San Jose Fire Fighters • Local 230

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May 17, 2011

Honorable Mayor and City Council
City of San Jose
200 East Santa Clara Street
San Jose, CA 95113

RE: City Manager's 5-year Fiscal Reform Plan
05-24-2011 City Council Meeting
Agenda Item 3.4

Dear Mayor and Council,

San Jose Fire Fighters have demonstrated our willingness to work with the City toward reasonable solutions to the fiscal reality we collectively face. Our recent contract validates this willingness and as such we were disappointed and surprised by many of the elements contained within the Manager's 61-page plan.

There has been no change in circumstances since January 25, 2011 when the council unanimously directed City Administration to work with the bargaining units on reforming our retirement system to save city services. The same charts, graphs, financial projections and data that are included in the Manager's May 2, 2011 Memorandum are the same charts, graphs, financial projections and data from the January 25, 2011 City Council Meeting. What has changed?

Prior to, and after, January 25, 2011, San Jose Firefighters, Local 230 has been ready and willing to discuss pension reform. Both during bargaining and after, and we were rebuffed. We were told that the city was not ready to have these discussions. In fact, as recently as April 14, 2011 we sent a letter to Alex Gurza reiterating our willingness to begin work on pension reform with the City, only to be rebuffed yet again in a letter from Mr. Gurza on April 15, 2011.

In short, what the Manager is asking the Mayor and Council to do is to dramatically change Council direction without adequate actuarial analysis of the impacts of any proposed change to the retirement plan formulas, without the disclosure and or use of up to date data as to the current funding status of the police and fire retirement plan, without clearly articulating the legal pitfalls from unilaterally taking constitutionally protected vested retirement benefits, and without a single discussion with our bargaining unit to try and find common ground.

I cannot reason how can this be justified.

We agree that these are challenging times that require sacrifice and a new direction, but we question this change of direction without adequate analysis and without answers to some very crucial questions. At a minimum the Council should be seeking answers from the City Manager to the following questions before considering her plan:

- Where in the Manager's 5-year plan, as it pertains to retirement benefits, are the actual savings amounts broken down by each specific recommendation?

- What actuary was used to determine any projected savings and what assumptions were used?
- What do the various suggested retirement formulas actually buy and how much will they save (ie what will the benefit look like)?
- Where is the supporting documentation that justifies the projected retirement costs for all funds as depicted on Page 8 of 16?
- Why don't these projections include the pre-payment discount as described below this chart on Page 8 of 16?
- Why don't these projections on Page 8 of 16 include the actual City cost after several bargaining units paid a portion of the City costs for FY 10-11?
- What are the general fund projected retirement costs for the years depicted in the chart on Page 8 of 16 broken out by fiscal year?
- On Page 34 the City Manager re-states 15 guiding principles adopted by the City Council. Why isn't one of the principles to honor the legal promises the City has made?
- On Page 35 Principle l: Has there been material spiking? Since the plans exclude overtime, what is the source of the spiking? If it is due to promotions, who controls promotions? What is the magnitude? Isn't this built into the salary increase assumptions used by the plan's actuary? Is this really just an excuse to lower the cost by extending the averaging period for final salary? On page 46 you talk about spiking again. Other than lengthening the averaging period, how would this be prohibited? We assume the word "prohibit" is not an exact term since I assume you are not suggesting something like - no promotions after the age of 55 as that would be discriminatory based on age.
- On Page 37 there is a focus on using a 6.75% (50/50) assumption and having based your cost or savings on this assumption. This raises several questions:

We would like to see the input to the model that produces the 6.75% 50/50 result and the 7.75% 25/75 result (e.g. expected returns by investment class). Who controls the assumptions used for the both Plans' CARFs? Is it the Boards of Trustees? Is the City responsible for the ARC (and the assumptions it is based on) in the City's CAFR? Is this any different now than in the past? We would like to confirm that until the last few years, the City was supportive of the investment assumptions but now believes that the market has changed and the return expectations need to drop faster than the Board of Trustees have dropped the rate and that you believe the City should not pay for any of the impact of the change in expected future returns. Do you agree?

- If the 6.75% rate is still "overly optimistic" who is responsible for paying for a further lowering of the assumption if lowering the rate is the direction of the Trustees?

- Also on Page 37 there is a comment that some have raised questions about why retirees get a 3% increase even when the plan is in trouble and employees are getting pay cuts. Would the City prefer a pay-based indexation or Social Security (CPI) based indexation for retirees? Wouldn't the same argument apply to other taxpayers getting Social Security indexation even though Social Security is much more poorly funded than the pension plan?

- On Page 40 we do not understand the table: Retiree Healthcare (OPEB) Unfunded Liability As of June 30, 2010. How can a plan be 7% funded with $0.72 billion in unfunded liabilities based on Market Value (of assets) and 6% funded with $0.71 billion in unfunded liabilities based on Actuarial Value (of assets)?

- Has there been any legal guidance provided on how the Retiree Health Care benefits might be amended or legal restrictions? Why now? Is there anything different now vs. 10 years ago?

- On Page 43 we just want to be clear that the Manager now wants the City to pay (for new hires) no more than the 6.2% rate that private sector employers pay to Social Security. Please confirm that this is a complete reversal from what was told to the City Council on January 25, 2011.

- Further on page 43 there is a reference to a "401k or 457 in the public sector". Are we correct that the 401k reference should really be to a 401(a) defined contribution plan? Is a 401(k) plan possible for all City employees (since generally public sector employers cannot adopt a 401(k) plan)? The City has suggested that if a tier 2 defined benefit plan is adopted that future unfunded liabilities be shared equally. Isn't this just an illusion as such a concept would not be robust enough to surviving difficult times?

- On pages 44-45 and 48-50 we would appreciate knowing who created these numbers? Assuming it was an actuary, we would like to see the details and know who the actuary is. We would like to see details including those described in ASOP41 (Actuarial Standards of Practice 41 regarding Actuarial Communications) and understand all of the benefits valued (including disability benefits) and all of the decrements used. Do the responsible actuary and you believe that the assumptions used in these charts are reasonable?

- On page 45 (bottom) it says guaranteed annual increases (COLAs) would be eliminated. How would this be equitable if there is no Social Security safety net?

- Page 46 Please explain how to create a "risk free" defined benefit plan? Are you talking about buying annuities?

- On page 48 – 50 please confirm that to "pay for" the lowering of the interest rate from 7.75% to 6.75% you are proposing to lower future benefit accruals. Said differently, is the City trying to reduce it risk by having the employees pay for it?

We apologize for the lengthy list of questions, but the sheer size of the Manager's plan/proposal necessitates it. Understand that these are just some of the questions that we feel should be answered so that we are all dealing with the same set of facts and data as we make decisions on how to best move forward together.

- It is apparent that many of these questions could have already been answered if we had been taken up on our offer to start discussions on retirement reform many months ago. It appears that there is a rush to do something as fast as possible as opposed to a deliberate, legal, and collaborative approach that we believe will yield the necessary results to protect city services. That's unfortunate.

It is our hope that the Council will not change the retirement reform direction from January 25, 2011 and begin the promised dialogue with our bargaining unit as soon as possible.

Respectfully,

Robert Sapien, Jr., President
San Jose Fire Fighters, IAFF Local 230