

## MEMORANDUM

### CITY OF VENICE ADMINISTRATION'S RECOMMENDATION TO VENICE CITY COUNCIL TO RESOLVE IMPACT BARGAINING IMPASSE

**TO:** City of Venice Councilmembers  
**FROM:** Mark E. Levitt, Labor Counsel for the City of Venice   
**THROUGH:** Kelly Fernandez, City Attorney  
**DATE:** March 3, 2026

#### INTRODUCTION

The issue before you today is the resolution of a bargaining impasse reached during impact bargaining with the American Federation of State, County and Municipal Employees (AFSCME) over the City's decision to change the shifts of certain City employees.

The impasse concerns the City's decision, exercised as a management right, to adjust certain employee work schedules from a four-day, ten-hour workweek (4/10 schedule) to a five-day, eight-hour workweek (5/8 schedule), while maintaining a total of 40 hours per week.

Pursuant to Florida Statute 447.403, when impasse is reached in collective bargaining, the legislative body, in this case the City Council, has the authority and obligation to resolve the disputed issues. The statute directs the legislative body to "take such action as it deems to be in the public interest, including the interest of the public employees involved," in resolving an impasse. The Council's decision becomes binding on the parties.

#### BACKGROUND

The City of Venice and AFSCME are parties to a collective bargaining agreement (CBA) currently covering 175 blue-collar and clerical employees across multiple City departments. The CBA in effect at the time of the schedule change, effective October 1, 2022 through September 30, 2025, contains a Management Rights clause expressly granting the City the authority to determine work schedules, among other inherent managerial functions. Specifically, Article 24, section 1 provides that 'Nothing in this Agreement shall be construed to limit or impair the right of the City to exercise its own sole and exclusive discretion on all of the following matters, providing such exercise is consistent with the express terms of this Agreement.' Subsection H states 'To determine

the qualifications of all employees of the City; to select, examine, hire, classify, train, lay off, assign, schedule, retain, transfer, promote, demote, direct and manage all employees of the department.' Furthermore, Article 6 of the CBA, entitled 'Work Schedules, Shift Assignments and Changes' clearly delineates two possible work schedule templates, providing as follows:

'Section 1. Work Week. The normal work week shall consist of a pre-established schedule totaling forty (40) hours of work per week.

Section 2. Work Day.

A. For employees on a five (5) day work week, the normal work day shall consist of eight (8) consecutive hours of work and a duty-free unpaid thirty (30) minute meal period, within a twenty-four (24) hour period.

B. For employees on a four (4) day work week, the normal work day shall consist of ten (10) consecutive hours, or as determined due to operational needs, and shall include a duty-free unpaid thirty (30) minute meal period...'

Article 6 goes on to say in section 4 that 'Work schedules showing the shifts, days and hours of all shift employees for a one (1) month period shall be posted on appropriate bulletin boards by the fifteenth of the preceding month. At the time of posting, a copy will be sent by the department to the applicable Union Steward and the Union President.'

In March 2025, consistent with the applicable CBA language, certain departments within the City, specifically Public Works and the Airport, implemented schedule changes from a 4/10 to a 5/8 workweek. This change affected approximately 30 employees at implementation (28 in Public Works and 2 at the Airport). As a matter of courtesy, the Union received more than the contractually required 14-day notice on February 12, 2025, and the schedule change became effective March 17, 2025. This was nothing new in the sense that the City has on multiple occasions exercised this right in other departments, specifically Utilities and Police.

Although the decision was a management right under the CBA, the law provides a right to a Union to request "impact" bargaining over the exercise of a management right. Regular bargaining for a contract involves bargaining before an employer makes a decision, but impact bargaining is when the employer has made a managerial decision it is permitted to make, but that decision may have some type of impact on employees. In the latter situation, the employer must bargain over the effects or impact of the decision. However, crucially as it relates to the issue before you today, the Union cannot force or require reconsideration of the underlying decision.

In this case, since the City had the management right to make the decision, AFSCME requested impact bargaining. The City's bargaining team met with the Union on three different occasions, during which the Union had its opportunity to present any proposals it wanted the City to consider and discuss.

In bargaining, the Union repeatedly expressed that it disagreed with the City's decision to change the work schedule of the affected employees and requested the City permit employees return to a 4/10 schedule. Contrary to the purpose of impact bargaining, the Union continued to insist on bargaining the decision itself. In good faith, the City did listen to all concerns shared and made all efforts within their ability to accommodate these concerns. The initial proposed scheduled start and end time was 7:30 AM - 4:00 PM and after discussions with the Union the City did agree to a 7:00 AM - 3:30 PM schedule. In conclusion, the Union never presented any proposals to address the impact of the decision. When the City's bargaining team failed to agree to reverse its decision, the Union declared an impasse.

Once an impasse is declared, the parties have the right to submit the issues at impasse to a Special Magistrate, who after a hearing, would issue a recommendation on how to resolve the impasse. Either party has the right to reject the Magistrate's recommendation; and the matter is then submitted to the City Council, as the legislative body for the City for a final determination. Alternatively, in accordance with Florida Statute 447.403 (2)(a) the Parties may agree to waive the appointment of a Special Magistrate and proceed directly to resolution of the impasse by the legislative body. In this case both the Union and the City agreed to bypass the Magistrate process.

This matter is now before you to resolve the impasse. The statute does not require the legislative body use any particular procedure. The statute only requires that the legislative body "take such action as it deems to in the public interest, including the interest of the public employee involved, to resolve all disputed impasse issue."

The Notice of this impasse hearing, issued by Kelly Fernandez, City Attorney on February 11, 2026, advised the Union of its opportunity to submit its recommendation for resolving the impasse 14 days before the hearing. It also provided City Administration an opportunity to submit its recommendations to the City Council as to how the impact bargaining impasse should be resolved with a deadline of 7 days before the hearing.

## **CITY ADMINISTRATION RECOMMENDATION FOR RESOLUTION OF IMPACT BARGAINING IMPASSE**

The Administration's recommendation is that the City Council, sitting as the legislative body for the purpose of resolving the impact bargaining impasse with AFSCME, approve a motion to accept the Administration's position that the decision to change the work schedules of certain employees to 5/8 schedule be accepted; and that no further action be taken to address the impact of the City's exercise of its management right.

It is most important to understand that it is a management right, set out clearly in the parties' CBA, for the City to determine the work schedules of its employees. That is a typical management right contained in most collective bargaining agreements because the law recognizes that there are certain inherent rights that management must have to run its business as it deems necessary. As noted above, impact bargaining is not for the purpose of having the employer reconsider the exercise of its management right. Since that is the only proposal made by the Union, the Union has given you no option to determine other ways to address the impact of this decision.

The City even offered to discuss the impact of this decision as part of its overall bargaining for a new agreement, which was going on simultaneously. Just as an example, had the Union agreed to combine the bargaining, they could have made proposals for additional pay or supplemental pay in exchange for the change in schedule, which could have offset concerns they may have had. But the Union refused that offer. In essence, the Union never made any proposal that would be considered addressing the impact, or effect, of the decision to change the schedule. Accordingly, there is no proposal submitted by the Union for the City Council to even consider. Considering the opportunity for contract negotiation has passed, the Administration supports moving forward with the decision without any additional accommodations. This is important for setting precedence on this managerial right which will continue to be exercised in the future amongst other City departments.

**The decision to change to a five day, eight hour a day schedule, is in the best interests of the City and the Citizens it serves.**

First, it is not legally appropriate to consider the Union's proposal to require the City to revert to the original 4/10 schedule, as that would be inconsistent with the purpose of impact bargaining, as set out above. However, we understand that all Councilmembers are interested in the well-being of our employees and you may wish to consider what they have to present. Let the Administration assure you that it also considered the effect on our employees and the decision was not made lightly or without careful consideration of their interests and the need for this change to better serve the interests of our taxpayers.

First, out of a total of 175 AFSCME employees, this schedule initially affected 30 employees, 28 in Public Works and 2 at the Airport. However, at this time only 21 current employees are affected. The lower number was a result of promotions and resignations. With time it will impact fewer and fewer employees. The Union may present information that the change impacted some employees who had secondary employment or for other family reasons. Regarding secondary employment, you should note that the City's Personnel Procedures and Rules provide that an employee's employment with the City is their primary responsibility and they cannot have secondary activities that interfere with their work for the City. More importantly, the City's Personnel Procedures & Rules require employees to request permission to engage in any secondary employment and only two employees have followed this requirement. Note – the two authorizations on file date from 2006. Any other reference to outside employment was never approved by the City and should not be considered. Regarding family obligations, e.g. doctor visits, child care issues, the City provides generous sick and vacation leave that is a benefit for employees so they can take time off as needed for personal reasons. Further, the remaining affected employees have now had a year to make adjustments to their personal schedules that would be compatible with their new work schedule. While adjustments had to be made, we have heard anecdotally that many employees have made the necessary adjustments compatible with their schedule and that many enjoy the new schedule as it allows them to get off of work by 3:30 PM daily.

After evaluating staffing needs, number of assignments and operational demands, transitioning from 4/10 to 5/8 offered several measurable operational efficiencies, which include:

1. Improved daily coverage and continuity.
2. Enhanced supervision and oversight.
3. Reduced fatigue and increased productivity.
4. Improved preventive maintenance scheduling.
5. Greater flexibility for coverage.
6. Better alignment with support divisions.
7. Regulatory and compliance benefits.
8. Improved level of service.
9. Improved support for the City's daily volunteer partners (VABI, KVB, etc.)
10. Reduction in overtime.

Transitioning to a 5/8 schedule has promoted operational consistency, strengthened supervision and compliance, improved coordination with support functions and enhanced safety, productivity, and the level of service provided to the community. While both schedules provide 40 hours per week, the distribution of those hours under a 5/8 model better aligns with operational demands of the affected departments.

This schedule change is designed to optimize the operational effectiveness of our current workforce. During the Spring of FY26, the City will be taking on a new five acre park and all associated operation and maintenance obligations. In FY27 the City will be taking on a further seven neighborhood parks and the west side of the Venetian Waterway Trail. These new public park obligations must be addressed, and while there are several management options available, the schedule shift was the most effective and efficient option available. Alternative options would have included adding Public Works staff members to the FY26 budget, budgeting for additional contractual services for FY26, or significantly reducing levels of service across the entire park system. The schedule adjustment approach not only addresses operational needs more effectively but also maximizes productivity and service to the community without compromising quality or level of service.

The change to a 5/8 schedule has provided the City with 51 additional working days (i.e. Fridays) x 30 employees at no additional personnel cost to the City while keeping the employees at the 40-hour work week. Additionally, this adjustment resulted in a significant overtime cost reduction over the past year. This schedule allows the Public Works department to keep future requests for additional staff to a minimum as they continue to create ways to be more productive and efficient with the 40 hours they have staff available. It is the City's assessment that the move to a 5/8 schedule has reduced the operational impact on the City and the crews as there are more days in the week staff are available to complete work when accounting for callouts, holidays, emergency vacations, etc. After a full year of implementation, the following represents the managerial assessment of this schedule shift:

- The 5/8 schedule has reduced overtime costs by approximately \$74,000 in the past year.
- It has had no negative effect on recruitment for positions.
- With the upcoming updated Parks Interlocal Agreement and the continued addition of City facilities, this schedule adjustment can reduce the request for new staff over the next 2 years by approximately 2-3 each year in addition to what is already outlined. This will have a financial impact on the City in numerous areas such as salaries, benefits, insurance, fleet, etc.

- Providing services 5 days a week from all affected crews allows more opportunity for uninterrupted services and completion of work. This also provides maximized coverage on Mondays and Fridays to address as many work orders as possible and to deal with emergencies and special events.

The following are specific examples to provide additional justification/reasoning for scheduling all staff available Monday-Friday based on operational needs:

- More staff available for receiving large deliveries – (forklift being operated by administrative staff or management in the past due to the lack of staff). This is a small but good example of having a full staff Monday-Friday.
- Having staff available to mark trip hazard complaints, grind the area if applicable, and deliver and set up barricades for the safety of the public is important. In the past we pulled staff from other projects to cover the needs of other sections. This is not efficient and productive when operating with limited staff.
- Staff was not available to address issues related to signs, irrigation, carpentry issues (i.e. broken benches, holes in boardwalks, downed signs and irrigation issues) when staff are on vacation or sick. Having full staff available Monday-Friday allows for coverage for those staff that are already scheduled Monday-Friday.
- Tree issues were not covered on Fridays due to the old 4/10 schedule. For example- crashes, bad weather, down-aged tree issues do arise, and there would not be adequate staff available. On the old schedule there were typically only two park employees available on Fridays and one is assigned to the trash route. If one staff member calls out, there are no staff available for mowing & trees. This causes delays and added overtime costs.
- Potholes, washouts onto roadway (debris, sand, mulch), trip hazards are continuous and increasing. We did not have the staff available to address these issues Monday-Friday with the old schedule.
- City facilities are inundated with constant traffic and the overwhelming increase in attendance at our special events throughout the year continues to add to the need for repair and maintenance. This in turn continues to increase the issues with plumbing, restrooms, trash, playgrounds, interactive fountains and the cleanliness of the downtown district. Most special event setup occurs on Fridays and breakdown on Mondays.
- Traffic accidents are continuing to increase throughout the City as the population continues to grow. Depending on the severity of the accident and the debris in the

roadway, VPD will require Public Works assistance to clean debris with heavy equipment and/or the street sweeper. The City is required to respond to these requests Monday-Friday.

- Stormwater staff need to be available Monday-Friday to allow better coverage for clearing catch basins, outfalls, and roadways during rain events. When the City streets are overwhelmed from a massive rainstorm in a short amount of time, the stormwater drainage system is not able to keep up. The availability of the full crew to clear catch basins and outfalls Monday-Friday is crucial to prevent as much flooding and road closures as possible. With the prior schedule, numerous management personnel have assisted with this task on a Friday because there are not enough personnel from Stormwater to assist
- An estimate of savings in overtime since implementation is approximately \$74,000. Overtime was regularly used on Friday with the previous schedule due to the critical nature of these activities.

## **CONCLUSION**

It is your duty as the legislative body to resolve the impasse between the City and AFSCME with regard to impact bargaining over the schedule change discussed above. It is undisputed that the collective bargaining agreement gives management the right to alter the schedule of employees. The purpose of impact bargaining is not to reconsider or change the decision that management determined was necessary for the efficient operation of the City.

AFSCME has presented no proposal for the City to consider to offset the impact of this decision. There was also no new proposal submitted as part of the written request for proposals submitted to AFSCME prior to this hearing.

Based on the information above, the Administration has presented compelling evidence to support the decision it made to change the schedule of certain employees to a 5/8 schedule. Efficient and effective service to our City residents is the paramount responsibility of any local government.

We respectfully request that the City Council approve a motion to accept the Administration's recommendation that the decision to change the work schedules of certain employees be accepted; and that no further action be taken to address the impact of the City's exercise of its management right.