

**CITY COMMISSION SPECIAL REGULAR MEETING AGENDA
CITY HALL
FORT LAUDERDALE, FL**

JANUARY 14, 2004 – 3:00 P.M.

Mayor Naugle called to order the special regular meeting of January 14, 2004 at approximately 3:08 p.m. Roll was called and a quorum was present.

Present: Chairman Naugle
 Commissioner Teel
 Commissioner Trantalis
 Commissioner Hutchinson
 Commissioner Moore

Absent: None

Also Present: City Attorney
 City Clerk
 Sergeant At Arms – Sergeant Mark Spencer

Mayor Naugle stated that this was a public hearing in order to consider a resolution of impasse hearing pursuant to Chapter 447, Florida Statutes. He further stated that the City Commission would hear from the FOPA and the Acting City Manager regarding their positions on collective bargaining agreements. The City Commission would then take such actions as it deems to be in the public interest, including the interest of public employees involved, and resolve all disputed impasse issues. He explained that the format that would be followed would be that the FOPA would present their case-in-chief, and then the Acting City Manager would then present his case-in-chief, and each side would be limited to one hour. Afterwards, the City Commission would either adopt the FOPA proposal or adopt the Acting City Manager's proposal, or some compromise position on each article. Mayor Naugle stated that if the latter was done, then they would take up a discussion one article at a time. At the conclusion of the two presentations, there would be public input limiting the speakers to 2 minutes.

Joe Paleo, Staff Representative for the Florida State Fraternal Order of Police, stated that he represented the largest union, the FOPA. He stated that he had received a copy of the information which had been provided by the City, and after reviewing it, he felt that in the City's minds they had to think that the Union leaders were running around with 3 heads.

Mr. Paleo continued stating that this Union had been voted in by the membership approximately 2 years ago. He stated that they had not been accepted with open-arms by City Hall, and they realized things would take time. He added that two years had past and still the City management was trying to destroy the Union. He stated that an example of such treatment was in front of them today, and that was the false information that labor relations had provided them in regard to outstanding contract articles. He further stated that labor relations had continually been giving the City Commission false information on issues, including the health insurance fund. He stated that the position stated by labor relations regarding their contract proposals were untrue. He further

stated that for months they had continually met with the City negotiating teams in an attempt to reach a contract agreement. He stated that when they had been advised by the City that there was no money available, the FOPA took all money issues off the table. He stated that the City declared an impasse and a mediator was called in. He stated that the City negotiating team would not even sit in the same room in an attempt to resolve the issues. He stated that the mediator ran from group to group passing on information. He stated further that a great deal of time was spent in negotiations regarding health insurance. He stated there were delays by the City and statements made that there was no money direction. He added that the resignation of the City Manager, and the wait for a new one, all added to the delays. He continued stating that the new Acting Manager appeared and the health insurance article was quickly resolved with his assistance. He stated that the Union wanted to thank him for his assistance in this matter.

Mr. Paleo further stated that the Acting City Manager had been a great help to this organization regardless of the harsh money cuts and personal cuts he was required to do in order to make up a budget shortage. He stated that two days ago he had met with the Acting City Manager in an attempt to resolve various contract issues. He stated that he had withdrawn several articles in an attempt to reach such agreement. He explained that the Acting City Manager informed him that after the meeting he would check with the Assistant City Manager and get back to him. He stated that he had not been called that Monday, and on Tuesday morning labor relations faxed to him the City's position regarding the articles, including the Union's positions. He added that on Tuesday evening at 5:40 p.m., he was faxed the last proposal, along with an MOU regarding retirement benefits from the City. Copies were distributed to the members. He stated that gave them 16 hours to accept the proposal or the City would return to their previous positions.

Mr. Paleo explained that labor relations was fully aware that this Union did not sign-off on MOUs without the members ratifying them, and stated that voting took place at their monthly meetings. Additionally, he explained that the proposal stated "all or nothing" by 9:00 a.m. on Wednesday. He stated that this was the type of behavior they had been subjected to by the labor relations people, along with the Acting City Manager. He stated that he hoped once the issues were reviewed by the City, they would grant them to the Union. He explained that the Union was taking the brunt of the City's budget crunch, and not one police officer or fireman would be reduced to a lower-paying position or be laid off. He stated that this bargaining unit was expected to carry the load for the City through personnel cuts and layoffs. He added that many employees had been moved to lower-paying jobs, bumped into part-time positions, or notified that they no longer had a job with the City. He stated that this Union was looking for their support and realized money was a major issue, but what they were looking for cost nothing. He further stated that at their last meeting, the Acting City Manager had told him that the Commission was looking to treat them, along with the other 2 unions, equally. He asked if that was really happening.

Mr. Paleo proceeded to introduce the Union's attorney, Anthony Livoti.

Anthony Livoti, attorney representing the FOP/FOPA, stated that the City's proposal was faxed to his office at 6:00 p.m. last night. He stated there was a cover letter stating that if they did not receive the attached information, they should call a certain number. He advised that he had not received all the information through the fax, and therefore, called

the number which had been provided. He explained that he had dialed the telephone number (954) 828-5013 provided 10 times and repeatedly a recording informed him that it was not a working number. He stated he was unable to speak with anyone over a period of time regarding the information which had been provided. He spoke with Mr. Paleo and stated he had been surprised that they were only being provided 16 hours to make a determination on something that was very valuable to not only the residents of the City, but also to the members of the Union and other City personnel. He stated this was important because they wanted everyone to know that this was how they had been treated.

Mr. Livoti continued stating that he wanted to review the documentation which had been provided earlier in the day that allegedly outlined the Union's position, as well as the response by City staff in connection with certain issues. He stated that if everyone had received such documentation, he wanted to use it as a guideline for addressing the issues if that was acceptable by the City Commission.

Mr. Livoti stated that in Article 15 the Union had indicated that they had wanted 100 hours of paid time-off per person for any re-openers. He stated further that the Union had withdrawn its proposal that this be a 3-year contract with 5 re-openers every year in the years 2 and 3, and were willing to accept a one-year contract. Therefore, Article 15 would become moot.

Mr. Livoti continued stating that in regard to Article 22, Basic Workweek and Overtime, they had previously withdrawn their increased compensation time accumulations from 40 hours to 80 hours, yet it continued to appear on the proposal. He explained that what they were looking for in regard to this issue was the rationale that under the basic workweek only sick time was not to be considered as hours worked. He stated that he had forwarded that information to the City on January 12, 2004, and had indicated in writing that this had been withdrawn. He further explained that in the event that someone took a vacation day and then wanted to work on a Saturday or day which would require overtime, such day would not be used against them and was to be considered as time worked because they had earned such time. He stated that anything above the 40 hours or the extra day would be considered as overtime. He further stated that they agreed that sick time would not be an issue in this matter, and would not be considered as part of the computation of the 40 hours for overtime. He explained it was the Union's position that sick time not be considered in dealing with days that required overtime. He stated that the Union would clarify their position in regard to any matter whenever the City requested such information.

Mr. Livoti further stated that in regard to Article 25, Job Opportunities, they had two claims to state. One was that it was their position that they were requesting that the City permit union employees on unpaid leave due to injury to be able to bid for vacancies. He further stated that in regard to eligible employees to be able to take practical performance exams, all City employees would take promotion exams first, and if no one passed then they would go to the outside resources. He explained it was their position that the employees who were presently working within the City be given the opportunity to take such examinations first, as opposed to someone from outside. In addition, he stated that the time limit eligibility list had been indicated for a maximum of 2 years, but it was his understanding that this issue might be resolved if they capped the list to a one-year period. He believed the City had indicated that they were willing to accept that proposal.

Mr. Livoti stated that that presently on tests the City provided seniority points. He stated that for every year an employee worked for the City, they received a half-point up to 6 points, and such seniority points were added to their test scores. He stated that when they come outside their performance for other exams that they be provided for the same points for seniority based on the fact that they had been trained by the City, and were familiar with the City, and contained knowledge of how a particular job worked within the City, were to be considered first in the bidding. Technically, he stated that some employees did not test well, but still were skillful in the performance of their job duties based upon their experience with the City. He added that nothing could substitute experience. He asked that this be considered and expanded to give seniority points on all examinations given.

Mr. Livoti stated that Article 32, Temporary Assignment, had been withdrawn. He continued stating that the City proposed to delete the current 90-day time limit regarding temporary assignments for supervisory positions outside the bargaining unit. He explained what they did was that if an individual moved into a position and was given a temporary supervisory assignment, they were given a 5% raise or the lowest base for that position. He stated that after 90 days there was no indication of what they would receive, and if they worked in such position for a longer period of time, they were paid at the lower rate. If the position was not filled and the employee worked for months and months in such position, they were not adequately being compensated for the job they were doing and the position they were filling. He added there was no requirement that the City had to fill that position.

Mr. Livoti further stated that in regard to Article 37, Sick Leave, the first portion in connection with increasing the family sick leave to 120 hours per year, had also been withdrawn. He stated that in regard to adding grandchildren living in households as immediate family for purposes of family sick leave had also been withdrawn. He proceeded to quote from the last item in Article 37 as follows:

“If employees are required to present a doctor’s note for absences due to a pattern of sick leave, the Union wants the City to pay for the doctor’s visit.”

Mr. Livoti stated that this was an important matter and he wanted to expand on it. He stated that presently City employees were given 12 sick days per year, and once they reached the 7th day the City required that the employee provide to management or their supervisors a doctor’s note indicating the reason for their sick time. He further stated that if an employee in their first year used 7 sick days and reached the 8th day, they were being required to go to the doctor for a note. He stated that would happen for the amount of time they would be employed by the City. He further stated if they followed through with that from an economic perspective, the City employee had to go to a doctor. By the time they got an appoint with the doctor, the symptoms could have subsided, yet they had to go and pay for the visit. He explained that the doctor could not verify the symptoms the individuals previously had suffered from. However, the doctor still billed the health insurance for the visit. He added that a 20-year employee who had taken 7 sick days would be required for the next 19 ½ years to provide a doctor’s note verifying the absence. He stated that they had requested from the City on a number of occasions in accordance with the Public Records Law, for them to give the Union the number of individuals who were required to present such documentation, but the City was unable to do so. He stated there was no way the City could provide the numbers of individuals

who were over the 7th day and required to go for the doctor's visit. He advised that the City had stated almost mockingly that this was de minimis. He stated there were approximately 1,100 employees they were dealing with in regard to this contract, and if one took 1% of the employees who were sick in one day, the health plan would be required to pay approximately \$1,500 for 10 employees ill to visit a doctor. He reminded everyone of the situation involving the present health plan. He stated that if the City wanted that, they were requesting that the City send those employees to a specific location and the City pay for the doctor's visit. He stated this was to discourage employees from using sick time, but meantime it greatly impacted the health plan. He felt this made no sense, and only made the City's health plan poorer and the doctors richer. He felt if such cost had to come out of the City's pocket, the likelihood of such requirement would be less often.

Mr. Livoti stated that the other issue which had been withdrawn pertained to the increase of cash value of sick leave when an employee left the City service. He gave as an example an employee who worked for the City since 1965 and retired and had not used all their sick days. The City reimbursed the employee at 50% of that day with the 1965 value. However, when an employee takes off, it was for the present year. The City was in the buy-back position and was saving money. He stated that he was mentioning this because one of the next issues to be discussed was expanding sick leave for employees when family members were ill.

Mr. Livoti stated the next issue pertained to Article 42, Donation of Leave. He explained that presently there was a donation pool available to employees in the event they were sick, but there was no such issue in regard to family members who were ill. He explained the employee had to give up their salary for a certain period of time, and yet this was the time they needed their salary. He reiterated the most important part of an employee's life was their family. He stated they were requesting that the City consider expanding that pool so if an employee's immediate family member was ill another employee could contribute a sick day for that person. He emphasized it would not cost the City any money, and in many ways it was helping the City get another sick day off the books that they would not have to buy back at the time of retirement. He reiterated that this was a non-economic issue for the City. He stated they also wanted the City to notify the employee 10-days prior to the exhaustion of their sick time or vacation time that was needed so they could have a reasonable amount of time to approach the Union and their fellow employees in order to ask for a donation of sick time.

Mr. Livoti further stated that Article 45, Rates of Pay, the City was asking for a reduction. He explained that the Union had agreed to 6 days of furlough for employees which had not been included in the documentation. He stated that they did ask that such furlough days be allowed to be taken by seniority. He advised that the City had proposed a 5% decrease or across-the-board salary decrease from January 18, 2004 to September 25, 2004. He further stated that from the documentation the City had provided to him, it was suggested by the Acting City Manager that there be a 3.37% effective roll back from February 1, 2004. Mr. Livoti stated that was not acceptable to the Union, only the 6 days furlough. He thought that had already been agreed upon with the Acting City Manager. He thought that issue was not up for discussion.

Mr. Livoti proceeded to quote from Article 51, Modifications to the Retirement System, as follows:

“Reduce the normal retirement date from age 55 to 50.”

Mr. Livoti stated that matter had been withdrawn. He stated that to reduce the service retirement from 30 years to 25 years had also been withdrawn. He stated that the third item 10104, increase pension multiplier from 3% to 3.5% had also been withdrawn. He advised that the only aspect left on the table in regard to that matter was the issue concerning the buy-out. He explained that on the modifications in regard to Article 51 they would leave the drop plan status quo and change the language to be the same as the police contract. He stated the City wanted to eliminate the drop program and terminate the drop retirement option. He stated their position was that 55 and older could join the plan, and that the City would pay back all costs for the buy-back. He explained that in circumstances where they presently had employees in the system who had been hired later, the City contributed to their 401K. The buy-back would allow the City to receive its money back, but in some instances employees had used their 401-Ks and invested them smartly. He stated those employees wanted to keep their interest or any benefits received on the investments from the 401-K plan over and above the contribution from the City.

Mr. Livoti continued stating that Article 54, Shift Differential, had also been withdrawn. He stated the shift differentials had already been placed in the new budget. The City proposed that the \$94,000 per year it would save in this matter had already been budgeted. He stated they were happy with the way it was in the present budget.

Mr. Livoti further stated that in regard to Article 58, Duration, he had indicated that they originally had wanted a 3-year contract with 5 re-openers in years 2 and 3, but that had been withdrawn and they were willing to accept a one-year contract.

Mr. Livoti stated that Appendix A and Appendix D had both been withdrawn except the Union under Appendix D, Jobs for Shift Differential, wanted to keep it status quo.

Mr. Paleo stated he would be agreeable to answer any questions that anyone had at this time.

The Acting City Manager proceeded to introduce John Dargis.

John Dargis, Employee Relations Office and spokesman for the City in regard to the FOPA negotiations, stated that Gordon Rogers was also present and was the attorney. He stated they were here today to request the City Commission to resolve the impasse between the City and the FOP for a successor agreement to the collective bargaining agreement which expired September 30, 2003.

Mr. Dargis explained they had begun bargaining with the FOPA on May 12, 2003, and had about 13 bargaining sessions between the City and the FOPA. He explained that during that time frame, they had been able to resolve 48 out of 59 articles, and 5 of 7 appendix items. During that time various package proposals had been made, some of which included the entire contract, but they were never able to come to a final resolution.

Mr. Dargis stated that on November 6, 2003, the City had declared an impasse. They held 4 sessions with the Federal Mediator. He stated that Mr. Paleo had stated that the City had refused to enter the room with the mediator, but on November 24, 2003 the City and the mediator had met jointly with the FOPA, but it had been the mediator's

preference to go back and forth and keep the parties in separate rooms in an attempt to float trial offers which could bring the parties towards a final agreement.

Mr. Dargis advised there were currently 13 unresolved items which consisted of 11 articles and 2 appendix items. He stated it had been said that the documentation from the City was different than that received from the Union, but they had spoken about simultaneous exchange of the City's positions, along with the Union's positions. He stated that he did not have signed-off items or withdrawn items. He explained what had been presented to the Commission was the information which had been exchanged with the Union. Mr. Dargis stated that he wanted to go through each item, and Mr. Rogers would assist in regard to retirement items.

Mr. Dargis stated that in regard to Union time pool, the City was in agreement with the Union since they had withdrawn the matter. He stated the City had not recommended any changes, and therefore, the issue was resolved.

Mr. Dargis further stated that in regard to Article 15, Union Representation at Collective Bargaining Negotiations, the Union had indicated that since this was an agreement that would exist until the end of the fiscal year, they would withdraw their proposal. The City was in agreement and the item would exist as a no-change article and would be withdrawn.

Mr. Dargis stated that in regard to Article 16, the City did not have a proposal on the table, and the Union had withdrawn this item.

Mr. Dargis further stated that Article 22, Basic Workweek and Overtime, the Union had withdrawn their request for an increase in compensation time from 40 hours to 80 hours. The City agreed. He stated that the Union had indicated they would agree to employees not earning overtime pay for periods in which they had sick leave taken during the 40-hour workweek. He stated that the City still had a position on the table in regard to that article, which was that overtime should be paid only for the actual hours worked during a week. He stated that the Fair Labor Standards Act established how overtime was to be paid and indicated that overtime should be paid only for the hours worked in excess of 40 hours. He advised that during the past year, the overtime amount expended by the City for the FOPA bargaining unit was approximately \$3.2 Million. He stated this was an economic issue for the City.

Mr. Dargis continued stating that in regard to Article 25, Job Opportunities, the City had only one proposal in regard to this article which was to eliminate seniority points on all promotional examinations. Currently, he explained that employees received a half-point per year of service up to a maximum of 6 points towards examinations. He stated this currently existed for promotional examinations which were within the City, and such points were not used towards open competitive exams that included City employees and the public. He stated that it was the City's belief that such points artificially inflated the scores on the examinations, and should be scored on merit and knowledge only. He stated it gave an unfair advantage to newer employees, and if the benefit was to be extended for open competitive examinations, it would be an unfair advantage for the individuals who took the test from outside of the City. He explained that the City wanted to permit employees on sick leave to be able to bid on vacant positions, which was in the area of non-exam positions. He stated that if an individual bid on a non-exam job, the most senior person who could do the job was given the position. The jobs were posted

for 7 days and they were filled by the departments, and if someone was out on sick leave the City was unable to proceed to fill such positions. He explained that this tied into the performance tests. He stated the City gave performance tests only in non-exam job areas in order to determine the person's ability to do such job. The reason the test was given only to the more senior employees was because that was the person who was entitled to the position, if they were capable of performing such job. He stated there was no reason to test a number of employees, if only 1 or 2 were entitled to the job. He further stated that the promotional exams were written exams given to citizens, and it would not be practical for the City to give the exams only to City employees. He stated there were sometimes circumstances where jobs had unique requirements, and there was not a large enough pool of qualified individuals to select from for such positions. He advised they wanted to keep the status quo in the other areas of testing, except for the seniority points which they recommended be eliminated.

Mr. Dargis further stated that Article 32, Temporary Assignment, stated that the Union had withdrawn their 5% increase for such assignments. He stated that the City still had one item on the table in regard to this matter which dealt with a section of the article pertaining to a 90-day limit placed on the City when an employee was given a temporary assignment. He explained that after 90 days, the City had to decide whether to abolish or fill such a position. He stated the City felt that limited their flexibility and there could be reasons to go beyond the 90 days. He advised it was rare to see in union contracts a limitation placed on management's ability to fill, not fill, or abolish a position. He further stated that due to operational reasons, the City wanted that section removed from the article.

Commissioner Trantalis asked what there was to prevent every supervisory position from being temporary. Mr. Dargis stated that in regard to this article, it only dealt with situations where a bargaining unit member was being upgraded and given the additional 5% to fill in, and those were the cases where a decision had to be made within the 90 days. He explained that in cases where there had been full and open postings which were done as soon as the vacancy occurred, then they might not involve fill-in situations. Commissioner Trantalis stated that in terms of not wanting the 90-day limit as just described, he asked what the outside limit was that the City would be compelled to adhere to under such circumstances. Mr. Dargis replied that he did not know if there was a limit, and felt it might just be sound decision making as to whether to abolish the fill-in and how to deal with the situation.

Mr. Dargis continued stating that regarding the sick leave issues, the Union indicated that they had withdrawn the family sick leave increase to 120 hours, and the City agreed. He further stated the issue regarding adding grandchildren living within the household, the Union had withdrawn that item and the City agreed. He stated there was a difference of opinion in regard to sick leave usage and a doctor's note. He stated further that the Union had indicated that the City used a system to have employees go to their doctors and bring a note if absent for 7 days. He stated that the 7-day requirement was one guideline used by the City to determine whether excessive absenteeism existed. He explained that when an employee received a performance evaluation and if they used more than 7 sick leave days within the year, their evaluation would be marginal. He stated the managers and supervisors used that as only one indicator which in and of itself might not require a doctor's note. He further explained if an employee was out 8 days with the flu and previously had only been absent for 1 day, they would not be required to supply a doctor's note. He stated that the City looked at patterns of absences

which sometimes existed. He stated they were only reviewing cases where they felt excessive absenteeism existed. He continued stating that the Union had asked for a list of all individuals on restricted leave, but he was not able to supply such a list because he was not sure if their office received such documentation. He explained that each division attempted to manage their sick leave and attendance individually in a fair manner.

Mr. Dargis stated that there had been a number of arbitration decisions where it had been upheld that the City had the right to ask an employee to verify their absence due to illness, when it was believed there was excessive absenteeism. He stated that his best guess in regard to such individuals would be in the area of 25-30 people. He reiterated that he could not produce that individual information. He explained this was not a case whereby all employees had to present a doctor's note every time they were sick. He stated that the Risk Management Department had informed him that this had a minor impact on the cost to the health plan.

Commissioner Hutchinson asked if this was something all 3 bargaining units were subjected to. Mr. Dargis confirmed and stated that each of the 3 contracts contained language stating that the City could request a doctor's note when deemed necessary.

Mr. Dargis stated that the last item in connection with sick leave was to increase the cash value of sick leave, and he believed that item had been withdrawn, and the City had no change in that issue.

Mr. Dargis explained that in connection with Article 42, Donation of Leave, the City presently had a program when an employee became ill and ran out of sick leave and vacation days, employees could donate a day of their time to assist such employee. He stated the program had been in effect with all 3 bargaining units for a long period of time and was helpful to some employees. He explained the Union was seeking to expand such benefit to include "family members." He stated there had been no real definition given as to what "family members" would include. He explained further that the Union and most employees could accumulate up to 50 days of vacation time, and a Family Medical Leave Act was in existence that the Federal government had passed which allowed for a person to care for their sick family members for up to 12 weeks away from their job while still retaining their benefits, but such time would be without pay. He stated the City looked at this as an increased benefit that members of the FOP and IFF did not have which could increase absenteeism and affect productivity and efficiency of the operations. He stated they recommended that this article not be changed.

Mr. Dargis stated the Union was requesting to have employees notified within 10 days of the exhaustion of their leave. He explained that the contract currently indicated that "the personnel office would notify when the leave was nearly exhausted." He stated the City was concerned about the 10-day requirement because there could be a consequence and effect issue. He further stated that he was not aware of any grievances regarding this item, and remarked that the City did their best in making such notifications. He stated they encouraged employees to keep in touch with each of their department leave clerks in order to be aware of their allotted time. He explained if there was a situation where an individual ran out of donated time but were still seriously ill, the City had the ability to have more time donated to make up the gap.

Mr. Dargis proceeded to discuss Article 45, Rates of Pay. He stated that the Commission was aware that the City was trying to achieve \$2.4 Million through

personnel and salary savings. He explained that each bargaining group was given a target number regarding the personnel savings area. He stated that the number for the FOPA was approximately \$610,000, and stated there were a number of ways to do that. He explained there had been ongoing discussions at the table regarding 6 furlough days, a 3% salary rollback as of January 1, 2004, a 5% salary rollback for later in time, along with a number of other ways to reach that \$2.4 Million goal. He stated that the City had offered the 6 furlough days attached to the final contract package. He explained that at the bottom on each package it had stated "That if the entire package was not accepted at the end of the bargaining session, then the package would be removed." He stated they could not "cherry-pick."

Commissioner Trantalis asked if a calculation had been made stating that every time there had been a delay in selecting the 6 furlough days, it increased the costs to the City. He further stated that the information supplied to the Commission had stated that "since there was 9 months remaining in the fiscal year, the scheduling of unpaid furlough days was no longer a practical alternative." He asked if they agreed to a proposal today and the 6 furlough days were taken during the month of February, how would it not be a practical proposal for the City since the \$610,000 could still be realized. Mr. Dargis explained that the Acting City Manager was going to address that issue in his presentation. He further stated that this was a bargaining unit of approximately 1,100 employees. Commissioner Trantalis asked if it was the Acting City Manager's position that such furlough days could only be taken during a 12-month period and not a 9-month period.

The Acting City Manager stated that it would become administratively difficult, if not impossible, after January. He stated the first time that individuals could begin taking furlough days would be February, and there was no longer the 9-10 month window. He explained that at one point in time it would become difficult to permit 6 furlough days. The time indicated earlier had been January 1, 2004. He further stated that they had agreed to expedite this because they wanted to be as forthcoming to the employees as possible regarding the furlough days. He stated he had received many e-mails from employees stating they preferred furloughs to rollbacks. He explained it would be difficult, if not impossible, to agree now to 6 furlough days, and possibly there could be a combination of 4 furlough days and a partial rollback.

Commissioner Trantalis asked if he was suggesting that because the number of months had been pressed that it would be difficult regarding the City's operations. The Acting City Manager confirmed, and stated had they began the 6 furlough days as of January 1, 2004 through the rest of the year, it could have been possible. He stated that the earliest they could now undertake furloughs would be February 1, 2004 because whatever was decided today, it would still require time to work out the schedules. Therefore, there was one less month involved which did not mean that furlough days could not be taken, but it could be that 5 furlough days and 6/10 of a 1% rollback could be possible or some other formula. He stated he was reluctant not to provide furlough days because that had been provided to management, but they had been able to take those days since the end of November, 2003.

Commissioner Trantalis asked if the savings from the furlough days or wage reduction had to be realized before the end of the fiscal year. The Acting City Manager stated it was his understanding that they had to be realized by September 11, 2004. He added that people would have to schedule furlough days as soon as possible and have them

scheduled by the first part of September. He stated that the compression would lead to problems with service delivery.

Mr. Dargis stated that he wanted to skip over Article 51, Pensions, and discuss the remaining articles because Mr. Rogers would address that issue.

Mr. Dargis continued stating that Article 54, Shift Differential, had been withdrawn by the Union. He explained the proposal was to change shift differential to a percentage for everyone. He stated that the City had recommended the elimination of shift differential as an economic issue. He advised the cost savings would be about \$94,000, and was not something that all employees enjoined. He further advised that only about 178 employees currently received shift differential.

Mr. Dargis stated that Article 57, Entire Agreement, did not appear to be an issue with either party. He advised that both sides agreed that the article was settled.

Mr. Dargis further stated that Appendix A had been withdrawn by the Union. He explained that item was a listing of all jobs in the bargaining units, along with their titles.

Mr. Dargis continued stating that Appendix B tied into the article for shift differential and contained the titles of the individuals who were receiving the percentage. He added that would have to be addressed if shift differential was retained, and the City would agree with no change to the item.

Mr. Dargis explained that Appendix E dealt with a pay range which explained the pay ranges for all jobs, along with the steps in the bargaining unit. He stated if there was a change in pay, the article would be left opened and the matter would have to be addressed.

Mr. Dargis proceeded to ask Mr. Rogers to address the pension issues under Article 51.

Gordon Rogers, Assistant Employee Relations Director, explained that the Union had withdrawn all of their proposals in respect to Article 51, Modifications to the Retirement System, and were asking for no changes. He stated that there were two primary changes being requested by the City. The first change was to terminate the draft retirement option which was based primarily on issues raised by the Equal Employment Opportunity Commission due to how the drop was framed pertaining to age and years of service. He explained that normally they operated under the idea that age and years of service were a lawful way to set a retirement date or set the criteria for an early retirement incentive which was what DROP was initially built around. EEOC was now saying that anything including age would be a problem. He stated at this point they were suggesting the DROP Program be eliminated, but that some other alternative could be negotiated once further clarification was received. He further explained that by saying they wanted to eliminate the DROP Program would not mean that individuals already in the program from this bargaining unit would be kicked out or have to leave immediately or to terminate the plan. He explained they were only saying to not admit any new participants into the program for this contract year until further clarification was received on the issue.

Mr. Rogers stated the other issue was to resolve the over 55 question. He stated there were a group of employees who were within 5 years of normal retirement date at the

point of time when hired by the City. He stated that the problem was that EEOC had changed their interpretation of the Federal law sometime in 1995 or 1996 saying that those individuals should not have been excluded from the retirement plan even though the EEOC compliance manual still contained a specific exclusive for individuals within 5 years of normal retirement or defined benefit plans and could be excluded. He advised that in 1996 the City had set up a 401-K plan for those individuals. He explained that one of the items in the package contained a Memorandum of Understanding intending to make people whole who had been excluded back to 1996. He explained further that the changes necessary in the retirement plan had already been started. He stated that the City Commission had passed an ordinance on first reading at their last meeting. He stated that Union approval or impasse resolution imposition was necessary by this Commission in order to implement such plan. He stressed that this plan of resolution would make several changes in the retirement plan, and one of those changes was to prospectively put in a 5-year service requirement which did not presently exist. He stated that would have to be negotiated with the Union. He remarked they had tried such negotiations and were at an impasse.

Mr. Rogers further stated there was a purely voluntary element to this and stated they would go back for anyone signing the appropriate paperwork to have their accounts increased. He stated this could be done at no cost provided the employees turned over the balances in their 401-K plan to the GERS Plan, which would be the equivalent to what the City would have contributed to GERS on behalf of the employee had they been in the program. He explained that what was above what they were legally required to do was that the City agreed to pick up the employee's contribution. He stated the employees who opted into the program would not be required to pay the 6% employee contribution as far back as 1996. He stated they had attempted to negotiate this matter, but the "sticking point" was that the Union wanted the employee to retain any earnings in the 401-K. He stated if the City had been contributing into the GERS Plan each year, there would have been earnings or losses, but the plan would have had the benefit of such interest earnings on the employee's contributions. He stated they were asking for the Commission to accept the Acting City Manager's recommendations since there was no memorandum of understanding, and take the terms of that understanding and impose them as part of the resolution of this collective bargaining contract.

The Acting City Manager stated that he had covered the question of furloughs, and his colleagues had covered the other matters. He stated that he had received many e-mails before the first of the year from employees stating their intent was to take 6 furlough days, and it had been his hope they could come to conclusion on the matter by that date. After that day he was hopeful something could still be done early in the year allowing this to be done without impact. He stated he was less sanguine on that at this time, and wanted to keep faith with the employees by not saying they would get 0 furlough days and all rollback, but he could not see all 6 furlough days. He stated if he was pushed, he would say something to the extent of 5 furlough days and 6/10 of 1% of a rollback, which equaled one furlough day. He stated that would have to be considered.

The Acting City Manager continued stating that he understood the concerns regarding the temporary assignments and how long a person would stay in such a position, and instead of deleting that whole article, he would possibly agree to 120 days so there could be another month of someone in a temporary status.

The Acting City Manager further stated that the other items where there could be some possible accommodation dealt with job opportunities. He stated that to the extent there were employees out sick, there could perhaps be an indication where they would be allowed to bid on positions if they would be available for the position on the date the position was to be filled. Therefore, if someone was out on the date the job was posted, but returned before the position was filled, then they could bid on the position. He stated it was a question of bidding, and not filling the position. He reiterated that he was trying to be as forthcoming on this matter as possible.

The Acting City Manager stated that the list of those eligible was currently a minimum of one year with no maximum. The Union had suggested a maximum of two years. He felt that would be doable and stated that two years would be the maximum, but it would not preclude them from having another list after a year or so. He felt that after two years the lists became stale.

Commissioner Trantalis stated that if the furlough day process was imposed was he to assume that a day taken as a furlough day would not be counted for overtime purposes. The Acting City Manager stated that it would not be time worked, and overtime was paid after working a normal workweek.

The Acting City Manager stated that the shift differential had a monetary impact on the City, and that was why it had been included in the package.

Commissioner Hutchinson clarified that in Article 32 where the City proposed to delete the current 90-day time limit, she asked if that was 90 working days. The Acting City Manager confirmed and stated that the City had proposed to delete the time limit on temporary assignments. He stated that the maximum amount of time could be changed to 120 days for a person to be in a temporary position. He stated it would provide more flexibility.

The City Attorney stated that at the beginning of the meeting, the Mayor had announced that they would hear from the Union and the Acting City Manager, and if one or the other position was accepted, they would then go back and review it one article at a time. Mayor Naugle replied that the Commissioners were asking their questions at this time, and at the conclusion of the presentations, the public would be recognized, and then the Commission would have a discussion regarding their decision.

Commissioner Hutchinson asked if the \$94,000 from the shift differential had already been included in the budget. The Acting City Manager stated that the shift differential was already budgeted.

Mr. Livoti stated that there had been an understanding that after the public spoke each side would have 15 minutes to summarize. Mayor Naugle stated that he had not made such a statement. Mr. Livoti reiterated they had signed an agreement to that effect with the City. Mayor Naugle stated that such an agreement had not been presented to him by the City Attorney. He asked if there was any objection to doing that, and there was no objections stated.

Leonard Ackley, Community Inspections, stated that he wanted to address various issues. One issue was in regard to the donation of time, and he felt that was an important issue. He stated that one employee in their department could not receive a

donation of time when she needed it to help take care of her incapacitated husband and her children because she was not sick. He felt it was obvious that the donation of time could be important to a family.

Mr. Ackley further stated that in regard to the furlough days, the Union had voted in November to accept those furlough days. He stated there was no police contract at this time and yet they were taking furloughs, but the furlough days were being withheld from them in order to force this contract, and he felt that was wrong. He stated that the unions should be treated equally, and the furlough days were not a huge problem because each manager could control their own areas.

Mr. Ackley stated that he also wanted to discuss age discrimination. He stated there was a penalty for discriminating against people and the City had lost several such cases. He further stated that the law had been revised in 1996, and the Union was asking that the people retain the profits earned in their 401-K plans which would be less than the amounts involved in the present lawsuits. He felt the City should follow the Union's advice in regard to this matter.

Laura Rogers stated that she did not see the problem with each employee taking 6 furlough days within the next 7 months because there would still be a cost savings. She stated that people already had scheduled vacations, and asked if some of those days could be considered furlough days.

Denise Melanson, PSA, stated that she knew of two general employees who had already requested furlough days, but some confusion arose. She stated the employees approved taking the furlough days and some people wanted it added into their vacation time.

Glen Epstein stated that he had been a City employee for 3 ½ years and was on the negotiating committee. He stated that at their last meeting in December, when it was proposed they take the 6 furlough days or nothing, they were never asked to discuss the matter again and had not been permitted to arrange another meeting to discuss it before January 1, 2004. Therefore, nothing could be signed off on in regard to the matter.

Scott Holland stated he had been a City employee for 20 years and a resident of Fort Lauderdale all of his life, but he was presently disgusted with the situation. He stated that he also was a member of the negotiation team and explained that every proposal was to be accepted in its entirety and had been withdrawn at the close of December 19, 2003. He stated further they had several packages in which the rates of pay and the 6 furlough days had been offered to them, which they were willing to accept back in November, 2003. He stated the problem was that it was attached to the package. He explained that other problems in the package were unacceptable to the Union, such as health insurance. He asked if the furlough days were so important for them to resolve by a certain time, why were they held hostage in order to garner further concessions from the Union. He stated the "proverbial gun" was held to their head stating that it had to be accepted along with everything else, otherwise things would be withdrawn and they would really "stick it to them." He stated that one month ago he had gone through the items. He explained that 6 furlough days at his rate of pay would cost him \$864, and the 5% rollback which could be more would cost him \$1,371. He asked why they needed the additional money from him to resolve the problems in the budget.

Fred Ross, First Vice-President of the FOPA, stated that he wanted to thank the Commission for their time in regard to this matter. He announced that he worked in the Public Services Department. He stated they wished the system might have been different, and possibly things could have been solved without going to strangers for a resolution. He hoped that people who had an investment in the City could be involved in these negotiations. He thanked the members of the negotiating committee who had been trying to get these matters resolved. He stated that the Union had removed many issues from the negotiating table, and it presently came down to rectifying the health care plan so the employees could live with it. He further stated they were now at the point where they were asking the City to consider the employees already working for the City. He stated they had told anyone who chose to be a general employee of the City that they did not have much reason to come here, and try to map out a career. He stated there were second and third generation employees in this City, and possibly they were not the most educated or best looking, and maybe they did not even have a great amount of career alternatives, but they were dedicated to serving the citizens of this City. He stated they were only asking for fairness. He reiterated that when they spoke about the seniority and testing issues, they were saying they wanted the City to give regard to individuals who had spent their career in this City, and to continue giving them a reason to stay and serve the taxpayers.

Mr. Ross stated that in regard to furlough days and salary rollbacks, they knew the reality of the situation. If monies were given back now, they would never see it again. He reiterated they appreciated the City's understanding and consideration, but like the managers they also had an investment in the City.

Mr. Livoti thanked Commissioner Trantalis for bringing up the issue that every person could be temporarily assigned to a position for a period of time. He stated that he believed the Acting City Manager's proposal in that regard of 120 days would be livable, but they felt the matter needed to be further addressed. He felt it was reasonable even though it might not be what they wanted, but no matter what the City thought they had attempted to be reasonable throughout the negotiations because they had an investment of their lives in this City, along with their time, energies, and the future of the City, as well.

Mr. Livoti again thanked Commissioner Trantalis for raising the issue of the furlough days. He stated that not many things had upset him in the 30 years that he had been practicing law, but last night when he received the partial package and was unable to reach anyone, he felt he was to "take it or leave it." He further stated that one of the "take it or leave its" was the 6 furlough days. He stated the City had that at 9:00 a.m. today, but between that time and 4:40 p.m. the 6 days were no longer acceptable. He believed the Commission could see the farce of that issue. He stated the 6 days had been agreed to whether it had been extorted out of them or something they agreed to, but it had been voluntarily given by the men and women in this City in order to help the City work with regard to its finances. He stated that he did not understand why it was no longer any good.

Mr. Livoti stated that he wanted to address the alleged 7-day guidelines. He stated he was stressed to find anywhere in the City's documentation anything that could put an employee on notice as to the issue of the 7-day sick time. He reiterated that nothing existed to that degree. He stated he was surprised that the City had stated they were up to 25 or more individuals, but yet no one could give specific information on that issue. He

stated it was involving \$3,750 per day for a doctor's note. He stated there were no guidelines in the contract or in the City Management Rules and Regulations which stated such information was necessary. He stated that the City gave 12 days sick leave and people got sick. He reiterated this was a community of transient tourists and people brought in germs. He asked how best could monies be spent.

Mr. Livoti further stated that he wanted to discuss the donation for family time. He continued stating that he knew the Mayor supported the Governor's re-election and one of the issues the Governor had stressed was the family. He stated the family became the nexus of what the American public was to look to for its strength and dynamics. He stated they were asking the City to now support the men and women who worked for the City and provided daily services, and acknowledge that their families were as important as anyone else. He stated the reality was that in families where both spouses were working, it was important to stay home and take care of members of their families when necessary. He asked how that could hurt the City because it was a non-economic issue. He stated it was one which pulled at his heart and at the hearts of the employees. He asked for the opportunity to allow them to be able to take care of their families. He emphasized that these employees were willing to donate their vacations and sick time in order to help a fellow employee. He begged the City to tell him how that would cost them money. He felt it would help the City because it would take more sick and vacation days off the books which they would not have to reimburse, while allowing families to continue to live with dignity.

Commissioner Trantalis asked if he would agree to a cap being placed on the number of days donated which would be left to the discretion of the supervisor involved. Mr. Livoti stated he appreciated that thought, but they knew people who could not have time limits placed on them due to affects of diseases on individuals. He felt to place a cap on the issue would make them disingenuous to the realities of the illness. Commissioner Trantalis stated it would also let them balance out the necessities and needs of the City. Mr. Livoti stated if the employee was sick, then time could be donated and he did not believe there was a cap on those days. He further stated they were only asking the rules to be extended to the employee's immediate family. He stated that the City had insinuated they did not have a definition regarding immediate family. Mr. Livoti stated that immediate family was fairly clear under Federal rules and defined by Florida law. He reiterated that since they were at an impasse, it was up to the Commission. He stated he tried to be reasonable because in dealing with health and emotions and with the degree of diseases occurring today, he did not know if a cap would be helpful.

Mr. Livoti stated that he wanted to also address the over 55 issue. He continued stating that they had never seen a proposal, except in the Memorandum of Understanding that was allegedly faxed last night, in regard to the City's resolution. He stated that they were never provided with such a proposal, and they never had seen one. He reiterated they did not have the ability to advocate or address a proposal to change the retirement system. He believed the fair thing to do was that the monies contributed by the City to the 401-K would be returned, but anything above that due to the investments made by the employees, should be retained by the employees, and the City should not profit by it. He felt they should be allowed to come into the retirement program for the City.

Mr. Livoti further stated that the Acting City Manager had indicated about a bid for an employee. He agreed and stated that in balancing the City's needs and the employee's needs, if an employee was on sick leave they should have the opportunity to bid for a

position, if they would be available by the time that position would be opened. He felt that would be a fair compromise on the issue.

Mr. Livoti stated that regarding the furlough days for them not to be included for the purpose of overtime, it was one thing to "rape them" and then call them a "whore," but it was another thing to ask them to be allowed to balance the budget by taking 6 days for free, but then not count that day towards overtime. He stated that he felt that was wrong and the furlough days should be considered for the purpose of computing overtime.

Mr. Livoti reiterated that they wanted these matters resolved, and had waived their right to a Special Master that had been scheduled for February 1, 2004. He stated they were here in the spirit of compromise in order to come to an understanding on issues that were non-economic to the City. He reiterated that they had been very flexible in bending to the City on the economic issues, and they were only asking to be treated fairly.

Mr. Dargis stated that he was not going to rebut the issues raised by Mr. Livoti because he felt everything had been covered. He reiterated they had been at this for a long time. He stated that Mr. Paleo was a very formidable and knowledgeable negotiator who had worked for the FOP for many years. He added that he was now a retired negotiator and had worked for the FOPA resolving several contracts. He stated these had been professional negotiations, and the parties had tried to resolve the issues. He emphasized that they had resolved 48 of the 59 issues. He stated the City was not trying to harm the employees, and the proposals on the table were in the areas of economic responsibility, productivity enhancement, and providing quality services for the citizens. He further stated that as provided by State law, they were now coming before the elected officials to seek their assistance and direction in order to reach a final resolution of all the outstanding issues. He thanked the Commission for hearing them and stated they would fully abide by any decisions that were to be made.

The Acting City Manager stated that they needed to look at this in a comprehensive manner, and reminded everyone that this involved not only a collective bargaining agreement, but also an MOU which had been negotiated well. He further stated that for all intents and purposes, he felt they had come to this point. He reiterated that they had been able to agree at various times and had arrived at solutions that would benefit both the City and the employees, especially regarding the health plan. He stated this was not necessarily a negative situation. He felt when people looked at the MOU for the 55 issue, he felt it was a very generous position being offered. He stated there were other concerns involved and the Union would agree with him.

The Acting City Manager further stated that regarding rollbacks, the 5% rollback had been the initial recommendation but that had been based on the fact that this hearing would take place in March or April. Therefore, they had stated that the 5% was a maximum, but they would base it on the actual date of the hearing. He remarked that in using today's date the percentage would be approximately 3.4%. He stated that he had addressed the issue of furloughs and their workability and whether there should be a hybrid situation of furloughs and rollbacks. He stated further that in regard to the matter of employees coming in with medical certificates regarding their sick leave, he felt they needed to understand that it was for a select group of individuals who had demonstrated a potential for sick leave abuse. He stated they were not actually talking about \$3,600 per day but a smaller figure, and the whole idea was to have such individuals think twice

before taking off. He stated if someone truly was ill, there should be follow-up medical treatment.

The Acting City Manager continued stating that the sick leave bank for families was a compelling argument, but the problem was that it was an argument that had a ripple effect. He added that it was an additional benefit that would affect all bargaining units and should be considered in its totality, and not in an imposition setting such as this one. He further stated it should be considered in a holistic fashion in the next cycle of negotiations.

Commissioner Hutchinson asked what would be the after effects with the other two unions in regard to the donation of leave. She stated that it was a good idea, but she did not think it belonged at this juncture. She felt the issue needed to be reviewed overall for all 3 unions.

Commissioner Moore stated that he wanted to apologize to the audience and felt that no one negotiating on behalf of the City, nor they as policymakers, had encouraged such individuals to rape anyone. He continued stating they were attempting to find a way to allow them to operate the government where these people were employed with benefits that would give them assistance in their daily lives. He felt this matter had gotten out of hand due to several errors on everyone's part. He stated he worked in the private sector and sold benefits, such as 401-Ks, health, disability, life, and long-term care, but when doing that he felt the individuals in the private sector were taking on such challenges out of their paychecks and did not have bargaining units to lobby for them. He suggested that the attorney representing the group probably did not have union employees working in his organization, and reiterated that if he had an individual who had been absent 7 days he would probably want to know why, especially if the individual had been a problem employee who consistently took off. He said in regard to the employees, they did have a union to negotiate opportunities granting them some assurances. He stated that was due to the number of employees in the City, and added that they had 2,000 employees. If there was not some sort of groundwork, they would be chaos. He reiterated that it would be nice to give everyone what they desired, but things had to be done reasonably, and that was when negotiations began. He stated that when they were negotiating and they won something, they were good negotiators, but when they negotiated and did not get what they wanted, they were rapists. He did not feel that was the appropriate way to handle this matter.

Commissioner Moore further stated that these negotiations were held in this manner because there was only so much money available, so many employees, and a number of tasks that had to be done on a day-to-day basis. He stated that due to the negotiations, they had arrived at a beneficial solution regarding health insurance and people appeared to be satisfied. He stated if he was an employee and received a reduction in the contribution for health insurance but saw that 100 people were unemployed, he would have spent the money differently so individuals would retain their jobs. He explained that higher contributions could have been retained and corrections could have been made in next year's budget. He felt that a union should advocate for a person's job, and not just for benefits. He thought that when they dealt with the benefit issue, they had given up a number of individual's jobs. He thought that was a poor position to take, and regretted that they were unable to prevail. He felt that people should think of their colleagues who were now out of work. The bumping system was

going to put a number of employees out of work, and place inexperienced individuals in positions reducing efficiency.

Commissioner Moore continued stating that they were going to be working with less employees who were going to be asked to do more. He felt there was not going to be a happy working environment. He stated this impasse was not where he wanted to be, but it was a reality to put everyone into check. He stated they had to make a hard decision, and he felt there was a ring of truth to the statement that the City's hardship was being put on the backs of the employees. He felt the concessions offered by the FOPA played into a problem he wanted to share with them and the labor negotiators. He continued stating that he felt they needed to put a timeline on negotiations in the future. He remarked if the concessions had been made in a timelier manner, they could have maybe lessened the impact of the furloughs and the amount to be taken from the salaries. He realized that their task was to negotiate the best they could and it required time to do that, but in this case they understood that the furlough days had to be taken immediately starting December 19, 2003. He asked if it was true that the FOP had started taking furlough days even though the contract had not been negotiated.

The Acting City Manager stated it was true that the FOP had begun taking benefits and the reason for that was because there was a tentative agreement that everything had been worked out, except for the language regarding the DROP Plan, and a vote was to be taken soon.

Mayor Naugle stated that if it did not pass, he presumed the furloughs would go away.

Commissioner Moore clarified if it was not approved, then they were going to take day-for-day of vacation from them. He felt the recommendation made earlier today in reference to vacation days being utilized for furloughs was something he would be willing to consider. Mayor Naugle remarked that he believed there would be no dollar savings.

Scott Milinski, Employee Relations Director and Chief Negotiator with the FOP, stated that the parties had reached a tentative agreement in principle, and the Union was recommending ratification of that vote. He further stated that they had been dealing with very complex language in regard to the DROP Program. He continued stating that a vote was to be taken on Monday. He stated that in discussions regarding the tentative agreement, Chief Roberts and the bargaining team had agreed to start the furloughs with the understanding that the Union was recommending the settlement, and only final language had to be refined regarding the pension ordinance.

Mayor Naugle stated that would be in the City's favor because they were starting earlier. He asked what if this bargaining unit was able to use vacation days for furlough days. He stated he was under the impression that in using vacation days in lieu of a furlough day would not supply any savings because the vacation day was a day off.

Commissioner Moore stated that some individuals did not use their vacation days, and part of that flow was included in the budget. If they were stating that due to the fact that one union was presented with an "all or nothing" package, and another one was given a tentative agreement and allowed to deal with the furlough days, then he would be willing to say that a portion of the vacation days, with a maximum of 2 days, could be

considered toward an employee's furlough days in order to proceed forward. He stated he wanted to find a way to compromise.

Mayor Naugle stated that it had been agreed at the beginning that they would proceed article by article.

Mr. Bentley stated that he wanted to address Commissioner Moore's statement regarding vacation. He stated this was a subject being discussed with the Fire Department. He explained that if the proposal was for a person to remove 2 of their vacation days, it would not provide a savings to the City. He further explained if the proposal was that 2 of the vacation days taken would be considered furlough days, it would then provide a savings to the City.

Commissioner Moore remarked that was what he had proposed. He asked if they were suggesting that when a test for a position within the Police Department was given, that the seniority points would count. He was informed that the Police Department did not receive seniority points, but did receive veteran's points.

Mr. Livoti announced that he was the attorney for the FOPA, but did criminal defense work for the police officers in the State.

Mayor Naugle stated that they could find for the City, the Union, or go through each article.

Commissioner Trantalis stated that the City had made certain proposals and during the dialogue, he felt certain compromises had been reached which varied from the written document received previously.

Motion made by Commissioner Trantalis and seconded by Commissioner Moore that they accept the City's proposal as modified.

Mayor Naugle asked if the modifications made could be read.

The City Attorney stated that they should go through the list and he would reiterate what he thought had been agreed to. He reiterated that they were all present today pursuant to the impasse hearing, and attached was Exhibit 1 to the January 13, 2004 memorandum from the Acting City Manager to the City Commission. He stated that there were 13 impasse issues listed.

1. Article 15 – The issue was moot and there were no changes. Item withdrawn.
2. Article 22 – The City Attorney stated that the City's proposal was that overtime hours would be calculated only on hours actually worked. The Union's proposal was that no sick time be used for overtime, but vacation time could apply.

Mayor Naugle stated the City Attorney had been asked to give a recap of the City's position because a motion had been made to adopt the modified City position that had been presented. He continued stating that they could review each item, but that was not what the motion stated.

Commissioner Moore withdrew his second for the motion and stated he would agree to reviewing the items one at a time.

Motion made by Commissioner Moore that they adopt the City's position regarding Article 22.

Commissioner Trantalis asked for someone to second his motion for discussion purposes or clarification purposes. He stated that a clarification was being given, but he did not think that should be an impediment in making the motion.

Mayor Naugle remarked that he did not know why the City Attorney had not clarified the motion being made. He asked if there was a second to the motion adopting the City's modified position.

Commissioner Hutchinson reiterated that she wanted to review each article.

Motion died for lack of a second.

Commissioner Hutchinson asked if they had to vote on each article. The City Attorney replied they did not, but he wanted to make sure that there was a consensus of the Commission article by article so they understood the issues.

Commissioner Hutchinson asked if Article 22 had been withdrawn. The City Attorney explained it had not been withdrawn. He continued to restate the positions in regard to Article 22.

2. Article 22 – The City Attorney stated that the City's proposal was that overtime hours would be calculated only on hours actually worked. The Union's proposal was that no sick time be used for overtime, but vacation time could apply.

Mayor Naugle asked if there was a consensus of the Commission regarding Article 22. He stated that since no objections were raised, there appeared to be a consensus of the Commission to adopt the City's proposal regarding Article 22.

3. Article 25 – The City Attorney stated there was no change in the City's position, although a comment had been made by the Acting City Manager that employees on leave for an illness could bid for vacant positions, but only if they would be available when that position was to be filled.

Mayor Naugle asked if there was an acceptance by the Commission of the City's position regarding Article 25.

Commissioner Hutchinson stated it was her understanding that when the attorney spoke at the podium, the FOPA was in agreement with Article 25. Mr. Livoti confirmed.

The Acting City Manager clarified that the attorney had stated sick leave, therefore, if a person was on worker's compensation this would not apply. Commissioner Moore clarified that they were accepting the City's recommendation and the Union's attorney agreed with the point made. The City Attorney clarified that it was a modified recommendation of the City. He continued to clarify that the Union's proposal was that permanent employees on leave due to illness could bid on vacant positions. The City's

position had not changed, but later in the Acting City Manager's presentation he had stated that if the individual was on leave due to illness but would be available when the position was to be filled, then that person could bid on such position.

Mayor Naugle stated that no objections were made regarding this item, and therefore, it would be accepted by the Commission.

The City Attorney continued stating that the balance of that item was that the Union's position was to permit employees promoted from a bid list to bid on another vacancy prior to the completion of 6 months in the new position. He stated the City's position was that they did not agree with such a recommendation.

Mayor Naugle stated that no objections had been made regarding that portion of the item, and therefore, it would be accepted by the Commission.

The City Attorney stated that the next Union position was in regard to all eligible employees taking practical performance exams. Currently, the more senior employees did so. The Acting City Manager's recommendation was for no changes to be made regarding this matter.

Mayor Naugle stated that no objections were made regarding this item, and therefore, it would be accepted by the Commission.

The City Attorney stated that the next Union proposal was that all tests be promotional. The Acting City Manager's position was that there be no change made.

Mayor Naugle stated that no objections were made regarding this item, and therefore, it would be accepted by the Commission.

The City Attorney stated the next item was that the Union proposed an increase of eligibility lists to a maximum of 2 years, while currently it was 1 year. The Acting City Manager's previous position was that there would be no change. The Union indicated that 1 year would be okay. Then, the Acting City Manager came back and stated that a two-year termination could be acceptable, however, during the second year the City, at its discretion, could put together a new eligibility list. The Acting City Manager stated it could be anytime during the two-year period.

Mayor Naugle stated that no objections were made regarding this item, and therefore, it would be accepted by the Commission as modified by the Acting City Manager.

The City Attorney continued stating that the next Union position was to eliminate all promotional exams, adding City seniority points. The Acting City Manager's position was to eliminate seniority points in regard to promotional exams.

Mayor Naugle stated that no objections were made regarding this item, and therefore, it would be accepted by the Commission.

4. Article 32 – Temporary Assignment. The City Attorney explained that the 5% increase was withdrawn. The Acting City Manager's position stated no change to be made. Nothing to do in regard to this issue.

The City Attorney stated that in regard to the next issue, it was the Acting City Manager's position to delete the 90-day time limit regarding temporary assignments to supervisory positions outside of the bargaining unit. The Union's position was for no change to be made. The Acting City Manager came back and proposed an alternative of 120 working days in regard to a time limit on temporary assignments.

Mayor Naugle stated that no objections were made regarding this item, and therefore, it would be accepted by the Commission as modified by the Acting City Manager.

5. Article 37 – Sick Leave. The Union proposed to increase family sick leave to 120 hours per year. The Acting City Manager's position stated no change. The Union withdrew this proposal.

The City Attorney stated that the next issue under this Article was in regard to grandchildren living in the employee's household. The Union's proposal was that grandchildren be considered as immediate family for purposes of family sick leave. The Acting City Manager's position was for no changes to be made. The Union withdrew this proposal.

Another item under this article was that the Union proposed that if employees were required to present a doctor's note for absences due to a pattern of sick leave, the Union wanted the City to pay for such doctors' visits. The Acting City Manager's proposal was that no changes be made.

Commissioner Trantalis asked if that meant 7 continuous days or 7 days that were suspect in the eyes of a supervisor. The Acting City Manager clarified it was 7 days suspect in the eyes of the supervisor.

Commissioner Hutchinson stated that she did not agree with the 7 days if there was nothing in writing or any guidelines stating this.

Mr. Dargis explained that there was nothing in the contract or in the policy regarding 7 days. He stated the department had gotten the 7 days from the annual performance evaluation because when someone had used more than 7 days, it was considered marginal attendance. He stated that was only one guidance which was looked at. Commissioner Hutchinson reiterated that there was nothing in writing regarding the 7 days. She stated she would not agree to that item.

The City Attorney stated that a clarification the City might ask for was in regard to the suggestion made if there were 7 days of absence for a 20-year employee, then for the next 19 ½ years a doctor's note would have to be provided. He stated it was his understanding that this was to be on an annual basis.

Mayor Naugle asked if the Commission wanted to accept the Acting City Manager's proposal that no changes be made to the existing policy.

Commissioner Hutchinson stated that if this was going to be adhered to, then it needed to be provided for in a policy and procedure manual so that it would be in writing. Commissioner Moore stated that such a recommendation could be made if the Acting City Manager's position was adopted.

The Acting City Manager stated they would come out with a procedure and policy to deal with this issue in order to apply the 7-day rule.

Mayor Naugle stated that if a supervisor appealed that an abuse of the rule was taking place, they could still require such a note. He stated this could be formalized in writing. Commissioner Hutchinson asked if this had to be included in the contract or possibly have this in a policy and procedure manual relating to employees in general. The Acting City Manager stated he preferred that this matter be included in policy and procedure as part of management's rights, rather than placed in a collective bargaining unit agreement. Commissioner Hutchinson asked that this issue be deleted.

The City Attorney explained that adopting no change would omit it from the contract.

The City Attorney stated that in regard to the last item for Article 37 regarding an increase in cash value of sick leave when employees left the City's service, the Acting City Manager's position was that no change be made. The Union withdrew this item.

Mayor Naugle announced that the Commission agreed with the Acting City Manager's position regarding this issue.

6. Article 42. The City Attorney stated that in regard to including family illness, the Acting City Manager's proposal was for no changes to be made.

Mayor Naugle stated that no objections were made regarding this item, and therefore, the Commission would accept the recommendation made by the Acting City Manager.

Notification to employee when leave was nearly exhausted. The City Attorney stated that the Acting City Manager's proposal was that no changes be made.

Commissioner Hutchinson asked what was the current policy. Mr. Dargis explained that the current contract language stated "when nearly exhausted." He stated that the Union was asking that there be a 10-day time notice placed on this. Commissioner Hutchinson asked if this 10-day notice would be a problem for the Personnel Department. Mr. Dargis stated it could be a problem. Mayor Naugle asked why the burden should be placed on the City, and felt that the employee should keep track of the days.

Mayor Naugle stated that no objections were made regarding this item, and therefore, the Commission would accept the recommendation made by the Acting City Manager.

7. Article 45 – Rates of Pay. The City Attorney stated that the Union's proposal was that no changes be made in wage rates, along with a "me too" provision if any other union received any economic enhancement. He stated that the Acting City Manager's proposal was to temporarily reduce wages by 5% from January 18, 2004 to September 24, 2004.

Commissioner Moore asked if the 5% was inclusive of the furloughs. The Acting City Manager replied that his recommendation was not for 5%, and if there was a rollback it would be at 3.37%. Commissioner Moore reiterated that it was not to exceed 5%, and further clarified that because of the furloughs it would only be 3.5%. The Acting City Manager stated that was not correct, and clarified that if they went only to the rollback it

would be at 3.37%, and if there were furloughs the maximum amount would be at 6 days. He stated they might want to have a situation where there would be one furlough day less which would equate to 6/10 of 1% of a rollback, plus 5 furlough days.

Commissioner Teel stated that there was a choice of 2 different ways to go. The Acting City Manager explained they actually had a choice of 3 different ways to go. Commissioner Teel stated that they could rollback 3.37% without furlough days or the employees could take 5 furlough days plus a .6% rollback. The Acting City Manager confirmed and stated the third choice was to let the employees take the 6 furlough days.

Commissioner Hutchinson asked if they could allow the use of scheduled vacation time as a furlough day. The Acting City Manager stated that could be done. Commissioner Hutchinson further asked what were the implications of not allowing them the 6 furlough days, if vacation time was used for a certain percentage of it.

Mr. Dargis stated that he wanted to explain the problems from a practical point of view with such a recommendation. He continued stating that if vacation days were used as furlough days, there would be no cost savings. What would have to be done was that a day would be scheduled as a vacation day, but it would be unpaid. He stated that was probably not in this bargaining unit's interest. He felt they could take a day off without pay, and lose a vacation day. He stated that issue had been discussed with the firefighters because of their work schedule.

Commissioner Hutchinson stated that she was hearing from them that they wanted to take a furlough day in lieu of a vacation day. Mr. Dargis reiterated that would not save any money. Commissioner Hutchinson asked how that could be done in order to save the City money. Mr. Dargis stated he did not believe it could be done. The Acting City Manager stated it was his preference to use the same rules on furloughs that were established for the Management Confidential and Professional employees, and not to differ from that.

Commissioner Hutchinson asked if it could somehow be structured to see if they could accomplish the 6 furlough days for the employees, and if that could not be done within a certain time frame, then it would go to 5 furlough days with the percentage for the rollback.

Mayor Naugle stated that such a decision would have to be made now. Commissioner Hutchinson stated in that case, she was in favor of the 6 furlough days.

The Acting City Manager stated they wanted to clarify that if they were saying furlough days, they could be defined to mean any day that would get the City the amount of money, which could include an unpaid vacation day or holiday.

Commissioner Moore stated that furlough days were days the employee would not be paid for, and reiterated this could not be considered on the same level as the management employees because they made more money.

Commissioner Hutchinson clarified that they were talking about future vacation days.

Mr. Bentley stated that no reasonable person would do what was being suggested unless required to do so. Commissioner Hutchinson asked if he would prefer they

suggested 6 furloughs with a certain number coming out of vacation time. Mr. Bentley stated that from his perspective that would be a reasonable compromise. He added that the rollbacks would then be avoided.

The City Attorney stated that he had not heard a suggestion of a vacation/furlough day. He thought the suggestion made was that an employee had a week's vacation scheduled and instead of taking it, those days could be considered as furlough days.

Mayor Naugle asked if there would be scheduling problems if the employee later on wanted to take vacation time because furloughs would probably not be consecutive. He also asked if this would then have to be offered to the Police Department.

Mr. Bentley stated that inherent in the discussion of furloughs was that the time could be taken off whenever it could be scheduled. He stated what was different was the discussion that 2 vacation days would have to be taken as furlough which was different from past discussions because it would allow an individual to still have 6 furlough days, 2 of which would be during vacation. The other 4 days would be addressed in the remaining 7 months of the fiscal year. Mayor Naugle stated that would accomplish the savings the City was attempting to obtain with this process.

Commissioner Moore stated that he was trying to address the fact that they had a negotiated tentative agreement with the FOP, who had started taking furlough days. It was done in a manner that did not hurt coverage on the shifts. He stated they were saying to this bargaining unit that due to the fact there was no tentative agreement because they had not yet voted, they would not allow them to begin taking furlough days. Since the City did not allow them to do so, now they were "crunching" it, and saying it was difficult for the City to manage the government because they had to squeeze in the furlough days. He stated his recommendation was that if the employee had vacation days that could be utilized as 2 furlough days, the City would not lose its work force and the employee would get credit for the month of January. Then, starting February 1, 2004, they would only have 4 furlough days left to take.

Mr. Bentley stated that inherent in Commissioner Moore's example, he had stated that 2 vacation days would be removed from the employee's book. He reiterated that would not produce any savings. Commissioner Moore reiterated what he was recommending. He stated that he wanted to offer a compromise that 2 vacation days would be used towards the 6 furlough days.

The City Attorney stated that he wanted to respond to Commissioner Moore's suggestion. He continued stating that the Acting City Manager and Mr. Bentley were correct, and Commissioner Moore was correct, but they were discussing two different things. He stated that Commissioner Moore was talking about a balance sheet between assets and liabilities, and if 2 vacation days were removed from the liabilities, it would improve the City's asset balance. He further stated that the Acting City Manager's problem was not an asset balance, but a cash flow problem. From a cash flow standpoint, taking 2 days off the liability would not improve the cash flow.

Mayor Naugle asked if it was then doable. The City Attorney replied it was not doable if they wanted to solve the cash flow problem.

Commissioner Hutchinson stated that the City Attorney's suggestion was doable and it saved the City money. The City Attorney stated it was not his suggestion but someone else's. Commissioner Hutchinson stated that if an employee had 6 vacation days, and took those as 6 furlough days, it would not be a paid vacation. The City Attorney confirmed and reiterated that as long as the days were unpaid, they would be in good shape.

Mr. Bentley further stated that he understood Commissioner Moore saying that there were 6 furlough days, but 2 were to be taken as vacation days.

Commissioner Teel asked if the 2 vacation days which would be unpaid could then be transferred at a later date and the employee be reimbursed for vacation days not taken. Mr. Bentley replied the answer was no. He stated this agreement was more restrictive than the agreement made with the Police Department. Commissioner Teel asked if the suggestion made would impact other negotiations negatively. Mr. Bentley stated they would not be negative. He clarified there would be 6 furlough days, and 2 of those would have to be taken as vacation days. Commissioner Teel stated then she would support the recommendation.

Commissioner Trantalis left the meeting at approximately 5:35 p.m. and returned at 5:37 p.m.

Motion made by Commissioner Moore and seconded by Commissioner Hutchinson that there would be a requirement of 6 furlough days to be taken, and 2 of those would be vacation days.

Commissioner Hutchinson asked why they were limiting it to 2 vacation days. The Acting City Manager stated they could say at least 2 vacation days. Commissioner Moore accepted the amendment.

The motion read as follows:

Motion made by Commissioner Moore and seconded by Commissioner Hutchinson that there would be a requirement of 6 furlough days to be taken, and at least 2 of those days would be unpaid vacation days. Roll call showed: YEAS: Commissioners Trantalis, Moore, Hutchinson, and Teel. NAYS: Mayor Naugle.

The City Attorney continued with Article 45. He stated that in regard to gain sharing, the Union proposed to remove discretion and to implement the programs with the committee meeting bi-weekly to establish parameters. The Acting City Manager's proposal was that the City, at its discretion, could implement the program after conferring with the Union.

Mayor Naugle stated that no objections were made regarding this item, and therefore, the Commission would accept the recommendation made by the Acting City Manager.

Commissioner Moore asked how they could be dealing with an impasse and yet continue negotiations. The City Attorney explained they were not negotiating, and the Commission was sitting as an impartial judge of fact and both sides presented their cases, and both sides were available to answer any questions.

8. Article 51 – Modifications to the Retirement System. The City Attorney stated that the Union's proposal was to reduce the normal retirement age from 55 to 50. The Acting City Manager's position recommended that no changes be made. The City Attorney stated it was his understanding that this item had been withdrawn by the Union.

The City Attorney further stated that another position by the Union was that service retirement be reduced from 30 years to 25 years. The Acting City Manager proposed that no changes be made. Therefore, the item had been withdrawn by the Union.

The City Attorney stated the next item proposed by the Union was the October 1, 2004 increase pension multiplier from 3 to 3.5. The Acting City Manager proposed that no changes be made. The Union withdrew this item.

The City Attorney stated that another proposal by the Union was to allow Group 2 members to be able to transfer to Group 1 with no cost to the employee. The Acting City Manager recommended that no changes be made. He stated this matter was at an impasse.

Mayor Naugle stated that no objections were made regarding this item, and therefore, the Commission would accept the recommendation made by the Acting City Manager.

The City Attorney stated that regarding Article 51, the Acting City Manager's proposal was to terminate the DROP retirement option. The Union proposed no changes. They were presently at an impasse regarding this item.

Commissioner Hutchinson stated that she was not in agreement with the recommendation made by the Acting City Manager. Mayor Naugle explained this would not affect anyone presently in the DROP program, and referred only to prospective individuals.

Motion made by Commissioner Teel and seconded by Commissioner Moore that they adopt the Acting City Manager's recommendation in regard to the DROP program. Roll call showed: YEAS: Commissioners Trantalis, Moore, Teel and Mayor Naugle. NAYS: Commissioner Hutchinson.

The City Attorney stated that the last item under Article 51 was the over 55 issue in the GERS. He explained the Acting City Manager's position was to allow the over 55 to be allowed to join GERS, but they would have to pay their 401-K monies into the general retirement system, along with the interest earned. The Union's position was to buy-in without paying the interest from the 401-K Plan and return the principal only. There was an impasse on this issue.

Commissioner Moore asked if the City was making a \$1,000 contribution into the plan, the City would have received the interest. He was informed that was correct. Commissioner Moore clarified that they were saying that the City should only receive their contribution back, and be allowed to retain the interest for themselves. The statement was confirmed.

Mayor Naugle stated that no objections were made regarding this item, and therefore, the Commission would accept the recommendation made by the Acting City Manager.

9. Article 54 – Shift Differential. The City Attorney stated that the Union was proposing 5% extra pay for employees. The Acting City Manager's proposal was to eliminate all shift differential pay. The Union withdrew this proposal and suggested it be left as it presently existed. The Acting City Manager proposed that they eliminate all shift differential in its entirety with a savings of \$94,000.

Commissioner Hutchinson asked how long the shift differential had been in existence. She stated it presently applied to employees hired before October 1, 1995. Mr. Dargis explained that shift differential had been in the contract since 1986. He explained it was a two-part system. He stated that from 1986 to January 1, 1995 it had been based on a percentage. Then, as of September 30, 1995, it was capped at the amount of the percent at that time. He further stated that from 1995 forward, it had been placed on a flat dollar basis.

Commissioner Hutchinson reiterated that the \$94,000 had been included in the budget. The Acting City Manager explained that the \$94,000 was included in the budget, and he wanted them to understand that they were also counting on the \$1.5 Million in savings regarding vacancies that would come up due to attrition. He stated he wanted to save every cent he could to make sure that such savings were obtained.

Commissioner Moore asked why the shift differential had been created. Mr. Dargis stated it was created to pay individuals who worked on different hours, rather than a normal shift. Commissioner Moore clarified the undesirable shifts had to be given extra incentive. Mr. Dargis confirmed.

Commissioner Trantalis stated that the Mayor could move forward assuming that the majority of the Commission agreed to this issue, but he had a problem with it. Commissioner Moore added that he felt the differential should be offered.

Motion made by Commissioner Moore and seconded by Commissioner Hutchinson to have the issue remain as it presently existed. Roll call showed: YEAS: Commissioners Trantalis, Moore, and Hutchinson. NAYS: Commissioner Teel and Mayor Naugle.

10. Duration of Contract. The City Attorney stated that this item had been withdrawn.
11. Appendix A - The City Attorney advised that this item had also been withdrawn.
12. Appendix D – Jobs for Shift Differential. The City Attorney advised that this item had been withdrawn.
13. Appendix E – Schedule 5/Pay Range Amounts. The City Attorney stated that this article had not been discussed, but no changes were being proposed for Article 45, therefore, no changes would be required in Appendix E.

The City Attorney stated that this was the amended Acting City Manager's proposal.

Motion made by Commissioner Moore and seconded by Commissioner Hutchinson to accept the Acting City Manager's recommendations as modified. Roll call showed:

YEAS: Commissioners Trantalis, Moore, Hutchinson, Teel and Mayor Naugle. NAYS: None.

There being no further business to come before the Commission, the meeting was adjourned at approximately 6:47 p.m.

Jim Naugle
Mayor

ATTEST:

Lucy Kisela