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BANKRUPTCY APPELLATE PANEL AFFIRMS BANKRUPTCY RULING

Today, an unanimous 3-judge panel of the United States Bankruptcy Appellate Panel of the Ninth Circuit (BAP) affirmed the September 8, 2008 ruling by Judge McManus that the City of Vallejo was eligible for relief under chapter 9 of the United States Bankruptcy Code. The International Association of Firefighters (IAFF) and the International Brotherhood of Electrical Workers (IBEW) had appealed the ruling, alleging that the City had not met various of the eligibility requirements mandated by chapter 9. More specifically, the BAP ruled, among other things, that the City was insolvent at the time it filed its chapter 9 petition, and that the City filed the bankruptcy case in a desire to effect a plan to adjust its debts. The court flatly rejected the contention by IAFF and IBEW that the City was somehow obligated to accept the pre-bankruptcy offer that extended the collective bargaining agreements by four years. It also affirmed the bankruptcy court's conclusion that the unions' argument "... that Vallejo should have pillaged all of its component agency funds, ignoring bond covenants, grant restrictions, and normal [accounting] practices, to subsidize its General Fund ... defied fiscal prudence."

While the City is pleased with the ruling, it is unfortunate that both the City and the labor unions have devoted valuable resources and time that could have been better spent developing a plan of adjustment to exit bankruptcy. Moreover, because the BAP recognized that the issues it was deciding involved a matter of public importance, it certified the appeal to the Ninth Circuit Court of Appeals. That means that even more of the City's increasing limited resources may be spent on attorneys rather than on salaries, community based organizations and other important General Fund expenses.

The City is currently in court-mandated settlement discussions with IBEW and IAFF under the auspices Elizabeth Perris, a bankruptcy judge from Portland, Oregon. The parties have attended several face-to-face sessions and have participated in a number of conference calls. It remains to be seen whether settlement can be achieved. In the event that the settlement discussions fail to produce an agreement or agreements, Judge McManus will rule on the City's motion to reject the IAFF and IBEW collective bargaining agreements. The City did reach agreements to modify the existing collective bargaining agreements in January 2009 with the Vallejo Police Officers' Association (VPOA) and the Confidential, Administrative, Managerial, and Professional Association of Vallejo (CAMP).

More information regarding the City of Vallejo bankruptcy can be found on the city website at www.ci.vallejo.ca.us