



Albemarle County

Legislation Details (With Text)

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Title: Commonwealth's Attorney Position/Supplement Request and Memorandum of Understanding

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Attachments: 1. Attach.A Sheriff MOU 5.16.16, 2. Attach.B Clerk MOU 5.16.16, 3. Attach.C Proposed CA MOU, 4. Attach.D CA Ltr to BOS

| Date | Ver. | Action By | Action | Result |
|-----------|------|----------------------|----------|--------|
| 12/6/2017 | 1 | Board of Supervisors | approved | Pass |

AGENDA DATE: 12/6/2017

TITLE:

Commonwealth's Attorney Position/Supplement Request and Memorandum of Understanding

SUBJECT/PROPOSAL/REQUEST: Approval of Position/Supplement

ITEM TYPE: Regular Action Item

STAFF CONTACT(S): Richardson, Letteri

PRESENTER (S): Bill Letteri, Robert Tracci

LEGAL REVIEW: Yes

REVIEWED BY: Jeffrey B. Richardson

BACKGROUND: Pursuant to the direction of prior Boards, the County offers Constitutional Officers the opportunity to include their employees in the County's pay and classification system, resulting in market-based pay and benefits, as well as pay raises comparable to other County employees. In addition to assuring that Constitutional Officer employees are paid at a market level comparable to other County employees, it assures these employees that they will receive County-approved pay raises rather than raises provided by the State. The County entered into Memorandums of Understanding with the Sheriff and the Clerk of Circuit Court in 2016 (Attachments A and B). Those documents required the Sheriff's and Clerk's employees to adhere to most County personnel and administrative policies in exchange for having the employees placed on the County's pay and classification system. The MOUs provide that the employees of the Constitutional Officers will not be covered under the grievance policy, several policies related to hiring, discipline, and termination of employees, and any policies or provisions that are superseded by State law. The policies that will apply to the Constitutional Officers' employees include those related to salary administration, leave, benefits, and course reimbursement. Benefits will not accrue to the Constitutional Officers themselves, only to their employees. The MOUs also clarify which County administrative policies will apply to the Constitutional Officers' employees. Staff continues to negotiate an MOU with the Commonwealth Attorney (see Attachment C). As of today, staff

and the Commonwealth's Attorney have not been able to achieve an agreement on proposed MOU terms.

On October 25, 2017, the Commonwealth Attorney presented a letter to the Board of Supervisors (Attachment D) noting that based on his repeated requests he was informed in June that the State Compensation Board approved an additional full time Assistant Commonwealth's Attorney position. Given the cost of living in Albemarle County and to assist in attracting and retaining this new position, the Commonwealth's Attorney requested that the Board provide a supplement for this position. The estimated annual salary range is \$80,000 - \$95,000 and the new State Compensation Board approved annual funding of \$54,956. As such, the Commonwealth's Attorney has requested an annual supplement from the County in the range of \$53,605 to \$68,605.

STRATEGIC PLAN: Operational Capacity: Ensure County government's ability to provide high quality service that achieves community priorities.

DISCUSSION: Constitutional Officers and their operations are legally separate and independent from localities, except that localities are required by State law to provide office space and certain limited benefits. State law requires that a locality provide constitutional officer employees two weeks of paid leave, seven days of sick leave, and health insurance. In Albemarle County, the operations of the constitutional officers receive substantial subsidies and benefits beyond those required by State law. If a constitutional officer employee is on the County pay plan, they receive a substantial salary supplement beyond the salary provided by the State Compensation Board to assure they are paid at a market rate and comparable to other County employees in similar positions. To establish and clarify what employment rules, procedures, and benefits apply to constitutional office employees, common practice is for constitutional officers to enter into an MOU with the local government. Based on previous Board direction, absent a MOU, Constitutional Officers have not formally agreed to follow Albemarle County policies, and their employees are not entitled to benefits enjoyed by other County employees. Mr. Tracci will address the Board regarding his concerns regarding the proposed MOU.

Actual expenditures for the Commonwealth Attorney's operation for FY 17 according to the County's unaudited financial report totalled \$1,156,859, which was \$118,205 below budget. A significant portion of this under-expenditure was due to salary lapse. At the end of the year, unspent funds are returned to the County's General Fund fund balance. If the Board chooses to supplement the additional fulltime Assistant Commonwealth Attorney in FY18, the Board could utilize funds from the General Fund fund balance. Alternatively, the Board could choose to utilize funding in the FY 18 Reserve for Contingencies. In either case, the County would then include on-going funding for this position beginning with the FY 19 Budget. If the Board approves this supplement, an appropriation request would be provided to the Board in January.

BUDGET IMPACT: If the Board agrees to supplement the position effective January 1, 2018, the total cost for half a year will be between \$59,800-\$68,900, including operating and start-up costs, depending on where in the salary range the new attorney is hired. The State Compensation Board budget for the position is \$54,956. Assuming the County receives half of that in the current year, the net cost to the County in FY18 will be \$32,300-\$41,400. The ongoing, full-year, net cost to the County is \$55,500-\$73,700 and would be included in the County's proposed budget for FY 19. There is no budget impact associated with the approval of the MOUs.

RECOMMENDATION:

Staff recommends approval of the position and associated supplement request. Staff also continues to support the establishment of an MOU with all constitutional officers who participate in the County's Pay Plan.

ATTACHMENTS:

- A - Sheriff 2016 MOU
- B - Circuit Court Clerk 2016 MOU
- C - Proposed Commonwealth's Attorney MOU
- D - Commonwealth's Attorney's New Position Request