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Date: July 21, 2016

To: Supervisor James "Luigi" Schmitt
Chairman, Personnel Committee

Supervisor John F. Weishan, Jr.
Vice-Chairman, Personnel Committee

cc: Supervisor Dan Sebring
Supervisor Anthony Staskunas
Supervisor Sequanna Taylor
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Chairman Theodore Lipscomb, Sr.
County Executive Chris Abele
Chief Human Resources Officer Kerry Mitchell
Deputy Corporation Counsel Paul Kuglitsch

From: Interim Corporation Counsel Colleen Foley 

Re: Referral of File 16-303

At its July 15, 2016 meeting, your honorable body referred File 16-303 to the Office of Corporation Counsel for a legal opinion. The particular issue is whether the amendments therein violate the status quo ordinances set forth at MCO 17.013 through 17.018. File 16-303 states as follows:

A resolution/ordinance to amend Section 17.17(1) of the Milwaukee County Code of General Ordinances relating to vacation benefits for newly hired employees.

File 16-303 impacts new hires in the classified division, who are not public safety workers represented by certified collective bargaining units. Essentially, the amendments permit limited negotiation of vacation time for these new hires versus fixed vacation accruals based on tenure. The status quo ordinances provide for continuation of certain compensation and fringe benefits for employees holding positions in certified bargaining units.¹ The status quo ordinances became effective December 19, 2013, excepting AFSCME's status quo ordinance, enacted on February 2, 2012.

¹ AMCA is the Association of Milwaukee County Attorneys (MCO 17.013); IAMAW is the International Association of Machinists and Aerospace Workers (MCO 17.014); AFSCME is the American Federation of State, County and Municipal Employees (MCO 17.015); Trades is the Milwaukee Building and Construction Trades Council AFL-CIO (MCO 17.16); TEAMCO is the Technicians, Engineers and Architects of Milwaukee County (MCO 17.17); and FNHP is the Federation of Nurses and Health Professionals (MCO 17.18).

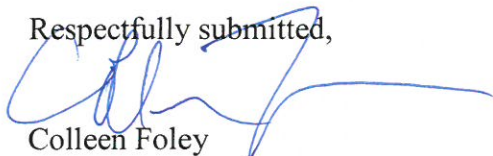
The status quo ordinances adopt by reference and incorporate the collective bargaining agreements between the subject unions and the County. But they also carve out exceptions, including “*until such time that the County Board of Supervisors and the County Executive can consider other action.*” See MCO 17.013 (1), 17.014(1), 17.015(2), 17.016(1), 17.017(1), and 17.018(1) (emphasis supplied)

The status quo ordinances (for all but AFSCME) continue: “The following sections of the . . . collective bargaining agreement are not incorporated herein and are excepted from the provisions of the preceding paragraph.” (AFSCME’s ordinance states: “The following sections of the . . . collective bargaining agreement *have already been addressed . . . by the County Board and County Executive, and are therefore* excepted from the provisions of the preceding paragraph.”) The sections already addressed include such items as salary increments, overtime, temporary assignments, sick leave, fair share agreements, and saving clauses. See MCO 17.013(2)(a)-(k), 17.014(2)(a)-(m), 17.015(3)(a)-(o), 17.016(2)(a)-(k), 17.017(2)(a)-(o), and 17.018(2)(a)-(k). Vacation is not enumerated. And again, modifications apply in the event the County Board of Supervisors and County Executive agree.

This is not the first modification to chapter 17 since the status quo’s enactment. Indeed, the Board already once modified MCO 17.17(2) regarding vacation. That amendment, effective January 1, 2013, limits annual, unused vacation carryover to 56 hours or 7 days. The employee forfeits any unused vacation time exceeding that carryover limit absent a departmental request for exception approved by the human services director. *Id.*

With the submission of File 16-303, the Board again considers “other action”, this time regarding how vacation may be negotiated for new hires. The proposed amendments to MCO 17.17(1) are proper and legal and consistent with the language of the status quo ordinances and past practice. Should the Personnel Committee adopt the amendments, and the Board and County Executive agree, then the status quo ordinances should be amended to add “vacation” to the list of delineated exceptions.

Respectfully submitted,



Colleen Foley
Interim Corporation Counsel