

## COMMITTEE ON HUMAN RESOURCES/INSURANCE

**July 8, 2008**

**5:15 P.M.**

Chairman Gatsas called the meeting to order.

The Clerk called the roll.

Present: Aldermen Gatsas, Shea, Lopez, Garrity, Pinard

Messrs: T. Clark, J. Gile, A. Morse, C. DePrima, D. Cornell

Chairman Gatsas addressed item 3 of the agenda:

3. Communication from Alderman Lopez, requesting an amendment to Section 33.061 (B) Temporary Assignments relative to appointing an acting department head.

Alderman Garrity moved to discuss this item. Alderman Shea duly seconded. There being none opposed the motion carried.

Alderman Lopez stated I wanted to bring this to the attention to the Committee for a number of reasons. The main reason is that we have too long of a time that we have interim acting department heads or interim department heads. Looking at this and discussing this, it will take a charter change and I will have Tom Clark if he wants to weigh in on that but I believe that we should at least inform the Mayor that the long time in between acting department heads to me is and operational aspect between two individuals that might be in the department applying for the department head and one doesn't know and the only one right now is the Parks and we have Planning at the same time. So I think that we have to have some more clarity and if things are not moving along fast enough in the situation then we should make a determination if we are going to make a department head. Maybe that is the first course of action, if this Committee will go along in sending the Mayor and asking him to revisit his acting department heads and try to put some type of time frame on it.

Alderman Lopez moved to have the Committee send a letter to the Mayor asking him to revisit his acting department heads and try to put some type of time frame on hiring a new department head. Alderman Shea duly seconded the motion. There being none opposed the motion carried.

Alderman Shea stated probably the Mayor could let us know at the next Human Resource/Insurance Committee meeting.

Chairman Gatsas addressed item 4 of the agenda:

4. Communication from Alderman Lopez, requesting an amendment to Section 33.027 (D) Employee Recruitment and Selection relative to vacant department head positions or anticipated vacancies.

Alderman Shea moved for discussion. Alderman Garrity duly seconded the motion. There being none opposed the motion carried.

Alderman Lopez stated again I think this is another area that we have a vacant position and I will let Tom Clark weigh in on this one, because it is a little complicated. It's a charter change because what happens in this particular case we are spending money when we have to advertise outside when we know that the Mayor is going to select an individual such as Info Systems, we had to go out and get all these applications, go through the process and we ended up selecting a person that was well qualified within our own department. So Tom, if you would guide us on this please.

Mr. Tom Clark, City Solicitor, stated yes the Charter is very specific on how department heads and city officers are appointed. It requires that job specs be developed, that the job be posted and advertised before anything can be filled. If you want to do an internal posting only and hire from internally without advertising, you would need to amend the Charter.

Alderman Lopez stated therefore because this is a year of presidential election, I would like to have the City Solicitor to come up with some language that we need to put in there and hold this over until the municipal election.

Alderman Lopez moved to send this ordinance amendment to the City Solicitor for wording. Alderman Garrity duly seconded the motion. Alderman Shea voted in opposition. The motion carried.

Chairman Gatsas addressed item 5 of the agenda:

5. Communication from Alderman Lopez requesting a discussion relative Section 33.011 Retired Employees; Policy on Rehiring.

Alderman Shea moved to discuss. Alderman Garrity seconded. There being none opposed the motion carried.

Alderman Lopez stated I brought this to the attention to the Committee because I have had some employees question the fact that whether or not all the retirees that are retired from the State are getting new job positions in the City. They had some discussion. I am not too sure. I just want to clarify the ordinance itself. Is it sufficient? Because originally I got the first answer that we don't contribute anything to retirement and we do contribute 7% of their retirement. Is the wording correct? I have had two or three different people read it, or do we have to change some so that we make sure that if we are going to hire police and fire, which are sometimes very qualified, I have no argument on their qualifications but what happens in a department is the employees work for 10, 15, 20 years and think that they are doing a good job, if they are not doing a good job, the department head should have gotten rid of them a long time ago and then promotions come up and it goes outside so I just wanted to clarify that for the employees that have come to me and mentioned some of this. I would just like to get some opinion from the Committee and City Solicitor.

Mr. Clark stated presently the way the ordinance is written and individual who retires and is a member of the City retirement plan, any City retirement plan, cannot be rehired as a full time employee. They can be a part time employee and not receive benefits. The Police, Fire and Teachers are not part of the City retirement plan, they are a part of the State retirement plan and this ordinance as far as I have been working for the City has been interpreted as not applying to those people. There was a discussion probably 15 years ago about changing that however the Committee at that time decided not to deal with it.

Chairman Gatsas asked is this a Charter change also?

Mr. Clark replied no it is not this is an ordinance.

Alderman Pinard stated one question, I heard about this about three or four months ago, I have a constituent wondering what's going on and I was told like Tom Clark just said that it depends on the retirement system and a lot of people don't think that it is fair that somebody retires from the City and comes back and works for the City for another retirement. So the question is, the general public is wondering if that is kosher or not. I think we just don't know what the answer is.

Alderman Shea stated actually I think that there should be at least some research done into this in terms of people who do, either Teachers, Firemen, Policemen or anyone who is on the State retirement working for the City. I think that we actually and I concur with my comrade here that people who work in the City department have given their life to that. I think that they obviously should be the ones that we should look favorably upon for promotions for and so forth. If other

people want to come back and work a limited amount of time that's fine with me but I don't think they should be full time employees. Again that is my own opinion.

Chairman Gatsas asked so what this is basically saying is that if I am a City employee, I work for the Highway Department and I retire, then I can't go get a job in the Parking Department or in the Police Department. Let's say it's the Police Department because they are members of the State retirement.

Mr. Clark stated some of them are. I don't know if all of them are. I don't know if the dispatchers are.

Chairman Gatsas asked give me an example that would be a part of the State retirement. I am looking to make sure that it cuts both ways. If I work as a retiree from the State retirement system this says I can get a job in the City.

Mr. Clark stated yes it does.

Chairman Gatsas stated what this is saying is if I retire from the City retirement system that I can't get a job with the City again at a full time and accrue leave.

Mr. Clark stated there is a complication with the City retirement system because that employee would have to rejoin a retirement system and I don't know if they would allow you to receive a pension payment and still be a member of the system.

Chairman Gatsas stated I am trying to make it so that you would be a retiree of the State retirement system. Is everybody at the Fire Department a member of the dispatchers, Jane?

Ms. Jane Gile, Human Resource Director stated no Police Officer, Firefighters and so forth are members of the State retirement system. They are group two.

Chairman Gatsas asked what about Teachers, they are members?

Ms. Gile stated they are group one.

Chairman Gatsas stated ok so if I retired as a City employee, could I go back as a Teacher and participate in the State retirement system and not have to worry about the 29 hour issue?

Ms. Gile stated the way the ordinance way reads now I believe that you could.

Chairman Gatsas stated so it obviously doesn't cut both ways. So I guess there needs to be something looked at so that there is a fairness policy. I think that is what you are trying to get to Alderman Lopez.

Alderman Lopez stated yes. That is all, just the fairness.

Chairman Gatsas asked is the suggestion of the Committee to send this to the Solicitor to have him come back with what they believe would level the playing field?

Alderman Pinard moved to send the ordinance amendment on the retired Employees; Policy on Rehiring to the City Solicitor to level the playing field. Alderman Shea duly seconded the motion. There being none opposed the motion carried.

Chairman Gatsas addressed item 6 of the agenda:

6. Communication from Alderman Lopez regarding House Bill 37.  
*Note: Referred from BMA to Committee on 3/18/08.*

Alderman Shea moved to discuss. Alderman Garrity duly seconded the motion. There being none opposed the motion carried.

Alderman Lopez stated I have Ms. Morse in the audience I am sure you are very familiar with her, Michelle's mother, and Joan Porter. It was brought to my attention that a decision was made by the Chief Negotiator and former HR Director that the City of Manchester is not adopting Michelle's Law. I think you are very familiar with Michelle's Law at the state level so I don't have to educate you on that.

Chairman Gatsas asked me Alderman or the rest of the Committee?

Alderman Lopez stated you Alderman.

Chairman Gatsas stated thank you.

Alderman Lopez stated as in your packet you have all the necessary information, all the committee members have it so I am not going to repeat it but I think the issue is because we are self insured it doesn't apply. Ms. Morse is here if you so desire to question her and to help the Committee try to make some type of decision here.

Chairman Gatsas asked how about if I ask you a question first. Do you know if the State's self insured health plan has adopted SB 37?

Alderman Lopez stated no I don't.

Chairman Gatsas stated let me help you out. The answer is no they have not adopted it because they are a self insured health plan. The reason why they haven't adopted it is because they said that it is a mandate which it would increase costs. So I would leave it to the HR Director if she has anything to say.

Ms. Gile stated my understanding is that the City didn't adopt this at the time and that we are not obligated to do so because of the fact that we are a self funded plan and we are not governed by State insurance laws. We are governed by federal legislation which is ERISA. It is my understanding that there has been some Federal legislation introduced but to the best of my knowledge that that has not been acted upon yet. If that were to be acted upon favorably, then the City would be obligated to provide the coverage offered in Michelle's law but at this point we are not obligated to do so, it is up to the governing body to decided whether or not that would be something that you wanted to pursue.

Alderman Lopez stated if Ms. Morse could come up Mr. Chairman, I think she has an update on the Federal Law because she went down to Washington.

Ms. Anne Marie Morse stated I realize and everyone realizes as we said that Michelle's Law House Bill 37 is a state law and I for one was in a self funded group. What we found out was that the insurance companies had said that they expected three to five students per year to fall under this category. What I also found out was because my self funded group in fact did adopt it and I am grateful for that. Michelle was doing her student teaching here in Manchester as Bakersville School they begged her to apply for the job that was open but she was so sick she did not apply. I believe in my heart had she still been alive she would be an employee of this district right now and would fall under your insurance. What's going on on a federal level I just got an update today, just to give you a heads up, the Senate introduced Senate Bill 400 to date it has 26 Senate sponsors and co-sponsors on it. In the House it is known as House Resolution 2851 and it has 144 House sponsors and co-sponsors. It got submitted to three committees in the House. It was submitted to Energy and Commerce, Education and Labor and Ways and Means. I was told a few weeks ago that Ways and Means and Education Labor just signed off on the Bill as it was written. Tomorrow it's going to be marked up before the subcommittee of Energy and Commerce. Just to let you know the federal version they took the language from New Hampshire legislature and New Hampshire should be so proud of themselves because they really enacted something that just should be enacted. The only change that is

going to be made that I am told in the markup is that originally the Bill said that when it is signed into law it would be enacted in 2009 and the employers said you know what you really need to give us a full year. So it is going to become a law a year from when it is signed into law. So that is fine that is what you have to do. The thing that I find so sad is that I understand you do not have to follow the law but people are using that right know and that makes me so angry as that is our loophole to get out because we all know health care is broken. Wouldn't we look like heroes if we did the right thing and said you know what, let's protect these few kids because I cannot tell you, you could never imagine what my daughter went through. I can tell you after my daughter passed away, I could not go to work for a year. I don't know how she went to school full time and underwent all of that chemotherapy for almost two years. I couldn't do it. I know I couldn't do it. So all I am asking is yes, I realize you do not have to adopt it and hopefully it will become federal law very soon but why don't you take the first step and say, you know what we are going to step up and we are going to do the right thing and we are going to protect these kids because there will be so few. As a matter of fact congress did a CBO, I forget what that is, but they determine the cost of what bills are going to be and they determined that Michelle's law, zero cost. That's what they determined so if that helps you at all and if there are any other questions I am certainly happy to answer them for you.

Alderman Gatsas called for questions.

Alderman Shea stated I am not sure if we need a motion but I think that our job is to help people who work for the City and I think that obviously I am in favor in helping people that obviously would have to undergo serious problems so I have no problem with, even though we are self insured, I still feel that we do have an obligation to help the employees and the children of the employees.

Alderman Shea moved to adopt Michelle's law HB 37. Alderman Lopez seconded the motion. There being none opposed the motion carried.

Alderman Lopez stated I just want to make sure the college students with life threatening illnesses will now be able to take advice of their doctors and still keep their health insurance, it could be six months, and it could be a year. They are going to school, their parents are paying insurance so I feel that it is a gamble that we are going to try to help those young kids that might have to get out of school for six months or a year and get back to health and I don't see anything wrong with it. That is what I am voting for it.

Chairman Gatsas asked is there a reason why we wouldn't want to wait until the federal legislations passed where the state hasn't even adopted Michelle's Law in their own health insurance plan which is self insured?

Alderman Lopez stated well in my opinion, I think like Michelle's mother said step up to the plate, which is what I think we are doing.

Chairman Gatsas stated so you are saying that the people who pass the legislation in Concord along with the Governor are not stepping up to the plate by insuring these children.

Alderman Lopez stated well if that is your interpretation.

Chairman Gatsas stated it is not my interpretation it is my question of you.

Alderman Lopez stated I think they stepped up to the plate to a degree but I think there are other employees in the state under self insured that if they have to fall into this particular category its like a double standard and I feel it is no more than just saying a double standard on a couple issues that we have just taken care of. Why should we have double standards for John Doe and then Larry over here cannot have the same thing. I think it's worth the gamble.

Chairman Gatsas asked Ms. Gile any conversation.

Ms. Gile stated I think you are within your boundaries to go either way. It is an optional thing and if the Board of Mayor and Aldermen wish to pursue that then it isn't within your purview. The only thing that I want to add is that we do carry stop loss insurance if you are concerned, if anyone has those concerns about exorbitant expenses although I haven't heard that as point of discussion at this point and time but we do carry stop loss insurance of \$200,000 so if any claims go up to \$200,000, over \$200,000 then the City is not obligated. It becomes part of the insurance the stop loss insurance coverage.

Alderman Shea stated I think that as a Committee we should vote and let the other Aldermen when it is presented to them, make that decision. I really feel very strongly that we should help people in need and if it is going to require a certain amount of obligations on the part of the City financially, well we should be able to be willing to bare that. I make a motion we move the question or have a roll call vote so that we can get some resolution.

Alderman Shea moved to accept the provisions of HB 37 Michelle's Law.  
Alderman Lopez duly seconded the motion. There being none opposed the motion carried.

Chairman Gatsas addressed item 7 of the agenda:

7. Communication from Parks, Recreation and Cemetery Department, requesting an amendment to section 33.026 (Carpenter) class specifications.

Chuck DePrima, Acting Parks, Recreation and Cemetery Director stated yes its just a minor revision to the specifications. When reviewing it recently as we were posting the position for that the Carpenter, we noticed that there was a sentence in it that required an apprenticeship and after checking at the state level there was no such requirement for Carpenter, like a journeymen, electrician or a plumber type situation so we felt it was prudent to remove that.

Ms. Gile stated I concur and under the other section of that job specification, it did say that one of the requirements was considerable experience and considerable as interpreted to mean 4-6 years of experience. We concur that pretty much covers and type of apprenticeship program.

Alderman Shea moved to accept the recommendation. Alderman Pinard seconded the motion. There being none opposed the motion carried.

Chairman Gatsas addressed item 8 of the agenda:

- 8 Communication from Vincent A. Wenners, Jr. with a request to reconsider position details for Edward Pepin, Inventory Specialist with the Manchester Water Works.

Ms. Gile stated Chairman my understanding is that there is an active arbitration appearing and that an arbitrator has been assigned to this particular case. There was a grievance filled by the United Steel workers and we are awaiting response from the steel workers regarding hearing dates relative to that arbitration.

Chairman Gatsas asked what is your suggestion on this communication?

Ms. Gile stated I would suggest that you receive the communication and file it.

Alderman Garrity moved to discuss this item. Alderman Shea seconded. There being none opposed the motion carried.

Alderman Garrity asked Jane, you are saying this is currently in arbitration?

Ms. Gile stated that's correct.

Alderman Garrity moved to receive and file. There was no second.

Alderman Shea asked can you tell me when this is going to be heard or how long it will be? How long it's been going on?

Ms. Gile stated there was an arbitrator assigned I believe it February and there were some proposed dates given to the Union in March to set up a hearing and we have had no response, to the best of my knowledge there has been no response regarding dates for the arbitration.

Alderman Shea asked so we don't know whether they are willing to submit to the arbitration or whether there is a lack of communication. I am not quite sure exactly.

Ms. Gile stated I think it has been pretty well established and it went up through the process and that we are waiting at this point in time for the Union's response.

Alderman Lopez asked now the arbitration is going to do what?

Ms. Gile stated there was a grievance filed and it was not resolved. The Union requested arbitration. It has gone to the PELRB. There has been an arbitrator assigned to the case. The arbitrator did contact the parties to set up potential dates to hear the arbitration case. The City is ready to go ahead and we are waiting for a response from the Union.

Alderman Lopez asked are we under binding arbitration?

Ms. Gile stated we don't have binding arbitration.

Mr. Clark stated arbitration decisions are binding under the grievance procedure.

Alderman Lopez stated so I understand, the argument is 13 versus 16 grade? Is that what I am reading?

Ms. Gile stated I believe that is the issue. I am not sure if we want to get into the merits of the arbitration at this point. I believe that is the issue.

Alderman Lopez stated I just want to clarify in my own mind.

Alderman Garrity moved to receive and file. Alderman Shea seconded the motion. The motion carried.

## **TABLED ITEMS**

9. Communication from Mayor Guinta, proposing a new department of Facilities, Grounds and Recreation through the consolidation of the Parks, Recreation and Cemetery Department with the Facilities Division of the Highway Department.

*Note: Item includes new classification of Facilities, Grounds and Recreation Director forwarded by Human Resources Director*  
(Tabled 1/23/08)

Alderman Lopez moved to remove item 9 off the table. Alderman Shea seconded the motion. There being none opposed the motion carried.

Alderman Lopez stated I would just like to find out, I know we have had it on the table here since January, we have to take some, as a Board going forward, some type of action. From what I understand, nobody has provided any information to the Committee on Administration and we have it tabled here. Maybe the HR Director, what is happening here. We are going to go into 2010 budget and we are not going to resolve anything.

Chairman Gatsas suggested how about we just worry about what we are going to do with this item in this Committee. How about we get a motion to receive and file seeing that it is in Administration. We can't do anything until it comes out of there.

Alderman Lopez stated I think we better send it back to the Mayor.

Alderman Shea moved to receive and file the communication. Alderman Garrity duly seconded the motion. There being none opposed the motion carried.

### **New Business:**

Ms. Gile stated there is a communication from the Chairman of the Board of Assessors. Basically there will be a minor change proposed for a class specification. It would be modified slightly to allow individuals who obtain assessor experience outside of the State of New Hampshire for that time to count if a vacant position becomes available, and recently one has become available.

Chairman Gatsas asked what it says on page three is that individuals certified from another jurisdiction must obtain a DRA Certified NH Assessors certification within one year of employment. Or they are terminated.

Mr. David Cornell, Board of Assessors stated that's correct.

Chairman Gatsas stated I want to make sure that is in there. You agree with that. If they don't get it within one year they are terminated.

Mr. Cornell stated right.

Chairman Gatsas stated so I guess we need to get a change or an amendment.

Mr. Cornell stated the overall goal here is just to if we have a highly qualified individual that has experience from a different state that at least they would meet the minimum qualifications to get through HR so it would become before the Aldermen so they would be at least a candidate for you to consider.

Chairman Gatsas asked how long does it take to get that certification? Can it be done within six months?

Mr. Cornell stated it would typically take a year to get all of the paperwork and the number of classes.

Alderman Lopez asked is a year sufficient? We have had one individual down there who was supposed to get certified and it has been almost two years.

Mr. Cornell stated I think the wording here would just include new people we would be bringing in to the position but a years time would allow any new people we bring in the ample time to get their certification.

Chairman Gatsas asked Jane, are you going to correct it so that it's going to read. It's not coming to the full Board until the next months meeting.

Ms. Gile stated I think I added some language for your consideration on my cover memo. If you want to consider it we could said failure to acquire New Hampshire Certification will result in termination.

Chairman Gatsas stated that is fine. Let's add that.

Alderman Shea moved to approve and amend with the temporary clause to state failure to acquire New Hampshire Certification will result in termination.  
Alderman Garrity duly seconded the motion. There being none opposed the motion carried.

Mr. Clark stated Alderman Gatsas has requested that I draft an ordinance requiring residency of department heads and city officers. It has been done and is being passed out. I would suggest that if the Board would recess to meet with legal counsel we could discuss it.

Alderman Garrity moved to recess to meet with legal counsel. Alderman Shea duly seconded the motion. There being none opposed the motion carried.

Chairman Gatsas called the meeting back to order. What is the pleasure of the Committee?

Alderman Garrity moved to send the ordinance draft to the City Clerks office to schedule a public hearing. Alderman Pinard seconded the motion. There being none opposed the motion carried.

There being no further business Alderman Shea moved to adjourn. Alderman Garrity duly seconded the motion. There being none opposed the motion carried.

A True Record. Attest.

Clerk of Committee