

**WHATCOM COUNTY COMMISSION ON SALARIES
FOR ELECTED OFFICIALS**

AGENDA

Thursday, March 2nd 2023

4:00 p.m. – 6:00 p.m.

[Virtual Meeting](#)

- 1. Call to order**
- 2. Approval of minutes from February 16, 2023**
- 3. Introduction of new commissioner**
- 4. Public comment**
 - 4.1. Any interested attendee will be given 3 minutes for public comment
- 5. Discussion with elected official(s)**
 - 5.1. 5-minute presentation and Q&A with official(s)
- 6. Information review**
 - 6.1. Updated COLA chart
 - 6.2. Review Summary of Data
 - 6.2.1. Definition of “Average”
 - 6.2.2. Effective Date of Data
 - 6.2.3. City of Bellingham Police Chief & City Council data
 - 6.2.4. County Comparison
 - 6.2.5. Median data vs. mean data
- 7. Commissioner discussion**
- 8. Next meeting**
 - 8.1. Scheduled for March 16th at 4 p.m.
- 9. Adjourn**

Attachments

- Attachments A (3.1): Written Statement from Prosecuting Attorney
- Attachment B (5.2): Updated COLA chart
- Attachment C (5.3): Summary of Data
- Attachment D: Email from Steve Oliver

Whatcom County Executive's Office is inviting you to a scheduled Zoom meeting.

Topic: WC Salary Commission

Time: Mar 2, 2023 04:00 PM Pacific Time (US and Canada)

Join Zoom Meeting

<https://us06web.zoom.us/j/84188703848>

Meeting ID: 841 8870 3848

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+1 507 473 4847 US

+1 564 217 2000 US

+1 646 931 3860 US

+1 689 278 1000 US

+1 929 205 6099 US (New York)

+1 301 715 8592 US (Washington DC)

+1 305 224 1968 US

+1 309 205 3325 US

+1 312 626 6799 US (Chicago)

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833 548 0282 US Toll-free

877 853 5247 US Toll-free

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Meeting ID: 841 8870 3848

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162.255.37.11 (US West)

162.255.36.11 (US East)

115.114.131.7 (India Mumbai)

115.114.115.7 (India Hyderabad)

213.19.144.110 (Amsterdam Netherlands)

213.244.140.110 (Germany)

103.122.166.55 (Australia Sydney)

103.122.167.55 (Australia Melbourne)

149.137.40.110 (Singapore)

64.211.144.160 (Brazil)
149.137.68.253 (Mexico)
69.174.57.160 (Canada Toronto)
65.39.152.160 (Canada Vancouver)
207.226.132.110 (Japan Tokyo)
149.137.24.110 (Japan Osaka)
Meeting ID: 841 8870 3848

Whatcom County
COLA History by Group
REVISED WITH CORRECTIONS 2/17/23

Group	2017	2018	2019	2020	2021	2022	2023
Unreps	2.25%	2.50%	2.25%	3% 32 hrs furlough	0% 2% effective July	3%	4% plus 1.9% one time for new plan
Unreps Binding Arb	2.50%	2.5% 1/1/18 2.5% 7/1/18	2.0% 1/1/19 1.0% 7/1/19	3% 32 hrs furlough	3% - Sheriff 2.5% - Corr	3%	6%
Teamsters Master	2.25%	2.50%	2.50%	2% - 1/1/20 1% - 7/1/20 32 hrs furlough	0% 2% effective July	3%	Bargaining
WSNA	2.25%	2.50%	2.50%	2% - 1/1/20 1% - 7/1/20	0% 2% effective July	3%	6%
Local 17	2.25%	2.50%	2.50%	2% - 1/1/20 1% - 7/1/20 32 hrs furlough	0% 2% effective July	3%	6%
MMP/IBU	2.25%	2.50%	2%	2% - 1/1/20 1% - 7/1/20	2.5%	2.25%	6%
Corrections	2.25%	2.50%	513 (#04242453 #413 (0:242453	5#48 (0#424253 #413 (0:242453	2.5%	3%	Bargaining
Deputy Sheriff	2.50%	2.5% 1/1/18 2.5% 7/1/18	2.0% 1/1/19 1.0% 7/1/19	3%	3%	2.75%	6%
Fraternal Order of Police (Sheriff Command Staff)				3% 32 hrs furlough	3%	3%	6%

COVID Wage Impacts: 2020 furloughs, frozen wages for most groups in 2021, hiring freeze

**WHATCOM COUNTY PROSECUTING ATTORNEY
ERIC J. RICHEY**

CHIEF CRIMINAL DEPUTY
Erik Sigmar

311 Grand Avenue, Suite 201
Bellingham, Washington 98225-4079
(360) 778-5710 /Main Office FAX (360)778-5711
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CHIEF CIVIL DEPUTY
Karen Frakes

ASST. CHIEF CRIMINAL DEPUTY
Dona Bracke

CIVIL DEPUTIES
Royce Buckingham
Christopher Quinn
George Roche
Brandon Waldron

CRIMINAL DEPUTIES

David Graham
Kellen Kooistra
Benjamin Pratt
Gordon Jenkins
Kacie Emerick
Jesse Corkern
Evan Sterk
Maggie Peach
Andrew Bogle
Andrew Heydrich
Ashley Bohnett
Natasha Campbell
Levi Uhrig
Samantha Macintosh

ENFORCEMENT DEPUTIES
CIVIL SUPPORT
Janelle Wilson/Lead

APPELLATE DEPUTIES

Kimberly Thulin
Hilary Thomas

OFFICE ADMINISTRATOR

Louise Trapp

February 27, 2023

Whatcom County Salary Commission
311 Grand Avenue, Suite 108
Bellingham, WA 98225

RE: Prosecutor's Salary

Whatcom County Salary Commission Members,

INTRODUCTION

Thank you for considering my letter as you evaluate salaries for Whatcom County elected officials. This letter addresses the Prosecutor's salary and I have attempted to answer as many questions as possible in writing. However, as you consider the topic of salary and develop questions, please ask anything you like. I will answer with transparency and help provide you with the information you need to make a good decision.

DISCUSSION

The elected prosecutor's salary should reflect Whatcom County's and the State of Washington's desire to attract the best candidates for this vital elected attorney position.¹ It

¹ RCW 43.03.027

Salaries of public officials—State policy enunciated.

It is hereby declared to be the public policy of this state to base the salaries of public officials on realistic standards in order that such officials may be paid according to the true value of their services and the best qualified citizens may

also reflects the responsibility of the employer to provide appropriate compensation commensurate with the tremendous statewide and local responsibilities placed on an elected prosecutor.² Finally, the prosecutor's salary represents respect for the office, as it is intended to reflect the idea that the office carries importance equal to that of a superior court judge.

In your role to determine salaries for Whatcom County elected officials, I am asking that you set the Whatcom County Prosecutor salary as a true match³ to the Washington superior court judge salary. Matching the Whatcom County Prosecutor salary to the Washington superior court judge salary would bring Whatcom County in line with State legislative intent, National standards and comparable salaries in Washington State.

PROSECUTOR SALARY HISTORY

Historically, the Whatcom County Prosecutor's salary matched the superior court judge salary. In 2017, the Whatcom County Salary Commission "untied"⁴ the Prosecutor's salary from the superior court judge salary, but in 2019 the Commission "retied" the salaries together. In 2021, the Commission indicated that the Prosecutor salary shall match the superior court judge salary, but a true match was not achieved. Part of the problem appeared to be that Whatcom County's budget operates on a calendar year and the Washington State biennial budget⁵ begins mid-year on July 1. Superior court judges receive raises on July 1, and the 2021 Commission members were not sure Whatcom County could adjust salaries on July 1. Also, the 2021 Commission believed their directive by the Whatcom County Charter was to set a specific salary dollar amount and matching the Prosecutor salary to the superior court judge salary six months afterward allowed them to set a specific dollar amount. The 2021

be attracted to public service. It is the purpose of this section and RCW 43.03.040 to effectuate this policy by utilizing the expert knowledge of citizens having access to pertinent facts concerning proper salaries for public officials, thus removing and dispelling any thought of political consideration in fixing the appropriateness of the amount of such salaries.

² Prosecutors have discretion to file charges, decide which charges to file or to not file any charges at all. A judge or party cannot interfere with a prosecutor's discretion, unless charges are not supported by evidence. The Prosecutor represents the State of Washington in all felonies, misdemeanors within the County, and juvenile matters. Prosecutors may challenge judicial rulings. The Prosecutor represents each County department, including the elected officials and county department heads, in contracts and civil disputes. The Prosecutor represents the State of Washington in child support cases. Decisions are final with the elected prosecutor who is beholden only to the electorate.

³ "Match" means to equal or be on par with.

⁴ "Tie" means to bind, fasten or attach. Most counties tie their prosecutor salaries to the Washington State superior court judge salaries by either matching or by formula.

⁵ Washington State's biennial budget is set every odd year and becomes effective July 1 of that year.

Commission's decision created a six-month lag where the Prosecutor's salary routinely falls behind the Washington superior court judges and peer county prosecutors.

WHY MATCH?

In 2008, the State passed SSB 6297, now codified in RCW 36.17.020(11). The Legislature found that elected prosecutors, like superior court judges, function as "both a state officer in pursuing criminal cases on behalf of the State of Washington, and as a county officer who acts as civil counsel for the county." Laws 2008, Ch. 309, 1.

The Legislature goes on to state:

The elected prosecuting attorney's dual role as a state officer and a county officer is reflected in various provisions of the state Constitution and within state statute.

The legislature finds that the responsibilities and decisions required of the elected prosecuting attorney are essentially the same in every county within Washington state, from a decision to seek the death penalty in an aggravated murder case, to the decision not to prosecute but refer an offender to drug court; from a decision to pursue child rape charges based solely upon the testimony of the child, to a decision to divert juvenile offenders out of the justice system. Therefore, the legislature finds that elected prosecuting attorneys need to exercise the same level of skill and expertise in the least populous county as in the most populous county.

The legislature finds that the salary of the elected county prosecuting attorney should be tied to that of a superior court judge. This furthers the state's interests and responsibilities under the state Constitution, and is consistent with the current practice of several counties in Washington state, the practices of several other states, and the national district attorneys' association national standards.

Based on these findings, the Legislature structured the salary of the county prosecutor similarly to how it has structured the salary of superior court judges: The State pays a portion of an elected prosecutor salary equivalent to one-half the salary of a superior court judge. To avoid the prospect of creating an "unfunded mandate" for counties, the

Legislature did not require counties to pay an equal portion.⁶ If a prosecutor's salary is not matched to the superior court judge salary, mid-year judicial salary increases cause a county's contribution to a prosecutor salary to decrease. For example, in Whatcom County, the Prosecutor salary for 2023 is set at \$203,169.00. The State pays for the Whatcom County Prosecutor at a rate of half the salary of a superior court judge. On July 1, the superior court judge salary will increase to \$217,39.00, while the Whatcom County Prosecutor salary will remain unchanged. Increased judicial salary will increase revenue for Whatcom County, which will cause the Whatcom County contribution to the Prosecutor salary to decrease by \$7,111.00.⁷ This results in a windfall to Whatcom County for the second half of the year. In 2023, Whatcom County's contribution to the Prosecutor's salary will be roughly the same as their contribution in 2021 because the State will pay a higher percentage of the Prosecutor salary. Other than judges and the prosecutor, counties do not receive any State subsidy for the salaries of the other elected officials (county council, auditor, assessor, treasurer, coroner, clerk, and sheriff).

The National District Attorneys Association (NDAA) also speaks about matching an elected prosecutor salary with a superior court judge salary. The Fourth Edition of the NDAA National Prosecution Standards covers all aspects of the job, from constitutional considerations to office administration to policies for charging and sentencing. It is generally recognized as the most authoritative resource for prosecutors. It includes a section on compensation.

Section 1-2.4 Compensation; Responsibilities of the Chief [Elected] Prosecutor says:

The salary of the full-time chief prosecutor should be at least that of the salary of the chief judge of general trial jurisdiction in the chief prosecutor's district and should not be lowered during a term of office. Factors that should be considered in determining compensation include, but are not limited to:

⁶ Some very small counties may not be able to afford to pay their prosecutor a salary that matches the superior court judge salary. Some very small counties have less work for their prosecutor, and while some small counties share a judge, these counties are not allowed to share a prosecutor under the Washington State Constitution. Whatcom County is not small.

⁷ Wash. Const. art. XI, § 8 - An elected official's salary shall not be reduced while an official remains in office. Applying the spirit of the law, a county's contribution to an official's salary should not be reduced while an official remains in office.

- a. The benefits to the jurisdiction of encouraging highly competent people to seek a position of prosecutor with a career orientation;⁸ and
- b. The level of compensation of people with analogous responsibilities in the private practice of law, in private industry, and in public service.

The general trial jurisdiction in Washington is the Superior Court. Our superior court judges all receive the same salary, which is set by a citizens' salary commission.⁹ There is no extra pay for a court's chief judge. Further, prosecutors, judges, and the Attorney General are the only elected officials that require education and special licensure. The prosecutor's power is broad; different, yet equal to that of a superior court judge¹⁰ and compensation should be similar.

COMPARABLE COUNTIES

In January 2023, thirteen counties in Washington either match their prosecutor salary to the superior court judge or provide additional salary. King and Snohomish County Prosecutor salaries are higher than the superior court judge. Pierce, Spokane, Clark, Thurston, Kitsap, Yakima, Benton, Grant, Mason, Kittitas, and Island Counties truly match the salaries of their prosecutors to the superior court judge salary. Whatcom County is the ninth largest county in the State. Every county larger than Whatcom, and five counties smaller than Whatcom match or better their prosecutor salary to the superior court judge salary.

Whatcom County has traditionally used a designated comparable county model to determine wages. This model focuses on similar populations and certain economic features. The model is not based in law, but instead comes from an arbitration held in 2001.¹¹ The

⁸ See attached CV for Eric Richey

⁹ The Washington Citizens' Commission on Salaries for Elected Officials (WCCSEO) meets every two years to set salaries for elected officials holding state office. Superior court judges and district court judges are elected in the counties where they work, yet their salaries are set by the State. Judicial salaries are funded in the same manner that the prosecutor salaries are funded. Half of the judge salary is paid by the State and the other half is paid by the county in which they work.

¹⁰ As Justice Brennan stated in *Young v. U.S. ex. rel. Vuiton et Fils*:

Between the private life of the citizen and the public glare of criminal accusation stands the prosecutor. That state official has the power to employ the full machinery of the state in scrutinizing any given individual. Even if a defendant is ultimately acquitted, forced immersion in criminal investigation and adjudication is a wrenching disruption of everyday life. For this reason, we must have assurance that those who would wield this power will be guided solely by their sense of public responsibility for the attainment of justice. *Young v. U.S. ex rel. Vuitton et Fils S.A.*, 481 U.S. 787, 814, 107 S. Ct. 2124 (1987).

¹¹ Whatcom County Correction Officer Union arbitration 2001.

designated counties include Thurston, Yakima, Kitsap, Benton, Skagit, and Cowlitz. As you may notice from above, Thurston, Yakima, Kitsap, and Benton provide a true match. Kitsap is closest to Whatcom in size and cost of living. Skagit is little more than half the size of Whatcom with a lower cost of living, and Cowlitz is less than half the size of Whatcom with a much lower cost of living. If this body were to use this model to find the “mean,”¹² Cowlitz would drag the average salary down. If this body were to consider the “mode,”¹³ the result would indicate that the Whatcom County Prosecutor salary should truly match the superior court judge salary.

Whatcom County’s tradition of using a designated comparable county model to determine wages seems to be waning. Whatcom County chose not to use a designated comparable county model in their 2022 Salary Survey for Unrepresented Employees or in their 2023 Teamsters/County Collaborative Market Study. The County also did not provide you any comparable county salary information for the Whatcom County Executive. Some reasons for not using this model were provided by the Whatcom County Treasurer, Steve Oliver. Mr. Oliver indicated that this model was designed to argue for lower salaries against unions. Mr. Oliver mentioned that this model is one that necessarily follows other counties, so salaries are always behind the other counties. The Whatcom County Executive’s salary is not behind any comparable county salary.¹⁴ Finally, this model fails to consider important relevant local information such as data from comparable jobs in Bellingham Municipal government and other government entities. As presented, the designated comparable county model has some limitations and may be flawed.

A different way to consider comparable statistics for the prosecutor is to remove county borders. In Washington State, 85% of people live where their prosecutor is paid at a true match or above the superior court judge salary. If you think that King County’s high population skews these numbers, remove King County from the analysis. With King County removed, 78% people in Washington live in places where their prosecutor is paid at a true match or above the superior court judges. These statistics demonstrate that per capita,

¹² The “mean” is the average where one adds all the numbers together and then divides by the number of numbers.

¹³ The “mode” is the value that occurs most often. In this case, the number that occurs most often is a “true match;” 4 of 6.

¹⁴ WCCSEO- Comparison of City/County Executive Salaries. Further, without using comparability data, the 2021 Salary Commission put the Executive salary above the Prosecutor salary by 3%. This was the first time a Commission set the Executive’s salary above the Prosecutor.

prosecutor salaries in the State of Washington overwhelmingly match the superior court judge salary.

Cost of living should be considered.¹⁵ The cost of living in all counties in Washington, other than King, Snohomish, Clark and Kitsap is unquestionably lower than Whatcom County. Yet thirteen counties pay more than Whatcom. In considering all issues of comparability, this body should match the Prosecutor salary to the superior court judge salary.

TRUE MATCH IS POSSIBLE FOR WHATCOM COUNTY

The Whatcom County Charter directs the Salary Commission to “set a salary schedule.”¹⁶ The Charter does not direct the Salary Commission to set a salary amount or specific dollar figure. Civil Deputy Prosecutor George Roche reviewed section 6.100 of the Whatcom County Charter and concludes that the Whatcom County Salary Commission may indicate that the Whatcom County Prosecutor salary match the Washington superior court judge salary.¹⁷ The Charter allows the Salary Commission to set a salary schedule and indicate that the county contribution for the Prosecutor salary shall match half the salary of a Washington superior court judge. A true match necessarily means that the Prosecutor salary will adjust on July 1.

Whatcom County is capable of adjusting Prosecutor salary on July 1 to match the superior court judges. Whatcom County adjusts the Whatcom County Superior Court Judicial salary mid-year on July 1. Salaries for superior court judges and prosecutors in all the above-mentioned counties are adjusted mid-year. Further, Whatcom County Finance Director, Brad Bennett, has told me that Whatcom County salaries can be increased mid-year and clearly some are. Ignoring mid-year adjustments placed the Whatcom County Prosecutor’s salary six-months behind peer prosecutors in counties that match. Since the 2021 decision, that took effect on January 1, 2022, the practice of waiting six months to follow the judge salaries kept \$1,740.00 from the Prosecutor, compared to peer counties that match. Moreover, this practice

¹⁵ The Social Security COLA is 8.7% for 2023.

¹⁶ Whatcom County Charter 6.100 The salary commission shall meet biennially and shall file the salary schedule with the county council and county auditor not later than May 1. The salary schedule shall become effective January 1 of the following calendar year and incorporated into the county budget without further action of the county council, county executive or salary commission.

¹⁷ See attached declaration from Civil Deputy Prosecutor, George Roche.

February 27, 2023

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will increase disparity in 2023 by an additional \$7,111.00, when the superior court judge salary increases on July 1 of 2023.¹⁸

REQUEST AND CONCLUSION

To align the Whatcom County Prosecutor's salary in law and equity, I respectfully ask that the Whatcom County Salary Commission set the County's contribution to the Prosecutor's salary to be equal to one-half of the salary of a Washington superior court judge. This would thereby create parity (true match) with the salary of a Washington superior court judge and peer county prosecutors. This Commission should indicate that the Whatcom County Prosecutor's salary will be effective January 1, 2024, to comply with our Charter, and know that the salary will be adjusted again on July 1, 2024 to follow increases in the judicial salary reflected in decisions made by the Washington Citizens' Commission on Salaries for Elected Officials. To make-up for a known salary inequity starting on July 1, 2023, I ask the Salary Commission to include additional compensation in the amount of \$7,111.00 to be paid in the first half of 2024. In total, this request will eliminate inequities in the future. I thank the members of the Salary Commission for taking your time to read my letter and for your consideration in this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Eric J. Richey". The signature is stylized with a large, sweeping initial "E" and a long, thin tail.

Eric J. Richey

Whatcom County Prosecuting Attorney

¹⁸ The WCCSEO raised the superior court judge salary 7% to a rate of \$217,391.00 to begin on July 1, 2023. The superior court judge salary is set to increase 5% on July 1, 2024 to \$228,261.00. The WCCSEO increased salaries to address inflation, to catch-up for not keeping up with inflation and to make-up for disparities in salaries between the public and private sector.

Attachment 1

ERIC RICHEY

Whatcom County Prosecutor

311 Grand Avenue,
Suite 201
Bellingham, WA 98225

(360) 410-6365

ERichey@co.whatcom.wa.us

Professional Experience

WHATCOM COUNTY PROSECUTOR

2018-present

As the elected Prosecutor for Whatcom County, I am responsible for the largest law office in Whatcom County. My responsibilities include supervising 54 attorneys and staff as well as being directly responsible for every legal decision that is made by my deputy prosecutors. The Prosecutor is only beholden to the electorate, but must act independent of politics. The Whatcom County Prosecutor's Office handles criminal and civil litigation, appellate law, and behavioral health. In my role, I make policy decisions aimed at protecting our community by implementing innovative concepts and taking a proactive approach in prosecuting crimes to reduce incarceration and recidivism, including the development of the LEAD program in Whatcom County. As the Prosecutor, I continue to handle a felony caseload consisting of serious physical assault, sexual assault, and murder.

WHATCOM COUNTY CHIEF CRIMINAL DEPUTY PROSECUTOR

2014-2018

I supervised the criminal division of the Whatcom County Prosecutor's Office and carried a felony caseload consisting of serious cases.

WHATCOM COUNTY DEPUTY PROSECUTOR

1993-2014

I began my legal career prosecuting gross misdemeanors in District Court. I advanced to Juvenile Court where I handled a caseload including sexual assaults. I then moved to the Superior Court felony division, where I tried sexual assault and domestic violence cases. Over the course of my time as a prosecutor, I have taken hundreds of felony cases to trial and handled thousands of criminal cases over the years as a prosecutor.

Current Board Memberships

Washington Association of Prosecuting Attorneys board member (WAPA), WAPA Sexual Assault Committee Chair, High Intensity Drug Trafficking executive board (HIDTA), Whatcom County Drug Task Force Chair, Chuckanut Health Foundation board member, Incarceration Prevention and Reduction Task Force board member, Washington Statewide Reentry Council board member, Washington Statewide Children's Task Force member and Whatcom County Sheriff and Chief's Association member.

Past Board Memberships

Sexual Assault Response Team (SART) Chair, Domestic Violence and Sexual Assault board member (DVSAS), Brigid Collins Steering Committee member. Council of Presidents for Title 9, Governor's Task Force for Independent Investigations board member, Vice President of External Affairs for Associated Students at Western Washington University.

ERIC RICHEY
Whatcom County Prosecutor

Education

University of Oregon, Juris Doctorate 1993
Western Washington University, Bachelor of Arts 1988

Interests

Bicycles, boats and college football.

References

Bill Elfo, Whatcom County Sheriff	360-410-0466
Laura Clark, Director of the Whatcom County Humane Society	360-920-9265
Heather Flaherty, Director of the Chuckanut Health Foundation	360-224-7313

Attachment 2

Memo

To: Whatcom County Salary Commissioners
CC: Satpal Sidhu, Tyler Schroeder, Eric Richey, Karen Frakes
From: George Roche, Civil Deputy Prosecuting Attorney
Date: February 27, 2023
Re: Salaries of Elected Officials; Whatcom County Charter Section 6.100

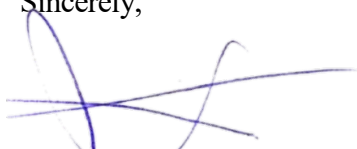
Whatcom County Salary Commissioners,

For introduction, I am the Deputy Prosecuting Attorney assigned the task of civil litigation and to provide legal advice to the County in civil matters. Mr. Richey has asked me to offer a legal opinion regarding the interpretation of Whatcom County Charter Section 6.100.

Several legal cannons apply to the interpretation of legislative acts (such as the enactment of the Charter). The words themselves are assigned their accepted meaning, Webster's dictionary often serving as a guide. The plain language of charter sections is not always holistic, and often some interpretation of intent is required when met with real life issues. The spirit of legislative acts must always be held in view and absurd consequences must be avoided. See *State ex rel. Thorp v. Devin*, 26 Wash. 2d 333, 345, 173 P.2d 994, 1001 (1946). Often the spirit of legislative acts requires an interpretation that includes concepts not specifically articulated within the language of the legislative act itself. See *Id.* See also *State ex rel. Spokane United Railways v. Department of Public Service*, 191 Wash. 595, 71 P.2d 661 (citing 2 Lewis' Sutherland Statutory Construction (2d ed.) §§ 369, 379). In short, there is some freedom of movement when interpreting that language of a Charter provision, but one must always remain grounded in the spirit of the enactment itself in effort to avoid absurd outcomes that would depart from the spirit of the enactment.

Since its enactment by ordinance in 2011, this Commission has chosen to interpret Section 6.100 as stating that salaries shall be fixed in terms of specifically articulated dollar amounts. However, the Charter's language is not so restrictive, and the language of Section 6.100 also allows for this Commission to fix salaries of Elected Officials pursuant to salary schedules, including similar schedules outlined in State law. This is consistent with the spirit of the enactment of Section 6.100, which requires this Commission to fix salaries for listed elected officials. Nothing in the language or the spirit of Section 6.100 prevents this Commission from fixing the subject salaries pursuant to schedules or other statutorily established pay gradients. The Whatcom County Code Chapter 2.22 uses the same language that is used in the Charter and assigns this commission the duty of fixing salaries for the subject elected officials. Similar legislative acts in this County and in comparable County governments fix a number of municipal salaries pursuant to schedules, which enforces the concept that the language of Section 6.100 does not restrict this Commission. Instead the language of Section 6.100 allows this Commission wide latitude to establish salaries of subject elected officials.

Sincerely,



George Roche
Civil Deputy Prosecuting Attorney

Summary of Data

	Assessor	Auditor	Treasurer	Executive	Prosecuting Attorney	Sheriff	County Council
Current Pay (2023):	\$ 11,378	\$ 11,378	\$ 11,378	\$ 17,439	\$ 16,931	\$ 15,099	\$ 4,854
Previous Methodology:	Set compensation to align with the top step of Range 440 of the 2021 Unrepresented Employees Salary Matrix; applied 2.4% COLA for 2023.			3% above the Prosecuting Attorney for 2022 and 3% above the Prosecuting Attorney for 2023	Match the Washington State Superior Court Judge Pay***	2.5% COLA for 2022 and 2023 (based on CPI-U five year average)	Match the WA State Legislator pay for 2022 and 2.4% COLA for 2023***
2022 Whatcom County:	\$ 11,111	\$ 11,111	\$ 11,111		\$ 16,640	\$ 14,730	
2022 Average (8 county average**):	\$ 9,899	\$ 9,899	\$ 9,899	N/A	\$ 16,487	\$ 11,991	N/A
2022 Average (6 county comparable):	\$ 9,947	\$ 9,947	\$ 9,947		\$ 16,248	\$ 12,034	
2022 Average (NonRep 4 County Comparisons):	\$ 10,403	\$ 10,403	\$ 10,403		\$ 16,502	\$ 12,426	

WA State Superior Judge Pay 2023					\$ 18,116		
WA State Superior Judge Pay 2024					\$ 19,022		
City of Bellingham Police Chief						\$ 17,555	
WA State Legislators 2023							\$ 5,016
WA State Legislators 2024							\$ 5,166
City of Bellingham Council 2023							\$ 5,583
City of Bellingham Council 2024							\$ 5,750

Second-in-Command Actual	\$ 10,676	\$ 9,197	\$ 10,676	\$ 15,794	\$ 13,764	\$ 15,176	N/A
Second-in-Command Top Step	\$ 10,676	\$ 10,676	\$ 10,676	\$ 17,017	\$ 14,288	\$ 14,605	N/A
Step 20 of 2023 Salary Matrix (Unrepresented EE's)	\$ 18,038	\$ 18,038	\$ 18,038	\$ 18,038	\$ 18,038	\$ 18,038	
Step 19 of 2023 Salary Matrix (Unrepresented EE's)	\$ 17,017	\$ 17,017	\$ 17,017	\$ 17,017	\$ 17,017	\$ 17,017	
Unrep COLA (2022)	3%	3%	3%	3%	3%	3%	3%
Unrep COLA (2023)*	6%*	6%*	6%*	6%*	6%*	6%*	6%*
CPI-U West Region 5-year Average							2.41%

*Avg based on 4% COLA + salary study implementation (0-9%)

** previously used by commission

***State salaries are updated on 7/1 vs. Whatcom County adjustments which are effective 1/1

From: [Steve Oliver](#)
To: [Stacey Carroll](#)
Cc: [Eric Richey](#); [Bill Elfo](#); [Rebecca Xczar](#); [Diana Bradrick](#); [Satpal Sidhu](#)
Subject: Please forward to Salary Commission member for the record
Date: Wednesday, March 1, 2023 4:39:58 PM

Hi Stacey,

Please forward this email to all Commission members and retain it as part of the official record. I wanted to respond to three issues that came up at the last Commission meeting. I apologize for sending this information by email, but I am at home sick.

1. In my written comments, there is a scrivener's error in regards to the salary gap between the County Finance Director's salary and the second in command in the department. The County Finance Director's salary is 19% higher than the second in command in the department. I unintentionally stated that it was 16% in my memo.
2. At the last Commission meeting, Commission member Calloway asked a question about how to avoid leaving future commissions with significant salary deficits based upon previous policy decisions of the Commission. I believe the Commission has several factors to consider.
 - a. First, let's recognize the challenging situation the last time the Commission set salaries. At the time, the County has not set unrepresented employee salaries for the current year. On top of that, we faced economic circumstances that greatly affected local wages that are continuing today.
 - b. As County Civil Deputy Prosecutor Roche has stated in writing to the Commission, I also don't believe that the enabling language of the County Charter that created the Commission requires the Commission to fix the salary of elected officials as a specific dollar amount. I believe the Charter language would allow the Commission to fix the salaries of elected officials pursuant to other lawfully approved salary schedules. In my opinion, if the Commission chose to set the County Treasurer salary equal to the top step of the County Finance Director's salary, I believe that would be allowed under the Charter.
 - c. Additionally, the Commission has often struggled to set cost of living type increases for two forward looking years. I don't think anyone expects the Commission to be able to out-guess the economic market and policy forces that will affect salaries over the next two years. However, I think there is a reasonable expectation that the Commission will be responsive to them. Nobody predicted the wage pressures of the last two year, including many highly regarded economists, but similar conditions are expected to continue over the next two years, especially in Western Washington and other high cost of living areas on the U.S. west coast. In this regard, the County administration has done a great favor to the Commission by settling several bargaining unit agreements that include

negotiated cost of living increases for 2024 and 2025. This is the clearest statement of the County's expectation in regards to future wages increases that the Commission has ever been presented. My recommendation is for the Commission to include the wage increases previously adopted by the County Council when setting elected official salaries for 2024 and 2025.

3. At the last Commission meeting, Commission member Desler suggested a review of a recent third-party compensation for County unrepresented employees. While I don't want to dissuade the Commission from reviewing the report, I think it requires some prefacing. To put it politely, it was not well received by unrepresented employees. Royce Buckingham, a civil deputy prosecutor, served as an employee 'steering committee' member for the study. Mr. Buckingham wrote a lengthy and substantive response to the study that called into question key study methodologies and conclusions. From my perspective, the study demonstrates the risks of trying to equate or relate local economic and employment conditions to other areas of Washington via a "comparable county" model or similar methodology. At the end of the day, the County administration largely disregarded the study and approved substantial 2023 salary increases for all unrepresented employees. If the Commission should choose to review the study, I would strongly urge the Commission to review Mr. Buckingham's response to the study as well.

Thank you for reading and I am available to answer any questions you may have.

Steve Oliver

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