

SENT VIA EMAIL

April 26, 2012

Yolanda Cruz
President
Municipal Employees' Federation, AFSCME Local 101
c/o Library Department
150 E. San Fernando Street
San Jose, CA 95112

LaVerne Washington
President
Confidential Employees' Organization, AFSCME Local 101
c/o City Attorney's Office
200 East Santa Clara Street
San Jose, CA 95113

RE: Last, Best, and Final Offer

Dear Yolanda and LaVerne:

We are in receipt of AFSCME's response to the City's Last, Best, and Final Offer, dated April 20, 2012. The City does not agree with several of AFSCME's assertions and is compelled to address those issues along with responding to AFSCME's question regarding fact finding.

In your letter, you assert that of the eleven (11) bargaining sessions and seven (7) mediation sessions a "majority were spent discussing the City's ballot measure." To the contrary, the City and a coalition of five bargaining units, including AFSCME, met to negotiate retirement reform, outside of the ballot measure; specifically, on July 29th, August 23rd, September 7th, September 27th, October 12th, October 26th and November 15th, 2011. The specific issues included pension and retiree healthcare benefits for Tier 2 new employees, healthcare, retirement service credit and Supplemental Retiree Benefit Reserve (SRBR). At the insistence of AFSCME and the other bargaining units in this coalition, negotiation obligations regarding the ballot measure were separate from the retirement reform coalition negotiations and were addressed on an individual basis with each bargaining unit.

Furthermore, this assertion appears to be contrary to your letter dated November 2, 2011, in which you asserted that, "What we in fact agreed to do, however, was to table discussion on the ballot measure..[.]" Thus, it is unclear as to how these assertions could both be accurate.

In regards to AFSCME's desire for fact finding, the legislative changes regarding this additional step in the impasse procedures did not become effective until January 1, 2012, well after the City's declaration of impasse on November 17, 2011, and the conclusion of the initial mediation on November 22, 2011. In addition, regulations adopted by the Public Employment Relations Board (PERB) which, if applicable to negotiations/mediations concluded prior to 2012-which they are not-require that requests for fact finding be filed not more than 45 days following the appointment of a mediator. Here, AFSCME's request for fact finding appears to be approximately five (5) months after the State's appointment of a mediator.

Sincerely,



Gina Donnelly
Deputy Director of Employee Relations

c: Alex Gurza, Deputy City Manager
Charles Allen, Business Agent, AFSCME