



# SFMTA Negotiations: Overview of Law and Process

SFMTA Board Workshop  
Gina M. Roccanova  
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# Service Critical Bargaining Units & Representatives

- Operators (9163)
- Transit Fare Inspectors (9132)
- Automotive Service Workers (7410)
- Transit Supervisors, et al.
- Electricians
- Machinists and mechanics
- Service workers
- Managers
- TWU Local 250-A
- TWU Local 250-A
- TWU Local 250-A
- TWU Local 200
- IBEW Local 6
- Machinists Local 1414
- SEIU Local 1021
- MEA

# Legal Parameters



# Applicable Laws

- Meyers-Milias-Brown Act (MMBA)
- San Francisco Charter
- Employee Relations Ordinance

# Meyers-Milias-Brown Act

- State Law
- Applies to cities, counties, and special districts
- Requires employers and unions to meet and confer in good faith over terms and conditions of employment
- Requires response to requests for information
- Prohibits unfair labor practices
- Enforced by Public Employment Relations Board
- Gives deference to reasonable local rules

# San Francisco Charter

- Section A8.409 is general provision requiring good-faith bargaining
  - Contains impasse resolution process culminating in binding interest arbitration
  - Sets timelines for bargaining
- Section 8A.104 applies specifically to SFMTA



# Interest Arbitration

- Final and binding process
- Three-member panel



# SFMTA is Different

- Different Charter provisions
- Different decision-making authority
- Different timelines
- Different (additional) factors to be considered at arbitration





# Applicable Charter Provisions

- Section 8A.104
  - Gives SFMTA authority over its own labor relations for service critical employees
  - Defines service-critical
    - Operating
    - Dispatch
    - Maintenance of vehicles
    - Providing information/handling complaints
    - Supervising the above
    - Other functions as designated by Agency

# Section 8A.104 (cont'd)

- Permits (but does not require) incentive bonuses tied to service standards
- Subsection (n) sets forth additional factors for arbitration
- ~~Subsection (o) requires union to prove by clear/convincing evidence justification for that restrictions on Agency discretion over scheduling, deployment, sign-ups, staffing, and use of PT outweighs public interest in efficient transit service~~
- Subsection (q) abolishes past practices but court action allowed existing side-letters to remain in effect

# SCOPE OF BARGAINING

- Mandatory
- Permissive
- Prohibited
  - Provisions reserved to Charter
  - Discriminatory provisions
  - Provisions that violate state or federal law

# Scope of Bargaining - Examples

## Mandatory Subjects

- Wage rates
- Incentive plans
- Overtime pay
- Shift differentials
- Paid holidays
- Layoff and Recall
- Grievance /Arbitration Procedure
- Drug and Alcohol Testing for Current Employees (except DOT-covered)
- Subcontracting
- Attendance Policies

## Permissive Subjects

- Ground rules
- Scope of Bargaining Unit
- Amount of Union Dues
- Settlement of ULP Charges
- Wages and benefits of non-unit employees
- Composition of bargaining team

# Charter Carve-Outs

- Matters within jurisdiction of Civil Service Commission, including
  - Accrual and definition of sick leave (except Admin Code 12W)
  - Probational status (except duration)
  - Classification and allocation of positions to classes
  - Status rights
  - Examination and selection processes
  - (CSC must meet and confer as required by law)
- Retirement benefits
- Health plan design and benefits
- Vacation accrual
- Retiree Health Care Trust Fund

# **Overview of Bargaining Process**

# Who

- Union and management each have bargaining team
- Each side gets to decide who participates
  - Union team – unit members and Union employees
  - Management team – management and confidential employees
- Unit members get release time
- Each side should have a Chief Negotiator
- Each side should have official note-taker
- Other roles: Legal counsel, finance, operations, HR

# Chief Negotiator

- Speaks for their side
- Takes direction from team members
- Is the only one who can make proposals and counter-proposals
- Enforces table discipline – who talks when
- Reviews bargaining notes and trackers
- Sets overall strategy in consultation with stakeholders
- Signs TAs and final agreement



# Note-Taker

- Critical role
- Creates official bargaining history
  - Potential long-term impact
  - As well as short-term organizational tool
- Maintains proposal tracker
- Keeper of all papers
- May also be point person for RFI responses

# Legal Counsel

- Issue spotting
  - Scope of bargaining
  - Potential ULPs
  - Conflicts with laws or internal rules
- Provides advice to Chief and team
- Reviews proposals, counters, TAs, and final agreement
- Represents employer in impasse resolution

# Finance

- Presents initial overview of agency's financial situation
- Calculates costs of proposals and counters
- Advises on economic proposals
- Provides information in response to RFIs as needed

# Operations

- “End users” of agreement
- On-the-ground perspective
- Proposal development
- SMEs
- Reality testing

# HR

- Collects comparison information
- Ensures consistency across contracts and with applicable internal rules
- Advises on overall strategy
- Directs RFI collection and response

# Senior Management Team

- Sets overall objectives
- Carries out policies and priorities of the Board
- Gives authority to bargaining team
- Makes the big decisions
- Provides guidance & support

# SFMTA Board of Directors

- Sets policy
- Gives direction
- Must approve final agreement

# Where

- Mutually agreeable location
- Can be in-person, remote, or hybrid



# When

- Late April/early May – mediation/arbitration dates
- June 15 - deadline for MOUs to be filed with the Board
- June 30 - deadline for Board to adopt agreements

# What

1. Official opening of negotiations
2. Initial meeting/discussion of ground rules
3. RFIs & responses
4. Initial proposals
5. Questions & clarification
6. Responses & counter-proposals
7. Tentative agreements
8. Packaging where appropriate
9. Impasse resolution if needed
10. Final TA or arbitration award
11. Ratification by members/Adoption by Board
12. Implementation

## Impasse Resolution

- Parties unable to reach agreement after good faith bargaining
- Mediation/arbitration process
- Three-member panel
- Must choose between each side's LBFO on each issue – “issue-by-issue baseball arbitration”
- Must consider delineated factors
- Final and binding

# City-Wide Charter Factors

- Change in CPI
- Wages/benefits of employees performing similar services
- Wages/benefits of other City employees
- Health and safety of employees
- Financial resources of City
- Other demands and limits on City resources
- Revenue projections and budgetary reserves
- Ability of the City to raise revenues
- Ability of the City to meet the costs of the decision



## Additional SFMTA Factors for Arbitration

- “Interests and welfare of transit riders, residents, and other members of the public”;
- SFMTA’s ability to meet costs without “materially reducing service” or raising fares
- Need to tailor schedules to public demand for transit service



# Q & A