

## RESOLUTION

(Adopting Procedures for Collective Bargaining)

WHEREAS, the Board of County Commissioners of Washington County (the "Board") has previously exercised the authority to engage in collective bargaining contained in §1-111 of the Code of Public Local Laws ("CPLL") entitled "Procedures for Collective Bargaining" by adopting a resolution dated April 13, 1993, establishing procedures for collective bargaining; and

WHEREAS, the Board recognized in a subsequent resolution dated February 1, 1994 several "appropriate units" for collective bargaining purposes; and

WHEREAS, both resolutions were rescinded on March 18, 1997, and

WHEREAS, the General Assembly enacted House Bill 740, Chapter 689 of the Laws of 1997, codified as Subtitle 9 of Title 1 of the CPLL, in effect enacting the procedures which had been rescinded, and

WHEREAS, the Board now believes that it is in the public welfare to reserve to the County greater discretion in the determination of wages, hours, and other terms and conditions of employment of the County's permanent, full-time hourly employees, while nevertheless providing those employees with the opportunity to provide input into the determination process through designated representatives of appropriate units, if the majority of employees in appropriate units desire such representation.

NOW, THEREFORE, IT IS RESOLVED by the Board that the following Procedures for Collective Bargaining are hereby adopted.

PROCEDURES FOR COLLECTIVE BARGAINING

I. Purpose.

A. The purpose of this Resolution is to mandate procedures by which the County Commissioners shall negotiate wages, hours, and other terms and conditions of employment with representatives elected by permanent, full-time, hourly employees of the County.

II. Definitions.

A. In general. In this section the following words have the meanings indicated.

B. Appropriate unit.

(1) "Appropriate unit" means a group of full-time, permanent, hourly County employees, recognized by the County as appropriate for representation by an exclusive representative.

(2) "Appropriate unit" includes a group of employees who are eligible for collective bargaining under this resolution who are employed by:

(i) The Parks Division of the Recreation and Parks Department;

(ii) The Transportation Department;

(iii) The Solid Waste Department; and

(iv) The Highway Department.

C. Certification. "Certification" means the procedure whereby a labor organization is elected and officially recognized as the exclusive bargaining representative of a group of County employees.

D. County. "County" means the Board of County Commissioners of Washington County, Maryland.

E. County employee.

(1) "County employee" means any person who occupies a permanent, full-time, hourly position in the employment of the County.

(2) "County employee" does not include:

(i) Supervisors or professional employees;

(ii) Employees who formulate County policy;

(iii) Employees who may reasonably be required on behalf of the

County to assist in preparing for or conducting labor negotiations;

(iv) Employees who assist in administering memoranda of understanding;

(v) Employees who have a major role in personnel administration or security services or who act in a confidential capacity to those employees; or

(vi) County employees employed at the Washington County Regional Airport.

F. Decertification. "Decertification" means the procedure by which official recognition of a labor organization as an exclusive bargaining representative is withdrawn or revoked.

G. Employer. "Employer" means the Board of County Commissioners of Washington County, Maryland.

H. Exclusive representative. "Exclusive representative" means the labor organization which has been duly certified under these procedures to represent a unit of employees.

I. Impartial agency. "Impartial agency" means any of the following organizations or other similar organizations:

(1) The Federal Mediation and Conciliation Service; or

(2) The American Arbitration Association.

J. Labor organization.

(1) "Labor organization" means any recognized organization in which employees participate and which has as one of its purposes the representation of employees concerning the terms and conditions of employment.

(2) "Labor organization" does not include any organization that discriminates because of age, race, color, sex, creed, handicap, or national origin, with regard to the acquisitions or retention of membership, or in accepting or advancing members in any training, apprenticeship, or employment program.

K. Professional employee. "Professional employee" means any employee engaged in work which is predominately intellectual and varied in character as opposed to routine mental, manual, mechanical, or physical work, which involves the consistent exercise of discretion and judgment in its performance, or is of a character that the output produced or the result accomplished cannot be standardized in relation to a given time period, and which requires knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and a study in an institution of higher learning as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual, or physical processes.

L. Strike. "Strike" means the concerted failure of County employees to report for duty, the willful absence of County employees from their positions, the stoppage or slowdown of work or the abstinence in whole or in part from the full, faithful, and proper performance of the employees' duties or in any

manner interfering with the operation of any public employer, where the object is to induce, influence, or coerce change or continuation in the terms, conditions, rights, or privileges of employment, or to force or require the County to adopt any policy or take or not take any course of action.

M. Supervisor. "Supervisor" means an individual having authority, in the interest of the County, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline County employees, or responsibility to direct them, or to evaluate their performance, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing, the exercise of authority is not merely routine or clerical in nature, but requires the use of independent judgment.

### III. Rights of employees.

#### A. Rights generally.

(1) Employees shall have the right to self-organize, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining, and shall also have the right to refrain from any or all of such activities except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment or the payment of a monthly service charge, in an amount not to exceed the regular monthly dues paid by union employees to such labor organization as a contribution toward the administration of the agreement.

(2) Employees hired prior to March 30, 1993 and who are not currently members of an existing bargaining unit who elect not to join are not required to pay any dues or service fee to the labor organization representing them.

B. Right to secret ballot. Upon the filing of a valid petition as described in section VII of this resolution, eligible County employees shall have the right to vote by secret ballot for or against the designation of an exclusive representative for the purpose of meeting and negotiating with the County with respect to wages, hours, and other terms and conditions of employment which are subject to negotiation under this policy.

C. Right to present grievances. Any individual County employee or group of County employees in any appropriate unit in which a labor organization has been certified, shall have the right to present grievances to the County in person and the County shall confer with the employee or group of employees in relation thereto; provided further, however, that the certified exclusive representative will be afforded the opportunity to be present at such conferences and any adjustment or decision resulting from such conferences may not be inconsistent with the terms of any memorandum of understanding or conditions of employment established by the certified exclusive representative and the County.

D. Right to reasonable access to employees.

(1) It is the policy of the County to permit reasonable access to employees by representatives of labor organizations for the purpose of organizing.

(2) Any labor organization desiring access to County property for the purpose of organizing employees shall submit a request in writing to the employer detailing the proposed areas and times of solicitation.

(3) The employer shall permit access to nonworking areas to permit interested employees to receive information during nonwork time without unduly burdening employees with unwanted solicitation or disrupting normal business operations.

IV. Management rights.

The employer's obligations under this policy, except as expressly modified by an agreement, does not affect its exclusive right to:

(1) Direct County employees in the performance of their assigned duties;

(2) Hire, promote, transfer, assign, lay off, recall, retain County employees in positions, or to suspend, demote, discharge, or take other disciplinary action against County employees for cause;

(3) Maintain the efficiency of all County operations;

(4) Determine the method, means, and equipment by which operations are to be conducted; or

(5) Determine the mission of the County and take whatever actions may be necessary to discharge its responsibilities in emergencies.

#### V. Strikes.

A. Strikes prohibited. It shall be unlawful for any County employee, group of County employees, or labor organization to engage in, induce, initiate, or ratify a strike by County employees.

B. Penalties. In the event of a violation of this subsection, the employer shall take whatever action it deems necessary to protect the public and the integrity of these procedures such as the suspension of certification hereunder, or any privilege acquired as the result of the certification, the revocation of the



right of a labor organization to participate in any representation election for a period of not to exceed 1 year, the suspension or discharge of County employees engaged in such illegal conduct, or the application for relief in an appropriate court of law.

#### VI. Appointment of neutral person.

A. Appointment generally. Whenever a situation or dispute arises for which this policy authorizes the appointment of a neutral person, the parties shall promptly select an impartial agency to administer the proceeding.

B. List of qualified individuals. If, within 15 days, the parties are unable to reach an agreement on the appointment of the individual, they shall secure a list of the names of 11 individuals from an impartial agency, which maintains lists of qualified individuals in the field of public sector labor relations.

C. Process of appointment. The parties shall attempt to reach an agreement on the appointment of one of the persons named on the list. If they are unable to reach an agreement, each party to the proceeding, in order determined by random drawing, shall alternately strike names from the list until one name remains, who shall be the neutral person.

D. Compensation. Neutral persons shall be compensated at a daily rate to be determined by the parties at the time of their appointment.

#### VII. Representation elections.

A. Exclusive recognition.

(1) The County shall certify and grant exclusive recognition to a labor organization which demonstrates in a secret ballot election that it is supported by the requisite percentage of employees in a bargaining unit.

(2) A representation election may be initiated as provided in this paragraph.

(3) A labor organization, a County employee or a group of employees may file a petition with the County, supported by evidence that at least 70% of the County employees in an appropriate unit wish to be represented by a labor organization, or assert that the labor organization currently recognized as the exclusive representative of County employees in an appropriate unit, is no longer the representative of the majority of employees in the unit.

B. Requirements for petition. A petition requesting a representation election shall include the following:

(1) The name, affiliation, if any, and address of the petitioner;

(2) The names and titles of the officers and authorized agents of the petitioner, if the petitioner is a labor organization;

(3) A description of the unit which the petitioner claims to be appropriate

(4) The number of County employees in the alleged appropriate unit;

(5) A statement that the petitioner represents at least 70% of the employees in the alleged appropriate unit by virtue of authorizations to represent, dues deduction authorizations, or membership, with the

proof of such a showing of interest to be made to a neutral person selected by the parties in accordance with section VI of this resolution;

(6) An affirmation that the petitioner does not discriminate with regard to the acquisition or retention of membership or in accepting or advancing members in any training, apprenticeship, or employment program because of race, sex, age, color, creed, handicap, or national origin;

(7) A clear and concise statement of its reasons in support of the alleged appropriate unit; and

(8) The names and addresses of any other labor organizations known to represent employees within the alleged appropriate unit and the name and address of any labor organization which is party to any memorandum of understanding covering employees in the alleged appropriate unit.

C. Notice of filing petitions. Notice that such petitions have been filed will be made to all interested parties by the County within 5 working days of the date the petition is received and shall establish the time and place to commence negotiations on questions concerning representation.

D. Notice of intent to intervene.

(1) Any labor organization that wishes to intervene in such representation proceedings shall give written notice of intention to the County on or before the date set for such negotiations to begin.

(2) The notice shall contain the following:

(i) The name, affiliation, if any, and address of the intervenor;

(ii) A description of the unit which the intervenor claims to be appropriate;

(iii) The number of County employees in the alleged appropriate unit;

(iv) A statement that the intervenor represents at least 20% of the employees in the alleged appropriate unit by virtue of authorizations to represent, dues deduction authorizations, or membership, with proof of such a showing of interest to be made to a neutral person selected by the parties in accordance with section VI of this resolution;

(v) An affirmation that the intervenor does not discriminate with regard to the acquisition or retention of membership or in accepting or advancing members in any training, apprenticeship, or employment program because of race, sex, age, color, creed, handicap, or national origin; and

(vi) A clear and concise statement of its reasons in support of the alleged appropriate unit.

#### E. Agreement on representation.

(1) Whenever a representation proceeding is initiated, the employer shall meet with the representatives of the labor organization or organizations involved, and any labor organization allowed to intervene and attempt to reach an agreement on any questions concerning representation which exist, including, but not limited to, determination of the appropriate unit and the number of employees in the unit.

(2) In the event that the parties fail to agree on any such question concerning representation, the unresolved question shall be referred to a neutral person appointed in the manner described in section VI of this resolution, who shall make a recommendation to the County of a final resolution of such question.

(3) The County reserves the right to make the final decision of these questions.

F. Showing of interest required.

(1) Once the appropriate unit and the number of employees in the unit have been determined, the labor organization or organizations shall submit proof of the required showing of interest to a neutral person.

(2) If the employer challenges the authenticity of the showing of interest, the neutral person shall check the employee signatures against signatures contained in personnel records.

(3) The neutral person shall not accept authorization cards that are undated or more than 1 year old.

(4) If the neutral person determines that the showing of interest meets the requirements of this policy, an election shall be

(5) No employee may sign a card or show interest in more than one labor organization requesting the right to represent employees.

G. Agreement on election procedures.

(1) Once an election has been ordered, the employer and representatives of the labor organization or organizations involved shall meet and attempt to agree on the election date, the election procedures, and the employees eligible to vote.

(2) If the parties are unable to agree on these election issues within 10 working days, the unresolved issues shall be referred to the neutral person who shall make a recommendation to the County for final resolution.

(3) The County shall decide these issues at its next public meeting, or as soon thereafter as reasonable.

H. Elections conducted by neutral person. Representation elections shall be conducted by and all issues relating to the legality of the elections shall be finally resolved by the neutral person.

I. Elections by secret ballot.

(1) Representation elections conducted pursuant to this section shall be by secret ballot. The ballots in all representation elections shall include a choice of "no representation."

(2) If a labor organization receives a majority of the ballots of eligible people in the unit, it shall be certified by the County and recognized as the exclusive representative of all employees in the unit for the purpose of collective negotiations as more fully described herein.

J. Runoff election. In an election where none of the choices on the ballot receives a majority, a runoff election shall be conducted, in which the ballot shall provide for a selection between the two choices or parties receiving the highest and second highest number of ballots cast in the first election.

K. Limitations on representation election.

(1) For 2 years following any representation election, the employer will not accept or process a petition for another representation election covering all or part of the same employee unit.

(2) If the prior representation election resulted in a memorandum of understanding, the employer may accept and process a petition for another representation election only during the October of the fiscal year during which the memorandum of understanding terminates.

#### VIII. Rights accompanying exclusive recognition.

A. Rights generally. The labor organization which has been certified by the County shall be the exclusive representative of all employees in the unit who wish to join the labor organization and as such shall have the right to act for and negotiate memoranda of understanding covering all such labor organization employees in the unit and shall be responsible for representing the interest of such employees without discrimination and without regard to membership in the labor organization.

B. Effect of memorandum of understanding. When the memorandum of understanding provides for a grievance procedure, only that procedure shall be applicable to the employees in the unit.

#### IX. Collective bargaining.

A. Negotiation of conditions of employment. The employer and the exclusive representative shall meet at reasonable times, including meetings in advance of the County's budget-making process, and shall negotiate in good faith with respect to wages, hours, and other terms and conditions of employment which are set forth in subsection (c) of this section and which are to be embodied in a written

agreement, or any question arising thereunder, but such obligation may not compel either the employer or the exclusive representative to agree to a proposal or require the making of a concession.

B. Time limit on negotiation. The employer may not be required to negotiate collectively with any exclusive representative certified after the time that the County approves its annual operating budget with regard to conditions of employment which would require the appropriation of funds in the annual operating budget.

C. Mandatory items for negotiation. Should a labor organization be certified as the exclusive bargaining representative of a group of County employees, mandatory items to be negotiated in a memorandum of understanding include the following:

(1) Personal days;

(2) Grievance and arbitration procedures for resolving disputes concerning the application of collective bargaining agreements;

(3) Bereavement leave;

(4) Overtime;

(5) Hours of work and base hourly rates of pay;

(6) Safety and health;

(7) Meal periods;

(8) Military leave,



(9) Dues check-off procedures;

D. Nonmandatory items for negotiation. Should a labor organization be certified as the exclusive bargaining representative of a group of County employees, nonmandatory items to be negotiated in a memorandum of understanding include the following:

(1) Holidays or holiday pay;

(2) Promotions and demotions;

(3) Transfers and new or temporary job openings;

(4) Bumping;

(5) Layoff and recall;

(6) Vacations-leave, pay, choice, carryover;

(7) Health and welfare insurance;

(8) Leave of absence;

(9) Rest periods, cleanup time, call time;

(10) Rates, job classification and descriptions;

(11) Retirement benefits and plan; and

(12) Working conditions.

E. Nonnegotiable subjects. All other subjects of employment, including but not limited to work rules, discipline, and discharge, and contracting and subcontracting work are not negotiable and may not be the subject of negotiations.

F. Term of memoranda of understanding. The term of all memoranda of understanding shall coincide with the County's fiscal year or years.

G. Funding required. The County shall include in its annual operating budget provisions for the funding of all terms included in all memoranda of understanding.

H. Continuation of obligation to negotiate. If the County deletes any item from the County's annual operating budget which affects the implementation of any terms of a memorandum of understanding, the mutual obligation to negotiate collectively as described herein shall continue, subject to subsection (b) of this section.

X. Unfair labor practice.

A. In general. It shall be an unfair labor practice for the employer or any labor organization to violate any of the provisions of this resolution by engaging in any conduct which interferes with, restrains, or coerces County employees in the exercise of their rights under this resolution or by refusing to negotiate collectively as described in this resolution.

B. Procedure. Any charge that an unfair labor practice has been committed must be in writing and served by the charging party who must be an affected party or a representative of the affected party on the party alleged to have engaged in the violation within 10 days of the occurrence of the violation. Within 5 days of the charge, the parties shall appoint a neutral person to investigate the charge, hold hearings, make a determination as to whether an unfair labor practice has been committed, and issue a report to the County recommending a remedy for any violation found.

C. Cost of proceedings. The cost of any unfair labor practice proceedings shall be paid by the charging party where no violation is found and by the offending party where a violation is found.

#### XI. Expression of views.

The expression or dissemination of any views, argument, or opinion, whether orally, in writing, or otherwise, does not constitute and is not evidence of an unfair labor practice under any of the provisions of this procedure nor is it grounds for invalidating any election conducted under this resolution if the expression or dissemination does not contain a threat of reprisal or promise of benefit.

#### XII. Financial reports to employees.

A. In general. Every exclusive representative in which any County employees are dues-paying members, shall keep an accurate record of its financial transactions and shall, upon request, within 60 days after the end of its fiscal year, make available annually to such County employees a detailed written financial

report in the form of a balance sheet and an operating statement, certified as to accuracy by a certified public accountant.

B. Actions authorized on noncompliance. In the event of failure of compliance with this section, the County may take whatever action it deems necessary to protect County employees, including the suspension of certification under this resolution or any privilege acquired as the result of such certification or the revocation of the right to participate in any representation election conducted in accordance with this resolution.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 1999.

ATTEST: BOARD OF COMMISSIONERS

Of WASHINGTON COUNTY, MARYLAND

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Joni L. Bittner, Clerk Gregory I. Snook, President

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Paul L. Swartz, Vice President

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Bertrand L. Iseminger, Jr.

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John L. Schnebly

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William J. Wivell

Approved as to form

and legal sufficiency:

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Richard W. Douglas

County Attorney