

BILL NO. G-14-05-16

General Ordinance No. G-_____

**AN ORDINANCE FOR THE AMENDMENT OF CERTAIN
SECTIONS
CONCERNING COLLECTIVE BARGAINING WITH CITY
EMPLOYEES**

WHEREAS, it is the responsibility of the City of Fort Wayne (the "city") to provide services in the most efficient and fiscally responsible manner for the benefit of its residents; and

WHEREAS, the city currently expends a significant amount of resources engaging in the collective bargaining process with multiple bargaining agents and negotiating multiple collective bargaining agreements with city employees; and

WHEREAS, the city has found that increases in the number of restrictions set forth in the city's collective bargaining agreements have resulted in decreased productivity; and

WHEREAS, the city needs flexibility to obtain services at market rate to meet ongoing fiscal challenges; and

WHEREAS, neither state nor federal law requires the city to engage in collective bargaining with its employees; and

WHEREAS, the city finds it in its best interest to move forward with meaningful reforms to its collective bargaining procedures; and

WHEREAS, nothing in this ordinance is intended to take away or infringe on the right of city employees to organize into a local union or association, or to continue their organization in a presently existing local union or association;

1
2 **NOW, THEREFORE, BE IT ORDAINED BY THE COMMON**
3 **COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:**

4
5 **SECTION 1.** That Chapter 40 of the Fort Wayne Code of Ordinances:
6 "COLLECTIVE BARGAINING" SHALL BE AMENDED to delete Sect. 40.01(A)
7 and 40.01(B)(2) and replace them with the following:

8 **§ 40.01 APPLICATION.**

9
10 (A) This section shall apply to all non-confidential, non-professional, and
11 non-supervisory employees of the city and its utilities (other than those
12 represented by the PBA, the FOP, and IAFF Local 124 who are subject to
13 a different section). This section shall apply to the City of Fort Wayne
14 and all of its boards, commissions, authorities, divisions, and
15 departments.

16 (B) The following definitions shall apply to this section:

17 (2) **PROFESSIONAL EMPLOYEE.** Any employee engaged in
18 work (a) predominantly intellectual and varied in character as
19 opposed to routine mental, manual, mechanical, or physical work;
20 (b) involving the consistent exercise of discretion and judgment in
21 its performance; (c) of such a character that the output produced
22 or the result accomplished cannot be standardized in relation to a
23 given period of time; (d) requiring knowledge of an advanced type
24 in a field of science or learning customarily acquired by a
25 prolonged course of specialized intellectual instructions and study
26 in institution of higher learning or a hospital as distinguished from
27 a general academic education or from an apprenticeship or from
28 training in the performance of routine mental, manual, or physical

processes. The term **PROFESSIONAL EMPLOYEE** shall include, but shall not be limited to, engineers who are civil city or city utility employees.

SECTION 2. That Chapter 40 of the Fort Wayne Code of Ordinances: "COLLECTIVE BARGAINING" SHALL BE AMENDED to delete Sect. 40.02 and replace it with the following:

§ 40.02 RIGHTS OF EMPLOYEES.

(A) City employees shall have the right to bargain collectively with the city and to join such labor organization or organizations as they choose.

Provided, however,

(1) That, for purposes of negotiating and entering into collective bargaining agreements with city employees, the city will recognize only two bargaining units; one bargaining unit shall contain all civil city employees, and the other bargaining unit shall contain all city utility employees (the civil city bargaining unit and the city utility bargaining unit are hereinafter referred to collectively as the "Recognized Bargaining Units and individually as a Recognized Bargaining Unit");

(2) The Recognized Bargaining Units shall each be represented by a designated bargaining representative who shall be selected by a majority of city employees within the respective Recognized Bargaining Units. The city will engage in collective bargaining only after the city

1 employees in each Recognized Bargaining Unit have
2 designated their respective bargaining representatives;

3
4 (3) The city shall not negotiate or enter into a collective
5 bargaining agreement with any labor organization or
6 bargaining representative other than the designated
7 bargaining representatives for the Recognized Bargaining
8 Units. The city will negotiate a separate collective
9 bargaining agreement for city employees in each
10 Recognized Bargaining Unit.

11 (B) Although the city will recognize only two bargaining units for
12 purposes of negotiating and entering into collective bargaining
13 agreements, nothing in this section shall be construed as
14 prohibiting city employees from voluntarily organizing into a
15 local union or association, or continuing their organization in a
16 presently existing local union or association.

17 **SECTION 3.** That Chapter 40 of the Fort Wayne Code of Ordinances:
18 "COLLECTIVE BARGAINING" SHALL BE AMENDED to delete Sect. 40.05 and
19 replace it with the following:

20 **§ 40.05 MAJORITY STATUS.**
21

22 (A) Recognition as the designated bargaining representative for a
23 Recognized Bargaining Unit shall continue in full force and effect
24 unless a petition for decertification of the designated bargaining
25 representative is filed with the Common Council.

26 (B) Upon the filing of a petition for decertification signed by at least
27 30% of city employees in a Recognized Bargaining Unit, an
28

1 election shall be held by the city employees in the Recognized
2 Bargaining Unit at issue within 30 days of the filing of the petition
3 to determine whether a majority of those city employees desire to
4 continue to be represented by the previously designated
5 bargaining representative. Notice of the election shall be given to
6 the affected bargaining representative and to all affected
7 employees. Ballots shall be returned to the City Clerk and
8 counted by tellers appointed by the Council. The ballot question
9 shall be: "Should the [insert bargaining representative] continue as
10 the designated bargaining representative for civil city
11 employees/city utility employees? YES__ NO__." If a majority
12 of civil city employees or city utility employees votes "NO", the
13 Council shall grant the decertification petition and the
14 representative is decertified. No more than one petition to
15 decertify may be filed against any bargaining representative in any
16 12 month period.

17 (C) If the designated bargaining representative is decertified, an
18 election shall be held within 60 days from the date of
19 decertification to allow city employees in the Recognized
20 Bargaining Unit at issue to select a new bargaining representative
21 or choose to have no representation. In order to appear on the
22 ballot, any person or organization seeking to become the
23 designated bargaining agent for city employees in the Recognized
24 Bargaining Unit at issue must file a petition with the Common
25 Council signed by at least 30% of city employees in the
26 Recognized Bargaining Unit at issue no later than 30 days before
27 the scheduled election date.

28 (1) If only one person or organization files a valid and timely
29 petition, the ballot question shall be: "Do you wish to be
30

1 represented by [insert candidate]? YES ___ NO ___." If a
2 majority of voters selects "YES", then the identified person or
3 organization shall be recognized as the designated bargaining
4 representative for city employees in the Recognized
5 Bargaining Unit at issue.

6 (2) If more than one person or organization files a valid and
7 timely petition, for each such person or organization, the ballot
8 shall contain the selection: "I wish to be represented for
9 purposes of collective bargaining by [insert person or
10 organization]." The ballot shall also contain the selection: "I
11 do not wish to be represented for purposes of collective
12 bargaining." The decision of a majority of those voting shall
13 control. If no choice receives a majority of the votes cast,
14 there shall be a run-off election between the two choices
15 receiving the greatest number of votes.

16 **SECTION 4.** That this Ordinance shall be in full force and effect from and
17 after its passage and any and all necessary approval by the Mayor.

18
19
20 _____
John Crawford, Council Member

21 _____
22 Russ Jehl, Council Member

23
24
25 APPROVED AS TO FORM AND LEGALITY

26
27 _____
28 Joseph G. Bonahoom, City Council Attorney