



CITY OF HARRISONBURG
**OFFICE OF THE
CITY ATTORNEY**

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TO: Ande Banks, City Manager

FROM: Chris Brown, City Attorney

DATE: January 18, 2024

RE: Receipt of Collective Bargaining Certifications From Harrisonburg Police Department Officers

Summary: The City has received a request from some members of the Harrisonburg Police Department (HPD) to engage in collective bargaining with the City. Collective bargaining by public employees is now allowed in Virginia in any locality which passes an ordinance permitting collective bargaining. Under Virginia law, the Harrisonburg City Council must now vote to adopt or not to adopt an ordinance permitting collective bargaining. The vote must occur by April 20, 2024.

This item will be on the agenda for informational purposes and to solicit input from Council as to any specific information it would like to receive from staff. Staff is not requesting a vote on the issue at the January 23rd meeting.

Background: In 2020, Section 40.1-57.2 of the Code of Virginia (copy attached) was amended to permit collective bargaining by employees of local governments in the Commonwealth. Any local government which desires to engage in collective bargaining with its employees must pass an ordinance authorizing collective bargaining. A local governing body is not required to permit collective bargaining, but if a local governing body receives a certification from the majority of employees in a unit considered by such employees to be appropriate for the purposes of collective bargaining, that governing body must take a vote to adopt or not adopt an ordinance providing for collective bargaining with those employees and any other public employees deemed appropriate by the governing body. Again, a local governing body is not required to adopt a collective bargaining ordinance but must take the required vote on whether to adopt such an ordinance within 120 days of the receipt of the certification by the employees.

On December 15, 2023, City Council received a letter from an attorney representing the Harrisonburg Police Department members of the Southern States Police Benevolent Association (SSPBA). The letter asked Council to consider an ordinance permitting collective bargaining between the City and an exclusive bargaining representative of all HPD officers with rank of sergeant and below and civilian employees. The letter included a draft collective bargaining ordinance (which includes a separate bargaining unit for members of the Harrisonburg Fire Department), and copies of petitions signed by 10 sergeants and fifty officers. The petitions represent at least 50% of the members of the proposed bargaining unit. The letter also included nine petitions signed by civilian City employees working at HPD. City staff does not believe the civilian employees should not be included in the bargaining unit made up of sworn officers.

Under Virginia law, City Council must vote to adopt or not adopt a collective bargaining ordinance within 120 days of December 15th. We are currently reviewing the SSPBA's draft ordinance that would establish



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the procedures for collective bargaining and the scope of what can be negotiated. City staff is also finalizing its research regarding the financial and organizational implications this would have. Ultimately, the decision to allow collective bargaining is completely within Council's discretion. If Council decides not to adopt an ordinance permitting collective bargaining, that concludes the matter. If Council votes to adopt such an ordinance, the ordinance will be finalized and submitted to Council. Council is not bound by or limited to the draft ordinance submitted by the SSPBA. Any ordinance adopted by Council will provide for an election in which members of the appropriate bargaining unit (in this case sworn officers with the rank of sergeant and below) will vote on (1) whether they want to engage in collective bargaining and, (2) if so, their preferred bargaining agent.

Staff will provide an overview of the collective bargaining process at the January 23, 2024 Council meeting. Based on Council's direction to staff, we will provide research and a written recommendation at a meeting in February.

Key Issues: To adopt or not adopt an ordinance permitting collective bargaining.

Environmental Impact: N/A

Fiscal Impact: The financial impact will be significant. Staff will provide a financial analysis to Council in the near future.

Prior Actions: None.

Alternatives:

- (a) Vote to not adopt an ordinance permitting collective bargaining, or
- (b) Vote to adopt an ordinance permitting collective bargaining and direct staff to prepare such an ordinance for consideration.

Community Engagement: N/A

Recommendation: Staff recommends that Council decline to adopt an ordinance permitting collective bargaining by City employees.

Attachments: 1. Virginia Code Section 40.1-57.2, 2. Letter dated December 15, 2023, from William R. Thetford, Jr., Esquire, with draft ordinance.



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Review:

The initiating Department Director will place in Legistar, in sequence of transmittal, the names of each department that must initial their review in order for this item to be placed on the City Council agenda. The completion of review only addresses the readiness of the issue for Council consideration. This does not address the recommendation for approval or denial of the issue.