

BACKGROUND

Among other municipal services, the City of Redmond provides both law enforcement and related clerical support and dispatching services through its police department. The records and dispatch personnel in the police department have been represented by Teamsters Local 763.¹ The employer and Local 763 were parties to a collective bargaining agreement for the period January 1, 1983 through December 31, 1984, wherein the bargaining unit was described as:

All regular full-time members of the City of Redmond Police Department classed as clerk dispatcher and/or clerk dispatcher lead.

In addition to the employees heretofore represented by Local 763, the city has one unrepresented clerical employee working in its police department in an "office assistant" classification. The city also has one or more unrepresented clerical employees in its fire department. The clerical, technical and professional employees in other City of Redmond departments are represented for the purposes of collective bargaining by the Redmond City Hall Employees Association under a certification issued by the Public Employment Relations Commission. See: City of Redmond, Decision 1080 (PECB, 1981). The city and the Redmond City Hall Employees Association were parties to a collective bargaining agreement expiring December 31, 1984 which specifically excluded employees in the police and fire departments.

¹ The Department of Labor and Industries administered Chapter 41.56 RCW from the time of its enactment in 1967 until jurisdiction was transferred to the Public Employment Relations Commission, effective January 1, 1976, pursuant to Chapter 41.58 RCW. Although the parties indicate that the bargaining relationship has existed in the clerk/dispatcher unit since 1971, when Local 763 was certified as exclusive bargaining representative by the Washington State Department of Labor and Industries, a search of records transferred to the Commission fails to disclose such a certification or the exact terms of the unit as certified.

Separately, the non-supervisory law enforcement personnel of the employer organized for the purposes of collective bargaining and were represented by Teamsters Local 763 under a certification issued by the Department of Labor and Industries. City of Redmond, Case No. 0-979 (1971). The petitioner herein has also filed a representation petition involving the law enforcement unit.² Those proceedings were consolidated with the instant case for hearing, but the issues and procedural postures of the cases being separate and distinct, the proceedings subsequently have been and will be disposed of separately. See: City of Redmond, Decisions 2269, 2269-A (PECB, 1985).

An organization chart for the police department dated 1980 was admitted in evidence by stipulation of the parties. That document depicts four branches reporting to the chief of police, namely: Investigation, Traffic, Patrol and Support. The records and dispatching functions were within the "support" heading, under the jurisdiction of a lieutenant.

Another stipulated exhibit is a table of organization for the police department annotated: "Adopted 4/81 effective 4/83". That document depicts two divisions, "operations" and "administration" subordinate to the chief of police, each headed by a commander. Separate "records" and "communications" sections are depicted under the "administration" branch of that table of organization, but with both of those reporting to a civilian supervisor who is shown as directly subordinate to the division commander. There were 7-1/2 dispatcher positions in 1982, of which 1-1/2 were designated to the records area. In 1982, the employer began to split off the records function from the dispatch function, so that there has been an increasing separation of duties. In 1984, there were 5 dispatchers and 1-1/2 records positions.

At the time of the hearing, it was anticipated that the city would convert to a "911" emergency call system during 1985, at which time all emergency calls for police, fire and emergency medical services would be routed through the police department's dispatch center. It was anticipated that this would

² Case No. 5502-E-84-989.

increase existing workload by 30 to 40 percent, and would require hiring three or four additional dispatchers. Thus, the employer's projections for 1985 included 9 dispatchers and 2-1/2 records persons. There is testimony that the employer's ultimate goal has been to split the clerical and dispatch functions, ending up with a group of persons maintaining the radio in the communications center and a separate group of persons with clerical duties.

The police department is currently located on the main floor of city hall, and all of the records and dispatcher personnel work in that facility. There is some physical separation between the two work areas. The records clerks are scheduled to work between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, and they normally take care of non-emergency calls as well as walk-in visitors coming in to the police department offices during those hours. Dispatchers are assigned around-the-clock to take emergency calls, but they also handle non-emergency calls and visitors that come in during periods when there are no records employees on duty. In addition, the dispatchers act as matrons for search of female prisoners and occasionally are called upon to testify in court. Just prior to the hearing in this case, one of the employees was working a weekly schedule consisting of four days in the records section and one day on dispatching, but had been transferred to full time dispatching duties by the time of the hearing.

The employer's personnel department conducted a study which concluded that the police department records employees should be aligned with office assistant I and II classifications in the bargaining unit represented by the Redmond City Hall Employees Association. The dispatcher personnel were viewed as being at a somewhat higher level. Wages presently paid to office assistants are lower than those of clerk/dispatcher personnel in the police department.

POSITIONS OF THE PARTIES

The petitioner seeks to replace the incumbent organization as the exclusive bargaining representative for the existing police support unit. It relies on the history of bargaining in that unit as support for its continued propriety, and contends that the police department records clerks have a greater community of interest with the dispatchers than with office assistants employed in other city departments.

It is the city's desire to segment the existing police support unit, transferring the records clerks to the unit which contains clerical employees of other city departments, and leaving only the more specialized dispatchers in the police department support unit. The employer particularly points to a change of circumstances affecting the dispatchers since 1982.

The incumbent exclusive bargaining representative did not take a position on the unit determination issue framed by the petitioner and the employer in this case.

DISCUSSION

Determinations as to the propriety of bargaining units are made under the standards set forth in RCW 41.56.060:

The commission, after hearing upon reasonable notice, shall decide in each application for certification as an exclusive bargaining representative, the unit appropriate for the purposes of collective bargaining. In determining, modifying or combining the bargaining unit, the commission shall consider the duties, skills, and working conditions of the public employees; the history of collective bargaining by the public employees and their bargaining representatives; the extent of organization among the public employees; and the desire of the public employees. ...

Neither the petitioner nor the incumbent argues from Commission precedent in this case, perhaps because research discloses that there is no prevailing rule concerning the unit determination question posed here.

Police department support employees are found mixed with law enforcement officers in department-wide "vertical" units in some smaller jurisdictions. City of Montesano, Decision 2138 (PECB, 1985); City of Centralia, Decision 1534 (PECB, 1983). Law enforcement officers in larger jurisdictions and firefighters, who are within the definition of "uniformed personnel" set forth in RCW 41.56.030(6), have been kept separate from employees who are not within that definition, due to the interest arbitration impasse procedures uniquely available to uniformed personnel. See: Thurston County Fire District No. 9, Decision 461 (PECB, 1978); City of Seattle, Decision 689-A (PECB, 1979); City of Yakima, Decision 837 (PECB, 1980); Cowlitz County, Decision 2067 (PECB, 1984); Benton County, Decision 2221 (PECB, 1985). The first effect of such unit clarification orders has been to create "generic" or "horizontal" unit structures for the uniformed personnel, grouping together all of those who are within the law enforcement officer or firefighter employee types. But a simultaneous effect of dividing what had been department-wide vertical units has been to leave the support personnel working in a police or fire department in a separate "vertical" unit of non-uniformed employees within that department. Separate police department support personnel units have also been created in the process of organizing previously unrepresented employees. See: City of Seattle, Decision 140, 141 (PECB, 1976).

On the other hand, police department support personnel have also been included in or left in broader "horizontal" units including the clerical and related employees of other employer departments. See: City of Tacoma, Decision 204 (PECB, 1977); City of Everett, Decision 1883 (PECB, 1984); Kitsap County, Decision 2117 (PECB, 1984 or 5).

This diversity of results reflects the individual fact situations involved in the various cases addressed, and reflects the absence of a compelling

criterion or circumstance (such as the availability of interest arbitration) affecting the support employees in police departments. The determination in this case must be made on its facts, as called for by RCW 41.56.060 and the criteria set forth therein.

Duties, Skills and Working Conditions

The previous clerk/dispatcher function was defined in the job description for the classification as follows:

Clerk Dispatcher

Individuals classified in this position are normally assigned to a designated shift, and are expected to perform proficiently any and all assignments and duties of a regular and recurring nature as related to communications, records and clerical duties.

Special assignments may be performed as directed.

Individuals must be able to act without direct supervision and to exercise independent discretion in meeting emergencies.

Requires orderly and efficient handling of simultaneous activities of radio dispatching, reception window, computer operation and various alarms; and rapidly making concise summaries of details of situations and communicating to appropriate police personnel; make appropriate logs or records. Must apply knowledge of accurate grammatical composition, spelling, punctuation. Requires basic familiarity with the social factors which result in institutionalization and the attitudes and habits of persons in custody. Requires recognizing the social importance of police functions for tactful and courteous treatment of the public. Requires maintaining confidentiality of all private and sensitive information handled or to which otherwise accessible.

Perform all assignments in accordance with departmental policies, rules, standard practice and established precedent with matters requiring deviation from policy or standard practice normally referred to next higher command level for decision and direction.

Performance is normally reviewed frequently by superior officers through a review of work methods, results, personal inspection and discussion.

The proposed new police dispatcher function is defined as follows:

POLICE DISPATCHER

DESCRIPTION OF WORK

General Statement of Duties: Receives telephone calls and radio messages, and transmits voice radio messages to appropriate police personnel.

Supervision Received: Works under general supervision.

Supervision Exercised: None.

EXAMPLES OF DUTIES: (Any one position may not include all of the duties listed, nor do the listed examples include all of the tasks which may be found in this position.)

Receives and monitors telephone calls and other messages requiring police action, and transmits orders to appropriate law enforcement personnel; uses standard operating procedures to send and receive radio and telephone messages.

Receives and handles emergency calls by dispatching appropriate unit(s) to handle emergencies; assists in variety of clerical duties which may include typing and/or the maintenance of police records; makes calls to assist officers in investigating statements made by subjects being questioned, or to assist officers in investigating other situations.

Operates a CRT terminal to enter data, to receive data, and to use data to advise police personnel as to whether vehicles and/or subjects are wanted for any reason(s).

Answers telephone inquiries regarding reporting of crimes, and/or department policies or procedures in reporting or handling them.

Performs a variety of other related duties, as required (e.g. assists in the body search of arrested subjects; may assist in the training of new police dispatchers).

The employer portrays the duties, skills and working conditions of the police department records positions as being similar to those of the persons

holding office assistant I and II positions elsewhere in city government. Exhibits 8 and 9 in this record define the position functions of office assistant I and II, respectively. They include performance of a variety of clerical duties of a routine and repetitive nature including typing, filing and simple posting, under close direction from employee of higher classification. They may also include beginning level duties as receptionist and switchboard operator. Individuals in Office Assistant I positions will normally be those who have had no previous experience, or their experience or level of capability is unknown, and will be considered in training in the basic clerical skills, or learning specific procedures and practices within the City in preparation for filling a higher level position. Progression to higher level positions will be determined by the individual's supervisor; however, the individual would normally progress from Level A to Level B in 90 days and to Level C in another 3 to 6 months at which time promotion to an appropriate higher classification would be made. The Office Assistant II classification calls for greater independence in performing a variety of clerical duties, with assignments typically involving maintenance of office clerical details for a group performing a function of regular City operations such as building inspection water, fire or others of similar type. Such assignments require considerable knowledge of the group's function, procedures and purpose.

The employer's design to effect a separation between dispatch and clerical activities in the police department is adequately defined in this record. The dispatch function is a high stress job, with continuous 8 hour shifts and no breaks. In contrast, clerical persons work an eight-to-five work day and a 5-day work week, and are permitted to leave the premises for lunch. The employer has identified business reasons to separate these two functions, and new job descriptions have been created. Necessary reassignment and recruitment has occurred to provide adequate staffing for the classification of dispatcher. From a personnel viewpoint, the employer's desire to convert some of the police clerical positions to the city-wide classifications appears both logical and reasonable. Apart from the savings accruing to the

city by reason of paying lower wage rates for records personnel, it would undoubtedly be easier for the employer to monitor a general, city-wide series of clerical classes commonly used by numerous departments than it would be to cope with unique classifications found only in certain departments.

The question remains, however, whether the employer's interests are sufficiently compelling to conclude that there is no longer a community of interest between the records and dispatch personnel within the employer's police department. There is much evidence supporting the continued existence of a community of interest in the existing bargaining unit.

All of the employees in the existing unit work in a common work area. Although there are some partitions within the police department area, these would not appear to be a compelling basis for a unit determination. See: Kitsap County, Decision 2116 (PECB, 1984). By contrast, clerical employees of the city included in the unit represented by the Redmond City Hall Employees Association are situated in three separate buildings.

There is evidence of cross-over of personnel and function within the police support unit. Although there is less traffic at night and on weekends than during the business day, the night and weekend duties of the dispatch personnel do include handling non-emergency calls and visitors of the type routinely handled by the records personnel during their work hours. One employee was simultaneously serving in both capacities for a period of time until a vacancy occurred permitting her to move into full-time dispatching. As emphasized by the petitioner, career mobility for the police clerical employees would include the opportunity to move into the dispatch activity, in which they were earlier involved and are thoroughly knowledgeable. These employees may also have an opportunity to compete for posted clerical positions in other departments should they so desire. There is no evidence that they lose any advantage or opportunity by remaining in their current unit. There is nothing which would preclude the employer from creating less skilled positions within the existing bargaining unit, and bargaining with

the exclusive bargaining representative of the police support unit for appropriate wage levels for such new classes.

The existing unit structure along lines of management's table of organization means that all of the police department support employees have common supervision. Those supervisors do not have authority over other clerical or related employees of the city. The clerical employees represented by the Redmond City Hall Employees Association are distributed among the planning, parks, public works and finance departments. Vertical units aligned with the management structure sometimes co-exist with "horizontal" units which cut across departmental lines. See: Cowlitz County, Decision 2067 (PECB, 1984), involving the collision of two such units.

History of Bargaining

There is a history of bargaining here which dates back to as early as 1971. This is thus unlike a situation of initial organizing of previously unrepresented employees. The police support unit involved here has always been separate from the law enforcement officer bargaining unit, so there is no need to consider a separation of those communities of interest.

The history of bargaining in a unit can be nullified if the unit ceases to be appropriate due to a subsequent change of circumstances. See: City of Richland, Decision 279-A (PECB, 1978). While there have been some changes of circumstances, as noted above, they do not appear to rise to the level of compelling a finding that the historical unit is now inappropriate. In the absence of a conclusion that the bargaining unit has become inappropriate, the history of bargaining in the existing unit is entitled to substantial weight in making a unit determination in the present case.

The Extent of Organization

The unit represented by the Redmond City Hall Employees Association is broad, but is not universal. It is not really "city-wide" in scope when it comes to clerical classifications. By contrast, the only smudge of impurity on the "vertical" unit of non-uniformed employees in the police department is the existence now of an unrepresented office assistant. The record in this case is not clear as to how that anomaly came to be, or as to how long it has existed. The table of organization dated 1980 makes reference to a "secretary" working directly for the chief of police, as does the more recent table of organization. It is not clear that the employer would include this "office assistant" position in the so-called city-wide unit. There is no claim that the individual is a supervisor or a confidential employee, but such a claim may have been overlooked in the processing of this case up to this time. Even under the employer's theory of this case, the clerical employee(s) in the city's fire department would remain unrepresented. While there is a preference for generic units in many settings, it must be recognized that the horizontal unit involved in the instant case is not, never was, and would not become, perfect or the only appropriate unit.

The Desires of the Employees

The desires of employees can be obtained by conducting a secret ballot unit determination election where there are two or more appropriate unit structures available. However, the statute and rules set out specific conditions, in RCW 41.56.070 and WAC 391-25-090 and WAC 391-25-110, for initiating or intervening in representation proceedings. The Redmond City Hall Employees Association was certified in 1981 as exclusive bargaining representative for full-time and regular part-time clerical, professional and technical employees of the City of Redmond, excluding employees in the police and fire departments. The organization certified in that proceeding has not chosen to participate in the instant proceeding. The employer's proposed result would have the effect of making the records clerks subject to representation by an

organization which, so far as it appears from this record, has never indicated a claim, or even a desire, to represent the clerical employees in the police department.

The employees in the petitioned-for police support unit were not eligible to vote on the question concerning representation in the so-called city-wide unit. The employer's proposed result would thus also have the effect of including the records clerks in a bargaining unit where they have had no opportunity to vote on the choice of exclusive bargaining representative. This would not be an appropriate situation for an "accretion" order. Where new positions or classifications are created after certification of a bargaining unit, they may be accreted to an existing bargaining unit in unit clarification proceedings, based on community of interest principles, without giving the incumbents of those positions an opportunity to vote on their inclusion in the unit. On the other hand, where positions or classifications existed, at least in function, at the time the larger unit was created, the decision in City of Dayton, Decision 1432 (PECB, 1982) would control. Under those circumstances, it is not appropriate to include pre-existing positions through a subsequent unit clarification, because such situations raise a question concerning representation. There is currently no question concerning representation in the unit represented by the Redmond City Hall Employees Association, and thus no occasion to conduct a unit determination election affecting that bargaining unit.

CONCLUSIONS

Aside from convenience to the city, there appears to be minimal reason to move the police department records employees to the city hall bargaining unit, and there are many problems, as noted above, which stand in the way of such a move. An election is directed along the lines of the historical unit. In order to avoid stranding the one office assistant in the police department (and thereby depriving that person of the rights of the statute), the position is included here in the police support unit, subject to challenge of

the ballot by any party in order to preserve a claim that the person should be excluded from that unit as a confidential employee or supervisor.

FINDINGS OF FACT

1. The City of Redmond is a municipality of the state of Washington and a public employer within the meaning of RCW 41.56.030(1).
2. Redmond Police Officers Association, a labor organization and bargaining representative within the meaning of RCW 41.56.030(3), has petitioned to represent certain non-uniformed personnel in the Redmond Police Department.
3. Teamsters Local 763, a labor organization within the meaning of RCW 41.56.030(3), timely moved for intervention in the matter as the incumbent exclusive bargaining representative for the petitioned, non-uniformed employees of the Redmond Police Department.
4. The petitioned non-uniformed employees all work for the police department in a common work area, share common supervision and maintain a community of interest in the existing bargaining unit.
5. There is a history of separate representation and bargaining in the petitioned-for unit, which dates back to as early as 1971.

CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction in this matter pursuant to Chapter 41.56 RCW and Chapter 391-25-WAC.

2. The petitioned-for bargaining unit of non-uniformed employees of the City of Redmond Police Department is and remains an appropriate unit for the purposes of collective bargaining within the meaning of RCW 41.56.060.
3. A question concerning representation presently exists in the appropriate bargaining unit described herein.

DIRECTION OF ELECTION

An election by secret ballot shall be conducted under the direction of the Public Employment Relations Commission in the bargaining unit described as:

All full-time and regular part-time non-uniformed employees employed by the City of Redmond in its police department, excluding the chief of police, uniformed personnel within the meaning of RCW 41.56.030(6), confidential employees and supervisors,

for the purpose of determining whether a majority of the employees desire to be represented for the purposes of collective bargaining by Teamsters Local No. 763, by the Redmond Police Officers Association, or by no representative.

DATED at Olympia, Washington, this 13th day of December, 1985.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



MARVIN L. SCHURKE, Executive Director

This Order may be appealed by filing timely objections with the Commission pursuant to WAC 391-25-590.