

Legislation Text

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Presenter/Contact

Robert Camareno, City Manager
(830) 221-4280 - rcamareno@nbtexas.org

SUBJECT:

Discuss and consider approval of a resolution of the City Council of the City of New Braunfels, Texas, granting recognition to the New Braunfels Professional Fire Fighters Association, Local 3845 of the International Association of Fire Fighters, as the sole and exclusive bargaining agent for city firefighters, and determining that the City may meet and confer with the Association without an election by the voters in the City.

BACKGROUND / RATIONALE:

The *Texas Local Government Code*, (Chapter 142, Subchapter C - *Local Control of Firefighter Employment Matters in Certain Municipalities*), allows certain cities to meet and confer and make an agreement with the firefighters association representing municipal firefighters regarding the issues of wages, salaries, rates of pay, hours of work, and other terms and conditions of employment. The laws regarding meet and confer do not require a municipality to give up local control regarding wages, salaries, rates of pay, hours of work, and other terms and conditions of employment. It merely gives an association a mechanism to negotiate such matters for the benefit of the firefighters. Meet and confer is available to municipalities with a population greater than 50,000 or cities that have adopted a municipal civil service system for its firefighters. The process of becoming a meet and confer city begins with a petition that must be submitted to the City that seeks formal recognition of the New Braunfels Professional Fire Fighters Association (the "Association") as the 'sole and exclusive bargaining agent' for all New Braunfels firefighters. It must be signed by a majority of active firefighters, excluding the Fire Chief and the Assistant Fire Chief. The Association must then receive formal recognition from the City that it will be the sole and exclusive bargaining agent for all its qualified firefighters, excluding the Fire Chief, Assistant Fire Chief, and exempt employees. "Exempt employees" are defined as those appointed by the Chief or those that are exempt by mutual agreement of the City and the Association. Once the Association has been officially recognized, then it may seek to meet and confer with the City and enter into a written 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 2017, Association representatives approached the City Manager and communicated that they were collecting signatures for a petition to be recognized as the bargaining agent for all City of New Braunfels firefighters. Similar to the Police Department, the motivation of the Association is to utilize meet and confer to establish hiring and promotional standards and processes that are currently not allowed under the civil service statutes, chapter 143 for the Texas Local Government Code. As an example, under chapter 143, promotions are determined almost entirely by test scores. With meet and confer, the Fire Chief can be granted the authority to utilize assessment centers in determining

promotions. Assessment centers provide a comprehensive interview and evaluation of candidates. The Association does not want to incorporate issues such as salary and benefits into the meet and confer process and agreement.

On April 25, 2018, the Association submitted its petition to the City of New Braunfels to be recognized as the sole and exclusive bargaining agent for all City of New Braunfels firefighters. The petition appears to be signed by 72% of the qualified New Braunfels firefighters. Per Section 142.103 of Texas Local Government Code, the City has thirty (30) days after receipt of the petition to take action, which places the Council's deadline on May 25, 2018. The City has three options:

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 is certified to represent a majority of the affected firefighters, the City has 30 days to either grant or deny recognition or order an election by the voters.

If the Association receives recognition either from City Council action or an election, it shall be recognized until it is withdrawn by a petition signed by a majority of covered firefighters. If approved by City Council, the 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. If meet and confer was adopted by an election, then Council may order an election to determine whether the public employer may continue to meet and confer, but it may not be ordered until the second anniversary of the date of the election that adopted meet and confer. If the City Council grants recognition and 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.

If meet and confer is adopted, the statute does not repeal existing benefits. 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 police officer may have as a result of the officer's employment or prior employment with the City. A meet-and-confer agreement may establish a procedure by which the parties agree to resolve disputes. 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.

If parties seek to negotiate, then the City Manager selects the municipality's team to serve as the sole and exclusive bargaining agent to meet-and-confer. Typically, City team members include employees who are familiar with the fire department, finance, and personnel issues). The Association may also designate one or more individuals to negotiate on the Association's behalf. The law does not require the City to negotiate nor does it require that the parties execute a Meet and Confer Agreement. 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 can

order an election to repeal a Meet and Confer Agreement ratified by the City and Association.

Some cities that have already adopted meet and confer include the City of San Marcos, City of Kyle, City of Cedar Park, and the City of Bryan.

Documents attached to this item include:

- Proposed resolution recognizing the Association
- NBPFFA's Petition dated April 25, 2018
- Texas Local Government Code, Chapter 142, Subchapter C (Local Control of Firefighter Employment Matters in Certain Municipalities)

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

N/A

FISCAL IMPACT:

As mentioned above, the Association does not wish to include issues such as salary and benefits in the meet and confer agreement; therefore, there is no direct fiscal impact. However, changes to promotional and testing procedures will likely affect the Human Resources and Fire Department operating budgets. Those costs will be factored into future Proposed Budgets as they have been evaluated and determined.

COMMITTEE RECOMMENDATION:

n/a

STAFF RECOMMENDATION:

Based on research and discussions with the Association, City staff recommends recognizing the New Braunfels Professional Fire Fighters Association, Local 3845 of the International Association of Fire Fighters, as the sole and exclusive bargaining agent for all City of New Braunfels firefighters per Chapter 142 of the Texas Local Government Code.