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>> Matt Loesch: Hearty good morning. I'd like to call to order the Federated retirement board meeting for April 21, 2011. On orders of the day, move 5.1 to the top of the list. Item 1.1, it is going to be heard today but we are going to wait for facility things and attorneys present and that kind of thing. I can't tell you when on the agenda it's going to be. If that's all right with everybody we'll go with the purchase here. If I can get approval for those changes please.

>> Edward Overton: Move approval.

>> Lara Druyan: Second.

>> Matt Loesch: All in favor, opposed, that would mean we're on to item 1.2, I'm sorry, 5.1, I apologize, just said that. So in your packet we have here this is discussion and action regarding the City Auditor's report on the disability retirement dated April 12, 2011 and we have with us the City Auditor, Sharon Erickson who wanted to make a presentation and comments.

>> Sharon Erickson: Good morning yes I would like to make a brief presentation on our audit findings. First as an introduction for new board members. Just so you know is the City Auditor is an independent appointee of the city council. I'm charged with conducting performance audits of city operations and programs. We conduct those audits in accordance with government auditing standards and always report the results of our reviews in public. The results of the audit of facility retirement are as follows. We found basically San José's rate of disability retirements especially amongst sworn employees is much higher than in other cities. We called it unacceptably high. In a snapshot of retirement payroll we could see that two out of three firefighters, more than one out of three police officers, were going out on a disability retirement, this compares to about 6% for Federated. This means that a high number or high percentage of sworn employees are retiring permanently disabled from performing the duties of their city job. When we saw these numbers we of course asked whether or not San José was a safe place to work but our audit fact did not cover evidence that San José was an unsafe place to work. This doesn't mean that jobs aren't strenuous or dangerous but San José overall was not an unsafe place to work. The question was raised whether or not workload was too high and leading to a high incidence of workplace injuries. In 2007

the city's risk manager actually studied this issue and found that sworn officers of San José do not actually have a higher workload, so workload wasn't the problem. Actually me and my stave concluded that the key factor that was driving San José's higher rates of disability retirements than are present in other jurisdictions are the economic incentives associated with retiring on disability. Disability retirements as you well know for both sworn and nonsworn employees are partially exempt from state and federal taxes. During the audit we learn that many sworn employees who took a disability retirement were also eligible to retire on a regular service retirement, but instead opted for a disability retirement, and we think the economic incentives have something to do with this. Furthermore, in an earlier audit, 2009, of the City's workers compensation program, we learned that in the years leading up to retirement, many employees were filing multiple workers comp claims potentially to increase their chances for a disability retirement although we cannot prove that because on the converse, a number of workers compensation claims could indicate that it's making a fair case for a disability retirement. But in that audit, we looked at 23 cases in workers comp, and found 21 retirees had filed multiple workers comp claims in the two years leading up to their disability retirement. While there is much that the city can do, there is not -- let me turn it around. While there's not much we can do to change state or federal tax law, there are a few changes the city can make that we believe will moderate the high rate of disability retirements. We're recommending that both boards reconfigure, that the city reconfigure the process for reviewing disability retirement applications to move the process similar to what you have done, but to a disability committee that's made up of individuals with medical and or workplace injury expertise. And that the employer as well as the applicant be represented by an attorney, at those proceedings. Another change we recommend is for the city to tighten up on the eligibility requirements for a disability retirement. Let me explain that. During this audit we found 10 of the 22 cases we reviewed, the retiring employee had worked right up until the day they retired, either in their own job or in another light-duty job. This condition raises the obvious question of how these employees could be considered eligible for a disability retirement when they were still working in their jobs the day they retired from the city. So we recommend this council -- the city council consider taking steps to amend the city charter and the Muni code to clarify that the purpose of a disability retirement is to provide a stable source of income for employees who are incapable of engaging in gainful employment but not yet eligible to retire. And to consider limiting disability retirement benefits to those employees who are incapable of engaging in any gainful employment. Finally, there were a couple of issues related to sworn that I'll just touch on briefly although most of this report did focus on sworn. One is the --

that we're recommending that the city impose a retirement before offset for sworn employees similar to the benefit offset for workers comp that is in place already for nonsworn Federated employees. There's also an open issue regarding sick leave payouts for sworn employees that need to be reduced upon a disability retirement and that needs to be addressed. Our report includes a total of six recommendations, again, let me reiterate that the bulk of the report is focused on Police and Fire because that is where we're seeing the high rate. In Federated it was 6% in the snapshot we looked at. But we do have six recommendations. I am here to brief you on the contents of the report and hear your thoughts and comments, answer any questions you might have about our work. It is not necessary, but would be entirely appropriate, for the board to provide a written response in addition to those verbal comments, or direct retirement staff to provide a response, that could go to the city council for their consideration. I'll be presenting the report to the city council's public safety, finance and strategic support committee this afternoon. It will be reported out to the full council according to the normal schedule May 3rd. I'll also be presenting the audit to the Police and Fire board at their next meeting. Again for new board members we do follow up on open audit recommendations every six months so the next follow-up on the status of recommendations would be June 30th. In the meantime an audit report once it's accepted by the city council is only the beginning of a process to implement change. So adoption of an audit recommendation doesn't change the process. It's only the beginning of a structured process to do that. And with that I'd like to thank the retirement staff including the board's medical director, and the city administration for their time and cooperation during the audit. As you well know it's a difficult and complex subject. The city administration's response providerred by the director of employee relations is included in the yellow pages in the back of the audit report and I believe Aracely Rodriguez is here from employee relations. I don't know if she has any comments about the report but she's also here to answer any questions.

>> Matt Loesch: Okay. She's shake being her head so we'll take it to the board. Any questions here from the board? Mr. Armstrong.

>> Michael Armstrong: A couple of questions. The six since we're a Federated board kind of focus on us. How does the 6% compare to the other cities, I believe in California?

>> Sharon Erickson: You know, when we saw those numbers, we didn't even do the comparison. We were -- they were so much lower. And here's part of our thinking: The tax benefit for Federated is almost as high as the tax benefit for sworn. But we were not seeing the same kind of numbers. So we basically moved on from there. We did comment that we do believe for both boards, that an independent expert panel would be better capable of making decisions on disability retirements. And having that kind of expert panel with an appeal to a hearing officer would also provide the city some reassurance that we were doing our utmost in reviewing and approving those applications.

>> Michael Armstrong: My second question is, as I understand it if an employee can't be provided a job in their same classification we are kind of obligated to let them have disability. Now with what's happening with employment levels in the city, should we be expected -- should we anticipate seeing a slew of these coming our way for approval?

>> Sharon Erickson: You know, I cannot predict the future. Auditors love history because we know what happened in the past. We have a hard enough time explaining what that was. I can't predict the future. We are recommending a potential change to the city charter. So in the city charter it says in the same classification for both Federated and Police and Fire. That really does tie the board's hands. If we can't place somebody in the same classification, theoretically, we need to retire them out on a disability. Even if we could find a modified duty position for them. Now an employee voluntarily could take a modified duty position. We cannot force that under the charter.

>> Michael Armstrong: Just one last question in terms of Police and Fire where is the IRS in all of this? I would think this would be attracting their attention.

>> Sharon Erickson: Well one of the things that attracted our attention, first off we had done the audit of workers comp and found the high level of workers comp claims and were concerned about that and then disability retirements. The other thing that happened on the East Coast the Department of Labor has been stepping in to jurisdictions with high levels of disability claims. And what the DOL found in some cases was fraud. We did not

encounter fraud in the course of our work. We did find files that were replete with doctors' reports, physician reports, saying that this person was qualified for a -- basically was injured on the job. But it did -- we are concerned and that is one of the reasons why I believe having that extra security of an expert panel making these determinations would give us more assurance if we were ever questioned about the high right by other folks.

>> Matt Loesch: Any other questions from the board or comments?

>> Edward Overton: Sharon, the one thing that I would have liked to have seen in the report addressed is, personnel policies and practices and procedures, that really lead to the disability process. Leads to people coming in front of this board and asking for benefits. On any number of cases that I've been involved in, was the person offered employment? Were they not offered implement employment, when were they offered employment? Is the job available now as the person sits in front of us? Issues of that nature and clear up all those kinds of personnel policy things, that would help us in making a determination as to whether or not this person deserves disability benefits. And that none of that was addressed.

>> Sharon Erickson: Correct. You all are struggling with all of those procedural issues. One thing we found in the city charter, the city charter says the person has to apply for a disability retirement while they are in the employ of the city. So the approach we took is, we need to think about the larger picture here and re-think what the purpose of disability retirement is, get those things straight, get straight with the charter on when we expect employees to apply. Can they come back and retroactively apply, two years later, one year later, how long is that going to be, get straight on that and then make your procedures conform to whatever that purpose is. But we really took the approach that you need to re-think the program first and then re-think your policies and procedures.

>> Matt Loesch: Any other questions or comments by the board, Mr. Richeda you want to say something to the board?

>> Russell Richeda: Just a few quick comments. With regard to board member Armstrong, the IRS has been very inactive. About ten years ago they did conduct an audit of San Francisco on this precise point. But not really

much emerged, in general there is -- has been very little -- surprisingly little activity by the IRS and what could be seen as an area they might want to focus on. But Matt if I could make three quick points.

>> Matt Loesch: I think if you would make them into the microphone everyone would be happier.

>> Russell Richeda: I'd be more than happy to do that. Number 1, the vested rights doctrine that I think you've begun to hear more and more about, there's again tying the hands of making changes with respect to benefit design issues. There's at least one appellate court case out of the City of Oakland that's not too old that says changing the newman case that says the current employees have a vested right in the disability standard in effect at the time of hiring. So if you try to change it there's a vested rights issue. I don't think that's an issue that the report probably comes within the jurisdiction of the City Auditor's report but to the degree that's an issue that we should -- that's some entity looks at and tries to implement, somebody should look into the vested rights issue. It's at least a difficulty that's going to have to be somehow considered. But assuming that standard is adopted, it might have some or at least more thought might be given to certain unexpected consequences. If we had the Social Security standard which is I think what Ms. Erickson is advocating, and it's applied to an employee who has not vested under the system, or I'm sorry, is not eligible for service retirement, they then, under at least traditional notions would be disabled and we would have in the past under our current standard, have given them the benefit. Under this standard we would not if they would not otherwise be eligible for service retirement. Perhaps they are vested and in the policy matter we want them to go out and get a job but that would seem to be a consequence of this standard that is not a consequence of the current situation at least from a policy perspective, someone might want to think about that. And then, the last -- this quandary I guess this is more Police and Fire issue than Federated. The explanation for the higher rate of service-connected disability retirements for Police and Fire is thought to be sort of the economic consequence, context, and economic incentives. But at least in my limited experience I think the economic incentives are the same everywhere, the same 4850 time issues, the same workers comp issues and the same tax benefits for getting a service connected disability retirement. That seems to be a somewhat common factor, I'm not sure if it's heightened here in San José, I'm not sure of its explanatory power but for whatever that's worth.

>> Matt Loesch: Okay any other comments or questions?

>> Lara Druyan: Just a question. In recommendation to you, it suggests there should be a disability committee with appropriate experience. Can you is be more specific? Where would you expect the committee to sort of come from? Would they be City Attorney? I mean I'm not sure who would comprise such a committee and if you have any recommendations about that.

>> Sharon Erickson: No, I have no idea how you would recruit for this committee. But on the other hand, we were recommending that the panel be either medical experts and/or workplace injury experts, and that it would be separate from the board, and that the appeal would be to a hearing officer. So they would basically be the decision makers. And to remove it from the political process, or from the board in that sense.

>> Mollie Dent: So I just wanted to point out that that recommendation, like most of Ms. Erickson's recommendations would require a change to the municipal code. So to almost -- almost all of these recommendations are really to the city council. It's not that the board shouldn't or wouldn't want to weigh in on them but really, most of these recommendations are to the council.

>> Lara Druyan: Understood.

>> Matt Loesch: Did you have more? Okay. I had a couple of questions, and comments. I was I guess, relieved that there was not a lot of Federated attention there, hopefully we have a few things right, not to cast aspersions but we've been working hard on this the last couple of years. One thing I had hoped for is even accolades from 2010 and into now, even though things are not amiss, let's reeducate ourselves, let's talk about this more, starting in early fall last year, and created an ad hoc committee to re-evaluate our process, to make it as fair, concise and clear both for the applicant, for the staff, and for those making the decisions, so that what do we need to do to bring new folks on board so they're as trained and up to speed as we can make them. That wasn't in the report and I kind of wished there had been a little bit more on that because we had been doing a lot on that and made a lot of attention on it. A question, I didn't see who was interviewed or who took part in the process of explaining

what goes on and how it's happened. Was there a list here, did I miss it? It was mostly for my sake, I just wanted to see.

>> Sharon Erickson: You can find kind of the procedures we followed on page 8 ever the report. Let me have Steve Hendrickson are from my office tell you more about that.

>> We talked to a variety of stakeholders around the city including staff of the department, as well as the board's medical director, as well as -- and then when -- and so -- and Russell Crosby. And we also had conversations with people in the workers comp unit to get ourselves familiar with that. And we spent some time at the Department of Retirement services looking at 24 sample cases. Once we had sort of gone through our own learning curve and thought we understood the process, we looked in detail at a set of 24 cases, 22 were approved and two were denied. Then we went outside the city to get comparables, San Francisco, Oakland, we talked to Cal PERS, we talked to Cal PERS about their process. A couple of minutes ago one of the board members asked about our process and where would we find the staff to staff up a subcommittee that would review these applications. And the Cal PERS uses their own staff to do that. And so we established a contact there. So we talked to a lot of folks.

>> Matt Loesch: One glaring void I see is any trustees. Did you speak to any trustees from what we see from our perspective?

>> Sharon Erickson: Did we interview you early on in this process?

>> Matt Loesch: No. Interview me in this process?

>> Sharon Erickson: I seem to remember.

>> Matt Loesch: There was a while back we talked about some things about this but not in particular about this.

>> Sharon Erickson: At the very beginning of the process, we did that's correct. But since we ended up not focusing on the procedures going through this, we really focused on what does the charter say, what does the municipal code code say, we were focused on reviewing files and the contents of those files.

>> Matt Loesch: Gotcha. Another thing that seems to be a perspective of what the trustees were saying and what we would say, that's the thing we would be doing into the fall and in the spring here, how could we make the process better on our end. In our ad hoc committee the whole thing we're trying to do is, what we can do in our powers to make those decisions and then any recommendations for things that are out of our power to make decisions similar to recommendations you're making now, whether charter changes or whatever.

>> Sharon Erickson: Steve is saying I do believe we did include some compliments in here. They are -- compliments from an auditor are kind of back-handed but we slip in little things about the work you are doing and I did want to say, you know, one of the tables in the report does point out that the Federated board has been much stricter in -- has apparently much stricter at least is denying more claims than the Police and Fire board has been. So we do point that out in the report. So I do want to compliment you, in person, in your attempt to get a handle on this. It is very difficult for board members who get appointed to the boards, thinking that they are going to be looking at investments in the plan, and end up in the very first meeting with three inches of medical reports, find out that that's the bulk of what their work is going to be, that's particularly the case with Police and Fire.

>> Matt Loesch: What -- how do you envision the outside panel? Because we're kinds of seeing the gatekeepers to the plan, to the money, to the benefits. How would an outside panel approve or say yes you get access to the money and the appointed gatekeepers to that money not have a say in that? That's one of the troubles that we've kind of talked about in the committees. You know, if we try to dispense with our ability to make those decisions, where does their appeal go? Does their appeal go to the board and eventually we'd end up hearing it 98s? What was the thought process?

>> Sharon Erickson: Again we phrase these recommendations as consider, that the city council should consider these processes. But we envisioned an appeal to an administrative hearing officer who would ensure that due

process had been followed, basically. But that the panel of experts would be making the determination on the disability or not. So we would put that determination in the hands of the panel of experts. And the way, quite honestly, I see it is the city council and the board together would be making -- would be the rules -- while the city council would actually be the rule-setting body with the board's input on what conditions should be satisfied for the panel in order to grant that visibility, but these things are very complex. And we just felt you know, if it was a question of indications of pain or a cumulative trauma, that those decisions are better made by a panel of experts in workplace injury and/or physicians or other medical experts who could make that determination. Because that is the base for the determination more than anything else. Legality me also say that many of the cases we reviewed were not the case of an officer shot on the job who can never work again. So we're looking at some cumulative trauma cases, folks who have been working for the city for 20, 25 years. It's very different and I have been, as I've been talking about this report, I am concerned that we don't clamp down so hard on the -- you know, ability to get a disability retirement that we hurt the very people we're trying to help. So the program, and that's why I'm advocating that we rethink the purpose of the program. What was the purpose? And the purpose was for somebody who is desperately hurt on the job, how do we take care of that person? It was not, in my opinion, to provide a tax benefit in retirement for categories of employees.

>> Matt Loesch: Okay. One other panel question and then a final comment. Did you envision any employees being on that panel? Not necessarily, because that's what the first comment would be, are they industry experts or that kind of thing, was the vision -- sorry I had to read a lot again for this meeting. Was that included in the concept of the panel, to have -- not necessarily HR or OER or anybody, you know an employee representative on that panel?

>> Sharon Erickson: The concept I'm putting forward is a panel of experts. If you have those experts on staff or on city staff that would be great. You have a medical director who's fully qualified to be on such a panel, obviously. But our suggestion was a panel of experts, not just city staff who are-who can review these things but a panel of experts.

>> Matt Loesch: I guess the questions coming from similar to having somebody like me on the board, the pension board is the employees which -- they'd like to have a voice on that not necessarily you know and to have some representative on that panel. I could see that being a comment that would come through. For many of the bargaining units, I don't know that for a fact, I haven't talked to anybody about its, that would be my guess many they would see this panel, that's the city, you know what I mean, as opposed to I think if you would have someone of the employees there, you probably would get less push-back on the decisions of that and hence less appeals.

>> Sharon Erickson: Well and we did recommend an independent panel so that's my code word for somebody who would represent neither side but has expertise in the area. So the decisions you'd be asking them to make, I mean has the employee suffered a disabling injury? Does the injury prevent them from continuing to do their job? Was the injury work related? The panel would not be asked and we cannot grant a disability it's my understanding of the basis of do they deserve it, is it a good thing to do? It really is on the basis of those three questions anyway. So why not give those three questions to experts who can really make that determination?

>> Matt Loesch: Okay. My final comment was, this is my opinion for the record, is that I want every employee or retiree who deserves a disability, kind of what you said, has a clear and concise process, that can be adjudicated by an educated Board of Trustees, in a fair and consistent manner. And I think that's the goal that I've been striving for, that's what I think we've been talking about in the ad hoc committee. And so however the whole thing fleshes out, I think the information you've provided the board is helpful and shines a light on some of the things that are going on. I appreciate you being here today. Is there anything else anyone else have to say? Thank you. The only point would be, the board -- it is listed as discussion and action. As Ms. Erickson said, if we wanted -- if there is any comment we formally want to make to the city, we can let it go, the pleasure of the board on that.

>> Edward Overton: The only thing I would suggest is some comment be made about the personnel policy issues, doing your presentation to the city council. Because employees are handled in a way that gets them in front of us, and a lot of them shouldn't be here.

>> Matt Loesch: Would you like that as a formal written response?

>> Edward Overton: No, I'm just suggesting that somehow Sharon weave that into her presentation to the city council that either this was not looked at, or it's something that should be looked at in the future, or however you deem it appropriate to get that into your presentation.

>> I don't know if this is a comment put in the record, but the concern I have is that Federated gets swept up into what is essentially a sworn employee problem. In average, we are averaging ten of these a year. The process we have in place now has the capacity to deal with one a month, I think. So I'm just concerned that we'll you know adds sort of another layer of complexity to Federated for a problem that is really Police and Fire.

>> As a new board member, coming on and looking at these disability retirements, I was a little sort of taken back at those responsibilities. And I think the new board is quite independent. So I think in terms of satisfying the need for independence, you've got you know some reassurance that that's there going forward. In terms of having the requisite expertise in the medical area, I think none of us would consider ourselves medical experts. At the same time, you read the reports from the medical experts, you do have the ability to ask them questions and receive information. We should be intelligent people that can follow those three or four guidelines as to whether or not to provide a disability retirement. So I do feel that our process will work. That being said, the concept of sort of separating investment stuff that we do from retirement disability and giving it to a separate group, pain with staff with the expertise would be in my opinion a great direction to head. I've never the sat on a board before where we've sat around and did disability retirements. That's -- certainly at Intel that's a staff-level delegation and something we would typically have them do.

>> Matt Loesch: So it sounds like no formal type of response you'd like to give. That's fine. I don't have anything myself I'm honed to give so thank you very much.

>> Sharon Erickson: Thank you.

>> Matt Loesch: Do we have the facilities thing taken care of so that we can move into our closed session? I just needed to read into the record what we're doing correct and then --

>> Mollie Dent: Yes.

>> Matt Loesch: We're switching back to item 1.1 for a service connected disability. For Victoria A. brown, senior dispatcher, general services department requested for a service connected disability, effective February 7, 2010, 16.08 years of service. We will reGwen in closed session.

>> Mollie Dent: The closed session is pursuant to government code section 54957.

>> Matt Loesch: Sorry, didn't read that part. [Closed session]

>> Matt Loesch: We're back here, and what the next steps are.

>> Mollie Dent: So we have opened the disability hearing for Ms. Brown, and are continuing it at her request for a short period of time today. And coming back to our regular agenda. If they want us to continue with her disability retirement today, we will go back into closed session. If they want us to continue it over to another meeting we will do that as well.

>> Matt Loesch: So we're on hold became of.

>> Mollie Dent: We're on hold but go back to our regular agenda.

>> Matt Loesch: Got it. This is 1.2, change of status for honorata Adriano. Request for change of status to service retirement to service connected disability retirement effective January 1, 2005, 15.0 years of service. Ms. Busse.

>> Donna Busse: Honorata Adriano is requesting a change in status to a service-connected disability. Based on neck, both hands, both wrists and both shoulders. She is currently 61, 56 at the time of requirement, with 15.01 years of service. Medical reports are listed in the packet. There are no work restrictions provided by the board's medical director. She's currently retired and at the time of separation she was on reduced work week. At the time of application she was service retired. There is permanent modified duty available, and she is not eligible for alternate employment.

>> Matt Loesch: Okay. I'm sorry, did you say for the record that Ms. Adriano is not present? Okay.

>> Donna Busse: She is not present.

>> Matt Loesch: Dr. Das anything you want to adds to your report?

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

>> Matt Loesch: Since she is not here to add anything to the record, I will just have a quick recap just in case of the new folks, if someone is not here, we continue the hearing as we normally would, even if they're not here to make a case for themselves, it's a regular hearing.

>> Mollie Dent: Yes, the board can proceed.

>> Matt Loesch: Just for the record. Any other questions or comments from the board?

>> Edward Overton: I have a comment. On page 7, there is the report that's addressed from Ted Robinson M.D. and it lists, a number of things, for example, break from repetitive motion, no lifting, grasping, et cetera. Was that not considered work restrictions Dr. Das?

>> Dr. Das: For her workers comp case yes, those were work restrictions for her. They were -- I believe those were the work restrictions that were used by the city in workers compensation.

>> Edward Overton: But they were not considered by staff?

>> Dr. Das: By me?

>> Edward Overton: By you or the disability committee. Ms. Busse just said there were no work restrictions and I was looking at this, limited repetitive motion et cetera at the bottom of page 7.

>> Dr. Das: I did not provide any work restrictions, that's correct.

>> Mollie Dent: I believe Ms. Busse said the board's medical director didn't provide any work restrictions and I believe that's the board's medical director didn't provide work restrictions.

>> Russell Richeda: Isn't board member Overton asking, what Dr. Das's restrictions were and why he didn't conclude it? I'm sure you have an answer.

>> Dr. Das: Well, I have two responses. One, Mr. Overton, Dr. Robinson on the forms -- let me see --

>> Russell Richeda: They seem to start at page 38.

>> Dr. Das: Oh, okay, yes. No, I didn't find anything that was preclusionary in the work restrictions. I believe those were all prophylactic because based on the pathology, as far as for the carpal tunnel syndrome, there was a mild median neuropathy. I didn't feel there were any reductions for the carpal tunnel, and as far as restrictions I didn't see any need for formal restrictions.

>> Edward Overton: Okay, none of this is relevant as far as her employment is concerned is that what I'm hearing?

>> Dr. Das: The work restrictions that I provided? Are not relevant to her job --

>> Edward Overton: Yes.

>> Dr. Das: Can you repeat? I'm sorry, I don't understand exactly the question, Mr. Overton.

>> Edward Overton: Well, you looked at Dr. Robinson's work restrictions.

>> Dr. Das: Yes.

>> Edward Overton: And you decided what?

>> Dr. Das: That they were prophylactic in nature.

>> Edward Overton: Okay.

>> Matt Loesch: Anything further Mr. Overton?

>> Edward Overton: No.

>> Matt Loesch: Any other questions or comments from the board? Okay. I'll entertain a motion.

>> Edward Overton: Move staff recommendation.

>> Matt Loesch: Motion for staff recommendation to deny the request. Any -- can I get a second?

>> Second.

>> Matt Loesch: I have a motion and second. Any further discussion or comment on it? Okay seeing none all in favor? Opposed, thank you. Moving on to the consent calendar. I would just like to pull 11 -- 2.11a just for a comment. If I could just pull that from the consent calendar. Anything else need to get pulled from the consent calendar? Otherwise I'll entertain a motion.

>> Edward Overton: Move approval.

>> Matt Loesch: Motion, a second?

>> Second.

>> Matt Loesch: Any other comments or questions? All in favor, opposed, none. On 2.11A, that was a benefits review forum report from February 11. Can I get a 30 second synopsis for the new folks what the benefit review forum is and why we get -- the BRF, 30-second comment on it would be great.

>> Donna Busse: The benefits review forum has all the city groups represented as well as OER and the city human resource staff, the retirement services participates, we don't actually vote or anything but we do participate and it does discuss all sorts of different benefits available to the city employees.

>> Matt Loesch: Plus if there's RFPs for vendors --

>> Donna Busse: All the medical and dental RFPs consultants.

>> Matt Loesch: And those trickle up to us as far as what medical providers there are and insurance providers and so forth, that's why we get a benefits review forum monthly report from staff. Other than that just note and file

on that I guess. So we're on to item 3 please, death notifications please I'd like to request a moment of silence for those who have passed. [Moment of silence.]

>> Matt Loesch: Thank you. Moving on to item 4, 4.1. Discussion and possible action regarding a change to the supplemental retirement benefit reserve, distribution methodology for recommendation to city council. We have a staff memo on top of a report, on top of a resolution and we'll let Ms. Busse catch up.

>> Donna Busse: Right, the staff memo is just summarizing the attachments as background information for your discussion. The methodology, the current methodology for the SRBR distribution.

>> Matt Loesch: Okay. Any comments or questions from the board on this?

>> Edward Overton: My assumption in looking over this is, it kind of completes the circle, the board's -- rather request to the city council that they consider modifying their ruling and give a distribution to the lowest 25% of the retirees, and council declined to do that. And this is kinds of like -- is that right Russell?

>> Russell Crosby: Correct.

>> Edward Overton: Okay so this is basically note and file?

>> Russell Crosby: Unless the board wanted to write back and say something else.

>> Edward Overton: Okay.

>> Russell Richeda: May I --

>> Matt Loesch: Just want to hold your thought. One of my questions that might lead to this is has council formally requested from us a revised formula recommendation? Has there been any request on that end? The answer can be simply no.

>> Donna Busse: No, there hasn't been a request.

>> Mollie Dent: I don't think there has been a formal request for it and I do think there are discussions ongoing with the bargaining groups perhaps.

>> Matt Loesch: That was my second question, is there meeting, discussions?

>> Mollie Dent: There is someone here from OER, you might ask that directly.

>> Good morning, Aracely Rodriguez office of employee relations. We reached agreement and have a signed letter to continue (inaudible) related to this SRBR program. Those will commence within a ten day notice given to the unions. And we have --

>> Matt Loesch: But the council put in abeyance, the next couple of months they said no payments out before then?

>> That's correct. We will probably be commencing those discussions relatively soon.

>> Matt Loesch: I know you don't negotiate with retirees association but are there conversations with the retired folks presently?

>> There hasn't been any at this time, but what we generally do is have meetings with them to keep them informed what's going on with the discussions, yes.

>> Matt Loesch: Okay. Any other comments or questions from the board? Did you want to say something Mr. Richeda?

>> Russell Richeda: If the board's interested in what the Police and Fire board did at its last meeting on this topic they just directed that correspondence be distributed to the relevant party, saying that the board understands that the discussions are occurring. But if those discussions don't seem to be productive, and if they want the retirement board to come up with a possible revised methodology for distribution, they would be happy to do so. I don't know if that's something that the Federated board wants to do.

>> Matt Loesch: Anybody else?

>> Edward Overton: I believe the Police and Fire rules and regs are different from ours, so their approach, I don't think would be appropriate for us.

>> Matt Loesch: Any other thoughts or questions? I'll just move note and file on this, simple. Okay, item 4.2. Discussion and action regarding on resolution 6724, superseding resolution 3116 which establishes rules and regulations for the conduct of board meetings to adopt changes to the provisions related to the time and place of regular board meetings, board office address, and board quorum.

>> Mollie Dent: So what you have in front of you is a mark justify of the current board resolution regarding the changes that were made. The changes that are being suggested to the rules resolution are really pretty minimal. To really change your meeting time and update the meeting place and the place of business. There has been some suggestion from Mr. Richeda that there could be other rules and regulations, and I would agree with him. There certainly could be a more excessive set-out of the rules and regulations for example for the disability process in this resolution. But it wasn't the function at this point to try to do that. The function at this point was simply to get something that would allow you to change the date of your regular meeting if that's what you decide to do. And as I said, to update where your meetings are held.

>> Matt Loesch: Mr. Richeda.

>> Russell Richeda: Just short. The section 800 and this is not within the agenda so what I'm really asking if the board's interested in directing that this item be calendar or agendized for a future meeting. But I'm in a personal campaign against Robert's rules of order for any body of this size. And you notice you're committing yourself to using Robert's rules of order in section and I. I've never seen in 20 years anybody even bringing Robert's rules of order to this meeting much less applying it.

>> Mollie Dent: I actually did a memo for you on Robert's resumes of order with respect to motions to reconsider. So I'm not -- I have no big -- I'm no big fan of Robert's rules of order but you need some rules so that -- they're sort of a default. And that's why -- I do agree though that Robert's rules of order are primarily for legislative type actions and not for adjudicatory type actions like the disability retirements, and that's why I say there certainly could be room to look at these rules again but for now this is not a change. Robert's rules of order have governed your proceedings up until now.

>> Matt Loesch: All right. Just to be clear, the agenda item that we're -- to be moved, if we're going to move, is on changes related to time and place of board office and board quorum. We certainly could make an additional motion on make additional revisions. I have some thoughts on some of those. So let's just first talk about what the agenda item is, and then if there's additional thoughts, we could add those to a different time. Any other comments or questions on the item there? I'll entertain a motion then on the agenda item.

>> Make a motion.

>> Edward Overton: Second.

>> Matt Loesch: I assume that was a motion to approve.

>> To approve.

>> Matt Loesch: Got it, any other questions or comments on that? All in favor? Opposed? If we can just continue the discussion on that. Anybody else have any other thoughts about different things about -- that they wanted to talk about? Because I'm going to make a recommending that we bring this back. I'm going to make a motion that we make a couple of other changes, not at this meeting but make a motion that it come back.

>> Mollie Dent: So under future agenda items maybe we can talk about what you want to come back at a future agenda.

>> Matt Loesch: I'm going to forget. Okay I'm going to say it then. What would I like do is I would like to have a discussion on item 2.01, terms of office. It's not what's listed here is not our practice. We typically have a calendar year appointments. We have for the last three and a half years. I don't -- I mean it's not a big deal but here we are saying we don't have calendar years, we have December to December. And typically we have been voting on the chair and vice chair for December effective for the calendar year, something that probably ought to change. Under item under section 402, it notes actually probably is relevant to the discussion of the previous motion. It changes from 24 to 72 hours.

>> Mollie Dent: That's because of the city's sunshine rules. The 24-hour notice provision really would never apply for this board anyway, because that's a Public Safety and emergency provision that allows for very, very short notice. But the 72 hours, the regular special notice provision.

>> Matt Loesch: Got it. The one thought I had is, I thought we discussed in 2008 when markets were doing their Roiling thing that we had talked about having a provision where the secretary can act on a very abrupt order, and make decisions and we can reconvene within that 72 hours. That is kind of my recollection. Am I imagining things? We had talked about it because stuff was moving so quickly, and something like that is not provided for.

>> Mollie Dent: Well a delegation to the secretary would not be in the rules resolution. The rules resolution is for the conduct of the meetings of the board.

>> Matt Loesch: Got it.

>> Mollie Dent: If you want to consider -- if you want to look at what delegation of authority you have out there now, and whether or not you'd like to have other delegations of authority, that would be a different item. We do have delegation of authority resolutions though.

>> Matt Loesch: Okay, I think we ought to talk about it then. Because not that I'm hoping to have to exercise that but there's certainly opportunity where things have been moving so quickly and so chaotically that we ought to consider something like that. Additionally under 402 the form of communication, I literally lists that we could do a telegram. I'm not sure I know how to send a telegram.

>> Mollie Dent: It's listed in Robert's rules of order.

>> Matt Loesch: Why couldn't we do an e-mail?

>> Mollie Dent: Because the Brown Act requires for special meetings that you prove that the person received it. It be in writing. It is not clear to me that a fax or an e-mail would satisfy the requirements of the Brown Act and the Brown Act for special meetings requires that the person receive a written notice. It's just state law, that's all can I say.

>> Russell Richeda: So you could have carrier using horse and carriage would be a effective way that would satisfy the Brown Act.

>> Matt Loesch: I'm in favor of pigeons.

>> Russell Richeda: If you have the pigeon here at the meeting.

>> Mollie Dent: The members can waive that. There is a provision in the Brown Act that allows the members to waive the form of the notice. If individual members want to say it's okay to communicate with me by e-mail, they can do that.

>> Let me put this in context. Let's suppose we are going into a Lehman like weekend and we knew we had a lot of exposure, counterparty exposure, what would that -- and we wanted to take action or going into that weekend what would we be able to do? And how -- or how would our hands be tied?

>> Russell Crosby: Would you have to know about it 72 hours in advance.

>> Mollie Dent: I will say that if you want -- there is a public emergency exception to the Brown Act that generally applies in -- that, generally speaking, it's Public Health and safety. So for example, a flood, a tornado, an earthquake. The city does have ways for the council to meet on even less than 24 hours' notice. If you want, the 24 versus 72 hours notice is a function of the Brown Act, versus our sunshine rules. The Brown Act does require special meetings to be called on 24 hours' notice. The city's sunshine rules require 72 hours' notice to be given for special meetings. So that is a change. I mean, your rules were adopted before the city's sunshine rules and your rules with the 24-hour notice provision in them were compliant with the Brown Act. They're not compliant with the sunshine rules. So that should be made -- I should make that clear. But the idea of being able to call a meeting on -- to an hour's notice or something like that, there is a provision in the Brown Act for that, but it is strictly for Public Health and safety.

>> Edward Overton: Health of the pension plan doesn't qualify?

>> Mollie Dent: If you don't want to make the change from 24 to 72 hours' notice in your rules, I suppose, you know, we -- if you were to want to try to call a meeting on less than 72 hours' notice we'd have to address it at that point. I think we'd have to address the council rule at some point but if you don't want to change it in your rules resolution, the 24 hours does comply with the Brown Act.

>> Russell Richeda: Mollie, would you envision the possibility of a delegation by the board in advance to the secretary along with what Matt was saying before? With some sort of specification to the degree we can to deal with Lehman type pending disasters?

>> Mollie Dent: I think we could definitely look at a delegation, this board's delegation of authority resolutions aren't extensive, it's tended to be on sort of a transaction by transaction basis. So that's something certainly that we could come back with.

>> Matt Loesch: Why don't we do that. Because I thought we had done something around that area. During that time. It night have been time-limited, it might have been very specific to a particular investment or something like that. If we could look back and see and consider what we ought to do, to leave ourselves exposed like this leaves me uncomfortable. To say I don't necessarily mind the 72-hour thing, in general prudence it's not really going to be that much of an issue. But 2008 wasn't supposed --

>> Mollie Dent: So your concern, really, is more with being able to act when you can't even get a board quorum together in that short amount of time, okay. Well, that would be more of a delegation of authority issue.

>> Matt Loesch: I think so. What are your thoughts?

>> You could probably round up some of us on short notice.

>> Matt Loesch: Yeah, so I guess the request is to -- the direction to staff is to come back with what the current delegation of authority is out there and maybe some recommendations working with the investment staff and benefit staff and the attorneys, what might be needed to change.

>> Mollie Dent: So in terms of the board, in terms of the special meeting though, do you want to leave the 24 hours in or do you want to go with the 72? That just -- if you want to adopt the resolution the way it is, that's fine. If you want to adopt it with the 24 hours you can adopt it that way.

>> Matt Loesch: 72 doesn't bother me that much, I don't know what your thoughts are.

>> Just leave it.

>> Matt Loesch: I think if we come up with some sort of delegation issue, that will cover most Band-Aids. Leave 24 or leave 72, Stuart.

>> Stuart Odell: I would have just left it at 24 if we're in compliance.

>> Mollie Dent: It's in compliance with the Brown Act, it is not in compliance with the council rules. If you did want to call a meeting on the 24 hours' notice we would probably have to address that somehow.

>> Russell Richeda: I personally would suggest changing it to 72. We are acting as if the sunshine ordinance and rules apply to us elsewhere. And I think that's the policy determination, you've made, that the prior board composition made, you know, I think you could argue that perhaps those rules don't apply to this board. That's a more difficult or complex legal argument, and you just avoid having to deal with it if you just go with the 72 hours. I don't think the board, as far as I can remember, has been inconvenienced by not being able to -- by having to call a special meeting within a short time period. Can you remember the last time we've done one?

>> Matt Loesch: No.

>> Russell Richeda: Very rare.

>> Mollie Dent: All of the special meetings have complied with the 72-hour requirement.

>> I don't have a strong opinion about it. I would take advice from counsel.

>> Matt Loesch: Okay, so we'll leave it at 72 sounds like and we'll leave the initial motion without any further changes request direction of staff to come back with further information about delegation of authority. And we'll move on. Thank you.

>> Mollie Dent: I think there was a motion but no vote.

>> Matt Loesch: I think we voted.

>> Mollie Dent: I didn't know.

>> Matt Loesch: The one item on 5.1, the auditor's report we didn't formally vote to accept the auditor's report. Typically we do do that. If that's of interest to the board, typically we do accept staff reports and things like that.

>> Lara Druyan: Motion to accept.

>> Second.

>> Matt Loesch: Motion and second. Any comments or questions? All in favor, opposed, okay. Okay, instead of skipping to 5.2, I know investment folks are chomping at the bit to get at it, but we've been noticed we're going to continue the hearing of 1.1 the service connected disability of Victoria Brown go back to closed session, they've requested us to go back to closed session. [Closed session]

>> Matt Loesch: Okay, back into open session, we're still on 1.1, the service connected disability of Victoria A. Brown. Anything further infrom closed session?

>> Mollie Dent: We've completed the closed session. If the applicant wants to present anything further in open session she can proceed now but the board can proceed to voting in open session, any closing argument if her attorney wants to make it.

>> Matt Loesch: Any closing statement? I'll take comments or questions from the board.

>> First I wanted to thank the panel very much for the opportunity to review Mrs. Brown's claim for service-related disability. As we sit here today, it is -- this event would never have occurred, Mrs. Brown would be working at the animal control shelter, as we speak. There was never a need for any type of accommodation for her, just simply because over her 16-year -- over her 16-year career, with the City of San José, she was not disabled. It was only until after this specific event occurred, which was something that was not foreseeable, which was something that she was not you know, expecting to occur. But for this particular work related incident, she would still continue to be gainfully employed and even for that matter, she would have or does in fact have some interest in working. It's just that she cannot. And she made every effort to try to return back to the workforce and she could not. So we ask that you take into consideration elements of her work file as well as the medical records that we reviewed in closed session. And Mrs. Brown's overall plea that you take into light that this was a very traumatic event that she was exposed to, it was an environment that was not anticipated. Thank you.

>> Matt Loesch: Any comments or questions from the board? Mr. Armstrong you were kind of behinding.

>> Michael Armstrong: This is a question for our attorney. Following up on the auditor's presentation this morning, if we cannot accommodate someone who is applying for disability, does that mean that we have to approve the disability?

>> Mollie Dent: Not -- not in -- you don't have to approve a -- this is a service connected disability retirement.

>> Michael Armstrong: Yes.

>> Mollie Dent: So the first thing you have to look at is whether or not the person is disabled from performing their job. And so the way that the accommodation comes into that side of the equation is whether or not they have a work restriction that can or cannot be accommodate in the job that they were in, or in any other job to which the city may offer to transfer them. So the person may be disabled about they had a work restriction that could not be accommodate in their job or could not be accommodate in another job that the city might offer to transfer them. In this case you have to go further because the disability itself has to arise out of or be in the course and scope of employment. So because it's a service-connected disability. So you start with whether or not they're disabled and then you have to find out whether or not that disability is a result of an injury on the job.

>> Russell Richeda: Just to rephrase it perhaps. For an application for a service-connected disability, under your definitions, I think it's more useful to think of that you have two questions. One is the complicate incapacitated from performing the duties of that position, or a similar position, within the same job class and them number 2, whether the underlying disability arose out of the course and scope of employment. If there's an alternate position open, that meets in the same classifications, that the individual with whatever restrictions have been found has been determined could perform those duties then the person is not incapacitated because there is another job available that that person could perform. So that's where I think the issue you raise enters -- it deals with the first question before you. But even if you find that there is no alternate position, or that the restrictions are too great for that proposed restriction, that's only deciding the incapacity issue. Then you have to then proceed to whether the underlying disability arises out of or results from an injury or disease occurring on the job.

>> Mollie Dent: So the direct answer is, with the service connected disability application even if the person had a restriction that could not be accommodated it does not automatically entitle someone to a service connected disability allowance.

>> Matt Loesch: Okay. Any other comments or questions from the board? Okay. I'll entertain a motion. Question. Do you -- would you also consider a nonservice related disability?

>> Matt Loesch: Is the applicant changing her request we can consider that correct?

>> Mollie Dent: Yes, if the applicant wants to change her request to a nonservice connected disability, she can make that request. I don't know whether it would -- I don't know -- well, you might want to talk to your client about whether or not that would be any different than a service retirement allowance for her.

>> Donna Busse: Slightly different because of her age. It would be reduced a half a percent for every year of her age effective.

>> Mollie Dent: You don't have to make that decision here today. This doesn't affect your ability to apply for a nonservice connected.

>> Matt Loesch: Okay. Are you changing your request or continuing your request?

>> No.

>> Matt Loesch: I'll entertain a motion.

>> Edward Overton: Move staff recommendation.

>> Matt Loesch: Move staff recommendation to deny the service connected disability. Any second?

>> Second.

>> Matt Loesch: Any further comments or questions? All in favor, opposed, none thank you.

>> Thank you.

>> Matt Loesch: Moving on to item 5.2, it is discussion and action regarding equity manager tracking error. We have a memo very brief, Ms. racy-Choy.

>> Carmen Racy-Choy: This is requested after last board meeting. After review, just to provide context for the tracking error, typically for a manager to generate positive alpha, over long periods of time, you typically try to pick a good manager, so a manager that is going to make more good calls than bad calls. And you also typically want the manager to have a high tracking error. Typically, their ability to add alpha in excess of fees is very much linked to that. After arriving basically our active equity managers, staff did include that Artisan and eagle are a little bit low on that. So what staff is recommending at the next investment structure, staff will re-evaluate the two investment managers and make appropriate proposals to the board. If the board feels that we should re-evaluate any other managers, given the data that we provide them, then we would like to hear from the board.

>> Matt Loesch: Mr. Armstrong.

>> Michael Armstrong: Carmen, I'm not so familiar with the formatting of the report, could you go through one example just so we understand?

>> Carmen Racy-Choy: Sure, absolutely. What the report is showing is tracking error for three, five, seven and ten years where information is available. And the initial if you look at for example the first page, the initial page will show the various percentiles and the median of managers in that strategy. So for example, the first page is looking at the Russell 2000 growth so this would be small cap growth mandate. And obviously the manager in that space is eagle. And you can actually see, for example, that eagle, over three years, has approximately a 3% tracking error and that that is very, very low compared to his peers. Similarly, for five years, similarly for seven years. The numbers are a bit different at the ten-year level however would I say that even a 7, although it kind of starts to be borderline it's probably on the low side, typically would like to see maybe an 8 or a 9, very simply if a manager doesn't have sufficient tracking error, even if they argued they might only make up the fees and not add value on top of that. Would you like me to cover some of the other managers or -- or are there any comments on -- I mean staff is thinking Artisan and eagle need to be reevaluated.

>> Edward Overton: Carmen isn't the tracking error a function of the manager's style and if you ask them to change the tracking error then you would be asking them to modify how they implement their investment strategy?

>> It is affected by their style and it's a decision that it's one of the things that you would look at when you're doing the due diligence. So you'd never go back to the manager and say please increase your tracking error. But when selecting a manager then you take it into account.

>> Is their outperformance significant? Because they're tracking very close to the index. Some manager is really good, they both track the index and outperform, but that's pretty hard to do.

>> Carmen Racy-Choy: That's very hard to do. Because if you're not making significant bets, it's very hard to actually produce alpha on top of the benchmark.

>> I think clarification in terms of what is tracking error. Tracking error is the deviation of the manager relative to the benchmark. Benchmarks such as Russell or S&P are very cap-heavy so the majority of the movement of the index comes from the top 10 to 20% of the index. So we are looking at the tracking error. You're really looking at the tracking error of this manager relative to that top 10, 20% of the benchmark. So if the manager have a lot of small stocks, then their tracking error tend to be larger, whereas the manager who maybe has five stocks in their portfolio, but they are all large cap, they tend to have a lower tracking error. We have to be very conscious of that what is the definition of tracking and inherently calculate it, and that's a bias that is inherent in the calculation of tracking error. So I would not recommend to fire or hire manager only based on tracking error, but it is a good indicator of how active is the manager. If the manager just buys five stocks and sits on them then it's not a really active management.

>> Matt Loesch: Question? There's pondering.

>> No I'm fine thank you.

>> Edward Overton: So what's to be done on this? Why is it in front of us?

>> Carmen Racy-Choy: Because at the last board meeting one of the board members requested that information and we provided the information. We looked at it before providing it to you, and that's why it's in front of you again.

>> Edward Overton: Okay.

>> When did you hire Artisan and Eagle?

>> Carmen Racy-Choy: Sorry the question again?

>> Michael Armstrong: How long artisan and eagle been in the portfolio?

>> Carmen Racy-Choy: Eagle has been in the portfolio before I started, and at the last restructure when about 15, 16 managers were changed, they were one of the managers that remained, not because, you know, the -- basically just because we introduced global mandates and this was an area that wasn't affected by global mandates because we maintained a small cap mandates on top of a global mandates. That was for eagle. Artisan was actually put in place during my maternity leave, I wasn't very familiar with it and it is a recent addition.

>> Eagle has been for many, many years and artisan very recent and artisan tracking error has reduced and they have consciously done that, basically post-2008. They came and said in terms of valuation, we see most of the valuation in large cap. Why do I want to go and buy a small cap, I can allocate a lot of asset in large cap. If you look at the historical tracking error for them, it went from 10 or 11 to 3 or 4, and yes, the nature of how they moved in the capitalization of their portfolio. If you look at their coverage ratio, which is really how concentrated their

portfolio is, that hasn't changed, that they usually have ten to 20 names, very focused, concentrated portfolio, but they just saw valuation in a different segment of the market relative what they've seen historically.

>> So would it be fair to say we'd want to put -- look at alpha generation and so I mean other measures, include those in context, the tracking error?

>> Exactly. I would not hire or fire a manager just based on tracking error. That's too simplification of analysis. You need to look at: Does this manager have enough intelligence to generate alpha? And if he sees that the large cap is actually a good alpha generator, tracking error is secondary byproduct of that.

>> I think with artisan, you may have made a stronger argument for it. But with eagle I think you want to go back and look at it a little more carefully. I don't know what you're paying in fees for that active manager but that's the one I would spend a little more time sharpening your pencil on. I mean particularly given you've taken this barbell approach to having you know a very passive, cheap data exposure. This, to me, may just be, you know, data. So --

>> Are any of these managers based in the Bay Area?

>> Artisan is. Eagle is in Florida.

>> Matt Loesch: Note and file on that, the only action we need to make on that, I assume. Item 5.3, discussion regarding correlations between domestic and non-U.S. equities.

>> Carmen Racy-Choy: This item again was requested by a board member last month. Basically staff is providing the results and we are open for discussion on the topic, if any.

>> Matt Loesch: Would the board like to have a quick summary of what this chart -- how to interpret?

>> Carmen Racy-Choy: Sure. Fundamentally the results show the correlations of various markets, with the Russell 3,000. The idea was to show the correlation with foreign markets as large versus the U.S. markets. The results first show the returns, the returns of the foreign markets are in local currencies and then in later pages, I believe the number should show the returns in U.S. dollar as well.

>> Matt Loesch: Returns or correlations? Correlations or returns?

>> Carmen Racy-Choy: It's the correlations that are being shown between the U.S. markets and the foreign market that's indicated on each page. However on certain pages, the correlations are done, it's the returns of the U.S. market versus the return of the foreign market in local currency. And in the later pages, it's really the correlations of the U.S. market in U.S. dollar versus the returns translated to U.S. dollars.

>> Lara Druyan: Matt this is really to get a sense of how much diversification are you really getting? Obviously in the '80s when we start on the first page right you got much lower correlation co-efficients than you have obviously today, where you're getting to 80, 90%, even with emerging markets.

>> Matt Loesch: You might want to note, and it's amazing, that all the other correlations dipped down in 2007, and Japan shoots up.

>> Lara Druyan: Well, right. So I asked for this and the reason why is to -- I mean because there is a certain comfort in thinking you're getting diversification when you say we're going global and we're doing brick. So this tells you how much --

>> Matt Loesch: Not much.

>> Lara Druyan: Diversification you're really getting. That doesn't mean you shouldn't do those things, because there's correlation coefficients that's one, but it's a lot higher than one might think.

>> Or it might mean that the benchmarks are correlated, doesn't mean that -- you know, could be benchmark construction.

>> Lara Druyan: Could be.

>> Carmen Racy-Choy: Fundamentally the correlations are quite high, which indicates that the markets are quite correlated. However, I think there is a big I would say big reasons to do global mandate and that is to give the manager the ability to really choose the best stocks and to give the manager really the ability to pick the best markets if they have the capacity to do so. So albeit we would definitely like to see a lower correlations because this also implies diversification benefits, the reality is the impact of all that global investing that's going on, is that the markets are going to be more and more correlated going forward, even over longer periods of time. And so that's a very fair comment.

>> Matt Loesch: Do you think in the long run that will create greater opportunities so everyone is looking everywhere so there's more things to miss? I mean there's more pockets of things [Laughter]

>> Matt Loesch: Nobody is looking around, things right in front of you might be the things that are readily available. So it might -- I mean are we seeing -- though the correlations are going up are we seeing volume tilts in these areas doing crazy things as well or --

>> Carmen Racy-Choy: Well the correlations are going up because more and more institutional investors are doing global investing. They're doing global investing because they're in search of countries or opportunities that they have not exploited yet where they can reap a reward from either diversification benefits or if any or basically alpha. Easy alpha. So I don't necessarily think bottom line reasoning should this mean we shouldn't do global? Not at all. But just I think the key here is just to understand, that the correlations are fairly high, which means that the diversification benefit alone is probably on the low side.

>> Matt Loesch: Got it. Okay. Any other comments or questions? Note and file. All right. We're on 5.4. Staff presentation on fixed income portfolio. Let me pause one second. Okay we're going to put a pause real quick on item 5.4. Mr. Overton.

>> Edward Overton: On item 5.4 I would make a motion that we reconsider the application. Excuse me. 1.1 on the basis of a different request from the applicant.

>> Matt Loesch: We have a motion and I'll second that to reconsider. I had 1.1 on a different request.

>> Mollie Dent: If we could ask the applicant to come forward and clarify that they are asking for the reconsideration, that the reconsideration would be for the purpose of considering whether to grant a nonservice connected disability application.

>> And that is confirmed.

>> Matt Loesch: Do we need to vote on that motion?

>> Mollie Dent: You should vote on the motion to reconsider and then vote on whether to grant a nonservice connected.

>> Matt Loesch: So I seconded that motion. All in favor of reconsidering? Opposed, none. We have a request for a nonservice connected disability for Ms. Victoria brown.

>> Mollie Dent: The testimony you heard earlier would be totally relevant to the nonservice connected disability as well. Any comments by the mitigate?

>> None.

>> Edward Overton: I'd move approval.

>> Could we have sort of a quick summary of what the differences are and what the implications are?

>> Matt Loesch: Okay I'll second his motion just so we can further the discussion. So the motion on the floor is to approve a nonservice related disability and per the discussion if we could just clarify the difference between service and nonservice.

>> Mollie Dent: For a nonservice connected disability allowance you don't have to find that the disabling condition arose or resulted from work. It can be something that is entirely outside of work. In terms of the benefit levels for service connected versus nonservice connected that's absolutely not something you should take into account in terms of whether to grant the disability retirement allowance or not. Because that's not -- the benefit level that would be received isn't really necessarily relevant to whether or not the person is disabled.

>> Could I ask a question also? Does -- is the criteria here that they're disabled from performing something in their job classification for the city, as opposed to, being able to work in general?

>> Mollie Dent: Correct. Disabled from performing the classification that they were in or any other classification that the city might offer to transfer them to with the work restriction that they had.

>> Matt Loesch: Based on the evidence that was presented in the case.

>> Mollie Dent: Based on the evidence that was presented to you.

>> Russell Richeda: In this case there is no other position that has been --

>> Right.

>> Matt Loesch: Any other comments or questions? Oscar we have a motion on the floor to approve a nonservice related disability. All those in favor? Opposed? Thank you very much. 5.4, presentation up and running now? Dr. Amiry.

>> Presentation today is going to be about the fixed income.

>> Matt Loesch: We want to be able to hear you, we're recording sorry.

>> Going to be about the fixed income portion of the portfolio. What I was hoping to achieve is talk a little bit about the fixed income market in general both in historical context and what we think would be a possible going forward scenario. And once we set that groundwork, in terms of what we see and what we have seen, maybe we can -- Carmen will talk about the liability part of the equation and then we'll propose the structure in that basis. So first we're going to talk about the historical context, what we see in the market, what we have seen in the market. And then go forward from that. I believe the future meetings are a combination of private equity real estate, coming from Mikita, we'll have a discussion about hedge funds and commodities, and then after that would be more tactical allocations and currencies. I think the chart really illustrates what has happened in the fixed income market very well in the last 50 years. The ten year treasury which is really the benchmark treasury in the United States in interest rates has been steadily rising since 1960. And it peaks around 1981, 17%, and has been steadily going down for last 30 years. Just amazing chart, if you look at the -- what has happened economically, in -- from '60s to '80s and after that. And it has a huge implication in terms of the corporations and the reasoning behind it. But before I go to that, I want to bring attention to a second chart. This is not the treasury. This is the corporate bond yield going back to the 1930s and that showed what has been the interest rate of the corporate bonds going back to the 1930s I intentionally circled two sections of the chart, the depression era, and 2008, similar shock to the system. And personally I find this very interesting because this is the two time periods that the corporate bond has became much wider spread, relative to treasuries than any other time. That usually as the interest rates of the treasury goes up or down, the corporate bonds follow the same similar pattern. Except in a time of extreme crisis, which is what happened in 1930 and what happened in 2008, these two type of interest rates diverged drastically from each other. And that has an implication in terms of asset allocation and being

aware. Fortunately with the fed moving into the market at the end of 2008 and pumping a lot of dollar into the system, that spread which is the difference between the corporate bond and the treasury bond, shrank drastically as can you see in this chart, at the beginning of 2009 you had around 18% spread between the high yield bond versus treasury and now it's back to 4% which is relatively low compared to standards, the widening and compression has been -- only happened in 1930. So even though people talk about the equity market allot and what happens in 2008, the obligation and the structural change that occurred in the fixed income market was much more drastic and much more important. The Irish that comes in right now, okay, this is great, we have all seen what happened in last 50 years. Where do we go now? What are the different scenarios? And what I tried to do here was to outline really four general scenarios of what possible outcome there might be and how would they implicate your asset allocation. The four scenarios one would be if you have a global deviation like the one we had in the 1930s, and I'll go into detail what that means \. The second one would be if we have what I would call a soft deflation, something that Japanese have been experiencing since 1990. The third option would be, reacceleration of inflation. Inflation comes back in the market, we start seeing the interest rate rise. It might not go as high as what happened in 1980 but we are seeing generally interest rates going up. And then finally, which actually is very topical, is the issue of sovereign credit quality, which if you have been reading the news it was all over the news couple of days ago that United States got potentially underwatched. And that's a big issue. And that's less economic, more political. But let me go through each of them one by one and discuss what I think would be the structure. In a hard global deflation you are basically having a repeat of 1930. You have double digit unemployment, equity markets going down, so basically anything that we've seen since 2008 was just a blip and we're going to go back to Dow 4,000, something like that. I think the probability of that occurring has decreased drastically, because of what has federal reserve has done and how they reacted to what's going on. But there's still a possibility that that will occur. In a case like this, I would say that your fixed income is the best horse in the glue factory. Means you are going to get a little bit more money out of your ten year treasury but you're losing your shirt in equities and commodities and real estate and everything else is just done. But you are making some money in a long bond. So if you think that is the scenario, you want to be on the long bond, you want to be on ten year treasuries and structures like that. Personally, I think the probability is very low. The other option is that would be very similar to what the -- what Japanese is experiencing, since 1990. Japan entered a deflationary period very much at the beginning of 1990 bank. Of Japan has reduced the interest rates in their country, and been pumping money since 1990 which is what, 20 years now. Has not really managed to bring the economy back. They managed to stop the disaster but, if you look at the GDP and if you look since 1990, they have been minus 2.2 of the growth so it's a flat economy. And that shows itself in their ten-year bond. In that the ten-year bond yield, Japanese ten-year if you look since 1996, 97, it's been flat. It goes up, it goes down, people get excited, people get disappointed, but you really all you're getting is you're lucky you're getting your coupon, which in their case is around zero percent. You're not getting much rate of return out of it. There are actually a large group of economists that expect something like this happen to the United States. I mean there is a valid argument that that might happen with all the liquidity that has poured into the market. There are structural differences between United States an Japan, just cultural and kind of a method structure, it might happen and it might not but that's a possibility. In that case, all you're really getting is your coupon rate on your ten year bond, maybe a little bit more if you go to corporate. But this asset class is not going to fundamentally contribute to your 7.25, 7.75% rate of return. So it's going to be a hindrance on reaching your actuarial stretch if that happens. The third case which actually might sound bad, but it's actually good, is that the economies is back in track, you know, 2008 was a you know, nightmare, we forgot about it, growth will resume, everything goes back to normal. In this case, the equity will do very well. The commodities, real estate, everything else will do well. And your bond yield, unfortunately, will start increasing. And if that happens, you're going to lose money on your portion of your bond, on your fixed income most likely. I would suspect that you would have negative return on your bonds and because we have some tips that might have a little bit of a cushion, but in general, it's not going to be an asset class that you are going to generate positive return out of. And of course, the last and most topical issue is that of the three other options I discussed were more just kinds of general economic issues. The economy is bad, inflation here, it's not a question of economy, is that United States is highly leveraged. And that high level of leverage might impact credit quality. So the interest raids will rise not because the economy is bad but because of other scenarios. And if that happens, neither tips nor bonds will help you. You know. Either case, you are going to have negative return for this asset class. So it's a very rapid kind of a covering of four different possible scenarios. And there are multiple scenarios, and reality is always much more complex than what you can express. But what came to mind is that on their all these three scenarios your fixed income scenario is going to be a hindrance to reaching your actuarial return. You might keep it for the risk profile of the fixed income and that's a different discussion. But in terms of if you're looking at the return of structure, I think it is highly likely that is not going to be a contributing factor to your return for the next five to ten years. Unlike what has happened in the last ten years. Because last ten years the interest rates come in and came down and you made a lot of money through that. Next ten years, the probability of that is actually very low. So I think one of the issues we are going to discuss is that in the next asset liability, what I would say the traditional fixed income allocation should be revisited seriously and taken into account and maybe we can decrease it. At this point if there are any questions, for this point?

>> Matt Loesch: Any questions of the board?

>> Edward Overton: What is the fixed asset allocation now?

>> 20%.

>> Edward Overton: And you think it should be lower than that?

>> I believe so.

>> Matt Loesch: The configuration would be lower.

>> We'll discuss it later.

>> Carmen Racy-Choy: The 20% is the investment structure. When we answer, it could actually be higher because the money that should be in hedge funds, and a small portion of the money that should be in commodities is actually in fixed income. But also, just the comment, we also have fixed income instruments through our alternatives. The opportunistic buckets, fundamentally is private debt. Some of your private equity is mezzanine which is fixed income in nature. So when we're saying 20% this doesn't include those components. So just wanted to provide that context.

>> Just adding to that, and I will discuss it later when we discuss portfolio construction. I really want to make a separation between the floating rate and the fixed rate. Some of the funds that we have been investing in the last year and a half tend to be floating rates. Because we were worried about the rates going up. Right now, what the description that I propose here was looking at the fixed rate part of the portfolio, and what would be the implication of, for lack of better words, my Barkley portion of fixed income, the traditional not the floating part.

>> Matt Loesch: Do you have any more?

>> Edward Overton: Yeah. How much is this income by noninvestment grade borrowings?

>> Very good question and I think that goes back to the first-the chart that I have. If you look at the fixed income, and that's something that we -- I think the board should be very aware of, there's really two sort of risks in your fixed income. One is the interest rate risk of the treasury, which is really the benchmark. The 10-year treasury goes up and down, that can contribute to the risk of your portfolio. The other is the spread, which is a difference between the corporate interest rate and the treasury interest rate, and they move independently. That's the reason I had two circles for 1930 and 2008. They move independently, and that independent varying move can be significant at times. So my proposal and I will discuss it later when we are discussing a proposal structure is that to consider these two sorts of risks separately and think about them differently. And allocate intelligently based on these sorts of risks. So what I have been talking up to now in terms of four scenarios has been more or the treasury sides. I've been talking about treasuries going up, treasuries going down, interest rate on treasuries going up and down. On the corporate side how much the corporate changes, that's a completely different discussion and I think that's another part of the discussion we'll talk later. Mr. Mayor okay, Mr. Armstrong.

>> Michael Armstrong: You're bucketing mortgage type securities all that you're targeting as noncorporate?

>> Noncorporate.

>> Matt Loesch: Any other questions or should we proceed? Okay, moving on.

>> Carmen Racy-Choy: So thank you, Ali. The next section I think fits well into the presentation but it was also a question from the board member. The question was, well, how should the fixed income allocation be structured in order to minimize interest rate risk? And the key there is to recognize that there is interest rate risk on both the assets and the liabilities. Staff is recommending that when managing something like interest rate risk, that the board looks at surplus or currently, as our plan stands, deficits. The reason would you want to do that is twofold. One by managing the level of surplus, you're actually managing the financial condition of the plan and all of the financial ratios, meaning by trying to reduce deficit you are actually improving the financial condition of the plan and simultaneously, you're also trying to stabilize the volatility of employer contributions. And the reason you do that by managing surplus, fundamentally, as you know, any additional deficits get recognized by the actuary and are amortized over 16 years just like a mortgage schedule. So additional deficits increase the plan sponsor's contribution, includes the principal plus an interest component. So avoiding additional deficits is an excellent motive. Is the competence is that happens okay we can measure the interest rate sensitivity of our assets. We can also measure the maybe the sensitivity to inflation of some of our assets but we just don't know how the liabilities move. And the way this is addressed is, basically, we build something called the liability benchmark. If the liabilities were an asset portfolio and you had invested all of your liabilities in that asset portfolio, the assets and the liabilities would move in tandem and hence, you would not have interest rate risk, nor would you have risk to unexpected inflation. So in that, with that kind of thought I wanted to take you to what -- I think it's slide 29. So the first thing I want to say is the liability benchmark is in the current public plan methodology. It is based on the fixed income allocation. Because the sensitivity to interest rates comes to your allocation to fixed income and it comes through the fact that the discount rate is set as an expected return on your asset portfolio. As you reduce your allocation to fixed income, you're really shrinking the interest rate risk of the plan. We requested from Cheiron, the plan's actuary, sensitivity to both interest rate and unexpected fluctuation. And fundamentally if you were invested in 16% four-year TIFs, approximately 57% Barclays and 27% one to three year U.S. treasuries, you would basically reduce the interest rate and inflation sensitivity of the plan. Again, this is highly dependent on the fixed income allocation. This benchmark has approximately a 4.1 year duration. And so it's a little bit lower duration than the most common benchmark which is the Lehman act. Are there any questions on this?

>> So if the plan was 100% invested in equities, you would tell me the duration is zero of the liability.

>> Carmen Racy-Choy: Yes.

>> You're essentially just looking at the assets and making a determination of the liability based on how the assets are, as opposed to the sensitivity of the actual -- the liability cash flows to changes in interest rates.

>> Carmen Racy-Choy: But the reality is that the liability cash flows are only sensitive through the change in discount rate.

>> Right, which is --

>> If you had a discount -- if you had invested you said --

>> And your discount rate is your return on assets, which is in equity 7.75% rate of return. So I understand on the corporate side, where we discount things back a double A bond rate, and I can sit back and tell you what my liabilities' sensitivity to interest rates are. But you are discounting it back at an ROA of an equity rate of return.

>> Carmen Racy-Choy: For the equity portion.

>> Your liability is much more subject to the return on equities than it is on the return on fixed income in here.

>> Carmen Racy-Choy: That's true, that's absolutely true. But that's why in a typically mark-to-market pension plan, the duration of your liabilities are 12.5 years, and the duration of our liabilities are approximately 2.5. So clearly, there's an acknowledgment that this is not a big interest rate, not a big risk given our current terminology. The reason for that discrepancies is very much the fact that --

>> No, it's not a risk given how you invest the assets. If you had all the assets invested in fixed income, what would your liability's duration be?

>> Carmen Racy-Choy: It would be around 12.5.

>> Exactly. So I think that's where I'm a little bit confused because the duration of your liability is not -- it's only four years, as a function of the fact that you set an 80-20 policy for your asset allocation. So I guess I don't -- I see this as sort of arbitrary as to what your duration is and your liability is.

>> Carmen Racy-Choy: Well I guess you're stating what I should have said that the duration of the liabilities is 12.are 5 however given the current methodology it is really only 20% of that is really a reflect that's true through the discount rate. If that's the statement, I do agree with it. I was trying to skip a step, maybe.

>> Okay. Keep going.

>> Carmen Racy-Choy: But I think that was effectively what we did which is calculate the 12.5 and then reduce it by the fact that we only have a 20% allocation to fixed income. So --

>> All right, keep going.

>> I have one quick question. When you calculate surplus or deficit do you use a smooth number or the asset to time number?

>> Carmen Racy-Choy: The asset would use smooth number.

>> Do you also?

>> Carmen Racy-Choy: From a point of view of investment I think you want to make investment decision based on market value not on smooth number. The actuary is using smooth numbers because he is trying to reduce the volatility of the plan sponsor contributions. I don't know that's necessarily a number you want to make decisions on.

>> Right. And in your analysis here, do you use a smooth number or do you do that full exercise here?

>> Carmen Racy-Choy: No it's totally market value.

>> Okay, thank you.

>> Carmen Racy-Choy: All right, with that I'll pass it back to Ali.

>> I think I guess before -- sorry. Train of thought. Let's look at the current asset allocation that we have. And the current asset allocation that we have right now has 20% in a fixed income. It's the combination of TIFs, core government, investment grade, and high yield. As Carmen mentioned we have some imbedded fixed income in our opportunistic, and some in our mezzanine through the private equity. But let's focus on the 20% we have right now, in that bucket. And I would like to take some time and go through this chart in the page 33, and talk about them. Right now, we havesen many 5% in TIFs which we allocated year and a half ago, almost a year or so and it's divided into four-year many nine-year and 14-year TIFs. I don't know how much you follow TIFs market but the TIFs yield right now is negative. What does that mean, negative? Means we as a plan paying United States government money to buy something from them. So we are actually losing money by holding this. When we purchased it the interest rates were positive and now, because of the rally in the price, interest rates have gone negative, has two implications. That either we think things are going to get a lot worse, means it's going to get a lot more negative or good investment, or more likely scenario is that the interest rates are going to start rising, the real rates, and we'll start losing money on. So from this structural point, the TIFs do not have a very attractive allocation right now, considering that the interest rates are negative for this allocation. So that's the TIFs part of the equation. Switching to the other side, we allocate to Sykes and Makai two mandates of bank loan and high-

yield. Before allocated, I think the first half of 2009, and the structural which we put into allocation was that's the nonreinvestment allocation. So let me explain what that means. We hired Makai to go and invest 50 million for us, and they went and bought five bonds. As the bonds mature, we didn't reinvest the money, we took the money and paid for a benefit. So the coupons and all the maturity that came out of it, was used as a cash to pay for the benefits of the plan. So now that is the slowly sex liquidating itself. We have withdrawn close to -- Sierra is not here -- close to 40 to 50 million out of. It has actually been a very good investment but because the spread has shrunk completely from 18% to four, the offside potential is kind of limited in my mind. Especially in a highs yield market. The bank loan has a feature that is called floating rate, that the interest rates tend to float. And that makes them slightly more attractive than the high yield. But in general, both of them are trading very dear relative to historical terms. To other allocation we have an intermediate goverment bond and a U.S. credit, which is a traditional credit Barclay Act type of structure.

>> To government only and not agencies.

>> No, these are all just corporate. Okay, so the question is that we discuss what we think will be the possible outcomes. This is what is in our portfolio. Where do we want to go? And considering that we don't know the future, it makes sense to look at, can we structure a portfolio that have a very controlled risk more than anything else. The simplest allocation would be to go to something of 70% Barclay act and 30% shorter duration, is likely bring the duration of the portfolio down, without really impacting anything else that, you know, it's a simple, straightforward trade, we can allocate that very quickly and it is a very clean, straightforward structure. That does not really help you in terms of achieving your rate of return. If any scenarios except hardest deflation is going to pass. So in terms of both soft deflation and increasing interest rate, shorter duration will soften the blow slightly but most likely it is still going to be a hindrance on your performance. And I think the reason we didn't put it in is because we're going to talk about it. So there are a couple of ways. First of all you can separate parts of the corporate and find managers who only trade the spread market and allocate money to them and then hire another managers who trades the treasury market. It's become much more active involvement into trading of the fixed income. The other solution would be hire a collection of what is called to be portable, and we'll discuss that in the next country of meetings. Use that as a return enhancement on top of your asset allocation. Hopefully you are

getting one to 2% from your portable alpha managers but your duration is not high enough that you are getting hit by rising interest rates. This way you can have more structure in place. Another way of doing it and that's become a little bit more sophisticated is putting swaps or swaptions on top of it. And that has its own complexity that I'm not sure if I want to go in that direction right now. So this is a straight basic recommendation. What I think what I wanted to bring out to this meeting more than anything else is that the fixed income is a complex part of the portfolio that needs to be addressed seriously. Unlike the last 20 years that it was just pure cash cow, that's most likely will not ahappen in the next ten years. So is there any questions? I think that's pretty much it. The rest of it is repeating what I already said.

>> I mean you said you added TIFs a year ago, and you're coming back and recommending, I think that you eliminate TIFs a year later. And now I realize the markets have moved a lot but you know, is -- what were you thinking a year ago, when you put it in the portfolio? Was this a strategic allocation and I'll be back in a year if the markets come back and we'll tell the committee we'll take it down. I don't like the idea of generally flipping managers and strategies a year later, so I want -- you should have a pretty strong rationale for this.

>> Carmen Racy-Choy: Sure, the rationale behind the plan put in place, an allocation 17% to real assets, 10% to the commodity and infrastructure allocation in the alternative side, and 7.5 through TIFs. And I think the rationale was very much, as you saw in the liability benchmark, there's an allocation of approximately 16% to a four-year TIF. The idea was to have at least an allocation on the asset side that gives us the same movement as the liabilities. So at that point in time obviously the TIFs looked reasonably attractive and they have positive yields. I think for the -- currently, they are no longer necessarily last time I checked they had negative yields. However the fundamental rationale was not to go into commodities or general real assets and try to do 16 or 17% entirely. So going into TIFs was kind of a softer way of doing it. We wouldn't -- we are not recommending a change in the real assets allocation. So the idea would be to move away from TIFs but go to maybe managed futures or other real assets and maintain that allocation. So --

>> And so when rates do go up, and there is CPI and TIFs start to perform you'll jump back into TIFs in a couple of years?

>> Carmen Racy-Choy: Well given we still have the same real asset allocation we have made allocations to other asset classes that also have a responsiveness to inflation.

>> Okay. And commodities, when oil hits $150 a barrel you'll pull out of oil?

>> Carmen Racy-Choy: No.

>> Okay. I mean I'm just trying to understand where the points are where you guys tact tickly go, this asset value is now overvalued, oh, cut the manager and move on, versus strategically saying, we won't always be allocated into these areas and this is part of a permanent allocation to the portfolio.

>> Carmen Racy-Choy: I think the allocation to real assets is, it should be a permanent allocation to the portfolio. Because at this stage it's very clear to the risk-minimizing allocation. But whether that allocation is commodities to TIFs or to some other sector is part of the ongoing decisions.

>> Okay.

>> Lara Druyan: I see TIFs as being something that's just core?

>> I think TIFs are generally part of a core, core allocation. More and more global TIFs I don't know how much your TIFs are probably all domestic.

>> All U.S.

>> Yeah, but we would actually suggest on a global basis TIFs actually are not all negative. There are some countries where you can get a positive yield out of TIFs. Going forward. But yeah, generally core.

>> Matt Loesch: Okay.

>> So on the core, you call it core government, is it strictly speaking this would be a core U.S. treasury piece or this -- you know, would this be more sort of a kind of a total return fixed income going multiple there?

>> I actually think we should move away from U.S. treasury and Barkley act approach. I think there's a lot of opportunity globally that you can get a better return, better risk return allocation. So my recommendation that even if you are going to something like 70% aggregate index it would be 70% global Barclay act or something like that. There is much more opportunity set there and in the treasury index I would look at you know global treasury. You get a little bit complication of the currency market and you have to be aware of that. But Norwegian ten year bonds trade like United States but --

>> That's an oil bet.

>> Would you he lean towards hedging currency or not? I haven't studied that yet.

>> Carmen Racy-Choy: I think topic of currencies we would need to discuss that as a separate topic because it is definitely a worthwhile -- we tend to judge currency as a sort of alpha Unrelated to market risks. Whether you would want to hedge currency risks is an added complexity to that topic. And to be -- you know I think so I would say on that front, let's revisit that question, let's put it on hold. Because it deserves a lot more analysis, and the last time we had done the analysis was probably like two or three years ago, so it's a bit out of date.

>> Matt Loesch: So we're keeping folks -- you're making recommendations here of what you think we might want to go -- maybe temperature-taking of the trustees especially and seeing what kind of impact or thoughts they have. I'm presuming you would also -- would you want to come back with this direct changes, specific changes, we're going to do our asset allocation fairly soon, we're going to relook at that the whole thing correct fairly soon?

>> Carmen Racy-Choy: Well that's one of the questions we're going to ask you once this is all done is would you like to do a new asset allocation and if not would you like to do revised investment structures and to which asset classes, if -- so that's going to come back to you as a questioner.

>> I think the answer is yes because you have all these new board members that have not had any opportunity to really provide any input or thought on relatively recent changes to your strategic asset allocation. So it seems to me you want to come back and revisit the topic and at least explain the rationale for how you came to the conclusions you came to before.

>> As specifically asking the question about fixed income I think fixed income is a pretty complex part of the market. It's been a really great run. People tend to be just very comfortable with holding and I think going forward maybe just me but I think you need to be much more conscious of what you're doing in that marketplace, that oh I just have barb Barclay act since 1980 and it's giving me seven, 8% return a year. I would be very, very surprised if that happens in next ten years.

>> Matt Loesch: And I guess the reason for my comment about the temperature I'd like to give you a reading actually so you have a direction as to what folks are thinking. So if you are asking to do this before we do an asset allocation start movement, come back and direct recommendation or not, that's why I wanted to make sure that what you're asking for is so the board is giving you a clear indication as to what they want.

>> Carmen Racy-Choy: Really we want a discussion and kind of engage the trustees on their views. We are not proceeding towards this before we do an asset allocation and this would come back to you in a -- you know in an official document. So this is more for discussion purposes.

>> Russell Crosby: And to bring the board particularly the new members on the status of things, where is the money today.

>> Just a couple of comments on the fixed income side. I talked to a number of plans and they are all in this same kind of quandary, what do we do with all these low rates? But also, it's the managers, the big active bond managers are spending a lot of time thinking this this through and I don't know what sort of appropriate or protocol but it might be interesting to get a couple of the really prominent folks to probably come up here from, say, Southern California, and talk about what their strategies are. Could be pretty --

>> They're pretty vocal about what they're doing right now.

>> Matt Loesch: Publication.

>> We know where Pimco is in asset allocation.

>> The TCWs are up to some interesting things as well as western.

>> I can talk to a couple of managers who would be more than happy to come.

>> I'm sure they would.

>> Okay. All right. So moving on, right? Great. Okay, we're on to 5.5, discussion and action regarding change in implementation plan for the commodity allocation. Ms. Racy-Choy.

>> Carmen Racy-Choy: This relates to the commodity and infrastructure allocation implementation. So far the plan has implemented a -- out of the 10%, which was set in the asset liability study, we've implemented the 2% allocation to infrastructure through a passive swap. We've also implemented at this stage a 4% allocation to two commodity managers. The instructions from the board, I believe it was in last September, was to do a gradual implementation which would lead to a schedule of an additional 2% in commodity funding to the two managers on May 31st, and the final 2% on July 29th. After discussion, the board at the last meeting, there was discussion about the fact that maybe the implementation schedule should be Hayesened a little bit, and so we've basically

come forward and we -- staff does believe that the decision to implement a real asset allocation of 17.5 was very much in order to try and ensure that the assets and liabilities are moving in tandem, in case of inflation. And so this was not necessarily a tactical move. And the more immediate the implementation is the better it is for the plan. And that's why staff is recommending that the remaining 4 per be implemented as quickly as can possibly be done.

>> So would this be consistent with how you implement any time you put in a new mandate which is for strategic not tactical, so we are going to immediately move to our target allocation? Because it seems to me the reason that there was some delay in doing this was okay, we don't want to put it all in at once because we don't know where markets are and we may be putting it in at the top so let's sort of put it in a little bit at a time and dollar-cost our way through, is that sort of what was going on?

>> Carmen Racy-Choy: If staff had -- I mean on the Police and Fire side where we were given the full leeway to implement as we see fit, we implement immediately and we implemented as soon as possible which was maybe three weeks after the board decided, adopted the ALM. So if we had our way, especially given the context that this is the real assets bucket is actually serving we would have done it right away. The reason for the delay, I think, in part, was the consultant at the time wasn't very comfortable in moving it entirety into commodities in one bucket. And -- in one move. And so they basically wouldn't come forward with their recommendation to do that. And they recommended the following implementation schedule. So I think at that time, the decision was made, I was on maternity leave, and the board approved the following schedule. So --

>> Okay.

>> Russell Crosby: We're coming back to make another run at you.

>> Carmen Racy-Choy: So it was not a market timing attempt in any way, shape or form.

>> Matt Loesch: Motion on the floor to accept the accelerated implementation, second, any questions or comments?

>> Second.

>> Matt Loesch: And I think Mr. Odell, that was the implementation of the board at the time, your words dollar-cost your way into it. And that was -- there was if I remember a discussion between staff and the consultants and there was a difference of opinion as to how to do it. One side was immediate and the other was staggered and the board chose staggered and at this point the motion is to implement anyway the remainder. So any other comments or questions? Okay, all in favor? Opposed? Okay. All righty. 5.6. 5.6 is discussion and possible action regarding the 50 mile radius residential requirement for the board of administration trustees and the definition of the council liaison position. There were 4A, b, c and D as far as items, as far as information, one was the ordinance 28899, related to the 50-mile radius residency requirement for the board members, then there was the memorandum to the board from the senior deputy City Attorney Mollie Dent dated April 12th, and a letter from the chair myself, to the city council dated March 16th, 2011 and a report to the council dated June 23, 2009 regarding the fiduciary governance models of the City's retirement plan and report by Cortex applied research regarding the findings of the plan.

>> Mollie Dent: I'll get to the first part of it. The first part is an ordinance that has been adopted by the council of the 50 mile radius. You all have been grandfathered in under the ordinance. That one is done, just for information. The board -- the council did have the letter that is from the chair, and what the council elected to do on the council liaison position, was split that out and refer the ordinance to you for your recommendation. And the only thing I would have to add to what is in the packet is our office was informed by the mayor's office that their intent was that the mayor's office intent at least with the original memo they did, was to have the council nonvoting member, the nonvoting person from the city council, act as more than the normal council liaison to the board. And so that was -- that was communicated to us by the mayor's office. And I believe by Councilmember Constant's office that he can probably address you more on that himself. So the ordinance that's in front of you sets out a

sort of a special position for the council representative to this retirement board. That the council wants to look at sometime in may. And is asking for your input on.

>> Matt Loesch: Right and your memo has this attachment that ordinance and in addition to it, the --

>> Mollie Dent: The current council policy on council liaisons and the memo.

>> Matt Loesch: And the memo that was sent that was February, 2010 regarding the governance structure of the boards. So --

>> Mollie Dent: And then the final document that is in the packet is the original recommendation to council on the governance model just for background discussion.

>> Matt Loesch: So any thoughts from the board members? I mean we can start the discussion off, we could -- and to see if there's any direction or thoughts.

>> How would you envision seeing the interaction for the person representing the city be changing because of this?

>> Mollie Dent: I think for this board it probably wouldn't change too much. But I mean -- the position would be nonvoting. The position is not a fiduciary because they're representing the council. The difference in the position as outlined in the ordinance and the normal liaison position if you will would be more of a free flow of discussion back and forth between the representative and the board if the representative wanted to participate. So I -- if you read the council liaison policy, it's a little bit more of a stand outside -- they may be there in the room, but they wait -- they don't necessarily weigh in on things. And I think it was envisioned that this would be a more active participation. But not voting.

>> Matt Loesch: Mr. Constant. Councilmember Constant.

>> Pete Constant: Yes, if I could provide some background. Back over four years ago when I was first appointed to the retirement board one of the first observations that I made was some of the conflicts of interest that occurred that appeared to be happening with having elected officials on the boards. In fact it was after I think my first or second meeting that I went and had the discussion with Mayor Reed about what I saw were serious of significant conflicts with having councilmembers on board. Later as we got a new director of retirement services we went through the whole process of discussing the reconstituting the boards much -- most of you are a result of that reconstitution of the board. And the idea was to make sure that the board had the least amount of conflict available, and expertise on the board, to be achieving two goals at once. I was the primary author of this memo with Mayor Reed as we discussed how we were going to move forward, going into the restructuring. And I should mention that this memo that you have in front of you was unanimously adopted 50 city council. And in fact, the issue of the nonvoting status board member of a council was an admission, an omission by the city attorney's office in drafting the ordinance. And that's how we found ourselves in the position that we have. One of the reasons that Mayor Reed and I and the others on the memo discussed this was that we did believe that there was value to having somebody who could ask questions, not only of board members, but of staff members during the meeting and make sure that there was an ability for free flowing communication between the city council, who is ultimately responsible for the taxpayers of the City of San José for the liabilities that come of sponsoring a pension plan, and back and forth. And you guys have seen in your short time here the discussion had a I've had. Obviously today I haven't had much discussion because of the conflict that's occurred over the roles, and wanting to make sure that we are able to get this resolved before things go further. The council has a policy on council liaisons. We have dozens of boards and commissions. And the general role of boards and commissions fall into a couple of different categories. One are advisory boards, that the council asks for their opinion, and their opinion helps the council formulate an opinion going forward. Others, like yourselves are quasi-judicial boards that either take specific legislative action like our appeals hearing board and our Planning Commissions and things like that or your board and the Police and Fire board that has a much high err ability than your I guess you'd say opinion boards advisory boards that ehave. The presence of councilmembers as nonvoting board members on boards is not unique. In fact, we have for a long time had the convention and visitors bureau which I, as a councilmember, sit on that board as a nonvoting board member. That board has then since merged with the

Team San José board which is the management of the convention center. I sit at those meetings as a nonvoting member of that board. So that again, that there's a free flow of communicates. The problem arises when you just have a liaison as the council policy specifically prohibits the free interchange of communicates between the councilmember and the board. And the primary original purpose behind that was because if the council is asking the board for their opinion it doesn't make a whole lot of sense to have a councilmember influencing their opinion to get their opinion back. And in fact, if you read the council liaison section, you actually have less ability as a councilmember being at a meeting than the average member of the public who can come and talk about things on the agenda. So it really is contrary to the intent of the mayor and the council and quite frankly how we got to where we are on the board governance structure that you sit on now. So that's the reason for this. I spoke directly with City Attorney Rick Doyle about how the omission occurred. He agrees that the council vote was clear and that there was an omission. And it needed to be corrected. And that's how it came back on the council agenda. But since it was an ordinance change and it was requested that it come to the boards for discussion that's how we've ended up here today. I do feel strongly about it, as many of you know I'm a pretty involved board member. I sit on 22 boards, commissions or liaison positions in addition to my duties as a councilmember. And I take them all pretty seriously because I think these are very important issues that face our city.

>> Matt Loesch: I wouldn't describe you as wishy-washy.

>> Pete Constant: Would or would not?

>> Matt Loesch: I would not describe you as wishy-washy. The reason I wrote a letter it was not in any sense -- there's talk the individual. It's not the individual to me. I think Councilmember Constant has had relations very good relations with the Federated board. I don't know the relations with the Police and Fire board to be honest with you but I know here it's been we've had positive interactions and I think we've had a good correlation. In my mind the reason I had written it was I wanted to have a chance to have this board with new folks think bit and at least express an opinion as they wanted to as to how that's constructed. Obviously we don't control what you do and you're right it was approved in the structure that was omitted. I just wanted to provide an opportunity for this board to have a voice in it just to say whatever and then obviously the council is going to do what the council is

going to do but at least it's a chance for folks who have outside, objective opinions that might want to shape how that might be at least express how that might be. That was the reason I had written it and requested it and I do appreciate the opportunity.

>> Pete Constant: Mr. Chair if I could add one more thing. One of the reasons this came to be such an issue is one of the Police and Fire retirement boards where quite frankly the chair wouldn't recognize me to speak and to provide questions or an opportunity to interact with the board. That's what led us to where we are leer today.

>> Mollie Dent: So I do just want to clarify that our office felt like putting this forward, and ordinance format was the most transparent way to do it. In fact, the council could amend the council liaison policy, too. If they wanted to do it that way. If you read the ordinance that we had set out, the existing council liaison, part of the ordinance, the code would not prohibit the free flow of information. It's the council policy that does. So from the original memo, the language council liaison nonvoting member creates just a little bit of confusion about how it was intended to be handled. But when we realized the conflict with the council liaison policy, with the role that was envisioned by the majority of the city council, we felt like bringing forward an ordinance, was the most transparent and permanent way to address the situation. And then you've been given the opportunity to comment on that by the council. And you can make -- you can say -- you can say you like it, you don't like it, you like parts of it, you don't like parts of it. You're really free to comment on any part of this that you want to.

>> Matt Loesch: Before I continue commenting is there any comments by anyone who is here?

>> I would welcome the feedback through that role. I think you have to be aware of we have someone that can be involved in the discussion and debates who is not a fiduciary. So that can steer the discussion and be aware of that and keep in mind your own fiduciary duties.

>> Matt Loesch: Mr. Richeda.

>> Russell Richeda: That raises the issue under this ordinance, claiming the position doesn't have a fiduciary element in it which raised concerns in Police and Fire board. The concerns in the Police and Fire board however do no, sir have to be persuasive to you. You have to independently think about it but it might be useful for to you know about them. They thought, number 1, that it was odd given the paring back, of sort of the role and function of this member, even beyond the nonvoting issue, that it seemed just odd to call that position a member, as opposed to council liaison. But I think in essence that feeling was expressed probably more important to that board, and again, it may not be important to you, is the practical concern of influence. Having a councilmember back as part of you, even though nonvoting, and allegedly nonfiduciary, and not participating in closed sessions, both as to the flow of conversation and viewpoints among board members but also the possible perspectives of other stakeholders including retirees and members. Now, that's just something for to you weigh. You know you might not always have someone as I think articulate or persuasive or at least as Councilmember Constant, we're talking about you know a position that will continue to exist for a long time in the future. And so whether you think those factors are germane, you may not. Certainly the communication role is very, very important, the two-way communication. And that's something not to minimize. But at least the Police and Fire board, not necessarily you, felt the influence factor outweighed the communicates advantage of a nonmember position, and directed that correspondence be submitted to the council to this effect. But you also note that the council's already given this significant thought. And as Councilmember Constant's mentioned, the council's already adopted the prior memo providing for a nonvoting member. So the council's already come to a fairly definite position. But if you feel strongly, that this approach will not facilitate your operations, I think you ought to feel free to at least offer your suggestion to the council. But ultimately this is a decision for the council.

>> Matt Loesch: I think it comes down, my opinion, it comes down to more naming more than anything else as opposed to what those roles tie into. I can see how the liaison there's a policy for it and this is like a superliaison or a different type of liaison, liaison B or whatever. And I don't really think there's, in our functionality and the way we're operating here in the Federated board, I wouldn't see much of a change is perhaps the wait was envisioned as far as operationally but one of the points that Mr. Richeda brought up is something in my mind making an all weather thought, you know, Councilmember Constant is here now. He's been engaged in the Federated board for four years. He knows our issues. He knows what's been going on, he knows what the council has been doing. He

is not going to be permanent because his terms do go out and there will be someone else in that position. Do we get someone that's not as engaged, not as interested in being as forth right, maybe or using that for other thing, could that naming could that other than, potentially cause us issues in the long run? Reading the Cortex stuff from a long time ago, bringing on these independent experts to provide guidance how we operate and how we invest and how we do our business in my mind it was always the intent of we want to create this independent body separate from the influences of the day in the sense that, and -- in my mind it's probably nomenclature and in fact go to the sarcastic person's view, you already appoint these seven people. You want another person, another voice at the table. That's take the sarcastic person's point of view. And what does that mean. Operationally it's not been that ire here. I think there's been good give and take but there's just a sense of something dint. How do we change that language? Not putting your foot on the ground and saying, you can't be here, absolutely not. I think your engagement has been valuable. Whether there's individual things going on on the other board that's caused static, we've had positive relationships here. If there's a way that maybe we can modify the language that that is not the issue, yes you should get all the issue, all the packet stuff, in a timely manner so you know moment by moment the way we do is prudent. Is there a nonvoting board member, board member thing that's in my mind causing a little bit of rub.

>> Mollie Dent: I know the council intended for the position to be a nonvoting member. But you could certainly make the recommendation that you don't like the use of the term, "member." I mean that can certainly -- if that's what the sense of the entire board is, we've used the term council representative to the retirement boards in the title for a reason. It was important though from a legal standpoint that it -- however you designate the person whether you designate them a representative or a member, that it be clear that they're not a fiduciary, because if they are a representative of one stakeholder they can't be a fiduciary. And that it be clear that they are not voting. And that it also be clear that they can't participate in the quasi-adjudicatory motions and hearings. The nomenclature issue, you can make a comment if you want but it sounds fairly clear that the council wanted the nomenclature member. We kind of gave you the alternatively nomenclature here in the lapping.

>> Matt Loesch: Councilmember Constant.

>> Pete Constant: It worked because I was acting as a nonvoting member. Had I been told I was only a liaison by the council, I wouldn't have spoke, because I'm a liaison to many boards, and I don't interact to them. As far as the influence, there is no doubt that anyone who speaks before you has influence on your decision. There's many times that you will have members of the public or union representatives or employees come here specifically to try to influence you and your role as voting members is to take all the information and make a decision. And the control of influence quite frankly belongs with each one of you individually. But as I mentioned earlier, the role of a nonvoting board member is not a unique thing. It occurs on other things that the city is involved in and quite frankly, it occurs out there in the world in other areas, as well. And the fiduciary aspect, obviously, the difference there is without a vote, you are not making those decisions. So you don't have that vote. If it were simply that people felt okay, you have to have fiduciary insurance I'd write the check like the rest of you do.

>> You've got a lot of experience and background with this board. And I'm not -- I'm actually not quite sure you're not a fiduciary. If you are asking questions, you end up getting kind of pulled into that world. Even if it's nonvoting, I think we would probably put a lot of respect to your opinions and listen to them because you've got a lot of time and experience on this board. So your opinions matter. Whether they're voting or nonvoting. So keep that in mind. It may not matter whether you have a vote or not. You are also a councilperson and a very senior person in the City of San José. So I think there are other things that do, you know, it isn't just a sort of -- if this was somebody else coming in, had no experience, hadn't salt on the board, et cetera, maybe you feel a little bit differently. But I think in your position, having served on this board, you are -- you are an influence, no question.

>> Matt Loesch: Any other thoughts or questions or comments or --

>> Just I mean what things have you not been able to comment about that you'd like to? You've sat in some of these meetings. What are the areas you're most concerned about that we --

>> Pete Constant: Well quite frankly as you know I've commented asked clarifications on many things as a liaison I don't have that ability and by council policy I'm not allowed to do that so I wouldn't do that.

>> As a practical matter you have sat in on the meetings. What things would you like to really interject?

>> Pete Constant: I don't remember tall specific occasions but I've offered my comments on different things. Those comments I would not do as a liaison unless the council changed the role of a liaison. And again that has a greater impact because there's as I mentioned dozens of different boards. The council would have to weigh how to do it to do it for one or two specific boards and not others.

>> Does this have any financial implication for us? None.

>> Russell Richeda: I think a minor one if you decide that a nonvoting member should still go on travel to get additional education. Which might be very important to allow that to happen so there might be relatively trivial experience on that.

>> Mollie Dent: I think we would have to address that when we came to that. First of all it would certainly be discretionary with you whether or not you wanted to do that and I think you'd have to address whether or not that would be an appropriate use of plan assets for someone who's not a fiduciary. But we -- I mean it's a possibility but it's not -- not anything that would be outside your control.

>> Russell Crosby: If I could ask a question. What's the magic with the term member as opposed to a representative? Is there -- is there some from the council's perspective something that certainly from my perspective in the industry it's a concern to have a nonvoting nonfiduciary person carrying the title, "board member." Is there magic around that as opposed to another term but yet gets you the same things that you want, the access, the ability to speck, the ability to ask questions?

>> Pete Constant: Well I think that if you look at the council's policies they have members and they have liaisons. They don't have any other assignments. In fact, in council policy 0-36 it actually has a section that says a councilmember who is appointed as a member of a board or commission is not a liaison for purposes of this policy. That's a very clear statement in the policy that recognizes member positions. As I mentioned we have

those -- we had them on the convention and visitors bureau. We have member positions on the sports authority board. All of these different areas. And as I mentioned I'm on 22 of them so it happens quite frequently. So we would be creating a new animal.

>> Matt Loesch: I guess -- how many of those boards and commissions are in transition points like these are. These are in massive transition points, and I think -- and this is me, this is not the board. There's something around the word member that sounds odd in this scenario on this type of board, and it's perhaps we're in this massive position point, where we're establishing a new structure, 2011, a massive position change that is massive and integral. As being one of the main authors of that memo that used the word memo, at least in your opinion would you consider a different name? Operationally I don't think -- but I think that's where the rub is.

>> Pete Constant: Well, I can tell you, Mayor Reed and I, who like I said are the ones who authored this, we were the ones who were intent in changing the board governance structure felt it was important to have a councilmember for a free flow of information between the council and the board. That is why it's specifically written in the memo nonvoting board member. As you may know, the new members may not be aware because you weren't here to watch it. It was a very significant step by the council. It didn't happen overnight. There was a lot of thought and deliberation that went into that. In fact there was a point where the unions and the city were at complete loggerheads and nothing -- couldn't get an agreement. And the coming-together and finding common ground happened in my office, where we hashed out how the final member got chosen. That the council would pick the first members, the representatives, the city employees and the retirees would appoint their members and then the collective group would pick the final member. And all of that came together as part of one on one negotiations with the employee groups and in particular, that one came through the retirees association, who was the intermediaries that came in my office to work on this and find common ground and this is what it came up with and everybody agreed. And it went to council after much deliberation, going to both boards and got voted on unanimously by the council.

>> Matt Loesch: So I should take that as a no, of the word possibly considering another denotation as to what that is? Is that the way I should read that response? And I'm not asking you to speak on behalf of council because that's not fair.

>> Pete Constant: I think it would take a council action to create a new animal and it would be something that we haven't don't anywhere else. Like I mentioned we do have that nonvoting member positions and it's a matter of fitting in with everything else.

>> Matt Loesch: I know they're trying to get my attention. They'll wait for a minute.

>> Mollie Dent: That's what this ordinance is, creating a new animal. That's what this ordinance is, creating a new animal. It is not a council liaison, not a voting member. That's what we're doing with this ordinance and the council is clear intent from the memo was for the person to be a member, I think the struggle, the struggle is, with the fiduciary nature of this board. --BROADCAST TERMINATED DUE TO SCHEDULE CONFLICT--