



REGULAR MEETING AGENDA

Date: 5/21/2024
Time: 6:00 p.m.
Location: [Zoom.us/join](https://zoom.us/join) – ID# 832 1285 7140
City Council Chambers
751 Laurel St., Menlo Park, CA 94025

EARLY STAFF REPORT RELEASE NOTICE

Pursuant to the requirements of the Government Code, the following staff report is being released 15-days in advance of the City Council meeting:

Staff report title ([Staff Report #24-081-CC](#))

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STAFF REPORT

City Council

Meeting Date:

5/21/2024

Staff Report Number:

24-081-CC

Regular Business:

Receive and file report on labor relations and receive public input on upcoming labor negotiations with the Menlo Park Police Officers' Association

Recommendation

Receive and file report on employee compensation and receive public input on upcoming labor negotiations with the Menlo Park Police Officers' Association (POA).

Policy Issues

This report is prepared in accordance with City Council Procedure #CC-11-0001, public input and outreach regarding labor negotiations (Attachment A).

Background

The POA represents three classifications: (1) sworn police officers, (2) sworn police corporals, and (3) non-sworn police recruits. The current memorandum of understanding (MOU) has a contract duration from Sept. 1, 2021, through Aug. 31. The POA submitted a request to commence negotiations on a successor agreement March 26. The POA bargaining unit represents 35 full-time positions funded in the fiscal year 2023-24 budget.

Analysis

This report transmits personnel and process information to members of the City Council, the subject bargaining unit, and the public to inform upcoming labor negotiations with the POA.

Labor contract negotiations are governed by the Meyers-Milias-Brown Act (MMBA), Government Code §3500. MMBA requires that local agencies meet and confer in good faith regarding wages, hours, and other terms and conditions of employment with representatives of recognized collective bargaining units. MMBA further requires that the City fully consider proposals made by collective bargaining unit representatives before arriving at a determination of policy or course of action.

Negotiable items with direct costs

Table 1 provides total baseline personnel expense categories for each employee group, including SEIU, AFSCME, POA, Menlo Park Police Sergeants' Association (PSA), and unrepresented management and confidential employees to help quantify the financial impacts of desired changes by either negotiating party. Confidential employees are generally provided the same benefits as AFSCME. While the PSA agreement expires June 30, 2025, §2.1 of the PSA collective bargaining agreement provides a fixed differential between base pay in POA and PSA personnel. If base pay increases for POA, PSA receives an automatic

increase. All items are open to negotiations.

Table 1: Fiscal year 2023-24 baseline personnel costs by group

Employee group	Funded FTEs	Base pay	Special pays	Allowances	Retirement	Health and welfare	Other fringe benefits	Total
Represented non-sworn personnel								
SEIU	158	14,559,520	n/a	n/a	4,260,505	3,661,350	679,747	23,161,122
AFSCME	48.5	6,026,980	n/a	n/a	1,409,318	1,128,558	273,584	8,838,439
Subtotal	206.5	20,586,500	n/a	n/a	5,669,823	4,789,908	953,330	31,999,561
Represented sworn personnel								
POA	35	4,830,067	368,970	36,400	1,513,970	718,296	211,601	7,679,304
PSA*	9	1,564,613	246,528	9,360	707,976	211,248	73,713	2,813,438
Subtotal	44	6,394,680	615,498	45,760	2,221,946	929,544	285,314	10,492,742
Unrepresented								
Confidential	7	737,963	n/a	n/a	208,792	176,580	40,219	1,163,554
Management**	28	5,116,384	n/a	187,159	1,490,353	1,089,480	252,203	8,135,579
Subtotal	35	5,854,348	n/a	187,159	1,699,145	1,266,060	292,422	9,299,133
Grand total	285.5	32,835,528	615,498	232,919	9,590,914	6,985,512	1,531,066	51,792,619

*PSA contract expires on June 30, 2025, salary increases provided to POA automatically impact PSA wages under current PSA agreement.
 **Management includes sworn and non-sworn personnel.

Attachment B contains detailed expenditure breakdowns for all employee groups, and Attachment C provides a summary of negotiated salary adjustments by labor agreement. Attachments D and E provide web links to the City’s labor agreements and salary schedule. The elements of each column in Table 1 are defined in greater detail below:

Full-time equivalents. There are 285.5 authorized full-time equivalents (FTEs) in the fiscal year 2023-24 budget, not including the five City Councilmembers. FTE is defined as one individual working 40 hours per week or receiving a flat salary. A position scheduled to work less than 40 hours per week is shown as a fraction of 1.0. For example, a position scheduled to work 30 hours per week is considered 0.75 FTE. Temporary employees, employees working fewer than 20 hours per week or 960 hours per year, only receive benefits mandated by State or Federal law.

Base pay. Base pay is the pensionable wage for all budgeted FTEs, filled or vacant. Base pay for each employee may change due to negotiated general salary increases (GSIs), market-based equity adjustments, or annual merit-based performance adjustments.

Special pays. The City provides special pay to POA and PSA personnel that are added to pensionable wages. Examples include longevity, shift differentials, and Police Officer Standards and Training (POST) certification.

Allowances. Allowances are not pensionable wages and are provided to offset employee costs incurred in the exercise in their duties. Example allowances include maintaining uniforms for police officers in CalPERS Tier 3 (see retirement section below), and an automobile allowance for detectives, instead of maintaining a dedicated City vehicle for their use.

Retirement. Retirement includes CalPERS costs incurred by the employer for the defined benefit pension plan. All regular employees are enrolled in CalPERS per California Public Employees' Retirement Law Chapter 3 Article 1, and do not earn Social Security credits while working for Menlo Park. Retirement costs also include matching deferred compensation funds.

There are cost differentials between the various pension tiers. As a result of Measure L (November 2010), the City amended its contracts with CalPERS to provide a lower pension benefit to employees hired after a certain date (Tier 2). Statewide changes in CalPERS also took effect January 1, 2013, to introduce a further decrease in pension benefits for "New" employees hired on or after the effective date. "New" refers to the employee's tenure in CalPERS, rather than their tenure with an organization. The "New" employees subject to this lower benefit are referred to as Public Employee Pension Reform Act (PEPRA) employees or, at times, Tier 3 employees.

Web links to the most current pension actuarial reports are available in Attachments F through I, and Attachment J provides a web link to CalPERS' webpage on PEPRA. The "miscellaneous plan" applies to all non-sworn personnel, blending Tiers 1, 2 and PEPRA, and is large enough to require a discrete plan due to the number of active and retired members. The three plans titled "safety plan" are segmented based on benefit level and are pooled with similar small employers offering the same benefit to sworn personnel.

Health and welfare. Health and welfare primarily reflect cafeteria plan contribution for employees to select a medical insurance plan offered by the Public Employee's Medical and Hospital Care Act (PEMHCA), administered by CalPERS. In addition to medical, this column also includes City-paid dental and vision coverages for eligible employees and their dependents.

Other fringe benefits. Other fringe benefits include life insurance, accidental death and dismemberment (AD&D) insurance, Medicare and workers' compensation insurance.

Negotiable items with indirect costs

In addition to the direct costs outlined above, indirect costs items are also open to negotiation. Either side may seek changes in other factors subject to MMBA, such as paid time off (e.g., holidays), tools and equipment, employee engagement and retention efforts, and professional development opportunities.

Roles during labor contract negotiations

The following provides an overview of major roles in the process to promote understanding of the labor contract negotiation process:

City Council. The City Council designates the City's chief negotiator, authorizes the City's initial bargaining position, considers proposals made by collective bargaining unit representatives through the chief negotiator, and ultimately approves a successor agreement. City Council receives data, analysis, and recommendations from the city manager and designated City staff. City Council Procedure #CC-11-0001, establishes early release requirements for all matters about labor negotiations. Other than approving the successor agreement, the City Council may elect to hold all labor negotiations discussions in closed session.

Chief negotiator. The City retains labor attorney Charles Sakai from Sloan Sakai to advise on personnel matters, including on all issues under MMBA and to serve as chief negotiator during labor agreement discussions. Mr. Sakai prepares all proposals, counter-proposals, and tentative agreements and is authorized to execute tentative agreements consistent with negotiating authority granted by City Council. Mr. Sakai also consults the city manager, or designee, on workplace impacts of proposals, counter-proposals and tentative agreements.

City manager. The city manager is responsible for the efficient administration of all City services, and administration of the City Council approved budget. In the negotiations process, the city manager advises City Council and the chief negotiator on management matters subject to MMBA. The city manager also advises on recruitment and retention tools, employee engagement, and emerging trends in regional workforce management. The city manager designates city staff to support the chief negotiator.

Designated City staff. Labor negotiations can be a time-intensive process requiring significant preparation, coordination, analysis and follow-up work. The city manager typically will assign the assistant city manager, administrative services director, human resources manager, and a management analyst to support the process. To the greatest extent possible, information about labor negotiations is limited to individuals authorized by the city manager, such as how a proposal might impact operations.

Collective bargaining unit's chief negotiator. Each bargaining unit identifies a chief negotiator. The City's negotiating team commits to communicating only with the bargaining unit's chief negotiator unless otherwise authorized by the bargaining unit's chief negotiator.

Collective bargaining unit negotiating team. Each bargaining unit identifies a negotiating team of active City employees to advise their collective bargaining unit's chief negotiator through the labor contract negotiations process. The negotiating team typically meets amongst itself and is also present during all negotiation meetings.

Negotiations calendar and process

City management will provide City Council with its recommended bargaining position and strategy at their June 7 closed session. Time on the City Council's tentative agenda is reserved for closed sessions at each regular meeting after that to ensure City Council agenda capacity for labor negotiation conversations.

City Council will provide the City negotiator with direction to engage the units under the MMBA requirement to negotiate successor agreements with recognized employee groups. The first meeting between the two parties typically includes:

- Introductions
- Ground rules for negotiations
- Future meetings and time constraints
- Discussion of material contained in this report
- Discussion of any additional information requests from the bargaining unit
- Preliminary discussion of interest areas on both sides

The City's chief negotiator will provide the City Council with a negotiation strategy and initial bargaining authority recommendation. The chief negotiator will brief the City Council in closed session as necessary after that.

The following calendar identifies tentative key dates that impact negotiation of the successor agreement before the current agreement's term ends.

- May 6 – City staff releases report on negotiations with POA
- May 6-21 – Members of the public offer their input on the City’s negotiations position for City Council consideration
- June 7 – City Council meets in closed session, confirms negotiating teams, and provides initial bargaining authority to chief negotiator
- June 8 – July 30 – City and POA negotiate successor agreement
- July 31 – Estimated deadline for POA membership to ratify tentative successor agreement for effective date of Sept. 1
- Aug. 12 – Staff release report for ratified tentative successor agreement with POA
- Aug. 27 – Public meeting for City Council consider ratification of a successor agreement with POA effective Sept. 1

If the parties cannot agree on a successor agreement, the terms of the existing agreement remain until modified pursuant to State-mandated impasse procedures or successful negotiation of a successor agreement.

Resource available to City Councilmembers

Attachment K, “Understanding the Labor Negotiations Process produced by the Institute for Local Government,” further describes the roles, process and requirements of labor negotiations.

Impact on City Resources

There are no impacts on City resources as a result of receiving input on this issue. The cost of negotiating each contract is estimated at approximately \$30,000 inclusive of the chief negotiator’s fees and internal staff time. Additional consulting services may be required depending on the scope of negotiation. City Council will meet in closed session to provide direction to the City’s negotiating team. The negotiators will meet and confer with the POA negotiation team to reach a tentative agreement before the current agreement term ends. Once a tentative successor agreement is ready for City Council ratification, the fiscal impact of that tentative agreement will be released 15 days before the City Council vote at a public meeting.

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 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 May 21.

Attachments

- A. City Council Procedure #CC-11-0001
- B. Fiscal year 2023-24 baseline personnel costs by employee group
- C. Summary of current MOU wage adjustments
- D. Hyperlink – Labor agreements: menlopark.gov/laboragreements
- E. Hyperlink – Salary Schedule effective Feb. 25: menlopark.gov/salarieschedule
- F. Hyperlink – Miscellaneous plan CalPERS actuarial valuation report as of June 30, 2022:

- calpers.ca.gov/docs/actuarial-reports/2022/menlo-park-city-miscellaneous-2022.pdf
- G. Hyperlink – Safety plan Tier 1 CalPERS actuarial valuation report as of June 30, 2022:
calpers.ca.gov/docs/actuarial-reports/2022/menlo-park-city-safety-2022.pdf
- H. Hyperlink – Safety plan Tier 2 CalPERS actuarial valuation report as of June 30, 2022:
calpers.ca.gov/docs/actuarial-reports/2022/menlo-park-city-safety-police-second-tier-2022.pdf
- I. Hyperlink – Safety plan PEPRA CalPERS actuarial valuation report as of June 30, 2022:
calpers.ca.gov/docs/actuarial-reports/2022/menlo-park-city-pepra-safety-police-2022.pdf
- J. Hyperlink – Public Employees’ Pension Reform Act: calpers.ca.gov/page/about/laws-legislation-regulations/public-employees-pension-reform-act
- K. Understanding the Labor Negotiations Process produced by the Institute for Local Government

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Report reviewed by:
Brittany Mello, 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.

Table 1: Fiscal year 2023-24 baseline personnel costs - SEIU

Type	Total
Salary	
Base	\$13,924,940
General salary increase (GSI)	\$417,748
Merit	\$216,832
Salary Total	\$14,559,520
Retirement	
Employer Share: CalPERS Tier 1	\$586,208
Employer Share: CalPERS Tier 2	\$151,370
Employer Share: CalPERS PEPRA	\$1,370,498
Employee Share: CalPERS Tier 1	(\$328,246)
Employee Share: CalPERS Tier 2	(\$85,375)
Employee Share: CalPERS PEPRA	(\$772,980)
Unfunded: CalPERS Tier 1	\$1,001,274
Unfunded: CalPERS Tier 2	\$225,900
Unfunded: CalPERS PEPRA	\$2,111,856
Retirement Total	\$4,260,505
Healthcare	
Medical	\$3,339,030
Dental & Vision	\$322,320
Healthcare Total	\$3,661,350
Other benefits	
Life, ADD, LTD	\$101,917
Medicare	\$211,113
Workers' Comp	\$366,717
Other benefits Total	\$679,747
SEIU Total	\$23,161,122

Table 2: Fiscal year 2023-24 baseline personnel costs - AFSCME

Type	Total
Salary	
Base	\$5,799,773
General salary increase (GSI)	\$173,993
Merit	\$53,214
Salary Total	\$6,026,980
Retirement	
Employer Share: CalPERS Tier 1	\$344,765
Employer Share: CalPERS Tier 2	\$102,613
Employer Share: CalPERS PEPRA	\$423,520
Employee Share: CalPERS Tier 1	(\$194,453)
Employee Share: CalPERS Tier 2	(\$57,875)
Employee Share: CalPERS PEPRA	(\$238,871)
Unfunded: CalPERS Tier 1	\$380,808
Unfunded: CalPERS Tier 2	\$105,780
Unfunded: CalPERS PEPRA	\$543,030
Retirement Total	\$1,409,318
Healthcare	
Medical	\$1,029,618
Dental & Vision	\$98,940
Healthcare Total	\$1,128,558
Other benefits	
Life, ADD, LTD	\$42,189
Medicare	\$87,391
Workers' Comp	\$144,004
Other benefits Total	\$273,584
AFSCME Total	\$8,838,439

Table 3: Fiscal year 2023-24 baseline personnel costs - POA

Type	Total
Salary	
Base	\$4,641,523
General salary increase (GSI)	\$139,246
Merit	\$49,299
Salary Total	\$4,830,067
Special Pays	
Special Assignment	\$76,809
POST	\$217,684
Longevity	\$74,476
Special Pays Total	\$368,970
Allowances	
Uniform	\$36,400
Allowances Total	\$36,400
Retirement	
Employer Share: CalPERS Tier 1	\$631,019
Employer Share: CalPERS Tier 2	\$52,574
Employer Share: CalPERS PEPRA	\$607,202
Employee Share: CalPERS Tier 1	(\$140,552)
Employee Share: CalPERS Tier 2	(\$11,710)
Employee Share: CalPERS PEPRA	(\$271,459)
Unfunded: CalPERS Tier 1	\$186,996
Unfunded: CalPERS Tier 2	\$18,396
Unfunded: CalPERS PEPRA	\$441,504
Retirement Total	\$1,513,970
Healthcare	
Medical	\$646,896
Dental & Vision	\$71,400
Healthcare Total	\$718,296
Other benefits	
Life, ADD, LTD	\$36,393
Medicare	\$75,386
Workcomp	\$99,822
Other benefits Total	\$211,601
POA Total	\$7,679,304

Table 4: Fiscal year 2023-24 baseline personnel costs - PSA

Type	Total
Salary	
Base	\$1,512,673
General salary increase (GSI)	\$45,380
Merit	\$6,560
Salary Total	\$1,564,613
Special Pays	
Special Assignment	\$10,190
POST	\$151,923
Longevity	\$84,414
Special Pays Total	\$246,528
Allowances	
Uniform	\$9,360
Allowances Total	\$9,360
Retirement	
Employer Share: CalPERS Tier 1	\$662,696
Employer Share: CalPERS Tier 2	-
Employer Share: CalPERS PEPRA	-
Employee Share: CalPERS Tier 1	(\$147,608)
Employee Share: CalPERS Tier 2	-
Employee Share: CalPERS PEPRA	-
Unfunded: CalPERS Tier 1	\$192,888
Unfunded: CalPERS Tier 2	-
Unfunded: CalPERS PEPRA	-
Retirement Total	\$707,976
Healthcare	
Medical	\$192,888
Dental & Vision	\$18,360
Healthcare Total	\$211,248
Other benefits	
Life, ADD, LTD	\$12,678
Medicare	\$26,262
Workcomp	\$34,774
Other benefits Total	\$73,713
PSA Total	\$2,813,438

Table 5: Fiscal year 2023-24 baseline personnel costs - Confidential	
Type	Total
Salary	
Base	\$708,069
General salary increase (GSI)	\$21,242
Merit	\$8,652
Salary Total	\$737,963
Retirement	
Employer Share: CalPERS Tier 1	\$21,231
Employer Share: CalPERS Tier 2	\$48,489
Employer Share: CalPERS PEPRA	\$36,916
Employee Share: CalPERS Tier 1	(\$11,974)
Employee Share: CalPERS Tier 2	(\$27,348)
Employee Share: CalPERS PEPRA	(\$20,821)
Unfunded: CalPERS Tier 1	\$21,156
Unfunded: CalPERS Tier 2	\$74,124
Unfunded: CalPERS PEPRA	\$67,020
Retirement Total	\$208,792
Healthcare	
Medical	\$162,300
Dental & Vision	\$14,280
Healthcare Total	\$176,580
Other benefits	
Life, ADD, LTD	\$5,166
Medicare	\$10,700
Workers' Comp	\$24,353
Other benefits Total	\$40,219
Confidential Total	\$1,163,554

Table 6: Fiscal year 2023-24 baseline personnel costs - Management	
Type	Total
Salary	
Base	\$4,967,363
General salary increase (GSI)	\$149,021
Merit	-
Salary Total	\$5,116,384
Allowances	
Auto/Uniform	\$187,159
Allowances Total	\$187,159
Retirement	
Employer Share: CalPERS Tier 1	\$234,540
Employer Share: CalPERS Tier 2	\$367,202
Employer Share: CalPERS PEPRA	\$137,575
Employee Share: CalPERS Tier 1	(\$132,284)
Employee Share: CalPERS Tier 2	(\$207,107)
Employee Share: CalPERS PEPRA	(\$77,594)
Unfunded: CalPERS Tier 1	\$299,616
Unfunded: CalPERS Tier 2	\$524,328
Unfunded: CalPERS PEPRA	\$208,416
Deferred Compensation Match	\$135,661
Retirement Total	\$1,490,353
Healthcare	
Medical	\$1,032,360
Dental & Vision	\$57,120
Healthcare Total	\$1,089,480
Other benefits	
Life, ADD, LTD	\$35,815
Medicare	\$74,188
Workcomp	\$142,201
Other benefits Total	\$252,203
Management Total	\$8,135,579

Table 1: Summary of Current Memoranda of Understanding (MOUs) Wage Adjustments

Bargaining Unit	MOU Term	General Salary Increase (GSI) / Market-Based Adjustments
Service Employees' International Union Local 521 (SEIU)	7/11/23 – 6/30/26	<ul style="list-style-type: none"> • July 2023: \$2000 lump-sum payment; reduction in CalPERS cost share by 4%; market-based equity adjustments for those below market by 5% • July 2024: 1.5% GSI; reduction in CalPERS cost share by 2.67% to 0% • July 2025: 3.5% GSI
American Federation of State, County, and Municipal Employees Local 829 (AFSCME)	11/14/23 – 6/30/26	<ul style="list-style-type: none"> • November 2023: \$2000 lump-sum payment; reduction in CalPERS cost share by 4% • July 2024: 2.13% GSI • January 2025: market-based equity adjustments for those below market by 5% • July 2024: reduction in CalPERS cost share by 2.04% to 0% • July 2025: 3.5% GSI
Menlo Park Police Officers' Association (POA)	9/1/21 – 8/31/24	<ul style="list-style-type: none"> • September 2021: \$2000 lump-sum payment • July 2022: 3.0% GSI • July 2023: 3.0% GSI
Menlo Park Police Sergeants' Association (PSA)	7/1/22 – 6/30/25	<ul style="list-style-type: none"> • Tied to POA increases to maintain the current minimum base pay differential of 15% between top step Police Corporal and top step Police Sergeant
Unrepresented Management	Indefinite (Last Updated: 11/19/23)	<ul style="list-style-type: none"> • November 2023: reduction in CalPERS cost share by 4%; salary range increase of 6% (no GSI) • July 2024: reduction in CalPERS cost share by 2.045% to 0%
Confidential Employees	N/A	<ul style="list-style-type: none"> • Tied to AFSCME increases
SEIU Temporary Employees Unit	10/26/08 - 10/22/11*	<ul style="list-style-type: none"> • October 2008: 2% increase to hourly rate • Subsequent wage increases tied to permanent SEIU unit increases

*Expired term; MOU remains in place until a successor agreement is adopted

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>.

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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)