

Pat Sturgill in late September or early October, 1984. Sturgill left the proposal in City of Raymond Commissioner Vern Haerling's mail drop, but Haerling never received it. Prior to delivery of a second proposal in April, 1985, Sturgill and Haerling spoke informally concerning the matter. The matter was discussed again after delivery of the proposal. The need to begin negotiations on a new agreement was mentioned, although neither party pursued the matter or set a date to begin negotiations.

At a meeting of department heads on May 14, 1985, the mayor discussed budget overruns and told the department heads to come up with a plan to reduce the budget by approximately 20%. He also advised that 85% of the budget was devoted to wages and benefits and suggested the department heads look at cutbacks in wages and benefits.

Rebecca Chaffee began her employment with the city in May, 1983, as construction engineer for a sewer project. She became city superintendent in November, 1984. Without first contacting the union or its officers, Chaffee met with members of the bargaining unit in the lunchroom on May 16, 1985. She identified the need for a reduction and asked the crew members for suggestions to save 20% of the budget. Quoting from her own notes, Chaffee read:

Met with crew after lunch to discuss options on cutting back. We had three options - cut in pay, cut in hours or layoff. I suggested cut in hours. It would have to be voluntary at this point because of the union contract.

City employee, Mike House, testified Chaffee had said:

Think about it and I'll get back to you in a couple of weeks and we'll talk about it.

There is a conflicting testimony concerning a second meeting. While Chaffee remembers only one meeting on May 16th, both Mr. House and Assistant Steward John Batchelor recalled a subsequent meeting, allegedly held on May 20, 1985, at which time a voice vote or poll was taken concerning the proposed cut.

Following the May 16th meeting, Batchelor alerted Sturgill, who had not attended the meeting. Sturgill, in turn, informed Chauvin as to what was taking place. Chauvin cautioned Sturgill about taking any kind of vote concerning the cut. On the morning of May 20th, Sturgill again called Chauvin to alert him about an anticipated vote which was to be taken sometime that day. Chauvin placed a call to Chaffee at 9:40 AM and left a message for her. She returned his call at 2:00 PM. The meeting was discussed and the following conversation ensued between Chauvin and Chaffee:

Chauvin: You know that's an unfair labor practice?

Chaffee: No, I wasn't aware that it was.

Chauvin: Well, don't let it happen again.

Chaffee: Okay. Now that I know, it won't happen again.

Chauvin wrote a letter to Haerling on May 20th, protesting the vote on pay reductions or layoffs as an unfair labor practice and requesting that the city cease and desist from these types of actions. He did not request that the city bargain the proposed reduction or layoff but did ask the city to commence negotiations on a successor agreement. Chauvin indicated his availability to meet on June 11, 12, and 13, 1985. The first bargaining session occurred on June 11, 1985.

POSITIONS OF THE PARTIES

The complainant alleges the respondent interfered with the rights of the employees and refused to bargain when it polled bargaining unit members about reduced work hours.

In response, the city contends Rebecca Chaffee's action did not rise to the level of interfering with, restraining or coercing the unit employees to ignore the provisions of the contract requiring layoff by seniority, but rather was merely an exploratory session in which the city desired to get a feeling for the employees' reactions.

DISCUSSION

The small size of the bargaining unit, consisting of only six employees, and the rapport of the parties apparently served to perpetuate a historical pattern of informal collective bargaining. When, for reasons unknown, the first proposal failed to reach the employer, neither party moved to immediately correct the situation. Again, after the second proposal was delivered, both parties continued their relaxed approach to the matter and failed to move to establish a date to commence bargaining. It was not until following the Chauvin letter of May 20, 1985, that any bargaining took place for a successor agreement. Noteworthy here is the city did agree to meet on the first day of Chauvin's indicated availability.

RCW 41.56.030(4) identifies "wages, hours and working conditions" as items to be included in collective negotiations between parties. Commissioner Haerling testified that Chaffee told him:

A poll was taken and the crew was asked whether or not they wanted to take a wage cut or a layoff.

To the crew members, Superintendent Chaffee was an authority figure who represented the employer. Her questions, requests for opinions, and polling of the crew, in whatever form, would not be taken lightly or considered idle curiosity. The employer was presenting three alternative solutions for the budget problem, and the crew was asked to choose one of the three. Each of the choices represented a loss of gross earnings for bargaining unit employees.

The mayor and other city officials should have been aware of the possible impact of their directed survey action. Neither the union nor its officers were informed in advance of the polling. The union was not asked to negotiate the proposed budget cutback. In Royal City School District, Decision 1419 (PECB, 1982), the employer interfered with and coerced employees in exercise of their rights when it circumvented the union business agent and met directly with unit employees to inform them of possible ramifications of a district wage proposal. The employer committed an unfair labor practice in Lake Washington School District No. 414, Decision 1863 (EDUC, 1984) when it dealt directly with bargaining unit employees on matters concerning changes in wages and working conditions. Direct dealing or communication with employees constituted an unfair labor practice under RCW 41.56.140(1) and (4) in City of Wenatchee, Decision 2216 (PECB, 1985), where the fire chief requested concurrence with his proposal to modify the system for civil service promotional examinations by directly discussing the matter with firefighter members of the bargaining unit without the knowledge of the exclusive bargaining representative.

By its failure to give the union proper notice or an opportunity to bargain a mandatory subject of collective bargaining, and by dealing directly with bargaining unit employees concerning changes in wages and working conditions, the City of Raymond committed an unfair labor practice in violation of RCW 41.56.140(1) and (4).

FINDINGS OF FACT

1. The City of Raymond is a municipality located in Pacific County and is a public employer within the meaning of RCW 41.56.030(1).
2. Washington State Council of County and City Employees, Local 367-R, is the exclusive bargaining representative within the meaning of RCW 41.56.030(3), of certain employees in the Public Works Department of the city.
3. The union and the city were parties to a collective agreement which covered calendar year 1984.
4. In September/October, 1984, the union submitted a proposal for a successor agreement but the proposal was never received by the employer. A second proposal submitted in April, 1985 was received.
5. In 1985, the city encountered financial difficulties necessitating budget cuts of approximately 20%. On May 14, 1985, the mayor told department heads that 85% of the budget was devoted to wages and benefits, and told department heads to come up with a plan to reduce the budget by approximately 20%. He suggested they look at cutbacks in wages and benefits.

6. Without notifying the union or its representatives, City Superintendent Rebecca Chaffee contacted the public works crew and asked if they would prefer a cut in pay, cut in hours or layoff.
7. On May 20th, the union called Chaffee to protest her actions and also wrote a letter of protest to the city. The union additionally requested to begin bargaining a successor agreement on June 11, 1985. The first collective bargaining session took place June 11, 1985.

CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction in this matter pursuant to Chapter 41.56 RCW.
2. By its circumvention of the union and direct dealings with employees, as described in the above findings of fact, the City of Raymond failed to negotiate a mandatory subject for bargaining, in violation of RCW 41.56.140(1) and (4).

ORDER

Upon the basis of the above Findings of Fact and Conclusions of Law, and pursuant to RCW 41.56.160, of the Public Employees Collective Bargaining Act, it is ordered that the City of Raymond, its officers and agents shall immediately:

1. Cease and desist from:
 - A. Failing to give notice of, and bargain over, possible reductions in wages and hours.

- B. Circumventing the exclusive bargaining agent by meeting directly with the public works crew and discussing the ramifications of cuts in funds.
2. Take the following affirmative action to remedy the unfair labor practice and effectuate the policies of the Act:
- A. Post, in conspicuous places on the employer's premises where notices to all employees are usually posted, copies of the notice attached hereto and marked "Appendix". Such notices shall, after being duly signed by an authorized representative of the City of Raymond, be and remain posted for sixty (60) days. Reasonable steps shall be taken by the City of Raymond to ensure that said notices are not removed, altered, defaced or covered by other material.
- B. Notify the Executive Director of the Commission, in writing, within thirty (30) days following the date of this order, as to what steps have been taken to comply herewith, and at the same time provide the Executive Director with a signed copy of the notice required by the proceeding paragraph.

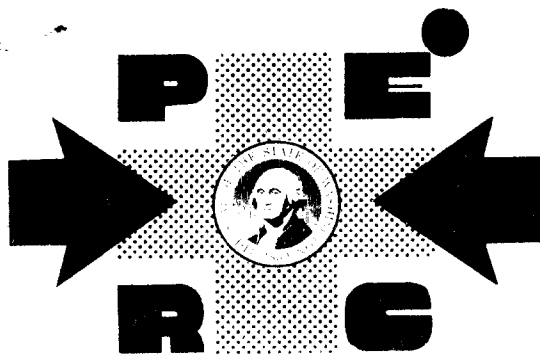
DATED at Olympia, Washington, this 15th day of July, 1986.

PUBLIC EMPLOYMENT
RELATIONS COMMISSION



JACK T. COWAN
Examiner

This Order may be appealed by filing a petition for review with the Commission pursuant to WAC 391-45-350.



PUBLIC EMPLOYMENT RELATIONS COMMISSION

APPENDIX

NOTICE

PURSUANT TO AN ORDER OF THE PUBLIC EMPLOYMENT RELATIONS COMMISSION AND IN ORDER TO EFFECTUATE THE POLICIES OF RCW 41.56, WE HEREBY NOTIFY OUR EMPLOYEES THAT:

WE WILL NOT meet directly with individual employees represented by the Washington State Council of County and City Employees, Local 367-R, with respect to wages, hours and terms or conditions of employment.

CITY OF RAYMOND

By: _____
AUTHORIZED REPRESENTATIVE

DATED: _____

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

This notice must remain posted for sixty (60) consecutive days from the date of posting and must not be altered, defaced, or covered by other material. Any questions concerning this notice or compliance with its provisions may be directed to the Public Employment Relations Commission, 603 Evergreen Plaza Building, 603 Evergreen Plaza Building, Olympia, Washington 98504. Telephone: (206) 753-3444.