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>> Matt Loesch: The August meeting of the Federated employees retirement system. Under orders of the day, just talk about a couple of things, item 1.1B is going to be deferred. I would like to take -- and then item 1.1A is no earlier than 10:30, it's on the agenda, it's certainly not a change. We need to waive sunshine on item 5.5 and 5.6 as they arrived late into our packet. And what I would like to do if it's all right with everybody, instead of excluding the investment closed session, I would like to move all of the other closed sessions, so it's 4.1, 4.2, 4.3, and 4.8, until right after 5.7, right before 6, and then come back and do the committee stuff. Does that work? Anything else, Ms. Busse on changes to the orders of the day? I think everything else is okay. I'll entertain a motion on the orders. All those in favor? Opposed? On the consent calendar. I'll entertain a motion. Unless there's one to be pulled. [Motion and second]

>> Matt Loesch: All in favor, opposed. Death notifications. I would like to request a moment of silence for those who have served the city and have passed. Thank you. Okay. Sprinting down to 4.4. Discussion and action on the city council ordinance regarding the Federated city employees health care trust issue. A, discussion and action regarding the proposed transfer of employee contributions into the city's section 115 health care trust. This was just held over from last time, right? And we were waiting on some discussion or some discussion from Ice Miller, I believe, is that correct? Item 4.4A, we're waiting on the proposed transfer of employee contributions. We were waiting on a response I believe from Ice Miller, and I don't know whether that's been received. Any --

>> We are still --

>> Matt Loesch: Microphone.

>> We're still in the process of discussing that with Ice Miller and there's actually going to be some discussion in closed session regarding that, defer that later might make sense.

>> Matt Loesch: That's fine. It's up to the board, defer 4.4A for action possibly later after our closed session, before the committees. Make sure I remember that. Item 4.5. Letter from Ice Miller regarding billing contracts dated July 26th, 2012. That is just to receive and file. Unless anyone had comments or a question on

that. Okay. Item 4.6. Discussion and action to authorize the secretary to negotiate and execute the First Amendment to the agreement to L. R. Wechsler, Ltd. for the consulting services to A, extend the term of the agreement for phase 1-4 through December 31, at no additional cost, and B, add phase V pension administration system implementation and oversight services for an amount not to exceed \$1,150,000 for a term ending December 31, 2016. This cost split 50-50 between the police and fire department retirement plan and the federated city employees retirement system.

>> Donna Busse: Our IT manager is in the audience. I just wanted her to come up.

>> Matt Loesch: Okay, and as she comes up, remember the reason why this was deferred is, there was concern by some trustees just on the details of the pension administration system. In particular, Mr. Odell, did you get a chance to go and review the stuff and get some of your questions answered?

>> Stuart Odell: Yes.

>> Matt Loesch: To the extent that makes you satisfied you understand what the current system is, and lord knows, Mr. Overton knows what the current system is. So we have in our packet a memo discussing the current setup and extending the term does and then phase 5. Any comments from staff?

>> Donna Busse: No comments from staff. The memo's essentially the same as it was from the last time on the recommendation. We just put a little more detail on what the pension administration system actually does for it and a lot of the things -- some of the things it doesn't do and needs to be improved on. We asked you to spend opinion on the consultant but didn't tell you the background of what the pension administration system does for the system. So we were hoping that in short we weren't able to schedule Stewart in so short of not him being able to have a trustee look at the system, we tried to put as much summary of the large functions that it does.

>> Matt Loesch: All right. Did you have further questions?

>> Stuart Odell: No I don't have any further questions and I appreciate you putting some detail behind this. I still think to get a demo and to sit down and really kind of see what you guys are doing is something I still would like -- like to do. But I know we weren't able to kind of get it scheduled yet.

>> Matt Loesch: So that will happen. Other than that we need an action to extend the term and add a phase 5 for the amount not to exceed. I'll entertain a motion on that.

>> Edward Overton: So moved.

>> Second.

>> Matt Loesch: All in favor, opposed. Update on electronic board packets, 4.7.

>> Donna Busse: Little bit of good news. I know it's small after all this time we've been waiting, but we do actually have a contract that we gave to them for a signature so we're really close. The only problem is now because we've delayed so much on contract that we need to get back into their queue. So it may be add least four weeks before we can actually start scheduling them to come in and work with us.

>> Matt Loesch: So the current status is it's a go with a contract. It's signed?

>> Donna Busse: Not signed yet right?

>> Sire are signing it, they are getting a notarized signature and two original copies, and forwarding it back to us.

>> Matt Loesch: So in all intents and purposes it's basically signed, but not quite yet.

>> Donna Busse: Not quite.

>> Matt Loesch: And then within four weeks they'll come in and start developing the system around our current docs and --

>> They are --

>> Matt Loesch: Sorry, they do request you speak right into the microphone or they won't pick you up.

>> Sorry, you are going to see them on site in DRS in about four weeks' time.

>> Matt Loesch: And the process is they develop the system around our existing Docs and within a month or two the board packets will no longer be paper that's the current plan?

>> The whole project takes about six months but we've asked them to try and accelerate that.

>> Matt Loesch: As much as we can try and accelerate that would be great.

>> Did you want to have a demonstration?

>> Matt Loesch: If they can, that would be great. That's what I'd hoped for today. To at least demonstrate what the system looks like here, because the theory is, what I'd like to have is, to the extent we're almost ready, I'd like to have a demonstration at the board meeting of what it looks like, how the board members will interact with it. And then the next meeting, the packet comes electronically, so that we don't have to then -- you know, then it's just another month delay. That's what I was pushing and hoping for this meeting, that we could have at least the presentation of what it looks like, so when staff and sire is ready they can just send out the packet electronically and we're good to go. That would be my theory.

>> Essentially tutorial.

>> That was it.

>> Matt Loesch: Okay. Maybe by the end of 2012 we'll get there. Started in January. That's okay. Under 5.1 I had committed to Meketa, they ran out to get breakfast, it was pretty quick. We got 15 minutes into it and we're 5.1. Why don't we hold off on 5.1 and go to 5.2, and get to 5.1 when they get back here. So under 5.2 we have discussion and action on governance policies developed by Cortex. A, the board performance assessment policy, B, the code of conduct policy and C, the reporting and monitoring policy. Typically Tom Ianucci is on the phone with us to participate. He was not going to be able to participate, and one of his colleagues was, and then that person had a medical emergency last night and sent an e-mail that he's not going to be able to attend. So I'll leave it to the pleasure of the board whether you'd like to -- we could discuss these and move forward. We've reviewed most of these at the subcommittee, they've been recommended. Essentially all that we'd really do is put it off another month, but they seem fairly straightforward to me. We could walk through them if you like the way we have, but Tom usually just references any changes or any kind of highlights what is the pleasure of the board?

>> Edward Overton: I would say we go ahead and approve them. That would be my recommendation. We could mull this thing forever and ever with wordsmithing and changes. Let's get it into action, and see whether there's any fixes need to be made and then we can go back to Tom or go back to --

>> Matt Loesch: Sure.

>> Edward Overton: And do it.

>> Matt Loesch: We'll take one at a time, the board performance assessment policy. The intent is to regularly put into review process that we review ourselves how we're implementing it. It is essentially up to the chair and vice chair and the director to kind of make sure that happens. I thought we'd do it in November so then when you are selecting the board chair in December you could have some feet back as to whether things are functioning the way you want. There's only seven of us. It's not like you take weeks and weeks to gather our seven opinions. So

my thought is generally like November time frame. But we don't have to put that into the policy, leave it up to the chair and vice chair and president to make that happen. Other than that the policy seems fairly straightforward and could be size.

>> Stuart Odell: I agree with that. I'm okay with it. Motion to approve.

>> Matt Loesch: Motion and second, all those in favor, opposed. Okay. Code of conduct, this has gone through a couple of machinations to make sure it had the legal references that it needed to, and who things were going to be referred to and so forth. If there are issues. But it seemed pretty straightforward again, hadn't had a chance to read it. Again entertain a motion unless you have comments.

>> Motion to approve.

>> Second.

>> Matt Loesch: All those in favor, opposed, okay. Included in here is just some comments. The monitoring and reporting policy which is just the list of all of the things that are going on, as far as reports and who does them and when they're roughly do and the frequency and so forth. Just to update the operational risk that Mr. Armstrong had asked to include there in item 14. So this is just really an update to what was presented last time. I think there were two items added, one was item 14 and the other one was item 25, the annual expense report. As far as from our last meeting. The only comment I had in reviewing that, is that the board performance review number 1, the thing we just passed, I think it says the director as well and/or the vice chair as prepared by. I thought it was the director. But that's kind of a nitpicky thing we can iron out. Mr. Kumar if you could review the policy to make sure that gets referenced correctly, otherwise we'll have staff make sure that's correct. I'll entertain a motion.

>> Edward Overton: Move approval.

>> Second.

>> Matt Loesch: All those in favor, opposed. Okay. 5.3, discussion and action on letters from Cheiron, Reed Smith and staff comments regarding questions on tier 2.

>> Alex Gurza: Good afternoon, Alex Gurza, Deputy City Manager. With me is Jennifer Schembri, assistant to the City Manager. Since we were last here, as we discussed with the board, we've had sort of the experts talk to each other. Primarily a lot of the questions were really actuarially based, that Cheiron had a whole list of questions. So we asked the city's consulting actuary, Bartel associates, to get in contact with Cheiron. Our understanding -- we were not involved in those discussions, but our understanding is they have spoken and we understand that those questions were answered. We have made some changes to the ordinance from the last time the first draft that you received. And the city council did do the first reading earlier this week. There is still an opportunity for any minor corrections or clarifications to the extent needed but we could do that very quickly so that could be posted. The schedule is the council will be doing the final adoption of the ordinance on the 28th of August. And just so you know for administrative implementation purposes the ordinance is effective the 31st day after the second reading. So therefore, that would mean that employees that are hired into the Federated employees retirement system on or after September 30th would go into the second tier. So just for planning purposes for the staff, for administration purposes and we would also need to know the rates by that point. Our peril system has been -- staff has been working to implement it. They are ready to go and hopefully then by the end of September, we will have rates. If for whatever reason those rates aren't completely final, there are contingency plans where we could put in estimated rates or do retroactive adjustments to the extent that is necessary. The other item I wanted to point out as we go along if there are things that still need to be clarified or adjustments made we can always do that in the future. So we hope the questions have been answered. Also want to let you know Judith boyette from Hanson Bridget is the attorney for the city who actually drafted the ordinances and has been working on making the modifications that we made thus far.

>> Matt Loesch: I did check in with Cheiron to see if they had received the revisions and had any more questions as a result of that. They said they got it Monday, I don't know what part of the day. Yesterday I had an e-mail exchange to confirm whether they had received it and whether they have questions. The answer was they

had received it and had not chance to review it yet was the communication yesterday afternoon as far as the revised draft. I believe Reed Smith has it also so I'll let Mr. Rieger make any comment.

>> Sure. We just received the revisions as well. I believe it's about 70 pages. We just received it recently. We actually requested a red line copy just so we don't have to review the whole thing again and we understand what changes have gone into place but there's been some maybe technical problems on the other side. We haven't gotten a red line copy yet. So since we just got it, we haven't really had a chance to review it in detail yet. You've got the City's attorney here, if you want to ask the attorney to lay out what they've done to address the comments, we could do that here today. Otherwise, it could just be an ongoing exchange where we will review what we receive and provide any comments as necessary.

>> Matt Loesch: Right, yeah. So yeah, getting a non-red line copy makes it very challenging because it's long, and red lined to the existing municipal code. Double red lines.

>> Alex Gurza: Mr. Chair, it is a long document. We took the entire municipal code for as it exists to Federated. The issue was red lining the red lined one from the first one. But clearly after the meeting if the boy would like Ms. Boyette can certainly talk to your counsel and go through any detail and that would need to happen, we encourage that to happen right away so if there are any further clarifications needed, in addition Cheiron in their review if they have any further questions that we think would need to be clarified in the ordinance, then we would encourage them to do so right away so that we could make any necessary changes.

>> Matt Loesch: Well the key thing on our end, the board does not have any control over what the language was so we just want to make sure that both our attorneys our actuaries and our staff can administer and provide guidance to so the attorneys can provide guidance to staff as to what these terms mean as to how to administer it. So to the extent that there's questions on either end or any of the three of them we need to get them answered quickly so we need to have them facilitate that conversation. If you're prepared to go through any of the details now I meanwhile we have them here we're sprinting through our meeting too so we could facilitate some of that

today, if there's any way we can get a version 1, version 2 red lined copy of it so it's clear so it makes their review faster I mean that's their interest as well. Is that possible?

>> Alex Gurza: Would you like to take maybe the seat there if that's okay?

>> Matt Loesch: That's fine with me. And just speak real closely into the microphone so they can pick it up please and just announce yourself for the record please.

>> I'm Judy Boyette from Hansen Bridget. And I've been working with the city on the change to the Federated plan and the ordinance. So -- and we are in the process of preparing the red-line, actually sent a message late last night to your counsel that -- and I was actually waiting to finalize that. Because I was concerned whether we might get comments today.

>> Matt Loesch: Got it.

>> But it's as we mentioned it's a process. Because now, what I'm going to try to do is highlight the changes that were in response to questions that you had. And we have those all outlined and answered. We can tell you the ones we responded to but I think what you'll want to see is actually the language that responded to it which we would need the red-line. But I should be able to get that done very quickly.

>> Matt Loesch: Okay to the extent you can get that to Reed Smith and to Cheiron that's in our interest to make that happen posthaste. So they can give you any comments or questions so clarification can happen before the 28th meeting. Mr. Gurza when do you need revisions to the document? I know the meeting is 28th. When do revisions of need to be made?

>> Alex Gurza: Really right away. I would say if we need to make any changes, the document needs to be posted.

>> Matt Loesch: Rather than making them wait, that isn't fair either.

>> Alex Gurza: We'll make ourselves available for questions. Some of the questions asked have been clarified in the ordinance. As an example, what happens if a tier 2 employee leaves and comes back, what system do they go into? There have been clarifications made so Ms. Boyette can talk to your counsel and point out where those clarifications are.

>> In context, we are under this process because under the municipal code, when they make changes like this it is supposed to be sent to the board to make comments. As the chair mentioned earlier, the plan design is within the city's realm of responsibility. So we have operated under that model, provided the comments that we seek, and will continue to do that as best we can. I mean I should say I can't promise that there's going to be a fully robust review just within the next day. I can't promise that. But we'll do our best and provide comments along the way and work within whatever framework we have.

>> Matt Loesch: I think that's reasonable. To the extent you get the red line copy and you provide comments to that, to the extent you can have communication with their attorneys and get questions answered or clarified, and if it makes your deadline to post and you have to change it thereafter because of -- you had mentioned that there are procedures to change it even after that. Even after it passes or moves through on the 28th.

>> Yes, and what we can do to speed it up a little bit is we had staff go through manually and highlight with a highlighter the changes from the first version to the second version. We would be happy to give that to your counsel today to help facilitate that. Subsequent if there are questions that come up that neither of us anticipated that need clarification whether in an ordinance or otherwise we could always make changes. The idea is, to get the second tier in place with the key questions answered, and then always be subject to issues that may arise.

>> I would add to that, in a lot of situations, what we're trying to do in the ordinance, which is actually the plan document, is be sure that this ordinance describes in enough detail how people -- what people's benefits would be based on. Generally how -- so that you could tell within the document what benefits people would get. But often,

you will see procedures or regulation or -- those were to things that this board may have, in interpreting that. So that you may not always have all of the detail for every question that might come up in the document itself. That is actually the role of this board is to interpret the -- how to administer the plan based on the ordinance. So I think what we're trying to do is, make sure, though, that what's in the ordinance correctly describes how a person's benefits will be determined.

>> And just again to clarify again the granting of benefits within the City's realm, the administering of benefits is within this board's realm. This board is part of the process by law, we will participate in that process by providing comments but at the end of the day, it is the city's responsibility to make sure the plan it designs is lawful, and can be implemented in the way they want to implement it. And once it is designed this board will interpret it with the assistance of counsel as best it can. This process is helpful and we will provide whatever comments we can identify at this time reasonably to smooth out the process as best we can but at the end of the day, this board's participation in this process does not make the plan changes this board's. I just want to make sure everybody's aware of that. These plan changes are done by the city. The city is taking responsibility for making sure that it implements what it wants to implement with the correct language and that it does in a lawful way. And we trust the City's gone through the analysis to do that. This board is just providing away whatever comments kit in the time frame it can based on the information it receives and as your counsel we'll do our best in that process.

>> And we do appreciate the questions that we have received, particularly the list of questions from Cheiron. Because again, we want to make sure your actuary understands it as well when they're designing the contribution rates and all of that. So it has been helpful, and we've made some clarifications to the ordinance because of that. So we appreciate it.

>> Edward Overton: Alex, have you gotten a concise written document from Cheiron saying that they understand, accept the changes that the city made, they're clear to them and they can value the plan?

>> Alex Gurza: No because any communication from Cheiron would be to the board. So I don't know if after our actuary discussed things with Cheiron, I don't know if Cheiron has provided anything to the board, because that would be a communication to the board rather than to us.

>> Edward Overton: Okay. Well we have couple documents. One from our legal counsel, one from our actuary. I'd like to have some assurance that those issues have been addressed from someone, from the city, from Cheiron, from legal counsel. These were the questions that were presented. Here's the City's response to them. Here's how you dealt with each one, we agree with it we threw this one out, something that focuses on the couple three pages that came from the lawyer and from the actuary.

>> Alex Gurza: Yes, Mr. Overton, if you would like to have your actuary provide that to you, that would be up to you to direct them to do that work. We really -- these issues do get very technical, so we thought the best way would have actuary to actuary, and whether if you want something for Cheiron to produce --

>> Edward Overton: Yeah, I think it would be valuable to have Cheiron.

>> Matt Loesch: Well, they presented their comments and their questions and I said I just had just a brief e-mail exchange with Bill Hallmark. Just to confirm that they did get changes and that they haven't reviewed them yet, they'd get the changed document, the version 2, we'll call it, and they did receive it on Monday, and as of yesterday afternoon they had not reviewed it yet. So we will just request staff to communicate with Cheiron to get back from them, because we'll hopefully get the red line version to them as well. To aid the communication. They did a verbal communication with the City's actuary. But this way as they look to the doc as it's written and see if it still makes sense to them and have them -- are your question resolved, and just get a letter from them saying we understand what we're supposed to calculate. Because we have to have them calculate it by hopefully next meeting, have at least a set of numbers, and then we will revise that thereafter.

>> Edward Overton: Okay. We need to do what we can to avoid questions in front of the board, when the document gets implemented, the plan changes get implemented. Somebody is here asking --

>> Matt Loesch: Pretty much guaranteed there are going to be questions. The only thing I can guarantee is that there's going to be problems out of it, that there's going to be something wasn't thought of, and some situation's going to come up, and it wasn't foreseen by any of the parties, any lawyers or any actuaries, and we'll have to interpret it and make a decision the way we always do, right?

>> Edward Overton: Right, except the ones we know that are out there.

>> Matt Loesch: And that's why they presented the questions, and so to the extent of the conversation we will just request from Cheiron that they got their questions answered satisfactorily.

>> Donna Busse: I spoke to them too sum of them may affect the rate and some of their comments and questions could be taken care of after the code. You know more like counting type issues and UAL which doesn't affect the first year you know things like that.

>> Matt Loesch: We'll get confirmation from them.

>> Edward Overton: Okay.

>> Matt Loesch: So if we can confirm that we get that -- that staff communicates that to Cheiron. Any other comments from the board? Thank you.

>> Alex Gurza: Thank you very much, Mr. Chair. Can we anticipate that the board will have Cheiron come back with rates in your September meeting?

>> Matt Loesch: Why don't we do this, so we'll make a motion on that so that it's clear, and I'll do that. I make a motion that we request Cheiron, to the extent possible, prepare rates for contributions to be effective pending the

passing through city council of the ordinance for tier 2. And that would be presented at our September meeting to the extent possible. Did I miss anything?

>> No comment. Except I think to the extent possible is a good qualification.

>> Matt Loesch: All those in favor, opposed, thank you.

>> Alex Gurza: Thank you very much. And we'll provide your counsel with the hard copy.

>> Matt Loesch: Thank you. Mr. Dirks. Let's just plow through the rest of the 5s and we'll skip back to the investment beginning at 5. Item 5.4, discussion and action on system expenses for May 2012. We have in our packet a report of the memorandum of expenses, any comment or questions from staff or from the board? Seeing none, I'll entertain a motion to accept the memo, is that correct? Or do we have to certify the expenses? I can't remember the phrase. Okay. I'll entertain a motion to accept the report.

>> Motion.

>> Second.

>> Matt Loesch: Comments or questions. All those in favor? Opposed? Okay. Item 5.5, discussion on approaches to benchmarking the system against other pension plans. Did you want to hold this, Ms. Niebla was supposed to present at a. What do you think, Ms. Busse? Mr. Odell, you were concerning about how we could benchmark our performance, not just on investments but systematically, against other public plans. This is the memo in our packet from staff on their analysis and what the recommendation is. Or conclusion.

>> Stuart Odell: I mean their conclusion is that it's not that easy to do but that doesn't mean we should not make an effort to do it. You know I think that that's -- whether they bury things in the financial statements or not, we can disaggregate that out and figure out what the costs really are I think at the end of the day. So --

>> And Harvey pointed out that there is a vendor out there that does that in this space and just recognize there's a cost associated with it. And away we go.

>> Donna Busse: I think what Veronica is suggesting is we select a vendor, we go from there. I think that's what she's asking do you want us to initiate an RFP and get a vendor for you?

>> Stuart Odell: My sense is yes, we need to have some benchmarking on our administrative costs. In order to determine whether they're you know reasonable and prudent for our participants.

>> Matt Loesch: It would be interesting to see how any vendor whether it's just the one or what -- how they would present it. Because obviously there would be a bunch of asterisks or footnote about the difference, would be interested what value as to what they present and samples when they come through.

>> Donna Busse: Hopefully, when we are hiring a vendor they will make it as plausible as possible.

>> Russell Crosby: Bring the vendor in and say show us your wares and look eighth before you do anything.

>> Matt Loesch: Did you have anything to say Mr. Dirks?

>> Has this better than done before?

>> Matt Loesch: No.

>> Seems like (inaudible) anyway.

>> Matt Loesch: Yes. So to the extent possible, we don't have to approve staff going out and doing an RFP.

>> Russell Crosby: No, it's just the sense of the board is --

>> (inaudible) selecting certainty either.

>> Matt Loesch: The sense is the board would like that and to the extent before we hire, let's bring one or two in. If there's two close competitors, if there is just the one you want to recommend, bring them in have them show off their stuff.

>> Stuart Odell: One question is whether investment consultants have any experience in this space as well. So - and I don't know the answer. But --

>> Russell Crosby: We can ask our guys appear shortly.

>> Matt Loesch: Anything else? 5.6 discussion and action regarding discretionary and nondiscretionary staff activities. This came out of our special meeting in July. To say noting there's a lot of changes going on with staff is there clear direction who's doing what. Mr. Overton had brought up, what things can we delay, bypass, hold off on spending staff time doing during -- during this short period where we're doing some of these searches. And so staff came back with this matrix of 5,000 things that are going on plus or minus. And to me there wasn't really a detail, these things we could hold off on, these things are adamantly required. There are some due dates and roughly when they were due. I mean that was kind of my take-away. Yes there is a lot of stuff going on and yes people are very busy but I didn't get a sense for what things if any could be kind of fragmented.

>> Donna Busse: We have listed the stuff that is nondiscretionary, I don't think we would -- towards the bottom we kind of listed these are some ongoing projects we've already started it, you know, it's not necessary for the function of the plan. But we've already started these projects and that's kind of the sense. In a sense on my cover I was trying to with the absence or with Russell retiring, the kind of stuff that Russell does for us and where there will be a hole when Russell leaves.

>> Matt Loesch: Any comments or questions from the board on this? We can accept that and move it forward. Is there anything else you were looking for Mr. Overton? There's not much that we can just not do.

>> Edward Overton: Yes, what I was looking for is where we might have resource shortages. And I don't think the document really addressed that.

>> Matt Loesch: Pretty much on your right side, your left side, behind you and in front of you is what it seems like. Well, the one thing we're going to look like here is looking at the org chart, when Mr. Crosby finally officially retires, that vacancy is going to be filled by someone for a period. And even just looking down at Ms. Busse's route, she has a vacancy that is currently being hired for. Is that recruitment closed yet?

>> Donna Busse: It's closed, we vice president gotten the screening for that yet.

>> Matt Loesch: Talking about a month in place?

>> Russell Crosby: Longer than that. Normally they give notice a couple of weeks wherever they are in the city, they don't just roll over.

>> Matt Loesch: Hopefully it will be within the next --

>> Russell Crosby: Thinking in terms of October.

>> Matt Loesch: Within the next month. Because obviously then this stuff keeps rolling up. With the CIO position, and actually there is a position missing there, which is the deputy director position that's over on the investment side as well, so there's the assistant director position which is the CIO, we're calling it now, and the vacant deputy director position. So there's two over there, in addition to the investment officer vacancies below that.

>> Russell Crosby: Our understanding was that the assistant replaces this entity.

>> Donna Busse: That's not the case?

>> Matt Loesch: That's not the case.

>> Donna Busse: Okay.

>> Matt Loesch: Those positions are still budgeted positions. It was an add of an assistant director, as of now, and that deputy director position is still budgeted. That was our understanding. To the extent there's clarity, and as the thing moves on I think we should have just kind of as a fluid document goes with us every month kind of see where and if things change. If things shift around as you fill the position of division manager if I could ask staff to present this every month just as a report, simply just filling in a spot, the boxes that as they get filled or as it becomes more vacant. Okay? Any other comments or questions from the board? I mean I understand your concern, Mr. Overton, about what things can we shift aside or hold off on. I -- you read the list. There's not much that can't not happen.

>> Edward Overton: Yeah, you know, we always set time tables for things and they never really materialize during those time tables. So some of that stuff fit in that category. I just want to make sure that there's nothing critical that is out there that we should be looking at, we should be taking care of, that we're not doing because of staff shortages.

>> Matt Loesch: To answer that question is there anything on this list of things that we're not going to be able to do that we absolutely require by a particular deadline?

>> Donna Busse: No. I mean obviously the things we have to do we're going to do, we're going to get our tax filings done, we're going to get our pensioners paid, retirees retired, get our audit done. You know, just things will get like you know setting up interviews, the interview division manager. Those are the things that get pushed when we have to get the board packets done. All of that stuff is going to get done. What doesn't get done is we

can't interview people as quickly as we want, can't review resumes as quickly, things take longer. We just try to fit it in, where we can. Because a lot of the things we do have deadlines, the board packets, the payrolls and we try to fit everything in and around those things. It's just things will get done, just take longer.

>> Matt Loesch: We just have to be clear the things that can't take longer and which things have to be done on time. To the extent the board does need through additional resources like temps, we have vacancies like a staff specialist, retirement investment officers we have them recruiting for those right now and vetting the ones that have already been submitted. That hopefully within the next two, three months there will be a list of qualified candidates possibly to be put in place by a new CIO.

>> Donna Busse: It is really the vacancies that are hurting. The staff specialist is the one that's going to work with Sonia on the board packets. We have subcommittee meetings and ad hoc meetings, and Sonia takes care of a lot of that.

>> Edward Overton: Are there any critical issues in the investment area? I know we're doing management searches, manager evaluations.

>> Donna Busse: I don't know if Heidi or Ron can speak to that.

>> Currently, per our discussion (inaudible) Federated plan primarily on the launch of the hedge fund program and we are scheduled to bring three managers for the September meeting. That would be the primary focus of that time. And also the other investment officer (inaudible) implement the allocation.

>> Matt Loesch: Did that meeting go through in August with presentation to the investment committee meeting, August 8th meeting where there was going to be a sample presentation on one of the officers?

>> Russell Crosby: Yes, that is why there will be the presentation of additional managers for September, because that test pattern seemed to work well. Stuart can address that. So we're moving forward.

>> Matt Loesch: Any other comments or questions?

>> Edward Overton: Okay, sounds like we're on track for everything. No bumps in the road no shoulder --

>> Matt Loesch: There will be bumps in the road there will be potholes.

>> Donna Busse: Seems like you asked us about the benchmarking, how many months it would take to bring that forward. We put the assignments in and we have to prioritize. There are certain things that are time certain and have hard deadlines that we can't move. We can't move payroll deadlines out, we can't move board packet and sunshine and Brown Act rules out. So we try to fit the other projects in. They all need to get done, so we fit it in. It just might take longer. Instead of come back in two months, it might take us three or four months.

>> You have the audit going on as well as the CAFR preparation so that takes a lot of our time.

>> Edward Overton: Okay.

>> Matt Loesch: Good, all right, so we'll just note and file that. 5.7, I put that, my understanding ask the issue has been resolved, payment is made and wired over. I just put that on there because it wasn't happening. The issue has been resolved, so I'll drop 5.7. I was the one that put that on there unless you wanted to talk about it. Okay. Let's skip back. To 5.1, that was the investments. Let's do 5.1C as they're coming up. We have a very brief closed session to deal with a particular investment so I would like to do 5.1C first and then come back and do A, B, and D. For those in the audience it should be a very brief closed session, not one that would come out. 5.1stC. Closed session conference with investment consultant pursuant to government code section 54956.81 to consider purchase of particular pension fund investment. We'll be back. [Closed session]

>> Matt Loesch: Back for the remainder of item 5.1. 5.1 A you have in your packet. Presentation of the investment performance quarterly report for period ending June 30, 2012. Our Meketa company representative.

>> To my right is Brad Regere and he and I will be presenting the June 30th performance report. We also have a performance update through July 31st that we will present as well. And I'll also announce formally, that Laura Weirick from our office had her baby last night, she is a new mother, and we're excited about that, and she is excited to come back at a future meeting with lots of pictures. I'd provide a brief review of the economic, and capital market conditions, over the last 12 months, put the fund's performance in some context, and then Brad will go through the specifics of the fund's performance itself. The one-year period ending June 30th which corresponds with your fiscal year macro-economically was dominated by concerns in Europe over sovereign debt and the potential dissolution of the euro currency union. At various points during the year the public policy decision makers in Europe seemed to make actions that at least partially solved some of the structural problems of Europe. At other times of the year, the -- they failed to take action to do so. In the capital markets were up nearly a daily basis or down on a daily basis depending on those public policy actions. For the full year, the European sovereign debt crisis served as a very strong negative factor in capital market returns and in the economy generally in Europe and beyond. Secondary drivers in the global economy included slow growth in the U.S. economy, the credit downgrade of U.S. federal debt, significant slowing in China and the emerging markets, as well, which is also partially driven by weakness out of Europe. So broadly from a macroeconomic perspective, we saw significant slowing of the global economy and significant volatility around public policy actions. The impact on the capital markets was significantly to create much lower interest rates particularly here in the U.S. So bond returns were higher than long term expectations for year as rates declined. Generally a flight to perceive safety in the world, and so this last year, the area of perceived safety was the U.S. So both U.S. bonds and U.S. stocks generally outperformed foreign asset classes during the year and the most negative returns were faced by international stocks and commodities for the full-year period. There's been a modest turn around after June 30th in the capital markets. You've seen a modest rebound in stock prices outside the U.S. as well as inside the U.S. This is predominantly on the expectation of potentially further quantitative easing and monetary stimulus here in the U.S. And other promised solution to the structural issues facing Europe and its sovereign debt crisis. And the expectation of additional fiscal stimulus and monetary stimulus out of China. So the rebound we've had recently is on the expectation of action taking place, not the actual action having taken place. And we'll cross

our fingers that those actions do happen to support the recent returns that the capital markets have seen. So with that I'll head it over to Brad to review in more detail the performance of the fund.

>> In our book that we've handed out, I'll direct you to tab 1 and page 7 of 91 in our page numbering. I'm going to refer to the page numbers at the bottom middle of each page. Page 7 of 91, there's a table here that goes over some of the manager monitoring that we go on a continual basis. And just wanted to highlight some of the changes that have happened with some of the managers in our portfolio. For Calamos there was no change to the senior investment team but they have added a value equity team. R.S. investments they hired a new CIO. This is a new position at R.S, and MacKay shields added an analyst. With Medley capital, I think this board is aware of the lawsuit that was brought against Medley during the fourth quarter of last year. That lawsuit was withdrawn during the first quarter. And during the second quarter, the lawsuit was adjudicated in favor of Medley, and penalties were brought against the investor who initially brought the lawsuit against Medley. So that was a positive and outcome regarding that whole situation. At GSO, one of the portfolio managers will be transitioning out of the investment management. He has been more involved with private equity, rather than the debt management and has a desire to be involved with private equity and so is transitioning out of the investment management with that organization. If I can direct you to page 12 of 91, we'll look at the portfolio at the end of the June quarter, June fiscal year. And I would direct you to the third column which is entitled the Russell overlay net position. And you'll see here, the net allocation to different asset classes. They are overweight the target allocations which you see in the column to the right of it, in large part because as you know the overlay position is done pro rata and as far as the 25% target to edge funds we can't get exposure through the overlay and that 25% is prorated to other asset classes, which causes an overweight to global equity, fixed income, and real assets. On the next page, you see a portfolio roster. And during the second quarter, the only change to the roster was the termination of Tradewinds which occurred at the end of April, and that's what you can see on page 13. We go to page 17 we can look at the performance for the fiscal year. And there's a couple of rows here and the first is just the total fund performance, the next category is the total funds performance with the overlay. And for the fiscal year, the third column, the gross performance for the year was negative 3.0%, the net performance was negative 3.2%. The net performance of negative 3.2% equaled the custom benchmark return which was also negative 3.2%. The portfolio underperformed the policy benchmark by 150 basis points or -- I'm sorry -- by 90 basis points

over the year. And this was entirely driven by the allocation and the inability to implement the hedge fund allocation immediately. The fund underperformed the median public fund over \$1 billion, away you see in the last row, performance -- what you see in the last row, performance was 1.1% and this was caused by a significantly higher allocation throughout the year to international equity and commodities, which as Steve already mentioned, both performed worse than domestic equity and fixed income allocations over the past year. I would highlight that this performance over the last year of negative 3.2% comes off of two very good fiscal years for the fund. Which were 19% in fiscal 2011 and 14% in fiscal 2010. Now, look at a few of the active managers' performance. As you know the vast majority of investments in this fund are passive, but we can look at a few of the active managers. On page 20 of 91, the second manager is there listed as artisan global value. Artisan was the best relative performer on the portfolio roster, in the third column you see their net of new return was 2.7% versus the benchmark of negative 7.8%. Artisan manages the largest active allocation in the fund. On the next page, would funds that underperformed during the fiscal year were eagle, small cap growth and R.S. investment small cap value. Eagle was -- net performance was negative 8.7 versus the benchmark of negative 2.7. Most of that underperformance came during the second quarter which you see in the first column. They were overweight, underperforming sectors such as technology and consumer discretionary, and had poor stock selection in sectors such as technology and health care. The other managers that I wanted to highlight are on page 26. The real assets. Right now, the portfolio has positions with Credit Suisse and first quadrant and you'll see the fiscal year performance down negative 10% for Credit Suisse, down negative 12.7% for first quadrant. Both outperformed their risk parity benchmarks, both were positive but they both -- I'm sorry. They both underperformed the risk parity benchmark but they both outperformed the broad market index which is the Dow Jones commodity index. Unless there are any questions about this June report I'm going to move on to the July flash report.

>> Matt Loesch: Any questions of the board or comments? Okay.

>> And the July flash report, on the first page you'll see the index returns and as Steve mentioned a little bit about the difference that we've seen in the markets in July. I just wanted to highlight the top performer that from a broad index returns was the commodities index. You'll see that at the bottom in the first column 6.5% during the month of July and that emerging markets was the next best at 2%. You still see over the one year trailing period that

international markets have struggled and are still down double digits. And compared to mostly positive performance in the domestic equity markets. On the next page you'll see the total fund value, the asset summary, where the fund at the end of July \$1.885 billion. That's up \$110 million during the month.

>> Matt Loesch: How much of that was the contribution from the city that happens in the beginning of July? Was that investment returns?

>> The investment return was 1.4%.

>> So that would be about \$30 million.

>> Matt Loesch: The contribution from the city was what, 90?

>> Russell Crosby: Something on that order.

>> Matt Loesch: Something like 90 or 100 million beginning of the year, beginning of the fiscal year.

>> You'll see that most of the net positions are similar at the end of the -- at the end of the month. It's the same story that I talked about with the end of the June year. With equity and real estate assets overweight the target as well as fixed income and real assets. On the next page is the performance for July, which the preliminary number is 1.4%. And that performance has been driven, was driven by positive performance in real assets as well as equity and fixed income. We estimate that August month to date performance is up 80 basis points which would mean that your quarter to date is up a little over 2%. And that concludes our report on performance.

>> Matt Loesch: Comments or questions from the board? Okay, thank you. So you have 5.1D. We'll do 5.1B first, discussion and action on the revised placement agent disclosure policy. We have in our packet a memorandum from Reed Smith regarding our placement agent policy. It's written there, I don't need to read it. Any comments from Reed Smith or staff, highlight?

>> The earlier division that's made on this policy is related to the illiquid assets and what Harvey has done is he's recommending that -- it's harder to terminate a manager that has illiquid asset. So instead of terminating them, we cease further capital contribution and cease from paying any fees to them until the investments mature and we redeem the proceeds.

>> Matt Loesch: Anything else from -- (simultaneous speech)

>> No, I think everything is covered in the memorandum. I think this is just a practical approach to dealing with the realities in the investment market.

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

>> Stuart Odell: Well just one. I don't think, wouldn't this apply to any long lock-up vehicle? Not just private equity and real estate? I just think you need to be realistic, that you're going to have difficulty negotiating with a manager in any sort of draw-down lock-up vehicle to you know agree to let us off the hook once we've signed the documentation.

>> I'll ask Harvey to make that edit.

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

>> Stuart Odell: Motion to approve.

>> Matt Loesch: Motion to approve with the comments that it be added to longer lockup vehicles.

>> Those would be brought back at a future meeting.

>> Matt Loesch: Right, so whatever the specific language is, yep. All those in favor, opposed, did you second? I'm sorry. We have a second over there with Dirks. Okay. 5.1 D discussion and approval to delegate the selection of passive strategies to the current pending portfolio transition to staff and Meketa investment group and for the secretary to negotiate and execute agreements with the selected managers as appropriate. We have another memo in our docket, 5.1D, that is about the selection of passive strategies for the transition from Meketa. Any comments to highlighted?

>> In June the board approved hiring Russell to implement the current transition to the new asset allocation policy. Discussion has been ongoing with managers, staff, Meketa investment group, Russell, the custodian. And at this point, staff and Meketa is requesting that the board delegate authority to select passive strategies and negotiate with these providers. Once this transition is complete, we would recommend a full search process for -- and the next provider for these passive strategies which would end up being long term investment mandates for the portfolio.

>> Matt Loesch: Questions or comments? We approved the managers transition folks right last time? So approval and now we're just whether we're going to approve the passive, delegate the pass itch acquisition as well? Any questions or thoughts from the investment committee folks? Was this passed through you guys?

>> Stuart Odell: Well it didn't go through the investment committee but I -- to me, this is pretty straightforward.

>> Matt Loesch: I mean it's --

>> Stuart Odell: I think you know they're acknowledging that once they get this structure in place, that they'll put it out to bid in terms of trying to get a permanent index manager in place at a pricing that's competitive. Not to say that the one they have isn't competitive. But they haven't RFPed it and so I think that's probably a prudently practice.

>> Matt Loesch: Okay, any other comments or questions? I'll entertain a motion.

>> Motion.

>> Stuart Odell: Second.

>> Matt Loesch: All those in favor? Opposed, okay. So we've gotten through all of our public meeting stuff that we're going to get through before the disability at 10:30. Maybe we could do -- I do believe I still have them sitting out there the applicant. Maybe what we could do is take a recess until -- maybe we could encourage five, ten minutes early, maybe try to get them back, five minutes early, 10:20, maybe someone could go out there and see if they could go ten minutes early. We're in recess. [Recess]

>> Matt Loesch: I would ask that we not have this voting until 10:30 since this was agendized. Since what most of the stuff is contingent upon closed session, we'll knock off some of the committee reports that can be done. And education training and so forth. Item 6 many 1, policy committee that's still hanging out because we're waiting for all our committee stuff to be done and that will probably be taken care of and go away, actually once all the stuff is done through Cortex. Item 6.2, the investment committee, the chair of the investment committee is not there. Anything you would like to update from investment committee since our July meeting? Meeting on the 8th, you previewed and looked at the other hedge fund, so forth. Anything else of note.

>> Stuart Odell: Not what's in them.

>> Matt Loesch: Minutes, okay. Note and file the minutes. Since we were approved by the committee. The audit committee, I had spoken a little bit with Mr. Armstrong the chair of the committee. Before the next meeting, there will be a meeting to meet with the auditing staff and get them in place.

>> Just about (inaudible).

>> Matt Loesch: Ad hoc governance committee we're presently scheduled for an August 31st meeting, kind of consider our Cortex phase 2 what that looks like if anything kind of wrap up kind of dot I.s and cross Ts. Other than that there's been a meeting of the governance committee for a bit and that committee will probably go away since it's ad hoc. 6.5 ad hoc personnel committee. Item 1, so meeting update from there. We've had activity back and forth engaging with the City Manager's office and city attorney's office through the committees trying to work with the search firms, the CIO several, let's get on the site, the CIO search has commenced. Alliance is the consultant that will be running that search. They have put together the position packet and has been put out they are gathering names now. Just as a last summary report that came you out Friday, status, it's I believe we should get a packet towards the end of the month, maybe, as far as preliminary look at what the CEO pool is looking at. The CIO pool, the CIO search, that packet has been out. They had I think the number was 57 applications of which 25 met minimum Quals and then subsequent questionnaire went out to them and then they're going to break it down to a packet that was supposedly submitted to the city yesterday. I don't know that for certain but I mean it was supposed to be submitted on the 15th and then we'll talk more later about what we do with that. Because that's what I would like to -- we'll discuss possibly changing scope or dealing with the scope of that committee, what we do with it after this. Because right now, the IO search, retirement investment officer search, they started to put the packet together and about to send that out. HR had a bunch of applications and resumes already, so those were sent to Alliance as well to vet through and see how they met up towards qualifications and they were going to get stipend through the system as well. The idea is presently from the committee that the CEO search would be pushed forward in front of the CIO search, so that that would be concluded hopefully, then the CIO search would be -- we would have a bunch of candidates, that once the CEO's on board, the CIO -- it can be engaged in the CIO search, that finalization. And then once the CIO is on board we would be able to hand them a packet of folks if they need to that would be interested and available for them to review and possibly hire right then. So after they -- so kind of provide them with a pool of candidates to look through. That's kind of the time right now. As far as dates, your guess is as good as mine. Hopefully, like I said, the packet for the CIO search was yesterday. I don't have confirmation on that. And then CEO search probably end of the month beginning of next and we'll see how we get through vetting that. The personnel committee is still working on trying to -- how we going to vet and how we going to engage with the City Manager's office on the recommendation from the boards or not how that works.

>> Edward Overton: Who is the third member of that committee?

>> Matt Loesch: It's not on there? It was changed, I apologize. It was noted on there. It is Mr. Dirks. So if you could, staff if you can just make note of that, that the ad hoc personnel committee is Loesch Druyan and Dirks not Overton. Mr. Overton thought he was getting off the hook easy, you know.

>> Edward Overton: I don't want to be responsible for something I'm not responsible for.

>> Matt Loesch: Yet. So we'll hold on to 6.5 B if you will for me, we'll note and file 7.1, 7.2, and 7.3, one note I was just told this morning is that our consultant Meketa will have their investor conference for clients, clients conference November, whatever the international foundation is in San Diego.

>> November 10th.

>> Matt Loesch: November 10th and it will be in San Diego. It was just decided I guess last week or so when they were going to host it and where so we'll get notification out to the board for next meeting if you wanted to attend. So that would be Meketa's investment conference and client conference in San Diego, November 10th. Any future agenda items we need to add now? I probably should leave it after, in case, after closed session if we have to add stuff. Getting close to -- any public or retiree comments now? I still have to leave it out later.

>> Quick question for the personnel committee follow-up.

>> Matt Loesch: Yes.

>> Someone I believe it was on this board raised a good question at the last meeting was regarding application sent over from the city to the head hunter. The executive search firm. Would they be assessed the finder's fee if it came from that pool?

>> Matt Loesch: The comparable was brought up and I'm trying to remember how it was resolved. Do you remember Mr. Dirks.

>> I think they would be paid anyway. They're still --

>> Matt Loesch: They would still do the background checks.

>> The fees are very reasonable actually.

>> Matt Loesch: The answer is yes, we are going to pay the firm on the reference from the search. They're still doing all the resume check doing a background check and calls and so forth so they're still doing a bunch of calls and everything. Just make sure that's on before you talk.

>> Hello.

>> Matt Loesch: Hello.

>> I have a question. I saw it right now I think it was approved already in your consent and it is in regards for approval for travel for Councilmember Constant to the conference. And he's not an official board member. Is the board paying for him to go, or is -- I thought there was something said at a previous meeting that those would be paid for by the city, that were in attendance.

>> Matt Loesch: My remembrance is that the board was going to pay for it, and that was a discussion based on - - okay tax my memory. I don't remember. We want him to be well trained like the rest of us since he's engaging in bringing information back and forth from us to the council and so forth. And it's an advantage to us that he's educated as well. As well as it is for the city council. I'm trying to remember. There was a policy, do you have something to add to it?

>> I believe he was defined as a nonvoting board member and as a nonvoting board member he would need to be educated likewise so the plan would pay for his education.

>> Matt Loesch: We talked whether it was a liaison what the title is and when that means so technically he was - he is a board member but a nonvoting board member. So he should be educated as us.

>> Is that for us to take a look at the costs and stuff that are incurred by the board and any specific person to look and see what the costs are?

>> Matt Loesch: Sure if you look at item, it's actually we passed it on our agenda we approved it on our expenses.

>> So we wouldn't have any --

>> Matt Loesch: 5.4.

>> Individual line items for us to be able to see --

>> Matt Loesch: Every individual is on there even staff is on there for what expenses are paid, if we send someone to a conference in San José it's \$50, same with any board member, a board member has a report-out that they attended it. That's in a previous section de los where it was that he go to the IVPVE.

>> This would only be for Councilmember Constant only him and not a designee, if the board said he needed to go it would only be him?

>> It would be him or his designated alternatively I would imagine. Which is Rose Herrera. And Pete's always very happy to -- he fully complies with all sunshine here in the city and has been an advocate for full disclosure. So that information would be readily available.

>> Matt Loesch: Okay. Seeing no other comments, I've gotten past my 10:30 deadline like I requested. I'd like to do item 1.1. This is item A Matthew A. Chasuk, security officer, convention arts and entertainment request for a service connected disability retirement effective July 31, 2010. Mr. Chasuk, would you please come to the microphone. Would you present any witnesses other than yourself and board documentary evidence.

>> Good morning, my name is (inaudible) I'm an attorney and I'm representing Mr. Chasuk.

>> Matt Loesch: If you please make sure you're speaking into the microphone. It's being recorded. Would you please sit down?

>> My client cannot sit down.

>> Matt Loesch: If you raise that microphone up so you could speak into it?

>> Can you hear me now?

>> Matt Loesch: Hopefully I can, yes.

>> I feel like I'm on a commercial. Laura Costanza, attorney for Matthew Chasuk. I have prepared some exhibits to provide to the board if that's okay.

>> Matt Loesch: Are there any witnesses besides Mr. Chasuk?

>> No.

>> Matt Loesch: One caution if there's stuff we need to review, since Dr. Das will be participating by phone, we might have to defer the hearing if he needs to review that stuff.

>> Donna Busse: Since this wasn't part of the packet you do have to accept it, move to accept the additional information.

>> Matt Loesch: Right. Depending what it is, we'll take a look at it real quick.

>> So Mr. Chair, just to clarify is Dr. Das online right now?

>> Matt Loesch: Dr. Das are you on the phone?

>> Dr. Das: Yes I am but it helps if people speak into the microphone so I can hear everything that's said please.

>> Okay, is that better?

>> Matt Loesch: Can you hear that Dr. Das now? Okay, so this will be interesting. Okay, this is a lot of stuff to look at here, new.

>> Well, it's unfortunate, Mr. Das isn't here in person because most of my references are to the brief that has been handed out today, in addition to the exhibits which are attached.

>> Matt Loesch: Okay.

>> I hope he can bear with me. I assume he has his file with him. A lot of the medical records and doctor's reports I'll be referring to should be in his files.

>> Matt Loesch: We'll see how it goes and we'll give it a try. Because we do know that there's ways involved in doing this stuff, and we try to hold efficient hearings, so that folks can have an opportunity. So what I would like to do is introduce Ms. Busse, who will present the disability subcommittee recommendation, and then Dr. Das will present any results of his reviews of the medical records or medical examinations of the applicant, and then, we'll go to you, okay?

>> All right, thank you.

>> Matt Loesch: So Ms. Busse.

>> Donna Busse: Matthew Chasuk is a community officer requesting a service-connected disability based on degenerative joint disease, left knee, lumbar disk herniation, spinal stenosis in lower back. 51 years old, 12.68 years of service. Medical reports are listed in the packet. His work restriction is that he should avoid sustained kneeling, climbing, stair and high impact activities with his left knee. He's currently separated effective 7-31-2010. At the time of separation, at the time of application he was on modified duty. There is no modified duty, alternate employment available either. The disability committee subcommittee's report is in your packet. They recommended denial, did not -- although they agree with the disability, they do not agree that it was service-connected based on reports from Dr. Das and another treating physician.

>> May I ask a question?

>> Matt Loesch: Not yet. You will have a chance to.

>> Okay.

>> Matt Loesch: Dr. Das would you please present your results of the review of the medical records and medical examination of the applicant.

>> Dr. Das: Yes, it's as stated in my report. Two issues is with respect to the lower back and with respect to the knee. Whereby with respect to the lower back I did not feel any restrictions were required on an incapacitating basis. I also had issues as to whether the pathology that was being treated was related to the mechanism of injury that was described. So there were two issues with the lower back with respect to work-relatedness. The pathology that -- for which Mr. Chasuk was receiving treatment, and also, whether the pathology that was identified would result in incapacitating restrictions. The second issue with regard to the body part for the knee, the knee had significant pathology identified question would reasonably cause the symptoms that Mr. Chasuk describes and warrant work restrictions however the pathology --

>> Excuse me would you please say that again with regard to the knee.

>> Dr. Das: The pathology in the knee can you hear that now?

>> Yep.

>> Dr. Das: Okay great. The pathology in the knee for which he was receiving change was degenerative changes and osteoarthritis, which would not be related to the specific event or incident that Mr. Chasuk describes and therefore I did not feel that the pathology was work-related for the lower knee. But I did feel that the knee did warrant work restrictions based on the findings.

>> So when you say --

>> Matt Loesch: You'll have a chance to counteract --

>> Sorry.

>> Matt Loesch: Anything else Dr. Das?

>> Dr. Das: No, that's it.

>> Matt Loesch: Would you like me to address my comments or questions directly to you, as I run the meeting directly towards you Ms. Costanza or to Mr. Chasuk?

>> I would prefer you direct it directly to me.

>> Matt Loesch: Medical reports attached?

>> Yes.

>> Matt Loesch: Will you stipulate that the relevance and that would you liked to provide the reports for the board's consideration?

>> Um -- yes.

>> Matt Loesch: Okay. So we already said that you don't have any other witnesses besides Mr. Chasuk that will be -- you'll be presenting as well, correct?

>> No, I do have a fair amount of documentary evidence that the committee was not presented with. And apparently Dr. Das did not review or include in his report and findings. Which I have attached to my brief. So I just want to make that very clear.

>> Matt Loesch: Is there a reason this was not presented to the committee or to Dr. Das for review?

>> Dr. Das had these documents at his disposal. I don't know why he did not comment on them at his report or at the committee meeting. I can't answer that.

>> Matt Loesch: So the committee meeting was on what day, again?

>> January 12, 2012.

>> Matt Loesch: So the committee meeting was on January 12th and there was no response given to them? I'm not trying to challenge anything about as far as that, just to a time line so we can get folks familiar.

>> Correct these are records --

>> Matt Loesch: I want to make sure A we can take action on this stuff or not so we have to know what we have to absorb or not. These are a lot of Docs that we want to make sure. Are these different than are in our existing packet?

>> Yes.

>> Matt Loesch: And you are sure --

>> Not entirely but I'm sure there are some differences. And I've outlined the salient records that I think would be able -- would -- to bring the board's attention to, so that you can make an informed decision here today.

>> Matt Loesch: Right.

>> Particularly, Dr. Wall's and Dr. Millard's reports with regard to the pathology of the injury. He sustained the knee injury in 2003 and the subsequent low back injury in 2004.

>> Matt Loesch: Okay.

>> So there's very clear reports that his doctor submitted from the sore clinic. Millard is a physiatrist. Wall is an orthopedic surgeon, that Dr. Das did not comment on. Did not -- whether he reviewed them or not, he had them at his disposal, because they were sent to him. And that's evidenced by the documents I've submitted. So I can refer you to the number of the exhibit, if that would help. That's what I was hoping to do today, is kind of walk through my brief point out the documents I have the exhibits because I don't believe the committee ever saw them which is why they made the recommendation to deny my client's disability and I don't know whether or not Dr. Das had had a chance to review them. He certainly didn't come on them in his report.

>> Matt Loesch: I'm willing to proceed tenderly as long as the board's okay with that. Just because -- especially if Dr. Das hasn't reviewed some of these docs I'd like to proceed. But if he hasn't reviewed these, to guide us as to what his perception is as well. I'm willing to proceed a little bit but I'm hesitant.

>> Well I'm wondering why since these records were sent directly to Dr. Das from the onset of these injuries in 2003, 2004, as recent as 2010 when my client was initially told, in July, June-July, that he could no -- that the city could no longer accommodate his restrictions, and then he subsequently received his letter of termination a month later, prior to being terminated he filed for his disability retirement based on the '03 and '04 injuries.

>> Matt Loesch: The reason why I'm hesitant, you said you don't know why. I tell you why I'm hesitant that I want to guarantee your client has a fair trial, fair hearing here and I want to make sure we're not rushed to make a decision on and hesitant one way or the other, that we can properly evaluate so that if we need to decide in your client's favor, we're making it based on full knowledge and not seeing a Doc quickly. That is in your client's interest, that's in our interest, that's in everybody's interest. That's why I'm willing to proceed gingerly.

>> Thank you Mr. Chair I certainly appreciate that. I guess my urgency comes from the fact that this has been sitting for two years. My client was terminated and applied for disability in June of 2010 and here we are August of 2012. So --

>> Matt Loesch: Well that might be so --

>> I appreciate that.

>> Matt Loesch: We've gotten this since Friday, and so the board itself has seen this --

>> Understood, absolutely.

>> Matt Loesch: We get this thing as of Friday. Though it might have been a very long time for your client we want to make sure we make the right decision the first time.

>> If I might ask and forget my ignorance to the process leading up to this because I haven't been involved personally. Was the brief and all of these attachments was that prepared in response to materials you received recently?

>> No, no. We have been compiling this since we found out that the committee recommended -- was making a recommendation to the board to deny my client a disability retirement.

>> That was in January?

>> Yes.

>> I the question I have is just why there is a brief with all these exhibits being dropped on the board today. And whether the board feels comfortable with all this new material that it could act today. And then I guess second, secondarily to that question, whether the applicant would prefer to defer this discussion to a later date so the information can be processed.

>> Russell Crosby: Or if there is new material, why doesn't it go back to the disability committee first, and to Dr. Das for him to comment on specifically before the disability committee, and then come back to the board.

>> And if that would be the normal process that would make sense, as well. The point being I don't see how the board could process 11 pages of argument and all of these documents that are dropped on it at this meeting. I'm not sure what value there is in proceeding.

>> May I address that?

>> Yes.

>> I called, we called, my assistant called for weeks, we spoke to Jennifer Holmby to ask could we submit these documents ahead of time and we were consistently told no. All the documents contained herein, are records that have been sent directly to Dr. Das, including reports by Dr. Carson, and for whatever reason, the committee chose not to take those into consideration when they made their recommendation. You know my client was not represented by counsel before the committee. He didn't think he needed to be based on the clear records of his psychiatrist and his orthopedic surgeon and his IME, Dr. Carson. When he found out his application was to be denied, that's when he felt he needed counsel. That's when he I started securing all the documents supporting his request for disability retirement.

>> Matt Loesch: The only reason why I'm actually tentatively willing to proceed a little bit is because of the amount of time that's gone since the beginning of the application until now.

>> Yes.

>> Matt Loesch: Because very typically new stuff like this we send it back to the subcommittee so they can look at it. If it changes their recommendation in your client's favor that's beneficial to you. If it doesn't then we're back here where we are anyway.

>> I don't want to push anything that's going to cause you to just accept the recommendation of the committee. Because my client has been out of work unemployed, no disability coming in, no unemployment coming in. We're approaching you know over two years now. And financially, it's created a significant burden on he and his family. So if we do agree to postpone or put it back to the committee, and then revisit this, how long of a time period are we talking about?

>> Matt Loesch: Typically, I'd have to ask how quickly the subcommittee generally meets. My understanding it's regularly monthly.

>> Donna Busse: The subcommittee meets monthly. The board hears cases quarterly.

>> Matt Loesch: And so we hear this thing quarterly.

>> Donna Busse: There is an allowance for you to hear one.

>> Matt Loesch: We have heard cases out of the quarterly cycle and extenuating circumstances.

>> Could we request a special hearing for this?

>> Matt Loesch: What would we do? When is the next subcommittee? Sit between now and the next board meeting and is that practical?

>> Donna Busse: Yes, there is one between now and then.

>> Matt Loesch: Is it practical to get these documents to the relevant people so they can be back to the subcommittee so they can be back to us in the middle of September?

>> Donna Busse: Dr. Das will have to evaluate what he will need.

>> Matt Loesch: The third Thursday in September the most expeditious the board would act on this.

>> And then there is a statement on the record, by you Mr. Chair, that prior to that September 3rd meeting of the board, the subcommittee will have reviewed my documents and we can proceed from that standpoint, so if I --

>> Matt Loesch: There is an inquiry on the record of whether it can happen or not. It's the third Thursday of September, not the 3rd of September.

>> I'm sorry, I'm sorry, yes, the board meeting is the third Thursday of September. So prior to that board meeting I have an assurance that the committee will review the documents and be prepared to move forward on that date?

>> Donna Busse: No, you don't have an assurance. We have to get this information to Dr. Das. He'll have to tell us how much time he needs to review.

>> He's on the phone right now, Dr. Das?

>> Donna Busse: He doesn't have your documents.

>> Here again we're going back to the fact that if the board members would just -- just be so kind as to look at some of these documents you can see that these are all documents that are addressed to Dr. Das. And have been sent to him.

>> If I could jump in here.

>> Sure.

>> I understand that a lot of the disability process gets bottlenecked just by the fact that you have other applications, that Dr. Das has other things to do. And I'm just wondering if perhaps the board could give direction for Dr. Das to give this case priority. Given that it's been open for a while given the particular circumstances. Perhaps a request could be made that he be given, give this case priority, that the disability subcommittee give it priority. To consider the new information as soon as it can. And then if it can be brought back in September, great. If not, then October presumably. All this is just about due process, just about giving -- they've brought a bunch of material. They want you to consider it.

>> Russell Crosby: And just as a point of information it would be highly unusual for a staff member to tell a participant or anyone in this process, that they couldn't bring anything forward, they couldn't add anything to the package. Jennifer, there was an allegation made a minute ago. Would you like to address that?

>> Yes. That is in no way the case.

>> Russell Crosby: Thank you.

>> Well, Ms. Holmby, did my office contact you a month ago asking what we could provide to the board members?

>> Yes you did.

>> And did you or did you not that tell us that all we could do was bring witnesses to the board meeting and bring whatever documents we had to the board meeting.

>> I did not tell you not to bring any medical documents.

>> I'm not suggesting that. I'm saying isn't it true you said we could not submit anything prior to the board meeting for the board members to review.

>> That is not at all true.

>> And you know, look, at the end of the day, this is one of the reasons why you might want to defer it. I don't think there could be any complaint if you defer it, the board has, the subcommittee has time to consider this information. If Dr. Das has time to consider this information, they request make a recommendation to the board and then there will have been a full and fair opportunity for everybody involved. It may be two months later than we had hoped but just realistically it's hard to process this much information in a single day.

>> Donna Busse: And I also want to comment that the case, the committee heard it in January. But at the applicant's request, I'm not sure if it was the attorney's request it was deferred twice off your agenda.

>> Matt Loesch: Okay, okay. We're going to --

>> That was due to illness on my client's part. He was treating, he was receiving injections and so on. So --

>> Matt Loesch: So let's do this. Let's defer the matter. Let's have these documents submitted to the subcommittee and with the request that Dr. Das can expedite this as much as possible and we will endeavor to the extent possible to hear this in September out of cycle at the next board meeting presuming that the subcommittee can get through and make a recommendation to the board.

>> May I ask a point of classification?

>> Matt Loesch: Sure, please.

>> Dr. Carson initially examined my client and subsequently reexamined him most recently and has written six page reports which I've included for you to review. Where does his opinion fall in terms of Dr. Das's opinion? Because Dr. Das doesn't seem to agree with what Dr. Carson states. And his findings, as he found

clearly that my client was disabled as a result of the '03 and '04 work injuries that he sustained. So I'm just -- I'm just trying to figure out, you know, how do we -- how do we judge that? How do we deal with that? That inconsistency we have where Dr. Das doesn't agree with Dr. Son, Dr. Carson is your AME and is it incumbent upon my client to bring in other doctors? So that we have a preponderance of the evidence here? What is the standard that my client is -- what is his burden of proof here?

>> If I could answer that.

>> Thank you.

>> The disability statute, the municipal code section, says if the medical reports and other available evidence and information show to the satisfaction of the retirement board that the member is incapacitated for the performance of his duty and if such member is otherwise eligible to retire for disability, pursuant to the provisions of this part 10, the board shall forthwith retire him for disability. It is a rather broad, simple statement, but I think you can take a lot from that. The question is: Have you satisfied the board that you have met the standards. And like any other trial or evidentiary hearing, the board is going to consider the information that's before it.

>> So regardless of whether you have two disagreeing doctors on the -- who are working for the city in examining my client on behalf of the city, then it's incumbent upon us to bring in his treating physicians? Would that be appropriate at the next board meeting?

>> I would say it's incumbent upon you to introduce whatever evidence you think is relevant for the board's consideration. And you know consistent with the process the board has to make these decisions. And then the board takes the information in, and examines its discretion to determine whether or not your client is disabled. I mean, that's your decision to make, as the advocate of what information you would put before the board.

>> Absolutely. I just wanted to make sure since I wasn't clear obviously there's a discrepancies in terms of what I was allowed to do prior to the meeting. I guess I should have sent this packet ahead what, a month ahead of time so everybody could have reviewed it?

>> Matt Loesch: It would have been included in the rest of the packet we get to review as a supplement to that.

>> In terms of process I'm not as familiar to the disability process so I don't want to speak to that. But the process is governed by the way the board, the subcommittee's role and the board's policies with regard to this. I was talking about what I thought you were talking about was, evidence.

>> It was twofold it was burden of proof, right, and I know what the statute says. It is very broad, it is not very clear. I interpret that as a preponderance of the evidence. And then, secondly, procedurally, logistically, what is the best way to go on putting on our case.

>> Procedurally, I would defer to the board chair and staff because they are more familiar with the pro-process.

>> Matt Loesch: As you presented this, they will coordinate getting the paperwork to us. They will get it through the subcommittee and at that hearing you will be able to present your case. Whether it's the documents, if you bring in witnesses, however you want to present your case is how you do it.

>> All right fair enough.

>> Matt Loesch: They present those Docs to us and their opinion, their recommendation to us and we have either this same setup with Dr. Das present and or your witnesses and or documents.

>> Sorry to clarify. The committee will then review the documents I've submitted today. When do we get word on what their recommendation is if it's in fact changed?

>> Donna Busse: It will be done at the hearing. The hearing will be August 28th.

>> Should we be at the hearing to provide any answers to questions the committee may have?

>> Donna Busse: Yes. Yes.

>> Should we bring witnesses to that hearing?

>> Donna Busse: Yes, if you want.

>> If we desire. Okay, all right.

>> Is this assuming that your doctor --

>> Donna Busse: Assuming that Dr. Das can get it done.

>> Presumably if that's not possible before August 28th it will be moved to the next committee meeting?

>> Matt Loesch: Correct.

>> Dr. Das: Could --

>> Matt Loesch: Dr. Das quickly.

>> Dr. Das: Are these new medical records that she's submitting? Because I have quite a number of Dr. Carson's and Dr. Wall's reports in the packet already.

>> Matt Loesch: Why don't you look at them when they're submitted to you.

>> Dr. Das: Okay.

>> Matt Loesch: And you can communicate with them when they're submitted to you.

>> Donna Busse: If Dr. Das doesn't feel it's going to change his opinion, it might not go back to the committee.

>> I think we should -- under all the circumstances let your doctor process the information, let the committee make a recommendation and bring it back to the board.

>> Matt Loesch: That's what I agree. Thank you.

>> Thank you. Thank you for your consideration.

>> Matt Loesch: Okay. So we are due to go into closed session. So if you would get comfortable I have to read a few things into the record then we'll actually be in closed session. I'm not going to read all of these things but some of them. Item 4.1. Closed session, conference with legal counsel, litigation pursuant to government code section 54956.9 (a). And then 4.2 is Closed session, conference with legal counsel, existing litigation pursuant to government code section 45956.9(a) Four cases listed there. And Closed session, conference with legal counsel, pursuant to government code section 54956.9(c), deciding whether to initiate litigation, one case. And also 4.8, if we can coordinate this with the city attorney's office I believe they need to be present. Closed session, conference with legal counsel, existing litigation pursuant to government code section 54956.9 subsection (a). Is there someone in communication with the city attorney's office, because I believe they were requesting to be present, they were presenting something in that case, is that true? (inaudible).

>> Do you have a specific time you would like me to coordinate?

>> Matt Loesch: As soon as possible. So we'll reconvene in closed session and then we'll be back out. [Closed session]

>> Matt Loesch: Call back to order please. The closed session items, item 4.1, 4.2, 4.3, and 4.8, nothing to report out. We have subsequent items there. 4.4 and 4.4A, discussion and action on the city council ordinance regarding Federated City Employees' Health Care trust issues, discussion and action regarding the proposed transfer of employee contributions into the city's section 115 health care trust. This is kind of an ongoing issue with what do we want them to do with the employees; contribution. Police and Fire dealt with this last month, a couple of weeks ago as well. And I'd like to make this motion, that as trustees of the 115 trust and the 401 (h) trust we direct that, one, no money be contributed into the -- no employee money be contributed into the 115 trust until the full mechanics and legalities of the pre-imposed tax contributions impact of opt-in plans withdrawals and related plan aspects are fully resolved and 2 some at our September board meeting staff provide the trustees with a review of how members receive refunds of the 401 (h) contribution amounts when a member terminates before retirement. Do I have a second?

>> Second.

>> Matt Loesch: Okay, just wanted to have kind of parallel and be in line with what the P and F dealt with it. We thought it was prudent and good idea. Any other comments or questions on that? All those in favor? Aye, opposed, none. On item 6.5A, last remaining item outside of comments. Discussion and action regarding the scope, composition and duties of the ad hoc personnel committee. I put that on there just so we could be really clear what that committee is doing. So we give a little public briefing as to what the status of the ad hoc personnel meeting and meeting of the city and so forth. Presently that committee is authorized to meet with the city to try to resolve a process and to hire firms, to select firms for the CEO, CIO, and investment, retirement investment officer positions. And that's it right now. And so do you want to change that scope? Or is that the scope you'd like to retain, for that committee? That ad hoc committee?

>> That's fine.

>> Matt Loesch: So we're going to retain that that committee should not take any other committees. I want to be clear, we'll bring it back next month too. I want to keep this one somewhat amorphous, because towards the end of the year we're going to have to seat this committee permanently, and we've done some iterations on it. So we'll just keep it as kind of a standing item as it is. Really it's no changes, just a discussion of what the current status is of that committee and what it's authorized to do. Okay? So no action there really. Any future agenda items that we missed or need to add as a result of our discussion? Any public or retiree comments? We're adjourned.