

RENÉE MAYNE
Arbitrator, Mediator
Labor-ADR
Post Office Box 1827
Sacramento, California 95812
530-802-0980

PERB CASE NO. LA-IM-262-M
FACTFINDER CASE NO. 18-04-02FF
File No. 18-01

FACTFINDING PROCEEDINGS PURSUANT TO
THE MEYERS-MILIAS-BROWN ACT

CAMBRIA COMMUNITY HEALTHCARE DISTRICT

and

SERVICE EMPLOYEES INTERNATIONAL UNION
LOCAL 620

Issues: Impasse in 2017 Successor MOU Negotiations and
Impact Bargaining on Reduced Ambulance Services

NEUTRAL FACTFINDER
PANEL CHAIR
RECOMMENDATIONS

June 8, 2018

FACTFINDING PANEL

Factfinder for the Union:

Darryl Scheck
Field Representative
SEIU Local 620

Factfinder for the Employer:

Chelsea Olson Murphy
Attorney
Dannis Woliver Kelley

Neutral Factfinder Panel Chair:

Renée Mayne
Arbitrator, Mediator

APPEARANCES

For the Union:

Chris Coronado
Chapter President and Paramedic
SEIU Local 620

For the Employer:

Christian Keiner
Attorney
Dannis Woliver Keller

INTRODUCTION

This factfinding arose due to an impasse in collective bargaining under the State of California Meyers-Milias-Brown Act (MMBA) Government Code §3505.4 between Service Employees International Union Local 620 (Union, SEIU) and the Cambria Community Healthcare District (Employer, District).

Under the procedures of the California Public Employment Relations Board (PERB), Renée Mayne was appointed to serve as the Neutral Factfinder Panel Chair, Chelsea Olson Murphy was appointed as the Panel Member to represent the Employer, and Darryl Scheck was appointed as the Panel Member to represent the Union. (PERB letter April 9, 2018)

The parties agreed all procedural requirements of the impasse had been met, and the dispute was properly before the Factfinding Panel to issue its recommendations to resolve the impasse in collective bargaining.

The factfinding hearing was held on May 17, 2018, at the Coast Unified School District, 1350 Main Street, Cambria, California. The parties had full opportunity to present and submit relevant exhibits and evidence, and to discuss and argue the issues in dispute. After the conclusion of the hearing the factfinding record was closed on May 17, 2018, and the dispute was submitted for the Panel's review and recommendations.

ISSUES AT IMPASSE

- I. Labor negotiations for a 2017 successor Memorandum of Understanding (MOU).
- II. The impacts on bargaining unit employees stemming from the District's decision to cease nighttime operations of one of its two ambulances, resulting in one ambulance operating 24 hours per day and one ambulance operating 12 hours per day.

(FF Hearing)

GOVERNING STATUTE

The MMBA Government Code §3505.4(d) sets forth the criteria to be used in the factfinding process.

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.

FACTUAL BACKGROUND

The Cambria Community Healthcare District provides emergency medical and ambulance services in the northern part of the Central Coast of California. The bargaining unit is composed of 4 full-time Paramedic positions and 5 full-time Emergency Medical Technician (EMT) positions. (Employer p.2; Union p.106)

Though the Union initially submitted for factfinding salary and other proposals that remained unresolved after successor negotiations, the parties agreed at the commencement of the factfinding hearing that a primary issue took precedence above all else: The impacts on bargaining unit employees stemming from the District's decision to alter its ambulance

operations from two ambulances 24 hours per day, to one 24-hour ambulance and one 12-hour ambulance each day. This decision resulted in the need to alter some employee work schedules. The District proposed to replace one of its two 24-hour ambulance shifts per day with a 12-hour shift. The 12-hour shift would operate from 8:00 a.m. to 8:00 p.m.

(Employer pp.8-13; FF Hearing)

The District's 2017-18 billing-to-date trend showed fewer calls for service and commercial insurance patients than 2016-17. To mitigate financial loss from reduced ambulance calls and patient services revenue, the District had partially implemented shift changes with non-bargaining unit employees until the final outcome of successor negotiations. (FF Hearing) The MOU between the District and Union under Section X *Hours of Work and Work Schedules*, §A. *Shift Hours* stated bargaining unit work was in 24-hour periods:

Regular full-time Association members shall be scheduled to work a 48-hour shift, consisting of two uninterrupted 24-hour periods. Scheduling shall be on an A, B, or C shift basis. A 48-hour work shift shall alternate with a 96-hour off duty period, which averages at a 56-hour work week. (Union p.38)

The parties had begun negotiating the successor MOU on May 11, 2017. As of the date the Union declared impasse, January 12, 2018, the Union had last proposed a 2% minimum annual cost of living adjustment salary increase. The Union also proposed to adjust the EMT salary scale proportionally to maintain the salary range if the Employer's minimum salary was less than the state minimum wage. The Union proposed all other terms and conditions remain status quo. (Employer p.22; FF Hearing)

After impasse was declared and before the factfinding hearing, the District issued its last, best and final offer. This offer was status quo for terms of employment except those related to staffing 12-hour shifts and vacation accrual. The District's offer would not result in a loss of pay to bargaining unit employees assigned to the 12-hour shifts. The offer would result in bargaining unit employees not receiving annual vacation leave advanced each year. Instead, employees

would receive the same amount of vacation leave using an accrual method. The 12-hour employees would accrue a pro rata amount of vacation leave in each pay period. (Employer p.66)

District budgets were submitted by the parties into the factfinding record. The \$1.8 million budget for 2017-18 showed the District's ending balance was anticipated to be \$22,552. The \$1.76 million budget for 2016-17 budget projected an ending balance of \$2,376. However, the 2016-17 independent audit showed that the District had cash assets of \$477,327 at the close of the fiscal year. Going back to 2015-16, the District's \$1.65 million budget planned for a deficit with an ending balance of -\$42,900. (Employer pp.4-20; Union pp.46-87)

Negotiation and mediation were unsuccessful in resolving the parties' collective bargaining disputes. What follows is the position of the Union and then the District's position.

POSITION OF THE UNION

The Union did not concur that the District would have a continued structural budget deficit, because the current fiscal health of the District might not dictate a future decline. The Union argued that the District's revenues and reserves could have increased if it had proposed and passed a parcel tax via a ballot measure. The Union and its bargaining unit members were still willing to work with the District to educate the voters on the necessity of increased tax revenue. Employees were unhappy that the District had not pursued increased taxes and other revenue sooner, and now the District's fiscal issues were adversely affecting them. (FF Hearing)

Due to the high cost of housing on the California Central Coast, the majority of employees could not live in close proximity to the District office in the city of Cambria, and some traveled a long distance to work there. Most also held second jobs, which they could not continue to maintain with a 12-hour shift at the District. These facts led the employees to also raise their concerns to the District about their safety. (FF Hearing)

Current service levels were reduced due to the partial implementation of the 12-hour

shifts, and the employees were now having to wake up more frequently to calls, which posed a safety issue for those driving a long distance to their homes. The District's proposal to staff the new 12-hour shifts with bargaining unit employees would affect the safety, personal income, and lifestyle of each of the unit members. The Union pointed out that there were other operating cuts the District could make, such as eliminating all non-essential costs and services now rather than later. (FF Hearing)

POSITION OF THE DISTRICT

With a downward trend in revenue and increased costs in providing medical services, and after taking steps to reduce other operating costs, the District said it had no choice but to turn to personnel for help to achieve savings. The District presented information showing a trend toward a budget deficit in 2018-19 that would require a transfer of reserves to fill the budget gap. If the downward trend in income continued, the District said it might exhaust its reserves, and it projected it could become insolvent by November 2018. (Employer pp.4-20; FF Hearing)

With 84% of the budget earmarked for employees' salaries, benefits and non-discretionary employment costs such as workers' compensation, the District proposed to reduce capital expenditures for ambulance services. To reduce costs, the District would assign one of the two ambulances for 12 hours rather than two ambulances per 24-hour shift. Simultaneously, the District proposed to modify one of two daily 24-hour shifts to one 12-hour shift. To make this proposal more acceptable to the employees, the District proposed shift selection by seniority and no loss of pay or benefits for employees working a 12-hour shift. (FF Hearing)

The District had conducted a study of its calls for services and developed the 12-hour shift proposal for the days and times with the most frequent call activity. This would result in 12-hour employees working 3 shifts one week and 4 shifts the next week, while the 24-hour employees would continue to work a 48-hour shift with a 96-hour off duty period.

(Employer pp.50-52, 60-66, 92-93; FF Hearing)

The District said that its governing board was considering seeking a tax increase, and that they were willing to continue to work with the Union to find other ways to reduce costs and increase revenues. While the District acknowledged it had not taken all the actions the Union wanted it to take in raising revenue in the past few years, the District argued that it had enacted a number of operating cuts within its discretion, and none had affected the bargaining unit employees. (FF Hearing)

NEUTRAL FACTFINDER PANEL CHAIR DISCUSSION

The Neutral Panel Chair finds the District provided sufficient evidence to prove that it has a significant financial concern due to loss of revenue and increased costs. While the parties could wait to discuss implementing the 12-hour shifts until the outcome of the parcel tax initiative in November 2018 is known, the District said the parcel tax would not be enough to fill the income gaps, and it may be too late if it exhausts its reserves and becomes insolvent. The Union expressed confidence in the passage of a November 2018 parcel tax and had also pointed to other operating cuts the District could make before November if necessary. (FF Hearing)

The Neutral Panel Chair finds that the Union provided sufficient evidence to prove the District proposal will have a significant impact on the emergency medical services employees. The employees have identified safety, economic, family, and personal lifestyle changes that would need to be made, for them to maintain their employment with the District. (FF Hearing) Retaining qualified emergency services professionals would be important for the future of the District's services. While the District's last, best and final offer is for a July 1, 2018 implementation, the Panel Chair's first two recommendations to resolve this dispute are contingent on whether a parcel tax is proposed and approved in November 2018.

The Panel Chair also recommends contract language to maintain the proportionality of

the EMT salary range if the minimum wage raises the Step 1 salary.

Finally, the Neutral Panel Chair recommends the parties engage in labor-management talks to develop mutually agreeable plans to help ensure the continued operations of the District. Under this recommendation, the District and Union would jointly report monthly to the District's governing body on the status of their recommendations.

The following page lists the recommendations of the Neutral Factfinder Panel Chair. Attached to this report are letters of concurrence and dissent regarding these recommendations, from the Panel Member for the Union, Darryl Scheck, and the Panel Member for the District, Chelsea Olson Murphy.

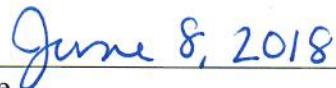
NEUTRAL FACTFINDER PANEL CHAIR RECOMMENDATIONS

In accordance with Government Code §3505.4(d)(4), the Neutral Panel Chair recommends the parties resolve their impasse in collective bargaining by agreeing to a one-year going-forward contract, that includes the following terms:

1. If a parcel tax is approved in November 2018, effective with the shift change closest to January 1, 2019, the parties shall implement 12-hour shift changes per the terms of the District's last, best and final offer dated May 10, 2018.
2. If a parcel tax was not approved by the electorate or was not approved by the District's governing board to send to the electorate, effective with the first shift change following Election Day in November 2018, the parties shall implement the 12-hour shifts per the terms of the District's last, best and final offer dated May 10, 2018.
3. Add contract language for EMT's: Salary increased by a statutory minimum wage increase, shall proportionally modify the entire salary range of that position.
4. Establish a labor-management committee to evaluate options and jointly recommend short and long-range plans that would ensure the continued existence of the District's emergency medical services on the northern part of the Central Coast of California. The committee will provide monthly joint reports to the District's governing body during the term of this one-year contract.



RENÉE MAYNE
Neutral Factfinder Panel Chair



Date

Factfinder for the Union: Darryl Scheck, Field Representative, SEIU Local 620, provided in the attached letter, the Union's concurrences and dissents with the recommendations contained in this Factfinding Report.

Factfinder for the District: Chelsea Olson Murphy, Attorney, Dannis Woliver Kelley provided in the attached letter, the District's concurrences and dissents with the recommendations contained in this Factfinding Report.

UNION/ASSOCIATION FACTFINDER CONCURRING AND DISSENTING OPINIONS TO THE NEUTRAL
FACTFINDER PANEL CHAIR'S RECOMMENDATIONS

As the Union/Association Factfinder appointed by the Union/Association Membership, the following is submitted in response to the recommendations of the Neutral Factfinder Panel Chair. I concur with three of the four recommendations made by the Neutral Factfinder Panel Chair and dissent with one of the four recommendations made by the Neutral Factfinder Panel Chair.

Recommendation 1. – I dissent with the Neutral Factfinder Panel Chair's First Recommendation that "If a parcel tax is approved in November 2018, effective with the shift change closest to January 1, 2019, the parties shall implement 12-hour shift changes per the District's last, best and final offer dated May 10, 2018. This recommendation on its face appears to be result from the assertion by the District that a parcel tax would not be enough to fill the income gaps, and it may be too late if it exhausts its reserves and becomes insolvent. The Union recommended possible alternatives for decreases in expenditures and also recommended market financing options with regards to rehabilitation of an existing facility to help the District remain solvent until revenue from a parcel tax could be received.

Recommendation 2. - I concur with the Neutral Factfinder Panel Chair's Second Recommendation. If a parcel tax is not approved by the District's governing board to send to the electorate and is not approved by the electorate, it is the opinion of the Union's Factfinder that the District will come under increased financial stress detrimental to the entire District and its Patrons. The Union/Association has recommended many possible alternatives for decreasing expenditures and if the District is prudent in its financial management, a November implementation of 12-hour shifts should be feasible. This will allow affected employees time to transition as there is uncertainty with regards to the final outcome of negotiations until the proceedings inevitably reach a conclusion.

Recommendation 3. - I concur with the Neutral Factfinder Panel Chair's Third Recommendation.

Recommendation 4. - I concur with the Neutral Factfinder Panel Chair's Fourth Recommendation.



DARRYL SCHECK
Union/Association Factfinder

June 8th, 2018

Date



CHELSEA OLSON MURPHY
Attorney at Law
colsonmurphy@DWKesq.com

San Luis Obispo

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PARTIAL
DISSENT/PARTIAL
CONCURRENCE

SAN FRANCISCO
275 Battery Street
Suite 1150
San Francisco, CA 94111
TEL 415.543.4111
FAX 415.543.4384

LONG BEACH
115 Pine Avenue
Suite 500
Long Beach, CA 90802
TEL 562.366.8500
FAX 562.366.8505

SAN DIEGO
750 B Street
Suite 2310
San Diego, CA 92101
TEL 619.595.0202
FAX 619.702.6202

SAN RAFAEL
4040 Civic Center Drive
Suite 200
San Rafael, CA 94903
TEL 415.543.4111
FAX 415.543.4384

CHICO
2485 Notre Dame Boulevard
Suite 370-A
Chico, CA 95928
TEL 530.343.3334
FAX 530.924.4784

SACRAMENTO
555 Capitol Mall
Suite 645
Sacramento, CA 95814
TEL 916.978.4040
FAX 916.978.4039

SAN LUIS OBISPO
1065 Higuera Street
Suite 301
San Luis Obispo, CA 93401
TEL 805.980.7900
FAX 916.978.4039

As the factfinding panel member appointed by the Cambria Community Healthcare District ("District"), I submit the following in response to the recommendations issued by Panel Chair Renée Mayne ("Chair"). In doing so, I concur in part and dissent in part as explained below. I concur with the Chair's analysis of the dire financial situation faced by the District as well as the recommendations proposed in the report except as indicated below.

I dissent as to the timing of implementation of the District's last, best and final offer as outlined in Recommendations 1 and 2. In those recommendations, the Chair proposes that the District implement the terms of the District's last, best and final offer either in November 2018 (if parcel tax is placed on ballot and does not pass) or on January 1, 2019 if a parcel tax is approved by the voters of Cambria.

Specifically, while I agree with the Chair that the District "has a significant financial concern due to loss of revenue and increased costs" I do not believe the District can afford to delay full implementation of its 12-hour car until after the election in November 2018 at the earliest or in January 2019 at the latest. The District's precarious financial state has continued to worsen throughout 2017 and into 2018. One of the most significant impacts which was impossible to predict was the significant loss of ambulance income. The District receives approximately \$3,000 in reimbursement for every patient with commercial health insurance that it transports while Medicare reimbursements are around \$500. Over the past year, the District has

PARTIAL DISSENT/PARTIAL CONCURRENCE

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experienced more than \$100,000 in losses due to the increased Medicare transports and decreased commercial transports. Given the already narrow margins the District operates under, I believe the District showed that delaying the 12-hour shift implementation any further could cause the District to find itself in a situation where it is no longer able to remain fiscally solvent and there are numerous not unlikely scenarios which would result in the District's inability to meet its payroll obligations by the fall of 2018. For that reason, I must dissent from the timing of the implementation of the District's last, best and final offer and would instead recommend that the offer be implemented in July 2018 as the District proposed.

Further, although the Union would like to delay the implementation because of the impacts on its members, and I am sympathetic to the lifestyle impacts this decision may have, the District and the Union have been negotiating a successor agreement since the summer of 2017 and the District initially explained to the Union that it was considering eliminating one of its nighttime ambulances in August of 2017. It provided a written proposal to add a 12-hour shift to the contract and to make other related changes to the MOU in October 2017. As such, the Union will have been aware that this change for close to a year, or since August 2017. When it is finally implemented in July 2018, they will have had significant time to prepare. Finally, although these changes may be difficult, it is my belief that it is of the utmost importance to ensure continued operation of the District.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'Ch', with a long horizontal flourish extending to the right.

Chelsea Olson Murphy
District Panel Member

Dated: June 8, 2018