

MINUTES OF THE SPECIAL MEETING OF THE
PERSONNEL COMMITTEE OF THE
COUNTY SANITATION DISTRICTS
OF LOS ANGELES COUNTY

October 24, 2018
11:00 o'clock, A.M.

Pursuant to the call of the Chairperson and upon written notice of the Secretary setting the time and place of a special meeting and mailed to each Director at least 24 hours before the meeting, a special meeting of the Personnel Committee of the County Sanitation Districts of Los Angeles County was held at the Joint Administration Office, 1955 Workman Mill Road, Whittier, California, on October 24, 2018, at 11:00 a.m., for the purpose of:

1. Approve Minutes of Special Meeting Held September 26, 2018
2. Re: Personnel Related Matters – Discussion and Possible Action
 - (a) CLOSED SESSION – Conference with Labor Negotiators (pursuant to Section 54957.6 of the Government Code) – Discussion only
 - (b) OPEN SESSION – Public Comment – 12:00 p.m.
 - (c) CLOSED SESSION – Conference with Labor Negotiators (pursuant to Section 54957.6 of the Government Code) – Discussion and Possible Action
3. Re: Update on Districts’ Solid Waste Management System

There were present:

Pat Furey, South Bay Cities and District No. 5
Dee Andrews, Districts Nos. 1 and 8
Richard Barakat, District No. 15
Robert Joe, District No. 16
Terry Tornek, District No. 17
Curtis Morris, District No. 21
Margaret E. Finlay, District No. 22
William Davis, District No. 23
Leonard Pieroni, District No. 28
Tina Hansen, District No. 29
David Armenta, Chairperson, Districts Nos. 2 and 18

Absent:

Joseph Buscaino, Districts Nos. 3, 4, and 9
Rex Parris, District No. 14
Kathryn Barger, District No. 19
James C. Ledford, District No. 20
Sheila Kuehl, District No. 27
Laurene Weste, Santa Clarita Valley

Also present:

Grace Robinson Hyde, Chief Engineer and General Manager
Robert Ferrante, Assistant Chief Engineer and Assistant General Manager
Wesley Beverlin, District Counsel
William Tebbe, Musick, Peeler & Garrett, Labor Relations Counsel
Jennifer Allen, Human Resources Manager
Dave Bruns, Head of Financial Management
Matt Eaton, Assistant Department Head of Financial Management
Charles Boehmke, Department Head of Solid Waste Management
Kimberly S. Christensen, Secretary of the Committee

RE: MINUTES

held on September 26, 2018, were approved.

Upon motion of Director Hansen, duly seconded and unanimously carried, the minutes of the special meeting

RE: PERSONNEL RELATED
MATTERS - DISCUSSION
AND POSSIBLE ACTION

District Counsel requested that the Committee meet in closed session pursuant to Section 54957.6 of the Government Code, *Conference with Labor Negotiators*.

Agency Designated Representatives: Grace R. Hyde, Chief Engineer and General Manager; Robert C. Ferrante, Assistant Chief Engineer and Assistant General Manager; and Jennifer Allen, Human Resources Manager, to discuss matters concerning the union-represented, self-represented, and non-represented employee units.

Upon motion of Director Andrews, duly seconded and unanimously carried, the meeting convened in closed session at 11:07 a.m. pursuant to Section 54957.6 of the Government Code, *Conference with Labor Negotiators*, to discuss the matter referred to by District Counsel.

Upon motion of the Director Andrews, duly seconded and unanimously carried, the meeting reconvened in regular session at 11:57 p.m. District Counsel announced that the Board took no action that requires disclosure under the Brown Act pursuant to Government Code Section 54957.1.

The Secretary announced that members of the public requested to address the Committee on this item. She called upon the following speakers:

Speakers:

Mr. Mathew Watson, Civil Engineer, Technical Services Department, addressed the Board regarding employee negotiations. Written speaker notes, which included a letter written by Tasnuva Shabnoor, Engineering Associate, Technical Services Department, were submitted to the Secretary and are attached as well as on file.

Mr. Steve Koffroth, Field Director for the American Federation of State County and Municipal Employees, District Council 36 (AFSCME), addressed the Board regarding employee negotiations. Written speaker notes were submitted to the Secretary and are attached as well as on file.

Ms. Melissa Fischer, Supervising Engineer, Engineering Department, addressed the Board regarding employee negotiations. Written speaker notes were submitted to the Secretary and are attached as well as on file.

The Chairperson thanked the speakers.

District Counsel requested that the Committee meet again in closed session pursuant to Section 54957.6 of the Government Code, *Conference with Labor Negotiators. Agency Designated Representatives: Grace R. Hyde, Chief Engineer and General Manager; Robert C. Ferrante, Assistant Chief Engineer and Assistant General Manager; and Jennifer Allen, Human Resources Manager, to discuss matters concerning the union-represented, self-represented, and non-represented employee units.*

Upon motion of Director Barakat, duly seconded and unanimously carried, the meeting convened in closed session at 12:16 p.m. pursuant to Section 54957.6 of the Government Code, *Conference with Labor Negotiators*, to discuss the matter referred to by District Counsel.

Upon motion of Director Andrews, duly seconded and unanimously carried, the meeting reconvened in regular session at 12:32 p.m. District Counsel announced that while in closed session the Committee gave direction to staff regarding the ongoing negotiations, but took no formal action that requires disclosure under the Brown Act pursuant to Government Code Section 54957.1.

RE: SOLID WASTE MANAGEMENT
DISTRICTS' SOLID WASTE MANAGEMENT
SYSTEM - DISCUSS

The Chief Engineer and General Manager stated that there have been previous presentations regarding the Districts' solid waste management program. As mentioned in previous status reports, the China Ban has

affected the entire recycling industry. She introduced Mr. Chuck Boehmke, Head of the Solid Waste Management Department, to provide a brief presentation about the Districts' solid waste management system. Also present was Mr. Robert Asgian, Assistant Department Head of Solid Waste, who manages all solid waste facilities. The presentation included an overview of the Districts' solid waste management program and the challenges involving the China Ban, legislative mandates, the elimination of diversion credit for green waste used as landfill cover, and new requirements for organics recycling. Altogether, the challenges lead to higher costs that will trickle down to cities.

Mr. Boehmke presented a slide showing an overview of how solid waste management works in Los Angeles County. The three segments of solid waste management are generation; collection; and disposal and recycling.

In the “generation” segment, cities and the County are responsible for providing solid waste services and programs, including recycling programs for their residents and businesses. Most cities and the County rely on franchise contracts with private waste companies to provide collection for their jurisdictions. The Districts does not provide collection services. Therefore, the Districts’ role is limited to owning and operating facilities for disposal and recycling. This means that the Districts does not control the waste that comes to its facilities. This puts the Districts at a disadvantage, making it difficult to plan for long-term demand of Districts’ facilities. The agency must ensure we offer services that are in demand with competitive pricing that will bring material to Districts’ facilities.

The Districts is using “Put or Pay” waste contracts that provide a discount on tipping fees coupled with a commitment of waste to ensure a consistent delivery of material to Districts’ facilities. The Put or Pay contracts have been very successful and have allowed the Districts to plan for staffing and equipment needs at facilities. Currently, about half of the material received at the Districts’ two materials recovery facilities comes in under these contracts. All Put or Pay contracts expire in June 2020.

He presented a slide showing the Districts’ historical role in solid waste management. Historically, there has been a balance of public and private ownership of solid waste facilities in the County. Following the closure of the Puente Hills Landfill (PHLF) in 2013, this balance has shifted more towards private control. It is well known that the Districts’ presence, although reduced, still exerts a level of cost-competitiveness among solid waste facilities in the County. The Districts is responsible for operating and maintaining open and closed landfills; recycling facilities, and household hazardous waste/electronic waste collection programs. The Districts also provides long-range solid waste planning to ensure adequate disposal capacity. An example is the Waste-by-Rail program, which has already been constructed and is currently on stand-by until it is needed. The Districts also evaluates and develops innovative projects such as landfill gas-to-energy, waste-to-energy, and green waste and food waste recycling. The agency always sets high standards for environmental compliance.

The Solid Waste System Management Agreement (Agreement) provides the framework for the Districts’ solid waste system. The Agreement was executed in 1996 and includes 15 Districts, which is most of the Districts located in the metropolitan area of the County. These are Districts that include cities and County areas that historically used Districts’ facilities.

Under the Agreement, District No. 2 has delegated authority for making administrative decisions for the solid waste system, like it does for the Joint Outfall System on the wastewater management side of the agency.

Rather than reviewing all of the Districts’ solid waste management facilities, the presentation focused on recycling programs and projects because that is where the Districts is experiencing the biggest challenges. These challenges are mainly in response to new state requirements for recycling. He presented a slide showing the Puente Hills Materials Recovery (PHMRF) and Downey Area Recycling and Transfer (DART) Facilities where the Districts provide key recycling services (MRFs).

When the Puente Hills Landfill closed five years ago, the Districts prepared for the MRFs to take on a much bigger role in the solid waste system. The Districts planned to take in a portion of the waste that the landfill had received and the MRF’s total incoming tonnage increased to about 4,000 tons per day (tpd) (approximately 3,000 at PHMRF and 1,000 at DART). The Districts receives approximately 180 tpd of commingled recyclables (blue bin material) which is manually sorted on sorting belts. Commodities like paper, cardboard, metal, plastic, and beverage containers are recovered. Material from mixed waste is also sorted on the floor. Residual waste is sent to Orange County landfills. The Districts has a nine-year cost-effective agreement with Orange County to send residual waste to their landfills until 2025.

The Districts is currently replacing the current PHMRF sorting line, consisting of a belt and manual sorters, to transition to a highly automated line. The Board previously approved installation of a new automated line that will incorporate modern technologies, such as optical sorters, screen and drum separators, and magnets. Manual labor will be reduced and mainly used for quality control rather than sorting. The new line will increase the purity of the recovered recyclables, which is very important because of the requirements of the China Ban. The upgrade will significantly increase production from approximately 150 tpd to over 500 tpd. The new sorting line is scheduled to be completed in the next year.

The China Ban, which took full effect at the beginning of this year, impacts importation of 24 types of recyclables into China. The Ban was established to reduce pollution and increase China’s domestic recycling. China also raised the purity level of various recyclables including mixed paper, cardboard, and mixed plastics. These three commodities are the largest components of residential blue bin materials, and they are also the majority of the recyclables that the Districts recovers. As shown on the graph, commodity prices have dropped: cardboard dropped from \$150 per ton to \$60 per ton; mixed paper fell from \$120 per ton to \$20 per ton; and now the Districts would have to pay to have mixed plastics recycled. The effect on the bottom line is

substantial. The Districts' gross revenue has decreased to \$3.3 million from a high of \$8.7 million in fiscal year 2015-16.

The recycling equipment upgrade project will cost about \$25 million. He referred to a graph from a recent CalRecycle report that shows how recycling needs to increase with requirements of AB 341. AB 341 known as the "Mandatory Commercial Recycling Law," was passed in 2011. In addition to mandating that larger businesses subscribe to recycling services, the law raised the 50 percent recycling mandate of AB 939 to a 75 percent recycling goal by 2020 for the entire state. As the graph indicated, the state is a long way from achieving 75 percent recycling. The state is starting to get serious about making progress towards the 75 percent goal because they are reviewing jurisdiction's recycling plans in-depth to ensure that they have programs in place that require businesses to recycle. The state has already fined one city and has threatened to fine others.

Since the passage of AB 341, there have been a number of other state laws passed that specifically target organic waste, mainly green waste and food waste. He referred to another CalRecycle graph that shows the amount of organics recycling needed to comply with SB 1383, the "Short-Lived Climate Pollutants" law. This law requires a 50 percent reduction in disposed organic waste by 2020 and a 75 percent reduction by 2025. The biggest challenge is that half of the organic waste is food waste and there is very limited infrastructure in the state to recycle food waste. The Districts' food waste recycling program will be very important to Los Angeles County. When the full-scale projects are complete in 2020, the Districts will have capacity to recycle approximately 550 tpd of food waste slurry.

Food waste recycling is the new frontier in solid waste management in the State of California. The Districts is leading the way in Los Angeles County. The first step in the Districts' food waste recycling program is to receive source-separated food waste at the PHMRF. In April, a food waste processing system, called the DODA, was installed at the PHMRF. He referred to a slide showing pictures of a typical load of source-separated food waste delivery at the PHMRF and raw food waste being dumped into a feed hopper. In this process, contaminants and inert material are removed. The food waste is ground and water is added to turn it into slurry. The slurry is pumped into tanker trucks and then transferred to anaerobic digesters at the Districts' Joint Water Pollution Control Plant (JWPCP) located in the City of Carson. The system is capable of processing up to 165 tpd and is currently processing around 40 tpd.

The Districts is also fortunate to be able to utilize the wastewater management assets at the JWPCP that can process the food waste slurry and turn it into biogas and biosolids. The second major project of the food waste recycling plan is to build a new full-scale food waste slurry receiving station at the JWPCP. The three-year food waste recycling demonstration project in partnership with Waste Management was successful, and the Districts is completing design of the full-scale receiving station, which is five times larger. The new receiving station will have the ability to receive 310 tpd of slurry that will be fed into five digesters and then turned into biogas and biosolids. The Districts was awarded a \$4 million grant from CalRecycle to build the new receiving station. The new receiving station is scheduled to be operational in fall of 2020.

The final component of the food waste expansion is to convert the existing compressed natural gas (CNG) vehicle fueling station at the JWPCP to receive conditioned biomethane produced from the processed food waste. Excess digester gas will be conditioned to produce a 90 percent methane gas. Converting the station to run from renewable gas will increase the value of the CNG gas, as it will be eligible for federal and state renewable gas credits. Revenue could increase up to approximately \$700,000 to \$1.5 million per year depending on the value of the gas credits and customer demand at the station. The California Energy Commission awarded the Districts a \$2.5 million grant, which will offset half the estimated cost of this project. The project is scheduled to go online in fall of 2020.

In terms of green waste recycling, the Districts has a long history of recycling green waste as alternative daily cover (ADC) at landfills. In fact, following passage of the state's recycling law, AB 939, in 1989, the Districts' ADC program was the main outlet for many of the member cities with curbside green waste pickup. When the PHLF closed, the Districts started green waste recycling at PHMRF and DART. A slide was presented showing the green waste shredding operation at PHMRF.

The PHMRF and DART receive an average of 160 tpd of green waste for recycling. The green waste at the PHMRF is shredded and then loaded into trucks for recycling at third-party composting facilities. DART does not have a shredder, so unshredded green waste is loaded into trucks and shipped to either the PHMRF or to a third party for shredding and to composting or used for agricultural purposes.

In 2013, the Districts entered into five-year contracts with three private green waste recycling companies to take the green waste for composting. All three of these contracts are scheduled to expire at the end of this month. The Districts solicited proposals for services for the next five years. The new proposals are at

higher costs due to the increased demand of green waste recycling services. Two contracts will be considered for approval by the Board in November.

In response to Director Barakat, the Chief Engineer and General Manager stated that the Districts is adding agriculture waste to the compost at the Tulare Lake Compost (TLC) facility.

Mr. Ferrante stated that the green waste at the TLC facility tends to be comprised of more chipped wood as opposed to the grass cuttings and leafy greens that are received at PHMRF and DART.

In response to Director Barakat regarding potentially using the Districts' Waste-by-Rail (WBR) system to manage green waste, Mr. Ferrante stated the remote landfill related to the Districts' WBR system is the Mesquite Landfill in Imperial County. If the Districts created a local green waste program to be integrated with the WBR system, the material would have to be taken to the Mesquite Landfill, which is approximately 210 miles away, roughly the same distance as the Tulare facility.

Mr. Boehmke discussed the financial challenges that the Districts' solid waste management system is facing. The upgrade of the PHMRF recycling equipment and implementation of food waste recycling projects will cost approximately \$45 million. The funds for construction of these projects are coming from the Districts' solid waste working capital funds. The Districts' working capital funds will be at historic lows when the projects are completed in late 2020. The Districts must find various ways to boost revenue.

Green waste recycling costs and processing of blue bin materials will increase. The new contracts with private companies for green waste recycling from PHMRF and DART are \$6-7 per ton higher than current prices.

The China Ban that went into effect last year is not expected to ease off and may become a total ban in 2020. Commodity prices are likely to remain low for some time. The Districts will need to rely on other overseas markets to grow to fill the void left by China. Up until the China Ban went into effect, approximately 65 percent of California's recyclables were sent to China.

A pie chart was reviewed showing the solid waste system revenue sources totaling approximately \$163 million for Fiscal Year 2017-18. Customer charges, including facility gate rates (shown in blue) and hauler contracts (shown in red), make up approximately three quarters of the Districts' revenue. Power revenue (shown in green), which comes primarily from the PHLF power plant, will drop every year due to declining landfill gas production (approximately 8 percent per year) following the closure of the landfill. Unlike the wastewater management portion of the business, where millions of users must stay connected, customers are not required to use the Districts' solid waste management system.

Various financial adjustments will be required. Higher tipping fees will be needed at the MRFs and South Gate Transfer Station to respond to higher recycling costs. Historically, tipping fees have been increased to keep up with the Consumer Price Index (CPI). Starting next year, due to higher recycling costs, market forces will likely drive price increases above the CPI. This process will commence early next year leading to board consideration of new rates which typically go into effect in July.

Due to recent approval of long-term leases for both Puente Hills and Mesquite intermodal facilities (related to the Waste-by-Rail project), the Districts will have additional revenue. The Puente Hills Intermodal Facility lease will provide approximately \$2 million per year. The Mesquite lease revenue is dependent on the amount of rail business that can be developed. One unit train per week would produce approximately \$600,000 per year. Three unit trains per week would produce approximately \$2 million per year.

Regarding the organics recycling laws, the food waste program will produce additional revenue from the renewable energy sales at the CNG station located in the City of Carson. Federal and state credits for renewable gas sales will provide the Districts with a new revenue source as soon as the projects are complete in fall of 2020. Currently, an average of 120 tons per day of food waste slurry is being processed. This amount produces enough gas for the current demand of the CNG station. As the amount of food waste is increased, the Districts must find alternative applications or burn the excess gas with a flare. Currently, the Districts is researching a project to inject the gas into a So Cal Gas pipeline.

In response to Director Joe, Mr. Boehmke stated that in addition to the Districts, there are other businesses interested in food waste recycling. The Districts wants to maximize use of the treatment plant for the agency and other businesses. Currently, the capacity at PHMRF is 165 tons per day. The full-scale food waste recycling program at the JWPCP will have a capacity of over 500 tons per day. The Districts had discussions with Republic Services and Athens to bring slurry to the facility. Currently, Waste Management and Burrtec are bringing slurry to the facility. The haulers are charged a fee to bring their slurry to the facility.

The Chief Engineer and General Manager stated that some haulers will decide to compost their food waste at their own facilities. The Districts already has infrastructure built for food waste recycling using anaerobic digestion at our treatment plant.

In response to Director Joe, the Chief Engineer and General Manager stated that the cities' residents and businesses pay the haulers. The haulers fold the Districts' fees into the fee paid to them by city residents and businesses.

Mr. Boehmke discussed the next steps. The Boards will be briefed in November on these same matters.

The Chief Engineer and General Manager stated that she and Director Tornek recently discussed using special committees to evaluate and study various Districts' matters. The challenges facing the Solid Waste Management Department allow an opportune time for the formation of an ad-hoc committee consisting of Districts' Directors and city staff to advise the Districts on these matters. The ad-hoc committee could meet four to six times over the course of a year. The Solid Waste Management Department has already formed an informal ad-hoc committee comprised of staff from various Districts' departments that will meet over the next few months to frame the issues for the formal ad-hoc committee.

The Chairperson stated that the ad-hoc committee is a great idea. He inquired if staff needed direction in regards to how the ad-hoc committee is to be established and to lay out the scope of the meeting and the goals for the solid waste management program.

In response to the Chairperson, the Chief Engineer and General Manager stated that she envisions that the ad-hoc committee will consist of approximately three to four Directors and three to four city staff members who guide staff in discussions.

The Chairperson asked the Directors if any of them were interested in serving on the ad-hoc committee. The following Directors volunteered: Directors Tornek, Pieroni, and Finlay.

Director Tornek stated that the issues that the solid waste management programs are facing are long-term and would benefit from more in-depth analysis by a smaller committee.

The Chief Engineer and General Manager stated that the ad-hoc committee would help the Districts provide the best service to customers at cost-effective rates. She recently met with the head of CalRecycle that regulates solid waste for the state. CalRecycle is very aware that their new recycling mandates are very short on infrastructure. CalRecycle is looking to others to build the infrastructure that is needed to accomplish their goals.

Upon motion of Director Pieroni, duly seconded and unanimously carried, the meeting was adjourned.

DAVID ARMENTA
Chairperson

ATTEST:

KIMBERLY S. CHRISTENSEN
Secretary

/ksc

October 24, 2018

Board of Directors
County Sanitation Districts of Los Angeles County
1955 Workman Mill Road
Whittier, CA 90601

Attention: Personnel Committee

Good morning ladies and gentlemen, honored directors, and fellow employees.

My name is Mathew Watson and I am a Civil Engineer in the Technical Services Department. I work tirelessly to help keep the Districts in compliance with state permits and protect the Districts against regulatory fines and potential litigation. I am also a PEPRA employee and a member of the Professional Unit. I came to the Districts from the private sector and brought with me a breadth of experience and technical expertise. I came to the Districts because I truly believe in the long term mission and vision of the Districts. After working here for more than two years now and witnessing how these negotiations have played out, I can say that I have lost my trust in the leadership of this agency. For the last two years, my salary has remained the same all while my rent, food, gasoline, and other costs of living are sharply increasing year-over-year, about 3% per year to be specific. At the same time, as a PEPRA employee, I have been paying my entire retirement contribution, 5.75%, about \$500 per month.

With all due respect, I cannot continue to live like this. I cannot continue to support my family if I stay here at the Districts. I would love to own a home in one of your fine cities one day and right now I don't see that as a possibility if I continue to work for this agency. Please, I beg of you, do the right thing and give us what we need. Give us our well-earned cost of living adjustments.

I bring so much to the Districts and I would love to stay here, so please, help make that decision a little easier on me and help me stay.

Very truly yours,

A handwritten signature in black ink, appearing to read "Mathew Watson", with a long horizontal flourish extending to the right.

Mathew Watson, P.E.

October 24, 2018

Board of Directors
County Sanitation Districts of Los Angeles County
1955 Workman Mill Road
Whittier, CA 90601

ATTENTION: Personnel Committee Members

My name is Tasnuva Shabnoor and I have been working as an Engineering Associate II with the County Sanitation Districts of Los Angeles County for a little over two years now. I was hired as a PEPRA employee in 2016 when internal talks of employee paid PERS contribution were already underway. Neither on my offer letter nor directly, was I ever told, even as a courtesy, that I would be paying into retirement in the coming few months after my start date.

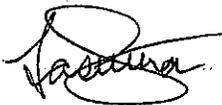
Previously, I was working with the City of Los Angeles, where I was under the 2.16% at 55 formula for retirement with increases in COLA every year. After moving to the Districts, I am under the 2% at 62 formula for retirement. But I knew that early on, and despite of that information, I chose to work at the Districts because I believed in the vision of the Sanitation Districts of Los Angeles County and in the incredibly productive workforce and quality of work here.

I understand that management often mentions that PEPRA employees should have asked about the PEPRA laws at the time of hire. But I can guarantee you that when taking a job right out of school, and as early as I am in my career, no one will ask details about retirement benefits. I would expect, in good faith that the employer would mention if a 5.75% pay-cut is anticipated within a few months of employment. Had I known about the attitude of management at the time of my hire, maybe my decision to join the Districts would have changed.

Not only does this bother me, but the PEPRA employees are also being withheld from receiving a COLA even after paying into retirement.

I can't speak for anyone else but I can tell you that in the two years that I have worked here, I just received my first real pay increase last month. So, at the least, I request that all of the employees of the Districts, especially the PEPRA employees, not be withheld from COLA increases. If nothing else, please consider cases like this and how the long winded negotiations will affect the attitude and productivity of Districts' employees in years to come when making your decisions as directors of this board.

Thank you,



Tasnuva Shabnoor

Good afternoon Directors,

My name is Steve Koffroth and I am the Field Director for AFSCME. We represent 450 sanitation workers here at LACSD. We want to make sure to directly convey our members' concerns and perspective so you are informed as you contemplate what to do about our contract.

We find the fact finding report helpful, but it does not resolve all the issues at stake for our members. In order to understand our frustration, I want to highlight some of the important points we have asserted since the beginning. Here are the facts found in the fact finding report:

- Agencies who had lower net swaps were negotiated near the economic recession, so net increases were lower
- Pension costs are coming down
- Under the Districts' proposal, the employee contribution is not pensionable
- The Districts' employees are currently paid comparable to other similar agencies
- The Districts' budget and rates include the cost of the Union's proposal
- The Districts have the ability to pay

The Neutral Factfinder made a recommendation which resolves most of the issues – except the pension contribution. Management has probably told you she sided with them, but this doesn't tell the whole story. She acknowledged the Union's vested pension argument was persuasive and made a recommendation that each party reserve its legal position in the contract. We appreciated that effort, but our attorney advised that this was not sufficient. We either need a comparable new advantage (like an equivalent raise) or a clear showing in the MOU those rights are vested – see the examples and cases we cited in our response to the report. If this isn't resolved, we will proceed with litigation.

Nevertheless we felt it our duty to survey our members to see how they felt about accepting the fact finder's recommendation? **A resounding 75% of our members told us – fight for the legally vested pension contribution!**

70% of our members also authorized us to schedule a strike vote. If we strike, we expect to be joined by a majority of our co-workers in Technical Support, White Collar, Blue Collar, and Energy Recovery – all of whom (including employees Directors claim accepted management’s deal) have clearly demonstrated they share AFSCME’s position. Strike authorization would lead to sanctions from the LA County Federation of Labor – which would give us the cooperation of every labor Union in Los Angeles County including SEIU, Teamsters, Building Trades, and any others who might interact with the Districts.

But we don’t think it’s good to leave it on that note. We believe it is possible to deal with our pension concerns and still meet many of the Districts’ goals. Each time management raised a concern, we found a solution. If management hasn’t shared our efforts and ideas, they haven’t been honest with you. In fact, the Union has been proposing the following:

- Solving the legal issue by providing a full swap – we’ve heard from some Directors that we object to paying the pension contribution – but it’s quite the opposite. We propose to pay the full employee contribution, but we must receive a comparable new advantage – in other words an equal raise.
- Adding a contribution for Classic employees to provide “cost sharing” similar to blue collar, and
- Adding a contribution for PEPRA employees to neutralize the net effect of the swap

We respectfully ask that you help us resolve this before it gets more contentious. We ask you all to please direct your negotiating team to reach a mutually agreeable solution...

Thank you,

Personnel Committee Address
24 October 2018
Melissa Fischer

I am putting you on notice – from this date forward, every time you issue a check to an employee in the Technical Support, Blue Collar, Hourly, and Management Units that is not increased by the amount of the 7% that you are no longer using for the Employer Paid Member Contribution, “EPMC” - when you do this you are stealing. Theft is against the law. This is separate from the issue of vested benefits. This does not invoke the intricacies of labor law.

According to the legal resource website, HG.org, (<https://www.hg.org/theft-law.html>), “...theft is the illegal taking of another person's property without that person's freely-given consent.” The Tech Support, Blue Collar, Hourly, and Management Units have never given their consent for the District to take 7% of the 1982 COLA for any purpose other than paying the full 7% EPMC. If any portion of the original 7% allocation has gone anywhere else, then the District has pocketed money that belongs to its employees.

The Chief Engineer admits as much in her memo dated, August 28, 2017, in which she states:

“In 1982, all employees gave up a COLA of 8.5% in exchange for the agency paying the full 7% employee contribution along with a 3% COLA six months later.”

The District is currently paying an EPMC of 6% for Tech Support, Blue Collar, Hourly, and Management Units.

What is the disposition of the balance of the money? Where has that money gone? Legally, there is only one place it can go – into the employee paycheck.

Some may incorrectly assume that the new MOUs supersede all prior arrangements. But, the MOU would only replace all prior agreements in relation to, “...the matters set forth herein...” The disposition of the 1982 COLA allocation is not a matter set forth herein, and, thus, this MOU would not supersede or alter the terms of the original COLA allocation, as established in 1982. Furthermore, the MOUs executed to date contain similar language. The 1982 terms remain in effect and the District has no basis to apply any portion of the 7% toward anything other than the EPMC. If it cannot do that, it must return that money to the employee paycheck. By not doing this, the District is breaking the law. Please stop this illegal practice. With every payroll period that passes without addressing this matter, the District accrues more than 1,000 violations of the criminal code. Notice is served.

The American Society of Civil Engineers, or “ASCE,” has a Code of Ethics. Under Canon 7, Guideline “c,” states:

“Engineers shall uphold the principle of mutually satisfying relationships between employers and employees with respect to terms of employment including professional grade descriptions, salary ranges, and fringe benefits.”

Under Canon 3, Guideline “b,” states:

“Engineers shall be objective and truthful in professional reports, statements, or testimony. They shall include all relevant and pertinent information in such reports, statements, or testimony.”

How does the Chief Engineer’s recap of the District’s last offer or the actual draft MOU constitute the inclusion of all relevant and pertinent information in relation to the terms of employment of AFSCME employees including salary ranges?

The recap has one bullet that describes a one-half percent employee contribution each year, cumulative for 5 years. The recap does not have a bullet describing the corresponding one-half percent per year decrease in the District’s funding obligation. The recap does not have a bullet describing how the District will return the unused portion of the 7% of the 1982 COLA to the employee paycheck. The recap does not describe how the employee’s pensionable salary will not change. The same is true for the draft MOU.

As a Registered, Professional Civil Engineer and the head of one of the premiere sanitation agencies in this country, it is your duty to comport your office in accordance with the standards of your profession. In case you had been unaware of the misalignment of your conduct with those standards, notice is served.

[See uncut speech in minutes of District No. 2 Board Meeting on 24Oct18.]