

## 11-13 Full Council Remarks re: Seattle Police Guild Contract

I want to vote for a contract to raise officers' wages and pay them their 4 years of fairly negotiated back pay. I also want to defend ALL of the reforms contained in the historic ordinance the Council passed in 2017. Many of those reforms are outside of the Consent Decree, that doesn't make them any less important.

1,300 Seattle's Police Officers, Detectives and Sergeants provide critical public safety services to the residents of the City of Seattle, they have done so without a labor contract since January 1, 2015.

Officers have implemented police reform; the federal monitor's report on use of force from 2017 said *"At the same time, the force that SPD officers do use is, by and large, reasonable, necessary, proportional, and consistent with the Department's use of force policy... "credit for this major milestone goes first and foremost to the men and women of the Seattle Police Department."*

I have also heard compelling principles from labor about the importance of preserving the sanctity of bargaining in post-Janus reality.

- The Janus decision has put public sector unions in a challenging position, so
- They need to show they can be effective in representing their members
- The bargaining process is paramount, as unions face a nationwide struggle in the wake of the Janus decision

We've heard strong critiques of this agreement, from the Community Police Commission, and from a number of community leaders, some of the same ones whose original complaint to the DOJ in 2010 led to the DOJ's findings in 2011, and the Consent Decree in 2012.

I've heard a lot of reassurance that reform is the result of about incremental change. To be really honest, that reassurance is cold comfort. I was working on the Council in 1999 when OPA (Office of Professional Accountability) was created I'm well-familiar with the incremental reform we have eked out since then. Incremental reform is not acceptable for policing today; we need transformational reform.

The public believes in the need for transformational reform with the statewide passage of I-940. Lives lost here and nationally, prove that we in Seattle need to pave the way & not incrementally.

I believe we in Seattle need to pave the way for the nation because we have a President that in 2017 told officers: "When you guys put somebody in the car and you're protecting their head, you know, Like, don't hit their head, and they just killed somebody I said, you can take the hand away, okay?"

We need to pave the way like we said we were doing when we passed legislation in 2017 that was heralded by this Council as historic, that was unprecedented in other cities.

Acknowledging this urgency, in 2013, the Community Police Commission was formed by agreement between the City of Seattle and the Obama Justice Department, and asked to inventory the accountability system, which had been **incrementally** revised over 14 years, and propose a revamp. This work was co-led by ideologically diverse participation from Downtown Seattle Association Director Kate Joncas, SPOG then-Vice President Kevin Stuckey & Mothers For Police Accountability founder Harriett Walden.

The proposals that the CPC put drafted before the last contract expired in 2014, in order to be available to the City for bargaining without constituting a ULP, were put forward in the midst of a major scandal as a large number of disciplinary findings were reversed contrary by SPD leadership contrary to OPA recommendations in Spring 2014, and at the high water mark of the Black Lives Matter movement.

This law was not created based upon ideology. Every sentence of the 71 plus page ordinance was crafted with the experience of 18 years of experience with the OPA we have today. Each sentence addresses cases that were overturned or unsustainable and identified by our OPA Auditor or community leaders as justice not served, but that could – in the future with reform – be fixed.

The changes in the **appeal process** were made because of a group of disciplinary findings revealed to be overturned on appeal in a deal by SPD management contrary to OPA recommendations – with great dismay from the public in spring of 2014.

The changes in **the 180 day timeline** were recommended because of a high profile case in which an officer who was fired by Chief O'Toole for bias and making an unlawful arrest was given back pay and allowed to resign in lieu of termination because the 180 day limit made her termination vulnerable to being overturned on appeal, and also because OPA faced repeated challenges in completing quality investigations due to the time limit.

The **prohibition on using paid leave to serve suspensions** came after repeated public frustration at the idea of officers who had been found to have committed serious abuses being paid to sit at home.

These are specific necessary changes resulting from actual cases that will not be made with passage of this contract.

Because I believed that we should not miss the chance to do what happened at the state level last January, when the backers of Initiative 940, knowing that they were overwhelmingly likely to win at the polls, still chose to sit down with statewide law enforcement leaders and find language that police groups found more palatable than the original version of I940. That process of finding a win-win third way built lasting relationships of trust that foster harmony

between police and community, and we can do the same here locally--if and only if we choose another approach rather than forcing through the contract that is now before us. In contrast, moving ahead on this contract today will break trust and foster division that it will take a long time to heal.

Based on the requests from the CPC and the 24 community organizations writing to the Council last week, I was interested in proposing today a one week delay on voting on the contract and immediately moving next week to pass a separate piece of legislation appropriating SPOG's 3 years of backpay of \$65 million with a request that SPOG and the Executive bring back a contract in December with all of the points of agreement in that contract, including SPOG's economic package of backpay and raises, body camera, and other points of agreement such as the authority of the OIG, with a reopener **for only the identified items of disagreement**. Was this a viable path, officers would be paid their new wages begin to receive their \$65 million in 3 years back pay in January.

That approach was intended by me to ensure that this Council express today good faith to SPOG that this Council would support passage – within a month – of a contract with their wages & back pay even without agreement on reform elements and with a desire to bargain those reform elements, however long it took, without exerting leverage held by management around wages.

Yet, good intentions aside, I understand that the Council unilaterally expressing an interest via legislation in doing what the union – SPOG or any union – wants outside of bargaining flies in the face of what unions are for. If the Council started, as a matter of course saying, “yeah we’ll pay you what you want, you don’t have to bargain it,” unions would have a more difficult time demonstrating their worth to their members. This approach that I would have liked to pursue has been explained to me to be a violation of those very principles I referenced earlier as so important in a post-Janus world.

For this reason, what I’d hoped was a win-win proposition is not a viable path forward. I also proposed an amendment this morning that would move the ordinance effective-date to sometime after the federal court has ruled on whether the elements identified in Councilmember Gonzalez’ resolution – which we’ll hear about later - conflicted with the consent decree. Upon advice of legal counsel I am not moving that amendment forward.

So. I’m left with a difficult decision where there is no clear path forward to vote for a contract to both raise officers’ wages and pay them their 4 years of fairly negotiated back pay and guarantee our ability to defend all of the reforms contained in the historic ordinance the Council passed in 2017. So I have to weigh the relative value what reforms that this contract does guarantee with my desire to vote in favor of the economic terms of the contract.

To help me make that decision I turn to the 3-legged civilian accountability system that has been created to guide our policymaking around issues of accountability. We’ve heard a lot about the CPC’s view on this contract and I value and respect the depth of experience and

expertise that they carry on these issues generally and the 2017 Accountability Ordinance specifically. Councilmember Gonzalez requested that each the OPA Director and the Inspector General on the contract's impact on their ability to do their job. So I appreciate have their perspective to consider in the balancing act.

The OPA Director has said there were improvements including in this agreement, including the elimination of the Disciplinary Review Board which included a SPOG member, civilianization of 2 OPA investigators, changing the triggering event for the start of the 180 day clock, simplifying the classification notifications, adding flexibility around OPA transcription due dates and the initial complaint notification timing requirement, implementing a rapid adjudication pilot along with other improvements.

But I have to weigh those improvements against his concern that expressed reservations about elements of the agreement that deviate from the Accountability ordinance, such as concern about limiting OPA's authority to coordinate criminal investigations, and constraints on OPA's ability to allocate staffing and resources as it sees fit; and the 180 day timeline, and elements of complexity that are more restrictive than the SPMA contract, and removal of the automatic tolling of the 180-day timeline, and ability for new evidence to be raised at due process hearing w/o a mandatory extension of the 180 day time line

The Inspector General noted that the agreement legitimizes the Inspector General's (OIG) authority within the labor structure, and solidified the ability to function effectively,

But I have to weigh those improvements against her concern that expressed reservations about elements of the agreement compared to the accountability legislation re: access to information, in particular restriction of subpoena power and the standard of burden of proof (about which Judge Robart has also raised concerns); the 180 day calculation, and changes in findings or discipline.

Neither the OPA Director nor the OIG has said they "can't do their job," but they do not dispute the CPC observation that on some key points the contract would set back as compared to what was promised in our historic accountability ordinance passed in 2017.

So, I'm left with the impression that OPA and OIG are each looking at this contract, as it relates to accountability, as a glass half-full, not half empty. Secondly, I have expressed over and over again to my constituents who write to me about public safety that I support the SPD hiring plan that seeks to ADD additional officers, if I were to vote "no" today I don't know how I could say that with a straight face, understanding how dire the recruiting picture is for SPD – recruiting necessary to hire to fill for separations for lateral hires and retirement – as well as to ADD to the size of the force.

Many in our labor community have promised me that they are in this for the long haul, in the long haul for labor conditions for our workforce, but also for law enforcement oversight. I will

count on that and look to work with you as we move forward in the contract negotiations that will begin with the re-openers in this contract and in negotiations for a new contract in 2020.

I appreciate that so many of you urging us to vote no, have said that they support our acting today to approve increased wages. Unfortunately, the negotiation process at this juncture doesn't allow us to only act on that shared value. Consequently, I intend to vote yes today.