



Fraternal Order of Police Montgomery County Lodge, #35

Negotiations News

“9 – 0”

Thursday, July 21, 2011

What happened Tuesday was a sham!

Tuesday, July 19, 2011, the Montgomery County Council voted unanimously to change collective bargaining for police officers. The Council removed the right to mandatory bargaining over the effects of the employer’s exercise of a management right. We have had the right to bargain effects for twenty-nine years. It never prevented any work from being done, or any calls from being answered. Most effects bargaining is over very minor matters. The examples cited by Tom Manger in justifying removing the right were petty.

The Bill was introduced June 14, 2011. It comes from the January 2011 report of the Organizational Reform Commission (“ORC”). In that report, the ORC claimed that effects bargaining had caused an erosion of management rights. The ORC made claims that the FOP delayed the bargaining of a computer report system (Packet Writer) for over two years, and claimed that the FOP was holding up the issuance of police directives by refusing to respond to them. Neither claim was attributed to any source, nor supported by any factual evidence. Both claims were false.

FOP 35 reviewed the record of ORC and saw no discussion ever occurring on the subject of collective bargaining. FOP representatives attended an ORC meeting and had answered questions, but no questions regarding either Packet Writer or directive were posed. We filed a Public Information Act request to obtain the documents collected by the ORC and were denied a number of documents including a letter from the County Attorney on the subject of collective

bargaining. We asked Tom Manger to investigate the source of the information since there were only two parties to the issues raised by ORC: the FOP and Police Management.

Tom Manger's very carefully parsed response indicated that no one from the police department spoke about the FOP or any issue involving directives "in our testimony with the ORC." Tom Manger avoided committing to any communications made to ORC members outside of the department's formal testimony. The letter went on to indicate that the FOP "never failed to respond to any directive sent to [the police department] for review." If that was the case, why didn't Tom Manger clear the record when he first received the ORC report?

On July 12, 2011, a public hearing was held on Bill 18-11, along with Bills 19-11 and 20-11.¹ We were provided a total of five minutes to speak on all three bills. Most of our testimony was about Bill 18-11.² After our testimony we learned that the Council had provided Tom Manger with questions to answer about effects bargaining prior to the public hearing and given time to prepare answers. These questions were not provided to the FOP. We answered questions of Councilmembers after our testimony. After 5:00 p.m. on the day the public hearing ended, Council staff provided us copies of the questions provided to the police department in advance, and their answers.

The joint Public Safety and Government Operations Committee met at 10:00 a.m. on Thursday, July 14, 2011. Council left the FOP with only one business day to counter numerous claims by police management attacking effects bargaining. The claims required us to review and research bargaining history going back years. Lodge officers and negotiators involved in those bargaining were not available to consult due to vacations and other commitments. The more we looked into the ridiculous claims made by police management, the more we realized that one day was not enough to adequately respond to the Council.

We attended the joint committee meeting prepared as we could be. Coincidentally the Washington Post published an editorial attacking effects bargaining for police officers in Montgomery County that very morning. We requested a postponement of any committee action until the FOP could prepare an adequate response. We were denied. Tom Manger was provided time to speak on the issue. The FOP tried to present testimony and was told that we were only going to be given the opportunity to answer the questions posed by Councilmembers. When the committee hearing was finished, the joint committee supported the Bill 5-0³ with one abstention by Marc Elrich.

There is significance to this vote. The Bill was going to move from committee to a final vote with five supporters. That is a majority of the Council and, if no one changed his or her mind, meant that the bill would pass. Though it may look like the FOP was provided a week to

¹ All three bills came out of the ORC report, and all three addressed collective bargaining. Both Bills 19-11 and 20-11 failed to get out of committee on the morning of July 19, 2011.

² Our testimony appears in the council packet and will be posted on our website www.foplodge35.com.

³ Councilmembers voting to support the bill were Phil Andrews, Valerie Ervin, Roger Berliner, Nancy Navarro, and Hans Riemer. Marc Elrich abstained.

respond to Tom Manger's assertions, we were really provided less than 48 hours. Enough Councilmembers were signed on.

From Thursday afternoon until the following Tuesday afternoon, FOP representatives lobbied Councilmembers. We lobbied those who had already committed, and those from whom we had not yet heard. We lobbied against the bill. We lobbied for a postponement and we even explored, unsuccessfully, a number of possible amendments. When we walked into the room on Tuesday afternoon we knew we had at least six votes against us, and likely eight. There was no argument on merit to be made to sway the Council. To do so would have been futile. We instead chose to answer questions and warn the Council that their action had unintended consequences. We cited examples of mismanagement not tied to effects bargaining, but the Council was unresponsive. The vote was 9 – 0.

Repeatedly mentioned by Councilmembers was their respect for working police officers and the work that we do. But their votes said a different thing. They changed a twenty-nine year old law in two days based upon the druthers of a politically appointed bureaucrat.⁴ The police department was not asked to provide a single shred of documentary evidence to substantiate their claims. It was the FOP who was asked to justify why the law should not be changed. Marc Elrich said that he had expected us to make our case before the Council that day. He knew in advance the outcome of the vote.

A number of Councilmembers mentioned the anger they sensed in emails from FOP members, but ultimately disregarded our outrage. They never asked why we would be so angry.

Police managers, the same individuals who were laughing and joking confidently before the vote on Tuesday, now show up in roll call disparaging the FOP in front of officers. During their careers they enjoyed the protection afforded by effects bargaining. Now that they make the decisions they want you unprotected. They supported stripping you of your rights and have hammered a wedge between management and working police officers. In the absence of good sense and leadership, management's action is promoting a very stressful and unproductive work environment.

Ultimately, the outcome of the passage of this Bill will be more litigation over workplace issues not less. The County has lost more than it has gained in this Pyrrhic victory. By ramrodding this through a scam of the process, the Council has showed us exactly how far they are willing to go to get what they want from police officers.

⁴ Tom Manger makes \$216,000 as police chief and over \$100,000 in retirement from Fairfax County. He has his healthcare provided, and has a 401(a) from Montgomery County. He has never been a police officer in Montgomery County and previously served as police chief in Fairfax, Virginia – a right to work state.