

"REVISED"

City of



REPORT TO THE CITY COUNCIL

AGENDA ITEM NO. 8:00 a.m.

COUNCIL MEETING: 7/10/14

APPROVED BY

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DEPARTMENT DIRECTOR

CITY MANAGER

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**Date:** July 10, 2014

**FROM:** Jeff Cardell, Director  
Personnel Services Department

**BY:** Ken Phillips, Labor Relations Manager  
Personnel Services Department

**SUBJECT:** 1. Conduct a Public Hearing regarding a bargaining impasse and unilateral implementation of wages, hours and other terms and conditions of employment for employees in Unit 5, represented by the International Association of Fire Fighters, Local 753 (Fire Basic).

2. Adopt a Resolution of the Council to implement changes in wages, hours and other terms and conditions of employment for City employees in Unit 5, represented by the International Association of Fire Fighters, Local 753 (Fire Basic).

**RECOMMENDATION**

It is recommended that City Council hold a Public Hearing regarding a bargaining impasse and unilateral implementation of wages, hours and other terms and conditions of employment for Fire Basic employees. Following the Public Hearing, it is recommended that Council adopt a resolution to unilaterally implement changes in wages, hours and other terms and conditions of employment for Fire Basic employees.

**EXECUTIVE SUMMARY**

The City and both of its Fire units commenced negotiations in May 2013. After several months of negotiations, the parties reached agreement. The Fire Management unit subsequently ratified an agreement with the City on or about January 21, 2014. Fire Basic's membership; however, rejected the tentative agreement on or about January 28, 2014. The City verbally declared impasse on March 17, 2014, followed by a letter confirming this impasse declaration dated March 20, 2014. Following the parties' initial impasse meeting, conducted in accordance with the Fresno Municipal Code, Fire Basic proposed revised terms for a successor MOU and offered to take the proposal to the membership for a vote. On June 5, 2014, Fire Basic advised the City that its membership had rejected the offer.

The City was prepared to conduct a Public Hearing on June 26, 2014 on the impasse and consider implementation of terms and conditions; however, the Association provided a letter that included the terms of a revised offer on June 26, 2014. Council accepted the June 26, 2014 offer from Fire Basic, and incorporated its terms into the City's last, best and final offer. A membership vote was scheduled

for July 7 and July 9, 2014. If the members ratify the Union's new offer, Council will not be required to hold the Public Hearing nor adopt the resolution to unilaterally implement changes in wages, hours and other terms and conditions of employment.

## **BACKGROUND**

The City initiated formal negotiations with both Fire Basic and Fire Management units in May 2013, during which time, the City was seeking concessions valued at approximately 8% or \$2.7 million annually. These concessions were being sought due to ongoing concerns related to the City's overall financial condition and the ability to adequately fund essential services such as fire protection.

Over the course of these negotiations, modifications to the City's original bargaining position were made that reduced the level of concessions from 8% to 4%. The changes were made to demonstrate good faith by the City and in recognition that revenue projections were improving. Additionally, these changes were made as it has been the City's desire to reach agreements with Fire Basic and Management, as well as a number of other labor organizations (e.g., CFMEA, Local 39, IBEW) who also had open labor contracts.

On November 5, 2013, the City reached a "tentative agreement" with both Fire Basic and Fire Management on terms and conditions of a new labor agreement. After a change in union leadership, the City was advised that the tentative agreement would not be presented to the union membership. In the interest of trying to reach an accord, the City agreed to revisions and the parties ultimately reached an agreement on these changes. Fire Management ratified the tentative agreement; however, Fire Basic members rejected the agreement in a vote which concluded on January 28, 2014.

The City and Fire Basic met again but were unable to reach agreement. The City declared impasse on March 17, 2014, followed by a letter confirming the impasse declaration dated March 20, 2014 (Attachment B).

Under state law, a bargaining unit has the right to formally request fact-finding once impasse has been declared, provided that this request is in writing and exercised within 30 days of the declaration of impasse. (Government Code Section 3505.4; and see *City of Redondo Beach (2014)* PERB Order No. AD-409-M.) Since the City provided a written declaration of impasse on March 20, 2014, the time to request fact-finding has since passed. This determination has been upheld in a recent PERB decision. Neither the City nor Fire Basic requested mediation. By law, Fire Basic's ability to formally request fact-finding ended April 19, 2014.

On April 22, 2014, an impasse meeting was held during which time Fire Basic representatives presented a proposal. The Fire Basic proposal included concessions that would have resulted in greater savings when compared to the modified tentative agreement, provided that the membership approved the proposal by May or June. The City's response to this proposal, given the failure to garner approval of the modified tentative agreement, was that it would consider this proposal, but only after representatives were successful in obtaining support from the membership. Unfortunately, the

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Union's proposal failed to obtain approval by their membership when the votes were tallied on June 5, 2014.

**It should be noted that the City has lost approximately \$422,000 in FY 14 concession savings since the defeat of the first tentative agreement and that every month of delay results in a continuing loss of approximately \$73,240 in savings.**

On June 13, 2014, both in writing and during an in-person meeting attended by both City and Union representatives, the City notified Fire Basic that it intended to hold a Public Hearing on June 26, 2014 prior to implementing a last, best and final offer as required by the Meyers-Milias-Brown Act. On June 26, 2014, the Union provided an offer that modified its earlier offer by capping employee contributions to health care at 30%, increasing the uniform allowance by \$100 in the last pay period of the MOU, reinstating the deferred compensation on the last pay period of the MOU and increasing the amount to \$46 per pay period, and adding six months to the term of the MOU, such that it would expire on December 31, 2016.

Council adopted Fire Basic's June 26<sup>th</sup> proposal, making it the City's new last, best and final offer and advised the Union it would schedule a Public Hearing on July 10, 2014 to consider implementation of terms and conditions of employment consistent with City's last, best and final offer in the event Fire Basic members do not ratify their proposal.

The Union said it would take the offer to its membership for a vote on July 7 and July 9, 2014. If the members ratify, Council will be asked to cancel the Public Hearing and not adopt the attached resolution.

If the Fire Basic membership does not approve the June 26, 2014 proposal package, Council will be asked to proceed with a Public Hearing in accordance with Section 3505.7 of the California Government Code. Therefore, it is recommended that the Council conduct a Public Hearing to receive testimony and comment.

After the Public Hearing is closed, it is staff's recommendation that the Council impose the City's last, best and final offer, which would be based on the terms and conditions outlined in the modified tentative agreement that was rejected in January 2014 per the proposal provided by Fire Basic and adopted by Council, with some exceptions. Council would accomplish this through adoption of the attached resolution implementing the terms and conditions of employment on the employees represented by Unit 5, Fire Basic.

With approval of the attached Resolution, terms and conditions of employment will be implemented effective July 14, 2015. The following is a summary of the terms and conditions:

- The City will discontinue 1% of a 2% contribution towards employee share of retirement contributions on July 14, 2014.
- The City will pay 75% towards the monthly health and welfare premium. Future increases will be shared, 50% paid by the City and 50% paid by the employee to a maximum contribution by

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employees of 30% of the monthly health and welfare premium. If another bargaining unit negotiates a greater contribution, the City is willing to meet and confer to match the benefit.

- The City will cease making a \$36 matching contribution to employee Deferred Compensation Accounts.
- The Uniform Allowance will be reduced to \$550 in FY 15.
- Employees who are receiving bilingual premium pay must be recertified every five years. Initial recertification will be staggered.
- All conversions between 40 hour schedules and 56 hour schedules are to be based on a 1.4 factor instead of a mixture of 1.5 and 1.4.
- The Workers Compensation provision will be amended to reflect state law. Provisions in the Workers Compensation provision that are no longer applicable will be removed.
- A provision on leave for Local officers will be moved to a different section, and an agreement on such leave will be included.
- A provision on Bereavement Leave based on provisions in the Fresno Municipal Code will be added.
- The City will have an option on making Health Reimbursement Arrangement accounts book accounts or actual accounts.
- Reimbursement for vehicle use to be provided in accordance with the Fire Administrative Manual.
- The current 2/4 schedule will be listed as the normal schedule for employees.

**ENVIRONMENTAL FINDINGS**

Not applicable.

**LOCAL PREFERENCE**

Not applicable.

**FISCAL IMPACT**

Given an implementation date of July 14, 2014, recognizing that two pay periods in Fiscal Year 2015 will have passed, the projected impact of imposing terms and conditions of employment will result in savings of approximately \$823,000 in Fiscal Year 2015. Without approval from Council, the City loses savings of approximately \$73,240 each month in addition to the loss of \$422,600 in FY 14 when Unit 5, Fire Basic failed to ratify the tentative agreement reached in January 2014.

- Attachments:
- A Resolution of City Council Implementing Terms and Conditions
  - B. March 20, 2014 Impasse letter
  - C. Listing of 2013 Taxable Wages for Fire Basic Employees
  - D. Chart of Compensation Changes for Fire Basic Employees
  - E. Illustration of Modified Tentative Agreement Cost/Savings