

## Saskatoon Civic Middle Management Association Organization Formation Overview

January, 1999

### Background

At a meeting held in March 1996 a group of members from the Exempt Staff Association (ESA) initiated steps to establish a new organization that is now known as the Saskatoon Civic Middle Management Association (SCMMA). The objective of our organization is best summarized in Article III of our founding constitution, which states:

"The Association is formed with the objective of uniting all workers so employed in order to advance and safeguard their economic and social welfare and to represent their interests in transactions between such employees and their employer, the City of Saskatoon."

To better understand the significant meaning behind this objective, it is important to know the reasons why SCMMA was formed as a middle management bargaining unit. There are essentially three events that resulted in the formation of SCMMA.

#### 1. Updating Union Certification Orders (Scope Review).

In 1994, the Canadian Union of Public Employees (CUPE) began negotiations with the City to update their certification orders. The process involved a scope review of ESA positions to determine what positions should not be considered as "out of scope" positions by definition under the Labour Standards Act.

During the early 1990's, there were fewer and fewer job postings for CUPE members for economical and political reasons. There were fewer labourers, technologist, and clerical jobs becoming available. During this period CUPE perceived that any new positions that were being posted were for out of scope positions that their members could not exercise seniority, if qualified, to obtain these new positions. CUPE also became concerned that potential revenues as members' dues from new positions were dwindling because it appeared that the majority of the new positions being posted were out of scope. CUPE decided to approach the City to enter into scope review negotiations of ESA positions in late 1995 and early 1996.

Around the same time, the Dorsey Commission completed its investigation into appropriateness of membership in the Health Care Industry. As a result of this investigation, the Dorsey Commission recommended that positions represented by CUPE were more appropriately represented by other bargaining units. This recommendation could have had a great impact on CUPE locals throughout the Province because of the possibility of lost revenues as a result of the loose of members to other jurisdictions. This indirectly may have also influenced the local CUPE Union under contract with the City to pursue new revenue sources by updating their certification orders through a scope review of ESA positions.

## 2. Scope Review Incumbency Protection for ESA Members.

ESA members first learned about the scope review between the City and CUPE of approximately 80 positions when various departments were asked to revise existing job descriptions of the positions under review. Information coming back from Human Resources to senior management indicated that management job descriptions should include references to the "hire, fire, promote, demote, and access to confidential labour relations issues" criteria that labour standards use as criteria to define out of scope positions. As these job descriptions were being updated ESA was very concerned about the City securing some form of incumbency protection for individuals currently holding positions that were deemed to be exempt that may fall to CUPE. There appeared to be a lack of commitment by the employer to ensure incumbency protection during the scope review negotiations with CUPE.

ESA's concern for incumbency protection heightened when the City had arrived at a tentative agreement with CUPE that would see two existing ESA positions in the Planning Department going to CUPE and two more positions that would proceed to the Labour Relations Board to determine placement. This tentative agreement came to a complete surprise to exempt staff and their reaction was predictable. Given that there had been no participation by any member of ESA in these negotiations, it became evident that matters of concern were escalating. It was clear to ESA members that neither the City nor CUPE had any intentions of including the ESA in the discussions surrounding whether positions fell in or out of scope, or for drafting any agreement on incumbency protection for positions currently in ESA that would fall to CUPE.

## 3. Classification Review Implementation.

Another factor that was causing some uneasiness among managers was the employer's plans to design and implement a classification review of exempt staff positions. This project was born out of a recommendation of a corporate reorganization study by Earnst and Young commissioned by City Council in early 1995. The findings of the proposed reorganization plan included a recommendation that the reclassification of all management at the exempt staff level should occur. It was suggested this reclassification would ensure that value of dollar objectives was being met in accordance to the duties that managers were actually performing. In the spring of 1996 the City had all managers complete a comprehensive questionnaire designed by a consultant. This questionnaire aided the City to determine the classification and salary grid of all exempt staff.

ESA had concerns regarding the process for the reclassification of all management at the exempt staff level from the initial onset. It was ESA's desire to negotiate with the employer a reclassification review and implementation process. However, the employer advised ESA that their current agreement with the City was always open for amendment with respect to classification and salary grades, despite any objection that the ESA may have. In the end, ESA was allowed one of its members to have input into the process

along with nine General Managers, Human Resources personnel, and the consultants.

### **ESA Members Formation of SCMMA**

Many ESA members from all levels were becoming increasingly dissatisfied with the employers refusal to discuss scope review and reclassification issues with ESA representatives. The City's ambivalence toward negotiating with a "voluntary recognized association" such as the ESA was a great concern to many managers. In less than a two year period following the 10 week labour dispute many managers became disillusioned with the leadership and forthrightness of the employer to look after the needs and interests of fellow managers.

A majority of managers who were instrumental in maintaining essential services during the labour dispute believed that the ESA was under siege by other unions and the City. On one hand, CUPE believed that ESA numbers were too large a number (210) to allow in case of any future disputes with the employer. The scope review negotiations between CUPE and the City would result in reducing the ranks of the ESA. On the other hand, the employer was not willing to allow the ESA to become involved in the scope review negotiations and to discuss a reasonable implementation process as a result of the manager reclassification. This sense of alienation, disrespect, and exclusion from issues that would have a dramatic affect on individual management employees motivated a significant majority of ESA managers to form a certified management bargaining unit.

In the spring of 1996 a group of managers began a membership drive that resulted in SCMMA becoming a certified bargaining unit in April 1996. Upon filing for certification, this newly formed association immediately accomplished the following

- The scope review negotiations with CUPE stopped.
- SCMMA secured an agreement with CUPE and the City to negotiate a scope review of disputed ESA positions. This meant we were able to secure incumbency protection for management positions that may more appropriately belong to CUPE.
- To discuss with the employer the implementation process of the new classification system; including an appeal process that was not part of the initial process proposed by Human Resources.
- To represent an association of professionals with common principals and values, such as:
  - \* To serve the public first.
  - \* To respect the codes and ethics and standards of member professional organizations.
  - \* To work to enhance the quality of life for the people of Saskatoon.
  - \* To provide for equal involvement in Association matters.

- \* To continue the good work of the ESA, but provide the much legal influence in front of the Labour Relations Board.
- To have the existing ESA memorandum of agreement recognized until December 31, 1997 until the first SCMMA contract can be negotiated.

### **Scope Review Process**

The first business at hand for the SCMMA executive was to deal with the scope review process involving CUPE and the City. A Labour Relations Board appointed agent would facilitate a review of the positions in dispute. Our approach to these negotiations was honorable and forthright. To help the Board appointee facilitate such an undertaking the SCMMA developed its own criteria for membership into the Association. The idea was to create a "scope definition" that might be used to assist the facilitator to understand how middle managers saw themselves, and therefore understand why certain positions were being requested to fall into the SCMMA unit. Without this definition we believed that there would be only subjective analysis and reliance upon a "history" where no middle management association had existed, to help determine appropriateness of bargaining unit. We tried to articulate the fundamental differences between the middle manager layer of staff and that of the operational layer of staff who are largely represented by the CUPE bargaining units (see attached template).

It is uncertain what impact the scope definition document that was presented at these negotiations in 1996. It was referred to on several occasions by the agent of the Board to assist in the determination of some CUPE and management disputed positions. Yet, it was clear that the agent of the Board also utilized the traditional yardsticks of supervisory, budget, and discipline levels (hire/fire/promote/demote) as criteria that the Labour Relations Board has relied on when dealing with exclusion from any bargaining unit. It was inevitable that the old yardsticks that were being applied to mid-management during these scope negotiations would be utilized, but it was and remains the objective of the mid-management bargaining units to continue to effect change on the culture of labour relations.

Decisions pertaining to bargaining unit jurisdictions are not made simply by the size of supervisory responsibility, the size of operating and capital budget responsibilities, and the unencumbered ability to discipline employees. Membership in mid-management is much more subtle than this and also largely depends on the community of interest concerns to a greater degree. It is the belief of the SCMMA that the community of interest consideration is often downplayed too severely in matters where jurisdictional placement is concerned. The final tally of positions seeking certification in the SCMMA was the following:

- SCMMA received 135 members out of an initial application of 185.
- CUPE 59 received 17 positions from the original disputed list of 60 positions.
- CUPE 47 received zero positions from an original disputed list of 7 positions.

- The City received 50 management exemptions from the initial requested list of 66 positions. This left the ESA a viable organization of 75 members.

Following the extensive analysis of CUPE and Management exclusion positions the above total were agreed to and an agreement was signed. This agreement was submitted to the Labour Relations Board at a hearing in December 1996, and the final certification order for the SCMMA was ordered by the Labour Relations Board on January 9, 1997.

## **Closing**

The SCMMA executive has been working towards fulfilling its principles and values when negotiating jurisdictional issues that have arisen since became certified. For example, the SCMMA was involved in jurisdictional issues before the Board as a result of Asset Management Department reorganization in 1997. We will follow these same principles as we negotiate our first contract with the City and continue to deal with jurisdictional issues that will arise as the corporation evolves and changes. As we begin to negotiate our first contract with the City, it is our desire to follow a "concept negotiating" approach. A concept management approach is intended to first seek to understand the other persons point of view then to be understood. With this end in mind, the SCMMA will work hard with the City to draft a contract that is in the best interests of our members, the City, the public that we all work so very hard to provide the best possible service.