

OTHER PERSPECTIVES: THE PORTLAND POLICE ASSOCIATION CONTRACT

a fact sheet by Portland Copwatch

October 24,
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In the interest of giving a balanced perspective to the “City Employees, Colleagues, [and] Portlanders” invited to the “City Employee Forum on City Hall Safety, Public Process, and the Police Contract,” Portland Copwatch offers the following information.

CONTENT OF THE CONTRACT AND THE SUPPORTING ORDINANCE

Much of the City’s argument about what is or is not in the contract is based on semantics, as some of the issues the community objects to are included in the “Tentative Agreement” which was connected to the contract in the ordinance that passed.

The elimination of 12 PPA Grievances breaks down like this:

- 7 have to do with officer shifts/ overtime/ assignments
 - 1 has to do with parking
 - 1 has to do with cameras in police cars
 - 1 is about “mere conversation”— no details given.
- The final two which remotely touch on accountability?
- 1 is the PPA agreeing not to complain that more than one IPR investigator might be in the room during administrative investigations
 - 1 objected to the Bureau’s discipline guide, but PPA dropped the grievance “based on City representation that Chief may reduce proposed discipline based on truthfulness issue... after mitigation hearing.”

Most significantly, the Agreement says “withdrawal is not a general waiver of PPA rights; withdrawal is limited to circumstances raised in grievances.” In other words, PPA could still file a grievance about other aspects of the Discipline Guide.

ELIMINATION OF THE “48-HOUR RULE” AND WHAT’S MISSING

While it is true that the community pushed for a long time to get the 48-hour rule eliminated, the demand was part of a larger package of proposed reforms that should have addressed, among other things:

—The binding arbitration clause that led to the City having to re-hire Officer Ron Frashour, who shot unarmed Aaron Campbell in the back in 2010; and

—Parts of the contract that inhibit “meaningful independent investigations” (as described by the DOJ Agreement), such as the ability of a civilian agency to compel officer testimony or to investigate deadly force.

As it happens, PPA members did not think giving up the 48-hour rule would affect them (*Portland Tribune*, October 4), and in cases that involve less than deadly force, such as the use of Tasers, “bean-bag” guns, broken arms, etc., the Tentative Agreement reinforces that officers will have a “reasonable amount of time” to review their police reports and video footage before being interviewed.

ONE OF THE ONLY ITEMS CHARLIE HALES HAS RIGHT:
“There is still a lot of misinformation out there about the police contract, the public’s access to offer testimony, and the process of removing the protestors from City Hall.”

BODY CAMERAS

It is also true that Body Cameras are not part of the actual contract, but rather are in the Tentative Agreement which is now public policy. The Agreement references the draft policy that was circulated by the City, and notes that “the PPA and City specifically agree that the subject of review of audio/video as set forth in [the draft policy] is mandatory for bargaining.” That draft policy allows officers to review footage before writing police reports. The City Attorney released a memo on October 11, the day before the vote, saying they believe the subject of Body Cameras is “permissive” for bargaining. In other words, the policy the City signed is contrary to their attorneys’ belief and now binds the city to negotiate over cameras even if courts rule that it is not mandatory to do so.

FINANCIAL BENEFIT TO THE PPA

The City’s excuse for pushing the contract through is that it will raise officers’ salaries and allow retired officers to be re-hired. It’s been reported that some officers have already come back and others are interested in joining the Police Bureau based on the contract— but in fact, because the contract was approved as part of a “non-emergency ordinance,” it doesn’t go into effect until November 11. Thus, the City took action based on the assumption the contract would pass, not taking into account any public concerns about the content.

NEGOTIATION PROCESS

The City began negotiating the contract, which didn’t expire until June 30, 2017, early in 2016. They did not call for bargaining sessions to be public (which they were at least in part in 2010 and 2013). Council did not invite the Auditor or IPR to give input into the contract, even though they are responsible for police accountability. The Auditor and IPR Director wrote a sharply worded memo revealing this fact, asking that the contract be modified to allow them to compel officer testimony, and noting that the policy of allowing officers to view body camera footage before making statements or writing reports is bad policy.

BETTER LUCK, MAYOR OF 2021
Because this contract expires in June, 2020, its successor will be negotiated after the next Mayoral primary in May that year.

(more, over)

PRIVATE LOBBYING BY A PUBLIC OFFICIAL

After the Auditor's memo came out, the Mayor's office wrote emails to numerous entities which receive funding from the City asking for support of the contract, including Neighborhood Associations, the day before the October 5 hearing. When one Association declined to weigh in, partly because their bylaws require a vote that could not happen in time, the Mayor's staff berated them. In addition, several of the emails said disparaging things about protestors opposed to the contract, such as: "Thanks to a lot of genuine pain and trauma created by police shootings elsewhere in our country, people in Portland have recently spoken loudly about the need for reform. That is good and helpful. What is NOT good nor helpful is that some of these advocates have seized on this new police union contract as 'the problem here' and are urging the City Council not to approve it."

The Mayor also called in representatives from several organizations who had testified about the contract. He told some of them to reverse their positions. He confronted some of them with photos of the young woman who was tragically killed by a car on SE Hawthorne. When asked why he didn't negotiate for the accountability measures the community has been asking for, the Mayor's reply was "mea culpa."

SUSPENDING RULES TO SUPPORT COUNCIL'S ACTIONS

Portland Copwatch has alerted the Council to at least three ways in which their actions violated City Code:

- 1) They took items out of numerical order without taking a majority vote to do so. (3.02.040[D][4])
- 2) They set a meeting outside of the proscribed time (2 PM Thursdays) on less than 24 hours notice (3.02.010 & 3.02.020)
- 3) They recessed to a location other than Council Chambers without a majority vote. (3.02.010)

While it can be claimed that the Council was "suspending the rules" to take these actions (which, itself requires a majority vote- 3.02.040[I][8]), the obvious question is then why does the Mayor cling to the part of City Code that says no testimony will be taken on a second reading? (3.02.040 [G][4][b]) Code clearly says that people will be able to testify at a first reading for up to three minutes. (3.02.040[G][6]).

And yet, people who came to the continuation of the first reading on October 5/6 were not allowed to speak unless they'd signed up on September 28— even though the Mayor had introduced amendments between the morning and afternoon sessions on that date after many people had left City Hall.

If Council was willing to suspend the rules to lock out the community, why did they not instead choose to suspend the rules to allow more testimony? Surely that would have taken less time and effort, and not involved police violence, arrests, and the presence of Homeland Security..

SEPARATING THE PUBLIC FROM THE COUNCIL

Mayor Hales separated the public from the Council on two occasions, Thursday October 6 and Wednesday October 12. In 24 years as an organization, we have never seen such drastic action taken. Council has seen raucous community behavior at any number of hearings—the gas terminal, the covering of Portland's reservoirs, fluoridation, and other issues in recent years. They have never used such passion/actions to claim a "threat to disrupt" Council, and then invoke the Oregon's public meetings law's very narrow exception to meet in a separate room.

PCW is all for employees bargaining for good wages and benefits, but the PPA can't continue to direct City policy that inhibits accountability. It seems as if the City doesn't believe that the community has a sense of history, a stake in its own future, or the ability to read what is in the documents the City has presented to us.

On 10/6 people who signed up to testify had to be escorted from the Portland Building into City Hall by an accredited City employee. Then, people were only let into Council Chambers one at a time to give testimony. Not only did this take up an enormous amount of time (coming from one building to the other, the Mayor explaining the rules to each person), but it guaranteed there would be a lot of repetition in the testimony since people weren't able to hear each other speak. On October 12, even though people who had signed up to testify on multiple agenda items received red raffle tickets to enter Chambers, once the Mayor recessed the meeting to the Rose Room, the stairways were blocked by 2 dozen armed police and only one person with a ticket was ever allowed up to speak.

POLICE VIOLENCE AGAINST COMMUNITY MEMBERS

The videos of the 10/12 police action show officers were pushing too many people down the narrow, steep, and uncarpeted stairway on the West side of City Hall. Whatever one thinks of the protestors' actions, the police were not exhibiting de-escalation tactics that are supposed to be a cornerstone of the DOJ Agreement. Instead they were pepper-spraying people (including an infant) and pushing people as if they were volleyballs, landing them onto concrete.

TOO MANY SUPERVISORS? We're told the PPB has a staffing crisis, but the (COCL) Compliance report shows one Sergeant per 5 officers when an ideal "span of control" is 8.

CONCLUSION

In summary, the City has passed a contract that gives officers a sweet deal with more money and no more accountability. The discipline guide issue is a smokescreen hiding that binding arbitration and lack of civilian oversight into police shootings were not addressed. The process including the shutting out of testimony at Council was done to suppress the community's voice, administratively and physically. Stand up to bullying. Ask Council to rescind the contract before it kicks in on November 11.

This flyer was prepared October 2016 by

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