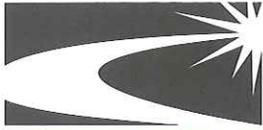


LOCAL 721



SEIU

SERVICE EMPLOYEES
INTERNATIONAL UNION, CTW, CLC

OFFICERS

Bob Schoonover
PRESIDENT

Linda Dent
VICE-PRESIDENT
Catherine Eide Nelson
SECRETARY
Tony Bravo
TREASURER

DIRECTORS

LA COUNTY

Marlene Allen
VICE-PRESIDENT
Blanca Gomez
VICE-PRESIDENT
Lila Johnson-Crenshaw
Rodolfo "Rudy" Gaona
Lucy Guerrero
Fred Huicochea
Linda Mascorro
Tony Mendoza
Omar Perez
Jose Sanchez
Arnella Sims
Cindy Singer
Harold Sterker

LA/OC CITIES

Joaquin Avalos
VICE-PRESIDENT
Linda Stone
VICE-PRESIDENT
Edwina Chism
Cheryl Elam Collins
Cecilia Flores
Brian Hollenbaugh
Charley Mims
Andy Morales
Simboa Wright

TRI-COUNTIES

Angela Portillo
VICE-PRESIDENT
Grace Sepulveda
VICE-PRESIDENT
Shannon Abramovitch
Tom Johnston
Perry Morefield
Dave Mulvey
Ted Perez

INLAND AREA

Barbara Cayon
VICE-PRESIDENT
Wendy Thomas
VICE-PRESIDENT
Lawrence "Larry" Beal
Tim Burke
Greg Hagan
Kevin Luke
Jack Porrelli
Glenn Sanders

John Tanner
EXECUTIVE DIRECTOR

<http://www.seiu721.org>

□ 500 S Virgil Ave • Los Angeles CA 90020-1404 • Tel (213) 368-8660 • Fax (213) 380-8040
□ 309 S Raymond Ave • Pasadena CA 91105-2607 • Tel (626) 463-0471 • Fax (626) 463-1053
□ 4336 S Market St • Riverside CA 92501-3518 • Tel (951) 686-7372 • Fax (951) 684-2134
□ 74-399 Highway 111 Ste G • Palm Desert CA 92260 • Tel (760) 346-5506 • Fax (760) 342-8160

□ 2472 Eastman Ave Ste 30 • Ventura CA 93003-5774 • Tel (805) 644-8291 • Fax (805) 644-7843
□ 933 Castillo St • Santa Barbara CA 93101 • Tel (805) 963-4411 • Fax (805) 962-9643
□ 1651 E 4th St Ste 120 • Santa Ana CA 92701-5143 • Tel (714) 543-1063 • Fax (714) 543-2871
□ 42231 6th St W Ste 201 • Lancaster CA 93534 • Tel (661) 802-0977 • Fax (661) 974-7914

August 13, 2010

Robert Bergeson, Executive Director
Employee Relations Board
City Hall East, Room 1100
200 N. Main Street
Los Angeles, CA 90012

Re: CAO Request for Impasse-Health Insurance Benefits
Contention that No Impasse Exists
Impasse No. 220

Dear Mr. Bergeson:

In his August 10 correspondence, the City Administrative Officer (CAO) filed a Notice of Impasse with a request that the ERB refer the matter to fact-finding. The CAO contends that an impasse exists because a motion to adopt certain changes affecting health insurance costs for civilian employees in the Flex Program was not adopted by the Joint Labor Management Benefits Committee (JLMBC) at its July 15 meeting. [Notice at p. 3] On behalf of the *Coalition of City Unions*, I am writing to express our opposition to the CAO request and to urge the Board to deny the request for fact-finding.

It is analytically impossible for an impasse to occur in the context of the JLMBC. The JLMBC is empowered "to recommend, monitor and review the administration of benefits provided to employees through the City's Employee Benefits Program." [Notice--Attachment 1 (Section A-2)] The JLMBC, however, does not engage in the meet and confer process and there is nothing in any of the enabling documents authorizing that body to engage in collective bargaining.

The distinction between recommendation authority and collective bargaining is borne out by the history of the JLMBC dating back to its inception in 1989. The JLMBC was memorialized in 1989 through a *Special Memorandum of Understanding* setting forth the composition and responsibilities of the body. [Copy attached]. The JLMBC adopted policies in 1990 setting forth various procedural rules including the provision for adopting a motion. [Notice--Attachment 1] The documents authorize the JLMBC, *inter alia*, to review proposed benefit plan changes and to recommend their adoption provided at least three Management and three Labor representatives cast votes in favor of the motion. There is no reference to collective bargaining in either of the JLMBC documents or in the MOU for the various bargaining units.

Over the years there have been countless changes with respect to benefits which have been recommended and subsequently adopted by the City Council while other changes have failed to secure the necessary votes for passage. The fact that a given motion fails to secure the necessary votes was fully envisioned under the operating policies of the JLMBC and experienced over two decades of past practice. The City is well aware that if it wishes to change the allocation of costs with respect to insurance plans, it must engage in collective bargaining. The City's characterization of a failed motion at the JLMBC as a bargaining impasse is an apparent attempt to circumvent the legally required meet and process.

Our view that the JLMBC does not engage in collective bargaining is also supported by the text of the City Charter. The City Charter, at Section 234, states:

The City shall encourage joint labor-management partnerships to set goals, encourage agreements, solve problems, create incentives for outstanding individual or team performance and encourage flexibility and innovation. Collective bargaining and discipline shall not be within the jurisdiction of these partnerships.

There is an appropriate role for the JLMBC in labor relations and under the City Charter, but it is not within the sphere of collective bargaining.

In short, the notion that an impasse exists by virtue of a failed motion at the JLMBC is untenable. The JLMBC does not engage in the meet and confer process, so it cannot be subject to the impasse procedures under the ERO. We urge the ERB to deny the request for a declaration of impasse and referral to fact-finding.

Sincerely,



Robert F. Hunt
General Counsel

cc: Mr. Santana, CAO
Ms. Aspen, CAO-Employee Relations
Ms. Houston, Esq. [Office of the City Attorney]
Coalition of City Unions [SEIU Local 721, AFSCME Council 36,
LIUNA Local 777; LA County Building & Construction Trades
Council, Operating Engineers Local 501 & Teamsters :Local 911]
Mr. Stern, Esq.

SPECIAL MEMORANDUM OF UNDERSTANDING
CONCERNING THE
JOINT COMMITTEE ON FLEXIBLE BENEFITS

- I. In support of the goal of creating a flexible benefits program to address the varying needs of the City's diverse employee population, the parties agree to form a Joint Committee on Flexible Benefits. The parties further agree that the composition and responsibilities of the Committee shall be as follows:
- A. The Joint Committee will consist of representatives of the various employee organizations and management and will meet to develop a comprehensive Flexible Benefits Plan for active City employees.
 - B. The Joint Committee will be composed of five (5) employee organization representatives and five (5) management representatives.
 - C. All proposals which result in changes of existing benefits coverage or establishing new benefits under the Flexible Benefit Plan (including the impact of changes mandated by the State or Federal government) will be presented to the Joint Committee for review and approval.
 - D. The Joint Committee will monitor and review the administration of the plan(s) by meeting periodically with the Personnel Department's Employee Benefits staff.
 - E. The Joint Committee will review all Requests for Proposal (RFPs) before they are sent to potential proposers, review all pertinent analysis of the proposals (e.g. by Employee Benefits staff, benefits consultants) and recommend awards to the Civil Service Commission and/or the City Council.
 - F. The Joint Committee will adopt policies for the administration of the Flexible Benefits Plan, including a grievance procedure regarding the administration and delivery of benefits.
 - G. The Joint Committee will be involved in all phases of the development of the communications plan for the Flexible Benefits Plan, including the recommendation of a communications consultant, when required, to the Civil Service Commission.
- II. Any changes to Sections A. through G. above shall be made only by mutual consent of the parties.

FOR THE ORGANIZATIONS:

John J. Weyrough
American Federation of State
County and Municipal Employees

Robert D. Duncan
Engineers and Architects
Association

Joseph P. Wetzler
International Union of Operating
Engineers, Local 501

David J. ...
Los Angeles City Employees
Union, Local 347

Michael ...
Los Angeles City Supervisors
and Superintendents Association

Robert Randsbush
Los Angeles Building and
Construction Trades Council

FOR MANAGEMENT:

K. Comrie
Keith Comrie
City Administrative
Officer

Date: 10/3/89

Civil Service Commission

Date: _____

PROOF OF SERVICE

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 309 S. Raymond Avenue, CA 91105.

On August 13, 2010 I served the foregoing document described as the **Contention that No Impasse Exists [Imp. No. 220]** on interested parties in this action.

by telecopying said document to _____ at
facsimile number _____

by placing the original a true copy
thereof enclosed in sealed envelope(s) addressed as
follows:

Miguel A. Santana, CAO
Office of the City Administrative Officer
City Hall East, 15th Floor
200 N. Main Street
Los Angeles, CA 90012

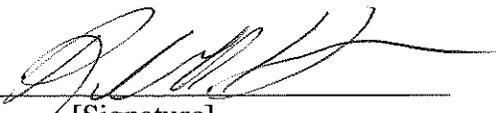
(BY MAIL)
I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice, it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one (1) day after date of deposit for mailing in affidavit.

Executed on August 13, 2010 at Pasadena, California.

(STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

(FEDERAL) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Robert F. Hunt
[Type or Print Name]


[Signature]