

SENT VIA EMAIL

October 31, 2011

Dan Rodriguez
Business Agent
International Brotherhood of Electrical Workers, Local No. 332 (IBEW)
2125 Canoas Garden Avenue, Suite 100
San Jose, CA 95124

RE: Draft Proposed Ballot Measure Negotiations

Dear Dan:

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 IBEW regarding any changes to the draft proposed ballot measure.

IBEW sent a letter to the City on July 25, 2011, indicating that once the meet and confer process was complete on non-charter retirement issues (which are separate from the proposed ballot measure), IBEW would be happy to meet with the City to discuss the proposed ballot measure. The City continued to offer to meet with IBEW to discuss the proposed ballot measure, however IBEW was non-responsive.

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.

On September 27, 2011, IBEW sent a letter indicating it was available to meet with the City to discuss the proposed ballot measure. The City responded and offered to meet with IBEW on October 5, 2011. In addition, the City requested that IBEW provide its availability through October 31, 2011. IBEW failed to respond.

Despite our continuous efforts to meet with IBEW to discuss the ballot measure, the City and IBEW met only once, on October 11, 2011, to discuss the ballot measure. During our meeting on October 11th, the parties mutually agreed to meet on October 19th and October 26th. On the morning of October 19th, 2011, IBEW emailed the City and indicated that it would not be available to attend the session scheduled for the afternoon and requested additional dates. The City responded within eleven (11) minutes and proposed two additional dates, October 20th and 21st. IBEW responded and indicated that it was not available during the rest of the week of October 17th.

On October 25, 2011, IBEW sent an email cancelling the session scheduled for October 26th and offered to meet on October 28th and October 31st. On October 26, 2011, the City sent a letter to IBEW and reiterated that little time was left for these negotiations in light of the need to place the measure on the ballot in time for a March 2012 election. The City agreed to meet with IBEW on October 28th and October 31st. IBEW did not attend either session, nor did you notify the City of your intent to cancel these meetings. To date, IBEW has made no proposals regarding the proposed ballot measure.

Based on the above, it appears that IBEW 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 IBEW 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