



# San Jose Fire Fighters • Local 230

425 E. Santa Clara Street, Suite 300, San Jose, CA 95113 • (408) 286-8718 • FAX (408) 286-2577

SENT BY EMAIL ONLY



December 5, 2011

Mayor and City Council  
City of San Jose  
200 E. Santa Clara Street  
San Jose, CA 95125

## RE: CALL FOR IMMEDIATE PENSION REFORM

Mayor and Council:

I write to urge you to reject calling for a fiscal emergency, to reject calling for a ballot measure election as proposed by Mayor Reed, and to urge you to provide direction for City staff to return to the bargaining table to negotiate immediate lawful pension reform. The call to discuss an unlawful ballot initiative will have no positive result, and is plainly a renewal of an anti-employee political agenda.

In 2007, the San Jose Police and Fire Retirement Plan (Plan) was funded at 112.4%. By 2010, the dramatic market changes that drove the nation into recession caused an erosion of assets that left the Plan funding level at 69.1%. The resulting unfunded liability (UAAL) drove an increase in retirement costs for both the City and its police officers and fire fighters. Making matters worse, in the same time period, the effects of the recession reduced City revenues 2.3%. All factors combined, City employees gave multiple pay and benefit concessions, and City services were dramatically reduced, with overall City staffing levels reduced by over 1,500 employees.

This broad stroke of history is likely not an area where there is great disagreement between employees and City leaders, nor is there disagreement that retirement reform is a necessary step in successfully navigating our City through the recession. Where we part company is at the grotesque vilification of employees who did nothing to cause the recession and the premise that the recession is an opportunity to attack employees. This extreme political agenda is spawned by big money interests from across state lines and has no place in San Jose.

As the sobering numbers arrived in recent budget years, the Council had to make difficult decisions, including reduction of vital services, employee layoffs, and pay reductions – as much as 18% in gross pay for some members of the Fire Department. Service and pay reductions allowed the City to balance annual budgets, and as was recently affirmed, drove down pension costs. However, the rhetoric of pension reform had yet to turn into meaningful discussions and negotiations with employees on how best to implement reform.

In 2010, standing upon the rising mountain of unfunded pension liability, the Mayor and Council took voters to the ballot box with measures V and W which did nothing to resolve these costs. As election day approached, city servants warned that neither measure would save the City any money and Measure V, carried by the anti-employee rhetoric, served only



to obstruct the ability to bring closure to negotiations. Precious time and resources consumed, post passage of measures V and W, no real pension reforms were in place and costs continued to rise. All the while the City moved to further reduce services citing rising pension costs. Loss of time equated to loss of opportunity as new employees continued to be hired under existing plan provisions.

On February 28, 2011, San Jose Fire Fighters, I.A.F.F Local 230 (Local 230) proposed to roll back maximum pension benefit accrual, in an "opt-in" plan, to the level in place from 1970. If the change had been adopted, for each participant, there would have been a 10% reduction in pension contributions. The City's response to the proposal was that the City was not ready to talk about pension reform. After multiple pleas from Local 230, the City finally agreed to its first negotiations meeting on June 20, 2011. After three wasted months, Fire Fighters came to the table again with intent to find agreement on effective pension reforms. Like the circumstances we found in 2010, the City's focus was not on collaborative problem solving negotiations, but rather the continued assault on collective bargaining rights through the ballot box.

Negotiations then, consisted of Local 230 jointly with San Jose Police Officers Association (SJPOA) working toward lawful, effective, cost-saving pension reforms, and the City, pushing various versions of unlawful ballot language across the table. Mayor Chuck Reed, in his memo dated, December 1, 2011, wrote "We have been negotiating with our 11 unions over the terms of a retirement reform ballot measure for nearly six months." Police Officers and Fire Fighters were there to negotiate over pension reform - not an unlawful ballot initiative.

For the police officers and firefighters, these divergent paths were underscored by the City's reaction to the Union's September 27, 2011 pension reform proposal. After a thorough study by expert actuaries, the Unions submitted a sound proposal that would have saved over \$250 million dollars over 5 years. Unfortunately, City staff in presenting the proposal to the council discredited the savings, dismissing the viability of the proposal.

In this dismissal, the City stated that the Union's proposal included several "known" gains but exclude many "unknown" changes. The Unions tried to explain in vain that their proposal would deliver both the short-term savings and long-term structural reform sought by City Council. The City adhered to its politically motivated forecast which included absolutely none of the changes that were 100% known at that time, and chose to walk away from guaranteed pension reform savings.

On December 1, 2011, at the Police & Fire Department Retirement Plan Board of Administration meeting, the Board's independent actuary presented a series of recommended assumption changes. These independent recommendations were based upon the Plan's experience over the past four years as well as its new investment strategy. The Board considered these changes, accepting them in full, while opting to accept the conservative discount rate that the City had earlier suggested. As compared to the earlier forecast, produced using the City's specifications, these adopted changes will reduce the City's pension costs next year from an exaggerated \$160 Million to a realistic \$105 Million - giving validation to the savings integrated into our previous offer.

After another six months wasted, the City began again projecting increased pension costs and another year of budget shortfalls. With the end of negotiations declared by the City,

Fire Fighters and Police Officers again submitted the offer to reduce benefits to levels first implemented in 1970. Two options are now on the table, a three-tier proposal that is likely to have high opt-in participation rates, and the 75% model with savings dependent on finding incentives to encourage participation.

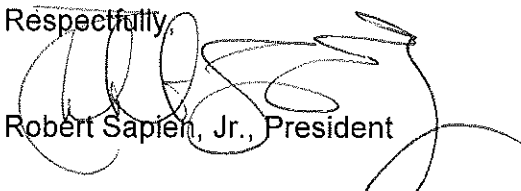
Unfortunately, the opportunity to find agreement on the proposal is fleeting. Tomorrow, you are considering a Declaration of Fiscal Emergency (Item 3.3) and a Ballot Initiative (Item 3.4). With negotiations at impasse, unless Council directs its own staff to return to negotiations without threat of an unlawful ballot measure, the labor groups will be forced to proceed to arbitration and prepare for legal challenge. The environment for finding an agreement on lawful, effective, and fair reforms becomes an impossibility. Months and perhaps years will be lost, and the brief relief in costs gained through unlawful actions will be squandered. You are compelling yourselves to years of legal wrangling and pension woes, forcing residents to suffer in the process.

There are three memorandums addressing items 3.3 and 3.4. Mentioned above, in the December 1, 2011 memo, Mayor Reed and four Councilmembers propose to continue to drive the strictly political agenda that has prevented agreement at the negotiating table. In a second memorandum from Mayor Reed, he seeks to reset the clock on the assault on employees proposing to coax Unions in negotiating a ballot initiative scheduled for a June election. In the third memo, Council members Pyle and Rocha in their December 2, 2011 letter offer to use available time to seek opportunity for agreement on reform. While there are components of the Pyle/Rocha memo that we do not agree with, their option offers some opportunity for achieving the necessary savings through negotiations.

The best strategy going forward is to direct staff to initiate true good faith bargaining over pension reform. An unlawful ballot initiative will force Unions to focus on campaigning against its passage, and to focus on protecting members' legal rights. Meanwhile, the City can provide no guarantee that those interests seeking to "challenge vested rights" will remain silent during negotiations.

Tomorrow will define the relationship between the City as an employer, employees, and the citizens of San Jose for many years to come. In a long and costly legal battle, only the attorneys win, with the citizens of San Jose and the employees footing the bill.

Respectfully,

  
Robert Sapien, Jr., President

C: Jim Unland, President – San Jose Police Officers Association  
San Jose Fire Fighters, Local 230 Membership  
Christopher E. Platten, Esq. – I.A.F.F., Local 230 Legal Counsel  
Cindy Chavez, Executive Officer – South Bay AFL-CIO Labor Council  
Lou Paulson, President – California Professional Fire Fighters  
Jim Ferguson, 10<sup>th</sup> District Vice-President, I.A.F.F.  
Harold Schaitberger, President – I.A.F.F.