

## National Council Meets, Maps Out Plans

The National Council of EEOC Locals, No. 216, AFGE, AFL-CIO (the Council) held its biannual meeting from August 9 through August 12 in Las Vegas, Nevada. The first order of business was the election of officers. A five person Election Committee conducted the election process and certified the election results. See **Council Election Results** on this page.

The Council began its first business session on August 10 with the reports of Levi Morrow, Council Treasurer and Chief Negotiator. The Financial report was accepted but the discussion of the projected Council budget for the following year was deferred. This was done so that discussion on other topics could aid in focusing on where and how much money should be allocated. Following Morrow were reports on the Council's Legislative activity from Rachel Shonfield, Council Legislative Liaison, and reports from the Council's Newsletter Committee and the Website Committee. The Council voted to approve guidelines, formulated by the Arbitration Committee, to provide assistance to Locals pursuing arbitrations or other third

party procedures on behalf of its members, which involve issues of national impact.

The next topic concerned EEOC employees who were working outside their respective job descriptions. Examples cited were: Investigators, attorneys, AJs and Mediators doing clerical work; ISAs doing lower graded work. The discussion noted that Support Staff positions were most vulnerable and the most difficult ones on which significant progress could be achieved. It was noted that all the job descriptions for all positions have not changed in decades. Discussion then turned to

the means by which this problem could be addressed. Several ideas were generated from the discussion. One suggestion re-

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*Elected Council Officers: from left—Levi Morrow, Treasurer/Chief Negotiator; Michael Davidson, 1st Vice President; Gabrielle Martin, Council President; Rachel Shonfield, 2nd Vice President; Danny Lawson, Secretary*



*National Council Election Committee (l to r): Stephanie Perkins, Chair (Detroit), Kevin Hudson (HQ), Pam Edwards (Houston), Charles Mayfield (Albuquerque) and Kathy Harmon (Richmond).*

## Council Election Results

Election of officers for the National Council of EEOC Locals, No. 216 (the Council) were held on August 9, 2004. The results follow. The Election Committee was comprised of Stephanie Perkins, Chair (Detroit); Pamela Edwards (Houston); Kevin Hudson (HQ); Kathleen Harmon (Richmond); and, Charles Mayfield (Albuquerque). The term of office for elected officers will be three years as set out in the recently amended Council Constitution.

**President:**

- Gabrielle Martin .....691
- Regina Andrew ..... 134
- Johnnie Johnson.....83

**1st Vice President:**

- Michael Davidson .....666
- Joseph Wilson .....242

**2nd Vice President:**

- Rachel Shonfield.....Acclamation

**Treasurer:**

- Levi Morrow.....789
- Brenda Hester ..... 119

**Secretary:**

- Danny Lawson .....Acclamation

## PRESIDENT'S VIEWPOINT

### Telecommuting



Gabrelle Martin,  
Council President

Last time I checked, the official definition of Telecommuting as found on the OPM website, was that it is a regular work schedule through which employees perform work at an alternate work site.

One thing that OPM's website recognizes is that this is a program that will highlight poor management skills. So, at EEOC, instead of focusing on those managers who need to improve their skills, the agency manipulates the Telecommuting program so as to make it, in many respects, unworkable. Not since the agency and the Union began this program in the late 90's has anything changed for the better – not better manager skills, not a wider use of the program, and not a true use of the program.

Most EEOC employees are eligible for Telecommuting because their work is portable. Telecommuting allows employees blocks of time to concentrate solely on some aspect of the work not possible working at the office. Participation in the Telecommuting Program is a big problem for many of our paraprofessional employees. These positions, called Investigative Support Assistants (ISAs) are supposed to assist the professional employees, with things like investigations, calling of witnesses, file and document organization, drafting charges and other case related activities. EEOC should utilize these positions to assist hearings AJs as well. Paralegal specialists are another group of paraprofessional employees who perform highly similar work. These employees assist the Attorneys by performing research, drafting pleadings, file and document organization, contacting witnesses, as well as some ministerial duties.

What is the rub, you ask? The rub is that as a result of management refusing to hire adequate numbers of professional and support staff, management wastes money paying these paraprofessional employees to perform low level clerical duties. Because management insists on making

these employees very highly paid clerks, it cannot bear for a moment, to let them out of sight. So, notwithstanding the nature of their real work, management refuses to budge on letting these employees work at home, at any time, ever. The real question is when will management be brought to task for these decisions. Until management addresses the performance management skills of its managers, there never will be a solid Telecommuting program at EEOC. The effect of these decisions is that EEOC probably has the highest paid clerks in all of government and, thereby, EEOC joins the club of federal agencies paying \$150 for a three cent screw, just because we are the federal government.

Other telecommuting woes – while employees can be asked to come into the office a Telecommuting day, there are abuses. One example: employees are called into the office for an “emergency 10 minute meeting” that could be handled by e-mail, by phone or on a day when everyone is in the office anyway. In addition, management's “accountability” requirements all too often require such volumes of paperwork that it is a waste of time to telecommute and, for that reason, numbers of employees opt not to Telecommute. Since, according the Director of the Office

Field Programs, only one EEOC office has sufficient support staff and Investigators, there is much work to be done.

Accountability not necessarily a bad thing. But, after the Telecommuting Program has existed at EEOC for years, I just have to wonder why fewer and fewer eligible employees choose to participate within the definition. Where is the trust?

#### Performance Management Issues

As you know, management surveyed employees about the current Performance Management System. Since that time, surveys were collected, and a prototype of what the new system might look like was distributed. Again, feedback was sought. The parties continue to discuss changes to the system. This is an ongoing process and we will keep you informed of the progress. While not everyone who responded to the survey agreed that the system needed to be changed, under the Collective Bargaining Agreement, Management could have made changes and presented to the Union the new system, merely for the purpose of addressing impact. Through the process of discussion, many issues have been resolved in a manner that addresses employee concerns. We will keep you posted on the goings on. As usual, your input as we work through this process is invaluable.

## REPORTS FROM THE LOCALS

### Local 2667

No Report Submitted.

### Local 3230

Things in the Local could be better. There are a number of offices that float in the wind, These offices are stretched by virtue of the fact that Directors for these offices are located in other offices.

This creates problems for all of the offices. Human nature being what it is, change is difficult. So when the Shadow Manager leaves the office, things tend to fall apart. There is no clear message from management. It is just a wait until next time situation. While some managers may welcome the chance to do things differently, the fact that the decision makers are in and out creates problems. For

example in Denver, depending on the day or the week, one of three different people are in charge of the office. So, every week, the question is who is running the ship? In Seattle, the director is in and out, back and forth. In Albuquerque while strides have been made, the situation is less than ideal. In San Diego again the situation is less than ideal. The reliable decisions are made in another office. If it is difficult for the employees to know who is on first; That quandary tells us that customer service cannot really be the priority. I think customer service is just a term used to pander to the appropriators. As the end of the year approaches, and we begin the process of closing cases so that managers can say they have met numerical goals, again the question come October 1, 2004, will be—how many cases did we dismiss just

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## REPORTS FROM THE LOCALS

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for the sake of numbers. With the rudder spinning between offices, will it be even worse this year?

### Local 3504

The highlight for Local 3504 was a favorable Arbitration decision. The Arbitrator found that the EEOC had violated its own Reasonable Accommodation procedures by unreasonably delaying the grant of an accommodation to an employee. The Arbitrator, however, did not find a statutory violation. (A conclusion that the Local disagrees with). EEOC, in its ultimate wisdom, appealed the Arbitrator's decision to the Federal Labor Relations Authority (FLRA). But, the FLRA, in record time, upheld the Arbitrator's decision. Still in the works is the remedy set out by the Arbitrator. The Arbitrator's decision and the FLRA decision are both posted on the National Council's website, [www.council216.org](http://www.council216.org).

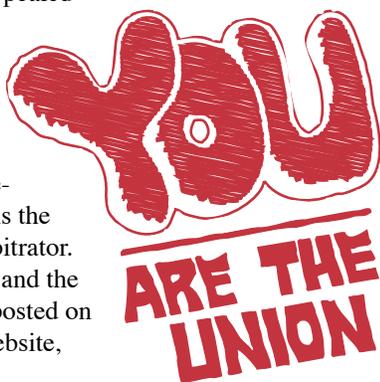
Grievances have been filed in 3 of 7 offices within the local over the course of the year. Those issues grieved were a Performance Improvement Plan (PIP); working outside a job description (JP); Production standards; failure to grant leave; and, whether jury duty excuses an employee from having to make up a missed Charge Receipt day.

An Unfair Labor Practice (ULP) charge was filed with the FLRA by the Local because Indianapolis office management implemented changes that had an impact on bargaining unit members without notification to the Union. That ULP was settled with management agreeing to provide advance notification to the Union of changes.

All of the other six offices within the Local were visited during the course of the year by Local President, Michael Davidson, and, in most cases, Chief Steward, Konrad Batog. On the occasion of a visit to the Cincinnati office, an awards recognition meeting and pot luck lunch was held and was attended by Batog and Davidson. They also attended the annual

Detroit District (DDO) office picnic. As James Neely, the DDO Director, also has responsibility over the Cleveland and Cincinnati offices, employees from those offices were invited to the picnic. A group of employees from both Cleveland and Cincinnati did make the trek to Detroit for the event.

Last May, President Davidson and Detroit Delegate Stephanie Perkins both participated in the Labor-Management Council meeting in HQ. Davidson and Perkins also attended the August National Council meeting. Perkins, at the Council meeting served as Chair of the Election Committee. Davidson was re-elected as 1<sup>st</sup> Vice President of the Council.



Recently, we have lost officers of Local 3504. Local 3504 Vice President Sam Johnson (Detroit) has been out of the office ill for several months and may have to seek a disability retirement. Local 3504 Alternate Delegate Susan Knose (Indianapolis) went to Customs.

Susan was on the Local's

Legislative Committee and edited *The Local Voice*, the Local's newsletter. (Anyone Local member interested in editing the newsletter should contact President Davidson.)

### Local 3555

Local 3555 is concerned about the Commission's hiring "term" employees. This practice will have adversely impact EEOC and alter conditions of employment of bargaining unit employees. What rights and benefits will they have? Can they become permanent at the end of their term? Is this how EEOC will hire for the foreseeable forward? If so, this appears to be an effort to weaken the Union. Will Attorney, Mediator and Administrative Judge positions be next to be hired as term employees? What is clear this Administration wants to outsource and has started the process. Term employees will not gain the wealth of knowledge and experience to rise to the journeyman level. Even if they do, they will be gone and will take that knowledge with them.

Local 3555 is also concerned develop-

ment of a new performance evaluation instrument. The main concerns revolve around the issues of timeliness and established time frames/deadlines. Being held to absolute deadlines is unreasonable. Regarding outreach, Will the Commission going to provide training for the newly required outreach? These are but a few questions.

Local 3555 is concerned with EEOC's failure to bargain with the Union over a Federal Sector case assessment procedure in the Washington Field Office. The concern is that this pre-assessment process will deny federal employees of their civil rights. Leroy W. Warren, Jr., Chairman of the NAACP Federal Sector Task Force contacted Congressman Serrano the Ranking Minority Member on the Commerce, Justice, State and Judiciary Appropriations Subcommittee to express concerns. Mr. Warren also expressed his concerns about the Call Center.

Local 3555 also has concerns about the Call Center. We believe it cannot be effectively handled by ill trained employees who are not well versed in the statutes and, therefore, a waste of resources.

### Local 3599

On July 7, 2004, the results of the election in Local 3599 were certified. The officers elected for a three year term are: Sharon Baker, President (Louisville), Gloria Allen, 1<sup>st</sup> Vice President (Miami), Vanessa Hannah, 2<sup>nd</sup> Vice President (Birmingham), Glenda Brooks, Treasurer (Birmingham), Wendell Sims, Regional Steward (Charlotte), Rachel Shonfield, Delegate (Miami), and Rhonda Ellison, Delegate (Nashville).

It is the shared vision of the elected officers to increase their contact with the offices within the Local. This will mean (our or my) participating in union meetings in each office, providing training and development to the stewards as well as offering assistance to the stewards when issues arrive within their respective offices.

As President, my vision is to develop and prepare employees for the future by setting up quarterly training sessions that the offices can elect to participate in. Training topics will be based on the issues relevant to the Local as well as informa-

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## REPORTS FROM THE LOCALS

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tive issues that can benefit the employees; for example, what to do when your job is being audited.

Currently, our Local has at least two offices that do not have telecommute contracts. Outreach assignments and case management have also become problems.

I foresee a heavy agenda for the union in the near future. The Performance Management prototype for investigators, term appointments, year end appraisals, repositioning, etc. are on the horizon. None of these projects in their present form are employee friendly.

Our annual training and meeting is scheduled for October 14, 2004 - October 16, 2004 in Orlando Florida. We anticipate training assistance from AFGE Sixth District and EEOC Council 216. We have tentatively planned to train the stewards and alternate stewards in areas such as, MSPB Filing, EEO, Resolve, Grievance, Arbitration, FLRA and ULP's. We will also develop our Local's strategic plans for this term. I strongly believe that if you fail to plan, you plan to fail.

I recently attended National Council 216's meeting and I am pleased and thankful that the council agreed to provide monetary assistance to the locals in areas of arbitration and training. I look forward to serving the Local and the Council by sharing my talents and skills in whatever areas are needed.

In closing, I would like this opportunity to say farewell to a solid and loyal union member, Zack Taylor, who will be retiring at the end of this year. Zack has served 3599 as a Steward, Chief Steward, Delegate, and Local President. Thanks Zack!

### **Local 3614**

A new revelation came out of a recently completed MSPB hearing in the Baltimore District Office. EEOC asserts that EEOC Investigators are required to adhere to a 180-day case processing standard. Despite the Union's protests against a hard and fast rule that cases must be processed within 180 days,

EEOC argues that EEOC Investigators are aware and bound by the 180-day performance standard. The Agency conceded during the MSPB matter that EEOC Investigators have no set "number" of cases to process and no time deadlines.

An overtime arbitration is set for September 20 - 22, 2004 in EEOC's Washington Field Office.

Local 3614 and EEOC management agreed to have Arbitrator Leonard R. Kershaw hear the matter of whether employees worked "suffered and permitted"<sup>1</sup> overtime, by performing Agency work before the start of their workday, during lunch, after the workday ended, by taking work home on weekday evenings, and by performing Agency work over the weekends and on holidays.

News about the activities of Local 3614 can be found at our website. Please visit us at [www.local3614afge.org](http://www.local3614afge.org). If you are a member of Local 3614, register a user name and password and to the "Members Only" section, too.

<sup>1</sup> "Suffered and permitted" overtime is when employees are working beyond their tour of duty, and supervisors know that but do nothing to stop it. Supervisors have an affirmative obligation to make every effort to prevent employee from working additional hours.

### **Local 3629**

Local 3629 recently filed a Grievance on behalf of all Investigators in the St. Louis District Office and the Kansas City Area Office, challenging Management's use of illegal and unfair performance standards placed upon Investigators. The Grievance contests performance requirements such as a 30-day time limit to process all inquiries, pending inventory levels

of 25 or fewer cases, and other unreasonable requirements. On a related note, Management in St. Louis and Kansas City continue to harass Investigators to reduce the number

of charges taken in the District. Management's efforts to slow the intake of charges may have the

effect of potentially depriving Charging Parties of their rights under the law.

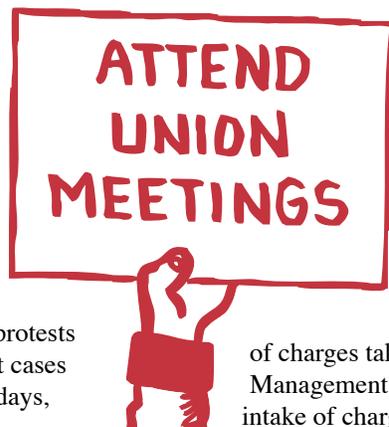
Local 3629 is also representing an employee on a class EEO complaint against the Agency, regarding EEOC's illegal requirement that employees complete medical releases as part of employee "background investigations."

The Kansas City Area Office has had three grievances and one Unfair Labor Practice thus far this fiscal year. Staffing is scant in the Kansas City office, largely the effect of staff's retirement eligibility, and the prospect is this trend will continue to an uncomfortable level before HQ begins to provide replacement staff. Bargaining unit staff in the Kansas City office have had to be detailed to cover a management vacancy. The Union bulletin board in Kansas City was spruced up to provide new information for members and to present the benefits of Union membership as an enticement for increased membership. We are actively networking with other agencies' Locals to address important issues of government employment, i.e., outsourcing, use of temporary employment, pay for performance issues, and other issues.

### **Local 3637**

Local 3637 held its elections in May. The following persons were elected to serve: Levi Morrow-President; Ed Sanchez-Vice President; Frank Zamarripa-Recording Secretary; Cecil Warren-Treasurer; Charles House-Sergeant-at-Arms; Danny Lawson-Chief Steward; and Pamela Edwards-Delegate to the National Council.

In August, three members of the Local attended the National Council Convention held in Las Vegas, NV. Levi Morrow, Danny Lawson and Pamela Edwards. The position of Delegate was previously held by Debra Moser, Ms. Moser relocated to the Memphis District Office which is in Local 3599. On behalf of all the members and officers of Local 3637, we would like to thank Debra for her many years of service to the bargaining unit employees of Local 3637.



# Victory in 2004

## AFGE Pittsburgh Mobilizing & Organizing Conference

Susan Knose

Pittsburgh is nestled at the point where two smaller rivers, the Monongahela and the Allegheny join to form a third stronger river, the Ohio. It is the confluence of these two rivers that made this such a prime location for industry. I'm sure that Pittsburgh was selected as the site of the Mobilizing and Organizing Conference for many reasons. One is that it is AFGE President John Gage's hometown. Another is that it is also home to the Heinz estate, now more properly called the Heinz-Kerry estate. Pittsburgh is home to the Heinz Corporation and the Senator John Heinz (R) Museum of Western Pennsylvania.

Few people seem to be aware that I attended this three-day conference at my own (GS-7) expense. But I looked at the conference as something of a treat rather than a chore. I am very interested in politics, and I looked forward to sharing some fellowship with others who were politically active and who also shared most of my political views, particularly regarding the right to organize and bargain collectively in the workplace.

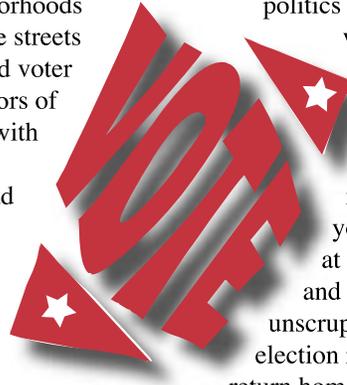
The conference began with a rousing speech by Donna Brazille, former campaign manager to Vice President Al Gore. She also signed copies of her book "Cooking with Grease: Stirring the Pots in American Politics." Following her speech were reports from several AFGE activists from around the country on things they had accomplished in their districts including: keeping a VA clinic open when it was slated for closure and signing up hundreds of new DoD employees into AFGE. About half of our time was devoted to various classes on recruiting new members, doing "Lunch & Learns" or "Slice and Advice" union meetings, observing the Hatch Act, increasing PAC contributions, and recruiting volunteers to work on voter registration/Get Out the Vote activities. Much of the voter data that was collected by AFL-CIO demonstrated how crucial a good voter turnout is among union members. In many, many races and precincts around the country, only a few votes did make the difference (for better or worse).

Saturday morning we participated in a Labor Walk in conjunction with AFL-CIO, WPA (West Pennsylvania) for Kerry, SEIU, and other Locals. We were bused out to various neighborhoods in Pittsburgh and walked the streets with our AFL CIO registered voter lists. We knocked on the doors of union members and talked with them about what their concerns were, whether they had already decided who they would likely vote for in November, and distributed leaflets. I was the most experienced in our group, having served three terms already as Precinct Committeewoman. We were enjoying the experience until a Pittsburgh police officer stopped us and told us we could not continue, and that if we argued with him he was going to take us to jail. Fortunately for us, a neighbor saw this and came out to investigate. It turns out that the neighbor was a member of their local town council. The councilman suggested that the officer speak with his superiors. After checking, the police officer grudgingly allowed us to continue.

This is one small example of why politics is so important to me, and why I can't just sit idly by just waiting to see what happens on TV the day after the election. My father returned from his stint in the Marine Corps to one of the few jobs in his rural hometown. He was then fired from that job for trying to start a union. While I was growing up, we were definitely a "minority" because of our political beliefs and were socially shunned in many ways. In high school, particularly, my grades suffered because I did not share the political and religious views of my history teachers. In my hometown I also knew that no matter what my qualifications, I stood absolutely no chance at all at ever working in any type of state or local government job because down at the voter registration office, the wrong letter was next to my name. When you are in National Honor Society and competing for scholarships, just a few points in your grade point aver-

age can make a big difference. I grew up in a town where the city boundaries were expanded to incorporate more white voters and disenfranchise those who differed in politics and in skin color. Voters who share my views don't dare move outside those city boundaries now because our vote would literally disappear. Speaking of votes disappearing, you should volunteer to assist at the polls some election day and see just how easy it is for unscrupulous persons to "fix" their election results. And now today, I return home from work to find in my mailbox a postcard from the County Board of Elections that threatens to cancel my voter registration unless I sign the card and return it. However, in the signature block the card reads in very small print: "I authorize my voter registration at the previous address(es) marked above, where I no longer live, to be canceled."

AFGE members are a varied and balanced mix of Republican, Democrat and Independent voters. They are advocating for what they believe will help our country, our government, and ourselves. If for no other reason, government employees need to be concerned enough about their own employment to decide to vote this November. I have been laid off from the government before, and it is no fun, let me tell you. It is life-altering—you DON'T want to go there. Even if people choose not to belong to the union, most Americans believe we should have the right to join one if we so choose. At the very least, you need to vote, but we only have 8 more weeks until the election. Don't you want to be able to tell your children that you made at least some small effort to help ensure their future? Do you want to wake up the day after the election wishing you had taken the time to volunteer a few hours? Or made some other contribution? There are many opportunities for you to help. When many people join together, their success flows like a mighty river. Won't you please join with us?



# The Wizard of EEOz: How EEOC's Budget Could Impact Your Future at the Agency

The year is 2007. President Bush's second term is winding down. EEOC's National Contact Center is well into the second year of its "pilot." The contact center and its related expenses ended up costing approximately \$10 million, rather than the \$2 million pricetag represented to Congress. Therefore, reductions in staffing and space were necessary to ensure that the contact center would not be shortchanged. Full time employees at the EEOC now number 1,250, after an expected 50% of the staff retired in the last couple of years. Chair Dominguez's hiring freeze, dating back to 2001, remains basically intact, with the exception of about a hundred short term employees, who may have already been let go by the time this article goes to press. The Commission's ten "mega" offices have been moved to the outer rim of their respective downtown areas. Intake lobbies tend to be empty, because potential charging parties are unable to get to the offices, which are located away from major public transit centers. The ten mega offices are supported by a small sprinkling of satellite intake offices, operating out of strip mall storefronts.

Typically a temporary employee greets "customers," as potential charging parties are now called, who are shepherded to a bank of computers, where they "self-file." Customers who do not speak English are pointed to a set of telephones to speak to an operator, employed by EEOC's call center provider "Callmart." That operator patches in a contract translator, who collects the information for the online intake questionnaire. After self-filing, the customer meets with a term investigator, who, based on no less than a week of training on EEOC's laws, screens out frivolous claims or steers the charge back to the customer's employer for in-house mediation. If the Referral Back Program is unsuccessful a contract mediator tries her hand at resolving the matter. The EEOC picks up the mediator's tab, which has gone up from \$800 to

\$1,000 flat fee. When all else fails, a temp scans the charge into a computer and e-mails it to an investigator working out of his house. For the greater part of the country which does not have a mega office or a satellite intake office, investigators fly to different regions on a rotating basis and provide outreach from mobile units, i.e., rental cars. Charge filings are down! Cause findings are down! Discrimination must be on the decline! The EEOC gets a green-light on meeting the Presidential Management Agenda, which ties performance to results.

This vision may be your nightmare, but it is Chair Dominguez's dream. The Chair is putting up a great show of smoke and mirrors to Congress. She is hoping that she can distract EEOC's oversight committee from the ramifications of the plans she is asking them to fund. If you will recall, the great Wizard of Oz, was nothing more than a door-to-door salesman, who wowed the unsuspecting with empty promises and puffery. Unfortunately for the Chair, the Union has been pointing a giant red arrow at the person behind the curtain, who is trying to pull this slight of hand.

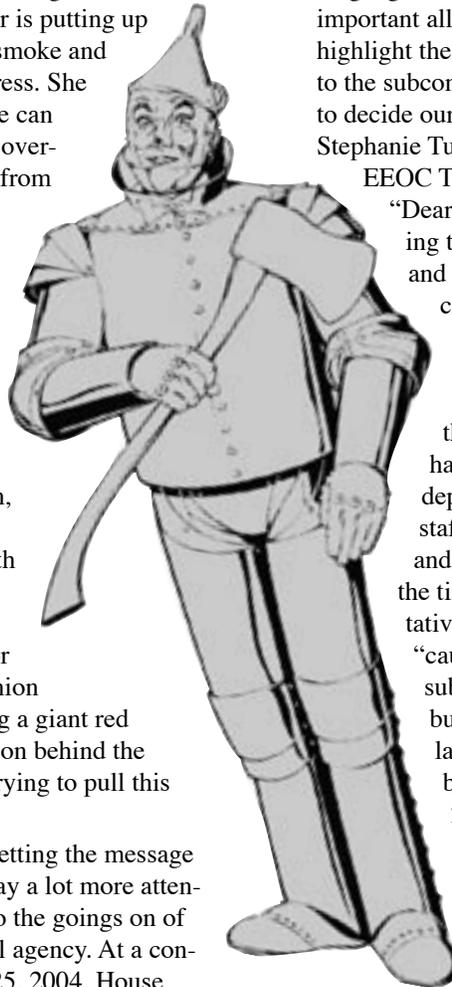
Congress is getting the message and starting to pay a lot more attention than usual to the goings on of a relatively small agency. At a contentious March 25, 2004, House oversight hearing, the Chair was scolded for soliciting bids for contractors for a National Contact Center, before obtain-

ing permission from the subcommittee. The subcommittee Chair Frank R. Wolf (R-Va) and Ranking Member Jose E. Serrano (D-NY) followed up with extensive questions that the agency had to answer for the record, regarding restructuring plans, the call center, mediation, etc. The EEOC's forty page response can be found on the "Legislative" page of the National Council's website at [www.council216.org](http://www.council216.org).

Following the oversight hearing, the next step in the budget process is that a subcommittee of the House of Representatives meets to "mark up" proposed language for our agency's budget. An important ally stepped to the plate to highlight the Union's important concerns to the subcommittee before they met to decide our budget. Congresswoman Stephanie Tubbs Jones (D-OH), a former EEOC Trial Attorney, sponsored a

"Dear Colleague" letter opposing the reduction of field offices and the creation of a privatized contact center. Ultimately 102 House members signed onto the June 8, 2004 letter, thanks to the urging of the National Council, the hard work of the legislative department of AFGE, a tireless staffer in Tubbs Jones' office, and union members who took the time to contact their representatives. We heard that the letter "caused a stir" when it hit the subcommittee right before the budget mark up. The budget language that was approved by the full House on July 8, 2004, is tough on restructuring, serious about oversight, but *does* allow the Chair to go forward with her contact center, if she jumps through a couple of procedural hoops. Congresswoman Tubbs Jones wrote a strong follow-up letter to the Chair, who sent out

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# Dominguez's Dream May Become Your Nightmare

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an all-staff email saying the Commission was moving forward with the call center, apparently ignoring the restrictions put on her by the House.

The budget's next stop is the Senate. There a conference committee will square the House and Senate recommendations, which will result in our final budget. Senator Ted Kennedy came to our aid and sponsored a "Dear Colleague" letter asking that Senate appropriators not allow the Chair to close offices or fund a contact center, when the agency needs the money to replace staff lost during a three year hiring freeze. Twenty-nine Senators signed onto the July 2, 2004 letters, most in key positions on our oversight committees. The subcommittee also received a July 20, 2004, letter from civil rights and employee organizations letting Congress know that the Chair's plans aren't just bad for EEOC employees, they are bad for all employees. Scripted contract operators with seven days training cannot assist the public as well as our experienced employees. The nineteen groups that signed on included: AFL-CIO, AFSCME, NOW, 9 to 5, People for the

American Way, Southern Poverty Law Center, Labor Council for Latin American Advancement, and NELA chapters from around the country.

As you can see, a lot of people have stuck their necks out for us. EEOC employees, Union members and friends must all be involved in this last stretch before the EEOC budget is finalized. This budget will determine our future. It is a question of priorities. Will we restrengthen our ability to enforce laws protecting against employment discrimination by hiring a full compliment of staff and giving them the training and resources needed to do their jobs? *Or*, will we continue to be stretched ever thinner, while our funds are siphoned off to a privatized contact center? You can have a hand in determining which future you will inherit. Make sure that you, your family, friends and co-workers are registered to vote. Regularly check the legislative page at [www.council216.org](http://www.council216.org) to send out the latest action faxes. Go to [www.Senate.gov](http://www.Senate.gov) to find your Senator- fax, e-mail, or call ASAP- ask your Senator not to fund EEOC's call center or allow office closures. Become a legislative captain

for your office by sending me an e-mail at [legco216@aol.com](mailto:legco216@aol.com). Sign up for AFGE "Action News" and AFGE PAC by going to [www.AFGE.org](http://www.AFGE.org).

In addition to the contact center and restructuring, there are lots of other issues out there: Federal Sector "reform"; "term" employees; employees working out of their job descriptions; the specter of the contracting out of Support Staff jobs to name few. Our experience over the last three years had been that legislative activity is effective in fighting an EEOC administration, which is indifferent and/or hostile to our concerns. Remember, once Dorothy exposed the Wizard, he quickly flew out of town in his hot air balloon. Likewise, all of us, individually and collectively, pursuing a legislative program together can expose the Chair's harmful plans and see a re-birth of a strong assertive EEOC.

If Dorothy could bring down the Wizard, all of us together can expose the Chair's harmful plans and restore the EEOC to its civil rights enforcement mission.



**John Gage**  
National President

## A Message from AFGE President John Gage Your Vote Counts!

- ✓ In 1776, one vote gave America the English language instead of German.
- ✓ In 1845, one vote brought Texas into the Union.
- ✓ In 1868, one vote saved President Andrew Johnson from impeachment.
- ✓ In 1876, one vote changed France from a Monarchy to a Republic.
- ✓ In 1876, just one vote made Rutherford B. Hayes President of the United States.
- ✓ In 1920, the 19th amendment which gave women the right to vote passed by just one vote in Tennessee, the last state needed to pass the amendment.
- ✓ In 1923, one vote gave Adolph Hitler leadership of the Nazi Party.
- ✓ In 1939, one vote passed the Selective Service Act.
- ✓ In 1960, just one vote per precinct elected John F. Kennedy.
- ✓ In 2000, George Bush won the state of Florida and thus the presidency by just 546 votes, out of millions cast. In New Mexico he won by just 366 votes.

Your one vote can make a difference.  
Please vote on Tuesday, Nov. 2!

# National Council Meets

*Continued from page 1*

garding Support Staff was to conduct an on-line survey specifically geared toward this group and their issues.

From the above topic flowed a related discussion about Case Management. The problems identified were: lack of uniformity from office to office and even intra office; that the process was often not participatory nor collaborative; that employees were being impermissibly evaluated on "goals." The prime example on the latter being Investigators receiving lower evaluations or being placed on PIPs based upon "180 day" cases. All the cited problems created a situation where the independence of Investigators was being usurped. This has promotion implications. The conclusion was that, in offices that have some form of "oversight," e.g. a micro managing supervisor or a "review team," that Investigators go into such meetings with a plan that they can present. A recent third step grievance decision from Local 3637, was discussed, wherein EEOC Chief Operating Officer Lea Guarraia stated, "[t]here is no current requirement that Investigators complete every investigation in 180 days." Likewise, this decision is available at the Council's website, [www.council216.org](http://www.council216.org).

There was discussion on the utility of continued participation in Labor-Management Council meetings (See Article 7 of

the Collective Bargaining Agreement). It was decided that the National Council continue such participation.

Telecommuting still presents problems in some offices. It was noted that OPM and Congress were requiring agencies to increase the number of employees utilizing Telecommuting.

The Council examined whether the EEOC was in violation of regulations governing the hiring of "term" employees i.e. employees hired for a specified period (four years maximum).

Given that EEOC's next year budget allocation was less than anticipated, the question arose as to whether the hiring for 100 positions, which had been budgeted, will be realized. The Council is also confirming that term employees will be part of the bargaining unit and whether the agency is hiring term employees in violation of personnel regulations.

Regarding Federal Sector, it was reported that AFGE had filed a ULP on behalf of Local 3614 with the FLRA claiming that the EEOC had failed to bargain in good faith when it implemented a "triage" system in the Washington Field Office. The Council continues to work with AFGE and concerned organizations on the Federal Sector issues. The latest wrinkle in some Locals is that AJs are being directed to conduct hearings by

telephone. AJs assert that one major problem in doing so is that it does not allow them to make credibility assessments.

Gabrielle Martin, Council President reported on the progress of the EEOC's Performance Management work group (the work group tasked with developing a new evaluation instrument). Council delegates articulated a number of concerns. Martin urged *all* bargaining unit members to email concerns to either her or Levi Morrow. "Those e-mails," Martin said, "are our ammunition to achieve the best evaluation instrument possible." Martin also reported that the response to the Council's Overtime survey had been received but the number of responses was low. Additionally, Martin reported that the Staff Development Enhancement Program (See Article 18.16) is ready to receive applications for field offices to serve as "host" offices for the program. The selected participants will all be Support Staff and the position for which they will receive training for is that of Investigator.

With all that done, the Council turned to developing a Strategic Plan. The Council devoted more than a day to bringing all the factors together and formulating actions to be taken. A cornerstone of the Strategic Plan will be continued legislative activity which has proven effective over the last several years. To that end, when the Council returned to discussing the budget, funds were earmarked for participation in AFGE's February Legislative Conference. The Council also voted to make money available to the eight Locals for the purpose of training officers and stewards, who perform representational duties. A small portion of each Local's share is intended for membership building purposes. See your steward and local president for details.

The Council meeting concluded with the administration of the Oath of Union Officers to the elected National Council officers followed by a reading of the Oath of Union Membership by Stephanie Perkins, Election Committee Chair and Delegate for Local 3504.



*Council members: From left, back row: Johnnie Johnson (HQ), Charles Mayfield (Albuquerque), Levi Morrow (Dallas), Gabrielle Martin (Denver), Joe Wilson (St. Louis), Sharon Baker (Louisville), Rachel Shonfield (Miami), Rhonda Ellison (Nashville). Middle row: Stephanie Perkins (Detroit), Pat Floyd (HQ), Regina Andrew (Baltimore), Kathy Harmon (Richmond). Front: Michael Davidson (Chicago) and Pamela Edwards (Houston). Not pictured: Ricardo Cuevas.*



## VISIT OUR WEBSITE

The National Council of EEOC Locals No. 216 website is online.

[www.council216.org](http://www.council216.org) contains the CBA, decisions affecting our local unions, legislative information, news, contact information, and useful links—just to name a few.

Check out [www.council216.org](http://www.council216.org). Visit the contact us section and tell us what you think about the website, or anything else that comes to mind. We welcome your comments and suggestions.

## POINTS TO PONDER

- **Why does** the format of this year's EEOC FAIR INVENTORY make it next to impossible to know which jobs EEOC believes can be contracted out?
- **Did** the Chair attend the Republican Convention instead of EEOC's Excel Conference in Las Vegas where she was scheduled to appear?
- **Is** EEOC abusing its hiring authority by hiring primarily "term" employees?
- **How long** will it take EEOC to update decades old Position Descriptions (PDs) which it claimed it began a couple years ago?
- **How can** EEOC implement a new Performance Management (evaluation) system without updating PDs which is the measure by which employees are evaluated?
- **How can** EEOC Chair Dominguez insist that jobs will not be lost through Restructuring when, in fact, hundreds of jobs have already been lost to attrition through her three year hiring freeze?
- **What is** the criteria for hiring career employees versus "term employees"? Why the difference?
- **When is** the Commission going to roll out its Federal Sector "reform" proposal?
- **What will** life be like (at EEOC and elsewhere) after November?
- **How many** offices can one Director effectively manage? Which Director oversees the most offices?

*We know of one Director who oversees five offices. -ed*

- **Are EEOC Investigators** and Mediators still eligible for overtime under the new overtime law which became effective on August 23, 2004?

*Coming soon to [www.council216.org](http://www.council216.org) will be info on the overtime law. -ed*

- **Why do** offices make it so difficult for hard working employees to get deserved promotions? Does this practice help retain employees?
- **When will** EEOC either compensate employees for working overtime or hire enough employees to avoid overtime?
- **Why won't** EEOC train its own employees but will spend millions of dollars of its own money developing training for contractors?
- **Why does** EEOC insist on "darken-the-door" clauses (EEOC Complainants need not reapply) with its own employees when EEOC abhors such clauses in its Consent Decree with private employers? Isn't this a double standard?
- **How can** EEOC Chair Dominguez claim she won't close offices, but yet she relies on the NAPA report which recommended "having fewer field locations and a National Call Center."

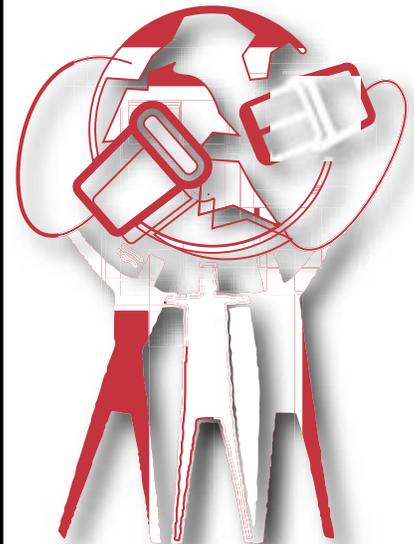
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# AFGE

## ACTION NEWS

## Wal-Mart: The Dark Side of the Force

The image of the behemothian Wal-Mart we see on TV is one of a benevolent retailer, offering cost savings and utilizing the talents of senior citizens. It portrays Wal-Mart employees as happy and carefree; of customers delighted to be saving money on quality products. We have seen Wal-Mart stores burgeoning in a multitude of small towns across the country. We have seen the 18 wheel semis bearing the name "Wal-Mart" on its sides cruising along the highways. All of this seems to epitomize the entrepreneurial American spirit of rags-to-riches success and of a benevolence toward those who made such success possible. But, the reality explodes the image.

Wal-Mart has its roots in rural America. However, of late, Wal-Mart has been

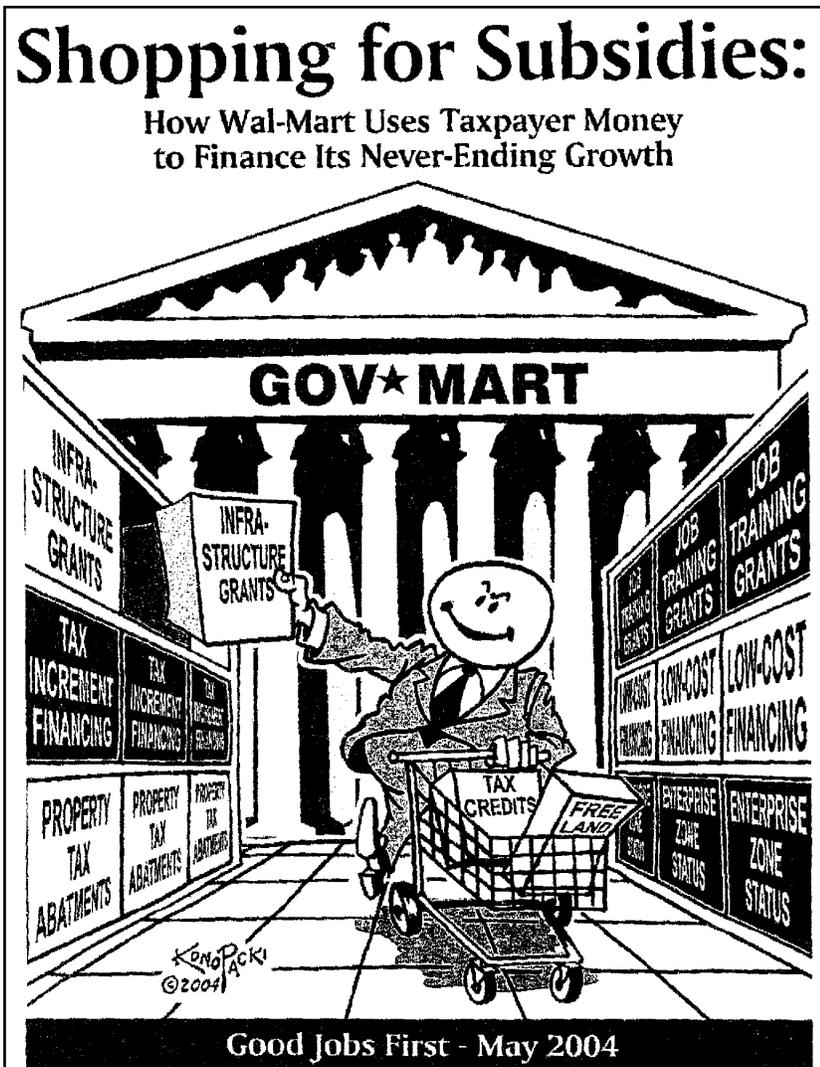
seeking to push the envelop and take over more of the market share. It is doing so by expanding to major city markets. Wal-Mart's campaign to convince communities to allow such expansion stresses the nice-sounding themes of community development, jobs and low prices. But, let's look deeper!

Wal-Mart is the biggest retailer in the world. In fact, "Wal-Mart's earnings are greater than that of Sears, Target, Kroger, Safeway, K Mart and J.C. Penny *combined*." (Article by Mary Conroy, 4/04) [emphasis added]. Wal-Mart earns \$256 billion in annual sales and 20 million shoppers visit its stores *each day*. (Article by Steven Greenhouse, 4/04). Last year, the corporation made nearly \$9 billion *in profit* and paid its CEO H. Lee Scott more

than \$12 billion in total compensation. [www.atwork@afcio.org](http://www.atwork@afcio.org). Wal-Mart relies on technology to the extent that Wal-Mart headquarters in Bentonville, Ark. controls the temperature in everyone of its more than 3500 stores in the country. Computers track every aspect of the business including shipments here and abroad, workers' hours and productivity and a multitude of other statistics. One store manager claimed that he could pick any day and find out how much sales any given store made and how much was rung up by any given cashier at that store within specified hours. (Greenhouse). Wal-Mart's size makes it imperious to price undercutting; it squeezes its suppliers either out of business or the community or out of the country; and, it relies on overseas sweatshops. These statistics are just the tip of the iceberg.

But, Wal-Mart is not a good neighbor as it claims. When seeking new stores, it pulls out all the stops when any opposition appears. It pours millions of dollars into a campaign that is loose with the truth; it gouges municipalities out of huge tax grants; it sells the advantage to the community of jobs and low prices. But, the majority of jobs are part-time, low paying and very few of its employees enjoy the benefit of health coverage. Moreover, Wal-Mart employees earn less, on average, than employees at other retail stores. In other words, Wal-Mart actually drives wages down. "Wal-Mart is dangerous because of its ability to crush its competition, act as a monopoly and swallow up the indigenous retail life of communities." (Chicago Sun-Times Letter to the Editor, 5/04). The presence of Wal-Mart is, in all too many instances, the death knell for communities. Rather, than creating jobs, it has been documented that jobs are lost in greater numbers than are created by Wal-Mart's presence.

And, Wal-Mart has a virulent and abysmal anti-union record. Newly hired employees are required to watch an anti-union film. Any manager learning of any union activity is required to call a 24 hour hotline. Then, a ten person team is dispatched to talk to employees. Wal-Mart is



Continued on next page

## Labor Corner Continued

# Communities Thwart Wal-Mart's Efforts to Infiltrate Neighborhood

*continued from previous page*

not above retaliation for union activity or other "protected" activity. EEOC Investigators and attorneys can attest to Wal-Mart's continuous obfuscation and obstruction of investigations of discrimination.

Despite its immense power, Wal-Mart had been thwarted in its efforts to claw its way into communities. Inglewood, California residents did so. In Chicago, Illinois, Wal-Mart sought to build two stores in the city. It obtained only one.

There is another way of doing business. The April, 2004 issue of Business Week compared Costco with Wal-Mart's Sam's

Club. The article, written by Stanley Holmes and Wendy Zellner, shows that Costco is 20% unionized; has a lower turnover rate (6% vs. 21%); pays its employees 40% more than Sam's Club "[a]nd, by every financial measurement, [Costco] does better. (Article by Jonathan Tasini, pres., Economic Future Group, 4/04).

So, there is a better way. When Wal-Mart knocks on your community door, think twice.

*Much more information is available about Wal-Mart at [www.aflcio.org](http://www.aflcio.org) and [www.ufcw.org](http://www.ufcw.org).*

## Wal-Mart Quick Facts

- Wal-Mart is the world's largest retailer. It is the largest corporation and private employer in the United States.
- Wal-Mart is the biggest employer in 25 states. They set the standard for wages and labor practices.
- Wal-Mart employs 1.4 million workers worldwide and over 1 million in the United States. More than half of Wal-Mart's U.S. employees leave the company each year.
- Wal-Mart has more than 3,000 stores in the US and almost 1,300 International operations.
- The Walton family is worth about \$102 billion.
- Wal-Mart ranked #1 on the Fortune 500 list of corporations in 2001.
- Wal-Mart is the top U.S. seller of products ranging from dog food to diamonds with sales of \$244.5 billion in the fiscal year ended January 2003 up from \$220 billion in 2001.
- In 1970, the country's largest employer was General Motors, with 350,000 workers. Overwhelmingly union, they earned \$17.50 an hour plus health, pension and vacation benefits and cost-of-living increases. Today, the country's largest employer is Wal-Mart, with over 1 million US workers. They earn an average hourly wage of \$8.00, with no defined benefit pension, and inadequate health care.
- Wal-Mart was sued 4,851 times in 2000—or about once every 2 hours, every day of the year. Wal-Mart lawyers list about 9,400 open cases," according to a report published in the August 14, 2001, USA Today newspaper.
- Wal-Mart plans to open only 15 to 20 of the traditional food-and-drug combo stores in 2003, down from previous projections of 20 to 25 outlets. It will open 210 supercenters, the high end of its previous development range for that form

*The following is a reprinted letter to the editor from the April 20<sup>th</sup> Las Vegas Sun*

## Self-Checkout Takes Away Jobs at Grocery Stores

On a recent trip to my local Albertson's to buy a few items, I noticed these self checkouts but went to a regular checkout anyway. An assistant manager came up to me and asked if I would not like to use the self checkout instead. I said "no." He made the mistake of asking why. Here was my answer and I said it loud enough so that other customers could hear:

When I go to a store, whether it be a grocery store, department store or hardware store, I want customer service from a human being. That person behind the cash register earns money, pays taxes that support the community and buys at other stores that also employ people who work and support the community.

That machine, on the other hand, does none of that. It takes away a job and I feel that there have been enough jobs taken away by companies overseas that we don't need to do it anymore here. It pays no taxes, supports no other businesses. It only goes to create a bigger paycheck for a CEO. So as far as I am concerned you can get rid of those machines. I will never use them. And I think it's shameful that people do not think about the consequences when they do use them.

*Self service machines are spreading! Home Depot and gas stations have them. Even Las Vegas casinos have automated machines to convert coins to paper money. All of these, ultimately, translate into jobs.*

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## EEOC Files ULP vs. Council

One outcome of the very first Labor-Management Council meetings in September 2003 (See Article 7) was an agreement to negotiate a Memorandum of Understanding (MOU) regarding surveys. Occasionally, the EEOC or some other government agency wants to gather information on given topics for various reasons. The Survey MOU would govern the procedures used in those instances. Negotiating on behalf of the National Council of EEOC Locals, No. 216 (the Council) were Michael Davidson (Chicago) and Rachel Shonfield (Miami). Negotiating for the EEOC was Diane Holt-Norwood. Over a period of time proposals were exchanged between the Council team and Norwood. The gap was narrowed to one or two outstanding provisions. On several occasions, the Council team believed that an agreement had been reached. This was based upon Holt-Norwood's statement to that effect. However, once Holt-Norwood reported to her boss, Joanne Riggs, Director of the Office of Human Resources (OHR) Riggs overruled Holt-Norwood's oral agreement. So, it was back to the table. An agreement was finally reached on August 5, 2004. One of the terms of the MOU was that it was supposed to be distributed to bargaining unit employees. If you have not received it, it will be posted on the Council website shortly ([www.council216.org](http://www.council216.org)). But there is more...

During the time that the MOU was being negotiated, the EEOC was in the process of directing employees to

complete a government-wide Office of Management and Budget (OMB) directed Management Cost Accounting survey. The purpose of that survey was to determine the amount of time employees spent on duties associated with their job title. The Council was given advance notice of the survey and provided a copy of it. Around this time, mid-July, Davidson had advised Council Chief Negotiator Levi Morrow that agreement on the Survey MOU was near (relying on Holt-Norwood's oral agreement) and that he expected it to be signed off on by early the following week. Based on Davidson's estimate, Morrow suggested that EEOC postpone the Management Cost Accounting Survey until negotiations regarding the Survey MOU were completed. Council President Gabrielle Martin emailed Council delegates that "... We anticipate that the [Survey] MOU will [be] completed early next week. Therefore, please advise employees to hold off on completing the Management Cost Accounting Survey until the very last moment. That way, employees will have the benefit of the MOU..." The deadline was July 28, 2004. EEOC did not wait but disseminated the survey to employees with instructions on how to complete it. It is not true, as Leonora Guarraia, Chief Operating Officer stated in a letter, that the Council did not respond.

On or about July 27, 2004, Morrow and Council President Gabrielle Martin had a phone conference with Riggs and Holt-Norwood. At that time Riggs advised that EEOC was withdrawing the MOU from

negotiations. She also advised that EEOC was filing an unfair labor practice (ULP) charge against the Council with the Federal Labor Relations Authority (FLRA). The ULP alleged that the Council had bargained in bad faith and that the Martin email "... is tantamount to the implementation of a slow down."

Several days later Holt-Norwood contacted the Council negotiating team to resume bargaining on the Survey MOU. An agreement was reached and the parties signed the MOU on August 5, 2004.

Council negotiator Davidson stated, "The 'bad faith' allegation is ludicrous. That shoe doesn't fit the Council but I think it is a perfect fit for EEOC. The Council had decision makers at the table. EEOC did not. On several occasions we relied upon EEOC's negotiator that an agreement had been reached only to have that overruled by the absent decision maker for EEOC."

Council Chief Negotiator Levi Morrow stated, "The past practice over the past 25 years has been that a decision maker participates in these type of negotiations. Over that period of time whenever an agreement in principle was reached, the parties considered it a done deal and honored the agreement. This present EEOC administration has changed a lot of the rules. This ULP has no substance to it and has no basis in fact."

The Council will respond to the ULP. One of the Council's options is to file its own ULP against the EEOC.

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