



Agenda Memorandum

Agenda Item – {{section.number}}.A.

City Council Study Session
March 6, 2023



Strategic Priority 2: Proactive Public Safety

Enhance public safety to emphasize both prevention and enforcement, engage the community through education and outreach and provide the resources necessary to ensure safety and well-being throughout Westminster.

Subject: Information Only - Collective Bargaining with the Fraternal Order of Police Lodge 25 – Process and Timeline

Prepared By: Ron Arguello, Assistant City Attorney II
David Frankel, City Attorney
Barbara Opie, Deputy City Manager
Norman Haubert, Interim Police Chief

Recommended City Council Action:

This report is for information only and requires no action by City Council.

Summary Statement:

- On January 9, 2023, the Fraternal Order of Police Lodge 25 (FOP) sent their request to open negotiations for a new collective bargaining agreement (CBA) for 2024.
- This Staff Report is intended to provide a summary of the process and timeline for contract negotiations with the FOP.
- The City successfully negotiated the first CBA with police in 2022 with an effective date of January 2, 2023, and was for a one-year term ending on December 31, 2023.
- Per Westminster Municipal Code (W.M.C.) 1-35-7, the FOP provided a timely notice to begin the collective bargaining process, and schedules have been worked out for the commencement of negotiations that must commence no later than April 1, 2023. The City and FOP will commence the collective bargaining process on March 15, 2023, for an agreement with an effective date of 2024.
- Under the terms of the W.M.C., the City and the FOP will bargain in good faith on subjects that

include wages, benefits, and items related to personal safety as well as representation in the disciplinary process, but not the decision to discipline, promotional procedures but not the content/criteria for promotions nor the decision to promote, grievance procedures, and dues deduction.

- The City and the FOP utilized traditional negotiation in the development of the approved 2023 CBA; this format will be utilized again for the development of the next CBA.
- The desired outcome of a collaborative bargaining process will be an adopted and ratified two-year CBA to be effective January 2024 per the guidelines outlined in Title I, Chapter 35 of the W.M.C. This would allow for alternating years for negotiations with the Fire and Police unions.
- During contract negotiations, Staff will communicate directly with City Council to provide updates on progress and seek authority as necessary.

Fiscal Impact:

To be determined.

Source of Funds:

General Fund: Police Department Budget for 2024 and 2025

Background Information:

On February 28, 2022, City Council passed on second reading Ordinance No. 4120 amending Title I of the Westminster Municipal Code (W.M.C.) by adding Chapter 35 titled Collective Bargaining for Police (see Attachment).

The key ideals utilized in developing the collective bargaining ordinance, pursuant to City Council direction and supported by the local FOP, mirrored the firefighters' collective bargaining ordinance. They included the following:

- Collective bargaining should not supplant the final authority of the Police Department management to make decisions that are based on best practices in the industry and legally.
- Westminster needs to bargain with the long-term financial sustainability of the City in mind at all times.
- The City Charter provides requirements that informed Staff in the development of the ordinance for collective bargaining.
- The adopted ordinance addresses in a fair and sustainable way police wages, benefits, and items related to their safety.
- Fairness to both the firefighters and police officers in designing almost identical parameters for each department.

The ordinance is a critical legal document defining the subjects that may be collectively bargained while also defining management rights. The ordinance sets forth the framework for the development of collective bargaining agreements with the police officers and sergeants. Those collective

bargaining agreements may address more detailed provisions under the general terms of the ordinance.

Per W.M.C., if the parties cannot reach an agreement in thirty (30) days from the start date, all unresolved subjects shall be submitted to non-binding arbitration. However, the bargaining parties may extend this requirement to submit to non-binding arbitration by mutual agreement.

Pursuant to the W.M.C., the term of any bargaining agreement shall commence on the first day of the first full pay period of the calendar year and last not less than one (1) year and not more than three (3) years. In order to handle the workload and give staff's full attention to each department, the City's goal is to negotiate a two-year contract with Police so that each year the City will negotiate with only one collective bargaining group instead of splitting its efforts between the two in the same year.

Except as otherwise provided in Section 1-35, W.M.C., a collective bargaining agreement becomes binding upon the parties after the agreement is approved by City Council and members of FOP.

The City and FOP each have designated teams for the upcoming bargaining process. Negotiations and discussions regarding subjects for collective bargaining are restricted to the designated bargaining terms per Section 1-35-7(A) of the W.M.C.. Subjects for bargaining specifically include the following: wages; benefits; items related to personal safety; representation in the disciplinary process, but not the decision to discipline; promotional procedure, but not the content/criteria for promotions, nor the decision to promote; grievance procedures; and dues deduction. Subjects for collective bargaining shall not include those public and management rights set forth in Section 1-35-3, W.M.C. or matters that would conflict with federal or state constitutional, statutory, municipal ordinance, or Charter provision. Upon mutual agreement, nothing prohibits the parties from negotiating over other matters, as long as such matters are not public and management rights as defined in Section 1-35-3, W.M.C. Such other matters shall not be subject to non-binding arbitration or submission to the electors of the City for final resolution unless both parties agree to submit the matter. Within the W.M.C., side discussions by representatives of the FOP or the City during negotiations on subjects for collective bargaining directly with the principals of the other team are prohibited.

All items discussed during negotiation sessions will be held in confidence from the press and public until the tentative agreement has been presented to both the FOP membership and City Council for ratification. Bargaining meetings will not be public and attendance is limited to the designated bargaining teams, support Staff and FOP representatives as necessary. Between negotiation sessions, the City bargaining team, City Manager's Office, and Police Department Administration will communicate with City Council to provide updates on progress and seek authority, as necessary. Members of the FOP Executive Board will also be invited to present at the open City Council meetings with Staff.

The City received a letter dated January 9, 2023, from the FOP Lodge 25 with their formal request to open negotiations for a new CBA for 2024. Per W.M.C. 1-35-7, the FOP provided a timely notice to begin the collective bargaining process. City and FOP schedules have been worked out for negotiations to commence no later than April 1, 2023, pursuant to W.M.C.. The City and FOP will commence the collective bargaining process on March 15, 2023, for an agreement with an effective date of 2024.

Engaging with the FOP in collective bargaining to adopt and ratify a CBA that is mutually beneficial to both the membership of the FOP as well as the City meets the City's Strategic Plan goal of Proactive Public Safety by placing a high value on our human resource with the effort to remain an employer of choice.

Respectfully Submitted,

A handwritten signature in cursive script, reading "Mark A. Freitag". The ink is dark blue or black, with some lighter, possibly faded, strokes.

Mark A. Freitag
City Manager

ATTACHMENTS:

Attachment - Ordinance No. 4120 Amending the WMC adding Chapter 35 Governing Collective Bargaining for Police (adopted February 2022)