

SENT VIA EMAIL

September 20, 2011

Yolanda Cruz
President
Municipal Employees' Federation (MEF),
AFSCME Local 101

LaVerne Washington
President
Confidential Employees' Organization (CEO),
AFSCME Local 101

Tom Brim
President
Association of Building, Mechanical and
Electrical Inspectors (ABMEI)

William H. Pope
Business Representative
International Union of Operating Engineers,
Local No. 3 (OE#3)

Dan Rodriguez
Business Agent
International Brotherhood of Electrical
Workers, Local No. 332 (IBEW)

RE: Letter Dated August 31, 2011

Dear Bargaining Unit Representatives:

We are writing in response to your letter dated August 31, 2011, which attached a letter from the Legislative Counsel Bureau. We have sent to you in a separate letter the City Attorney's Office response to the Legislative Counsel Bureau.

We also wanted to address a statement in your August 31, 2011, letter. In this letter, you stated, "As you are aware, we have made substantive proposals to address unfunded pension liabilities, including the development of a 2nd tier for new employees, a cap on total pension payouts, and triggers to increase contribution rates and eliminate some COLA's should funding fall below 75%. These proposals will greatly reduce the volatility of the pension funding going forward, and offers a **shared sacrifice** (emphasis added) to ensure a healthy pension plan."

It is our understanding that your proposals listed above would apply to new employees only and that none would affect current employees. Therefore, while appreciated, we are unclear as to how your proposals for new hires address the existing unfunded liabilities and how they result in a shared sacrifice. We ask that you please discuss this at the bargaining table.

Sincerely,



Alex Gurza
Deputy City Manager

c: Gina Donnelly, Deputy Director of Employee Relations

ASSOCIATION OF BUILDING,
MECHANICAL AND ELECTRICAL
INSPECTORS (ABMEI)



August 31, 2011

VIA EMAIL & HAND DELIVERY

Honorable Mayor and City Council
200 E. Santa Clara Street
San Jose, CA 95113

Dear Mayor Reed and Council Members:

On August 10, 2011, the Legislative Counsel Bureau issued an opinion clearly stating that the City of San Jose does not have the authority to declare a Fiscal and Public Safety Emergency due to ongoing budget shortfalls. It further stated that charter amendments to limit retirement benefits for current city employees and retirees – as proposed in the July 5, 2011 draft proposed ballot measure - would clearly violate the California and United States Constitutions. This follows a similar opinion released by the State Attorney General's office highlighting the legal weakness of the proposed State of Emergency.

Given the overwhelming evidence that the City of San Jose lacks the legal authority to enact a State of Emergency and pension measures as proposed, we request that you officially withdraw these proposals.

We all recognize the budget challenges facing the City of San Jose, and are united in our commitment to addressing these issues in a constructive, fair, open and legal manner. Our goal is to develop solutions to the budgetary problems facing the city, while simultaneously maintaining vital city services and protecting the rights of the city workforce. As you are aware, we have made substantive proposals to address unfunded pension liabilities, including the development of a 2nd tier for new employees, a cap on total pension payouts, and triggers to increase contribution rates and eliminate some COLA's should funding fall below 75%. These proposals will greatly reduce the volatility of pension funding going forward, and offers a shared sacrifice to ensure a healthy pension plan.

Continued efforts to advocate for proposals that clearly violate the California and United States Constitutions is at best a distraction to developing real and realistic solutions to the budget difficulties, and at worst will result in delay, increased antagonism with your workforce, and costly

legal fights at the taxpayers expense. To date, the Legislative Council Bureau has stated your proposals are unconstitutional, the State Attorney General's office has indicated similar concerns, and CalPERS has recently issued a report highlighting the legal protections to which current workers and retirees are entitled. The only legal argument supporting the City proposals comes from a law journal article authored by the same firm currently under contract with the City to conduct labor negotiations.

Should you continue with your advocacy for these suspect proposals, we believe city workers and all San Jose residents deserve an explanation clearly articulating why you believe the Legislative Council, State Attorney General's office and CalPERS opinions are all in error, including your legal justification and citations. Failure to provide such information can only be viewed as indications that these proposals are politically motivated, and evidence that the City is more interested in blaming others for the challenges we face, rather than working together to resolve the budget issues and properly serve all San Jose residents.

We eagerly await your response.

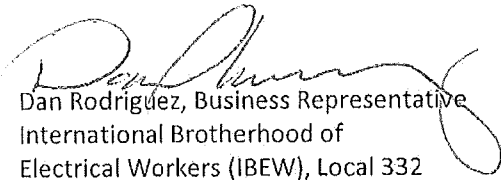
Sincerely,



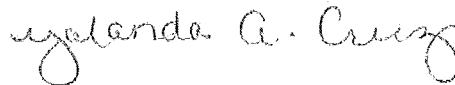
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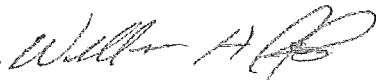
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AFSCME Local 101



William H. Pope, Business Representative
Operating Engineers, Local 3

CC: Charles E. Allen, Business Agent, AFSCME Local 101