

SENT VIA EMAIL

November 15, 2011

Dan Rodriguez
Business Agent
International Brotherhood of Electrical Workers, Local No. 332 (IBEW)
2125 Canoas Garden Avenue, Suite 100
San Jose, CA 95124

RE: Draft Proposed Ballot Measure Negotiations

Dear Dan:

We are in receipt of your letter dated November 10, 2011. The City respectfully disagrees with your assertions that the City has not bargained in good faith and that the City is intentionally foregoing the meet and confer process. In your letter you further indicate that "...*IBEW and the City of San Jose are not at impasse.*" We disagree. As we have indicated, the City formally declared impasse and/or waiver on October 31, 2011. This was reiterated in our letter to IBEW dated November 8, 2011.

For months now, the City has made abundantly clear its intent to place a measure on the ballot that would include various retirement changes covering new employees, current employees and current and future retirees. The terms of the proposed ballot measure were delineated in the memorandum dated May 13, 2011, that we provided you on June 3, 2011. The City provided you drafts of the proposed ballot measure on July 6th, September 9th, October 5th, October 20th and October 27th. For over four months, the City has been available, and has actively sought to meet and confer with IBEW regarding the draft ballot measure.

IBEW, on the other hand, has insisted that only when the meet and confer process was complete on non-charter retirement issues (which were being negotiated in a separate forum in which IBEW is part of a coalition), would IBEW be willing to meet with the City to discuss the proposed ballot measure. The City continued to offer to meet with IBEW to discuss the proposed ballot measure, emphasizing the timelines; IBEW continued to be non-responsive.

The City repeatedly relayed to IBEW that the retirement reforms contemplated by the City Council are designed to address a critical financial problem which, if not addressed in time for the coming fiscal year, will result in devastating cuts to public services and

loss of jobs. For that reason, the City Council has determined that the retirement measure will be considered by the voters at a special election in early March 2012. Based on state and local election laws, the measure must be finalized and submitted approximately 90 days before the election. This required the meet and confer process to be completed by the end of October and any impasse procedures requested to be completed in early November. This is a firm deadline given the urgency of the measure and the planned special election timelines.

Despite our continuous efforts to meet with IBEW to discuss the ballot measure, to date the City and IBEW only met once, on October 11, 2011, to discuss the ballot measure. Furthermore, IBEW has not provided a single comment or counterproposal on the substance of the proposed ballot measure.

In our letter dated October 31, 2011, the City extended IBEW an opportunity to participate in mediation. IBEW did not accept the offer. The City extended the invitation to participate in mediation again on November 3, 2011 and November 7, 2011, and IBEW failed to respond to these invitations. Since IBEW failed to provide an affirmative response on whether IBEW would participate in mediation the City notified IBEW on November 8, 2011, that the meet and confer process regarding the proposed ballot measure is now concluded.

In your letter of November 10, 2011, you indicate that although the parties are not at impasse, IBEW agrees to now participate in the mediation process and you request that the City provide some dates and IBEW will do its best to make itself available. Unfortunately, IBEW did not take advantage of the opportunities that the City extended to participate in mediation. Since IBEW failed to respond when the opportunities for mediation were extended, IBEW has waived its right to meet and confer over the proposed ballot measure. Furthermore, the meet and confer process regarding the proposed ballot measure is now concluded.

Sincerely,



Gina Donnelly
Deputy Director of Employee Relations

c: Alex Gurza, Deputy City Manager