



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: May 9, 2022

TO: President Heather Graham and Members of City Council
CC: Mayor Nicholas A. Gradisar
VIA: Marisa Stoller, City Clerk
FROM: Robert P. Jagger, Deputy City Attorney
SUBJECT: A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO INSTITUTE A CIVIL INTERPLEADER ACTION AND FOR DECLARATORY RELIEF RELATING TO DISPUTED CLAIMS TO UNION DUES DEDUCTIONS BETWEEN PUEBLO ASSOCIATION OF GOVERNMENT EMPLOYEES AND AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, AFL-CIO

SUMMARY:

The proposed Resolution authorizes the City Attorney to institute a civil interpleader action and for declaratory relief relating to disputed claims to union dues deductions between Pueblo Association of Government Employees and American Federation of State, County and Municipal Employees, AFL-CIO.

PREVIOUS COUNCIL ACTION:

Not applicable to this Resolution.

BACKGROUND:

The following are the relevant facts with respect to the current issue relating to Pueblo Association of Government Employees ("PAGE") and American Federation of State, County and Municipal Employees, AFL-CIO ("AFSCME"):

1. The City and PAGE entered into a collective bargaining agreement effective January 1, 2019 through December 31, 2019 and a successor agreement effective January 1, 2020 through December 31, 2022 (collectively the "PAGE CBA").
2. Pursuant to the PAGE CBA, PAGE is recognized as the sole and exclusive representative of those employees of City and covered by the PAGE CBA ("Covered Employees").
3. At all relevant times, PAGE is and has been the employee organization selected pursuant to the requirement of §8-14(c), City Charter, to be the sole and exclusive bargaining agent for the Covered Employees.

4. Pursuant to the PAGE CBA, Covered Employees may file authorization for union dues deduction with the City which authorizes the City to deduct from the Covered Employees monthly regular earnings an amount certified by PAGE as union dues, initiation fees and assessment (“Union Dues Deduction”) and remit same to PAGE.

5. With respect to the Union Dues Deductions for the months of October 2019 to present and continuing (“Disputed Deduction”), AFSCME has notified City that the Disputed Deduction should be paid to designated representatives of AFSCME and not to PAGE. AFSCME has further notified City that, if the Disputed Deductions are paid to PAGE, AFSCME will initiate litigation against the City seeking damages.

6. PAGE disputes AFSCME’s claim to the Disputed Deductions. Originally, the parties simply wanted to have the City retain the funds in its liability account while the parties sought resolution of this dispute. Given the significant amount of time that has passed without resolution of this matter, PAGE has now requested that it be remitted the Disputed Deductions pursuant to the PAGE CBA. The current amount of the Dues Deductions through March of 2022 is \$97,622.

7. The City has no obligation to either of the parties continue to retain the funds in its liability account, has no interest in the Disputed Deductions and should not incur any liability, expense or other costs as a result of the parties dispute.

The conflicting claims of AFSCME and PAGE to the Disputed Deductions exposes the City to potential multiple liability. The available court remedy is for the filing of a civil action for an order that the City be authorized to deposit of the Disputed Deductions into the registry of the District Court, that PAGE and AFSCME be required to interplead and settle between themselves their rights to the Disputed Deductions and that City be discharged from all liability related to the Disputed Deductions.

FINANCIAL IMPLICATIONS:

None other than costs and expenses related to the proposed civil action.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Resolution.

STAKEHOLDER PROCESS:

Not applicable to this Resolution.

ALTERNATIVES:

Not pass the Resolution and retain the Disputed Deductions in City’s liability account. Such action would, however, expose the City to potential claims by PAGE.

RECOMMENDATION:

Approval of the Resolution

RESOLUTION NO. 14883

A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO INSTITUTE A CIVIL INTERPLEADER ACTION AND FOR DECLARATORY RELIEF RELATING TO DISPUTED CLAIMS TO UNION DUES DEDUCTIONS BETWEEN PUEBLO ASSOCIATION OF GOVERNMENT EMPLOYEES AND AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, AFL-CIO

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The City Attorney is authorized to institute a civil interpleader action and for declaratory relief relating to disputed claims to union dues deductions between Pueblo Association of Government Employees and American Federation of State, County and Municipal Employees, AFL-CIO.

SECTION 2.

The officers of the City are authorized to perform any and all acts consistent with the intent of this Resolution to implement the policies and procedures described herein.

SECTION 3.

This Resolution shall become effective immediately upon final passage.

INTRODUCED May 9, 2022

BY: Larry Atencio
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK