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FILED
MAR 30 2016
DAVID H. YAMASAKI
Clerk of the Superior Court
Superior Court of CA County of Santa Clara
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A. Floresca

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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF SANTA CLARA

10 THE PEOPLE OF THE STATE OF
11 CALIFORNIA ex rel. SAN JOSÉ POLICE
OFFICERS' ASSOCIATION,

12 Plaintiff,

13 v.

14 CITY OF SAN JOSÉ and CITY COUNCIL
15 OF SAN JOSÉ,

16 Defendants.

Case No.: 1-13-CV-245503

EXEMPT FROM FEES (GOV. CODE § 6103)

~~PROPOSED~~ STIPULATED JUDGMENT AND
ORDER

Complaint Filed: April 29, 2013

Trial Date: None Set

17 In this action, Plaintiff San José Police Officers' Association ("SJPOA") filed a Verified
18 Complaint in *Quo Warranto* against Defendants City of San José and City Council of San José ("City")
19 (collectively, "the Parties") on April 29, 2013, alleging various defects in bargaining over the pension
20 reform ballot measure (Resolution No. 76158) that subsequently became known as Measure B. The
21 Court has been advised that, after extensive negotiations, the Parties have reached a Settlement
22 Framework and Agreement of this action and related proceedings, and has received Stipulated Facts and
23 Proposed Findings executed by the Parties, pursuant to the Settlement Framework and Agreement. The
24 Court, having considered the Stipulated Facts and Proposed Findings and the other papers and pleadings
25 filed, and good cause existing therefor, hereby issues the following as its Stipulated Judgment and Order
26 herein.
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2 Factual Findings of the Court

3 1. The California Supreme Court has held that a charter city (such as the City of San José)
4 must comply with the meet and confer requirements of the Meyers-Milias-Brown Act ("MMBA") –
5 which govern relations between local public agency employers and local public employee organizations
6 – before placing an initiative measure on the ballot that would affect matters within the scope of the Act.

7 2. It is clear from the Parties' submissions and recitations of the relevant facts that the
8 Parties did, in fact, meet and exchange proposals over a period of several months, reaching an agreed-
9 upon impasse on October 31, 2011.

10 3. The MMBA's "duty to bargain requires the public agency to refrain from making
11 unilateral changes in employees' wages and working conditions until the employer and employee
12 association have bargained to impasse " If an impasse exists, however, it may be broken, and the
13 duty to bargain revived, by a change in circumstances that suggests that bargaining may no longer be
14 futile.

15 4. In this case, the issue is whether impasse existed and, if so, whether it had been broken by
16 post-impasse ballot changes made by the City and whether the City Council should have negotiated
17 further with SJPOA prior to placing the matter before the voters.
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20 Conclusions

21 1. Here, both Parties met and conferred in good faith before reaching an agreed-upon
22 impasse on October 31, 2011.

23 2. However, continued modification of the proposed ballot language after impasse –
24 including concessions made by the City – created a further obligation to meet and confer before placing
25 Measure B on the ballot.


26 3. The City's failure to do so is deemed to be a procedural defect significant enough to
27 declare null and void Resolution 76158, which placed Measure B on ballot.
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Based on the foregoing, IT IS ORDERED that Resolution 76158, which placed Measure B on ballot, is null and void due to a procedural defect in bargaining.

IT IS FURTHER ORDERED that Measure B was not properly placed before the electorate and it and all of its provisions are therefore invalid.

Dated: 3.15.16



Hon. Beth A.R. McGowen
Judge of the Santa Clara County Superior Court

Judge Beth McGov