



Council Meeting: April 30, 2013

SUBJECT: Discussion and Possible Action to Introduce an Ordinance to Amend Sunnyvale Municipal Code Chapter 2.24, Employer-Employee Relations, Pertaining to Impasse Procedures in Labor Negotiations

BACKGROUND

City staff is recommending that the City Council amend its local labor relations rules to comply with State legislation that mandates fact-finding to help resolve impasses in labor negotiations.

EXISTING POLICY

Council Policy 7.3.1 – Legislative Management

Goal 7.3B.3: Prepare and update ordinances to reflect current community issues and concerns in compliance with state and federal laws.

DISCUSSION

AB 646 was signed by Governor Brown on October 9, 2011. This statute institutes a new mandatory impasse process for negotiations conducted under the Meyers-Milias-Brown Act (MMBA) which cities must follow in its negotiations process. Beginning January 1, 2013, if a local public employer and its employee organization are unable to reach agreement in negotiations, the employee organization (but not the employer) “may request that the parties’ differences be submitted to a fact-finding panel.” The panel consists of a union member, a management member and a neutral chairperson appointed by the Public Relations Employment board (PERB) – typically someone with interest arbitration or fact-finding experience. The factfinding panel can ultimately make recommendations but does not have final and binding authority. In order to comply with this new statute, staff is proposing an update to Sunnyvale Municipal Code Chapter 2.24, Employer-Employee Relations, to reference and incorporate the new requirements. A copy of the proposed ordinance is attached.

FISCAL IMPACT

No fiscal impact. Any costs associated with fact-finding will be absorbed in the current budget for labor negotiations.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center,

Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's Web site.

ALTERNATIVES

1. Introduce an ordinance to amend Chapter 2.24 Employer-Employee Relations Code to comply with AB 646.
2. Do not introduce an ordinance to amend Chapter 2.24 Employer-Employee Relations Code and remain out of compliance with AB 646.

RECOMMENDATION

Staff recommends alternative #1 that the City Council introduce this amendment to the ordinance and place on the next City Council agenda for adoption.

Reviewed by:

Teri Silva, Director of Human Resources
Prepared by: Teri Silva, Director of Human Resources

Approved by:

Gary M. Luebbbers
City Manager

Attachments

- A. Ordinance of the City Council of the City of Sunnyvale Amending Chapter 2.24 of Title 2 (Administration and Personnel) of the Sunnyvale Municipal Code Related to Impasse Procedures in Labor Negotiations.

PROPOSED – NOT YET ADOPTED

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE AMENDING CHAPTER 2.24 OF TITLE 2 (ADMINISTRATION AND PERSONNEL) OF THE SUNNYVALE MUNICIPAL CODE RELATED TO IMPASSE PROCEDURES IN LABOR NEGOTIATIONS

WHEREAS, the State legislature passed Assembly Bill 646 (A.B. 646) in 2011, creating a new mandatory impasse process for labor negotiations conducted under the Meyers-Milias-Brown Act (MMBA); and

WHEREAS, A.B. 646 added new language to the MMBA that mandates factfinding to help resolve impasses in labor negotiations; and

WHEREAS, the City of Sunnyvale wishes to amend its local labor relations rules to comply with A.B. 646.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SUNNYVALE DOES ORDAIN AS FOLLOWS:

SECTION 1. SECTION 2.24.060 AMENDED. Chapter 2.24 (Employer-Employee Relations) of Title 2 (Administration and Personnel) of the Sunnyvale Municipal Code is hereby amended by modifying Section 2.24.060 to correct a typographical error and include a reference to Government Code Section 3505.5(a), as follows:

2.24.060. Meet and confer in good faith—Scope.

(a) – (c) Text unchanged.

(d) Text unchanged.

(1) – (2) Text unchanged.

(3) The designated representatives of the recognized employee organizations shall present their requests, if any, to the city representatives. The city representatives shall review and consider the requests and respond to the designated employee representatives. This process shall continue until an agreement has been reached or the discussions adjourned.

(4) The duty not to disclose to the public issues or materials being considered applies to each stage of the impasse procedures when such have been invoked pursuant to Section 2.24.240. Provided, however, that the parties may present the issues or materials being considered to their respective principals who shall observe the spirit of the nondisclosure requirement; and provided, further, that the issues being considered at each stage of impasse may be presented in a written public disclosure by mutual agreement of the parties to be reached within seven days after that stage of impasse has been invoked. If no agreement is reached within such time, no disclosure shall be made at that stage of impasse. The duty of nondisclosure does not extend to the release of nonconfidential information contained in public records. -Further, the duty of nondisclosure does not apply to findings and recommendations that must be made public pursuant to Government Code Section 3505.5(a).

SECTION 2. SECTION 2.24.240 AMENDED. Chapter 2.24 (Employer-Employee Relations) of Title 2 (Administration and Personnel) of the Sunnyvale Municipal Code is hereby amended by modifying Section 2.24.240 to refer to a new section pertaining to impasses in meet and confer negotiations, as follows:

2.24.240. Impasses in meet and confer, representation, and memorandum of understanding proceedings.

(a) The representatives of any party engaged in meet and confer discussions under Section 2.24.060 may invoke the impasse procedures as set forth in Section 2.24.265~~9~~ at any time after an impasse has occurred.

(b) Any unresolved complaint by an affected employee organization, advanced in good faith, concerning a decision of the municipal employee relations officer made pursuant to Sections 2.24.140 to 2.24.230 inclusive, or any dispute over an interpretation of any memorandum of understanding shall be processed in accordance with the procedures set forth in Section 2.24.260. Provided, however, that a written request for an impasse meeting, as described in the section last referred to, must be filed with the municipal employee relations officer within seven calendar days after the affected employee organization first receives notice of the decision upon which its complaint is based, or its complaint will be considered closed and not subject to the impasse procedures, or to any other appeal.

SECTION 3. SECTION 2.24.265 ADDED. Chapter 2.24 (Employer-Employee Relations) of Title 2 (Administration and Personnel) of the Sunnyvale Municipal Code is hereby amended by adding new Section 2.24.265 pertaining to impasse procedures in meet and confer negotiations, as follows:

2.24.265. Resolution of impasses involving meet and confer discussions – Factfinding Panel.

(a) For resolution of impasses in meet and confer discussions, the parties shall observe the procedures set forth in sections 2.24.260(a) and (b), and as provided in this section.

(b) The parties shall follow the requirements for factfinding and related provisions as enacted by AB 646, codified in California Government Code sections 3505.4, 3505.5 and 3505.7.

SECTION 4. EXEMPTION FROM CEQA. The City Council finds, pursuant to Title 14 of the California Code of Regulations, Section 15061(b)(3), that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project which has the potential for causing a significant effect on the environment.

SECTION 5. EFFECTIVE DATE. This ordinance shall be in full force and effect 30 days from and after the date of its adoption.

SECTION 6. POSTING AND PUBLICATION. The City Clerk is directed to cause copies of this ordinance to be posted in three (3) prominent places in the City of Sunnyvale and to cause publication once in The Sun, the official newspaper for publication of legal notices of the City of Sunnyvale, of a notice setting forth the date of adoption, the title of this ordinance, and a list of places where copies of this ordinance are posted, within 15 days after adoption of this ordinance.

Introduced at a regular meeting of the City Council held on _____, 2013, and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on _____, 2013, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST:

APPROVED:

City Clerk
Date of Attestation: _____

Mayor

(SEAL)

APPROVED AS TO FORM:

Joan A. Borger, City Attorney