



**NOTICE OF SPECIAL MEETING  
GRANDVIEW CITY COUNCIL**

You are hereby notified, pursuant to RCW 42.30.080, that the **GRANDVIEW CITY COUNCIL** will conduct a Special Meeting on **TUESDAY, DECEMBER 7, 2021, 6:00 p.m.**, in the Council Chambers at City Hall, 207 West Second Street, Grandview, Washington, with the following agenda:

**AGENDA**

1. Call to Order and Roll Call
2. Ordinance amending the City of Grandview 2022 non-union salary schedule
3. Ordinance adopting the budget and confirming tax levies for revenue to carry on the government for the fiscal year ending December 31, 2022
4. Adjournment

This meeting will be held in person and will also be available via teleconference.

Join Zoom Meeting

<https://us06web.zoom.us/j/83724008877?pwd=b1NvaE1xd3RNZ0plcWVMZ3o0YWZxQT09>

Meeting ID: 837 2400 8877

Passcode: 270765

To join by phone: 1-253-215-8782

Meeting ID: 837 2400 8877

Passcode: 270765

**CITY OF GRANDVIEW**

Anita G. Palacios, MMC, City Clerk

**NOTIFICATION:**

Mayor and Council

Cus Arteaga, City Administrator

Quinn Plant, City Attorney

Department Directors

News Media

**From:** Berber, Juan (SAO) <berberj@sao.wa.gov>  
**Sent:** Monday, November 29, 2021 2:32 PM  
**To:** Matt Cordray  
**Cc:** Cus Arteaga; Anita Palacios  
**Subject:** RE: Retro Salary Increase for Non-Union Employees

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**CAUTION:** External Email

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Hi Matt,

Per AGO below compensation cannot be given for past performance (retroactive pay). The employee must know the goals during the compensation period (i.e. they work towards it).

AGO 1995 No. 13 and noted the following general guidelines for incentive payments:

1. The "bonus" has to be compensation that is being paid for identified performance goals. (Goals must be clearly defined in an employment agreement and are measurable.)
2. Performance goals cannot be set for work expected to be normally performed within the job. (Bonus is for activities that exceed normal employee performance requirements.)
3. The policy and the goals must have existed prior to the period of compensation of the "bonus".
4. Compensation cannot be given for past performance (retroactive pay). The employee must know the goals during the compensation period (i.e. they work towards it).

Specifically, the AGO states:

"To ensure that employee incentive programs are consistent with these constitutional restrictions, incentives and awards should be provided only for meeting established performance standards or goals that exceed normal employment requirements. Such incentives and awards also should be structured as a component of the compensation in return for which city or county employees provide their services, in such a way that the employees have an expectation of earning the incentives or awards when they are performing their work. This would preclude purely retroactive increases in compensation, including bonuses where the employer decides after the fact that one or more employees should receive extra compensation for past services."

The State Constitution, Article II, section 25 prohibits public entities from granting extra compensation after services have been rendered. Moreover, Article VIII, section 7 of the state constitution prohibits municipal corporations from making a gift of public funds. So, if these bonuses are for extra compensation after services have been rendered by the manager and secretary the district would run afoul of these constitutional prohibitions.

In order to avoid this prohibition on a gifting of public funds any incentive or stipend payments must be considered compensation for services (that is, payments must be reasonable and be for services in excess of what employees are already being paid for). In order to avoid the prohibition on "extra compensation," a policy or agreement defining the potential payments under an incentive program must be in place before services are rendered.

In short, retroactive payments would not be allowable for work already performed (Per AGO and Constitution). However, if the employees have an expectation that they were going to receive additional compensation for work performed but are pending negotiations that would be allowable since they are aware of the negotiations and expecting the increase after its finalized. This isn't the case for non-union employees. For non-union employees it's harder to justify a retroactive payment as an entity will need to have a policy or agreement defining the potential payments prior to the work being performed. Additionally, the employee would need to have the expectation that they are going to receive additional compensation.



Does this help?

Thanks,  
Juan C Berber

**From:** Matt Cordray <mattc@grandview.wa.us>  
**Sent:** Monday, November 29, 2021 10:36 AM  
**To:** Berber, Juan (SAO) <berberj@sao.wa.gov>  
**Cc:** Cus Arteaga <arteaga@grandview.wa.us>; Anita Palacios <anitap@grandview.wa.us>  
**Subject:** FW: Retro Salary Increase for Non-Union Employees

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External Email

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Juan,

During our budget process this year, we've had discussions with our Council regarding compensation for non-union employees. The 2022 budget is requesting a 3% pay increase to take place starting January of 2022. There's a couple of councilmembers that believe the City should wait until we finalize our union negotiations later in 2022 and then decide to give non-union a pay increase at that time. They are asking if that were to happen, would it be possible to give retro pay to the non-union employees dating back to January. Our City Attorney has stated that retro pay is not possible for non-union employees. He gives further explanation in the email below with information that he has found on MRSC.

Could you please give us your thoughts on this issue?

Thank you.

Matthew Cordray  
City Treasurer  
City of Grandview  
207 West Second Street  
Grandview, WA 98930  
PH: (509) 882-9207  
FAX: (509) 882-3099  
[mattc@grandview.wa.us](mailto:mattc@grandview.wa.us)  
[www.grandview.wa.us](http://www.grandview.wa.us)

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**From:** Quinn Plant <qplant@mjbe.com>  
**Date:** November 26, 2021 at 11:01:53 AM PST  
**To:** Anita Palacios <anitap@grandview.wa.us>  
**Cc:** Cus Arteaga <arteaga@grandview.wa.us>  
**Subject:** RE: Retro Salary Increase for Non-Union Employees

**CAUTION:** External Email

Hi Anita,

I agree with MRSC that you cannot give retro-active pay to non-union employees. The employees would have already worked in exchange for agreed-upon compensation, and to give them additional money would be a prohibited gifting of public funds, no different than a large bonus.

I did read MRSC's suggestion that the City could "probably" adopt a resolution documenting that employees will be entitled to additional compensation. I'm not sure that I agree with that, or that a resolution would be the appropriate way to do this. A better approach would be to amend the salary schedule to document the precise amount of retro-active pay non-union employees will be entitled to at the conclusion of union negotiations, or at least specify which specific union salary increase will be imputed to non-union employees. Put differently, the City should have a measuring stick; a vague reference to "additional compensation" would probably not pass muster.

I've never heard of any public agency doing this, and suggest running this approach by the Auditor before going down that road.

Quinn Plant  
Menke Jackson Beyer, LLP  
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Yakima, WA 98902  
509-575-0313  
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**From:** Anita Palacios <[anitap@grandview.wa.us](mailto:anitap@grandview.wa.us)>  
**Sent:** Wednesday, November 24, 2021 2:04 PM  
**To:** Quinn Plant <[gplant@mjbe.com](mailto:gplant@mjbe.com)>  
**Cc:** Cus Arteaga <[carteaga@grandview.wa.us](mailto:carteaga@grandview.wa.us)>  
**Subject:** Retro Salary Increase for Non-Union Employees

Quinn,

Can you verify that a salary increase for non-union employees cannot be retroactive? We have a couple of Councilmembers that still think we can?

Thanks,



Anita Palacios

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**From:** Steve Gross <sgross@mrsc.org>  
**Sent:** Wednesday, November 24, 2021 3:02 PM  
**To:** Anita Palacios  
**Subject:** MRSC Inquiry: Retroactive pay for unrepresented employees

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**CAUTION:** External Email

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Anita,

You submitted the following inquiry: The City is currently in union negotiations with the current contract expiring 12/31/2021. In previous union contracts, there was a clause that the union employees would receive retroactive pay and would assume it would be in this contract also. The Council does not want to implement a salary increase for non-union employees until the union contracts have been ratified. Can non-union employees receive salary increases retroactively?

Response: MRSC has given the following guidance regarding retroactive pay:

"A retroactive payment to a non-bargaining employee that is not tied to a previously adopted policy would be considered unconstitutional. There are two relevant state constitutional provisions here. Article 2, section 25 prohibits the granting of extra compensation to any public officer or employee after the services of the officer or employee have been rendered (i.e. retroactive pay increases). The other, article 8, section 7, prohibits gifts of public funds. A retroactive pay increase, prohibited by article 2, section 25, would result in a gift of public funds, prohibited by article 8, section 7. However, if there is an adopted policy, we've opined that a non-union employee's pay increase could be tied to a union-negotiated increase that would be applied retroactively. Here's an excerpt from a previous inquiry response:

'Generally public employees do not receive pay increases on a retroactive basis. However, there is a well-recognized principle that a public employer can enter into an agreement with labor unions while contract negotiations are being conducted that essentially provides an understanding that any pay increase eventually agreed upon will in fact be retroactive to the date of expiration of the earlier agreement. These agreements are often called "Christie" agreements because that was the name of the case in which such agreements were upheld.'

And here are excerpts from two other inquiry responses:

'In response to similar questions in the past, MRSC legal staff has opined that a retroactive pay increase based on future union employee wage increases could constitutionally be given to non-union employees if there was an agreement in place between the city and the affected employees that recognizes that salaries being paid at the time of the agreement are not considered full compensation, and that additional compensation (retroactive) is to be provided once negotiations have been completed with union employees.'

So, for non-union employees, retroactive pay can probably be given to non-bargaining unit employees if the government body adopts a resolution indicating its intent to give non-bargaining unit employees the same retroactive pay it gives bargaining unit employees. Again, this resolution would need to be adopted before the end of the previous year or before the date when the collective bargaining agreement expires.

I also suggest you consult your city attorney regarding adoption of a resolution establishing this policy.

I hope this is helpful.

Steve

**Steve Gross (he/him)**

Legal Consultant  
206.625.1300 x128

**MRSC** Empowering local governments to better serve their communities

DISCLAIMER: MRSC is a statewide resource that provides general legal, policy, and financial guidance to support local government agencies. This email is not legal advice and does not create an attorney-client relationship. It is not confidential or privileged and is subject to Washington's Public Records Act

**ORDINANCE NO. 2021-\_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF GRANDVIEW, WASHINGTON,  
AMENDING THE CITY OF GRANDVIEW 2022 NON-UNION SALARY SCHEDULE**

**WHEREAS**, the City Council of the City of Grandview, Washington has adopted a budget for 2022; and,

**WHEREAS**, the City Council determined during the budget process that a 3% general salary increase for all non-union employees be allocated and included on the monthly salary matrix as an integral part thereof;

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF GRANDVIEW, WASHINGTON DO ORDAIN AS FOLLOWS:**

**SECTION 1:** The City of Grandview 2022 Non-Union Monthly Salary Schedule is hereby amended to include the salary increases attached hereto as Exhibit 1 and incorporated herein by reference.

**SECTION 2.** This Ordinance shall be in full force and effect five (5) days after its passage and publication as required by law.

**PASSED** by the **CITY COUNCIL** and **APPROVED** by the **MAYOR** at its regular meeting on December 14, 2021

**MAYOR**

\_\_\_\_\_  
**ATTEST:**

\_\_\_\_\_  
**CITY CLERK**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**CITY ATTORNEY**

PUBLISHED: 12/15/21  
EFFECTIVE: 12/20/21

**EXHIBIT 1  
CITY OF GRANDVIEW  
2022 NON-UNION MONTHLY SALARY SCHEDULE**

POSITION	MONTHLY MINIMUM	MONTHLY MAXIMUM
City Administrator/Public Works Director (hybrid position)	\$9,289	\$13,930
City Clerk/Human Resource Assistant (hybrid position)	\$6,299	\$9,448
Police Chief	\$6,268	\$9,404
Fire Chief	\$6,204	\$9,308
Assistant Police Chief	\$5,656	\$8,483
Assistant Public Works Director	\$5,371	\$8,049
Wastewater Treatment Plant Superintendent	\$5,319	\$7,978
City Treasurer	\$5,239	\$7,977
Fire Captain	\$5,185	\$7,779
Parks & Recreation Director	\$4,974	\$7,571
Library Director	\$4,366	\$6,550
Public Works Foreman	\$4,300	\$6,450
Public Works Assistant	\$3,637	\$5,455
Accounting Clerk	\$3,394	\$5,093
Utility Billing Clerk	\$3,206	\$4,880
Library Associate	\$3,052	\$4,646
Public Works Office Clerk	\$2,907	\$4,424
Receptionist	\$2,907	\$4,424



**ORDINANCE NO. 2021-\_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF GRANDVIEW, WASHINGTON,  
ADOPTING THE BUDGET AND CONFIRMING TAX LEVIES  
FOR REVENUE TO CARRY ON THE GOVERNMENT  
FOR THE FISCAL YEAR ENDING DECEMBER 31, 2022**

**WHEREAS**, the City Clerk did publish notice that the Council of the City of Grandview, Washington, would meet on the 23<sup>rd</sup> day of November, 2021, at 7:00 p.m., in the Council Chambers of the City Hall of said City for the purpose of making and adopting the budget for the fiscal year 2022, and confirming a tax levy based upon the same fiscal year, and giving taxpayers within the limits of said City an opportunity to be heard upon said budget; and

**WHEREAS**, said City Council did meet at said time and place and did then consider the matter of said proposed budget and tax levy, no objections to the same having been filed with the City Clerk, and no persons appearing to make objections to the same, the Council concluded that the budget was in accord with the needs of the citizens of Grandview; and

**WHEREAS**, said proposed budget does not exceed the lawful limits of taxation allowed by law to be levied on the property of the City of Grandview for the purposes set forth in said budget, being all necessary to carry on the government of said City during said period,

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRANDVIEW, WASHINGTON**, as follows:

**SECTION I.** That the City Council of the City of Grandview hereby adopts by reference the 2022 Annual Budget, which is on file in the Office of the City Clerk of Grandview. That required expenditures for the various departments and needs and operation of government of the City of Grandview, Washington, for the fiscal year ending December 31, 2022, are fixed in the following amounts, to-wit:

**RECAPITULATION -- ALL FUNDS**

<b>Fund</b>	<b>Beginning Balance</b>	<b>Revenue</b>	<b>Expenditures</b>	<b>Ending Balance</b>
<b>Current Expense</b>	976,690	5,820,270	6,729,555	67,405
<b>American Rescue Plan Act</b>	1,513,210	1,546,200	50,000	3,009,410
<b>E.M.S.</b>	66,720	426,900	435,950	57,670
<b>Law &amp; Justice Tax</b>	348,000	331,200	360,500	318,700
<b>Street</b>	387,885	595,500	875,155	108,230

Transportation Benefit District	343,195	186,200	66,750	462,645
Cemetery	209,030	172,300	275,050	106,280
SIED Loan - Euclid/WCR	10	23,300	23,300	10
Capital Improvements	788,550	201,500	550,000	440,050
Water	6,784,625	2,532,350	2,716,075	6,600,900
Sewer	7,211,675	5,127,355	4,968,270	7,370,760
Irrigation	116,415	520,250	572,400	64,265
Solid Waste	745,015	1,174,200	1,202,870	716,345
Equipment Rental	1,793,100	582,000	482,000	1,893,100
<b>Total</b>	<b>21,284,120</b>	<b>19,239,525</b>	<b>19,307,875</b>	<b>21,215,770</b>

**SECTION II.** That a regular levy of \$1,676,235.00 levied upon the taxable real and personal property situated within the City of Grandview, taxable under the laws of the State of Washington as City taxes, as 2022 taxes, as affixed by Ordinance No. 2021-20 is hereby affirmed and said amount shall be appropriated.

**SECTION III.** The City Clerk is hereby instructed to forthwith certify said budget and tax levy to the County Assessor of Yakima County, Washington, for the purpose of having said taxes extended on the tax roll as provided by law, and said assessor is hereby authorized to extend said taxes accordingly.

**PASSED** by the **CITY COUNCIL** and **APPROVED** by the **MAYOR** at its regular meeting on December 14, 2021.

**MAYOR**

\_\_\_\_\_  
**ATTEST:**

\_\_\_\_\_  
**CITY CLERK**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**CITY ATTORNEY**

PUBLICATION: 12/15/21  
EFFECTIVE: 12/20/21