

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the matter of the petition of:

CITY OF QUINCY

and

TEAMSTERS LOCAL 760

For clarification of an existing bargaining unit.

CASE 135009-C-22

DECISION 13575 - PECB

ORDER CLARIFYING BARGAINING
UNIT

Armando Lopez, Senior Business Representative, for Teamsters Local 760.

Anthony F. Menke, Attorney at Law, Menke Jackson Beyer, LLP, for City of Quincy.

Teamsters Local 760 (union) represents a bargaining unit of public works employees and clerical employees at the City of Quincy (employer). The parties voluntarily recognized the union's representation of the bargaining unit prior to April 1996 and have been parties to a collective bargaining agreement since that time. The Public Employment Relations Commission clarified the bargaining unit in November 2003. *City of Quincy*, Decision 8273 (PECB, 2003). The parties jointly filed a petition to sever the clerical employees into their own distinct bargaining unit continuing to be represented by the union.

The parties' request to sever the clerical employees into their own distinct bargaining unit is granted. Based on the parties' joint stipulations, the community of interest of the existing bargaining unit has been ruptured. The current make-up of the existing bargaining unit is severely inhibiting union's ability to represent the clerical employees.

BACKGROUND

The union represents a bargaining unit currently described as,

All regular full-time and part-time public works and office employees employed by the City of Quincy, excluding supervisors, confidential employees, and all other employees.

The public works classifications in the bargaining unit include Public Works Foreman, Public Works Mechanic, Public Works Utility Worker, and Building Maintenance personnel. The office employee classifications include Public Services Secretary/Receptionist, Secretary/Receptionist, Police Records Clerk, and Animal Shelter Assistant. The parties voluntarily recognized the bargaining unit and have maintained a collective bargaining agreement since at least April 1, 1996. *City of Quincy*, Decision 8273 (PECB, 2013).¹ The current bargaining unit consists of two separate and distinctive groups, which is causing a disruption to the community of interest.

The public works employees work outside, in the field, or in satellite buildings. They participate in the manual labor associated with the operation, maintenance, repair and construction of roadway systems, storm drainage systems, water distribution systems, and sanitary sewer collection systems. They provide routine servicing of vehicles, repairing and rebuilding vehicles, or customizing new and existing vehicles.

The office employees perform work inside the City Hall building, the Public Works building, the Police Department building, and the Animal Shelter building. The positions are responsible for performing a variety of clerical, administrative office support functions and customer services duties within the various departments. The office employees process documentation, receive payments, process animal licensing, answer incoming calls, greet and assist individuals entering the various buildings, engage in accounting, filing, and coordination.

¹ In 2003 PERC clarified the bargaining unit by including the administrative assistant to the bargaining unit.

There has been a history of discord because of the inclusion of both public works employees and office employees in one bargaining unit. There are approximately 26 public works employees and eight office employees. During negotiations the public works and office employees have divergent interests. Because of this divergence, Public Works' employees' interests often take priority at the bargaining table. The office employees are routinely outvoted when it comes to prioritizing interests. The parties have bargained incentives for the public works employees, but not the office employees. The public works employees do not consider office employees interest and priorities as being significant enough to warrant holding up ratification of the collective bargaining agreement. As a result, the office employees' interests and priorities have fallen significantly behind in economics and other areas. The office employees' interests and priorities being minimized and subservient to those of the public works employees is causing division and animosity between the two groups. This division impedes the union from effectively representing the office employees.

ANALYSIS

Applicable Legal Standard

The determination of appropriate bargaining units is a function delegated to this agency by the legislature. *City of Richland*, Decision 279-A (PECB, 1978), *aff'd*, *International Association of Fire Fighters, Local 1052 v. Public Employment Relations Commission*, 29 Wn. App. 599 (1981), *review denied*, 96 Wn.2d 1004 (1981). The purpose of this function is to ensure there is a community of interest among the employees sufficient to enable them to bargain effectively with their employer. *Quincy School District*, Decision 3962-A (PECB, 1993).

Included in this agency's authority to determine an appropriate bargaining unit is the power to modify that unit, upon request, through a unit clarification proceeding. *University of Washington*, Decision 11590 (PSRA, 2012), *aff'd*, Decision 11590-A (PSRA, 2013); *see also Pierce County*, Decision 7018-A (PECB, 2001). Unit clarification cases are governed by the provisions of chapter 391-35 WAC. The general purpose of the unit clarification process is to provide this agency, as well as the parties to a collective bargaining relationship, a mechanism to make changes to an

appropriate bargaining unit based upon a change of circumstances. *See, e.g., Toppenish School District*, Decision 1143-A (PECB, 1981). Unit clarification proceedings can be used to determine the bargaining unit placement of newly created positions. WAC 391-35-020(1)(a).

Severance

A petition to sever employees from an existing bargaining unit seeks to disrupt the status quo of the existing bargaining unit. To obtain severance, the petitioner must overcome the stability and maturity of relationships usually present in established bargaining units that lead to sound labor relations. To do so, the petitioner must establish either that (1) the petitioned-for employees no longer share a community of interest with the existing bargaining unit or (2) the incumbent bargaining representative has inadequately represented the petitioned-for employees. *State – Social and Health Services*, Decision 12542-B (PSRA, 2016).

The petitioner must show that a change in the community of interest has occurred to make the existing bargaining unit inappropriate. This is usually demonstrated by substantial changes to the job duties or working conditions of the petitioned-for employees or substantial changes in the employer's operations. *King County*, Decision 11441-A (PECB, 2013).

To show inadequate representation, the petitioner must demonstrate more than a short-term inability of the incumbent union to achieve the bargaining goals of the petitioned-for employees or the employees' dissatisfaction with their bargaining representative's accomplishments. *State – Social and Health Services*, Decision 12542-B. Inadequate representation may be shown by factors such as lack of opportunities to participate in union affairs, lack of collective bargaining agreement provisions addressing specific concerns of the employees at issue, lack of involvement by the petitioned-for employees in negotiation processes. Inadequate representation may also be demonstrated by a lack of any formal or informal efforts by the incumbent union to resolve issues of concern to the employees at issue. Where a bargaining relationship has been in existence, the "history of bargaining" weighs against its disruption by severing the unit into two or more components. *Cowlitz County*, Decision 4960 (PECB, 1995). These considerations should not be

read as a mechanical test, as each case is fact dependent and may present different variables worthy of consideration.

If the petitioner meets its burden of proof and the conditions for severance are met, the Commission will evaluate the appropriateness of the petitioned-for bargaining unit and whether the residual unit would maintain its appropriateness. *State – Social and Health Services*, Decision 12542-B. If either of the resulting bargaining units would be inappropriate under the statute, then severance shall not be granted and the original unit shall be maintained. *Id.*

Application of Standard

Severing the existing bargaining unit into two separate units is appropriate because the community of interest of the existing bargaining unit has been ruptured, the two separate units are appropriate, and no work jurisdiction issues will result.

The current configuration of the bargaining unit is preventing and severely inhibiting the union's ability to represent the employees in a combined unit. There has been a history of discord because the public works employees and the office employees have substantially divergent interests. Because the public works employees outvote the office employees three to one, the public works employees' priorities frequently outweigh the office employees' priorities and interests at the bargaining table. Although the parties have bargained incentives for the public works employees, the office employees have fallen behind because the public works employees do not consider the office employees' interests and priorities as being significant enough to warrant holding up ratification on the collective bargaining agreement. The clerical employees do not believe they have a fair opportunity and voice regarding their interest and priorities for negotiations and collective bargaining matters. The separation, conflict, and outnumbering between the public works employees and the office employees within the same bargaining unit makes it impossible for the union to properly and fairly represent both groups of employees in one bargaining unit.

Separate bargaining units, one of public works employees and one of office employees, will be appropriate bargaining units. The public works employees and office employees are two distinctive groupings. The public works employees and office employees work in different locations. The

public works employees work outside, in the field, or in satellite buildings. The office employees perform work inside the City Hall building, the Public Works building, the Police Department building, and the Animal Shelter building. The public works employees and office employees perform different types of work. The public works employees participate in manual labor associated with the operation maintenance, repair and construction of roadway systems, storm drainage systems, water distribution systems, and sanitary sewer collection systems. They provide routine servicing of vehicles, repairing and rebuilding vehicles, or customizing new and existing vehicles. The office employees are responsible for performing a variety of clerical, administrative office support functions and customer services duties within the various departments. The office employees process documentation, receive payments, process animal licensing, answer incoming calls, greet and assist individuals entering the various buildings, engage in accounting, filing, and coordination. Because the public works employees and office employees' work is so different, there will be no work jurisdiction issues created by severing the employees into two separate bargaining units.

The existing bargaining unit shall be modified to remove the office employees. Both bargaining units will continue to be represented by Teamsters Local 760. The public works bargaining unit will be described as,

All regular full-time and part-time public works employees employed by the City of Quincy, excluding elected officials, city administrator, department heads, supervisors, confidential employees, and all other employees.

The office employees bargaining unit will be described as,

All regular full-time and part-time office/clerical employees employed by the City of Quincy, excluding elected officials, city administrator, department heads, supervisors, confidential employees, and all other employees.

FINDINGS OF FACT

1. The City of Quincy is a public employer within the meaning of RCW 41.56.030(12).

2. The Teamsters Local 760 is a bargaining representative within the meaning of RCW 41.56.030(2).

3. Teamsters Local 760 represents a bargaining unit currently described as,

All regular full-time and part-time public works and office employees employed by the City of Quincy, excluding supervisors, confidential employees, and all other employees.

The public works classifications in the bargaining unit include Public Works Foreman, Public Works Mechanic, Public Works Utility Worker, and Building Maintenance personnel. The office employee classifications include Public Services Secretary/Receptionist, Secretary/Receptionist, Police Records Clerk, and Animal Shelter Assistant. The parties voluntarily recognized the bargaining unit and have maintained a collective bargaining agreement since at least April 1, 1996. *City of Quincy*, Decision 8273 (PECB, 2013).

4. The public works employees work outside, in the field, or in satellite buildings. They participate in the manual labor associated with the operation, maintenance, repair and construction of roadway systems, storm drainage systems, water distribution systems, and sanitary sewer collection systems. They provide routine servicing of vehicles, repairing and rebuilding vehicles, or customizing new and existing vehicles.

5. The office employees perform work inside the City Hall building, the Public Works building, the Police Department building, and the Animal Shelter building. The positions are responsible for performing a variety of clerical, administrative office support functions and customer services duties within the various departments. The office employees process documentation, receive payments, process animal licensing, answer incoming calls, greet and assist individuals entering the various buildings, engage in accounting, filing, and coordination.

6. There has been a history of discord because of the inclusion of both public works employees and office employees in one bargaining unit. There are approximately 26 public works employees and eight office employees. During negotiations the public works and office employees have divergent interests. Because of this divergence, public works' employees' interests often take priority at the bargaining table. The office employees are routinely outvoted when it comes to prioritizing interests. The parties have bargained incentives for the public works employees, but not the office employees. The public works employees do not consider office employees interest and priorities as being significant enough to warrant holding up ratification of the collective bargaining agreement. As a result, the office employees' interests and priorities have fallen significantly behind in economics and other areas. The office employees' interests and priorities being minimized and subservient to those of the public works employees is causing division and animosity between the two groups. The clerical employees do not believe they have a fair opportunity and voice regarding their interest and priorities for negotiations and collective bargaining matters. This division impedes the union from effectively representing the office employees.

CONCLUSIONS OF LAW

1. The Public Employment Relations Commission has jurisdiction in this matter under chapter 41.56 RCW and chapter 391-35 WAC.
2. Based upon findings of fact 3 through 6, the office employees no longer share a community of interest with the bargaining unit described in finding of fact 3.

ORDER

1. The bargaining unit described in finding of fact 3 shall be clarified to remove the office employees. The office employees will be placed in a separate bargaining unit described as follows:

All regular full-time and part-time office/clerical employees employed by the City of Quincy, excluding elected officials, city administrator, department heads, supervisors, confidential employees, and all other employees.

Teamsters Local 760 will continue to represent the bargaining unit of officer employees described in this paragraph.

2. The original bargaining unit of public works employees and office employees shall be modified to remove the office employees. The remaining public works employee bargaining unit shall be described as follows:

All regular full-time and part-time public works employees employed by the City of Quincy, excluding elected officials, city administrator, department heads, supervisors, confidential employees, and all other employees.

Teamsters Local 760 will continue to represent the bargaining unit of public works employees described in this paragraph.

ISSUED at Olympia, Washington, this 12th day of October, 2022.

PUBLIC EMPLOYMENT RELATIONS COMMISSION



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.



RECORD OF SERVICE

ISSUED ON 10/12/2022

DECISION 13575 - PECB has been served by mail and electronically by the Public Employment Relations Commission to the parties and their representatives listed below.

BY: DEBBIE BATES

CASE 135009-C-22

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