

To: Harrisonburg City Council
From: Ande Banks, City Manager, Chris Brown, City Attorney
Date: February 20, 2024
Re: Staff Recommendation on Collective Bargaining

I. Introduction

On December 15, 2023, members of City Council and the City Manager received a letter from an attorney representing the Harrisonburg Police Department (HPD) members of the Southern States Police Benevolent Association (SSPBA). The letter asked City Council to consider an ordinance permitting collective bargaining between the City and an exclusive bargaining representative of all HPD sworn officers with the rank of sergeant and below. The letter included a draft collective bargaining ordinance and copies of petitions signed by ten sergeants and fifty officers.

At the January 23, 2024, City Council meeting, the City Attorney provided an overview of City Council's legal obligations triggered by the request to consider a collective bargaining ordinance. He also provided a memo dated January 18, 2024, detailing those legal requirements. For the sake of brevity, that information will not be repeated here but a copy of the January 18th memo is attached for reference. At this meeting the City Attorney informed City Council more information would be shared in March on the estimated financial costs if collective bargaining is approved.

II. Summary

Staff recommends that City Council not enact an ordinance permitting collective bargaining in the City of Harrisonburg. The reasons for staff's recommendation are set forth in detail in this memo but can be summarized as follows:

1. City Council, working through the City Manager, Department of Human Resources, and Finance Department, has substantially increased compensation for all employees, including sworn police officers. Most recently, Council accepted recommendations contained in a Comprehensive Classification and Compensation Study that as of July 1, 2023, resulted in an average pay increase

of 17.25% for sworn HPD officers with the rank of sergeant and below. The City is currently engaged in a comprehensive study to improve benefits for all employees.

2. The costs associated with collective bargaining are substantial. Staff estimates that the initial implementation costs would be approximately \$250,000. Depending on the number of bargaining units eventually recognized, ongoing annual costs of negotiations and administration of collective bargaining agreements may exceed \$425,000. There will almost certainly be additional compensation and benefits costs resulting from negotiated collective bargaining agreements. These costs far outweigh any benefits that can only be achieved through collective bargaining.
3. The retention and recruitment of police officers nationwide has been challenging due to economic and cultural conditions. Harrisonburg was not immune from these challenges. Due to an improved hiring environment, substantial increases in compensation funded by City Council, and successful recruitment efforts by Chief Warner and her staff, HPD hopefully will be fully staffed in the near future. Furthermore, HPD has not lost officers to agencies with collective bargaining.
4. Collective bargaining has and will continue to cause divisiveness within HPD and, very likely, that divisiveness will spread to other City departments. It will also greatly reduce the ability of the City Manager and Chief of Police to address issues and concerns within the department as a whole and with individual officers. Other processes, such as employee communication committees, can address concerns more effectively and efficiently than collective bargaining.

III. Background Events

On March 14, 2023, City Council received a Comprehensive Classification and Compensation Study. This study was the culmination of many months of work by the City Manager's office, the City's Department of Human Resources, and an outside consulting firm. The recommendations set forth in the study were accepted by Council and enacted as part of the budget in May of 2023. The adoption of those recommendations resulted in an average pay increase of 14% for City employees and, on average, a pay increase of 17.25% for sworn police officers with the rank of sergeant or below.

During the Spring of 2023, staff learned of efforts by some members of HPD to pursue collective bargaining between the Police Department and the City. Several HPD officers who were also members of the SSPBA requested a meeting with the City Manager. While surprised by the request and the efforts towards collective bargaining, given the very recent approval of the classification and compensation study and the resulting pay increase, the City Manager scheduled a meeting. The City Manager and City Attorney met twice with the group of HPD officers leading the effort towards collective bargaining.

The first meeting occurred on June 1, 2023, and was also attended by a representative of the SSPBA. The officers gave four general reasons for raising collective bargaining. Those were: (1) wanting a method to get their concerns and requests to the City Manager in an unfiltered manner without going through the chain of command; (2) creating more opportunities for pay progression for patrol police officers; (3) having a “guarantee” of salary and raises for the next three years (the usual length of collective bargaining contracts) and; (4) receiving contemporaneous additional pay for various certifications and specialties (currently officers can gain points in a system that will eventually lead to more pay).

During the June 1, 2023, meeting staff shared our concerns about collective bargaining and explained that the three year pay guarantee sought by the officers was of minimal value since Virginia Code Section 40.1-57.2 specifically provides that no collective bargaining ordinance “shall include provisions that restrict the governing body’s authority to establish the budget or appropriate funds.” The City Manager believed that the other three concerns could be addressed without collective bargaining and told the officers and SSPBA representative that he would work on options to resolve those concerns.

On August 28, 2023, staff again met with the HPD/SSPBA officers. Staff intended to share our work on the issues (excluding the guarantee) raised at the previous meeting. We were under the impression that efforts by City staff and the HPD officers to address concerns would continue informally; however, the night before the meeting a SSPBA representative notified Council that HPD officers still intended to pursue collective bargaining. The decision to pursue collective bargaining was confirmed by the officers at the meeting the next day. Given this decision, staff felt it was not appropriate to continue informal discussions absent direction from City Council.

There were no further discussions or formal communications with the SSPBA until the December 15, 2023, letter was received.

IV. Compensation and Benefits

Over the past five years, the City Manager's Office, Department of Human Resources, and Finance Department have worked closely with City Council to fairly compensate all City employees, with a special focus on Public Safety employees. These efforts included the following compensation increases:

- a. July 1, 2018 – 2.5 percent
- b. July 1, 2019 – 3 percent
- c. Jan. 1, 2021 – 1.5 percent (COVID-19 budget impacts delayed increases in 2020, which was rectified later)
- d. July 1, 2021 – 3 percent
- e. April 1, 2022 – 5 percent
- f. July 1, 2022 – 3 percent for all employees, with an additional 2 percent for Public Safety employees
- g. July 1, 2023 – The Classification & Compensation Study recommendations went into effect, which resulted in the average city employee receiving a 14% pay increase. The increase for sworn HPD employees ranked sergeant and below (those included in the proposed CBA) was **approximately 17.25%**.

These increases resulted in, on average, a 32% pay increase for most employees from July 1, 2018, to July 1, 2023 – and, on average, a **37.25% pay increase for sworn HPD employees ranked sergeant and below** over that time. With these increases, HPD is very competitive in pay with law enforcement agencies in the area.

In addition to pay increases, the City also instituted two one-time payments to employees in the past several years. On Dec. 11, 2020, a payment of \$1,500 went to all City employees outside of Public Safety. Public Safety employees received a \$2,500 payment. In March 2022, all City employees received an additional \$3,000 one-time payment.

The City has also worked hard to support employees when it comes to health insurance; there has been no increase in an employee's contribution to health insurance costs in the past five years. Instead, the City has increased its contribution to the plan, and now covers 75% of the costs for health care.

In addition to the Classification and Compensation Study, the City has initiated a formal Benefits Study. The Benefits Study Committee, which includes HPD Deputy Chief Todd Miller as a member, is holding

listening sessions with each department to hear directly from employees about their needs and their families' needs, as well as to hear concerns about existing benefits and ideas for new benefits. Thus far 68 sworn officers with the rank of sergeant and below have attended a listening session. The City Manager is very excited about this effort and the opportunity for it to be informed by our employees. The City Manager has repeatedly made clear his plan to include enhanced benefits, driven by employee feedback gained during this study, in the budget he presents to City Council this Spring.

V. Costs Associated with Collective Bargaining

There are substantial costs associated with collective bargaining. Given the short history of collective bargaining by public employees in Virginia, it is difficult to accurately predict the amount of those costs for Harrisonburg. Staff has researched actual and predicted costs in other Virginia localities that have approved collective bargaining. Given the variables involved in different localities, most significantly the number of employees and bargaining units, it is difficult to find comparable communities. It is also difficult to ascertain which costs are fixed and will remain the same regardless of the number of collective bargaining units and employees, and which will increase due to those numbers. While only the SSPBA has requested a collective bargaining ordinance and recognition as an exclusive bargaining agent, SSPBA's proposed ordinance includes recognition of a firefighter bargaining unit. Most localities assume that multiple bargaining units representing the majority of the locality's employees will be established. Staff believes that if Council approves a collective bargaining ordinance and recognizes the police bargaining unit, then other bargaining units will seek recognition in the near future.

Costs associated with collective bargaining can be broken down into three general categories:

- a. Startup costs. These are the costs associated with drafting and finalizing the collective bargaining ordinance, creating and implementing the collective bargaining system, and hiring necessary additional employees and contractors for that implementation.
- b. Negotiation and administration. These are costs associated with negotiating and administering collective bargaining agreements. For example, all collective bargaining ordinances require a labor relations administrator. That position is filled by an outside, neutral

contractor well versed in labor law, almost always an attorney. The labor relations administrator drafts and adopts procedures related to the collective bargaining ordinance, runs elections, decides unresolved issues related to the collective bargaining ordinance and procedures, resolves prohibited practices charges, and fulfills other duties related to collective bargaining. Most localities hire multiple employees to deal with collective bargaining issues, including HR staff and legal staff, and a labor relations manager to oversee the collective bargaining system and negotiate on behalf of the locality. Most localities also budget substantial amounts for outside contractors, including legal counsel and consultants, to assist with the collective bargaining efforts.

c. Costs resulting from collective bargaining agreements. These costs include increased compensation and benefits, and lost time of employees spent on collective bargaining matters.

Loudoun County has estimated that implementing its collective bargaining ordinance will eventually require 12 new county positions at an annual cost of \$1.4 million. So far, Loudoun has created eight positions specifically dedicated to collective bargaining, and several other positions that appear to dedicate some time to collective bargaining. Loudoun also budgeted \$300,000 in FY2024 for outside contractors to provide collective bargaining support. Note that Loudoun County does not have a police department. Law enforcement is provided by the Loudoun County Sheriff's Office, which is not subject to collective bargaining. Also, Loudoun County specifically designated \$3.3 million in December of 2023 to its school system for costs associated with collective bargaining between the school board and the Loudoun Education Association.

Alexandria authorized \$850,000 for four new positions in the Human Resources and legal departments to support the initial phase of collective bargaining. It also retained outside legal counsel to assist with the ordinance drafting and implementation.

The City of Portsmouth estimates \$2 million per year for total costs related to collective bargaining.

The City of Virginia Beach estimates that it will cost \$400,000 to update its payroll system to accommodate collective bargaining and, at a minimum, \$500,000 for new Human Resources employees and city attorneys, as well as outside counsel.

Charlottesville is the most comparable jurisdiction based on population, number of employees, and geographic location. Charlottesville contracted with a Washington D.C.-based law firm to help with drafting the collective bargaining ordinance and implementing the associated system. The contract was for \$685,000.00. Charlottesville has contracted with an outside attorney to be its Labor Relations Administrator, has hired a labor relations manager, and created other positions. Staff is trying to learn more details of the costs Charlottesville has incurred and anticipates due to collective bargaining and will supplement this report if possible. To date Charlottesville's approved budget documents state that the costs associated with collective bargaining are unknown but will be substantial.

Based on costs and expenses incurred by other localities, staff estimates that the startup costs for the City of Harrisonburg to implement collective bargaining would be \$250,000. This amount would mostly be expended on outside legal counsel to assist in finalizing and implementing a collective bargaining ordinance, outside consultants to assist HR and Finance in establishing internal systems necessary for collective bargaining, and retention of a Labor Relations Administrator to draft procedures implementing the ordinance and the collective bargaining system. There may also be significant costs for upgrades to payroll and human resources software necessary to administer collective bargaining agreements.

Staff estimates that ongoing expenses for the negotiation and administration of the collective bargaining agreements will be \$425,000. This would be for a labor relations manager, an additional HR employee, an additional Finance Department employee, and an additional attorney in the City Attorney's office. There would also be ongoing expenses associated with the Labor Relations Administrator and outside legal counsel.

Throughout the collective bargaining process there would also be substantial but difficult to quantify costs due to the significant amount of time and attention expended by the City Manager and other City employees.

VI. Recruitment and Retention

Communications from the SSPBA and its HPD members frequently cite officer hiring and retention as critical reasons for collective bargaining. They argue that without collective bargaining, HPD will fail to hire qualified individuals to serve as sworn officers and will lose existing officers to other law enforcement agencies. Staff believes that recent increases in compensation and an overall improvement around the state and the country in trends in police recruiting have led to HPD retaining its excellent police officers and in hiring an increasing number of highly qualified individuals to fill open positions.

HPD, like most law enforcement agencies in the United States, Virginia, and the Valley, saw a significant drop in the number of sworn officers in 2020 and 2021. In early 2020, the COVID-19 epidemic and the social unrest following the murder of George Floyd had a dramatic and adverse effect on recruitment and retention efforts in law enforcement agencies across the country. In Virginia, the number of sworn police officers had trended up in 2018-2020 but dropped by 16% between 2020 and 2022. The hiring of new law enforcement officers seems to have recovered since 2022, but resignation of officers across the state continues to be an issue. HPD's experience over the last several years reflects the experience of other law enforcement agencies.

HPD now has approved and funded positions for a chief, two deputy chiefs, two captains, seven lieutenants, 15 sergeants and 85 sworn officers with a rank below sergeant. HPD currently has vacancies for one captain, two lieutenants, one sergeant, and 10 sworn officers with a rank below sergeant.

Below is data regarding the number of officers leaving HPD for FY 2021—FY 2024 (January). Please note that the numbers below also include civilian HPD employees and command staff.

Police – FY 2021		
Reason for Leaving	TOTAL	Turnover Rate
Deceased		0.00%
Retirement	4	2.99%
Involuntary Termination		0.00%
Resignation	8	5.97%
Transfer to other Dept.		0.00%

TOTAL	12	8.96%
Police – FY 2022		
Reason for Leaving	TOTAL	Turnover Rate
Deceased		0.00%
Retirement	3	2.26%
Involuntary Termination		0.00%
Resignation	18	13.53%
Transfer to other Dept.		0.00%
TOTAL	21	15.79%
Police – FY 2023		
Reason for Leaving	TOTAL	Turnover Rate
Deceased		0.00%
Retirement		0.00%
Involuntary Termination	1	0.75%
Resignation	13	9.77%
Transfer to other Dept.	1	0.75%
TOTAL	15	11.28%
Police – FY 2024		
Reason for Leaving	TOTAL	Turnover Rate
Deceased		0.00%
Retirement	6	4.48%
Involuntary Termination	1	0.75%
Resignation	3	2.24%
Transfer to other Dept.		0.00%
TOTAL	10	7.46%

In FY2022, the Department of Human Resources began tracking, to the extent possible, where officers went to work after they left HPD. That information is as follows:

- a. FY 2022 – Private Sector (5) Shenandoah County (1) Bridgewater (2) Out of State Agency (1) Timberville (1) Albemarle (2) RCSO (3) Military (1)
- b. FY 2023 – Private Sector (3) Mt. Jackson (1) Albemarle (2-one returned to HPD) JMU (1) VSP (1) Bridgewater (1) Dept of Navy (1) FBI (1) Civilian (1)
- c. FY 2024 – Private Sector (1) Loudoun County Sheriff’s Ofc (1) Civilian (1)

As with other agencies around the country, a relatively large number of HPD officers chose to leave law enforcement after 2020. We believe this trend is changing. As to officers going to other law enforcement agencies, from FY 2022 through the present HPD, lost three officers to the Town of

Bridgewater, three to the Rockingham County Sheriff's Office, and three to Albemarle County. None of those agencies have collective bargaining. Bridgewater hired an HPD officer as its new police chief, who then hired two more HPD officers. There is no evidence that HPD is losing officers to agencies with collective bargaining, or that collective bargaining will have a substantial impact on retention of officers in Harrisonburg.

HPD also has been successful in recent recruitment efforts. In calendar year 2020, the City hired nine new sworn officers. In 2021, the City hired four new officers. Again, in 2020 and 2021 recruitment was severely impacted by the pandemic and the murder of George Floyd. In 2022, the City hired 17 new officers, and 14 in 2023.

HPD is also reviewing and revising its hiring process to streamline and simplify the process. For instance, earlier this month, HPD conducted a hiring process in which all testing occurred in one day, as opposed to several days as in the past. At the end of the testing day, HPD made six conditional offers (subject to polygraph testing and background checks).

HPD continues to focus on recruiting new officers. For instance, the City hired an HPD Outreach and Communications Specialist. One of the main functions of that position is to assist in recruiting. With the efforts of Chief Warner and her staff, assisted by the City HR Department, HPD should be very close to fully staffed with sworn officers in a year.

VII. Morale and Divisiveness

Staff believes that collective bargaining has and will continue to cause division in the Harrisonburg Police Department between those who want collective bargaining and those who do not, and between HPD leadership and the rest of the department. Staff fears that if implemented, collective bargaining will cause division between HPD and other City Departments which also provide essential services to the residents of the City. Many different departments make up the City of Harrisonburg, and each must function at a high level in order for us to achieve the goal of providing *Distinctive, Reliable Delivery of High-Quality City Service*. No department is more important than the next. We operate under that understanding and strive to make sure all departments and employees have what they need. Separating one of those departments and

providing it with opportunities or benefits not received by others would create a structure of inequity and division that would not be in the best interests of our employees or community members. Setting one department above others is not how we get all departments to excel. If anything, the additional resources required as part of any collective bargaining agreement would very likely come at the expense of other departments' resources.

Currently, the Chief of Police and City Manager enjoy the flexibility to address concerns of HPD as a whole and of individual officers. A collective bargaining agreement would determine the issues that must be negotiated, including wages, benefits, work hours, training, stand-by pay, overtime, discipline, and others. The flexibility of the City Manager and Chief to resolve many issues will be eliminated and replaced with an expensive, bureaucratic system devoted only to negotiating and enforcing a contract.

VIII. Recommendations and Alternatives

While City staff do not recommend permitting collective bargaining, the City Manager and staff are confident that the concerns of police officers and other employees can be addressed through more effective and cost efficient methods. For example, formally establishing employee committees to meet regularly with the City Manager and other administrative staff would create a direct line of communication to discuss employee concerns, possible solutions, and ways to improve employee satisfaction and the delivery of services to our community. Such committees would be in addition to the City Manager's often expressed and demonstrated open door policy.

