



WESTMINSTER

AGENDA

**SPECIAL CITY COUNCIL MEETING
COUNCIL CHAMBERS
MONDAY, MAY 16, 2016
AT 6:30 P.M.**

1. Roll Call

2. Purpose of Special Council Meeting:

- A. Resolution No. 21 Calling City Special Election and Setting Firefighter Collective Bargaining Ballot Question

3. Adjournment



Agenda Item 2 A

Agenda Memorandum

Special City Council Meeting
May 16, 2016



SUBJECT: Resolution No. 21 Proposed Collective Bargaining Ballot Question

Prepared By: Donald M. Tripp, City Manager
David Frankel, City Attorney

Recommended City Council Action

Pass Resolution No. 21 calling a City special election and setting a firefighter collective bargaining ballot question for the November 8, 2016, general election.

Summary Statement

According to Westminster Home Rule Charter (“Charter”), § 3.4, City regular elections are held on the first Tuesday in November of odd numbered years. A special election may be held when called by a resolution of Council at least forty (40) days prior to the election. Charter, § 3.5.

Per Westminster Municipal Code (“W.M.C.”), § 7-1-6(A), City elections shall be coordinated with the counties whenever possible. The City Council shall adopt, by resolution or ordinance as appropriate, the language of ballot issues or ballot questions prior to the date of the City Clerk’s required certification of ballot contents to the respective county election official. W.M.C. § 7-1-6(B).

By passing the attached resolution, City Council will call a City special election to take place at the November 8, 2016, general election and to be coordinated with the counties. At such election, and by passing the attached resolution, City Council will place on the ballot a question asking whether or not the City Council shall pass an ordinance requiring the City to engage in collective bargaining with Westminster firefighters.

Fiscal Impact: \$40,000

Source of Funds: General Fund – City Clerk Operating Budget

Policy Issue

Does City Council wish to hold a special election to place the question of firefighter collective bargaining before Westminster voters?

Alternatives

1. City Council could choose to not place a question on the ballot.
2. City Council could choose to place alternative language on the ballot.
3. City Council could choose to draft a full ordinance and place this for consideration before the voters.
4. City Council could choose to draft a charter amendment and place this before the voters.

Background Information

In 2013, the Colorado State Legislature adopted Senate Bill 13-025, the Colorado Firefighter Safety Act. From a legislative memorandum explaining the Act, “This action granted professional firefighters the ability to collectively bargain upon approval of the voters of a political subdivision.” The April 2013 Westminster City Council took a position to oppose this law. In an April 2013 letter to Governor John Hickenlooper, City Council said, “... the intrusion into local affairs that clearly exists in the amended Bill is very concerning to the City, as it would violate the home rule authority afforded to the City in the State Constitution.”

In 2014, the Westminster International Association of Firefighters Local 2889 (Local 2889) petitioned the City Council and asked them to authorize collective bargaining. This City Council consideration of this request continued into late 2014. City Council was contemplating this matter in February 2015, and encouraged the newly appointed City Manager, Don Tripp, to meet and talk with Westminster firefighters to determine if there were issues of concern, regarding the fire service in Westminster. The City Manager started those meetings and included the Fire Chief. City Council’s hope was that matters of concern to the firefighters might be resolved within current the current operating model. Over several weeks, 21 separate meetings were held with more than 150 Fire Department staff in attendance (some attended more than one meeting).

In April 2015, the City Manager reported that positive conversations led to some specific areas of interest from the firefighters, but that generally, the firefighters were appreciative and supportive of the communicative dialogue. These conversations set the tone for a mutually respectful and open relationship between City management and Fire personnel. The City Manager was also meeting with all City employees and was also hearing questions from them about this matter. The City Manager attempted to answer the questions and hoped to create an environment of communication and collaboration such that a collective bargaining method of management would not be necessary. The issue of a collective bargaining ballot question was dropped for the 2015 general election. Fire station meetings are continuing and are very collaborative, as are other City employee meetings, with all providing input for improving services.

Some specific actions have resulted from those initial meetings with firefighters. For example, the purchase of new bunker gear to assure that all firefighters had two sets of bunker gear was approved by the City Council in the 2016 amended budget. The bunker gear was one of the items the firefighters requested during these meetings. Beyond that, Fire staffing level concerns were raised and are being considered as part of the FY 2017-2018 budget development process.

On February 18, 2016, the Local 2889 delivered a Notice of Intent to circulate a petition to have the Colorado Firefighter Safety Act apply to Westminster. On March 2, the City Clerk’s office sent Local

2889 a packet of materials with instructions on how to petition for the ballot question. On April 26, the Local 2889 delivered a draft petition to the City Clerk for review. That review, per City Ordinance, is limited to format, not content, and format input was provided.

On March 28, 2016, the Westminster City Attorney drafted and placed a collective bargaining ballot question on the City Council agenda for review. That item was tabled due to concerns with its vagueness. After further collaboration with the City Manager and City Council, a second ballot question was created to address the concerns of vagueness.

At the encouragement of City Council the City Manager reached out to the Local 2889 to discuss whether a ballot question could be created that the City deemed in compliance with the City Charter. After two meetings, held on April 6 and 7, where all previous drafts were considered, the City Manager and Local 2889 President Ron Taylor agreed on a ballot question that Mr. Taylor agreed to support and take to the Local 2889 membership. The union membership reviewed that question on April 11 and did not approve it. Mr. Taylor provided the following explanation in an email that day, "As proposed, the draft ordinance remains too ambiguous in areas that are important to us, including specifically a mechanism of impasse resolution. It would be our sincere hope that such a provision would never be tested and look forward to a future of continued collaboration. However, without a clear understanding of how such matters would be handled and the potential significance of such matters, we cannot in good faith recommend such a choice to the people of Westminster. This leaves this union with the pursuit of SB25 as our principle recourse. As a state law signed into effect by Governor Hickenlooper, we feel that it contains provisions and protections not included in the draft ordinance which are important to our membership and our future as a premier public safety organization."

Local 2889 proceeded to collect signatures on a petition to ask for a ballot question. Mr. Taylor contacted the City Manager again on May 2 to ask for one more attempt to try to find mutually acceptable ballot language. Another meeting was held on May 9 and ballot language was drafted and provided by the Westminster City Attorney that provides options for dispute and impasse resolution. That language is the foundation to what Council is receiving in the proposed resolution before them on May 16, 2016.

The City Council has worked to collaborate with Local 2889 in order to bring a ballot question to the voters of Westminster that would comply with the City Charter. The question that is proposed is compliant with the Charter. It is recommended for that purpose and because it is clear to the voters. If the question is approved by the voters, the details of how collective bargaining will be administered will be outlined in an ordinance the City Council will be asked to adopt. The City Staff will work to get legal advice and solicit the input of all stakeholders, including Local 2889, in creating the ordinance. It is anticipated that drafting an ordinance that thoughtfully considers everyone's goals and is compliant with Charter will take several months.

Placing this question on the ballot in the upcoming general election would further the City's strategic plan goal of having a vibrant, inclusive and engaged community.

Respectfully submitted,

Donald M. Tripp
City Manager

Attachment: Resolution No. 21

RESOLUTION

RESOLUTION NO. **21**

INTRODUCED BY COUNCILLORS

SERIES OF 2016

A RESOLUTION CALLING A SPECIAL ELECTION FOR NOVEMBER 8, 2016 AND SETTING A BALLOT QUESTION ASKING WHETHER OR NOT THE CITY COUNCIL SHALL PASS AN ORDINANCE REQUIRING THE CITY TO ENGAGE IN COLLECTIVE BARGAINING WITH WESTMINSTER FIREFIGHTERS

WHEREAS, as authorized by Section 3.4, Westminster Home Rule Charter (“Charter”), and Section 7-1-11, Westminster Municipal Code (“W.M.C.”), the City Council wishes to call a special election in order to participate in the November 8, 2016, general election by coordinating with the counties;

WHEREAS, City Council wishes to place a ballot question on firefighter collective bargaining for a decision by the City’s registered electors; and

WHEREAS, City Council desires that firefighter collective bargaining, if approved by the City’s registered electors, be implemented in a manner that is consistent with the City’s Home Rule Charter and Home Rule authority under the Colorado Constitution; and

WHEREAS, per Section 7-1-6(B), W.M.C, the City Council shall adopt, by resolution or ordinance as appropriate, the language of ballot issues or ballot questions prior to the date of the City Clerk’s required certification of ballot contents to the respective county election official; and

WHEREAS, for this general election, the deadline for certification of ballot content is September 9, 2016.

NOW, THEREFORE, be it resolved, by the City Council of the City of Westminster as follows:

1. The City Council hereby calls a special election for November 8, 2016, and declares its intent to coordinate in the general election with Adams and Jefferson counties.
2. The City Council hereby sets the following ballot question to be submitted to a vote of the registered electors of the City of Westminster on the November 8, 2016, ballot:

**Firefighters’ Collective Bargaining Initiative as to Wages,
Benefits and Items Related to Personal Safety**

Shall the City Council of the City of Westminster enact an ordinance by July 1, 2017, which would limit the ability of Westminster firefighters to strike and create a mutual obligation between the designated representative of Westminster firefighters and the City to bargain collectively in good faith with respect to such terms that include, but might not be limited to, wages, benefits, and items related to personal safety, with such agreements made upon these terms memorialized in a contract enacted by the City Council, with disputes resolved by non-binding arbitration with impasses to be submitted to the electors of the City for final resolution and to provide that, if this ballot question receives more votes than all other initiatives which pertain to firefighters’ collective bargaining, then this measure shall become law and such other initiatives shall not be implemented?

YES__ NO__

3. The City Clerk is hereby directed to take such actions as may be required or permitted by law in connection with said election.

PASSED AND ADOPTED this 16th day of May, 2016.

ATTEST:

City Clerk

Mayor

APPROVED AS TO LEGAL FORM:

City Attorney's Office