

## ANN SMITH UPDATE (May 13, 2008):

### Dear All:

Good morning! For many of you, the events involving MEA, the Mayor and the City Council over the past 24 hours must seem like a complicated game of inside baseball. Here's [the reader's digest version](#).

MEA met and conferred with the Mayor's Negotiating Team over the past several months -- with MEA having made a comprehensive proposal for a new MOU on February 4, 2008, and the City having finally made its complete economic proposal on March 3, 2008. Between 3/3/08 and 5/7/08 when the Mayor presented his "last, best and final offer" ("LBFO") for a new MOU, the Mayor refused to change his position on the key issues: (1) no general salary increase in FY 09; (2) a "restructuring" of the Flexible Benefits Plan resulting in 65% of MEA-represented employees losing money when compared with FY 08; and (3) a new pension program for employees hired after 1/1/09 which completely gutted the defined benefit plan concept as a means of providing a secure retirement to future City employees.

During this same time frame, [MEA attempted to negotiate a new Impasse Procedure](#) which would permit the City Council to exercise its legislative discretion in resolving any impasse in the negotiations. Every idea which MEA advanced -- whether on its own or as a member of a coalition with the other City employee unions -- was rejected by the Mayor. Instead, the Mayor wanted the Council's choices at impasse to be limited to (1) accepting his LBFO as a package; (2) the Union's LBFO as a package; or (3) rejecting both and leaving the status quo of current MOU terms to be carried forward unchanged into FY 09. [When MEA argued that the Council should be given the option to take what it liked from the Mayor's LBFO and combine it with a position it liked in the Union's LBFO, the Mayor's response was NO!](#)

After multiple failed attempts to craft a compromise, the Mayor's Team and MEA's Negotiating Team agreed that no new Impasse Procedure could or would be achieved and that the parties would proceed on the basis of the existing Impasse Procedure in Council Policy 300-6 -- which is also incorporated by reference in MEA's current MOU, Article 9, which does not expire until 6/30/08. When MEA asked repeatedly at the bargaining table for specific assurances about how the current Impasse Procedure would be interpreted and implemented for any impasse hearing involving MEA, the Mayor's Team stated -- with the concurrence of the City Attorney through his deputies who were also present at the bargaining table -- that the Council would be limited to approving the Mayor's LBFO or not -- and, if not, then the status quo would remain in effect through FY 09.

Accordingly, MEA's Negotiating Team proceeded to evaluate the Mayor's LBFO and to determine how to respond to it in a final effort to reach an agreement prior to an Impasse Hearing -- which, on the Mayor's request, was set before the City Council for May 12.

On Thursday, May 8, 2008, the MEA Negotiating Team presented its LBFO to the Mayor. This LBFO was the product of long hours of deliberations leading to the final week of bargaining -- as well as a robust debate about how to achieve MEA's objectives in the short-term and in the long-term on behalf of current and future City employees. The highlights of this LBFO included: (1) a general salary increase in the full amount of the Cost of Living Increase for the San Diego area when 2007 is compared with 2006 (2.3% total) -- implemented in two parts: 1.3% on July 1, 2008, and 1% on December 27, 2008; (2) the status quo regarding the Flexible Benefits Plan dollar value of \$6,075 (to prevent the proposed "take-away" from 65% of MEA-represented employees) -- but with MEA's agreeing not to sponsor a health, dental or vision plan under Flex; and (3) an alternative new pension plan which would preserve defined benefit as the means of securing an adequate retirement for new hires while also providing a City-paid defined contribution to a Retiree Medical Trust fund for those employees -- resulting in better cost savings to the City than the Mayor's "exotic" new plan design which gutted defined benefit and relied heavily on two new complicated defined contribution features. MEA's pension proposal was modeled after one of the five current CalPERS plan designs referred to as the "2% at 60" plan. This is also the basic formula for all certificated teachers in California under CalSTRS -- as well as the plan in effect for current employees in the City and County of San Francisco -- as well as at least 330 other public agencies in California. The MEA Negotiating Team, of course, would have preferred to maintain the same defined benefit plan currently in effect but recognized the need to take the long view of the issue and make adjustments now -- while still preserving a defined benefit plan -- leaving MEA and future employees to make gradual improvements over the ensuing two to three decades before any new hire would eventually retire under the new plan. [As you all know, every current City employee who was hired after September 1982 was hired under former Mayor Wilson's terrible "tier 2" pension plan which had been imposed on MEA over its objections and without reaching a new contract. Eventually, that terrible "tier 2" plan was eliminated and all of you were rolled into the original SDCERS plan -- which, in turn, was improved three times between 1996 and 2002 to its current level. Thus, the long view is critical in this discussion.]

MEA's LBFO also included several other issues on which the parties were in disagreement -- and clearly specified that it was a package proposal with each component part interdependent on each other component part. In other words, MEA's position was: take the whole deal or "no deal." The Mayor's response came within an hour of MEA's heartfelt presentation regarding the FAIRNESS of its LBFO -- noting that neither side would be getting exactly what it wanted but each side would be getting a decent enough outcome to permit both sides to move forward in addressing and (someday) resolving the City's ongoing challenges. The Mayor said: "NO DEAL." The Mayor reasserted his LBFO as unchanged, declared again that the bargaining was at an impasse, and confirmed that we would proceed to the Impasse Hearing on 5/12 on the basis previously described.

And so we did. Hundreds of you joined us yesterday for the pre-hearing RALLY and then spent the rest of your afternoon, evening and night in attendance at the Impasse Hearing. As planned, MEA did an Impasse Hearing presentation related to the Mayor's LBFO and explained to the City Council why MEA's Negotiating Team disagreed with the Mayor's position and how MEA had proposed to reach agreement on the basis of its own LBFO which had been rejected. Accordingly, MEA urged the City Council not to

approve the Mayor's LBFO. After all three Unions had presented their Impasse position and likewise urged the Council not to approve the Mayor's LBFO, the Council adjourned to closed session. Hours passed.

Then, as the ten o'clock hour approached, the Mayor's Team asked to convey a "new" LBFO to MEA's Negotiating Team which made a single change in the Mayor's LBFO on which the Impasse Hearing had already been conducted. The single change was to incorporate MEA's defined benefit pension plan for new hires after 7/1/08 -- but otherwise rejecting each and every other provision contained in MEA's "package proposal" for a new MOU as set forth in its LBFO. MEA's Negotiating Team quickly responded and cried foul -- rejecting the Mayor's eleventh hour attempt to change its position on a single issue and prevent the Council from voting "up" or "down" the LBFO on which we had conducted an Impasse Hearing!

The Council then reconvened and MEA addressed the Council a second time to explain what MEA had been told regarding the rules which would govern this impasse hearing and how those rules had influenced MEA's decision to craft its own LBFO and the terms contained in it -- which the Mayor had already rejected in favor of his own LBFO -- and urged the Council not to condone the Mayor's last ditch effort to change the rules once confronted with the likely defeat of his LBFO. The drama (and trauma) would not be complete, however, without Mr. Aguirre's involvement which was to announce that this change in the rules was permissible and that the Council should vote not on the Mayor's LBFO on which the Impasse Hearing had already been conducted but rather on the Mayor's last minute revision to that LBFO.

Over MEA's objections, the Council proceeded to a vote on the Mayor's revised LBFO (as dictated by Mr. Aguirre) -- but IT DID NOT GET THE NECESSARY FIVE (5) VOTES FOR PASSAGE. Thus, by 10:30 p.m. last night, neither the Mayor nor Mr. Aguirre prevailed in trying to change the rules to the disadvantage of MEA-represented employees.

### **Bottom line:**

We did not reach a new MOU.

The Mayor's LBFO will not be imposed.

The current MOU terms will carry forward unchanged into FY 09.

This, of course, is both good and bad news because:

(1) there will be no general or special salary increases for MEA-represented employees;

(2) there will be no new pension plan for new hires;

(3) there will be no change in FLEX -- such that the FY 08 dollar value of \$6,075 for all employees will remain unchanged; and,

(4) there will be no other economic or non-economic changes on which we had reached tentative agreement -- including the increases achieved in mileage reimbursement rates, Special Assignment pays and Voluntary Certification pays.

Those of you who attended the Rally and the Council session yesterday got the full flavor of how complicated and challenging the current bargaining climate is. For any Union to remain strong and "live to fight another day," we must all stay committed to achieving a just outcome for all current and future employees. Toward that end, we will continue the fight. Stay tuned -- and, meanwhile, keep up all the great work you do for the residents of San Diego.

Best regards, Ann Smith