

selected Philip Kienast as the neutral Chairman. The City appointed Jim Cherf and the Union appointed Mark Rogstad as their respective panel members. The Executive Director of the Public Employment Relations Commission certified the following issues for determination in this proceeding to complete an agreement covering police officers:

1. Employer Rights
2. Wages
3. Hours of Work
4. Vacation/Leave
5. Educational Incentive Pay
6. Workers Compensation

A hearing was held on May 10, 2001 where the parties presented evidence regarding their positions on the above-referenced issues. The record was closed upon receipt of post hearing briefs by the Chairman on June 27, 2001.

Applicable Statutory Provisions

RCW 41.56.465 sets forth criteria which must be considered by an arbitrator in deciding the controversy:

RCW 41.56.465 Uniformed personnel interest arbitration panel Determinations--Factors to be considered. (1) In making its determination, the panel shall be mindful of the legislative purpose enumerated in RCW 41.56.430 and, as additional standards or guidelines to aid it in reaching a decision, it shall take into consideration the following factors:

- (a) The constitutional and statutory authority of the employer;
- (h) Stipulations of the parties;
- (c) (i) For employees listed in RCW 41.56.030(7)(a) through (d), comparison of the wages, hours and conditions of employment of like personnel of like employers 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 circumstances under (a) through (d) of this subsection during the pendency of the proceedings; and
- (f) Such other factors, not confined to the factors under (a) through (e) of this subsection, that are normally or traditionally taken into consideration in the determination of wages, hours, and conditions of employment. . . .

The two statutory provisions cited within RCW 41.56.465 contain the following provisions pertinent to this proceeding:

RCW 41.56.430 Uniformed personnel-Legislative declaration. The intent and purpose of this 1973 amendatory act is to recognize that there exists a public policy in the state of Washington against strikes by uniformed personnel as

a means of settling their labor disputes; that the uninterrupted and dedicated service of these classes of employees is vital to the welfare and public safety of the state of Washington; that to promote such dedicated and uninterrupted public service there should exist an effective and adequate alternative means of settling disputes.

RCW 41.56.030 Definitions. As used in this chapter:

(7) “Uniformed personnel” means (a)(i) Until July , 1997, law enforcement officers as defined in RCW 41.26.030 employed by the governing body of any city or town with a population of seven thousand five hundred or more and law enforcement officers employed by the governing body of any county with a population of thirty-five thousand or more; (ii) beginning on July I, 1997, law enforcement officers as defined in RCW 41.26.030 employed by the governing body of any city or town with a population of two thousand five hundred or more. . . .

Analysis and Conclusions

The Employer argued that only Eastern Washington cities should be used in comparing the wages, hours and other conditions of employment of Moses Lake police officers with those of similarly sized employers. It based its argument on labor market and cost of living factors.

The Union argued the cities selected by the 1998 arbitration panel, which included two Western Washington cities proposed by the Employer in that proceeding, namely, Anacortes and Tumwater, should be used again for comparison purposes.

The consensus final list of comparables selected by the arbitration panel in 1998 was:

1. Anacortes
2. Centralia
3. Kelso
4. Mukilteo
5. Tumwater
6. Ellensburg
7. Sunnyside

The selection was based primarily on population comparability.

The Employer’s argument is not persuasive. First, in the 1998 interest arbitration it had proposed six cities for comparison purposes, four of which were Western Washington cities. Moreover, in February of 2000, City Manager, Joe Gavinski, presented the City Council a report recommending salary increases for councilpersons and the mayor based on a comparison of salaries paid in ten other cities of similar size and including five Western Washington cities: Port Angeles, Kenmore, Centralia, Covington and Maple Valley (U27 & 28 and TR. 140-144).

In light of the foregoing, the Chairman rejects the all Eastern Washington comparative group offered by the Employer. By contrast, the Union’s proposal that they stay with the comparison group used by the previous arbitration panel is prudent and reasonable. Moreover, it promotes stability in bargaining by using a consistent group of comparable jurisdictions. It will be used to make the comparisons required under RCW 41.56.465.

Salary

The Union proposes that police salaries in Moses Lake be brought up to the average of the comparable cities. The Employer argues the salaries should be increased commensurate with increases granted fire fighters and other City employees. The Employer also argues cost of living differences between the comparator cities located in Western Washington and Moses Lake does not warrant bringing police salaries up to the average for the comparator cities.

The Chairman concludes the Employer has failed to establish by clear and understandable evidence that the City of Moses Lake is so unlike the other comparable cities to warrant a significantly lower salary for its police unit members. Accordingly, the Chairman will order wages be increased enough to bring salaries within the mid range of the comparable cities, especially in light of the evidence Moses Lake has an above average ability to pay in terms of per capita tax collections and unrestricted revenues as shown in Table 1 on the following page. This table discloses that per capita tax income for Moses Lake is above average in every category. The table also shows a current difference of more than 20% between the average monthly top step salary in Moses Lake and the average of the comparable jurisdictions.

Table 1

Population	City	Property Taxes	Sales & Use Tax	Business and Utility Tax	Unrestricted Revenues	Police Officer Top Monthly Salary
11,940	Kelso	\$73	\$144	\$166	\$557	\$4,311
12,500	Tumwater	93	182	134	685	4,094
13,440	Sunnyside	91	144	70	407	3,443
13,600	Centralia	106	141	107	464	3,994
14,190	Moses Lake	126	226	109	662	3,247
14,340	Ellensburg	94	161	107	606	3,506
14,710	Anacortes	176	153	116	718	4,028
17,360	Mukilteo	94	94	64	592	4,040
Average (Excluding Moses Lake)	13,989	115	146	109	576	\$3,917

Source: U8-10 and Post Hearing Exhibit 1 (1997 Unrestricted Operation Revenues)

These adjustments will also be consistent with increases in salary to the mayor and council members of Moses Lake enacted by the Council in the spring of 2001. The mayor’s

salary was 71% below the \$550/month average of comparable cities (U28). The mayor's salary was doubled from \$350 to \$700/month. A councilperson's salary was also doubled from \$150 to \$300/month which placed them just below the average monthly salary in the comparable jurisdictions. Against this backdrop of salary changes, the increases being awarded the police bargaining unit are prudent and reasonable.

The Chairman estimates that in 2002 the top step police officer salary in Moses Lake will still lag the average in the comparable cities by 3.5% to 5.0%. This state of affairs was intended by the Chairman due to the unclear picture that emerged from the evidence in this proceeding regarding cost of living differences among the comparable cities. The Chairman strongly encourages the parties to work cooperatively in negotiations on a successor agreement to measure with as much precision as possible if and to what extent cost of living differences exist between Moses Lake and the other Comparable jurisdictions. Based on a more accurate picture of cost of living differences, the parties themselves can negotiate whether Moses Lake salaries should be set above, below or at the average for the comparator cities. Given that the comparable jurisdictions use more frequent and smaller steps between entry level and top step (U10), beginning in 2002 the Chairman finds the addition of three new salary steps is warranted. Also, a greater number of steps appears more consistent with the movement of a police officer from a rookie to a journeyman and, therefore, is reasonable to include in the new agreement.

The following changes will be ordered in the salary structure for the police bargaining unit:

2000

Effective the first payroll period of 2000, monthly salaries for top step police officers will increase 8% to \$3,507. The entry level will be set at 80% of that figure or \$2,806 per month.

A corporal will be paid 5% above the top step police officer's salary or \$3,082 per month.

A sergeant will be paid 10% above the top step police officer's salary or \$3,858 per month.

2001

Effective the first payroll period of 2001 monthly salaries for top step police officers will increase 8% over 2000 levels to \$3,788 per month. The entry level will be set at 80% of that figure or \$3,030 per month.

A corporal will continue to be paid 5% above the top step police officer's salary or \$3,977 per month.

A sergeant will continue to be paid 10% above the top step police officer's salary or \$4,167 per month.

2002

Effective the first payroll period of 2002, monthly salaries for top step police officers will increase 3.5% to \$3,921 per month. The entry level will be set at 80% that figure or \$3,137 per month.

Also 3 new intermediate steps between entry and top step will be created. After one year of employment at the entry level, a police officer will be paid at 85% of the top step; after two years of employment at 90% of the top step; and after three years of employment 95% of the top step salary rate. This new five step structure will apply only to unit members hired after January 1, 2002.

A corporal will be paid 5% above the step rate for a police officer with an equal number of years of employment.

A sergeant will be paid 10% above the step rate for a police officer with an equal number of years of employment.

The Arbitrator has decided against specialty pay differentials as requested by the Union. There is no persuasive evidence that special assignments given officers in Moses Lake are comparable in scope and duration as specialty assignments in the comparable jurisdictions. Also, the Arbitrator concludes that any further changes in the pay structure be studied and considered directly by the parties in negotiations on a successor agreement, including the issue of adding longevity steps to the salary schedule.

Employer Rights/Hours and Shift Scheduling

The Employer proposes language that would reserve to its discretion the method used to determine shifts and how unit members are assigned to shifts. The Union proposes no change to the current practice of shift assignment by seniority bidding. The Employer's proposal represents a radical change from the status quo. The Employer has failed to provide persuasive evidence to cause the Chairman to order such a significant change.

The party proposing change carries the burden of showing by clear and understandable evidence the change requested is reasonable and in this instance demanded by operational necessities. The only evidence presented was the testimony of the police chief that he feels it may be beneficial to have a police officer rotate through day and off shifts to avoid complacency and keep skills well rounded (Tr. 219). This is insufficient evidence to justify the broad grant of discretion sought in the Employer's proposal. Therefore, the Chairman will not grant the proposal and suggests the Employer engage in future bargaining with the Union to deal with the specific issues cited by the chief in his testimony, e.g. language that might require a unit member to bid on an off shift every few years.

Vacation/Leave

The Employer proposes to specify situations in which sick leave could be used by an employee. The Union objects only to the extent that paternity but not maternity is specified as a situation covered. The Chairman concludes, with the addition of maternity leave to the listed situations, the proposal of the Employer's proposal is reasonable and shall be included in the agreement. Both maternity and paternity will not exceed five (5) days per calendar year.

Workers Compensation

The Employer proposes a new provision in the Agreement that will spell out the interface between an employee's use of sick leave and workman's compensation. The Chairman has reviewed the collective bargaining agreements in the seven comparable cities and finds only three of these deal explicitly with this interface issue. Absent compelling evidence from the Employer of a real and present need to resolve this interface issue now, the Chairman concludes the Employer's proposal should not be included in this Agreement. He recommends the parties study the various approaches to this issue with an eye toward funding a mutually acceptable contract provision in the future. In particular, the Chairman recommends the parties closely examine the provisions in the Sunnyside, Anacortes and Mukilteo agreements (U1, 2 and 4) covering this interface issue as well as ask the State Auditor to comment on or suggest draft language.

AWARD

The parties' Agreement effective January 1, 2000 through December 31, 2001 shall:

1. Provide for changes in the salary schedules:

- A. Effective the first payroll period in 2000 the top step salary shall increase 8% to \$3,507 per month. Entry level will be set at 80% of the top step or \$2,806 per month. A corporal shall be 5% above the top step or \$3,682 per month. A sergeant shall be paid 10% above the top step police officer's salary or \$3,858 per month.
- B. Effective the first payroll period of 2001, the top salary shall increase 8% to \$3,788 per month. A corporal shall be paid 5% above or \$3,977 per month. A sergeant shall be paid 10% above the top step or \$4,167 per month. Entry level salary is 80% of top step or \$3,030.
- C. Effective the first payroll period of 2002, the top step salary shall increase 3.5% to \$3,921 per month.

Three new steps shall be added to the schedule and an officer hired after January 1, 2002 will progress through the schedule for each year of service.

		Percentage of Top Step	2002 Monthly Salary
(Entry)	Step 1	80%	\$3,137
	Step 2	85%	\$3,333

	Step 3	90%	\$3,529
	Step 4	95%	\$3,725
(Top)	Step 5	100%	\$3,021

**Corporals shall be paid 5% above the applicable step rate based on years of service.
Sergeants shall be paid 10% above the applicable step rate based on years of service.**

- 2. The Vacation/Leave proposal of the Employer with the addition of “maternity leave” to the list shall become a provision of the Agreement.**
- 3. All other proposals from the parties for changes to the Agreement shall not be included in the Agreement.**
- 4. The Arbitrator retains jurisdiction for the sole purpose of resolving any disputes over the implementation of the above ordered changes.**

**Philip Kienast
August 15, 2001
Bothell, Washington**