

**TOWN COUNCIL MEETING MINUTES**  
**Ordinance Committee**  
**Town Hall Council Chambers**  
**October 14, 2014, Monday**

Present: Kenneth DiFazio, Chairperson  
Michael Smart, Vice Chairperson  
Arthur Mathews, Councilor  
Patrick O'Connor, Councilor

Not Present: Jane Hackett, Councilor

Also Present: George Lane, Town Solicitor  
Michael Gallagher, Director/Administrative & Community Svcs.  
Richard Grimes, Chief, WPD  
Capt. John Concannon, WPD  
Capt. Joseph Comperchio, WPD  
Sean Guilfoyle, Chair, School Committee

Chairman DiFazio called the meeting to order at 7:15 PM.

**14 104-Reorganization Plan-Revision to the Code of Ordinances Chapter 4, Section 4-209(C)**

Chairman DiFazio reviewed the materials that were provided to the committee:

- 14 099- Memorandum from Mayor-the 1<sup>st</sup> proposal for Ordinance change dated 8/25/14 with attachments
- Draft Town Council minutes 9/15/14 TC in which the matter was referred to the Ordinance Committee
- Letter from Mayor dated September 19, 2014 withdrawing measure 14 099
- New measure 14 014 (to the Town Council from the Mayor) which is a reorganization plan and is the measure under consideration this evening (w/attachments)
- A letter to the Mayor ,from the Ordinance Chair, requesting information; since the new measure may have ramifications on other town issues, he requested all ramifications as a result of the reorganization.
- Mayor's response to that request

Councilor Mathews recommended that the measure be presented by the administration as such.

Michael Gallagher reviewed the measure. The Mayor and administration worked with the school department seeking a reorganization to move the traffic supervisors to the school department. The Mayor attached a letter to the measure citing the rationale , along with the expectations and summary bullet points, which he reviewed for the committee:

- The same people will continue to provide the same services.

- Traffic supervisors will report to the building principal at the school to which they are assigned rather than the Police Department. The last few years the safety officers have done the same.
- The contract as currently written would follow the union. Through the MOA's, one for back wages and one going forward for FY15 and 16. The bargaining unit would stay intact and move to the School Department.
- The job description and requirements remain the same and the support would not change. When the safety officers were in place, the police provided support and will continue to do so with the traffic supervisors. He noted there was talk about having the traffic supervisors look like officers; this has always been a civilian position. They're no longer in uniform, and there is no plan to have a uniform. The safety officers provided a written report on issues to the police and that won't change. There will be a savings to the town in unemployment costs. Before now, as a school-based function, the workers were allowed to collect unemployment during school and summer vacations. A school-based bargaining unit will eliminate this going forward. The move will send control back to the schools and save funding going forward. The management team is in agreement and available to allay concerns to the committee.

Chairman DiFazio opened the discussion to questions.

Vice Chairman Smart asked how the role of the traffic supervisors is categorized. Are they safety personnel who work for Weymouth Police Department? Are they a vital component of the police department who are critical personnel to the School Department?

Chief Grimes responded that they are there to provide safety and security to the schools. They are civilian personnel, like the dispatchers. They provide a safety function for student crossings at schools. Their link to police is an administrative function that the police department oversees. The role is important; to have adult presence at schools for safety. It has been a role in the schools and it belongs as a function of the schools. Mr. Gallagher reported that there have been traffic supervisors for more than 40 years. They totaled 44 members and were assigned to schools and major intersections. There are now 9 members and they are assigned only at schools- no longer at town intersections. Vice Chairman Smart asked what caused the reduction in numbers. Chief Grimes responded that staffing levels have all been impacted drastically over the years and in the past there was also a larger population that walked to school.

In a survey conducted in 2011, they noted a drastic drop off in the number of walkers. There is better technology at the intersection with pedestrian crossings. In 2011 there were 11 traffic supervisors. In 2009 when he became Chief, he took the opportunity to reassess the situation. In the first budget he put forward, he was concerned with the level of training; it was not to the level of a full time officer, and having them stand and work in busy intersections was concerning. In 2011 there were 13 staff and 5 reserves. The intersection and needs were re-evaluated when the supervisors were brought back and the staffing at 9 individuals was decided upon. The general oversight by the principals has been better at the schools. The direct communication is an advantage that seems to have worked. The union agreed and the MOA was signed. It outlined the potential to transfer back to the schools and was considered normal

progression. Vice Chairman Smart noted that at the public hearing on the matter there seemed to be some surprise and he got the sense that maybe it hadn't been discussed. Furthermore, he asked if the layoff of the crossing guards and hiring of safety officers is what precipitated the action, and now they are asking the school department to supplement some of those duties. What triggered problems was the recommendation to the Superintendent that there was nothing to prevent an adult presence at a crosswalk. The issue became when the school department was unable to attract volunteers to the positions they offered and filled the positions with paid safety personnel. If they trained personnel and set them up, it would have been perceived as an unfair labor practice and that is what happened. As a result, the union prevailed and the decision came down to make them whole. Doing it now through the proper channels, negotiation and signing a Memorandum of Agreement, will move it agreeably to all parties concerned. It was a public safety decision and the tradeoff was fair then and would be again now if the decision needed to be made again.

Vice Chairman Smart asked if the arbiter's decision may now be discussed publicly. Mr. Gallagher responded yes. Vice Chairman Smart asked for the reimbursement amount. Mr. Gallagher responded that the ruling was to make the union whole. They negotiated back wages which included increases for each year. Vice President Smart and Mr. Gallagher debated whether the increases were valid. Vice President Smart noted they should be; Mr. Gallagher disagreed because none of it was bargained. An MOA was agreed to for FY11, 12, 13 and 14 with a successor agreement for FY 15 and 16. Vice President Smart asked the amount of the first settlement. Mr. Gallagher responded \$351,000. Vice Chairman Smart asked when was the last hire. Mr. Gallagher responded 9/1/2004.

Councilor Mathews asked that would happen if the Council supports the Mayor's request for reorganization and votes affirmatively, but the School Committee chooses not to take on the oversight? Mr. Gallagher responded that not every function in the town is delineated within the town ordinances. They are not changing the language to reflect reporting of this function to the school department, they're saying that the function is no longer delineated within the ordinance as a police function. It doesn't mean they go away.

Councilor Mathews responded that he would prefer to see the school department engaged first in conversation with the Mayor, then determine whose oversight it would be before it comes before the Town Council. Mr. Gallagher noted that they have. Councilor Mathews responded that is not the way he interprets item #8 in the MOA. Mr. Gallagher responded that they could not delineate that at the bargaining table and this issue arose at the last public hearing. Because it's delineated within the town ordinances, administration is requesting that it be removed from the town ordinances; they need to do a reorganization because this qualifies as such, and the School Committee needs to vote to take that on. Per the MOA, they negotiated it. Mr. Gallagher was surprised that it was a surprise because it shouldn't have been. There were discussions from day one, and without going into all of the details, there were a lot of discussions about various ways to handle this. The MOA was a result of good faith bargaining with the unit and they are going to do everything within their power to move this particular bargaining unit to the school department. It was not hidden from anyone; the language in the MOA was revised so that every reference to the Chief was changed to "department head," which was laying the groundwork to make that happen. They did not want to have to come

back and impact bargain. He suggested he possibly reach out to the representative before the public hearing and have them come before the committee. There were some discussions but whether it was shared with the members is uncertain. That was not in his purview. Councilor Mathews asked what would happen should the Council approve the ordinance change; what would prohibit the local from coming back to the Department of Labor Relations and saying that it should have been collectively bargained? Mr. Gallagher responded that it was. Councilor Mathews noted the town has incurred a significant cost; he does not want a decision by the Council to do the same. Mr. Gallagher responded that the MOA is a legally binding document for both parties so for this to go back to the DLR that would be the response. Much discussion went into it; by making the change it is saying they are removing the function from the ordinances and it will then be silent; just removing it from the ordinances so they then can move this particular unit from the police department to the school department. There are a lot of functions for many services that the town delivers that are not in the ordinances. This would just be another one that's silent. Councilor Mathews reiterated that he hoped discussion would ensue between the School Committee and the administration prior to the Council taking action on the measure. It should be made clearer (to him) that it be resolved; he does not want the Town Council brought into the middle of this. At the last public hearing it was referred to by Mr. Gallagher as a "housekeeping" issue and now it is referred to as a reorganization- there is a big difference in terminology.

Councilor O'Connor noted he spoke with Chief earlier in the day and has most of his questions resolved. He asked the Chief to speak to the cancellation procedure that Councilor Haugh had brought up in the public hearing.

Chief Grimes responded that there was a concern brought up about vacancies. When the traffic supervisors resumed under the police department, they were to call in to report for duty and for a planned absence to dispatch. When returned to police department the Chief asked that they also make a second call- to the principal at the school to which they're assigned- so alternate arrangements could be made for coverage. Upon learning there were unmanned posts, he made some inquiries and learned that the traffic supervisors were not following the prescribed procedure, possibly because it was deemed by the members to be an impact bargaining item. He then instructed the supervisor of dispatchers to make notifications to the schools when a member reported a vacancy. The Chief also noted there was discussion that an active patrolman could cover a vacancy, and it did occur in the past when staffing levels were higher; however, to do so now would be to set it up for failure. A uniformed officer filling in a vacancy could be pulled to respond to a call and leave it vacant. He would be more comfortable with the schools continuing to cover any absences with a qualified staff member as they have done over the last few years. There is nothing to prevent having an adult presence at a crosswalk. If the school was unable to then that is another issue.

Councilor O'Connor asked School Committee Chair Sean Guilfoyle to review the history of the safety officer position following the elimination of the traffic supervisors, and was it determined to have run well during that time? The school department's initial intent was to staff the positions with a volunteer force, but a lack of interest forced them to advertise and hire paid positions. It was easier for them to cover an absence with building staff. It worked

well. Councilor O'Connor asked the Chief and Mr. Gallagher if moving the unit from the police budget to the school department budget wasn't simply for housekeeping reasons, but for financial reasons. None of the physical functions would change; essentially it would be where the funds came from that paid them and the responsibility for the procedures for covering vacancies would transfer to the school department. Mr. Gallagher responded that was correct. Councilor O'Connor noted the growing partnership between police and schools with the placement of three resource officers in the schools which are currently funded by the police. He noted that in light of this he would hope there would be a willingness to accept this move and not as a tradeoff but as agreed upon in the MOA. The Weymouth Police Department is obviously making a huge investment in the schools. Mr. Gallagher noted there are crossing guards at 7 of the 8 primary schools and both middle schools. No one has been placed at an intersection. When it was discussed going into negotiations, it was with past discussions and with the understanding that this would be entertained. Mr. Guilfoyle noted that the school committee has not taken an official vote yet whether to accept the unit; they did not want to be presumptive and do so prior to Council taking action, but in private discussions it has been well received. The presence of the resource officers is making an impact. He also noted it makes sense under the Education Reform Act. The building principal has total control over the building. The current reporting system is more circuitous.

Chairman DiFazio noted that they were all surprised with the backlash. He brought up three items in the information the Mayor brought forward:

- No change to the job function
- Same support services by WPD would remain
- Police available to train the traffic supervisors

The only change would be what the funding source is. Mr. Gallagher responded yes. If that is the case it might be helpful to bring it out at the public hearing to alleviate some of the fears. He asked if they remove the wording from the ordinance language concerning the duties, where would it be set forth? Mr. Gallagher responded it would be in their job description and it is similar to the paragraph in the ordinance. The Chief noted that the ordinance gives him the authority to empower the traffic supervisors. The difference they will see, and that is now in play, is that he has chosen not to do so. As a result, they act as adult supervision at a crosswalk and they have the same ability to control traffic as any other civilian. They are not assigned to key intersections to control the flow of traffic, but assigned only to schools. He is not empowering them through the school department to control the flow of traffic. Mr. Gallagher read the current job description to the committee. He then reviewed the police policy and procedure, which is similar. Chairman DiFazio requested copies of both to be provided to the committee and asked if any changes to the descriptions were made as a result of the reorganization? Mr. Gallagher responded no, but that they have been asked to impact bargain; they have met once and have another meeting scheduled. They are waiting for the union to delineate. As a result, certain pieces have been struck.

Councilor O'Connor noted that as it stands the Chief has the right to exercise certain powers that he is choosing not to, under the code of ordinances. The Chief responded that it has been made clear to the members what they can and can't do.

Chairman DiFazio reviewed the funding. He noted that the school department eventually had to hire school safety officers. He asked if these were the same personnel as the traffic supervisors. Mr. Gallagher responded that there was a \$50,000 line item in the school department for the service provided by school safety officers, had the the traffic supervisors not been returned. Chairman DiFazio asked if they can expect next year's school budget to have two line items; one for each function? Mr. Guilfoyle responded no. Chairman DiFazio asked if they would do away with the safety officers. Mr. Gallagher responded that they have not been brought on board this year; the only time they would be used is to cover a vacancy. He did not foresee the need for two lines. Mr. Gallagher noted that the Mayor has committed to funding the cost of the difference between the two for the first year.

Chairman DiFazio asked if there are any other financial budgetary ramifications besides the \$17,000 in unemployment savings? Mr. Gallagher responded no. Chairman DiFazio noted he already had asked if it counted towards Net School Spending and was told it did not. Mr. Gallagher responded that was correct.

Vice Chairman Smart asked if discussion concerning traffic supervisors has ever been on a school committee agenda for discussion. Mr. Guilfoyle responded that it was on an agenda but was tabled because the Council had not yet taken action and the school committee did not want to be presumptive. Vice Chairman Smart responded that it was for that reason he and Councilor Mathews both agree the Council should know what the school committee action will be prior to the Council's consideration of the matter. He noted that the school committee chair can't know whether the schools will act favorably or not. Mr. Guilfoyle responded that there is nothing official at the table, but in individual conversations, all indications are they will vote for it.

Vice Chairman Smart asked what the sick call procedure was before the action to dissolve the union. The Chief reviewed the policy-there were reserve members on a substitute list who were called in to cover vacancies by a dispatcher. Currently, there are no reserves. Vice Chairman Smart asked if the school department calls in someone to perform the same duties. He noted that as the Chairman noted, they are using two distinct groups; one collective bargaining and one not to perform the same function. The Chief responded that when the union is not accepting the work they then go outside. It is the same with any other police union detail. Once all members are asked to work and the position isn't filled they then go outside. Vice Chairman Smart asked how many members are in the unit. Mr. Gallagher responded that there are 9 members covering 10 schools (9 crosswalks). Chairman DiFazio asked where it says they have to tell the school department they have to accept this? Mr. Gallagher responded that they have to vote to accept a contract. The Mayor will not make a unilateral decision. She is talking to them. The decision the unit has to make is to accept a contract that has already been brokered for them; if not, then it stays with the police department and they would then have to negotiate the next MOA.

Councilor O'Connor noted that the vote is not to send them to the school department; that was already negotiated between the unit and the administration; it will simply eliminate a function that the Chief has already indicated he will not use. Mr. Gallagher agreed. It is a requirement that any action resulting in a reorganization must be brought before the Council.

Vice Chairman Smart asked what is the process by which a retired member is replaced. Mr. Gallagher responded that the Chief would appoint. The Chief noted he would first have to appoint from the standby list from the 2011 layoffs, then to the outside normal hiring process through Human Resources. Vice President Smart asked if the standby list is available to cover vacancies? The Chief responded that he was unaware if anything was in place for that. Vice Chairman Smart noted that using nonunion personnel to perform the same function as union members is inviting another litigation. Mr. Gallagher responded that is what takes place presently. To the Chief's point, it would have to be offered to union first and then nonunion.

Councilor Mathews noted there is a savings of \$17,000 in unemployment. The town has incurred \$351,000 in the litigation cost equates to paying 21 years worth of unemployment savings. Whatever, the ultimate goal is to never again spend the costs that were incurred. Mr. Gallagher responded that they are not eliminating the positions or the subsequent actions as a result. People can sue for anything.

Chairman DiFazio noted he heard the term "housecleaning measure" no less than three times and suggested that it created an impression of suspicion. It really is no functional change; the police are there to support; there won't be a lack of safety. The only thing changing is the funding. Accept the contract and move on. Keep it clear.

Michael Gallagher noted that in discussions with Solicitor Lane, it was determined the action was a reorganizational change and needed to be treated as such. That's why the Mayor withdrew the original measure and resubmitted.

Vice Chairman Smart reported that if the function remains the same; he does not like the way the union was treated. It's basically a way to box out 9 employees from \$2,000 unemployment; they've already been mistreated. It has an aura of unorganizing, rehiring and reorganizing to take money away from them. Mr. Gallagher responded that it gives better control to the principals. Vice Chairman Smart responded that it is exactly the same why take it; it's a matter of \$17,000 and taking away from folks who had it since 1967.

Chief Grimes responded that it's not just a matter of \$17,000. It's the police department's budget. If you are going to restore in the name of public safety, then restore the four officers to the WPD. Chief Grimes responded that moving forward, if the school department is absorbing the cost, it's not taking from his budget. Vice Chairman Smart reported that it's all the same money; all from the same source. The Chief responded that it may all be taxpayer dollars but when it's delineated from his budget it affects his department.

Vice Chairman Smart reported that the Council has had the public safety back in support of police and fire. The Chief responded they are not stepping away from safety of school students but ramped it up by putting resource officers in the schools and removed personnel from the

streets by doing so. He took heat from the union and questions what happens in FY16 when the Mayor again asks him to trim to absorb the CBA? If he has to he will do the same thing and send the traffic supervisors; noting that to do less would be irresponsible.

Chairman DiFazio asked what happens in FY16? Mr. Gallagher responded that it was not budgeted so it stays the same. Mr. Guilfoyle noted that the school department carries about \$55,000. Vice Chairman Smart noted that it isn't being used at this time.

Chairman Guilfoyle noted the school department could use their existing software, Subfinder to manage their reserve list.

Vice Chairman Smart reiterated that the Town Council is as committed to public safety as the Weymouth Police Department.

Councilor Mathews followed up that if in FY16 they have to lay off police officers to compensate for the salary of traffic supervisors, he is officially on record that he will be the first Councilor to not support a budget that includes this.

A Motion was made by Councilor O'Connor to continue the public hearing on October 20, 2014 and was seconded by Vice Chairman Smart. UNANIMOUSLY VOTED.

### **Adjournment**

At 8:35 PM, there being no further business, a Motion was made by Vice Chairman Smart to adjourn, seconded by Councilor O'Connor. UNANIMOUSLY VOTED.

Respectfully submitted by Mary Barker as Recording Secretary

Approved by Chairman DiFazio as Ordinance Chair

Voted favorably on November 10, 2014