



CITY OF COSTA MESA

P.O. BOX 1200, CALIFORNIA 92628-1200

FROM THE OFFICE OF THE CITY MANAGER

August 20, 2011

Helen Nenadal, President
Costa Mesa City Employees Association
c/o Orange County Employees Association
830 N. Ross Street
Santa Ana, California 92701

RE: RESPONSE TO LETTER DATED AUGUST 19, 2011

Dear Helen:

Thank you for your letter yesterday. While we may disagree in our interpretation of the City's Contracting Policy, I do not think it productive to engage in a continuing back-and-forth over every nitpicking detail of that Policy. It is, after all, a policy that sets guidelines for the City's practices and is not an ordinance to be parsed and interpreted in such detail. I can assure you that it has never been my intent to escalate tension between the City and its employees. To the contrary, I am sincere in my attempts to accommodate CMCEA and keep City employees involved in the ongoing conversation about how best to provide City services.

In this spirit of cooperation, and even though I don't believe it to be necessary, if CMCEA demands to have three representatives on the Jail Services Committee, I will permit it to do so. I respectfully disagree that the CMCEA or any other association can designate as many representatives as it may choose to each committee or delay the scheduling of the meetings. As to the other Committee members, the policy spells out who the members of the team will be by job title or responsibility. The persons identified in the policy were included because any review of city services for reorganization, restructuring or outsourcing implicates budget and human resources issues as well as the department itself. That is why a number of different individuals are to serve on the committee; to ensure that financial, personnel, department needs and employee needs are addressed, that ideas be solicited from each affected department, and that a realistic view of the service be obtained.

The policy lays out guidelines for an *internal* process of assessment, evaluation and recommendation made to provide the best level of service at the least cost for the citizens of Costa Mesa. It was not designed to include non-employees in this assessment process. The process is not a negotiation or a meet and confer process; it is supposed to be a collaborative and informative process to benefit the City. In order to achieve the purpose of the Policy, representatives on the Committees must be City employees. Ms. Newton therefore may not participate. If there is another City employee you would like to add to the Committee, please advise me of that employee's name so that we can add him or her to the list. You should also be aware that we have also invited CMPA to appoint two representatives to the Committee.

As to the scheduling of the other committee meetings: the Animal Control Committee will meet on Wednesday August 24, 2011 at 1:00 p.m. The Video Committee will meet on Tuesday August 23, 2011 at 9:00 a.m. The Building Inspection Committee will meet on Wednesday August 24, 2011 at 8:30 a.m. While we would like to be able to accommodate the individual schedules of all Committee members, the number of people involved makes this impossible—these dates are fixed for all participants who wish to be involved, whether or not they are members of the CMCEA. I requested in my letter to you of August 11, 2011 that you designate employee representatives for the other 3 identified committees within (5) days. You have yet to do so. Please inform me of the names of your employee representatives (other than yourself) for those committees as soon as possible so that materials may be provided in advance of the meetings.

One final note: In order to comply with fundamental principles of fairness and to preserve the integrity and flexibility of the decision making process, it is important that all participants in the Committees keep the work and work product of the Committee in confidence while the Committee process is underway. I trust you will understand that it will not serve the City or its employees to have the discussions and drafts of the committee members circulated outside of the committee process until such time as the analysis and report called for in the policy are prepared and submitted to me and to the City Council.

Please rest assured that all participants will have input and will work together to create the documents and information necessary to allow me, and ultimately the City Council, to make the most informed decision possible. I look forward to the committee members working together to provide the best results for the City of Costa Mesa.

Sincerely,

A handwritten signature in black ink that reads "Thomas R. Hatch". The signature is written in a cursive, slightly slanted style.

Thomas R. Hatch
Chief Executive Officer



ORANGE COUNTY EMPLOYEES ASSOCIATION

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August 19, 2011

Thomas Hatch
Chief Executive Officer
City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92626

Dear Mr. Hatch:

I am in receipt of your letter dated August 19, 2011, and I am both disturbed and disappointed by its contents. Your contentions regarding the intent or meaning of Council Policy 100-6 the policy are both incorrect and exclusionary. While you reference a "fair reading," you reach conclusions that are prejudicial to CMCEA and entirely inconsistent with the actual language of the policy. By doing so you unnecessarily escalate the tension between the City and its employees, tension precipitated by the Council majority's expressed desire to eliminate as many CMCEA-represented employees as possible.

I will begin by underscoring the portion of the policy dedicated to the composition of each Contracting Committee. It provides that there are to be three committee segments: (1) a Project Responsibility/Facilitator segment, comprised of four designated management employees; (2) a Department Representative segment, comprised of a Department Head, Manager, and/or supervisor of the service being evaluated *and* representatives from the service area with the technical expertise and qualifications to knowledgeably discuss the contracting proposal; and (3) an Employee Representative segment, comprised of *representatives designated by the appropriate employees' association*.

Contrary to your contention, there is no limitation of any kind with respect to the representatives to be designated by the employees' association.

Specifically, there is no requirement, as you seek to impose, that a designated representative be "involved in providing the 'specific service being evaluated.'" In fact, most of the designated Contracting Committee members from each segment are clearly not involved in providing the specific services being evaluated.

Further, there is no limit on the number of representatives the association may designate. Management is permitted to designate up to seven specific committee members, plus an unlimited number of additional members who possess a certain level of technical expertise and qualifications (as subjectively determined by management). The policy cannot be "fairly read" to designate a committee comprised of more than seven management representatives and, as you contend, only one employee representative. The clear language of the policy provides that the employee association is to designate not a single representative, but "representatives [plural]." Their role is to "evaluate and provide input." The representatives designated by the association to the Jails Services Contracting Committee are prepared to do just that.



Thomas Hatch
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Finally, there is no requirement that the representatives designated by the association be City employees.

It is also important to consider Paragraph 1 of the policy which provides that association representatives "will have the opportunity to ask specific questions of the department to clarify their understanding of the proposal under consideration." Also, Paragraph 2 of the policy requires the committee to "work together to outline how to evaluate" provision of services in-house. These responsibilities require a breadth and scope of knowledge, and a level of expertise and experience, that most employees "involved in providing the 'specific service being evaluated'" simply won't possess.

At this time CMCEA believes that it is in the best interests of CMCEA and its represented employees that Jamie Newton and I be members of each Contracting Committee, and by this letter CMCEA hereby makes those designations. CMCEA also designates Monique Adam to the Jail Services Contracting Committee, and we will attend the August 23, 2011, committee meeting.

CMCEA will identify and designate additional representatives to other Contracting Committees as expeditiously as possible, and at that time will identify feasible committee meeting dates and times. However, it would be beneficial if in the future the City make Committee Member designation requests and propose meeting dates more than one work day prior to a proposed meeting date.

In summary, I want to make it clear that what you described as a "compromise" was not. It was instead a not-so-subtle mischaracterization of the policy language and an apparent attempt to infringe on the rights of CMCEA and its members.

Policy 100-6 permits CMCEA to designate whoever and whatever number of representatives it deems appropriate. Consistent with our past actions, CMCEA intends to exercise its discretion in this area responsibly and in the best interests of our members and the community we proudly serve. I assure you each of our representatives looks forward to cooperating with other contracting committee members, and to participating in good faith in the process contemplated by Policy 100-6.

We also look forward to receiving the City Attorney's guidelines as soon as possible.

Sincerely,



Helen Nenadal, President
Costa Mesa City Employees Association