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>> David Bacigalupi: Good morning, ladies and gentlemen. I'm going to call to order the meeting of the Board of Administration for the Police and Fire retirement plan. For the record, present are the chair, the vice chair, Conrad Taylor, Trustee Johnson, Trustee Keesling, and Trustees Herrera and Liccardo are absent at this time. First item is orders of the day. There's a couple of changes under orders of the day. First one is item number 1D, the service retirement application of battalion chief Keith Keesling, change the effective date from May 15th to June 30th. That's item 1D, bat chief, Keith Keesling, effective date on service retirement effective June 30th, not May 15th. Number 2, is -- okay, number 2 is, item number 16, the packet only had pages 1, 3 and 5, but Molly, I understand you have handed out the entire memo. I haven't had a chance to read it, but I wanted to make a note of that. Next item is item number 18, this was a matter brought up by board member Keesling. He has asked for that to be removed or deferred, Keith? Removed, okay. So we're going to drop item number 18. Next item is, on orders of the day, is items 23 A and B, the ad hoc disability forms, we're going to move that up, right after item number 4. So we'll be doing 23 A and B right after the change of status hearings. Okay. And I think that's it. Are there any other requests for orders of the day? Go ahead, Scott.

>> Scott Johnson: Mr. Chair, could I ask that items 13 and 14, can they be heard together? Because they seem -- I'm not clear if they're conflicting or not, and I think it would be appropriate for them both to be heard together.

>> David Bacigalupi: We can do that. I think you know what the situation is, and stuff, but yeah, we can -- I think talking about one is obviously going to bring in, there's going to be discussion on the others. So we'll just combine 13 and 14 for discussion purposes. Okay. Any other requests for changes in orders of the day? Hearing none, we'll start off with item number 1, service retirements. The first item is item 1A, application by police officer Bertha Cooke, effective May 15th, 2010, with 25.9 years of service. For the record, I don't see Bertie in the audience. I'll entertain a motion.

>> I'll make a motion for approval.

>> David Bacigalupi: Motion and second. Any further discussion on the motion? Hearing no further discussion, all in favor, all opposed, the motion carries. Item 1B, the application for service retirement for police Officer Camille Giuliodibari. It is effective May 15, 2010, 25.1 years of service. She has reciprocity, and I didn't see Camille in the audience, as well, for the record, she is not here. I'll entertain a motion.

>> I'll make a motion for approval.

>> David Bacigalupi: I have a motion and a second. Is there further discussion on the motion? Hearing no further discussion, all in favor, opposed, the motion carries. Item 1C is an application for a service retirement for police officer Charles Gould, effective May 29, 2010, 25.13 years of service, and Chuck is not in the audience. I'll entertain a motion.

>> I'll make a motion for approval.

>> David Bacigalupi: I have a motion and a second. Any further discussion on the motion? Hearing no further discussion, all in favor, all opposed, the motion carries. Item Number 1D, it's an application for service retirement for battalion chief Keith Keesling, our board member, effective June 30th, 2010, with 24.45 years of service, or adjusted with the changed date, since it's June 30th instead of May 15th. And of course, if we don't make a motion, I guess he can't retire.

>> I'll make a motion for approval.

>> David Bacigalupi: And I will second the motion, regretfully. Any discussion on the motion? Hearing no further discussion, all in favor, all opposed, the motion carries. Are there abstentions? Okay. The next application -- well, Keith, I mean, we're going to see you again on the next board meeting. But on behalf of the city, on behalf of the retirement board, the work you've been doing, the firefighters that I know, you've helped me a lot coming back to this position. I just want to thank you for your years of service for the city, your years of service as a firefighter, you know, and all the dedication that you've done, and thank you for all your response and your work on the board here.

>> Keith Keesling: Mr. Chair, if I could just take a moment, I guess it is called personal privilege to just -- it seems strange after 33 years of being in the fire service that it's just that simple, and it's over. I guess it's never really over, it's a lifestyle. Probably some of the folks out there can tell us that. Just would like to just relay back that this profession is truly an honor. I've felt lucky to be able to do it and honored to be able to do it and work with the folks I work with professionally, and this committee is a great example, just to be able to serve the citizens and do what we do, it's truly just an honor for me, and I thank you.

>> David Bacigalupi: Thank you, Keith. [applause]

>> David Bacigalupi: Okay, let's move on to item number 1E, it's the application for a service retirement of fire captain Ralph Ortega, effective May 16th, 2010. 28.99 years of service. Is captain Ortega in the audience? I don't see him, okay so for the record he's not present. And I'll entertain a motion.

>> Motion.

>> Second.

>> David Bacigalupi: I have a motion and second. Any further discussion on the motion? Hearing no further discussion, all in favor, all opposed, the motion carries. Item number 1F, it's the application for a service retirement, police officer Steven Pryor. Effective May 1, 2010. 25.6 years of service. And I didn't see Steve in the audience, so for the record he's not here. I'll entertain a motion.

>> I'll make a motion.

>> David Bacigalupi: Okay, I have a motion and a second. Any further discussion on the motion? Hearing no further discussion, all in favor, all opposed, the motion carries. Item number 2, disabilities, there are none this month. Item number 3, change of status. First one is item number 3A, it's an application for a change of status from service retirement to service connected disability for retired fire engineer José Avila effective January 24th, 2009, 28.82 years of service. Retired fire engineer José Avila, is he present?

>> Might be, he has to drive from Stockton.

>> David Bacigalupi: He's here and he's represented by Mr. Swift. Okay, Donna.

>> José Avila, fire engineer, requesting a change in status, to a service connected disability based left and right shoulder, neck, left and right knees and lower back. He is 63 years old with 28.82 years of service. Medical reports are listed in your file. He is currently service retired, effective 1-24-29. At the time of separation at the time of application he was on modified duty, and there is no permanent modified duty available.

>> David Bacigalupi: Thank you, Donna. Dr. Doss, do you have anything further?

>> Nothing else to add.

>> David Bacigalupi: Mr. Swift.

>> I guess all I would note is that Mr. Avila did in fact sustain 20 injuries during the last 10 years of his career, and per his treating physician he has restrictions that are significant with regard to his neck, his right shoulder, his left shoulder, his low back, his right knee, and his left knee. Dr. Doss also gives some restrictions. The department has no permanent modified duty, and on that basis, I'd ask that the application be approved.

>> David Bacigalupi: Thank you. Scott, okay, all right. Conrad.

>> Conrad Taylor: Yeah, I have some questions. On some of them, like for the knees and the back, coincident to the medical records here, do we have MRIs on that? There's a lot of them just looks like they are strains, strains and sprains that I've been reading. Is there anything that shows with the shoulder that's -- do we have MRIs or some X rays on the back, in shoulders that we're looking at other than just a strain?

>> Well, there are X ray reports in your file. One is on page 77 with regard to the knee. The -- I think the issue here is, if on one of these injuries, one might question if it were standing alone. The problem is, if you have a bad back, you can try to compensate for that by using your legs and your knees. Or if you have a bad right shoulder, you can try to compensate by using your left shoulder. But if both knees are gone, or have limiations, and both knees have limitations, and you have a limitation regard to your neck and your back, it is the combination of these problems that created the inability to continue doing his job after 29-some years. And there are some X ray findings in the packet that do indicate various issues. But I don't know that there are any MRIs. There was no suggestion that there was a need for -- well, no, there is an MRI of the cervical spine on page 58, which does note some posterior bulging at C-5-6 and posterior bulging at C-3-4 and C-6-7. There are some findings both on X ray and on CT scan.

>> Conrad Taylor: I've got a question for you. Dr. Doss, I notice that the fire department could not accommodate the one restriction that you listed, but I notice the treating physician has numerous other restrictions, other than just heavy lifting. There was repetitive motions, there was sustained posturing of the neck, stooping, all things that are very current with firefighter activities and stuff. Is there a reason those were not listed as well in your report, Dr. Doss?

>> Yes, I'm trying to give more preclusionary restrictions as opposed to prophylactic restrictions, and so the restrictions that I provided would reflect more preclusionary in terms of what he would -- what I feel he would have a strong inability to do, versus a tolerance to do. And if you look at the treating physician, he indicated that the restrictions are prophylactic in nature, so -- the ones he provided. So we're trying to show that these are the ones that he would have a strong difficulty doing, versus something that would just be to prevent experiencing pain or prevent further progression of the injury. And that's -- if you look at the municipal code, that's what the request is in terms of. I also, like Mr. Taylor had pointed out, the whole issue is in terms of if there is some pathology that you can kind of refer back to that shows why there's a person's inability to do this, it helps. Because like I said, if there's anatomic findings or physiologic findings that reflect the inability or the restrictions, it is much more helpful. But when you're relying on a strain, and then you're relying on someone's perception of pain to provide restrictions, it becomes a little bit more difficult, because it is all subjective. And then we get back to the --

>> Conrad Taylor: Hard to measure somebody's pain level. What may be minor to me may be more painful to Conrad.

>> And that's the whole issue, and then it comes down in terms of treatment. So what kind of treatment options are there that are remaining, that may help improve the pain tolerance or whatever. What we're coming down to is now is tolerance as opposed to preclusion. That's what makes this process a little bit more difficult. And so if someone has rheumatoid arthritis and the knee joint is completely gone, it helps to say, well, this person cannot walk for long periods of time, it helps a lot, because you see pathology, it fits with the diagnosis, it's very easy. But when you have something where it -- where the pathology is unclear, then you're relying exclusively on symptoms. And that's what makes the process a little bit more difficult. It helps when you have mechanism of injury, pathology, and then the -- you know, when the pain complaints, you know, coincide with that, it makes it a lot easier.

>> Conrad Taylor: Okay, thank you, doctor.

>> David Bacigalupi: Other questions by the board? If there's no other questions, I'll entertain a motion.

>> Keith Keesling: Motion to approve.

>> David Bacigalupi: Okay, I have a motion. I'll second the motion. Any further discussion? Any further discussion on the motion? Okay. All in favor? All opposed? The motion carries. José, good luck to you. You had a long career with the fire department. Thank you very much for all the work that you did.

>> Keith Keesling: If I could, José, again, we had some opportunities to work together. It is always a pleasure to work with you. I wish you, a hopefully pain-free retirement. Obviously, that's not going to be possible, but hopefully you'll find a way to endure and enjoy as much as you can. Thanks again for your service.

>> David Bacigalupi: Okay, next item, item 3B, it's the application from retired battalion chief Jeff Clet, change in status from service retirement to service connected disability retirement, effective June 27, 2009; he retired with 26.05 years of services. And for the record, he's represented by Mr. Swift, and is Jeff in the audience? Okay. Didn't see you guys way back there. Okay, Donna.

>> Battalion chief Jeffrey Clet is requesting a change in status to a service connected disability based on orthopedic injuries sustained to neck, right shoulder, lower back, and left knee. He's 50 years old with 26.05 years of service. Medical reports are listed in your packet. His work restriction is, he should avoid sustained repetitive shoulder level or above shoulder level work. He's currently service retired effective 6-27-09. At the time of separation and at the time of application he was on disability leave. There's no permanent modified duty available.

>> David Bacigalupi: Thank you, Donna. Dr. Doss, do you have anything further to add to your reports?

>> No, I don't.

>> David Bacigalupi: Okay. Mr. Swift.

>> I guess I would rather respond to questions. It appears that there are work limitations which the department can not honor. I'd be happy to respond to questions, otherwise I'd ask that the motion be granted.

>> Motion to approve.

>> Second.

>> David Bacigalupi: We have a motion and second. Do I have any further discussion on the motion? Hearing no further discussion, all in favor, all opposed, any abstentions? And one abstention.

>> Keith Keesling: Jeff, I'm sorry that you have to retire this way. I'm sure you are, too. I know your career has spanned more than 26 years. Certainly you had a tremendous impact on the department, and we certainly miss your leadership, and we'll miss you being there. I wish you all the best, and hopefully you will be able to recover so you can enjoy some your time. It's well deserved.

>> David Bacigalupi: Okay, next item. Item number 3C, it's an application of retired fire engineer Steve Goytia. Change in status from service to service-connected disability effective December 27, 2008. Retired with 31.38 years of service. Is Steve in the audience? Thank you, he is present, and he is represented by Mr. Swift. Donna.

>> Fire engineer Steve Goytia is requesting a change in status to a service connected disability based on neck, low back, and left knee. He's 61 currently with 31.38 years of service. Medical reports are listed in your packet. His work restrictions are, he should avoid sustained squatting or kneeling, he should avoid sustained walking over uneven surfaces or climbing. He's currently service retired effective 12-27-08. At the time of separation he was on disability leave, and at the time of his service connected disability application he was service retired. No permanent modified duty available.

>> David Bacigalupi: Okay, good, thank you. Dr. Doss, anything to add to the reports?

>> No.

>> David Bacigalupi: Okay.

>> Keith Keesling: Motion to approve.

>> Conrad Taylor: I'll second.

>> David Bacigalupi: I have a motion and a second. Is there discussion on the motion? Hearing no further discussion, all in favor? All opposed? The motion carries. Steve, good luck to you.

>> Keith Keesling: Steve, again, tough way to go out. I know you spent a lot of time in here. Again, good luck to you, and I hope you have as best retirement as you can, and thank you for all your service, all the time you put over at station 5 and the other places. It was always a pleasure to work with you.

>> David Bacigalupi: Okay, item number 3D. It's the application for a change of status for retired firefighter José Loquiao, and that is from a service to a service connected disability effective October 4th, 2008. Retired with 31.8 years of service. And for the record is retired firefighter Loquiao in the audience? He is not in the audience, but he is represented by Mr. Swift. Donna.

>> Firefighter José Loquiao is requesting a change in status to a service connected disability based on low back, neck, left hand. He's 59 years old with 31.80 years of service. Medical reports are in your file. Work restrictions are, he should avoid heavy lifting, he should avoid sustained or repetitive crouching, he should not drive a city vehicle, he should not engage in safety-sensitive activities, he is currently service retired effective 10-4-08. At the time of separation and at the time of application he was on modified duty with no permanent modified duty available.

>> David Bacigalupi: Thank you, Donna. Dr. Doss, anything to add?

>> Nothing to add.

>> David Bacigalupi: Thank you.

>> Keith Keesling: Motion to approve.

>> Conrad Taylor: Second.

>> David Bacigalupi: Okay, I have a motion and second. Any further discussion on the motion? Hearing no further discussion, all in favor, all opposed, the motion carries. Thank you.

>> Thank you.

>> David Bacigalupi: Okay, item number 4, deferred vested, there are none. As per the orders of the day we're going to move on to items number 23A and B. That is somewhat related in this area. Okay, 23 -- I'll read the whole thing. This is the results of the work of the ad hoc disability forms committee. There's a summary of recommendation from March 29th, 2010, meeting. A is the discussion and board approval of the following committee recommendations regarding physicians disability forms. And subsection I is a maximum of $100 fee per two part form, statement of medical condition and request for work restrictions. Fees for two partly form only paid once per body part. Item subsection 2 of that is the maximum is $500 of fees paid per applicant. Subsection 3, no reimbursement for prior fees paid. And then item number 23B is a summary of the April 15th, 2010 meeting. And I'd like to thank -- I was with Conrad and Keith at the end of this but they did a lot of work and thank our staff for working with this. I'd like to thank -- I only see Sam here today but there were a couple of attorneys who were very helpful with the input and trying to make this a fair process but also being responsible fiscally. So you have information in your file. I'll entertain any questions or a motion.

>> I'll make a motion for approval.

>> David Bacigalupi: That would be for the entire recommendations of the subcommittee?

>> For the entire recommendations.

>> David Bacigalupi: Okay, do I have a second?

>> Second.

>> David Bacigalupi: Okay, we have a motion and second. Is there further discussion on the motion? Yes, one second, Sam. Scott, go ahead. And just before you, Scott, Molly, we're okay, I mean, we can do this as one motion, the entire recommendation of the subcommittee?

>> You can, or you can take -- the motion was the entire recommendation, so you could change that if you wanted, if that was your want.

>> David Bacigalupi: Make sure we're able to do that, as well. Scott, go ahead please.

>> Scott Johnson: Thank you, Mr. Chair. I think it was great work that the committee did on this, and the staff as well. Just a clarification. When we're talking about the fees, we're talking about reimbursement for the fees?

>> David Bacigalupi: What cannot happen, as we understand, is having fees refunded to the members. So these -- there is -- and Sam came up with a billing process that will go out with the form, so that the funds will be build by the physicians and they can legally be paid. But there cannot be a reimbursement, there is no process in the code to allow reimbursement to the members. If I went and had one of these forms filled out and I paid a physician there is no process for me to get reimbursed. It would be a direct billing from the physician to the fund.

>> Scott Johnson: And the physicians must comply with that fee structure?

>> David Bacigalupi: Yes. Well, it's a cap. They can charge anything they want but that's a cap.

>> Scott Johnson: That we would pay.

>> David Bacigalupi: And the individuals would have to pay anything above that.

>> Scott Johnson: Thank you for that clarification.

>> David Bacigalupi: This was worked out with the committee and the staff, attorneys that worked in that area so it was a very cooperative process.

>> Scott Johnson: Thank you.

>> David Bacigalupi: Other questions?

>> Yes.

>> David Bacigalupi: Sam, thank you.

>> The only thing we're missing, I haven't seen it, is an actual invoice. The only notice that I got that would go out does not provide the doctor with a bill to fill out to send in. So that each doctor will be left to his or her own devices, to figure out how to bill retirement services. And it would seem to me it would be better and more efficient if there were a standardized invoice form that the doctor could fill out when he fills out the two-page statement of medical condition, and send it in, send those in together. But right now, at least as I understand it there is no such form. And I think that would be useful. I'm not opposing the motion at all.

>> David Bacigalupi: I understand.

>> It's just, as we move forward, it would seem like it would be more efficient to have a billing form.

>> I think the direction that we went, Sam, when I sent you the form was to put the cover letter and instruct the billing process and to have them submit their invoice with their completed forms. So we did not have a standardized form. It is up to the doctor to submit their invoice when they return the forms, and that was the instructions on the cover letter. And then we also have a kind of like a billing about how long we thought, once it

was processed, that the forms had to be completed to Dr. Doss's satisfaction before payment and even a phone number they can call for inquiries.

>> David Bacigalupi: One of the things that Keith had mentioned during the subcommittee meeting was to have the process reviewed again in six months. And things like if the invoicing is a problem, I think this is a legitimate way to send it out. When you're sending the cover letter, it says send your invoice in with these forms, that the doctors have an invoice form because they send it for --

>> They have insurance forms. They don't generally send invoices to people who they catch. There is a special billing form for workers comp, there is a billing form for Anthem, for Aetna, for whatever. I suspect I guess what you're going to get is one of those billing forms that the doctor will modify for this purpose. And I agree, we'll have to see how it plays out. I just think it would be more efficient both for the doctors and for the department to have a standardized form, and I just would ask that be considered.

>> David Bacigalupi: I appreciate your recommendation. There's nothing, I think -- I think we have a great stride forward here with this. But I don't think there's anything to keep the subcommittee -- we could take a look at that and talk with staff, and maybe talk to a couple doctors and see if there is a better process. Because obviously it might be easier for our staff to get a simplified invoice that they recognize and everything is in the right place rather than everybody doing something different. So we can talk about that, but I think that's something that there may be other things that come up you know in reviewing how the process works, as well. Rose.

>> Rose Herrera: Thank you. I just had a question on the report, or on this memo on page 2. It talks about the fact that other Cal PERS is the only plan within the survey that pays for the forms, but that it requires more information on the forms provided by Dr. Doss, can somebody, the staff talk what that information is? What does Cal PERS require that we don't require?

>> They require more backup documentation, almost like the medical reports or X rays, or any kind of findings that are going to support the applicant's disability. So it's almost like a packet -- it just depends on what they're asking for, you know, what they are saying, they just need to have support, medical support to whatever they're listing on the form.

>> Rose Herrera: Okay, so do we have a position -- or does staff have a recommendation on why we need to have a position or who that would be a better approach or you know, our approach ask --

>> Can I comment on that?

>> Rose Herrera: Okay, actually I want staff to comment on it first.

>> David Bacigalupi: Dr. Doss, if we asked you about the form and the information you need.

>> Rose Herrera: Ms. Buss, Busse, I'm not sure, is that you? Whoever wants to answer that. I want to hear from our staff, because what I want to try to understand is, is requiring that information, then, is that somehow important in making sure that we are not -- we don't have a situation where we might get extra costs associated with this for some reason?

>> Well, I mean, the goal I had was to make it as simple as possible for the physician to complete. And so that's why there's checkoff boxes. If there's an area in the forms where the physician can provide -- like they don't need to provide the supporting information, but if someone cannot lift up their left arm, there is an MRI of the neck which shows that there is a pinched nerve, and then you've got an EMG, and they can write that stuff down. And then the medical records, we typically get most of the workers compensation medical records and for nonservice will request all the other ones, and the supporting information should be there, and the medical records should be able to tell the story. So the whole idea is to find out what the basis for the restrictions are from the treating physician. And then the other issue is to make sure that they're as good as they're going to get. Those are the two issues with the code to make sure the people can move forward in the process, they're as good as they're going to get, and what are the restrictions from the treating physician. And they have an area where they can provide the supporting information and the basis for the restrictions. So it's a little bit more clear. And hopefully you get the

information that you want, a little bit more concisely, and then the supporting medical records should be able to back up whatever the physician says, if they point to it. And so the idea is, if the medical records aren't necessarily obvious, the treating physician can write down and say this is exactly the reason this person has this problem, and you can go back to the medical records and go, okay, yes, that makes sense.

>> Rose Herrera: So we'd have the corresponding medical records, we really have the depth that Cal PERS has, we just have a form that's simpler to fill out?

>> I think we're better.

>> Rose Herrera: Think we're better, but we still have all the supporting documentation.

>> Yes.

>> My comment would be, because PERS deals with so many different entities, the applicant has more responsibility to provide the background medicals. Whereas here we only deal with the City of San José risk management department, and those records are upon application automatically provided to Dr. Doss.

>> Rose Herrera: Thank you.

>> David Bacigalupi: Any other discussion? Hearing no further discussion, all in favor, all opposed, the motion carries. Thank you, Donna, you and your staff, and thank you committee members for your work on that. Okay, returning back to the agenda order. Item number 5, death notifications, the notification of the death of sergeant -- retired police Sergeant Buck Ballard, retired February 17th of 1979. Passed away March 29th of 2010. There's no survivorship benefits. So that will be noted and filed. Item number 6, the notification of the death of El-Hajj Malik, retired fire prevention inspector, retired April 1st, 2004, passed away March 5th, 2010. And survivorship benefits will go to Andrea Malik, spouse. Be note and filed. And item number 7 unfortunately is the notification of the death of George Silveria, retired firefighter, retired November 7th, 1996, passed away on April 8th of 2010. Survivorship benefits to Mary Jo Silveria, his spouse. That will also be note and filed, and I would ask the board and our attendees for a moment of silence for the dedicated folks that have passed. Thank you. Any other new business? Item number 8, the acceptance of Segal's draft report on actuarial valuation of retirement health benefits as of 30 June 2009, parentheses, GASB 43/45, end parentheses, and authorization to forward on to city administration. We have Andy Young here. There is a draft document in your folder. And we'll start off with you, Andy.

>> Good morning, members of the board, Andy Young with the Segal company. In front of you is a report from the Segal company to provide for the GASB expenditures associated with providing health and dental benefits. This report is prepared pursuant to two relatively new accounting standards, 43 and 45. Now, your board may remember back at the March meeting you have already approved contribution rate for the upcoming fiscal year 2010 and 11 for the health plan, and that will set the contribution, cash contribution requirement for the police members, for example, and four of the five members. Now, for that particular valuation we have followed the board's cash funding policy, so to speak. For example, for the fire members, the cash funding policy is to set the contribution rate at levels so that it would be able to provide for benefits to be paid over the next ten years. Likewise, and very similar to that for the police members, the contribution rates are set so that it would be able to provide for the cash associated with the providing for the benefit for the lifetime of all the active and the retirees but with a five year phase in. Now, certainly while it is under the purview of your board to set those cash contribution requirements, but as a result of these accounting requirements, everybody has to report expenses on a retiree health plan on a full accrual basis. It is almost the same as the standard they applied a couple of years ago to apply full funding accrual standards on the pension plan. So it doesn't change your cash policy, but it nonetheless changes these accounting requirements. So everybody, every pension plan in the public arena in the state or in whole country have to comply with this new standard. There are just two minor complication associated with this valuation. One has to do with the accounting -- accountants also require that any time you have your active members and your retirees under the age of 65 in the same rating pool, so to speak, for premium determination purposes, it would create so-called an implicit subsidy. So for this valuation we are required to disclose what that liability is with for the cash funding policy, none of that has to be taken into account. The other minor complication is, with the cash funding policy that you have already adopted and you will see in the next

agenda item, that it is there to set the cash contributions for the 10-11 fiscal year. Whereas this accounting report is there to set something called the annual required contribution, the expense requirement for the 09-10 year. So there is a one-year gap between this valuation and when it will become effective and the cash funding policy when that -- those contribution rates would become effective. Now, this report is only issued in the draft form. And the reason why we did this after talking to your staff members, to staff, we have followed on the one hand in preparing this report policies and practices that have been signed off by your outside auditor about two years ago as to how to account for the implicit subsidy that has been paid for by the city. There were questions raised as to whether or not that policy or practice should be looked at again, so that is the reason why we issued a draft, are reporting a draft, to allow staff to talk to the auditor and explore whether or not that is something that needs to be or should be addressed as part of this valuation report. Okay? Now, with that in mind, there are really only two pages in this report I'd like to walk you through. Now, the first page is page 19 of this report, where we have provided for expense purposes for the 2009-2010 year, how is that expense changed from the amount that the city has to book on its financial statement for the '08-'09 fiscal year. Now, you can see in the top, the expense that was updated and calculated in the last report as of June 30, 2007, was 20.5%. Now, notice that if we call that any required contribution, really, even though this is not a contribution, per se, it is really an annual required expense. And the only reason we use that terminology is because we just take that straight out of the two accounting standards I was alluding to. Now, the expense that we are recommending for this year for the '09-10 year is 19.13%. So the change in the expense was about 1.3, 1.4%, and strictly speaking, if you look at the second or actually referred to last line on the page, you can see the only reason, just about the only reason the expense is coming down is because there is an acceleration of funding by the police members. There is an acceleration of funding by the members of the police department for themselves as well as an acceleration of funding by the city for those members as well. So other than that, there is practically no change in the contribution rate requirement of this report. Now, the other page which is of interest, may be of interest to the members would be on page 3 of this report. Page 3 provide a high level summary of the assets information that we have used in the valuation, the liability that we have calculated, as well as the members that have -- we have included in this calculation. Now, the two items that I like you to take a look at for me is, under the June 30, 2009 column, we have used the exact same amount of assets of $55 million. So this would be the second line from the top. The 55 million of assets that we have used in this cash flow funding contribution report that I was referring to earlier on in this calculation. And again, this is a snapshot of how much assets we have in the fund as of June 30, 2009. Now the board may remember that before June 30, 2009, members from the police department as well as the members from the fire department are funding at the same level. So you may remember that there's a phasing of the contribution rate effective with the '09-10 fiscal year. But that has not taken place yet, at least when we take the snapshot on June 30, 2009. So this $55 million would of course become higher because now there's an acceleration of funding for the year we are in, but that would not be reflected until the next fiscal year. Now, for that reason the funded ratio has not improved a whole lot from the last valuation. Last valuation it was at about 6.8% as you can see on the funded ratio roll. This time is 7.3%. And again the funded ratio as you remember is a comparison of how much assets you have in the fund to fund for that liability. So, so far for every dollar worth of assets -- pardon me -- for every dollar worth of liability we have in the plan, we only have about 7 cents of assets. And that is not atypical for a plan that used to go from either no funding or just a ten-year cash flow funding towards a full prefunding schedule. So over time, we expect this number to go up a little bit over time. But until the full funding takes place, that number will continue to be -- to be a low number.

>> David Bacigalupi: Any rough guess on what that number would increase annually? Would just the funding status as it is right now, with the police only, and the city doing the extra funding and stuff, what do you think that impact is going to be, just a rough guess, if you can do that?

>> I don't have that number with me. So certainly, that would be a number that we would be studying for your board when we do our next valuation as of June 30, 2009, I'm sorry June 30, 2010, after those additional contributions are received by the police members and as far as by the city for those police members.

>> David Bacigalupi: The logic would dictate that we would -- that was the whole purpose of that agreement, was to keep improving that number?

>> That is exactly right, that is exactly right.

>> Andy, can I ask you a question?

>> Certainly.

>> For the investments, the assets, are we tracking these assets separately, currently?

>> I think as of this date of evaluation, June 30 of 2009, no separate tracking hasn't taken place yet, only because the police members have not generated the funding as of June 30 of 2009. But my understanding is that staff has already been tracking how much contributions have been paid for by the police members, as well as the city for those members, and likewise for the fire members. So there would be some tracking that would be done, maybe on the bookkeeping basis, to know exactly how much more contributions have been paid for by the police members as a result of the phasing. So we will be doing that and will be reflected in the next valuation.

>> Okay, I understand that the contributions are being tracked, but with the investments. I mean, contribution and investments are two different things.

>> That's right.

>> So are they or are they not being tracked?

>> Can I? Annie Smith. I want to confirm that staff is tracking on an accounting basis the contributions that are coming in for the police members for the additional phase-in portion. You're correct, though, the investments are commingled investments between the fire and the police members. So at this point, that has not -- there is no separation. There is a difficulty because the assets are combined to begin with. And so when you start having the different portions coming forward, that's going to be something that's going to have to be addressed.

>> And what are -- how are we going to resolve this? I mean, let's say if fire does not go to a prefunding method, how is that going to be -- do we have methods that we have in place for that, or what are we looking at?

>> Yes, there's different approaches that we can look at to, I guess, separate the assets and track them on that basis. Staff will have to kind of research the different approaches that we can take.

>> David Bacigalupi: Any other questions? Scott.

>> Scott Johnson: Yes, thank you, Mr. Chair. Just a couple of questions. One page I just wanted to point out. Andy, thanks for this report. It's really important that we get this information for our disclosures both for GASB 43 on the retirement plan as well as GASB 45 for the City's CAFR. So page 12, I just wanted to point out a couple of things here on page 12. This is the net OPEB obligation, otherwise known as the Nopebo?

>> Yes.

>> Scott Johnson: Just wanted to clarify for the board, this particular report has been customarily done by the plan sponsor. It's not a requirement of the board to have this particular report done on the NOPEBO, and we have historically, in the City's finance department we've worked with retirement staff in calculating that, and I want to bring that out because I want to make sure that the city's not committed to the methodology that is being portrayed here on page 12. Because it appears that there are some differences, look at prior years, compared to what we've booked. And so basically, what this is, this is that difference between the actuary required contribution and as Andy had pointed out the cash basis computation that we're paying. So the GASB 45 requires that on the City's side on our CAFR the city book the difference and amortize that difference over a given number of years. So we have to track it, we have to record it in our government wide financial misstatements our CAFR but it's not a requirement for the retirement plan in regards to the retirement's CAFR per GASB 43 so it's clearly a GASB 45 requirement for plan sponsors. So it's very important I think that the City's administration, finance department work with retirement staff and the actuaries. If we're going to continue to include this in the report. Because if we have different reports and calculations, our external auditors in the past on different issues, have asked why do you have a chasing of reports calculating this number and the administration is calculating a different number? And we have to explain that and causes a lot of confusion. I just want to make sure if we're going to include this in the future in the scope with our actuaries to calculate the Nopebo then it's very important

that we come to an agreement on the methodology that we're using. Because just like depreciation, there are different methods that we can choose to use in regards to how we depreciate our assets. There are different methods on how we can use to calculate NOBEBO. So I just want to make real clear, this is not a commitment on the city to use this schedule, but it is definitely beneficial for the city and the plans to work together with the actuaries to come up with the methodology that we all agree on.

>> Board member Johnson, one of the reasons we asked Segal to bring this back as a draft is because we did notice differences in the City's CAFR reporting under GASB 45 and what Segal has reported. And so that's why we asked them to bring it back as a draft, is so that everyone knew that there were differences.

>> Scott Johnson: Okay, I appreciate that. I don't know why this year, they've done this when, in the past, we haven't had it, as well as it's very clear it's a city requirement to do that calculation. And it's the City's determination to determine what methodology we choose. So you know I think it's important here again, it's a draft, so it's important that you work together with the finance staff to come up with a methodology. Because I think we can explain why there might be certain differences compared to what is on this report.

>> Yes, my understanding is that the methodologies for the plan reporting and the sponsor reporting have to be the same method. So I do think we do need to sit down with the actuary and figure out what the -- where the differences are occurring.

>> Scott Johnson: And here again, it's a city, the sponsor's responsibility to do that particular calculation. It doesn't show up on the retirement's, books. It shows up on the City's books as a cost on the government-wide financials. It's not shown on the -- at the fund level. And basically this is a requirement that the accounting ivory tower determined, okay, you have to show what the difference is although hopefully in future years we're eventually going to catch up and we won't have that unfunded liability.

>> David Bacigalupi: Okay, Conrad, then Keith.

>> Just a very quick comment. The reason why Member Johnson pointed out that there was no difference to begin with last year is because remember the last time when we did the evaluations for the board, it was for the June 30, 2007 date. So if you look at page 12 of this report, you can see the last time there was really not that many differences that you can -- that we can come up with. Everything -- we have a lot of zeroes on that line item. So this is not until we now have the plan in motion or the accounting standards that we have to follow for the next -- for the last several years when we now come up with some divergence as to what the practice is. But we stand ready to work with the board, work with the city to come up with -- harmonize those differences and make sure that our numbers that needs to be included in our report would be the same as the City's numbers. That's why we wanted to do that as well.

>> David Bacigalupi: Thanks Andy. Conrad.

>> Conrad Taylor: Andy or Veronica, currently so the investments are being commingled. But do we have a time line for the method or methods that we're going to be using the separate the investments? Is there a time line that is set up that we have to establish?

>> No, it is something that we'll have to address this year. There was the anticipation that fire would come along, and that because the separation won't be as critical until this fiscal year ending, which is June 30th, 2010, there are pieces that we will have to work with Segal to determine different approaches to solve this issue. GASB also has the two subsequent plans that police and fire may fall into because of the discount rate, because one of prefunding and the others are not. There are several issues that need to be addressed and staff will be working with Segal to come back and report to the board on different options or approaches that can be used.

>> Conrad Taylor: Do we know when we're going to come back so the board will know?

>> We were trying to complete the June 30th, 2009 valuation, before working on the June 30, 2010 valuation. As soon as this is completed after this board meeting staff will coordinate with Segal to get that piece moving and bring it back to the board.

>> Conrad Taylor: Thank you.

>> David Bacigalupi: Keith, you were next.

>> Keith Keesling: Andy, if you can clear for me, when GASB came out, I found it very confusing. I took some time to read it, and I think there's -- my interpretation after having read it, there is a very technical difference in it, in that it's a reporting methodology, a standardized reporting methodology. So it relates to the board andists different to how the city operates, it's different to the agreements that the sponsor and the plan participants have from what they do. It's a means of reporting and it's a standardized means. So what's -- so we can cross this bridge on what happens exactly on page 12 in that it's a consistent way of reporting, it doesn't say that anybody needs to do anything. The parties can choose to do whatever they want to do. It's not a requirement for an action. It's a requirement of reporting, not an action. So the way that I understand this, it's meant to do exactly what's illustrated here, cross that bridge between what's being done to, if everybody were to show this in the same manner, this would be the result. Is that right?

>> Yes. In a nutshell, the accounting standards are there to almost impose on us, falls on us that we have to recognize the expenses on a full accrual basis. But Member Keesling is certainly correcting in pointing out that it doesn't change what the board's funding policy, cash funding policy is. As a matter of fact, we do have clients, even after seeing our accrual accounting expense report, have decided to continue with no prefunding whatsoever on their health benefits. And the accounting statements make it very clear that it is really under the purview of this board and similar bodies to set what that cash flow funding policy is. So one does not drive the other. But both haveto to be calculated and disclosed at the same time. But it doesn't change the board's authority to continue with your current policy, which is ten years cash flow, for example, for the five members.

>> David Bacigalupi: Thank you Keith. Scott.

>> Scott Johnson: Forgot what I was going to ask. Back to the separation of the police and fire, because one is doing the accelerated and the other is not. So Veronica, can you just confirm now? I think you had said that in the accounting system you are tracking the funding separately. But in the investment portfolio we're not maintaining separate investment portfolios, right?

>> That's correct. The contributions have come over from the city, separate for police members and fire members and retirement members can identify the portions that are related to police members and the portion that are for fire members. But the funds get commingled and invested together at the custodian bank level, and investments are at that point commingled back together. So the gains and losses that are made on the difference in cash flow at this point have not been separated, and that is the piece that will have to be addressed.

>> Scott Johnson: Okay. And I just wanted to also, you know Keith you had said related to that conversation on page 12 related to this nopebo. So just to clarify, the actions that are not, lack of a better term, imposing the methodology on how we calculate that, so what I'm hearing though is this is a draft and the actuary retirement staff and other city staff will work on the methodology that we choose to the best interest of the plan sponsor and the plan, right?

>> Yes, that's my understanding.

>> David Bacigalupi: Veronica, I just want to make sure I'm understanding you correctly. We have two separate amounts of money coming in we're keeping track of you know who's bringing in the different sets of money into the fund. But the investment return is being blended of those two different amounts rather than percentage wise also being kept separate? Maybe I misunderstood you.

>> What I'm trying to point out is that the contributions that come in are a cash flow that go into our custodian bank. And so each of those are invested together, Police and Fire invest together their retirement contributions. And so they are then invested, and there are gains and losses on those investments that are a joint investment. So the gains and losses that are coming out, you know, so if someone is putting in a dollar versus two dollars, there is a rationale or a proportionate that you would think the returns are coming out of that. And in the

past they had been very much the same amount that was coming through. So I'm not quite sure exactly all these pieces of work, again, staff is going to have to go out and look at these pieces. But right now there is no investments that are commingled right now. That's not to say there won't be a methodology and that's what we're going to work with Segal to develop and come up with the best way to -- it's the starting point, yeah.

>> Being separated but what do you start from to begin with is what they have to work out. Like the beginning balance, creating what was already there --

>> David Bacigalupi: Well, I'm just confused, the city and the POA have agreed to a different funding level than what local 230 have agreed to. So if Conrad's putting in $2 and I'm putting in $1, and all of the returns have been positive, is Conrad realizing a higher percentage of those returns since he's putting more money into those returns?

>> Let me step in here. I think we're getting down into accounting and the real issue is right now we can track individual contributions coming in by individuals, and then we can keep records on each individual contribution. What Veronica is saying is that we don't have the ability to have essentially separate accounts for each individual person. So what we're going to have to do this year is do an allocation methodology with the Segal folks that recognizes when each set of -- each group of participants made their contributions and then we'll allocate the income back out to each one of those groups. So there is a way to -- it won't be a nice dollar for dollar, it will be an allocation process that will take us from a pool of allocations back out to who contributed what, when. Segal is going to have to help us with that, but there is a way to look at who made which contribution at what point in time, how much of the earnings during that period should be allocated to each one of those pools.

>> David Bacigalupi: That answers my questions, thank you.

>> Andy, if you would like to add any more there.

>> Yes, even though we haven't set something up to specifically address this kind of an issue, but we have with other clients where they have a tiered structure, so they have two tiers for the one group of police members. We have been asked to identify and separate out the contribution rate calculated for each of those two tiers. So I think that this is very similar, so we do have experience doing that in the past, and we intend to share that with staff as well.

>> And this is not an uncommon problem with trust funds. If you have multiple layers of benefits or multiple contribution rates in a trust fund, which is very common, it's actually more common to have the different --

>> David Bacigalupi: Common other places, new to us. We're just trying to figure out what we're doing.

>> New to San José, but yeah.

>> David Bacigalupi: And you answered my question, so -- Russell, or Russ.

>> Just quick. Andy, correct me if I'm wrong, or Veronica, I see this as just an accounting issue. It's not an investment issue, it's like a mutual fund. I put in $100, you put in $50, we both earn 5 -- it's all pooled together, it's all invested, 5% return, I get 5% on my bigger principal, you get 5% on your smaller principal. Isn't that the sort of metaphor that applies to this? It's not as if they are separate investments.

>> Correct, you're correct, Russ, and I think Veronica is responding to a lot of questions that we're getting from individual participants, about can you track my earnings individually, and the answer is no, we can't individually track earnings. We can track individual contributions, but then earnings are pooled, and we're going to have to parse those back out based on who paid what, when.

>> David Bacigalupi: Thank you, other questions, discussions? Scott.

>> Scott Johnson: Just a follow-up question. So we're being -- maybe Russell can clarify -- we're being asked to accept the draft report. Is there going to be a final report or is this ready for financial statement reporting at this point for GASB 43 and 45 attorney nopebo, I know we need to work out the details of that calculation?

>> That's correct.

>> Scott Johnson: Other than nopebo that we have to work further on, I'm not clear whether Segal is going to bring back a final report.

>> David Bacigalupi: We could make that motion that it's accepted as this with that working out between the management process or the process.

>> Scott Johnson: Right, I'd like to make that motion, because here again, the NOPEBO issue is really not a requirement of the plan. That's a city requirement in regards to that reporting. So I'd like to make a motion to accept the draft and direct staff and the actuary to work with city staff to calculate -- to determine the calculation of the nopebo.

>> David Bacigalupi: Perfect. Do I have a second?

>> Conrad Taylor: I'll second.

>> David Bacigalupi: Okay, I have a second. Further discussion. Keith.

>> Keith Keesling: Yes, I'd just like to make sure, Andy, I'm not clear if I heard you correctly. From what I heard you, it's GASB that requires us to include this in there. Is that -- I'm hearing Member Johnson say not to include it. And I'm understanding that GASB says we do include it. The question that seems in my mind is the methodology it's using. I guess what I'm asking you, do we need to include this to be in compliance with GASB?

>> Yes. My understanding of the Segal's contract with the board is to provide for both sets of numbers, prepare under GASB 43 and 45. But member Johnson is certainly correct, that for the retirement board we don't have to do this calculation. And as a matter of fact if the board wants us to exclude that calculation for further actuarial reports or maybe even for this report before it's finalized, we'd be more than happy to do so. But typically, because this is really one and the same benefit, where the numbers -- you look at that from the retirement plan's eye or the view of the city, so usually we prepare one report that both parties can rely on, be it for the retirement board or the city. But we certainly can adapt the report to the needs of the board. So if the board wants us to have the conversation so we can harmonize the differences with the city, we will do so. If you want us to --

>> David Bacigalupi: I think that's what the maker of the motion said, was he wanted the methodology worked out, and I think we can move that forward with that understanding, that it was included in the motion.

>> Scott Johnson: If I can clarify again, Mr. Keesling, your -- GASB does require us to do the NOPEBO calculation and report it. The GASB doesn't require the plan to do that calculation, they require the plan sponsor to do that calculation. Because as I said, there's different methodologies that you can use to do that calculation. So it's importantly that the City's books be at the nopebo. It's a requirement for GASB 45, which is the plan's sponsor's requirements into -- related into post-employment benefits as opposed to GASB 43. So I was surprised this was in this report, but I'm perfectly okay, you know, wearing my city finance director hat, that we work together, because I think it's of the best interests of the plan as well as the city to make sure that we're in agreement in regard to how we calculate the nopebo.

>> David Bacigalupi: Keith, you were up next. That answered that. Molly.

>> I was just going to say, I think the sum of it is that it's okay for this to be in the plan report, but it is important that it be the same as what's going to be in the City's report. Because it really is the city that has the obligation. I think the motion to accept the report with direction for this to be worked out so that there's mutual agreement on how it will be reported is appropriate.

>> David Bacigalupi: I was hoping Scott played the motion because he knew what we needed. Okay I have a motion and second. Is there further discussion? Hearing no further discussion, all in favor? All opposed? The motion carries. Thank you, thank you everybody for your input. FTC oh, we got Andy back again here. Okay, item number 9, excuse me, item number 9 is the contribution rates for the year 2010-2011, A is discuss and possible action on SRBR balance reduction and impact on the city contribution rates. B is adoption of resolution number 3667 setting new city and employee rates of contribution for police members to be effective June 27, 2010, and item C is adoption of resolution number 3668, setting of new city and employee rates of contribution for fire members to be effective June 27th of 2010. And who's going to start this off? Staff or Andy?

>> I think the starting point is the attorneys providing their update on their findings.

>> So, I'll start. I'll start with that discussion. There was a question at the board meeting last month about the reduction in the City's contribution rates by the .45% of pay. And there was a question about whether or not the -- that reduction against the contribution rate in one year, this next year, was consistent with the municipal code. SRBR provisions. And we looked at both the code and we looked at what has been done in the past, because there has been at least one and maybe two past events where the offset was done. And we looked at four different issues that staff had with the -- doing the offset. And we found that the practice of the one-time offset is consistent with the municipal code. We're not doing the -- the attorneys are not doing the calculation. We're not going to tell you that .45% is the right number. But assuming all of the other numbers in the valuation are correct, we concluded that it was correct to offset that amount, which is due to an increase in the City's contribution rate due to investment losses. It was correct to offset that against the City's contribution for the next year.

>> David Bacigalupi: Okay. And Russ, did you have any further comment on that?

>> No, we spent a lot of time on this, and Molly and I are in agreement.

>> I will say there are with the SRBR still we know some actuarial issues where staff and the actuaries need to talk about some of the issues of how the SRBR is being treated in the valuation report. And those are still going to be ongoing. But with respect to this specific question about doing this one-year offset we concluded that it was consistent with the code.

>> David Bacigalupi: Okay, thank you, Molly, Keith.

>> Keith Keesling: Sorry. I guess my comment on this is, it just shows my ignorance to the whole topic in general. I don't understand the complexity of it, just as a -- on the surface, looking at it, it seems bizarre that as we're concerned about the funding of a program that we're reducing our contribution rates. But it may be, un, I -- again I have to take a lot of responsibility for my ignorance here. But it seems like we're moving in the wrong direction when we have losses and are concerned about funding and yet reducing contribution rates so simple comments on that.

>> I'll give you a little bit of history on it, so it at least -- I'm not going to say it's going to rationalize it but I can explain how it occurred. It is directly in the code for this to happen. It's in the municipal code. It was a bargained-for language whenever the supplemental retiree benefit reserve was established. When the supplemental retiree benefit reserve was established, this idea about a credit back to the city was not in the original proposal but the then mayor's office responded back, that they wanted to have this kind of basically contribution relief for the city, in down years. So that was bargained for, negotiated and put in the code. So it is another example of a bargained-for benefit that we wind up as just basically administering pursuant to the agreement.

>> David Bacigalupi: Any further questions? Unless there are any further questions I'll entertain a motion to adopt A, B and C in one motion.

>> I'll make a motion.

>> David Bacigalupi: Any second? I'll make the second to move this on. Discussion on the motion? Any further discussion on this motion? All in favor? All opposed? The motion carries. Thank you, Andy. Okay, item number 10, request for action on City Manager's memo requesting plan's actuary calculate a discounted contribution

amount for the City's lump sum contributions for fiscal year 2010-2011. And do we have somebody here from the City Manager's office?

>> Scott Johnson: Mr. Chair, I can speak to the item.

>> David Bacigalupi: Okay, this came up last year as well, my first year on the board. And last year I'd asked since this is a benefit to the city that we share that cost on a 50-50 basis for the actuary to do this little bit of work. Could you represent the City Manager would be willing to do it again this year as last year?

>> Scott Johnson: Yes, we would do that and make that a part of the reconciliation that we do at the end of the year.

>> David Bacigalupi: Okay, thank you. Then with that I'll entertain a motion.

>> Scott Johnson: I'd like to make a motion, but I just have a couple of comments that I did want to make related to that. Because this is similar to what we've been doing since I guess 2008-9. The finance department works close, our payroll staff, with the retirement department staff in the reconciliation. We do that on a biweekly basis based on each pay period. A couple of things that I did want to note here. We are -- the finance department and the City Manager's budget office were looking at our budget and especially our General Fund cash flow and it has been noted, to the public safety, finance and strategic support committee, in the reports from my reports on our investment report as well as our monthly financial report, that our cash balances have been decreasing for the General Fund. And that's due to two reasons, because you know, we have the structural imbalance in regards to revenues going down. Because of the economy. And we also have, through budgetary measures, we've been utilizes reserves and drawing down our reserves. So we have about an $80 million structural reduction in our cash balances for the General Fund. So this -- I have been working with the City Manager's office, and we have just recently issued an RFP. What our plan is, we are looking at, which is very common for municipal governments for cash flow purposes, we're looking at a short term borrowing to facilitate the prefunding. And we have -- staff has selected J.P. Morgan as that facilitator. Are it's at a very low interest rate, much lower than the discounted rate that we would otherwise realize, so there definitely is a net benefit to the city in moving forward with the prefunding. An informational memo will be going out to the mayor and the council with regards to those efforts. I'm also reporting that in our quarterly investment reports, in our debt reports on those actions. So I just wanted to let this board know that we are looking at that and the prefunding would be contingent upon council's approval of that short term loan agreement with J.P. Morgan that we plan to bring to council based on our time line in June. So I don't anticipate any issues with that at this point. I think it's a sound plan. When I used to be controller treasurer for Santa Clara County, for example, every year we issued tax anticipation notes, many governments throughout the country do that because of cash flow. You may be aware that when people pay their property taxes, they pay us two times a year. So we are seeing the cyclic nature of our revenue streams in the General Fund because a vast majority of our revenue now for the General Fund is from property tax revenues. And because we don't get it every month we get it basically two times per year, April time frame and January time frame. So we're doing that cash flow modeling and moving forward on a plan to facilitate this prefunding through partially through this short term borrowing plan. In addition I did want to mention that I know that there's some bargaining groups, the council -- the mayor and council has directed the City Manager, and the bargaining team, to work with the bargaining groups in regards to reducing compensation. And one of the issues that has been on the table has been to make, the employees to make a portion of the employer contributions. So that could potentially have an impact on this calculation. So we will need to work with the retirement staff and the city attorney's office, as well as the actuary, in coming up with how we could deal with that. So that's a new nuance in regards to this year on how we're going to deal with the prefunding. It's not clear at this point whether or not there will be a reduction in the employer rate or an increase in the employee rate, but I just wanted the board to be aware that there could potentially be an adjustment, and we'll have to work -- we could work on a methodology in the house if that takes place, if those agreements coming to fruition.

>> David Bacigalupi: Okay, Scott, thank you for the information. But as far as this board is concerned what we're being asked here today for this board is to direct our actuary to give the city the information. Whether or not the city decides to use it based on the bond, based on employee group negotiations, we're just taking the first initial step to kind of calculate what's it going to cost.

>> Scott Johnson: Right, that's correct. This is the City Manager's per the -- per section 3.28 of the Muni code?

>> The section number for Police and Fire is 3.36.1590, it's a different section from the federated section --

>> David Bacigalupi: I'm sorry, could you repeat that number again? 3.36?

>> .1590.

>> David Bacigalupi: Okay, so we'll change the note on that memo.

>> Scott Johnson: You're right, this is the City Manager's notice of intent, so we intend to do the prefunding on July 2nd. But in accordance with the Muni code and these provisions if we don't do that then we would continue to make the biweekly payment, until we came forward. Otherwise, to the board with a different time line.

>> David Bacigalupi: And it is my understanding that the city is going to pay for half of the actuary's work to do this calculation, and if there's modifications based on changes in the City's structure ever funding, that we would be continuing on at a 50-50 basis to share the cost of that.

>> Scott Johnson: That's correct, that's part of the motion.

>> David Bacigalupi: And you're making the motion.

>> Scott Johnson: I think that's okay.

>> Second.

>> David Bacigalupi: I have a motion and second. Further discussion on the motions? I'm sorry Keith.

>> Keith Keesling: Again just so I'm clear, I appreciate Member Johnson's report from the City Manager's Office, but it's the direction, as I'm understanding it, from this board that the methodology for prefunding is under current agreements, not projected future agreements? As member Johnson alluded to that there might be possible some share, cost sharing? When we determine what the prefunding amount will be it will be under what the current agreement is?

>> David Bacigalupi: Based on what is current, not what could happen or might happen, and that's why if it gets adjusted if something does change. That's why I wanted to make sure that if it has to be recalculated by the actuary, based on any of those changes, that this board will go ahead and authorize that on a 50-50 basis to restudy any changes in that. Okay. Any further discussion? Hearing no further discussion, all in favor? All opposed? The motion carries. Okay. Item number 11, there's no documentation, I think this is a request of one of our board members, discussion of disability process training for its trustees. I see it listed as discussion. And I thought we had changed that for possible action. Rose, I thought you had asked for some of this information on disability process and I thought we were going to try and do it at another time at a training session, rather than try and do it during a board meeting.

>> Rose Herrera: Yes, I don't recall it was coming back this way and I think it was also Keith. Keith had requested --

>> David Bacigalupi: I apologize for not having it as an action item on the agenda. But I think what the board is looking for and we can kind of direct staff that we're looking for a training session to talk about some these issues.

>> All right, so we set a specific time for this single purpose, this single topic, and discuss education opportunities to bring us up to date on how the process works.

>> David Bacigalupi: I will -- if the board directs me, I'll work with staff to get a date set with everybody's calendar for a training session.

>> I would like to direct you to do that.

>> I second.

>> David Bacigalupi: Okay, thank you. Okay, item number 12. It's the action on police and fire retirement board member nomination petitions for fire representative and authorization for staff to forward board's recommendation on to the clerk's office. You have a memo in your packet. There was, although board member Keesling has delayed his retirement, he'll be with us for a little bit longer, we're not going to have him for very many longer. There was one candidate, his educational background is in your packet, Sean Caldor from the fire department, who is present. So he is available, if there are any questions of board members to Sean, and if not, I will entertain a motion to recommend his nomination to the council.

>> I'll second that motion.

>> David Bacigalupi: Or you will make that motion?

>> I'll make the motion.

>> I'll second.

>> David Bacigalupi: Okay, I have a motion and a second. Is there discussion?

>> Scott Johnson: Mr. Chair, I'm confused. What would be the effective date? Because Keith has extended his retirement. Is he going to stay on with us at least another month?

>> David Bacigalupi: He's going to stay on with us another month. And the effective date -- well, the council has to approve him, and then they'll set the effective date. But it's obviously -- we won't have two representatives at the same time. The council will set it for the date --

>> An I think there is a date for this to go in front of council. I think there's a time line.

>> David Bacigalupi: Could be.

>> It goes to committee, and it goes to council before our next meeting.

>> Right, it is set to be considered by council at the May 18th meeting, so I think the memo did perhaps anticipate that the appointment would be May for the June meeting. So I don't know if Keith has actually extended his resignation. But of course there won't be two members at once, we know that.

>> David Bacigalupi: Right.

>> It will be worked out before June.

>> David Bacigalupi: And I'm sure Keith will make sure that any paperwork that needs to go to council, to update them on his situation, will be done.

>> Before the council makes the appointment on May 18th, we'll have to get that straight.

>> David Bacigalupi: And the only other comment I'd like add is I think we ought to forward our recommendation to the council as soon as possible, because he may sit here long enough to realize what he's getting into. Okay, any further discussion on the motion? Hearing no further discussion, all in favor, all opposed, the motion carries. Good luck to you, Sean, your day's coming, it will be a little postponed, but it's coming.

>> Keith Keesling: If I could, Mr. Chair --

>> David Bacigalupi: Please.

>> Keith Keesling: Sean, thank you for volunteering. You bring to the board tremendous assets of you past professional experience and knowledge. Not only do you -- will represent the fire department well, the fire members well, and are supported by that group, I'm really pleased in how you meet the City Manager's preferred recommendations when she went out and hired the folks from Canada to describe what kind of qualifications to have, you meet all what the City Manager has requested, and I'm really happy to have you here, and I wish you lot of luck.

>> David Bacigalupi: Thank you. Okay. Now we're on to old business, continued deferred items, items number 13, and end up being discussion on 14 as well. It's the approval for the secretary to negotiate and execute an agreement with Brown Armstrong accountancy corporation, to provide annual financial audit and compliance audit services to the Police and Fire Department retirement plan for fiscal years ending June 30, 2010, 2011 and 2012, and two one year extension options for fiscal years ending June 30, 2013 and 2014 and at a fixed rate of $43,000 for the first three years and with annual increases for the final two years adjusted annually by the CPI for years four and five with a not to exceed amount of $221,557. This is the result of the retirement plan's RFP. And item number 14 is authorize the secretary to execute an agreement with Macias, Gini & O'Connell LLP to perform annual financial and compliance audit services for fiscal years ending June 30, 2010, 2011 and 2012 with two one-year extension options for fiscal years ending June 30th, 2013 and 2014, not to exceed annual compensation of $45,076 for years 1 and 2 with annual increases adjusted by CPI in years 3 through 5 not to exceed $239,361, for a potential five-year term. Okay. And are we going to start off staff?

>> So in your board packet is a memo from staff recommending Brown Armstrong accountancy corporation as the plan's financial auditor for the fiscal year 2010. As you're aware the contract with Macias, Gini & O'Connell, the plan and city's external auditor, expires this month. Staff conducted a request for qualifications for external audit services and is recommending Brown Armstrong Accountancy Corp -- doesn't roll off too well -- as they are experienced in the public plan space, are committing two partners to the plan's audit and are independent to the plan sponsor, which is an industry best practice. Also Andy Paulden from Brown Armstrong is here today if you have any questions as well as the City Auditor, Sharon Erickson.

>> David Bacigalupi: Okay, questions by the board? I'll entertain a motion. Go ahead, Conrad.

>> Conrad Taylor: Scott, do you have a question?

>> Scott Johnson: Sure, I have some questions. I don't know, are you going to have a -- I'd like to meet the auditor and just had a couple of questions related to the staff report as well.

>> David Bacigalupi: Okay. Would you like to step forward, please, to the podium.

>> Andy Paulden. I'm a partner with Brown Armstrong accountancy corporation. I'm here today to answer any questions that you may have in regard to our services, our firm, and provide any information that may help you in making your decision.

>> David Bacigalupi: Okay, you have information in your packet. Scott, do you have additional questions?

>> Scott Johnson: Sure. Andy, I appreciate the credentials of your firm and your extensive experience. But I was wondering, the staff report that was generated and there was reference in regards to industry best practices. And there's some reference in regards to the independence rules. As a certified public accountant in regards to the standard of independence, are you in agreement with the best practices and the issues in regards to the independence rules for CPAs? Related to auditors, auditing the plan sponsors as well as auditing the plan?

>> I'm in agreement with our professional standards as it relates to independence. And I have read the staff's information. What I would like to say is, our profession deals with independence in fact and independence in appearance. And independence in fact is very easy to ascertain pursuant to the rules and regulations of our profession. It is my opinion that in this situation, to continue with your current auditor would not be an independence issue in fact. In addition to that, the appearance issue is something that can be overcome, if there

is an ongoing relationship that does not affect the auditor's able to render its services and render its opinion in an effective manner. So I will agree that there is no independence issue related to continuing with your current firm. In fact, they're and excellent firm. They have been a worthy competitor. I know all the partners over there, an excellent firm and you would be well served by them. The impairment of independence in appearance is something that is in the eye of the beholder. I don't believe that just the fact that they audit the plan sponsor and audit the plan is an independence in appearance. The only time that independence may become an issue is if and when there is any litigation that may happen between the sponsor and the plan, that could cause some problems. But you know, we have served in that capacity as well in at least three other situations where we have audited the sponsor and audited the plan itself. What we have tried to do since late ourselves as best as possible from the appearance of conflict by assigning a completely different team to audit the plan sponsor and audit the plan itself.

>> Scott Johnson: Thank you. So just a follow-up question some so to your point I did notice that in your resume for example, you have audited the City of Fresno and also audited the Fresno city employees retirement system, as well as the county of Stanislaus, as well as Stanislaus county retirement system, and the county of Kern, and Kern county employees retirement association. So to your point, I appreciate your comments that because just merely because an auditor, an independent auditor is auditing a plan does not preclude them from also auditing a plan sponsor.

>> That's correct. An employment clarification. I think you excluded also the county of Tulare and Tulare county employees, we audited them at the same time. On the Fresno situation we were not the auditors. We were not the auditors of the city at the same time as we were auditors of the plan. So there was that segregation at that point in time.

>> Scott Johnson: I didn't see Tulare County as one of the counties on your resume.

>> I must have missed that one, my apologies.

>> Scott Johnson: Okay. I have just a couple of questions for staff also. The other issue, the other issue that concerns me is in regards to the RFP itself and the timing. Because as we know, as we talked about last month, Ms. Erickson was on her way, in process, through a competitive RFP process, and that RFP was out on the street. And she then issued a report on the results of the audit with her recommendations. And what I was wondering is, when we received these proposals. Because in the staff report it talks about the cost issue. I am concerned that we had information available to the public in regards to the cost that was being proposed by the recommended firm pursuant to the City Auditor. So I'm really concerned about that from a procurement, fairness, open and competitive issue, especially having purchasing within the finance department, and I understand that there is an issue on who can issue an RFP related to audit services, that I assume Ms. Erickson will talk about. But I am very concerned that there is information out there in the public related to the cost, and so I'm wondering about the timing of the proposals being submitted as opposed to the timing of the information that's been available to the public that was posted on the City's Websites in preparation of moving forward with these audits.

>> David Bacigalupi: Okay. All I know is that we as a board directed staff at last month's meeting. So I'm not sure about the timing of the other. I can't aanswer that.

>> Scott Johnson: Mr. Chair, actually, I was going to bring that up when we reviewed our minutes. Because I did listen to the tape. There was no action from the board. I listened to the entire discussion on tape. A couple of times during my commute. And there was actually no action. So when we have the item related to the minutes I was going to ask that the minutes be corrected. Because there was no action. There was no poll on how many board members were, you know, suggesting or recommending that the retirement director issue an RFP. There was no polling on who preferred to issue a separate RFP or not. There was no action. When we talked about that there was no action item, there was a discussion item, there was no action taken by this board, there was no vote taken by this board in regards to a separate audit, excuse me, a separate RFP being issued. But that question that I was asking about the timing was really you know, the retirement director would know that a retirement staff would be aware of you know when we received our proposals and I know that one member of the retirement staff was also a participant in the evaluation team for the citywide procurement for the RFP for audit services, which

last month, we discussed included the retirement audits and the way I understood the discussion, it was, let's let the City Auditor move forward. And if the retirement staff had an issue in regards to the qualifications for the auditor that was going to be recommended, then that would come back to the board. That was kind of talked about. But there was actually no action that this board took related to that item last month.

>> David Bacigalupi: I'd have to listen to the tape. It's not the way I recall it but I mean I'm not saying you're incorrect.

>> I will --

>> Perhaps Mr. Paulden could make a representation regarding any information he received. I think there's a representation in his RFP response regarding information regarding pricing.

>> Yes, and I appreciate that opportunity, Mr. Chair. Is that acceptable, I can address the cost issue? This is a good example of, in fact and appearance. And if I had had knowledge, direct knowledge or indirect knowledge of what a competitor was bidding, at best that would be unethical from my perspective, at best. When we enter into these evaluations, we ensure that we have all of the information relevant to us to make an informed decision about what is appropriate pricing for an organization. In fact, when this agenda was posted on Tuesday, that was the first information I had in regards to what the pricing was. And I was concerned, when I saw how close they were. And I'll come back to that closeness issue in a moment. But I immediately, without speaking to anyone outside of our firm, began an internal investigation as to whether or not anyone in our firm had knowledge of what a competitor had bid in regards to their services, as it relates to a response to the retirement system's RFP or the City's RFP. And to a person, no one had knowledge. I went back through our notations, and identified how we came up with our bid, our hours, that's our inventory, how we price that, and how we arrived at our ultimate pricing that we submitted. What's interesting is, when you have two good competing firms, or more, you typically end up at the same relative price. That's not unusual. In fact them being, Macias being a very worthy competitor, by and large, a decision relative to hiring our firm over there is typically a cost issue. And it's usually neck and neck. In fact, when I look at the analysis that was done for the city mas it relates to the auditors that did respond to the proposal for audits of the city, and again, I don't have information of how that was broken down by the individual department, it appears to me based on the percentage rankings, prices are pretty consistent across the board. So, one, we had no knowledge nor did we act on that knowledge. We priced it according to what we thought was a reasonable fee and that's exactly what was submitted.

>> Chair I'd also like to add that none of the information that I received as participating in the RFP for the City's external auditor was shared for the RFP for the plan. I took that direction and purchasing guidelines very seriously and kept all the information confidential.

>> Scott Johnson: So can I pose the question again?

>> David Bacigalupi: Sure.

>> Scott Johnson: When did we receive the proposal? That's not in the packet. The proposal's not in the packet.

>> When did we receive the proposal from Brown Armstrong?

>> Scott Johnson: Right.

>> I believe our proposal due date was on a Monday.

>> Scott Johnson: The 26th?

>> I'd have to refer back to the RFP, I'm sorry just one moment.

>> Scott Johnson: So Veronica, you received it on the date it was due?

>> Yes, thank you.

>> Scott Johnson: I believe it was April 26th.

>> It was April 26th.

>> April 26th is when we received confirmation that the Department of Retirement Services had received our proposal.

>> I believe that was a 5:00 deadline.

>> Scott Johnson: And Ms. Erickson's memo was issued on April 20th. And I respect what you're saying, however. It does concern me that information was out there in the public in regards to -- relating to pricing. This -- my uncomfortableness with this is this is just very messy that we have two competing RFPs. I'm just really unclear how we are going to deal with two different auditors, auditing the retirement department, one for federated, and another for Police and Fire. I think that's a real burden on the staff that they're going to be getting all this different requests from two different auditors. It seems more prudent that maybe we would have one auditor that would audit both plans as we have done in the past.

>> If I could just respond to that, both the plan and this system have this issue with separate actuaries, which staff has addressed with separate custodian banks, with separate investment consultants. So the plan and the system having different consultants that they engage is nothing new to retirement services. Yes, I recognize that it will be a lot of up-front setup as it is whenever we have two different competing consultants for the police and fire plan and the federated plan. But at times, it also can be useful because we have two comparisons that we can look at, and really derive the best pieces from both. So this is -- while it will be additional work, this is nothing that is new to retirement services as far as having to accommodate the Police and Fire plan and the federated city employees.

>> And Scott, if I could just correct the time line a little bit, you indicated that the City Auditor's memo was out on April 20th. I'm looking at a copy of it and it says April 26th.

>> Scott Johnson: The council memo was an 20th. And there is a reference to the cost related to all the different audits. The other -- I was wondering if we can have Ms. Erickson discuss her recommendations.

>> David Bacigalupi: I was going to call her to the podium once you had all your questions. I want to give you a chance to --

>> Scott Johnson: Okay.

>> David Bacigalupi: Go ahead, Rose.

>> Rose Herrera: I wasn't here last month for the meeting. My question I guess is, can someone clarify for me under what authority did the board go out and seek this RFP for an audit from the Police and Fire retirement system?

>> So we had the discussion at last month's meeting and I do recall that there was no action by the board. Because it wasn't agendized for action. And so I recall giving the board the Brown Act advice that they could -- they could express their opinions but they couldn't actually make a motion or direct the secretary to issue an RFP. The board has the authority to hire the auditor under its contracting authority and under the California pension protection act. There isn't anything to preclude the secretary from issuing an RFP. That's an administrative function. The secretary doesn't need board authority or board -- doesn't need board direction to issue an RFP. What the -- but now, now, now the time comes for the board to do what it needs to do which is decide whether or not to go with the auditor that has been solicited through the City's RFP process or the auditor that has been solicited through board's process. And the board is free to do either one of those things. And it will be in your discretion to do that.

>> And if I could just address the board's discussion at that meeting. It was clear to me that a majority of the members present at that meeting were in favor of proceeding with the RFP and proceeding to determine whether an independent auditor for the board was the right course. But it was very clear to me that a majority of the membership present was of that opinion.

>> David Bacigalupi: And that was true even though there was no action taken, the fact that I didn't believe at that time that we needed to have a board motion to go ahead and issue the RFP. And then unless there's other questions I'd also like to give Sharon a chance to talk here too.

>> Rose Herrera: I wanted to -- thank you, Molly, I was just concerned about issuance of the RFP and I think you made it clear there was no problem with staff doing that so that was my question.

>> David Bacigalupi: Thank you.

>> Sharon Erickson: Sharon Erickson City Auditor. I want to comment on the two issue and thank you for having the two agenda items heard together. First, I wanted to correct some misinterpretations that were in the staff memo in your packet for item number 13. And I'd like to kind of step through those piece by piece. Staff there is talking about current practice, across the state, in using whether or not entities are using the same auditor, to audit both the plan sponsor and the plan. To my knowledge, only one jurisdiction in the state does not allow firms to bid on both sides of the audit. That's L.A. county. So it's current practice, perhaps, but I'd like to make an argument that it's not necessarily best practice. The argument around the best brackets also centers around financial interest and whether or not an audit firm derives a financial interest in the plan sponsor simply by being the auditor. This is a question of independence. There is no financial interest when an audit firm is conducting an audit in accordance with independent standards of one entity or the other. I would like to also point out, there's comments in this memo -- I'm on page 3 -- regarding attest and nonattest functions or audit services. Again, I would assert that that's a misinterpretation. In your case I think the simple example is an attest service is an audit of the CAFR. It's an audit of the financial statement. A nonattest service could be having an audit firm come in to review FLSA calculations, which is one thing that's currently being done. Having an audit firm do two separate audits in your entity or across entities does not constitute a conflict of interest or it doesn't constitute any kind of -- they don't derive a financial interest in either the plan or the city on that basis. Typically financial interest concerns ownership. Or it may involve some kind of nonaudit service. So if you were paying a firm, an audit firm to both audit and provide some kind of management services, that could constitute a conflict. That's one reason why, in my office, we stay strictly with auditing. We won't -- I won't allow my staff to be involved in the management or day-to-day operations of any of the City's functions. Third, on page 4, the staff memo talks about these policies and procedures must encourage an open process, free of actual or perceived bias and conflicts of interest. That is precisely why the San José city charter establishes the independent City Auditor that causes these financial audits to happen. The City Auditor, not the finance director, not the redevelopment director, or the retirement director, contracts for the annual postaudits of the city. And I brought along my copy of the city charter to outline there. This is section 805 of the city charter which establishes the office of the City Auditor. In there it says, the City Auditor shall have the following powers and duties: It doesn't say may, it says shall. It's not a function I particularly like, but it is a function that I have. Says the City Auditor shall conduct or cause to be conducted annual postaudits of all the scam transaction and accounts kept by or for the city, such audits shall include but not be limited to the examination and analysis of fiscal procedures and the examination, checking and verification of accounts and expenditures. The audits shall be conducted in accordance with generally accepted auditing standards and accordingly shall include tests of the accounting records and other auditing procedures as may be considered necessary under the circumstances. The audit shall include the issuance of suitable reports of examination so the council and the public will be informed as the adequacy of the financial statements of the city. The legal foundation for the boards to conduct their own audit is tagged on to plenary authority. I would just assert that the retirement fund is a trust fund of the city. Under the city charter that's the City Auditor who is responsible for the annual postaudit. You are responsible for the management of the assets, the delivery of the benefits, an incredible burden but under the city charter, the City Auditor is responsible for the annual financial audit. Finally, the memo does address the issue of rotation. This is because Macias, Gini & O'Connell have been the city's auditor for nine years, I did want to point out that -- and I did include this in my memo -- that auditor rotation should -- has been codified as audit partner rotation. This should not be confused with audit firm rotation. And I cited sources on that. I think that -- well, let me also say that I do not question the credentials of Brown Armstrong. They are a highly reputable firm and discussing this with the audit firm of Macias, they agreed

that they are their closest competitors, and there is a great mutual respect between the two firms. And I would hope that any discussion at this board meeting is not a question of the credentials of any one of these firms. I see this as a argument if you will between the city entity and not between either of these firms. The question -- I did just in summary, on item number 13, I just wanted to take strong exception to the characterization of auditor independence that was raised in that staff memo. I did need to go on the public record with that. I do also want to make it clear that in asserting that my charter authority to do the annual postaudit, I do not in any way mean to indicate that the board doesn't have the authority to hire audit firms, the board may choose audit firms to do any number -- the same thing I mentioned last month -- any number of other functions, or the board could choose to hire an audit firm to review the work of the firm that the city is using as a citywide entity. I object to the indication that the board could substitute for the City Auditor's responsibility under the charter. Then if I could, I wanted to comment a little bit -- I'm sorry to go on so long, but as you can tell I feel strongly about this issue. On item number 14 which was the item I asked to be placed on the agenda, I've already read to you section 805 of the charter and the reason why I issued this request for proposals. Section 805 again establishes that the independent office of the City Auditor, not the City Manager, not the finance director, does the request for proposals, and either contracts or does the annual postaudit. It does not specify that I'm the only party who can do any other audit function in the city. With input from various departments, though, I put together the RFP for external audit services. I take my responsibility very seriously, to make sure that both plans, that both of the retirement plans, the redevelopment agency, the clean water financing authority and the city as an entity of itself, that those entities, in terms of the citywide function, so I'm using the word citywide different than city. So those functions that are not necessarily under authority of the City Manager, my responsibility is that the annual postaudit is conducted of all those entities. I am requesting, I am recommending that Macias, Gini & O'Connell be approved, that contracts be approved for them. Let me say a bit about MGO. MGO is an experienced government audit firm. In addition to being San José's auditor and the plan's auditor for the past of ten years MGO is the principal auditor for some of the largest cities in California and some of the largest public employee retirement systems in the state including Cal PERS and Calsters as well as retirement systems in Oakland, Sacramento, Sacramento County, San Diego, where they do both sides, and San Francisco. MGO has assigned a new engagement partner, Richard Green, to the retirement engagements. Mr. Green serves as MGO's engagement partner at Cal PERS, CalSters, and San Francisco City and County Employees' retirement system. The intent of the consolidated RFP process was for all the City's entities to have improved timeliness, increased efficiency and better pricing. MGO was recommended after a fair, open, and competitive process. That process and the scoring methodology we used in the cross departmental evaluation team is included and attached in the memo that I wrote to the city council. I have already talked about auditor rotation. I just wanted, again, to take strong exception to staff's characterization of auditor independence that were raised in the staff memo. There are extensive requirements for auditor independence and auditor quality that are covered in a variety of auditing standards. Conducting more than one audit within an organization or group of organizations again does not constitute an impairment of independence and does not create a direct and material financial interest in the plan, as was argued in the staff memo. This is misinterpretation of independence standards by which my profession lives and dies. As your independent City Auditor and in accordance with my charter-mandated responsibilities, and after a fair and open and competitive process, I continue to recommend that you authorize the secretary of the board to execute the agreement with Macias, Gini & O'Connell. Happy to answer any questions.

>> David Bacigalupi: Thank you Sharon. I'd just like to start off with, I hope -- and I'm sure the rest of the board feels the same -- there was no reflection against you, your staff, or your recommendations to this board. And in fact as I recall, some of the discussions that I stated from the chair was that no way was this board thinking of, trying to, you know, interfere with your process as you're charged with, as the City's auditor. It was my thoughts listening to staff recommendations that if we're going to pay for an audit that it was only more exposure, more you know out in the open having you know you doing your process and the board having its auditor to audit itself. So I hope that there was no reflection upon you or your staff of trying -- or trying any try -- attempt on our part to interfere with your process. And I said that last month, as well. It's just that if this board, my opinion, alone, if this board was going to pay for auditing process of our fund, it couldn't hurt, I mean there is some duplication. But when you're talking about, you know, the inspection and the auditing process and the reporting back I didn't see that as a negative thing. I hope I didn't give you that impression that there was any reflection in any of my comments as to you.

>> Sharon Erickson: Number 1, no offense taken. Number 2 I think I may not have been as clear as I could be about the charter authority here. So that's the point that I'm trying to make today. This is -- this is a question of the city charter, in my opinion.

>> David Bacigalupi: We, if I understand it correctly, no matter what this board decides you are charged with and will do the auditing process that you're charged with by the council.

>> Sharon Erickson: And I would argue that there is no percentage in us duplicating the effort. I have to proceed. I would strongly argue that the board should not spend money to duplicate that effort.

>> David Bacigalupi: Okay, thank you. Questions by the board? Russ.

>> The board members first.

>> Okay, I have a request to speak but I know --

>> David Bacigalupi: Go ahead, Scott.

>> Scott Johnson: I just want to thank Ms. Erickson for her comments. I -- just putting on my city finance director hat, I very, very much appreciate having the city independent auditor conducting the RFP process for the audit of the city and its related entities. I will say, for the record, it would not be appropriate for the City's finance director to issue an RFP and to conduct, have staff in the finance department, conduct an evaluation and decide who is going to audit our work. We're doing the work. It would not be appropriate that we select who is going to audit our own work. That, to me, is a conflict in itself. So I very much, I always tell our City Auditor, I've been here for nine years. There's a multibillion dollar organization. As finance director, I have very broad fiscal responsibilities that I take very seriously, and I very, very much appreciate having the independent auditor involved in that process and having independent audits conducted, even those audits that are conducted, issues that come forward to this board, even though there are recommendations and room for improvement, it is very important that we have someone that's independent, that's looking over our shoulders and making recommendations and making suggestions on how we can improve our work. I can't stress that enough. You know, the city, how -- we have a $6 billion debt program. We issue debt, we're in the market every day. Our investors rely on our financial statements, our disclosures. We need to make sure that they're independent. We need to make sure that someone selected those auditors independent of the City's finance director and the finance staff. So I really appreciate the comments. And I encourage the board to respect the City Auditor's responsibilities, in accordance with the charter. I feel very strongly about that, that it's very important to have that independent process. Ms. Erickson had a cross-departmental team, our retirement staff were involved in that, their credentials that were cited, the proposal that the city received from the recommended auditor, Macias, Gini, the rotation of auditors is very high standards. And I think we need to maintain the independence in accordance with the charter. So I really recommend that this board please take Ms. Erickson's comments to heart.

>> David Bacigalupi: Thank you, Scott. Rose.

>> Rose Herrera: Thank you. I'm concerned about duplication of effort. I want to understand if the board were to proceed with the recommendation of hiring another auditor, and then the City Auditor's now outlines her responsibilities under the charter. I'm concerned about duplication that would be there and the cost that would accrue therein. We're certainly in a situation that we're all well aware that we need to be mindful of, of costs, especially in this situation with deficits on all sides. So I'm very concerned about that. I'm also -- reading the minutes back from the last meeting, it sounded like one of the concerns, and I think secretary Crosby indicated, and just reading the minutes here, there was concern, having the same auditor for the trust fund as the sponsor, that that was unusual. And I think it's been pointed out by everyone, including the proposed -- the Brown and Armstrong representative, that that's not unusual. It seems like that was one of the impetus for going out for an RFP from this board in the first place. So I'm concerned why we went out for it. I'm concerned that it seems that it's -- I'm willing to believe that both firms are qualified. We've heard the Brown Armstrong firm saying that, we're not talking about a firm that isn't -- that couldn't do the work. I'm just concerned with why we're going out for one in terms of an RFP, and the reasons why we'd be doing that and not pursuing what we have been doing which is

utilizing the auditor, the auditors's recommendation. So I've asked several different questions, I would like to get the answers to those questions starting with the duplication.

>> Perhaps Mr. Pauldon could describe situations where you work where you're representing the trust fund or working for the trust fund and there's a different auditor working for the plan sponsor.

>> Rose Herrera: Okay, but I also want my other -- first question answered, which was the duplication.

>> Well, this will get to that question.

>> Rose Herrera: Well, I just want to hear that from the City's Auditor again.

>> I agree if you do engage two firms to conduct the same audit, it will be duplication of effort, no question about it. In regards to these situations where we have been the auditor of the plan, and not the auditor of the plan sponsor and vice versa, we have been able to work very closely with the audit firm on the other side of the aisle if you will in coordinating the audit effort with the end result being issuing timely accurate financial statements. So that has not been problematic. You had a couple of other questions in there that I wanted to make sure I addressed.

>> Rose Herrera: I want to go back to your earlier comments when you were first were talking, and saying that you did not think that it was a problem for both the auditor to represent the plan sponsor and the plan. Because I'm more concerned with why we went out on that RFP in the first place and that seems to be one of the primary impetus to go out. You did say that in your opening comments.

>> Yes, I addressed the independence issue. I agree that there is not, in fact, a lack of independence, when an audit firms serves in the capacity of the auditor of the plan sponsor and/or the plan itself. That is factual and I will agree with that, with that statement. Our firm does the same thing. The question then gets into appearance. And again, I don't think there is a lack of independence, just because of the fact that it is the same firm. But if there is a situation that arises, whether it's litigation, whether it's negotiations, whether it's the simple matter of discounting the contribution that you discussed previously, if there's a disagreement there, then the appearance, and ultimately some factual independence issues could arise, but just entering into an agreement to engage the same firm does not in and of itself impair independence in fact or appearance. So that quite frankly is a nonissue. You did mention that the best practices or best practices have been discussed, and there is no requirement that I'm aware of in the arena that we were discussing, that there be a segregation between the two firms. But you will see that, and I think your staff analysis reflects this, that the majority of the plans that are engaging independent auditors use a plan auditor -- a plan auditor different than the plan sponsored. I think that is practice. Whether it's required or not is not an issue, because I don't believe there is a requirement. Sarbanes is really -- Sarbanes-related entities are the ones that really have to deal with this independence issue. That's not an issue for these types of organizations. But the majority of the firms are plans that we audit, as well as our knowledge throughout the state, there are differences in the sponsor's and -- auditor and the plan's auditors.

>> Rose Herrera: Okay, I'd also like to hear from the City Auditor about the question regarding.

>> We need two microphones up there.

>> Sharon Erickson: Yes, under the charter, I don't have an option. I have to proceed with the audit. So if the board chooses to do a separate audit, that is duplication of effort. I started to do a memo, it says shall, I don't have a choice to not comply with certain provisions of the city charter. I have to proceed with the audit. If you engage a separate auditor to review the work it's potential that you could get it from them for cheaper. Or there is plenty of other work, as we have all discussed in the retirement system. But I have to proceed with this audit. I don't have a choice.

>> Rose Herrera: Under the city charter if the board chose to hire this other auditing firm would there be some ability for you to work with them or reduce your scope under the city charter?

>> Sharon Erickson: I believe it would be for the retirement system to reduce its scope. I don't believe I can reduce my scope.

>> Rose Herrera: And can you comment on the previous speaker's assertion, that most -- if I'm saying this wrong, correct me, that in other situations it's common practice to have a separate auditing firm from the plan, a different one from the plan sponsor?

>> Sharon Erickson: Retirement staff has provided a survey that they did. I think there are reasons why a number of entities would choose to separate agreements. The City of San José on a citywide basis not just the city itself, but the redevelopment agency, the clean water financing authority, the airport, the retirement system, are so big that we have, for the last -- as I understand it, for 25 years at least, we have been doing one firm to make sure that we have, on a citywide basis, an accurate picture for taxpayers of where all the finances lie. And that has worked out in our experience to having one audit firm do that. Prior to Macias, Gini & O'Connell it was KPMG.

>> Rose Herrera: I guess the last question for now, is what problem has come to bear that is causing us to seek this additional audit and being directed by our retirement board, in other words, the previous speaker was talking about possible kinds of conflicts or things that could arise? What has arisen in you know with our current auditing firm that would cause us to go and seek out this RFP?

>> My understanding is that there was an issue a few years back before I joined, regarding the implementation of GASB 43 and 45. There were some -- there were various actuaries involved and there were some conflicting interpretations on the, I believe discount or implicit subsidy portion that had to be -- there was portion of it where the city had one approach and the plan had another approach. And they were conflicting. And I believe ultimately it was the argument that was brought forward by the plan that went forward. So it -- I think it's just the idea that there are these issues that come up, and the plan is really -- you know, everything that Mr. Paulden was speaking to as far as prefunding, you know, the portion of maybe you know different discount rates, the -- all these bargaining pieces that are coming forward, there is just the potential for these pieces and to be prepared for those pieces it would just seem a good approach to actually already have the independence and appearance and in fact by having two separate auditors. I hope I've answered your questions.

>> David Bacigalupi: Rose, are you okay? Scott.

>> Scott Johnson: Could I just ask a follow-up question on that? Because in my, gosh, 30 years of experience being prior -- my former life as a CPA actually auditing government entities and private corporations and doing a lot of work in that area before I came into the government sector 20 years ago, there is always going to be disagreements between the auditors and the client. And usually you try to work those out. The auditor has a professional standard responsibility when there are disagreements with the management, that they report those to the board. I'm not aware of any disagreements. So to Veronica's point, while there may be disagreements, you want, this board wants the auditor to question things, you want to do that. Believe me. And sometimes the auditors, and the -- whoever, the company or the government entity that's being audited, they may come to an agreement, and other times they may have to go to the board, and they may have to disclose disagreements. But when there's disagreements there's no -- in how you're implementing an accounting standard, or accounting pronouncements, I mean, we have multiple accounting pronouncements every year that we have to implement. And so a lot of time -- we have a lot of discussion with our auditors how to do that and our interpretations on how to do it. So I don't think that's a reason to select an alternative auditor, when you have disagreements. We definitely want to make sure that our auditors are out there without question. I don't know if Rose was done, because I have a few follow-up questions.

>> Rose Herrera: I just want to say that I will not be supporting the board's hiring of a different auditor. I will not be supporting that.

>> David Bacigalupi: Okay, Scott.

>> Scott Johnson: Can I just ask a couple of follow-up questions, just some housecleaning. In the staff report, the staff's report to the audit RFP process, there is a mention that there were -- there's an indication that four firms

indicated an intent to submit proposals but only one firm met the guidelines. Did staff follow up why the other firms did not send the proposals?

>> I don't believe so.

>> Scott Johnson: Okay, because that's usually something we want to do, to follow up and ask why you had an interest in it, was there a reason why you didn't submit a proposal. So we only received one proposal, staff only received one proposal through this process by the deadline. And it is my understanding looking at the staff report, so the RFP was out for ten days so there wasn't a lot of time for audit firms to respond. I think the City Auditor had the RFP out on the street I think for 21 days, I think it was from the 8th to the 29th and there were hundreds of folks that had some level of interest. There were over six proposals I guess. The other thing I was wondering, Mr. Pauldon, did you happen to submit a proposal for the citywide audits under the City Auditor's RFP process?

>> We were involved initially. We received the RFP through bidsync. Went through the initial queries and decided that the audit of the city of San José in its entirety with the component units as well was not a good business fit for us, and so we declined to bid.

>> Scott Johnson: So it's not a matter of size or anything like that, because here again we're very interested in having qualified, credible auditing firms audit the city and our related entities. So we really appreciate getting -- well, we had six competitive bids I believe through our citywide process. Last time we went out to do an RFP process we only received one proposal. So it was great, the citywide effort in that regard. But I was just wondering if you were -- why you may not have proposed on the citywide audit services.

>> Yes, it was not size -- we audit certainly some very large entities as well. But it was -- it would not be a good fit from a timing perspective and commitment of man hours based on other commitments we had already made. So yes, we could handle the size of the engagement, all things being equal but we did not have the resources to provide to conduct the entire engagement in a professional manner.

>> Scott Johnson: Okay, thank you. So I -- here again I cannot support staff's recommendation to move forward. And I'd like to make a motion that the board accept our City Auditor's recommendation to move forward with the audit by Macias, Gini & O'Connell.

>> Rose Herrera: Second.

>> David Bacigalupi: Okay I have a motion and second. Further discussion on the motion, Russ, I had your light on.

>> Right. I don't want to address any much the policy issues, and I'm sure you don't want me to address them, either. Just addressing the limited issue of the charter. I think it's clear from reading of the California pension protection act that the act is -- it supersedes the constitutional provision concerning home rule, concerning home rule in charter cities, therefore it supersedes the charter of the City of San José. But you just don't have to rely on my opinion on that matter, the attorney general has issued a relatively recent opinion on that same precise constitutional issue. So we're left with the situation where the California pension protection act accords this board plenary authority over the administration of the plan. And then if we look at part of the plan, section 3.36.385A2, there is a specific delegation in the municipal code to this board for contract for auditing services. So it is clear as a bell that your ability to contract for auditing services is part of the plan. Now, notice of course, the city council apparently agrees with that because they enacted this ordinance, and presumably there was a City Auditor in place at the time the city council adopted this ordinance and that City Auditor apparently raised no charter objections. But even if charter objections were raised, I think the constitutional provision is rather clear. So I don't think there is a charter issue. You still may certainly think there is policy rationale in favor of the recommendation of the City Auditor, and those I certainly don't mean to address. But I would at least advise you against thinking that there's a charter dilemma here. Because there is not. As a matter of fact, the board might want to consider suggesting to the City Auditor that the City Auditor actually coordinate with the city attorney's office, to see if there's a way to harmonize the charter provision and this board's decision, if this board actually decides to retain Brown Armstrong. That obviously would be an issue that the City Auditor would just have to decide for herself. But there maybe ways to harmonize these rival commands, so that if the board, I'm thought saying the board should

or would, decide to retain Brown Armstrong but if the board decides to do that, there may be a way to harmonize the two auditing firms so that there is not a duplication of services. But obviously ultimately that's a call for the City Auditor and I don't mean to imply anything else.

>> David Bacigalupi: Scott.

>> I'd like to address the charter issue for a moment because we have addressed the charter issue with the City Auditor. I do not agree that the pension protection act supersedes the charter with respect to the City Auditor's function. The City Auditor's function under the city charter doesn't interfere with what this board will or will not do. The City Auditor as she said will proceed. It's a requirement. Under the city charter, she will proceed with her audit. It is -- it is the annual postaudit of all the fiscal transactions and accounts held or kept by the city. She will do that. What she needs to do that and the extent of work that she needs to devote to that, if the board decides to proceed with its own audit of the little financial -- of the smaller retirement piece, that will be up to the City Auditor. That is delegated to her, under the charter, to do that audit or cause that audit to be performed. So I don't see there being any conflict between the charter and the pension protection act. Mr. Ricada is correct, that the board has authority to secure auditing services in the plan document. So you have the authority also to secure auditing service. You both have -- you have the authority to secure the auditing services. You can secure the audit through the City Auditor's office, you can secure the audit through Brown accountancy corporation as recommended by staff. There may or may not be duplication of effort. I think the auditor's kind are probably better to speak to that than the attorneys if there is duplication of effort if you have these two audits going on side by side.

>> Thanks, Molly. I don't want to get into an argument the pension protection act versus the city charter. I think I stated that last month. This month in no way would impede what your office, Sharon's office, the audit she conducts. I can't support this motion because I believe in the staff recommendation, there may be some duplication of effort here but I think when it comes to look at ourselves having two different groups, I just don't see that as being a bad thing and I think we should be open to that inspection. So in my mind I'm not supporting the motion but it has nothing to do with the power or the one prop 162 versus the city charter. It has to do with the more eyes looking, the better. Even if there is some duplication, I just see it as better. So I -- you know, I support the staff recommendation. I have Scott next.

>> Scott Johnson: Thank you, Mr. Chair. I was just going to make a clarification. So I think what the City Auditor was saying, that she shall cause the audits to be conducted and I would agree, just like this board has the contracting authority, the City Auditor facilitates the process to get an auditor, make a recommendation, and then this board has the contract authority. So I don't think anyone's disputing whether or not the board has the right and the authority to contract with the independent auditing firm. Just like the city council, they have the contracting authority, but it is the City Auditor that shall cause the process and bring a recommendation forward.

>> David Bacigalupi: Okay, Rose.

>> Rose Herrera: Thank you. I'm certainly not disputing the authority this board has to go hire an auditor. I think the question is what kind of decision are we going to make? I think we need to make the right decision in terms of making sure the auditing is done. I think the City Auditor is going to proceed under the charter to do her -- to conduct her responsibilities. What I'm still not clear of is why we are doing this, why we are going out for another auditor. I subscribe to if it ain't broke don't fix it policy. I don't think the policy we have now is broken. I haven't heard anything really brought to bear here that suggests that there was huge problems with the way that we are doing it now, the process we are doing it now. In fact on the contrary, hard questions being asked, as board member Johnson mentioned, I think is really good. Because that means that the hard questions are being asked. So that actually makes me support going with the recommendation of the City Auditor. Also, I think just in terms of, again I'm referring back to the minutes, the questions that were asked about the concern that the City Auditor works for the city, I think is really showing not quite understanding of the independence of our City Auditor. And the fact that this office, the work that they do throughout the extensive departments in the city, and how independent of function that they have. So I think there's a little bit of misunderstanding there. I'm not really comfortable with the way the bid was done, and the fact that the information was made public. Not that I'm casting any aspersions on the bidder in this case, but the fact that we only had one bidder, the fact that it was such a short-term process, the fact that the board didn't really weigh on it, even though obviously we didn't have

to have a vote on it. All of those things call into question why we are rushing to go and get another auditor to take the place of our current one, and for all those reasons I'm supporting the motion.

>> David Bacigalupi: Thank you, Rose. Okay, any further discussion on the motion? We have a motion to adopt item number 14 and a second. I hear no further discussion. So at this time, I'll call for a vote. All in favor of the motion? All opposed? No? The motion fails. I'll entertain another motion. Is there another motion to be made?

>> I'll make a motion to accept item number 13.

>> David Bacigalupi: Okay, I have a motion, do I have a second? I have a motion and second to accept item number 13, that is the audit firm, basically the difference of the two audit firms for, what's the name them again here? Brown Armstrong, okay? Discussion on this motion? Scott.

>> Scott Johnson: Thank you, Mr. Chair. If this motion is approved, I just want to understand how we're going to go about doing this. So the City Auditor's going to go forward and have the audit done so MGO's going to come in and do the audit for this plan, as well as Brown Armstrong. So when I put together our comprehensive annual financial report, the citywide version, just wonder what numbers I'd be using and who opinions I'd be using if they're different. Well, the opinions if there's two auditors, I have to include now two opinions for one plan, very confusing for the public and for the investment community out there. And if there is any difference in numbers, I'm not real clear what numbers I'm supposed to include in our comprehensive annual financial report. So if MGO is doing the separate comprehensive annual financial report for the retirement plan, and then Brown and Armstrong is doing a separate comprehensive annual financial report for the retirement plan, so you have two separate CAFRs for the plan, and you potentially have different opinions and different numbers for the audit. So this is going to -- this would be extremely confusing for the public. I think it's the wrong direction to go.

>> David Bacigalupi: Well, the only thing I can say, as far as my thoughts on this, and I'm not an accountant, I'm not an auditor. But if I had two auditors with different opinions all using the same auditing standards, to me that would be enlightenment and that is the whole purpose of this. And that at some point there has to be a resolution working with staff, why is firm A coming up with some numbers and firm B coming up with some numbers and thank you for enlightening me now let's find out why and correct, I mean, numbers are numbers. They should match. So it would seem to me that that would be up to our staffer to work with the auditors to get you know one set of numbers out of it. So there shouldn't be that confusion. But it would be really enlightening if there was because my first question is why? You know, who got it right? Who got it wrong? Did they both get it wrong, both get it right? As long as -- if I understand services, standards and practices and all that, there shouldn't be. I mean that's just one opinion.

>> Scott Johnson: It's all, you know, auditors, it's -- it's an art, it's not a science. And you're paying them for an opinion, right? And so as Veronica mentioned sometimes there's different interpretations on how we apply the accounting standards, how you account for something. So what I'm saying is, there is a potential for different numbers to be issued. I'm not sure at this point if that were to occur how I would have to address it. But I'd have to defer to our auditors on that.

>> David Bacigalupi: I would think both Sharon's office and our staff would want to know why there's different numbers. And if there weren't, then after experimenting with this, we would know that, is this the way to go? And maybe next year, we'd want to do it differently.

>> Scott Johnson: So Mr. Chair then are we envisioning that both Brown Armstrong accountancy operation and MGO would be coordinated through our City Auditor's office, to make sure that we have that independence, to make sure that we have that coordination, so we have someone outside of the retirement staff that is looking at this with the auditor? Because that's the reason why we have this charter provision for an independent auditor, that we have someone outside of our departments working with the auditors to work out any differences. So it's really important, because I understand that Macias, Gini & O'Connell would be working with our internal auditor. But would Brown Armstrong also be coordinating with our internal auditor?

>> David Bacigalupi: I'd have to refer to staff how that works. But it seems like you know any independent auditor for the retirement plan and staff member would not be able to interfere with any process that Sharon's

office is doing. Because that's what makes her an audit. I mean, that's you know to make sure that that's -- the staff members are doing what they're supposed to be doing and that the numbers are what they're supposed to be. So I mean, I don't see how this is going to interfere with the City Auditor's office as all.

>> Scott Johnson: I'm not asking about interference. I'm asking about coordination.

>> If I could maybe just answer, address this one. Sharon, in the last meeting with the Police and Fire asked that any issues that arise between the plan and the city be brought to her attention, that she would be very interested in this type of information, and that is completely retirement services staff's intent to communicate any issues that do arise such as if the two different firms came up with different opinions or approaches or applications. Those would all be directed to the board and also to Ms. Erickson's office.

>> David Bacigalupi: Okay.

>> Sharon Erickson: Well let me just say from a practical standpoint the coordination will happen. So we will have to coordinate, and that's why I object so strongly to hiring a second set of auditors. It makes more work for your staff. It makes more work for me and my staff, to have to coordinate these kind of efforts. The duplication is not just the duplication in the audit dollars. It's in staff time.

>> David Bacigalupi: Thank you, Sharon. Keith.

>> Keith Keesling: This is a difficult issue I guess I would see from sitting here as a trustee. As I look through the eyes of a trustee and I hear the reports, if I was the City Auditor in charge of auditing the entire city I could see where that would be difficult. It would be easier to do the whole thing myself. If I were in member Johnson's position to have to report to two people I could see that would be difficult. But I'm looking at it through the eyes of a trustee. I'm looking at the experience of member Johnson, I was a trustee for the local 230 for a decade. And what I would tell our internal auditors, your job as a person who looked over the treasurer was to ask questions, and the more questions you asked, the better. The better for our organization. And I reflect that, that seems to be as I sit here as a trustee for this, the Police and Fire retirement, I have to bring that forward and say, yeah, that is beneficial. Like you said, Mr. Chair, that is if they come up with two different views of the same thing, I want that information. Are I want to know that. And I believe we'll work it out. That it's more work for those involved I apologize for the more work. But it's important for me as a trustee that any issues be brought to light and we can address them. So again, I'm, you know, even considering asking more further report from staff. But at this point I'm kind of leaning into supporting this for the reason of, more information, although more work, is better for us as trustees to make decisions and to lead this retirement plan to a successful future.

>> David Bacigalupi: Thank you Keith. Scott.

>> Scott Johnson: Okay, I'm just trying to sort this out. So the cost related to both of the audits, you know, because they -- we have two auditors now auditing this plan, I would presume that this plan is going to pay for both of those costs. And, you know, I've said many, many times, I'm very interested in other eyes looking over our shoulders. But at a time when we're looking at over 1200 employees throughout our organization, being impacted because of the budget situation that we're in, it just doesn't seem appropriate that we're spending extra money of something that, you know, we're hiring an external auditor, we have an internal auditor also doing work. So I'm just concerned about us, you know, our prudence.

>> David Bacigalupi: Scott just for clarification my understanding is the opposite. That this fund is going to pay for an audit. And we're going to pay for an audit, whichever auditor we choose. Sharon has charged, her office is charged with doing an audit of a trust fund of the city, that being us. And we are not paying for the auditor that she selects to do that. That we're only paying for the one that we're doing. That's my understanding, and staff, I'll -- you know if I'm understanding that incorrectly, talk to me. Okay. We could pay for both if we wanted to. I don't know why we would. Rose.

>> Rose Herrera: I won't be supporting the motion. And I'm concerned about the additional cost, not just in terms of the audit, but the cost of additional staff time on both staff. That is money. And in terms of more information and more eyes it's been suggested that the more information, the better. Information costs and you have to do it. We

should be thinking of a cost benefit analysis for more information. I go back to what is the problem we're trying to solve? I don't see this is a huge problem the way we are doing this. I do sit here as a councilmember for the City of San José but today I am a trustee for this board. And if I saw a problem, if a problem was being brought forward here that suggested that we -- this auditing that we have been doing in the past was not working then I would be very supportive of us going out independently but it simply has not -- that case has not been proven to me and I believe in terms of a cost benefit analysis we are throwing more money after that when we should not be doing that. It is not the responsible thing to do. I would like to know at some point what are the additional costs we are incurring for that so the public will know how we are spending our money, their money.

>> David Bacigalupi: Russ, did you have something? Scott.

>> Scott Johnson: I just want to go on record obviously I don't support this motion. I'm concerned about, other than all the other issues we talked about I'm really concerned about the process that this RFP went through. As a trustee, I'm concerned that staff went about issuing an RFP, that the time line was too short, that staff selected what auditor would be selected, that there was only one firm that even proposed. If we were really serious about this, I think we should have this RFP out on the street longer to allow more firms to propose to be more competitive. I'm concerned about the transparency in regards to this RFP process and likewise obviously concerned about the cost now that that's been clarified, what the intent of this board is if this moves forward, that the city would also have additional cost related to auditing this plan, which this plan will benefit, because here again, as I've heard, more eyes will be looking at the fiscal activities related to this plan. So I cannot support this motion.

>> David Bacigalupi: Okay, thank you Scott. Keith.

>> Keith Keesling: Well, I'd like member Johnson's concerns addressed by maybe the City Attorney as to procedurally, were we -- did we operate within city procedure for this?

>> For -- for?

>> For the RFP?

>> For the RFP? I believe ten days is the minimum amount of time under the procurement guidelines for an RFP to be procured. It is not common to have an RFP for the identical services out on the street after you've already received bids on an RFP for those services. I don't think that that is directly addressed in the procurement guidelines, that I don't know of any other cases where that's been done. Frequently, you will have a situation where you'll do an RFP, you'll get the proposals in and they'll be rejected and you'll go out again. And in those circumstances the prices will be known, too. So that's not -- that does happen, sometimes. If proposals are rejected and you go out again. So I don't know if that helps. It's the minimum amount of time. It is -- staff issues RFPs on the city side without council direction for these kind of services. It is, you know, obviously it's not desired to get only one proposal.

>> David Bacigalupi: Molly, it seems to me that it was mentioned last month that there was an urgency to securing an auditing service. Despite that I just want to be clear, that Keith's question was answered in that, did this -- did this process -- was this process legal?

>> As -- I don't know everything that occurred internal to this process. But the things that I know, the timing of the process, the ten days, that does not violate the City's procurement guidelines. It does not violate the City's procurement guidelines for the director to have issued the RFP. So I'm not aware of a legal problem with the RFP process. But I don't really think that's the only question. I'm not -- but I'm not aware of a legal problem with the RFP process.

>> David Bacigalupi: Okay, thank you. Scott.

>> Scott Johnson: Yeah, I -- well I'm concerned about the appearance problem. And as I said, so we have retirement staff that selected the auditor that is going to be auditing their work and we're the trustees. So we should have a more transparent and competitive process. We should demand that.

>> David Bacigalupi: Are you suggesting we start all over? So I'm clear what you're asking for?

>> Scott Johnson: Well, I am concerned about the timing. But you know, I don't support the motion. But I am very concerned that you know, I cannot go out and procure audit services for the city. I should not be the one recommending and selecting to the council on who's going to audit the records that I am charged with keeping. You need to have some distance. You need to have that independence. There should have been other people involved in the evaluation process at a minimum. You know the auditors office the finance department to name a couple that could have been involved in that process. I don't know why it was kept with retirement staff. There's that appearance issue I'm really concerned about that.

>> I'll address that, Scott, I was not sure what you were getting at. Yes, yes, the -- in the procurement process you would normally have a panel of people evaluating the responses that you got in and there would normally be people outside the organization that is selecting the contracting -- the contractor. In this case, there was only one proposal submitted so, I mean, that kind of goes back to the timing. But yes, the normal city process would be to have more folks involved in the evaluation.

>> David Bacigalupi: Okay, Rose was next.

>> Scott Johnson: I'm sorry, one more follow -- I apologize for taking so long here but I have so many issues about this process. The other question I had, it's so confusing for the auditing firms for those that are already submitted proposals through the citywide, it's like as Molly pointed out, it's very unusual that we're -- we have competing RFP out there for the same -- for similar services. So we had auditors that submitted a proposal related to auditing this plan. So I'm wondering, I'm concerned that there wasn't any follow-up with the other firms. I'm wondering if any of those were any of the firms that proposed on the citywide you know audit process. And why they didn't propose. They probably felt, well, heck, I already put in a proposal. But then again, their price was already out there, as well. So this process was definitely not transparent.

>> David Bacigalupi: Okay, Rose.

>> Rose Herrera: Yeah, I just want to add my voice in terms of the appearance of this process. So we were just talking about, when we were looking at wanting to go out for supporting the board hiring an auditor that appearances were important, that it wasn't just the letter, it was how this appeared. Yet in our process of going out to seek this bid, we're not, you know, it seems like we're not concerned about the appearance. So I just -- and I know that my board colleagues are very concerned as trustees making sure that we're doing the right thing, that we are -- that we are above all appearances of anything that would not be in the best interest of this board and the fund. So I don't know what we could do to correct this short of going out for another bid. But I just think this process is flawed, deeply flawed in the way that we did this, and only having one bidder come forward, the short time frame as board member Johnson has pointed out, and the fact that our staff is directly involved in securing the bidder, in the bid process for this auditor. I mean could you imagine if it was Scott Johnson sending out for -- putting a bid together and us, the city having ten days and having one bidder respond. If we think about it in that term, comparing it, it would be completely unreasonable. So I'm not sure what the solution is here, but I just think this is not a good way to move forward.

>> David Bacigalupi: Thank you, Rose. Keith.

>> Keith Keesling: It seems to me we've talked about authority. And I guess my summary on authority it seems we do have the authority. As I hear the question of outstanding, are there outstanding issues? I have to respond from my perspective there is an outstanding issue with the audit that's going on. That we've had an FLSA issue reporting from finance to retirement services, extend since the time there was another member who sat here. That issue hasn't been resolved through the auditing service. So I think we have in my mind some performance issues. As I remember at the last meeting I think the staff related a need of urgency to move forward. I would like that issue addressed by Russell or one of your staff, I would like the staff to entertain or review or I would like the suggestion of is it possible to do a rebid. I agree with member Rose about you know perception, perception is important. I don't want this left open, I don't want it unturned. So to that end,.

>> David Bacigalupi: Can you address timing?

>> Well, the timing on this portion would be, to go out for another RFP as Molly mentioned, the minimum posting period is ten days. And then there's the evaluation period for everything to come back. There is definitely the possibility to come out for another RFP however we are entering into May and coming back to this board since they don't meet again in July, it would mean that we'd have the same kind of timing issues we had on this last proposal which is trying to fit a recommendation and an RFQ process between one board meeting and another board meeting. Staff, our apologies if the appearance of the RFP was the way it was. This is not a -- this was a whole new process to look at, this wasn't a standardized every year we go out and do this type of process. As Sharon mentioned, Macias has been the auditor for the last ten years, so the last RFP that was done I believe was about five years ago. So I think a lot of these issues really came up at the last board meeting, and the timing of it unfortunately was a very short time period.

>> David Bacigalupi: Russ.

>> Just two thoughts that may or may not be helpful. Federated board decided to go with MGO for one year, but to revisit during the next year, so that they could have more time to process it. That seemed to be appropriate. And I'm not sure, Keith, if on the FLSA issue that the delays were due -- or could be laid at the feet of MGO. I think there were delays but I think those were probably -- I don't think that's a deficiency issue involving MGO, whatever that's worth.

>> David Bacigalupi: Rose is next.

>> Rose Herrera: I'd like to make a substitute motion. That would basically move that we take a year to stay with what we have and then look forward to evaluate whether we would go ahead with an RFP for an outside auditor, a different auditor for the next year. I believe that -- and I'm trying to repeat what our attorney just said. If that is what you said, that is what I am making a motion to do, substitute motion.

>> Scott Johnson: Second.

>> David Bacigalupi: Okay, Molly, I need help here. We have a motion on the floor. How can I take a second motion?

>> It's a substitute motion. The substitute motion has been seconded and now you vote on the substitute motion and if it passes then the other motion drops out but if it fails then you go back to the other motion.

>> David Bacigalupi: Okay, thank you.

>> Rose Herrera: Can I speak to my motion? I think we have been presented by our attorney and excellent alternative. I think if we go out to bid we're going to be in the same situation that we were in just now with not having enough time to go out and do an appropriate bidding process. I think then our options are to move forward with something that some of us think is not the best process has been done and I think that leaves us open to some concerns later on. So I think the best thing would be to stay with what we have for this year, and to then take the appropriate time to go back and, if we want to go out for another auditor, then we can do that with the appropriate time frames and in the right way.

>> David Bacigalupi: Thank you, Rose. Listening to all the arguments and being concerned about appearances, as the auditors have both spoken, there is real conflict and there's the appearance of conflict. And we have to look at that, as well as appearances of our processes. And I think -- I think this board here as brought up some very good issues about the appearance of our process. And I want to make sure that there is not -- I'm not trying to lay any blame on staff. I think they were given direction that there's an urgency for the need to implement an auditor, there was concern about having -- paying for an auditor that somebody else selected, and having this fund pay for it. But I think if you -- if you look at all the issues, I think there's a strong argument for the substitute motion to accept the -- Sharon's recommendation for auditing services for this year and looking at this with a full exposed process, and making sure that we're not rushing to do something. And even if we are within all legal constraints

that there appears -- that the appearances also look totally above board. So based on all the discussion I hear today I can support the substitute motion. Keith. Next.

>> Keith Keesling: I'd like to speak in favor of the motion. I'd also like to just take a minute to compliment staff. At the last board meeting staff brought out the challenges that they were presented in working within the city time line and the city structure and organization. I think that's what motivated the acceleration of the process. That staff tried to give this board the opportunity to do the directions that we wanted to go, I'd just like to compliment them for working hard to do that. It is where it is right now and to that end I do support the motion.

>> David Bacigalupi: Okay. So let's take a vote on the substitute motion to go ahead with Macias for the upcoming year, for auditing services, with the -- and looking at this for another review for -- during that year process, so that next year, we're not rushing into a situation like we've kind of put ourselves into this time. Am I -- everybody clear on the motion? Is that what everybody wants? Okay, all in favor? All opposed? The substitute motion carries. And then Molly,.

>> City Attorney Doyle: Does the other motion just die as a result of the substitute motion?

>> You can -- if you want, on Brown accountancy, you can direct the secretary to notify the proposer that we have decided not to proceed with the contract.

>> David Bacigalupi: Okay, but as far as the motion -- I make sure it dice?

>> Your first motion dies, I'm sorry.

>> David Bacigalupi: Okay, thank you.

>> Scott Johnson: Mr. Chair, I just wanted to speak on this issue. Just based on what trustee Keesling was talking about, the issue that were addressed last month, just want to make sure that the City Auditor's office and the retirement staff that there is coordination, if there are any issues that come up with the auditor that make sure that our City Auditor's is aware of those that so that she can try to iron out any of those differences. Because that's part of why she's available as the independent auditor, to help coordinate any issues like that.

>> David Bacigalupi: Okay, thank you. Okay item number 15, update on FLSA pensionable earnings issue. There's no report, do we have a verbal update?

>> Yes, I have a verbal update. I'd like to update that Macias, Gini & O'Connell is currently in the review and analysis process of finances FLSA correction amounts. In a recent status update from Macias, preliminary variances have been reported. I'd like to outline a few of those preliminary variances. So far Macias has found that some of the hours for peoplesoft do not match to the time sheets that they've pulled. The pensional pay for peoplesoft does not match the pensionable salary in Pension Gold, which is the retirement plan's system. The recalculated employee and employer contributions do not agree to peoplesoft records. The actual contributions in peoplesoft do not match to the amounts in Pension Gold. So I'd like to emphasize that these are preliminary variances are being researched, but this is the status update that I've received. Macias has also advised that there have been some delays or some increased data gathering times because of the time sheets, because of the time period that FLSA spans which is about ten years and the changes in systems that are basic practices. Macias has had to go back to pull time sheets that are on microfiche, hopefully I said that correctly, that in itself is very time consuming and that was one of the items that retirement services added to their scope, to Macias's scope, or Macias and the department came together to add that portion, because it really is usefull to go back to the source document when the employee has last seen what their hours were. Again these are preliminary variances but these are some of the issues that have been presented to date. My understanding is that Macias will provide another status in the next coming days as far as the timeline. Previously Macias had reported that they would be able to come back to this board in May. Unfortunately because of the increased data gathering time period the report is going to be delayed, in order to ensure that all the information is gathered and analyzed. So Macias will provide a time line update, a report completion update, and also an update on the variances in the next coming days and I will forward those on to trustees.

>> David Bacigalupi: Thank you. Questions for Veronica? Okay. Thanks Veronica.

>> You're welcome.

>> David Bacigalupi: Okay, item number 16 we have a report from Molly regardings the discussion and possible action on definition of final compensation for pension calculation. I would ask this board to defer this for a month. The memo I got only had every other page and Molly --

>> I apologize. I double-side my -- I double-side everything being as green as I can and apparently whenever it gets to retirement services it doesn't necessarily get picked up that way so --

>> David Bacigalupi: You know that can happen except I haven't had a chance to read the full memo so I request this board that we put this off for a month.

>> Do you need a motion?

>> David Bacigalupi: Do we have a consensus?

>> Yeah, I agree. And I don't know if it's included in the new memo but maybe Russ could also partake in it. But the ramifications of the pros and the cons on this on the language, I don't know if the additional pages show that.

>> Right, the attachment A is an illustration, and I'll make sure that the board gets full copies in the next packet. I did bring copies to this meeting in case you wanted to go over it, but yes there's an illustration of how it plays out.

>> Yes, I saw the illustration. But I'm just saying I don't know if the additional pages you have in here, if we do change it, it looks like wording that was changed before, you know, from the past present, if how that would, the negatives or the positives that would occur.

>> Yeah, we can talk about it more fully at the next meeting if you're going to defer it. But the board can't change the language. So that -- if the language did need to be changed, it would have to go back to council to be changed.

>> David Bacigalupi: I think what Conrad was looking for though are the impacts if this board was going back to the city or bargaining groups requesting a language change.

>> I tried to offer two alternatives. One would be actually to offer the bargaining groups an opportunity to confirm that the change in language was in error. And so that, you would simply return then to the language that had presedated that error. And that would not -- we would eventually update the code to change the language back the way it read before.

>> David Bacigalupi: Okay.

>> The other would be to ask them if they wanted to actually change the language.

>> David Bacigalupi: Okay, well, I think we'll read through this now that we have the entire memo and stuff and bring this back next month.

>> Mr. Chair, if I play.

>> David Bacigalupi: Go ahead.

>> Molly I would also ask as a trustee here, we are about to embark, we have embarked on a new time frame something I have never envisioned, the folks who wrote this never envision heed in the area of salaries, they may go down, I don't think anybody ever conceived that to be possible. If you could just address that in the future. I'm not asking you to do that now. Just keep in mind to address that.

>> I actually did address that in my footnote, that the situation that was brought to your attention is not the only way this thing could work.

>> David Bacigalupi: Okay. Item number 17, authorize the City Attorney to negotiate and execute a contract with ice Miller LLP for a three year term commencing upon execution of the agreement at a cost to the Police and Fire retirement plan of $35,000 total for legal services related to plan tax qualification review. Any additional comments on that, Molly?

>> No, I reported on this at the last meeting. I've been asked about the $35,000 and whether or not it is enough. So I think it is based on their proposal but it -- obviously it will depend on whether they find a lot of things that need to be fixed.

>> David Bacigalupi: Okay, thank you. I'll entertain a motion.

>> Motion to approve.

>> David Bacigalupi: I have a motion and second. Any further discussion on the motion. Hearing no further discussion all in favor, all opposed the motion carries. Okay, number 18 was dropped. We're now at standing committee reports and recommendations, the investment committee, we have the summary number 19, summary of the February 18th, 2010 meeting. That will be note and filed. And then number 20, we have approval of the modifications to the Police and Fire Department retirement plan's statement of investment policy to update the policy targets and to clarify the manager requirements to notify the board regarding cash positions.

>> Scott Johnson: Move for approval.

>> David Bacigalupi: Okay, I have a motion and a second. Any further discussion on the motion? Hearing no further discussion, all in favor? All opposed, the motion carries. Okay. The next item, investment committee of the whole. Item number 21, a summary of the quarterly investment committee of the whole, February 18th, 2010 meeting. Unless there is any discussion on that that will be note and filed. Okay item number 22, this was the ad hoc disability forms committee -- excuse me, the due diligence committee and this was the summary of the due diligence committee of March 30th, 2010 and item A under 22A is approval of the comprehensive travel policy as recommended by the due diligence committee. And I'd just like to say that thank -- I'd like to thank staff for all the work they did helping us put this together. We have -- we had most of the City's policy implemented into our comprehensive travel policy, and the last few items I think have been worked out, and the policy is in front of you for your approval.

>> Scott Johnson: Mr. Chair.

>> David Bacigalupi: Go ahead Scott.

>> Scott Johnson: I'm sorry, can I ask that we defer this for a no? Because I haven't had time, my staff hasn't had sometime to review it to look at how we're going to operationalize the changes. I didn't receive this until we received our packet to review all this information.

>> David Bacigalupi: That's always the problem with some of these bigger issues.

>> I was going to add, the other pieces that are being added to get this to be a comprehensive policy is only an add-on to the city's policy. There is no changes to the city travel policy. Those are being adopted as a whole and include so any portion that has to do with the City's travel policy has not been modified in any way. The comprehensive policy was put together really to clear some of the audit recommendations that were addressed to the board. For areas that weren't addressed in the City's travel policies but which do not conflict with the City's travel policy. I don't know if that's any --

>> Recommended by the auditor.

>> Yes, recommended by the auditor. A lot of these are the outside sources, an nod informational, there's the City's gift policy, the FPC, I believe I said that right.

>> Scott Johnson: Yes.

>> There isn't any -- I could see it's a lengthy document, I could just clarify, there is no change to the City's policy by this document.

>> Scott Johnson: Okay, so there's no change to the policy that's attached item B?

>> No there is no modification.

>> Scott Johnson: So the initialing policy that's here, document 2.10.1P, so is this additional requirements or modifications or --

>> Yes, it's to address areas from the audits, the City Auditor's internal audit that weren't addressed or cleared by the City's policy that were really addressed to the board and some of their activity.

>> Scott Johnson: Okay.

>> As you can see in the document, the one you referenced, 210.2, there is complete adoption of the City's policy when we get to item number 3. Which is the travel expense reimbursement. You can see there that I'm referencing the city's travel policy without any amendment and also the council travel policy without any amendment.

>> Scott Johnson: Okay, thank you for the clarification, appreciate it.

>> Is that clarification --

>> David Bacigalupi: Is that okay Scott, I want to make sure.

>> Scott Johnson: Since there is no change to our process and the requirements --

>> David Bacigalupi: There were some items in the audit that specifically addressed thousand board does things so we had to add to it.

>> Scott Johnson: Thanks. I really appreciate all the work that the committee worked on this too.

>> Can I ask for a real quick clarification? Is the board adopting the two boards -- both the travel policy and the due diligence or was the due diligence already adopted? There are two -- two board policies it looks like that are new. My understanding was to adopt the document as a whole.

>> David Bacigalupi: Right.

>> And the second policy, the second policy was a subcomponent of the travel -- comprehensive travel policy.

>> David Bacigalupi: The due diligence became part of the travel because that was one of the things that the auditor addressed as far as the retirement board.

>> Okay. It's just a little confusing because there's actually a separate document number on that one so I didn't know, one of them is 2.10.2P and the other one is 6.10.1.

>> I apologize. We tried incorporate some of the documents that already existed within the retirement plan into this comprehensive policy. But the intent is to adopt the entire document, including the first attachment which is the due diligence manager search policy.

>> David Bacigalupi: And it's so big because it includes all the City's travel policy. And FPPC requirements.

>> Right, that's not what I'm asking about. There are two board policies. One is labeled travel policy and procedures for the policing and fire department retirement plan and the other is labeled procedure for manager search. There's two different board policies, the very first two documents appear to be two different board policies. And I -- I'm just -- the second policy is not on the agenda. And so my question is, was this procedure for manager search somehow previously adopted by the boards and it's just being in this packet for convenience, or --

>> It was approved by the investment committee and it was brought to the due diligence committee for adoption. And the due diligence committee did review it as well.

>> David Bacigalupi: The procedure for the manager search was part of the travel policy.

>> Yes. So I guess they're adopting --

>> David Bacigalupi: Yes, I don't know about numbering systems but that was all part of the charge, and the challenge by the audit.

>> So the board is adopting both of these today, that's my question.

>> Yes.

>> Thank you.

>> David Bacigalupi: As one --

>> Yes, one document.

>> David Bacigalupi: One document. So if there were any amendments in the future items come up during audits and things it would be this document that would be amended. Okay. Scott. He disappeared. Any other questions by the board?

>> Motion to approve. Do we have a second? Is there discussion, hearing none, all in favor, all those opposed, we have handled 23. At this point we're at our point of the calendar, consent calendar, items 24 through 33 are normally handled in one motion. Scott, did you still have a motion?

>> Scott Johnson: Yes, I have a couple of questions there, 24, 26, 30 and 31A.

>> David Bacigalupi: Okay, anybody else like any items pulled from the consent calendar?

>> Rose Herrera: Motion to approve.

>> David Bacigalupi: Do I have a second? I have a motion and second to approve the balance of the consent calendar. Is there any discussion? Hearing no discussion, all in favor, all those opposed, the motion carries, Scott item 2004.

>> Scott Johnson: Yes, pursuant to our previous discussion item 5 of the minutes, I'm requesting that the statement right before item number 9 be removed from the minutes, because we didn't take -- there was no formal polling. I didn't -- no one asked me about supporting or not supporting the RFP. So I think, after listening to the tape and reading the minutes, I don't think it's an indication that you know, that it's clear that the majority of the members present expressed support for moving forward, and Mr. Johnson expressed his opposition because I wasn't asked that. I was talking about other issues. But I wasn't specifically talking -- it wasn't proposed to -- it wasn't presented to us should the board recommend moving forward as an RFP.

>> David Bacigalupi: I defer to you as far as listening to the tape. I haven't listened to the tape but I know I can speak to your expression of opposition and I can't speak to my other board members their expression of support. But I can say that I did express support at last month's meeting.

>> Scott Johnson: Okay, see I don't see all that support or opposition in the minutes. So this is basically a summary of that. But anyway, if the board chooses to leave it in there I just want to go on record that I don't agree with the interpretation.

>> David Bacigalupi: Well, I know I can only express what my opinions were last month. So you know, I don't see any need to have it in the minutes. I have no problems having it removed from the minutes as well.

>> Scott Johnson: Right, I just find it unusual for official minutes that you know this summary of expression of support or nonsupport when there's actually not a motion or something, so I just find it unusual.

>> David Bacigalupi:

>> David Bacigalupi: I have no problem with having those two lines removed from the official minutes. Anybody else have an opinion? Okay. So we'll go on to item number 26.

>> The motion to approve the minutes is amended.

>> Scott Johnson: Motion to approve as amended.

>> David Bacigalupi: Okay, do I have a second?

>> I'll second.

>> David Bacigalupi: I have a motion and second. Any further discussion? All in favor? All opposed, the motion carries.

>> Scott Johnson: Item number 26 so I just had a question on the alliance fund fee. So the fees are -- maybe for me it's just to get an education on the alliance fund on how we pay our fees for various funds. So they're not netted against earnings, we actually pay them separately? So it looks like 300 -- it's a large chunk of what we expended in the month of March, it was $327,000.

>> Yes, unfortunately I don't have the detail in front of me, but that is the fee that we're reporting. It may cover for a larger period. I apologize, our description is what we put into FMS which is usually a summary. I can go back and confirm and provide you supporting documents if you like.

>> Scott Johnson: Veronica so is this the normal process for the various funds, that we pay outside of the funds, they send us an invoice, and then it's paid?

>> Yes, there's two different ways that it runs. Some are paid in an actual AP processing and some are paid to our custodian bank as an offset, but it is a normal process.

>> Scott Johnson: Thank you. Thanks for the clarification. Move for approval.

>> David Bacigalupi: I have a motion and second to approve Item 26, approval of monthly expenses for March 2006. Any further discussion? Hearing no further discussion, all in favor, all opposed, the motion carries. Item number 30. Scott.

>> Scott Johnson: Thank you. Item number 30. There are a number of investments here. I didn't bring my reading glasses. But that have a maturity date, if I'm reading this right, 2099, is that right? These are federal home loans, for example there's some federal home loan --

>> David Bacigalupi: What page of the report?

>> Scott Johnson: Like for example on page -- there's quite a few of them but on page 22 for example I highlighted some of them. So these are very long-term federal securities that we're investing in. I was just -- I guess I was just surprised that we had maturities that were -- that went out that far.

>> Those are TBAs which is a special type of funds that the maturity is not decided in advance. It will be decided as the market moves. So it's a TBA bond issuance rather than a simple straight bond. So it's a place holder of 99 is sort of a place holder.

>> Scott Johnson: Thank you for that classification. Move for approval.

>> David Bacigalupi: Do I have a secondly?

>> Second.

>> David Bacigalupi: Is there any discussion? Hearing no further discussion, all in favor, all opposed, the motion carries. Then Scott, the last one, item 31A.

>> Scott Johnson: Sure, the last one was 31A. At the last meeting I think we had some discussion that it would be helpful to see, you know, because to gauge how we're doing compared to the last actuary evaluation because we're all focused on our losses, so I was asking if staff can modify this to show the change, maybe the year-to-date, the fiscal year-to-date yield, if we can show that for the month as well as for the year to date. I'm kind of thinking of the format that we have, I'm required per state government code to issue a quarterly investment report, and we show the yield, year-to-date and for the month and so on. And I think it would be helpful here to really get information on showing you know what staff is doing and showing, you know, the progress in regards to our investment. But I'm just asking that we also show, you know, the yields that relate to this.

>> David Bacigalupi: Russell, is that something that we can add to this form?

>> It will be lagged (inaudible) sorry. It will lag significantly but yes, we can go ahead and add yields to this.

>> Excuse me, by yields do we mean that different rate or interest income or total return of the plan?

>> Scott Johnson: Total return of the plan.

>> We usually get those by the end of the month but they are unaudit id and they tend to be two to three weeks minimum. So I will have maybe end of April but the number's relatively changeable until May 1st. So you will have a lag of at least a month to a month and a half before I can have accurate data information.

>> Scott Johnson: Okay.

>> David Bacigalupi: If you put that on there would you be able to make a notation to the fact that it is unaudited?

>> Absolutely.

>> David Bacigalupi: So somebody else looking at this document doesn't gain or don't perceive something not what we want it -- what it should be.

>> Sure, we will definitely do that and I think we release data the end of March to the board member a couple of weeks ago.

>> Scott Johnson: And also related to that, is it possible to do some type of summary cash flow schedule for the plan? Because I think it would be helpful, we just talked about our annual audit but it's also helpful to get a snapshot maybe on a quarterly basis of our in flows and outflows, so not only our investment returns but our contributions from the employer, the members, you know basically almost like an income statement or a cash flow

schedule showing all the in flows and outflows, that way we could have the big picture if we could have that, quarterly or year-to-date, I think it would be helpful for trustees, how we are doing year-to-date, as opposed to the audit conducted each year.

>> Staff could provide such a document. The only thing I would ask, typically the plan doesn't record accruals, the cash flow wouldn't include any kind of accrual items, it would be the cash in flows and outflows and I was just wondering if that's what you're looking for is the contribution, cash flows in and the investment cash flows. Some get reinvested so I was just trying to figure out how to develop something, you'd actually like to see the inflows that got reinvested or were actually available to pay benefits?

>> Scott Johnson: I'm thinking more what we would show in our financials what revenue we would be recognizing. It would be investment earnings, lease revenues, employee contributions, employer contributions, if you have it.

>> If financial statements at the end of the year are an cruel base and this is a cash basis that wouldn't include a large number of our accruals.

>> Scott Johnson: Okay.

>> Thanks.

>> David Bacigalupi:

>> David Bacigalupi: Keith.

>> Keith Keesling: Can staff give a relative.

>> Unfortunately market is down around 8% today so that will change any number that I will tell you. I can get that information with you by the end of May but you know, I will send it directly to the board. But the market has took a huge tumble today.

>> Keith Keesling: You don't remember last month where we were in our year-to-date return?

>> The spreadsheet that I sent you, I think the number were around 18% for the -- since June. But from January of 2010 until March we probably were flat to maybe 2% positive. That might have been erased today.

>> Keith Keesling: Last year we were projecting a possible loss and this year we're knoll following that same path. We were reporting our returns, meetings, every meeting. So I was just trying replicate what we've done or what my experience was. So yes, year-to-date, and it changes, it's behind and it changes as it does. So I was just trying to follow that.

>> Sure.

>> David Bacigalupi: Scott did we get a motion to approve?

>> Scott Johnson: Move for approval.

>> Second.

>> David Bacigalupi: Discussion? Hearing no further discussion, all in favor, alt opposed, the motion carries. This is the part of the agenda for proposed agenda items, any board member have proposed agenda item? We're at the part of the agenda for public comments. Any member of the public would like to address the board? Education and training, not knowing the restructure of the board when this is finally going to happen. I know Wharton comes up in September, that is a school that is very informative, I know a few trustees have made it. It's not too late to have staff look into it for you. Stay away from the hotel that we've all been stuck with. Okay, anything else? With that I'll adjourn the meeting. Thank you very much.