

SENT VIA EMAIL

October 31, 2011

Tom Brim
President
Association of Building, Mechanical and Electrical Inspectors (ABMEI)
c/o PBCE Department
200 East Santa Clara Street
San Jose, CA 95113

RE: Draft Proposed Ballot Measure

Dear Tom:

On June 3, 2011, the City notified you of its intent to place a measure on the ballot that would include various proposed changes to the Charter regarding retirement benefits for 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. Since June 2011, the City has been available to meet and confer with ABMEI regarding any changes to the draft proposed ballot measure.

On July 20, 2011, you requested to meet with the City regarding the proposed ballot measure, but indicated that you were in the process of having your attorney review the documents we sent you on July 19, 2011, and would get back to us when you were available to meet. The City responded within 32 minutes and requested that you provide your availability as quickly as possible due to the time sensitivity of this issue. No response was provided.

The City followed up with ABMEI again on July 27, 2011, and requested that you provide your availability on or before August 1st, if ABMEI intended to meet with the City regarding the draft proposed ballot measure. On August 1, 2011, ABMEI responded and indicated that ABMEI would "not talk about the Ballot Initiative until after we talk about retirement issues."

On August 5, 2011, the City responded and notified you that the City has a duty to provide notice of an intention to place a matter on the ballot that falls within the scope of bargaining,

and provide the opportunity for you to meet and confer. On September 10, 2011, ABMEI requested a meeting to discuss the proposed ballot measure and indicated that "the earliest we can meet is the week of September 19..." The City responded and offered to meet on September 19th and September 22nd. The parties agreed to meet on September 22nd.

During the meeting of September 22nd, the City was notified that ABMEI remains unwilling to negotiate regarding the ballot initiative until and unless the other retirement issues have been resolved. The meeting then concluded. The City remained available to meet with ABMEI regarding the proposed ballot measure, but ABMEI was non-responsive. To date, ABMEI has made no proposals regarding the proposed ballot measure

As we have repeatedly noted, 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 requires 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 an immutable deadline given the urgency of the measure and the planned special election timelines.

Based on the above, it appears that ABMEI has waived its right to meet and confer over the proposed ballot measure. Even so, the City is amenable to participating in mediation. The City intends to schedule mediation sessions utilizing the State Mediation and Conciliation Service for November 1, 2011 through November 14, 2011. If ABMEI wishes to participate in mediation, please notify me no later than Thursday, November 3rd by 5:00 p.m. and provide your availability for mediation during the dates referenced above. If you fail to do so, we will assume that you intend to waive mediation as well.

Sincerely,



Gina Donnelly
Deputy Director of Employee Relations

c: Alex Gurza, Deputy City Manager