

Fact-finding Report and Recommendations, City of South Pasadena & South Pasadena Police Officers Association May 2013

This Fact-Finding (PERB Case # LA-IM-126-M) involves an impasse over the terms of a successor agreement between the City of South Pasadena and the South Pasadena Police Officers Association. Richard Kreisler was designated Panel member for the City, Robert Bartl was designated Panel member for the Association, and Tony Butka was agreed to as the Panel Chair.

A hearing was held at the South Pasadena City Hall on Tuesday, April 30, 2013, where all parties were represented by counsel and afforded an opportunity to introduce evidence, testimony, and argument as to their respective positions. A number of stipulations were agreed to by the parties at hearing. At the conclusion of the hearing, a post-hearing schedule was agreed upon where the Chair will deliver a Draft Report to the parties by Tuesday May 7th, and the parties will have an opportunity to review the draft and respond by Thursday May 16th. Thereafter the matter will be deemed submitted and a final Report will issue forthwith.

Background:

Inasmuch as the Chair lives in the surrounding community of Glassell Park, he is familiar with the City of South Pasadena, a very nice city indeed, bordering Pasadena, San Marino, Alhambra, and Los Angeles. It boasts excellent schools, a fiscally prudent City Council, a delightful old town, and a first rate police department.

The instant dispute arises out of successor negotiations subsequent to imposition of terms by the City in December 2011. To their credit, the parties have agreed on everything other than salary. In these contentious times that is an accomplishment worth noting.

The City employs approximately 180 employees, of which 43 work for the police department. For this bargaining unit a 1% salary increase represents approximately \$30,000. For fiscal year 1012/13, the City's actuals came in at \$21.2 million, with a deficit of about \$1.5 million as a result of the hit municipalities took when the State eliminated Community Redevelopment Agencies.

The Dispute:

In December 2012 the City presented the SPPOA with its Last, Best & Final Offer, which contained a 4% increase in compensation over a two year period. In their rejection of the Last, Best & Final Offer, the POA countered with a request for 5% over the two year period. Thus the declaration of impasse and this proceeding.

Taken at face value, it is likely that the body politic would wonder why any public employee, including police, would be getting any raises at all in these perilous times. In context, however, this case is not one of arguing over how big the raises should be. Overall, the City's Last, Best & Final Offer represents concession bargaining, in that the wage increases are offered only as a partial offset for increased direct costs to the employees for payment into pension plans and retiree health & welfare over the life of the contract.

In amplifying their position, the City presented oral testimony and a voluminous binder of 4 Exhibits, some 27 Tabs, and substantial girth. The Association provided a detailed outline and three Exhibits, as well as testimony.

Analysis

I) Criteria:

AB 646 (now contained the PERB Regulations) lays out a set of 8 criteria to be used by a fact finding panel:

“(d) In arriving at their findings and recommendations, the factfinders shall consider, weigh, and be guided by all the following criteria:

(1) State and federal laws that are applicable to the employer.

(2) Local rules, regulations, or ordinances.

(3) Stipulations of the parties.

(4) The interests and welfare of the public and the financial ability of the public agency.

(5) Comparison of the wages, hours, and conditions of employment of the employees involved in the factfinding proceeding with the wages, hours, and conditions of employment of other employees performing similar services in comparable public agencies.

(6) The consumer price index for goods and services, commonly known as the cost of living.

(7) The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays, and other excused time, insurance and pensions, medical and hospitalization

benefits, the continuity and stability of employment, and all other benefits received.

(8) Any other facts, not confined to those specified in paragraphs (1) to (7), inclusive, which are normally or traditionally taken into consideration in making the findings and recommendations.”

In an impasse such as this, which is purely over compensation, Items 5 (comparability) and 7 (total compensation) tend to be the two objective and quantifiable relevant criteria which will vary from agency to agency.

II) Comparable Agencies

In the case of comparability in the area of wages, hours and terms and conditions of employment, the record is clear that at one time the parties had agreed upon the following jurisdictions as comparable.:

City of Alhambra	City of Monrovia
City of Arcadia	City of Monterey Park
City of Burbank	City of Pasadena
City of Covina	City of San Gabriel
City of El Monte	City of San Marino
City of La Verne	City of West Covina

Evidently at one time this list of cities was contained in the memorandum of understanding - however, the list was removed from the collective bargaining agreement prior to 2011. That would indicate that there is no contractual agreement to use this set of cities as the appropriate jurisdictions for comparability purposes, although the parties seem comfortable with using this list as a guide.

The reason that agreement or no agreement on which cities to look to is important is that there isn't really any information available to the panel as to how similar or dissimilar the cities themselves in terms of demographics, geography, retail/commercial trade, income, housing, schools, and other socioeconomic information. Or for that matter relative fiscal stability.

III) Total Compensation

The Association provided two exhibits analyzing how the City fares compared to other cities in terms of total compensation relative to each other. The first document was using currently available 2013 information, and the second was to show the same chart in the event that the Council adopts the Last, Best, and Final Offer.

In each case, officers in South Pasadena come in last amongst all agencies. The City did not contest the Association's evidence that this is the case, or provide any rebuttal exhibits and/or testimony.

Having noted this fact, even when the list of cities was in the parties MOU, there was no language or agreement as to how to determine how those cities would be used in determining the appropriate wage/benefit package for the City of South Pasadena.

Also, the City provided a number of exhibits which indicated that compensation aside, they experience no difficulties in recruitment, retention, or staffing of the Police Department.

IV) Reserves

Much was made about the size of the City's reserves, and how they are 'unnecessarily' large. While it is clear that the reserves represent a tempting morsel to employees hungry for increased compensation, it is equally clear that the establishment, maintenance, and amount of reserves is a pure policy decision to be made by the elected officials of the City of South Pasadena.

The panel expresses no opinion as to what an appropriate reserve level would be, but it would be helpful if the Council could adopt a clear policy as to what they believe is a prudent reserve. Even though that percentage or amount of reserves could be subject to annual review and possible modification, from, it would provide clarity both to the parties to collective bargaining, as well as the public.

As matters stand, the City's Three Year Goals as stated in the 2012/13 Proposed Budget states as **Goal #3 Maintain our strong financial position, including reserves** without articulating what constitutes appropriate reserves.

V) Conclusion

The good news is that the City and the Association have enjoyed and continue to enjoy a decent working relationship - a positive sign when compared with a number of other jurisdictions where the relationship could be characterized as 'disharmonious'.

However, there is no clear path to a settlement here, since the parties have already explored all the options that a mediator or fact-finding panel would normally recommend in order to obtain an agreement.

Further, all the contracts in the City are ratified with the exception of the Police Unit, so there is an inherent resistance to providing an additional one percent to this bargaining unit, even if there are arguments in favor of doing so.

Technically what we have here is an economic dispute unique to Police Officers, there being nothing in the record relating to the only other group of Safety employees - Fire fighters. This is important, since the City has been quick to point out that while 1% of payroll for this unit is about \$30,000, if the City were to provide that same 1% to all the employees the cost would be more on the order of \$100,000 (see City's Exhibit D)

Recommendations:

- 1) The City should consider providing a additional 1% raise for the Police bargaining unit over a two year time period;
- 2) The fact is that Safety Employees are not like General employees. They work in paramilitary organizations, their staffing and the 24/7 nature of their work differentiates them from other employees, and their pension system is based on the fact that their job duties are arduous, which results in a retirement system based on earlier retirement ages than for other employees. These fundamental differences need to be reflected in collective bargaining. While this Unit is a mixed unit (containing both sworn and non-sworn) personnel, these units are not uncommon in Cities. The record is devoid of information as to how the general employees in this unit have been treated in relationship to the sworn personnel historically, so the parties would logically look to internal relationships within the bargaining unit to determine how to treat the two classes of employees relative to each other.
- 3) The City should consider establishing a policy for the appropriate reserve amount, be it percentage or dollars, with a rationale which is understandable to all. There are good business reasons to do so, and continued failure to address the issue provides no guidance as to the rationale of the City.
- 4) In the event the City determines not to provide anything beyond the Last, Best & Final Offer, they should take notice of both Item 7 (total compensation), and Item 5 (wages, hours and terms and conditions of employment in comparable agencies), contained in the criteria for fact-finding.

AB 646 did not usurp the ability or authority of public agencies to ultimately vote as they see fit in the collective bargaining arena. However the regulations do provide new and relatively objective criteria which fact-finding panels such as this are to use in analyzing the positions of the parties. Absent an agreement, these same criteria are the ones which will have to be utilized by future fact-finding panels.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Tony Butka". The signature is written in a cursive, somewhat stylized font.

Tony Butka
Chair

May 31, 2013