



Memorandum

TO: Rules Committee

FROM: Councilmember
Donald Rocha

SUBJECT: Rules Committee Agenda Item A. 1.

DATE: May 18, 2011

Approved

Date

5/18/11

RECOMMENDATION

Fundamentally I support the need for fiscal reform in order to maintain our services and establish a fiscally sound government in the City of San Jose. The recommended direction below is important for consideration prior to making a decision of such significance as proposed in the memorandum from Mayor Reed, Vice Mayor Nguyen, and Councilmembers Liccardo and Herrera for consideration at the City Council meeting on May 24, 2011 (Item 3.4). I recommend that the City Attorney be directed to:

1. Provide for Mayor and Council consideration in closed session on Tuesday, May 24, 2011 a legal analysis and assessment of legal risk for the specific recommendations contained in the aforementioned memorandum.
2. Provide for Mayor and Council consideration in open session on Tuesday, May 24, 2011:
 - A. An assessment of the workload impact and staff capacity issues that could potentially be created for the City Attorney's Office by a legal challenge to a successful ballot initiative.
 - B. A description of what it means to declare a "fiscal emergency" and "public safety emergency," and an analysis of whether that designation could have implications for the City in terms of increased State oversight, audit of past, current or future expenditures, impact on bond rating, or any other potential impacts.
3. If the City Attorney feels that the above direction cannot be provided for consideration in time for the May 24, 2011 Council date, it is recommended that the item be deferred to the next immediate Council meeting or until staff is prepared and has completed the analysis contained in this memorandum.

I understand that the legal costs, even in the worst case scenario, would pale in comparison to the annual retirement costs and unfunded pension liability as projected by our City Manager and Retirement Director. However, I feel the above analysis will provide important data points that should be available to the Mayor and City Council, as well as the public, as they consider, comment, or vote on the proposed recommendations.