

January 3, 2013

Charles D. Sakai
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*Via e-mail and
csakai@publiclawgroup.com
US Mail*

Re: IAFF Local 230 and City of San Jose
(Second Tier Pension Benefit Negotiations)

Dear Charles:

I was a bit surprised to receive your letter of January 2, 2013.

From our meeting on December 19, there were a number of issues left open for response by the City indicative of the failure of the parties to reach an impasse in negotiations in this matter.

For example, my notes reflect that the following issues remain open for determination.

1. Both parties were going to check to determine if in either party's view there was a charter limitation or other limitation on the ability of the parties to negotiate a specific amortization period for pension benefits. I have found none and have not yet heard from you on this issue.

2. Although you thought it was the case, you were going to check to determine whether deferred vested members of the current retirement plan would retain benefits in the plan if reemployed prospectively by the City. There has been some discussion in other quarters that the City's position would be that employees who left and later returned for reemployment would have all past service recalculated under a new second tier benefit system. We would like confirmation as to the City's position on this issue.

3. We discussed but did not receive absolute confirmation that actuarial gains would be distributed equally between employees in the City and the setting of rates for second tier participants since under the provisions advanced by the City the contributions would be split equally inclusive of normal cost prior service costs.

I also write to confirm that the City's proposal in this matter does not include a change in retiree medical benefits and that anything not specifically addressed by the proposal with respect to retirement benefits is not affected by the City's current proposal.

In addition to all the foregoing, at our meeting on the 19th I requested and you agreed to provide John Bartel's valuation and the assumptions he used in making that valuation with respect to the City's proposed second tier level benefits. Also, we requested copies of all documents submitted by the City for approval by the IRS of the proposed second tier plan.

This confirms that we named Robert Sapien as Local 230's panel member in the event interest arbitration is required. We also confirm that we will be sending you a list of names for consideration as a proposed neutral party in the event interest arbitration is needed, however, as I told you on the 19th, while I would try to get those names to you before my trial in Las Vegas next week, I am not sure I will be able to make that, given the trial preparation time constraints I am under. Nevertheless, as I did tell you on the 19th, I will be available to deal more concretely with this matter during the third and fourth weeks of January if you would like to set a date for meeting again.

Accordingly, efforts by the City to move forward with the petition to compel arbitration or a writ of mandate on that issue are unnecessary and premature.

I look forward to hearing from you in response to these requests for information.

Very truly yours,

WYLIE, McBRIDE,
PLATTEN & RENNER

/s/ Christopher E. Platten

CHRISTOPHER E. PLATTEN

CEP:jc

cc: Robert Sapien
Sean Kaldor