

## City Manager's Proposed Collective Bargaining Ordinance


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## History of Public Sector Bargaining

- In 1959, Wisconsin became the first state to pass legislation authorizing public employee collective bargaining.
- In 1962, authorization for bargaining was extended to federal employees.
- From 1977 until 2020, Virginia expressly banned collective bargaining for public employees.
- Effective May 1, 2021, a new Virginia law permits public employees to bargain if their locality adopts an ordinance extending bargaining rights.

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## Virginia Code § 40.1-57.2

- Localities may decline to authorize collective bargaining, even if a majority of employees in a proposed bargaining unit request recognition
- Localities may permit collective bargaining by ordinance
  - Must provide procedures for certification and decertification of collective bargaining representatives
  - Cannot restrict the City's authority to establish the budget or appropriate funds
  - Employees are not permitted to strike
- Does not create any state-wide mechanism for administration of a bargaining program, dispute resolution, or election oversight. These issue is left to localities to outline, fund, and administer.

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## Response from Other Virginia Jurisdictions

### Have Adopted Collective Bargaining Ordinances

- City of Alexandria
- City of Richmond
- Arlington County
- Fairfax County
- Loudoun County

### Have Rejected Collective Bargaining

- City of Portsmouth
- City of Radford
- Prince Edward County
- Isle of Wight County

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## Development Process

- Analyzed ordinances adopted by other Virginia localities
- Sought input from City department leadership, particularly those individuals with prior collective bargaining experience
- Drew upon experience with collective bargaining in other jurisdictions, including neighboring Maryland and the District of Columbia
- Analyzed the proposed ordinances submitted by the Amalgamated Transit Union (ATU) and a member of the City's Fire Department who is the President of the Charlottesville Professional Firefighters Association
- Analyzed capacity of the City to administer a collective bargaining program

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## Governing Principles

- The City of Charlottesville has a unique workforce with specialized needs.
- The City Manager recognizes that the adoption of collective bargaining will be a large change for both employees and the City, and believes that a moderated approach to the adoption of collective bargaining will best serve the needs of the residents, employees, and administration.
- This is a new process for both employees and local governments in the Commonwealth of Virginia; it would be unwise to attempt to adopt wholesale in Charlottesville what has taken decades to develop in other states and in the private sector.
- The City Manager's goal in his proposed Ordinance is to provide meaningful bargaining rights to employees while balancing the need to make decisions in the best interest of the public as a good steward of the City's limited resources.

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## Bargaining Units

- Police: a unit consisting of sworn uniformed employees of the Charlottesville Police Department
- Fire: a unit consisting of sworn uniformed employees of the Charlottesville Fire Department
- Transit: a unit consisting of all regular full-time and part-time employees of the Charlottesville Area Transit in the positions of Transit Operator Leads, Transit Operators, Transit Maintenance Workers, Transit Maintenance Assistants, Transit Bus Technicians, School Transit Operator Leads, School Transit Operators, and School Bus Aids
- All units exclude seasonal/temporary employees, confidential employees, management employees, supervisors, volunteers, and probationary employees
- Police and fire supervisors excluded from their respective units have the right to meet and confer with the administration

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## Labor Relations Administrator

- The Ordinance requires the engagement of a neutral individual to serve as Labor Relations Administrator. The Administrator serves as a neutral body for the resolution of potential labor disputes.
- The Administrator would be a contract position which would serve a 4 year term.
- The Administrator would be selected by the City Manager from a panel of qualified candidates which is prepared by a joint committee of union and management representatives.
- The Ordinance provides for re-appointment and termination of the Administrator.
- The Administrator would serve as needed; funding would be necessary to pay the Administrator for their services.

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## Unit Certification and Decertification

- A prospective union can submit a petition for certification to the Administrator if 30% of employees in the unit show interest in having that employee organization as their exclusive bargaining representative.
- If the Administrator determines the petition is valid, they will schedule a secret ballot election within 30 days.
  - A secret ballot election ensures that employees have an opportunity to make a free choice regarding whether they want to be represented.
  - The election process would be overseen by the administrator to ensure that it is fair.
- Employees will have the opportunity to select representation by that union, any intervening union, or no union. Certification is determined by a majority vote of employees.
- Employees may decertify an existing union through an analogous process.

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## Authorized Subjects of Bargaining

- Wage, salaries, and other monetary compensation
- Working conditions, including hours of work, but excluding certain rights reserved to the City
- Non-health and non-welfare benefits, such as leave and holidays

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## Areas Not Subject to Bargaining

- **Health and welfare benefits**, such as health insurance, dental insurance, and retirement programs. These benefits are generally subject to plan documents negotiated by the City and benefit from being economies of scale. Having different negotiated benefits for smaller groups of employees could result in increased expense and/or diminished benefits.
- **Core Personnel Rules and Decisions**, such as hiring and termination decisions, promotion decisions, lay-off decisions, job qualifications, and other rules and decisions necessary to direct the workforce.
- **Budget Matters**, per the Virginia enabling legislation.
- These matters may still be discussed between a Union and the City, but bargaining is not mandated by law.

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## Dispute Resolution

- If a union and the City cannot reach agreement on a potential collective bargaining agreement, they will be required to engage in mediation in an effort to reach a negotiated agreement.
  - If mediation fails, the parties will engage a neutral fact-finder who will make a written recommendation to resolve the items in dispute.
  - The City Manager, after considering the results of the mediation and fact-finding, will submit his recommendations City Council through his budget or other proposed legislation.
  - The City Council retains legislative discretion on any such proposals.
- Unions and the City are free to negotiate their own dispute resolution procedures for certain other issues.

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## Proposals from Prospective Charlottesville Unions

### Amalgamated Transit Union (ATU)

- Provided for nine bargaining units
- Broad subjects of bargaining with little discretion left to the City Manager and City Council
- Required the City to pay union representatives for union-specific activity
- Required final, binding arbitration over any grievances concerning the interpretation, implementation, or alleged violation of a collective bargaining agreement
- Required final, binding arbitration over negotiation impasse
- Required the City Council to fund or reject any arbitrator's award "as a whole" in the budget

### Charlottesville Professional Firefighters Association

- Provided for eight bargaining units
- Broad subjects of bargaining with little discretion left to the City Manager and City Council
- Required the City to pay union representatives for union-specific activity
- Required creation of a three-person council to run elections and resolve disputes; decisions of the council are not subject to any review
- Required the City and Unions to adopt binding arbitration grievances procedures through negotiation
- Required final, binding arbitration over negotiation impasse
- Required the City Council to fund or reject any arbitrator's award "as a whole" in the budget

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## Future Review

- The City Manager recognizes that this Ordinance is a first step. After the City has gained experience with these initial stages of collective bargaining, the City Manager commits to a review of the collective bargaining process, and to submitting recommendations for improvement (including potential expansion of the collective bargaining program) to the City Council at a future date.
- This review would include collaboration with any certified unions to note their recommendations and any challenges encountered under the Ordinance.

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## Potential Timeline

- If Ordinance is effective **January 1, 2023**, potential unions would be able to submit petitions for election immediately
  - The City would use the time between adoption of the Ordinance and its effective date to engage a Labor Relations Administrator
- Unions could be certified as early as **March 2023**
- The City and any certified unions could begin negotiating first collective bargaining agreements shortly after certification; first agreements can take significant time and effort to negotiate.
- If the City and a Union cannot reach agreement, impasse mediation and fact-finding could occur in **late 2023 and early 2024**.
- The City Council will have time in spring 2024 to evaluate the funding necessary for any collective bargaining agreements before adoption of the budget on **April 15, 2024**.
- The proposed effective date of any collective bargaining agreements would be **July 1, 2024** to align with the City's fiscal year.
- Subsequent contracts would be negotiated based on the term of the first agreements.

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## Questions?

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