



MEMORANDUM

Date: September 21, 2020

To: The Honorable Betty Villegas, Member
Pima County Board of Supervisors

From: C.H. Huckelberry
County Administrator

A handwritten signature in black ink, appearing to read "CHH", is written over the printed name "C.H. Huckelberry".

Re: **American Federation of State, County & Municipal Employees (AFSCME)**

The Chairperson of Pima County American Federation of State, County & Municipal Employees (AFSCME) Local 449 previously sent a memorandum to the Chair of the Board. We have reviewed the memorandum and have provided responses in red. These responses were developed by Cathy Bohland, the Human Resources Department Director and the management lead for the county negotiating team with AFSCME. As you can see from the responses there has been little or no progress made in developing a memorandum of understanding even though substantial time has been exhausted by the AFSCME County employee participants in the Meet and Confer process. The current memorandum of understanding expires on September 28, 2020. I'm certainly willing to continue discussions with AFSCME; however I'm not willing to continue to have tax payers pay for unproductive prep time for county employee members of AFSCME.

Our experience with AFSCME this year has been entirely different from many previous years. It is apparent that they had a specific set of objectives and were going to accomplish them regardless of answers from management or negotiations with management hence their claim that we have operated in bad faith. Which is completely unfounded.

I have no interest in continuing the protracted and contentious meetings that have occurred previously, however I'm certainly willing to have our management representatives have a civil dialogue should AFSCME decide they would like to continue discussions with the county.

CHH/dym

Attachment

c: The Honorable Ramón Valadez, Chairman, Pima County Board of Supervisors
Cathy Bohland, Director, Human Resources

Cathy Bohland Responses below in red.

Honorable Chairman of the Board, Supervisor Valadez,

The AFSCME Local #449 union members seek your support in obtaining an extension to continue negotiations in the Meet & Confer process that is set to expire at the end of this month. We request the use of a labor relations facilitator to maintain good faith meet and confer negotiations between the AFSCME team and the county's management team. We request a one hundred twenty-day extension to complete negotiations and ratify the Memorandum of Understanding between the County and AFSCME.

This request is being made due to the difficulties we have experienced in both July and August meet and confer meetings.

AFSCME changed the Meet and Confer AP to allow for weekly meetings. The ordinance provides for biweekly meetings, which is more in-line with a process such as this to give both sides adequate time to discuss/research issues. Additionally, AFSCME has met in Meet and Confer "prep" since **November 2019**, yet never requested to meet until mid-June. They had meetings from November through March, yet never once asked to initiate the Meet and Confer process with County Management. Had they started in January (which is the normal time period) there would not have been a need to rush through meetings to come to an agreement.

The difficulties we have experienced caused a stall in our negotiating process and made it impossible to complete our current negotiations within the current extension.

AFSCME stopped the 8/5 meeting 1.5 hours early, stating County Management did not understand the process and that they would put to writing their claim that

County Management acted in bad faith. They never put this to writing. **All team members (AFSCME and County Management) agreed that we were not at an impasse.** AFSCME literally refused to continue the meeting on 8/12 when the County requested to go through its responses to their requests. They left the meeting and we never heard from them since, with the exception of additional weekly time off requests to participate in "prep" for Meet and Confer.

One of our primary issues is that the management team has insisted on bargaining outside of the scope of the MOU (therefore, the AFSCME team concluded some meetings early in objection).

We advised that some of their proposals would fit into a current policy and we should make the change there rather than have two different sets of rules for employees – those in the MOU and those in policy. Their desire was to have the items memorialized in the MOU since the MOU has a different grievance process than the County's normal grievance process. This unnecessarily creates two different systems for employees. County management had no concerns with adding some suggested, reasonable changes to current policy.

Understanding this fundamental aspect of bargaining in good faith is essential to discussing matters that concern AFSCME eligible employees. Additionally, we have requested from the management team to utilize the free services of Federal Mediation and Conciliation Service (FMCS) Commissioner in our meet and confer meetings, but the management team refused their assistance.

FMCS does not have authority to mediate over local government employers or its employees (legal opinion supported this)

Furthermore, the Human Resources Director from the management team stated that the option to utilize FMCS will be removed from the Meet & Confer process (recently adopted by the board on May 19, 2020).

Mr. Huckelberry provided me an 8/11/2020 memo which contained the following quote. When asked our position to FMCS, I stated our position was: "Regarding a mediator and/or mediation, the Administrative Procedure 23-32, Meet and Confer Process, was brought quickly to the Board with no input from County Administration or the County Attorney. The federal mediation clause is clearly inappropriate and not applicable to County or a local government. Therefore, the meet and Confer process will not include the services of a mediator and the mediation requirement in the Administrative Procedure should be revised to reflect this change." No changes have been made to the AP to date.

Further still, the management team has canceled all meetings.

County Management did not cancel any meetings. Meetings were set July 1 through August 28 (every Wednesday from 9:00 to 12:30). Nothing had been set beyond that. When I processed their release time for "prep," I asked them to provide me with Meet and Confer meeting dates so I could check the availability of the team and AFSCME never responded to my request.

They inferred that the management team may not be available for dates in September (necessary dates needed to complete the Meet & Confer process within the current time limits).

The email stated I would check with County Administration and with the members of the team and requested dates and never received any dates.

The HR director is now denying release time for the AFSCME meet & confer committee under our current MOU, which prevents any progress in discussions.

AFSCME was provided time on both August 20 and August 27 – either a full 8

hour day or a full 10 hour day – to meet with themselves to “prep.” By the time I received the request for September 2, I denied the request as they failed to provide any future dates for a Meet and Confer meeting.

Members of the management team should be held to the same standard they seek from county employees via the A.R.E. (Accountable, Respectful, Ethical) campaign currently being circulated countywide. It is with good faith practices that we wish to continue negotiating to complete a fair Memorandum of Understanding that both the union and the County can be proud.

They are not willing. Multiple times they stated that County Management acted in bad faith; yet, even after AFSCME stated they would provide to us in writing the basis for their claim that County Management acted in bad faith, they failed to provide it. The August 5 meeting was specifically cut short so they could put their basis in writing, stating they would have it to us by the following Monday August 10, but they failed to provide it.

In order to achieve this, we must have productive meetings with the County’s management team; we firmly believe that this can be achieved through the assistance of the Federal Mediation Conciliatory Service. In order to do this, we will also need more time to assemble.

Sincerely,

Michele Garsha

Chairperson of Pima County AFSCME Local 449

County management comments on all proposals received from AFSCME				
Proposal #	AFSCME Proposals	Date of Proposal	Notes	Column1
2020-11	New Employee Orientation Time Slot	7/1/2020	Agreement for current virtual process - 15 minutes New Employee Orientation is being revamped. Meetings will be held with stakeholders to determine what information will be provided, i.e. hand-outs, flyers, videos, etc. Presenters for new NEO may only consist of benefits, payroll and AFSCME. No other presenters projected at this time. The new program is projected to last 2 to 3 hours. AFSCME presentation will be no more that 20 minutes, employees will not be required to attend, there will be no projected lunch period.	
2020-12	Dues Deduction	7/1/2020	Based on the legal analysis completed by PCA, County will not change the current process. County management believes that an employee has right to stop representation hence stop the dues.	
2020-13	Release Time Notice	7/1/2020 7/22/2020 8/05/2020	County agrees to accept the revised form as presented with two clarifications. Under Union Business (B) <i>Communication between the parties regarding, among other things, policies, procedures, training & employee concerns.</i> This section needs to have an asterisk as additional explanation is required. Under Union Activity (C) <i>Participation as spokesperson for employees for the dual purpose of helping employees and the County.</i> This sections needs to have an asterisk as additional explanation is required.	
2020-14	No proposal received			
2020-15	No proposal received			
2020-16	No proposal received			
2020-17	No proposal received			
2020-18	No proposal received			
2020-19	Expand Call Back Pay	7/8/2020	County agrees to amending Personnel Policy 8-102 D (2) as follows: <i>If the employee is able to resolve the problem by telephone, email or text and is not required to report to the worksite, he/she shall receive pay for the actual time spent in problem resolution.</i> County wants to continue to pay employees for actual time worked.	

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2020-20	Increase Call Back Time	7/8/2020	County believes the 2 hour minimum should remain. If an employee is needed for longer, the employee receives pay for all hours worked. HR did a survey of 16 agencies, only two had a 3 hour minimum (City of Phoenix and Town of Bisbee). Oro Valley, Marana and City of Tucson each had 2 hour call back minimums. Pinal and Sahuarita have no call back minimums. Based on this data no change is necessary.	
2020-21	Compensatory Time	7/8/2020	County believes current policies and procedures adequately address the earning and use of comp time. BOS Policy 2.1 Ethics; PP 8-102-4 Premium Pay; Admin Procedure 3-21 Compensatory Time Any violations of these policy by management should be brought to the HR Employment Rights Division for investigation and resolution.	
2020-22	Shift Differential	7/8/2020	County recommends policy remain the same due to the unknown future of the budget.	
2020-23	No proposal received			
2020-24	Alternate Work Schedule (not including Telecommuting)	7/15/2020 8/5/2020	County requests additional clarification and possible examples from AFSCME related to Flexibands and Staggered schedule. County currently has two documents that address scheduling: Personnel Policy 8-104 Attendance and Admin Procedure 23-53 Flexible Work Schedule. Appointing Authorities have a responsibility to ensure coverage. Current available options in most if not all departments: - Lunch Options: hour or 1/2 hour lunch - Band of start times 7 am to 9 am; other departments already allow for even earlier start times due to weather Changing schedules will not be grievable, but reasonable notice should be given where practicable. Telecommute will be a separate proposal from County	
2020-25	No proposal received			
2020-26	On Call Pay	7/8/2020	The proposal would cost approximately \$1.4 M annually. County is in the ball park with other localities for on-call pay. County does not agree that on-call pay needs to be increased. Out of 16 agencies surveyed, 8 agencies pay \$1.00 or more per hour, 7 agencies listed a flat rate of pay. Of County's comparators, Pinal \$1.30, Oro Valley \$1.25, Sahuarita \$1.00 and Marana based on rate of pay, City of Tucson only agency at \$2.75. Based on the data, no change is necessary.	

Proposal #	AFSCME Proposals	Date of Proposal	Notes	Column1
2020-27	No proposal received			
2020-28	No proposal received			
2020-29	No proposal received			
2020-30	No proposal received			
2020-31	Bereavement Leave to cover 4/10 work schedule	7/15/2020 8/5/2020	<p>County proposes making the following changes to Personnel Policy 8-107 E (2) (3)</p> <p>2. Paid bereavement leave shall be for a period of up to three (3) days twenty-four (24) hours per occurrence for the death of an eligible family member occurring within the State of Arizona, or up to five (5) days forty (40) hours per occurrence for the death of an eligible family member occurring out-of-state. Employees must take bereavement leave in increments not less than two (2) hours within the first six (6) months following the death of an eligible family member. Days Bereavement leave need not be taken consecutively. Days Bereavement leave not taken within six (6) months of the death of an eligible family member shall be forfeited.</p> <p>3. Full-time employees shall receive no more than eight (8) hours their daily scheduled hours of paid time off for each day of approved bereavement leave, provided the number of hours do not exceed twenty-four (24) hours for in-state bereavement leave and forty (40) hours for out-of-state bereavement leave. For employees working 10 hours shifts (4/10), they shall be given the option to work a 5/8 schedule for the week of their bereavement leave.</p> <p>Bereavement leave for other than full-time employees shall be paid in the same manner as the holiday benefit as set forth in Personnel Policy 8-102 F.</p>	
2020-32	December 24 Holiday	8/5/2020	<p>County has to be open for business per ARS 11-413. See also ARS 1-301 and 1-302. County would be willing to discuss a proposal to edit Personnel Policy 8-107 Special Leaves of Absence with Pay D. Cesar Chavez Remembrance Day Leave.</p> <p>Currently the policy allows for employees to take this administrative day off within a specified period of time. County would be willing to consider opening this window so that the day off could be taken any time during the year. This would allow employees to take this day for any culturally important day during the calendar year.</p> <p>Not all employees would be able to be off on the same day as the County offices must be open for business per the statute.</p>	
2020-33	No proposal received			
2020-34	No proposal received			

Proposal #	AFSCME Proposals	Date of Proposal	Notes	Column1
2020-35	Seniority	7/1/2020 7/22/2020	<p>County is not in agreement with this proposal.</p> <p>For Promotions, County uses competitive process to select best candidate.</p> <p>For vacations, job locations, and reductions in force, management discretion is needed to ensure best mix of skill sets and or knowledge.</p> <p>Per Merit System Rule 1.63, Seniority is defined as: The number of hours of continuous employment with the County. County recommends this definition be used in the current policy to mirror the merit system rules.</p>	
2020-36	GPS Monitoring Policy	8/5/2020	<p>County is not in agreement with this proposal. There are several Administrative Procedures that deal with driving and GPS: 30-11 Driver Qualification, 30-33 Driver Safety Committee, 49-8 GPS in County vehicles. Additionally, there are safe guards in place during the disciplinary process if there is a question regarding the validity of the GPS data.</p> <p>Management has a duty to protect County resources and be good stewards. Probable cause is solely for the criminal process, not employment process.</p>	
2020-37	Work Place Equalization	7/1/2020 7/22/2020	<p>County is willing to amend Personnel Policy 8-119 Rules of Conduct Y. By adding the following bullet point:</p> <p>5. Appointing Authority are responsible for ensuring fair and equitable distribution of work</p> <p>County may not be able to provide notice in emergency situations and do not want to advise employees outside of regular hours as this may incur overtime.</p>	
2020-38	Establishment of Ergonomics Committee	7/1/2020	<p>County believes that between the Facilities Management's "How To's" page and the Administrative Procedure 23-29 Reasonable Accommodation for Applicants and Employees with Disabilities, there is no need for a new committee.</p> <p>A request was made of data around ergonomic data. The County does not currently track all requests for ergonomic evaluations in an electronic fashion.</p>	
2020-39	No proposal received			
2020-40	No proposal received			
2020-41	Honor Guard - Death Benefit	7/15/2020	<p>The County is not in agreement with providing medical benefits to surviving family members if an employee were to die on the job. County already provides a free life insurance policy on all employees.</p> <p>Workers Comp pays average monthly wage as a death benefit. Additionally, there is a possible OSHA benefit depending on actual facts</p>	

Proposal #	AFSCME Proposals	Date of Proposal	Notes	Column1
2020-42	Annual Leave	7/15/2020	<p>The County is not agreeable to setting up a separate system of annual accruals for AFSCME Eligible employees.</p> <p>If implemented for all County employees the accrued cost would be approximately \$770,000. Additional costs would incur for having a separate set-up in the ADP system which tracks the accruals.</p> <p>County has concerns regarding the newly created groupings. The 7 to 10 grouping would be accruing less than currently in Personnel Policy 8-105.</p> <p>Taking benefits away from employees who have earned them places the County at risk.</p>	
2020-43	No proposal received			