

**Teamsters Union Local 551
And
City of Pullman
Interest Arbitration
Arbitrator: M. Zane Lumbley
Date Issued: 06/04/1981**

**Arbitrator: Lumbley; M. Zane
Case #: 03284-I-81-00079
Employer: City of Pullman
Union: Teamsters; Local 551
Date Issued: 06/04/1981**

**INTEREST ARBITRATION
OPINION AND AWARD
OF
ZANE LUMBLEY**

**IN THE MATTER OF
CITY OF PULLMAN
and
TEAMSTERS UNION LOCAL 551
Date Issued: June 4, 1981**

Appearances:
CITY OF PULLMAN **Cabot Dow**
TEAMSTERS UNION LOCAL 551 **Mark C. Endresen**

**IN THE MATTER OF
CITY OF PULLMAN
and
TEAMSTERS UNION LOCAL 551**

OPINION

PROCEDURAL MATTERS

The Arbitrator was selected by mutual agreement of the parties in lieu of those procedures set forth in RCW 41.56.450. A hearing was held before the undersigned on April 22, 23 and 24, 1981, in Pullman, Washington, and May 5, 1981, in Seattle, Washington. The City of Pullman (herein the City) was represented by Cabot Dow of Cabot Dow Associates. Teamsters Union Local 551 (herein the Union) was represented by Mark C. Endresen,

Research and Economics Advisor for Joint Council of Teamsters No. 28.

At the hearing, the testimony of witnesses was taken under oath and the parties presented documentary evidence. Inasmuch as the parties did not provide for a reporter, the Arbitrator tape recorded the proceedings in accordance with the dictates of RCW 41.56.450. In lieu of filing posthearing briefs, the parties argued their respective cases before the close of hearing.

BACKGROUND

The Union has represented the City's uniformed police personnel since 1970. Since that time, a number of collective bargaining agreements covering these and other employees not in issue here have been consummated by the parties, the most recent expiring on December 31, 1980. In July of 1980, the parties commenced negotiations toward a new agreement. Beginning in November of 1980, their negotiating sessions were conducted with the assistance of a Public Employment Relations Commission mediator. Impasse with respect to the issue of wages, union security and work-out-of-classification pay was reached on January 28, 1981. On the following day, PERC Executive Director Schurke directed the parties to proceed with interest arbitration on these three issues. Subsequently, prior to commencing interest arbitration, the union security and work-out-of-classification pay issues were resolved by the parties.

ISSUE

Although the general subject of wages was the only issue remaining at the time this interest arbitration proceeding began, the parties also disagreed with respect to several collateral subjects. As a result, the following statement of the issue was reached at the outset of the hearing:

- 1. [What are the appropriate] wage[s] for 1981?**
- 2. [Are the wages] for 1982 and 1983 properly before the Arbitrator?**
- 3. If [the answer to 2. above is in the affirmative] , [which of the following] should the contract provide for?
 - (a) [Wage] openers for 1982 and 1983; or**
 - (b) Fixed wages (or some kind of formula) for 1982 and 1983.****

As a threshold issue, therefore, I must determine the term for which wages will be decided by this proceeding. Except for the matter of wages, the parties have agreed to a three-year agreement. The City argues, however, that I may not determine

1982 and 1983 wages because the question of wages beyond the first year of the agreement was not placed before the mediator. I disagree.

As the City notes, WAC 391-55-220 precludes the raising of issues in an interest arbitration proceeding which were not raised before the mediator. In the case at hand, the Union presented its demand for parity in wages with cities it viewed as comparable to Pullman over a three-year period during the last negotiating session on January 28, 1981. As the City points out, this demand was presented orally. Moreover, testimony at the hearing indicates the negotiating session broke off very shortly after presentation of this demand. Neither of these, however, appears to preclude a finding that the Union's three-year demand was made before the mediator. By the same token, at this meeting, the City offered for the first time its "enriched package" of a one-time lump sum payment of \$1100 to patrolmen and \$1500 to sergeants for 1981. This is the same offer which it pursued in this interest arbitration. The fact that the City may have been prepared to make a written presentation of its enriched package to the Union had that negotiating session continued longer is not a sufficient distinction between the status of its offer and that of the Union. Both offers were made before the mediator and both are appropriately before me here.

DISCUSSION

RCW 41.56.460 requires my consideration of the following factors:

- (a) The constitutional and statutory authority of the employer.
- (b) Stipulations of the parties.
- (c) Comparison of the wages, hours and conditions of employment of the uniformed personnel of the cities ... involved in the proceedings with the wages, hours and conditions of employment of uniformed personnel of cities ... of similar size on the west coast of the United States.
- (d) The average consumer prices for goods and services, commonly known as the cost of living.
- (e) changes in any of the foregoing circumstances during the pendency of the proceedings.
- (f) Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and condi-

tions of employment.

In line with the above, the Union submitted a number of facts regarding nine assertedly comparable cities in the state of Washington in an attempt to demonstrate that police officers, both patrolmen and sergeants, in the City of Pullman are considerably underpaid. Furthermore, it relied heavily on an analysis of changes in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) through August of 1980 to support its position. It argued that, inasmuch as the City's top step patrolmen and top step sergeants were paid base salaries 45.1% and 47.6%, respectively, below their counterparts in its comparison cities, a salary increase of approximately one-third that amount was appropriate in 1981 and that the same increase plus the percentage by which the average of its comparison cities increased their patrolmen and sergeant salaries in the two succeeding years should be granted for 1982 and 1983 in order to bring about absolute parity with the average of these cities by January 1, 1983. Additionally, while it conceded that the City's financial picture was not encouraging, it contended that the City had the ability to pay the salary increases sought and that the City should be required to search out new revenues rather than depriving its employees of a proper wage increase in solution of its financial difficulties.

The City asserts that factors such as its limited business and property tax base (much of the City is exempt from taxation because it is owned by Washington State University) , its declining construction activity and its inability to institute a business and occupation tax by virtue of its alleged market disadvantage, when combined with inflating expenditures, demonstrate that it hasn't the financial resources to implement a continuing general wage increase. Moreover, it contends that its offer to the employees in question here compares favorably with its preferred comparison cities and is in line with its negotiated agreements with other groups of represented City employees. It argues the only money it has available to it for 1981 increased wages for all of its employees is a one-time, nonrecurring fund of \$80,000 generated by changing its method of collecting utility taxes from a quarterly to a monthly basis in 1981 thereby causing it to receive those taxes relative to October and November before the end of calendar year 1981. As a result, it asserts that its allocation of approximately \$20,000 of that sum to one-time lump sum payments to uniformed police personnel in 1981 plus its agreement to provide the employees a pro rata share of 70% of new recurring and nonrecurring revenues derived through legislative action of the city council or state of Washington should be adopted.

Both parties presented their cases with commendable diligence and integrity and provided me with a wealth of information in support of their respective positions. All the evidence and arguments of the parties as well as all relevant decisions of other arbitrators, including all of those cited to me by the parties, have been studied closely and considered very carefully. However, my discussion here has necessarily been foreshortened in the interest of economy and I shall discuss my deliberations with respect to the parties' facts and contentions only to the extent necessary to make the basis for my award clear. It seems the most orderly way of proceeding is to reach a decision first with respect to comparison cities and cost of living and then to determine the extent to which the financial condition of the City, as influenced by its constitutional and statutory authority, permit implementation of the award found appropriate based on the first two factors.

The parties disagree totally as to what cities may be considered comparable. Although RCW 41.56.460 speaks in terms of "cities ... of similar size on the west coast", there nevertheless appears to be room for argument. As Arbitrator Jackson noted in *City of Hoquiam, Washington, and International Association of Firefighters Local 315, Washington Public Employment Relations Reporter, FA 270 (1980)* the words "similar size" may refer to factors other than population such as a city's tax base or the geographic area falling within its jurisdiction. However, the majority of arbitrators ruling pursuant to this statute interpret the reference to be to population. As for the intent of the words "west coast", arbitrators generally have given weight to facts with respect to cities of similar size located in the states of Washington, Oregon and California. There is a tendency, however, to attach greater weight to comparability evidence from Washington cities. Given the potentially different constitutional and statutory authority of cities outside the state of Washington, this is a reasonable approach.

As a threshold issue regarding the selection of cities of similar size, the population of the City of Pullman must be determined since the parties also disagree in that respect. The evidence demonstrates that, in 1980, there were 6,582 permanent residents in the City of Pullman and a total Washington State University enrollment of 17,468. Of the total WSU enrollment, approximately one-half lived on campus, which has its own police force consisting of seventeen individuals. The remaining students live either inside the non-WSU city limits or outside the city limits. The City contended that the on-campus resident population should not be considered in arriving at the population size for the City of Pullman. The Union argued that the total

city population, both nonstudents and students regardless of where domiciled should be included. I believe it is reasonable to assume that those living on campus or outside the city limits of Pullman spend fewer hours in non-WSU areas of the City than outside such areas and that those living in non-WSU areas of the City spend more hours within the City's jurisdiction than outside it. As a result, since the City must provide police services for all people within its jurisdiction, it is appropriate to allocate the total WSU student population on a fifty-fifty basis between WSU and the City of Pullman. Accordingly, I have determined the population of the City for purposes of this proceeding to be 15,316 (the sum of 6,582 and 8,734).

The City proposed for comparison purposes nine Washington cities, three Idaho cities, fifteen Oregon cities and twelve California cities. It arrived at this mix by first selecting only those cities in the four states with populations between 25% fewer and 25% more citizens than the 14,095 citizens it contended reside in Pullman. In order to narrow the California sample thus arrived at to twelve, the City also applied the requirement that its total 1980 assessed property valuation be within 25% of Pullman's. As noted previously, the Union's list of comparable cities was limited to nine other Washington cities. The population of these cities ranged from approximately 21,000 to approximately 33,000, or from 12% below to 39% above the 23,768 population figure urged appropriate for Pullman.

From the list of forty-eight cities provided by the parties, I have selected eighteen which I believe most valuable for comparison purposes. Firstly, while I do not consider the state of Idaho to be a West Coast city, I determined to use the city of Moscow under Section (f) of RCW 41.56.460 because of its close proximity to the City of Pullman.

As for those Washington cities proffered by the Union, I have determined to consider Olympia and Walla Walla. All but one of the remainder were eliminated because they lie within fifty miles of a major population center based on my belief that such cities are greatly affected by their close proximity to major population centers because they become part of a radically different ecosystem than is likely to be experienced by a city like Pullman. Kennewick, the last Union-sponsored city eliminated, was removed from consideration solely by virtue of the size of its population. For cities inside the state of Washington, I share the view of other arbitrators that similar population size may be defined as ranging from one-half the size of the city at issue to twice its size. While Kennewick is more than twice the size of the population I have found for Pullman, Olympia¹ and Walla Walla are approximately 75% larger. With respect to those

suggested by the City, Puyallup has been deleted by virtue of its close proximity to the Seattle-Tacoma population center and Kelso has been deleted because of its close proximity to Portland. The remaining seven were considered. 2/

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- 1/ In disagreement with the city, I do not consider Olympia, which it appears to have considered in finding the city of Lacey a "metropolitan area city", a major population center.
- 2/ Among these is Pasco, which I also do not consider a metropolitan area city.

Of the fifteen Oregon cities and twelve California cities suggested by the City, I have used five in Oregon and three in California. In eliminating the remaining cities from the two states, the same criteria of close proximity to a major population center and population size were used. 3/ However, a decidedly smaller population range was used than in selecting Washington cities. Inasmuch as the City provided no evidence as to the constitutional or statutory authority of cities in either of those states, matters directly affected by the state in which they are located, I determined to narrow the criterion of relative population size in an attempt to offset the lack of knowledge with respect to constitutional and statutory authority. Therefore, I severely restricted the population comparison to a near match, namely plus or minus 10% of the population figure arrived at for Pullman. After applying these two criteria, five Oregon cities and three California cities remained.

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- 3/ In disagreement with the city, I consider neither Merced nor Modesto, California, a major population center affecting the city of Atwater.

As a result of the analysis above, the cities which I have determined to use for comparison purposes are Port Angeles, Pasco, Lacey, Mount Vernon, Oak Harbor, Moses Lake, Centralia, Olympia and Walla Walla, Washington; Moscow, Idaho; Klamath Falls, Ashland, Pendleton, Coos Bay and Grants Pass, Oregon; and Atwater, Barstow and Ridgecrest, California. Having thus arrived at a manageable list of comparison cities, I shall discuss only the salaries of comparable uniformed positions in those cities in this Opinion. Although I have considered in depth the remaining evidence submitted with respect to these cities, I am convinced I must give the greatest weight to the factor of wages.

In this connection, while I note that two-thirds of the eighteen cities employ some type of education incentive as does Pullman, I shall not consider the parties' evidence as to this

factor in drawing salary conclusions from my comparisons. I shall not do so because, although I recognize that the City must consider this cost in arriving at its various offers to employees, education incentives are paid to employees not directly in compensation for doing the job assigned them but rather in compensation for the acquisition of additional education which assumedly allows them to do their job better. Thus, in a way, it is a kind of merit or premium stipend not totally unlike a promotion. Moreover, the parties have already settled on the matter of education incentive and it is properly considered by me only as evidence of the City's overall ability to pay.

The average 1981 top step patrolman salary in these cities is \$1619 compared to the current top step patrolman salary in Pullman of \$1356. If the City's lump sum offer to patrolmen for 1981 were prorated over the twelve months of the year, top step patrolman salaries would equal \$1448. The average top step sergeant salary for the selected comparison cities is \$1842 compared to the current Pullman figure of \$1509. Prorating the City's 1981 lump sum offer over twelve months would raise that figure to \$1634.

As for the matter of cost of living, the City contends the Consumer Price Index overstates actual cost of living by at least 19%. The Union, on the other hand, believes that the failure of the CPI to include federal income and social security taxes causes it to understate increases in living costs. I am more inclined to agree with the City than with the Union on this point. I am concerned that the CPI tends to overstate cost-of-living increases of the average employee who, in all likelihood, does not purchase such substantial goods as automobiles every year, much less a new home. Additionally, given the City's payment of health insurance premiums for the employees in question here as well as their spouses and children, the likelihood of overstatement is increased. I do not agree with the Union's contentions regarding understatement caused by the failure of the CPI to take into account federal income and social security taxes. Inasmuch as social security taxes are charged at a constant rate, they would seem to have no impact. The same can be said of federal income taxes except to the extent that a wage increase causes an employee to move to a higher tax bracket. Such potential is, of course, impossible to compute here. As a result, I find that the recent approach of several arbitrators in the state of Washington is not unreasonable, namely the use of 80% of the appropriate CPI.

The most recent agreement between the parties referred, with respect to the second- and third-year wage increases, to use of the August to August average of Seattle and United States CPIs.

Evidence adduced at the hearing demonstrates that the specific Seattle and United States CPIs historically used have been the ones for urban wage earners and clerical workers, otherwise referred to as the CPI-W. Between August 1979 and August 1980, the average Seattle-U.S. CPI-W increased by 14.3%. In response to the dictates of Section (3) of RCW 41.56.460, I have examined the most recent statistics in this regard and determined that the average Seattle-U.S. CPI-W for March/April 1981 ^{4/} has slowed its rate of increase to 10.5%. The Seattle figure as of March 1981 had slowed to 11% from approximately 15.8% as of August 1980. Similarly, the U.S. index indicated a slowing to 10% as of April 1981 from the 12.7% noticed as of August 1980. Eighty percent of the August 1980 Seattle-U.S. average of 14.3% equals 11.44% whereas/eighty percent of the March/April 1981 Seattle-U.S. average of 10.5% equals 8.4%.

^{4/} Seattle CPI figures are no longer provided for the month of April.

The discussion of comparison cities above would seem to indicate that Pullman police personnel are in need of a significant wage increase. The examination of the CPI, while revealing a recent slowing trend in the growth of the index, nevertheless does little to refute this indication. However, the ability of the City to implement any given increase must be considered. That is not to say that uniformed police employees or any other City employees, for that matter, should be forced to underwrite the provision of public services to the citizenry. It is that citizenry, of which City employees are likely a part, which must pay for the cost of the services it consumes. Ensuring awareness of this is not my function here. However, I am confident that those City officials knowledgeable of this proceeding will take it upon themselves, as they should, to enlighten those who placed them in office of the need to assist in ensuring quality law enforcement services through responsible and respectable wage levels. The Union, on the other hand, should not expect to gain, in one fell swoop, parity with any group of comparison cities whose employees earn higher wages when the history here demonstrates that the current wage structure has been arrived at through the vehicle of voluntary collective bargaining since 1970.

Without question, Pullman is among the poorest of Washington cities. Convincing and uncontradicted statistics provided by the City establish that, of the twenty-five most populous cities in the state, Pullman ranked number twenty-four in sales tax receipts in 1980. Further, when compared to the same list of Washington cities, Pullman ranked dead last in 1980

property taxes due. This second factor is heavily affected by the substantial Washington State University property ownership within the City of Pullman, all of which is exempt from taxation by the City. In the case of both sales and property taxes, the City appears to be levying at the statutory maximum. On top of these considerations the City argues: 1) It is not in a position to raise its already high utility tax; 2) Federal revenue sharing decreased in 1980 and is expected to decrease again in 1981; 3) The City is currently charging the legal maximum admissions tax; and 4) It is not in a position to implement a business and occupation tax for fear of driving away current businesses and scaring off potential new business development. At the same time, the City contends it has undertaken numerous measures designed to decrease or hold the line on expenditures. In fact, the evidence presented by the City demonstrates that serious efforts in this regard have been made.

However, as the Union argues, the City must be required to search for innovative solutions to its financial difficulties. It seems to me that to grant a group of City employees no ongoing, cumulative wage increase relieves the City of the burden of searching for solutions to a certain extent. Aside from future considerations, if the evidence before me established that the City simply had no money at the present time out of which it could pay a 1981 wage increase, that would be one thing. On the facts at hand, however, I am convinced that is not the case. I respect the City's arguments regarding the use of "cash carry forward" in payment of its daily operating expenses as well as the recommendation of the Municipal Finance Officers Association that seven to eight percent of a city's budget or approximately one month's revenue be kept on hand to meet current expenditure requirements. However, the City began 1981 with a significantly greater cash carry forward than either of those recommendations would suggest is necessary.

At the beginning of 1981, the City carried forward approximately \$300,000. Seven to eight percent of its 1981 expenditure budget of \$2.9 million amounts to between \$203,000 and \$232,000. By the same token, one month's revenue, that is to say, one-twelfth of the 1981 revenue budget of \$2.7 million equals \$230,000. Moreover, \$110,000 of the approximately \$300,000 cash carry forward at the end of 1980 was realized by virtue of the City's austerity program during that year which made it possible to underexpend revenues by 2%. Additionally, of course, there is the \$80,000 one-time utility tax revenue realization, part of which the City has allocated for police personnel. What the discussion above indicates to me is that, in spite of the City's relatively poor tax base by comparison to other Washington cities,

its management has demonstrated exceptional capability to devise answers in response to its financial needs. As a result, I cannot agree with the City's proposal of a lump sum cash payment and attendant sharing of potential new revenue. I respect that the City has attempted to arrive at a similar accommodation with all its various employees. However, the City must also respect that, as the quid pro quo for being denied the right to economic action, all uniformed personnel in the state of Washington have the right to seek a different award in interest arbitration.

After carefully considering all the evidence submitted, including the contentions of the parties, and with special attention to the legislative declaration set forth in RCW 41.56.430, I find that it is appropriate to award the City's uniformed police personnel a general salary increase in the amount of 13% for the year 1981, retroactive to January 1, 1981. Specifically, 13% was selected in order to strike a balance between the desire to move Pullman's policemen in the direction of eventual parity with the cities selected and the desire to require the City to institute no more of a salary increase at this point than necessary to keep its policemen slightly ahead of 80% of the August 1980 Seattle-U.S. CPI-W figure. A 13% increase will find the top step policemen lagging behind comparable positions in the selected cities by only 6% and sergeants lagging behind their counterparts by only 9% as opposed to the current 19% and 22%, respectively. With regard to 1982 and 1983, I find it is appropriate to devise a formula which hopefully will continue to accomplish the same two goals stated above. In each of those years I shall award a 1% general salary increase in addition to an amount equivalent to 80% of the immediately preceding August to August average Seattle-U.S. CPI-W. ^{5/}

^{5/} The reaching the conclusions above, I have determined to award the stated salary increases across the board to all uniformed police personnel in the unit rather than to attempt to alter the historical relative differences between the various classifications and levels established through collective bargaining between the parties, no evidence being offered that adoption of the "salary delineation schedule" proposed by the union in negotiations was necessary to correct any shortcomings or inequities in the spread of salary in the most recently expired collective bargaining agreement.

AWARD

Pursuant to RCW 41.56.450, it is hereby awarded that:

- I. A general salary increase of 13% shall

be given to all uniformed police personnel retroactive to January 1, 1981;

II. The wage for 1982 and 1983 are properly before the Arbitrator; and

III. The contract shall provide for a general salary increase for all uniformed police personnel in 1982 and 1983 in the amount of 1% in addition to an amount equivalent to 80% of the immediately preceding August to August Seattle-U.S. CPI-W in each of the two years.

Seattle, Washington

Dated: June 4, 1981

Zane Lumbley, Labor Arbitrator