

FAQ: PPA Contract Extension and Collective Bargaining Basics

PPA Contract

Is there an option to terminate the contract?

- No. Collective bargaining agreements must be bargained, including termination of an agreement. While the agreement has a term that it lasts, under collective bargaining law, these contracts continue with most terms and conditions continuing while the parties bargain a new agreement.

Why not let the contract expire? Is the mediation binding?

- No. Parties must stay in mediation for 15 days and then either side can demand to go to something called interest arbitration, where an arbitrator decides on the terms of the collective bargaining agreement.

Is there an option to terminate the contract and not re-negotiate?

- No. Please also know that most City employees, including police, have other rights under the U.S. and Oregon constitutions and under civil service rules.

If not renewing the police contract won't change anything, why renew/extend it at all?

- Please look to Commissioner's Hardesty's explanation for extending the contract for one year to allow the parties to bargain with greater public participation, take advantage of new State laws regarding police reform, and start the Portland Street Response program.

The next time around, what will keep the police union from stalling on reforms so the negotiations go to secret mediation anyway?

- We already have ground rules in place and scheduled the first six sessions. Once the City places a proposal on the table, the parties are required to discuss it.

Why isn't Council insisting that COVID/emergency accommodations be made to amend the contract so that police contract negotiations will be accessible to the public via Zoom?

- The ground rules were already in place before COVID. We would have to bargain a change to the ground rules in order to move forward with virtual meetings.

There is no guarantee that in person meetings will be allowed in January 2021. Why continue to kick this issue down the road?

- Please look to Commissioner's Hardesty's explanation for extending the contract for one year to allow the parties to bargain with greater public participation, take advantage of new State laws regarding police reform, and start the Portland Street Response program.

What does this have to do with Portland Street Response?

- The Portland Street Response will provide responses to calls for which police and fire have historically responded to. Under labor law, once a union group has done certain work for years, then it is often considered bargaining unit work. If correct, then this means that the City cannot have someone else do the work without bargaining it to an agreement.

The Mercury is reporting that the extension protects the police from COVID-related wage freezes and furloughs that other city employees are subject to and guarantees a 2.9% raise in 2021. Could you clarify your statement that "The extension also defers PPA members cost of living adjustments, similarly to other labor partners in the city as part of reducing costs to fill a budget gap created by the COVID crisis."

- The parties must bargain furloughs and wage freezes. Other labor partners agreed to a COLA deferral or wage step increase deferral and/or furlough days. None of our public safety employees were asked to take furlough days because they would cause overtime costs, which would increase costs for the City rather than giving needed financial savings. PPA agreed to a COLA deferral. The COLA deferral saves the City approximately \$3 million.

Would this permanently rotate the negotiation period into the beginning of a mayoral term instead of the end?

- The Mayoral term does not have anything to do with bargaining; the parties start bargaining 150 days before the end of the existing collective bargaining agreement.

Collective Bargaining Basics

How many unions are represented within the City of Portland?

- 85% of regular employees (and some seasonal employees) are part of 16 unions within the City of Portland's bureaus.

What is a collective bargaining agreement?

- Collective bargaining agreements represent the terms and conditions of employment and defines the rights of management and the employees within the bargaining group.

Does each union have a separate contract?

- While many unions have their own individual contract with the City, some unions decide to bargain as a group. The District Council of Trade Unions (DCTU) is such a group. There are 7 different unions who bargain together under one DCTU contract.

When did collective bargaining start for public employees?

- Public Employees were first able to conduct collective bargaining in 1963. In 1973 the State of Oregon passed the Public Employee Collective Bargaining Act (PECBA) and formed an enforcement agency for the law, the Employment Relations Board (ERB). The intent of PECBA is to develop harmonious and cooperative relationships between public employers and public employees.

What type of issues are bargained?

- Bargaining topics under PECBA are considered either mandatory, permissive, or prohibited.
 - Mandatory topics include matters concerning direct and indirect monetary benefits, hours, vacations, sick leave, grievance procedures and other conditions of employment.
 - *Example: Works schedules, discipline, and grievance procedures*
- Permissive topics include subjects which have an insubstantial or de minimis effect on employee wages, hours and working conditions.
 - *Example: Type of duties to be performed; assignment of duties.*
- Prohibited subjects are items which would require either party to perform an illegal act or contrary to the statutory or constitutional provision.
 - *Example: union shops, unlawful employer assistance to a labor union*

What is Good Faith Bargaining?

- All employers (The City included) are required to act in "good faith" with the labor organization that represents the employees. ERB uses two standards for judging bargaining in good faith:
 - *Totality of conduct (a bonafide effort to reach an agreement) and;*
- Per se (a specific act intended to obstruct the process or the ability to reach an agreement).
 - *Examples of a failure to bargain in good faith can include:*
 - *Refusing to meet to bargain*
 - *The conduct of either party is so hostile that it indicates an unwillingness to reach an agreement*
 - *Proposing prohibited subjects of bargaining*

- It is essential to the City that we bargain in good faith, with the goal of reaching an agreement. It is also critical we provide ongoing communications to the public regarding the process specific to bargaining with the Portland Police Association. We will work within the context of “good faith bargaining” to create a consistent communication opportunity reflecting this goal and to gather public feedback.

What is an unfair labor practice and how does it impact bargaining?

- An unfair labor practice (ULP) is when the union or the employer violate the rules of bargaining under PECBA. Examples of some unfair labor practices might be:
 - Interfering with membership in a union
 - Refusing to bargain in good faith
- If one side or the other files a ULP, its complaint is filed with the Employment Relations Board (ERB), the enforcement agency created under PECBA. The ERB makes a determination and order. There are additional steps available to appeal a decision made by the ERB.

What is the timeline and process for bargaining?

- Under PECBA both sides are required to meet and bargain directly with each other in good faith for at least 150 calendar days.
 - This 150-day calendar begins after both sides meet for their first bargaining session and have exchanged their initial proposals.
- Both sides may adopt ground rules at the outset to encourage a mutual understanding of process for their sessions together.
- Both sides will then meet and exchange proposals in an attempt to reach agreement on those issues.
- Once an Article in the agreement is opened, the other party can create counter proposals on any language within that article.
- Proposals generally follow a process of non-economic, economic, and housekeeping issues.
- If both sides do not reach an agreement in direct bargaining, once the 150 calendars have expired either party can initiate a mediation process through ERB’s State Conciliation Service.
- Once initiated PECBA mandates that both sides remain in mediation for a minimum of 15 calendar days.
- If no agreement has been reached, either party can declare impasse. Impasse is the same as saying we are at a “standoff” and can’t come to an agreement.
- After 7 days both parties must file their final offers with ERB and a 30 day “cooling-off” period begins.
- The final step provided is the right of the employer to implement and the union to strike, or
 - *There is an arbitration process for bargaining groups who are prohibited from striking (public safety) and cannot come to agreement within negotiation or mediation. The basic premise of this process is the City and Labor submit their last best offers (proposals) to an Arbitrator. The Arbitrator makes the final decision, based on the facts and case presented by each side and awards to one side or the other.*

What is binding arbitration?

- Arbitration is binding on the parties. The arbitrator has authority to decide issues between the City and PPA except in *extremely* limited situations. The City tried not to abide by one arbitration

decision a few years ago and that decision was appealed to the Court of Appeals, where we lost. This is an example of the power of the arbitrator and why it is binding.