sources to him. The City Attorney, it has said that he is going to write a memorandum to the retirement boards addressing those concerns and the board has asked their outside counsel to write a letter addressing those concerns as well. Because the concerns that were expressed by Conrad Taylor were concerns that have been addressed by some of the independent board members. So we believe it's important to be able to get them the appropriate information about their jobs, their responsibilities, and where the liabilities stand, both individually and collectively for the board. That's my report, thank you.

>> Mayor Reed: Okay, 2.8 is an application of strategic growth council --

>> Councilmember Liccardo: Mayor.

>> Mayor Reed: Sorry I didn't have my little --

>> Councilmember Liccardo: Just wanted to ask two questions if possible. What, for Pete or staff, do we have a sense, the 50 to 57% increase in payroll on Police and Fire, what does that mean in millions of dollars in General Fund?

>> Councilmember Constant: I don't have the exact number but what it means is our projected deficit of \$25 million stays static.

>> Councilmember Liccardo: Static okay. So we assume that going in.

>> Councilmember Constant: Yes.

>> Councilmember Liccardo: Great. And then, with regards to Conrad Taylor's reasons for resigning, I'm not aware of those reasons and without speaking for Conrad can you at least convey what you understand the reasons to be?

>> Councilmember Constant: Yes, there was significant discussion amongst the board. Some board members were informed by some members of city staff about personal liability, that they could bear if the pension reform ballot measure is approved. And they implement whatever measures the ballot measure designates. So whatever it ends up being, if it gets approved that they feel they would have personal liability if they implement those changes. There was quite a bit of discussion prior to the meeting between individual board members, and members, people who are not on the board about this liability. Causing some significant concerns. However, in

discussing with the City Attorney, those concerns don't appear to be valid. They were concerned about personal liability being sued individually, for implementing the plan, having their personal credit affected by actions that they take on the board, potentially having their personal credit frozen and some were even told that they could lose their jobs in the private sector if they did it.

>> Councilmember Liccardo: Right, okay, I appreciate that. Thank you. And I just want to note that my recollection from being on the board is that we were provided E and O insurance even though we paid \$50 for it but my understanding that was supposed to cover us for any claims as well.

>> Councilmember Constant: There's multiple -- there's two levels of insurance, nonrecourse insurance, fiduciary liability insurance, and then of course they are deemed, I forget the exact term but city officials and they also are covered by the immunity claims of government officials. And I'm sure Rick could add on additional information.

>> City Attorney Doyle: Yeah, I just note that the city, to the extent the layers don't cover the city has the obligation under the government code to provide a defense.

>> Mayor Reed: City Manager.

>> City Manager Figone: Yes and Councilmember Liccardo, back to the budget piece of this. We will be evaluating in the forecast how the rates ripple through and what's actually under our control to forecast and where we might need to caveat based on future actions of the board.

>> Mayor Reed: Councilmember Pyle.

>> Councilmember Pyle: Thank you. I just wanted to ask, Councilmember Constant, could we -- could I get a written copy of this? It's a lot to absorb, in one sitting.

>> Councilmember Constant: If you pull up the transcripts of this meeting, yes. But I'm really not prepared to write a memorandum. These are all information that there's transcripts of the retirement board meeting and then there will be the transcript of this meeting. But no, I don't plan on writing the written report.

>> Mayor Reed: Well, the information is posted, with the retirement board agendas, correct? I mean they usually have a presentation with slides and things. So that's posted on the retirement board page. And then the retirement board meetings -- are the retirement board meetings archived in the webcast?

>> Councilmember Constant: They are archived and the transcripts.

>> Mayor Reed: Pete just gave United States a five minute summary of a multiple hour meeting. Councilmember Herrera.

>> Councilmember Herrera: Yes, I did speak to Conrad and he is concerned about the personal liability. And I did mention that we, you know, we have -- we pay for that insurance because I was also on the Police and Fire retirement board. But I think there's a concern that there still would be liability. And I guess my concern is to make sure that there aren't other board members that feel the same way and that you know we might start losing board members. So I don't know how we can find out about that. But we need to somehow provide some reassurance for board members. Conrad, I just want to say, was an exemplary member. It is a loss to that board to lose him.

>> Councilmember Constant: so as I mentioned, yes, there are other board members that are concerned. That is why City Attorney is addressing it with a memorandum as well as their conflicts attorney.

>> Mayor Reed: With the liability question they are posing be any different than a liability question if the plans run out of money because the trustees didn't set the rates appropriately? Isn't that the same issue? And there's liability if you are on that board one way or the other.

>> City Attorney Doyle: That's why they have E and O coverage.

>> Councilmember Herrera: Right but I think we need to reassure them. We don't need a mass exodus off that board.

>> City Attorney Doyle: That's the reason for getting the order out.

>> Mayor Reed: Councilmember Rocha.

>> Councilmember Rocha: I'm going to echo Councilmember Pyle's comment. While I appreciate the verbal report these are some significant issues. And whether the report to me is coming from a councilmember, who I'm going to assume is completely unbiased in his opinion, I would prefer, in the future, to have a written report as well, or maybe something from staff. But we've raised this issue before, and if we're going to continue to have just verbal reports from Councilmember Constant, and then we'll continue to have these questions. Thank you.

>> Mayor Reed: Well the purpose of this is to alert the councilmembers to issues that are being considered by the retirement boards. And the alert is to allow you to know what's going on, so you can then go look at the transcript or the archives of that. It's not an attempt to get everything in front of us. Or to create memo-writing. That was just the way it was structured so --

>> Councilmember Constant: And I may just add, there are councilmembers and staff members to monitor these important issues so the councilmembers can get direct information. I don't believe that's my role and I do not intend to write memos related to this.

>> Mayor Reed: But one of the things we might do is to circulate the link, so the councilmembers have the link to the particular presentation on the retirement board, so you've got an e-mail of it so you can just click, and find it. I think that could be helpful.

>> Councilmember Rocha: Well this information is being presented to me it appears to me that this is significant information.

>> Mayor Reed: That's why that point.

>> Councilmember Rocha: To the point that we're dealing with this issue, quite often, and it impacts our budget, again, I'm going to point out that I would prefer to have staff maybe do a report. But if we feel this information is -- well, I'm not going to say significant.

>> Mayor Reed: Well significant --

>> Councilmember Rocha: If we feel it's our job each councilmember to either go ourselves or to go through these meetings or to send a staff member and we're going to leave it at that then so be it and we'll have each week Councilmember Constant give us a short verbal update and assume that the information you've given me is again completely unbiased and thorough or it's my job to go find out so thank you, I understand.

>> Mayor Reed: Councilmember Herrera.

>> Councilmember Herrera: I was just wondering, mayor, if we've thought about having a future study session. The problem with the material that comes forward from the retirement boards is, it's incredibly complex. Those of us who have sat on the boards can attest to that. Even with the best staff information, everything, it's not always very easy to understand it. And I just want to commend actually Councilmember Constant, for his ability to deliver this information in the way that we can at least understand it. But I can also hear about what my other colleagues are saying about getting the information. Maybe at some point we might want to have staff from the retirement board come again. I don't know if that's planned to help people understand some of these issues in more depth.

>> Mayor Reed: Rules Committee has discussed having a study session for exactly that reason. But we kind of wanted to wait until the retirement boards finish their work so that when we did the study session we would know what they had decided. And for example, Police and Fire has been talking about the rate of return for several meetings. So once they get done, then I think we you know want to bring that to the council in a more formal way. So that you can be informed by the staff or the retirement boards or somebody as to what they've done, what decisions they've made so we just postpone that a bit. In order to allow them to finish their work. Councilmember Liccardo.

>> Councilmember Liccardo: May I offer one suggestion, it's not far afield from yours mayor, which is retirement services has to do -- provide minutes of every meeting anyway. If -- you know some summary of those minutes with a link to the key presentations that, you know, Councilmember Constant's referring to, were just circulated to the council by retirement services staff, I think that might be a really simple way for everybody to easily see that they need to go to the source. I think we all know we can go to the Website and look for it. But certainly, if there was just a routine, you know, e-mail to council, every month, here are the links to the key presentations, I think everybody would feel, you know, pretty comfortable about getting the original information. I think Councilmember Constant has been doing an admirable job of relating that information. But none of us on this council is unbiased, and I think it would be fine if we just had that from the staff.

>> Mayor Reed: I think we can certainly do that. What I would like to do is just to refer this to Rules Committee to talk about that. I don't know what it takes to do the minutes or summary of the minutes and those kinds of things. But making sure the councilmembers have access and are aware of what's going is the whole point of doing this, and if we can do a better job of that. We'll take this up at Rules to figure out what we want to add to the information streaming. Councilmember Oliverio.

>> Councilmember Oliverio: Thank you, mayor. I just want to say I appreciate the concise verbal update. And if it wasn't for the verbal update, we wouldn't be talking about it, because it would just be another document on the consent calendar.

>> Mayor Reed: Okay, I think now we can move to item 2.8, the application of the strategic growth council for sustainable communities planning grant incentives program grants. In other words, let's see if we can get some money, I believe is the topic. I have no requests to speak on that, there is no staff presentation. Is there a motion? Motion is to approve. All in favor, opposed, none opposed, that's approved. 2.9, actions related to the proposed maintenance district 24 in the Alameda. Motion is to approve. I have no request from the public to speak. On the motion, all in favor, opposed, none opposed, that's approved. That concludes the items on our open agenda except for open forum. We have no requests to speak under open forum. So we're going to adjourn into closed session. We will not be back out in open session today.