



1150 North First Street, Suite 101
San Jose, CA 95112

November 15, 2011

VIA EMAIL & HAND DELIVERY

Gina Donnelly, Deputy Director
CITY OF SAN JOSE
Office of Employee Relations
200 East Santa Clara Street
San Jose, CA 95113

RE: Draft Proposed Ballot Measure

Dear Gina:

Despite the acknowledgement by the City team that substantive discussion would occur in negotiating over retirement issues, and also the comments that were made previously across the bargaining table that the October 31, "immutable deadline" was not actually a firm one and in reality negotiations would be permissible throughout November, as well as the parties' agreement to table ballot-measure bargaining pending bargaining over substantive matters, AFSCME CEO and MEF now find ourselves in receipt of a November 8 letter stating that we have not accepted the City's invitation to participate in mediation, and that the meet and confer process regarding the proposed ballot measure is now concluded.

In addition to the most recent letter, you had sent us a letter on November 3 purporting to infer that AFSCME waives its right to meet and confer or is at impasse. Yet the positive comments at a recent retirement negotiation session on November 2, we were informed that in these negotiations both sides were close regarding new employee, tier-2. We fail to see how we are at impasse for the ballot measure meet and confer, or why the City should rescind our initial agreement to table ballot-measure bargaining.

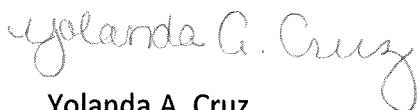
We have never waived our right to meet and confer over the ballot measure proposal. In fact, we responded to the letter sent by the City in an email communication (see attachment 1). In this email response on November 3, AFSCME-MEF President Yolanda Cruz informed you that

"AFSCME does not waive its right to negotiate. Please set up a meeting." To date, there has been no response other than the November 8 letter.

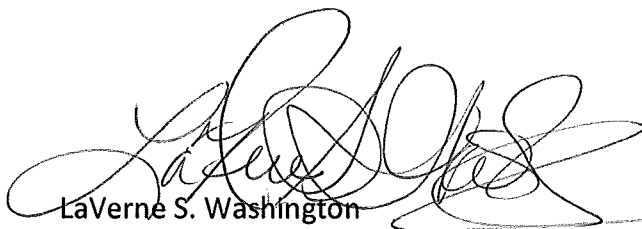
As was the case in prior negotiations, we have been frustrated by the City's lack of willingness to engage in productive, good faith negotiations to address the important issues at hand. While the City ballot-related proposals are laced with threats to workers, and movement is minimal at best, in our negotiations to date, the City workers have given up pay and benefits that save the City over \$340 million over the next four years and have already offered one retirement solution that will save nearly half a billion dollars. We will be negotiating again over retirement today, November 15, 2011 with the other unions in the non-management, rank-and-file coalition and will be making a comprehensive proposal that seeks to meet the needs of all parties. To move forward now with the ballot measure when the negotiations are at their most critical, would be indicative of a failure to bargain in good faith, and any measure placed on the ballot would be void as unbargained with respect to AFSCME.

We continue with our attempts to come to an agreement concerning the retirement issue. The non-management, rank-and-file unions believe the proposal we will be passing meets the needs of the City as well as protects our members. We believe that our desire to share this proposal with you illustrates our willingness to bargain in good faith, and further underscores that in no way are we waiving of our right to meet and confer. It shows that we are not at impasse and is in keeping with us seeking agreement concerning retirement prior to discussing any proposed ballot measures. We anticipate that our time allotted on November 15 will prove beneficial and that we can finally approach an agreement concerning retirement.

Sincerely,



Yolanda A. Cruz
AFSCME-MEF



LaVerne S. Washington
AFSCME-CEO

Cc: Charles E. Allen, Business Agent, AFSCME
Teague P. Paterson, Beeson Tayer & Bodine

ATTACHMENT 1

RE: Letter to CEO and MEF

Cruz, Yolanda [Yolanda.Cruz@sjlibrary.org]

Sent: Thu 11/3/2011 4:58 PM

To: Rodriguez, Aracely; Washington, LaVerne; Charles Allen

Cc: Gurza, Alex; Donnelly, Gina; Schembri, Jennifer; JHoltzman@publiclawgroup.com

AFSCME does not waive its right to negotiate. Please set up a meeting.

Yolanda

From: Rodriguez, Aracely

Sent: Thursday, November 03, 2011 3:19 PM

To: Cruz, Yolanda; Washington, LaVerne; 'Charles Allen'

Cc: Gurza, Alex; Donnelly, Gina; Schembri, Jennifer; JHoltzman@publiclawgroup.com

Subject: Letter to CEO and MEF

Hi –

Please see attached.

Thanks,
Aracely

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