



**DISTRICT OF COLUMBIA  
WATER AND SEWER AUTHORITY**

**BOARD OF DIRECTORS**  
*Human Resources and Labor Relations  
Committee*

*September 14, 2011*

**MEETING MINUTES**

**Committee Members**

Kathleen Boucher, Vice Chairperson  
Alan Roth  
Howard Croft

**DCWaterStaff Present**

Christopher Carew, Chief of Staff  
Randy Hayman, General Counsel  
Katrina Wiggins, AGM, Staff Services  
Rick Green, Director, Human Resources  
Linda R. Manley, Board Secretary

**Union Presidents Present**

Barbara Milton, AFGE 632  
Jonathan Shanks, AFGE 872  
Shawn Henson, AFGE 2553  
James Ivey, AFSCME 2091  
Michelle Hunter, NAGE

Kathleen Boucher, Co-Chair, called the Human Resources and Labor Relations Committee to order at 11:19 a.m.

**Union Presidents**

**1. Hiring and promotion practices**

Ms. Milton expressed her concern that hiring managers are not giving preference to internal candidates as required by the AFGE 631 Working Conditions Agreement. The language states that when the qualifications are equal between an internal and external candidate, the Authority is required to give the position to the internal candidate. If the choice is between two internal candidates with equal qualifications, the most senior employee gets the position. In addition, the union contract provides that details are rotated among all qualified union employees. However, management is not allowing that experience to be considered for internal candidates.

Mr. Roth asked Ms. Milton to define “detailed position”. Ms. Milton responded that it is when employees are acting supervisors or acting in a position that is of a higher grade. She indicated that hiring managers are given a document called a “Hiring Manager Tool Kit” that specifically states that “detail” assignments are not to be considered as experience.

Following discussion, Ms. Boucher noted that the committee was at a disadvantage because it did not have all of the necessary information regarding this matter. Ms. Boucher asked what was in the “tool kit”. Denyse Jeter-Williams, the Staffing Manager, replied that it is really the standard operating procedures that staffing uses to fill positions.

Ms. Boucher asked the General Counsel to review the “tool kit”, compare it to the AFGE 631 Working Conditions and any other applicable collective bargaining agreement, and report back to the Committee as to whether the “tool kit” complies with those agreements.

Ms. Milton then stated that a manager in the Permits Section told staff that after the reorganization, staff would not be hired for their old positions. Mr. Carew pointed out that there was no evidence that a manager ever made that statement. He noted that one of the reasons for the reorganization was to move that function down to DCRA. During this process the position descriptions for those positions changed. The employees may no longer be qualified under the new position descriptions. He also pointed out that all employees were placed in other positions so no one lost their job as a result of the reorganization.

## **2. Lack of Transparency**

### **a. Team Blue Project**

Ms. Milton stated that management had moved away from transparency. As an example, she cited the Team Blue Project. She objected to the fact that the union leadership had not been appointed to either the leadership team or the individual Team Blue project teams. She noted that there were union members appointed to the teams but that the Unions were not allowed to select them or even attend the meetings. She indicated that she asked one of her members who was on one of the teams what was going on with the Team Blue Project and that they told her that they were told not to tell anyone about it. Finally, she pointed out that if the Authority is going to abide by the promise they made in writing to negotiate any recommendation that affects the working

conditions of employees it would be a waste of time, because Team Blue will not work without buy-in from the unions on the front-end of the process.

Mr. Carew provided a brief history of the Team Blue Project for the Committee. He indicated that the leadership team appointed two to four union members to each of the two project teams that are in place (Safety and Asset Management). He noted that being a leader in the union is not a required qualification for participation in a project team. Rather, the members of each team were selected based on their skills, knowledge, and leadership qualities.

Ms. Boucher asked if any of the union leaders were on the leadership team. Mr. Carew responded: "No". He offered to bring the union leadership up-to-date information regarding the Team Blue Project but that there was not much more information available since the teams were a work in progress. Mr. Roth then pointed out that implementation of some decisions that fall within the scope of management rights can trigger collective bargaining rights. Mr. Carew responded that he has put in writing that he is committed to negotiate any negotiable item that the Authority plans to implement. Ms. Milton agreed that Mr. Carew is correct that he made that commitment in writing but noted that there still have been no discussions with the unions.

Mr. Roth noted that he has had much experience with transparency. He indicated that transparency is critical because without it there is distrust. However, transparency can have a negative impact because it gives stakeholders who oppose change the opportunity to obstruct constructive dialogue. He noted that sometimes ideas need time to germinate before being disseminated to larger audiences. . He suggested that both management and the unions put aside the issue of control and focus on involvement. Ms. Milton indicated that the union leadership was looking for involvement not control. Mr. Carew indicated that it was not appropriate for the union leadership to be on the teams just because they are union leadership and pointed out that there were also some executive staff, managers and supervisors who were not selected to be on the teams. Mr. Roth responded that he understood Mr. Carew's goals but that communication would help and noted that by discussing these issues with the union leaders Mr. Carew would have spoken with five of the ten other employees he needed to speak to. Mr. Roth concluded by pointing out that without communications he can go to the table with the unions and they can reject the Authority's proposals out of spite and then nothing is accomplished.

Ms. Boucher noted that Team Blue is an organizational development initiative that appears to fall within the scope of management rights and would therefore not seem to trigger any collective bargaining issues. However, she asked Mr. Carew to forward to

the Committee a copy of the written communications from management to union leaders on this issue so that Committee members could fully understand the management perspective. Mr. Carew reiterated that Team Blue does not deal with bargainable issues and does not violate any collective bargaining agreement. He agreed to send to the Committee a copy of prior letter that was sent to the union leaders on this topic. He also said that management understands that unions must be consulted if Team Blue eventually seeks to implement any ideas that involve changes to working conditions or otherwise fall within the scope of collective bargaining.

**b. Non-competitive promotions**

The Unions did not discuss this agenda item.

**c. Responses to information requests from the unions**

The Unions did not discuss this agenda item.

**3. Management's failure to involve the unions in decisions to make changes**

**a. I-9 compliance project**

Mr. Shanks indicated that the unions had been left out at the beginning of the project and that promises management made during the middle of the project were not kept. Employees received e-mails saying they had to fill these documents out again and they came to the union confused about the process. The unions alleged they were promised that management would hold meetings at each location to explain the process.

Mr. Hayman explained that I-9 forms are federal forms that must be completed by all employees hired on or after November 6, 1986 to show that they are US citizens or are otherwise authorized to work in the US. Federal law requires that I-9 forms be retained for 3 years after the date of hire or 1 year after termination, whichever is later. He indicated that DC Water had been incorrectly advised by an outside consultant that it did not have to retain the I-9 form if an employee had worked for DC Water from more than 3 years. This resulted in the destruction of a large number of I-9 forms prematurely. He explained that employers must keep I-9 of each employee for their entire tenure, and then for an additional year after termination of employment. He noted that after an audit of the Authority's records found that 575 employees needed to take some form of action to achieve compliance. He explained the process that had been used by DC Water to obtain compliance for these employees.

The employees were contacted directly by e-mail directly on the advice of outside counsel. Based on the advice of outside counsel, they Authority took steps to limit notice of specific I-9 compliance issues, and did not notify the unions. Once the unions were made aware of the I-9

compliance issue, the Authority provided regular updates as requested by individual union presidents. By mid August there were 253 employees that had not submitted the required forms. In response to the union's concerns about a breakdown in communications to impacted employees, an extension was granted for employees until September 9<sup>th</sup>. On the date of the HR Committee Meeting there were two employees that had not completed compliance. Mr. Hayman explained that management met with the unions on several occasions throughout the process. Finally, he indicated that the Authority had taken steps to insure this problem will not occur in the future by using E-verify and creating a tracking system that will let management know when the form should be destroyed.

Ms. Milton pointed out that management sent the e-mails directly to the employees without notifying the unions that they were doing so. When employees came to the union leadership with questions they had no answers. Ms. Boucher asked if there had been any way that the unions could have been notified in advance. Mr. Hayman indicated that outside counsel told them to limit conversations to just the impacted employees because of privacy concerns. Mr. Carew noted that though the union had expressed some legitimate concerns, there was a pattern of pointing out alleged management failures without any considerations for efforts that must be exerted to achieve the greater good. He noted at any given time there are several ongoing tasks that he could notify the union about, but instead he focused on achieving positive results first, versus notifying the unions before each task is undertaken. He acknowledged that greater attention would be paid to enhancing communication with the union about management activities. Mr. Hayman reiterated that there could be legal liability if they shared the information with more than the employee impacted and that this was not really a union issue at all but a requirement of the federal government. Mr. Shanks indicated that he disagreed that it was not a bargaining issue because it effected the terms and conditions of employment.

Ms. Boucher noted that while management seems to have taken the appropriate steps to address its non-compliance with a federal requirement, she understood that the process likely caused a lot of anxiety for employees. She expressed concern that management had not notified union leaders of the problem in a general way at the outset before sending out notices to employees how need to complete new documentation. She noted that management had not provided any information to the Committee that would suggest to her that providing this kind of general notice about the problem and the plan to address (without providing any information about individual employees) would create any kind of legal issue.

Ms. Boucher asked Mr. Hayman to forward his written summary of the process that was used to address the I-9 problem to Committee members.

#### **b. Contracting Out**

Mr. Henson reported that there are contractors doing bargaining unit work in maintenance and at O St. He also indicated that his members have told him that the contractors are doing their

work and that they just stand around doing nothing. He said that he had filed a grievance on this issue and that the grievance process had been concluded. Ms. Boucher stated that she did not think it was appropriate for the Committee to discuss matters that were the subject of formal grievances for which a formal resolution process existed..

**c. Team Blue initiatives**

Ms. Milton indicated that the unions had nothing further to say on this issue.

**d. Changes to the safety process**

The unions did not discuss this issue.

**4. Management's lack of priority for maintaining a good labor management relationship with various local unions and not having departmental labor management meetings with various unions**

Mr. Henson noted that since he placed this item on the agenda he has discussed the matter with labor relations. However, he indicated that he is forced to file grievances to simply have a meeting to resolve issues not to go to arbitration. Ms. Boucher asked for clarification of his concerns. He stated that he wants better dialogue with management so that grievances don't have to be filed. Mr. Carew indicated that he had told all directors to meet with the unions quarterly but that he was not sure that it was happening. He also stated that this was the first that he had heard of this issue. He noted that it is his preference to resolve the issues before they get to the grievance stage. If a manager is not willing to meet with the union he needs to be made aware of it. He asked Mr. Henson to make recommendations to him as to how management could systematically improve communications with unions. Mr. Henson agreed to develop recommendations to submit to Mr. Carew.

**5. Open Discussion**

Ms. Milton asked whether the Authority can offer an early out to civil service employees with an incentive. Ms. Boucher requested that the unions put this request in writing and allow management to respond.

**Benefits Update**

Michelle Buckmire, Benefits Manager indicated that a RFP was sent out looking for providers for the Authority's medical and dental plans in July. She noted that one of the current providers, Cigna was offering a 1.8% decrease in premium based upon our claims experience as well as a premium holiday for the month of December 2011. The other provider used by the Authority, Kaiser originally indicated a 17.29% increase in premium based upon the Authority's claims experience but that it was negotiated down to an 8% increase in 2012.. With regard to the

dental policies, the current provider Delta dental is proposing a 5.5% increase in premium in 2012 while Concordia is proposing no increase. Both are proposing no increase in 2013.

Michelle Buckmire also reported that the Defined Contribution Plan received favorable determination by the IRS conditional on the adoption of a revised amendment pertaining to Board Resolution #08-58. The revised amendment was executed in accordance with IRS directive.

Action Item: The Committee accepted management's recommendation that the proposals from the current providers of the Authority's medical and dental benefits be accepted. The committee agreed to forward that recommendation to the Board of Directors at the next meeting.

### **Revised Internal Recruitment Process**

Staffing Manager, Denyse Jeter-Williams gave a report on revisions to the internal recruiting process. All internal candidates that meet minimum qualifications will be presented to the hiring manager for consideration instead of only presenting the 'best qualified' candidates. Mrs. Jeter-Williams also noted that an additional change will be made to recruiting manual to allow internal candidates to submit applications any time prior to the start of interviews.

Mr. Gibbs reminded management that he had requested that the committee be kept abreast of safety issues at the Authority.

Ms. Boucher adjourned the meeting at 1:12 pm.

### **Action Items for Management**

1. OGC is to provide the Committee with a summary of the process used to address the I-9 problem.
2. Management is to provide the Committee with a written update regarding matter of the employee's in Permits not being selected for their old positions after the reorganization
3. Mr. Carew is to provide the Committee with copies of his written communications to the unions and employees regarding collective bargaining rights in the context of the Team Blue Project.
4. OGC is to evaluate "tool kit" and CBA language to determine what is required.
5. Management response to union request for an "early out."
6. Management to provide update on Safety status.