

Memorandum



Date: September 21, 2010

To: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

From: George M. Burgess
County Manager 

Subject: Collective Bargaining Impasse between Miami-Dade County and the American Federation of State, County and Municipal Employees (AFSCME), Local 121, Water & Sewer Employees

Agenda Item No. 9(A)(1)

This substitute differs from the impasse item deferred by the Board on July 20, 2010 in that the effective implementation date has been changed from July 26, 2010 to September 20, 2010 and the employee contribution to the cost of group health insurance has been changed from 7.3% to 8.1%. These changes are necessary because of the original impasse hearing scheduled for July 20, 2010 before this Board was deferred to allow union members time to vote on a tentative contract agreement between the County the union leadership. As reported in the August 12, 2010 memorandum to the Board (copy attached), the union membership voted to reject the proposed agreement, consequently the impasse item that was deferred is now before the Board for consideration and approval. The changes noted above are reflected in the Background section of this memorandum.

Recommendation

It is recommended that the Board of County Commissioners (Board) resolve the collective bargaining impasse between Miami-Dade County and the American Federation of State, County and Municipal Employees (AFSCME), Local 121, Water & Sewer Employees, by accepting the special magistrate's recommendations in regard to the issues of wages, merit pay increases, longevity bonuses, flex dollar benefits, pay premium, transfers, schedules and shift rotations for the successor 2008-2011 Collective Bargaining Agreement. It is recommended that the Board reject the special magistrate's recommendation in regard to union stewards and representatives for the successor 2008-2011 Collective Bargaining Agreement; however, the administration has agreed to one additional union steward being released full-time to perform union activities. To effectuate such acceptance, it is further recommended that the Board accept Article 10, Union Stewards and Representatives, Article 23, Special Wage Provisions, Article 28, Wages, and Article 30, Group Health Insurance, for the successor 2008-2011 Collective Bargaining Agreement between Miami-Dade County and AFSCME Local 121.

Scope

The impact of this agenda item is countywide.

Fiscal Impact/Funding Source

Implementation of the provisions included in this Collective Bargaining Agreement will save the County \$441,269 per pay period, as compared to continuation of the status quo with respect to all elements of the agreement except for the cost of living adjustments. When comparing the cost of living adjustments included in this agreement with the previous three year agreement, that savings increases to \$933,769 per pay period. The savings total is an estimated \$13.2 million for FY 2010-11 and \$24.3 million over the three-year life of this labor agreement. The positions covered under this agreement are included in the Water and Sewer Department and are supported by water utility fee revenues.

Track Record/Monitor

The Director of Employee and Labor Relations in the Human Resources Department monitors and oversees the administration of the County's collective bargaining agreements.

Background

A combination of factors – including a historic nationwide recession, tax-reduction legislation from the state and the Board's policy decision to maintain a flat millage rate – required the County to take unprecedented steps to close a budget gap of more than \$400 million in the FY 2009-10 budget. At the Mayor's recommendation, the Board reduced the budget for employee salaries by 5 percent and froze both merit increases and longevity bonuses. The Board took the further step of suspending both flex and premium pay, as well.

While we were able to quickly implement these actions for employees who are not represented by a collective bargaining unit, the vast majority of employees could not be impacted until new contracts were negotiated with the labor unions that represent them. The last remaining unresolved collective bargaining agreement for the 2008-2011 contract period is that of AFSCME Local 121, Water and Sewer Employees. On May 14, 2010, a hearing was held before the special magistrate appointed by the Public Employees Relations Commission (PERC) where the parties presented evidence and testimony on the issues in dispute. The special magistrate issued his recommendation (attached) on July 3, 2010. In accordance with State law, the County has notified PERC that it has accepted in part and rejected in part the special magistrate's recommendations. The following summarizes the special magistrate's recommendations and includes the County's recommendations for resolving the disputed issues that were presented at impasse.

The special magistrate recommends that the County's compensation proposals be implemented with certain modifications. In regard to wages, the special magistrate recommends that AFSCME 121 employees contribute 5 percent of base wages towards the cost of group health insurance, and that the 5 percent contribution be adjusted to compensate "for the elapsed time back to the first payroll period in February, 2010." The special magistrate found compelling the County's position that with regard to wages, employees in AFSCME Local 121 should not be treated any differently than employees in other bargaining units, and that since other bargaining units ratified their agreements months ago, employees in AFSCME Local 121 should be subject to the 5 percent contribution from a similar point in time. **The administration accepts this recommendation.** We have calculated that if the adjusted amount is paid over 12 months, the individual contribution would be 8.1 percent of base pay. At the end of the one-year period, the contribution to the cost of Healthcare would revert to 5 percent. The attached proposed Article 28, Wages, contains appropriate language effectuating acceptance of this recommendation.

The special magistrate also recommends that no wage increase be provided in FY 2008-09 and FY 2009-10, and that a 3 percent wage increase be given effective July 1, 2011. **The administration accepts this recommendation but recommends that - consistent with all other bargaining units - the 3 percent wage increase be effective the first pay period in July 2011, rather than July 1, 2011.**

The special magistrate further recommends that a suspension of merit increases, longevity bonuses, premium pay and flex pay be for one year, but without any reopeners based on economic conditions. Rather, the special magistrate recommends that premium pay and flex pay be restored automatically after one year and that merit pay and longevity bonuses be restored subject to "unrestricted opener negotiations". **The administration accepts this recommendation.** The attached proposed Article 23,

Special Wage Provisions, and Article 30, Group Health Insurance, contains appropriate language effectuating acceptance of this recommendation.

In regard to other issues presented by the union at the impasse hearing, the special magistrate recommends that the union proposal on stewards and representatives be implemented, except in regard to their layoff proposal. The union had proposed that in addition to its President, its Vice President and Secretary-Treasurer, two additional employees be released full-time with pay for union activities. Currently, the President and two additional employees are released full-time with pay. The union also proposed that all the employees released full-time for union activities be exempted from layoff action and receive one hour of overtime daily. Currently, only one other County union, the Transport Workers Union has guaranteed overtime for its full-time released employees. **The administration rejects this recommendation, but agrees to one additional steward being released full-time with pay to perform union activities.** The attached proposed Article 10, Union Stewards and Representatives, contains appropriate language effectuating the changes of this recommendation.

The special magistrate further recommends that the union's proposal on transfers, schedules and shift rotations not be implemented but addressed "as a future reopener provision". **The administration accepts this recommendation.** The union had proposed an entirely new contract article severely restricting management's rights to transfer and schedule employees except upon 14 days' written notice, even when such transfer is necessary to respond to daily operational needs. The union's proposed article would also have mandated the creation of light duty positions, which are now handled appropriately on a case-by-case basis. The special magistrate correctly reasoned that negotiations over a new article on this issue would require "sufficient information to understand the cost of its implementation and the restrictions it will place on both parties".

The Board is required by Florida law to resolve the disputed issues presented and to take such action as it deems to be in the public interest and the interest of its employees. However, while the Board resolves the impasse, by the law, terms approved by the Board must be voted upon by the bargaining unit members. A vote by the bargaining unit members in favor of the terms would settle these matters as they have been described in this agenda item and conclude the County's labor negotiations through the end of FY 2010-11.

If the bargaining unit fails to ratify the action taken by the Board at impasse, Florida law dictates that the decision of the Board would only apply to the first fiscal year of the agreement. The provisions that take effect during the first fiscal year of the agreement would become the status quo and can only be changed through subsequent negotiation and settlement or through further impasse hearings. In that event, the 8.1 percent contribution towards group health insurance would not revert to 5 percent after one year, because the reversion to 5 percent is not a term of the first year of the agreement. Instead, it would remain at 8.1 percent until a future negotiation and settlement or impasse hearing results in a change to this provision. Likewise, the merit increases, longevity bonuses, flex pay and premium pay would not be restored, nor would the 3 percent cost-of-living adjustment being provided to other employees be applied to AFSCME Local 121 absent a future settlement or impasse resolution, also because those enhancements are not part of the contract's first year.

In the event that bargaining-unit members fail to ratify the Board's action, compliance with state law will make it necessary to provide an *effective* date for all recommended provisions within the first year of the agreement, despite the fact that FY 2008-09 has passed. In order to realize those savings in the FY 2009-10 and FY 2010-11 budgets, it is necessary to have an *implementation* date in the immediate future. Therefore, the attached articles provide for *effective* dates of the last pay period in September

Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners
Page 4

2009, but the *implementation* date of the articles would be September 20, 2010, irrespective of whether the bargaining unit ratifies the Board's action in a vote subsequent to September 20, 2010.

Upon resolution of this last collective bargaining impasse, the County will have concluded negotiations with all ten of our bargaining units. Your acceptance of the special magistrate's recommendation in regard to wages and benefits for AFSCME Local 121 will result in economic concessions fairly applied to all County employees.


Assistant County Manager



MEMORANDUM

(Revised)

TO: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

DATE: September 21, 2010

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Agenda Item No. 9(A)(1)

Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous ____) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor

Agenda Item No. 9(A)(1)

Veto _____

9-21-10

Override _____

RESOLUTION NO. _____

RESOLUTION RESOLVING COLLECTIVE BARGAINING
IMPASSE BETWEEN MIAMI-DADE COUNTY AND THE
AMERICAN FEDERATION OF STATE, COUNTY AND
MUNICIPAL EMPLOYEES, LOCAL 121, WATER & SEWER
EMPLOYEES

WHEREAS, Miami-Dade County and the American Federation of State, County and Municipal Employees (AFSCME) Local 121, Water & Sewer Employees, have negotiated for a reasonable period of time on a successor collective bargaining agreement to the agreement that expired September 30, 2008; and

WHEREAS, the parties have reached an impasse in their negotiations; and

WHEREAS, the parties have agreed to the appointment of a special magistrate who, after hearing, has rendered a recommended decision; and

WHEREAS, this Board has conducted a public hearing at which the parties were required to explain their positions regarding the recommendations of the special magistrate; and

WHEREAS, this Board, pursuant to Fla. Stat. Sec. 447.403, is required to take such action as it deems to be in the public interest, including the interest of the public employees involved, to resolve the disputed impasse issues; and

WHEREAS, the issues at impasse are wages, merit pay increases, longevity bonuses, flex dollar benefits, pay premiums, union stewards and representatives, and transfer schedules,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board approves and ratifies the County Mayor's recommendations for settling the collective bargaining impasse for the reasons set forth in the County Mayor's Memorandum. The County Mayor and AFSCME Local 121 shall reduce to writing an agreement which includes those issues previously agreed to

by the parties and the disputed impasse issues resolved herein. The written agreement shall be signed by the County Mayor and submitted to the bargaining unit for signature and ratification. If the bargaining unit fails to ratify the agreement, the action taken in this resolution shall take effect as of the date of this resolution and shall be effective for the first fiscal year that was the subject of negotiations (October 1, 2008 to September 30, 2009).

The foregoing resolution was offered by Commissioner , who moved its adoption. The motion was seconded by Commissioner and upon being put to a vote, the vote was as follows:

- | | |
|---------------------------------|--------------------|
| Dennis C. Moss, Chairman | |
| Jose "Pepe" Diaz, Vice-Chairman | |
| Bruno A. Barreiro | Audrey M. Edmonson |
| Carlos A. Gimenez | Sally A. Heyman |
| Barbara J. Jordan | Joe A. Martinez |
| Dorrian D. Rolle | Natacha Seijas |
| Katy Sorenson | Rebeca Sosa |
| Sen. Javier D. Souto | |

The Chairperson thereupon declared the resolution duly passed and adopted this 21st day of September, 2010. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.



Lee Kraftchick



Memorandum



Date: August 12, 2010

To: Honorable Dennis C. Moss, Chairman
and Members, Board of County Commissioners

From: George M. Burgess
County Manager 

Subject: Collective Bargaining with AFSCME Local 121 (Water & Sewer)

Despite the agreement of its executive board, the members of the American Federation of State, County and Municipal Employees (AFSCME) Local 121 (Water & Sewer) voted last week to reject the collective-bargaining agreement approved by the Board of County Commissioners on July 20, 2010. Official notification from AFSCME is attached.

In consultation with the County Attorney's Office, we advised the Board during that July 20 meeting to defer – rather than withdraw – the impasse hearing for that bargaining unit. As such, the item will automatically be placed on the agenda of the Board's next regular meeting.

Because the Union membership has rejected the agreement their leaders negotiated on their behalf, it is now necessary for the Board to conduct an impasse hearing to resolve the parties' dispute over the terms of their collective bargaining agreement. We recommend the Board take such action as it believes to be in the public interest, including the interests of the employees involved, and to ensure the County realizes the budget savings that the Board contemplated last September in approving the FY 2009-10 budget. This includes the contribution to the County's health-insurance costs and the freezing of longevity, merit, flex and premium pay.

While we had certainly hoped to reach a mutually acceptable compromise that would end with a new agreement – as we did with all of the County's other bargaining units – I stand by the spirit of the recommendation in the impasse resolution, which is attached for your convenience. In order to adhere to that spirit, we will offer one change to our impasse recommendation: in July, we recommended that bargaining-unit members contribute 7.3 percent of their pay, which would ensure equity with the unionized employees who began contributing 5 percent much earlier this year. We now recommend increasing the contribution to 8.1 percent, which is the pro-rated increase based on the new resolution date. A lesser contribution would be unfair to the thousands of employees who voluntarily accepted the concessions in the winter and spring.

If you have any questions, please contact Howard Piper, Special Assistant to the County Manager, at 305-375-1965, or me directly.

Attachments

c: Honorable Carlos Alvarez, Mayor
Robert A. Cuevas, Jr., County Attorney
County Executive Office Senior Staff
Angela Maher, Director, Human Resources
Mark Deutsch, Labor Relations Director, HR
Department Directors
Charles Anderson, Commission Auditor



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AFSCME LOCAL 121

Friday, August 06, 2010

Re: AFSCME Local 121 2008-2011 Collective Bargaining Agreement Ratification Results.

Dear George M. Burges, County Manager:

I would like to inform you that **1020** members of AFSCME LOCAL 121 bargaining unit voted today in the ratification process of 2008-2011 Collective Bargaining Agreement between Miami-Dade County and the America Federation State, County and Municipal Employees (AFSCME) Local 121, Water and Sewer Employees. There were **969 "No"** and **51 "Yes"** which signify that **95%** of the employees who voted declined the proposed agreement.

The ratification process took place today and the votes were counted publicly at the Union hall, the results announced at the conclusion of voting and counting at 9:31 p.m.

I look forward to hearing from you,

Respectfully,

EMILIO AZOY
President of AFSCME Local 121 Miami Dade Water and Sewer Employees



ARTICLE 10 UNION STEWARDS AND REPRESENTATIVES

1. The Union shall have the right to select employees from within the unit to act as Union Stewards. The names of the employees selected as stewards shall be certified by the Union, in writing, to the Water and Sewer Department Director and the Director of ~~Labor Management~~ Employee and Labor Relations.
2. It is agreed to and understood by the parties to this Agreement that Union Stewards may, without loss of pay, with prior approval of their supervisor, process grievances. The supervisor's approval will not be unreasonably withheld.
3. It is further agreed that the Union may appoint twenty (20) Union Stewards within the bargaining unit as defined.
4. It is agreed to and understood by the Union that Stewards shall process grievances in such a manner as to not disrupt normal County and Department activities, work production and services. This provision shall also be extended to Representatives of the Union who are not employees of the County, and who have been certified in writing to the Director of ~~Labor Management~~ Employee and Labor Relations.
5. The Union President, Vice President and Secretary-Treasurer will be released from duty with pay to administer this agreement. Effective the beginning of the first last pay period ~~following ratification and approval of this agreement by the Board of County Commissioners, in September 2010,~~ one (1) additional bargaining unit employee, designated in writing by the Union President to the Director of Employee and Labor Relations ~~Labor Management~~ and to the Department Director, will be released from duty with pay to administer this agreement. ~~Effective the beginning of the first pay period in July 2007, one (1) additional bargaining unit employee, designated in writing by the Union President to the Director of Labor Management and to the Department Director, will be released from duty with pay to administer this agreement~~

ARTICLE 23 SPECIAL WAGE PROVISIONS

1. PAY ADVANCES - An employee may request through his supervisor, his vacation pay checks in advance of any scheduled annual leave by submitting a request to the department payroll office at least three (3) weeks prior to leaving on annual leave.

2. LONGEVITY BONUS: Employees with fifteen (15) years of continuous service shall receive annual longevity bonus payments on their anniversary date and each year thereafter. Deferment for leave of absence shall be deductible and not considered as a break in service.

The annual longevity bonus payments will be paid in accordance with the following schedule:

| <u>Years of Completed Full-Time Continuous County Service</u> | <u>Percentage Payment of Base Salary</u> |
|---|--|
| 15 | 1.5% |
| 16 | 1.6% |
| 17 | 1.7% |
| 18 | 1.8% |
| 19 | 1.9% |
| 20 | 2.0% |
| 21 | 2.1% |
| 22 | 2.2% |
| 23 | 2.3% |
| 24 | 2.4% |
| 25 | 2.5% |
| 26 | 2.6% |
| 27 | 2.7% |
| 28 | 2.8% |
| 29 | 2.9% |
| 30 or more | 3.0% |

Effective the beginning of the first pay period in September 2009, the payment of longevity bonuses shall be suspended.

Third Year 2010-2011

Effective the beginning of the last pay period in September 2011, the payment of longevity bonuses shall be restored prospectively only.

3. SAFE DRIVING INCENTIVE

An employee, who drives or operates mobile equipment fifty percent (50%) of the time in performance of their duties, shall receive awards for safe driving, including a pin, annually, with the number of safe driving years thereon. After the fifth year, he will receive an award of five dollars (\$5.00) for each consecutive year of safe driving completed. Should a driver have a preventable accident, he starts over the first day after the accident.

4. ENTRANCE PAY RATES

For all employees hired into the County Service on or after November 1, 1991, the entrance pay rate for all bargaining unit classifications shall be pay step 1 of the appropriate pay range provided in the Miami-Dade County Pay Plan. Progression from the entrance level pay of step 1 to step 2 shall be six (6) months (13 pay periods) based upon satisfactory or above satisfactory job performance. Progression from step 2 to the maximum step in the pay range shall be at one (1) year (26 pay periods) intervals thereafter based upon satisfactory or above satisfactory job performance. Effective the beginning of the first pay period in September 2009, progression from any one pay step to the next pay step, merit increases and longevity increases shall be suspended.

Third Year 2010-2011

Effective the beginning of the last pay period in September 2011, progression from any one pay step to the next pay step, merit increases and longevity increases shall be restored prospectively only.

5. SPECIAL WAGE PROVISIONS

Full-time bargaining unit employees will be eligible to receive a \$50.00 biweekly pay supplement. Effective the beginning of the first pay period in September 2009, the \$50 biweekly pay supplement shall be suspended.

Third Year 2010-2011

Effective the beginning of the last pay period in September 2011, the \$50 biweekly pay supplement will be restored prospectively only.

Article 28 WAGES

First Year 2008-2009

Effective the beginning of the last pay period in September 2009, all employees in bargaining unit classifications shall be required to contribute eight-point-one percent (8.1%) of base wages toward the cost of coverage for group health insurance. This provision shall supersede any conflicting provision of Article 30, "Group Health Insurance".

Second Year 2009 - 2010

Employees in bargaining unit classifications shall not receive a wage adjustment for fiscal year 2009-2010.

Third Year 2010 - 2011

Effective the beginning of the first pay period in July 2011, all employees in bargaining unit classifications shall receive a three percent (3%) wage increase. Effective the beginning of the last pay period in September 2011, the contribution toward the cost of coverage for group health insurance shall be reduced to five percent (5%).

ARTICLE 30 GROUP HEALTH INSURANCE

The County's contribution for group health insurance shall not exceed the amount it contributes toward single employee coverage and no contribution shall be made for dependent coverage.

The parties agree that bargaining unit employees will be afforded the opportunity to become members of a qualified Health Maintenance Organization pursuant to law and in accordance with all rules, regulations, and procedures pertaining thereto prescribed by the County and the qualified Health Maintenance Organization.

Any employee who desires to enter the County Group Insurance plan who has either withdrawn from the plan or not joined the plan in accordance with its terms shall be subject to the requirement of a physical examination at the employee's expense if an examination is required by the insurer.

The County's flexible benefits program will remain in effect during the term of this collective bargaining agreement. The parties agree that bargaining unit employees will be offered the opportunity to participate pursuant to law and in accordance with all rules, regulations, and procedures pertaining thereto prescribed by the employer and the Internal Revenue Code.

1. The County's Group Health Insurance will include ~~be~~ a Point of Service Managed Health Care Group Insurance Plan.
2. The County will provide a \$5.00 biweekly Flex Dollars contribution to the Flexible Benefits Plan to employees enrolled in the JMH Health Plan HMO or the individual practice association model HMO currently administered by AV-MED. a High Option HMO Plan.
3. The County will provide a \$10.00 biweekly Flex Dollars contribution to the Flexible Benefits Plan to employees enrolled in the group/staff model

HMO with the lowest employer contribution per employee. a Low Option HMO Plan.

4. The County will provide an annual \$1,000 Flex Dollars contribution, to the Flexible Benefits Plan paid in biweekly increments, for County to employees eligible for group health insurance or the Flexible Benefits Plan.
5. All employees enrolled in the County's Point of Service/Managed Health Care Group Insurance Plan shall be required to pay three percent (3%) of the cost of single coverage of this plan.
6. Effective the beginning of the last pay period in September 2009, the County's contributions to the flex dollar benefits as provided in sections 2, 3 and 4, above, shall be suspended.

Third Year 2010-2011

Effective the beginning of the last pay period in September 2011, the County's contributions to flex dollar benefits shall be restored prospectively only.

- ~~7.~~ 6. Post Employment Health Plan (PEHP) – It is the intent of the parties, during the term of this agreement, to permit the Union to establish a PEHP whereby employees who are retiring and separating from the County will have the applicable payout of their accrued sick leave placed in a PEHP account consistent with current Internal Revenue Service (IRS) Rules and Regulations. It is the understanding between the parties that the Union will be solely responsible for obtaining the PEHP provider and administrator for this service and for ensuring compliance with all applicable state and federal laws and regulations. The County will only be responsible for payment of an employee's applicable sick leave into the PEHP selected by the Union. Additionally, the Union agrees to indemnify and hold the County harmless against any and all claims, suits, orders and judgments brought and issued

against the County as a result of any action taken or not taken by the County or any party under the provisions of this section of this agreement.