

From: [Rob Rennie](#)
To: [Phil Koen](#); [Jenna De Long](#)
Cc: [Laurel Prevetti](#); [Gitta Ungvari](#); [Wendy Wood](#); [Gabrielle Whelan](#)
Subject: Re: January 8, 2024 Finance Commission Agenda Packet
Date: Friday, January 5, 2024 6:07:51 PM

Gitta,

In answering Phil's question about revenue growth from last year to this I think it would be helpful to have a table of the past few years growth and some comments on what was special in each year to make it more or less than average. And then apply those type of thoughts to this year.

Thank You,
Rob Rennie
Los Gatos Town Council Member

Help me prevent brown act violations. Please do not forward this email

From: Phil Koen [REDACTED]
Sent: Friday, January 5, 2024 8:12 AM
To: Jenna De Long <JDeLong@losgatosca.gov>
Cc: Laurel Prevetti <LPrevetti@losgatosca.gov>; Gitta Ungvari <GUngvari@losgatosca.gov>; Wendy Wood <WWood@losgatosca.gov>; Gabrielle Whelan <GWhelan@losgatosca.gov>; Rick Tinsley [REDACTED]; Rob Rennie <RRennie@losgatosca.gov>; Matthew Hudes <MHudes@losgatosca.gov>; Mary Badame <MBadame@losgatosca.gov>
Subject: Re: January 8, 2024 Finance Commission Agenda Packet

[EXTERNAL SENDER]

Hello Jenna,

Could you please distribute the FY 22 final version of the Cities Financial Transaction report to the FC as well. It is important to be able to compare the FY 22 vs FY 23 fiscal year results.

Gitta, please be prepared to discuss the major changes between the two years. There were a number of one time revenue events flowing through FY 22. It is important for the FC to understand the normalized functional and general revenue growth from FY 22 to FY 23.

By my calculation, excluding investment income (line item R05) General Revenues increased 9.5% or approximately \$3.4m year over year. The question is should we continue to expect revenue growth in the 9% range? Please note that General Revenues exclude all ARPA grant money. General Revenues on this report are almost 100% tax revenue.

Having a firm understanding of the Cities Financial Transaction Report will aid in helping the FC advise on the development of a 5 year forecast everyone can believe in.

Thank you.

Phil Koen

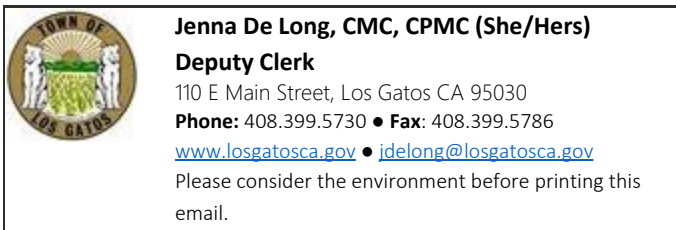
On Jan 4, 2024, at 5:08 PM, Jenna De Long <JDeLong@losgatosca.gov> wrote:

Good Afternoon Commissioners,

The January 8, 2024 Finance Commission meeting agenda packet is available to view here: <https://losgatos-ca.municodemeetings.com/>

Please let us know if you require anything further at this time.

Thank you,



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From: [Rick Tinsley](#)
To: [Laurel Prevetti](#); [Jenna De Long](#)
Cc: [Wendy Wood](#); [Gitta Ungvari](#); [Council](#)
Subject: Jan 8 Finance Commission Staff Report and Addendum
Date: Sunday, January 7, 2024 6:12:36 PM

[EXTERNAL SENDER]

Please find comments and questions below related to Item 3 in the Jan 8, 2024 FinCom Packet. Please add this as a desk item. I look forward to discussing tomorrow.

Comment 1. From Item 3 Staff Memo page 4/7 paragraph B:

*“To secure Council direction, the MMBA authorizes the Town Council to meet in closed session with its negotiations team. **All materials and communications shared during closed session are privileged and cannot be disclosed to anyone outside closed session.**”¹¹*

This assertion is false and is clearly contradicted by the very Gov. Code § 54963 cited as footnote 11 (see **bold** portions of the entire Code § 54963 below). In particular, the legislative body (LG Town Council in this case) **has the authority to authorize disclosure of any such information.** It also states there is no restriction on information that is “not confidential” – such as publicly available compensation information for public employees in various jurisdictions in California which, by law, are always public domain.

Furthermore, despite footnote 11, Gov. Code § 54963 says absolutely nothing about “privilege” and it is questionable whether such compensation surveys meet the legal definition of “privileged” since they are just a compilation of publicly available information. Even if they could be construed as privileged, the client in an attorney-client privilege situation “owns” the privilege and can choose to disclose information so designated at will. The use of the term privilege seems like a total red herring meant to confuse and mislead the Town Council. Attorney-client privilege exists to protect the client (in this case the Town) from harm. I would like to hear how treating Compensation Surveys as privileged and/or confidential is in the best interests of the Town as opposed to the groups we are bargaining with. In any case, regardless of the Staff’s questionable use of the “privilege” label, the **Town Council can decide to publish compensation surveys whenever it sees fit.**

CA Gov Code 54963. (a) A person may not disclose

confidential information that has been acquired by being present in a closed session authorized by Section 54956.7, 54956.8, 54956.86, 54956.87, 54956.9, 54957, 54957.6, 54957.8, or 54957.10 **to a person not entitled to receive it, unless the legislative body authorizes disclosure of that confidential information.**

(b) For purposes of this section, “confidential information” means a communication made in a closed session that is specifically related to the basis for the legislative body of a local agency to meet lawfully in closed session under this chapter.

(c) Violation of this section may be addressed by the use of such remedies as are currently available by law, including, but not limited to:

(1) Injunctive relief to prevent the disclosure of confidential information prohibited by this section.

(2) Disciplinary action against an employee who has willfully disclosed confidential information in violation of this section.

(3) Referral of a member of a legislative body who has willfully disclosed confidential information in violation of this section to the grand jury.

(d) Disciplinary action pursuant to paragraph (2) of subdivision (c) shall require that the employee in question has either received training as to the requirements of this section or otherwise has been given notice of the requirements of this section.

(e) A local agency may not take any action authorized by subdivision (c) against a person, nor shall it be deemed a violation of this section, for doing any of the following:

(1) Making a confidential inquiry or complaint to a district attorney or grand jury concerning a perceived violation of law, including disclosing facts to a district attorney or grand jury that are necessary to establish the illegality of an action taken by a legislative body of a local agency or the potential illegality of an action that has been the subject of deliberation at a closed session if that action were to be

taken by a legislative body of a local agency.

(2) Expressing an opinion concerning the propriety or legality of actions taken by a legislative body of a local agency in closed session, including disclosure of the nature and extent of the illegal or potentially illegal action.

(3) Disclosing information acquired by being present in a closed session under this chapter that is not confidential information.

(f) Nothing in this section shall be construed to prohibit disclosures under the whistleblower statutes contained in Section 1102.5 of the Labor Code or Article 4.5 (commencing with Section 53296) of Chapter 2 of this code.

Comment 2. From Item 3 Staff Memo page 4/7 paragraph C:

"Moreover, because PERB has held that confidentiality is a common "ground rule" during negotiations,¹³ insisting on nonconfidentiality may further risk a bad faith bargaining charge."

By the same reasoning, insisting on confidentiality may also risk a bad faith bargaining charge. If our bargaining units insist on this and are unwilling to confer and negotiate this ground rule in good faith, then they are in violation of MMBA. Indeed, the PERB Decision No 2594M cited in footnotes 12, 13, 14 makes it clear that neither party can unilaterally impose such ground rules on the other. (Incidentally I did not see the word "common" on any of the cited pages. PERB basically ruled that the parties can set up whatever ground rules they want as long as they are negotiated in good faith and not dictated by one side.)

It is worth noting in the same ruling, the PERB did **not** challenge the County's right to **prepare and publish** economic analysis of current costs and opening proposals. PERB only rejected the 30-day holding period as being too long and said the time should be negotiated.

Whereas the Staff Memo states "The default rule under the MMBA is that bargaining should be done in private.¹²" The ruling you cited also makes it clear the default rule is also **"the parties are permitted to report to the public or the press regarding what occurred in negotiations,**

absent an agreement to the contrary.”

See **bold** sections below from the ruling you cited:

12, 13, 14 County of Orange (2018) PERB Decision No. 2594M – decision analyzing whether County ordinance setting rules for bargaining required meeting and conferring with unions. P 29:

“As we noted above, parties sometimes propose a confidentiality arrangement, and other times propose inviting observers to bargaining. (See, e.g., King City Joint Union High School District, supra, PERB Decision No. 1777, adopting proposed decision, p. 5; San Ysidro School District (1980) PERB Decision No. 134, pp. 7, 15; Muroc Unified School District, supra, PERB Decision No. 80, p. 3.) Because one party cannot unilaterally insist on either of these arrangements, the default is that observers are not permitted, but the parties are permitted to report to the public or the press regarding what occurred in negotiations, absent an agreement to the contrary.”

12 County of Orange (2018) PERB Decision No. 2594M – decision analyzing whether County ordinance setting rules for bargaining required meeting and conferring with unions. P 30:

“While nothing in our holding prevents a party from reporting to the public what occurs in negotiations if there is no applicable confidentiality agreement, in this case the County unilaterally tied its own hands before bargaining, thereby preventing the parties from ever discussing confidentiality.”

As a practical matter it is easy to find many local and state public employers that routinely publish compensation surveys for their employees, so it is clearly not illegal or otherwise impossible. It is a choice by the Town Council. Clearly the Staff is fighting this with some very questionable excuses that do not stand up to careful scrutiny. It is easy to see why some employees and their unions might prefer this communication blackout but can anyone make an honest case for why this secrecy is in the best interests of our citizens and taxpayers?

Thanks,

Rick Tinsley

On Friday, January 5, 2024 at 03:14:37 PM PST, Jenna De Long <jdelong@losgatosca.gov> wrote:

Good Afternoon Commissioners,


Please find attached for the January 8, 2024 Finance Commission meeting:

- The Staff Report for Item #3 – Labor Negotiations Process Overview
- An Addendum for Item #7 - Review the Town's Draft Financial Transactions Report for Submittal to the State Controller

The packet is also available to view here: <https://losgatos-ca.municodemeetings.com/>

Please let us know if you require anything further at this time.

Thank you,

	Jenna De Long, CMC, CPMC (She/Hers)
	Deputy Clerk
	110 E Main Street, Los Gatos CA 95030
	Phone: 408.399.5730 • Fax: 408.399.5786 www.losgatosca.gov • jdelong@losgatosca.gov
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From: [Phil Koen](#)
To: [Wendy Wood](#)
Cc: [Laurel Prevetti](#); [Gitta Ungvari](#); [Rick Tinsley](#)
Subject: City of Menlo Park Council Policy - Agenda Item #3
Date: Sunday, January 7, 2024 7:16:39 PM
Attachments: [Pages from H7-Waive%20CC%20procedure%20cc-11-0001.pdf](#)

[EXTERNAL SENDER]

Hello Wendy,

Would you please distribute this to the FC. Thank you.

Phil Koen

City of Menlo Park

City Council Policy

Department City Council	Page 1 of 1	Effective Date 03/02/2011
Subject Public Input and Outreach regarding Labor Negotiations	Approved by City Council 03/01/2011	Procedure # CC-11-0001

PURPOSE

To incorporate public input into the labor negotiations process.

BACKGROUND

The City Council has expressed a desire to improve public communication and outreach on labor relations to the extent reasonably possible.

POLICY

A regular business item shall be placed on a Council agenda in advance of formal labor negotiations that includes an opportunity for the public to comment. At least seven days prior to this meeting, staff shall post a report that contains relevant information on employee salaries and benefits, as well as the methodology used to determine a competitive and appropriate compensation package. As part of this process, a concerted effort shall be made to request public comment on the negotiations parameters.

As a general rule, staff shall engage the services of a labor attorney to participate in formal labor negotiations with bargaining units representing permanent employees.

During labor negotiations, public comment will be provided prior to the entry into closed session to discuss labor negotiations, in accordance with State law. At the conclusion of the closed session, the Council shall report out any action taken, including in the record the individual votes taken and the characterization of the deliberations. In addition, at some point in the negotiations process, staff shall submit a public report to Council that provides a general status of labor negotiations and that allows for public input prior to concluding negotiations.

Staff shall prepare and make public a staff report, at least fifteen calendar days prior to Council consideration of a tentative agreement or implementation resolution for any bargaining unit, that provides full details and costing associated with the recommended action, shall schedule the matter as a regular business item and shall provide an opportunity for the public to comment.

From: [Phil Koen](#)
To: [Wendy Wood](#)
Cc: [Laurel Prevetti](#); [Gitta Ungvari](#); [Rick Tinsley](#)
Subject: An example of labor negotiation report from Menlo Park - Agenda Item #3
Date: Sunday, January 7, 2024 7:30:44 PM
Attachments: [H4%20-%20PSA%20Negotiations_201902212103415203.pdf](#)

[EXTERNAL SENDER]

Hello Wendy,

Could you please distribute the attached to the FC for the meeting tomorrow.

Thank you,

Phil Koen



STAFF REPORT

City Council

Meeting Date:

2/26/2019

Staff Report Number:

19-026-CC

Regular Business:

Receive a report and hear public comment on upcoming negotiations with the Menlo Park Police Sergeants Association on a successor agreement to the current agreement expiring June 30, 2019

Recommendation

Receive a report from staff and hear public comment on upcoming negotiations with the Menlo Park Police Sergeants Association (PSA) on a successor agreement to the current agreement expiring June 30, 2019.

Policy Issues

This report is prepared in accordance with City Council policy and procedure CC-11-001, public input and outreach regarding labor negotiations.

Background

The current memorandum of understanding (MOU) with the Menlo Park PSA is due to expire June 30, 2019. Pursuant to best labor-management practices, it is time to open negotiations on a successor agreement. The PSA represents the single classification of police sergeant, with nine (9) full-time positions funded in the fiscal year 2018-19 budget.

Analysis

This report is submitted to the City Council, members of the PSA, and members of the public in order to provide relevant information on the PSA salaries and benefits in preparation for the upcoming negotiations of a successor labor agreement or MOU between the PSA and the City. This information is provided to all interested parties 15 days in advance of the City Council's meeting February 26 at which time the public will have an opportunity to provide comment on this matter in accordance with City Council policy and procedure #CC-11-001 (Attachment A.)

After receiving public input, a staff representative of the City's bargaining team will request a closed session with City Council to receive direction on the City's initial bargaining position. The City's bargaining team typically includes a labor attorney, who serves as the City's chief negotiator, supported by human resources and management staff. Upon receiving direction from City Council, the City's negotiating team will begin meeting with the PSA negotiating team in a good faith effort to reach a successor agreement. Under California Government Code, matters of wage, hours and other terms and conditions of employment are within the mandatory scope of bargaining. Staff anticipates the labor negotiations process will continue through June, and will strive for a successor agreement in place before June 30, 2019. Attachment B further describes the roles, process and requirements of labor negotiations.

Bargaining principles

As in prior years, the tenets that are used to determine the City's bargaining principles will assist with aligning the bargaining efforts with the service and financial priorities established by both the City Council. The following principles will be considered in preparation for and throughout labor negotiations with the PSA on a successor agreement:

- *Service to the community* – Negotiations shall strive to achieve agreements that maintain and enhance services to the community provided by the bargaining unit members in their various roles and in concert with City Council adopted policies and goals.
 - Police sergeants are the front line supervisors for police officers, police corporals and certain non-sworn police personnel. Four of the nine sergeants are assigned to the patrol division, leading day-to-day 24/7 operations. Patrol sergeants ensure appropriate staffing levels, customer relations, and law enforcement activities for crime prevention, problem-solving and crime suppression. Five sergeants are assigned to units requiring specialized training and skills. These specialty units include administration/internal affairs, traffic, detective, County narcotics task force, and the newly created community response unit. This new unit also includes five officers, and is fully funded by a development agreement for five years. The community response unit will focus on responding to active assailants and other large-scale emergencies.
- *Fiscal sustainability* – Negotiations shall strive to achieve successor agreements that achieve continued fiscal sustainability in accordance with the City's 10-year financial forecast for the general fund.
 - The 10-year forecast is developed as part of the budget development process. The goal is to understand prevailing trends to help long-term decision-making. The most recent 10-year forecast was updated to incorporate feedback from the Finance and Audit Committee and introduce a stochastic model. This model uses individual trials to build out the entire forecast. It runs a trial with a range of values, then runs another with another range, and so on to create a distribution of outcomes. The midpoint of these outcomes is the most likely scenario, and therefore representative of the 10-year forecast.
 - Total expenditure requirements, including salary, CalPERS, equipment, etc. for one police sergeant are covered through a five year development agreement, expiring June 2023.
- *Recruitment and retention* – Negotiations shall strive to develop terms that promote to the recruitment and retention of high quality employees.
 - All nine of the current police sergeants were promoted from within the City of Menlo Park. Two were promoted from the position of police corporal, a job classification created in 2014. Seven sergeants were promoted from the police officer rank. All nine sergeants represent 130 years of service to the City of Menlo Park as law enforcement officers, 58 of those years as police sergeants. Four employees have one to three years in the rank of sergeant, three have approximately seven years, one has 11 years, and one has 17 years in the rank of sergeant. While the last position became available through new funding, the other sergeants were promoted as a result of retirements or promotions.

Total compensation

Annualized total compensation for the bargaining unit using January 11, 2019 data is shown below, along with a breakdown of salary, pension and other benefit costs. The City conducted a comprehensive analysis of the labor market for police sergeants as provided in Attachment C.

Table 1: City of Menlo Park annual PSA personnel costs as of January 11, 2019 - 9.0 authorized full-time equivalent (FTE) employees

Base salaries	\$1,279,500
Other pensionable pays	\$213,000
Retirement (CalPERS)	\$756,500
Medical premiums	\$182,500
Dental and vision premiums	\$19,800
Other fringe benefits	\$18,000
Total	\$2,469,300

Salaries – As the largest component of compensation, salaries have the most significant impact on the City's long-term fiscal sustainability as well as the City's ability to recruit and retain high quality employees to deliver exemplary service to the community. Members of the PSA last received a 3 percent salary adjustment October 29, 2017 and again July 8, 2018. A clause in the current PSA MOU ensures sergeants will maintain the same base pay differential when compared to police officers and police corporals. Those differentials are 12 percent above a police corporal and 20.6 percent above a police officer. In December 2018, the City conducted a comprehensive total compensation survey which found that Menlo Park continues to pay above the market median among comparable agencies (8.52 percent) (Attachment B.)

In addition to base salary, all police sergeants receive an annual uniform allowance of \$1,040, which is pensionable. If certain conditions exist or they meet eligibility requirements police sergeants may receive other forms of pensionable pay, including:

- Longevity pay: Four tiers of additional pay dependent on years of service; the current sergeants are distributed as follows:
 - 2 percent of base pay since completing seven years of service – 3 sergeants
 - 4 percent of base pay since completing 11 years of service – 3 sergeants
 - 6 percent of base pay since completing 15 years of service – 1 sergeant
 - 8 percent of base pay since completing 20 years of service – 2 sergeants
- Police officers and standards training (POST) incentive pay: Two tiers of additional pay upon receiving POST certificates requiring a combination of work experience, training and education; the current sergeants are distributed as follows:
 - 5 percent of base pay since earning a POST intermediate certificate – 1 sergeant
 - 10 percent of base pay since earning a POST advanced certificate – 8 sergeants
- Night shift differential: 2 percent of base pay which automatically applies to the two patrol sergeants regularly assigned to the night shift
- Holiday: With a 24/7 patrol operation and 13 City recognized holidays, holiday overtime is certain.
- On-call pay: \$50 per 24 hour period; applicable only to sergeants assigned to the detective unit
- Bilingual differential: \$75 per pay period, if approved and upon passing an exam; currently one sergeant receives bilingual pay
- Out of class pay: 5 percent of base pay, upon specific written assignment by the police chief; currently no sergeants receive out of class pay

Benefits - Similar to salaries, benefits are also negotiated with labor groups and ultimately set by the City Council through approval of labor contracts. Unlike salaries, however, the cost of benefits tend to be governed by a third party and are correlated to actual experience either for the City or for a pool of cities. Most recently, the labor agreement with PSA provided for minor adjustments to the City's contribution for medical insurance through a Section 125 cafeteria plan. When reviewing benefit costs, the following components are important considerations:

1. **Retirement (CalPERS)** – On July 1, 2018, CalPERS decreased its targeted assumed rate of investment earnings, called the “discount rate,” from 7.5 percent to 7.0 percent, net of expenses. This decrease was in response to recent investment gains/losses. The impact of a more conservative investment earnings assumption is that the long-term liability increases thereby resulting in higher unfunded liabilities and, consequently, higher employer contributions. CalPERS has elected to phase in the impact of the lower assumption on employee contributions over a period of time with the final adjustment required as a result of the lower assumption beginning July 1, 2020. CalPERS estimates that the reduction to 7.0 percent will result in an increase in costs as high as 5 percent of payroll for safety employees. While this increase is phased in over three years, by fiscal year 2020-21, the City's annual PERS expense for safety employees is expected to increase by an estimated \$1 million per year above previous anticipated cost increases. In addition to the reduction in the discount rate from 7.5 percent to 7.0 percent, other factors that affect CalPERS costs are actual investment earnings, changes in demographics such as average life expectancies, and changes in actuarial assumptions that smooth the effects of significant deviations from assumptions over several years. All current PSA employees are classified as “public safety tier 1” CalPERS classic members. Police sergeants in this benefit plan pay a fixed 12 percent of salary toward their retirement benefit. The City's contribution is 43.7320 percent, and anticipated to rise to 50.92 percent in fiscal year 2019-20. A link to the most recent CalPERS actuarial report for this benefit plan is available as Attachment D.
2. **Medical** – The City contracts with CalPERS under the Public Employee Members' Medical and Hospital Care Act (PEMHCA) to provide medical insurance to all eligible employees. PEMHCA premiums are impacted by the experience of covered members in the PEMHCA pool, demographics, and laws such as the Affordable Care Act (ACA.) To the extent that the pool experiences changes in any of those factors or if the number of dependents covered by the City changes, rates may increase. The City contributes an annual fixed amount to a cafeteria plan that includes health plan premium costs and flexible savings account options. The 2019 CalPERS health plan costs for the Bay Area Region and the offset of costs with the City contribution is detailed in Attachment E. The 2019 premiums cost of the current health plan choices (including cash in lieu) for police sergeants is \$183,800, with the City contributing \$164,500 toward those choices and an additional \$17,800 to flexible savings accounts for health and child care reimbursement programs.

Impact on City Resources

There are no impacts on City resources as a result of receiving input on negotiations. It is anticipated that the City Council will meet in closed session to provide direction to the City's negotiating team. The negotiators will meet and confer with the PSA's negotiation team, and once tentative agreement is reached on a successor agreement, the fiscal impact of that tentative agreement will be released 15 days before the City Council's vote to ratify the successor agreement at a public meeting. The estimated cost for negotiation of an agreement, inclusive of release time for labor representatives paid by the City, is between \$8,000 and \$35,000 depending on the complexity of negotiations.

Environmental Review

This action is not a project within the meaning of the California Environmental Quality Act (CEQA)

Guidelines §§ 15378 and 15061(b)(3) as it is a minor change that will not result in any direct or indirect physical change in the environment.

Public Notice

Public notification was achieved by posting the report 15 days prior to the City Council meeting of February 26, 2019.

Attachments

- A. Public input and outreach regarding labor negotiations policy
- B. Understanding the Labor Negotiations Process produced by the Institute for Local Government
- C. Total compensation labor market survey, December 2018
- D. CalPERS annual valuation report as of June 30, 2017, for the safety plan of the City of Menlo Park (classic tier 1 members) – hyperlink: calpers.ca.gov/docs/actuarial-reports/2017/menlo-park-city-safety-2017.pdf
- E. 2019 Police Sergeants' Association health plan choices and City contributions

Report prepared by:

Lenka Diaz, Administrative Services Director

City of Menlo Park

City Council Policy

Department City Council	Page 1 of 1	Effective Date 03/02/2011
Subject Public Input and Outreach regarding Labor Negotiations	Approved by City Council 03/01/2011	Procedure # CC-11-0001

PURPOSE

To incorporate public input into the labor negotiations process.

BACKGROUND

The City Council has expressed a desire to improve public communication and outreach on labor relations to the extent reasonably possible.

POLICY

A regular business item shall be placed on a Council agenda in advance of formal labor negotiations that includes an opportunity for the public to comment. At least seven days prior to this meeting, staff shall post a report that contains relevant information on employee salaries and benefits, as well as the methodology used to determine a competitive and appropriate compensation package. As part of this process, a concerted effort shall be made to request public comment on the negotiations parameters.

As a general rule, staff shall engage the services of a labor attorney to participate in formal labor negotiations with bargaining units representing permanent employees.

During labor negotiations, public comment will be provided prior to the entry into closed session to discuss labor negotiations, in accordance with State law. At the conclusion of the closed session, the Council shall report out any action taken, including in the record the individual votes taken and the characterization of the deliberations. In addition, at some point in the negotiations process, staff shall submit a public report to Council that provides a general status of labor negotiations and that allows for public input prior to concluding negotiations.

Staff shall prepare and make public a staff report, at least fifteen calendar days prior to Council consideration of a tentative agreement or implementation resolution for any bargaining unit, that provides full details and costing associated with the recommended action, shall schedule the matter as a regular business item and shall provide an opportunity for the public to comment.

Understanding the Labor Negotiations Process

August 17, 2012

Under California law,¹ when county or city employees are represented by a union, the agency must negotiate with that union regarding their pay and benefits, working hours, and working conditions. This paper explains the key elements of that process.

Roles

Elected officials determine the agency's bargaining position and consult with staff throughout the negotiation process. Agency staff report back to decision-makers about the face-to-face negotiations' progress and any impediments to reaching agreement.

Before Bargaining

Prior to meeting with the union, the agency's negotiators will meet with elected officials to discuss how to proceed. Having this meeting well in advance of negotiations gives elected officials time to consider relevant issues and develop a set of questions.

Early conversations also give staff time to compile necessary information for decision-makers. Examples of such information may include:

- Anticipated increases in current employee expenditures
- Money available for salaries and benefits
- Cost of salary and benefit enhancements
- What comparable employers are paying
- Turnover statistics

Just as elected officials need time and information to make well-informed decisions, staff will need time to prepare and provide accurate information. As with any issue, limited staff resources may make it advisable to prioritize information requests.

Conversations about the agency's initial bargaining position typically take place in closed session.² The agency's negotiators will share their understanding of what it will take to

Additional Resources

The Institute has two glossaries to assist local officials as they engage with constituents, bargaining representatives and each other about labor relations and public pension issues:

- Labor Relations Terminology:
<http://www.ca-ilg.org/post/labor-relations-terminology>
- Public Pension Terminology:
<http://www.ca-ilg.org/post/public-pension-terminology>

The Institute is grateful to Dr. Rhonda Albey for preparing this piece. Dr. Albey has worked in labor relations for Los Angeles County since 1990.

reach agreement with the union. The agency's governing body will then give negotiators an initial bargaining position.

During Bargaining

No matter how reasonable the agency's initial bargaining position is, it is unlikely that the union will immediately accept it.

The Process Can Be Rough

During the negotiations process, the union may organize demonstrations and/or phone and e-mail campaigns. Discourse may become bullying and emotional.

Don't take it personally – it's all part of the process. Both sides may need to show they are doing their job. Union negotiators need to show their members that they are fighting for them and elected officials need to show they are working hard for the community.

The negotiation process is unpredictable. The agency's negotiators may have misread the union's priorities and goals. Union representatives may have misread the employees' mood. New issues may arise. There may be internal divisions within the union. These challenges may make it impossible to get agreement within the original parameters authorized.

Working with the Agency's Negotiators. As challenges arise, the agency's negotiators may ask for modifications in the bargaining position. This is normal in the course of any type of negotiation, as each party learns more about the interests of the other. Multiple meetings with the negotiating team may be necessary.

Modifications may not involve increases in total expense. An example is moving money from benefits to salaries (or vice-versa). Another example is if decision-makers have authorized higher increases for some position classifications than others, employee representatives may ask to even increases out.

Meeting with Union Officials. As negotiations continue, the union may seek meetings with individual elected official(s) to discuss the agency's bargaining position. As with any group of constituents, an elected official can choose to meet with them or not. If an elected official does meet with union officials, the official should be clear that the official is not speaking on behalf of the governing body.

A word of caution about meeting with employees *without* their union representative during labor

Expect to be Misquoted

People tend to hear what they want to hear.

Someone may say something like "I'll speak to the negotiating team," and mean exactly that – they'll speak to them.

The employees may hear "He/she will speak to the negotiating team and tell them to give us what we want."

Some strategies for minimizing miscommunication are to take notes during the discussion and not to meet with union representatives alone.

negotiations: such meetings can lead to an unfair labor practice accusation of “direct dealing.”³ Avoid any action that makes it appear that the agency is interfering in the union’s relationship with the employees it represents.

If the elected official meets with union representatives, it is helpful to share the conversation with the agency’s bargaining representatives. The conversation may provide insights that will help the agency’s negotiators move the process forward.

If Agreement Is Reached

The agreement still has to be ratified by the rank and file. The union may feel it needs to sell the agreement as a victory for its members. The union may post flyers or e-mails trumpeting their win over management.

For their part, elected officials may hear concerns from constituents that the agency is spending too much on employee salaries and benefits. Agency officials are well-advised to be moderate in their public discourse relating to the agreement. Anything that might be construed as bragging about the agency’s victory in the bargaining process may jeopardize the agreement. The employees won’t ratify the agreement if they think it is a

Post Agreement Issues

While the agency will not have to negotiate during the term of the agreement, issues may arise between negotiations that may require changes.

bad deal or their representatives weren’t sufficiently aggressive on their behalf.

A helpful practice can be a public statement that does not validate either extreme, but says something to the effect that “We reached a deal to provide adequate public services at reasonable cost.”

If Agreement Cannot Be Reached

What happens if the agency can’t reach an agreement? There are procedures under state law for resolving impasse. A local labor relations resolution may provide further guidance on procedures.

Mediation

A mediator may be brought in to try and resolve differences between the agency and the union. Mediators have no authority to impose a settlement, but can be useful in helping the parties look at the problem from a new perspective and to move past personal differences. The state Division of Mediation and Conciliation can provide a mediator.

Fact-finding. Whether or not mediation occurs, the union may request fact-finding as a next step. With the assistance of the

An Expired Contract is not the Same as No Contract

If the contract has expired and agreement has not been reached on a new one, the agency must maintain the status quo until there is a new agreement.

Public Employee Relations Board (PERB), a fact-finding panel is appointed which reviews both parties' proposals, holds hearings and ultimately recommends a settlement.

Unilateral implementation. After exhausting the impasse procedure and holding a public hearing, the agency may impose its final financial offer upon the employees. Management cannot force the union to accept a whole new contract.

Unilateral implementation cannot be used to impose work rule or operational changes and can only be implemented for one year. After that year, or during the year, if the union indicates it has a significant change in its position, the agency must bargain again with the union to try and reach a mutual agreement.

This resource is a service of the Institute for Local Government (ILG) whose mission is to promote good government at the local level with practical, impartial, and easy-to-use resources for California communities. ILG is the nonprofit 501(c)(3) research and education affiliate of the League of California Cities and the California State Association of Counties. For more information and to access the Institute's resources on Local Government 101 go to <http://www.ca-ilg.org/localgovt101>.

The Institute thanks the following individuals for their review and input into this resource:

- Holly Brock-Cohn, Human Resources Director, City of Alameda
- Casey Echarte, Assistant Human Resources Director, City of San Mateo
- Eraina Ortega, Legislative Representative, Employee Relations & Human Resources, California State Association of Counties
- Delores Turner, Assistant City Manager, Administrative Services Department, City of Emeryville

The Institute welcomes feedback on this resource:

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References and Resources

¹ California Government Code 3500, known as the Meyers-Milias-Brown Act, (MMB) requires negotiation in good faith with the recognized employee representative on specified subjects. It also permits local agencies to adopt their own rules and regulations for the governance of labor relations.

² See Cal. Gov't Code § 54957.6, which provides:

54957.6. (a) Notwithstanding any other provision of law, a legislative body of a local agency may hold closed sessions with the local agency's designated representatives regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits of its represented and unrepresented employees, and, for represented employees, any other matter within the statutorily provided scope of representation.

However, prior to the closed session, the legislative body of the local agency shall hold an open and public session in which it identifies its designated representatives.

Closed sessions of a legislative body of a local agency, as permitted in this section, shall be for the purpose of reviewing its position and instructing the local agency's designated representatives.

Closed sessions, as permitted in this section, may take place prior to and during consultations and discussions with representatives of employee organizations and unrepresented employees.

Closed sessions with the local agency's designated representative regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits may include discussion of an agency's available funds and funding priorities, but only insofar as these discussions relate to providing instructions to the local agency's designated representative.

Closed sessions held pursuant to this section shall not include final action on the proposed compensation of one or more unrepresented employees.

For the purposes enumerated in this section, a legislative body of a local agency may also meet with a state conciliator who has intervened in the proceedings.

(b) For the purposes of this section, the term "employee" shall include an officer or an independent contractor who functions as an officer or an employee, but shall not include any elected official, member of a legislative body, or other independent contractors.

³ See Cal. Lab. Code § 1156; *Ruline Nursery Co. v. Agricultural Labor Relations Bd.*, 169 Cal. App. 3d 247, 266, 216 Cal. Rptr. 162, 172 (1985)

Menlo Park

Title: Police Sergeant

Analysis Date: December 2018

Survey Agency	Comparable Classification	Top Step Base	POST Pay	Holiday Pay	Uniform Allowance	Longevity (20 YOS)	"Classic" EE Contribution			Wages + EE Pension	Insurance Benefits (highest ER contribution)				Total Comp	Rank
							Cash Only	(%)	(\$)		Medical	Dental	Vision	Benefits Total		
Belmont	Police Sergeant	\$11,691	\$587	\$629	\$75	\$0	\$12,982	13.0%	-\$1,688	\$11,294	\$2,028	\$183	\$19	\$2,230	\$13,524	9
Burlingame	Police Sergeant	\$10,500	\$469	\$565	\$88	\$0	\$11,622	13.0%	-\$1,511	\$10,111	\$2,028	\$139	\$12	\$2,179	\$12,290	11
Campbell	Police Sergeant	\$12,341	\$926	\$666	\$92	\$0	\$14,025	9.0%	-\$1,262	\$12,763	\$1,200	\$168	\$29	\$1,397	\$14,160	7
Cupertino	No Match															
Foster City	Police Sergeant	\$11,981	\$500	\$647	\$75	\$0	\$13,203	9.0%	-\$1,188	\$12,015	\$1,833	\$0	\$0	\$1,833	\$13,848	8
Los Altos	Police Sergeant	\$11,737	\$1,174	\$587	\$0	\$0	\$13,498	9.0%	-\$1,215	\$12,283	\$2,028	\$108	\$0	\$2,136	\$14,419	5
Los Gatos	Police Sergeant	\$13,066	\$980	\$503	\$115	\$0	\$14,663	9.0%	-\$1,320	\$13,344	\$1,903	\$125	\$11	\$2,038	\$15,382	1
Millbrae	No Match															
Pacifica	Police Sergeant	\$10,355	\$750	\$518	\$67	\$418	\$12,108	14.0%	-\$1,695	\$10,413	\$2,084	\$119	\$48	\$2,250	\$12,663	10
Palo Alto	Police Sergeant	\$12,749	\$976	\$552	\$0	\$0	\$14,276	12.0%	-\$1,713	\$12,563	\$2,088	\$190	\$15	\$2,293	\$14,856	3
Redwood City	Police Sergeant	\$13,760	\$688	\$860	\$0	\$0	\$15,308	16.0%	-\$2,449	\$12,859	\$1,675	\$111	\$12	\$1,798	\$14,657	4
San Bruno	Police Sergeant	\$11,609	\$987	\$647	\$79	\$0	\$13,322	9.0%	-\$1,199	\$12,123	\$2,057	\$0	\$0	\$2,057	\$14,181	6
San Carlos	No Match															
Saratoga	No Match															
Menlo Park	Police Sergeant	\$11,970	\$1,197	\$599	\$87	\$958	\$14,810	12.0%	-\$1,777	\$13,033	\$2,128	\$182	\$35	\$2,345	\$15,378	2
Median (Excluding Menlo Park)		\$11,859					\$13,410			\$12,203					\$14,170	
Variance from Median		0.94%					10.44%			6.80%					8.52%	
Average (Excluding Menlo Park)		\$11,979					\$13,501			\$11,977					\$13,998	
Variance From Average		-0.07%					9.70%			8.82%					9.86%	

Notes:

Menlo Park: Calculations assume 50% of holidays are worked.

Los Altos: Dental value reflects monthly average cost of combined city dental and vision plans.

Los Gatos: Reflects wage for Police Sergeants appointed before March 1, 2015.

Pacifica: Reflects wage for Police Sergeants hired on or before June 30, 2010.

Health Plan Premiums: Bay Area Region

2019 PSA

Health plan	Employee only		Employee + 1		Employee +2 or more	
	Monthly premium	After \$889 City contribution	Monthly premium	After \$1715 City contribution	Monthly premium	After \$2262 City contribution
Anthem Blue Cross Select HMO	\$ 831.44	\$ 57.56	\$ 1,662.88	\$ 52.12	\$ 2,161.74	\$ 100.26
Anthem Blue Cross Traditional HMO	\$ 1,111.13	\$ (222.13)	\$ 2,222.26	\$ (507.26)	\$ 2,888.94	\$ (626.94)
Blue Shield Access+	\$ 970.90	\$ (81.90)	\$ 1,941.80	\$ (226.80)	\$ 2,524.34	\$ (262.34)
Health Net SmartCare	\$ 901.55	\$ (12.55)	\$ 1,803.10	\$ (88.10)	\$ 2,344.03	\$ (82.03)
Kaiser Permanente California	\$ 768.25	\$ 120.75	\$ 1,536.50	\$ 178.50	\$ 1,997.45	\$ 264.55
Western Health Advantage	\$ 767.01	\$ 121.99	\$ 1,534.02	\$ 180.98	\$ 1,994.23	\$ 267.77
PERS Choice	\$ 866.27	\$ 22.73	\$ 1,732.54	\$ (17.54)	\$ 2,252.30	\$ 9.70
PERS Select	\$ 543.19	\$ 345.81	\$ 1,086.38	\$ 628.62	\$ 1,412.29	\$ 849.71
PERSCare	\$ 1,131.68	\$ (242.68)	\$ 2,263.36	\$ (548.36)	\$ 2,942.37	\$ (680.37)
PORAC	\$ 774.00	\$ 115.00	\$ 1,623.00	\$ 92.00	\$ 2,076.00	\$ 186.00

Amounts in **green** = additional amount available to you to put toward cafeteria options
Amounts in **(red)** = your out-of-pocket expense