

SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN DIEGO
CENTRAL

MINUTE ORDER

DATE: 07/31/2012

TIME: 01:22:00 PM

DEPT: C-63

JUDICIAL OFFICER PRESIDING: Luis R. Vargas

CLERK: Richard Cersosimo

REPORTER/ERM: Not Reported

BAILIFF/COURT ATTENDANT:

CASE NO: **37-2012-00092205-CU-MC-CTL** CASE INIT.DATE: 02/14/2012

CASE TITLE: **Public Employment Relations Board vs. City of San Diego [IMAGED]**

CASE CATEGORY: Civil - Unlimited CASE TYPE: Misc Complaints - Other

EVENT TYPE: Motion Hearing (Civil)

APPEARANCES

The Court, having read and considered the Application, Supporting Declarations, Points and Authorities on file, the evidence submitted at the hearing, oral argument of the parties, and other pleadings and papers on file in this action, and having taken the matter under submission on July 27, 2012, hereby **DENIES** Public Employment Relations Board's ("PERB") Request for Preliminary Injunction ("Injunction") against the City of San Diego ("City") and PERB's Motion to Strike City's Supplemental Brief and Declarations in opposition to PERB's Request for Injunction.

The voters of the City of San Diego overwhelmingly approved Proposition "B", the Comprehensive Pension Reform Initiative ("CPRI"). The court now denies further efforts to enjoin implementation of the CPRI.

Since this Court granted the Temporary Restraining Order, the City of San Diego, and the San Diego Municipal Employees Association ("MEA"), have demonstrated effective advancement in their meet and confer efforts regarding priority implementation of time sensitive issues of the CPRI. The denial of the Injunction would not halt continued meet and confer efforts, nor should it affect MEA and the City of San Diego's obligation to complete PERB administrative proceedings.

Though PERB has initial jurisdiction to determine an unfair labor practice claim made by the San Diego Municipal Employees Association ("MEA"), this Court retains jurisdiction regarding implementation of the CPRI. (See *San Diego Municipal Employees Association. v. Superior Court*, (2012) 206 Cal.App.4th 1447, 1456, 1458 [143 Cal.Rptr.3d 49, 56, 58] [affirming that PERB has exclusive initial jurisdiction to adjudicate the unfair labor practice claim made by MEA].) When considering injunctive relief, *Public Employment Relations Bd. v. Modesto City Schools Dist.*, (1982) 136 Cal.App.3d 881, 896 [186 Cal.Rptr. 634], requires this Court to determine whether there is "*reasonable cause* to believe an unfair labor practice has been committed and the relief sought is *just and proper* [citation]."

The Court exercises its discretion to deny relief under the "just and proper" prong of *Modesto* based on "traditional equitable considerations." *Id.* The Court finds traditional equitable considerations now weigh in favor of the voters, the City of San Diego and of a proper and orderly implementation of the CPRI.

The court is satisfied substantial progress is being made towards implementation of a proposition placed on the ballot by nearly 116,000 citizens and supported by a significant voter majority. The PERB hearing has now taken place and is pending decision. A City of San Diego proposal has been advanced for an interim Defined Contribution Plan and has been responded to by MEA. The court is persuaded that if Proposition "B" is ultimately found invalid, pension benefits conferred upon new employees can be reverted as required by law.

IT IS HEREBY ORDERED THAT:

The Public Employment Relations Board's Request for Preliminary Injunction is denied.

Dated: July 31, 2012

JUDGE LUIS R. VARGAS