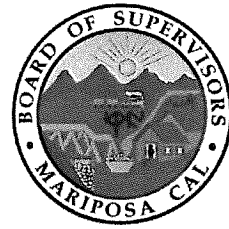




MARIPOSA COUNTY

Public Works · (209) 966-5356



RESOLUTION - ACTION REQUESTED 2016-473

MEETING: September 13, 2016

TO: The Board of Supervisors

FROM: Tony Stobbe, Public Works Director

RE: Approve Modified Public Works Work Schedule Policy

RECOMMENDATION AND JUSTIFICATION:

Approve Revisions to the Policy and Procedures for Work Schedules for the Public Works Department.

On May 10, 2016 the Board of Supervisors unanimously approved revisions to the hours of operation for the Public Works Department, and authorized the Public Works Director to establish policies and procedures for work schedules for the Department. This action was brought before the Board with the concurrence of the Mariposa County Managerial and Confidential Organization (MCMCO), and without the concurrence of the Service Employees International Union (SEIU). SEIU, without declaring impasse, expressed their objection at the May 10, 2016 meeting.

Subsequent to the Board approval, and prior to any of the authorized changes being implemented, a grievance was filed by an SEIU employee in the Public Works Department. The Director of Public Works suspended the implementation of the approved changes and reviewed the complaint. While the grievance was subsequently denied, it was done with a concurrent invitation to both the grievant and SEIU to meet to further discuss the matter, which they did not accept. The matter was then appealed to the County Administrative Officer, at which time, by mutual consent of SEIU and the County, the item went forward into arbitration.

The arbitration hearing was held August 23, 2016. At the start of the proceedings, the County reminded all parties of the long and positive relationship between the County and SEIU, and the importance of collaborating to resolve the outstanding issues. The County suggested, and the parties agreed, to mediate the issues to avoid a full evidentiary hearing. At that time, both parties agreed to work together to revise the Policy to mutual agreement.

The resultant amended Policy, which incorporates all changes requested by SEIU, was found to be acceptable to both parties. The parties then agreed to a stipulated decision by the Arbitrator. The County additionally agreed to submit the stipulated decision with the revised Policy to the Board for adoption, which is the action

requested in this item.

The Director of Public Works and the Human Resources Director/Risk Manager were pleased to reach agreement with SEIU on the modified Policy, and wish to express appreciation to their representatives for identifying those specific areas of the Policy with which they disagreed so that they could be addressed. Reaching agreement on this issue demonstrates an on-going commitment between labor and the County to work together collaboratively.

Concurrent with this item being brought before the Board for approval, in accordance with the applicable Memoranda of Understanding (MOU) with the affected unions, and guided by the amended Policy, the Director of Public Works has provided a comprehensive work schedule proposal to SEIU and MCMCO, along with a request to meet to discuss the proposal. In addition, all employees of the Department, whether impacted by proposed changes or not, have been provided copies of the proposed work schedule.

In the near future, the Department looks forward to bringing before the Board a single document that will align work schedules with hours of operation and position all Divisions of the Department to meet the following objectives: a safe, efficient and customer service focused workplace. One additional benefit will be the replacement of at least nine historical Board resolutions prescribing works schedules for Public Works employees.

The Department intends to defer implementation of the approved changes to hours of operation until the implementation of the proposed work schedules. This will provide for the smoothest transition of work schedules, as well as additional time for employees to adjust to the changes.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

On May 10, 2016 the Board approved by Resolution 2016-228 with revisions to the hours of operation for the Public Works Department and an effective date of June 1, 2016, and authorized the Director of Public Works to establish policies and procedures for work schedules for the Department.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

The stipulated decision of the Arbitrator does not bind the Board to a specific action, but it would be problematic should the Board not agree with the revisions to the Policy.

One alternative available to the Board would be to rescind the original May 10, 2016 action, which was the start of the chain of events leading to this point. This is not recommended, however, as the byproduct of these events is a Policy that has been found mutually agreeable to all parties.

ATTACHMENTS:

Revised Public Works Hours Policy August 2016 (PDF)
Stipulated Decision Work Hours (PDF)

CAO RECOMMENDATION

Requested Action Recommended


Mary Hodson, CAO 9/1/2016

RESULT: ADOPTED BY CONSENT VOTE [UNANIMOUS]
MOVER: Rosemarie Smallcombe, District I Supervisor
SECONDER: Merlin Jones, District II Supervisor
AYES: Smallcombe, Jones, Long, Cann, Carrier

Mariposa County Department of Public Works Policy / Procedure

Work Schedule (Revised XX/XX)

Purpose: This policy will establish a standard work schedule, office hours, and alternative schedules for the Department.

References:

MOU with MCMCO
MOU with SEIU

Definitions:

5/8's is a traditional five days a week, eight hours per day schedule

9/80's is a schedule with eight (8) days of nine (9) hours, and one (1) day of eight (8) hours, in a two (2) week period, with a day off (flex day) during the period pursuant to the approved alternate workweek options contained in Resolution No. 93-506.

4/10's is four days a week, ten hours per day

Policy:

1. The standard work schedule for the Department of Public Works is 5/8's Monday through Friday, with exceptions as outlined below.
2. Standard hours of operation for each Division are 8:00 AM to 4:30 PM M-F with the exceptions below:
 - a. Custodial Staff 5:30 PM to 2:00 AM M-F
 - b. Solid Waste 8:00 AM to 4:30 PM Tue-Sat
3. For purposes of this Policy, specific "Reasonable Accommodations" will be addressed on a case by case basis.
4. When a 4/10 schedule is authorized, days off will only occur on Mondays or Fridays, and will be structured to either split or combine the group for efficiency and customer service.

Procedure:

1. In advance of initiating proposed changes under Section 8.2 of the MOU, requests for work schedule changes ~~and variations in start/stop times~~ will be submitted by the Division Manager to the Deputy Director for approval.
2. Such requests for a schedule change will identify affected employees, specify the schedule change being proposed, address the proposed timing and length of the change, and detail the prospective benefits of the proposed schedule.
3. Upon receipt of the proposed schedule change the Deputy Director will conduct and/or direct any additional review process needed at the Deputy Director's level and send an email notice of the proposed change to the bargaining unit's labor representative. A written copy of the proposed schedule change will also be provided to the affected

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employees. The notices required for this section will initiate the process for administering the proposed changes under section 8.2 of the MOU.

Responsibilities:

1. The Deputy Director shall be primarily responsible for provisions of this policy and compliance with applicable MOU(s).
2. The Executive Assistant shall keep a master record of approved schedule determinations.

Appendices: None

Approval:

Tony Stobbe, Director

Date

TSB 8/23/16
TCA 8/23/14

Paul D. Roose
Arbitrator / Mediator
Golden Gate Dispute Resolution
510-466-6323
paul.roose@ggdr.net
www.ggdr.net
August 26, 2016

STIPULATED DECISION
IN ARBITRATION PROCEEDINGS
PURSUANT TO A
COLLECTIVE BARGAINING AGREEMENT

In the Matter of a Controversy Between)
)
County of Mariposa, Employer)
and) Mark Stephens Schedule Grievance
Service Employees Int. Union Local 521, Union)

APPEARANCES:

For the Employer: Richard Bolanos, Attorney
Jenny Yu, Attorney
Liebert Cassidy Whitmore
135 Main St. 7th Floor
San Francisco, CA 94105

For the Union: Tiffany Altamirano, Attorney
Weinberg, Roger & Rosenfeld
1001 Marina Village Parkway, Suite 200
Alameda, CA 94501

PROCEDURAL BACKGROUND

The above-referenced matter was processed through the grievance procedure contained in the collective bargaining agreement (CBA) between the parties. Remaining unresolved, it was submitted to final and binding arbitration. The undersigned was selected as the arbitrator by mutual agreement of the parties. The matter was scheduled to be heard on August 23, 2016 in Mariposa, California.

At the outset of the hearing, the parties entered into off-the-record settlement discussions. With the assistance of the arbitrator, acting as mediator at the request of both parties, the parties were able to reach an agreement settling the issue.

The parties asked the arbitrator to memorialize the agreement in the form of a stipulated decision. The decision is as follows:

STIPULATED DECISION

1. The parties agree that the grievance is resolved based on an agreed-upon revision of the “Mariposa County Department of Public Works Policy / Procedure: Work Schedule.” The agreed-upon revision, initialed by the parties, is attached to this Decision.
2. The parties agree that the revised Policy / Procedure will be submitted to the Board of Supervisors for adoption.
3. The Union filed an unfair practice charge with the California Public Employment Relations Board (PERB) concerning similar issues arising from the same facts as those presented in the grievance. PERB placed that charge in abeyance, pending the outcome of this arbitration proceeding. The parties agree that this stipulated decision resolves the unfair practice charge.



Paul D. Roose, Arbitrator

Date: August 26, 2016