

SENT VIA EMAIL

December 15, 2011

Jim Unland
President
San Jose Police Officers' Association
1151 North Fourth Street
San Jose, CA 95112

Robert Sapien, Jr.
President
San Jose Fire Fighters, IAFF, Local 230
425 E. Santa Clara Street, Suite 300
San Jose, CA 95113

RE: Response to the Unions' Letter of December 13

Dear Jim and Robert:

I write in response to your joint letter of December 13, 2011. Your letter appears to be premised on the view that the parties were not at impasse before they took part in mediation. However, pursuant to the ground rules established by the parties, impasse was automatic on October 31, 2011, absent agreement on or before that date, which is why state mediation was called in. The result of the mediation certainly confirms the conclusion that we were, in fact, at a point where the parties were at loggerheads.

That said, we are more than happy to discuss amending the existing ground rules to provide for the parties to return to the bargaining table to discuss the "positive changes" you cite in your letter that the City has made and any proposals you may wish to make that may lead to an agreement on the ballot measure.

Please recognize, however, that the last date for the City to introduce changes to the measure for the June ballot will be February 21, 2012. We therefore suggest that we meet next week.

If, after such a meeting or meetings, you desire additional impasse procedures on the ballot measure, we are happy to discuss approaches. However, at this time, the City is not inclined to agree to your mediation proposal. We believe that continued mediation with Paul Roose, State Mediation and Conciliation Service Supervisor, who is very familiar with San Jose and the issues at hand, provides the best opportunity for agreement on the terms of a ballot measure.

I enclose proposed amendments to the existing ground rules to accommodate additional negotiation and/or mediation.

Sincerely,



Alex Gurza
Deputy City Manager

c: Gina Donnelly, Deputy Director of Employee Relations
John Tennant, POA General Counsel
Gregg McLean Adam, Carroll, Burdick & McDonough LLP
Chris Platten, IAFF, Local 230 Legal Counsel

Enclosure

**AMENDED PLEDGE OF COOPERATION AND AGREEMENT UPON
A FRAMEWORK FOR RETIREMENT REFORM AND RELATED BALLOT MEASURE
NEGOTIATIONS**

CITY OF SAN JOSE

&

**SAN JOSE POLICE OFFICERS' ASSOCIATION
SAN JOSE FIRE FIGHTERS, IAFF, LOCAL 230**

1. The parties are fully committed to negotiating in good faith to reduce the costs of the Police and Fire Department Retirement Plan and to preserve critical City services and the employees who deliver those services.
2. The parties agree to negotiate concurrently on the issues of retirement reform and related ballot measure(s). Negotiation of retirement reform shall include pension and retiree healthcare benefits for current and future employees, including but not limited to: healthcare benefits; the Supplemental Retiree Benefit Reserve (SRBR); an opt-in program in which current employees could voluntarily choose to opt-out of the current level of pension benefits into a lower level of benefits; and other items as identified through the negotiations.
3. Although the negotiation sessions on retirement reform and related ballot measure(s) will not be public, all written proposals and correspondences exchanged will be made available to the public on the City's website.
4. Any party's relevant subject matter experts may attend negotiation sessions. By mutual agreement of the City and the Unions, other individuals may attend negotiation sessions.
5. It is understood that the parties shall each engage an actuary and work together to develop cost estimates. It is understood that the final costs of any changes shall be determined by the Police and Fire Department Retirement Board's actuary.
6. Estimated cost savings for any proposals during the negotiations shall be supported by facts and data.
7. The parties agree to meet and confer in good faith and agree to complete the negotiation process by October 31, 2011. If the parties are unable to reach an agreement on retirement reform and/or related ballot measure(s) by October 31, 2011, the parties shall proceed to impasse, pursuant to the procedures outlined in the Employer-Employee Relations Resolution No. 39367. In the event of impasse, the POA and IAFF, Local 230 will participate in the impasse procedures collectively. If the parties proceed to binding interest arbitration, in accordance with the applicable provisions under Charter Section 1111, it is understood that the POA and Local 230 will participate in these proceedings separately. Charter Section 1111 shall not apply to bargaining over ballot measures.

8. The parties agree that the Council may, pursuant to its constitutional authority, place charter amendments on the ballot regarding retirement at the conclusion of these negotiations and mediation.
9. It is understood that, by participating in these negotiations, neither party waives any legal rights, including the Unions' or an employee's rights to assert that certain benefits are vested.
10. At the request of the Unions, the parties shall engage in additional meet and confer regarding the ballot measure. The parties agree to complete this additional negotiation process by January 17, 2012. If the parties are unable to reach an agreement on the terms of the retirement ballot measure by January 17, 2012, the parties shall resume mediation. Mediation shall conclude on or before February 10, 2012.

FOR THE CITY

FOR THE UNIONS

Alex Gurza
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