

City of Bloomington Common Council

Legislative Packet

Containing legislation and materials related to:

<u>Wednesday, 08 September 2021</u> Committee of the Whole at 6:30 pm *followed by a* Special Session at 7:45 pm

*Please see the notes on the <u>Agenda</u> addressing public meetings during the public health emergency. For a schedule of upcoming meetings of the Council and the City's boards and commissions, please consult the City's <u>Calendar</u>.

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Per IC 5-14-1.5-3.7, this meeting will be conducted electronically. The public may access the meeting at the following link: https://bloomington.zoom.us/j/89790471485?pwd=clRQSnpGN3NSNmJIV0tEMXNOb1pPQT09

Chair: Susan Sandberg

A. <u>Ordinance 21-34</u> - To Amend Title 2 of the Bloomington Municipal Code Entitled "Administration and Personnel" – Re: Amending BMC 2.04.420 (Motion to Adjourn or Recess) to Place Greater Limits on the Duration of Council Meetings That They May End at a Reasonable Hour

Sponsored by: Councilmember Stephen Volan

STATEMENT ON PUBLIC MEETINGS DURING THE PUBLIC HEALTH EMERGENCY

Under Indiana Code 5-14-1.5-3.7, during a declared public health emergency, the Council and its committees may meet by electronic means. The public may simultaneously attend and observe this meeting at the link provided above. Please check <u>the Council Website at https://bloomington.in.gov/council</u> for the most up-to-date information on how the public can access Council meetings during the public health emergency.



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- I. ROLL CALL
- II. AGENDA SUMMATION
- III. LEGISLATION FOR SECOND READINGS AND RESOLUTIONS
 - A. <u>Resolution 21-27</u> Calling for an Increase to Salaries for Members of the Police Department
- IV. COUNCIL SCHEDULE
- V. ADJOURNMENT

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City of Bloomington Office of the Common Council

NOTICE

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STATEMENT ON PUBLIC MEETINGS DURING THE PUBLIC HEALTH EMERGENCY

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As a quorum of the Council or its committees may be present, this gathering constitutes a meeting under the Indiana Open Door Law (I.C. § 5-14-1.5). For that reason, this statement provides notice that this meeting will occur and is open for the public to attend, observe, and record what transpires.

		Posted: Friday, 03 September 2021
401 N. Morton Street	City Hall	(ph.) 812.349.3409
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MEMO FROM COUNCIL OFFICE ON:

Ordinance 21-34 - To Amend Title 2 of the Bloomington Municipal Code Entitled "Administration and Personnel" – Re: Amending BMC 2.04.420 (Motion to adjourn or recess) to Place Greater Limits on the Duration of Council Meetings That They May End at a Reasonable Hour

Synopsis

This ordinance is authored by Councilmember Volan and amends Section 2.04.420 of the Bloomington Municipal Code (Motion to adjourn or recess) to provide that any meetings of the Common Council or its committees shall not continue after five and a half hours from the meeting's call to order or after 11:59 p.m. local time without unanimous consent of the members present.

Relevant Materials

- Ordinance 21-34
- Memo from Councilmember Volan, sponsor
- Proposed amendments to BMC Title 2 shown in context

Summary

<u>Ordinance 21-34</u> proposes an amendment to Bloomington Municipal Code ("BMC") Section 2.04.420, which is entitled "Motion to adjourn or recess." BMC 2.04.420 can be accessed online here:

https://library.municode.com/in/bloomington/codes/code_of_ordinances?nodeId=TIT2ADPE_CH2 .04COCO_ARTVPRMO_2.04.420MOADRE

The ordinance inserts new provisions into the BMC related to the duration of council meetings and how motions to adjourn or recess should be treated after certain points in time.

Under the Council's current rules, a motion to adjourn or recess is in order at any time, except:

- when it is repeated without intervening business or discussion;
- when a member is speaking;
- when the previous question has been ordered; or
- during roll call.

Currently, such motions are not debatable and require a majority vote. Under *Robert's Rules of Order*, a question pending at the time of adjournment should be resumed at the next regular session under the appropriate position in the agenda (e.g., Legislation for Second Readings and Resolutions) at exactly where it was previously interrupted. Similarly, any



items not reached should be taken up at the next regular session under the appropriate agenda item.

While a motion to adjourn is pending or after it has been voted to adjourn but before the chair has declared the meeting adjourned, it is in order to inform the assembly of business requiring attention before adjournment and to make important announcements (among other, less common actions).

<u>Ordinance 21-34</u> would codify new rules applicable to motions to adjourn or recess made after five and a half hours from the meetings call to order or after 11:59 p.m., whichever occurs first. It states that such meetings should not continue without the unanimous consent of the members present. It does not necessarily require a vote to continue the meeting at such times. Rather, unanimous consent could be assumed until a member moved to adjourn or recess. If a member moved to adjourn after five and a half hours from the meetings call to order or after 11:59 p.m., then there would no longer be unanimous consent to continue and the meeting would end. It also states that a motion to recess to another day is only in order if the meeting's time of resumption is at least twenty-four hours after its initial call to order. Finally, it makes clear that these new rules are not subject to suspension by the Council.

Contact

Cm. Steve Volan, 812-349-3409, volans@bloomington.in.gov

ORDINANCE 21-34

TO AMEND TITLE 2 OF THE BLOOMINGTON MUNICIPAL CODE ENTITLED "ADMINISTRATION AND PERSONNEL" – Re: Amending BMC 2.04.420 (Motion to adjourn or recess) to Place Greater Limits on the Duration of Council Meetings That They May End at a Reasonable Hour

- WHEREAS, all meetings of the Bloomington Common Council ("Council") must be conducted so that the general public may attend, observe, and be fully informed of its proceedings; and
- WHEREAS, meetings that run late into the night discourage participation by the public, and
- WHEREAS, meetings that run late into the night tend to diminish the quality of deliberations by members of the Council; and
- WHEREAS, meetings that run late into the night are at best inconvenient and at worst compromise the well-being of City staff who are required to attend these meetings yet also to return to work early the next morning; and
- WHEREAS, meetings that end at a reasonable hour show respect for all who attend, and no meetings that continue into the next day should be considered reasonable; and
- WHEREAS, meetings used to begin at 7:30 p.m. before <u>Ordinance 16-42</u> pushed them back an hour, and "the 10:30 rule" in BMC 2.04.420(b), adopted in 1979, implied that meetings should last not much longer than three hours let alone go into the next day; and
- WHEREAS, since January 2015, thirteen meetings have lasted more than five and a half hours, and on March 3, 2021, a meeting lasted nine hours straight without break, ending just after 3:30 a.m. the next day, setting a most undesirable record; and
- WHEREAS, while the Council has always had it in its power to continue its deliberations to a future meeting through motions, rather than continue late into the night, and to put time limits on all participants to reduce the duration of meetings, it has rarely done so; and
- WHEREAS, the Council should make the health and well-being of all who attend its meetings a higher priority than its legislative convenience;

NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE COMMON COUNCIL OF BLOOMINGTON, MONROE COUNTY, INDIANA, THAT:

SECTION 1. Section 2.04.420 entitled "Motion to adjourn or recess" shall be amended by inserting paragraph (c) to read as follows:

2.04.420 – Motion to adjourn or recess.

(c) No meeting of the council or any of its committees, including committees appointed directly by the Council or its presiding officer, shall continue after five and a half hours from the meeting's call to order or after 11:59 p.m. local time, whichever occurs first, without unanimous consent of the members present. A motion to adjourn under this paragraph made after five and a half hours from the meeting's call to order or after 11:59 p.m. local time shall not require a second or a vote, shall take precedence over a motion to recess, and shall have the effect of ending the meeting, regardless of what items on that meeting's agenda have not yet been voted on or taken up.

(1) A motion to recess to another day, which requires a second and a majority vote, shall not be in order unless the meeting's time of resumption is at least twenty-four hours after its initial call to order.

(2) Paragraph (c) shall not be subject to suspension under section 2.04.090.

SECTION 2. If any section, sentence, or provision of this ordinance, or application thereof to any person or circumstance shall be declared invalid, such invalidity shall not affect any of the other sections, sentences, provisions or application of this ordinance which can be given effect without the invalid provision or application, and to this end the provision of this ordinance are declared to be severable.

SECTION 3. This ordinance shall be in effect after its passage by the Common Council and approval of the Mayor, and any required publication or other promulgation in accordance with the law.

PASSED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this ______ day of ______, 2021.

JIM SIMS, President Bloomington Common Council

ATTEST:

NICOLE BOLDEN, Clerk City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2021.

NICOLE BOLDEN, Clerk City of Bloomington

SIGNED and APPROVED by me upon this _____ day of _____, 2021.

JOHN HAMILTON, Mayor City of Bloomington

SYNOPSIS

This ordinance is authored by Councilmember Volan and amends Section 2.04.420 of the Bloomington Municipal Code (Motion to adjourn or recess) to provide that any meetings of the Common Council or its committees shall not continue after five and a half hours from the meeting's call to order or after 11:59 p.m. local time without unanimous consent of the members present.

To: Council

From: Steve Volan, Councilmember, District VI

Date: August 27, 2021

Re: Ord. 21-34, defining a "reasonable hour" for the end of meetings

History of Council meeting time rules

The 1979 ordinance that last revised the Council's operating procedures contemplated that meetings would be conducted in roughly what television professionals would call "prime time". Meetings began at 7:30 pm per BMC 2.04.050(a), and 2.04.420(b) called for a supermajority vote to introduce new legislation after 10:30 pm. When items of legislation remaining on the agenda were not introduced and the remainder of the standing agenda (second public comment, Council schedule) were dealt with, the meeting ended before 11 pm.

Since then, Council has been meeting longer and more frequently than the framers of the 1979 ordinance ever imagined. On at least 13 occasions since 2015, Council meetings have lasted longer than five and a half hours. Two of those occasions were this week, during Budget Week. CM Chopra, who was more sensitive to late hours than most CMs, authored Ordinance 16-42, which simply pushed the Council's standard meeting start time back an hour to 6:30 pm. From the minutes of Nov. 16, 2016:

"[Chopra] said that the reason for the ordinance was that meetings often ended very late. She said that she could not make any guarantees that meetings would not end late, but that the change was a chance to make that less likely to happen. She said late meetings lead to fatigue, insubstantial scrutiny, and shallow deliberations that resulted in poor decisions. She said that several department heads expressed enthusiasm about the ordinance. She said that a good night's sleep was important to the well-being of staff members, who must often stay late and come in early."

Vote on that ordinance that night was taken at 1:24 am — the next day — after more than four and a half hours of consideration of the project at Hillside and Henderson now known as Park South. That project was on its *Third* Reading; it was the sole subject of a contentious October committee of the whole that itself lasted almost four hours. The minutes also note that Chopra said that "the behavior of councilmembers and effects of [tonight's] late meeting proved the need for the ordinance." The meeting that night lasted six hours.

CM Chopra later regretted not also setting a maximum meeting length at that time. This proposal remedies that missed opportunity.

Rationale for the ordinance

This ordinance changes BMC Chapter 2.04 to address the problem of Council meetings that last too long.

In a local deliberative body, deliberations should take place under humane circumstances, which include conducting them during normal waking hours. This body has on numerous occasions conducted meetings into the wee small hours of the night. On March 3 of this year, the Council conducted a meeting that lasted nine full hours, a record for a single meeting.

It does not benefit anyone physically to make decisions at such a late hour--members of the public, petitioners, administration staff, clerk staff, council staff, or councilmembers themselves. In the same way that we limit the amount of time an individual can speak to an issue, we must also consider other kinds of limits on public deliberations.

We heard the Clerk report that the frequency of meetings has increased so much since she took office that she has had to ask for a third full-time employee. She gave her report during this most recent Budget Week, when two of the Council's four meeting nights went longer than five and a half hours. That has happened an average of twice a year since 2015.

What the ordinance does

This ordinance extends the spirit of the 10:30 rule by setting a near-absolute limit on a single meeting in a 24-hour period. It adds paragraph (c) to BMC 2.04.420, defining five and a half hours as the maximum reasonable length of time for a Council meeting, and midnight as a "reasonable hour" for the conclusion of Council meetings.

Meetings do not end automatically under normal rules of order; a member make a motion to adjourn, which is not debatable. A motion to adjourn under this ordinance made after 11:59 pm, or after five and a half hours of meeting time if the meeting begins before 6:30 pm, effectively ends the meeting by requiring unanimous consent of the members present. (An abstention in such a vote is not "consent" and thus would be considered a "no" vote.) The ordinance leaves open the possibility, however unlikely, of continuation. It does not, for example, prevent a member from leaving unilaterally instead of moving to adjourn.

Members who believe the meeting needs to be continued must make a motion to recess, which is debatable and requires a second, so that there is time to consider it before five and a half hours triggers the required-adjournment option. Subparagraph 1 requires that a meeting recessed "to another day" not begin until at least 24 hours after its initial call to order, as such a meeting should not be continued to, say, 9 the next morning. Note that this does not affect the ability to recess within the same day: if members want to take a ten-minute break before midnight, they can as normal.

Subparagraph 2 exempts this new rule from being suspended by a two-thirds majority. The ordinance will not be effective if it can simply be suspended.

Effect of the ordinance

In practice, members should think of meetings as having a five-hour time limit. For one thing, there are the inevitable administrative matters at the end of meetings. More importantly, if it becomes evident that a majority will prefer a recess to another day to a sudden end to the meeting, such a motion is debatable and requires time to discuss. At the five-hour mark of any meeting, all members — and not just the chair — should begin thinking about how to continue its business to another day to avoid the hard limit of five and a half hours.

If a councilmember has concern for members of the public who "stayed all night" to speak to an ordinance that didn't get taken up, this ordinance at least assures those members that they know when the meeting will end, and when the Council resumes it will be at a reasonable hour. They may still have to wait through a long meeting, but it won't be in the wee small hours, and when they get to speak it will at least be "pm" and not 2 or 3 am. The Council could also let people sign up to speak, to better manage the public's expectations. These actions require the Council to anticipate the needs of everyone at the meeting, not just the legislative convenience of CMs.

The official timekeeping device may matter with this ordinance. If it is possible that the exact time is in dispute (the analog clock in the Chambers vs Internet time on people's phones and computers), then the Council should identify an official timepiece for that purpose.

Most importantly, the upshot of this ordinance requires the Council to consider every mechanism at its disposal to better control meeting lengths. Timers in Chambers and on Zoom permit everyone to be limited, including CMs. CMs should be responsible for, if not jealous of, the opportunities given to them by the chair for Q&A — if an answerer rambles or delays, the CM must act to "reclaim their time". Perhaps members should be limited to two Q&A periods per legislative item, requiring them to prepare their questions better before the meeting. Members need to consider the fiscal impact of late meetings on Clerk staff, who are hourly, as well as the "social impact" on everyone, of complicated ordinances or multiple amendments and how they're considered.

Conclusion

Regardless of the various options, it is simply inexcusable for the Council to force members of the public, staff of the Mayor, the Clerk, and the Council office itself, to stay up unsustainably late as frequently as we have. We have taken our agenda and our legislative conduct for granted for far too long. Five and a half hours, frankly, is a compromise, a far cry from the spirit of the 10:30 rule. As long as it's part of a hard limit that will prevent further marathons, though, it will be a significant improvement. # # #

Amendments to Bloomington Municipal Code Title 2 proposed by <u>Ordinance 21-34</u> in context (additions are shown in **Bold**, deletions are show in strikeout)

Section 1 of Ordinance 21-34

2.04.420 Motion to adjourn or recess.

- (a) A motion to adjourn or recess shall be decided without debate and shall be in order at any time, except when it is repeated without intervening business or discussion, when a member is speaking, when the previous question has been ordered, or during roll call. A motion to recess shall take precedence over a motion to adjourn.
- (b) No legislation may be introduced for council action after 10:30 p.m. local time without a two-thirds vote of the members of the council.
- (c) No meeting of the council or any of its committees, including committees appointed directly by the Council or its presiding officer, shall continue after five and a half hours from the meeting's call to order or after 11:59 p.m. local time, whichever occurs first, without unanimous consent of the members present. A motion to adjourn under this paragraph made after five and a half hours from the meeting's call to order or after 11:59 p.m. local time shall not require a second or a vote, shall take precedence over a motion to recess, and shall have the effect of ending the meeting, regardless of what items on that meeting's agenda have not yet been voted on or taken up.
 - 1. A motion to recess to another day, which requires a second and a majority vote, shall not be in order unless the meeting's time of resumption is at least twenty-four hours after its initial call to order.
 - 2. Paragraph (c) shall not be subject to suspension under section 2.04.090.



MEMO FROM COUNCIL OFFICE ON:

<u>Resolution 21-27</u> - Calling for an Increase to Salaries for Members of the Police Department

Synopsis

This resolution is sponsored by Councilmembers Dave Rollo, Susan Sandberg, and Ron Smith. It expresses the Common Council's desire to increase salaries for sworn officers of the Bloomington Police Department and to provide further market rate salary adjustments for deputy chief, captain, and lieutenant positions. In that regard, the resolution requests that the Mayor and City bargaining team pursue appropriate action to modify the collective bargaining agreement currently in place and pursue any other necessary and appropriate action to effectuate the increases.

Relevant Materials

- <u>Resolution 21-27</u>
- Additional materials may be provided in a Packet Addendum

Summary

<u>Resolution 21-27</u> would express the Council's support for an increase to salaries for all sworn officers within the Bloomington Police Department, as well as for further market rate adjustments to deputy chief, captain, and lieutenant salaries.

Indiana Code 36-8-3-3¹ provides that "[t]he annual compensation of all members of the police and fire departments and other appointees shall be fixed by ordinance of the legislative body not later than November 1 of each year for the ensuing budget year."

<u>Ordinance 20-22²</u>, adopted by the Council on October 14, 2020, set the minimum and maximum salary rates for all sworn police personnel for the year 2021 in accordance with a Council-approved collective bargaining agreement. That collective bargaining agreement, entered into by the City and the Fraternal Order of Police, Don Owens Memorial Lodge 88, was approved by the Council in 2019 via <u>Resolution 19-18³</u>. While state code gives the Common Council the authority to fix police salaries, the Bloomington Municipal Code ("BMC") includes provisions that govern the process to be used by the City and the Fraternal Order of Police to carry out collective bargaining. These sections can be found at BMC 2.32⁴.

¹ <u>http://iga.in.gov/legislative/laws/2020/ic/titles/036#36-8-3-3</u>

² <u>https://bloomington.in.gov/onboard/legislationFiles/download?legislationFile_id=5553</u>

³ <u>https://bloomington.in.gov/onboard/legislationFiles/download?legislationFile_id=5514</u>

⁴ <u>https://library.municode.com/in/bloomington/codes/code_of_ordinances?nodeId=TIT2ADPE_CH2.32POCOBA</u>



<u>Resolution 21-27</u> calls on the Mayor and city bargaining team to pursue appropriate action to modify the collective bargaining agreement to provide for the requested increases in salaries as part of the 2022 budget proposal. It also expresses support for further market rate adjustments to the positions of deputy chief, captain, and lieutenant positions as part of the 2022 budget proposal to encourage service in these leadership positions.

At the September 3, 2021 Council Work Session, the sponsors of this resolution provided a preview of it for other councilmembers. Members asked for several items of information or data that the sponsors may work to provide ahead of the September 8 Special Session in a Packet Addendum or to provide when presenting this item on September 8.

Contact

Cm. Dave Rollo, 812-349-3409, rollod@bloomington.in.gov Cm. Susan Sandberg, 812-349-3409, sandbers@bloomington.in.gov Cm. Ron Smth, 812-349-3409, ron.smith@bloomington.in.gov

RESOLUTION 21-27

CALLING FOR AN INCREASE TO SALARIES FOR MEMBERS OF THE POLICE DEPARTMENT

- WHEREAS, the preservation of public peace and safety for the community is a fundamental obligation of government; and
- WHEREAS, the City of Bloomington has an interest in maintaining a well-trained and well-equipped police force in order to maintain a safe and civil city; and
- WHEREAS, although Bloomington is the 7th most populous city in Indiana, the base salary of officers of the Bloomington Police Department (BPD) ranks 68th in the state; and
- WHEREAS, a 2019 Organizational Assessment of the BPD conducted at the request of the City of Bloomington by the Novak Consulting Group prescribed increasing sworn officers to 121; and
- WHEREAS, the current number of sworn officers authorized to be hired is 105, but the number of sworn officers hired is 92 and the number of sworn officers available is 76, requiring police officers to work mandatory overtime to meet minimum staffing requirements in place to ensure the safety of the force; and
- WHEREAS, adding sworn officers is an urgent priority, but doing so has proven difficult as recruitment is low and attrition is high as officers leave to work elsewhere for better compensation; and
- WHEREAS, during the past 5 years, the BPD has hired 66 officers but has lost 67; and
- WHEREAS, considerable taxpayer investments have been made to fund training and accreditation programs, and the City has an interest in retaining the highly skilled and trained officers that contribute to the BPD's excellent record; and
- WHEREAS, the Common Council has the deepest respect for the Bloomington Police Department, and believes that the difficulties experienced by the City in attracting and retaining officers is related to providing proper compensation; and,
- WHEREAS, Indiana Code § 36-8-3-3 provides that the annual compensation of all members of the police and fire departments and other appointees shall be fixed by ordinance of the legislative body; and
- WHEREAS, the salaries for officers of the BPD include both non-contractual and contractual salaries; and
- WHEREAS, Chapter 2.32 of the Bloomington Municipal Code establishes a procedure for Police Collective Bargaining between the City of Bloomington and members of the Fraternal Order of Police, which represents the city's police employees in the bargaining unit; and
- WHEREAS, the City and the Fraternal Order of Police, Don Owens Memorial Lodge 88, previously negotiated and reached agreement on provisions for a collective bargaining agreement covering calendar years 2019, 2020, 2021, and 2022; and

- WHEREAS, the collective bargaining agreement between the City of Bloomington and the Fraternal Order of Police, Don Owens Memorial Lodge 88 was approved and authorized by the Common Council via <u>Resolution 19-18</u> on December 4, 2019; and
- WHEREAS, while the collective bargaining agreement extends to the end of 2022, the Common Council believes, given the challenges described above, that it is in the best interests of the City that the base salaries for all sworn officers of the police department, both union and non-union, be raised by \$5,000 to bring the BPD into a better position relative to other Indiana peer communities; and
- WHEREAS, the Common Council believes that further market rate adjustments to noncontractual salaries for deputy chief, captain, and lieutenant positions are warranted to address wage compression and to encourage service in these leadership positions;

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, MONROE COUNTY, INDIANA, THAT:

Section 1. The Common Council hereby expresses its support for an increase to salaries for all sworn officers of the Bloomington Police Department by \$5,000 and requests that the Mayor and city bargaining team pursue appropriate action to modify the collective bargaining agreement accordingly and pursue any other necessary and appropriate action to effectuate this increase as part of the 2022 budget proposal.

Section 2. The Common Council also expresses its support for further market rate adjustments to the salaries for the positions of deputy chief, captain, and lieutenant positions as part of the 2022 budget proposal to encourage service in these leadership positions.

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this _____ day of _____, 2021.

JIM SIMS, President Bloomington Common Council

ATTEST:

NICOLE BOLDEN, Clerk City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this ______, day of ______, 2021.

NICOLE BOLDEN, Clerk City of Bloomington

SIGNED and APPROVED by me upon this _____ day of _____, 2021.

JOHN HAMILTON, Mayor City of Bloomington

SYNOPSIS

This resolution is sponsored by Councilmembers Dave Rollo, Susan Sandberg, and Ron Smith. It expresses the Common Council's desire to increase salaries for sworn officers of the Police Department. In that regard, the resolution requests that the Mayor and City bargaining team pursue appropriate action to modify the collective bargaining agreement currently in place and pursue any other necessary and appropriate action to effectuate the increases.