

# Public Employee Collective Bargaining Process

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Council Work Session

February 10, 2020

# What is Collective Bargaining and Why do we Engage in the Process?

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- The term “collective bargaining” generally refers to the process by which a union and City engage in a series of negotiations to create a finalized contract that will govern the subjects of bargaining.
- For public sector employers, the statute that governs collective bargaining is called the Public Employee Collective Bargaining Act (PECBA). First established in 1973, the PECBA gives Oregon public employees the right to form, join and participate in labor unions. Under PECBA, a public employer and the union representing the public employees are initially required to meet and bargain directly with each other (ORS 243.712(1)).

# The City of Tualatin Workforce Snapshot

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- The City of Tualatin is comprised of Unrepresented Staff & Two Unions (TPOA and AFSCME/TEA)
  - TPOA (Tualatin Police Officers Association) – 31 Employees
  - AFSCME/TEA (American Federation of State, County, Municipal Employees/Tualatin Employees Association) – 95 Employees
  - Unrepresented Employees (Exempt and Non-Exempt Management & Temporary Employees)

# Tualatin's Philosophy on Bargaining

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- The Bargaining process and negotiated contract is a chance to show our belief that our employees are our biggest asset and most valuable resource
- Effective bargaining is based on ideals that resonate with both workers and employers, such as working together to solve problems and treating each other with respect. Bargaining allows both the Union and the City to exchange views and resolve the issues being bargained.
- Bargaining sets the work tone for the City in a variety of ways, i.e. expectations of employees, how we value their work, how they are compensated, and expectations in the workplace.

# Tone and Tenor

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- We have a multiyear relationship with both AFSCME and TPOA that is respectful and transparent.
- This working relationship has built trust between the City and the Unions which helps the Bargaining Process to ultimately be successful.
- Detailed effort of spending the time and effort on our contracts and negotiations to ensure the appropriate balance between current financial status of the City is maintained while also meeting the needs of the Union.

# Bargaining Timelines

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- Current AFSCME contract expires on June 30, 2020.
- We received a demand to bargain in December 2019.
- January 30, 2020 we conducted an interest based discussion with AFSCME
- Expect AFSCME Bargaining will begin in Mid February
  - PECBA requires that the parties participate in good faith negotiations for at least 150 calendar days before either party may unilaterally request the assignment of a mediator.

# Bargaining in Good Faith

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- During the 150 days, it is expected that both parties bargain in good faith.
- Bargaining in good faith means:
  - You agree to meet regularly at reasonable times and places;
  - Endeavor to reach agreement;
  - Consider and respond to proposals;
  - Do not bypass the authorized bargaining agent;
  - Or otherwise undermine the other side's representative.
- Good faith does not require you to make concessions, change your proposal, or agree to any particular union proposal to reach agreement.

# Bargaining Timelines, continued

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- During the course of bargaining we will meet regularly at designated time to discuss the contract and the Articles contained within the contract.
- Our initial meeting will generally set ground rules and set a moratorium date for when Articles can be considered open (typically the 4th or 5<sup>th</sup> bargaining session)
- After each article has either been opened and tentatively agreed upon or remains unopened (status quo for next contract), this is known as reaching tentative agreement. The contract remains tentative until it has been formally approved by the union's members and then ratified by Council.



# Possible Outcomes

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- If the two teams are not able to reach agreement, they can pursue impasse options provided in state law that may lead to a settlement. There may be three impasse options: (1) mediation; (2) fact-finding; (3) interest arbitration for strike-prohibited unions or a strike for strike-permitted unions. One or all can be used to settle a dispute. TPOA is strike-prohibited because they are a public safety union. AFSCME/TEA is permitted to strike.
- If the tentative agreement is ratified by both sides, then the parties have a new (or successor) agreement. If the tentative contract agreement is not ratified—by either party—the teams usually go back to the bargaining table and continue negotiations. They negotiate until they are able to bring back a new tentative agreement for a vote.
- Once a contract is finalized, the union and City are responsible to abide by the terms covered in the contract for the duration of the contract.

# City Council's Role

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- Meet in executive session with its negotiator to discuss matters related to negotiations
  - Negotiator value: to distance each independent elected official; to set parameters of authority for the bargaining team
- During executive session, I will come to you with updates and recommendations and to look to you for guidance to the management team on economic and other issues; where to draw the line and when to incur arbitration/fact-finding expenses
- Determines service levels and priorities in conjunction with managers. Managers report back to Councilors about the face-to-face negotiations' progress and any impediments to reaching agreement.
- Final ratification authority - The tentative agreement will be brought before Council to formally ratify the contract

# The ULP (Unfair Labor Practice)

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An unfair labor practice in Oregon is governed by ORS 243.672.

The statute prohibits certain actions taken by employers or unions that violate PECBA.

# Why should Council be concerned about ULPs?

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- End Runs during Council Meetings or Side Bargaining from the Union
- For Example:
  - Any individual from the Union may approach you and want to discuss the bargaining process. As negotiations continue, the union may seek meetings with individual elected official(s) to discuss the agency's bargaining position. As with any group of constituents, an elected official can choose to meet with them or not. If an elected official does meet with union officials, the official should be clear that the official is not speaking on behalf of the governing body. Such meetings can lead to an unfair labor practice accusation of "direct dealing." Avoid any action that would appear the City is interfering in the union's relationship with the employees it represents.
  - If the elected official meets with union representatives, it is helpful to share the conversation with the agency's bargaining representatives. The conversation may provide insights that will help the agency's negotiators move the process forward.

# What's Next?

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- The City will begin the bargaining process with AFSCME in the near future.
- HR/Finance will present updates on the process, seek guidance and financial direction throughout the bargaining process during Council Executive Sessions
- Great things are to come!