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JOINT LABOR-MANAGEMENT  
COMMITTEE FOR  
MUNICIPAL POLICE AND FIRE  
JOHN W. HANSON  
CHAIR

To: Members of the Municipal Public Safety Labor-Management Community

From: John W. Hanson, Chairman  
Massachusetts Joint Labor-Management Committee for Municipal Police and Fire

Subject: Changes at the JLMC

Date: August 11, 2016

As all of you know, the JLMC was created in the mid-1970s to encourage the parties to collectively bargain their disputes involving municipalities and their police and fire fighters and to agree directly and voluntarily on the terms of their agreement or, if unable to do so, to create a process or procedure to resolve these disputes.

The Committee makes every effort to achieve a voluntary settlement and encourage a constructive long-term relationship between the parties. The Committee relies on the unique tripartite membership drawn from the leadership of the statewide police and fire fighter organizations, municipal mayors, managers, administrators and human resources directors, as well as professional neutrals. The Committee may also serve as a forum for discussion of larger issues of mutual concern to the parties.

After a difficult period, during which the Committee fell on hard times, I'm pleased to announce the following:

**Staffing:**

First, the Committee looked at the lack of staff and began working with the Governor and the Secretary of Labor and Workforce Development to provide the funds necessary to restore the positions of Staff Representative for Management and Staff Representative for Labor, two positions essential for the functioning of the Committee. With the invaluable support and assistance of Labor Secretary Walker and Undersecretary Neal-Johnson, the Mass Municipal Association, and the statewide Fire Fighter and Police organizations, funding for these positions was approved in December 2015.

In an effort to insure that we could find qualified and experienced individuals from both sides of the table, the Committee decided to split the two full-time positions into four part-time positions, hoping to find candidates with experience in negotiating municipal police and fire agreements and to bring that experience to the JLMC to assist their fellow managers and union leaders in negotiating successful, voluntary agreements at the local level.

The Committee found four such individuals, and they will start with the Committee by mid-August of this year.

Labor Representative Joseph E. Hubley is a retired Fire Captain and long-time President of the Southborough Professional Firefighters. Joe also served as a fire member of the JLMC and has been involved in many negotiations, mediations, and several arbitrations involving fire fighters and their municipalities. Joe also serves as Chairman of the Southborough Historical Commission.

Management Representative David M. Madden was elected the first Mayor of the City of Weymouth and served in that office for eight years. During that time David was involved in negotiating all public sector collective bargaining agreements as well as several economic development projects. Prior to his election, he served as Weymouth's Fire Chief, having worked his way up from fire fighter.

Labor Representative Donald Cummings was a long time member of the Worcester Police Department, advancing to the rank of Sergeant. Don served as President of the International Brotherhood of Police Officers local for, first the Patrol Officers and later the Police Officials. Don served as Police Chairman of the JLMC and has been involved in many mediations and served on several arbitration panels.

Management Representative George F. Driscoll, Jr., served first as Assistant Town Counsel and then as Associate Town Counsel for the Town of Brookline from 1989 to 2008. Prior to his appointment to the Town Counsel Office, George served as a member of the Brookline Police Department, first as a Patrol Officer and later as a Detective. Most recently, George served as Deputy General Counsel for the Massachusetts School Building Authority.

The Committee feels strongly that with these individuals on board, we can play a much more effective role in assisting cities and towns and public safety unions in resolving their collective bargaining disputes.

### **Policies and Procedures:**

The second thing the Committee focused on was a review of the Committee's operating procedures and goals. The Committee felt that after the changes that the Committee had gone through over the years, there was some confusion on how the Committee operated, particularly in its more formal processes. A sub-committee was formed to discuss what it felt were the issues causing the most confusion or misunderstanding. The sub-committee brought these issues to the full committee which discussed them extensively in three open Committee meetings. The procedures were also discussed at the Boston Bar Association's Annual Conference on Public Sector Bargaining at Harvard Law School in May.

The four processes the Committee focused on were:

1. The Jurisdiction process
2. The JLMC's scheduling process
3. The 3(a) Hearing process, and
4. The Expectations of the Committee for completion of the formal processes.

Attached are the changes and clarification of JLMC processes and procedures that the Committee voted to accept at its meeting on July 14, 2016.

The Committee hopes that these procedural changes will expedite the JLMC Process, and clarify any confusion surrounding that process. The Committee will continue to look for additional ways to improve the services it brings to its stakeholders.

On behalf of the Committee, I thank you for giving your time and attention to these changes.

**Jurisdiction:**

Chapter 589 of the Acts of 1987 provides that one or both parties in a dispute may petition the, "...committee for the exercise of jurisdiction and for the determination of the apparent exhaustion of the process of collective bargaining."

**Problem:**

The Committee expects that negotiations between Municipalities and their Public Safety Unions will be taken seriously by both parties and that a good faith effort will be made to resolve their disputes through the normal processes of collective bargaining prior to petitioning the Committee for jurisdiction.

**Policy:**

If the Committee determines that the parties have not shown an apparent exhaustion of the collective bargaining process; if large numbers of issues remain unresolved; if few, if any, tentative agreements have been reached; if the parties have refused to meet on a regular basis, etc, it reserves the right to:

1. Decline jurisdiction and send the parties back to the table for further bargaining for a set period of time.
2. Decline jurisdiction and send the parties back to the table to reduce the number of issues to a more reasonable number.
3. Limit the number of issues that the parties can submit to the JLMC to a fixed number, such as eight (8) issues plus wages and duration.
4. Or any other action to assure the Committee that there has been an apparent exhaustion of the processes of collective bargaining.

The Committee will only take such action after consultation with the mediator or staff representative assigned to the case.

**Goals:** 1. To encourage the parties to resolve as many issues as they can prior to requesting the assistance of the Committee. 2. For both sides to take bargaining at the local level seriously.

### **3(a) Hearings – Submission of Issues**

#### **Current Policy:**

Requires the parties to submit their issues for the 3(a) hearing, to the Mediator assigned to the case 48 hours in advance of the hearing. The issues are then sent to the respective parties 24 hours in advance of the hearing.

#### **New Policy:**

Effective for all 3(a) hearings conducted on or after September 1, 2016, the parties must submit the issues they intend to present at the 3(a) hearing to their respective Staff Representatives assigned to the case at least five (5) business days prior to scheduled 3(a) hearing. These lists must be submitted electronically. Upon receipt, the Staff Representatives shall forward the issues to the other party 24 business hours in advance of the 3(a) hearing. Please note that the JLMC shall prevent the parties from presenting issues to the 3(a) panel that have not been exchanged between the parties, 24 hours in advance.

#### **3(a) Hearings - Clarifications:**

Issues not presented in negotiations prior to the deadline for submitting issues agreed to by the parties in their negotiation ground rules will not be allowed.

Issues not presented in negotiations, prior to the start of the JLMC Mediation Process, will not be allowed unless agreed to by both parties. Mediation is an off-the-record process to encourage discussion and open dialogue. Any discussion or offers made are off the record.

Only mandatory subjects of bargaining will be considered by the 3(a) panel.

The Committee retains its policy of limiting the parties to submitting no more than five (5) separate and distinct issues plus wages and duration for consideration by the 3(a) panel. Only issues presented and exchanged between the parties will be considered by the 3(a) panel. Parties will not be allowed to substitute new issues on the day of the hearing if the panel rejects a presented issue.

Chapter 589 does not provide for an appeal of decisions made by the 3(a) panel.

### **Scheduling:**

Effective immediately, the scheduling policy for scheduling Committee Level Mediations (CLM), 3(a) Hearing and Arbitration Hearings shall be as follows:

For CLM the Mediator or Staff Representatives assigned to the case will consult with the Committee Members assigned to the case and agree on three (3) dates, over a reasonable period of time that will be offered to the parties. The parties will be asked to consult and agree on one of those dates. If the parties are unable to agree on a date offered, the Mediator, or Staff Representative and Committee Members will consult and agree on a fourth (4th) date and that date will be presented to the parties as the final date. The CLM will be held on the fourth date and the parties will be required to attend.

For 3(a) hearings, the Staff Representatives assigned to the case will consult with the Chair and Committee Members and agree on three (3) dates, over a reasonable period of time that will be offered to the parties. The parties will be asked to consult and agree on a date. If the parties are unable to agree on a date offered, the Staff Representatives, Chair and Committee Members will consult and agree on a fourth (4th) date and that date will be presented to the parties as the final date. The 3(a) hearing will be held on that date. The 3(a) panel reserves the right to conduct an ex-parte hearing if it determines that one of the parties is acting in bad faith in not attending.

For Arbitrations Hearings, the Committee will authorize the Arbitrator assigned to the case to consult with the Committee Members assigned to the panel and agree on three (3) dates, over a reasonable period of time that will be offered to the parties. The parties will be asked to consult and agree on one of those dates. If the parties are unable to agree on one of the dates offered, the Arbitrator and Committee Members will consult and agree on a fourth (4th) date and that date will be presented to the parties as the final date. The Arbitration hearing will be held on that date. The Arbitration panel may reserve the right to conduct an ex-parte hearing if it determines that one of the parties is acting in bad faith in not attending.

A reasonable period of time shall be defined as 30 to 60 days.

### **Time Frame Expectations for Completion of the JLMC Formal Processes:**

The Committee is concerned that the length of time required to complete the formal process of arbitration or fact-finding from the 3(a) hearing to the issuance of an award or report has become excessive.

The Committee is therefore establishing these guidelines or expectations for the time it should take to complete each step in the process.

1. 3(a) hearing – report to Full Committee – Arbitration or Fact-Finding Ordered
2. 10 days - arbitrator selected
3. 90 days - Hearing scheduled and conducted
4. 30 days - Post hearing briefs due
5. 30 days - Award issued

In the appointment letter, arbitrators are requested to offer hearing dates during the 90 day period. If not, they are requested to withdraw, and the second choice will be appointed. In some cases, arbitrators will be contacted before being placed on a list to insure that they have availability during the 90-day period.

Arbitrators will be given authority to use the JLMC scheduling procedure to assist in scheduling the hearing, or in extreme cases, after consulting the panel, ordering a hearing date.

The Arbitrator will be given latitude in allowing extensions for good cause.

GOAL: To have an award issued within 160 days of the date the arbitration is ordered.