

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:

CITY OF BLAINE

For clarification of an existing bargaining
unit represented by:

INTERNATIONAL ASSOCIATION OF
MACHINISTS AND AEROSPACE
WORKERS, DISTRICT LODGE 160

CASE 129680-C-17

DECISION 12792 - PECB

ORDER CLARIFYING
BARGAINING UNIT

David Wilbrecht, City Manager, for the City of Blaine.

Glenn Farmer, Business Representative, for the International Association of
Machinists and Aerospace Workers, District Lodge 160.

On September 11, 2017, the City of Blaine (employer) filed a petition to clarify a bargaining unit of supervisory police officers represented by the International Association of Machinists and Aerospace Workers, District Lodge 160 (union). The employer alleges that the supervisory police officers bargaining unit is no longer appropriate under RCW 41.56.060 and WAC 391-35-330 because it now includes only one employee. The bargaining unit in question was voluntarily recognized by the employer. The recognition article in the parties' collective bargaining agreement described the unit as "all full-time and regular part-time supervisory law enforcement personnel, excluding elected officials, the City Manager, confidential employees, non-supervisory uniformed personnel, and other employees."

According to the petition, the police chief is the only employee in the bargaining unit. Based upon this fact, the employer requested that the bargaining unit be dissolved. The union requested that the unit remain in place because the police chief may ultimately hire a second supervisory, uniformed employee.

ANALYSIS

Applicable Legal Standard

This agency has the authority to define new bargaining units of employees and to modify existing bargaining units to ensure their continued appropriateness. RCW 41.56.060. A public employer may, however, voluntarily recognize a union as the exclusive bargaining representative of its employees. Where a voluntary recognition occurs, the employer commits itself to bargaining with the employees' exclusive bargaining representative. *Adams County*, Decision 7961 (PECB, 2002) (holding that a union cannot demand bargaining with a public employer until the union has been voluntarily recognized by the employer or the union has been certified by the Commission as the exclusive bargaining representative). However, that bargaining obligation does not continue if the bargaining unit is deemed inappropriate. *See, e.g., City of Mukilteo*, Decision 1571-B (PECB, 1983) (holding that an employer has no obligation to bargain with a voluntarily recognized bargaining unit that is inappropriate).

A one-person unit is inappropriate for collective bargaining. *Port of Bellingham*, Decision 1570-A (PORT, 1983). The agency codified this standard in 2001 when it adopted WAC 391-35-330, which states that "[a] bargaining unit cannot be considered appropriate if it includes only one employee."

Application of Standard

In this case, the supervisory police officers bargaining unit has included only one employee for an extended period of time. Further, there is no evidence that the employer will actually fill a new position that qualifies as supervisory under this agency's standards. *See, e.g., City of Pasco*, Decision 12212 (PECB, 2014), *aff'd*, Decision 12212-A (PECB, 2015) (finding the police sergeants were not supervisors under this agency's standards). Consequently, the bargaining unit is inappropriate under RCW 41.56.060 and WAC 391-35-330, and the employer is no longer obligated to bargain with that unit. The bargaining unit is officially dissolved through this order.

ORDER

The supervisory police officers bargaining unit that was represented by the union and voluntarily recognized by the employer is no longer an appropriate bargaining unit under RCW 41.56.060 and WAC 391-35-330. The bargaining unit is hereby dissolved.

ISSUED at Olympia, Washington, this 7th day of November, 2017.

PUBLIC EMPLOYMENT RELATIONS COMMISSION

A handwritten signature in black ink, appearing to read "M. Sellars", with a stylized flourish at the end.

MICHAEL P. SELLARS, Executive Director

This order will be the final order of the agency unless a notice of appeal is filed with the Commission under WAC 391-35-210.



PUBLIC EMPLOYMENT RELATIONS COMMISSION

112 HENRY STREET NE SUITE 300
PO BOX 40919
OLYMPIA, WASHINGTON 98504-0919

MARILYN GLENN SAYAN, CHAIRPERSON
MARK E. BRENNAN, COMMISSIONER
MARK R. BUSTO, COMMISSIONER
MIKESELLARS, EXECUTIVE DIRECTOR

RECORD OF SERVICE - ISSUED 11/07/2017

DECISION 12792 - PECB has been mailed by the Public Employment Relations Commission to the parties and their representatives listed below:

BY: VANESSA SMITH

CASE NUMBER: 129680-C-17

EMPLOYER: CITY OF BLAINE

REP BY: DAVID WILBRECHT
CITY OF BLAINE
435 MARTIN ST STE 3000
BLAINE, WA 98230
dwilbrecht@cityofblaine.com
(360) 332-8311

PARTY 2: IAM AND AW DISTRICT LODGE 160

REP BY: DAN MORGAN
IAM AND AW DISTRICT LODGE 160
9135 15TH PL S FLR 2
SEATTLE, WA 98108
dan@iam160.com
(206) 764-0473