AGENDA: 6-17-14 ITEM: 2.8



## Memorandum

TO:MAYOR & CITY COUNCIL

FROM: Councilmember Donald

Rocha

SUBJECT: FISCAL REFORM LEGAL

**SERVICES** 

**DATE:** June 13, 2014

Approved Don Roch Date 6/13/14

## **RECOMMENDATION**

Approve the staff recommendation with the understanding that my support of ongoing legal services is contingent upon the continued pursuit of a settlement with our employees over Measure B (Pension Modification).

## **BACKGROUND**

I am willing to continue to support the legal services necessary to facilitate the appeal process of Measure B, so long as settlement talks between the administration and our employees continue. I do not intend to support this appeal if settlement efforts do not prove fruitful.

It is standard practice to submit a corresponding notice of appeal when one party appeals a court ruling. As our employees have challenged the trial court's ruling, I am willing to support the City issuing a corresponding appeal, but only as a way to further talks of a settlement. Without filing a corresponding appeal, we will lose our opportunity and leverage to have conversations about a settlement with our employees.

What we have before us is a choice of the highest and best use of our taxpayers' dollars. Having strongly felt the impact to our employees and seen City service delivery suffer, I believe that the best path forward leads to a settlement and ending any and all litigation. The City has already achieved ongoing savings from the initial ruling, and I am not comfortable using San Jose, its residents, and their tax dollars as the vehicle to challenge the vested rights doctrine. Without making assumptions about the intentions of my colleagues, I would question anyone who believes we should continue to challenge and fight this battle in the courtroom, to identify the goal that they are working towards. Are we going to continue drag the  $10^{th}$  largest city in the country through legal quagmire, and if so – to what end?