

**CITY COUNCIL OF THE
CITY OF SAN JOSÉ**

OPEN SESSION

June 17, 2010

June 15th Council Meeting – 2:00 PM

Last, Best and Final Offer

AEA, AMSP, CAMP, IBEW, and OE#3

Pay Reduction	3.90% - 4.70%
Step Increases (OE#3 & IBEW)	Frozen FY 10/11
Health Insurance	85/15 Split
	\$25 Co-Pay Plan Elimination of dual coverage
Health In Lieu	Cap at 2009 rates Reduction in dual coverage
Disability Leave Supplement	Reduce to 6 Months
Sick Leave Payout	Phased in reduction for current employees (Delay payment of payouts to January 2011) Alternate benefit for new hires
Retirement Cost Mitigation	Begin negotiations 15 days from City notice
Overtime (OE#3 & IBEW)	Clarification on overtime over 40 hours
Additional Retirement Contributions	7.5% of pensionable compensation (one-time)

June 15, 2010

11:51 AM

- Received email from bargaining unit representative that included a proposal for a 10% total compensation reduction

Re: 10% TOTAL COMPENSATION OFFER

Dear Mr. Gurza,

In an effort to save city services and bring our respective contracts to a close, the bargaining units of CAMP, AEA, IBEW, AMSP, OE3 and ABMEI wish to provide a new offer to the City of San Jose:

Employees of the above mentioned bargaining units will make an additional pension contribution equal to 10% of total compensation for each respective bargaining unit.

This proposal would substitute all previous offers from the above mentioned bargaining units.

We understand that time is of the essence. As such, we are prepared to meet – whether in person or telephonically as soon as possible to finalize these discussions.

**CAMP
AEA
IBEW
OE3
ABMEI
AMSP**

June 15, 2010

- Adjourned into Closed Session to discuss and consider proposal
- Recessed Open Session Council Meeting to meet with AEA, AMSP, CAMP, IBEW & OE#3
 - Expressed appreciation for the proposal
 - Informed unions that City could not accept it
- Reconvened Open Session at approximately 4:00 PM
 - Bargaining units requested deferral

June 15th Public Comment

“...I draw your attention to the City’s own Last, Best and Final Offer that they gave this unit. In the event the additional retirement contribution cannot be implemented or is ceased for any reason, employees would instead have their base pay reduced by the equivalent amount of 5% total compensation.Your telling us legally you don’t know if you can do it. Your own language has given you an out for it.”

Nancy Ostrowski

IFPTE Senior Representative

June 15th Council Meeting

- Council direction to defer Council Agenda Items for 48 hours
 - Ask questions and seek better understanding of proposal
 - Get answers to legal questions
 - Obtain agreement from union that they waive impasse procedures if City declines proposal

June 15, 2010

The [Union name] requests the City consider the attached new proposal for a successor memorandum of agreement dated June 15, 2010. The [Union name] waives any impasse procedure, including but not limited to further mediation, if the City rejects this new proposal and in that event, the [Union name] expressly agrees that a state of impasse continues to exist between the Union and the City over the terms of a successor memorandum of agreement.

Cay Denise MacKenzie, CAMSP/IFPTE Local 21 President

Jon Mukher, AEA/IFPTE L21 President

Phyllis Schuly AMSP Vice President

St Ventura IBEW 332

Walter H. [Signature] OEE3

Meeting with Bargaining Units

- Meeting scheduled with unions at 1:30 PM on Wednesday, June 16th
 - Approximately 2.5 hours
 - New proposal provided

18 Attendees	
AEA	IBEW
AMSP	OE#3
ABMEI	CAMP
Chris Platten	Joe Guerra
Tom Saggau	

New Proposal

Additional Retirement Contributions

Bargaining Unit	Proposed Additional Retirement Contributions
AEA	14.21%
AMSP	14.48%
CAMP	14.23%
IBEW	14.34%
OE#3	15.02%

Note: Contributions above do not include the 10.30% retirement contribution rate required for employees for FY 10-11

Unions' Proposed Contribution Rate

Federated City Employees' Retirement System (Fiscal Year 2010-2011)			
	City	Employee	Total
Current Contribution Rate	29.59%	10.30%	39.89%
Contribution Rates with Additional Employee Contributions	14.59%	25.30%	39.89%

Key Issues

- City Charter
 - Contributions shall not exceed ratio of 8:3 for Normal Cost

	Cost Split	Source
“Normal” Cost	8:3 (City/Employee)	City Charter
Unfunded Pension Liability	100% (City)	San Jose Municipal Code

City Charter Provision

- **Section 1505**

Contributions required to be made by officers and employees of the City...to any retirement fund, system or plan for or because of current service or current service benefits of or for such officers or employees, in relation to and as compared with contributions made by the City for such purpose, **shall not exceed the ratio of three (3) for such officers and employees to eight (8) for the City.**

- **Section 701**

The City Manager shall be responsible for the faithful execution of all laws, provisions of this Charter, and acts of the Council which are subject to enforcement by the City Manager or by officers who are under the City Manager's direction and supervision.

Key Issues (cont'd)

- Potential Legal Issues
 - Union's proposal includes a provision contrary to City Charter
- Unions believe that requirements of City Charter can be waived
- Unions' proposal includes reopener in-lieu of contingency provision
 - Start bargaining over again on how to achieve 10% reduction in total compensation
 - May not realize savings for FY 10-11
 - City proposal contained contingency language to ensure savings realized for FY 10-11

Summary of Issues

- Major Issues
 - City Charter
 - No contingency that guarantees savings
- Other Considerations
 - Base Pay remains unchanged
 - No Sick Leave Payout or Disability Leave changes
 - No healthcare cost containment
 - No retirement cost mitigation reopener

Factors in Evaluating Options to Achieve 10% Total Compensation Reduction

1. Ability to achieve anticipated savings
2. Service level impacts
3. Potential legal risks
4. Retirement fund impacts
5. Implementation/Administration Issues

City's Offer

City's Last, Best and Final Offer

AEA, AMSP, CAMP, IBEW, and OE#3

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City's Offer

- Achieves 10% reduction in total compensation
 - Reduction in base pay
 - Healthcare Cost Containment
 - Increased employee contributions to the retirement plan to offset City contributions
 - Does not impact “normal cost” sharing in the City Charter
 - Automatic contingency plan to ensure the City can receive the equivalent amount of savings
 - Limits risk since not 100% of the 10% total compensation reduction is dependent on this one item
 - Only one-time

Recommendation

- Approve terms of City's Offer for AEA, AMSP, CAMP, IBEW, and OE#3
- Direct staff to continue to research legal, Charter and labor relations issues related to City's flexibility to change cost sharing of the normal cost of retirement benefits on an ongoing basis
- If circumstances change, direct staff to resume negotiations that could result in a change to the terms that have been implemented
- Direct staff to accept and evaluate any proposals and requests to resume negotiations received by bargaining units

Discussion/Questions