

**MINUTES OF THE TOWN COUNCIL
ORDINANCE COMMITTEE
Town Council Chambers, Town Hall
Monday, October 27, 2014, 6:45 p.m.**

Present: Kenneth DiFazio, Chairman
 Michael Smart, Vice Chairman
 Arthur Mathews, Councilor
 Jane Hackett, Councilor

Not Present: Patrick O'Connor, Councilor

Also Present: Michael Gallagher, Director of Administrative and Community Services
 George Lane, Solicitor

Chairman DiFazio called the Ordinance Committee meeting to order at 6:50 p.m.

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

Chairman DiFazio stated since the Committee's last meeting a second request for information dated October 22, 2014 was sent to the Administration. Before the Committee now is the Administration's response to this request, as well as an email dated October 26, 2014 from the Chairman of the School Committee.

Michael Gallagher, Director of Administrative and Community Services, was invited to the table.

Mr. Gallagher apologized for the late delivery of the response to the Committee's request for information. He reviewed each question and provided an explanation.

1. Provide assurances that the reorganization plan will not violate any terms of any previous or ongoing labor relations negotiations or agreements with the Traffic Supervisor's union.

Mr. Gallagher referred the Committee to the previously provided Memorandum of Agreement (MOA) for the prior fiscal years and a letter from Attorney Emerson to Joseph Geary, Staff Representative from AFSCME. He stated that they met with the bargaining unit on October 23 and as a result this letter was crafted.

2. Provide detailed unemployment costs for each Traffic Supervisor for the last four fiscal years and provide estimated cost savings for FY15, if any, and for FY16.

Mr. Gallagher stated the last four fiscal years did not provide a good overview as this was the time period in which the Traffic Supervisors were not working. He went back to FY07 for the unemployment costs associated with the bargaining unit and provided this information for FY07 through FY14.

3. Provide a memorandum from the School Committee indicating that they recommend and prefer that the Traffic Supervisors report directly to the school department and that the Committee supports the reorganization plan.

Mr. Gallagher stated the School Committee met on October 23 and did not vote, however, a poll of the Committee was taken, with two members for, two members against, and one member requesting additional information. Two members were absent.

4. It appears that the language in Chapter 4, Section 4-209(c), which is being deleted, differs or will differ from the Traffic Supervisors' new job description. Confirm the potential changes in description and/or duties is known by the union and that the change does not result in any violation of the current bargaining agreement. Provide confirmation of changes in duties and job description resulting from the reorganization plan.

Mr. Gallagher stated that they met with the union on October 23 and because they do not have a signed MOA he cannot discuss details. However, they are in agreement, and it is vetted with the union, with the job description, duties and responsibilities, and attire. As soon as the MOA is signed he will forward a copy to the Committee.

Chairman DiFazio asked if they are still negotiating. Mr. Gallagher responded this was a demand to bargain and there were a couple of wording changes that they acquiesced to, but the general description of what their duties and responsibilities are still remains. Chairman DiFazio expressed concern that the ordinance language states the Traffic Supervisors can go out to intersections and control traffic. Mr. Gallagher clarified the language in the ordinance states the Police Chief may have the Traffic Supervisors do this but their job description and duties, at the moment, do not include this function.

5. Confirm that the Union is cognizant of the reorganization and has accepted the consequences of the new plan and its effects on their contract.

Mr. Gallagher stated the letter that was signed by AFSCME confirms this.

6. Confirm that the reorganization has no effect on Net School Spending.

Mr. Gallagher provided the Committee with copies of an email exchange between Mr. McKinney, Chief Financial Officer, and the Department of Education, confirming this reorganization will not affect Net School Spending.

Chairman DiFazio confirmed with Mr. Gallagher that the unemployment figure is now \$14,000. Mr. Gallagher stated this would be the figure if all nine individuals apply for unemployment and are approved. Ms. Hackett asked what year the Traffic Supervisors were terminated. Mr. Gallagher responded it was FY11 (July 2010). She confirmed that in September 2010 the school department had new personnel performing this function and they have not gone a school year without a crossing function.

Councilor Smart asked when the original MOA was negotiated. Mr. Gallagher stated the original agreement was negotiated in June 2014. On October 23 they met with the bargaining unit and confirmed that they were all on the same page and the AFSCME representative did confirm this.

Councilor Mathews stated that at the first public hearing on the original measure, there were comments made that there were issues with this agreement and he wondered if the members of

the bargaining unit are aware of the letter of October 23, 2014. Mr. Gallagher stated the President and Vice President of the union were present on October 23, 2014 when this was discussed. Councilor Mathews stated he wished this letter was provided to the Committee prior to the public hearing.

Chairman DiFazio asked George Lane, Solicitor, if he feels comfortable that this bargaining unit reorganization and having them report to the school department will not be an issue. Mr. Lane responded that he has reviewed this information, conferred with administration and the school department, and is comfortable with this reorganization.

Chairman DiFazio stated there were several councilors at the Town Council level who did not feel comfortable going forward with this reorganization because they did not have a vote from the School Committee stating they were going to take this on and they were going to use money from their budget to pay for it. Mr. Lane emphasized that they are dealing with a change in the ordinance, which is the law of the Town of Weymouth, as enacted by the Administration and by the Town Council, and to have an affirmative vote of another body to be contingent upon the law being changed is out of order. He stated polling or a statement of opinion is acceptable, but not a contingency vote.

Chairman DiFazio stated all information requests have been addressed and the Committee can vote now, or can meet again prior to the next Town Council meeting. Councilor Smart stated he feels they have more than enough information to vote.

A motion was made by Vice Chairman Smart to vote no on measure 14 104-Reorganization Plan-Revision to the Code of Ordinances Chapter 4, Section 4-209(C), and was seconded by Councilor Mathews for discussion purposes.

Councilor Smart acknowledged the members of the union who were present at the meeting and thanked them for the job that they do. He stated he understands the police department priorities but feels this collective bargaining unit should remain with them. He feels there could be further litigation if this matter goes further.

Councilor Mathews asked if the ordinance does not pass if the police department will have a funding source for the remainder of the year. Mr. Gallagher indicated they do not have a funding source and it would probably have to come from free cash. He stated the school department has budgeted \$59,000 for school safety officers so there would be a smaller amount needed to make up the difference.

Councilor Mathews stated at first he was against this reorganization, however, the October 23 letter has alleviated some of his concerns. He still has concerns regarding the decision from the Department of Labor and whether this could continue to be an issue going forward. He expressed concern that this matter has gotten to this point and that the Town Council has been brought into the middle of this situation.

Councilor Hackett apologized to the union members present for everything they have gone through since 2010. She stated she sees both sides of this issue from an organizational perspective. She expressed that the school department values these positions and their role and it makes sense for them to be part of that community, even though there will be a financial loss of unemployment. She stated she is torn about this but is leaning toward the reorganization.

Chairman DiFazio stated they have spent an adequate amount of time on this issue and he feels the presentation of this issue to the Town Council has been abysmal and resulted in negative public perception. He feels a vote in favor of this would draw skepticism from his constituents.

Chairman DiFazio clarified that the motion on the floor is to vote no. A yes vote would result in not recommending the reorganization. A no vote would result in the reorganization plan going forward. A vote was taken on Vice Chairman Smart's original motion.

A motion was made by Vice Chairman Smart to vote no on measure 14 104-Reorganization Plan-Revision to the Code of Ordinances Chapter 4, Section 4-209(C), and was seconded by Councilor Mathews. The motion passed by a 3-0-1 vote (Hackett opposed).

The Committee recommends to Town Council to not to go forward with the reorganization plan.

With no further business to attend to, a motion was made by Vice Chairman Smart to adjourn at 7:30 p.m. Motion seconded by Councilor Mathews and unanimously voted.

Respectfully Submitted by Patricia McDonnell, Recording Secretary

Approved by Councilor Kenneth DiFazio as Chairman of the Ordinance Committee
Voted favorably on November 11, 2014