

Meeting Date (?) 09/13/2016

Subject Matter* (?) Meet and Confer
This must match rolling agenda entry

Department of Origin* EXECUTIVE

Submitted By* Hugh R. Walker

Type of Meeting* BCD Special Regular

Classification* Public Hearing Consent Statutory Regular

Ordinance* None First Read Second Read First & Only Read

Strategic Initiative* Public Safety Economic Development Quality of Life Service Infrastructure

Agenda Item Description* Consideration of a resolution of the City of Bryan, Texas (City) City Council recognizing the Bryan Firefighters Association (Association), International Association of Firefighters (IAFF) Local 1204, as the sole and exclusive bargaining agent for all firefighters, as that term is defined in Chapter 142 of the Texas Local Government Code, with the sole exception of the fire chief and exempt employees specified by Statute and providing an effective date.

Summary Statement*

In 2005, the Texas legislature approved H.B. 2892, which became effective on September 1, 2005. The bill created Texas Local Government Code, Chapter 142, Subchapter C (Local Control of Firefighter Employment Matters in Certain Municipalities). This statute broadened the availability of "meet-and-confer" to municipalities with a population greater than 50,000 that have adopted Local Government Code, Chapter 143 (Municipal Civil Service for Firefighters and Police Officers). The intent of the Subchapter C is to establish a process by which firefighters can be represented in meet-and-confer negotiations by an association that is the exclusively recognized bargaining agent.

On August 30, 2016, the Bryan Firefighter Association (Association), International Association of Firefighters (IAFF) Local 1204, submitted a petition to the City of Bryan (City) to be recognized as the sole and exclusive bargaining agent for all City of Bryan firefighters, as that term is defined in Chapter 142 of the Texas Local Government Code. The Association claims to represent the majority of City of Bryan firefighters who expressed support of the Association's petition to the City regarding recognition as the sole and exclusive bargaining agent.

Upon receipt of a petition from an association requesting recognition, a municipality has thirty (30) days to respond. Consequently, the City of Bryan has until September 29, 2016, to respond to the Bryan Firefighters Association's request. As referenced above, State statute establishes the process for such a petition. The following is a summary of Texas Local Government Code, Chapter 142, Subchapter C:

Sec. 142.103: After receiving a petition for an association, a municipality has thirty (30) days to:

1. grant recognition to the association as requested in the petition; or
2. defer granting recognition of the association and order an election by the voters; or
3. order a certification election to determine if the association represents a majority of the affected firefighters; if this option is selected and the association certifies the election, then a municipality can select one of the above two options (i.e., 1 or 2 above)

Sec. 142.107(a): A firefighter employed by a municipality may not engage in a strike or organized work stoppage against the municipality

Sec. 142-108: Certain positions are excluded, such as chiefs and certain other exempt positions per Chapter 143 (Section 143.014)

Sec. 142.109(a): A municipality does not give up local control under the subchapter (e.g., rates of pay, hours of work, etc.)

Sec. 142-109(c): The subchapter does not require agreement on any issue contemplated through meet-and-confer

Sec. 142-109(e): Bars Chapter 174 (collective bargaining)

Sec. 142-110(a): The city manager selects the municipality's team to serve as the sole and exclusive bargaining agent to meet-and-confer (City staff note: typically team members are City employees who are familiar with the department and personnel issues)

employees who are familiar with the department and personnel issues.)

Sec. 142.110(b): The association designates one or more individuals to negotiate or bargain on the association's behalf

Sec. 142.114(a): A meet-and-confer agreement is enforceable and binding only if ratified by the governing body and association

Sec. 142-114(b): A meet-and-confer agreement may establish a procedure by which the parties agree to resolve disputes

Sec. 142-114(c): A state district court of a judicial district in which the municipality is located has jurisdiction to hear and resolve a dispute under a ratified meet-and-confer agreement

Sec. 142-115(a): A municipality may withdraw recognition by providing at least 90 days' written notice to the association; this section does not apply if the option to recognize the association follows Sec. 142.105 (election of voters to recognize an association); if Sec. 142.105 was used, then Sec. 142-115(b)-(g)

Sec. 142-116: This section addresses the manner in which registered voters can order an election to repeal a meet-and-confer agreement ratified by the municipality and association

Sec. 142.117: A fully ratified meet-and-confer agreement supersedes State statutes, local ordinances, civil service, and rules adopted by the chief or Civil Service Commission

Sec. 142-119: This subchapter does not repeal existing benefits

The above is merely a summary of Texas Local Government Code, Chapter 142, Subchapter C; attached is the actual statute. Additionally, most of the above listed provisions are accurate regardless of the option used (i.e., Sec. 142.103) to recognize an association. However, some may have idiosyncrasies, such as that listed in Sec. 142.115, depending on the option selected in Sec. 142.103.

Recognizing an association is the initial step in meet-and-confer. Once an association is recognized, a typical next step is for the two (2) entities (i.e., city and association) to negotiate an agreement with specific terms; the entities are represented by two (2) teams as explained in Sec. 142-110(a) and (b). For example, discussion topics mentioned in recent meetings with the Bryan Firefighters Association include first being recognized (and the reason for this resolution), followed by an initial three (3) year formal meet-and-confer agreement with possible discussion points such as restating City Council Resolution No. 3494 approved by the City Council on July 9, 2013 (i.e., four (4) to an engine) and a "Chief's Pool." However, possible terms would need to be fully vetted before City staff makes a meet-and-confer agreement recommendation to the City Council. Again, this Council Action Form and proposed resolution are to recognize the Association as the sole and exclusive bargaining agent for all City of Bryan firefighters per Chapter 142 of the Texas Local Government Code; this action does not include a meet-and-confer agreement, although approving the resolution could lead to the future consideration of such an agreement.

A few Chapter 143 Texas cities that City of Bryan staff reviewed when researching meet-and-confer include Abilene, Cedar Park, Conroe, Dallas, Del Rio, Denton, Georgetown, Round Rock, and San Marcos. Of the cities consulted, none expressed concerns with using meet-and-confer.

In previous months and recent weeks, at the request of Association representatives, City staff and Association representatives have met to discuss meet-and-confer. City staff has researched other cities that have adopted meet-and-confer and visited with numerous representatives from other cities. While in 2005 meet-and-confer was initially viewed in somewhat of a negative light, cities that have recognized an association and adopted meet-and-confer agreements state the process has been beneficial.

A 2005 bill analysis (attached) by the House Research Organization states: cities that employ meet-and-confer negotiations avoid the mandates and formalities required under collective bargaining, meet-and-confer provides cities another option for efficient communication with firefighters, and meet-and-confer may diminish adversarial relationships (if such exists). In the same analysis, opponents to meet-and-confer suggest employing such an option might limit a city's flexibility, especially as related to salary and benefits, and the process may afford one group (e.g., firefighters) with greater concessions than other municipal employees.

Based on research and discussions with the Association, City staff recommends recognizing the Bryan Firefighters Association (Association), International Association of Firefighters (IAFF) Local 1204, as the sole and exclusive bargaining agent for all City of Bryan firefighters per Chapter 142 of the Texas Local Government Code. Per Section 142.103 of Texas Local Government Code, Chapter 142, Subchapter C, the City has thirty (30) days since the receipt of the petition to take action; in this case, thirty (30) days is September 29, 2016.

Staff Analysis & Recommendation*

Options*

(In Suggested Order of Staff Preference)

1. Grant recognition to the Bryan Firefighters Association (Association), International Association of Firefighters (IAFF) Local 1204
 2. Defer recognition and order an election by the voters
 3. Order a certification election of the Association
- *Then grant recognition, or
*Then order an election by the voters

Note: The City has thirty (30) days from the date the Association's petition was received to take action; consequently, the City Council has until September 29, 2016 to take action.

Funding Source*

na (if a financial impact occurs, it is more likely to happen through a meet-and-confer agreement)

Attachments

MeetConferPetition_Resolution.docx	14.4KB
Meet and Confer_Attachment.pdf	1.94MB

Please detail attachments and note attachments available for viewing in City Secretary's Office:

Attachments 2-5 are a single PDF

1. Proposed resolution recognizing the Association
2. Petition dated August 30, 2016, as submitted by the Association
3. Texas Local Government Code, Chapter 142, Subchapter C (Local Control of Firefighter Employment Matters in Certain Municipalities).
4. City of Bryan Resolution No. 3494 (July 9, 2013)
5. 2005 bill (H.B. 2892) analysis by the House Research Organization

Dept. Head Signature



Deputy City Manager Signature



City Manager Signature



City Attorney Signature

