

## Legislation Details (With Text)

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|----------------------|--|----------------------|-----------------------|
| <b>File #:</b>       | 19-712   | <b>Name:</b>         |                       |
| <b>Type:</b>         | Resolution   | <b>Status:</b>       | Individual Item Ready |
| <b>File created:</b> | 9/11/2019  | <b>In control:</b>   | City Council          |
| <b>On agenda:</b>    | 9/23/2019  | <b>Final action:</b> |                       |
| <b>Title:</b>        | Discuss and consider approval of a resolution of the City Council of the City of New Braunfels, Texas, approving a Meet and Confer Agreement between the City and the New Braunfels Professional Fire Fighters Association, Local 3845 of the International Association of Fire Fighters, and providing an effective date. |                      |                       |

**Sponsors:****Indexes:****Code sections:**

**Attachments:** 1. Resolution Meet and Confer Agreement with NBPFFA 2019, 2. NBPFFA MC Agreement 09.23.2019 v13

| Date      | Ver. | Action By    | Action | Result |
|-----------|------|--------------|--------|--------|
| 9/23/2019 | 1    | City Council |        |        |

Presenter/Contact

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**SUBJECT:**

Discuss and consider approval of a resolution of the City Council of the City of New Braunfels, Texas, approving a Meet and Confer Agreement between the City and the New Braunfels Professional Fire Fighters Association, Local 3845 of the International Association of Fire Fighters, and providing an effective date.

**BACKGROUND / RATIONALE:**

The *Texas Local Government Code*, (Chapter 142), allows certain cities to meet and confer with the firefighter and police associations regarding issues of wages, salaries, rates of pay, hours of work, and other terms and conditions of employment. Once an agreement is reached by the negotiating teams, the agreement must be ratified by the majority of the City Council and the majority of covered firefighters by secret ballot election. A fully ratified Meet and Confer Agreement may supersede contrary state statutes, local ordinances, civil service law, and rules adopted by the Chief or New Braunfels Firefighters and Police Officers Civil Service Commission. If dissatisfied with a ratified agreement, registered voters in the city can order an election to repeal a Meet and Confer Agreement ratified by the City and the Association.

In April, 2018, the New Braunfels Professional Fire Fighters Association filed a petition seeking to be recognized by the City as the sole bargaining agent for the Fire Department's civil service employees, excluding the Fire Chief, Assistant Fire Chief, and exempt employees. The Association represented to management and City Council that they wanted to utilize the meet and confer process to establish hiring and promotional standards and processes. The Association

representatives stated they did not want to incorporate issues such as salary and benefits into the meet and confer process and agreement. The law does not require either the public employer or the Association to meet and confer on any issue, or to reach an agreement.

In May, 2018, City Council adopted the resolution granting the NBPFFA as the sole and exclusive bargaining agent for employees. A year later, the Association representatives notified the City Manager that they were ready to meet and confer and thus, negotiations began. Each party designated its own negotiating team which were comprised as follows:

**City Team:**

Kristi Aday, Assistant City Manager, Lead Negotiator  
Valeria M. Acevedo, City Attorney  
Patrick O' Connell, Interim Fire Chief  
Nokihomis Willis, Human Resources Director, Civil Service Director  
Rebecca Miears, Human Resources Manager  
Lori Stidham, Human Resources Associate

**Association Team:**

Jeremy Van Ausdall, President, Lead Negotiator  
Brandon Appleby, Vice President  
Chase Celli, Secretary  
Reyes Villarreal, Treasurer  
Larry Evans, Shift Steward  
James Sellers, Member (Past President)  
Jeffrey Satcher, Member  
Matthew Bushnell, Member (Past Vice President)

Additional important information about meet and confer laws includes:

- Meet and confer law prohibits strikes and works stoppages and if such were to occur, the firefighters forfeit meet and confer rights, civil service status, reemployment rights, and other rights, benefits and privileges the firefighter may have as a result of the firefighter's employment or prior employment with the City.
- Recognition can only be withdrawn by petition signed by a majority of covered firefighters. Also, the City Council may withdraw recognition by providing 90 days written notice to the Association that it intends to do so and that any agreement existing between the parties will not be renewed.
- While a meet and confer agreement is in effect, the City is barred from accepting a petition from the officers requesting the City to adopt collective bargaining under Chapter 174 of the Texas Local Government Code.

March 29, 2019 - The first kick-off meeting of the Meet and Confer process was held between the New Braunfels Fire Department Association and City staff. Six meetings were held in accordance with the Texas Open Meetings Act, with the opportunity for the public to attend.

## **Summary of Proposed Contract Provisions**

## **Article 1- PARTIES AND PURPOSE OF MEET AND CONFER**

Establishes parties and purpose of Meet and Confer.

## **Article 2- RECOGNITION**

Recognizes the New Braunfels Professional Fire Fighters Association

## **Article 3- HIRING**

- Increases the maximum age from 36 to 40 for entry level firefighters.
- Establishes an Interview Board as part of the hiring process. Board is made up of one member of each rank up to and including Battalion Chief.
- Adds 5 points to applicants who possess paramedic certification and pass the written exam with a score of 70% or better.
- Physical agility score -Establishes points for physical agility testing. Physical agility score will weigh up to 20 points of overall score.
- Reappointment after resignation:
  - Reappointment is at the sole discretion of the Fire Chief.
  - Candidates who voluntarily resign after October 1, 2019, and meet all eligibility requirements for a vacant position may be reappointed as a FF without taking exams or being placed on the eligibility list.
  - Must pass pre-employment tests, including a drug test.
  - Establishes other rules for reappointment related to: age, priority, prior service credits, and sick and vacation leave.

## **Article 4- PROMOTIONS**

Intent:

- The Parties believe adding an assessment component to the promotion process will improve the selection and provide promotional candidates a fair opportunity to display skills and abilities that serve as additional indicators that they will perform well in the position of Fire Lieutenant, Fire Captain or Battalion Chief.

Promotional Examination Procedure:

- Written exam will be based upon no more than 3 written source materials.
- Notice of source materials must be posted no less than 90 days prior to the exam.
- Promotional exam will consist of two parts:
  1. Written, consisting of 100 multiple choice questions.
  2. Assessment Center (new)

Written Exam:

- Minimum passing score is 70%. If a 70% is not achieved, the candidate is not eligible for the Assessment Center.
  - For Lieutenants, the written exam counts for 70% of the total promotional score.
  - For Captains, the written exam counts for 60% of the total promotional score.
  - For Battalion Chief, the written exam counts for 50% of the total promotional score.

#### Assessment Center: *(New to New Braunfels)*

- Promotional candidates on military leave during the date of the Assessment Center will not be required to participate in the Assessment Center. The candidate's written score will account for 100% of the final score.
- Seniority points reset to zero upon promotion.
- Outlines calculations to reach each candidate's final score.
- Assessment Center criteria:
  - Must be administered by an outside consultant
  - Assessment Center will consist of not less than three exercises to test:
    - Problem solving/decision making
    - Planning and organization
    - Oral Communication
    - Leadership/Supervision
    - Adaptability
    - Interpersonal Skills
    - Written Communication skills
  - Must also include one fireground tactical scenario.
  - Two orientation sessions to explain the Assessment Center process.
  - Assessor criteria:
    - 4 years of experience in Personnel Admin, Behavioral Science, Fire Admin/Operations, and Fire Ground Command and Tactics
    - Must be 2 certified Fire Officer Assessors for every one 1 Civilian Assessor
    - Assessors must be of equal or higher rank.
    - Affidavit of non-communication about the candidates

#### Procedure of Making Promotional Appointments:

- Upon promotion to a higher rank, Seniority Points reset to zero.
- Formula for composite score for ranks of Fire Lt. (70%/30%), Captain (60%/40%), and Battalion Chief (50%/50%), gives increasing less weight to written exam as rank increases:

Example of formula applied to rank of Fire Lieutenant:

$(\text{Passing Score on Written Examination} \times 70\%) + (\text{Assessment Center Score} \times 30\%) = \text{Composite Score}$

$\text{Composite Score} + \text{Seniority Points} + \text{Education Points} = \text{Final Score}^*$

\*Parties mutually agree that the Seniority Points shall be calculated at their accrued value through the day of the written examination.

#### Review and Appeal of Promotional Exams:

- On the first business day after the exam, candidate may only review the exam booklet, answer sheets, answer key and source material in the presence of a monitor.

#### Appointment and Removal of Assistant Chief:

- This section has been added to assure that should a Second Assistant Chief ever be added, it would be an appointed position by the Chief of the Department. Currently, any second Assistant Chief would be appointed through the Civil Service promotion process.
- This provision does NOT create a new position.

#### **Article 5- TERM OF AGREEMENT**

- The agreement becomes effective October 1, 2019 (assuming Council and Association approval) through September 30, 2021.
- Association must provide the City written notice of intent to negotiate no later than May 15<sup>th</sup>.

#### **Article 6- SAVINGS CLAUSE AND PREEMPTION PROVISION**

- The savings clause provides that if a court finds any contractual provision to be invalid, the rest of the agreement remains valid. The parties can meet within 30 days of the court order to agree on a substitute provision or wait until Meet and Confer negotiations are resumed as provided in Article 5, Section 2, Notice of Intent to Negotiate.
- The preemption clause provides that the agreement preempts or supersedes any other agreement, rule, or law that is in conflict.

#### **ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:**

N/A

#### **FISCAL IMPACT:**

The addition of the assessment center will affect the Human Resources and Fire Department operating budgets; however, at this time those costs are unknown. Staff will monitor the costs and return to Council if they cannot be absorbed, and/or factor additional costs into next Fiscal Year's budget.

#### **COMMITTEE RECOMMENDATION:**

n/a

#### **STAFF RECOMMENDATION:**

Staff recommends approval of a resolution approving a Meet and Confer Agreement between the City and the New Braunfels Professional Fire Fighters Association, Local 3845 of the International Association of Fire Fighters.

Documents attached to this agenda item include:

- Proposed resolution
- Meet and Confer Agreement