

SPECIAL SESSION, THURSDAY, MAY 21, 2020

SPECIAL SESSION

May 21, 2020

The Legislature convened in Special Session at 4:34 p.m. today.

The Legislature was called to order by Chairman Brescia with a moment of silence and the Pledge of Allegiance to the Flag followed by a moment of silence and to please remember former Legislator Ruth Kassel who passed away on May 5, 2020, and Rodney Bednarek's Mother, who recently passed, and for all those affected by the Coronavirus and the families of those who have unfortunately passed away.

On roll call, all members were present.

The Clerk read the Notice of Special Meeting. On motion the same was received and ordered placed on file.

Public Participation will be postponed to a future Legislative Session but the public is invited to send their written comments via email to Jramppen@orangecountygov.com

JOINT- PERSONNEL AND COMPENSATION AND WAYS AND MEANS COMMITTEES:

Sponsors: Stegenga, Luján, Vero, Benton, Anagnostakis, Bonelli, Sutherland, Hines, Kulisek, Paduch
Co-Sponsors: Amo, Cheney, Faggione, Minuta, O'Donnell, Ruszkiewicz, Sassi, Sierra, Tautel, Tuohy, Brescia

RESOLUTION NO. 122 OF 2020

RESOLUTION CREATING A VOLUNTARY SEPARATION AGREEMENT FOR ORANGE COUNTY EMPLOYEES.

WHEREAS, as a result of the COVID-19 Pandemic, a Voluntary Separation Agreement (VSA) has been negotiated with CSEA, PBA, COBA, SOA, and the Orange County District Attorney's Criminal Investigators Association; and

WHEREAS, the purpose of this request is to provide the Voluntary Separation Agreement (VSA) incentive to County employees.

NOW, THEREFORE, it is hereby

RESOLVED, that this Legislative body supports and hereby authorizes the development of a Voluntary Separation Agreement (VSA) to County employees, with a summary of the incentive as follows:

- Voluntary Separation Agreement incentive payment of \$10,000.00 for employees with 10up to 20 years of full-time County service; \$12,500.00 for 20 up to 30 years of full-time County service; and \$15,000.00 for 30 plus years of full-time County service.
- This Voluntary Separation Agreement applies to full-time employees only.

- The employee must notify the Department head and Commissioner of Human Resources in writing of his/her intent to leave County service and take advantage of the incentive on or before June 12, 2020 at 5:00 p.m.
- The Employee must separate from County service on or before June 30, 2020.
- The Department head and the Commissioner of Human Resources must approve of the voluntary separation in writing on or before June 19, 2020.
- The amount of the incentive payment must be saved by the Department's interim vacancy savings and/or the reduced cost of a new employee. Department heads are highly encouraged to support employees wishing to take advantage of the incentive.
- Employees who take advantage of this incentive shall have the opportunity to have the incentive payment made into a tax-exempt account at the employee's option (deferred compensation account).
- The County will replace those who take advantage of the Voluntary Separation Agreement with employees as the County deems necessary; and it is further

RESOLVED, that County Officers and Employees may take such actions as are necessary to implement this Resolution; and it is further

RESOLVED, that all employees may apply for the Voluntary Separation Agreement, however, all approvals are subject to the discretion of the Department Head; and it is further

RESOLVED, that the amount of the incentive payment must be saved by the Department's interim vacancy savings and/or the reduced cost of a new employee; and it is further

RESOLVED, that Employees who take advantage of this incentive shall be deemed resigned or retired on or before June 30, 2020; and it is further

RESOLVED, the Budget Director and any other officers or employees of the County is/are authorized within each Department, to cause such steps as may be necessary to pay for this incentive and make such transfers as are necessary to effectuate this purpose; and it is further

RESOLVED, that the amount of the incentive payment shall be subject to all usual and customary taxes and withholdings. Such amount shall not, however, under any circumstances, be used in the calculation of any retirement benefit calculated by the New York State Employees' Retirement System or other applicable retirement system; and it is further

RESOLVED, that payment under this Resolution shall be made within thirty days of the employee's separation from County service, and after the execution of necessary documents under applicable law to protect the County against claims for the acceptance of this incentive by the employee, as determined by the Commissioner of Human Resources in consultation with the County Attorney; and it is further

RESOLVED, that this agreement shall take effect after both parties, the County and any applicable negotiating unit, have agreed to the terms and conditions as required by law and as otherwise provided for herein; and it is further

RESOLVED, that this Resolution shall take effect on May 21, 2020 and shall not apply to any persons who resigned or retired or submitted their application for service retirement on or before this effective date.

Seconded by Mr. Ruszkiewicz.

Chairman Brescia thanked Commissioner Gross and both County Executive Neuhaus and Deputy County Executive Porr for bringing this to the Legislature. Mr. Porr sent out a few memorandums on different ways to save the county money. He thanked Mr. Vero and Mr. Benton for their work guiding it through the Personnel and Compensation and the Ways and Means Committees.

Mr. Vero stated that this is a voluntary program for the employees of Orange County. No one is being forced to do anything, it is strictly voluntary and in some cases he felt it was to their benefit. They are at unprecedented times now and this is one way that will help with the county budget and cut expenses.

Mr. Benton thanked the County Executive's office and Mr. Gross. Some of us older members of the Legislature experienced these types of incentive programs with the past County Executive so there was a template to follow. No one is better at giving us statistics of members, years of service, what employees are eligible for and dollar amounts than Commissioner Gross. He has done a tremendous job and thanked him.

Mr. Lujan noted that they were in unprecedented times and it is great to see what Commissioner Gross is doing along with the rest of the county staff. He was hopeful that this will be a model for other organizations that can do this type of progressive work to help the employees. This is thinking outside the box and he applauded the hard work by Commissioner Gross. He mentioned that there seemed to be a struggle with unemployment and the lag time for people to get paid which had him a little concerned. He was in full support of both resolutions.

Mr. Paduch stated that this is important to save some revenue and maybe generate additional money so they can make it through this crisis. He added that Mr. Gross has always done a great job and brings important matters to their attention. He hoped that a lot of people take advantage of it to help save the county some money. He thanked Commissioner Gross.

Mr. Sierra asked Chairman Brescia about the memos Mr. Porr provided on different ways to save the county money and if that can be shared.

Chairman Brescia responded that they will be discussing them in the near future. Most of them was the 15% reduction in all department budgets. Leadership will be addressing that very shortly and will distribute to others.

Mr. Sierra stated that he raised the question to Ms. Slesinski regarding the vacancy positions, she sent an email and copied all members of the Legislature. He took note of the \$10.2 million savings and asked if that was being considered.

Chairman Brescia was unsure but added that he believed it was going to be addressed at the Personnel and Compensation Committee meeting with Mr. Gross providing a more detailed report on that.

Mr. Sierra asked when they will receive the information that Mr. Porr provided and Chairman Brescia replied that they should see something soon and it will be provided to the entire Legislature.

Mr. Sierra stated that he planned to vote in favor of the two resolutions, but he believed it would also come with issues that can be addressed later on. He is aware that they are in unprecedented times and there will be some problems but they will handle it when it happens because they need to do what they need to do in order to save the county's budget this year.

Mr. Benton advised Mr. Sierra that Ms. Slesinski planned to provide a department update at the Ways and Means Committee meeting on Wednesday so if he wanted to join the meeting she can address that.

Mr. Sierra thanked Mr. Benton for letting him know.

The vote resulted as follows:

Ayes: Bonelli, Paduch, Amo, Anagnostakis, Benton, Cheney, Faggione, Hines, Kulisek, Luján, Minuta, O'Donnell, Ruszkiewicz, Sassi, Sierra, Stegenga, Sutherland, Tautel, Tuohy, Vero, Brescia

Ayes 21; Noes 0; Absent 0; ADOPTED.

Sponsors: Stegenga, Luján, Vero, Benton, Anagnostakis, Bonelli, Sutherland, Hines, Kulisek, Paduch

Co-Sponsors: Amo, Cheney, Faggione, Minuta, O'Donnell, Ruszkiewicz, Sassi, Sierra, Tautel, Tuohy, Brescia

RESOLUTION NO. 123 OF 2020

RESOLUTION CREATING A VOLUNTARY TEMPORARY LAYOFF PROGRAM FOR CERTAIN ORANGE COUNTY EMPLOYEES.

WHEREAS, as the result of the COVID-19 Pandemic, a Memorandum of Agreement for a Voluntary Temporary Layoff Program has been negotiated with the County of Orange and the Civil Service Employees' Association; and

WHEREAS, the purpose of this voluntary program is to save taxpayer dollars during this time, while granting employees additional options for extended leave; and

WHEREAS, no employee is obligated to take advantage of this program, but those who choose to do so will be subject to certain terms and conditions as stated in an agreement between the County of Orange and CSEA, Inc., some of which are stated herein below.

NOW, THEREFORE, it is hereby

RESOLVED, that this Legislative body supports and hereby authorizes the development of a Voluntary Temporary Layoff Program to County employees, with a summary of the program as follows:

- The Voluntary Temporary Layoff Program will be available to certain eligible employees from the date of June 1, 2020 through July 31, 2020, unless terminated earlier by agreement between the County and the Union. For purposes related to Unemployment Insurance, this Voluntary Layoff equates to a temporary layoff. This is not a layoff under Civil Service Law involving positions to be abolished. An employee on temporary layoff shall be returned to work upon the conclusion of their temporary layoff with no change in assignment, shift, department, or seniority, unless mutually agreed to by the employee and County.
- Employees on temporary layoff may request to end the temporary layoff early and return to work earlier than anticipated by providing written notice via email to the Department Head at least seven (7) days prior to the employee's requested return date. Such request will be approved.
- All employees are invited to apply for the Voluntary Temporary Layoff Program; however, the County reserves the right to identify positions eligible to participate in the Voluntary Temporary Layoff Program based on the needs of the Department. Positions critical to health, public safety, and public welfare will be comprehensively reviewed by each Department Head. The County and the Union understand that individuals in critical positions have a greater chance of being denied temporary layoff due to the nature of the work as a result of the current COVID-19 crisis. County Department Heads have full discretion with respect to the approval or denial of temporary layoff. All requests, approvals, or denials shall be in writing.
- The Union and the County agree that employees in the following County Departments are excluded from participating in this Program unless otherwise agreed upon in writing by both parties: Valley View, Health Department, Emergency Services, and Probation.
- Temporary layoffs will be instituted in month long increments for June and July and a request can be made for one or both months. Departments will balance their operational needs with temporary layoff requests.
- All applications for temporary layoffs in June must be submitted to the Department Head on or before 5:00 p.m. on May 27, 2020. The Department Head will notify the employee of the decision in writing to grant or deny temporary layoff by close of business May 29, 2020. The application form will be located on the County website at www.orangecountygov.com on the Department of Human Resources webpage.
- For those employees wishing to apply for temporary layoff for only the month of July, applications are due to the Department Head on or before June 15, 2020 at 5:00 p.m. The

Department Head will notify the employee in writing of the decision to grant or deny layoff by June 19, 2020.

- Eligible employees may apply for NYS Unemployment Insurance Benefits with the NYS Department of Labor and the County will not protest any such application.
- In the unlikely event that an employee is denied Unemployment Insurance benefits, the employee must immediately notify their Department Head in writing and provide supporting written documentation that shows the employee applied for Unemployment Insurance and was denied. The employee may seek to return to work. The County will make every attempt on a case-by-case basis to make the employee whole for the period of time for which they were denied.
- Health Insurance - It is the responsibility of the laid off employee to continue the employee's contractual premium contribution(s) as stated in the Collective Bargaining Agreement for health insurance, dental, and vision during the entirety of the temporary layoff.
- NYS Retirement – Temporary layoff time will not be counted on service credit with the NYS Retirement System. Since laid off employees are not on the payroll, no hours will be reported to the NYS Retirement System. If an employee has an active loan with the NYS Retirement System, it will be their responsibility to arrange for continued payment to the State.
- Elected Payments – It will be the employee's responsibility to directly pay any third-party payments that are automatically deducted from the employee's paycheck by payroll.
- Deferred Compensation contributions and those related to any flexible spending accounts will not be deducted from the employee's paycheck during the temporary layoff period.
- Employees on temporary layoff will not earn any leave accruals while on layoff. The County will maintain any earned leave balances as of the date the employee's temporary layoff commences.
- All employees on temporary layoff will retain their Civil Service rights, retention, and seniority dates; and it is further

RESOLVED, that County Officers and Employees may take such actions as are necessary to implement this Resolution; and it is further

RESOLVED, that this Resolution shall take effect on May 21, 2020.

Seconded by Mr. Ruszkiewicz.

Ms. Reed stated that the Deputy County Attorney, Ms. Worthy-Spiegl, was lead counsel in negotiating both agreements with all the county unions.

Ms. Worthy-Spiegl stated that Mr. Hines had a very good question which was whether or not it is legal to collect unemployment on a voluntary leave from the county. She spoke with counsel for New York State Association of Counties and his associate along with their outside counsel and all of them reviewed the agreement with CSEA. The reality is that the county retains the unilateral right to grant or deny the individual's request to be considered for a layoff and because of that, if there is no work, the request can be granted. If there is work, the county can deny it. There is an exception in the labor law that applies to these types of furlough requests. She was confident that they were on solid ground legally with the agreement.

The vote resulted as follows:

Ayes: Bonelli, Paduch, Amo, Anagnostakis, Benton, Cheney, Faggione, Hines, Kulisek, Luján, Minuta, O'Donnell, Ruszkiewicz, Sassi, Sierra, Stegenga, Sutherland, Tautel, Tuohy, Vero, Brescia

Ayes 21;

Noes 0;

Absent 0;

ADOPTED.

Mr. Sierra asked if they can receive an update on how many people and from which unions take the incentives and to please keep everyone posted. It does not need to be during a committee meeting, an email would be sufficient.

Chairman Brescia responded that they will try to get that to everyone next week.

Mr. O'Donnell stated that the County Executive was going to speak with the Governor about opening the county. We should all call our elected officials in Albany and tell them they need the government open now. It is a bipartisan issue. Everyone is aware of the six feet social distancing. They are losing \$1 million in revenue per week.

On motion of Mr. Anagnostakis, seconded by Mr. O'Donnell, the Legislature adjourned at 4:53 p.m.

ADJOURNED.

Jean M. Ramppen, Clerk