




CITY MANAGER MEMORANDUM

TO: Mill Creek City Council

FROM: Rebecca C. Polizzotto, City Manager 

DATE: July 11, 2017

SUBJECT: AFSCME Negotiation Update

The purpose of this memorandum is to provide the Council with an update regarding the status of AFSCME negotiations.

The City and AFSCME currently have 2 more mediations scheduled: July 12 and July 19. The City's offer of retroactivity expires on July 31, 2017. This means if the City and AFSCME are unable to negotiate a contract by July 31, the offer of a 2017 retroactive wage increase for AFSCME employees is withdrawn and taken off the table. Due to vacation schedules, it is very unlikely any additional mediation sessions will take place in August.

A PERC hearing has been scheduled for September 22, 2017 relative to the Union's Unit Clarification Petition.

Attached as **Exhibit A** is a timeline of significant events relevant to the AFSCME negotiations.

Attached as **Exhibit B** is the City's opening proposals as presented on March 7, 2017.

Attached, as **Exhibit C** is AFSCME's opening proposal as presented on March 7, 2017 as later supplemented.

The cost difference between the City's proposal and AFSCME's proposal is approximately **\$480,000** over the 3 year life of the contract.

Through May 31, 2017, we have paid Summit Law **\$39, 460** for Peter Altman serving as lead negotiator for the AFSCME negotiations.

EXHIBIT A
(Timeline)



File Memorandum

TO	Mill Creek City Council
FROM	Rebecca C. Polizzotto; City Manager
SUBJECT	Timeline of Significant Events – AFSCME Negotiation

Date	Contact	Action	Notes
4/29/2016	City	Initial compensation analysis performed per procedure set forth in contract.	Confidential – bargaining prep
6/15/2016	All Parties	City and AFSCME bargaining representatives meet to discuss job descriptions.	
6/28/2016	City	HR Director Laura Orlando sends letter to Union President Michele Miller outlining organizational changes and topics of discussion for upcoming bargaining session.	Posted on City website.
7/15/2016	AFSCME	AFSCME files request with PERC for IBB training in preparation for contract negotiations	Request posted on City website
8/4/2016	City	Wage increase calculated per contract formula after release of AWC survey information.	Confidential – bargaining prep
9/1/2016-9/12/2016	AFSCME	Series of text exchanges between Union President Michele Miller and City Councilmember.	
9/13/2016	AFSCME	Union President Michele Miller notifies HR Director Laura Orlando union negotiation team consists of herself, Chris Risen, Jodie Gunderson and Matt Miller	
9/13/2016	City	City Manager discusses with Council interaction with union representatives during collective bargaining process.	
10/14/2016	City	AFSCME rep Matt Mill notified that the City's designated negotiating rep will be the City's labor attorney, Peter Altman	Posted on City's website.
10/20/2016	All Parties	Interest Based Bargaining training scheduled for week of October 24, 2016 cancelled and rescheduled.	
10/21/2016	AFSCME	AFSCME sends letter to Council, press, etc... regarding concerns with City Manager.	Posted on City website
10/24/2016	City	HR Director Laura Orlando responds to request from AFSCME Rep Matt Miller for copies of job descriptions presented to City Council during budget presentation.	Posted on City website.
11/1/2016	City	City's Labor Attorney provides recommendations regarding council interaction with union	Privileged

		representatives during collective bargaining negotiations.	
11/8/2016	AFSCME	Text exchanges between Union President Michele Miller and Councilmember Michelson.	
11/08/2016	AFSCME	AFSCME President Michele Miller resigns from the City of Mill Creek.	
11/10/2016	AFSCME	AFSCME Rep Matt Miller files public records request seeking all changes to all employee time cards with the corresponding name of the individual employee making changes.	Posted on City website.
11/10/2016	AFSCME	AFSCME Rep Matt Miller files public records request seeking any and all documents related to the City restructuring and job description changes including but not limited to email, hand written documents, meeting notes and all other related materials.	Posted on City website.
11/14/2016	AFSCME	AFSCME Rep Matt Miller requests the City Manager cease have monthly "all employee" meetings unless he is allowed to attend.	Posted on City website.
11/14/2016	City	City responds to Matt Millers cease and desist demand regarding employee meetings.	Posted on City website.
11/18/2016	AFSCME	AFSCME Rep Matt Miller requests cancellation of bargaining scheduled for 11/22/2016.	
11/21/2016	All Parties	IBB Training/Bargaining takes place	
11/22/2016	AFSCME	AFSCME requests following information from City: (1) Most up-to-date list of current vacant positions city wide and (a) indicate if City plans to fill vacant position and (b) which vacant positions are AFSCME positions; (2) average cost of AFSCME bargaining unit employee per year.	
11/22/2016	AFSCME	Current and former AFSCME members attend Council meeting with former City Council members and make various accusations against City Manager.	Posted on City Website (City Council recordings).
11/23/2016		Text exchanges between former Union President Michele Miller and Councilmember Michelson	
12/8/2016	All Parties	IBB Training/Bargaining takes place	
01/11/2017	All Parties	Parties engage in bargaining	
01/18/2017	All Parties	Parties engage in bargaining	
1/18/2017	All Parties	City and AFSCME meeting for bargaining session. AFSCME accuses City of unfair labor practices.	
1/31/2017	City	City updates its outline of bargaining topics	

1/31/2017	All Parties	Bargaining session scheduled for 2/1/2017 is cancelled due to illness.	
1/31/2017	City	City agrees to extend deadline for exchange of opening bargaining proposals from February 15 to March 7.	
2/7/2017	AFSCME	<p>AFSCME files information request seeking:</p> <ol style="list-style-type: none"> (1) Names of all bargaining unit employees and current job titles; (2) The number of employees in each wage classification and identification of any supplemental wages by employee; (3) A current seniority list providing date of hire and/or a compilation of employees categorized by years of service; (4) Number of straight time hours paid for each employee for the period 1/1/2016 through 12/31/2016 & the number of overtime hours paid for overtime premium and other premium hours worked separated by type of premium; (5) The names and number of employees receiving any other contractual hourly wage differentials by type; (6) The total annual cost for the period 1/1/2016 through 12/31/2016 for: bereavement leave, jury duty leave, sick leave, floating holidays, severance pay, tool allowances, tuition reimbursement, boot allowance and uniform costs; (7) The number of employees participating in each health insurance plan and categories of coverage and the current premium cost for each plan and categories of coverage and projected premium increases; (8) The number of employees participating in the dental plan, vision care plan, etc. and the current premium cost for each plan and projected premium increases; (9) The annual or monthly cost for life insurance and AD&D coverage for covered employees; (10) The annual or monthly cost for the short term disability plan for covered employees (11) The employer's contribution to employees' deferred compensation accounts for the period 1/1/2016 through 12/31/2016 (12) The employer's annual contribution to employees' pension 	Posted on City website.

		program from 1/1/2016 through 12/31/2016. Separate out annual amount for PERS1, PERS2 and PERS3.	
2/15/2017	All Parties	Parties engage in bargaining.	
3/7/2017	All Parties	Parties engage in bargaining and exchange bargaining unit proposals.	
3/14/2017	All Parties	Parties engage in bargaining.	
3/23/2017	AFSCME	AFSCME demands to bargain alleged "skimming" of bargaining unit work performed by contract employee Tim Yates.	Posted on City website.
3/29/2017	All Parties	Parties engage in bargaining.	
3/30/2017	AFSCME	AFSCME makes various allegations against City regarding Joanna Lee's employment.	
4/3/2017	City	City provides written response to AFSCME's 3/23/2017 allegations.	
4/4/2017	AFSCME	AFSCME President Kim Mason-Hatt sends email to Laura Orlando alleging violation of section 17.2 of collective bargaining agreement regarding internal posting of job vacancies.	Posted on City's website.
4/4/2017	City	HR Director Laura Orlando responds to Kim Mason Hatt clarifying that job vacancies are posted internally through ADP	Posted on City's website.
4/5/2017	AFSCME	AFSCME Rep Matt Miller asks HR Director Laura Orlando if she would send a memo to all employees stating there has been a change to job posting procedures and provide guidance to employees regarding how to locate the job postings.	Posted on City's website.
4/5/2017	City	HR Director Laura Orlando responds to 4/5/2017 email request from Matt Miller and fulfills his request same day.	Posted on City's website.
4/11/2017	All Parties	Parties engage in bargaining.	
4/17/2017	AFSCME	AFSCME files unit clarification petition with PERC seeking to have IT Director and part time passport technicians brought into bargaining unit.	Posted on City's website.
5/5/2017		Local media prints various text messages between former union president Michele Miller and Councilwoman Michelson.	
5/5/2017	AFSCME	AFSCME Rep Matt Miller sends correspondence to Chief Elwin alleging intimidation and bullying.	Posted on City's website.
5/5/2017	AFSCME	AFSCME Rep Matt Miller files public records request, withdraws and resubmits on 5/9/2017 as information request (see entry for 5/9/2017)	Posted on City's website.
5/9/2017	AFSCME	AFSCME files class action grievance alleging	Posted on City's

		hostile work environment.	website.
5/9/2017	AFSCME	<p>AFSCME Rep Matt Miller sends letter to HR Director Laura Orlando seeking following information:</p> <ul style="list-style-type: none"> (1) All emails, texts and other communications dealing with city employment between city council members and city staff classified as supervisor and higher. (2) All records related to journals and/or log books maintained by the City Manager, Chief of Police and Finance Director for the period 1/1/15 to 5/5/17. (3) All emails, texts and other communications dealing with city employment between city council members, Fred Filbrook, Wil Nelson and City staff classified as supervisor and higher. 	Posted on City's website.
5/16/2017	AFSCME	AFSCME President Kim Mason-Hatt files class action grievance alleging violation of Section 17.2 of collective bargaining agreement – internal posting of job descriptions (see entries for 4/4/2017 and 4/5/2017).	Posted on City's website.
5/18/2017	City	City Manager issues letter regarding AFSCME May 9 class action grievance.	Posted on City's website.
5/24/2017	City	City Manager issues letter regarding AFSCME May 16 class action grievance.	Posted on City's website.
5/29/2017	All Parties	City & AFSME execute memorandum of understanding regarding the use of Tim Yates as a contract employee.	Posted on City's website.
5/30/2017	AFSCME	AFSCME Rep Matt Miller acknowledges receipt of City Managers 5/18/2017 & 5/24/2017 correspondences, disagrees with City's denial and notifies City AFSCME will be refiling the grievances. In same letter, AFCME proposes meeting with City officials, included 2 elected officials.	Posted on City's website.
6/2/2017	City	City Manager responds to AFSCME meeting request.	Posted on City website.
6/5/2017	AFSCME	AFSCME follow up letter regarding meeting request.	Posted on City website.
6/6/2017	All Parties	AFSCME and City engage in mediation.	
6/13/21017	City	Notice provided to Union President Kim Mason Hatt regarding reorganization of employees due to resignation of Sara Steepy.	Posted on City's website.
6/13/2017	AFSCME	AFSCME Rep Matt Miller demands City cease and desist from reorganizational changes or face unfair labor charge.	

6/15/2017	AFSCME	AFSCME rep Matt Miller submits job description proposal for consideration.	
6/15/2017	AFSCME	AFSCME Rep Matt Miller files demand to bargain alleged removal of bargaining unit work from Joanna Lee to Gina Pfister.	
6/15/2017	AFSCME	AFSCME Rep Matt Miller alleges Finance Director is directing bargaining unit employees not to speak with Kim Mason Hatt.	Posted on City website.
6/20/2017	All Parties	AFSCME and City engage in mediation	
6/20/2017	AFSCME	AFSCME Rep Matt Miller files demand to bargain content of Monday Minute employee newsletter regarding appropriate employee conduct in workplace.	Posted on City website.
6/26/2017	All Parties	AFSCME and City engage in mediation	
6/26/2017	City	City responds to AFSCME 6/15 job description proposal.	
6/27/2017	AFSCME	AFSCME files unfair labor practice with PERC alleging intimidation by Chief Elwin.	Posted on City website.
6/29/2017	City	City issues letter responding to various bargaining issues raised by AFSCME.	Posted on City website.

EXHIBIT B
(The City's Opening Proposals)

City of Mill Creek
AFSCME Negotiations
The City's Opening Proposal Package
Date Submitted: _____

This package represents the City's opening contract proposals. All proposals are presented in conceptual format. The City will provide contract language during the course of bargaining.

Contract Duration

- OPEN. The City proposes setting contract duration once all other items are closed.
At present, the City contemplates a three (3) year contract, but reserves the right to change.

Secondary Proposals or “Housekeeping” Edits

- The City proposes correcting spelling, grammar, word choice, or formatting errors found in the contract. Prior to ratification, the City will submit a list of proposed changes to the Union for review and approval.
- The City proposes updating the “definitions” section of the contract to include employee definitions (regular employee, exempt employee, etc.). Definitions will be supplied from the City’s policy manual. The City also proposes deleting reference to “job share” employees because the language is outdated.
- **Section 6.1 (Regular Work Week and Schedules)** – The City proposes changing “Recreation Assistants” to “Recreation & Tourism Coordinators.” The City also proposes adding Deputy City Clerk.
- **Section 6.8 (Inclement Weather)** – The City prefers to have a universal inclement weather policy applicable to all City employees. The City therefore proposes removing the inclement weather policy from the contract and replacing it with a citation to the City’s policy manual. Should the City wish to revise the policy in the future, it will notify the Union for bargaining.
- **Section 8.6 (Donation of Annual Leave)** – The City proposes deleting reference to City Resolution 91-135 for donated annual leave. Donation of leave will be implemented per “City policy.”
- **Section 13.2 (Disability Leave, Time Loss Compensation)** – Under current law, to help facilitate the return to work following an on-the-job injury or illness, employees are required to accept a light duty assignment, if available and offered by an employer. Employees who refuse a light duty assignment risk forfeiting their time loss compensation. The City has an interest in ensuring that employees understand this requirement, and therefore proposes adding a clarifying sentence with this information.
- **Section 14.1 (Pay Steps)** – For purposes of earning step increases, the City proposes deleting reference to a “review composite rating of 3.0 or better.” Instead, an employee will move to the next higher step on their anniversary date based on an *acceptable annual performance review*. An acceptable annual performance review indicates an employee has met or exceeded the minimum performance standards of the assigned position. *This is consistent with the parties’ TA on longevity pay.*
- **Section 16.1 (Seniority)** – The City proposes incorporating an updated seniority list as an addendum to the contract.
- **Appendix B** – The City proposes updating the classification grid to reflect current position titles and salary grades.

Confidential Employee Exception

- The City proposes removing Gina Pfister from the bargaining unit based on the executive assistant confidential exception. *See* WAC 391-35-320(2).
 - See the attached position statement.
- The City proposes removing Betsie Devenny from the bargaining unit based on her confidential status. *See* WAC 391-35-320(1).
 - See the attached position statement.

Article 6 – Hours of Work and Overtime

- **Section 6.2 (Overtime)** – The current contract provides that “*unscheduled* hours taken for sick leave, annual leave, or floating holiday do not count in the computation of hours worked for purposes of computing overtime hours.” The City proposes all hours taken for sick leave, annual leave, or floating holidays are excluded from the overtime calculation, regardless of whether they are *scheduled* or *unscheduled*.
- **Section 6.5 (Exempt Positions)** – The City previously employed a Senior Accountant, who was FLSA exempt from overtime. The City replaced the Senior Accountant with two Accountants. The City believes both Accountants still meet the FLSA “white collar” exemption and therefore proposes classifying both as FLSA exempt.

Article 8 – Annual Leave

- **Section 8.2 (Carryover of Annual Leave)** – The City has an interest in uniformity when granting/denying the carryover of annual leave. Current contract language provides that carryover may be permitted by the City Manager under “certain circumstances.” This is vague. The City proposes replacing “certain circumstances” with the following language: “When City operations or work assignments make it difficult or impossible for an employee to use annual leave, the City Manager has the discretion to authorize carryover beyond two hundred (200) hours of annual leave.”
- **Section 8.3 (Use of Annual Leave)** – The City has an interest in ensuring employees take sufficient leave for purposes of rest and relaxation. Employees who take only an occasional day off or long weekend risk burnout. Current contract language requires employees to use at least five (5) days of annual leave per year. The City does not believe this is sufficient. Instead, the City proposes a requirement that each employee, after their first year of employment, take five (5) *consecutive* days of annual leave each year. Annual leave taken in conjunction with holidays counts toward the requirement of five (5) *consecutive* days.

Article 14 and Appendix B – Classification and Wage Administration

- The City proposes a continuation of the comparable/CPU wage formula stated in the current contract. This equates to a **1.94%** wage increase for 2017. For future years of the contract, the City proposes continuation of the same formula.
 - The City's bargaining team met with the City Council and explained why negotiations started late. The City Council was understanding and authorized retro pay. The City therefore proposes retro pay for wages conditioned on a contract being ratified before July 31, 2017. Retro pay is offered to those employees actively employed by the City at the time of ratification.
- The City proposes range/classification adjustments for specific employees, as previously shared with the Union. Unless otherwise previously addressed by the City, any other range/grade adjustments shall apply prospectively.

Article 15 – Insurance and Other Benefits

- **Section 15.1(A) (Health Benefits)** – The current health insurance plan available to employees is expiring at the end of the year. In addition, health insurance costs continue to become more and more expensive. The City has an interest in offering quality coverage to employees, while also saving money. The City also has an interest in offering employees choices of coverage, to help foster a partnership over the responsible use of health insurance.
 - Effective January 1, 2018, the City proposes moving employees to their choice of two health plans: (1) AWC HealthFirst 250, and (2) AWC High-Deductible Health Plan (HDHP) with optional health savings account (HSA). AWC Dental and vision plans shall remain unchanged.
 - Employees who select the AWC HDHP + HSA option will receive 50% of the premium cost-savings from AWC HealthFirst 250, based on the coverage tier enrolled (*e.g.* employee only, employee + 1, employee +2), deposited into their HSA account on a monthly basis. Total deposits for each year shall not exceed the IRS maximum for HSA contribution limits. To earn the HSA deposits, the employee and spouse/dependents must actually be enrolled in the HDHP option. If an employee enrolls in the HDHP option and declines coverage for spouse/dependents, no HSA contributions will be made for spouse/dependents. Employees are responsible for all administrative fees charged by the HSA administrator.
- **Section 15.3 (Deferred Compensation Plan)** – The City proposes changing the definition of dependent children from “up to and including age of 26” to “as defined by the Affordable Care Act or other applicable body of federal law.”
- **Section 15.1.3.1 – OPEN.** The City is facing legal and compliance challenges with its Section 125 cafeteria plan. The City is still researching this proposal, but tentatively proposes as follows:
 - Premium savings will continue to be offered only to those “grandfathered” employees hired on or before the date of contract ratification. Effective January 1, 2018, the Section 125 premium savings offered to employees who decline coverage will be based on AWC HealthFirst 250.
 - Effective at ratification, the City proposes limiting the options for Section 125 expenditures:
 - First, thanks to health insurance marketplace reforms, employees will no longer have the option of using cash to purchase an individual policy.
 - Second, based on additional tax liability to the City, employees will no longer have the option of MEBT contributions.

- Third, thanks to issues with the Affordable Care Act, Medicare, and TRICARE, employees/spouses/dependents who waive enrollment in the City's health insurance plans will need to provide, on an annual basis, proof of enrollment in another employer's group health plan. The benefits provided by this section do not apply to any employee who declines coverage because they are an eligible spouse/dependent of another City employee.
- Employees may opt-out of the City's insurance plans only if the City is able to maintain the required participation thresholds set by the City's insurance carriers. Employees may not decline vision insurance coverage. If and when the minimum participation thresholds are reached, the opportunity to decline coverage will be extended to employees on the basis of seniority at the City.

Article 17 – Vacancies and Trial Service

- **Section 17.2 (Job Postings)** –The City proposes adding language clarifying the vacant job posting requirements shall not apply to positions subject to reclassification or promotion, when such positions are already occupied by a qualified incumbent employee.

Article 19 – Miscellaneous Provisions

- **Section 19.3 (Lead Maintenance Worker Premium Pay)** – The City now has several tiers of public works employees, including Maintenance Worker I, Maintenance Worker II, and Supervisor classifications. Given this supervisory structure, Lead Maintenance Worker Premium Pay is no longer required. The City proposes deleting the premium.
- **Section 19.4 (Seasonal Employees)** – The City proposes deleting reference to Lead Maintenance Worker premium pay. The City also proposes expanding the acceptable date range for seasonal workers from April 1 through to October 31 to March 1 through November 30, provided that the total months of annual employment of each seasonal worker shall not exceed six (6) months.
- **Section 19.5 (Uniform Cleaning for Police Support Officer)** – The City proposes deleting all language related to uniform cleaning for the Police Support Officer. Instead, in coordination with the Police Guild, the Police Support Officer will be provided a washable jumpsuit.

EXHIBIT C
(AFSCME's Opening Proposals)

1. The City Manager or designee may assign an employee work which is of a different nature or which is in a different department from that normally assigned to that employee. If the assignment is for one (1) or more consecutive hour(s), that employee will be paid for the entire time actually worked at five (5%) percent above the employer's current rate of pay or paid at the minimum rate or that of the temporary position. *(From 3/7/17 opening proposal)*
2. Increase annual leave to 24 days for employees with 23+ years of service. *(From 3/7/17 opening proposal)*
3. Increase the footwear allowance from \$200 to \$300 for maintenance workers, building inspectors, police support officers and engineering technicians. *(From 3/7/17 opening proposal)*
4. Provide a cost of living adjustment of 3% in each of the following three years: 2017, 2018 and 2019 - Separate from annual step increases or longevity pay. *(From 3/7/17 opening proposal)*
5. Job Description Proposals – *Job description related issues were left as a "place holder" in AFSCME's 3/7/17 opening proposal. Since opening proposal exchanges, AFSCME has presented the following proposals related to job descriptions:*
 - a. Make various language edits to job descriptions *(From 6/15/2017 Job Description Proposal)*:
 - i. Changes to essential duties
 - ii. Changes to minimum/preferred qualifications
 - iii. Eliminate any requirement to maintain appropriate confidentiality of work related issues
 - b. Move all positions up a minimum of one pay grade – some positions up more than one pay grade. *(From 6/15/2017 Job Description Proposal)*
 - c. Bring part time passport workers into the union. *(From 4/17/17 Unit Clarification Petition)*
 - d. Maintain current organizational structure of part time passport workers. *From 6/15/2017 Job Description Proposal)*
 - e. Bring the IT Director into the union. *(From 4/17/17 Unit Clarification Petition).*