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>> Sean Kaldor: We'll call things to order. We'll call to order the August 2nd, 2012, meeting of the San José Police and Fire retirement Board of Administration. We have present, Sean Kaldor, the chair, present. Dick Santos, the vice chair, present. David Bacigalupi, a trustee, present. Sean Bill, trustee, present. Damon Krytzer, trustee, absent. Drew Lanza, trustee, present. James Mason, trustee, present. Bettina Rounds, Trustee, present. And Vince Sunzeri. Trustee present. Under orders of the day a couple of changes. 6.2B at the request of Joséph Fleming his application is deferred. Items 3.6 to 3.9 inclusive will all be moved to the end of the meeting to be heard after everything else basically. So it is mainly closed session items for people who don't want to stay through closed session. You have also received two additional memos this morning, one from City Manager Debra Figone dated August 1st. That will be included in the discussion of item 6.5. And we have a memo regarding the correction to retiree health care we received on July 17th. This is not part of the formal board agenda so what we'll do is agendize this as just communication on the next month's agenda.

>> David Bacigalupi: Mr. Chair I think you said 6.2 was deferred but I think it's 4.2.

>> Sean Kaldor: Sorry, I must have misspoken, 4.2 bravo, disability discussion of Fleming. Sorry. Are there any other changes to the orders of the day. All right, well, we let NEPC come they were going to address items 1.1 to 1.4. Maybe we can progress with item 1.5. Is staff prepared to do that? Is that Harvey, is that you?

>> Harvey Leiderman: I think that was Ron.

>> Sean Kaldor: He's pointing at you. Item 1.5, discussion and action on the revised placement agent disclosure policy.

>> I think (inaudible) we one in 2010 and since then, things have changed. And Harvey's taken the revised it for us in order to be compliant with the state regulations.

>> Sean Kaldor: Is there any discussion open item 1.5? Seeing no --

>> There's a spelling -- there's a typographical error if you want whatever on page -- where is it? Page 2, ownership interest in the investment fund by investment manager, change that out to San José.

>> Sean Kaldor: Any other further discussion?

>> I have one other question. Do we have any placement agents that we're dealing with right now? Or --

>> There are a few as the placement agent arm that they have filed the forms that we have requested.

>> Sean Kaldor: If I could just remind everyone a couple things for the whole meeting. Please be sure to speak clearly into your microphones and if any member of the public has issues please be sure to let yourself be known and we'll address the questions. Any other questions? Any other discussion? Seeing no discussion, is there a motion?

>> Richard Santos: So moved.

>> Sean Kaldor: Staff's recommendations item 1.5. Seconded by Bacigalupi. Any other discussion on the motion?

>> Sean Bill: The only other thing I would make clear this is for real estate and private equity, we're making the change. Harvey do you have anything to add to that in terms of how that impacts contracts and things of that nature with these private equity funds and real estate funds in terms of not you know having the recourse of liquidating those holdings?

>> Harvey Leiderman: That's the purpose of it. The policy is pretty uniform for most of the public policy funds in the state. That having the language that the penalty of being able to immediately liquidate out of an illiquid investment is posing problems with the managers, and it seems to be a requirement that is disproportionate to the harm that it's supposed to be addressing. So for those particularly illiquid investments in real estate and private

equity vehicles, hedge funds, that sort of thing, it seems appropriate to ease off of that one particular penalty, while the other penalties stay in place. CalPERS has done the same thing based on their experience and a number of other funds have taken their foot off the throat on that particular provision for that reason. Because it's just not commercially reasonable quite frankly.

>> Sean Bill: So for my interpretation of board members who may not be as familiar with fund managers, basically it is not practical to liquidate these investments and therefore some managers will not sign the contracts.

>> Harvey Leiderman: Understand the penalties are solely if the investment manager has failed to make a disclosure that it has used a placement agent. So this particular penalty is really disproportionate in practice to the absence of a disclosure. We still have the right to not fund further capital contributions. In other words, to freeze our position in the investment, if that's the board's desire. We still have the right to recover fees, as a penalty, that have been paid in the event the manager violates the policy and we have the right to terminate the manager. But the idea that we could be -- that we could have automatic liquidity for an otherwise automatic investment for the failure to disclose they used a placement agent seems inappropriate.

>> Sean Kaldor: Any other discussion? Seeing no further questions, all those in favor? Any opposed?

>> Richard Santos: Does Cortex agree with this, that we have any input --

>> Sean Kaldor: Would Cortex give any input into this?

>> Russell Crosby: This is really California law.

>> Sean Bill: Roll out a contract if they feel they could be put in a position that compromises their position, liquidating a private equity investment can be very expensive.

>> Sean Kaldor: Any opposed? Seeing none opposed, the motion passes unanimously. We'll move to item 1.1, this is a closed session discussion. We don't anticipate this will be more than ten minutes. Item 1.1, closed session conversation with investment consultant NEPC pursuant to government code section 54956.81 to consider purchase of particular pension fund investment. We'll adjourn into the investment room and return very shortly. [Closed session]

>> Sean Kaldor: We are returning to open session, there is no report out from closed session. We are at indemnity item. Discussion of action and investment committee. And the asset mix. Tim is the director of our asset allocation team. He's stationed in our Cambridge, Massachusetts office. He is also the director of research with regard to traditional investments back East, and he is the kind of point man for all of the asset liability work that is done internally. So we wanted to bring the expert out to discuss what is arguably the most pressing issue with the plan, and that's asset allocation and its implications on the liabilities of the plan. And so with that I'll let Tim take it away.

>> Sean Kaldor: Great.

>> Thank you, Dan. So everyone has the presentation materials, great. I'll kick off on page 4, asset allocation defined. We're trying to get to an appropriate level of return and risk and using several different perspectives to get there. So allocating assets across several different asset classes and then trying to figure out the structures within those asset classes, as well. And of course on page 5, it's not just about the assets. The reason we are here is because of the liabilities as well. And we'll use some complicated tools, and analysis to get there. But at the end of the day, it is a very simple problem: It's contributions plus investments equal benefits plus expenses. We're focusing the eye on the sea today, but all of the things come into play in the process. Page 6 is the executive summary. We have gone through several different types of analysis, we've projected the assets and liabilities out ten years and come out with a mix that we think is appropriate over the next three to five years. We think the low expected returns are here to say and our assumptions for asset class returns and risk reflect that and the portfolio that we've recommended here reflect that. The portfolio, the recommended mix is on page 7. You see the current actual, current policy, staff mix and then the NEPC recommendation all the way on the

right. The themes from the current spot to the NEPC recommendation are a reduction in equity exposure. A reworking of the fixed income allocation so not changing the overall allocation to fixed income. It's still 30%, but really, restructuring it pretty significantly. Some restructuring of inflation linked assets with a slight reduction there and then an increase in hedge funds and global asset allocation. The result of those brings us to an increase in expected return, a slight increase in risk, but a more of an increase in expected return. So a higher sharp ratio, an improved efficiency to the portfolio. So those are kind of the headline numbers. We go from a 7.2 expected return to 7.7 over the next five to seven years, we increase volatility from 10.4 to 10.7. What you'll see in some of the analysis that we look at, particularly the risk budgeting analysis, the mix of that volatility which is essentially the same, 10.4 to 10.7 it's very different, we've reduced the amount of equity risk in that risk allocation and reallocated it to fixed income, inflation linked assets and absolute return. So we're making the portfolio less dependent on equity markets to drive the outcomes of the plan, okay? Any questions on that? On the overall mix?

>> Sean Bill: One quick question. On the hedge fund low vol versus moderate vol, what is the pivot point there from where a fund goes from low vol to high vol, what is the cutoff that you guys grip them by?

>> I'll give you the quantitative answer first. The expectations are about a 5.5% expected return, with a 7% volatility for low vol, kind of a fund to fund type of assumption, and moderate vol is a 7% expected return. So sort of in line with equities, and I think a 12% volatility, numbers in the back to get the answer there. And more of a direct hedge fund type assumption. So that's really a reflection of a structural change from fund to funds, to direct saving on fees. Getting more juice from that part of the folio. GAA, global assets allocation, is another important component, 5% of the portfolio. A new part of the portfolio. There's two things that we'd look to accomplish from that part of the portfolio. One is to introduce a more tactical component to the portfolio so these global asset allocation strategies have less constraints and more freedom to move across markets. So you have a static strategic mix that you're hoping will deliver the expected return and risk over time. But opportunities evolve in markets over any reasonable period of time and we think we've got a small subset of highly skilled managers that can tactically allocate across markets and add some additional value to the portfolio. We also would introduce risk parity there, which is a concept that takes the risk budgeting approach, some analysis you'll see in here, and does

that within a fund structure. So trying to balance risk exposures across equities, nominal of fixed income inflation linked fixed income and commodities. Any other questions on the mix itself? Great. Page 9, jumping 1 ahead, shows the summary of that recommended policy. And the ranges around those. I won't spend much time on it but if there's interest in the process we went through for figuring out those ranges and how to rebalance, there's some information in the appendix. So happy do that. But I'll skip that for now. Page 10, the conclusions of the executive summary. Funded status is likely to decline for another year as the smoothing rolls off, as losses from fiscal year '08 and '09 are fully recognized. And then will gradually see improvements and we'll go through the forecasting of that. Contribution requirements are going to remain elevated although they tend to level off over time as a percent of pay, and we think that the mix that we've put together improves both the risk profile of the plan and the expected return over the next five to seven years. I'll quickly run through the approach. We use -- it starts on page 13. I'll summarize it by saying we try to use multiple perspectives to get to the answer. We're not going to come in and just say, we've forecasted the portfolio on a deterministic basis, and we've done mean variance analysis, and that's it. We think those are two things that are interesting, and you can get some insights from it, but there's also some shortcomings to using expected returns and expect risk to get to your outcomes, because we know the world doesn't follow our expectations, it never does. So risk budgeting is the second tool that we use, where we see not just how much risk you're taking but where you're taking that risk. On page 14, we will deterministically forecast. So forecast a projection on a baseline basis, to see where we'd expect funded status, assets, liabilities, contributions to evolve over a five- to ten-year period, and then we'll stress-test it on a scenario analysis process where we look at different economic regimes to see how the portfolio could withstand a recessionary environment, a stagflation environment. So we're not picking up those things in just a base-case forecast. We're trying to pick those up through other tools. And then we'll also do on page 15, a stochastic forecasting where we can assign probabilities to different outcomes and different thresholds. The probability of being 100% funded ten years from now as an example. We think this multiple perspective approach, this mosaic type approach, helps us fill in some of the gaps and shortcomings from each one of those models. They all have some advantages and disadvantages. And we think that by extracting the useful parts of each one we get to a more robust solution.

>> Drew Lanza: Is the stochastic forecasting based on historical returns in each of those asset classes?

>> It's based on our forward-looking returns and asset class, forward-looking return risk and correlation. Page 17 gives you the -- I'll run through the projections for the plan, the baseline for them, and then quickly go through risk budgeting scenario analysis and the stochastic forecasting. The baseline is that the plan is about 84% funded as of the last actuarial valuation. Our roll-forward with that brings it to about 80% or around 82% on a market value basis. Page 18 is an important slide. This is projecting the cash flows, the benefit payments of the plan out into the future. The dark blue are the accrued benefits. That's what's part of the liability already. That's what you've already promised to existing participants and retirees. The light blue is projected benefits based on the current structure of the plan. So those are benefits that will accrue over time as participants earn additional service as new participants come into the plan. So the blue is current, that's how current funded status is calculated taking all those projected cash flows, discounting them back to today. But for forecasting purposes we want to incorporate the light blue because that's the economic reality that there will be new benefits being being accrued over time.

>> Sean Kaldor: Just a quick question. You said the light blue includes future employees but this is only current employees, is that correct?

>> Current, all of the -- all of the funded status calculations, all of the current measurements, are current employees. The light blue would incorporate new employees coming in, and earning benefits over time.

>> Sean Kaldor: So why would that go down?

>> It goes down over time, because it's just as of today. So it's not -- it's not accounting for 30 years out that be you've got -- it's all new participants and no old participants.

>> Sean Kaldor: So it's new employees as of this year, or I'm just trying to understand what new employees are

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>> It's because of the ten year forecast.

>> Sean Kaldor: Thank you very much.

>> Thank you. Page 19 is the base case that I talked about the darker -- better colors here. These are tough to tell apart. The actuarial accrued liability is the darker color. The actuarial value of assets is the lighter color. And you see as I talked about in the executive summary, a falloff of funded status, a leveling off over the next couple of years as the losses of fiscal year '08 and '09 roll off from the actuarial value of assets smoothing calculation and then a steady improvement over time. If the plan is able to earn its expected return of the 7.5% forecast here. Getting on a baseline basis ten years out about 90% funded. The following slides just give some different perspectives on that. Page 20 is the delta between the actuarial accrued liability and the actuarial value of assets. Again you see that spiking a little bit over the next couple of years and then slowly tailing off. But not tailing off as much as funded status is improving because assets and liabilities are both growing. So 500 million ten years from now is a smaller piece of the whole pie.

>> Sean Bill: Why would the unfunded liability be projected to grow in 2013, is that just the carryover from 2008, or what's going on there?

>> Yeah, it's because the unfunded liability here is the AAL, minus the AVA, the actuarial value of assets, and the actuarial value of assets is taking a hit because '08 is rolling off from it.

>> That's the last year we have that.

>> Sean Kaldor: So it would be 2008, and then also this last, current year?

>> The current year would be like 2015 and 2016, you see that you don't have much of a fall-off there, it kind of just levels off. It really, it's because it's 6-30-08 and 6-30-09. 6-30-08 wasn't good, and 6-30-09 was really bad. Page 21 is the projection of contributions, and you can see that on a dollar basis, which is the left-hand axis in the bars, consistently increasing over time. 2020, to '21, you do see a slight falloff there. That's because the -- you pay your normal cost every year, you pay your new accrual of benefits and then you pay some portion

of the unfunded liability. And that -- the calculation of that unfunded liability is based on bases that are calculated each year. And you have a base that's rolling off from 2020 to '21. So there's an amortization of each year's unfunded and there's a big unfunded rolling off from 2020 to '21. So a little nuance to the calculation there. You do see, it stays pretty level as a percent of pay over time. So and importantly on page 22, comparing the contributions to the expected benefit payments, the plan is expected to be net cash flow negative but I would say only modestly so. So one of within as I talked about lowering equities, keeping fixed income the same, increasing, and increasing the alternatives a little bit. There are within each of those structures an increase to illiquidity assets a little bit, more private debt, some private real assets, and then allocating a little more to hedge funds would increase your liquidity a little bit. Based on this we think you're well-positioned to take on a little bit more illiquidity, we think the plan can handle that pretty prudently. Now, the next few slides starting on page 23 take us through the same measurement, funded status, contributions, et cetera. Instead of on a deterministic basis, on a stochastic basis. A deterministic is a single foresights. Stochastic analysis is doing 5,000 forecasts, shocking each of the variables each time and then ranking them to see what the probability of different outcomes are. This is again on the current plan, by 2021, the expected value is right in line with where we are. There is some noise in the methodology so we don't get the exact same numbers as the baseline in the previous analysis but right around the same. 93% funded on the baseline by 2021 or the median. The range from 5th to 95th percentile is anywhere from just above 70% to 120% funded, so a very wide range of outcomes over a ten-year forecasting period based on what happens with markets. And we'll compare this to our mix, the recommended allocation, later on. You'll see we're narrowing those outcomes a little bit. You are giving up some of the upside, which is okay as you're above 100% funded and cutting off quite a bit of the down side. 24, similar outcomes on contributions. A wide range by 2021. Anywhere from less than 50 million where you'd just be paying the normal cost essentially and being overfunded, you could use some of the over-funded position to pay for some of that, all the way up to almost 300 million in annual contributions. So pretty dire economic outcomes. Pretty dire market conditions to get to that place where you'd have -- you'd sort of have losses over a ten--year period to be that poorly funded that you'd have that much to make up. But I think if we would be having our conversation in 2000 that is almost the reality we experienced over that time so I think you do have to take it into account. Page 25 is the disappear of these projections. And can you see liability growth consistent. Because there's not much in the way of changes to the discount rate, really growing with the new benefit accruals, less benefit payments going out and that's growth

of about 5% per year. Remaining underfunded but steadily improving that and in a position to still improve funded status. So when we look at plans that are 60% funded it's such a challenge to improve funded status. Because the amount of money going out is just eating away at what their assets can do to work to improve funded status. So we think in the 80s you're well positioned to improve funded status over time and that's really important. Cash flow benefit payments is about 5 to 6% annually with contributions almost offsetting that. Net cash flow negative but not significantly. The long term assumption of 7.5% is supported by both our 5 to 7 and 30 year numbers. I want to be sensitive to time so I can go into detail on each of the analytical tools that we used, comparing the mixes or can I just spend a minute on each one, just telling you a little bit about them. Does that make sense?

>> Sean Kaldor: Short version.

>> Okay, great. All right. Let's jump to, why don't I explain risk budgeting for a second. Page 27. Risk budgeting takes that total portfolio that we talked about, for our revenue mix it's 10.7%, it takes the volatility and correlation for each asset class that gets combined to get to that number and looks at what the sources of risk are. So rather than just what that number is, it's how you're getting to that number. And if we jump to page 29, you see a comparison of the current policy, actual, the staff mix, the NEPC recommended. You see very similar on the right, 10.4 11.3, 7.5, right in the ballpark of each other. You focus on the red, the difference of the mix and how reliant they are for the markets for returns. The current policy has 75% of its risk coming from equity. So if the equity market is up or down any given day, month, or year. That probably tells you how the plan did directionally for that day, month or year. The NEPC-recommended mix gets equity mix down to less than half of total portfolio volatility, increases the sources of risk from fixed income, increases the sources of risk from alternatives. So trying to balance that a little bit so we're less dependent on equity markets for returns. Scenario and analysis I won't go into the details on it. I'll just show you on page 31 the different scenarios we look at. We look at growth and inflation as the key drivers of pricing for asset classes. We look at two relatively favorable outcomes, expansion where growth is strong and inflation is low. Overextension, where both growth and inflation are high. Stagflation, low growth but high inflation, and recession, low inflation but low growth, as well. We also look at something we made up. Delev-flation. It's sort of a forecast of where we might go with the current market, where you've got all

this money into the system, we are in a deleveraging environment, but all of a sudden, all that money actually ignites some inflation and we get into a really high-inflation type environment.

>> Sean Bill: So I was visiting with some of your other clients, Arizona, San Bernardino, Orange county and et cetera, and we were discussing the Japanese deflation, and we all thought it would be very interesting to see how these portfolios would function through the Japanese deleveraging cycle taking the equity market peaks, fixed income peaks and running them forward. Is that something you guys could do in the future?

>> We could, yeah. I think it would be -- I think the first would years of the delev-flation reflect that pretty accurately. And then we go the other way with it. We go really high inflation, but we could extend another three years of more deleveraging and more deflation, I think we could do that pretty easily.

>> Sean Bill: Maybe ten or 15 years.

>> Or 20. Yeah, hope we don't get there, though. Let's just jump to page 33. The funded status. This compares the current policy's outcomes to the three alternative mixes, the actual staff and NEPC, I think it's either recommended mix in the lower left, narrows the bands of outcomes. And importantly, while it gives up a little bit in some of those better outcomes it protects quite a bit in those really nasty environments, the deleveraging and the recessionary type environment. By lowering the equity exposure we're introducing some more protection while still having a higher expected return. Okay? I'll wrap up with just one comparison slide on stochastic analysis on page 40. And this is comparing economic cost. It's a nice way of summarizing those different -- all the different stochastic analyses. So you can look at funded status. But funded status can before you some tricky outcomes. Because it's affected by contributions. So you can have some really poor investment markets but if, because of that, you've got really high contributions coming in, your funded status can actually look okay. So economic cost combines the two measures. It looks at your ending funded status and all of your contributions over a ten-year period. So it's the amount you put in plus the amount you still owe. So it summarizes the total costs of running the plan. And we've done it for the four mixes. It's the -- we have the range of outcomes on the left and then a kind of summary of risk and return space of the different measures. On the vertical axis is the

mean outcome, the average outcome across 5,000 different forecasts. And on the horizontal axis is the 95th percentile. So sort of a two standard deviation worst-case type outcome. Focus less on the numbers themselves, because the, I think, present value of contributions plus the present value of the unfunded liability 10 years out is not very intuitive in any way. But focus on the differences between the mixes. We want to be up and to the left. We want to have lower average outcomes, but also, lower worst-case outcomes. And you can see the recommended mix, NEPC gives you a much better -- a slightly better mean outcome but a significantly better down side outcome than any of the alternatives. We think that's really important.

>> Sean Kaldor: Questions or discussion? Vince.

>> Vincent Sunzeri: I'll just add a few things here. Just so you know what happened at the investment committee level. We had two to three meetings almost devoted exclusively to this topic. So a lot of time was put into it, in addition to conference calls. Challenged a lot of the assumptions. What I really like about the work that was done, that was just pointed out, was the various angles and approaches that they did their analysis. It wasn't just using one style. It was looking at risk budgeting and scenario analysis as they've just gone through. And my concern in the prior allocation and analysis that was being done is, it wasn't quite as comprehensive. This is a pretty significant deviation from what we were previously looking at. If we had a very high inflationary environment that would have worked quite well, which was evidenced in their analysis. But in other scenarios, it would not have. And there's a lot of various scenarios that we could be seeing and I didn't want us to be building a portfolio around one particular outlook. So very pleased with it. Probably the only real shift that ended up at the very end of this was broadening our bands around some of the asset classes so that as the environment changes we have greater flexibility to either increase or decrease our allocation. If you look at the last decade, having nearly two, 50% declines in equity markets, we wanted greater flexibility to be able to respond to that. And then on the fixed income side you'll notice some significant change within the fixed-income bucket completely eliminating exposure to long-term bonds. With the rates at historic lows, it makes sense to do that and thinking really outside the box and considering other alternatives. So the investment committee approved this bringing it forward and we support their recommendation.

>> Sean Kaldor: Santos.

>> Richard Santos: I would support the investment committee. I was just in a quandary when I went to some of the round table I hear different consults get up our investments and so on on companies and everybody has got to me a gimmick in terms of a different style, you have a different purification process, you have better check in, the experts say, we have better performance, I'm sure you gentlemen and ladies hear this all the time. How do you differ -- how do you know this firms is better than the other firm because they all tell you these buzz words they all sound very good to me when I was there listening. And I'm going wow. So I listened to what Vince had to say, it sounds impressive. But who's not going to tell me that? And so how do you say well, you know, we have reviewed this and we already know this company, that's a big plus for me. Same as when you folks ask us, do you know that firefighters or that police officer. It kind of helps.

>> Sean Bill: I would say that the consultant -- you need to find a consultant that kind of matches your goals, find a consult whose investment philosophy you agree with. Some consultants are pushing inflation scenario let's say. There are some that are pushing a risk parity approach. And you know I think what we're trying to do is improve returns and lower volatility. And this is kind of what the consensus on the board seems to have been is that we want to have lower volatility and try to improve our returns and a cross of very different potential item set of outcomes. Whether it's inflation, deflation, slow growth or slower for longer, you know, that we would perform reasonably well in any of those scenarios. And I think that was kind of the mission that we're trying to accomplish with NEPC. The other thing I would say is if you look at the peer universe and you look at who's performing well, and you look at which consultants are working with those plans, NEPC's plans have done very well on a risk-adjusted basis. They're generally in the top left quadrant, which is where you want to be.

>> Richard Santos: By this committee working in that profession, are you able to some of you make contacts and able to double check some things?

>> Sean Bill: I think that -- I work with several other consultants with the other plan that I'm affiliated with. They're very different different. One consultant is kind of a little more conservative than the other. Another consultant is willing to break away from the pack. It is kind of what your board is looking for.

>> Vincent Sunzeri: Also add from the research that I'm looking at from all different sources it appears to me more and more that indemnifying represents a bit of a consensus. Which is comforting. And what then you need to ask yourself is, what if the consensus is wrong? Because that is where you can tend to get into trouble. But if you're going with the consensus, more than likely you're adopting an outlook that isn't that far out from the norm and unlikely to take place. And in addition to that, their forecasting is done with their expected returns over five to seven years which is very helpful. Many consultants will look at much longer-return assumptions which can deviate greatly because of the shocks to the system.

>> Sean Bill: I think one other positive on this allocation is it does place a high value on income right, and the surety of income. You're seeing that with the high yield, the global bonds, these things. So moving away from equities, which are you know we've seen the returns for the last ten years the returns have been pretty challenging. So you can't get those returns in standard sovereign rate debt but if you are moving into the credit markets you can get better returns have a more consistent cash flow and more predictability in your investment returns.

>> Sean Kaldor: Harvey.

>> Harvey Leiderman: If I may Mr. Chairman, just a question, one of the other issues the board has is setting the actuarial rate of return. I wonder Tim, if you could explain the relationship between the statement on page 6 that you believe low expected returns are here to stay, with the projected return of your recommendation of 7.7%.

>> Sure. I'll give you some perspective. In the last 30 years, the equity markets, even with the last decade of returns, what it is month-to-month, but 8.7, 8.8%, high 8s, and that is kind of historically what you'd expect from equities is something in the 8s or 9s even. Our forecast for U.S. equities over the next five to seven years is

7.25%, just barely over 7%. It is a 7 handle on small cap international equities. So equity marks have subdued returns. Our fixed income returns reflect what the market is offering. So we're very market based in how we set those assumptions, so for U.S. treasuries it is 1.75%, those as of the beginning of the year it will be lower. It will be lower going into next year likely if rates stay where they are. So relative to history, the expectations are down significantly, with the starting point of low rates. I think it's challenging to earn something in the eights or 9s. We think you've structured something here in the proposed portfolio using both traditional markets like equities and credit markets but also alternatives like illiquids which do offer higher returns, hedge funds in GAA, which offer returns more through alpha than through the market exposures that allow you to get to something in the high 7s with a reasonable probability of that occurring. So I think the 7.7 is a reasonable number, a reasonable expectation. But ten years ago, if you put this portfolio together, it would have been 8.7 or 9% that you would have expected out of it.

>> Thank you.

>> Sean Kaldor: Any other questions or discussion? Seeing none is there a motion?

>> Sean Bill: Just ask one more question. When does this whole assumed rate of return discussion come up again?

>> Sean Kaldor: The actuary will take these inputs and we're in August now, October or November we'll go back through there, first they do their returns analysis and then they reproject costs and then use the asset mix and what we decided here to come back and say discount rate discussion. All right we have a motion from Trust Santos to accept the investment committee's recommendation regarding the plan's asset liability study and asset mix. Do I have a second?

>> Vincent Sunzeri: Second.

>> Sean Kaldor: We have a second from Sunzeri. Any further discussion? Seeing none, all those in favor, opposed, the matter passes unanimous. Item 1.3, discussion and action on the investment committee recommendation regarding the 2012 private equity strategic plan.

>> Thanks, I didn't get a chance to do so in our closed session but with me is Kevin Tatlow, located here in our Redwood City office and is a dedicated resource for the Police and Fire plan and we're doing this a little backwards I guess because we're going to now discuss the plan after we had the closed session discussion. But nonetheless I'll have Kevin walk you through it.

>> Yes. So this is the 2012 part of the equity strategic plan. Basically the two elements to this document, one is pacing analysis which is used to determine how much to commit to private equity in each year. We're investing in closed end funds and it's not that simple to just look at your target and pick a number. Because the existing funds are investing over time and money's coming back and going out with all the funds in the program so we bucket them by each vintage year and sort of figure out the expected cash flows for each of the vintages in order to model out the growth of the private equity program. And basically, we identified a level of commitment of approximately \$70 million for the 2012 vintage year. I'm looking at the summary recommendation on page 4. The second part of the plan is actually to look at your portfolio and the opportunities in the market and really decide where -- which strategies to commit to in the vintage year. And so the recommendation for this year was 15 million to the distress strategy, 15 million to emerging markets, 20 million to growth equity companies and 20 million to the mezzanine strategy. You know, these are all strategies that we feel are fairly attractive now. Granted, private equity allocations are not, you know, significantly about timing the markets. But at the same time, occasionally there are strategies that may be out of favor, due to maybe excessive capital flows to those opportunities. So on occasion there may be some tactical decisions. Where we are we are restarting the program in some ways. The fund did a lot of fund to funds allocations. Those allocations are really for the most part deployed. And so we're really moving more into a harvesting mode from those programs. And really, we're, you know, reentering the market and will have funds in these four strategies out putting capital to work again. The -- there was some discussion about sort of, you know, where -- where this first year was going to move the program. And really, the first year of commitments you know if we just did the 70 and then stopped after that, it

would really, you know, we're really not moving that much towards our target. We're just sort of refilling the program. Essentially, we're assuming right now that we're moving from a five to 8% target over the long run in private equity. But initially this first year 70 we'll essentially hold the line where we are now and future allocations will help move the program forward in terms of allocation. In term of just process, we think reviewing, doing the pacing and analysis and strategic plan is very valuable to really revisit every year. It really allows you to sort of true-up the process and make sure you're always as close to your target and your goal as possible. I think I can answer any questions or provide any more detail. But I think that's sort of the summary presentation.

>> Sean Bill: What exactly is growth equity?

>> Growth equity as defined by NEPC and defined by the market are slight -- there is slight variation. The venture folks tend to think of growth equity as sort of later-stage venture whether they're growing businesses, that are sort of just -- you know, the business now has a product and they're starting to sell it, but there's growth to really make it into real business. We really define growth equity more as businesses that are not growing through, you know, trying to bring a new product to market. But are more growing their businesses either geographically by adding on additional sort of product lines to a business, we look at it as a strategy where we're really participating in the businesses, in the economy that have opportunities to grow. It seems sort of counterintuitive that we're in an economic environment where certainly growth is the headline and everyone's worry right now. But within the economy there is always lots of opportunities to grow businesses. There's always, you know, something new that can be grown geographically. Or someone's just better with a particular line of business than their competitors and they need capital to help grow their business.

>> Sean Bill: And then on the energy side, I think I may have asked you this a little bit in the investment committee meeting, but any thoughts on that space? It seems like there would be some interesting opportunities there with what's occurring on the fracking and the shale gas and --

>> Yeah, I think it's real interesting. There's a great deal of capital flowing now into energy markets and we do think that there are attractive opportunities right now. Essentially we're -- at the same time we don't have energy

in the program this year. Right now, in the page 13, we're not showing it next year. We might revise that and move it up depending on the opportunity set. There is -- there is a fairly small universe of managers in the energy space also. And so in some ways, you know, the energy allocation when we start getting into it may move around to sort of meet who's available. But we do like the opportunities right now. And it is -- it is pretty interesting now that we're starting to see a lot more activity in those areas than during the recession.

>> Sean Kaldor: Any other questions or discussion? Vince.

>> Vincent Sunzeri: I do have one question on the allocation on page 8 relative to the commitments that you're shown here on page 4. The 15 million to emerging markets and specialized fund to funds, what strategy is that falling under? Is that special situations?

>> Yes, that's a great question. In general, emerging markets investing is really all about growth. And you know, those, depending on the fund, it's you know 75, 80% what we would call growth equity.

>> Sean Kaldor: Okay, any other questions? Take a motion then.

>> So moved.

>> Sean Kaldor: We have a motion from trustee Santos to accept the investment committee recommendation regarding the 2012 private equity strategic plan. Do we have a second?

>> Second.

>> Sean Kaldor: Second from Sunzeri. Any discussion on the motion? Seeing none all those in favor? Any opposed? Seeing none opposed the motion passes unanimously. Thank you again.

>> Thank you.

>> Sean Kaldor: We'll move to item 1.4, discussion and action on the second amendment to the agreement between the Police and Fire department retirement plan and NEPC for a one-year term with a not-to-exceed amount of \$695,000.

>> (inaudible) NEPC's contract and they approved extending the contract for a one year, one-year term.

>> Sean Kaldor: So this is \$6 500,000 for a 12-month period and that is solely a Police and Fire retirement expense.

>> Exactly. That includes alternative investments, as well as standard investments.

>> Sean Kaldor: How much was it in the previous year?

>> I think it was a little bit more. In the previous year --

>> Sean Kaldor: 810,000.

>> Exactly. 810,000. We received a discount reduction for the reduction in the alternative asset classes.

>> Sean Kaldor: Okay.

>> David Bacigalupi: Move to approve staff recommendation.

>> Sean Kaldor: We have a motion to approve staff recommendation by trustee Bacigalupi and a second by Trustee Santos. Any discussion on the motion? Seeing no discussion, all those in favor, any opposed, seeing none opposed, the motion passes unanimously. Item 1.6, notification of the departure of the Chief Investment

Officer, Carmen Racy-Choy, effective July 31st, 2012. Do we have a memo or any such -- all right. So is this the official notification to the board, or was there notification before that to the board?

>> Russell Crosby: This is the official notification to the board, correct. And she has accepted a position with a major investment house in San Francisco, a substantial increase in salary.

>> Sean Kaldor: All right. Any discussion? I'll make the point that there are many key positions in the Department of Retirement services. When it comes to investments, the CIO is a significant position. And for us, you know, it's that formula we just saw from NEPC, contributions plus investments, and really investment returns, that's a key driver of the plan's funded status of the investment returns. We've had challenges with the difficult markets in the past little while, and now, having no one in that position is a huge thing for the plan to address. And I've been privileged to be a member of the personnel committee. I know we're working with the City Manager's Office to try and get that position filled as quickly as possible with the best candidate possible. But recognizing it's a huge vacancy to have in the plan, especially at this time, much less any time.

>> Sean Bill: I'd just like to second that. Because I think you know there's one lever we have control here in terms of getting this plan back to a funded -- fully funded status, and that is in investment returns. Improve the investment returns, we get closer to being funded, right? And having all these vacancies and not being able to pay people market rates, puts the board in awkward position.

>> Sean Kaldor: Trustee Santos.

>> Richard Santos: I know in communications I've had with personnel committee investment committee it's obvious everybody is working extra-hard. I think it's time for us to definitely unify and making sure whatever recommendation that is coming up, with the CIO leaving there is going to be different style of performance and so on. I think it's all needed and tilt and so I'm looking forward to you guys recommendations and dig in and get this thing going as soon as possible making these transactions, so it's less hurtful as possible. And of course, investment is number 1.

>> Sean Kaldor: Any further discussion on that item?

>> David Bacigalupi: I don't want to be redundant. It's just that both the personnel committee and investment committee this is very important position and look forward to recommendations.

>> Sean Kaldor: Okay, seeing no further discussion, that item is note and file the notification. Item 2.1 under new business, discussion and action on the First Amendment to the agreement among the Board of Administration for the Police and Fire retirement plan City of San José and Reed Smith for legal services to modify what is included in the monthly retainer fee. Donna.

>> Donna Busse: Reed Smith originally when they responded to the RFP thought the RFP mentioned that our board meetings were going to average between one to five hours and so they included it in their retainer fee at a fixed rate, and also included with the retainer fee not only attendance at the 11 board meetings and prep work involved in that, but also ten other hours of extra work per month. As you know our meetings are averaging a lot longer than that, so we want to modify the agreement to recognize that. So any hours over five hours for a board meeting, will be first taken out of the extra ten hours that are provided for the month. And then if those hours are taken because of other activities that they're doing for the plan then it will be done on an hourly basis. And in addition it was also clarified that travel time is not included in the meeting time.

>> Sean Kaldor: Santos.

>> Richard Santos: All I know is being on the committees and also phone calls, whatever to have Harvey available, is a calming effect and we're getting things on at a faster clip. I think it's warranted and we're getting our money's worth for this plan to make sure it's safeguarded and our legal issues addressed in a timely fashion so I appreciate the work.

>> Sean Kaldor: Bacigalupi.

>> David Bacigalupi: I move to approve the recommendation. I think the recommendation and the legal services that we've been provided just up to this point have been outstanding and I understand the differences between the initial contract and what's really happening. So I support it and I move to approve it.

>> Second.

>> Sean Kaldor: So we have a motion from Bacigalupi, a second from Santos. Any discussion on the motion? I'll just add my two cents that Harvey and Jeff have been invaluable resources and helping us navigate some very tricky decisions and difficult decisions to make, giving us very good input. I think it's been rational and realistic and have been available countless hours to us and I know the prep work for these meetings and these meetings are far longer than was probably anticipated. So I acknowledge that there's additional work than was probably originally anticipated and also do support it. Any other discussion? Seeing no other discussion all those in favor? Any opposed? None opposed the motion passes unanimously. Item 2.2. Discussion and action on plan expenses for May 2012.

>> In the board packet you have the May 2012 expenses. I'll take any questions you have.

>> Sean Bill: I note there's one interesting thing to point out here. We're spending \$1.6 million or so on money managers and we're trifling over \$160,000 on a CIO.

>> Sean Kaldor: Duly noted. I have one question, I think it's just a clarification on the invoice from Cheiron, \$20,000 for ballot measure. That was for the questions that we asked them to provide to Harvey Leiderman which was then provided to the city, is that correct?

>> Richard Santos: Had Drew answer those.

>> Drew Lanza: And I answered additional questions for prep.

>> Sean Kaldor: Trying to get that feedback. Bacigalupi.

>> David Bacigalupi: Just another comment on page 2 bottom of administrative expenses. We have medical director and support staff of \$11,225. And that's a small, small amount for the needs that we have and the pending cases and stuff. So I would recommend anything we can do to contract, you know, some temporary help to try and get this backlog caught up.

>> Sean Kaldor: Okay. I think that will tie into the report coming up in the disability committee, ad hoc disability committee. Any other comments on the -- or concerns or questions about the expenses? All right, we have a motion to approve by trustee Santos. Do I have a second? Second by Mason. We have a motion and second. Any discussion? All those in favor? Opposed, seeing none motion passes unanimously. 2.3, discussion and action regarding the compensation consultant RPF and approval to delegate the selection of the firm to the ad hoc personnel committee. I'll provide background on this. As we have been looking at the positions CIO CEO we have received input from Cheiron and we received other research and input multiple times but Cortex, we're getting the impression that we are going to the same pool, the question is should we go out and ask for an RFP, find the best competitive compensation analysis out there, as you know, real justification for what the salary should be or shouldn't be. So staff has completed the work to do that in the course of a month, very quick turn around and come back with the RFPs that were received. So this is our first look at it.

>> Sean Bill: My only question is, do we think we'll get any other response, rather than going to Cortex which is an independent survey specialist here, is there reason to expect that we would have a different response from the powers that be that were able to change these levels of compensation if we were to use another agency?

>> Sean Kaldor: Vince.

>> Vincent Sunzeri: If you took a look at the Cortex compensation information and had a conversation with them, it actually was done by a third party. I'm not sure it was presented in the deep dive of some of the alternative

compensation studies I've seen that firms have put together. I've probably received two or three from other government agencies. And I think that they are much more in depth, provide a lot greater bit of information, and I suggest we move in this direction. We need some very concrete third party that's away from strictly focused on governance that addresses this topic. And to your point Sean about spending as much as we do on investment management fees, it's worth our investment here.

>> Sean Kaldor: I've seen the input, salary ranges that sort of match to the Cortex stuff. But I think we've been feeling the need to get good quality talent in these positions and salary we believe has been an issue but we haven't been able to make that case or get it resolved. I don't know if this is going to get us over the hump with it, but it would remove one objection. I was surprised at the \$122,000, I thought this would be a \$10,000 or \$20,000 project.

>> Sean Bill: Bettina, do you think that's reasonable?

>> Bettina Rounds: I don't know that it's reasonable, but I think it is probably market practice.

>> Sean Bill: I mean devoted to cost.

>> Bettina Rounds: Yeah, I mean, yeah, particularly if they're tailoring it. It's going to be a lot of work. If they just give us a boilerplate, we're not going to get what we want. So you'll pay half of that, and get nothing.

>> Good point.

>> Richard Santos: I think they think this is the price we're going to pay to be a part of this process and make a decision. And until something changes later, this is what we face and this is what we have to work with. And let's just go forward.

>> Sean Kaldor: Any other discussion before a motion?

>> When would you expect your deliverable on this? Would it be after the CIO recruitment process or before? I'd hate for us to waste the money.

>> Sean Kaldor: Is there a return on this?

>> Russell Crosby: You've got the CIO recruitment process going on right now. It's going to take several months to get this completed. It's a best-case particularly since you're doing a custom survey that's not going to get turned around in a day or two or a week or to two. So you're likely to be mid stream with your CIO before anything comes back on this.

>> Sean Kaldor: It also relates to the CIO and investment officers those individual positions we're recruiting for. There is some concern we are looking for a CIO at this salary range and we hear an answer in 30 days saying we're not able to get him.

>> Sean Bill: You'll get somebody. It's a question of you get who you want.

>> Drew Lanza: So as chair of the personnel committee, I would then ask the board to give our committee some fairly broad latitude for when we engage this consultant. Possibly not for a little while, because this has been -- we would view it as an iterative process. We've got some high-level data from Cortex, and then we got some data from the City Manager and now we are out talking to CIO candidates, and we'll get some feedback on whether the range we are offering them is reasonable or not. And that would be the point in time we would ask the question do we want to pull the trigger on doing this study? Would it be very useful to us at that point in the process? So I would just ask the board to give the personnel committee fairly broad latitude on when we actually pull the trigger on initiate this study.

>> Richard Santos: Mr. Chair, I would support that.

>> Sean Kaldor: Vince.

>> Vincent Sunzeri: And I'll just share some information I just received regarding the recruitment process. Our consultant reached out to me yesterday and said the recruiting firm has already contacted an individual he's aware of, so that's good. But the question came back was, that individual wanted to know did they fix the compensation problem?

>> Bettina Rounds: Yes.

>> Vincent Sunzeri: Yeah, it's all good.

>> Bettina Rounds: I'd also add that we're seeing data from other hiring that's going on in different counties and around California. So we're not -- I mean, we are getting some very concrete data about CIO hires and CEO hires and what their salaries are.

>> Sean Kaldor: In smaller systems. Specific to the CIO, I think we saw San Mateo was 205. We saw Alliance telling us the mean and median were 193 to 199 and our top is 160-something.

>> Bettina Rounds: So we are already getting a great deal of data just from what's going on in the marketplace.

>> Drew Lanza: So I think we know we've already had almost a dozen meetings with the City Manager in her office. And so I think the iterative process that Dave suggested is, let's see what kind of feedback we get. You're starting to talk about the preliminary feedback, Vince. She has indicated she's very willing to think outside the box on how to deal with this compensation problem. Let's see -- the current status with the City Manager is, let's see what we get from the preliminary wave of CIO candidates. And if we are way off base here then we will have to push the reset button, and I would move to initiate this study very quickly at that point.

>> Sean Kaldor: So Drew, I'll second your motion and paraphrase it that the board would -- let me know if you accept the paraphrasing -- the board authorizes the ad hoc personnel committee to contract for a compensation analysis up to an amount of \$130,000. At the discretion of the committee whether to conduct it and for what range of positions to conduct it for. Just gives the committee flexibility.

>> Drew Lanza: Yeah, and specifically related to timing, when we would initiate this.

>> Sean Kaldor: Any discussion on the motion?

>> Well, I guess my only question would be, what's the maximum time frame for the subcommittee to initiate that? Would there be an end-date for the ability of the subcommittee to do that?

>> Drew Lanza: Well, the committee dissolves at the end of the year so sometime within that time frame. And what I'm saying makes kind of sense. We don't exactly know-d we're going to get a custom study. We don't exactly know which way to push that custom study. We don't know which way the City Manager is willing to expand the walls of her box. Without that, you're not exactly sure what you're asking for the custom study.

>> Sean Kaldor: Any further discussion on the motion? Seeing no furthers discussion all those in favor, any opposed? Seeing no opposed, motion passes unanimously.

>> Russell Crosby: Who was the second?

>> Sean Kaldor: I seconded his motion. Just rephrased it.

>> Russell Crosby: Thank you.

>> Sean Kaldor: Item 2.4, discussion and action regarding communications to plan beneficiaries. This was prompted by a letter received from Ken heridia. Expressing concerns about the lack of communication to our plan

members. And I know we've spent a lot of time recently working with the city, working with our consultants trying to get good communications going there. But now we are seeing a transition in our CEO, we are seeing the departure of our CIO. We are changing our asset mix, I don't know if we are talking to those people who are reliant on us to take care of the daily business to give them bullet points or summaries of what's going on other than having them watch an eight-hour ten-hour meeting every month. I thought his memo sparked, should we have a discussion how we are currently communicating with our members about what's going on in the plan, is that the right thing to do going forward, ask it proactive enough and does it include enough key points. I wanted to use this memo to ask staff, how do we communicate with members currently on a broad basis?

>> Donna Busse: Regarding board activity we don't send out any extra communication other than what's on the Website as far as agenda and the board and you know, the -- they can listen to the meeting. You know we have the recordings on our Website. So anything that's going on at the board level we don't do any extra communication.

>> Sean Kaldor: So nothing about plan returns for the past year or staff changes?

>> Donna Busse: That's also on the Website. Investment returns are on the home page of the Website.

>> Sean Kaldor: Or committee meetings?

>> Donna Busse: I think that's on the Website as well.

>> Sean Kaldor: Nothing unique, nothing pushed?

>> Donna Busse: Nothing pushed.

>> Sean Kaldor: No newsletter. Okay.

>> Drew Lanza: I'm sorry, go ahead Dave.

>> Sean Kaldor: Dick and then Dave.

>> Richard Santos: As we discussed at the last meeting we had, the last emergency meeting we had, we basically were saying, appreciate the letter, obviously we're out there making these huge decisions real quickly right now and all those just saying we need some communication, we indicated why we can't put out a quarterly newsletter from our personnel that says here's what we're doing, keeping them in tune what's happening. Those are comments those are people who receive the benefit but they're also concerned whether it be politics or whether it's next door benefits or who's leaving, who's taking their place, not hard to that. You take a minutes of the meetings and have a newsletter every four months, it can be sent out whenever you send the checks, whatever you folks want to do, I agree.

>> Drew Lanza: So I own the piece of this had a has to do with measure B. You remember I had a presentation that we put out what are we going to do ahead of measure B and then what are we going to do after measure B. So I'll take the bullet on why our members haven't been kept more informed around measure B. We agreed as a board not to put anything out to our members ahead of measure B. But the current plan -- I looked at it just last night -- that after measure B we had anticipated there would be some sort of preliminary ruling by the court within 60 to 90 days after measure B and it says in our plan at that point in time we'll absorb that think bit then pass something along to our members saying what we think. When I talked to Harvey a couple of months ago we don't think we'll hear from a court in that time frame. My commitment will be I'll come back in September board meeting after having spent a few minutes with Harvey and think about revising that plan to deal with something we hadn't forecast, which is sort of sitting in limbo for a while. When will we know something about a preliminary court ruling on blah? Harvey, do you know? We had originally thought 60 to 90 days after measure B we'd hear something.

>> Harvey Leiderman: Nobody knows.

>> Drew Lanza: Nobody knows. So then at the very least we should send out something to our members saying we are on top of this, but nobody knows. And I'll bring that back in September, Sean, bring the Measure B back.

>> Sean Kaldor: Vince.

>> Vincent Sunzeri: So I really appreciate the letter. I think it's much broader than measure B. This individual was on the board for eight years. So my question is if there's history here, what have we done in the past? How have we communicated with the membership in the past? I feel like our job really is to serve them. And if there was some process that was done in the past it's not being done now. Let's reinstate it. If in fact nothing's been done we need to create a process to inform them, what is going on above and beyond them listening to tapes or going and looking at the agenda. Maybe it's something that's quarterly that comes from the board chair, just bullet point from some of the high topic issues.

>> Sean Kaldor: Bettina.

>> Bettina Rounds: I don't know what the process would be, to talk with Ken and ask him what he's suggesting. I agree with you, Vince, I think it's good to find out what the members would like from their representatives and try to comply.

>> Sean Kaldor: We'll have --

>> Bettina Rounds: Who is the representative.

>> Jim Spence president of the retirees association Police and Fire. One of the things that I'm (inaudible) fact that you're open and you have these documents and things that are on the web. The thing I want to bring to you is that most of our members turn off from all of that. And so if it doesn't come to them in a hard copy a lot of the older retirees have no communication with the board at all. It's one of those things where a nice little newsletter quarterly would probably be a suffice, because of course all they're hearing is the gloom and doom. The city's

broke, the plan's broke. Those kinds of things. I know you're working to not have that happen, that's not a reality. I haven't had a chance to look at Ken's letter but I'm sure that's what we're looking for some kind of report that things are going along, that you're managing it the way -- better than it was before, I see that I appreciate that and I know my members do when I speak to this in a monthly meeting. I only talk about 700 out of 1600 some of which get a check out of this benefit. So that's what I think we're all looking, is probably for, as Dick suggested, not a monthly thing but a quarterly type situation that would help ease their pain and also show them what you're doing. And I think that's important, too, for them to know the great work that you all are doing so thank you.

>> Sean Kaldor: Thank you. Jay.

>> Dovetail I agree with the idea but I think kind of a basic start is to send out some kind of reminder to people and explanation how to get on the Website and check out the information because I think there's a lot of people out there who maybe ignorantly or otherwise don't even know that they have access to that. If they've been told kind of giving them an instructional process of how to get to obtaining such a process or how to start.

>> Sean Kaldor: If you are on TV you can watch it.

>> David Bacigalupi: Or on the web can you watch it. We used to do a newsletter and I'm thinking that staff time was short and we had people leave and not replaced. Is that how the newsletter disappeared? Because we used to --

>> Donna Busse: That and the fact that we put a lot of more information on the Website. Before our packets weren't on the wind but now they are. All the backup from all the material is easily accessible. But yeah, if we modify the type of newsletter we put out and we do get information from the committees that we can just copy and paste and put in, that would be easier for us to have to -- in the past people were leaving not only that but they also wanted to know everybody who was retiring. And that is the stuff that took a lot of staff time to gather information, format it. But if it's just news items, specific on what the board -- and then they wanted articles on

medical and benefits from the health plans. So it turned in -- it was a lot of work for the staff. But if it turns into just an informative quarterly of what's happening at the board level that's probably easier to put out.

>> David Bacigalupi: Well and plus, could we in the newsletter start out, here is a reference point to see, here is where you can find the meetings for those that aren't computer-literate. Like Jim Spence says, many of our retirees are not computer-literate. I live in a senior community, and many of the people that live out there, they just haven't caught up, and so that's not helpful to a lot of people.

>> Sean Kaldor: Bettina.

>> Bettina Rounds: I like James' idea of letting people know how to get on the website. And I think a recap on the website, I mean, I wouldn't want to wade through all of this on a Website. I don't want to wade through all of this. On the Website. But I think a recap of what's relevant for the members would be a great idea to have on the Website after a meeting and that would be just a few bullet points, not a huge, long newsy thing.

>> Sean Kaldor: Sean.

>> Sean Bill: So I'm just curious with our two retiree reps, is there much interact with the retirees or do you get a chance to speak to the retiree associations, update them or is that not generally done how does that work?

>> Richard Santos: We have an opportunity, depends on your schedule what you're doing. Many times I have an opportunity to mainly talk to Jim who will relay that information. But simple communication is beneficial to everybody. Like Bettina said, don't make it elaborate, I think the thing of it is, when I'm able to say you know what hold on your point is being addressed by the investment committee, we're also working with the personnel committee. They said no -- I said yes that's on the menu, we're working on this. Being calm is the key to this whole thing.

>> Sean Bill: I was thinking that a representative could go to these things once a quarter or semi annual and field questions.

>> Richard Santos: We do but communications is also needed.

>> Sharon Erickson: Sharon Erickson City Auditor. Thanks for the opportunity to address this. We actually have an open audit recommendation to improve communication and understanding the financial health of the retirement system. The retirement services department should prepare an annual summary report. So this would be an annual report to members, which many pension plans do. Containing current and historical financial and actuarial information to be distributed to plan members. In fact I was just looking at San Mateo county's System systems and they do a four page annual summary of their CAFR that goes out to members that is just simple pie charts showing them where the money's invested where the money comes from where it goes, very simple assessment of where the plan is. And I would strongly recommend that the board consider doing that, after the CAFR is issued. Some kind of a basic summary for members. Thanks.

>> Sean Kaldor: Yes.

>> And I would add that Mayor Reed and Councilmember Constant now have a standing item on the council agenda, each meeting for report-outs, a summary of what's happening at the -- at this board and the other board, Federated.

>> Sean Kaldor: Okay. So Baci.

>> David Bacigalupi: Just wanted to answer back to Sean's question and stuff. After every meeting I do a summary for publication in the retirees newsletter. And also a publication in the vanguard, the POA's newspaper and due to space constraints, it's just a basic summary of what occurs at the meeting and then referring it back to the Website and stuff. And the Granicus and whatever that is, even if you wanted to watch the video, a link to that. That's in both those publications every month.

>> Sean Kaldor: So I could see you know responding to the request. A simple, not a 200 page award winning annual report but something that just talked about funded status, contributions, changes in membership, just pulling the tables out and summarizing it, that being one piece. And then a quarterly newsletter that would just go through the minutes of our meetings and say oh here is a key item, put it in there, include the link to if you want to see it all and every quarterly newsletter having a little block that says how to follow what's going on. Here is the channels, here are the Website information, here is how you see all the historical things. So I'd support doing something like that. And then maybe the one quarter of the year the newsletter's really focused on financial performance, really we're talking about three other quarters just making sure we're editing down our minutes after we receive the agendas a week later there is the full minutes that says the decisions that are made. Summarizing those into the key decisions that are happening. Maybe I'll make that a recommendation or a proposal.

>> Sean Bill: I think that that's in the spirit of our transparency that we've been trying to achieve.

>> Sean Kaldor: Jim.

>> Jim Spence again. And I apologize to director Bacigalupi because he has done an amiable job of putting his information into the newsletter, reports exactly to the retirees also. I appreciate Baci's doing that and dick has constantly been contacting the fire guys on that side. Doing his best to forethose people from what they have generally too. So I want to thank both of them. I'm sorry I forgot to do that in the beginning.

>> Russell Crosby: And if I may, it's very easy to say, oh, let's do this, let's do that. With very limited resources that are fully occupied in day-to-day business, don't be surprised when you see a budget recommendation that includes a communications position and whole lot of other positions that the City's going to have real issues with approving.

>> Sean Kaldor: I completely support the additional funds that would be required for a person or piece of a person or whatever it would be. And I think part of this board's responsibility is to communicate with

members. We're paying with it. If the city says they don't want to approve whatever it is, that way, we have a discussion.

>> Richard Santos: They're paying for it.

>> Sean Kaldor: Harvey.

>> Harvey Leiderman: I was going to comment, the summary annual statement, of course, this being government it has to have an acronym, so it's called a PAFR, a popular annual financial statement, and it's derived from the CAFR. The comprehensive annual financial statement. Most systems do put one out, they're usually two or three, four pages at most. And they provide a summary of what's in the CAFR. And in two-point type font, that is then expanded. On your screen if you're so lucky. I'm happy to provide a template to staff so that they can pick something up off of what others are doing and not have to reinvent the wheel.

>> Sean Kaldor: Can it be cut and pasted out of the annual report or --

>> Harvey Leiderman: It's derived from the annual report.

>> Donna Busse: We barely get our CAFR out by December 31st. To do a supplemental, by the time we get a supplemental out the data's going to be old. But we'll see what we can do. We may have to come back with budget because we definitely do not have staffer for the PAFR. That's one of the comments back to the auditor for recommendation, with this recommendation, we basically said we do not have the staffing to put out a supplemental document. And you know that's one of the reasons why the newsletter went away. The federal retiree association does likewise, they put an article in their newsletter that summarizes what happened at the board meeting, plus with the stuff we have on the web, we didn't feel it was necessary to put our newsletter out. The approval process to get a newsletter out, because it has to go through various levels plus the City Manager's office. By the time we get it out it becomes stale. So we'll see what we can do.

>> Sean Kaldor: Bettina.

>> Bettina Rounds: I just think -- that's really sophisticated. But I think I understand completely, Donna. But I think that the issue of trying to figure out how to fund a partial or whatever person, I don't think it's an unreasonable thing for anybody to expect to see a summary of a plan and what's happened to the money. And a summary, you know, particularly -- thank you, Harvey, because I think that the template will go a long way to simplifying it.

>> Drew Lanza: I always love when we discover our chairman is psychic because we're rolling right out of 2.4 into 2.5 and 2.6. But the larger issue here is of course that we've discovered the setting of an ad hoc committee to deal with temporary issues is very effective. And I think, one of the things I think Sean and I have talked about, and I think most of us on the board have, is finding a way to get temporary resources, whether it's to help Dr. Das or Donna, would be to help just extract some piece of the CAFR into a PAFR or to put out anything. We need to find a mechanism to do that, and I think the personnel committee has taken up part of that charge, and you can see it coming up. But there's probably a motion on the table we should probably continue to move forward. But I wanted to award you the psychic award for arranging the agenda in exactly the right order.

>> I just wanted to add, after the summer, we'll be down to at least ten of our staff vacant after of 30-odd, so. So we'll be down to a third of staff that we're working with. And I just really want the board to be aware of that, that that's what we're down to. We're going to be losing a third of our staff, and basic functions of our organization that need to continue, like pensions being set up, board agendas all of those things are going to be difficult at best. And yes, temporary staff is very helpful. But again, there is a ramp-up to getting them started and getting them going. And so I think at some level it would be great if the board would appreciate that which one should we focus on? Which one should we work on? We know that communication is very important, there is also the primary function of our job that is going to be cost benefit analysis which one are we going to do?

>> Drew Lanza: So why don't you and I meet next week. You're in town next week?

>> Harvey Leiderman: She doesn't have time. [Laughter]

>> Drew Lanza: Good one Harvey. You're in town next week?

>> I've got auditors here all next week.

>> Drew Lanza: Let's meet next week because this would fall on the ad hoc personnel committee because we hear you loud and clear.

>> Sean Kaldor: Just a quick question. Are the ten vacancies just current openings that haven't been filled or are they positions that haven't had approval to fill --

>> Russell Crosby: Those are investment officers that whole crowd, other positions.

>> Sean Kaldor: I think I can speak for the board we all understand there's so much work to do and we want to facilitate getting positions and trying to make all that happen. So I agree with what Drew is saying let's bring the discussion into the mix of the whole personnel ad hoc committee for the remainder of its tenure. So there's a motion, it may not be anything we can tackle for six months, there's a budget, I think we need to commit ourselves to doing it both the Pafr and a quarterly communication and if it means a contractor has to come in and just a copy editor that we can hand them everything if that's the proposal I'm fine with that.

>> David Bacigalupi: You already have a motion on the floor?

>> Sean Kaldor: We have a motion to do it.

>> Second that motion.

>> Sean Kaldor: We have a motion and second. Any further discussion on the motion? Seeing no further discussion, I'll -- all those in favor, any opposed? Seeing none opposed motion passes unanimously. Skipped a beat. Okay we'll try and handle these next two items. And then we'll take a five-minute break, and then we'll commence with the disability -- the retirement section. So item 2.5 discussion and action on the need for a temporary contract hire to assist with board and committee operations during the transition of senior department staff. This was added on here at my request simply because I see that our staff is overworked and we're going to have a period without a CIO who has already transitioned out, a period without a CEO probably very shortly here. And as staff steps up to help them out I'm assuming there are many administrative task force that it is going to be harder and harder for them to get done. I know from a board perspective the task of setting meetings, finding dates, getting schedules and meetings out, coordinating with staff to pull the information in, we see staff struggling to get through all of that. So the thought is should we approve on a contract expense basis someone to come in for this transition period to help out our staff and help us get those items done, so our meetings are shared better, notifying, and helping out with projects or tasks. That was the intent of this item discussion. Vince.

>> Vincent Sunzeri: I was ready to make a motion. So I don't have any discussion. I'm sorry.

>> Richard Santos: I just want to see, we all of this support this. The work is tremendous and I was just curious, is the staff we had listed ten years ago, the same amount of staff, do we have less staff? Those are issues I'd like to understand, when we call issues about overworked. Those are the issues to make sure when we start doing these contracts that we look at our union bargaining groups and so on to make sure we're not touching on toes and making sure things are going as transparent and easy as possible and make sure we respect everybody's affiliation. It's important. At the same time, I urge us to move on and get things done. We're all here giving a lot of time on our time off to guess things done. We're all committed. I appreciate that. That's where it's at.

>> Sean Kaldor: Vince.

>> Vincent Sunzeri: I just make a motion that this board moves to retain a contract employee for a term up to six months, and be evaluated after that.

>> David Bacigalupi: Second.

>> Sean Kaldor: We have a motion and a second. Do we need a dollar amount?

>> Vincent Sunzeri: I don't know what to put in for a dollar amount. Certainly no more than the CIO.

>> Sean Kaldor: Ballpark six months.

>> It really depends open the level.

>> Donna Busse: I guess my question would be what are you anticipating this person to be doing?

>> Sean Kaldor: Helping out what Sonia has going on, maybe newsletters one of the things they could start working on right away, all of the stuff that's going on with coordinating us and coming to the committee meetings and taking the minutes, action items, things we're doing now, we're doing conference calls Friday night, Saturday and Sunday trying to stay on top of 30 different action items.

>> Russell Crosby: You run into a whole bunch of classified position description that I think unions and others will have issues with. If you were talking about a -- an interim administrator or something that is outside of classified positions, you might have more success. But I think you're going to run into a very big problem with this. We can't just hire secretaries off the street. If we could, we would.

>> Sean Kaldor: Even on -- so to be clear, this is not an employee. It's a retirement plan expense.

>> Russell Crosby: A temp, yes.

>> Sean Kaldor: To contract this board has authority to make.

>> Russell Crosby: Line we have contract temps that work for us in certain classifications as well, okay. So how does this person come in and not eat up all of Sonia's time or Donna's time and actually make a contribution?

>> Sean Kaldor: So there's some --

>> Bettina Rounds: Wouldn't you all help us figure out what you need? I mean we're hearing that you have no capacity. Our goal is to help you get capacity. So how can we work together to get this done?

>> Russell Crosby: Well, right now, there is a position that has been -- we used to have an administrative officer who, one of his position duties was that newsletter. That individual -- left --

>> Donna Busse: Retired over a year ago.

>> Russell Crosby: Yes and we've been going through the process of getting that job revalued, new description, the AO position has gone away. That position is now posted and the posting will come down next week.

>> Donna Busse: August 10th.

>> Russell Crosby: So in the sense of getting a resource to be able to do that, that's in process. But that person, even once the posting comes down then we've got to interview and do all the processes with the city to move somebody into that position. And I'm not sure whether we can recruit outside for that or was that a limited to internal candidates?

>> Sean Kaldor: Drew and then Harvey.

>> Drew Lanza: So maybe the public sector don't this but that strikes me as meaning, that's insane. At any point in time there are fires that arise, you put them out and you move on. We're not talking about permanent

stuff. We've got an issue in Dr. Das's office where we have over 100 people looking for -- looking with disability applications. We need to pour resource onto that. And if the city says to us, well, you have to go through all these hoops to hire somebody who's going to be there for five years, no. I need somebody there for 90 days, and I need them there now. And clearly as a board we have the authority to do this. Tell me if I'm wrong Harvey. If we have a need to bring resource to a problem we have the authority to do that. We're not talking hiring people for five years. This is really frustrating to me. It is enormously frustrating to me that we have these short term issues. We need to hire these people. Great, let's do it. But at any point in time these little fires arise, we've discovered it's very effective to put an ad hoc committee on them. It seems to me it is very effective to put a 30, 60, 90 days worth of resource on these things, and then the resource goes away. It is not the intent I think to dramatically increase the size of the staff. We want to have staff at a steady state and occasionally we have done this in the past right?

>> As Russell mentioned, though, they do have to go through a prevailing wage and we do have to go through a process to select them and --

>> Donna Busse: And get the approval of budget.

>> It does have to go through the City still, so I want to make that clear, so the additional staff still needs to go through --

>> Sean Kaldor: Okay, so Harvey and then Bettina.

>> Harvey Leiderman: I waive to superior intellect.

>> Bettina Rounds: I think we should just put this into the personnel committee to work with the city. We have been working very effectively with the city to get things accomplished. So Drew, why don't we just take it on and try to find temporary help.

>> Sean Kaldor: So the ever expanding scope of the ad hoc --

>> Drew Lanza: As I say, today personnel, tomorrow the world.

>> Bettina Rounds: Well, that's what personnel people do.

>> Sean Kaldor: Harvey.

>> Harvey Leiderman: Mr. Chairman, I'm hearing -- I'm reading something very different in the agenda item and hearing the chair's comments differently. What I'm hearing and seeing is that the chair is saying that the board needs assistance. The board chair, and the chairs of the committees, who have suddenly been assigned with some rather significant unique responsibilities, don't believe that they can lay all this additional responsibility on the current staff of the Department of Retirement services. And that it is the retirement board, in carrying out its responsibility, that needs administrative assistance. And it's for the chair of the board and it's for the chair of the committees, whether they're standing or ad hoc, to have some assistance to be able to get through the remarkable load that they have now taken on. This is not something that I think requires any city civil service requirements, or compliance, or permission. This is a fundamental fiduciary responsibility of the board that is trying to carry out its responsibilities under its charter. And under the municipal code, and if I'm misinterpreting the agenda item or what the chair is saying that the need is, it's not so staff can put out a newsletter. It is so that the boards and the chairs can carry out their committee responsibilities, and the charters that Cortex has so labored over drafting, and we've so labored over adopting. And that we're now trying to carry out our fiduciary responsibilities. We need help, is what I hear from the chairs of the committee and the chair of this retirement board. And they had the absolute authority under the municipal code to go out and get the consultants or whatever you want to call it to help them carry out those responsibilities. That's what I'm hearing, Mr. Chairman.

>> Sean Kaldor: Thank you.

>> Jennifer Schembri, assistant to the City Manager. I'm also on the personnel committee from the City Manager's side, and I think this is definitely something we should discuss there in that committee, even -- and I don't know the answer to whether or not it would have to go through the city processes, the board hiring temporary staff, but we can explore that through the committee. Even if it does have to go through the city processes, it's not complicated. You're not hiring a civil service employee, you're going through the hiring process. So even if we have to do that I think it's basically getting budget office approval, it is not a complicated or lengthy process.

>> Drew Lanza: Jennifer, you've been great so far. Thanks, we'll take it up, I'll send you the 100th e-mail of the last week, few hours.

>> Great, I'll look forward to it.

>> Sean Kaldor: So Vince, if you would be interested in withdrawing your motion and maybe referring this to the personnel committee, and having the board authorize, if it's able to achieve that, for them to proceed with it?

>> Vincent Sunzeri: Motion withdrawn. Are you asking for a new motion or a vice-motion? I would suggest Drew make the motion, since Drew is going to be taking that on.

>> Drew Lanza: Oh, my God.

>> Vincent Sunzeri: Super-man!

>> Drew Lanza: Give me a second.

>> Sean Kaldor: We've learned that setting this motion is important.

>> Drew Lanza: I would move that the board authorize the personnel committee to bring on board a temporary contract hire to assist the board and its subcommittees subject to working with the City Manager. Whatever the heck that means.

>> Sean Kaldor: I'll second that.

>> Richard Santos: Well through the chair I think you should add, and to accomplish our fiduciary responsibilities is a key word. Because obviously, nothing personal here, we're trying to get our job done and to serve the public and to serve the people who receive the benefits.

>> Drew Lanza: Good amendment.

>> Sean Kaldor: Any further discussion on the motion and second? Seeing no further discussion all those in favor? Any opposed? Seeing none opposed motion passes unanimously. We will break, there. We will take a five-minute break. We made it up through item 2.5. When we reconvene we will start with -- sorry, struggling here with item 4, retirements. Thank you, five minutes. [Recess]

>> Sean Kaldor: So we'll return continue with our open session. Item 4 retirements. Item 4.1 A for service retirement David dulong, police sergeant, police department, effective August 6th, with 26.60 years of service.

>> David Bacigalupi: Move to approve.

>> Sean Kaldor: Do we have a second? Motion, all those in favor, opposed, service retirements --

>> David Bacigalupi: For the record, sergeant is not in the audience. Good active employee, good leader, good supervisor.

>> Sean Kaldor: Thank you. Item 4.1B Ervin Mathews, fire inspectors, fire department, effective September 1, 2012 with 24.1 years of service.

>> Richard Santos: Motion to approve.

>> David Bacigalupi: Second.

>> Sean Kaldor: Motion and second. All those in favor, opposed, the retirement of inspector Mathews is approved. Thank you for your service.

>> Richard Santos: If he's not here, I've worked with Ervin for years known him and he's nothing but the best.

>> Sean Kaldor: That will take us to item 4.2. Service connected disability applications. As we mentioned at the start item B is removed from the agenda. So we'll start with item A Devlin Creighton. 4.9 years of service. Donna.

>> Donna Busse: Devlin Creighton is a police officer requesting a service-connected disability based on his neck, right wrist and left wrist. He is 30 years old with 4.95 years of service. At the time of application, he was on disability and he's currently on temporary modified duty. His work restrictions are that he should avoid driving vehicles in high speed pursuit chases, he should avoid maintaining a firearm in public places, there is no modified duty available, the medical report is in your packet.

>> Sean Kaldor: Dr. Das do you have anything to add?

>> Dr. Das: No I don't.

>> Sean Kaldor: Mr. Swift.

>> One correction from what Donna said, he's no longer on temporary modified duty there is a time limitation of 120 days and so he's now off altogether. He has not returned to work ever since this accident. The officer Creighton is actually a victim of the reduction in article 39 positions. And of his own lack of seniority to bump anybody out of those positions. He was injured on March 28th, 2011. Almost a year and a half ago. Never returned to full duty. And on that day, it's one of those times in a person's life where everything changes for the worst, in an instant. That we all wish would never happen to us or our family or to anyone. Because he's on patrol on his motorcycle doing traffic enforcement and his intention is to give a ticket to a person, and he proceeds if his mother fiscal to do so when some motorist pulls out right in front of him. He hits that vehicle, catapults over the handlebars onto the back window of that vehicle, is knocked unconscious. Is taken on an emergency basis to the hospital. A neck fusion with plates and screws is performed on an emergency basis within a few hours of his admission to the hospital, well, next morning. And unfortunately from which he never completely recovers. He also injured his wrists, primarily his right wrist when he hit this vehicle as he was flying through the air. He was operated on by Dr. Njikubi, who is a neurosurgeon. In March of 2012 he declared him to be permanent and stationary and indicated a loss of capacity on a permanent basis. From Dr. Njikubi's point of view he should not do any lifting over 20 pounds, he should not do any work above shoulder level, he should not wear a helmet. And Dr. Njikubi and his treating physician Dr. McKreesh, agreed that he should never work again as a police officer. With respect to his right wrist injury, he ultimately saw Dr. de Moore, an orthopedic surgeon, who said he had a scaphoid fracture in his wrist based on the MRI, and said that he should avoid lifting, grasping, pushing, pulling over 20 pounds and no shooting of a firearm. That's on page 61 of your packet. The primary treating physician Dr. McKreesh in his PR4 on page 47 found a loss of 25% grip on the right side. The -- in addition to those limitations provided by his treating physician he's also on significant amount of medications to control the ongoing pain. These are opioid medications, and they, as -- according to Dr. Das, interfere with cognitive processing, reaction time and judgment. And based on that, he should not be doing any driving of a vehicle in any kind of a pursuit situation and nor should he use firearms. Based on the restrictions provided by Dr. Das and also the restrictions provided by his treating physicians, the department says had he have no work for him. Woe love to continue his career in the police department. He planned to work 30 years. But the department just cannot accommodate him. And here we are. And I ask that on that basis his application be granted.

>> Sean Kaldor: Questions. Any questions or discussion?

>> Vincent Sunzeri: Dr. Das, I have some questions on your discussion on this on page 9 and 10. So on page 9, for the neck body part, in your paragraph you're saying progress notes assessing Mr. Creighton's condition do not reveal significant problems with the neck. So it looks like it's not so much an issue with the neck as it is an issue with the medication.

>> Dr. Das: The restrictions, the restrictions that are provided are based on the medication, correct, that he needs for the symptoms that he has in his neck. And as far as pathology that's present in the neck, he did have -- he did undergo a cervical fusion procedure. But that in and of itself does not necessarily represent an adverse or -- how should I put it -- a disability or impairment from a functional disability or functional impairment. That's my point. So the additional information is needed in order to determine if there's pathology present there that would be responsible for the significant limitations. Because the progress notes that Dr. NGIKUBI provides states that the fusion is doing well, healing well therefore it is not unreasonable in a surgery after problem like that to experience symptoms and pain. And Mr. Creighton is taking medications for the pain and that's why I provided restrictions. Due to the possible effects of the medications.

>> Vincent Sunzeri: So in your experience, this incident happened approximately a year and a half ago. Is this a permanent need for medication that will impair him indefinitely?

>> Dr. Das: Well, if there was -- the best answer is, I don't know. I mean there is -- there is -- there are additional treatment options that could be provided that may help reduce his symptoms. This is where we get to the subjective component and we are talking about people's tolerance for certain activities. And when there's no objective pathology present that says this is exactly why this person is having pain, you have to rely on this person's explanation of pain to determine their need for medications. And this is where I can't say that yes, here is the problem, and this is why he has these issues and these limitations. I'm just relying on his reported symptoms.

>> Vincent Sunzeri: And then on page 10 for the wrist you're saying that there is no identifiable pathology in the left wrist. And there is a possibility of resolving the fracture in the right wrist? So those appear to be not as significant, that would impair his ability to work?

>> Dr. Das: Once again, the ganglion cyst, I'm not sure how it relates to the other injury. And the ganglion cyst, in terms from a functionally limiting standpoint he describes having difficulty with forcing his palm down and doing pushups, and I think that is reasonable as far as having pain with those activities. As far as the scaphoid neck fracture, the MRI shows that there is a possible scaphoid neck -- a scaphoid fracture. The mechanism of injury that he described I think is consistent with that, so it's -- and scaphoid fractures are difficult to diagnose early on. So it's very possible that he had one. But the issue is now in terms of whether he's -- and he reports symptoms related to that. But in terms of instability present, the ligaments are intact so there's not really a lot of motion. So it's not an obvious functional -- functionally limited activity and that's why I didn't provide restrictions for it.

>> James Mason: Mr. Chair, I would say I don't know officer Creighton. He's a little bit younger officer than I am, but I do have appreciation for riding motorcycles. I never rode on duty as an officer, but the most dangerous motorcycle riding there is, is law enforcement riding. Although I don't know the officer, officer Creighton, I did see his motorcycle after the accident, and the way they described the accident, he went over the handlebars. What he actually did was, he head first through his own windshield of the motorcycle first, before he ended up on the hood of the other car. I would just point to the medical record, because I read some of these medical records.

Sometimes -- I don't always understand obviously what the medical terms are. But having been through a pretty catastrophic motorcycle accident myself, I do understand some of these terms. And on page 14 it says there is a disc bulge with retropulsion at C-4, C-5. My explanation that I've been told, that basically means it is a piece of the bone broke off of the spine, and was near or -- to the spinal cord and obviously even laymen understand what a spinal cord injury could have been. You take that with the fact that Mr.-- or Dr -- I'll screw up the name, I'm sure, Njikubi -- he appears to have been the trauma neurosurgeon at the hospital, correct? When the trauma neurosurgeon is the surgeon, the doctor who then later gives his opinion about the restrictions, I tend to add a little bit more validity to it, as opposed to maybe somebody who went out and found a secondary or third doctor to

give restrictions. But Dr. Njikubi gives his own restrictions, of he says his neck condition had reached maximum medical improvement in March 18, 2012 and gave his own restrictions not to lift more than 20 pounds and could not do work above shoulder or use head gear.

>> David Bacigalupi: That's on page 7.

>> That's on page 7, yes, he indicates that he had cervical fusion and upper thoracic fractures and both these are prophylactic and preclusionary restrictions either way. This is a serious -- obviously it was a very serious injury, and having again being someone -- I think Drew and I both have the same problem of having back problems.

When you start dealing with the back and the spinal chord, the pain you experience is, true, I mean, and unless you understand back pain, it's hard to explain to somebody. But this certainly seems like a fairly serious injury. Even though the surgical you know, surgery had been done and has been quote unquote fixed, I certainly would question having him as my cover officer on the street with an injury such as that, as he may not be able to help me out of fear of injuring himself or getting me hurt.

>> Sean Kaldor: Further discussions or questions? Trustee Santos.

>> Richard Santos: Thank you, Mr. Chair. When I looked at this packet, I read it very, very careful, and first of all, really sorry about your injury. Trying to help us, and unfortunately you got injured. But I don't have enough clarification for me personally. I read this and I don't read it to say good, I found something that's not going to help. That's just the opposite, I want to be helpful. But on several times I go to some of these doctors and sets up like this he describes no evidence of acute fracture or dislocations or compression deformities. Goes on this lady says she recommends therapy as tolerated and continuous medications. He is doing well with respect to neck and continues to have pain in the upper neck. He describes minimal degenerative changes and so on. He has reached maximum medical improvement. So I find some contradictory things. What I would like saying from me personally, in the doctor's report it says here it is. He cannot work based on blah blah blah blah. Because it's just not consistent. In some areas it says, I know it was very traumatic but it's not consistent for me. I'd rather have some medical evidence from a doctor or doctors that comes in and specifically addresses the issue of work and

whatever have you, to help me, I'm sure colleagues here probably feel the same way. This is -- it's just not enough for me personally. And it's not to be argumentative, because I'm not going to go there. I've read this stuff and I've been around for a long period of time. And this is what I need to make my decision.

>> So you want information from Dr. Njikubi as to why is he --

>> Richard Santos: Whether it be that doctor or any other doctors, to be able to describe to me point blank you know whether this person can do the job or not and what are those restrictions and what are the actual injuries and so on. Those other words that I've just mentioned it's hard for about my colleagues I'm sure to make that decision. And this is what gets me in my bone, I'm going, wait a minute, there's both sides here.

>> I can certainly solicit a further report from Dr. Njikubi if that would be the pleasure of the board.

>> Richard Santos: I would like a report that addresses the issues straight-up.

>> Sean Kaldor: Baci.

>> David Bacigalupi: I have a question for you Dr. Das, the part that Dick was just reading, the doctor was just reading, I'm not going to try his name I have a hard enough time with my own. But the doctor that treated and did the neck fusion, he states that he's got prophylactic and preclusionary restrictions of not lifting 20 pounds of not working above his shoulder and not wearing head gear. And on your list of restrictions, Dr. Das, you mention a couple of restrictions based on the medication. But you didn't address that. Is there a reason? Can you help me understand that?

>> Dr. Das: Well, the reason is, the contradiction in the medical records. With Dr. Njikoubi in the progress notes states, the neck is doing well, aligned well, doing well. So from a -- when he says that the cervical fusion is the reason he can't do X, Y and Z but in progress notes he says that the fusion is doing excellent, then I have a hard time reconciling the two. It's not consistent. The upper thoracic fracture was present initially, that was a

compression fracture that had not really been something that was addressed as far as treatment and symptomatology went over the course. And so it's -- as far as -- and that's healed at this point. So I -- you know once again we're struggling with the issue in terms of what's the objective information that you have in front of you. And what are the subjective complaints. Is it reasonable to be thrown off a motorcycle and have lots of pain afterwards? Yes. It is reasonable. But if I have to rely on anatomy to explain those symptoms, that's where the conflict arises. And so in terms of consistency. So that's -- that's what I struggled with in reviewing the medical records, if there was instability present in the cervical fusion, if there was some type of nerve root compression or something saying he's going to have pain here and weakness here and can't resolve it. But the progress notes say there is no evidence of nerve root injury, the spine is aligned, he's very happy with the surgery. So and that -- you know and that doesn't mean that someone doesn't have pain after that. I'm not disputing that at all. I'm just saying -- trying to be as objective as possible based on what's presented.

>> David Bacigalupi: Can the surgery be doing well, repaired well but still not -- I mean, I don't know how a medical report's written. But still not put somebody back to where they were before? A couple of items on page 7 above that it talks about a 10% loss of range of motion. Would that be normal post-surgical? I mean, even if you have a good surgery, would that still be normal, that you've lost range of motion and strength?

>> Dr. Das: Expected, absolutely. As far as strength goes, I wouldn't expect there -- there is loss of strength from inactivity unless there is spinal cord compression or an overt compression or muscle damage. But if there's disuse, loss of strength with disuse, hopefully that would recover with training. Absolutely -- it's expected and I wouldn't say, I don't like to use the word normal, but it's expected that you would have some issues with a successful surgery in terms of loss of range of motion and those kinds of things. If everybody that underwent a cervical fusion had X, Y and Z problems, it wouldn't be difficult to say that. But the problem is quite a number of people excel after cervical fusions and are able to return to do everything. So that's why it's hard for me to say that just based on that alone as an issue, that that's a preclusionary restriction. But I am not disputing that people can experience -- that he has significant pain. It was a significantly traumatic event. No one's diminishing that.

>> James Mason: Dr. Das, can I ask real quick. Considering the I guess it was C-4, C-5 discectomy and fusion, would it put someone who had that surgery, would it put them at a greater risk should they have, you know, he's a police officer, obviously he's going to end up wrestling on the ground or falling off his bike or whatever it's going to be, is it going to put him at a greater risk of spinal injury because of that surgery?

>> Dr. Das: That wasn't addressed in the medical progress notes and I think that would be some information that Dr. NJikubi could provide, he was there. I don't want to say a blanket statement yes or no. If the surgeon is concerned there may be some issues there then maybe he would be able to describe that. But other surgeons that have dot similar surgeries may not have the same reservations. So I think it's on an individual or a case-by-case basis.

>> James Mason: So I think that's a little bit of a concern, because our conversation just a few minutes ago wrapped around kind of blanket statements as to where anybody could be after this surgery. And some people could have this ongoing pain, some people couldn't. It appears that this doctor who is the surge has said in this individual situation that he has work restrictions that involve not lifting over 20 pounds. And that's his surgeon, not someone who -- not a doctor he went out and farmed out to try to get an answer from. But the actual you know trauma surgeon that did treatment on him. He's getting his -- a medical opinion about this particular individual.

>> Dr. Das: And if he could add an explanation of why, that would help us out quite a bit in terms of determining the basis for his opinion is. Is he concerned about the status of the fusion, is there a particular reason, you know is this something that he's always concerned about with every single patient that he has done a fusion on? Is this an exception? That kind of information would be very helpful.

>> Sean Kaldor: Bettina.

>> Bettina Rounds: Dr. Das since you're the expert that we rely on also in addition to these papers, when you read these, I'm gathering that you feel that the board does not have enough information to make a qualified opinion at the moment.

>> Dr. Das: I think additional information would be very helpful.

>> Bettina Rounds: Okay. To your point Dick, maybe it's a motion.

>> Sean Kaldor: So my only question kind of goes along exactly the same lines. I respect Dr. Das. Your view on it maybe there isn't the information you need to align with his evaluation but I see a doctor who is a neurosurgeon who did the surgery himself who just happened to be on duty when he showed up saying this person shouldn't be lifting more than 20 pounds. And if there could be a -- if the doctor has more information that could be made evident, and that could be reconciled, it would certainly make this very clear for me. I definitely see the work causation. If it's simply a medication that you see the issue is then I'd be wondering if there's another medication that wouldn't be -- is there a nonnarcotic, nonopioid pain medication that might be able to reduce the effect as well without the work limitations which would allow him to continue his career. But absent that discussion if there would be some information that could be provided that would reconcile that in my view.

>> Well sounds like I need to get another report from Dr. Ngicoubi.

>> Richard Santos: Chair, clarification, we weigh on the medical evidence. Let's get on the modified duty, I'm trying to understand it, is it just for the police officer can we get it explained to this board is it just through seniority, or for example in need, how does that actually work? I know there's 10 positions, there used to be 39. There's a lot of good things that used to be, and today, same as the fire service. We don't have those positions. That bothers me a great deal, because especially with people who want to work, and I like to see them accommodate them, but example, that's not my authority. Tell me how that works please in the police department. Is it just seniority only or is it the actual injury or what?

>> James Mason; Actually, Dick, I think I could probably explain that. I happen to know THAT it's based solely on seniority.

>> Richard Santos: Seniority only?

>> James Mason: Yes.

>> Mr. Santos, I'm the commander of the personnel unit, and the ten exempt officer positions are based on a consent decree that it's court-ordered and those positions are based on seniority. So if someone is injured, and they're in that position, and then somebody junior or I should say senior is injured on duty, it's a work-related injury, then the senior person would then be able to take over that exempt officer position and the junior officer then would be sent home. Is that clear for you sir?

>> Richard Santos: I appreciate that. I was just curious, who negotiates that, is that the unions and the city or just a police department policy?

>> It was the department -- it was the result actually of a lawsuit.

>> Richard Santos: Lawsuit?

>> Consent decree.

>> Richard Santos: That's the stipulation that came down as part of the needs -- I'm sorry that came down that addressed the seniority?

>> That was the decision of the court, yes.

>> So it looks like we should defer this issue while we gather more medical information or reports from Dr. Ngicubi.

>> Richard Santos: I appreciate that through chair. The disability ad hoc committee, we're trying to come back and be consistent and bring back information also for our other colleagues here. Also those colleagues gave us their input and I listened to it very carefully. We want to address all the issues and make this consistent and as smooth as possible without going through this. I'm sure like anything else the more reports that address the issue more simple it's better for this board. Thank you.

>> Sean Kaldor: So we'll accept the request for Devlin Creighton's disability request be deferred until such time as you bring forward additional reports.

>> Thank you.

>> Sean Kaldor: Which brings us to item 4.2 C. Bret P. Mendia, police officer for the police department effective August 2, 2012, 10.9 years of service. Donna.

>> Donna Busse: Police officer Bret Mendia is requesting a service-connected disability based on left upper body and right upper body. He's 36 years old with 10.9 years of service. At the time of application, and currently, he's on disability leave. His work restrictions are that he cannot maintain a firearm, he cannot pursue or apprehend suspects, he should avoid significant use of his left arm there is no permanent modified duty available and medical reports are listed in your packet.

>> Sean Kaldor: Dr. Das do you have anything to add?

>> Dr. Das: No.

>> Sean Kaldor: Officer this is a chance for you if you want to run through an overview of what you're applying for and maybe the background behind your case and the latest medical findings if you would like to do so.

>> Thank you, director, good morning. As mentioned my name is Bret Mendia, I've been with the city as a police officer for approximately 11 years. On August 30th of 2007 I was assigned to the metro unit working what we call fountain alley operation over at second and Santa Clara. This area was plagued with street level narcotics dealing robberies and assaults. I was assigned an undercover position maintaining a constant visual contact with an alleged suspect following the purchase of crack cocaine by another undercover officer. I happened to be on a mountain bike during this incident. Following a drug transaction one of the officers broadsided me on my left side, while he was riding a bicycle causing me to fall onto my right side with the officer landing on my left side. It took a moment to get up, separate the tangled mess of bikes. I realized something was seriously wrong with my left forearm. It felt as if it is had been broken and I fell back in agony. My upper body was a mess with intense pain throughout. My supervisor who witnessed the incident sent me back to our staging location, and ordered me to sit down for the next operation since I refused to go to the hospital. The next day with the coaxing of my wife I reluctantly went to the E R. The doctor briefly looked me over including my left arm which was starting to turn purple. He said I had multiple strains and sprains, gave me Valium' answer a sling. He said I could return to work as long as I wasn't taking the Valium or wearing the sling. I went in to work and was able to be reassigned to a vehicle surveillance position and completed the operation. I had mandatory time off the next week, so I went home and laid in bed. After avoiding numerous phone calls from my car partner he showed up on my house on Wednesday and persuaded me to go see someone for professional advice. It was determined relatively soon that I had sustained a slap lesion tear to my shoulder significant enough to cause full dislocation when I raised my arm above mid-chest level and that my left clavicle had subluxed. I was then introduced to a series of acronyms. Such as RSD which is reflex sympathetic dystrophy and CRPS, complex regional pain syndrome. Both RSD and CRPS are nerve disorders characterized by extreme sensitivity to touch. RSD is sometimes called type 1 CRPS which is triggered by tissue injury where there is no underlying nerve injury, while type 2 CRPS refers to causes where a high-velocity impact such as a bullet wound occurred at the site and is clearly associated with nerve injury. It took much longer for the doctors to diagnose my left side with the complex regional pain syndrome and thoracic outlet syndrome, and that I had developed long thoracic nerve palsy on my right side preventing me from controlling my scapula. CRPS and TOS are both diagnosed via exclusion. I understand -- excuse me. I underwent numerous surgical procedures to diagnose and repair damage including multiple stellate ganglion blocks and a laparoscopic procedure on my right shoulder in October of 2008 performed by Dr. Ting. Little did I know that my

wife had become pregnant with our second child the week I was injured. My daughter was born and I had no real ability to interact, and with her because of the pain scar tissue had formed under my left clavicle causing swelling and my inability to use my left arm. My right shoulder surgery left me in a predicament, since I was functionally unable to use my left arm, the level of care my wife had to provide to me daily only goes to speak of her character, God bless her. I was away from work, that I loved, I was distant from my wife, and children, and had to stop. I returned to work after my right shoulder surgery, at the end of October 2008. But that was short-lived. My body began to shut down over the next few months and there was little hope from the doctors that I would return to work let alone as a police officer. My muscle mass and bone density had dwindled in my left arm which I could not permit anyone to touch. It felt as if I had been burned repeatedly and the skin was pulling tighter each time. My muscles began to atrophy, my left hand nails had to be trimmed daily, my arm would turn a dark purple and almost black with increased pain. I received my diagnosis of CRPS and TOS from Dr. Snyder, an expert in the field, on March 5th of 2009, and determined I was a surgical candidate. He performed a left thoracic outlet decompression including a scalenectomy, removal of two muscles in my neck, left brachioplexis neurolyses and first rib resection on me in April of 2009 at UCSF. It was explained to me that my expectations should be low, due to the nature of my injuries. I spent several months trying to get back to presurgical condition, and was encouraged by a change in my pain sensation. I made my mind up in October of 2009, I was going to take back my life, and be there for my family and profession. I was able to get off numerous pain medications and return to modified duty in December of 2009. I did my best to regain strength, mobility and desire. I had worked my whole career at gaining skills that made me excel as a police officer, such as interview and interrogation, search warrants, tactical proficiency and surveillance, to name a few. But injury had provided me one more major skill: The ability to work through pain. October of 2010 I had convinced my doctor that I needed to return to full duty for my health and I wanted to go through the police motorcycle academy since I was no longer permitted and able to wear a seat belt on my left side due to nerve damage. He was not amused but he respected my drive. I completed the academy and was assigned to the traffic unit riding a motorcycle. I had no plan in my career of ever taking this path but was back where I belonged, at work. Three days into my assignment I was informed by the lieutenant that I was placed back on modified duty because my doctor had restricted me from wearing a seat belt. Within days it was determined that the duty manual had been updated and I was returned to full duty. It was obvious to my family that the stresses to my body were overwhelming. I would come home from work with little

ability to interact with my family. I had enough left on me to fight pain and go back to work, period. On March 17th, 2011 I suffered a setback to my left side during a D.U.I. stop. The driver I arrested for driving under the influence did not want to walk back to my patrol vehicle, and fell towards the ground while in handcuffs. To avoid injuring the suspect I supported her weight with my left arm. This caused me immediate and intense pain. I finished my duties for the night, went home, and tried to do damage control. I was able to reduce the swelling to a point but never recovered. I still went back to work. On April 30th of 2011, while working the week-long buildup to Cinco de Mayo I was maneuvering my police vehicle on slick concrete and lost control of the vehicle causing me to fall which only added to my upper body injuries. I was once again asking more of my body than I should have. I completed my shift and prepared for the night of Cinco de Mayo, May 5th. After an active day of motorcycle patrol, enforcement and crowd control, at 11:30 p.m. at night, my team responded to yet another crowd which was throwing bottles at police and bystanders and walking into the roadway challenging motorists. We were ordered to create a defensive line and clear the southeast corner of Story and King, which included the target parking lot. We were immediately met with violence including having a shopping cart charged into us. We continued to move the crowd off the street and into the parking lot. During this time I was confronted by the audit male who had attacked us with the shopping cart. During the altercation he pushed my motorcycle, causing me to fall onto my right leg, joining my upper body, pulling my arms up to the ground, striking my shoulder. I was then involved in a violent struggle to apprehend the suspect during which time we were confronted by an unruly crowd of approximately 400 people some of whom proceeded to pull him back into the crowd. Pain and guarding were immediate to my upper body, extremities and neck and trunk. We completed our assignment without further incident. I road into the motor bank, I went into the traffic office to write my reports for the day. I was reminded of August 30th, 2007. The swelling of my left arm shoulder and neck stiffening in my mid back and shooting burning pain throughout made it extremely difficult to even complete a police report. After a few hours of report-writing I was in worse shape than before. I was scheduled to work the next Friday and Saturday. Which was the next day, my supervisor and I decided that was not in anyone's best interest. I agreed to go to a doctor in the morning for evaluation and treatment. I have not been back to work since. The swelling and stiffness comes and goes depending on my level of exertion and does not -- as does the pain and the CRPS associated with the symptoms. My strength has not returned to my pre-2011 levels. Pre-injury I would have recovered from the similar injury within a couple of days. In this case it took me over six months to start to see they relief let alone any

improvement. I have limited the medication I'm willing to take avoiding narcotics and the likes that has put an increased strain on me in regards to pain management. However traditional medication provides me little relief and only numbs my reality. I am forced to deal with the pain swelling and stiffness and limited strength daily. My family was recently blessed with the birth of our second daughter which I can only hope to hold in my arms without having to take two or three days to recover from that. I ask for the board's help. I do not want to leave my position as a San José police officer despite current politics. I continue to do the work if I was able. To put on the uniform and provide the level of Services of service citizens and fellow officers deserve from me. I've been restricted by my doctor Dr. Smallens from lifting more than five pounds with my left arm. I'm to do no overhead lifting and no repetitive motion. Dr. Das evaluated me and determined that giving similar restrictions as interpreted as he cannot maintain a firearm, he cannot pursue or apprehend suspects, he should avoid significant use of his left arm. Dr. Das has also stated past medical history is noncontributory, and the city has accepted liability and stated my injuries were occupational. I have continued my physical therapy and has seen a TOS, thoracic outlet specialist Dr. Nuker. He has advised me that I should continue with physical therapy and drug therapy but not to consider surgery for my TOS at this point as it would be too invasive causing more damage than good. There is currently no surgical treatment for the long thoracic nerve palsy that is acceptable at this time. All of my doctors are in agreement that I should not be currently working. And that my body needs an extended period of time to rehabilitate. So I may have some quality of life. My life is not without pleasure. I have had a successful career as a police officer. My doctor agrees. Despite the profession and better judgment that I can continue to ride a motorcycle due to the limited aggravation on my body compared to driving a car, which still allows me to stay mobile. I have a wonderful family and friends and the strength of the lord helps me through the day. I can still carry a firearm and use it as necessary which I carry this day and defend a life if necessary. Would I put myself in a fight of a life to protect anyone in this room or their family, yes. With the resulting damage to my body, be reasonable given my existing injuries, no. I will figure out a way to return to work as a uniformed officer if the board determines I am still fit for duty and work until my dying day since there is no modified work for me. I will also accept my retirement graciously if the board determines I am no longer fit to be a San José police officer per the retirement guidelines. Thank you.

>> Sean Kaldor: Thank you. Any questions or discussion?

>> Well, I'll say one thing. I know Bret, I had the pleasure of working with him in special operations. He was in metro, I was crimes enforcement team, and although I didn't get to work a lot of operations with him, I did get to work a few while tracking down homicide suspects. He was certainly the first guy to be there to help you out and he was a hardworking guy. As far as I knew, he was right there at the front line every time. He seems like the kinds of guy to me, while I worked with him, that he certainly wouldn't be leaving this job unless he had to. I have obviously no experience with CRPS. I'd have to defer to Dr. Das for that information. But as to the character of the officer, he wouldn't leave unless he had to.

>> Sean Kaldor: Santos.

>> Richard Santos: Being consistent, I read this very carefully, I heard what you said. I do applaud you, thank you for trying to return to work, continuously going there academies around trying to serve the public. I think it's commendable. Obviously three surgeries, I believe it is three surgeries that you had here, I looked at all the different evidence and I'm ready to ascertain a motion of granting this young officer a service connected disability.

>> Sean Kaldor: So we have a motion. Do we have a second?

>> Drew Lanza: Second.

>> Sean Kaldor: Motion and second. Discussion or questions on the motion? Seeing no discussion or questions, all those in favor? [ayes]

>> Sean Kaldor: Seeing no opposition, the motion passes unanimously.

>> It's certainly a disservice to the department that he has to be forced out but I certainly wish you well and hope you feel better as time goes on. Thank you for your service.

>> Richard Santos: From all of us here and all the public thank you for your service, appreciate that.

>> I appreciate that.

>> James Mason: Thank you.

>> Sean Kaldor: Item 4.2D the service connected disability for Jeffrey J. Moore, police officer, police department, effective August 2, 2012, with 14.72 years of service. Donna.

>> Donna Busse: Police officer Jeffrey Moore is requesting a service-connected disability based on his left knee. He's 42 years old with 14.72 years of service. Currently he's on temporary modified duty. At the time of application he was on disability leave. His work restrictions are he should avoid sustained weight bearing confident on his left knee. There is no permanent modified duty available. Immediate restrictions are in your packet.

>> Sean Kaldor: Dr. Das do you have anything to add?

>> Dr. Das: No, I don't.

>> Sean Kaldor: Turn it over to you.

>> Good morning. Officer Moore was hired on November 3rd, 1997. His first left knee injury where he tore his ACL and cartilage, occurred on January 10th, 1999, taking an uncooperative subject into custody. There was some confusion on some of the paperwork that lists it as 1998. But that's just a typographical error. The documents on page 51. But the city showed receipt of this claims form of 1999 despite the date of 1998 on the paperwork. The city also stipulated to an injury of January 10, 1999. There was no 1998 injury to the left knee and no 1998 MRI. He had left knee surgery after that injury in '99 on April 29th, 1999, on page 13 and 14 of your

material. And then he went back to patrol. He had a second left knee surgery on May 29th, 2007, on page 29 and 30 of your material, and then, he went back to patrol. He had a second left knee injury on August 14th, 2011 on page 33 of your materials, which occurred during training exercises. He had a third left knee surgery on December 5th, 2011 which is on page 41 and 43 of your materials. And after that, he was never able to go back to patrol. In terms of industrial causation, if you look on page 20 to 23 of your materials, there is a report in February of 2002 from Dr. Silverman, an independent medical examiner. Reporting on the January 10th, 1999 injury. On page 22, he says that even if there was a 1998 and 1999 injury that most heavily the disability relates to the 1999 injury because he had no problems and had rehabilitated himself at the time of that injury. And he was no longer labor-disabled at the time of his 1999 injury. Further, Dr. Silverman says there is nothing apportioned to his prevention meniscus tear and surgery ten years before when he was 20 years old. Officer Moore has had two acute injuries to his left knee while working as a police officer for the City of San José and three knee surgeries related to those injuries. Dr. Das's restrictions are that he should avoid sustained weight bearing activities with his left knee and that's on page 9 of your he materials. The department on page 10 says there's no position available and so we would respectfully request that the board grant officer Moore's application for service-connected disability retirement and officer Moore would like to say a few words at this time.

>> Good morning. I began my law enforcement career in 1992 as an extra-help deputy sheriff for the Santa Clara county sheriffs department. I was hired as a full time deputy sheriff for the Monterey county sheriff's department. I consider those steppingstones for my career here at the San José particularity.

>> I can read it for him. Unfortunately I was only just over a year into my career when I suffered a substantial injury to my left knee, while involved in a violent confrontation with a domestic violence suspect. This occurred in January of 1999. My doctor at the time was Dr. Leroy Gardner. He was a very well-respected doctor near the end of his career. After the surgery he told me my knee was the worst he'd seen. He said if I was a professional athlete my injury would have been career-ending. He also told me I should consider a career change because my knee would not last the full career. I didn't believe him. After rehab I returned to full duty with as little time off as possible. I did so because I had no desire to work a light duty position. After this surgery my knee felt great. I went on to work in the Internet crime against children task force as a detective, and the traffic unit as a motor officer. I

also worked collateral assignments as a member of the serious traffic accident response team and police bicycle instructor. I was also a part of a team volunteer officers who participated in the Avon and Susan K. Komen breast cancer walks. I was involved in over 15 of these events. In 2007 while working as a traffic officer I reinjured my knee and subsequently had another surgery. Dr. Raulins was my doctor at the time as Dr. Gardner had retired. Dr. Raulins was of the same opinion as Dr. Gardner, that my knee would not last a full career. I was able however to convince him to allow me to return to full duty. I again returned to full duty with as little time off as possible and avoided having to work in light duty. The duration of my assignment as a motor officer is five years. I left after three because I could not handle the pain and discomfort that duties of that assignment caused. I returned to patrol and worked in full duty capacity until an injury in the end of 2011. In December I had another surgery as a result of this injury. This time, another doctor named Dr. Hari was involved. She performed my surgery because Dr. Rawlins had recently undergone back surgery and was physically unable to perform surgeries. She and Dr. Rawlins are both of the opinion that I need a total knee replacement and can no longer perform the duties of a police officer. Once I learned I didn't have seniority for a full time article 39 position I applied for disability retirement. I'm very pleased I was able to work at work the last 120 days back in the Internet crimes against children task force. Although technically I was assigned to a unit in a light duty capacity I was still doing police work. I worked my last day open Tuesday, because now my time has run out. It was a pleasure to work an assignment where my efforts led to the arrest of many people who had every intention to prey on children. I wanted to be clear that a disability retirement was never part of my plans. It is only because of my doctor's unwillingness to allow me to return, which is why I'm still in this position that I'm in. I guess I was naive in believing that decision to suck it up was lying and that the doctors would allow me to stay if I chose to. I have always been extremely proud to be a San José police officer. It's heartbreaking to me to consider that at the end of these proceedings that may no longer be the case.

>> Sean Kaldor: Thank you. Questions or discussion?

>> James Mason: I'm comment once again. I'm lucky enough to have known Jeff since a lateral from another agency. He's actually one of the first people I kind of got to know when I came here, and this action which we kind of got to know each other is, we played in benefit golf tournaments together. I know for a fact that his -- I enjoyed

those times very much, but I know for a fact that he has had problems with his knee because he stopped playing in those tournaments because of his knee. And he told me so. So I've worked with Jeff in patrol. He's a hard charger. I've been on more than one scuffle with him, where he helped out. I do truly believe that he would not be leaving unless the situation present itself with the article 39 positions. I really think woe take an article 39 position to work to the end of his career if he could.

>> Sean Kaldor: Santos.

>> Richard Santos: Yes, officer Moore thank you for your contributions. One of the things that our committee kept on talking about is that again I'm repeating this so we are going to get it across to Dr. Das, not work comp -- I mean to the attorneys and the reports. There have got to be more consistent because example, there are some areas that says that had a left knee operation at age 25, records are not available and so on. So if you read that at the end you would say whoa, what's this guy doing? Heard from officer Mason and I'm sure he's not here to fabricate anything. But the other thing that gets to me is it says like this, there is no remaining treatment options and I know from a personal who has had several knee operations that once you have it on the left you're going to have it on the right. Gentleman is 44, it's not just going to get better. So I'm sending this person back to modified duty which there's none and keep on waiting he's just not going to improve so to me the evidence is there. But again when they write these reports we're just going to have to get better reports and be more consistent to the people who read them. Especially the people that don't have the experience or don't have the past medical experiences that some us here have. So with that I will definitely support giving this officer a service connected disability.

>> Second.

>> Sean Kaldor: So is that a motion?

>> Richard Santos: That's a motion.

>> Sean Kaldor: Motion to give this person a service connected disability and second by Bacigalupi. Any further questions? Vince.

>> Vincent Sunzeri: I have a question Mr. Dr. Rawlins statement effect 2012 that there's arthritis in the knee and trying to reconcile between injuries versus arthritis. And it appears that this be at least for Dr. Rawlins' case why he's stating he's incapable of performing his duties.

>> Dr. Das: From my perspective, what Board Member Santos was talking about with respect to the prior injuries as well, the issue of arthritis probably was there from prior injuries, perhaps. However, based on the injury that occurred in 1999 where he had a meniscal tear, that to me was sufficient to drive or cause arthritis later on. And so I was satisfied from a work relatedden standpoint that he did have a sufficient injury, there was swelling, there was a meniscal tear that following you know ten years later is it reasonable to have osteoarthritis after that type of injury I believe so yes. It also describes a partial anterior cruciate ligament tear. There was ongoing pathology but injury at that time that I think was substantial enough to cause or to contribute significantly to arthritis later on. So that is why, in my opinion, that the work relatedness component is satisfied because he had sufficient injury to the knee to contribute or cause the arthritis later on in his career.

>> Vincent Sunzeri: Thank you.

>> Sean Kaldor: Any other questions or discussion on the motion? Seeing none, we'll call the question. All those in favor? [ayes]

>> Sean Kaldor: Any opposed? Seeing none, the motion passes unanimously to grant the service connected disability application. Officer, thank you very much for your service.

>> Thank you very much.

>> Sean Kaldor: That takes us to item 4.2 E, the service connected disability of John J. Ruffner, police officer for the police department, effective August 2nd, 2012, with 14.08 years of service. Donna.

>> Donna Busse: Police Officer John Ruffner is requesting a service-connected disability based on upper back and neck, left leg and right hand. He's 44 years old with 14.08 years of service. At the time of application and currently he's on disability leave. His work restriction are that he should avoid maintaining and handling a firearm with his right hand and there's no permanent modified duty available. Medical reports are listed in your packet.

>> Sean Kaldor: Thank you, Dr. Das do you have anything to add?

>> Dr. Das: No, I don't.

>> Sean Kaldor: And we'll turn it over to the milk.

>> Thank you, good morning. This is an unusual case. Nine years ago, John Ruffner appeared before this board and was granted a service connected disability retirement. And John fought back and overcame his disability and was rehired by the San José police department in the year 2009. He worked there until May 5, last year and hasn't worked since and we're here today. In March 10, 1999, John sustained a spectacular motorcycle crash. He was catapulted over 200 feet, was unconscious for almost an hour, underwent extensive back surgery. Surgery was a two-process procedure, over 30 hours, under the table. He has over 30 pieces of metal in his back, not counting staples. He's lucky to be alive, much less functional. When I represented John in 2003, the vote was unanimous given the significance, the severity of his injuries. John fought to overcome his disability, beat it back, and again, became a San José police officer. John loved his job and would do anything to return to work. Let me read a letter that chief Wheatley wrote to the Vanguard, the police officers' newspaper. Dear Editor, the next time someone says they don't make officers like they used to, I might ask them to read the John Ruffner interview. I was so moved by what John had gone through his ability to fight back and unretire that I called communications, got his phone number he was on duty and contacted him. Just like in his interview he was humble positive and a true inspiration. He never complained in the interview or while speaking to him about the pain he had gone

through or that I'm sure he still experiences. He is truly a hero. Thank you, Tom Wheatley. Well, John returned to work as a police officer in 1999 and took his lumps. He realized eventually that the job demands of a police officer exceeded his physical abilities. He had pain throughout his time after 2009 and never told anyone or would minimize it to everyone. His supervisor Ed Conifer who would be here but he's on vacation, if he were here would say that on several occasions he told John he was in simply too much pain that he should go home. Well, John wouldn't go home and he kept working until as misfortunate would have it, on May 5th of last year, he sustained another motorcycle accident where he was catapulted a second time, sustained injury to his back, neck, left shoulder and right -- left -- right hand. We're here requesting a service connected disability. If John could work, he would. He's here today he has a few words he'd like to say. Please John.

>> Good afternoon. Let me tell you. I had intentions on discussing the original traffic collision on my motorcycle. But Jim has already sufficiently taken care of that. I had always promised my wife that you don't have to worry about me, because I train very hard. And regardless of what assignment I hold, I always surround myself with the very best partners. I've worked in special operations and tactical units. My unit, when I was in violent crimes enforcement, we were shot at twice. We encountered countless very bad people. That never scared me. And I have four children and they often ask me, daddy, do you get nervous at work, are you afraid? My family comes from a very strong religious background and I always say, you know what, I tell my little guy Johnny, when I'm nervous I just say a little prayer but no one ever sees it. Regardless what assignment I've held and I've health investigative assignments and special assignments and of course patrol. It doesn't scare me like the thought of going through this again. People can deal with pain, I figured out ways to deal with pain. I've got issues with my right hand. I deal with that. As I'm sure everybody sitting in this room both in the board and in the audience has issues. On one of my last visits with the gentleman that did the bulk of the work on my back, I just point blank asked him, what do I think Dr. Leddis? He said if you were my brother or my son or what have you, I've always supported you in basically whatever you asked me you want to do. I'll give you a professional opinion. But he says I thought you were crazy but I supported you when you wanted to come back to active duty. Frankly embarrassing to me that I had to retire. When they offered me a retirement party at the union hall I said, no thank you, because I didn't feel it was the right time. It certainly wasn't my terms for leaving. Here we go again. Well, I'm in my middle '40s now, I've got four kids and a wife and I need to be there for them. I'm concerned that as a result of numerous

injuries, virtually all over my body, each morning it gets harder to get out of bed. I can only imagine what it's going to be like when I'm 70. Fortunately I've still got youth on my side. I'm an honorable man and I have an honorable mission. That apparently I can't complete. Like I signed on to do and took an oath. There was some other things I want to talk about but I suppose I.T. irrelevant. I don't know, I've never seen the packet you guys have in front of you. I don't know what's listed as far as specifics. One of the other things I found out that we are truly numbers and not people, because when I came back to active duty I found out I lost all my seniority with the city. Had I never left I'd be at my 22nd anniversary as a policeman and prior to that I was a Santa Clara County paramedic. My whole adult life I've worked in public safety. But on paper I appear to be roughly a three and a half year rookie. I sustained a layoff last summer which was mind-blowing to me. I went to several people, my commander, I even had a cup of coffee with the chief who I know personally. And it is my understanding he went to the mayor and city council asking for some sort of recognition. Sorry, can't do that, chief. That's irrelevant to today's meeting but I just share that with you, to -- it just goes right along with it. But I will tell you this: I would die for my flag and I would die for protecting the citizen or taking the bad guy off the street. My main objective in life right now is to be there for my family, be a father to my children. I don't want to be a cripple. I want to be able to be at the little league games and look normal. It was a long time before I could even take my shirt off at the beach or what have you because I've got so many scars. I don't care anymore about that. Enough said. I would just respectfully submit --

>> David Bacigalupi: Mr. Chair.

>> Sean Kaldor: Baci.

>> David Bacigalupi: I'd like to start it off with, I'm not sure if I made the original motion last time John appeared before this board but I want to start it off with a motion to grant the application for a disability retirement. I have had the pleasure of working around John and John actually worked for me at specialized assignments. And in my 33 years of experience with the City of San José, I have never seen anybody so devastatingly hurt, fight to come back. He was retired. He was a basket case. And this board granted him unanimously a retirement. And that wasn't good enough for him. He loved the job so much, and I have never heard of this from anybody else. Fought

back and came back, requalified, and got rehired. And I remember the accident, the first one. I have the utmost respect for this man. I know how devastating his injuries are. I know how hard he fights to overcome them. And I, with the injuries and back down on a motorcycle again, last year, I support the application 100%.

>> Sean Kaldor: Santos.

>> Richard Santos: Thank you, Bacigalupi. That's good information. No question what you go to get impact. Here is the biggest issue I saw here in just listening too you. Dr. Leddis also indicates that Mr. Ruffner is totally disabled. Best to you and your family.

>> James Mason: Mr. Chair, I would say I'm not friends with John Ruffner, I've never worked side by side with him. First time I heard his name was after my catastrophic motorcycle accident, I was in the hospital for two months, almost had my leg amputated, and was in a wheelchair for five months. And where I heard his name was when I was talking about trying to come back to this job. John Ruffner had just recently come back. And pretty much people who knew him if John Ruffner can come back after his injuries, you can come back. And so he was a bit of a inspiration for me. It has to be said, at some point it's in the back of their mind there is talk about how people have retired out and try to come back to retire out again add a higher rate or whatever it might be. I know for a fact, because before I was in the position I'm in now, over a year or so ago, when I worked the Eastside there was this two-man car that ever single day was saying they're on route to the jail with a felony arrest. It was always John Ruffner. He didn't come back to lollygag around and get a paycheck. He came back and he was a hardworking individual. So my best to you also.

>> Sean Kaldor: I'll add my two cents. I think part of the definition of integrity is doing the right thing when no one's looking. And you suffered a catastrophic accident in the service of the citizens of San José. You were granted a well-earned disability retirement and when no one was watching you, you fought to come back, and say no, I want to come back and work. So now I see you going through the process again and I trust the same integrity is there that you've gone through the doctors have done the evaluations and I take it at the word that

when you say I got to go out, that there's honesty and integrity to that. So I support the motion as well. Is there any other discussion?

>> What the most recent motorcycle accident was, what happened there?

>> Sean Kaldor: Into the microphone please.

>> Cinco de Mayo, he was an instructor. They were practicing what to do in a violent confrontation with their bicycles, his bicycle was bumped, he went over the handlebars. The motorcycle. Is that fair?

>> Sean Bill: When I look at page 5 and -- actually I guess 7, for me I guess the main question is, regarding the right wrist. Because the neck, it says he has not received injections, there may be procedures which may improve the tolerance for activities. Mr. Ruffner has not evidence of spinal instability or obvious structural defect. Therefore remaining treatment options may improve his work tolerance. He's not a candidate -- for surgical candidate, therefore no work restrictions are provided. And the lower back looks very similar. Injections may help reduce his symptoms and improve his work tolerance. He's not considered a surgical candidate, no work restrictions are provided to the lower back. So it's number 1. So the right wrist, could you speak to that in terms of what's occurring there and what's going on and how that impacts you in your job?

>> Certainly. My right arm, they've talked about different diagnoses. But apparently there's nerve damage in the arm. They've talked about an ulnar nerve surgery. They've talked about a decompression to the -- basically through the armpit where the nerve bundle goes down your armpit down the arm is perhaps obstructed. Thus far, I haven't had any surgeries on that hand. Basically, it does anything from simply hurt to loss of motor function to just numbness, sometimes it swells up and changes colors. It will become ice-cold even on a hot day, certainly when my left hand is normal. And other times, right now for instance, it feels okay. There's -- it's not like any one thing I can say oh when I do this, it becomes symptomatic. It seems to occur on its own terms.

>> Sean Bill: I see you're right handed?

>> Right hand dominant, yes. For whatever it's worth I mean we do train to be able to operate firearms whether it's a rifle or pistol with both hands, but certainly my right hand is the dominant side.

>> Sean Kaldor: Dr. Das, did you want to --

>> Dr. Das: If I can assist in terms of why I provided restrictions for the right wrist. One of the issues, when you have sensory damage to the -- you know, what I took away from the nerve conduction studies is that he had carpal tunnel syndrome. But the reason I provided restrictions is in manipulating, doing fine manipulation activities, it's important to get sensory feedback. And one of the things that can happen with carpal tunnel syndrome is, you lose that proprioceptive feedback. So if you are going to hire a firearm in a stressful situation, it would be very -- it would not be safe if you had that kind of a sensory deficit. And that is why I provided that particular restriction for the right wrist, irrespective of what the symptoms he reports. There is the sensory feedback that you get in terms of doing fine manipulation makes it more difficult to handle a firearm.

>> Sean Kaldor: Any further discussions or questions? Seeing none, all those in favor? [ayes]

>> Sean Kaldor: Opposed? Seeing none, the motion passes for granting the service connected disability for John J. Ruffner.

>> David Bacigalupi: John, I.T. been a few years since we've worked together. I know you're an inspiration and you deserve the right. To do so.

>> Sean Kaldor: For everyone, we will take a break until 12:10. When we reconvene well continue with item 4.3 and then 2.6 and moving forward, 12:10. [Recess]

>> Sean Kaldor: Start up in one minute.

>> Sean Kaldor: Just aa reminder, the remainedder of the day is 4.3 and 2.6 continue the agenda in order but we pulled out items 3.6 through 3.9 to be heard at the end of the agenda those are the closed session items. Item 4.3, deferred, Meynard gamez, police kept captain, police department, effective September 5, 2012, 25.56 years of service.

>> David Bacigalupi: Move to approve.

>> Second.

>> Sean Kaldor: Any discussion? All those in favor, opposed, most passes unanimously. .

>> David Bacigalupi: He's a police chief someplace else. Took the training and got a job someplace else.

>> Sean Kaldor: Multiple committees disabilities committee, personnel committee all of these the governance committee, time to time we say we need to go and do something. Any time we need to spend a dollar, we have to wait a month to come back to the retirement board to get approval. I want to throw out for discussion or ideas whether we should, when we establish a committee, give them a standing budget they can work with, whether it's 10 or 20 or \$30,000, just so there isn't that lag time for little stuff, or if we just want to do it when we establish each committee, to determine a budget for that committee just so they can get things rolling. So I'm interested in input or ideas or concerns.

>> Richard Santos: Mr. Chair.

>> Sean Kaldor: Santos.

>> Richard Santos: Yeah, I appreciate that, and also, does the committee have the authority to move on or whatever have you without coming back to the board. I'm not giving that direction, I'm just asking. Because sometimes as you know it's a time issue, trying to get things done, whether it fills a personnel issue or whatever

have you. So we ought to address that also. But I hope -- I don't know what's fair in terms of a budget. That you have some kind of proposed funding, that we could at least do some kind of work. All of us here and I'm sure if personnel committee and investment committee and everything else eager to get things done, it takes funding and also it takes authority.

>> Sean Kaldor: Discussion.

>> Drew Lanza: I think one of the points of this was when we create these committees we might pause and think of what they need in termination of preapproval of authority and preapproval to spend. And I might suggest that we might want to adopt a rule here even if we don't have budgeting authority, a good rule of thumb side, we use it on the private side all the time, the board isn't authorized to execute that authority or to spend that money if the committee unanimously approves doing so, right? That's a pretty good thing. We've got almost half the board members on each of these committees, so if all four of them unanimously agree to do something, I think they are fairly representing the board in that case.

>> Sean Kaldor: Vince.

>> Vincent Sunzeri: This might actually expand on this, I'm wondering about the authority of the investment committee, not just on budgeting or contracting abilities but the ability to move forward on certain investments. One example that we had as we know that last investment committee meeting we had was considering one of our investments and expanding the constraints of the manager. And we made the decision not to move forward with that. So it didn't come to the board. But if we did make a decision to move forward would that have to come to the board for us to make a decision? So we would need a lot more boundaries defined for these committees beyond just these two things of budgeting and contracting.

>> Sean Kaldor: Santos.

>> Richard Santos: I think when you're talking about these issues of investment, not that it's not important in any other committee you just wonder, what if just four people make a decision and then we make a devastating decision. So you probably want board approval. On the other hand, the other agency I work in where CEOs are allowed to spend up to 100,000 and the rest of the stuff has to come back to the board. There's always boundaries or certain limitations that we should give in investment committee or whatever. And sometimes the urgency is needed to get it done. I wouldn't want to restrict anybody who is bringing back sound investments for us. There's some things we need to look at, what kind of amount you want, how far you want to go, what's the urgency, I'm going to support those issues bylaws your time is valuable, trying to get something good because we have to watch again because the whole board is responsible.

>> Sean Kaldor: Sean and then Drew.

>> Sean Bill: Just curious what kind of expenses are we anticipating running into other than the personnel committee?

>> Sean Kaldor: I'm just thinking like the governance committee wanted Tom Ianucci do something that costs 5 grand. So we pick a dollar amount. Same thing for the investment committee, do we have to come back to the entire board to hear that or personnel if we want to get information. If we could do a -- buy buy a preexisting salary survey off the shelf for \$10,000. 25,000 may be a ballpark number upon unanimous approval of any subcommittee they can spend up to \$25,000 a year, anything more than that they would have to come back.

>> Richard Santos: Those are good things.

>> David Bacigalupi: The authority but I would think that we would want to have it reported the following month to the board.

>> Sean Kaldor: Yes, absolutely. Okay.

>> David Bacigalupi: Just not do delay the process. If they need some information.

>> Richard Santos: You're right up to 25,000, 50,000, back to the board to get it done.

>> Sean Bill: Have we ever done this in the past?

>> Sean Kaldor: We've approved committees budgets, but not open budgets like usually for specific items, the committee may spend up to \$130,000 on a compensation analysis. And then it's up to the committee to have that.

>> Drew Lanza: You have the only two standing committees. Maybe for the next board meeting you guys could sort of come back with guidelines for what decisions do you think your committee should be made, what decisions do you think may be brought before the board and if you have any suggestions for budget that you might need. Maybe even the ad hoc committees could do that. But I think when we create an ad hoc committee we ought to pause for a couple of minutes and say, the reason this came up was because of course we suddenly discovered the personnel committee couldn't select a recruiter to fill the director position, which struck us as something the board would certainly want us to do, and we had to have that emergency board meeting. That was something had we paused for a minute and thought about the personnel committee when we created it, would have thought that is the kind of authority we would like them to have.

>> Sean Bill: My point would be that unless we are reacting to unforeseen things generally speaking we should have a plan we're working forbid and we should have time to bring these items forward to the board when we're spending the members' money. I don't know, I'm kind of mixed on the idea of giving these committees budgets and at a stuff. I kind of like to have it open the board level because I think it is almost reactive to lack of planning.

>> Drew Lanza: I would be fine with that. I mean I think that comes back to the point when we create a committee or at the beginning of the year the committee should come forward saying, we see this coming over if horizon. We're meeting with the City Manager every week, we have seen these things coming and we should

have authority, we're running into those problems in the disability committee. The whole goal of the committee is to run faster than the board. At the beginning of the year if you have a standing committee.

>> Sean Kaldor: So I think that's probably a good way to handle this. Have each of the chairs of the committees and ad hoc committees can submit a request to be included in next month's board meeting, if there is a budgetary amount you require and kind of what that might be for. So it is a preplanned thing, but we let them make the decisions, but they know they are going to need to spend X amount. And if there is certain authority you are looking for, so let's clarify that authority. If we're going to let the investment group or investment committee pick managers or change budgetary amounts, parameters for investments, whatever it might be, we can approve those because each committee has different things it might be looking for and I can't do one motion that would encompass all that. So last call of the chair is to maybe just do a quick memo and we'll include it as one action item for this member meeting.

>> Harvey Leiderman: Mr. Chairman, I might point out that agenda item 3.3A is the board confirmation, includes board confirmation of last month's action on the investment committee charter. And so we can take it up then when we talk about that. But I think we've already addressed the decisions the investment committee can make and not make, and without getting too deep into 2.3A, the board decided when it discussed at a charter to define decisions that are either material or not material. And leave it up to the committee to decide what it considers material that has to be confirmed by the board and what it considers not material that the investment committee itself can decide. I'm not sure how much more definition you're going to be able to get on that but we can talk about that on item 3.3A if you wish.

>> Sean Kaldor: Certainly if there's a change not investment committee charter that the investment committee thinks can be warranted it's a living document.

>> Harvey Leiderman: It can always be changed.

>> Sean Kaldor: That completes item 2.6, thank you. Item 3.1, update on payroll audit, FLSA and overtime payment issues.

>> So we just recently, and recently I mean today, received the files from finance for the FLSA corrections. We're going through them to determine whether or not we'll be able to upload them into our system. We received the corrections for all of the currently active employees and also the retired members. The active members where the adjustments have already been done will be the first phase that we'll work through. The retirees we'll have to work through that as a separate phase. I need to confirm with I.T. that they can use the files that have just been transmitted today. Since I've been here today, I haven't had the opportunity to have that conversation. We did receive an Excel file, but we're trying to get it in the same upload format that is necessary for us to use in pension gold so the higher class pay adjustment is not as far along as the FLSA adjustment.

>> Sean Kaldor: This is all for the purposes of now just dealing with retirees' benefits they're receiving, has nothing to do with -- the current employees have been squared away?

>> The current employees haven't been, because we haven't updated their pension gold files. We still have to update their pension gold files and then address interest and anything else that goes along with that. And we just received the file today and I still don't know that it's in usable form yet. I need to confirm that.

>> Sean Kaldor: Santos.

>> Richard Santos: Mr. Chair that's another good example of whether we have this quarterly newsletter or whatever. You've been on this FLSA issue for the last year and a half that I've about been there. Many of them if when later on when that pay if it's affected good or bad, is going to be an awesome communication issue so leading up to it is one of those things helpful just so it gives it increments and quarterly that says yes, we're looking at it be prepared blah blah blah and then all of a sudden the decision is made and you go guess what it is going to happen. Likes Mr. Heredia's let, those are many examples of communication.

>> Sean Kaldor: Any other discussion? Good, thank you, note and file. Item 3.2, discussion and action on governance policies developed by Cortex. 3.3 goes along with this. 3.3 was all things we saw last month, I guess my negligence we didn't officially take the vote to adopt them. For this month we have item new, 3.2, discussion and action on governance policies developed by Cortex, A, board performance assessment policy, B, code of conduct. Cortex is not on the phone with us today, but we are taking any input to let's go one at a time. Item A the performance assessment policy. The one item I did receive was from Mr. Leiderman. For the code of conduct, right, so for board performance. Any comments, feedback? Nothing. Okay. Seeing nothing on that we'll leave that one. The second one, the code of conduct. Harvey which item was it that you said should be referred?

>> Harvey Leiderman: The question I had was under 4A that if there is a conduct issue of a board member I questioned whether or not you wanted to refer to the audit committee or the governance committee.

>> Richard Santos: Fire squad.

>> Sean Kaldor: Is the governance committee, is it going to be a formal standing committee or the ad hoc committee that we have now?

>> Drew Lanza: Most boards have got --

>> Harvey Leiderman: That's up to you, folks.

>> Sean Kaldor: Did we approve a governance committee?

>> Just ad hoc.

>> Sean Kaldor: Until we approve a governance committee it would have to be something else. Any other comments or changes or edits? Okay, seeing none I'll take a motion.

>> Richard Santos: So moved.

>> Sean Kaldor: Trustee Santos move to accept the drafted code of conduct and assessment policies. Do we have a second?

>> David Bacigalupi: I'll second with a discussion.

>> Sean Kaldor: Second from Bacigalupi. Any questions or discussion?

>> David Bacigalupi: Just something like Harvey said as the audit committee may not be the right place for that. Is that something we can look at in the future of a permanent governance committee?

>> Sean Kaldor: I think an ad hoc governance committee, a personnel committee, we've got three or four things going on. Probably have to clean that up with formal standing committees, and there might be a better standing committee than the audit committee --

>> David Bacigalupi: Drew's pretty good at taking things over, because he just turned this over today. Make the governance committee part of the personnel committee.

>> Drew Lanza: Today personnel, tomorrow the world, brother.

>> Sean Kaldor: Any other discussion or questions? We have a motion and second. All those in favor? [ayes]

>> Sean Kaldor: Opposed seeing none we formally adopt those two policies. 3.3, the approval to formally adopt the governance policies adopted by Cortex and reviewed at the June board meeting. A, investment committee charter, B chief investment officer charter, C, reporting monitoring policy, D, strategic planning policy. There are no changes from when we reviewed them in June. We just didn't -- we simply didn't take the motion. I'll make the motion to formally adopt these. We have a second from Trustee Santos. Any discussion or questions?

>> Sean Bill: I think we would benefit (inaudible) explain the meeting just to kind of go over all these big-picture issues. There's so many things that are floating around. Not like this would be a full day or half day. But just what are our big key items that we want to drill down into further. You know. The other thing I thought might be helpful and kind of actually was in the prior is the idea of the 360 interviews with the board. You know, I think that would be helpful. A new board, come together in the last year, get some feedback on what's working, what's not.

>> Richard Santos: Mr. Chair.

>> Sean Kaldor: Trustee Santos.

>> Richard Santos: I concur with Sean Bill. Good communication, taking a look at anything, like I said still board members new harmony and so on and you just want to take take a look at the stuff before it all gets eventually put into action so I think it's a good idea. I you can have most like for people who have transportation issues here, morning meeting, get it done, it would be good.

>> Sean Kaldor: So let's -- I agree with that. I think like you said a couple hours, and set our strategic priorities.

>> High level things we need to be thinking about.

>> Sean Kaldor: Committee structures and all those types of things and organizing ourselves for the future. So I will put together a proposal for the September meeting to propose something for the October meeting or thereabouts.

>> Richard Santos: And we have a chance also to get all the differently committees together to have that discussion also. The idea is that instead of being isolated and ready for a board report, we can combine I think Dave was talking about combining may be the issue, I don't know.

>> Sean Kaldor: Any further discussion? Seeing none, we'll call the vote, all those in favor? [ayes]

>> Sean Kaldor: Any opposed? Seeing none, we have now formally adopted those additional four Cortex policies. Unfortunately Tom couldn't be there with us today but that marks the end of a big long project that came from our last strategic planning project, how we're going to work together as an organization and what our policies and procedures are so it's good to see this stuff come to fruition. Item 3.4. Update on electronic board packets.

>> Donna Busse: I'm glad to have this item on but we approved this item back in January but at least I'm happy to report that we don't have a signed agreement but we have asked that the vendor and Harvey's office are going through to try to settle. But I did want to make the board aware of the timing now that this project has been delayed on the vendor's side, that they did say that once we had a signed agreement, it will take them four weeks to get us back on their schedule. So we won't even be able to begin the project with them until four weeks after they sign the documents. So we'll be delayed so I wanted to give that update.

>> Sean Kaldor: Thank you. Any questions or discussion?

>> I'd just say that Jay and I were at the Stanford fiduciary college and did have a chance to talk with some of the systems and a lot of the systems are moving this direction, want them paperless.

>> Richard Santos: Find out how many trees you killed and you'll probably do do well.

>> Sean Kaldor: I see consultants coming in and instead of paperwork, they're opening their iPad.

>> Richard Santos: They used to hide behind their paperwork and now they can't.

>> Sean Kaldor: Received and filed. 3.5, update from Councilmember Constant.

>> Good afternoon, as you may have guessed I'm not Councilmember Constant nor am I his alternate Rose Herrera but Shane Patrick Connolly with Councilmember Constant's office. Updates, council resumes its business on Tuesday, with its first meeting of the new fiscal year. At the end of last year of course they passed a constitutionally required balanced budget with a \$9 million cushion and one year and are facing forecasted deficits for the next two years following. From the Federated board they've begun to implement their new investment policy. Or strategy. And their consultant had said that it's about a two-year process for full implementation. And they also reviewed the tier 2 implementation processes and have come back to the administration with questions, that they expect to have returned to them at their August board, September board meeting. And that's about it from me.

>> Sean Kaldor: Okay.

>> Thank you.

>> Sean Kaldor: Thank you. That's to be received and filed. And that brings us to item 5. These are death notifications. So item 5.1, notification of death of Anthony C. colon, police sergeant, retired July 24th, 2010, passed away May 3, 2012 with survivorship governments Susan M. colon spouse and Alexandra colon, daughter. 5.2, notification of death of Ann Maria Navin, police officer, retired August 3, 2000, died July 6, 2012, no survivorship benefits. 5.3, notification of if death of Rex D. newburn police sergeant retired July 1, 1993, died June 7, 2012, no survivorship benefits. Note and file, I'd ask for a moment of silence with respect to their service. Thank you very much.

>> Richard Santos: Mr. Chair, don't like to prolong this. Appreciate the moment of silence. But you know, and I talked about this before, with these folks here they didn't even get to enjoy their retirements. And I'm curious, you know I've said this before, police and firefighters when they retire, many of them never live more than ten or 15 years, that's a fact. And we ought to be taking a look at those statistics in terms of moneys being saved during an unfortunate time but it must have a bearing when I hear too many negative things come out of today's world when

these ladies and gentlemen here, not even paid into this system, don't even get a chance to enjoy it. So there are some statistics that maybe warrant it for us to a look at.

>> Sean Kaldor: Okay. Item six, committee minutes, reports and recommendations. We do have a number of committees going on and I know each of these committees I can only thank them for all the countless hours they've been going through the materials they've been going through and the extra meets they've been having. We'll get a report from each and as well as the major things going on. 6.1, investment committee, Sunzeri, Bill, Kaldor, Krytzer, we do not have alternates anymore so that comes off. Next meeting August 8th.

>> Vincent Sunzeri: Thank you. In a matter of a little more than 30 days we held three meetings for the investment committee primarily focused around the ALM, talking about it, analyzing it, pushing information back to them to do additional work. Looking at various asset mixes, stress-testing all that and the result you saw today. They really covered it in very quick fashion. Which doesn't do justice with the amount of work that was put into it. But I want you to feel confident with what you've accepted today. I think it was a terrific amount of work, and the outcome is going to be impactful for the plan as we move forward. NEPC has done a great job, they're very engaged with the plan now. We have a work plan set up over the next six months that's very aggressive in nature in the things we're trying to accomplish. The meeting we have scheduled for August is going to be pushed out to later in the month to accommodate a quorum. And at that time we'll talk about implementation of the investment mix. We'll be looking at specific investment opportunities and at that point we'll really have staff bringing to us more recommendations on some of the work that they've been doing, both Heidi and Darren have been looking at things on the absolute return side, the global and equity managers that we really have not had active for quite some time. So that will be good to see. We'll be looking at the real estate side of the portfolio. And then, specifically, investment performance. And a note, it might be a reminder, if not we've definitely talked about this at the investment committee level that NEPC is going through a transition in the reporting firm that they're utilizing so they haven't had the data as accurately or frequently as we'd like but that should be up to speed pretty quickly. So we don't have the data at this point for June numbers. But as you may have seen from Cal PERS, the numbers in the last 12 months really weren't all that gray great. The 12 month returns they experienced were approximately 1%. Just economically so you understand, there's really three major head winds that we're dealing

with right now. From the European debt crises which is ongoing and the U.S., the economic data has been more disappointing on the down side, and then in addition to that, there is what we call the looming fiscal cliff that we could face early in the year which could create some real havoc with the economy if things don't get resolved. So we're dealing with a lot of issues but I'm extremely encouraged that we're making tremendous progress. And just a brief review to give you a perspective on what's happened in a relatively short time frame. Again we terminated active managers. We reviewed an ALM. We rejected an ALM. We reengaged our consultant in the plan. The consultant has brought forward an ALM, we just adopted that ALM, and we're moving the plan in a different direction. We have a lot of investments we'll be reviewing over the course of the next six months that will eventually get to the board for approval. So all I ask is that as we're looking in the data, understand that we're looking in the rearview mirror. And our ability now as a board, and particularly the investment committee, to have an impact on the plan, we probably aren't going to see those results for another 12 to 18 months. So again, understand the data currently doesn't necessarily reflect our stamp on what's happening right now. But I think will have a significant impact as we move forward. That was what I wanted to report. And Sean, both Seans are on the committee if you want to add.

>> Sean Bill: I think that things are moving along pretty well, I think we're making progress, bringing some investments forward and the asset allocation study I think was a big project and that was done I feel pretty good about it. You know so that's what I would say.

>> Sean Kaldor: Just wanted to echo the comment that you mentioned that the ALM study was briefly presented here and I'd kind of asked to you do that and people want to have more questions we could go on for hours. It certainly did get a good shaking at the committee level and came back multiple times, I thought it was a great project especially seeing the different scenarios and the strength-testing of those. I thought it was a great process. That's why I didn't poke at it here, I already had my chances there. Bettina.

>> Bettina Rounds: I would just like to thank you all, because I actually thought the way you've managed NEPC, that was one of the clearest reports. I do not have an investment background, obviously, and thought that that

was just you know something that I could understand. I hope the members could understand it. If they were listening. And that I thought that they did a really good job, so thank you all.

>> Vincent Sunzeri: Let me also add in the absence of a CIO there's obviously some concerns about where direction is coming from staff. And so this is not a unilateral decision. This is something I talked with the chair about and the personnel committee about, and that I will be meeting with the investment staff on a weekly basis. It could be more frequent than that, if needed. We'll be talking about the work that they're currently engaged with. They I think need to have a point of contact from this board. And I, as the chair of the investment committee, should be serving in that capacity, to provide continuity, direction. They're interacting with investment managers, consultants, various board members, and I don't want them to lose focus on where they should be spending their time. The meetings will vary. One meeting will simply be with staff so that way they have the free flow of information. Next week, will be a meeting with staff and the consultant. So we're all working together as a team, and other meetings then will be involved with the chair on the Federated side so we can have some continuity there, as well. I just want you to be aware of that.

>> David Bacigalupi: Thank you.

>> Sean Kaldor: All right, thank you. Item B in your packet, minutes from the joint Police and Fire and Federated investment committee meeting. That is to be filed. As well as minutes from the June 13th, 2012, joint Police and Fire investment committee and Federated investment committee meeting to be filed. 6.2, ad hoc governance committee Cortex phase II. Kaldor, Lanza, rounds, Santos. I hope it doesn't go until after our next board meeting. Item A report from the chair of the ad hoc governance committee Cortex phase II. He has drafted an outline for this project including the scope, the timeline and the deliverables, the questions that would be answered. This is really looking at what's the best way that a modern plan should administer the governance and the operations of its organization. He has tried to be sensitive and built into the plan an outreach going out to the constituent members, making sure that this plan addresses all ideas and plans and thoughts that they have. I've already seen one view of it, he's cleaned it up a little bit, polished view for that committee to review and then commence the project. Any questions? Okay. Item 6.3, ad hoc personnel committee, Lanza, Kaldor, Rounds.

Last meeting, July 19th, 2012, next meeting to be determined. But quite frankly, item A, report from the chair of the ad hoc personnel committee.

>> Drew Lanza: You have two PowerPoint slides in your deck. I'll go to slide 3, that is where the progress report is. This committee was created at our early May board meeting. Unfortunately as you can recall, I was on my 25th anniversary, I missed our June board meeting, I was halfway across the world. In those 90 days we've seen our director and our CIO resign, measure B of course passed on June 5th. So we have had what I think had originally been intended to be a committee to look at succession issues has taken a battlefield promotion to a committee that's taken on the task of working with the City Manager's office to recruit new candidates for both the director and CIO positions. Taking the CIO position first, we have retained a recruiter. We actually have over 2 dozen resumes now that have been submitted to the recruiter for the position. Our best estimate is that we will have a new CIO on board to the end of September. Which means that from the time we received Carmen's resignation to the time we have a replacement will be under 90 days. That's kind of par for the course on the private side, and I thank the City Manager's for working with us so diligently to make that happen. We've got brochures, we are posting that forever, I'll let you pass it around, Baci. So I think on that side we're okay. We are moving aggressively forward, Russell is leaving at the end of this month. We selected a recruiter, alliance, who is also recruiting for that position. Thank you for the City Manager's office for working so diligently. Thanks to Sean, for that brochure, Sean Bill had a lot of input on that. Thank you for that. This is a question about interim candidates. But it actually has something to do with some of the lawsuit stuff so we're going to postpone that into our closed session. It will make sense to you why when we go in the closed session why that bangs off a lawsuit. We've been working very hard to develop a structural relationship with the City Manager's office. We were in discussions as recently as early earlier this week how do we work closely with them on these issues. I hope to have more to report to you at the next board meeting on that. But won't have much to report on this board meeting on that. I would say the City Manager's office has been very collegial. We have been meeting with them essentially every week, we have had over eight in-person meetings. I counted up the number of e-mails that have gone back and forth in the month of July alone, and that was over a thousand distinct e-mails on these topics of replacing the CEO and CIO and working with the City Manager. And so there's a lot of activity going on there. If you go back to slide 2 in this deck, I would say that the ad hoc personnel committee I think from its very inception

has been trying to work the obvious near term issues but have also been trying to focus on some of the longer term issues. You know we've had two meetings with the mayor. I sat in on the first one. Vince was in on both of those meetings. So we see that as a long-term approach to the ad hoc personnel committee, to be I presume turned over to a full-time personnel committee, a standing personnel committee when that gets formed. But in the near and interim terms we're focused on these absences we've had as I said before and we're focused on how do we work effectively with the City Manager. That's all I have to report here in our open session. There are any questions?

>> Sean Kaldor: Okay, so that completes also item B, discussion and action regarding succession issues as well as item C, discussion and action on direction to work with the City Manager's office to develop a transition plan for senior staff vacancies within the Department of Retirement services.

>> Drew Lanza: I think we have selected recruiters and so on, so I think we had that emergency meeting. Thank you for scheduling it, Sean.

>> Sean Kaldor: Item 6.4, ad hoc audit committee, Bill, Bacigalupi, Kaldor, Lanza. Report from the chair of the ad hoc committee. This is not an ad hoc committee.

>> Russell Crosby: Correct, this is a standing.

>> Sean Bill: So I do not have a lot to report. Veronica and I will be getting together in the scope of what is entailed with an ad hoc committee, my first time with audit. Once we get scope we'll call a meeting of the committee to go over that and see how we want to prioritize.

>> Sean Kaldor: So item B here is discussion and action for transition to a standing committee. Are we clear about the status of this or should we make a vote real quick to establish this as a standing committee? I don't know why it's on here is the only reason I was --

>> I thought it was a standing committee.

>> Russell Crosby: I wasn't here for the agenda preparation stuff.

>> Sean Bill: One thing, I will say what I have seen on some other plans, they have audit and risk management kind of piled together, and it kind of keeps the risk management separate from investments. Which could be worth considering as we go down the road.

>> Sean Kaldor: Okay.

>> Sean Bill: There's two types of risk, right, there's investment portfolio risk, and then there's our business operational risk and that type of stuff.

>> Sean Kaldor: Okay, so maybe --

>> David Bacigalupi: Is it clear it is a standing committee not an ad hoc committee?

>> Sean Kaldor: I just don't know why it's an agenda item on here. I think we might have put it on here either because we were not clear last time, or because it wasn't. Those are the only two reasons.

>> David Bacigalupi: I move that we confirm that the audit committee is a standing committee and not an ad hoc committee.

>> Sean Kaldor: I'll second that and add to it that the chairperson will be Sean Bill and with also members David Bacigalupi, Sean Kaldor and Drew Lanza.

>> Sean Bill: And do we want to consider the idea of making an audit and risk management committee, because I think we could start looking at risk management issues, as well, particularly as we dovetail into motion.

>> David Bacigalupi: I'll accept the amendment to the motion. I'm not sure how that would work but I'll accept that as an amendment to the motion then we can work it out.

>> Sean Bill: It would be like two pieces. There's your operational risk of the entity itself, the business that's being run, and then there's your investment risk which sometimes it's good to have that separate from the investment committee.

>> David Bacigalupi: So I've accepted that as an amendment to my motion.

>> Sean Kaldor: Okay. (inaudible)

>> Sean Kaldor: Okay so we have a motion and then I seconded it and I'll also accept that amendment to it so we have a clean motion and second. Harvey.

>> Harvey Leiderman: Just make a comment and see how the board feels about this. Usually, when you have a board committee that's an audit and a risk management committee it presupposes that you have staff, you have an internal auditor on staff and an internal risk management and compliance officer in staff. Without those positions being filled at the staff level, the question is, what responsibilities are you going to be imposing on your audit committee and your risk management committee and does this board want to stay on that level of a responsibility without any staff support?

>> Sean Bill: I respond that from a risk-management side I think we should be thinking about these things. Even if we don't have staff it is even more imperative that the board is spending some time, giving it some thought on potential, you know, things that could sideswipe us.

>> Sean Kaldor: I could see the problem of the risk management piece two people on another piece. Pain we could go as a committee and think it influence and come back to the board in September.

>> Harvey Leiderman: If I may Mr. Chairman, just so we understand it, as I understand Mr. Bill's comments is that risk management goes beyond the investment side. It goes to internal operations which has to do with a whole other number of operational issues including the benefits programs, as well. So it's beyond the investment. Maybe we need to bake this a little bit more bring it back as to what scope is being envisioned for the risk management piece. We have the auditor portion designed but not the risk management piece.

>> Sean Kaldor: Maybe come back with a proposal on that. Okay. (inaudible).

>> Sean Kaldor: So to clarify then -- do you want to restate?

>> David Bacigalupi: Withdrawing the amendment to my motion so we'll go back to the original motion to confirm that the audit committee is a standing committee, and not an ad hoc committee.

>> Sean Kaldor: With the currently membership of the ad hoc. I second. Okay we have a motion and second. Any discussion? All those in favor? [ayes]

>> Sean Kaldor: Any opposed? Seeing none the motion passes unanimously. Item 6.5, the ad hoc disability committee, Santos, Bacigalupi, Lanza and Mason. Last meeting was July 30th, 2012, next meeting, to be determined.

>> Richard Santos: August 10th, 10:00 to 12:00.

>> Sean Kaldor: Item A, report from the chair of the ad hoc disability committee, and simultaneously, item B, discussion and action regarding the formation of a standing disability committee and the scope of committee responsibilities.

>> Richard Santos: Well, we started out, I can't remember the first date of July that we had a meeting. And we tried to address all the issues that board members have expressed, like example Bettina asked. Before we have disability hearings or disability retirement hearings or what have you I would like to have Harvey read the code so you're following the law. To start out, those are some of the things we discussed and I think those are good things. And I just got this letter from the City Manager's office that we can't discuss, we just got it, we can't take action, so I won't do that. I have to say I'm a little disappointed, when we get a letter addressing about the disabilities, when we had several meetings, and I don't remember them being in attendance, or did they say anything during those meetings. And I wish they would have, because we could have addressed those issues and then made this board more aware in terms of education, whatever we discussed. If you like to address that, that's fine with me.

>> Jennifer Schembri, assistant to the City Manager. I just wanted to indicate that we did have a representative there at those meetings to view them, so that's how we knew what had happened, but --

>> Richard Santos: Well, you never said anything there so news to me. Appreciate it.

>> Sean Kaldor: Just for the record, this morning you submitted this, last night you e-mailed to Retirement Services. We received this morning, the board, this letter which you should all have in your packets.

>> Correct. The reason why you're getting this now is the meeting where this recommendation was discussed to be made to the board today was just Monday. So --

>> Richard Santos: So I made sure that our staff made sure that everybody was notified, and of course everybody didn't come, and then I get a couple of phone calls about oh, I wasn't notified, and I said yes, you were. So that takes care of that stuff. Then we had a discussion about some of the workers comp attorneys representing people, and Dr. Das was there, he was waiting -- are you in the back row, Dr. Das? Come up here in the front row with Bob Euker. And we had a good discussion about the P2 or P4, whatever, there's too many forums, and we're able to sit down and say, this big huge applicants we have of maybe 150 people, how are we

going to streamline this? And so Dr. Das was very nice and so were the applicants out there having a discussion in terms of let's remove one forum to lessen the restrictions and what have you. Those are good things and we'll talk more about that later. We talked about how to reduce that load of applicants for disability retirements and it's not an easy job. We also discuss how to get there so we wanted to find out -- and by the way as I go please board members please pipe in as we always do. We said well this happened and this happened and everything in the world was discussed because people who want to get out who don't have pay or whatever have you there's no excuses they need to get out. Ettes a very, very serious issue, we all took it seriously. Dr. Das said well and the board of this committee said what about personnel, do you need something, let's do something. There is a lot of repetition here and people have called in and all this. It's very frustrating. So we made some headway in terms of he's looking at maybe a personnel person to help with that load, and so on. We'll have that discussion here also after I get finished, giving the preliminaries. We talked about wellness programs. The local 230 and POA was there in the past, and they said you know those are things, and then we asked legally to Jeff who was on the line in place of Harvey, do we have the authority? I just said, well, you know what, whatever we need to do to make people healthier and stay longer I believe is in our authority. But let the legal people talk about those issues. And sound like Local 230 and POA and Dr. Das and hopefully the city will look at some kind of wellness programs or whatever have you. We'll find out what authority we have to use fund money to help supplement that or whatever it might to keep people working and invest in them. So that is some of the things we discussed there. Right now, well, again referring to this memo, this committee wanted to go to August 10th to start addressing these applicants to make sure this huge workload gets diminished. And so that's something we didn't know if we needed the board authority, we wanted to get right to work. Now that this came out, I will submit to the chair and we'll find out and let committee members speak on that issue. I really enjoyed in terms of both meetings because we're finally getting something done. It takes increments it doesn't come overnight. And then James came in being knew he was really good at addressing some of the latest issues about some of the police officers that have called him up and said hey we're not getting this done medically this and this and this. Those are good things. With that I'm going to refer to Drew who's been a real pill, I mean a pal, Drew and Baci and James and it's been really good. So with that I'm going to let through the chair Drew address some of the issues.

>> Drew Lanza: I think Dick has done a good job trying to focus on this huge tsunami of 1 for it applications, clearly we need to do something. Certainly looking at the rate of which we do them today, quarter of an hour each and 160 applications, it is 40 hours of work, not addressing the ones that are new. That's clearly not going to happen. I guess we'll sit down with the City Manager's office and talk about the structures. But I salute Dick for trying to tackle what is a very large whale right now.

>> Richard Santos: And again, we need to -- the issue is this. Is this committee going to go forward and reducing that amount of people who are trying to address their issues? In terms of retirement. Or does this board going to say you want to read this letter and then have a discussion? Because we're ready to go to work to do example, and someone said, well, you're just going to take five applicants per meeting, we never said that. We're going to address the workload and get started and go to work and try the to address the people who need it the most, people who are out of work and have families and so on. Yes, we're sensitiveto so we wanted to jump on that real quick so when the workload came to y'all, we'll have recommendations and you would take on a few as a group. Making recommendations on anyway make your job a little easier, you pay not. You may decide to agree or not agree. Today there was a couple I really believe we could have done a good job as a group and made it not as cumbersome on some issues. Dave and of course James please pipe in.

>> James Mason: Just to reiterate what he was saying. It's very clear by what we've -- talk to Dr. Das and obviously just the overwhelming number of people, Dr. Das as an individual just, there's just not any way he can individually handle the overwhelming number of disability cases that he has to review and do the paperwork on. And he's indicated that it's obviously a process for him and it's difficult for him to pick out the pieces of paper that may be in there or may not be in there. And he'll you tell an applicant all the paperwork is in and he'll find out just because it took him that long to go through the report that there's something at a point at this point where there's still individual going without pay who didn't make it on this month's agenda. It is obviously imperative, it is part of our duty, we don't want to sit here for seven hours and hear all these disability cases and I think as an ad hoc subcommittee we felt like we can take the extra time during the month to hear at least review these cases and the ones we feel should be quote unquote slam dunks or not questionable, if we vote in unanimous form that this person would probably get approved by the board that we would at least make that recommendation with the

cover letter that type of thing. So then we could stack maybe 15 cases into a monthly meeting, with those cases that you could review with our recommendation, and approve that yes, those cases are obvious cases and we don't have to sit there and live to them for 45 minutes or an hour to go through and those cases that might have some questions then we would layer it in the normal fashion. I think we need to take some action fairly soon to address that as understandable, understanding the letter you're referring to I still think we need to take action now as opposed to later.

>> Richard Santos: Two other issues. One is that we need authority to hire personnel if we deem necessary and two also to contract out medically if Dr. Das's office could not handle that workload. We're working well with him but we don't have a chance to gamble here. We need to have the authority to do that. I'll still leave it for questions or comments or anything else.

>> Sean Kaldor: Quick question that was raised from the City Manager's office about Harvey your letter that we could have closed session hearings, the City Manager's office or the city attorney's office is saying not so much? They're saying there are concerns regarding that opinion and the city attorney's discussing those concerns with Mr. Leiderman.

>> Harvey Leiderman: I've had no such discussion best that aspect of closed session. We've talked about it regarding personnel issues. But there is -- I'm not aware that there's any question that on disability applications, since the board has given under the municipal code the absolute authority to determine whether or not disabilities will be granted or not. And there's a strong attorney general opinion directly on point that I included with my memorandum. I'm not aware of and I haven't been approached on any question relating to any issue about the board going into closed session on disability matters.

>> Richard Santos: Through the chair, we've discussed that very thoroughly on that committee level and Dave and I go back when it's been done in the past. It was also done here while we're here, we had one as you remember a year and a half ago. A young officer came in and we had a closed session. So I think the president has said, I don't know, again, discuss this later, until everybody understands it and reads it, but this was very

sensitive materials. Dave Bacigalupi brought up examples and so on and we concur as a board that there was sensitive information out there, sometimes it's just not medical, it is families and different things. And we need to make that decision, that's what we have legal counsel for, and we would do that prior to going in and get that approval from this whole entire board on those issues. But there are times when it's warranted, and we come out and give the results of whatever and take action as a board.

>> Sean Kaldor: One other question then Vince. There's a few references in the City Manager's concerns about measure B one of the reasons we set up the committee is it's our understanding that all these applications that are currently in there is 30 some odd that are ready to be heard now some of these people have no income. So I feel we need to hear them. It wasn't our, we didn't delay them coming to us but now that they're on the doorstep we need to move them through the process. Is there a thought that measure B affects those applications that are currently going through the process?

>> That's a good question and I'm not prepared to answer that question here today as far as who measure B will apply to and who will not. That's a conversation we can continue have maybe through city attorney's office and Mr. Leiderman.

>> Sean Kaldor: I'm going under the assumption that we still need to hear these, even with measure B, which might apply to new applicants or new employees, I don't know exactly where that line is. But our understanding from Mr. Leiderman, these ones that have applied, we've got to get these through, so we've got to come up with some way to do it. So I'm interested in finding a solution to that. Vince.

>> Vincent Sunzeri: Well, this person background and history, I was on the ad hoc committee that we had a while back on disability. And we had several meetings and Drew you were on that. And Sean I believe you were a part of that. And we wrestled with the exact same topics. And at the time we had some interesting studies that were done both by staff, looking at the previous history of how we were dealing with this, and how votes were being tabulated, and in addition to that we looked at what other systems were doing. And the conclusion was that most of the other systems were using independent panels made up ever medical experts. And none of us are

medical experts on this board. Furthermore if you go back to the minutes, particularly in the May meeting, I made a recommendation that we consider using a subcommittee to evaluate this. But we needed to avoid any perceived conflict of interest. I'm sorry we have potential perceived conflicts of interest if we proceed in the manner that you are recommending. So my suggestion is that we take this letter that we just received today, it looks like the recommendation is for us to defer any action at least until we can discuss it with the city, and then bring it back up to this board in September. And if you want specific facts I can bring more specific facts to support the recommendation I'm making.

>> Sean Kaldor: Santos.

>> Richard Santos: It is not the idea that I disagree. Our legal counsel said, you know, you have a system here that is precedent-setting and has been successful. And the way I understood it, legal counsel said that when he talked to supposedly the mayor or city administrator, said no action will be taken within six months, and you ought to keep on doing your job and do what you're doing. That is our obligation, the fiduciary responsibility is to address these issues. And so I don't know whether Harvey can give us clarification, what I was informed of here, that there's going to be no action of any kind until about six months. So I don't see where that stops us from our job in making sure that men and women are treated with the respect and dignity that they deserve and address these so-called retirements that are coming up.

>> Mr. Chair. I would comment, I am fully respecting what Vince is saying, I agree on a lot of levels on what he's saying, especially respecting the City Manager's wishes. To reiterate what I said, we have people who are going without pay. And we have people who are coming off to begin going without pay. So maybe we could maybe kind of make a hybrid of what we're talking about here and at least address those people that are looking at being without pay in the next couple of months. You know, on the subcommittee level at least have us review it so at next month's meeting we can hear more than five of them. And again while I understand the concept of the possible conflict of interest, ultimately all we will be doing is making a recommendation. You would obvious -- the rest of the board members would still be reviewing those packets. And in there was any question by any of the other board members they could obviously recommend that be heard in the normal open forum fashion. But at

least in the next couple of months before we had those discussions with the City Manager we could at least address more than five cases next month.

>> Sean Kaldor: Okay. Did you want to --

>> Richard Santos: I think Harvey and I made a comment and he ought to respond in legal terms of in the context I've addressed.

>> Harvey Leiderman: Mr. Santos if you are referring to the City's statement in court that they have -- that they will not take any steps to implement measure B until after January 1, of 2013, I can confirm that, that that is a stipulation that has been filed with the superior court by the city. So they will take no action. As we sit here today, measure B isn't even the law yet, it hasn't been certified by the Secretary of State. I believe as I understand it that the that measure B reflects the intent of the population, the concern that's been enunciated from time to time how disability retirements are being handled. The fact of the matter is, it is what it is today, the law isn't going to change until January of 2013, possibly not after that but at least until then, the board has its statutory obligations and we are obligated to process members in good faith. And so you know, I would seriously ask the board to consider Mr. Mason's proposition that at least, for those who are out of pay status, and whose applications are fully completed and submit they'd as a matter of triage we ought to deal with those first and prioritize those. And I don't think there would be any serious objection to that from anybody, if this board went ahead and proceeded on that basis. That will take us up probably until January 1, and we'll have a better idea after that, where things are going. Right now, the law is what it is. And our job is what it is.

>> Sean Kaldor: Did you want to speak to that specific point?

>> Yes, I don't see however it benefits the stakeholders to take the process into the darkness. And to squelch the sunshine. The process currently benefits from.

>> Sean Kaldor: Where would that be happening?

>> Well, the proposal was to take it into a closed session.

>> Sean Kaldor: The only mention of closed session was from the City Manager's office, there was no proposal to be held in closed session.

>> Richard Santos: Absolutely not.

>> The mention of the ad hoc committee.

>> Drew Lanza: I think it was a good question, but that was certainly not the intent. It's not the way -- Dick runs his meetings wide open. We would continue to do that. But at the core of this, I keep saying this, and I know I'm being didactic, but at the core of everything, there is a little kernel of importance. And the kernel of importance of this is what James is talking about, coupled to the sheer number of applications. So, that number of applications is not going to hit the board in the next 30 days, and that -- certainly there is dozens of people who would like, who are out of pay right now. This board is simply not going to hear 143 applications in four months. Not going to happen. So somebody has to triage this or somebody has to get ahead of this. I think you could see where that might lead to a lack of sunshine, but that would not be the case. Dick has never run that way, we wouldn't run that way. Vince brings up an interesting question, if you are going to triage that, who is on the triage team, coming from the City Manager it's probably a legitimate question, we could answer that question pretty quick and get on track to where we need to be but somebody somewhere is going to have to triage these because this board is not going to hear 40 hours or 50 or 60 hours of disability claims. Maybe they will, but that's a lot of time. Everybody on the board, being here 60 hours of disability claims in the next 60 days are we? No. So the kernel of this is, Dick has done a really good job of getting the committee and Baci and James, we came up with one solution, it appears to have foundered a little bit, we need to tweak it a little bit. But somebody has got to get in front of this tsunami, we've volunteered our bodies to do that, and we'll find a better way.

>> Sean Kaldor: We got to speak in order here, but I do stand corrected. You're right, it's an ad hoc committee which could imply that, so I thank you for identifying that. Rounds, Bill, and Vince Sunzeri.

>> Bettina Rounds: As I understand it, I agree with you James, I don't think you can have 30 to who knows what it is people who are out of pay and because there is a backlog administratively, you can't stop them from getting their disability hearing. So I think that we have an obligation to do that. Also, you're making a recommendation, right? I mean you're coming to the full board with your recommendation, these 30 people are people we say yea to and then there's a transparency to your point, the board is making the final decision and approving the recommendation but the backlog is being cleared up by a subcommittee, is that correct?

>> Richard Santos: Yes.

>> Drew Lanza: The board would always hear every case but the question is what's the triage process? The committee has never said the board wouldn't hear every case. What's the triage process?

>> Bettina Rounds: The triage process is getting it expedited.

>> Sean Kaldor: Bill.

>> Sean Bill: I agree this is probably one of the most difficult things we have to deal with on the board. It's probably one of the biggest wedges between the members of the board. I do feel I would need a little more time to kind of understand what's being proposed here because this kind of feels like it came up very suddenly. My concern is similar to Vince's. We had a long discussion about conflicts of interest that Harvey led and it was directed towards investments. And you know for example if Vince was to recommend a fund from his firm Morgan Chase, there could be a conflict. And I'm a little bit concerned about the perception of the public, and what they're going to view in terms of having -- and don't take this the wrong way but a retiree fireman, retiree policeman, active policeman and one independent, judging disabilities. I know nobody's going to like that comment. But that's what I'm concerned about. I mean, I think there's a perception issue there. I would follow that up by, why not have

-- form a panel, you know get a panel like most of the other plans do. Get either judiciary person or a medical expert or have Dick and Drew and Dr. Das, the three of you guys burn through. But be aware of your public perception on this issue.

>> Sean Kaldor: Sunzeri is next. Did you want to speak specifically to that point? Okay.

>> Well, on that point my response to that would be kind of reiterate what Bettina was saying which is I believe there's still transparency because the board itself would still be voting on all the subcommittee would be doing would be reviewing them and maybe doing a cover letter of the points, what we believe justify the approval of it, and obviously the board members themselves would still have to go through and if they had any question, they could ask questions and refer it to the regular open session. I don't disagree with you that maybe the panel is the way to go down the road. But the emergent issue here of people aren't getting pay, that process, I think, would just take too long. Is that the process that maybe we should end up in a couple of months in six months a year whatever it is? Maybe. But between now and the next couple of months I think it's imperative that somehow we get these cases heard of people who are out of money. I know the board as a whole board doesn't want to sit down and hear all of those. I think it is a good Band-Aid fix for what's the problem is now.

>> Sean Bill: As a follow up to that. I want to be clear that we're not miscommunicating. I think there's a need for the committee. I think the 140 disabilities being heard by the board doesn't make sense. We can have open board meetings and everybody can watch them on video if they want. I'm just saying we should be aware of the public perception of what -- who is approving all these disabilities.

>> Vincent Sunzeri: Okay so the first thing is which is kind of odd to me, we had cases periodically then we have times where we have no cases coming in front of us and all of a sudden we have 140 cases in front of us and there's an urgency to get 140 done right now. I don't understand why all of a sudden 140 came in front of us when nobody's getting paid. We need to get our arms around what those numbers really are and make that a priority. I am more than comfortable throwing myself in the middle of that, as overwhelmed as I am with this board and with this investment committee I am really sincere about making sure this is done correctly. And as Sean stated it

could be the most divisive issue on board and I think we need to handle this in the right manner. So number 1, having it thrown on the consent agenda I'm not comfortable with. The cases that we continue to see in front of us have a lot of gray in them. We talked about this, at the prior disability committee. How difficult these cases are that we're dealing with. How they're not just straightforward and we can just move them forward. So that would be something I would be opposed to. With respect to the conflicts of interest, the current committee that we have right now, viewing it, Sean talked about the makeup of that. It's apparent, and Dick, you have a case pending. I'm sorry --

>> David.

>> Vincent Sunzeri: David you have a case pending. Dick, you are a recipient. Those are apparent conflict of interest. If I were to have you come up here Harvey and do a presentation of conflicts of interest I could easily see that up on the blackboard and how that could be accomplished. I'm not comfortable with that. If you take a look yeah at what other cities have done and this is really directly from the last ad hoc committee L.A. they have staff recommendations working on what comes in front of the board. That is L.A. city. L.A. county has a disability staff. Marin County, has a medical consultant. Orange County has a medical consultant make a recommendation. San Bernardino county, staff makes recommendation. San Diego county they have administrative recommendations to the board. These are not all made up of a small subset of board members that could present a perceived conflict of interest. So I say slow down, let's get this structure correct first and then let's drive as quickly as possible to get through those really important cases.

>> Sean Kaldor: Rounds.

>> Bettina Rounds: I do agree with both of you that we have to be very sensitive to the conflict of interest issue. But I think there's a real urgency. I don't think we have time to wait. I mean I would be willing also to sit as an independent person and listen, to disability cases. But I think we have to move ahead. On those people who are not getting paid, we have to identify them, because to your point, Vince, something went wrong in the system

administratively. These cases were incorporate, and suddenly we've got all of them. Whatever created the backlog that's a whole 'nother issue but it is there.

>> Sean Kaldor: I'll take my quick turn in here and then Mason and then Harvey. I appreciate all these concerns. I'm focused on the goal of these people who have been delayed in getting their applications to us. That was all an administrative system that it got delayed and now they get handed to us in a bucket. We need to look at that and figure out, make sure that doesn't happen again. Because we could have handled these if they were five a month for the past 10 months, but now they're 50 all at one month. If the process that's being proposed is an acceptable process and we need to hammer it out a little bit more, then I would just ask for the board if we meet once or twice this month as a full board, for no other purpose than to hear these cases, and ask that committee to prioritize them, I think any group of us can come up with a reasonable way to prioritize cases: Those who aren't getting paid, those who have been waiting a long time, those with significant -- whatever it is, come up with a reasonable process, say here's how they're going to be heard, and then let's knock out two meetings with you know, they might be six-hour meetings, it is about a half hour a case.

>> Drew Lanza: 15 or 20 minutes.

>> Sean Kaldor: Three an hour, if we could knock out 10, across two different meetings, and then in our next board meeting that could get us through the 30 that we are being told are ready to go. As I understand, there isn't -- correct me if I'm wrong -- 140 are not ready to be heard by us, there are 30 that are ready to be heard by us, the rest of them are just people who have been in the process and are at any point along the way --

>> Dr. Das: Not all 30 are ready -- not all 30 are hardship, but the ones that -- 30 that are on hardship are in process and would be ready to go quickly, and then there's other people that had been seen earlier, who have everything pretty much done, that they're more service retired individuals. Those could also move forward.

>> Sean Kaldor: So how many are ready to be heard by us that are just waiting for us and nothing else in the system by the board?

>> Dr. Das: I would say about two. There is other people -- no there are individuals that within a week just getting fine tuning with reports and everything that would be ready to go.

>> Sean Kaldor: And how many, if we were to have a meeting in two weeks?

>> Dr. Das: I think we could have six or seven.

>> Sean Kaldor: How many would we have by September?

>> Dr. Das: To September, I would say it's close to the same. Maybe a --

>> Sean Kaldor: So Dick help me out. What I'm hearing is there's only two -- if we were to have a meeting right now say it's an emergency let's do it, have two, in September with there's only the six, which we could probably manage anyway what's --

>> Drew Lanza: Welcome to the ad hoc disability committee.

>> I agree with what Vince and Sean of saying, again, the end process again that's down the road and dealing with the emergency process right here is what I'm concerned about. I think the subcommittee basically came one it's my idea, knowing full well it might not be the perfect system. Basically we dealt with the whole board didn't want to meet a couple of sometimes a month to try to knock this out. I was going to make the same suggestion the chair did which is, if we have this problem, maybe we should, if the board can agree to meet once or twice a month to get that done. Dr. Das is saying, there are only a couple ready right now some there may be only six or so ready in six weeks. There are people who are about to be out of money that he doesn't have the ability to get those reports done between now and then.

>> Dr. Das: The people that have been seen and are ready to go are the ones that are a concern, those aren't the issues. It would be more the ones that are from -- that have just recently completed and are ready to move forward. But they are service retired already. So as far as anybody else, I don't think that there's going to be -- for the high priority individuals, I don't perceive a problem for evere for the high priority ones.

>> Sean Kaldor: So Harvey and then Rounds, Leiderman and rounds.

>> Harvey Leiderman: I was going to suggest Mr. Chairman, to kind of put a little process on this and see if we can move forward, in a couple of ways, and maybe by separate motions, the first would be whether or not to form this as a standing committee. A standing disability committee. The second would be, the composition of that committee. And then the third would be what is the scope of what the board is delegating to that committee to do. And if we break it down into those pieces maybe we can make some progress on where the board wants to go.

>> Sean Kaldor: Rounds.

>> Bettina Rounds: I always defer to Harvey because he's so rational.

>> Can we tackle that and run through the steps?

>> Sean Kaldor: I don't disagree with that. I see it going the other direction, what are they going to accomplish? Tells me should we be doing this who should be on it? So I couldn't tell you if we should set up a committee until I know the last answer which is, what is this committee going to be doing?

>> Sean Bill: Maybe we should start with that, reverse order.

>> Sean Kaldor: Harvey.

>> Harvey Leiderman: If I may I'll address a comment. I represent about a dozen of the funds around the state. And the way they handle them. What we don't have here, what most systems have, are besides the medical examiner, everybody's got a medical examiner or a team of medical examiners, that's common. What other systems have are a disability staff that work up the files and make a recommendation that is then presented to the board. And it's never done on a consent calendar, it's always done on an ordinary calendar and it's based on staff recommendation. And it sounds to me like what this system is -- what this board is considering is because we don't have a disability staff to go through that process, and work those files up, we need some group to act as if it was staff to make the -- to chew through the wheat, distill the chaff and bring a recommendation that the board can consider. It seems to me that's a laudable goal. I don't think we should get hung up on what is ideal and what is the long term goal. The reality is measure B passed, if it is going to change the process it's going to change it within the next six months to a year. No sense in our putting in some new hierarchy in place on a more permanent basis when we know that's probably going to be going forward. So what we need to do is deal with the process as it is now, and frankly what we need is someone to work up if files that make a recommendation to the full board. The full board can accept the committee's recommendation, chew it apart, tear it apart, have the member come in or not come in depending on what you want to do, refer it out to a hearing officer or referee or somebody else as some of what Mr. Santos was saying earlier today, was some of the applications, was, there's not enough information in this file. I need some more, to be able to see whether they pass the permanence test, that needn't happen in front of the full board in front of the cameras. That can happen not at staff but at a committee level. So that by the time it does get to the board, you don't have that concern. You've got a fully worked up file and a recommendation. So as I understand it what the board's looking for is some process to get that work done. You don't have staff to do it, it's going to have to be a subcommittee of the board to do it and that's what's being proposed.

>> Sean Kaldor: So one idea to throw out there is when we went through the legal process and selected Reed Smith we also had a category for somebody to review disability recommendations and make a preliminary recommendation. And we went through and selected Russ Richeda's firm. That is another option for us, here's all the files, review them and add a recommendation on the top, if it's a clear yes, it's a clear yes, if it's a clear no, it's a clear no, or you can't decide. Maybe that would allow us to go through the process more quickly.

>> Richard Santos: If you recall, Mr. Chair, I suggested that in the beginning. When we had members here who did not want to serve on the disability committee, and I said get Mr. Richeda, get Dr. Das, whether it be me, Dave, or anyone else, we'll take a look at it, whatever it is, Drew, whatever it is, get three guys going. Y'all didn't want that at the time. Maybe because of this -- we didn't have this in depth a discussion. I got no problem. Like everybody here is saying. We care about those applicants, let's go to work whatever it takes to get that thick going and I think you got a good suggestion, Russ Richeda, Dr. Das, one of us can sit on in it's fine with me.

>> Sean Kaldor: Mr. Mason.

>> James Mason: I wasn't here for the Russ Richeda discussion. It certainly sounds like a solution.

>> Sean Kaldor: He was our previous conflicts counsel, he could completely independently, could get a file and write it and say here's a recommendation still to be heard in public, I would recommend that the committee prioritize the cases so he can be told this is the order we want them done. You look -- yes.

>> Dr. Das: From a practical consideration, would it be just reviewing raw medical records then coming up with a memo from Russ Richeda.

>> Sean Kaldor: Do everything you're doing right now, exactly as you are doing it right now. He may be able to say, you haven't connected X to Y, he may save us 30 minutes of hearing time, fanned that is the case --

>> Can I -- I'm just not sure at this point from what Dr. Das said can is this is something that needs to be resolved right now. If there's not that many cases pending maybe there's something that we can continue discussing --

>> Dr. Das: Those are people ready to be seen also who just completed, because it seems -- like we were talking about a surge and there were a number of applications that were there that were dormant and then it seems like all of them became ready at the same time. That's why there became a sense of urgency. So I don't

know that I would -- I perceive that there's a sense of urgency to try to get things done it's not like it stands still, it is a dynamic process and request more people continue to add. And I'd like to just knock off as many people as we could so there's not as many people you know towards the end because the work's not going away.

>> Sean Kaldor: Rounds.

>> Bettina Rounds: Well, here, heavy you were rational. Somewhere in the last meeting we had, way something like 3:30, we heard that there were all of these cases. In fact I think it was two meetings ago, not just -- the last few meetings we've had we've been talking about all these disability cases that are pending. How is it now that we only have two that are ready but there's this number that the City Manager has, that we have, that everybody has, that's over 140? (inaudible).

>> Bettina Rounds: I mean everybody has this number and yet today we hear that there's really just two ready to be heard. That's astonishing.

>> Drew Lanza: Three sources.

>> Bettina Rounds: There's something -- do you have some --

>> Donna Busse: Some are not ready Bettina. Some of it is a resource issue and some of them they're not ready. What we're counting is applications in.

>> Bettina Rounds: But two that are actually ready to be heard?

>> Dr. Das: That are completely finished, that's all I'm saying. There are other individuals that have got most of the pieces of the puzzle in. It just needs the last --

>> Bettina Rounds: So the real issue that we have, I think, is if there are 140 applicants but their packages are not ready --

>> Dr. Das: But it is not just a question of being ready, they're not maximally medically improved, they've applied, but they're not ready to move through with the process.

>> Sean Kaldor: Let me clarify. The 140, somehow who a week ago gets hurt, and can't work, they put in their application, but they still have to get paid for work, it's been years before they can say I'm ready to be heard.

>> Bettina Rounds: What I need to know for me for my own piece of mind as a fiduciary is, how many people who are not being paid who are out there who we have been discussing for two or three months, how close are they to being ready? Is it something that we as a board should be doing to hire disability specialists or somebody that can pull in on a basis that can pull these packages together? Because what's troubling knee is these individuals whose packages are being held up because of resource issues, that's my point.

>> Dr. Das: A lot of these people are within the last few months. But they're a priority because it's a sever issue. But in terms of the-d so that's really the issue. So it's not like they've been waiting for a year, the majority of them have been ready within the last few months we're trying to expedite those individuals. So from the people that aren't getting paid I think all of those individuals can be heard by September.

>> Bettina Rounds: So we don't have a problem.

>> Dr. Das: But there's still a number of individuals that are -- that have applied for disability and need to be heard that are ready to move forward.

>> Sean Kaldor: But we can't hear you until you're done. It's not a matter of pushing it through our process, it's a matter of getting them through your process.

>> Dr. Das: Yes, yes but -- okay.

>> Sean Kaldor: Mason and then Baci and Drew.

>> James Mason: Yeah, and I apologize if I'm repeating myself a little bit but I think we had the two issues that we're discussing here, we're talking about the people who are out of pay, we have people who are not out of pay yet but will be coverage up to being out of pay. And we're talking about resource issues. And when I spoke with Dr. Das before he talked to me about people who made the agenda this month. He took the guy who had the smaller case file instead of the guy with a bigger case file. That is a resource issue. He didn't have the time to do the job to get that person onto the agenda. With all due respect to the comments just one person going without pay, is enough for us to make some action to hear them soon. If we have to have another board meeting then that's what we should be doing. But to say we should be able to push it off for a month or so when we have discussion with the City Manager's office I don't care that there's not five or ten or 15 or 20. One person going without pay without being able to make his mortgage is enough for me to say my responsibility says we should be doing to solve that problem.

>> Sean Kaldor: Baci.

>> David Bacigalupi: I don't know if this complicates more, about an hour and a half ago I had ak with our counsel and because of my pending application I need to withdraw from the disability committee, the only reason I took it, it was may or June, nobody else wanted it, I thought I could help. For appearance and conflict of interest I need to withdraw from this. That's why I've been withholding any discussion.

>> Sean Kaldor: Duly noted, thank you for both identifying the issue and getting the consultation and bringing forward to us and doing that.

>> Sean Bill: So at the Stanford business school there's one book they require everybody to read, and it's called the goal, right? It's got Herbie, and Herbie's a bottleneck. I'm not going to point fingers, Dr. Das, but apparently

you don't have enough resources, and maybe we need to look at that, in terms of how do we fix Herbie, get the ball moving.

>> Sean Kaldor: So I feel like we are trying to fix the problem here on the board, but if there are only a few that are coming through but if there's 30 that are in the city medical office, that's where the bottleneck is to letting these kind of come through.

>> Dr. Das: So yeah as we speak I'm catching up and by the time we're able to come up with a resolution at least in the short term the short term issues will be taken care of. There will still be long term issues depending how many are ready to go in the near future is as more applications come in. So that's my concern about, I think I can take care of what we have, the issue is in terms of what people's expectations are in termination of timeliness also, for the individuals that are going to go without pay that there aren't very many options. I think that the process can take care of those relatively easily and the raping issues of the remaining 100 and something, in terms of expectations in terms of speed and et cetera. And so it's not that it's impossible to handle, it's in terms of doing it so everyone's satisfied.

>> Drew Lanza: You know when you watch sausage being made, and everybody here is watching it. So we had a meeting on Monday where we tried to offer some help to Dr. Das, and the answer came back that you can't really help him without going through a long drawn out city process. On Tuesday I approached Harvey and had that conversation with him and you saw the other part of that conversation. Earlier in the board meeting. So this is happening in real time. Seems to me I agree with Harvey's approach. And James. We have a very near term problem. We have a mid term problem we have a long term problem but we don't have a long term problem because of measure B so we're going to just punt on that issue. We have a short term problem which James says and which Sean says, if we have one person who is going without pay we should be pushing the button, and the red light goes on. Sean, you have the right approach to solve the short-term problem, which is let's simply schedule a board meeting in between. Nobody will be happy about that, but I agree with James, that takes precedence. Then we have the midterm problem which is I think the one Dick has been working so hard to try to sort out, and it has two components, as you've seen. One is how do we get more -- there's actually three

components. One is how do we get more help for the bottleneck. The second is how to we quantify it, how do we measure it, which is what Bettina is saying. And the third one is what kind of triage process do we actually put in place? There is pig coming through the pipeline, Bettina, you are asking where exactly is it well of course that's one of the problems so I guess should I make a motion? Is there a motion on the floor right now?

>> No.

>> Drew Lanza: So I would move that we give the chairman the opportunity to schedule a board meeting this month, if he deems it necessary to hear these cases. I would move that we ask the ad hoc disability committee to give us metrics at the next board meeting, give us a plan for exactly how we can hear these things, I know there's a third component in there but I've forgotten it now. It's a short term and medium term and we should tackle those problems both. This one bounced off the wall let's throw the ball again and see what happens.

>> Sean Kaldor: So we have a motion and Vince was next to talk.

>> Vincent Sunzeri: Are you looking for a second?

>> Sean Kaldor: No, you're next to talk. No one jumped up. Do we have a second?

>> Richard Santos: For discussion.

>> Vincent Sunzeri: Basically what's happening is we're having a disability committee hearing or meeting right now and that's not what I think we want to be doing. It sounds like if we have some critical cases, that we need to hear in between the board meeting, great. Let's do it, let's have the whole board hear it versus a select committee. Let's have the disability committee go back, given all the input they've received in this meeting and revise another plan per what Drew said, maybe we need some more metrics, we need to understand how we might be able to speed this up, and maybe the committee needs to look different if there's going to be in fact a

subcommittee. If there's not going to be a subcommittee how are we going to handle it? I feel like we've kind of beat this horse and dragged this committee into this meeting and that's not my intent.

>> Sean Kaldor: Rounds.

>> Bettina Rounds: My suggestion about metrics was, I just think we need to have our hands around what the problem really is that's coming up. If we don't have a problem today we are going to have a problem tomorrow and whether you know as to Harvey's point measure B isn't taking place for a while. So we've got a fiduciary responsibility, and so we need to dimension what this problem really is.

>> Drew Lanza: Those metrics we have them, they're just not here to be presented.

>> Bettina Rounds: So as long as we have them then we can move forward.

>> Sean Kaldor: Santos.

>> Richard Santos: As chair of the ad hoc disability committee, I hear you loud and clear. We scheduled one for August 10th, I'd make a recommendation as soon as Dave is off, put Bettina on, we meeting August 10th, 10:00 to 12:00, we turn it right around and we kick this information you have given us seriously and come back with a proposed plan. (inaudible)

>> Sean Kaldor: Bettina will you acquiesce to his request? Thank you. Dr. Das did you have a comment?

>> Dr. Das: I just wanted to add that in terms of the problem is not going to necessarily -- it's going to be one of those short term issues, because the police personnel having the change in its approach to modified duty and having it restricted and the lesser of article 39 it's pushed the time line is a lot quicker now in terms ever you have individuals within three months that all of a sudden they need to decide whether they're going to be able to come

back or not. So it really is a policy issue on that side that kind of makes it a little bit urgent but also requires a pretty quick turn around time. If people have to figure out within three months where they're going to be.

>> Sean Kaldor: Okay. Santos and then Bill. .

>> Richard Santos: We got to remember when the chair a couple of months ago just asked to give us all the applicants. It was one of information. That's all it was. And no one ever said that was supposed to be heard the next day. The chair said I just wanted to get you guys exposed to what's going on and start planning. So no matter what took place this is where we're at and done better than we did. But Dr. Das you got to be right to the point and you should have told us 30, ten or 15, you never did. So the perception was, there's 150 was going and we're going whoa, we don't want anybody injured out there in terms of not getting their pay. So of course we jump to conclusion. So good communication is essential. But I can say that working with Dr. Das's office in this short time, I think things are going better but I also take the concrete information look at Harvey yeah if that's the perception of me or Dave on this committee, by all means move on do whatever it takes. We'll take all these things into consideration, take and come up with a different solution. .

>> Sean Bill: I was saying, perhaps the disability could also study how to fix the bottle next in terms of the resource issue on Dr. Das side if he needs additional resources, let him bring that back to us.

>> Sean Kaldor: Just to be clear from agenda standpoint, I want to clarify, we're including item 6.7 C, prioritizing consideration of disability retirement applicants, we've been talking about it, I just want to be clear. I would just append or as for a process, build off of Drew's motion, the ad hoc disability committee is meeting on the 8th is that correct or 10th?

>> Richard Santos: 10th, the investment committee meeting on the 8th.

>> Sean Kaldor: So I would ask for out of that within a couple of days thereafter, provide me with a list, of the prioritized all the candidates prioritized, including those that are ready to be heard right then, and who will be

ready to be heard by September 6th. And then can I make a determination if there's only going to be four they'll be heard September 6th then we won't have a special meeting. If it's going to be 10, I'll figure it out from then. I'll need as an output the prioritized list that need to be heard at that meeting.

>> Richard Santos: So the committee can understand I don't know who has ten years, who has ten, I don't know I'm not the administrator I'm the one that is supposed to get that done. Make sure staff and Dr. Das's office gets that to us, we've asked that anyway.

>> Dr. Das: The POA has submitted a list to us. And then informally there's some firefighters also --

>> Sean Kaldor: We're punting it to you and the committee and work it out We're not going to do it mere. Come out with that from the committee and I can make the decision about a special meeting. Any further discussion on the motion?

>> Drew Lanza: I'm wondering if I should withdraw the notion, I'm not sure it makes sense.

>> Sean Kaldor: Your motion was to --

>> Russell Crosby: Give the chair the opportunity to schedule an additional board meeting this month and then for the ad hoc committee to make a recommendations for a plan to process these things.

>> Richard Santos: Make a second for discussion, ain't going nowhere.

>> Drew Lanza: I would just probably withdraw the motion but Harvey has turned to me to remind me, it is probably a good suggestion to turn this into a standing committee because this problem's going to be with us for a while.

>> Vincent Sunzeri: It may not be for more than six months.

>> Drew Lanza: Yeah but there's this question of sunshine, doing it out in the open. There's a lot going on.

>> Sean Kaldor: It may not be the 10th, you won't be able to post the agenda and everything.

>> Sean Bill: Ad hoc and do it after the meeting.

>> Sean Kaldor: I would expect a recommendation for September to let us make this a permanent committee.

>> Drew Lanza: So I will withdraw the motion.

>> Sean Kaldor: So there is no motion. I will get the input from their meeting. I will request an extra meeting if we need in order to get these heard, and then we'll figure out how big this problem really is. Yes Mr. Spence.

>> Real quickly. What happens in the meeting when you all are looking at the application, sometimes you have questions to the candidate that if you thought of them before, you would probably think that they should be a closed session question. And I would just ask the members of the board when you're looking at the application if you have that feeling, I think it would behoove us to go ahead and talk to the candidate and his counsel and come up and say we're going to have some questions about this and we think this should be in closed session because that's the only way they know unless you actually have someone coming in with some kind of a problem that is actually a closed session problem and that's what I've seen sitting here in the audience several times is while you're trying to get the right answers we ask the questions to open the door that probably should be in closed session. So I would just ask the board to consider that with all the volume of paper you have to look at I realize is tough but that would help the process also.

>> Sean Kaldor: Thank you.

>> The other thing is we have officers ultimate that are and firefighters too who, as Dr. Das alluded to, I just want to reiterate the point is, their process is that sometimes they've got to make a decision in three months and they need to have the disability hearing right away. And so that's one of the problems that's happening to a lot of the people that I hear from from the retiree side is, they can't get in, they're running out of money or they're going to and I think James said it very well, things change dramatically. And that's why this process needs to understand that it's difficult to plan ahead because the department has changed it -- if someone got hurried today somebody might be forced off the position they have and they have no choice, they've got to get out. And only other process they have is to come here and get that hearing. So those are some of the dynamic things that if you are not in the process or in the system, you might not quite understand. But I think really that's the problem we have and that's why it's important to be able to address it as quickly as possible for a lot of these individuals. So thank you much.

>> Sean Kaldor: Thank you very much. Okay. That completes item 6.5, item 7 is the consent calendar. We normally hear this as one motion. Is there any request to remove anything from the consent calendar?

>> Richard Santos: So moved.

>> Sean Kaldor: That being said, we have a motion from trustee Santos. All in favor, opposed, seeing no opposition, item 8.1, education programs and courses, attached. 8.2, conferences and seminars, 8 8.3, Cal APRS training, trustees round table, Marriott Burbank airport. Los Angeles, California.

>> Richard Santos: Just a comment, is the education programs too many to be listed,.

>> Russell Crosby: Too many.

>> Sean Kaldor: Proposed agenda items? Public comment? We will now go into closed session and we will come back into closed session, we'll still hear 3.9 in open session. Closed session, conference with legal counsel, litigation pursuant to government code section 54956.9 (a), Paul Mulholand, James unland and Mary Follenweider, plaintiffs versus Russell Crosby, et al., Santa Clara County Superior Court case number 1-12-CV-

219748, item 3.7, also closed session conference with legal counsel pursuant to litigation pursuant to government code section 54956.9 (a). Three cases, Measure B litigation, including San José Police Officers' Association v. City of San José, et al., Santa Clara County Superior Court No. 1-12-CV-225926, City of San José versus San José Police Officers Association and others, United States District Court for the Northern District of California, case number C12-02904 LHK-PSG and finally Sapien versus City of San José, and others, Santa Clara County superior court, case number 1-12-CV-225928. I feel like Radar O'Reilly. And the last closed session conference call with legal counsel pursuant to government code section 54956.9 (c), deciding whether to initiate litigation of one case. We are now going to go into closed session to hear those.

>> David Bacigalupi: Mr. Chair.

>> Sean Kaldor: Yes.

>> David Bacigalupi: I will be excluding myself from any litigation that involves the Police Officers Association where counsel determines that there could be a conflict of interest, since I am a member of the Police Officers Association.

>> Sean Kaldor: You'll step out of our closed session at those times. Is that appropriate for counsel?

>> Harvey Leiderman: Because, in the Police Officers Association case, the complaint in that case was amended to name the retirement board as a necessary party in interest, and not a defendant, okay, and it states no claims against the retirement system. Therefore, there is no adversarial interest between the Police Officers Association and the retirement board in that case. And therefore, members of the POA need not recuse themselves. And that would include Mr. Mason and Mr. Bacigalupi.

>> Sean Kaldor: Okay.

>> Harvey Leiderman: Nice try.

>> Sean Kaldor: Okay. [Closed session] [Conclusion at 2:23 p.m.]