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>> Matt Loesch: I'd like to call to order the November 10th, board meeting for the Federated city employees retirement system. Under orders of the day, two items. I'd like to move items 20 and 21 to the front of the agenda so we can deal with the Cheiron stuff first since they're here, ready, armed and ready with the presentation. We have some folks on the phone as well so we'd like to kind of deal with that right away. I'd also need to move item 3B, from under change of status it will become 1A a disability retirement. So 3B moves to 1A from change of status to disability retirement. Can I get a motion for approval?

>> Edward Overton: So move.

>> Second.

>> Matt Loesch: Okay. Item 20 and 21, we'll take them collectively because are the there are there are items that covers items 21 so I'll read them item 20 ask discussion and action regarding Cheiron's economic assumptions for the evaluations for the period ending June 30, 2010. Under that 2010 evaluations, under that item intvment a staff memo regarding economic assumptions for June 30, 2010 valuation and then 21 is a discussion and action regarding Cheiron's noneconomic assumptions for the valuation for the period ending June 30, 2010.

>> Pete Constant: Can I ask, is what's handed out in the packet --

>> No difference.

>> Matt Loesch: Floor is yours.

>> Good morning. Are I'm going to be -- we'll be saying (inaudible) as opposed to separate items. So good morning, my name is Jean Calwarsky and with me is Bill hallmark.

>> I can't hear Gene at all actually.

>> I have the mic in my mouth.

>> Why don't you sit on the corner over here.

>> Matt Loesch: We have microphone issues and with Carmen being on the phone we have some audio issues for her hearing through the phone system.

>> See if that works. Carmen can you hear me better now?

>> Much better.

>> I'm on top of the phone now. Turning to page 2 of our handout, topics that we are going to discuss today. Briefly, just the actuarial valuation process and what it entails. Away want to report on the transition of charter services which I can tell you up front it was a very successful transition as far as issues that we did not face. Then we'll get into the Federated 2010 actuarial valuation results and we'll move to stress testing of the future, meaning looking at the valuation results in the context of different economic environments. And as opposed to being last, I'm going to start with the public pension plan environment. Which is a generic part of the presentation not related to San José just what's going on nationally just to lay the groundwork --

>> Hello? Hello? Okay.

>> Are you there?

>> I'm there it's just blacked out for about 20 seconds.

>> Okay, thank you. Go ahead.

>> If you turn to page 19, want to just briefly touch upon what's going on in the public sector nationally, to put the valuation results here into context. As many of you know, there's quite a bit of press on the public pension plan crisis. There's a major debate out there amongst actuaries about how liabilities are measured. The government accounting standards board is entering into the fray with new views. The actual profession is looking at new ways to demand risk pension funds. a month or so ago I went to a Website that discusses public pension plan issues and I just took a screen shot of what it showed that day and every day it's different. I'm not going to go through page 20 and 21 but this is just a single day. The issues that were talked about. There are public sector entities, nationally they're all facing major budgetary issues and the press in some cases getting it right and in some cases is not. But clearly, there's more scrutiny in the public sector than there's ever been before. If you go to page 22, we're looking at the SMP 500 returns for periods ending June 30th ever since the inception of these indices, and what it's showing is that there have been seven -- 21 fiscal years ending in June 30th that have had a return of less than zero. And four of them occurred in the 2000s, and that's four of the top 11. If you look down below the only period that was worse in history than the 2000s would have been the great depression period of the 1930s. So clearly, the market had quite a bit to do with it. But that wasn't all. What's different about this market than any other market before, and why it's impacted public plans so severely to begin with, plans had more assets than ever before so the more assets you have the more you can lose. Plans had higher allocations to risk your assets than ever before. Going back to the '70s and '60s and previously there weren't as many assets nor the assets that were there where invested in riskier categories. The baby boomer effect is backing pension funds. We've got more retiree liability than ever before so now the money that's invested for retirees has to be any swings in that money has to be born by the active phase. The actuarial profession has been slowly and steadily increasing its discount assumptions to expectations have been higher than before. Benefit levels largely due to what happened in the 1980s and 1990s became higher than ever before. Then there's more competition for the pension contribution. Health insurance became an issue. All those factors above combined leverage the impact of the 2008 market down turns. I'm going to just really skim over slides 24 and 25 and just get to the bottom point. We took a look at what the 19 -- what the 2008 market would have done to a plan in the 1970s that didn't have as many retirees that didn't have as much equity, and the exact same market, on page 24, very bottom of the slide it says amortization is percent of pay. That market 2008 would have resulted in a 11 basis point increase in the contribution rates. The 2008 market today results in a 42% increase in contributions. There's enormous

leverage going on out there. And this plan is not the only plan facing it. So what are the new strategies after the market melt down? I mentioned earlier there's this debate about the market value of liabilities. I'll get into that briefly. GASB is trying to find ways to increase the transparency and the pension plan itself is trying to find new ways to manage pension risk there is a national -- on page 27 there's a national debate out there regarding how you measure liabilities. There is a significant group of actuaries that believe the pension plan liabilities need to be measured using a risk free rate of return and there are stories reported in the New York times, wawmghts journal, saying the public sector is grossly underestimating its liabilities. And the actuaries that believed that are called the financial economists, and they suggest that we should be using a risk free rate of return to discount your liabilities. Which means not only would we be talking about a quarter going to 7.75 to possibly 7.5 they are looking at 5 and below I guess I liken them to the ostriches that don't want to Sy see any measure than the current discount rates. This is not to weigh in on any position that we have other than to say there is a raging debate out there as to which way liabilities should be measured. And I don't know how that story's going to end but GASB now is entering into the fray. The government accounting standards board just issued some preliminary views that had three major consequences for most public sector plans. Plans now will have to include their unfunded actuarial liability, on the financial statements, previously it was in a footnote. GASB previously or currently has a -- what's called an ark, an annual required contribution that nurse degree to which a plan sponsor is meeting the actual required contributions. New views eliminate that concept. And finally, short term bond discount rates may have to be used in at least part of the plan liability. So there's a movement out there nationally in dealing with this pension crisis to being more conservative, to measuring liabilities, in a more conservative basis, and I can tell you nationally, all plans are thinking about lowering the discount rates. I know here in California there's been news on the big plans here just last week on that issue. Finally in this generic part of the presentation, we believe that pension plan risk needs to be more transparent and what's been done in the past is investment return volatility has been used as a risk focus on the plan's primary risk which is not being able to afford the plan. Plans need to identify risk limits and assess the likelihood of it hitting them. As opposed to looking at managing surplus, look at what are the maximum contribution rates at which this plan can be sustained? What's the maximum change we could take from year to year in the contribution rate? What's the minimum funding status that we can absorb? What's the longest amortization period that we can deal with? And so in the coming years, you'll be seeing new risk measures, on page 30 we identify some of the ones. The affordability risk, that's just the equity assets divided by payroll, the larger you have a proportion of equity assets, relative to payroll, that means the more that volatility and return will impact the contribution rate. The amount of debt transfer, how large is your unfunded relative to payroll, so looking at these measures, these first two measures relative to other plans is a better risk measure we bleach than looking at where you rank in your percentile returns. a third measure, the funding progression, how much are contributions -- how large are contributions left to the -- on this slide NC normal cost oop are you making progress to funding your unfunded a much benefit payments and then we'll show you later how stochastic analysis versus determination results provides more transparency in the pension fund . And finally, increasing the transparency of risk, if your investment, we'll be talk about the investment discount rate today or expected earnings rate. And whatever that rate is, whether it's 7.5 or 8 or 7.75 or lower or higher, what people fail to realize, that if over time it let's say it's 7.5, 50% of the time it's going to be higher, 50% of the time it's going to be lower, which means there's only a 50% chance of being successful. And more and more plans are wanting to lower their discount rate not necessarily because they feel the expected earnings will be lowered but they want to increase the probability of having positive results. So for example, if your expected earnings are going to be 7.5 and you want to be better than 50-50 right, you may want to use a 7% discount rate just to increase the odds of being successful results. So that concludes the generic part of the presentation. I don't know if anybody wants to ask any questions about that part. Has nothing to do specifically with San José but I wanted to get that groundwork laid and then move into your specific situation. I'm on slide 3. Slide 3 depicts a tank. And I'm describing the actuarial valuation process. What we do is collect information from the plan, membership, participant data on each and every participant. The plan provisions and then the financial information. And then we apply assumptions, demographic and economic. Demographic are rates of retirement, termination from employment, mortality and economic assumptions are investment return, inflation, and we use those assumptions with the information we collected and project all future benefit payments for all members. And that -- those first three steps determine the present value of all future benefits. And on the right-hand side that's the tank. The liability. The value of all future benefits. We compare it to assets, if you look at the tank the green part, and then every valuation takes a snapshot of that tank. And toggles the left-hand levers which are the employer contribution. Employee contributions are a function of the employer contributions. That is in fact what actuarial value is . For San José, the Federated plan, these June 30th, 2010 valuation results are determined or used to determine the actuarially required contributions, employer arc and member contribution rates for fiscal year 2012. We're recommending that this employer arc be the greater of the dollar amount determined of the contribution reported valuation or the dollar amount determined by the contribution by applying the contribution rate times the emerging payroll in the fiscal years. So for example if the valuation produces an arc of -- dollar amount -- just to pick a number, $97 million. And it also produces a contribution rate of 30% of payroll. If payroll grows larger, and the 30% times payroll is larger than 97 we would consider that the arc. If payroll was less than the -- than we anticipated and produces a dollar amount less than 97 million, 97 million would be the arc. So that's our first recommendation here today. And I don't know if -- you want me to go through the whole thing first or --

>> Matt Loesch: Yes.

>> Okay. At this stage I'm going to let Bill hallmark take you through the 2009 specific valuation results for the plan and then he'll turn it back over to me at the end when we discuss the economic assumptions.

>> So I'm on slide 5, and the first thing we did in taking over the plan was to replicate the valuation from 2009 to make sure we had all the plan provisions, assumptions and everything structured appropriately in our valuation. This slide shows the comparison of some of the key numbers between our replication and the grs valuation the difference you will notice is extremely small. The IRS for private sector plans uses a standard of 5% to be within 5%. We're all the way down it's less than 1%. So it's a very close match. And Ann Harper ran our transition so I wanted her to say a little bit about how that process went.

>> As Bill said, we replicate the 2009 year valuation as part of our transition and then we perform the 2010 valuation. Do you want me to move up there so Carmen can hear? Okay. So in other words, the transition activities of two complete valuations. And the Federated transition was done in two months, and the -- it was smooth for several different reasons. First we had full cooperation of the retirement staff. They provided all the necessary historical information, and valuation data. And having Mike as an internal actuary was very helpful in the process for discussing ideas and issues and answering questions that were actuarial in nature and administrative in nature. Also, the valuation data for Federated is very clean and we had very few questions regarding missing or inconsistent data. Grs, the previous actuary was very responsive in answering questions

regarding how they applied their actuarial method to the Federated plan. And finally Cheiron being a relatively new firm is very experienced in setting up and transitioning public sector plans from all other actuarial firms in the industry.

>> That's a nice way of saying all our clients are new clients.

>> Turning to slide 6, I'm not going to go through all of this, but this was a summary of the grs methods and assumptions to use adopt common and predominant funding method, the assembly age normal method. Last year they adopted and you adopted a change in the amortization methodology. This valuation, 2010 is the first time it really has an impact where we are amortizing the prior funding over ten years and any new piece over 20 years . All of the other issues are fairly standard, and we did not have any significant issues with respect to their assumptions. If we go to slide 7.

>> Mr. Chairman, I think one of the items you mentioned was going to be a motion of acceptance of the other assumptions. That's what this slide represents.

>> The one thing we did note which I'll look at on the next slide is the five-year phase-in of the discount rate, that they put in last year. The schedule they provided ignored the smoothing in of the additional asset losses in the future. So I'll go over that in more detail on the next slide. There were some very minor technical things that we may want to change in the future but we'll bring those back at the next valuation. So on slide 8, the -- this is the exhibit grs provided on the phase-in of the discount rate. And the target rate after the phase-in, the total rate is 31.03. The rate from their valuation in 2009 was 30.6, I believe. And so they were phasing in to that rate. But in the last valuation, there were significant asset losses, only a portion of which were recognized in that valuation. So when you look at it going forward, following this phase-in each year we would expect additional losses and an additional increase in the contribution rate. So assuming you got 7.75% each year. So we just wanted to make sure the board was aware of that and you'll see that in some of our results. I'm going to go through some historical trends fairly quickly here so we can get to the results. But slide 10 shows the assets and liabilities of the system historically, the gray bars represent the actuarial liability. The yellow line, the actuarial

value of assets or the smoothed value of assets that's used for determining contribution rates, and the green shows the market value of assets. So you can see in 2009, the funded ratio on an actuarial value had dropped to about 71%, and in 2010, that's dropped a little further to 67%, because the actuarial value has remained relatively level, actually declining a little bit as we smoothed in the losses. Een though on a market value basis we had a good gain in the last year. Slide 11 shows the historical contribution rates. This is without the phase in and I don't think this will be a surprise to anyone. You like many other systems are seeing significant increases in contribution rates following the market downturn. Slide 12 shows the experienced gains and losses, investment gains and losses are in gold, and gains and losses on the liabilities are in gray. I think you see some volatility on the investment sides and the significance of some of those losses. On the liability side we noticed that three of the last four years you had losses on the liability side, as well. Last year, being -- or this current valuation being the exception where we had a gain primarily due to lower salary increases. Slide 13 shows some of the principle valuation results. The actual liabilities increased as we would expect with some slight gains. The actuarial value of assets as I indicated remained relatively level declining slightly, as we phased in the investment losses and the market value of assets increased fairly significantly. So on an actuarial value basis the funding ratio declined from 71 to 69% but on a market value basis it increased. The lower part of the box shows the contribution rates, and these are all calculated at 7.75%. We'll get into the discussion on the phase-in shortly. The normal cost rate declined slightly. That's due to those liability gains. And that affects both the city's normal cost rate and the contribution rate. but the UAL rate or the unfunded rate amortized increased fairly significantly resulting in a rate of 30% compared to 25.75 calculated last year without phasing. That represents an arc if it's paid at the beginning of the year of about 92 million compared to 85 million last year. Slide 14 gives a reconciliation of the gains and losses. I'll point you to the one red number on the chart, 97 million was the aggregate loss for the plan. That's composed primarily of an investment loss of $124 million, offset by a gain due to salary increases of $45 million. And then there are some other losses. The contribution loss is prairl due to the one year gain when the contribution losses are implemented. So with that I'll turn it back to Gene to talk about the phase-in options.

>> So as Bill mentioned, the valuation results he just went through are based without any phase-in. And what we're presenting here to the board are four options to consider for this valuation. To gradually lower the rate from 2010 to 2013, to get to 7.75 by 2013, number one. Number 2 is to speed up the phase-in and get there sooner by

next valuation. Another alternative is forgot the phase-in go to 7.75. And a fourth option is to shoot to 7.5%. Clearly, the theme in my earlier presentation is at a plans nationally are lowering the discount rate taking risk off the table. With respect to these four options our preference is to not have any complicated phase phase-ins, it doesn't accomplish much. But we recognize that there are budgetary issues and we haven't had the opportunity to educate the board on these issues in derisking the plan. But we can say that it's immaterial as far as which of the four options you select as far as long term financial impact on the plan. You know what our preference is. But we defer to the board as far as nonactuarial factors that may lead into that decision. The slide 17 gives you the numbers of the four options. Option 1 being a slower phase-in, option 2 being a faster phase-in. Option 3 is shooting to 7.75 and option 4 is going to 7.5. Maybe the middle band are the relevant numbers to look at. If you ABC fiscal year 12 employer contribution of 87.foir million moving to $135.8. If you speed the phase-in the $90 million to $135.6. 95.6 million to 135 and if you go to 7.5 it is 103 million to 143.2. So the ultimate rates are at least the first three options are almost identical. And you also see the corresponding unfunded liability at the bottom of the chart. The lowest would be the 2.48 billion, if we continue the longest, the elongated phase-in and the highest unfunded liability disclosure would be the 3.25 which is at 7.5%. And it's not listed on this chart but the member contributions could be as low as 4.6 under option 1 in the first year. Up to 5.1 under option 4 with the 7.5 discount rate. I -- at this point I'd like to maybe answer any questions regarding this recommendation. What we can do is also move to stress testing future results. So --

>> Matt Loesch: Why don't we see if we have any questions from the board members on what is kind of a hefty presentation, and take the cue from them. Mr. Druse.

>> Arn Andrews: I guess my first question is just administratively, it's easier I guess to administer. Is there any financial benefit to moving into one or the other? Is there long term savings? It appears there is definitely going to be an increase in costs in the first year but as you move into the financial phase, is there any financial benefit?

>> Pay me now pay me later, if you pay me now you're going to have less to pay later. As I mentioned all four will be charterly financially sound but there is a benefit to speeding up the phase-in or going directly to 7.75 or lower.

>> Matt Loesch: Mr. Overton.

>> Edward Overton: I have a question on slide 22. This slide makes it look like the equity markets are a total dud and maybe we shouldn't even be in stocks. Did anybody in your staff tie all of these numbers together for a long range impact or long range return on equities without chopping them up?

>> Not sure if I understand.

>> Edward Overton: If you look at the equity trend back to 1932, and just tie all of the series of years together, what would equities have returned from 1932 to the latest year that you have on here, I guess it's 2001?

>> Well, clearly, if you pick -- there's long term periods that you can pick that show equity returns that are well in excess of 7.75. But it ail depends on the starting year and ending year. You can pick the starting year and ending year that's a poor performance. You could pick a different starting year and ending year and see great performance. It's not the question that equities perform well. The question is how much risk is there year to year in the contribution rate due to volatility of those returns. So all's we're trying to show here is 2008 resulted in a deep spike, unlike any other, other than the great deprecious and that's why the contribution rates are spiking. That's the method of slide 22, not that equities are going to be poorly -- a poor return but equities do exhibit volatility and that volatility translates to contribution spikes.

>> Edward Overton: Okay.

>> Matt Loesch: Mr. Perkins.

>> Jeffrey Perkins: Yes, I have a question on slide 14. Can you explain the $33 million I guess 6.8, what that exactly is?

>> Yeah, that's mostly due to the one-year delay between the valuation and the contribution. So in the 6-30-09 valuation, even with the phase-in there was a significant increase in contributions. About but that doesn't come in until a year later and so in kind of the underlying expectations starting from the valuation date it would have come in immediately. As the basis for the valuation. So it's not a commentary on the city not making the contribution or somebody else not making the contribution. It's primarily the fact of having a significant increase in the contribution rate, that doesn't take effect for one year.

>> Jeffrey Perkins: So from a actuarial -- I mean it's like a timing thing of days, right?

>> It's a timing thing of it, yeah, of a year.

>> Jeffrey Perkins: So what is the significance of this $96 million -- I mean, to me, I can understand most of these other things but that $33 million just seems to be like a -- it seems deceptive in a negative way because the money was going to come in, it was going to be paid. And are we then layering in in all these assumptions in and how short we are in all the contribution rates?

>> We mentioned -- Bill mentioned earlier that there's some minor things that we would have differed with the valuation techniques. When we do the valuation we're going to anticipate this budget lag so that item does not appear. It's comment for actuaries to do evaluations of snapshot on a given day and then think everything is going to change the next day and numbers are going to come in and that's what happened here and that's why the loss. Those numbers won't come in until a year later, as Bill said. It's a timing issue.

>> Can I maybe explain it in laymen's terms? What grs actually did and this didn't become clear until really these guys took over and later on, was that when you approved moving eventually to 7.75, they didn't phase in the 7.75. They phased in the contribution, the corresponding contribution rate. So that each year, a net pension obligation is being created on the City's books. And you see this, what appears to be a shortfall in the City's contribution. But in fact it's really an artifact of the fact that they phased in the contribution rate, rather than the end assumption. And that's generating both a net pension obligation for the city and then creating this what

appears to be a liability that, what appears that the city isn't paying the complete amount. What they're going to recommend is, moving away from that phase-in of contribution rate, to phase-in of earnings assumption. So that the first earnings assumption is 8.5, then the next one would be 7.whatever and so on. And you would phase in the actual contribution or the earnings assumption or the discount rate, each year, rather than having this 7.5 with a phase-in of contribution rate. So that way you won't generate the net pension obligation for the city and you won't have this thing going forward. They'll fix that by modifying the discount rate, slash, earnings assumption. Each year we'll have a new one to get us down to 7.75. Does that make sense?

>> I think what you just said, both of them makes sense. Now I'm confused because what he just said is different from what you just said.

>> Russell Crosby: No, what got done last year and now this new snapshot np.

>> Jeffrey Perkins: Until we dismap to the ideally it will by a plan it will go down each year until we get caught up.

>> Russell Crosby: Get caught up to the 7.75.

>> Jeffrey Perkins: If we stay under the same 98 yore.

>> Russell Crosby: Unless you accept their assumption, phasing that in will get rid of the net pension obligation for the city and get rid of this artifact that shows each year as well, right?

>> Yes.

>> Jeffrey Perkins: And so how does that factor into the -- is this part of those four or is that a separate discussion?

>> No all four, we're suggest you move away from what Russell is talking about, phase in the discount rate or move directly get rid of the phase-in completely. We want to move to a system where you don't -- in the future the only way you should see that number is if the city actually undercontributed what was recommended.

>> Jeffrey Perkins: That's the confusing part, it seems like they didn't pay and I don't think that is the case.

>> Russell Crosby: You are correct. That's the recommendation on page 4 of their hand-out there, decoding all of that, that's what that means.

>> Matt Loesch: Pete.

>> Pete Constant: 20 years later people are argue you didn't fund the pension fund like you were supposed to. And I know when we talked about this phase-in I don't think it was anywhere near as clear as what we just heard because I thought we were phasing in the rate.

>> Russell Crosby: So did we.

>> Pete Constant: Not the contribution. Which is -- now I'm seeing it to be a significant difference. Especially from an accounting standpoint. May not be of significance five years down the line and what's in the bank, but that's a concern. So thank you for that clarification. I did have a question on the discount rate options which is on page 15. Now, I -- I clearly got your opinion on whether we should be at -- continuing this phase-in or just jumping to the rate. But where I don't feel I got a real opinion is, where we should be on the rate. And so I'd like to hear a little more about your opinion between number 3 and number 4. And some of the whys behind that.

>> We believe discount rates need to decline significantly below the expected earnings rate. Because of the risk it entails by having a discount rate high. But we also appreciate and recognize that that advice of ours is being given in a vacuum, where we haven't had a chance to educate the board as to the whys, it's a complex issue, and so what we have done is, suggest moving down in a stair-step approach. And the 7.75 is the first step. But clearly,

you have it right. We're looking to go beyond that. But I would prefer to have some education sessions with the board. And in fact there's one piece of education we were going to do here today with the interactive model. And you know so as opposed to be standing here at the pedestal and saying trust me go to 7.75, give us some time to educate the board.

>> Pete Constant: Okay, thank you.

>> Matt Loesch: Mr. Perkins.

>> Jeffrey Perkins: Yes I would just say the education about the interest rate probably should be done in lock step with our investment advisor. We have just gone through a huge reallocation of our assets and risk around them and our expected returns all around using this new discount rate. I would not want to do this in another vacuum. We should probably do this hand in hand because it's all part of how we're trying to manage. We certainly understand the risk. I guess the thing I always worry about is given the volatile return you just saw of 2008, 2009, think okay, this is the new world we're going to live in forever so let's reset the expectations only to find out now we've gone overboard. I mean we need to be fiscally conservative. We need to be accurate. But we shouldn't just take what's happened in the last few years the way the world's going to be moving forward. I would encourage if we head down this path which we should, that you guys, we work closely with our investment advisors and get their view of future returns.

>> We fully agree with that. One of the things we've noticed is that with some systems, the actuary sets an assumption let's save 7.5 or 7.75. And then if there isn't the connection like you recommend the investment advisor then says well I need to allocate my assets based on that target rate and then the actuary says well my assumption is based on what the investment consultant thinks he can earn. So it's a chicken and egg thing, which came first, so by bringing it together you solve that issue.

>> Matt Loesch: Comments, questions? Mr. Andrews.

>> Arn Andrews: I slide 4 than that. Can you --

>> What was 6A?

>> And it's also correlated to item 1 on page 15. Because we were just look at page 15. That would be the results of accepting page 4. The recommendation on page 4. Look at page 15.

>> Arn Andrews: Right.

>> Russell Crosby: Item 1. 2010, 8.15, 2011, 7.75 and so on and it would phase in the discount rate rather than the contribution dollars. Exactly.

>> Arn Andrews: Okay so when we move to the second bullet and we're talking about the greater dollar because when you gave an example you said you know it's going to be either one amount or depending on another scenario it would be the hire amount about.

>> Just to pick simple numbers. If the arc was 100 million, and that was based on, I was going to pick examples that don't relate to you but I can do the math quick in my head. If payroll were $1 billion and 10% was the rate, 10% times a billion is 100 million and we'd have that in the report. But during the year if payroll actually grew to 1.1 billion, 10% times 1.1 billion is 110 million, that's the greater of.

>> Russell Crosby: The other piece that is happening in the city that I need the board needs to change its conversation with the city to begin talking about a dollar amount that's dyed due. The focus until this point in sometime has been on contribution rate as a contribution as% of salary which ask the minute you start to decrease the population on a regular basis which is what's going on now or change the salary assumptions which is also what's going on, then you have this problem of your collecting your contributions based on a percentage of salary. And that salary assumption was set at the beginning of the year. Then the employer decreases the number of people and decreases salaries during the course of the year. You haven't met the required dollar

contribution. Yes, the employer has met that percentage of salary but it's less than a liability at the end of the year which gets unfunded which gets rolled over into the future. We need to change the conversation to a dollar amount is due no matter whether your population has gone up, down or side ways, the dollar is what's due to the trust fund, not a contribution rate.

>> Arn Andrews: Right because I know the board votes to set a prefunding and the prefunding is set on the basis of percentage of payroll.

>> Russell Crosby: Right, what's going to happen this year is a fair side liability at the very end of the year because that contribution rate was set at the beginning of the year that may or may not have come true with the population and the salaries which both declined during the course of the year.

>> Arn Andrews: And so the recommendation 4 will buffer us from any type of volatility and the liability associated with a fluctuating payroll going forward?

>> Yes. Will help.

>> Arn Andrews: Thank you.

>> Matt Loesch: Any other further comments or questions? Ms. Dent.

>> Mollie Dent: I had a similar question in terms of the impact of this recommendation on the city's ability to prefund and I -- the question was around the term the emerging payroll and whether -- I get the greater of the dollar, dollar contributions. But is the other variable supposed to be the projected payroll or the actual payroll?

>> Actual.

>> Matt Loesch: Any comments or questions? I'd just like to first of all most of the questions that I came into have been answered already and I appreciate that. I was kind of fearful of the transition because you know who knows what kind of ghosts can emerge out of the closet. And very reshirred that we weren't in my mind too far off base and it's reassuring to have another set of eyes on it to look and see. Uke we know we're not too far out in the woods, that was one of my bigger fears in the transition, that something would be found. Not that we were trying to hide something before but that we were missing something before so I'm grateful for that. It sounds like we have a possible actions we could take and I'm just trying to outline the categories not necessarily what a entertain recommendations from the board on those items. One of which is the one that was just discussed here on the -- the title I put was employer arc whether it's going to be a fixed dollar amount or a fixed rate of payroll. So that's the kind of category that was recommended by the actuary. Is there any thoughts or comments from the board on that recommendation? I'll entertain one if someone has one.

>> Edward Overton: How is the dollar amount going to be developed?

>> It's based on the payroll we project for the fiscal year.

>> Russell Crosby: As it's always been in the sense that the -- you've always calculated an arc but then the focus beyond that point has been on the contribution rate? And the focus and the, if you will the bill to the city ultimately needs to be an arc amount, the dollar amount? What was done in the past was fine for an organization that was growing but the minute you stop growing or you start --

>> It's hard to hear the exchange being -- happening but just for clarity, at what is being recommended is the greater of a dollar amount, and the arc calculated as a percentage of pay. And it seems like the past discussion is saying, it's one or the other. In reality, it's the greater of both.

>> All right, that is true, Carmen. The -- Mr. Overton, the valuation produces a contribution rate which is on what page? Slide 13. Also one that has the comparative options, slide 17 is it? If you look to slide 17, let's suppose we are going with option 3, just to pick one. The valuation would demonstrate under option 3, an employer

contribution rate for fiscal year 12 of 30.4%. It also would show a dollar amount of 95.6 million. So the city would be presented or a bill for 95.6 million, but at the end of the fiscal year, a determination would be made of the 30.04% times the actual payroll that happened that year, that is larger than 95.6, that would be tacked onto it.

>> Edward Overton: So far, so good.

>> That's it.

>> Edward Overton: So if the payroll grows more than you anticipate, at the beginning of the year, then we would have an additional bill sent to the city?

>> Yes.

>> Edward Overton: Okay.

>> Matt Loesch: So essentially we deal with every July like we have been in the past, very recent past, cleaning up the year from whatever the contributions or whatever the investment return rate and so forth. Do we have any comments on that anymore or do we have a motion? Nobody seems to care. I'll make a motion then. I'll make a motion that we take the recommendation for the actuary there, that we -- it says as recommended, we recommend that the employer arc be greater of the dollar determined contribution reported in the valuation or the dollar determined contribution by applying the valuation of the employer contribution rate times the emerging payroll for the fiscal year. That's my motion. Do I have a second?

>> I'll second that.

>> Matt Loesch: Okay, we have a motion and second. Page foir of the presentation. Mr. Richeda.

>> I don't know, is there any -- has the city been presented with this and would they want to comment on this?

>> Matt Loesch: Is there anyone from the city that would like to comment from that?

>> It's going to contract an additional unfunded payments --

>> Matt Loesch: We need you on the microphone somehow or here, someplace over here.

>> Good morning, Alex Gurza director of employee relations in the snerks office. We did return are review the report and I've been looking into the conversation, we understand the issue may create a little bit of uncertainty knowing what the number is going to be but I think our overall responsibility is that we pay the right amount into the system that we're supposed to pay. I understand the logic, especially reductioning payroll situation which is what we've been in, if you think about our payroll, our number of employees just several years ago was over 7400. And we're down to 50-something-hundred employees. So from one year to the next we can -- we don't want to short the system, is the bottom line. we understand and we'll have to deal with it accordingly.

>> Matt Loesch: Okay, motion and second. Any further discussion on the item?

>> Edward Overton: Yes, just one other question. What if the city overpays, do we make a refund to them?

>> Matt Loesch: No. In the past what we've done --

>> Mollie Dent: It is a greater of. It is a greater of. So if the prefund was made, based on the discounted rate that they've given, then you'd be done, unless you owed more.

>> Russell Crosby: I mean to answer Ed's question directly, no we don't renund the money to the employer once it's in the trust fund, we might give them a credit.

>> Matt Loesch: That's what we've been doing if there they contributed and the investment returns was over what they needed to pay what their arc would have been the net was contributed towards the next year's contribution, correct?

>> Mollie Dent: This would actually make it a lot cleaner. M we have a motion and second. Any further discussion? All in favor? All opposed, none, thank you. Okay so then one of the other topics was, to phase-in the discount rate as opposed to phasing in the contributions. As we did this year.

>> Or move directly to the --

>> Matt Loesch: Correct. It was more of if we're going to phase -- then the other point either the discount options, if we could discuss that first and then we could choose whether -- let's do that. Page 15 here of the slides. There's four scenarios here, granted he's are 74, not the only four, four scenarios that are reasonable in the actuary's mind as presented here and so number 1, the current method as was discussed last year. But to be clear, this is presented with the phase-in of the discount rate not the phase-in of the contributions, right? So it's sliement different than what's done this year but the discount rate is phased in. Number 2, going to 7.75 in a hopscotch two step method, three was to go to 7.75 directly, or 4 was to move to 7.5 for the 2010 valuation. I'll entertain a motion.

>> Pete Constant: I'll just make the comment first if that's okay. I still stand by what I -- I know I was in the minority opinion last time but I still think that we should be at 7.5 not 7.75. And I really think that's the prudently thing for us to do based on the information we had last time we discussed this and I think it still.remains the prudent thing to do. So I think I'll make that motion and go from there.

>> Matt Loesch: There's a motion to move to 7.5. Is there a second on that?

>> Pete Constant: DÈj‡ vu.

>> Matt Loesch: Seeing either inquizzical eyes or no response. Mr. Toshes let's be clear do we have a second on the motion on the floor? The answer is no.

>> Arn Andrews: I would like to comment, I was also one of the members that thought that we needed to move our discount rate in the direction we're headed in. But after hearing our new actuaries state that they would like to do an educational process with us why it may or may not change my position, I think I would like to afford them the opportunity to provide us with that education. However, I was -- I was firm in my resolve that we need to Mead move to 7.75 and based on how our actuaries present the information I may or may not be inclined to move further. So I would make the motion to move to number 3, which is move to 7.75 currently, which was the board's intention why they believe we should move additionally in the future.

>> I'll second that.

>> Matt Loesch: Is there any comment or discussion on that item on the motion on the floor? Sorry, Mr. Perkins.

>> Jeffrey Perkins: Yes as we were going through our asset allocation, maybe Carmen you can help me with this. What are -- what is -- what are we using right now for our target rates with the -- with our new investment, group with Makita?

>> Russell Crosby: Mark, can you --

>> Staff had prepared a memo to the board, which is in your packet. On basically an update of what's happened in the last 12 months, because the board did go to a new asset allocation. And I'll briefly summarize what we said in our memo, and that is, that we believe the chance of making your returns with the new asset allocation has almost doubled. So we're moving more towards a less -- to a situation where there's less risk. And so is your question what is the expected return?

>> It's a simple one, it's just what, based on their -- the asset allocation we're moving to, what is their assumed rate of return, that we would achieve?

>> The expected net rate of return I believe is seven.6. Is that -- I don't have all the work papers with me. But I'm sorry the net return is in the 6s. I was talking about a gross.

>> Arn Andrews: Once saying you mentioned that with our new asset allocation, our probability of success is doubling moving it from.

>> From 17 to 29%.

>> Arn Andrews: Is that is why when we had this discussion last year, there is still a disconnect between what our current investment rate of return is, so that's 80 think you know it's prudent to move to the 7.75 and yet we should still have a discussion that the actuaries would like to conduct with us on whether or not it is a before to continue.

>> Yes, the 7.75 would lower the gap between the assumed return and the net return down to about 1% gap. Which is significant lowering. Because last time it was about 1.75%. So it's a significant movement.

>> Matt Loesch: Further comment on the motion on the floor? To move to 7.75?

>> Edward Overton: My only issue is the overall budget 7.75 that is what does it do to the workforce? We talk about the continuously shrinking workforce and we talk about employees giving back pay and giving back benefits and things of that nature. And the plan is going to go on in perpetuity. It is not something that you know we have to worry about. In our current environment. So my issue is, what now impact will it have on the City's budget?

>> That's on page 17. In the middle band there. Option 3 is what the motion is about. It's showing a fiscal year 2012 employer contribution of 95.6 million, or if greater than 30.04 rate above times payroll. And that would

compare to the first option which is 87.4. So the direct answer is, an $8 million, 8.2 million increase in the fiscal year 2012 contribution. And that it lessens, the next year it's 5 many 3 mill and then it's 3 million in fiscal '14, only a million in fiscal year 15, less than a million in fiscal year 16 and beyond.

>> Edward Overton: But we're talking about the city coming up with $8 million more next fiscal year?

>> Yes.

>> Jeffrey Perkins: And isn't it correct in those outer years, it's more, not less? So it would save them money -- they'd get their money back over time. It all balances out unless somebody stops the music and everybody cashes out, eventually it all comes down to the same?

>> Yes. But it also gets you closer to 6.7 is your expected rate, and the movement is towards a lower rate, it gets you there sooner. Without having to deal with the phase-in.

>> I'd actually like to ask a question of the motioner as to why the direct movement to the 7.75 as opposed to a phase-in.

>> Arn Andrews: The motion was predicated on the fact that in the discussions we had I was inclined to continue to go lower because I think we do still have this while we're performing better we still have a substantive disconnect between what we think we're going to actually earn versus what we're using our actuarial assumptions and while I fully appreciate the fact and we discussed this last time too that we tried to mitigate the budget impact to the best we could we still have a plan out of alignment in terms of how we are valuing our assets versus how we are going to earn on our assets. And so it's a liability that the city's going to have to assume anyway, whether we move in a gradual period or where we move currently. And I think moving to 7.75 without any of the other phase-in approaches it will clear the decks for the conversation as to whether we should continue to move further based on our actuaries.

>> Matt Loesch: And here's my thought and the reason why because I'm actually not going to support the motion, and last year my point was to do it over a three year cycle because this is going to be kind of the worst three years conceivably right now, and if you look at the end rate and the end number it's nearly nothing and the difference between where we end up, where if we phase in or if we jump right away. And yes, but it -- the city would end up paying it because it's an unfunded liability in that sense. But it affects drastically now to a much minute scul and the delta at the very end. And so my preference before was to go to Tao a three year phase in down to 7.75. It was not on the contribution rate it was oon the discount rate was on my assumption so that's the reason I'm not going to support the motion. Because I believe that is more prudent now because we end up getting to the same line essentially, and we have -- we can mitigate is impacts to this city this year and probably the following year which are going to be hopefully the last two -- negative budget years, Mr. Constant.

>> Pete Constant: I agree we get to the same line as far as contribution rate. But I don't necessarily think we get to the same line as far as unfunded liability. Because we're not in a -- since you'd be phasing in the contribution rate, you're sticking with an assumption that we've been told multiple times is too high, and slightly lower it, which continues to build that unfunded liability, it would be completely different if you said we were going to phase it in and then make up for what we didn't pay over a period of years and amortize that back in. But we didn't do that. We are just phasing up to or I guess you would say down to that 7.75. If you were doing a true phase-in to come up level, you would have to phase-in past 7.75 to make up for the time you were down. And we're not doing that. And I think that is my concern with the phasing. I don't know if the actuary want to opine on that, that's my worry we're not getting there.

>> Anything that you're not paying now you're going to have to pay later. So unless we agree with what you just skeed there, the goal is to fully amortize the liabilities and the ultimate discount rate is 7.75. So you do make up any underfunding.

>> Pete Constant: You make it up in the long amortization as far as paying off your unfunded liability but you don't really make up your -- the contribution rates here. I mean if you were just phasing, if your end goal was to stop creating an unfunded lieblght, you're not achieving it by phasing in. Because if you are using a discount rate

above what you think you should be you are creating an unfunded liability each year of the phase-in whether it's one year two year three year five year phase in you are adding to that longer amortization period, that's my point.

>> Yes and that's why in option 1 you see the ultimate rate being 135.8 million versus 135.1, that 700,000 dins is making up the difference in the UAL over the long run .

>> Pete Constant: For a long time. For a long long time. That's my concern.

>> Matt Loesch: Mr. Perkins.

>> Jeffrey Perkins: When you are actually claiting the unfunded liability you are using the 7.75, you're not using the phased in amount or are you using the phased in amount?

>> I think if you look on 4, no, 15.

>> Jeffrey Perkins: I'm looking at slide 13 and you have the summary of principal evaluation results and you say it's based on the 7 much 75 discount rate, would that tell knee how much we're unfunneledded today, based on the full 7.75 and not phased in discounting?

>> I'm going to let bill discount rate therefore if you ohad that option for 2010, the discount you're actually using is 8.05 which is the value of the lieblghtsdz.

>> Slide 7.75% discount rate. So if you chose option 1 to phase in we would show different numbers than are shown here on slide 13. So we would calculate 8.50 discount rate and you'd show a smaller unfunded.

>> Matt Loesch: Any fushtd questions? So just to be clear. I'm not sticking at a rate that's unheard of. I'm moving away from that rate, to a rate gradually getting there. I won't support the motion. Any temperatures discussion or questions for the board?

>> Pete Constant: You slightly touched on it Matt but it's important to look at just beyond the unfunded liability itself. What it really does is, it shifts the cost from an 8-3 split from the employees to 100% tot employer. And so we continue to create this bigger liability that shifts that risk over, and the obligation over, to the city. Which compounds problems. And it's an issue that I've had not just in our retirement plans. I've talked about this yesterday in our council meeting as well. But we keep doing these little incremental things that shift costs, either from one to another, or shift it from one period to the next period. And it's not a dollar for dollar shift. A dollar today is a lot less than what that dollar costs you one, three, five and up to 20 years, 30 years down the line. And we keep doing that. And we're really suffering the significant pains of a lot of those decisions that were made five, ten, 15, 20 and 30 years ago now and I want to make sure that we stop doing that. And so we really have to keep in mind that what we're affecting is not only the unfunded liability, but the normal cost. And if we're wrong in calculating, selecting the discount rate, and we are basically taking and shifting part of the normal cost that is a responsibility of active employees, as they pay their normal cost and shifting it to unfunded liability which becomes a burden on the taxpayers and that's why I think we need to continue to move in the right direction, continue to get educated and move to a more reasonable rate. And I don't really think that we should be phasing it in. If we know it's the right thing to do, if we know 7.75 is a step in the right direction, I think we need to go further, I think we've heard from our previous actuary and I think we've heard from our actuaries today that they'd like to see us go lower. Why not take that step now? And make sure that we're not shifting the cost from one to the other, and creating a bigger burden later?

>> Matt Loesch: Well in the same respect though Mr. constant, you don't go with your house with cash down, you're going to amortize it over the years you ask amortize. Yieltdly we would plunk down the money and not have any unfunded liability. That would be the ideal scenario. But that's not the scenario we're in. Is it unrealtyistic and unreasonable to phase it in? The answer is no.

>> Pete Constant: But you don't get the option of going to the bank and saying I know you want 6% but I'm going to give you 5% and my heirs are going to pay you that 1% plus the cost of living diswrussments make that dollar whole in the future. And that's what we're doing. And you have to compare apples to apples. And it's like, buying

your home, and getting a silent second that you're asking someone else to pay for in the future. And that's where the problem is from my perspective.

>> Matt Loesch: Okay so we have a motion on the floor and we have a second, just to confirm what the motion was, to move, item number 3 to move to 7.75 with the valuation with no phase-in. All in favor? All right, there's two. All opposed, there's three. So okay, we need another motion. That one fails. Mr. Perkins.

>> Jeffrey Perkins: We vetted this out before and we voted and we put in that phased in approach. And I think that was -- we went through this and I would say with the approach we had so I'd make a motion that we stay with number 1 and we -- I hear everything that member constant has said and I -- you know I think we need to get educated more from not only the actuary but also our investment. People and you know I don't think these number are we're going to get there and it's a big shock. We were at 8.25. We're moving in the right direction. We need to get down and I just hesitate to get overaggressive at a moiment moment in time when things just seem like the world is doping an end. Things have settled a little bit so I'm going to propose that we stay with the phase in that I guess that's option one.

>> Second.

>> Matt Loesch: There is a motion and second. Further discussion? Hopefully --

>> Pete Constant: Well I just got to say over aggressive would be saying let's go to 5%. That's overaggressive. What has been recommended is not overaggressive it's prudent there's a big difference and I can't support this and I hope Arn doesn't, either.

>> Mollie Dent: Well I just want to remind the board that you do need four to pass the motion. I'm not trying to influence anything to let folks know that we're one board member short.

>> Matt Loesch: Right I remember. Okay so we have motion and second. Mr. Overton.

>> Edward Overton: But if we don't pass this motion -- it stays the same anyway.

>> Mollie Dent: Yes, it would have to -- you would have to resurrect it if you wanted to deal with it. Mr. Mayor.

>> Matt Loesch: Okay so --

>> Just a comment that it doesn't stay the same. Because what the board decided last year was to phase in -- you decided to choose 7.75 as the discount rate. However, you phased in the impact over, I believe, four or five years. That's not quite the same as what you're saying option 1 which is the discount rate. And the advantage of the option 1 that you see here is fundamentally the fact that the ultimate contribution rate that you see in fiscal year 2016 is not dramatically higher than, say, the contribution rate, in 2016, under option 3. However under what was approved last year, because you actually did move to 7.75 and you're simply delaying paying the contribution, you have to pay interest on the contribution amounts that you do not pay. And so the ultimate contribution rate will be significantly higher. So I guess my point is, there is a benefit to choosing option 1 here as opposed to what was chosen last year, and there is a difference in the ultimate contribution rate.

>> Last year the option that was chosen developed an NCO on the City's books every year because the discount rate was chosen at 7.75 but the contributions were not at that level. They were phasing in to what would be the 7.75 level. every year there's a net doopted last year but it wouldn't happen under option 1 that is shown here.

>> Mollie Dent: So I just want to say that having heard the board discussion today, I don't think it's clear that the board agrees necessarily that what they did was phase in the contribution rate last year. So I think that the that if the motion does not pass we need to go back and revisit what the board action actually was last year, in terms of whether or not it was a phase-in of the contribution rate versus a phase-in of the discount rate. I'm not saying that I think it was one way or the other. But I -- I at least understood it was a phase-in of the discount rate. And I think some other board members did, too. So I think that that's kind of an open question. If the motion doesn't pass

what the board did last year. If you just approve going to a fixed dollar rate you just approved that, but in terms of what was approved last year I think we would have to come back to you with really what that was.

>> Russell Crosby: I'd like to conquer with Mollie's statement. Because certainly for those of us who were presently whether we actually saw what the actuary had done there seemed to be a disconnect between the discussion in the board meeting and then the final outcome. And I think they had some math kind of issues about how to actually phase that in and that's why they ended up where they did. So it's -- you're correct, it is a different subject entirely, and we need to go back and look at what actually happened last year.

>> To just clarify.

>> Jeffrey Perkins: What Carmen said based on your description we were using a 7.75 assumed rate of return. We were just phasing in how we were going to catch up that?

>> Russell Crosby: Correct. That's correct.

>> That's correct. And that's really based on the actuary grs, M.S Leslie Thompson, her position was it's inappropriate to say one year, the long term rate for the plan is 8% and the next year say it's really 7.9. So the decision on the rate needs to be done kind of immediately. However she expressed that she was willing to phase in the impact. And that sort of -- that's basically what came through, in her presentation. Now, whether she laid that out clearly enough for everybody to sort of be on board, it's obviously -- obviously it hasn't been laid out clearly. Because if it wither then we wouldn't be hearing the comments from the various board members that they thought they were phasing in the discount rate but at least --

>> Russell Crosby: Carmen I believe those conversations occurred outside the board meeting. Because they're I'm pretty sure and reaction to from others that never occurred in the board meeting where that was made clear. Certainly maybe she discussed it or glossed over it but I think that was probably something that happened later on in the actual preparation of the final valuation documents.

>> I'd like to state that we have absolutely no problem writing down the discount rate. Because in our opinion, there is no magical right answer. There's a range here. But we also think the difference between that and what was done previously isn't that large. You've got much larger issues to deal with long term and we were going to be showing some stress testing which we probably will not do, we'll introduce the tool here. But the difference between these four options as I mentioned earlier you'll barely be able to notice it from the eye when you look at the projections.

>> Jeffrey Perkins: So just to what we have approved right now is a more conservative than option 1, that is in this package, because option 1 phos in the discount rate, and what we approved we believe was using the 7.75 discount rate but just if asking in how we paid for it, is that correct?

>> Russell Crosby: Right.

>> Jeffrey Perkins: Thank you.

>> Pete Constant: I just want to correct one thing. Mollie, I'm not sure if you said what I think you said but if this motion fails it doesn't mean we have to revisit it next week. We can take another motion. There is an in-between. We have option 2 which you know as unreasonable as people sometimes think I am I'm not completely unreasonable. I would be much more comfortable, I can read the tea leaves and see where we're going. I can see option 2, my we get there sooner rather than later. I hope that we can at least get to there so we can make rapid progress to get where we need to go. I'll not make a substitute motion but if this motion fails I'll make a notion do that.

>> Matt Loesch: We have a motion and second on the floor. I see a request from Mr. Gurza to grab the microphone.

>> Alex Gurza: Good morning again. I just wanted to comment, first I appreciate Mr. Overton's comment about the City's budget situation. Clearly we all know that we have a fiscal crisis, we have shortfall and deficits and layoffs and so if we were only looking at that we could say give us the cheapest bill. All right? Whatever number lowest give us that that would be easy. I think last year we were concerned with the five-year, whatever it was that were approved. We understand I think the actuary stated in a pension system it's pay us now or pay us later and it's really pushing the liability further on. I think the concern that we have we don't know what the right number is. Obviously that's a decision that the board makes as to what the right discount rate is. I think from our perspective looking at it, you know, we think it needs to move down, I think there's consensus about that. I think option of 1 to think bit, you're talking about potentially moving lower than 7.75 and you need a little more education as to when you get that. But option 1 you're not even going to get to 7.75 until 2013. The function is pushing it out further and further. I know it's a different board and different plan bud the Police and Fire retirement board last month decided to either move to 7.75 or 7.5 one or the two and they're going to come back next month and make that decision. But whatever they decide between 7.75 and 7.5 it will be in effect when the contributions change. Point that out, it is very difficult to stand here and say we want to pay a bigger bill but we want to pay the correct amount so we don't continue to add to liabilities moving forward. Appreciate the time.

>> Matt Loesch: Just to be fair, is there anyone from the audience that wanted to make a comment? Not exactly fair to just give Mr. Gurza the chance. He anybody else want to make a comment ? Motion is option 1 so I don't have to read the whole thing. All in favor? There's two. And there's -- any noes? Three. Okay. So -- I'll be up to the motion I'll give it a try I'll go to number 2, the same as number 1, 7.75 2011 andsen.75 in 2011. Do I have a second on that?

>> Yes.

>> Matt Loesch: Motion and second. Any further discussion? All in favor? There's five noes, great. Mr. Constant. By records was that there's -- so in that case, then since there is going to be a phase-in we need to discuss the -- to confirm that we're going to phase in the discount rate not the contributions. So could I get a motion on that?

>> Pete Constant: I will make that motion that it's the discount rate not the contribution rate that is phased in.

>> Matt Loesch: Motion and second. Further discuss? All in favor? Aye. Opposed? None. The final item that I can tell that we have -- need to act is on the noneconomic assumptions that are on page 6. That's per item 21, discussion and action regarding Cheiron's to noneconomic assumptions for the period ending June 30, 2010. So if we looked at page 6 of the valuation, that's how I had on that item and that was the comment. Any comments or can I get a motion on that?

>> Pete Constant: Just so I'm clear, we're just confirming, this is grs methods, we're confirming that these methods will continual?

>> Matt Loesch: At least for this year,.

>> Pete Constant: I'll make that motion.

>> Matt Loesch: All in favor? Opposed, none. Okay, 20 and 21 I believe are done.

>> I'll just introduce the two, I'm not going to use the two but for those education sessions we mentioned we have an interactive piece that we will be showing the board, very last page and this is a projection of the plan's contribution at the bottom graph, that's the employer contribution rate. And as we phase in the losses that have occurred, you see the rates up to 37.2%, and then on the top we say the gray bars are the liabilities, gold bar line I mean is the actuarial value and on top of each of the bars is a funding ratio and you see the funding ratio going from 67% to 89%. And that's a function of the returns in the left-hand side. The 7.75 under this scenario it's 7.75. Along the top there are options to change amortization periods, we're not going to do that now, options to change contribution rates, asset smoothing, ignore all that. In the upper right-hand corner assumptions, right now it's set at 7.75 option 5. Option 3. If we go to the 7.95, that's the difference between option 2 was it and which you currently have so if you toggle back and forth I mentioned earlier you barely see the difference long term. And if

we in 2010 the current fiscal year if we were to change the earnings, upper left-hand side, Ann, just to look, if earnings I'm going to do two scenarios, 16% and 0%. So if we earned 16% it shows you the employer contribution rate changing, the 28.4 bottom graph is the -- I'm sorry 30.7. So that would be the next valuation, if we put zero in there, Ann. It's 31.8. Gives you the impact of changing investment returns. We can actually show you historical period, I'm not intending to walk you through the entire period but there is this tool that we can demonstrate to you historical period Ann and change 2005 though to like 1950. He the '50s come back, you can see on the bottom, your contribution rate goes to zero and gets overfunding. But if you put it 1965, things just get worse. And we can march through history and somehow the stress-test being. What we can guarantee to you is whether it's 7.95 or 7.75 it is 100% certainty that that won't happen every year and you're going to have up and down rurnts. Then the stochastic piece, when you mentioned connect with the investment side, once we know what the investment return expected risk is put 6.7 for the return. And 9.9 Mike I believe was the risk and we would run what's called a stochastic analysis, which is running 500 assumptions along a bell curve, you can kick that horse there and it will give you probabilities of where your contribution will be and your funding ratios. So for example, this is looking at the 500 distributions of funding ratios and it's saying that by 2035, you're expected to be fully funded because of your amortization periods and it gives you distribution of your contribution rates on the top chart. And I don't want to overwhelm you with too much but just know we have a very robust tool that when we have the education sessions with the investment consult we can do things interactively with the investment consult and show you probabilities of the events instead of flat out predictions. That concludes the formal presentation.

>> Matt Loesch: That isn't something you can pick up at Fry's and fuel around with it. Appreciate it. What would I do is call for a recess, take a quick break, people gather their thoughts so we can march through the rest of the stack. So in ten minutes we'll return. Thank you. [Recess]

>> Matt Loesch: Can we reconvene the meeting so I can get chose to the ten minutes if I try. Almost have the quorum with the board sitting down so we're getting close. I know, no worries. I'd like to get moving please. We have a lot to go through still, there's a lot of folks who have come and been waiting for a while. More than ten minutes unfortunately. We moved 3B to 1A, that's a stability retirement for Sedera Olker. Community activity worker, request for service connected disability retirement effective June 26th, 2010. 12.5 years service.

>> Sedera Olker. Her work restriction forceful gripping with her right and left hands. She's currently separated at the time of separation at the time of application she was on modified duty, there is no modified duty available.

>> Matt Loesch: Is Sedara here? Dr. Das is there anything you would like to note from the packet?

>> Dr. Das: Not at this time.

>> Matt Loesch: Ms. Oxlker do you have any comments or things you would like to say to the board? If you would pull that as close as possible to you that would be great.

>> Well, it's just everything you've -- about the -- about them and I don't know what else to say. Like the last hearing, you know, I ought to tell the board that you know, I suffer from injuries from work, and then they terminated me from work, they couldn't find anywhere else for me to do any job. And that's how it started. And going through medication every day, you know, that's how the i've been depressed and taking medication and it's up to the board to decide you know to give me the retirement or not. I don't have any other comments.

>> Matt Loesch: Okay, thank you. Any other comments or questions from the board?

>> Edward Overton: The information that we have indicates that you left the city, and at the time of your departure that you were on modified duty. Could you tell us why you decided to leave your modified work?

>> It's the doctor put me under restriction permanent. And then, I couldn't do any job because I -- my hand is numb and tingling. I couldn't feel any hot or cold. I couldn't type. And it's on my right hand. And it's not that I'm leaving the work but the doctor recommend for me to do the modified work.

>> Edward Overton: Could you tell us what the modified work was?

>> It's because most of my work, is typing, data entry. And due to the numb tingling and burning, so the doctor request for me to type ten minutes, every hour. Only. And I can't lift anything more than two pounds. And I have to take the break every 15 minutes. That's my modified work. With diswo thank you.

>> Matt Loesch: Any other comments or questions from the board? I have for one for Dr. Das please. It seems like if there's an incident that's called for or the applicant is declaring the incident that caused the injury or the disability, is moving the tables and chairs on June 13th, 2007, is that your understanding as well? I mean that's what I'm gleaning from it is if there's a --

>> That's what she describes is a precipitating point obviously with carpal tunnel syndrome if that's the presumed diagnosis it would probably be a different mechanism of injury associated with that. You'd expect more in acute presentation. There are some arguments that people believe that you know you can trigger something or unmask types of symptoms that happen when you, you know possibly damage or you know injure the nerve. In her particular situation I think there's something else going on because I believe she has the symptoms that she describes. But they're not supported by the electrodiagnostic testing which reveal relatively small abnormalities. There is some called a nerve biopsy. They have something else called quantitative sensory nerve testing where you too ooms we are testing big nerves that provide sensation. Like the median nerve, there's other nerves that the nerve conduction studies do not detect because because we don't detect -- because we don't detect the impulse with the electrical stimulation and that's the small fibers and with diabetics, even if you have good shog ash control your diabetes is well controlled it appears damaging these nerves. And it can result in the types of symptoms that she describes in terms of the loss of temperature sensation, the pain, and so that's kind of where I -- that's where I -- I see probably where symptoms are coming from because it doesn't -- she didn't respond to the carpal tunnel releases, and the nerve conduction studies weren't that terrible. So it points me to a different diagnosis perhaps that might be responsible but it's not in the medical records. It would be something we identify associated with diabetes and even if it's well controlled diabetes you can still get it. It's related to people we call quote unquote prediabetics even.

>> Matt Loesch: Questions from the board?

>> Edward Overton: I have a problem with the information that was presented in the medical reports. And basically, what it says is the pathology or the mechanism of injury described does not --

>> Matt Loesch: Page 10 of the packet.

>> Edward Overton: Right, page 10 does not result in in-- in an incapacitating type of injury. We need stronger medical, in order for me to be able to vote for a disability retirement. There's no clear relationship between the reported symptoms and the mechanism of injury. And this is from Dr. Das's summary of the medical providers that treated you.

>> Matt Loesch: Comment or question?

>> Edward Overton: It is a comment on where my thinking is now, and that is the medical report, the medical information that we have just does not support a recommendation for disability. The restrictions that we have the doctors have indicated are prophylactic, which means -- doesn't mean you're not able to do it. It's just that if it causes you pain, you shouldn't do it.

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

>> Edward Overton: Move staff recommendation.

>> Matt Loesch: Any other comment or questions? Motion is to deny the application. All in favor? Aye, opposed, none, thank you. Moving on to item 3A. Change of status for Ronald Ippolito, equipment operator, Parks, Recreation, and Neighborhood Services, request for change in status to service connected disability effective March 20, 2010. 20.58 years of service. Is Mr. Ippolito here? Staff please.

>> Ronald Ippolito is 20.58 years of service. Medical reports are listed in your packet. There are no work restrictions provided. He's currently service retired effective 3-20-10. At the time of separation and at the time of application he was working full duty. And due to the fact that there were no work restrictions there was no modified duty letter sent to the department.

>> Matt Loesch: Dr. Das is there anything you would like to add?

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

>> Matt Loesch: Mr. Ippoli torvetiono is there any other comments would you like to say? If so bring the microphone close to you.

>> Is it okay.

>> My name is Gail Ippolito, we would like to request that you not make a judgment on his request. We see there's a lot of screpses and the last meeting that we had just like she said, that he had returned to duty, 100%. And yes, in theory he did return but in actuality, the doctor only released him to see what he could do, because the job would not take him back unless he was 100%. And so he agreed to go back and see if he could do the job. And she also, the doctor that is. She also said to us that he needed to get his affairs in order to see what all his options were. Because she did not clearly see him being able to do his job at 100%.

>> Matt Loesch: So just to be clear your request is for us to defer this item?

>> Yes.

>> Matt Loesch: Ms. Dent is there any comment you would like to make?

>> Pete Constant: Motion to defer. How long do you need a deeferlt for?

>> Probably just a month. We're meeting with her tomorrow.

>> Pete Constant: So defer to the next agenda.

>> Matt Loesch: All in favor, opposed, thank you, see you next month. Okay, under the consent calendar that's items 4 through 13. I'll entertain a motion.

>> Motion to approve.

>> Second.

>> Matt Loesch: Comments or questions? All in favor? Aye, opposed, item 14, death notification I'd like to request a moment of silence for those who have passed and have served the city. Thank you. Moving on to item 15 please. Consideration and action on the application of the rehearing of Shirleen Lilly staff technician, environmental services, service connected disability request of 12.13 years of service deferred from the October 14th meeting. I believe Ms. Lily is here and with her representative give us a moment to shift papers while you sit.

>> Ms. Lilly's attorney has put a request for a rehearing. We have the backup of the original packet so the board decides whether or not they want to rehear the case and if they do vote to rehear the case the case will be reheard at next month's meeting.

>> Matt Loesch: Okay. Is there anything we need to know legal wise?

>> Mollie Dent: No. I wanted to make clear that the board's function is who to rehear the case in the grounds that are cited in the obligations for rehearing, that the board acted in excess of its powers and the justification does not board's function is not to rehear the matter at this point but the reason the entire packet has been provided to the

board is that would constitute the evidence that you would need to look at. To decide whether or not the evidence does justify the determination that you did make.

>> Matt Loesch: All right, thank you. Ms. Pappy, and again, sorry, pull the microphone closer to folks can hear.

>> Certainly, I don't have a quiet voice. Ms. Lilly is here with me. I don't want to talk too long based on Ms. Dent's comments is the sole purpose is to decide whether the matter should be reheard. I think you need to focus on the determination to deny the application was made on the claim that the injury was not job-connected. And I think that you look at the evidence that was in front of the board at the time of the hearing, the overwhelming evidence is actually the exact opposite that the injuries were job-connected. The city's doctor's report indicates he doesn't know what the injury was caused by. And he at one point indicates that the job could have caused the injuries. So taking those two things into consideration there was clearly evidence that justified a completely different determination. I'm not going to discuss the issues relating to whether another job was issued or offered to her because I don't at this point think that's relevant until we get to the point of deciding whether a rehearing should be heard or not.

>> Matt Loesch: Are you reaching for a comment Ms. Dent?

>> Mollie Dent: Yes because I do want to say the board's decision was made based on all of the evidence in the record and whether or not there is an injury that is job-related is not the only issue that was before the board. The other issues that were before the board were whether or not, even assuming there was an injury that was job-related, whether or not the work restrictions that the applicant had were related to the injury, and whether or not the work restrictions were preclusionary in nature and precluded the applicant from performing the job. So I do think that the board's resolution reflected findings on all of those issues, if Ms. Pappy wants to restrict her comments to one part of them, that's up to her. But the board's resolution and the hearing reflected all of those issues.

>> Matt Loesch: Okay.

>> Well, then I'm going to make some more comments. Because the court's conclusion, decision and order is really I think what's relevant but based upon counsel's comments then I'll talk about the rest of the application. The remainder of the application is that if the board gets past the issue and decides on rehearing in Ms. Lilly's favor that the injury was job-connected which the doctor's reports clearly show that it was the question then becomes was alternative employment ever offered to her. And based upon the original packet that was before the board at the time of the decision and based on documentation which I've added, I certainly understand that you're not allowed to add evidence, it is my position on behalf of Ms. Lilly that this evidence should have been before the board. There are no new doctors's reports, this evidence should have been in the packet and it was omitted. One of the motion significant things there is the October 2002 letter firing Ms. Lilly because she had met the magical two year you can't have your jom job anymore deadline. There was no job offer made to her at that point. I guess you could impliedly say that an offer was made, either take your old scro job back with no accommodations or you're fired. They never said to her we'll accommodate you, in fact if you look at that letter the letter says we can't accommodate you so we're firing you. Voluntary resignation. After that point, the city never did anything to try to get her another job. At that point it is my understanding that you couldn't do anything to get her another job. Return to work was never inflicted. Mr. Demere's imlaicted and never came into play because she was fired. Before the return to work -- before she was permanent and stationary. Return to work only essential can't put a nonpermanent and stationary employee back to work before that determination is made by workers comp unless there is some sort of job limitations. None of that discussion ever took place. City never offered her a job. In 2006, I think at that point he was chairman Overton attempted to get some answers to the question of whether a job had been offered memo attached to my submissions which says please tell me whether you could have accommodated her in 2002 2006, I'm not sure why it's relevant because she had been fired. I don't think she could have been given her job back at that point. And then they he say yeah we could have accommodated her in 2002. Look at the letter you wrote her in 2002, it's that we can't accommodate you. That amounts to absolutely nothing and somebody sort of trying to cover their tracks after the fact. She service connected injury you have to find, there has to be a finding evidence that the city offered her a job. City never offered her a job.

>> Matt Loesch: Thank you.

>> Mollie Dent: Just a couple of comments. The application for rehearing is -- doesn't say that it's grounded on new evidence. So it's not clear whether or not the applicant is trying to reoffer new evidence. That's not what the application for rehearing said the grounds were for the application. And secondly, and that is -- that is a possible grounds under the code. But that's not what this application was grounded on. And secondly, with respect to the offer of a job, that's only -- that is an alternative only if they can't have worked in the position to which they were -- in which they were in at the time that they left employment. So that's the first issue is whether or not they could have performed in the job that they were in at the time they left employment. There's no need to offer an alternative job. If the finding is that the person could have performed with modifications in the job that they were in at the time they left.

>> Matt Loesch: Comments or questions from the board? Seeing none -- I'll entertain a motion.

>> Edward Overton: I move denial for request for rehearing.

>> Pete Constant: I'll second.

>> Matt Loesch: Motion and second. Any comments or questions on that?

>> Pete Constant: Make a comment that my second is based on the fact that I really don't feel we have anything in front of us today that changes circumstances from what we had when we made our decision the first time.

>> Matt Loesch: Okay. Any other comments or questions? All in favor of the denial of the rehearing? Aye. Any opposed? Seeing none, thank you.

>> Thank you.

>> Matt Loesch: Item 16 please. Discussion and action regarding the lowest cost plan. We have four items, A B C and D are memos of minutes and notes and comments. We also have a flurry of other attachments that don't have letters attached to them some of which are letters from retirees and previous board members and some them are, good golly, all sorts of stuff. So question, why is this here? I put this on the agenda. Because in August, we had a memo from the city administration noting that the city council had declared the lowest cost plan for 2011 would be, I'm going to summarize so if I misstate something we'll get that correct in a moment. The 25 dollar co-pay plan that is what's going to be in place for the retirees medical plan for 2011. They can still purchase -- they can upgrade I guess we'll call that to the $10 co-pay plan and it was simply a in oat and file issue. The educated discussion, as to what's going on because we're again caught in this scenario where not everybody in the Federated plan actives has in fact very few have the $25 co-fay plan. There was numbers in the informational memo that it's probably less than 10% broad numbers. And this is not taking a perspective, just trying to present the scenario. In 2007 we were in the same scenario where initially some folks had bargained for a $10 co-pay plan where some had no co-pays on their plan and so their -- it was the first batch at not having everybody having the same medical plan as the actives. And so we got -- then we got to the discussion as to what's going on in the Municipal Code, there was a flurry of attorneys memos and thoughts as to how you should decide, who should decide and so forth and what things really mean. So at that time 2007 came around so finally in 2008 we made a decision, the board made a decision at that point that by the fact that we declared what the lowest cost plan was, that the board declares what the lowest cost plan is for the retired employees for the medical plan we made a recommendation to the city council that they clarify that we not get into the situation again. I believe a memo, not even a memo, the ordinance, the resolution was drafted correct. I believe that sent off saying this is what we recommend the language to be. Nothing was modified, I believe there was a recommendation that went forward, I believe it's in the packet and as other people are speaking I'll find it. There was a recommendation for what that change should be. No action was taken in this past negotiation cycle. Some folks were negotiated for a $25 co-pay as opposed to the $10 co-pay. Some folks were imposed upon. Some folks were provided because they don't have negotiation rights in that sense, a $25 co-pay plan. So we're back in the scenario where some actives have $10, some actives have $25, and city council had declared the $25 co-pay plan as the lowest cost plan for the retirees effective 2011. So the point here is, reason why it's here is because I believe we need to declare what is the lowest cost plan based on that, that's my opinion, we need to declare what the lowest cost plan is based on all

this information. There's lots of folks here who I assume want to weigh in on that and so I hope you folks had the chance to read through and kind of decipher all the past stuff so again we're in the same scenario where we have some folks who have a $25 co-pay and some have $10 and who is the party who decides what the lowest cost plan is. That is the intro as to why we are on this item and why it's here today. I'd like to hear from the board folks first and then I'll entertain some comments from folks in the audience and then we'll see where we go from there. So if there's anyone from the board that has a comment I'd like to hear that first please. Mr. Andrews.

>> Arn Andrews: First I'd like to thank the chair for putting this on the agenda. I wasn't even sure why it was agendized and what the topic was but reading through history and even if it appears as if there's competing versions from a legal perspective, the topic itself seems germane especially when I read words from our counsel that continually uses topics like board possesses the responsibility, it's the board's discretion so as a new board member it was just very illuminating to me that this is something that should be at a minimum discussed, could be under our purview and we may have a legal responsibility to act on. So I thank you for putting it on the agenda and I look forward to the discussion and hearing more about it.

>> Matt Loesch: Mr. Perkins.

>> Jeffrey Perkins: I'll just having been through this the last time around and it is a concerning issue and it's one that I -- we were trying to find a way so we wouldn't be having to deal with this on a regular basis. And I thought what we -- the consensus back then was, you know, try to change this so we knew this was going to happen. In fact I think at the time I said this is just the beginning it's going to get worse because there's soful different plans out there and I'm sure way back when this was voted in years ago, insurance was insurance, it wasn't the hot topic it is today. So I think we have to have some resolution, so moving forward it isn't somebody's just kind of looking and saying okay this is it. We need to have a mechanism as we work through it. And you know I guess what we had kicked around or I guess concluded concluded was, who is the majority what is the largest number of people their lowest cost plan which would then be applicable to retirees? That's my recollection from where we were. As to getting here today.

>> Matt Loesch: Mr. Overton.

>> Edward Overton: I'd just like to jump on Mr. Perkins' comment. Years ago when this benefit was initiated and granted to employees, we had one health plan. And one plan for Kaiser, one plan for Blue Shield. We didn't have different benefit structures for different bargaining groups. And so the ordinance is probably reflective of that and somewhat confusing and vague. And we're going to continue to have this discussion unless we clarify it. And at the end of all of the discussion, I would like to make a motion. But I will hold that off to get all of the input from the audience. So that's where I'll start.

>> Matt Loesch: Okay, hold on a motion. Mr. Constant.

>> Pete Constant: Well, I'll just make the comments similar to what I made last time that we discuss this. And I know from the view of a lawyer, the Muni code is ambiguous. But I think that from the average person, the plain reading of the ordinance is really not ambiguous. And with all due respect to Russell, I know you can, lawyers can complicate and find meaning in a lot of things. But I think the key provision in the Muni code is just its plain reading. And it says, find it here, where is it here? I had it and then I looked away. But anyway it's the one that says, a plan that is available to an employee. And it's very clear, if it's a plan that's available to an employee, then -- and it is the least costly, it is the lowest cost plan. And you know, I know there were a lot of discussion about this, last time we talked about it. And when you go out and talk to the average person who really, you know, doesn't have an emotional stake or a direct personal financial stake in it and you ask them to read it and interpret it, it comes out pretty clear. The lowest cost plan is that plan that cost the least amount. To me it's very simple and I think it's a controversy that we've had that we shouldn't necessarily be having over again because I think we covered it. And you're right, the council should have clarified it. I don't necessarily agree with maybe the recommendation the board made for clarifying it is the appropriate way for clarifying it but I do think the council v should have clarified either the language or at least a resolution of the council to clarify what the intent of the ordinance is. And I could tell you that I'll at least work on that so we don't have to have this argument again next year and I'll take the responsibility of the failure of not making sure the council had that discussion over the last 12

months. But I really do think that the plain reading of the ordinance which I believe is what the courts usually look to first, is very straightforward.

>> Matt Loesch: Any further board members and then with the lawyers and everybody else?

>> Arn Andrews: I'd like to follow up on board member constant's term of and versus all. If the attorneys could educate me because there seems to be a conflict there also. Some of the documents are using the term all and others are using the term and. So if I could get some clarification on that it would be helpful.

>> Mollie Dent: Well, the reason that I put our December 4th, 2007, memo in the packet from the city attorney's office, is that the city attorney's office position on this ordinance hasn't changed since December 4th, 2007. The ordinance does use the word and. We don't think that it requires there to be a moornlt. We don't think that the ordinance requires that the city employees be in the Federated plan. If it did it would say that in the ordinance. And so our position has not changed on what the ordinance means. We do not think it is ambiguous really. And I would also offer that while at an initial level, the board may have a need to make a determination as to what the lowest-cost plan is, the board is by no means the decision maker on that. The -- if language is unambiguous, the court will apply the languaging that unambiguous. It is clear under the case law that the court can't grant a benefit that the employer has not agreed to grant. And to interpret the language to be something other than the lowest cost plan available to an employee is in effect to grant a benefit that hasn't been granted in the plan document. The board has a fiduciary duty to the opt retired who have their own active members of the plan, who are paying for the benefit with the city. It has a duty to the city. And because how this language gets applied and whether or not you wind up granting an additional benefit does flow back to those other folks. And the final thing I would offer is that this is the opinion of the City Attorney. A court would grant deference to our opinion. Courts treat opinion of a City Attorney on the ordinance similar to the manner they treat the opinion of the attorney general on state law. This is not a situation where just one employee or even some small number of employees have this plan as the lowest cost plan. There are substantial number of city employees who have the $25 co-pay plan as the lowest cost plan. But again I will say that it's not our position that it needs to be a majority, or even, that it needs to be a majority within the Federated plan. When the board, back in November of 2007, put

forward the ordinance that would have changed the language to say a majority, that was the board's proposal. That, in effect, is an indication that that's not what the plan document says now. And so that's really up to the bargaining parties, whether they want to change the document to read, a majority of the plan. It wasn't done. It wasn't done. And it's-d the board can put that forward again. But again, the board's position is not to change the benefit level. The board's position and the board's role is to administer the benefit that has been provided.

>> If I could -- (inaudible).

>> Matt Loesch: Ask their questions directly. Mr. Richeda.

>> I definitely agree with Mollie, the board cannot grant new benefits. But I agree with Mollie with the courts always being the last decision maker that the board has an obligation to interpret the Muni code provisions it's obligated to administer. So I think by following its legal obligation to interpret this, it is not adding a benefit. It is trying to do the best it can in the context of what now appears to be a very poorly drafted Municipal Code provision. Even though it was not poorly drafted in the historical position its was adopted in when there was only one health plan. But as the facts change on the ground, I think the Muni code provision is at best obsolete and difficult to apply. I, and just two other small points. To the degree the cases are clear that the city attorney's office would be entitled to deference, and I agree that that's the case, I think here there's the additional element of the role of conflicts counsel. I'd at least make a push even though the courts have not dealt with this, the role of conflicts counsel deference is supposed to be taking I think the courts will again be scratching their leads as to what to do. To the degree, and dealing with the point that to the degree that when the board last considered this, they advocated that the ordinance be changed to have language talking about coverage to a majority of employees. And the consequences of that being -- not being documented I think we're all familiar with many municipal court clarifying something rather than creating something new. So you're just trying to make the words conform to the meaning in a situation where the meaning is unclear in those words. I think, if ultimately we should go back to the words themselves, and I think you will find that they are not self-defining, that the issue of what an eligible medical plan is rather unclear, and that there are the -- we could go through the grammar. I'm not sure if

you want to. I'm not sure if it's helpful now. But I think that a reasonable person would conclude that this is not clearly stated. And that it is not -- that there is no plain language that you can use to actually interpret this in a helpful, coherent manner. And instead, way back I guess originally, and in that kind of context ire entitled or any interpreter of this is entitled to look at legislative history and you notice I did include legislative history in my initial memo from the then director of personnel back in 1984, which I think provides some helpful but not conclusive information. But it is not helpful information in accord with the position taken by the city attorney's office. Now, I think I've made many, many other points in these memorandum of mine. I don't think it's probably useful to go over them today. But --

>> Matt Loesch: No, I think if -- that is one of the reasons I wanted them included in the packets so folks could get a chance to read and Mollie rightly requested to have the city attorney's position presented at that time. So there's the counterbalance so people could understand what the situations were at hand and the counterbalancing i've had some business pes board members have questions of what the attorneys have had to say? Mr. Constant you kind of raised a finger.

>> Pete Constant: Well, I just wanted to go back to a comment I said about not necessarily agreeing with the comments or the resolution this board made. I'll give you one example of why I don't agree. It says essentially that the lowest cost plan should be the lowest cost plan that's available to a majority of employees. When you have so many different bargaining units there could be a point where there's no health plan available to a majority of employees because there is no majority. And I think that's why you look, and it talks about an employee. And we can speculate on what people might have meant. But I do think and I disagree slightly with Russell on this, there is a plain meaning. And if you take it to the average person and have them read it it's pretty straightforward.

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

>> Edward Overton: I would just like to weigh in. I think to read it as narrowly as an employee of the city just does a disservice to everyone, to the city, to the retirees, to the actives. You could have a plan that the city council agrees with the City Manager and that is an employee where even the council themselves and I just think

there needs to be a broader reading of that. As it was said in the past, there was no concern about this issue, mid 1980s when the benefit was created, because everybody was in the same plan. And I think the situation has changed now, and there needs to be some clarification. I don't know what the exact language needs to be that clarifies it. But it's something that we certainly need to work on.

>> Mollie Dent: So just to clarify. I'm not against clarifying the language. But you don't have a situation in front of you where it's being implied where there's a single employee. I'll say it again. There are a substantial number of city employees who have the lowest cost plan as the $25 co-pay plan. So I don't view the language of eligible medical plan as ambiguous. Our code has two parts to it. We let employees pick any eligible medical plan that they want. If the city has a contract, the employee can pick it. That's what the eligible medical plans are. The lowest-cost plan then is the lowest cost among those eligible plans and that's the portion of their premium that is paid for. It's a pretty clear structure. If people think there needs to be more clarification for that situation where only one individual had the plan or some really, really, really small group of individuals had the plan, I -- you know, again, you can make that recommendation. It really is up to the bargaining units whether they want it to read that way. But that isn't the situation that you're faced with here today. And in Mr. Richeda's memorandum from back in 2008, he indicated that one reasonable interpretation of the language would be that some employees have the plan. I would agree. That's reasonable interpretation. And some employees have the plan, a lot of employees have the plan.

>> Edward Overton: I don't think we should zero in on what the future might hold. If we had anticipated in the past that we would have this situation, I think the language would be quite different than it is now. So what I'm saying is that true, no one employee has the plan that we're calling the lowest-cost plan. But I think we should move to prevent that scenario from occurring in the future. Because we didn't anticipate the variety of choices we have now I do think there has to be a difference.

>> Matt Loesch: I believe it is the copy of the ordinance that was referred from the board to the city the city council to possibly adopt. I believe it's like six, eight pages back and it's the second page that has the majority of the changes. That's just for reference. As I said I would try to find it so I'm going to do this. I'm going to open up to

the floor for a moment to have some folks who are here who traveled some distance, took their time out. Take the city first, if the city has any comments they would like to say, and then the public if that's all right. Okay, that's fine. So anybody, Mr. Cokely did you want to go first or not go first? Apparently want to wait.

>> Thank you. Alex Gurza director of employee relations. Is the microphone on?

>> Matt Loesch: Yes it is but you got to swallow it almost.

>> Alex Gurza: I appreciate Mr. Overton's comments. I wasn't here in the 1980s. But if we were were to know then what we know now a lot of things would be different in terms of retiree health care plan. Number 1 if you went back which we have and looked what Kaiser premium was in the '80s and compared to now and we would have predicted what a Kaiser premium was, we might have made different decisions. The board made good decisions in at least starting to prefund. If we knew what we are know now we would have better than paying the full arc that we have now. Rather than why we are here, why are we changing the plans. We made an historic agreement with our bargaining ints, almost every but one, to start paying for it. So current employees are now making up the gap of a massive unfunded liability to pay the retiree health care benefits that are being enjoyed by retiree e-s today. You dropping funding ratios you know the numbers of 60%, retiree health care in Federated the last I look was 11% funded. So I think the broader concern should be, are we going to be able to have enough money to fund this retiree health care benefit. Now let me move on to why are we really even here? I think you know to have the same benefit for all city employees, that was good. It worked for many, many years. We had a Kaiser plan that had zero co-pay. We were one of the only last Kaiser clients that even offered a zero co-pay plan. So we started to need to change the plan. Change the plan design. And that's why we were here several years ago when they moved from a zero pay co-pay to $10 co-pay oop between actives and employees so these changes not only are on the co-pay plans I think it's important to note. Active employees now, are now some paying 10 first of the premium, some moving to 15% of the premium. While the way the code is written retire eaves get 100% of the low price Plan. So I think it's just important for the board to understanding this context. So you're a city employee one day, and let's say some comploas are paying 15% of the Kaiser premium. They retire the plan then pays 100% of the Kaiser premium because that's the way the code is written. I think the code again

is relatively clear. We might sit here and say gene if we were to design it today, would we put majority in? Maybe interpreted in any other way. The board may have recommendations again you made it last year, to change that. We'd have to consider what impact that has does it change any vested right issue or is it better benefit? But I just think to the city it is very clear that it says employees. There are again not just one employee. I understand the concern that would be raised if we designed a plan for just one employee. But again, when we have 11 bargaining units it sometimes takes time to make these transitions and moves. So I just would ask the board to please put in this broader context of what the city and the plan is facing in terms of retiree health care benefits. Thank you.

>> Matt Loesch: The only comment I have Mr. Gyre Edesa and I don't mean to retort to everyone. Getting 100% of the premium of which half of it is paid for by us. We continue to pay half of it. It's really the city isn't paying oon our behalf 50% of the premium. We then are investing 50% of the premium alongside it. The premium is then paid for out of that fund but we are investing in that right alongside with you with the city and I -- I know it's a splitting a hair but it's something that really matters a lot to me because it often comes we are granted this thing from on high. And I'm not saying you insinuating it but that's the common perception. We invest right along with you half and half. We're right with you paying for it and so we're paying for it now so we get it later on. In that fund is brame for the whole premium but we are paying for as active employees so we get that. That's the only clarifying mark.

>> Alex Gurza: I apologize if I didn't make that clear. I absolutely understand what you're saying, the cost for the employee share is shared 50-50 then the plan pays 100% of the premium. Yes the funding is active. But take an active employee that is about to tbier. I'm saying is, everyone that's a new employee funding that gap between what we maybe should have been paying now in retrospect over all these years. That's what I'm saying.

>> Matt Loesch: No I understand completely. Sometimes it's always perceived in the paper that we just get this massive benefit as soon as we go that this is granted from on high. I'm not saying you're insinuating it but it's trailed off the language about what's use over the 100% premium.

>> Alex Gurza: To make that clear kifs employees are seeing that deduction out of their paychecks in a many, many greater amount than people who are cirnlt retired ever saw in terms of amount that employees are putting in to fund this retiree health care benefit so I appreciate that clarification.

>> Matt Loesch: Thank you. Anybody else from the audience that would like to make a comment or not, Mr. Cokeley?

>> Good morning, before I introduce myself I just want to thank the board members for two things basically, one, for going through the effort you have to go through, looking through the packets that are about this thick now. And I understand and remember the time that takes and the effort that takes and the dedication that takes. And I know nobody ever thanks you so I want to be the one that thanks you. The second thing I want to thank you for is the meeting this morning which, as I listened to your actuary and went through all the information, I truly thought to myself, thank God I'm in longer on the board. So thank you for being here in my place. My name is Tony Cokely, I served on the board with Mr. Perkins and while Mr. Overton was the chief executive officer I served 16 years on the board. I came on the board in 1983 and I left in 1999. During that time, I started out as a trustee, I became the investment officer for the board at the time that we had an investment officer. And then I became vice chair and chair. My initial election was in a time much different than these times. It was a time of prosperity. For the first time we had biannual actuarial reports and for the first maybe eight we were constantly faced with this dilemma of the contribution rates for both the employee and the employer dropping drastically. A nice time to be on the board. Also, at the time I came on the board the sister organization, the organization that represents the uniform, the Police and Fire retirement plan, was pushing for a new benefit which was this medical benefit you're all talking about. And being on the board I was intimately involved in the discussions. What the Police and Fire wanted to do was to take some of this drop in the contribution rate, and not put it all in their pocket, but to use it to apply it towards an additional benefit. A contingent of the represented groups ton Federated side wanted to do the same thing. It was not really an easy discussion because even though salaries were lower and it was maybe only $50 a month, it was something like 2%, Ed can correct me if I'm wrong, it was only 2% of salary that was going to pay for this it was 2 first coming directly out of everyone's pocket. It was coming out in a funny way. 1% was directly paid by us out of our salary and 1% was a raise that we passed up, that was actually conscious discussion on the

fact that the City's contribution rate was going to be decreased, but that also at the same time there was bargaining going on and there was only so much that was going to go in that bargaining. And the opinion of the folks that wanted to have a medical benefit was that they were willing to forgo a raise and also pay out of their pact so they could have this medical benefit. There were a lot of the groups at the time that mistrusted the employer for whatever reason and they were resistant to the benefit because they felt that at some point in the future the employer would trick them and after they had paid 2% of their salary or whatever for the 26 years since this occurred that the employer would come along and say and the exact -- I testified to this before a joint board meeting about two or three years ago and if you'll look at the minutes you'll see they're exactly the same. There were groups that talked about a policy that was available at the time, it was called the little giant insurance policy and it paid $500 if you lost a hand, $500 if you lost a foot, 500 if you lost an eye and if you lost any of the combination of two of the above it paid $1,000. What's going to prevent the city coming forward at some point in the future that, we've come up with this news policy that we're going to offer to you, the little giant policy cost $1 a month, TTYs lowest cost plan now andto so when the original ordinance went to the council, it's ordinance 21763, dated 9-18-84. It went with a waiver of the meet-and-confer process. But at the same time the code was not written exactly like it is now. Because in addition to that particular change that added the benefit which the employees paid for, since that point there's been many changes to the code that -- and I know that -- I read Russ's memos and I read the previous board attorney from the city's memos and I agree with most of what they say but I'm not sure that people went back and looked apples to apples at the original ordinance and the original code as was written. Because since that time there's been many changes. There's been we changed the code to make it gender nonspecific. We changed the code to add domestic partners. We changed the code for two, at least two early retirement plans. And when we played those changes and other changes it's possible that this whole issue of all employees or an employee was changed, as well. I believe that to be the case. The concept that the specific concept that the employee groups, the Federated employee groups, this is -- I'm only talking about the ordinance that covers Federated. The specific concept that was discussed, it's in -- it is likely on tapes, if the tapes have been kept of the board meetings. But it also was discussed in the board meetings, was that to prevent a diversion, a dilution, a diminishing of the benefit that people were paying for at some future date, the assurance was that all of the represented groups would have their buy-in to a new medical plan before it became a medical plan that was offered to the employees. And I mean, this is the history, I mean, I'll take, I mean, Mr.

Loesch can swear in and I can take an oath to it, at the time I testified before this board in January of 2008 I think it was, others were testifying at that time, chair of the Police and Fire association because that was a joint meeting, he came and he said the same thing. We were trying to establish a benefit that could not be diluted, could not be diverted, that could not be somehow after we had paid, if you take an employee like myself and you take 2% of my salary and you put it away for 28 years now, 26 years, and you take just the actuarially assumed rate of the board, and you compound that interest, you're talking $1 million or something that has been put in on my behalf. And now, to say that we're going to go to some smaller plan even though the $25 co-pay plan is perhaps -- I would say at the time that all the Federated represented units ratify that, that's a decision that makes sense. But until they do I don't think that's a decision that makes sense. Because if you take the opinion of the City Attorney, that it would be an employee, there's nothing to prevent some new plan like maybe we have even a second tier of employees who are represented by the national health care plan or the Obama care plan whatever you want to call it. And then we say well that's the lowest cost plan because that doesn't cost anything or maybe we have a supplement to it. And all of a sudden the employees, and I I was gratified because you may not have the same benefit as I as a retiree have because if in fact someone other than the board makes the decision that the lowest cost plan is when things get bad, the employer may decide that the lowest cost plan is no plan at all. Or some small plan. And you who have paid in 5% of your salary or whatever Alex was saying that you're paying in now you're going to have paid that in for the next 20 years and all of a sudden you come one that date and somebody says well wait, we moved the borderline. I saw the original decision from Mr. Richeda dated November 11th, 2009 and I basically agreed with it that said the board has the duty to determine -- well not the define the benefit but to administer the benefit as defined. I think that's the way he says it. He says that's their duty. And then he also went on to say at that time that the lowest cost plan should be the plan that's available to all employees. And that subsequent to that, in July of -- July 31st, 2008, he came out with an opinion that said basically you could choose a couple other options. One was that a plan that was available to most of the represented employees might be considered the lowest cost plan. One was that a plan that was available to most represented and nonrepresented employees was a low-cost plan and coms with a represented by the -- would be covered or would have available to them the $10 Kaiser co-pay. And the board listened to it didn't make a decision I necessarily would have made but made what I thought was an intelligence decision based on the fact that most employees and certainly if you exclude the uniformed employees and you say just the Federated employees almost 100% of the employees were, in fact, eligible or had agreed to that Kaiser $10 co-pay. And so the board took action, and adopted the $10 co-pay as the lowest cost plan. Now, I would disagree with the City Attorney about the number of employees that are covered by this plan. Because actually, there's, as I understand it, there's 50 represented employees covered by the $25 Kaiser co-pay in the Federated group now. Ms. Busse's memo which I read and I found was very interesting, right now says there's employees in Federated that are covered or going to be covered by the $25 co-pay that's 9%. And currently, there's 6.5%. So whatever we're talking about we're talking about either 1.5% 6.5%, 9.5% less than 10% of the employees are covered by that $25 co-pay plan. However, only one bargaining group, only 50 employees are in fact, have in fact agreed to that plan. So I think that the statutory construction or the apparent intent all along was to prevent a hijacking of the moneys that the employees are putting away on their own behalf, and it is their money. It is easy to sit and think that it's the City's money because the city is putting in a contribution rate. But back when the deal was made, basically, the employees gave us raises and they gave up a percentage of their salary to have that benefit, they bought that benefit. And it's unfortunate that things have changed and that medical costs have skyrocketed out of sight. But people would have put in more back then. I listened with interest to what the City Attorney, whose rep here, said, how you have a responsibility to the members, the participants and the city. I think the California constitution says that you have a plenary responsibility, only to the members and the participants. So I would say your responsibility, your duty is to look out for dwierees and future retirees. And I'm here to request that until you resolve this, you either leave the situation exactly as it's been, with the Kaiser $10 co-pay, until such time as all of the employee groups that are representatived or the majority of the groups that are represented agree to the Kaiser $25 co-pay, or you make a specific action at this point and you determine that the Kaiser, once again like you did two years ago that you say the Kaiser 10 drar co-pay plan is the Lowest cost plan. I made a deal with my kids years ago that if they got good grades I'd pay for their college. And I put money aside so that I could pay for their college. And guess what? When they got to college, price wasn't the same. $15 I paid at San José State per semester. It was more like $3500. So the money didn't last. I guess I could have, if I hadn't had it in writing or if it hadn't been clear or if we had it when we wrote the agreement down if we hadn't been really specific I could have fought them about it and stuff but I made an agreement with them and that agreement, that covenant, that contract was my bond, and so I paid out of pocket to provide that benefit. And I have a lot of sympathy for the city and what's going on here. And a part of the reason why I don't really object to the second opinion from your conflicts counsel that says most. I mean I don't have a complete objection to that, because I think it is a compromise position but I think that a reasonable man with all the situation going on now could come to that -- could come to that agreement. And just one last point. Because I think this comes up all the time. I agree 100% with Russ that as your conflicts counsel, I mean I was on the board when we hired a conflicts counsel just specifically for situations like this. Everyone else's opinion, my opinion, my attorney's opinion, the retirement association opinion, the union attorney's opinion it's all extrinsic. mr. Richeda's opinion is also his opinion but you're paying him a lot to be here and give you an opinion. if this isn't a time when there's a conflict, I really don't know when there would be. I really appreciate you giving me the time to speak. Thank you.

>> Matt Loesch: Comments or questions from the board? Any comments or questions from the board? If not, I'm going to ask to move it ahead a bit because we have another few things in the stack to go through. So if we can, Mr. Leninger.

>> Thank you, my name is Bob leb inn jeer president of the San José retired employees association. I'll try to keep this brief. I know you've had a long morning in here and I appreciate the comments from many of the board members and some of the comments from the attorneys. With a legal legal background myself, try to keep this as positive as I can. I think we want to come to an action item that's positive that moves the issue forward. It's not a statement about bad lawyering or anything else but we've got our arms, the legal arm wrapped around the whole thing. We could argue for perhaps years about which interpretation is correct. But it's clear that as it's applied, as the facts have changed, it's not -- we don't want to call it bad law but it's not the way it was designed to work and it's having some pretty tough benefits -- or impacts. Statistics were put out there and they're accurate. Pretty close to being accurate by what I have. But I would just put a message out that you know when you have a unilateral, something changes from a bis lateral, sit down and work on solutions I hope this message is going out to all the actives that would be listening to this in City Hall because the comment was made, and it's one thing to say maybe a $25 is an appropriate amount given the circumstances, and a lot of people can afford to pay the costs associate Wednesday that. But where does this end? Comment you know, where does it end for the actives that are in this room right now, working in City Hall in various places that have a number of years to go that are paying. What do you have at the end of the game? And it just doesn't reconcile with me on vested contractual

rights and so forts. But I'd rather kind of focus there rather than get tied up on the legal stuff is simply to ask the board to not accept the City's process in determination, prepare something similar to what you had a couple of years ago, perhaps with nor specifics on standards, and get that back to the council with a clear, strong recommendation that this needs to be worked out, that the parties need to be brought together. We put together a letter, I brought copies if you like. We gave this to the council in September and we tact talked to them at length about that. least able to pay what they could get stuck with. And we think you should take that kind of proactive approach here. And don't get hung up on the legal stuff right now. Let's clarify it, let's not worry about who's right or who's wrong. Let's just identify a fair process going forward but also recognizes impacts on lower income and let's put our heads together with the best ideas and take them to the council. Thanks.

>> Matt Loesch: Any comments or questions from the board? Otherwise Mr. Overton had requested to retain his spot for his motion, for a motion, I should say. Any further questions or comments before the motion?

>> Arn Andrews: Just 2008. Is there anything contained in this memo that your opinion is changed considering we're in 2010 or do you feel the substance of your memo still holds?

>> It might show stubbornness or inflexibility, I read it and I liked it. I couldn't think of anything that I'd change. But the bottom line was, for me, that it might be helpful to have accurate numbers, and/or, at the present time, as to the number of active employees who have the $25 Kaiser co-pay. And the parent expansion to the POA as of 1-1-11, at least for me might make a difference under the rubric of my second opinion assuming you find that persuasive.

>> Matt Loesch: Well, there is a memo in the staff here that has from Ms. Busse that has the items dated November 12th. It is actually dated number 16 of the agenda packet. I think breakdown of numbers, that's presented in our board packet rather than hold that as true because I believe you got that from HR or from all your --

>> Mollie Dent: Yeah, I would just add that that's why I made the comment that a substantial number of employees would have the $25 co-pay plan as of the effective date you're making the decision which is for the next calendar year there will be almost 30% city employees who will have that as the plan and so forth.

>> Matt Loesch: We're going to try to get moving here a bit, Mr. Overton you had a chance to make a motion.

>> Edward Overton: Okay, this is at least the second or third time that this question has been dealt with. Obviously there needs to be some clarification so we don't keep plowing the same dirt over and over again. My recommendation, and I'll make it in the form of a motion, that without concluding who has the right to make the decision, because that is a question for down the road we believe conflicts counsel says that we have the right, City Attorney says no. But I don't want to address that right now. What I would like the counsel to do is to accept the $10 co-pay for the next year. And then allow the parties involved to get together and hash this out. And that would be my motion.

>> Matt Loesch: First of all do we have a second to that motion?

>> I'll second the motion.

>> Matt Loesch: So we have a motion and second. If coy ask the question, because you said the parties involved. Could you clarify who you're talking about?

>> Edward Overton: Well I'm talking about the attorneys. I'm talking about the employee relations director. I'm talking about the retirees association and I'm talking about the effective employee unions.

>> And I think you actually said the words counsel but I think you mend the board.

>> Matt Loesch: Council? City council or --

>> Russell Crosby: The council to accept the $10 co-pay.

>> Edward Overton: The city council.

>> Recommendation from council?

>> Edward Overton: Yes, recommendation to the council that they, and again, we can get mired down by who has the right to make the decision, and not have anything happen. We go round and round on this question and I want to resolve that. But in the meantime, let's just ask the council to give us the time to work through this, by leaving the $10 co-pay plan in place. For a period of one year until we can all conclude how we're going to go forward on this.

>> Matt Loesch: That is a motion and second. Do you have a comment? Mr. Constant, his time is short.

>> Pete Constant: I have to get on an airplane here shortly. I agree we shouldn't be haggling over whose decision it is right now. So I appreciate that part of the motion. But I do think that if you were to make the assumption that we make the decision, then let's you know from that perspective --

>> Matt Loesch: We being?

>> Pete Constant: We meanings we, us here, the board, the Federated board, that knowing that for the year that we're discussing, which is next calendar year, that 30% of employees of the city are eligible employees that have the choice of an eligible plan that is lower-cost than the one Mr. Overton mentioned I think would be the wrong decision for us to make. If we were assuming that we make the decision. So I don't think that's a prudent motion for us to approve. I think that as we know with 30% of the employees, that's a significant number. And if we were the ones to be the ultimate decision makers that's the way we should be keeping that in mind. And then hopefully I can hang around for the vote, depending how long the conversation goes.

>> Mollie Dent: So I -- you can go ahead if you want.

>> Just to the maker of the motion. As I understand it, the plans are -- the open enrollment period for the next calendar year is occurring either now or very shortly. It is occurring -- open enrollment materials already been sent out?

>> It has a.

>> And at the 20 -- with respect to the premium assistance calculated based on the $25 Kaiser co-pay?

>> It is.

>> So --

>> You know, (inaudible).

>> Mollie Dent: So I believe open enrollment actually ends at the end of December -- at the end of November?

>> Russell Crosby: November 30th.

>> November 30th.

>> Mollie Dent: So there isn't very much more time. I did ask staff to put in your packet and it was in there the council ordinance that was adopted in June which did defer the lowest cost plan for retirees, they didn't -- it was not implemented immediately in June when it became the lowest cost plan for some Federated employees. They did defer it through the end of the year so that it could be implemented with open enrollment. Because there are administrative issues with trying to get off cycle with having people select a different -- a different plan, so I just offered that information.

>> Matt Loesch: Mr. Perkins.

>> Jeffrey Perkins: Can I just clarify? I believe you said it was 30% of the people, isn't it just 10% of Federated and Police and Fire have a larger portion that are doing the $25 co-pay at least looking at this memo.

>> Pete Constant: I think that might be the case but when you look at the municipal code it says city employees and I'm sure Russell would agree, on that point that the class of employees includes all employees.

>> Yes, "do.

>> Jeffrey Perkins: This is where we were last time please do something that makes sense and then fix it. What happened was we did something that it didn't get a fix. It has to be a fivment so we're not doing this every civilian time this comes around. Maybe it sowrnsdz like it's getting closer to a majority or you know. Before it was way the other way. But if there has to be a system it has to be addressed so it doesn't continue to come back this way.

>> Matt Loesch: Motion and second. More comments? Anybody else on the board? Okay so we'll take a vote on that. All in favor of the motion to just to clarify to not make a decision as to who's the authority to make the decision but to make a recommendation to council that the $10 co-pay plan be in place for 2011. So it's a request of council, correct? And so we'd be putting a it out for the council to make a decision. I just wanted to make the distinction that that's the motion and second.

>> Edward Overton: That's correct. But the important part of the motion is there be a structure in place to address this issue so it doesn't come back to us all over and over again.

>> Matt Loesch: We have oa motion. All in favor? Do we have three? Do we have another motion?

>> Pete Constant: Trying to think of the appropriate way to phrase this. I think that I would make a motion that the Federated board recognizes that for calendar year 2011, the Kaiser plan with $25 co-pay is recognized from our perspective as the lowest cost plan available to employees.

>> Matt Loesch: Is there a second on that?

>> Pete Constant: Couldn't think of a better way to phrase it so sorry.

>> Matt Loesch: I'll second it. Is there --

>> Pete Constant: Friendly amendment to make that sound better I'll be willing to entertain them. What I was trying to make clear is that I don't necessarily think we should make a sthaiment we're making the determination but recognizing that in calendar year 11 that 30% of the employees have this eligible and it's reasonable because that's the lowest cost plan.

>> Arn Andrews: I'm just uncomfortable as a new board member that I have a packet with fiduciary responsibility enblame oned across all the documents. So is there any part of your motion that might also get to the educational aspect and trying to get to a consensus that we will work on this issue over the course of the next year?

>> Pete Constant: So I would add in I guess the other portion of Ed's motion, sorry, that I missed that, is that also recommending that the council look for a way to formally address this with the bargaining units, and either clarify or change the ordinance as may be needed.

>> Matt Loesch: That is okay with the seconder. Any other discussion on that understanding? Okay, all in favor? Aye, opposed?

>> No.

>> Matt Loesch: So we're at 3-2. So -- unless there's another motion?

>> Pete Constant: You're going to lose one vote in 120 seconds.

>> Matt Loesch: Is there another motion to be put on the floor?

>> Edward Overton: I don't think the motion really gets us anywhere. That's where we are now. If we did absolutely nothing that would be the situation that we're in so I just don't -- I don't think that buys us anything.

>> Pete Constant: It does ask the council to fully address the issue before we have to hear it again 12 months from now. Or I might say we should do it ten months from now so if we're going to have this discussion it's before the open enrollment packets goes out.

>> Because of this we're going to be at the $25 no matter what happens because at least today so I would change my vote to yes and support that but I guess the key thing here is we have to get this resolved so you're going to have to carry that to the council because this is a huge issue and the issue between the 10 and $25 this year probably isn't that significant but you roll out ten really don't care about our insurance because we've got some other issues we don't need to have that and then people are -- so we need to get this resolved so in all the people need to come together and hammer it out it's not going to be easy.

>> Pete Constant: I'll give you a commitment that I won't forget about it until ten months from now.

>> Matt Loesch: Just to make sure we have someone --

>> Mollie Dent: Let's call again for the motion.

>> Matt Loesch: The motion is the 25 dollar plan is the lowest cost plan for 2011 and the recommendation of council to clarify the language of the municipal code I guess rather say so this doesn't happen again was the motion. And I'll second that. Okay? Are there any other comments or questions of the board on that?

>> Edward Overton: I'm still unable to support the motion based on the fact that we don't even address the council, the issue of the $10 co-pay. I mean I just can't support a motion that doesn't even let them know what our thinking is or let them know what the retiree's thinking is.

>> Pete Constant: Trust me, they know. We're getting all the same information.

>> Matt Loesch: Okay any other comments up to the board?

>> Mr. Chair. Before you vote (inaudible).

>> Pete Constant: Mr. Chair I got to call for the question I'm leaving, I have to leave I'm going to miss a flight. I have to call for the question.

>> Matt Loesch: If we need clarification we can do it layer later. All in favor? Opposed? One. Thank you for that, I know there's a lot of motion in this so move on here. So we're on to item 17. Discussion and action regarding the next steps for disability determinations. Okay, why are we on this one? We had discussion for a long time about what's going on with disabilities and the process under which those disabilities are heard or decided and or the process whatever. We had asked we had our final presentation by the attorneys on the item at that time, I guess the last board and we asked for a month to come back and say what do we want to do moving forward? So we've had a month. We've got four of us here left remaining. Any comments or requests of what we'd like to do if anything about the disability process? Anybody?

>> Edward Overton: There's no backup in the packet on this.

>> Matt Loesch: No. The whole idea was requested last time that folks would think about it for a month and come back with what recommendations we would have, if any, to what the next step of the process would be.

>> Edward Overton: Well, my issue remains one of case management. And I would like staff to give us some indication of what it takes to make that happen. We need to get involved early-on in the process of an individual's injury, and inability to work, and what we do with them, and have all of that information in front of the board, in a case-managed packet so that it becomes easier to deal with.

>> Matt Loesch: Okay. Well, we're going to -- let's do this. Let's just entertain some ideas here and then we'll see if there's direct recommendations and things requested, is that fine? Mr. Andrews.

>> Arn Andrews: (inaudible) very useful. I'd be interested in following up more on the concept of outside hearing officers and what the cost implication would be administratively. One of the things that I took away from the entire process is that I am not a professionally trained disability hearing officer. And so I'd like to see what a professionally trained disability officer could bring to the table and I would like the board to think about that consideration going forward based on the information that's brought before us.

>> Matt Loesch: Could I make a humble recommendation that we just create an ad hoc committee for a very brief amount of time very pointed to report back to the board in April of next year so we have January February March meetings of that committee, so we could investigate those items and report back to the board in April to make, then, concrete recommendations of modifications based on the items as far as hearing officers, or anything like that? Is that something that's agreeable to the board? So I'll make a recommendation to create an ad hoc committee for a very brief pointed period of time to come back to the board in April for recommendations of modifying the disability process and the hearing process. Can I get a second? Okay, second. Any discussion on that? Anybody want to run for the hills and not be on it because otherwise I'll just start appointing. All in favor? Aye, opposed? Okay, so we'll create that and I already have some names in mind. Moving on to number 18. If we could. Discussion and action on response to the auditor's report pension sustainability rising pension costs threaten the city's ability to maintain service levels alternatives for a sustainable future.

>> Staff has prepared a memo dated October 25th that should be in the packet. As you remember last month the City Auditor presented her report on pension sustainability to the board and staff felt it would be good to respond to several recommendations, and items that were mentioned in the sustainability audit. I'll keep my comments short here. I know the meeting, there's many other items to follow this. But I would just like to point out on page 1, that the audit noted that there's been a significant rise in the plan's unfunded liabilities because the actuarial assumptions did not hold true over time. And we really wanted to point out that at the time of the June 30, 2009 valuation, the board took several steps that should help remedy that situation over time. The boards adopted more conservative demographic assumptions recommended by their actuary at the time. The discount rate was changed. I know there was discussion today as to whether it was a phase-in of the rate or the impact of the rate. But the point is that the board took action to be more risk averse and to increase contribution rates at that time. The board also lowered the amortization period from a 30-year open to 30-year closed. And any fiduciary unfunded liabilities are going to be arrangemented over 20 years. That was a big improvement in our view. The board also adopted a more diversified asset portfolio that among other things will focus on the down side risk of loss. And as part of that news allocation, we're seeing approximately $8 million in management fees going away because the board is going to use index funds or passive funds in certain cases. And as a result of those changes there's a survey that we quote quite a bit which it's produced by Rotor financial and it ranks 40 public plans in California and actuarial conservatism and based on the changes that I've described, the plan moved up six -- from a rank of 40 which is last place up to 34 based on the changes that I just mentioned. So that -- we think that's a very good result. And also want to point out that the audit recommends that the city consider joining CalPERS to reduce administrative expenses. Option large to the percentages of assets but in comparisons to PERS that was the case because they're able to spread investment expenses and administrative expenses over a much larger base. But we wanted to point out that based on the staff's work at the behest of the board, the investment returns over the last few years significantly outpaced what have been earned if Cal PERS had invested the assets. And it pays for the initiative assets at least over 100 times over that three-year period. Just wanted to point that out. The last items, there were recommendations in the audit report to take several steps. One, to have an audit, actuarial audit done every five years, if the actuary hasn't changed in that time. Well, the board adopted or changed actuaries within the last year, so that they're meeting that recommendation. Number 2, make sure the city council

members receive the CAFR. That's already taking place. And there's a recommending to provide supplemental information and City Manager's five-year report that really comes from the budget office, to show some best and worse case scenarios, more of a sensitivity Analysis analysis and staff will be working with the budget office to implement that recommendation. Item 3 there is a recommendation to prepare what's called a PAFR,and prepare that and distribute that to all plan plebs. We just want to note that the CAFR is already available on hard copy and on the Website each January but we will work with the City Auditor's office to come up with other ways to provide information to plan members. And we'll take suggestions from the board if they have any ideas as to how to accomplish that. And our recommendation is really to forward this memo to the City Auditor, and the mayor's office, and city council.

>> Matt Loesch: Okay. Any comments or questions of the board? Ready for a motion.

>> Edward Overton: Just --

>> We're recommending that we forward it off to folk.

>> Matt Loesch: Any questions or comments on that? All in favor? Aye, opposed. Item 19, discussion and action regarding the draft Federated city employees retirement system's comprehensive annual financial report for the fiscal year ended June 30, 2010.

>> Hello, so in your packet you have a draft CAFR that's put together. Apologize for the presentation. We had to come forward with the draft as we had it. Portions of it are already in the graphic design format. And the financial statements which are usually the portion that comes together at the very, very end are in a word format. But the gist of the document are there. There are some small wording and presentation chaifntion we may make from the draft you have now but I'll take any questions you have on the document as a whole.

>> Matt Loesch: I'd just like to say thanks. I know it's a lot of work and probably when you get to this end the Police and Fire one are across the end line, I'm sure it's a big goal about everyone. I made comment about the

font, graphic thing, more editorial than anything, but congratulations for you and staff. I know it's arduous. Anybody from the board have comments?

>> Edward Overton: Yes, this is a time intensive, labor intensive labor of love document so again thank you for the work.

>> Matt Loesch: Discussion and action, we need -- can I get a motion? I have a motion to accept the report. Motion and second. Any discussion? All in favor? Aye. Opposed? Thank you very much. Okay, we've done 20. We've done 21. 22. Discussion and action regarding the internal revenue code tax compliance review by Ice Miller for the Federated city employees retirement system fm I'm going to bell your indulgence to not read the entire into the document. A, review and recommend, and B, adopt a resolution authorizing submission of the following applications to the internal revenue service upon council approval of an ordinance containing the required plan tax compliance language. A, comes before B, and sometimes C.

>> Mollie Dent: So you have the draft ordinance in front of you that contains the language recommended by outside tax council to implement the recommendations that they outlined at the tax study session. There are -- it was a push getting this ordinance together. So there are -- I realize a few typos in the ordinance that will be corrected. Substantively, the only thing I wanted to note, there is going to be some change in the language on the posttax treatment of the permissive services. As you recall, tax counsel indicated that we do need to stop doing pretax permissive services, the internal revenue service doesn't allow them to do any post posttax base. But the language in the ordinance does need to be cleared up a little bit to make it clear that people that are currently in a contract doing a service purchase on a pretax basis will be allowed to finish it out. It is only new nrltees that will not be able to enroll on a pretax ootion including rollovers from deferred comp and other -- pretax ROMovers. They have other pretax options but the payroll deduction pretax option is going to be off the taijt and in fact I think staff has already implemented that recommendation in their administrative material they use the second item that did get some discussion at the tax study session, relates to the mandatory distributions when we do return of contributions. And so this ordinance does incorporate the idea that the plan would be going out to look for a bank to administer an IRA. The -- so that is not the only way you could do it. We've talked about it, at

the tax study session. There are optional ways that you could retain their money in the fund but those have their own problems associated with them in tirnls of accounting for that money. Finding the beneficiaries whether you need to pay it, et cetera, et cetera. So this represents the recommendation to simply go through, go forward with kind of the baseline IRS option, to have an IRA account available. So if the ordinance is recommended by the board and proved by the council, staff would be looking for someone who have to set those up. Holm hoping we never have to do it because we would be able to encourage people to rolt their money over as I'm open to any questions on the ordinance.

>> Matt Loesch: Okay, I see Mr. Gurza leaning forward in his chair trying to sprint to the microphone, eager. It's only been three and a half hours almost right?

>> Alex Gurza: Thank you. An ordinance went forward to the plaintiff retirement board last week and I wanted to let you know the same things I told them which is clearly we support the board's effort to make sure that we're compliant with all the IRS. It's a very complex area, I did attend the joint board meeting. But if you just look at the agenda language, big topics there vesting and all kinds of things. And one of the things that I had asked as when we're going becoming tax compliant are there choices in how to become tax compliant? In other words are the things in the ordinance really things that are the only option? Or is there a wages, think it would be something that the administration would want to understand, you know, why did we choose option A and B and is there any kind of fiscal implication of choosing one over the other? So what the police and fire board decided to do is give it a limb cmentd to be able to look at this in more detail and ask any questions that come up of Mollie or tax council. We wanted to ask that same question because it's very hard for us to weigh in on all these details and simply understand is everything tax compliant and everything else is just going to stay the same? There were some change.

>> The first one of my notes is have these do these need to be combined with the bargaining parties around these items? That was the first one we ought to think about whether they ought to be or not. Paws, maybe, the other is about IRS, one of the things that bugs me the most, we have to set up this potentiality IRA plan then really really trying to encourage people not to do it. I wish there was a day around some current setup that we

used our 450, administer that that's the default wroops it gets dumped into the stable value plan there or something like that. That's my -- that's just an idea, not the idea? But who knows if that would work or not? And then I hope to God someone plans a plain language description of what all these changes mean because -- yeah many I was there and I listens to her for quite a while and she maintained these thing fm we just sat through what, 45 words more discussion about the word all or an in one form of our municipality it was change osh at least the interpretation of it, I don't want to get ourselves in a situation where many of the other things, there's a plain language here. I know there's other comments, I meteorologist for doing it first. Mr. Andrews.

>> Arn Andrews: Not just from an administration standpoint but from an employee standpoint. Had to do with max salary caps and so fort. I was wondering if there was any cudged of impacted bees the fact that we're you know trying to find tax ftion status.

>> Mollie Dent: So there's a couple of things. Most of the ordinance is technical language. That even if it weren't in the ordinance, the internal revenue service would require you to apply those limits. So the compensation and benefit limits are in your code now. You have -- you have generic language in your code now but the generic language is not sufficient for you to apply for a tax determination letter. So in terms of -- in terms of the language, yes the language is more robust than it is in your code now. But the requirement is not any more robust than the requirement already is. So there's a level of detail in here that is being put into the ordinance, because of the board's desire to apply for a tax determination letter. But in terms of taking more time to look at the urned, that's -- as long as there is some board action on the ordinance in December, we will probably be able to move forward with applying for the determination letter in January. If that's what you want to do. January 31st is the deadline for this cycle. It's advisable that we apply in this cycle if we're going to apply. We've said before you don't have to apply for a tax determination letter, it is not a requirement. There are advantages just IRS say your plan is compliant. But we don't view most of these changes as -- as substantive and we don't view -- I mean there are -- there were a couple like the IRA that our -- they're optional ways to meet the requirement but not many. Most of these don't have that kind of option.

>> Matt Loesch: Any other questions or comments from the board on this? Mr. Richeda?

>> I'm sorry --

>> Edward Overton: I was just going to address Alex's question about option A and option B. There rcht many options in how we do this, and I think the council from Ice Miller kind of said that.

>> Mr. Chair, I just wanted to add my two cents. I'm working with Ice Miller on four other plans in addition to the two plans here. Based on my understanding of the issues, almost in no cases are there options. Molly has described there was an option and an option picked. It was K outside of the issues highlighted by myself and Mollie, and domestic participates in a limited capacity concerning survivorship options there's no change in benefit. That is, I think, the message to really underscore.

>> Matt Loesch: Okay, it seems like it doesn't hurt to wait until December, there's no negative connotations on that. So if we pert to next month, I'll make a motion to defer this item to next month for any action. Okay? Any comments on that?

>> Often the question I would ask that the employee relations officer really stress with the bargaining groups that time is of the essence. I know how these things, police officer has two below urges some we have seven?

>> Alex Gurza: Nine now.

>> Edward Overton: 9. Whatever help you can give on that.

>> Alex Gurza: Absolutely, Mr. Overton, we will make a point to rks team compliant so we'll do that quhifn the next Kim ever days and send out the draft to them.

>> Matt Loesch: Does it make sense to defer 22B --

>> Mollie Dent: You can defer that one.

>> Matt Loesch: I'll amend my motion to be 22 A and B. All in favor, aye, opposed. 23, discussion and possible action regarding the plirch of supplemental are retirement review. Okay, recommendation to me was to take 23 C first because it might cause issues with 23 A and B. Discussion and possible action on city council action regarding the SRBR payments.

>> Mollie Dent: So originally you had in your packet I believe a memo from the director of employee relations to Mr. CBOs concerning a proposal for what the council was going to do on -- concerning what the council did on October 26th, related to the SRBR. Subsequent to the October 26th meeting when the council provided some direction to the attorneys office, the issue of the SRBR returned to the city council with what they elect directed our office to do basically, which is change the way the payments were made. We descrbted the supplemental item which is the memo from the City Attorney to the City Council, dated November 9th. And with respect to Federated, the relevant document is the resolution, suspending the benefit payments for this year. And the council, on November 9th, yesterday, voted to refer this draft resolution to you for a recommendation. That's per the code, that you're to be asked for a recommendation on the distribution of the benefits, so their draft resolution is to suspend the benefit payments for basically the rest of the calendar year and their recommendation is to whether you agree with that suspension or disagree with that suspension and then the council will take the resolution back up again. After they have -- after you've had an opportunity to look at their -- the resolution.

>> Matt Loesch: Okay, any comments of the board?

>> Arn Andrews: My comment is just a process one. It goes to counsel. What is the board supposed to do? It appears we're supposed to transfer it. My question is where does that leave us if we have a code that says we're supposed to transfer yet the council is asking us to defer.

>> Mollie and I agree, this doesn't go to the transfer into the SRBR, this is only goes to payment to retirees out of the SRBR, and that is what the council is suspending for this.

>> Mollie Dent: Correct. This doesn't affect the transfer of money into the SRBR.

>> Arn Andrews: It needs to happen, correct?

>> Mollie Dent: You do that within 90 days after the CAFRs are finalized. That is still part of the code. That wouldn't be changed with this resolution.

>> And if I may the code itself sudden the SRBR section. To decide when distribution is going to be made. So the council is obviously under this exercising its discretion .

>> Edward Overton: And this is one that is clear.

>> Yes.

>> Edward Overton: We don't need to beat that horse. However since council is looking for a recommendation from the board, I would recommend that we look at some sort of means testing before we just suspend the payment, that there are retirees out there who have a great dependence on these additional funds. And that we say we do the calculation in a normal way, that it's done to determine the value of a point. But distributions only are made to those people who are in the lower 25% or the lower 40% of the benefit recipients. And ask that council consider approving a strategy along those lines.

>> Matt Loesch: I apologize for having to step out for a moment. I'm sorry, was that in the form of a motion?

>> Edward Overton: The SRBR.

>> Matt Loesch: I understand that.

>> Edward Overton: What we are deciding is whether we want to send the recommendation to council. From a technical standpoint, I, open the actuary's report on item 7 on page 3 they show the distribution amount to be $1,595,000. But if you take into consideration the excess over the balance to be maintained in the fund, the fund after transfer would be 28 million point three. How do we get to $1,595 for distribution purposes?

>> The 1,595,000 is what would I call the regular earnings. There are two calculations done, one is regular earnings, the other is in excess earning calculation. The $1,595,000 is a calculation ever regular earnings on the balance of the SRBR at the beginning of the year. And that amount, our understanding is, that amount is the amount that could be distributed in this calendar year. There's a second calculation which is the $6.9 million which is 10% of the excess earnings, that gets moved over to principal and is taken into account next year.

>> Edward Overton: But I believe the ordinance says as of June 30th the interest earned on the fund, plus the excess earnings, are distributable as long as they are in excess of $7,000 for each member of the plan.

>> Yes, that's correct. Well, the regular earnings is credited on June 30th fm the excess earnings gets credited on July 1st. So it gets taken into account next year. And our understanding is, there's no amount left over from the July 1, 2009 excess calculation to be paid this year. Because there were zero earnings last year, regular and excess.

>> Edward Overton: So you're saying that the earnings, the excess earnings really weren't determined June 30th the end of our fiscal year?

>> They were determined under that date but under the code they were credited on July 1st. It specifically says July 1st.

>> Edward Overton: So will it be part of the June 30 CAFR?

>> The excess earnings portion?

>> Edward Overton: Yes.

>> No, they won't be june 30th,en the interest will move and be part of the CAFR.

>> Matt Loesch: Not that there isn't complicated enough.

>> Edward Overton: So back to my recommendation or motion if you will. I guess recommendation, through a motion, is that rather than saying we're going to suspend the entire payment that we look at some means testing to see if there is a group of people that would really benefit from this, and I'm not sure what that number is or what -- what the dollar amount is or any such thing as that. But that would be what I would make a motion to recommend to council.

>> Matt Loesch: Just to clarify that you are making a motion to make a recommendation to the council that they consider a means testing method to make a payment out of the SRBR fund for this year?

>> Edward Overton: Yes.

>> Matt Loesch: Do we have a second on that motion?

>> Jeffrey Perkins: I'll second the motion so we can talk about it.

>> Matt Loesch: Okay.

>> Jeffrey Perkins: I think it's tough, I think there's hardship cases and there's a real need. I think the real issue of suspending is taking something away from something -- was there a distribution last year, money left over? There wasn't distribution last year?

>> No, no.

>> Jeffrey Perkins: We're really not a situation where we have excess earnings. So we should not -- I mean we need every penny we can get to get our fund the way it should be. That said it's a good thing that Tony left because he was around when we had to get the mechanism in place to distribute it and the number of meetings and the hours and back and forth and it took like three years to finally get the thing resolved. There's a long history and it's hard for me, I know the city has reserved the right in the code but again you get book to the intent of how this stuff was going to go out. It's hard to take this stuff off the table begin the way it was put in place for people. So I think where Ed's coming from, is relevant and smart. I think that's going to be a hard -- a hard thing to come up to determine, well, this person is in need so yes they will and that person just missed the cutoff so they're not, I think that's going to be a huge, I don't think we would ever get there.

>> Matt Loesch: So we have a motion and second, keep the discussion on the item.

>> Arn Andrews: Just following up on the discussion, while I appreciate and understand wanting to do the means testing I think I would concur with board member Perkins that I don't know if we have the legal ability to determine who gets paid and who doesn't get paid. Isn't it an all or nothing proposition?

>> Mollie Dent: Well the distribution methodology is set out in a council memorandum now. provided they ask the board on a recommendation in the change in the distribution methodology. Which is what they're doing. They've put forward their proposal in the change in the distribution plefl for just this year that is, that it be suspended and they're asking you for your recommendation back. You -- there were no distributions out of this fund for a number of years before the current distribution methodology was adopted.

>> Yeah, and that was the challenge I mean everybody want to fight over who was going to get it and how it was going to be out. We didn't want to use it all at once and so that's why this retained $7,000 per trust me I remember going back and forth on this trying to get there so yes although it is there in the code had the right to sweep it, it was hoard-fought couple of good years and this was a way to continue to willed this thing, okay? So I guess the

only recommendation that we can make is that coix is, is that we are in such are desperate financial straits that in a better position because anything short of that I think is just totally unfair.

>> Matt Loesch: Well, kind of an argument against or difference in the motion.

>> Edward Overton: Yes, it is. And the funds in the SRBR account can only be used for the benefit of retirees, survivors, and survivors of retirees. That's the sole purpose, unless the code is changed. So it may not be palatable to -- for the newspapers to see that there are funds going out when we're 67% funded. But that's the only thing those moneys can be used for. And so I'm trying to say, all right, I recognize that there is a public issue with regard to the benefit structure. But people have a right to be represented, and to have their issues brought forward to the city council in this regard. And so I'm trying to do it on their behalf and on behalf of those individuals who are really in need.

>> Matt Loesch: I might end up making a friendly amendment to your motion because I think I'm tracking on what you're saying. I've been on record of making comments before of not being the biggest fan of SRBR because they I'm fight over the money it's ours it's whoever, especially in a scenario of a bad period right now, it's like how in the heck could you be paying this out? There is also the political highlight, this was timed pretty well, right before an election to make pretty good headlines, when SRBR has been known for a while, right before the November 2nd election, when there's two big pension items on there it made quite a big headline. There is all these perceptions around this. That is one of my big concerns around SRBR is that they extend to only create this negative vibe around that. If there's a way to fix that, that would be great. In the same respect, we have folks that a deal was made and it's snoot my place to change deal. The deal was made with the folks who are there and it is our job to administer that. Unfortunately, the council has decided to make this fiduciary duty of making payments out of a pension fund which to my mind they should keep their mitts off of. I understand the responsibility there but why would they retain that one function of the a install portion of a plan? It seems very bizarre to me and in my mind that should be cleaned up as to if you have a board to administer the plan have the board administer the plan, period. Not, administer the plan except for this very small fund of which we're going to decide when and if we're going to make payments out of. It seems very odd. Along I think you really circulate consider it for dwifn. I

think you should reconsider what that means and what your distribution is. Change your methodology. Come back with something that maybe fair to folks who are on the lower end and might be scraping by because cost for groceries and gas are going up for every one and they are on a very tight fixed income at that point and probably aged and not have the ability to enhance their income. I get that perspective. Not that council is very rare of giving up at a any authority of theirs but I certainly would like that to be part of it some really considered how this thick is yucted and fix it. In that case you have a board to administer or fix your plan if it is, you know if an SRB ramplet needs to be suspended for years then that's the case because we are in this bad unfunded situation that really is dramatic. Dramatic. And we need to be cautious and cognizant of that. So if your sole motion is to send -- place a request to go back to council to support some kinds of means testing, I could support that. But to what end? It needs to be qualified more to say what and it's a qualify them to make an alternatively decision of that 1.6 million which is 110th of a% of our fund. We're talking about a very small amount of money in the grand scheme of things. I know Mr. Leninger wants to make a statements too.

>> Edward Overton: Unfortunately I don't have factual data but the council has asked us to make a recommendation and I think we should go forward to them with here's what we recommend. Again it is clear in the code that they pay out benefits, based on a recommendation, or they not. And so I think it's important for us to go forward with a recommendation.

>> Matt Loesch: Okay.

>> Jeffrey Perkins: Then my position would be,ists all or nothing, so I would say that the mechanism is there it's already been negotiated. Already was talked about so is there going to be a distribution or not? My view is, we should stick with the distribution. It is SRBR's money, funding mechanism is there, unless somebody is going to change that, then we should go forward with the distribution.

>> Matt Loesch: Mr. Leninger. Your comments.

>> Bob Leninger retired employees association. I think we have a solution on this. We went to council after very limb notice on this issue and I think everybody understands the little guy, they get the raw end of the stick in a lot of ways, low income and retired a long time. But the administration, we made a thremtion, that we take a very short turn around to work with the parties to come up with tweak being of the formulas so we can higher end. That was rejected, and the city administration said they couldn't do a one-off, as that was called, they couldn't do that and they wanted to take there into a more lengthy deep I think it was called retirement reform committee or something. So we didn't make a recommendation then for a distribution. But if we don't, it's going to get delayed out to whatever. And people who have other agendas about the SRBR. And id would suggest to meet everybody's needs that you vote for the distribution even though I don't agree with the formula either, I think it needs to be tweaked in a substantial way. But you'll vote for it now and get the money to the people that need it, maybe a few people that don't need that much might get some but you'll do the good that you need to do and its intent and at the same time we can tell the council to direct everybody to get together to tweak this formula so it works better so that money gets down when there is money available to the people that need it and less so for the people that don't. And I think that's the two-part that you ask do. Vote for the distribution and direct the council to have us alt get together and tweak the formula along the means test. I think that will do it.

>> Matt Loesch: Any other comments from the board or the -- okay. So we have a motion on the table. That is to make a recommendation to the council to consider annalment AI tervetion rvetionrior distribution for some kind of that's the motion and it was seconded? Ong.

>> Arn Andrews: Mr. Chair, can I add a friendly --

>> Matt Loesch: I had more like a dialogue on it. Wouldn't qualify it as a friendly amendment. I don't think I modified anything, it was more clarifying in my own mind for discussion. Yes I had talked about really wanting them to change the code but that's not -- I don't think that's our purview at this point. And the only comment I'll make before we vote is that the way the code is is the way it reads. We don't have at present the authority to make a distribution out of it the way it's written. Irwish it were clear but we're not there. Option so all in favor of the

motion to make a recommendation to council, coming up with annal tear I don't remember distribution three, opposed, one. So --

>> Another alternative motion. And my motion would be is that we recommend to the council, they make the full distribution, as it is currently contemplated as it has been in the past.

>> Matt Loesch: Is there a second? No second. Pardon?

>> Arn Andrews: It's not a second.

>> Matt Loesch: One-half?

>> Arn Andrews: I guess it's more rather than a second, it's more of a plea to councilmember -- board member Perkins. I think considering the unfunded liability, you know, the council is asking us not to give anything. I think in respect to Mr. Overton, you know he's saying there are a portion of retirees that, you know, this is going to severely impact so I think trying to you know come up with a middle road, where we see if council would be receptive to some types of means testing to see if we can reach out to some of these individuals but perhaps retain a portion of it to make sure we you know don't continue to exacerbate our unfunded liability, I would ask that we just vote on the same recommendation again.

>> Matt Loesch: So --

>> Jeffrey Perkins: Can I make a comment?

>> Matt Loesch: Why not?

>> Jeffrey Perkins: And Ed you know this full well because you were there back when. I could support that but it's going to go nowhere. It's a waste of our breath because it is impossible to do what we're suggesting they

do. Because there's this crazy formula. And there's you know, years of service, it's a wild formula, that was argued and arm wrestled and back and forth and thank God for Linda LeZotte, coming from the council to make people understand what's fair, but it worked. To me it is all or nothing, go ahead and suspend it completely or we as a board believe it belongs in the SRBR there's a flx there and we think you should make the payment. They're going to do what they're going to do and there's no middle ground.

>> Edward Overton: I think the likelihood of them getting to consider something is higher if we address it on a needs basis. And the process itself will remain unchanged in terms of the determination of a point value. But that we draw some sort of line, and we statistically take the bottom 40% or whatever the number happens to be, and sure, there's going to be somebody that falls at 40.2. But that's the way the cookie crumbles. We still help a lot of people and I think the best thing that we can do, council may say hey, forget about it but the best thing we can do as a board representing retired close and survivors is to go forward and make some sort of recommendation.

>> Matt Loesch: Mr. Gurza is aching for the microphone again.

>> Alex Gurza: So far into the afternoon I don't want to take a lot of your time. I just wanted to mention as part of the council's wracks payments would be suspended through June of 2011, that issue of the means test came up at the council meeting and actually it was part of their direction that when all the stakeholders get together and evaluate options that that be an option that is evaluated in a future SRBR to change it if the board would like to emphasize that as something we should look at that's perktly okay but I just wanted you to know that is already part of the direction that we received.

>> Matt Loesch: My only concern with that Mr. Gurza is it's going to get as Mr. Leninger said it's going to be muddled with all the garbage that are going to be discussed -- plernt tries that are whereas this is a very pointed discussion, really considering this for the SRBR for this year and the council spoke very clearly about their vote, whatever, this is us imploring to the council to consider one more time something else as opposed to sticking it one or two retire East swinging for themselves eight or nine bargaining units dealing with all their issues for the active employees and they would be lost in a big sea and I could see that being really unfortunate. So I'll take a

stab at a motion see if we can do it, see if we can get some agreement here. I'd like to make a recommendation to council, city council, to reconsider the SRBR distribution for 2011, I'll be very specific, for, in this case, we'll do the calculation as we always have, but that a distribution will go out to the bottom 25% of those who would earn it, and for this one time, and then we will implore them separately to do the right thing about the authority about it. So the motion is to request to council to make a distribution for 2011 for the bottom quarter% of those who would be distributed on a normal basis. Can I get a second on that?

>> Second.

>> Matt Loesch: Motion and second on that?

>> How are we going to define that bottom 25%?

>> Edward Overton: By the amount of their pension.

>> Matt Loesch: So I'll take that friendly amendment as yes. So that's a second so on the pension amount if we can make it real quick if there's comments on -- real quick.

>> (inaudible) (inaudible).

>> Matt Loesch: I think we'd have to make it so it's unambiguous about dollar amounts, I think we do a percentage basis, that's my motion, bottom 25%, request to council, if they want that's our request to council considers that a motion and second. Afore, aye, opposed.

>> I'm going to vote aye just to move it along.

>> Matt Loesch: Okay so that motion passes. Okay. That's item C. If we move back to 23 A. How does that affect 23 A?

>> Edward Overton: Adopt this resolution that's been prepared I assume by staff, number 6702. I with would move approval.

>> Mollie Dent: I would just like to point out on item 23A, you may, because it does have -- it has the distribution amount on here, which I think is the maximum distribution amount. It's not exactly consistent with the motion you just made.

>> Matt Loesch: Okay.

>> Mollie Dent: But it could be clarified that that's the maximum distribution amount or it could be redone after you see whether council adopts your last --

>> Matt Loesch: It's been a long morning, okay? So for item 23 A we have a discussion and possible action of SRBR calculation from Cheiron company. Will make a clarifying statement that the SRBR distribution amount listed there is the maximum amount that could be distributed that it's not acting on making a direction but it's dlairk what that maximum would be. Can I get a motion on that? Got a motion with a second. All in favor? Aye, opposed, A. 23 B. This is a declaration of excess, so adoption of resolution 6702, dwieree benefit reserve.

>> Mollie Dent: And you'd want the same change on line 7 of this resolution fop.

>> Matt Loesch: Line 7 the only clarification would be that this is the maximum amount to be distributed.

>> Edward Overton: Move approval.

>> Matt Loesch: Motion to approve. Second? All in favor, opposed, none. Okay. We're getting close. Almost feel it. Ox. So we're on 24. The approval of the secretary to negotiate and execute an agreement with L.R. Wechsler,

elemented for consulting services for procurement of a pension administration system plan I-IV as outlined in the request for proposal dated June 30, 2010.

>> Russell Crosby: Just a quick included not only retirement services staff but staff from the City's payroll department and the City's I.T. department as well.

>> Matt Loesch: Any comments on staff on this other than the recommendation here?

>> Russell Crosby: We would really rather not. This is a major problem, major effort for us.

>> Matt Loesch: Motion?

>> Edward Overton: Move approval.

>> Matt Loesch: Motion to approve. Second? I have a motion and second. Any discussion on it? All in favor? Aye, opposed, thank you. All right, 2005. This is committee for investment, presentation presentation of the performance mompting report for the quarter ending September 30th, 2010 by Meketa investment group. Laura are you there?

>> Yes I am. Can you hear me? This is Laur from Meketa investment group I know you have a full agenda today so I'll try to provide a brief update and the performance at the time address. Does everyone have the bound report?

>> Matt Loesch: Yes.

>> Yes, they do.

>> Okay, so if you want to start under tap 2 of page 8 of 97, so these are the numbers that are at the center bottom of the pages. This page shows you the aggregate agency breakdown of the current allocation, for each asset class as compared to its target allocation, so these are the targets that were adopted earlier in 2010. So the market value of the plan at the end of September was $1.787 billion that's up about $167 million during the third quarter. As we discussed at the most recent board meeting, as you recall there were a lot of allocation to target so contracts are still being worked out with those managers but we should expect that the percentage of retirement in the column is a lot closer to the target allocation with the fourth quarter and the first quarter of 2011 reports. So the next few pages show individual manager and account market value so if it's all right with you I'll skip to page 12 of 97 at the bottom. So in contrast to the second quarter, which is pretty weak for the markets overall during the third quarter, the global economies really showed signed of stabilization and most asset classes posted very strong returns so the total sum aggregate was up 7.9% for third quarter, very strong return especially compared to the second quarter. So you can see the trailing one year is up 11.7%. We did not have peer master trust so I can report that a third quarter return for the peer universe was right in line and then San José retirement system returns for all other time periods are beating the peer medium returns. So you can see here something we added this quarter, you have the policy benchmark and the dynamic benchmark. So the policy benchmark we went back and opted for the asset class allocation back to the new asset allocation adoption which was starting with April 1st of this year. So the policy benchmark shows how the plan would have performed had it been at its target, asset allocation of course we are still moving towards the target so we anded in a dynamic benchmark as well showing how the use allocated that way would have done. So you can see here that relative performance was slightly behind the dynamic benchmark for the third quarter and behind the policy benchmark a bit more. You know as we discussed in the past there are a lot of alternative assets that are now housed in fixed income until they're committed to an investment so that really helped the plan quite a bit during the second quarter when things were down. During the third quarter on a relative basis it hurt the retirement system performance a bit however between those two quarters overall it's been positive for the retirement system. So you can see also here individual manager performance on the next several pages. And also, you know I won't go through each individual manager since many of the portfolios are being managed passibly or optimized portfolios through the end of the third quarter but of course if you have any questions I'd be happy to answer them. And as with every other quarterly report, the rairnd asset class and then under tap foir there's a page on each manager portfolio with

additional characteristics and data. So just in closing in terms of performance the third quarter was very strong for the retirement system and for the markets as a whole. Are there any questions I can answer from board members?

>> Matt Loesch: Any questions from the board? Seeing none. Thank you, Laura. This is the briefest one of the day so thank you.

>> Great. Thanks.

>> Matt Loesch: Enjoy your day. That it? No. No no not quite yet. 25 B. Approval of actions taken on November 8th, 2010. So one is the approval of the conversion of the ownership of the Milpitas warehouse to a title holding company.

>> Edward Overton: Move to approve.

>> Second.

>> Matt Loesch: I have a motion to approve and second. Any discussions comments that need to be made? Don't see any, all in favor, opposed, none. Item B double I the approval for the secretary to negotiate and execute an agreement with American reality advisors as system's real estate advisor.

>> Motion to approve.

>> Edward Overton: I'll second for the discussion. What does this mean?

>> Arn Andrews: At the investment committee meeting that we had on Monday it was determined that in order to effectuate, the current performing that function and so staff went back and looked at other entities that would be capable of getting into a title holding company management structure. If I understand it correctly, American realty

advisors is not only known to our investment advisor but is known to staff and currently functioning for Police and Fire and they were an individual that staff interviewed and told them what we were attempting to do and were deemed to be the most appropriate person to handle not only the title holding company but going forward positioning the property if we continue to want to be able to sell it.

>> Russell Crosby: And potentially one of the services that American offers is they have a very large that you're already invested in they will take this property eventually into that fund as our contribution. That's what we're doing with Police and Fire. Is moving all of those individual properties into the commingled fund.

>> Edward Overton: Okay so it says as the system's real estate advisor, does that mean that DRA and fidelity, the system's real estate advisor to me says they're it that these other folks are --

>> Russell Crosby: They are a system a money manager or a real estate advisor just lying DRA or the others.

>> Maybe it circulate say as it relates to this property. Our systems advisor for this specific owned property. Diswo okay, can we make that modification Mollie?

>> Mollie Dent: Sure.

>> Edward Overton: Okay then I move approval.

>> Matt Loesch: We have a motion and second. Great, any discussion on it? All in favor? Aye? Opposed, none. 26, nothing. 27 is a slew of notifications, note and file. And 28, is a state mandated training. For the note in here I will call that note and file. Future agenda items. Seeing none-d yes, Mr. Overton.

>> Edward Overton: Just back to 28. It seems to me that I went through this wonderful training shortly after I got on the board. Does the staff maintain records of when board members have gone through this? Or do we need to check with the clerk?

>> Mollie Dent: The City Clerk's office maintains your records. It is basically every two years.

>> Edward Overton: Right but I've only been on the board less than two years and I've already been through one so I'm just wondering --

>> Mollie Dent: Check with the City Clerk's office.

>> Matt Loesch: Can we request staff to verify everybody's status on the clerk's office and we report back or notify the person individually if they're due.

>> Edward Overton: E-mail would work.

>> Matt Loesch: Can we e-mail everyone who is due. Any future agenda items? Mr. Perkins.

>> Jeffrey Perkins: I hate to do this can we go back to 23 A and can we look at the table on 3A? I'm looking at this and I am thinking the math may be wrong. There may be no distribution. Take 19 seven and add there s's any excess so we wouldn't even trigger a distribution under the existing, am I missing something?

>> There is an A and beeped B, the interest posting that's available for the distribution then there is a threshold that has to be met which is the 7,000 per eligible retiree that gets applied against the balance in the SRBR and that amount isn't triggered this year so --

>> Jeffrey Perkins: The interest is always distributed?

>> The interest is always available for distribution, that's the way the flam is written.

>> Jeffrey Perkins: But I thought there weren't any distributions last year.

>> There were negative distribution (inaudible).

>> It's the interest rate that gets applied against the SRBR balance is the lesser of the actual rate of return.

>> Jeffrey Perkins: Positive earnings the interest goes no matter whether we're above the threshold or not?

>> That's correct.

>> Jeffrey Perkins: All right, sorry.

>> Matt Loesch: Just to make it exciting at the end, hmm? Again no future agenda items. Public or retiree comments? Okay, we're adjourned.