

COMMITTEE ON HUMAN RESOURCES AND INSURANCE

June 26, 2000

5:30 PM

Chairman Lopez called the meeting to order.

The Clerk called the roll.

Present: Aldermen Lopez, Sysyn, Shea, Vaillancourt, O'Neil

Messrs: D. Muller, M. Hobson, H. Tawney, R. Robidas, L. LaFreniere,
S. Lafond

Alderman Lopez addressed item 3 of the agenda:

Ordinance Amendments:

“Amending Sections 33.024, 33.025 and 33.026 (Welfare Specialist III, Deputy Welfare Specialist) of the Code of Ordinances of the City of Manchester.”

“Amending Sections 33.024 and 33.025 (Library Page) of the Code of Ordinances of the City of Manchester.”

“Amending Section 33.026 (Data/Telecommunication Specialist) of the Code of Ordinances of the City of Manchester.”

“Amending Sections 33.024 and 33.026 (Water Meter Technician I & II) of the Code of Ordinances of the City of Manchester.”

“Amending Sections 33.024 and 33.026 (Building Maintenance Superintendent) of the Code of Ordinances of the City of Manchester.”

“Amending Section 33.0348 (Advancements within Pay Range) of the Code of Ordinances of the City of Manchester.”

“Amending Sections 33.050 (Longevity Rates) of the Code of Ordinances of the City of Manchester.”

On motion of Alderman O'Neil, duly seconded by Alderman Sysyn, it was voted that the ordinances be approved and recommend referral to the Committee on Bills on Second Reading.

Chairman Lopez advised that he wished to defer the item relating to the Welfare Commissioner to the end of the meeting to consider meeting in Executive Session, under the provisions of RSA 91-A:3IIa). Alderman Vaillancourt noted that they were not discussing an employee but rather a position and that he was opposed to executive session on this matter.

Atty. Muller stated according to RSA 91-A:3IIa one of the permissible grounds whereby a public body can act in non-public session is the dismissal promotion of compensation of a public employee. Therefore, unless the person requests to have it in public session it can be done in non-public session.

Alderman Vaillancourt stated as I understand it, Mr. Chairman, it can be but it does not have to be so I would request that it be done in the open. This is not the promotion of one particular person it is raising the salary of the position not of the individual. I suggest it would be for anyone who occupies this position and therefore not under the Statute just noted to us.

Alderman Lopez stated past practice has been in the City is that an employee has the right to go into executive session unless that individual...

Alderman Vaillancourt stated this is not an employee it is an elected official position.

Mr. Hobson stated that has been past practice that exactly what you stated and how Attorney Muller quoted. We are also looking at the ordinance to while I understand that the position is elected right now it is still in the City's Classification system. That is part of the discussion.

Alderman Lopez stated when the time comes then we will take a vote from the Board but I would still like to skip over this item for this moment and move on and take care of some of the other business before we get tied up because there is other meeting this evening.

Alderman Vaillancourt stated Mr. Chairman I would like to be recorded as being unalterably opposed to this effort.

Alderman Lopez stated you would have your opportunity when we vote on it in executive session.

Alderman Vaillancourt stated you are bypassing it now so I want to be on record now.

Alderman Lopez addressed item 5 of the agenda:

Ordinance Amendment:

“Amending Section 33.081 (D) (Sick Leave) of the Code of Ordinances of the City of Manchester.”

On motion of Alderman O’Neil, duly seconded by Alderman Shea, it was voted that the ordinance be approved.

Alderman Lopez addressed item 6 of the agenda:

Ordinance Amendment:

“Amending Sections 33.024, 33.025 and 33.026 (Safety Coordinator) of the Code of Ordinances of the City of Manchester.”

On motion of Alderman O’Neil, duly seconded by Alderman Shea, it was voted for discussion.

Alderman Vaillancourt asked Mr. Chairman, is this a totally new position. Could you explain to us what this is.

Mr. Hobson replied the Board of Mayor passed this position and Aldermen to help decrease Worker’s Compensation cost across the City. It is a brand new position and the position is scheduled within the budget to pay for itself and more. It is supposed to pay for its salary and benefits and then have a decrease on top of that. I do not recall the total number of the projected decrease. Mr. Ntapalis is not here unfortunately and he would know that.

Alderman Shea stated without benefits it is \$39,000.

Mr. Hobson stated there was a projected cost saving across the City so it would not only pay for itself salary-wise and benefits, it would also have an additional savings for the City for implementing this position.

Alderman Shea stated during our discussions it was felt that it might save about \$150,000 during the budget hearings.

Alderman Lopez stated this particular position has been approved by the full Board.

Alderman Vaillancourt asked Yarger Decker salary schedule position, was this determined at the time Yarger Decker did this or did you go back to him or did you put this in a grade 20.

Mr. Hobson replied we did a revision last week and it was faxed down to Decker for his review. To answer your first question, no it was not done as part of the study it was done after their study. What we have been doing as a matter of course is if any of these types of positions come up we fax them down to his office for his review. Someone from his staff would give us some feedback.

Alderman Vaillancourt asked he recommended this level.

Mr. Hobson replied he recommended grade 20 or grade 21 and we are recommending grade 20.

Alderman O'Neil asked Mark, where did the certified safety professional requirement come from.

Mr. Hobson replied that came from information from Risk Management.

Alderman O'Neil asked how common is that certification in the real world.

Mr. Hobson replied I do not have a good answer for you.

Alderman O'Neil asked I am wondering if it is going to limit our ability to hire. Could that be recommended as opposed to required.

Mr. Hobson replied in the past we have, with Decker's format, it does allow us to say that you have experience or the equivalent. If we find somebody who does not exactly have that specific certification but we tell them that they need to get it within six months to a year.

Alderman O'Neil asked the word "required" above it allows for some flexibility. It says "required special qualifications".

Mr. Hobson stated the Decker language in all of the class specifications says "any equivalent combination of experience and training which provides the knowledge, skills and abilities necessary to perform".

Alderman O'Neil stated look at the next paragraph down. I agree that we did put in the combination because that was an issue. I am just concerned there may be an outstanding candidate and I do not know how common this particular certification is in the industry.

Mr. Hobson stated I think we could work within the person.

Alderman O'Neil stated I would not want to see somebody not hired because of it when they may be the best applicant. You are saying on record tonight that it does allow for flexibility.

Mr. Hobson replied in the affirmative.

Alderman Vaillancourt asked have you already advertised and/or interviewed or done anything to fill this position.

Mr. Hobson replied in the negative and stated not to my knowledge.

Alderman Vaillancourt asked when would it take effect.

Mr. Hobson replied the Board directed us at a meeting a few months ago that we could only advertise for these positions and fill them once they have gone through the entire process. It would take all the way through Bills on Second Reading. We are probably still looking at four to six weeks away.

Alderman Shea stated first of all our budget has not gone into effect until July 1, 2000. You would have to proceed under that premise that you would have the money available to the interviewing is that correct.

Mr. Hobson replied we could always post and the Board of Mayor and Aldermen approves interview but not hire until the position. Whether that is a budgetary issue or a Bills on Second Reading. We cannot fill the job.

Alderman Lopez asked Mark, do you visualize this individual actually conducting an actual training of employees under the safety.

Mr. Hobson replied in the affirmative and stated absolutely. I am glad the Board passed this position. It will be a big help to the City.

Alderman O'Neil asked Mark, do you believe the job description gives them enough clout to really...one of the problems is that departments are doing their own thing. Is there enough clout in our safety program that is going to require that

the Safety Coordinator comes up with a violation that there is enough clout that the items will be corrected. There are things that continue to go on.

Mr. Hobson replied if you adopt this it says that it completes actions to prevent or correct unsafe working conditions at the very first bullet. If you are giving this person that responsibility and that department head fails to do it.

On motion of Alderman O'Neil, duly seconded by Alderman Shea, it was voted that the ordinance be approved.

Alderman Lopez addressed item 7 of the agenda:

Longevity issue with Highway Employees, related committee report having been referred back to Committee.

On motion of Alderman O'Neil, duly seconded by Alderman Sysyn, it was voted for discussion.

Alderman O'Neil stated Mark, this is not being critical but I do not remember the grievance as an option. If it was it certainly was not emphasized and sometimes I can get stubborn and get items stuck in my head. David, you probably did say it but I was on a role.

Mr. Hobson stated it was in the record that he did.

Alderman O'Neil stated I would recommend that we settle this as soon as possible and treat those five employees fairly. If we do think we could resolve it through the grievance process then I will support that but we need to resolve it.

On motion of Alderman Vaillancourt, duly seconded by Alderman O'Neil, it was voted that the matter be handled through the grievance process listed in the AFSCME contract.

Alderman Lopez addressed item 8 of the agenda:

Communication from City Clerk request to address longevity issue of employee parallel to Highway Department employees.

Alderman Sysyn asked would you have to put that together with the five other employees.

Alderman O'Neil replied that is a non-affiliated employee.

Alderman Lopez stated it does not make any difference if we told Mark to address it whether it is affiliated or non-affiliated.

Mr. Hobson stated if we work through the grievance process for AFSCME what will happen is there will be a...let's say it gets settled for the AFSCME employees then it will be settled for all AFSCME not just those five. Then if it is settled for AFSCME employees, as you can see you have one non-affiliated employee and there are several others.

Alderman Lopez stated Mark, you might want to explain to the committee in reference to what a department head can do other than going this route and the option that the department heads do have and that will answer the question.

Mr. Hobson stated if you are in a collective bargaining agreement, you grieve it, it gets settled then it gets settled for the members of that bargaining agreement. The non-affiliated employees do have a process to work with their department head and the Human Resources Director before it has to come to the Board of Mayor and Aldermen or the Human Resources and Insurance Committee. They have several options to address appeals by non-affiliated employees in terms of salary and other issues. There is a process for non-affiliated employees to go through to get this remedied.

Alderman Lopez asked in reference to this department head could turn around and put in for a step increase in order for the individual without the longevity could give a step increase for outstanding performance.

Mr. Hobson replied absolutely and stated there is probably three or four different ways that it could be remedied through the ordinances for a non-affiliated employee.

Alderman O'Neil stated Mark, when this discussion began I thought we were told it had to do because of the contract that was negotiated and the fact that there are some one hundred employees city-wide now that may fall under this between affiliated and non-affiliated. There is approximately fifty non-affiliated. Why was that not picked up.

Mr. Hobson replied because when we implemented Yarger Decker we picked a date and that was January 3, 1999 and everybody before that time was under "x" rules and then everybody after that time was under the new rules. That has to do with everything. You have employees that were hired previously under the old rule if you recall we fixed the insurance issue. You had to wait six months in

order to get health and dental. We fixed that. I had some employees calling me up at that time that said I went without health insurance for four months and I said well now you get it two months sooner. There is always going to be people on one side of the line or the other. This was not picked up with the non-affiliated because we stated that this was the line of demarcation. There were some non-affiliated employees that were upset and called our office because they had a date of hire of December 31, 1998.

Alderman O'Neil asked but it in fact had nothing to do with negotiations it had more to do with dates.

Mr. Hobson replied I thought you had asked how it happened for non-affiliated employees. With negotiations through the Oversight Committee and Business Services Officer, Bob Lynch is here from the Highway Department just in case he wants to help sharpen my memory on some of these items. Through collective bargaining and through the Oversight Committee, we talked about...in fact we finally finished passing the ordinance tonight, changing the longevity rates that Decker first came up with. The Oversight Committee, including two Board of Mayor and Aldermen were happy and pleased and all of us felt that was good when we added numbers eight and nine and the original Decker plan only went up through five, ten, fifteen, twenty, twenty-five. Then we added thirty and thirty-five through Oversight Committee and forty and forty-five through the Oversight Committee and the CBC (Coordinated Bargaining Committee) ratified that. It was agreed to, by them, anyway. That is the genesis of it. Nobody was intentionally trying to hurt anybody on both sides of the table. The three or four AFSCME representatives that coordinated bargaining and they never brought it up either so I do not think these employees were caught in the squeeze.

Alderman Vaillancourt asked is there a motion on the floor.

Alderman Lopez replied in the negative.

On motion of Alderman Vaillancourt, duly seconded by Alderman O'Neil, it was voted that the recommendation be accepted and that all employees be treated equally on this matter.

Alderman Lopez addressed item 9 of the agenda:

RFQ for Health Insurance Audit

Alderman Lopez stated this has to do with trying to find somebody to go in on consignment.

Mr. Tawney stated we were directed by the full Board to go out on an RFQ for an audit of the health insurance plan. We would get somebody to come in and the amount of money they would save we would give them a percentage for them and the rest of the savings we would take back to the budget. I have gone out and advertised it twice. The first time in *The Union Leader* and the *Boston Globe* posted it around at different locations. We had no response. The second time I went through all kinds of insurance magazines and found companies that would do audits. Also, I contacted Alderman Gatsas. He had indicated that he knew somebody who would do it. I contacted each of these companies and found out that they did audits and faxed them a copy of the RFQ the re-posted it in the newspaper *The Union Leader* and received no responses again. I have called this gentleman on at least two occasions and was finally able to talk with him. He said that he had given it to his vice president of sales and it was too late. I told him that we were still interested. He indicated to me today that he would have his vice president of sales contact me to see if they would be interested. That is where it rests right now.

Mr. Hobson stated we spoke about this with the City Solicitor and the City Finance Officer. The money is in the budget on both as an offset in order to take care of this. We still think this is a good idea and if we could find a company out there who is willing and able to do it then that is fine. We could put it out to bid again and the Finance Director wants to be involved in this process as it is part of an audit structure and that is fine with us. We would be willing to work with them and the Solicitor and anybody else to try to get it done. Part of the recommendation right now is perhaps we re-bid it and see what happens. The economy is good and these people are getting paid to do audits not being on the specification of the possibilities. They are being paid up-front so that is part of the issue.

Alderman Lopez stated they would attempt to do it when the economy changes.

On motion of Alderman Vaillancourt, duly seconded by Alderman Sysyn, it was voted to table item 9 "RFQ for Health Insurance Audit".

Alderman Vaillancourt asked could you tell us how much it cost us to put this out to bid for the two times.

Mr. Tawney replied it was several hundred dollars for the advertisements. I am not sure of the exact number. *Boston Globe* was about double what *The Union Leader* was.

Alderman Vaillancourt stated it might be interesting to get that.

Mr. Tawney stated I could provide that.

Alderman Lopez addressed item 10 of the agenda:

RFP for Health Insurance

Mr. Tawney stated we have a first draft and it is for informational purposes.

On motion of Alderman O'Neil, duly seconded by Alderman Shea, it was voted to receive and file the communication.

Mr. Hobson stated the Mayor has established his Insurance Committee and that committee is meeting and it is made of Union representatives and non-affiliated representatives and they are meeting with the Mayor. They will have an opportunity to see this as well.

Alderman Lopez addressed item 11 of the agenda:

New Hire and Termination listings submitted for informational purposes.

On motion of Alderman Shea, duly seconded by Alderman Sysyn, it was voted to receive and file these reports.

Alderman Lopez addressed item 12 of the agenda:

. Drug and Alcohol Policy submitted by HR.

Alderman Lopez stated we might want to go into executive session because you have sent us a confidential document.

Atty. Muller stated my understanding first is Mr. Hobson has indicated to me that this in fact there may be a request for the parties to look at this a little further. You may want to confirm that first before getting to that point. If not, obviously I would be happy to meet with the committee. My preference is noted in my request to recess the public meeting for that purpose.

Alderman Vaillancourt asked what could possible be the legal basis for going into executive session on this.

Atty. Muller replied this would not be executive session. Consultation with legal counsel does not constitute a meeting for purposes of the right-to-know law.

Alderman Lopez stated this item has been back and forth. It is beneficial at this stage, if the committee so desires, that we should hear from Human Resources in reference to this because it is a policy that is going to try to be established by the City and you will never have a perfect document in reference to drugs. No matter what policy that you have, somebody out there is going to sue the City or whatever they want to do. But there is no policy from day one and we could be losing money. They have some very valid points. We need some type of direction because it is a "stand-off" in my viewpoint.

Alderman O'Neil stated one of the things we asked for the last time we talked about this was some kind of recommendation for the AP Coordinator and I have not seen that yet.

Mr. Hobson stated he has been consulted on this document.

Alderman O'Neil stated I have not seen a response from him yet.

Alderman Lopez stated it might be beneficial if the committee wishes to hear from Red Robidas in reference to this subject. Even if you take no action it is important for the committee to hear some of the comments that is coming from Mark Hobson and Howard Tawney and Dan Muller so that we could give some type of direction to have some type of policy for the City of Manchester.

Mr. Hobson stated I am not trying to be contrary to what you just stated. I did have a good conversation with the City Solicitor today and I had been in conversation with folks last week on their work. I would state that this has been going on for a long time since February we have tried to get a policy in place. The City has not been in compliance with the Act and I would ask that this Board give us a directive that says here is the date that you want to see the Act and the policy completed for your review and anybody who needs to be in the room has to get into the room and sign-off on it and say we are all comfortable with this whether it is legal or EAP or any outside counsel or firms that we use. The general frustration for all of us is that we are all coming from different opinions. We cannot seem to find common ground and I admit that Human Resources is being very aggressive on this matter and that we are trying to be very pro-active and look more like a business entity than a public administration entity and I know that might be causing some problems.

Alderman O'Neil stated I do not disagree but it is not my responsibility to get all the parties together. There was direction the last time we talked about this and I do not know who is responsible but I agree and let's set a date and have a meeting that is primarily concentrating on this issue. All parties involved need to be here.

Alderman Vaillancourt stated I have never missed one of these meetings since I was elected so I do not believe this has come up this year with this current Board of Aldermen. If it had, I will say that I do not know what this Act is but I will never approve anything that includes random testing as on item four on page three that includes 50% random testing and 25% random alcohol testing each year. That means 50% of the employees of this City are going to be random tested in a given year. I am a pure constitutionalist on this, you are going to violate 50% of the people's rights and you are telling me that the Act requires you to do this.

Mr. Hobson stated in the negative.

Alderman Vaillancourt stated I would not approve anything like this and if the Act does not require it, I certainly hope that we do not go in this direction.

Alderman O'Neil stated we should table this one more month or maybe sometime in August and bring all parties together and ask everybody involved to summarize their end of it. Human Resources, Red Robidas, Tom Jordan and anybody else who needs to be involved. They could get it to us and then have a meeting on it.

Alderman Lopez stated I understand where you are going but I still want the committee to understand that these people have been meeting but they just cannot come to grips with things. Howard Tawney and Red Robidas are on target to a degree so if we are going to do this then it is up to the City Solicitor and that is where the hold-up is. If they were concerned about language in this particular policy they are going to have to give some better guidelines otherwise we will never have a policy in this City.

Alderman O'Neil stated this is not a new concept. The construction industry has been doing this at least fifteen years. There is nothing wrong with this. It is a condition of employment by many firms. We should get everybody together.

Alderman Sysyn stated we did it through the Administration Committee for the cab drivers. They have random testing.

Alderman Vaillancourt stated there are certain occupations that should be randomly tested and cab drivers might be one of them and also construction. But to blanket everybody in the City with this is wrong. I would like to find out from

the City Solicitor or the HR Director what are the requirements of this Act, that is referred to and what we absolutely have to do to comply with the Act in writing.

Alderman Lopez stated I would like to have Red Robidas, he has educated me in this area quite a bit. If you could comment before we do anything here. It is important.

Mr. Robidas stated as a point of clarification for the Aldermen, Mr. Chairman, we do have an addendum list of classes of positions. This does not pertain to all City employees. The positions we are discussing are safety sensitive positions. Positions, which require employees to operate a City vehicle as part of their duties and/or have a City vehicle, assigned to them regularly. Therefore, the approach and the thought process is that these are safety sensitive positions because if they are operating a City vehicle and/or they are operating a safety sensitive function that is the path we are heading down versus a blanket coverage for all City employees. So it would not pertain to all City employees. We do have a list of classifications specifically, which positions which would be impacted by this. The point of the random testing that falls under the Federal guidelines which we are not required to follow because this is a City policy but to avoid any other ramifications down the road to show how we are justifying...in essence we have utilized the commercial driver's license Federal regulations. That is 50% of the people who are required to submit to the testing. It is not 50% of all City employees, it is only 50% of the people who would be required and covered under this particular policy. Initially, this would only pertain to people who are on a probationary status at the pre-employment stage. Two examples would be Police and Fire personnel would be tested as part of an entrance level. They may be called upon prior to the completion of their first year probationary status. Once they are off the probationary status they are covered under the collective bargaining agreement. Therefore, this policy would not remain in effect for them until it is so addressed within their collective bargaining agreements. We have certain types of positions like that where it would be applicable at the pre-employment stage they would be part of it as part of the probationary status. This is something we have discussed with Mr. Hodgdon as well because the Union realistically has no standing and they have no protection during their probationary period. Once they are off the probationary period they fall under the respective collective bargaining agreements. That is something the City may or may not wish to choose to negotiate as part of the collective bargaining agreements at some point down the road. That is the reason we specifically and I thank Mr. Hodgdon for providing the language which was utilized before. We addressed that the policy shall be effective upon passage for non-affiliated employees and effective for affiliated employees upon agreement by their exclusive bargaining representatives. We want to make sure we do not infringe upon the collective bargaining agreements within the City. That gives a quick capsule of what we are

looking at for random testing and where we came up with the criteria of the 50% of the random testing. As far as the alcohol aspect, the Federal Government no longer even requires alcohol to be tested as part of the Commercial Driver's License. It is something we have discussed with Mr. Hobson and others. We feel it is actually a very good barrier for the City to determine if we do have a problem either at a pre-employment stage because of the fact that they will be operating in a safety sensitive position as we feel to determine if we have these people. Not that we expect to find a great quantity of people coming through that are going to test positive in this aspect. However, if we do have people who do come through and have one or two people per year that do fail that is to the benefit of the City rather than employ these individuals. Throughout my career, I have seen many people who are "hard core" alcoholics who could look better at 6:00 in the morning than I could and they have a blood alcohol content of .20. This is a screening out process as well. Even though the Federal guidelines no longer requires it as part of the Commercial Driver's License, we thought it would be a sound policy to include within our own policy.

Alderman Shea asked Mr. Robidas, what do you anticipate in terms of numbers to be tested, ten people, twenty, fifteen.

Mr. Robidas replied it would be larger than that. If I may handout this list that we just cleaned up. Specifically referring to pages three and four of the documents near the bottom portion, some of these positions that are listed on here realistically would probably not be effected. As an example of Fire Lieutenant, Fire Captain, Fire District Chief, Deputy Fire Chief would be effected because they are not covered by the collective bargaining agreement much in the same regard if you continue on the next page with some of the Police positions, the Police Sergeants, Lieutenants and Captains some of these have some common grounds in that normally throughout the history of the City these have all been promotions internally so these folks are covered under collective bargaining agreements. However, there is no policy that would prohibit the City from ever hiring someone from coming in at this equivalent level. Realistically, these positions may never be impacted but if the City ever decides to go out and hire a Fire Lieutenant or a Police Captain directly from the outside then the policy is in place and the position is already appropriately named that they would be impacted by the policy.

Alderman Vaillancourt asked referring back again to page three section four "Random Testing" where does it refer in there to this is only in pre-employment. I do not see anything like that which you have just described to us.

Mr. Robidas replied in the negative and stated these would be the people who are covered out of the list of classifications on the sheet I just handed to you. Those who do not anticipate in collective bargaining agreements, once they are off the

probationary status if they are effected by collective bargaining agreements would not be impacted by the 50%. The remainder of those who are non-affiliated would be impacted. So if they are part of the collective bargaining agreement, they are not into the mix of the 50%. If they do not have Commercial Driver's Licenses that is another policy that the City already has in effect that we are not touching or amending because that is Federal guidelines that is operating under. We are only dealing with pre-employment and those who are non-affiliated once a probationary period has passed. Those are the only individuals we are dealing with.

Mr. Hobson stated to make it as basic as possible if you are going to come to work for the City then you will have to pass this pre-employment test and then afterwards if your position is on a list then you have to pass the test but that is based on a random selection numbers, budget, etc.

Mr. Robidas stated you would only be tested as a pre-employment if your position were categorized on the list as well. It would not be every individual coming through the door. It is only those positions that are listed on the classifications on this sheet.

Alderman Lopez stated that is important information and I wanted the committee to be sure about because of the misconception here.

Alderman Shea asked Mark, if I start employment in terms of a City employee, I would be required to undergo a drug test.

Mr. Hobson replied for the position list. If you are on the addendum and you are applying to be a Building Inspector and they drive a City vehicle all day long and they are on that list then you would have to pass.

Alderman Shea asked but not every person who...

Mr. Hobson replied if you are going to be an Administrative Assistant I and that is not on the list then you do not need to pass a test.

Alderman O'Neil stated I do recall that we discussed trying to get some information from the Employee Assistance Director as well.

Mr. Robidas stated I have spoken with him as recently as Friday and he is aware and he has submitted a letter previously to the committee in the past. Some of his notations are actually in consultation with the City Solicitor's Office. We have included random testing and that is based upon conversations we had with legal counsel for situations down the road. That is also something that Mr. Jordan has requested. We had it in the initial policy and it was requested that we remove it.

However, it has been reinstated into the policy again. The section about the Employees Assistance Program, Mr. Jordan had related in his previous letter to the committee and has always had the policy that EAP should be voluntary action. However, he concedes the fact that currently under the Commercial Driver's License if we do have a violation under the Commercial Driver's License primarily people are given an option A or B and do attend the Employees Assistance Program so it is no different than what we are currently operating under.

Alderman O'Neil asked could we get an updated letter from him based on the most recent policy.

Mr. Robidas replied I had informed him of the meeting this evening if he so wished to attend.

On motion of Alderman O'Neil, duly seconded by Alderman Shea, it was voted that this item be tabled and that all parties concerned will set up a meeting and report back to this committee in sixty days.

Alderman Lopez stated let's get all the pros and cons and make this a good policy for the City.

Alderman Vaillancourt asked under Section four define "the provider" under the random testing.

Mr. Robidas replied what happens is that there is a contract service, which is a subsidiary of the health package under the medical. We do not make the selection. It is a company that is contracted to make the actual selection process. Currently, it is a company out of Atlanta, Georgia. All they are provided with is a list of names and social security numbers of individuals that should appear on the list. So they are the provider that actually makes the selection process so there is no local input in the selection process. When they have made the selection process of those who are to be tested within that quarter, they actually call and speak to myself and/or Jackie Curtis personally and say we are going to fax you the list go stand by the fax machine. So they confidentially forward the list. That is what is meant by "the provider" they are the ones that actually determine who will be tested and that is random by the computer as well not even by the individual. It is totally out of our control.

Alderman Lopez addressed item 13 of the agenda:

Communication from City Clerk regarding organizational changes within

the department advising that same should have further review by the Human Resources Director, and requesting approval of a part time Customer Service Rep. III position to go forward at this time.

Deputy Clerk Johnson stated the City Clerk is in the process of working with the Human Resources Department for organizational changes within the department. We made the committee aware of this approximately a month or a month and a half or so ago. At this time, we have submitted an organizational chart but we are working on job descriptions and we would also like Mark's input on grade levels and those sorts of things. Our intention is to stay within the current budget. But we do have a situation within that outlines the addition of a part-time Customer Service Rep. III, which is a trade-off actually of temporary positions that we have been using. We would like to go forward that for a variety of internal reasons unless the committee wants me to get into, I would rather not.

On motion of Alderman O'Neil, duly seconded by Alderman Sysyn, it was voted to approve a part-time Customer Service Rep. III position.

TABLED ITEMS

Alderman Lopez addressed item 14 of the agenda:

Communication from Attorney Muller regarding the residency requirement for City employees.

This item remained on the table.

Alderman O'Neil stated we just got some new information tonight.

Alderman Lopez addressed item 15 of the agenda:

On motion of Alderman O'Neil, duly seconded by Alderman Shea, it was voted to remove the following item from the table.

Class specification for Electrical Inspector

Alderman O'Neil stated we did get a communication from the Building Commissioner with regards to the change and indication there might be a need to change two other positions. The only thing I will say on this as an electrician and as a sitting member of the State of New Hampshire Electrical Licensing Board we

need to rely on the local building officials for many items including checking of licenses. Although the responsibility on whether or not the qualification or the ratios does fall with the State we still need that information to be passed on and with only three inspectors in entire State it is almost impossible. As best as we can, we do encourage the local building officials to check for licenses. I believe it should remain in there. I do not think there is anything wrong with it. I do not want to speak for the Plumbing Board but I would think they would want it to remain in there as well.

Alderman Lopez asked are there any questions of the Building Commissioner's explanation or the classification and the problem that we had last time or is the letter self-explanatory.

Alderman O'Neil replied the letter is self-explanatory and it is well done by the Commissioner. I think it is a difference of opinion. I certainly understand that Leon does not want the primary focus of the Electrical Inspector out checking licenses nor do I. It is enforcing the Electrical Code. But I do also believe that there is nothing wrong with him checking licenses. I would hope we have licensed people doing work in the City of Manchester. As a member of the State Board there is a problem statewide with unlicensed people doing electrical work. The State of New Hampshire does, in fact, rely on the local building officials to help out in this.

Alderman Sysyn stated I agree with Alderman O'Neil because that is a safety issue also.

Mr. LaFreniere stated the conflict that we have experienced is only since the fact that it is listed under "Essential Job Functions" and in trying to work with the individual that currently holds this position, there has been some difficulty in establishing for him what those essential job functions were. We have, as the State experiences, limited resources that we can provide to this function and actually getting the emphasis into inspecting the electrical work and the response to request for electrical inspections is our essential function that we are trying to address. With regard to the Plumbing Board, I was not successful in talking about this with the Electricians Board but I did talk about it with the Plumbing Board and they have a little different mind set-up there and in fact they have requested this change. For some reason, they do not have the same interest in the participation of the local authorities having jurisdiction in assisting their efforts in the licensing law. I cannot speak to that other than that I was surprised to find that not only did they not have a problem with this change they actually requested that it be put through. Once again, our whole issue has not been to try to, in any way, hamper the efforts of our local inspectors from the ability to check licenses. The ability to assist the State in their function with regard to the administration of the

licensing law. In fact, we utilized that as one of the most important tools in our arsenal to insure that we have quality installations completed in the City. I might suggest that there be a compromise that could be reached with regard to this in the form of re-working that section. As it is worded, we feel that it connotes that there is a pro-active involvement in the processing and certification of licensed individuals at the local level. That really is not our function so perhaps we could re-vamp this section to really get more at the source of what our role in this process is or what it should be at the local level which is to insure that we have this work completed by the appropriate license personnel. That is not something we would have any issue with. In fact, it is a matter of practice with regard of how we dispatch our duties. The only conflict has been with regard to how this appears in the construction of the class specification currently it does connote through its language that we have an active participation in the licensing process which we really do not have the manpower to do nor necessarily the authority to.

Alderman O'Neil asked where does it say that though.

Mr. LaFreniere replied the single bullet that provides the source of this conflict it says "participates in the processing and enforcement of licensing and certification of individuals involved in the electrical contracting installation field".

Mr. Hobson stated that bullet is in the letter, Mr. Chairman. It is taken out of the revised document. It used to be in the revised document and has been taken out of the document as proposed to you. Mr. LaFreniere is stating that he would be willing to work with Human Resources and his staff members who are involved in this and come up with some wording that is acceptable to everybody.

Mr. LaFreniere stated I might even suggest we go a step further and run a draft by the Licensing Boards for their input on this. We need to work in concert with their efforts that there should be no attempt to perceive to you, to in anyway circumvent that. We are only trying to focus in on a particular issue with regard to the position. The essential functions identify to be actual field inspections because that is what we have the resources to be able to do.

Alderman Lopez asked the Electrical Inspector, until all of this is done is authorized to go out there and ask for those credentials.

Mr. LaFreniere replied he is not only authorized, it is considered to be part of what he should be doing out there and is required as a matter of practice to do. At the time of issuance of permits, at the time of inspection of job sites. The problem we have had though is that I do not have the manpower in our current complement to be able to both send somebody out to job sites where we have not necessarily had requests for inspections and cover the inspection requests too. This is the balance

that I am trying to strike is to just try to identify that function to what it is which is an important ancillary part of the role of the position as opposed to an essential job function.

Alderman Shea asked Leon, the Electrical Inspector now is down in your office. Somebody comes in who is an electrician and asks for a permit he asks if that person is an electrician and they say yes here is my certification. What you are saying, in essence, that you do not have the manpower to go to house B where somebody has put in some type of electrical work and inspect that at the same time that your electrical inspector is checking people at City Hall.

Alderman O'Neil replied what the Commission is saying is that he does not disagree that while the inspector is in the field on a given site there is no problem checking licenses. But the point he is trying to make is that it should not be his primary focus and he should not go specifically to a site to only check licenses on that site.

Mr. LaFreniere stated unless we have the time element available to us to be able to perform that function. I still do not have a problem with that either.

Alderman O'Neil stated that is not clear because what I had read took away any of that and the plumbers may have a different opinion. There are five inspectors statewide as opposed to three for about one-third less licensed people. I personally believe we should allow the three inspectors to check licenses.

Alderman Sysyn stated but not as a primary function.

Alderman O'Neil stated I do not see in the classification a difference in primary function and others. It lists primary and then it drops away to nothing.

Mr. Hobson stated we need to re-work this to the point where Leon is satisfied, the employees are satisfied and he also stated that he wants to bring it to those Boards. I think that is fine as well. Then after that we could bring it to Decker and make sure he approves it and then it still has to go to the Committee for their review and approval. His point is valid and I have had this discussion with Leon and the employee that he is talking about trying to balance his work and doing these certifications and checking for these licenses. The employee's primary function is to do the electrical inspection. As Leon is stating, if staff and time permits he should be more involved in certification. It is a good proposal and we ought to honor that.

On motion of Alderman O'Neil, duly seconded by Alderman Sysyn, it was voted to put this item back on the table.

Alderman Vaillancourt asked you want to put it back on the table so they will not be able to do anything with it.

Alderman Lopez replied they could do anything they want but they just cannot implement it.

Alderman Vaillancourt stated I will vote against putting it back on the table because I want to do something more drastic and just not do it at all just leave it the way it is completely. I would like to dispose of this tonight and with all due respect to our two experts, I would like to do the opposite of what they say and leave it the way it is now. I will vote against it not that I want to change it but that I do not want to let them change it. I want to keep it the way it is now. I do not want to let them tinker with it anymore at all.

Alderman O'Neil stated I tend to agree with my colleague from Ward 8 although I am interested in seeing this new language. If I had to make a vote one way or the other I would support his position tonight. But out of respect, I will allow this other language to at least be reviewed.

Alderman Shea and Alderman Vaillancourt are recorded as being opposed to tabling item 15.

Alderman Lopez voted to table item 15 to listen to the new language.

Alderman Lopez addressed item 4 of the agenda:

Ordinance Amendment:

“An Ordinance to establish the salary of the Commissioner of Welfare by amending the Code of Ordinances of the City of Manchester by adding a new section 32.020(D).”

Alderman Vaillancourt stated I would like to object to this. I do not believe that we have any legal basis to go into executive session or any moral basis. If we were voting on a change in Aldermanic salaries we would be ashamed to go into executive session. If we were voting on a change in the mayoral salary we would not do this behind closed doors. This is the same kind of position. It is an elected position. It does not allude to any particular individual any more than the Mayor and Aldermen does so I do not believe that the right-to-know law applies. I would challenge the City Solicitor's ruling and if he maintains that ruling I suggest that he be in violation of the law. I will not go into executive session on this issue.

Atty. Muller stated Mr. Chairman, this particular position does provide some ambiguity in that this is a department head but at the same time the Alderman has noted that it is an elected position. However, I would also note looking at the annotations while we were going through this there also may be another complication. Some of the case law has indicated for purposes of RSA 91-A:3IIIa it requires advanced notice that you are going to go into non-public session which in this case there has not been which may be a complicating factor.

Commissioner Lafond stated this is not just a change in my salary. It is to set the salary for the first time ever. There are some pieces of information that need to be shared with the committee about other people. I would feel more comfortable giving that explanation which could take two or three minutes and then opening it up completely.

Alderman Vaillancourt stated I object to the use of my salary this is not your salary for the Welfare Commissioner. But the individual who holds that position at the current time is irrelevant. We are talking about a generic position and I would ask if you table this tonight, the City Solicitor do some more research as to whether or not we could legally go into executive before the next meeting.

On motion of Alderman O'Neil, duly seconded by Alderman Shea, it was voted to table item 4.

There being no further business to come before the committee, on motion of Alderman O'Neil, duly seconded by Alderman Shea, it was voted to adjourn

A True Record. Attest.

Clerk of Committee