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In the Matter of Factfinding:

-between-

CITY OF CALEXICO

EMPLOYER

-and-

S. E. I. U, LOCAL 221

UNION

CASE NO. LA-IM-239-M

FINDINGS

CONCLUSIONS

RECOMMENDATIONS

DAVID B. HART
CHAIRMAN

HEARING HELD
June 20, July 12, 2017
Calexico, California

REPRESENTING:

CITY OF CALEXICO

Joseph T. Ortiz, Esq.
Best Best & Krieger

REPRESENTING:

S. E. I. U. LOCAL 221

Fern M. Steiner, Esq.
Smith Steiner Vanderpool & Wax, APC

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JURISDICTION

This Fact Finding arises pursuant to Government Code Section 3505 concerning Impasse Procedures as administered by the (Public Employee Relations Board hereinafter may be referred to as “PERB”) between the City of Calexico (hereinafter may be referred to as the “City”) and S.E.I.U, Local 221, Unit consisting of Certified Water and Wastewater Treatment Plant Operators (hereinafter may be referred to as the “Union”).

Unable to reach a settlement on the current meet and confer process, David B. Hart was selected by the parties to act as an impartial Chairman and empowered him to render an advisory decision in accordance with the PERB’S rules concerning Fact Finding. The panel met in executive session within the times lines as set forth by the rules. The Hearing was held within the time lines of the rules.

The Factfining panel in addition to the Chairman, included Eduardo Gutierrez, Appointed by the City, and Richard Barrera appointed by the Union.

The Hearing was held on the dates enumerated and the parties had ample time to present evidence including documents and witnesses.

Panel members and Represenattives submitted to the chairman their perspective of the issues. Prior to the Chairman writing these recommendations.

ISSUE

‘WHAT TERMS SHALL BE INCLUDED IN THE AGREEMENT BETWEEN THE CITY OF CALEXICO AND THE SEIU, LOCAL 221

PERB 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

1 **fact finders shall consider, weigh, and be guided by all the following**

2 **Criteria:**

3 **(1) State and Federal laws that are applicable to the employer.**

4 **(2) Local rules, regulations, or ordinances.**

5 **(3) Stipulations of the parties.**

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

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

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

14 **(7) The overall compensation presently received by the employees,**
15 **including direct wage compensation, vacations, holidays, and other**
16 **excused time, insurance and pensions, medical and hospitalization**
17 **benefits, the continuity and stability of employment, and all other**
18 **benefits received**

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

22
23 **BACKGROUND**

24 The recognized Bargaining Unit in the City of Calexico is made up of Certified
25 Operators in the Certified Water and Wastewater Treatment Plant

26 **THE DISPUTE:**

27 This dispute is essentially over compensation. Prior to the fact-finding, the City had
28 provided the Union with a Notice dated January 10, 2017, titled IMPASSE

1 PROCEDURE MEETING-JANUARY 17, 2017.

2 "Pursuant to the City of Calexico's Employer-Employee Relations resolution, No 2204 (the
3 "Resolution") at Section 13, the City of Calexico ("City") initiates the impasse procedure with
4 this written request for an impasse meeting. The resolution mandates that either party may
5 request an impasse meeting. This letter sets forth the City's request to the Employee Relations
6 Officer for an impasse meeting on the proposed date: January 17, 2017 at 10:00 am. Further,
7 this letter constitutes notice to the Calexico Certified Operators Association (the "Association")
8 of the same.

9 Statement of Positions

10 Beginning over six months ago on June 28, 2016, the City's position regarding its economic
11 shortfall has been consistent and unwavering. Because of an overall City Budget Deficit of
12 \$3,950,000, the City has requested concessions from the Association totaling \$220,815.00. The
13 City's proposal includes the following: (1) Pay Period Ending Noon on Friday; (2) Health
14 Benefit Cost pick up 50%; (3) Employee CALPERS pickup of 7%; and (4) a salary reduction
15 totaling the remainder of the necessary savings (ranging to 18.75%, depending upon
16 implementation date). On several occasions the Association has made it abundantly clear that
17 it would not agree to concessions. As of January 2017, the Association has provide no formal
18 concession proposal and has orally only suggested the implementation of a modest 3.5%
19 CALPERS pickup but only if the City provided a contemporaneous 2.6% salary increase.
20 Thus, the Association offers only a nominal .9% concession.

21 As always feel free to contact me directly if you have any questions or concerns about this
22 correspondence.

23 Signed Nick Fenly, Chief Negotiator

24
25 ANALYSIS

26 It is generally believed that the best labor-management contracts are those that
27 are negotiated through bargaining without outside assistance. There are instances,
28 however, where the parties find it difficult or impossible to reach agreement by direct

1 negotiation.

2 In these situations the fact-finding process perhaps, is a way of settling this
3 dilemma. It is certainly not the panel's intention to prolong or bring obstacles into the
4 process towards bringing about settlement. It is also not the intent to split the baby so
5 to speak. The Chairman is not of the belief that would be beneficial to anyone
6 involved.

7 The Chairman is also cognizant that the current dispute is the result by the
8 economic conditions of the times and the political climate. The nature of the issue and
9 the current relations of the parties are of obvious significance.

10 After careful consideration and examination of sworn testimony and hundreds
11 of documents, the Chairman presents the following recommendations in the hope the
12 parties can use these recommendations to reach an agreement. Unilateral
13 implementation of terms and conditions by the Employer would tend to disrupt good
14 labor relations. Good labor relations are a desired goal.

15 The Chair has to opine that the instant case is a "first" The first, in that the
16 Department that the City seeks concessions from, holds the mortgage on City Hall.
17 However, having said that, the City has a serious financial problem.

18 The chair is going to recommend "furlough days" as a concession for the
19 following reasons:

- 20 1. A reduction in wages and increased Employee payments for Health benefits
21 will only disrupt future bargaining and continue to haunt the relationship as the
22 Union tries to gain the concessions back. In the meantime the loss of wages
23 effects pension, the ability to make house payments or rent etc.
- 24 2. The Pension concessions sought by the City will probably come about and
25 "work itself out" as pension reform continues to unfold.
- 26 3. Furlough days, in the Chair's opinion would also help to keep current
27 Operators from seeking employment elsewhere.
- 28 4. Finally, as to the serious Financial problems, perhaps the City needs to contact

1 the Imperial County Sheriff and get a bid for the Police to become a part of that
2 Department. The Chair is aware of other agencies doing something similar and
3 saving money. Even though such a recommendation may be outside the issues
4 before this panel, the hundreds of pages that have been reviewed shows a dire
5 need to do something other than seek concessions from Employees. The Chair
6 is also acknowledging the fact that the Fire Department's grant has run out and
7 the Fire Fighters are in negotiations as this report is being written.

8 Furloughs are not something new in the State of California. The State
9 implemented furloughs, as did numerous Cities, Counties, Special Districts, and
10 School Districts. Therefore, the Chair recommends:

11 **The aforementioned Operators shall have 12 unpaid furlough days at the**
12 **rate of one per month to be implemented as soon as practicable.**

13 The panel members have had an opportunity to concur or dissent on the issues
14 as put forth by the Chairman, and attached to these recommendations are those
15 notations.

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18 Respectfully submitted;

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23 David B. Hart
24 Chairman

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27 Signed and dated this 3rd day of August, 2017

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CITY OF CALEXICO

PANEL MEMBER -EDUARDO GUTIERREZ

AS TO CHAIRMAN'S RECOMMENDATIONS

ECONOMIC TERMS AND CONDITIONS

CONCUR

DISSENT X

SEE ATTACHED



Eduardo Gutierrez
Panel Member

Signed and dated this 4 Day of August, 2017

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S.E.I.U, LOCAL 221

PANEL MEMBER RICHARD BARRERA

AS TO CHAIRMAN'S RECOMMENDATIONS

ECONOMIC TERMS AND CONDITIONS

CONCUR

DISSENT x

SEE ATTACHED

Richard Barrera
Panel Member

Signed and dated this Day of August, 2017

