Open Work Session
Collective Bargaining Agreement
January 19, 2016

Mr. Bob Culver, Mrs. Leslie Lewis, Ms. Michele Ennis, Mr. Wayne Strausburg, Mr. Kevin Karpinski, and Mr. Marty Fisher came before Council. Mr. Strausburg introduced Mr. Karpsinki as the County's legal counsel for negotiations for the Collective Bargaining Agreement. He said Mr. Karpinksi and Ms. Ennis were the lead negotiators, and they will discuss the business terms that they have negotiated with the Fraternal Order of Police (FOP). Mr. Karpinski said Ms. Ennis will discuss most of the terms, but he would like to address the issue on the length of the proposed agreement, which is a five year deal. This is longer than the normal in the state. He complimented the County and the FOP for recognizing that there is a significant benefit to a five year agreement, as renegotiating every two years can be costly for both sides with attorney's fees and other costs, as well as hours of staff time. By having a five year deal, costs that are associated with getting increased salaries and better benefits and things like that, are obtainable because it is not a situation where every two years the parties are going back to the negotiating table. Depending upon how contentious negotiations may be, fees can be in six figures, before grievance procedures. Ms. Ennis highlighted some of the major changes of the agreement, starting with Article XVII, titled "Wage Scale," on page 7, of the agreement. The sworn officers had previously adopted a wage scale. It was a step system dating back to approximately 2003. It was the County's goal to place the deputies on the appropriate step, based on the total years of service with the Office of the Sheriff. She said officers will be placed on the appropriate step by the fourth year of this agreement. The cost associated with the agreement will be spread over five years. Mr. Kilmer asked how much will that cost be, to which Ms. Ennis responded it will be approximately $600,000 total costs over five years, which averages around $100,000 per year. Mr. Cannon asked if this is in line with State Police, to which Ms. Ennis responded, yes. Mr. Strausburg said it is pay parity with the Maryland State Police. Ms. Ennis continued, she said on page 9, Article XIX, they added a paragraph on the disclosure of personal information that states, "In the event of an officer-involved shooting, the County is prohibited, absent a court order, or employee consent, from releasing to the public or press, any photo or personal address of any officer involved in the shooting. Such requests for personal information will be handled in accordance with the mandates of the Public Information Act." Ms. Ennis continued, referring to page 14, Article XXVIII, the County has agreed to remove $15,000 earnings offset for secondary employment in the event of an accidental disability. She said currently the County does not have any accidental disability claims. The revision will require a modification to the Pension Plan for the accidental disability document. Mr. Karpinski said he was not involved in the negotiations of the agreement two years ago, but there were some questions or concerns regarding the interplay of disability benefits when someone reaches social security age. The legal counsel that was involved in the negotiations worked out a side memo that addressed those issues. The side memo was referenced in the 2014 agreement, but it has been stricken, because he does not believe the agreement had any legal effect because unless the agreement came before Council for approval, he views it as legal nullity and void. Furthermore, he does not think it was necessary because the plan document is the plan document, and as Ms. Ennis has advised there really is no limitation on reaching social security age as it relates to disability benefits. Mr. Karpinski said to clarify the matter, that language has been removed from the proposed agreement. He said it is not necessary and because it was not presented to Council in 2014, he does not believe it had any legal effect. Mr. Cannon said it was his understanding that it was not presented to Council because the County Executive did not want it to go any further, asking if that is true. Mr. Karpinski said he was not part of those negotiations; he does not know. Mr. Strausburg said it was a letter that was negotiated by the two legal counsels at the time. He said you may recall once the business deal had been struck, as we got into the actual scribing of the documents, and the documents were fairly complicated because we were establishing a trust agreement, and we needed to be certain that the payments coming out of that trust to the officers who were disabled were not subject to taxation, so the attorneys really got deep into the documentation. Mr. Strausburg said Mr. Karpinski nor anybody at the table can talk about the geneses of that side letter. Mr. Cannon said he was not on the Council then, but he recalls there was a lot of discussion on the social security period of time. Mr. Karpinski said the agreement that is being presented does address the issue. He does not know what the issue was two years ago, but since the agreement does address the issue any reference to the side agreement is unnecessary in his opinion. Ms. Ennis continued with the highlights of the agreement, she said that they put in the Deferred Retirement Option Program, also referred to as DROP. She said this provides another path to retirement to eligible members of law enforcement officers. She said under this program they can begin to accumulate for retirement in a DROP account while they continue to work and draw a paycheck with the same employer. Their monthly retirement benefits are deposited into the DROP account pension system and earn compounded interest as long as they remain in the drop program. The maximum length of eligibility in this program is five years, at which time they must retire, and then they can withdraw the accumulated balance out of their drop account. Ms. Ennis said the account will be set up in our pension system and the average five year investment return has been approximately 8%, this program will offer 4%. Mr. Kilmer asked for confirmation that this program is guaranteed to pay 4%, to which Ms. Ennis responded, correct. Mr. Kilmer then asked if we do not reach 4%, do we have to make up that money through general tax money. Ms. Ennis responded that it would be in the pension, yes. Mr. Kilmer said we would be subsidizing it through general tax money in one form or another. Mr. Kilmer asked why was it not just set at compounded interest back on whatever the return is for that year, stating that seems to completely limit our liability. Ms. Ennis said they structured the DROP program as it is in LEOPS, which was historically 6% interest and is currently 4% interest, and they compared that to our current return. Mr. Kilmer said it seems there are other localities that have DROP programs that are trying to get rid of them because the fixed interest payment has proven to be a fiscal burden over the years. Mr. Kilmer continued, he said that he understands that it may have come from LEOPS but there are other places that seem to have experience with the DROP system that they have regretted putting it in place because of the fixed interest and other issues. Ms. Ennis said she spoke to actuaries regarding adding the DROP program, and they have informed her that there will be no impact on the plan. Mr. Kilmer said that is what the actuaries told these people at the other localities too, but the reality turned out different than what the actuaries guaranteed. Mr. Kilmer explained the actuaries can not guarantee what the interest rate will be going forward. He said once this is set in place, it is politically and legally difficult to end it, so we have to be very careful before we put something like this in place that limits our exposure, as what these other places are finding out is it has a very severe fiscal impact. Mr. Kilmer said he has very serious concerns regarding the DROP program asking what is the geneses of why we would agree to this. Mr. Strausburg said when you look at the potential impact on the County's Pension Plan, the actuary is saying negligible because the number of people who may be able to take advantage of this DROP. He said when you look at the potential retirements in the County, and when you look at the number of deputies who may take advantage of the DROP program, the math is deminimis. You may be looking at other jurisdictions that may have a segregated trust where there would be a larger impact. Mr. Strausburg said what they tried to do was to present our deputies with a benefit that came as close to the state's LEOPS program as possible without doing the actuarial buyback for the liability which would have been very expensive. The number of deputies that may take advantage of the drop program will have little if any overall impact on the funding of the County's Pension Plan. Mr. Strausburg said the geneses was an outgrowth of their negotiations. Mr. Strausburg said he forgot to introduce the president of the local bargaining unit Mr. Marty Fisher. Mr. Fisher said over 90% of the police departments in Maryland currently offer the DROP program to their officers. He said most of the Board of Educations offer the DROP program. Mr. Fisher asked why should we be the only County, the hub of the Eastern Shore, without the DROP program. Mr. Fisher said the people work hard, they deserve it and any benefit we can get to them they truly deserve. We are the enforcement arm of your government. We are you and you are us. Mr. Fisher said a lot of people in this day and age do not see that but that is what we are. If they can do anything to enhance retirement so people can truly retire versus having to do something else, he thinks we should try to make that in effect. Mr. Fisher continued, he said it is a recruitment and retention tool. He thinks this will attract quality employees to the County. Mr. Kilmer said he understands what he is saying, but the Council has to look out for the long term fiscal health of the County, which is what his concern is. He said the trend seems to be that places are looking to end DROP programs, not trying to institute them. He said a lot of DROP programs seem to have been instituted in the 1990s and now 20 years later they are finding that they were not fiscally responsible to do. Mr. Kilmer asked for confirmation that there is not a DROP program for County employees, and the DROP program would only be for the sheriff's officers, to which Ms. Ennis said that is correct. Mr. Cannon asked for confirmation that there is not a DROP program for the Board of Education, to which Ms. Ennis said that is also correct. Mr. Cannon then asked where does the DROP program come from as there are retirement programs that we have been administering for years. Why all of a sudden is there a special need for a second layer of retirement programming, asking if the current retirement program that we are giving to employees and the Board of Education is not sufficient. Why didn't we just decide to increase our portion of the current retirement plan? Ms. Ennis said she thinks it gives them the ability to retire because you are actually receiving your retirement check and putting it into an account to earn interest. It gives you the cash, so you are able to retire. Unless you put in 50 years, you are not going to get 100% of your salary in retirement, so most people cannot afford to retire or are in a position to retire and that is why there are various layers of it. Mr. Cannon said he would like to see some numbers that will help us define our circumstances as a County and our exposure as a County. He would like to see numbers showing our current exposure and then what the exposure would be with the agreement. Ms. Ennis said everything on the retirement plan is in the Financial Statements. Mr. Strausburg asked if the question is about the retirement/disability or about the step increases or both. Mr. Cannon said it is both, as the Council really needs to know what the exposure is really going to be. He said everyone on the Council supports law enforcement, but they also have a responsibility to the taxpayers so they just want to make sure the program works. Mr. Joe Holloway said he has never heard of the DROP program before, but has heard that a lot of other counties were unhappy with LEOPS, and when we started doing the FOP a few years ago, we decided to stay away from LEOPS. Ms. Ennis said she didn't think it was the DROP component of LEOPS. Mr. Joe Holloway said they decided to stay away from all the components of LEOPS and what he is hearing now is that we are trying to mirror LEOPS and that is part of the concern. Mr. Strausburg said the principal reason why we wanted to stay away from the state's LEOPS program was that when you do not institute that type of program at the geneses, such as the formation of a law enforcement department, when you adopt the program years later, as we would have, we would have an actuarial buyback. Had we had gone into the state's LEOPS system, we would have to pay the state the actuarial liability we had accumulated over the years in order to join LEOPS and that would have been a multi-million dollar investment. It was around $6.5 million just to buy in. We did not want to face that actuarial buyback, but rather we created our own program by looking at the actuarial costs going forward and funded it on that basis. Our funding on the outset was just a little under a million dollars. By offering close to the same benefit, we saved the County close to $5.5 million dollars. Mr. Strausburg said he would like to mention, when we talk about retirement, on average, a law enforcement officer is going to retire much earlier, at an earlier age, than people in other lines of work, for obvious reasons. He thinks that had something to do with the geneses of the DROP concept. Mr. Kilmer said he understands that due to the nature of the job there may be early retirements, but we could also adjust that in the retirement age specifically for sheriff's office personnel. We could lower the age down instead of instituting a new program that puts us on the hook. Mr. Strausburg said he is not sure we could have different retirement ages for different classes of employees under our pension system. Ms. Ennis said if we modify it, we will have a different actuarial impact. Mr. Kilmer said it has been done in other areas as a way to address the issue for law enforcement. Mr. Joe Holloway asked if he heard correctly that there would not be many people signing up for the DROP program, to which Ms. Ennis said the program is voluntarily. Sheriff Lewis came before Council. He said the DROP program is not something new, it has been around since the 80s. It is popular among public safety employees, both firefighters and law enforcement, because of the stressors that come along with law enforcement and firefighting. They want to offer employers a means of retaining good tenure employees and giving them some idea as to when those long tenure employees would retire. Once the employee enters into an agreement with the County, they have to retire in five years. They can retire any time up to five years, but they must retire at the conclusion of the fifth year in the DROP program. Sheriff Lewis said he did not take advantage of the DROP program with the State Police. The day he was eligible to leave the State Police, he left. He never enter their DROP program at all. Sheriff Lewis said there will be many people who will not take advantage of this. There will be many guys who cannot wait to get their 25 years in and then leave. For those that have nothing waiting for them after retirement, they may stick around a few years. He said this is something the County can easily afford and something we should be offering to County employees, especially those in law enforcement. He said we have unique jobs, unique responsibilities. They work constant shift work all the time. He thinks this is a no brainer for Wicomico County. He thanked the County Executive and everyone for offering this to the men and women of the Wicomico County Sheriff's Office. Mr. Dodd said the Sheriff's Office has been losing a lot of deputies. They were using the Sheriff's Office as a stepping stone. They were getting their training and then moving to a department such as the State Police or somewhere else to get better pay. Mr. Dodd said he thinks, in 2003, the County agreed to give the deputies parity for three years and they tried to keep parity beyond that. He said the DROP program is not a bad thing because you have people who want to stay 30 or 35 years, and, if you have someone who is earning a lot of money, and they get the DROP program, then their term is up, you can then probably hire someone at half that cost, or hire two people. Mr. Dodd said he thought most of the DROP programs were three years. Mr. Fisher said in 2003 they discussed pay parity with the Maryland State Police. He said with the five year deal, it was a hard sell to the deputies, to say that they would not come back to the table until five years. He said as the President, he would listen to all the concerns. This is not true parity. This contract does not give us true parity like the Maryland State Police. Mr. Fisher said he has a copy of Governor Hogan's current increase to the Maryland State Police that came out last week, and we have fallen further behind them. He said that he has explained to his membership, we are not the Maryland State Police, we are the Wicomico County Sheriff's Office, this is our pay scale and we can live with it. We were promised, at one point, pay parity with the Maryland State Police back in 2003, and it never came to fruition and it is not coming to fruition now. This is Wicomico County's pay scale and the men and women have agreed to it. If you compare this to the Maryland State Police pay scale, it is not the same. Mr. Fisher said the five year deal is unprecedented as there are no five year deals in the State of Maryland. The longest is three years and the average is two years. Mr. Cannon acknowledged that Ms. Ennis provided a handout of the salary increases over a five year period. He then asked if they had anything that would show what the increases will be to include the benefits as well, to which Ms. Ennis said she would be able to get the information. Mr. Hall said he has a question about the disability benefits. He said the agreement indicates, "This benefit shall be available for events that occur that give rise to the disabling condition on or after July 1, 2014," asking why wouldn't the date be when the contract goes into effect, to which Mr. Strausburg said it has not changed since the last agreement.

Signatures are on the next page.

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John T. Cannon, President

Matt Holloway, Vice President

Absent
Ernest F. Davis, District 1

Marc Kilmer, District 2

Larry W. Dodd, District 3

John B. Hall, District 4

Joe Holloway, District 5

Matthew E. Creamer, Council Administrator