

ORDINANCE NO. 121008-MC

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF PINAL COUNTY RELATING TO A PROCESS FOR THE DESIGNATION OF EMPLOYEE ORGANIZATIONS IN COUNTY GOVERNMENT, A PROCESS BY WHICH COUNTY AND EMPLOYEE ORGANIZATIONS MAY MEET AND CONFER REGARDING WAGES, HOURS AND WORKING CONDITIONS, PROVIDING FOR MEET AND CONFER AGREEMENTS TO BE SET FORTH IN A MEMORANDUM OF UNDERSTANDING; AND PROVIDING FOR SEVERABILITY.

WHEREAS, accountability and transparency are fundamental to good government in both public service and employment relations, and

WHEREAS, the Pinal County Board of Supervisors, has the authority to set personnel policies and terms and conditions of employment for county employees, and

WHEREAS, it is desirable for the Board of Supervisors and the employees of Pinal County to work cooperatively to create a harmonious working environment that leads to improved provision of county services and to establish a relationship that fosters good will, innovation and quality public services, and

WHEREAS, a procedure whereby county employees can collectively designate a representative to participate with management in particular processes of communication as designed by the Board of Supervisors will facilitate (i) freer and more effective expressions of employee views, issues, ideas and interests with regard to personnel matters, the provision of services and other matters of importance to county employees and the public, (ii) more responsible and professional employee representation of those concerns to county management as well as to the Board of Supervisors, (iii) more orderly and harmonious employee-management relations, (iv) the adoption by the Board of Supervisors of personnel policies that will better promote harmony, efficiency, quality, high morale in county service and the effective provision of services to county residents, and (v) greater accountability and transparency in the public service, and

WHEREAS, the Board of Supervisors wishes to establish procedures for the accomplishment of such goals without in any way diminishing (i) the Board's non-delegable authority to set personnel policies and terms and conditions of employment for county employees or otherwise exercise its lawful authority, (ii) the Board's (or each member's) prerogative to consult with any individual, employee, or group, with respect to any matter within the Board's authority, or (iii) the rights of any such individual, employee, or group to make their views known to county management or the Board (or its members) through processes outside of those specialized procedures designed by the Board for the purposes set forth above, and

WHEREAS, to further the above-described public purposes, the Board of Supervisors hereby desires to establish procedures through which county employees can freely designate a collective representative to meet and confer with county management on county personnel matters and participate in a meaningful meet and confer process.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF PINAL COUNTY:

(1) Definitions: The following words, terms and phrases, when used in this ordinance, shall have the following meanings, except where the context clearly indicates a different meaning:

- A. “Authorized Representative” means an individual who has been designated pursuant to this ordinance to act as the chief representative of an employee organization.
- B. “Budget year” means the annual budget term as set forth in law.
- C. “Confidential Employee” means an employee who as a part of his regular duties, has access to management information, confidential or discretionary information regarding the formulation of county personnel policy or procedures or involvement in the preparation or administration of any issues subject to this ordinance; works in the Human Resources Department, any employee in the offices of the County Manager, Board of Supervisors, Assistant County Managers or whose functional responsibilities or knowledge concerning employee relations makes the employee’s membership in an employee organization incompatible with that employee’s duties.
- D. “Day” means a business day, which is Monday through Friday excluding County recognized holidays, except as otherwise stated.
- E. “Eligible employee” means any individual employed by the County in a position designated as FLSA non-exempt except contract, temporary, seasonal, part-time, probationary or confidential, managerial or supervisory employees (below the rank of sergeant), each Elected Official and employees of the Superior Court and Justice Courts.
- F. “Employee Organization” means an organization whose primary purpose is to represent employee groups, as described herein for the purposes of the meet and confer process.
- G. “Impasse” means the failure of the designated representatives of the County and the representative of an employee organization to achieve agreement during the meet and confer process.
- H. “Managerial Employee” means an employee, involved in formulating, determining, or effectuating policies on behalf of the County, or any employee having a major role in employee-employer relations on behalf of the County, or any employee providing direct assistance in the foregoing functions.
- I. “Mediation” means efforts by a mediator to assist in reconciling a dispute on an issue initiated under the meet and confer ordinance between the County Manager and the authorized representative of an official and authorized employee organization through interpretation, suggestion, and advice.
- J. “Mediator” means a neutral and impartial third party.

K. “Meet and Confer” means the performance of the mutual obligations of the County through its County Manager and the designated representative of an official and authorized employee organization to negotiate in good faith with respect to wages, hours, and working conditions as set forth in this ordinance.

L. “Memorandum of Understanding” (MOU) means a written agreement resulting from the Meet and Confer process under section 7 which shall be effective upon approval by the Board of Supervisors.

M. “Official and Authorized Employee Organization” means an employee organization that has been designated by the County as described in section 5 of this ordinance.

N. “Proposed Memorandum of Understanding” means a written document agreed to by the County Manager and representatives of an official and authorized employee organization, which shall be presented to the Board of Supervisors for action.

O. “Strike” means concerted action of employee and/or others: (1) resulting in the failure of employees to report for work when directed to do so: (2) the concerted absence of employees from their positions: (3) the concerted stoppage of work and/or concerted slowdown of work: (4) mass picketing which attempts by force of numbers to prevent ingress or egress from the picketed site, whether or not the picketing occurs during normal hours of operation ; or (5) the concerted effort, in whole or in part, by any group of employees from the full, faithful, and proper performance of the duties of employment with the County.

P. “Supervisory Employee” means an employee having authority to hire, transfer, suspend, layoff, recall, promote, discipline, assign, reward, conduct performance appraisals, or discharge other employees, or the responsibility to direct them in all major work aspects, to adjust their grievances, or to effectively recommend such action if the exercise of such authority is not of a routine or clerical nature but requires the use of independent judgment in conformance with the County’s personnel rules and administrative procedures.

Q. “Wages, hours and working conditions” means topics limited to:

- (1) Salary, wage rates, and shift differential.
- (2) Overtime, compensatory time, On-Call Pay, and Professional Certification pay.
- (3) Paid time off, including sick leave, vacation leave, injury leave, bereavement leave, jury duty leave, and holiday leave pay.
- (4) Access to public portions of County facilities and to non-public areas to meet with employees and conduct employee organization business.
- (5) Dues deduction.
- (6) Other items mutually agreed upon by the authorized employee organization and County Manager.

(2) Employee Groups

There shall be only two (2) recognized employee groups within the County:

(A) All sworn deputies and detention officers, up to and including the rank of corporal and adult detention officers up to the rank of corporal, Dispatchers, Evidence Technicians, and Identification Technicians.

(B) All clerical, administrative, technical, labor and trade employees, except as otherwise set forth above, who are not:

- (1) Managerial Employees;
- (2) Confidential Employees;
- (3) Supervisory Employees;
- (4) Employees of the Superior Court and Justice Courts; or
- (4) Judges and Elected Officials.

(3) Rights of employees and employee organizations

(A) Employees have the right to participate or engage in activities on behalf of an employee organization and have the right to refrain from such activities.

(B) Employees shall be free from any interference, restraint, or coercion by any employee, supervisor, manager, or representative of an employee organization in the exercise of their right to participate or engage in activities on behalf of an employee organization or to refrain from such activities.

(C) There shall be only one official and authorized employee organization for each employee group for purposes of meet and confer. No employee shall be prohibited from exercising any rights the employee may have to meet with County management consistent with personnel rules and regulations or any County Manager directive, regardless of whether the employee belongs to an employee organization.

(D) The County may grant the recognized employee organizations payroll deductions for dues and other voluntary contributions.

(E) Violations of employees' rights described in subsection (A) and (B) above by County employees will result in disciplinary action up to and including termination.

(4) Rights of County Management

The authority and legal power to determine the purpose of each of the County's constituent agencies, to set standards of service to be offered to the public and to exercise control and discretion over its organizations, operations and finances and any other legislative or executive power of the County shall rest at all times with the County and the Board of Supervisors and other elected officials of the County, and such power and authority may not be constitutionally and legally delegated to an employee or employee organization or representative, and neither the County nor the Board of Supervisors or elected officials of the County may bind themselves or the County to

any procedure or method whereby the legislative and executive legal powers and authority of the County may be exercised. The County and the Board of Supervisors and the elected officials thereof, in the exercise of its/their legislative and executive powers, have the power to direct its/their employees, take disciplinary action, and relieve its/their employees from duty, subject to their policies and procedures, and to determine whether goods or services shall be made, purchased or contracted for, and determine the methods, means, and personnel by which the County's operations are to be conducted. The County has the legislative and executive power to take all necessary actions to maintain uninterrupted service to the community. Nothing in this Chapter may or is intended to delegate in any way whatsoever the constitutional legislative and executive powers and authority of the County as exercised through the Board of Supervisors and other elected officials of the County.

(5) Designation Process

(A) Each employee organization that seeks recognition as the official and authorized employee organization of an employee group for the purposes of meet and confer shall file a petition (attachment A) with the County Manager requesting designation as such. Each petition shall be supported by the signatures of not less than thirty (30%) percent of the employees in the employee group as of the date the petition is submitted to the County Manager.

(B) Each petition submitted to the County Manager shall contain (1) the name of the employee group; (2) the name of the employee organization; (3) the printed name, signature, date of signature, and employee classification of each person signing the petition. Petition signatures that bear no date, or bear a date greater than ninety (90) calendar days prior to submission shall have no force and effect. If an employee signs more than once or more than one petition, the first signature shall be deemed controlling. Signatures from ineligible employees have no force and effect. Petitions shall be submitted no earlier than January 15 and no later than March 15 in any budget year. The Clerk of the Board will verify the signatures presented.

(C) If the proper signatures are obtained on a petition, the County Manager shall order that a secret ballot election be conducted within thirty (30) calendar days from the date of certification of the petition among the eligible employees within the employee group. The form of the ballot shall be approved by the Clerk of the Board. Each employee eligible to vote shall be provided the opportunity to choose the employee organization he wishes to represent him from among those on the ballot or to choose, "None." Ballots bearing votes from more than one option shall have no force and effect.

(D) The Elections Director shall determine the Election procedures. The Elections Director shall manage all aspects of the secret ballot election process, including, but not limited to, designation of polling places, distribution, collection, and counting of ballots. Proxy voting shall not be permitted. Details of election process should include: consultation with petitioning employee organization regarding dates/times/places/process of election; provision of eligibility list to employee organization; reasonable access to employees; observers designated by employee organization at each polling location; release time for observers and for voting, to encourage turn-out.

(E) To be designated as the official and authorized employee organization, an employee organization must receive a majority vote of the total number of eligible employees who cast valid

ballots within the employee group. In an election involving three or more choices, where none of the choices receive a majority vote, including the choice that there be no official and authorized employee organization, a runoff election shall be conducted within fifteen (15) calendar days between the two choices receiving the largest number of votes. In order to prevail and be designated as an official and authorized employee organization in a runoff election, an employee organization must receive a majority vote of the total number of eligible employees who cast valid ballots within the employee group.

(F) If the election results in the designation of an official and authorized organization, said organization may designate only one authorized representative, and such designation must be made in writing and submitted to the County Manager within fifteen (15) days after the election results are final as determined pursuant to the Election Director's election procedures.

(G) Violations of employees' rights described in section (3) above by officials, officers, or agents of official and authorized employee organizations may result in the County's decertification of such employee organizations.

(H) After an employee organization has been the authorized representative of an employee group for at least one year (12 months), any member of the employee group can initiate an election to decertify the authorized representative by submitting a petition containing not less than thirty percent (30%) of eligible employees in the employee group. If the county manager verifies the petition is valid and in compliance with the ordinance, the election shall be conducted in the same manner as a representation election. Petitions for decertification shall be filed during the time period from September 1 to October 1 of the year immediately preceding the expiration of the memorandum of understanding (MOU).

(I) Notwithstanding the decertification procedure described in subsection (G) and (H) above, any existing, effective MOU shall continue to have full force and effect until its expiration.

(6) County Neutrality and Employee Rights

A. The County's confidential, managerial and supervisory employees, in their employment dealings with eligible employees, will remain neutral on the issue of whether employees are to be represented by an employee organization or if so, which of any employee organizations should be the representative of such employees. Eligible employees shall not be treated adversely in the workplace for discussing or expressing their views regarding employee representation, the employee organization or workplace issues.

B. Employees may join in or engage in activities on behalf of an employee organization on non-county working time. Employees shall be free from any interference, restraint, or coercion by any employee, supervisor, or manager because of their membership or participation in employee organizations, so long as any activity involving any employee organization is done on non-county working time and does not interfere with or disrupt the work of the County. Employees may talk about employee organizations on county working time under the same terms applicable to any other employee conversation regarding non-work related topics.

(7) Meeting and Confering

A. Purpose and Scope

The purposes of this section are to establish the parameters of a Meet and Confer process as authorized by Arizona Attorney General Opinion No. I06-004 (R06-008) and to provide a uniform procedure for the development of a Memorandum of Understanding which will be submitted to the Board of Supervisors. Among other things, the goals of the Meet and Confer process and the resulting Memorandum of Understanding shall be the provision of high quality services to the residents of Pinal County and maintaining harmonious relations between employees and County Management. As the processes outlined in this ordinance are for a public purpose, the parties may agree to provide paid release time for employees to conduct activity for an authorized employee organization during normal working hours and assigned shifts.

B. Process

1. County management shall meet and confer with an authorized employee organization upon the authorized representative's request. Representatives designated by the County Manager and representatives designated by the authorized employee representative shall meet at mutually agreed upon times and places and confer in good faith with sincere resolve to reach an agreement which will be committed to a written Memorandum of Understanding proposal to the Board of Supervisors.
2. The process shall begin with a written request to meet and confer from an employee organization which the County has recognized as the authorized employee representative of county employees. This request must be received no later than December 1. Within ten (10) business days from the receipt of the employee organization's request, unless another date is selected by mutual agreement, representatives of the employee organization and the County management's designated representative(s) shall begin meeting and conferring at mutually agreed upon times and places. At the initial meeting, ground rules shall be set by mutual consent. Meetings shall continue until an agreement is reached. If agreement is reached on all areas, the written agreement shall be submitted to the Board of Supervisors as the proposed Memorandum of Understanding.
3. If an agreement has not been reached by February 15th, a mediator shall be appointed at any time thereafter upon the request of either party. The mediator shall attempt to assist the parties in reaching an agreement. Mediation is advisory only and is not binding or controlling on either party. The mediator shall be mutually agreed upon by the County Manager and the authorized representative of the official and authorized employee organization. If the parties cannot agree upon a mediator, the parties shall utilize the services of the Federal Mediation and Conciliation Service. Any costs for the mediator shall be equally shared between the County and the official and authorized employee organization.
4. The proposed MOU shall be signed by the authorized representative of the official and authorized employee organization and by the County Manager. The proposed MOU shall not be effective until approved by the Board of Supervisors.

5. Notwithstanding the date an employee organization is certified as the official and authorized employee organization for an employee group and notwithstanding the date of expiration of any MOU, the meet and confer process shall be completed in all instances on all items at least 60 calendar days prior to the date set by law for adoption of the County preliminary annual budget.
6. The Board of Supervisors may accept, reject or modify the proposed Memorandum of Understanding, in whole or in part, or may take whatever action it deems appropriate consistent with applicable laws. Final action by the Board of Supervisors shall constitute the Memorandum of Understanding.
7. Notwithstanding the provisions of this section, the Meet and Confer process may be changed by mutual agreement of the County Manager and the authorized employee representative.
8. At least 90 days prior to the expiration of an existing Memorandum of Understanding, the parties will meet to initiate the Meet and Confer process with regard to a subsequent Memorandum of Understanding. Sections 1 through 6 of this subsection shall apply to such negotiations. In such cases, the timelines for determining mediation will run from the first Meet and Confer meeting or the 90th day prior to the expiration of the Memorandum of Understanding, whichever occurred first.

C. Prohibited Practices

1. Under no circumstances shall a County employee, official and authorized employee organization, or any other individual or employee organization engage in, instigate, promote, cause, sponsor, condone, permit, encourage, or take part in any strike, slowdown, sympathy strike, withholding of services, work stoppage, picket, curtailment of work, reduction of work, or interference of any kind with the operations of the County.
2. In the event of a violation of subsection (1) above, an employee organization shall immediately instruct the involved employee(s) that their conduct is in violation of this section and/or any applicable MOU and that the employee(s) may be disciplined up to and including termination; and instruct all such persons to cease the prohibited conduct and take all reasonable means to end the breach.
3. Prior to the commencement of the meet and confer process, the County Manager and the authorized representative will meet to discuss goals and priorities for the upcoming negotiations and how they relate to the continuing provision of high-quality services to county residents. Following this meeting, the Board of Supervisors will refrain from entering directly into discussion of specific bargaining proposals put forth by either party during the time when the negotiations are in process. This provision in no way diminishes the Board's (or each member's) prerogative to consult with any individual, employee, or group with respect to any matter within the Board's authority, or the rights of any such individual, employee, or group to make their views known to the Board (or its members).

(8) Sunset Provisions

All terms of this meet and confer Ordinance shall automatically terminate on December 31, 2014, unless continued by action of the Board of Supervisors. In no event shall an MOU's term be extended beyond June 30, 2015. Any MOU reached pursuant to this section shall survive any repeal or sunseting of this section and shall expire according to its terms.

(9) Conflict of Law

In the event there is a conflict between the County's personnel policies, and an enacted Memorandum of Understanding, the Memorandum of Understanding will supersede the personnel policies and rules and regulations, to the extent permitted by law.

(10) Severability

Should any provision of this Chapter be held by a court to be unlawful for any reason, those remaining provisions that have not been so held shall continue in full effect.

Effective Date.

This Ordinance shall become effective thirty (30) days after the date of adoption by the Board.

PASSED AND ADOPTED this ____ day of _____.

PINAL COUNTY BOARD OF SUPERVISORS

Approved as to form:

David Snider, Chairman

County Attorney

ATTEST

Clerk of the Board