

# CITY ATTORNEY UPDATE

APRIL 16, 2012

## THE PENSION INITIATIVE IMPARTIAL ANALYSIS

By Jan Goldsmith

As you may recall, there were some folks who questioned whether our office could provide an Impartial Analysis of the pension initiative for the June 5 election. U-T San Diego wrote a thoughtful [editorial](#) last December suggesting that I take steps to ensure that our office's work on the Impartial Analysis is truly impartial and be sure to explain how we did that.

Regardless of my personal opinions on policy issues (or those of our attorneys), the legal work in our office is based upon the law and quality legal practice. This standard is engrained as a culture in our office and there are no exceptions.

Toward that end, I committed to have outside attorneys assist us with preparation of the Impartial Analysis. Deputy City Attorneys Cathy Bradley and Sharon Spivak are experienced and capable in preparing ballot documents and led the effort. In this case, they worked as a team with outside counsel, Gil Cabrera and Michael Houston.

This was challenging legal work due to the many aspects of the initiative and the need to avoid words that might be deemed as advocacy. Given the complexity and politically charged nature of the initiative, we knew that every word would be screened by opponents and proponents. If there was even the semblance of bias – even unintentional – we would be exposing the City to a lawsuit. Wording of ballot language can result in expensive legal challenges as was the case recently concerning San Jose's [pension initiative](#) where the court struck language.

Vetting language among four lawyers was helpful. I want to thank our team of lawyers who produced a non-controversial work product that should help voters learn what this initiative proposes to do. The Impartial Analysis, which can be found [here](#), has survived the 10-day period for challenges to be filed.

For the record, Michael is a Republican and Gil is a Democrat. They have a history of working together and were chosen for their expertise in election law and government ethics, respectively. We look forward to working with them in the future on complex, sensitive matters such as this.

## APPELLATE COURT UPHOLDS CENTRAL LIBRARY RULING

The Fourth District Court of the Appeal has affirmed the judgment of the trial court denying a contractor's attempt to halt construction on the \$160 million Central Library project and invalidate the City's contract with Turner Construction Co.

J.T. Wimsatt Contracting Co., Inc. unsuccessfully bid on the structural concrete subcontract for the library. The company then sued the City, alleging unfairness and irregularities in the bid process. A Superior Court judge ruled in favor of the City on December 2010, and that ruling was affirmed by the appellate court earlier this month. We thank Deputy City Attorney David

Karlin, Laura Arehart, Bobby Barrett and the Engineering & Capital Projects Department for their good work in representing the City.

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