

### **MEDIATIONS KEEP BART NEGOTIATIONS ON TRACK**

Tense negotiations waged between Bay Area Rapid Transit (BART) and the agency's two largest unions, the Service Employees International Union 1021 and the Amalgamated Transit Union Local 1555. When employee contracts expired on June 30, 2013, renewal talks rapidly deteriorated. The next day, 2,400 unionized workers for the San Francisco commuter rail system left their posts and went on strike.

BART President, Tom Radulovich, wrote to California Governor Jerry Brown days before the labor agreements expired requesting state mediators to help move negotiations forward. Perhaps the move came in anticipation of political intervention in the dispute. Previous BART strikes in 1997 and 2001 were largely affected by political maneuvering, resolving after union workers emerged from negotiations with double digit pay raises in both instances. BART management was looking for a more reasonable way out of the strike by relying on state mediators to bring the two sides together. The two top state mediators were essential in helping to broker a thirty-day deal to stop the first four-day shutdown on July 5, 2013.

Despite months of talking beforehand, the opposing proposals were nearly a \$100 million dollars apart. After a five-year pay freeze, the largest discrepancy in the negotiations was salary increases. BART had seen a revenue surplus in the fiscal year of 2012, and employees hoped for a piece of that gain after enduring wage stagnation throughout the recession from 2009. Early on in the negotiation, BART's total four-year proposal would cost the agency another \$18.5 million, while the unions' offer would cost 117.5 million over the same time. The parties were closer to compromise on smaller issues, such as contribution to healthcare benefits where they were just \$4.3 million apart. On the main issues, however, large gaps remained.

While the recent dispute primarily centered on a demand for salary increases, there was also a growing concern by the unions for improvements in safety protocols. Union members pointed to thousands of "serious crimes" committed on the transit system in the last three years, including physical attacks on commuters and BART employees alike. The safety issue is not purely incidental to the contract discussions. The two major unions filed suit against BART charging that its Board of Director representatives were categorically refusing to bargain in good faith over worker safety. BART officials responded by claiming that the suit is a "smokescreen" meant to apply pressure and obscure the fact that the unions were demanding over twenty percent in pay increases. The lawsuit came less than week before the contract renewal deadline, and the escalating acrimony between the two parties was clear.

The disparate grievances were released publicly as BART management and the unions testified before a California state panel in August 2013. Commissioned by Governor Jerry Brown, the panel determined that a "cooling off" period was necessary to keep the trains running until October. BART commuters received a sixty-day reprieve from strikes when a San Francisco Superior Court Judge ordered the "cooling off" period requested by Governor Brown. The nearly five-day strike in July left 400,000 commuters extremely affected, and Governor Brown believed that another strike would be crippling to the transit system. In seeking to avoid this significant harm to the public, he gave the

two parties a period in which they could come to an agreement. The granted injunction remained in effect until October 10, 2013.

Management and the unions took a break from bargaining during the first month, but at the halfway point in September negotiations finally began by talking about minor supplemental issues. This is a classic mediation tool that allows the parties to start discussions with matters that have seen progress. If no deal was reached on the major issues, the unions threatened another strike on October 11, and BART would be powerless to stop them because the law only allows for one “cooling off” period. After 3 weeks of small concessions, and just minutes before the expiration of the “cooling off” period, union negotiators agreed to remain at the bargaining table. Discussions shifted with the introduction of a new mediator, the Director of Federal Mediation and Conciliation Service, George Cohen. Although exact details of the negotiations are unknown due to confidentiality, the focus was on the terms of the contract regarding raises and benefits.

Cohen’s involvement led to a bridging over deep divides regarding benefits and compensation issues. He may have arrived too late, however, as suddenly the issues of work rules soared to the head of the line in discussions. Five days after his arrival, the acclaimed mediator packed up and left the negotiations. On October 18, BART workers went on strike for a second time, rejecting BART’s “final offer” represented by a move from a ten percent increase to twelve percent pay raises

The labor war finally ended on October 21, 2013. Relief rippled through the Bay Area, after more than six months of negotiations, two crippling rail shutdowns, and threats of many more strikes. Negotiations resumed and a settlement was reached just two days after two track workers were killed in a BART train accident. Federal investigators revealed that an inexperienced operator drove the train. Union representatives warned management that training managers to operate trains during the walkout could be dangerous. In a joint press conference, BART disclosed that the offer made was more than they wanted to pay, but that both sides made a compromise to reach the agreement and to keep the Bay Area moving. The new contract is expected to give workers at least a 12 percent total raise, and reflects the headway made throughout the mediations.

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