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Director of Administration

COUNTY OF DANE

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Date: June 14, 2024

To: Employee Group #720
Derek Wallace

From: Greg Brockmeyer
Director of Administration

Subject: Step 3 Grievance Decision – PSC Mid-Year Shift Selection

A third step hearing was held on June 12, 2024. I have summarized the primary arguments of each of the parties below:

Employee Group #720

Derek Wallace presented:

- On May 20, 2024, a notice was sent out to the department communicators about a mandated mid-year shift selection happening on June 18th with new shifts implementing on June 30th.
- This is a violation of the Civil Service Ordinance of Chapter 18 and multiple sections of the handbook.
- There was a request made to Director Bixler to reconsider the decision, but he declined.
- All communicators expect an annual shift selection, which has been implemented for the past three decades, given the nature of a job that can include nights, weekends and holidays.
- The annual shift selection is a benefit for communicators as it allows them to schedule appointments, getaways and weddings. It also allows them to set up child care and caretaking of their parents.
- A mid-year change infringes on their plans and there's never been such a disruptive change before. Now, there is only a 12-day window for changes. For point of reference, the new telecommuting exception requires a 30-day notice if it is to be rescinded.
- Several communicators are expressing they may need to resign or retire and the number of concerns of what issues this change can cause is a lot. We have 50 pages documenting concerns ranging from child care schedule with divorcee, unable to care for parents with Alzheimer's, doctors confirming this could cause detriment to the communicator's health, unable to care for special needs child and so on.
- There have been discussions of at least 70% of staff being cross trained but those goals have not been met and we shared data with Luis that we continue to exceed the national industry.
- While the department argues about how this affects the public, we are also underestimating how this new change increases turnover of employee and an increase in FMLA.
- We've presented a 3-step plan as a resolution that includes us to work towards staffing solutions for 2025, temporarily pay overtime at double pay with additional per diems to offset travel and meal costs for those working extra-long hours and pursue modifications through the proper channels.

- As a reminder, we do have a temporary exception that could be quickly implemented after approval of the Department of Administration and interested stakeholders. There's also the appeal process through Personnel and Finance.
- The requested remedy is to rescind the mid-year shift selection and reconvene to make changes for the 2025 shift selection through the Employee Handbook and Ordinance Chapter 18.24.

Management:

Luis Bixler presented:

- There is agreement that this affects the lives of communicators, but, don't agree with the misinformation that is being put out.
- This decision is not being made for fiscal reasons nor ego. We are being forced into this change due to continuing operations.
- There was full intention of never having to do a mid-year shift change and that we would pursue everything else. However, we're running at 5-7 people under staffing for the entire month of July. We can't operate on that because it doesn't give us enough people to handle dispatch spots and our call taking spots.
- We cannot allow calls to stack up and this has been the worst in 30 years. We have an increase of 10,000 calls compared to the last three years. It's going back to pre-pandemic levels.
- The statement of the Employee Group that we were above serve levels is false and we are currently in a freefall. We were at 96% and that's why we were able to reduce minimums by one but we've reduced to 92% in a matter of two months. Currently June is below standards at 88% and for 9 days we haven't hit 90%. This means we will not make service levels for June nor July.
- There is currently an urgency and we're running short. We're lucky someone hasn't died but it can catch up so we have to move quickly. We don't have lack of staff, it's a shift pattern.
- Offering double time and a half is not responsible and not a solution. Delaying in order to vet through the proper channels is not a solution. This is for life and safety and this is in line with the language of the Employee Handbook.
- When individuals take this job and it states the amount of overtime they have to do and ability to ensure that public safety operates.
- I take issue with inserting the integrity of staff that if they don't get their way they will quit. These individuals are professionals and I see that as a scare tactic. We're messing with people's lives and we need to ensure that when they call there will be someone there to answer the phone.
- We have done everything that we can to make this schedule work. The future forecasting tells us we don't have a choice.

Decision

The grievance is denied, but due to the serious nature of this matter, I have directed the parties to continue to work collaboratively as further explained below.

This grievance presents two competing interests: the department's efforts to address a potentially serious risk to public safety and the significant impact that such actions will have to our 9-1-1 employee's working conditions.

Public Safety Communications decided to implement a change to when employees select their preferred shift and how those shifts were to be structured. In the middle of the year, Public Safety Communications would be moving away from the existing shift structure and returning to an 8-hour shift structure and asking employees to select a new eight-hour shift. Public Safety Communications decided to make this change after being short of

the minimum number of employees during 692 shifts over the first five months of 2024. During that same time, Public Safety Communications noted that the percentage of calls answered with 15 seconds declined from 92% to 88% - putting the Department below the national standard of answering 90% of calls within 15 seconds. Public Safety Communications also generally described the spring months as having a lower call volume and is concerned as the call volume increases during the summer months, the Department's failure to meet the national standard will be exacerbated. Failing to meet the national standard increases the probability that resources may not be deployed in a life-safety situation. Additionally, the Department noted concerns with the amount of overtime increasing in 2024. Despite only having 5 months in 2024 elapse, the department has incurred almost as much overtime as the previous calendar year. If trends continue, Public Safety Communications is anticipating the amount of overtime in 2024 to double the amount of overtime used in 2023.

In response, the Employee Group Representatives maintain that this change to a midyear shift selection violates the existing benefits clause of the employee benefit handbook. According to their argument, this precludes Public Safety Communications from making this change. In addition, the Employee Group Representative have presented impact statements from several employees about how a mid-year change may impact their life and family situation. As a side note, I want to thank the Employee Group Representatives for sharing that viewpoint. It is critical that departments learn and appreciate the impact that its decision to change working conditions may have on our employees, and providing impact statements is an effective way to demonstrate it.

As is required under the grievance process established by the Employee Benefit Handbook, my decision must be based upon the language of the Handbook itself. When the Employee Benefit Handbook is silent on a particular topic, it is a general rule that past practice or in our parlance, existing benefits, ought to guide how the parties resolve the topic. However, in this instance, the parties have already adopted language designed to address problems with respect the structure of the schedule in Public Safety Communications. The Employee Benefit Handbook, Subject: Hours of Work/Rest Breaks/Lunch Periods, Section 6, Public Safety Communications Department reads as follows:

.... If the department does not realize anticipated efficiencies and cost savings, or if the employees' association does not realize sufficient satisfaction among the Communicators, the twelve/eight (12/8) hour schedule structure may be reverted back to the eight (8) hour schedule structure in effect prior to the twelve/eight (12/8) hour structure implementation.

In contrast, the Handbook section regarding "Existing Benefits" defines it as applying whenever "existing benefits...or other amenities **not mentioned herein...**" are at issue. Since there is existing language in the Employee Benefit Handbook permitting the Department to return to an 8-hour schedule, I hold that there is no existing benefit and thus, it is not a violation of the Employee Benefit Handbook for the Department to return to an 8-hour schedule.

The Employee Group Representatives maintain that this section of the Handbook was not intended to make a mid-year change. This interpretation does not comport with the purpose of the language adopted and is not supported by the plain language either. In the Handbook, the parties have agreed that if certain defined conditions develop, then 9-1-1 could return to an 8-hour schedule. If those conditions are present, it would be unreasonable for the change to be delayed to a future time. Further, if the handbook language was not intended

to allow the Department to make a midyear change, it would have said, “may be reverted back to the eight-hour schedule *in the next year.*” And that is not the language that is written.

The Employee Group Representatives also contend that because that the Department has never made a mid-year shift pick that this prevents 9-1-1 from implementing a mid-year selection at this point. However, there is no employee benefit that allows for employees to select their shift at a certain time. There are several reasons for this: First, the language of the Handbook demonstrates that the benefit is really to select the shift, not when to make that selection. Second, the variable nature of county business means that shift selection always varies from year to year and rarely ever occurs on the exact day. Third, as established above the handbook allows for 9-1-1 to revert back to an 8-hour schedule without having to wait for the next year. Given that the handbook allows for the Department to make this change, it follows that the Department could make this change in the middle of the year.

Even though that I have denied the grievance, the department must make further attempts to mitigate the impact this change will have on our employees. Therefore, I am directing the Department, the Employee Group Representatives, and the Department of Administration to conduct further discussions to develop potential solutions to this topic. It is improbable to me, and contrary to the Dane County way, that the parties are unable to work together on this. Ensuring that the Public Safety Communications Department can operate efficiently and provide essential safety services to all County residents is very important, but so too are the views of our employees.

I will be scheduling these meetings in earnest.

Sincerely,



Greg Brockmeyer
Director of Administration

cc: Neil Rainford
Daniel Voliva
Allison Horst
Luis Bixler
Nick Bubb