



Legislation Text

File #: 20-1383, **Version:** 1

Resolution to Approve the Collective Bargaining Agreement between the City of Ann Arbor and Ann Arbor Police Officers Association effective January 1, 2020 - December 31, 2022

Human Resources Services recommends approval of the new Collective Bargaining Agreement between the City of Ann Arbor and the Ann Arbor Police Officers Association. This is the second tentative agreement reached between the union and city for this collective bargaining agreement, after the first tentative agreement was ratified by the union on March 12, 2020 but ultimately voted down by City Council. On July 6, 2020 City Council approved resolution R-20-271, endorsing a list of bargaining objectives for this second round of negotiations.

Important changes that have been achieved in this contract include:

- 1) The chief has gained nearly complete authority to schedule and assign training to officers. In the old contract, the chief was limited to two weeks of training per year per officer, and severely limited in his ability to change schedules so afternoon and night shift officers could participate in day-time training activities. The new abilities the chief has gained will allow him the authority to create and implement a new and robust training curriculum for all officers in the department.
- 2) Specialty assignments may now be given at the discretion of the Chief. In the old contract specialty assignments were listed in the contract. In the new contract, specialty assignments have been removed from the document completely, giving the chief the freedom to create a training and advancement program as a management right using the rotation of specialty assignments as an important component of the program.
- 3) The chief has gained greater flexibility to issue discipline and extend probationary periods for new officers. In the new contract language, the chief may suspend an officer without pay for up to six months (960 hours), while in the old contract the chief was limited to five weeks (200 hours). The old contract also allowed officers to appeal disciplinary decisions directly to the chief outside of the grievance process. The new contract language clarifies that these appeals must be made in writing and in a timely manner so as not to interfere with the grievance process. Finally, the chief has the authority in the new contract to extend the probationary period for new officer up to six months so as provide further evaluation of new recruits and ensure that they are a good fit for the department and the community before they receive full union rights.
- 4) The new contract language gives the chief the authority to completely waive progressive discipline in instances of major discipline. These are instances when an officer is being disciplined for excessive use of force, mishandling of evidence, or mishandling of a weapon. It is important to note that the Chief already has the power to waive progressive discipline in instances when an officer has committed an integrity related act of misconduct (falsifying an

official report, providing false testimony or a false statement, being charged with a crime, etc.). The old contract language required the city to adhere to progressive discipline except in the most extreme cases and provided only a 24 month look-back window to use prior discipline as the basis for future progressive disciplinary decisions. The City Council had asked us to achieve a seven year look-back window for progressive discipline, and so the results of bargaining have exceeded the bargaining objective provided by Council.

- 5) The new contract language includes a provision to create a separate bargaining process to explore changes to binding arbitration for disciplinary matters, and that this bargaining process will commence when the new contract is finally ratified by both parties. During the course of negotiations it was agreed that the issue of binding arbitration for disciplinary matters was a complicated issues that could drag these negotiations out for some time. But it was also understood that there was an opportunity to make significant, mutually agreeable progress on this issue, and that otherwise, the rest of this tentative agreement was ready to proceed . And so, by agreeing to sidebar this issue, both sides are committing in the spirit and under the letter of labor law to negotiate in good faith to find a mutually agreeable solution to this issue. This was a bargaining objective provided by City Council, and so far the results of bargaining are inconclusive with the potential to demonstrate significant progress before the expiration of the new collective bargaining agreement.

There is one other issue that City Council provided as a bargaining target, and that was adding language to the contract that would allow the Independent Community Police Oversight Board to view the contents of police officer personnel files. We were not able reach an agreement on this issue. However, we believe that we have the legal ability to disclose police officer names through the FOIA process (*Lansing Association of School Administrators* decision). However, we would endorse exploring this power as part of a process to reach a mutually agreeable solution with the union at a future date.

The economics of the collective bargaining agreement remain within the original bargaining targets set forth by the City when the negotiation began, and include:

- 1) A three-year duration for the contract, with the agreement commencing as of January 1, 2020 and expiring on December 31, 2022.
- 2) Members will receive a 2.5% cost of living adjustment (COLA) each year of the contract. This is a notable concession given the current economic environment. Non-union employees in the city are receiving a 0% COLA this year, the city will be pursuing a 0% COLA in other collective bargaining agreements, and some city employees have taken voluntary pay cuts because of the city's budget situation. However, in an agreement where the union has made significant concessions on discipline and training and in an environment where the police have performed exceptionally well in service to the public during the pandemic and a robust period of public protest, we must recommend retaining the original COLA agreement and providing the pay increases in recognition of our police officer's efforts.
- 3) The city has agreed to extend the non-union paid parental leave policy to include AAPOA

members.

- 4) The city has agreed to increase AAPOA members' uniform allowance and equipment allowance by \$100 each annually to keep up with increases in costs. These allowances have not been adjusted in many years.

Finally, over the last several months as this contract has been discussed publicly, community members have rightly appealed to outside resources to help judge the provision of this contract. One of the more popular resource is the website CheckThePolice.org, and so we have provided an analysis of the proposed contract based on the standards set forth by this group, detailed in the chart below. It is important to note in the table below that the interpretation of contract provisions requires a complex analysis of corresponding police policies, court cases, arbitration decisions, established past practice and existing state and federal labor law and that the plain language interpretation of the contract language alone often times does not render a completely accurate depiction of the practical effect of the agreement.

Please see attached chart.

For the above stated reasons, and for the potential to make mutually agreeable progress on outstanding issues during the proposed contract term, the City Administrator recommends approval of the attached Resolution to approve the January 1, 2020 - December 31, 2022 Collective Bargaining Agreement negotiated between the City and the Ann Arbor Police Officers Association.

Prepared by: John Fournier, Assistant City Administrator

Heather Koch, Human Resources Service Partner

Reviewed by: Margie Radabaugh, Senior Assistant City Attorney

Approved by: Tom Crawford, Interim City Administrator

Whereas, The current collective bargaining agreement between the City and the Ann Arbor Police Officers Association (AAPOA) expired December 31, 2019;

Whereas, The parties reached a settlement on a new agreement on March 12, 2020, and per the recommendation of City Council in resolution R-20-271, re-negotiated terms of the agreement with the union, which includes a three year term (January 1, 2020 to December 31, 2022); and

Whereas, The Interim City Administrator recommends approval of the negotiated agreement; now, therefore, be it

RESOLVED, That City Council approves the three-year collective bargaining agreement between the City and AAPOA beginning on January 1, 2020, and ending December 31, 2022; and

RESOLVED, That the Mayor and City Clerk are authorized and directed to execute the collective bargaining agreement between the City and AAPOA for the term January 1, 2020 to December 31, 2022 on behalf of the City, after approval as to substance by the Interim City Administrator and approval as to form by the City Attorney.