

August 6, 2020

**VIA ELECTRONIC MAIL [SUSAN.GORIN@SONOMA-COUNTY.ORG] & FIRST CLASS MAIL**

Supervisor Susan Gorin, Chairperson  
Board of Supervisors, Sonoma County  
575 Administration, Room 100A  
Santa Rosa, CA 95403

**Re: Proposed Evelyn Cheatham Ordinance Ballot Measure**

Dear Chairperson Gorin:

This office is legal counsel to the Sonoma County Deputy Sheriffs' Association ("DSA") and it came to our attention yesterday that after failed attempts to obtain the necessary signatures to place the Evelyn Cheatham Ordinance ("Ordinance") on the November 3, 2020 ballot, the Board of Supervisors will be considering the matter today and may vote to place the Ordinance on the ballot.

Neither the DSA nor this law firm have been formally provided proper notice or drafts of the Ordinance and as such we are unaware of the specifics or procedural status of the proposal. Therefore we have to rely on media accounts of the matter. That said, according to the Press Democrat, the Board of Supervisors is considering additional amendments to the proposed Ordinance and it appears that the Ordinance has yet to be finalized. The DSA has not been formally notified of this proposal and accordingly there has been no opportunity to meet and confer over the matter.

The DSA wholeheartedly supports the effort to enhance and improve the delivery of law enforcement services and is committed to expanding the community's involvement in determining the way in which the Sheriff's Office operates. Despite the fact that the DSA stands ready to engage in meaningful dialogue with the County as well as community stakeholders, the legal process governing these matters must be respected. In that regard, prior to the Ordinance being placed on the ballot, the County must meet and confer on this specific proposal with the DSA in accordance with the Meyers-Milias-Brown Act, Government Code section 3500 et seq. ("MMBA").

Importantly, the County's MMBA obligations apply to proposed ballot initiatives. (*People ex rel. Seal Beach Police Officers Assn. v. City of Seal Beach* (1984) 36 Cal.3d 591.) In *Seal Beach*, the employee associations sued the City after the passage of a ballot measure that required the firing of any employee participating in a strike. The City placed the measure on the ballot without engaging in the meet and confer process. The California Supreme Court held that

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the City was required to “meet and confer . . . before it proposed charter amendments which affect matters within the scope of representation. The MMBA requires such action and the city council cannot avoid the requirement by use of its right to propose charter amendments.” (*Id.* at p. 602.)

The Board of Supervisors’ proposed vote today of placing the Ordinance on the ballot is violative of the MMBA in two regards. First, when such an ordinance affects matters within the scope of representation, notice must be provided to the employee association pursuant to Government Code section 3504.5. (See *Building Material & Construction Teamsters’ Union v. Farrell* (1986) 41 Cal.3d 651, 657.) Second, the County must meet and confer with the DSA “prior to arriving at a determination of policy or course of action” when these affect matters within the scope of representation. (*Boling v. Public Employment Relations Bd.* (2018) 5 Cal.5th 898.) “The duty to bargain requires the public agency to refrain from making unilateral changes . . . until the employee and employer association have bargained to impasse.” (*Id.* at p. 914, citing *Santa Clara County Counsel Attys. Assn. v. Woodside* (1994) 7 Cal.4th 525, 537.)

This meet and confer process requires that the employer “shall consider fully such presentations as are made by the employee organization on behalf of its members prior to arriving at a determination of policy or course of action.” The process may take a “reasonable period of time in order to exchange freely information, opinions, and proposals, and to endeavor to reach agreement. . . .” (Gov. Code, § 3505.) This process generally takes some time to complete, as acknowledged by the MMBA.

To date, the DSA has not been provided formal notice or any draft versions of the Ordinance. To that end, it is impossible to fully assess the issues and breadth of the application to the members of the DSA or the extent to which the MMBA is applicable. That is accentuated in light of the fact that the Ordinance is not in final form. Unfortunately we have no substantive information to determine the extent to which the DSA, if at all, objects to provisions of the Ordinance. Therefore we have no choice but to concurrently demand a copy of the proposal and an opportunity to meet and confer.

To be clear, the DSA is not intending to reopen any terms and conditions of the existing MOU. However, the MOU also requires that the County meet and confer under circumstances such as this.

The DSA supports and welcomes a collaborative process to enact change, however any change must comply with a host of legal requirements, one of which is the MMBA. Please accept this letter as the formal notice to the County of our demand to meet and confer over the proposed Ordinance.

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Thank you for your time and consideration in this matter.

Very truly yours,

**RAINS LUCIA STERN**  
**ST. PHALLE & SILVER, PC**



Rockne A. Lucia, Jr.

RAL:tw

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