

COMMITTEE ON HUMAN RESOURCES/INSURANCE

February 2, 2010

5:45 PM

Chairman Shea called the meeting to order.

The Clerk called the roll.

Present: Aldermen Shea, Ludwig, Ouellette, Arnold, Craig

Messrs: R. Robidas, J. Gile, D. Mara, K. O'Maley

Chairman Shea addressed item 3 of the agenda:

3. Communication from Jane Gile, Human Resources Director, regarding the City's Drug and Alcohol Policy.

On motion of Alderman Arnold, duly seconded by Alderman Ludwig, it was voted to discuss this item.

Mr. Red Robidas, Security Manager, stated I believe you all have a copy of the policy. Rather than review the entire policy, I would just like to point out some of the areas. Most of the areas in the bold italics are language changes to bring uniformity to resemble what the Department of Transportation (DOT) is using under federal guidelines as well as other collective bargaining agreements. Most of those changes pertain to those, specifically if you look at the area that shows testing, reasonable suspicion, counseling and the effective date portion. The two areas where there would be some significant changes would be the areas that deal with the area program expenses. If you like I could review that for you and what the thought process was and the synopsis.

Chairman Shea stated just list the differences that you could note.

Mr. Robidas stated the program expenses are probably the biggest change within the policy. What used to happen, years ago if someone tested positive for drugs with the City of Manchester as an employee they would go to the substance abuse professional. The City used to front the money for them to go to the substance abuse professional. In other words, we used to pay the bill and we would get reimbursement from the employee. At the time when they came back to work,

they would sign an agreement with the City that so much could be deducted from their paycheck every week until they reimbursed the City the \$300. That became a violation of the labor laws to have an attachment to their paycheck so we were unable to continue down that road. We continued down the road of having them sign an agreement with the City to pay back the City. Over a period of time, some people paid and some people didn't. Some people left; some people stopped payments and it became very inconsistent and like anything else, fell by the wayside until no one was paying and we had no enforcement authority to actually get the money out of them any further. This would deal with the program expenses and would shift the burden only if someone were to test positive for being under the influence of drugs and/or alcohol in the work environment. The program expenses that we speak of are mandated by the substance abuse professional which has a cost of \$300 which we are absorbing. The substance abuse professional has the sole discretion under the federal regulations to determine what type of follow up tests and what type of follow up programs there will be. It gets quite expensive when we run through this because there is another option that is available once they have an initial positive test. We have the initial positive test and they can have what they call a split specimen, which is a cost to the City of \$150. Then they are required to go to the substance abuse professional. If the results stay the same, that is an additional \$300. The substance abuse professional can order up to an additional 15 tests per year for a period of five years. That is their discretion. Usually it is 15 and then scaled down as the years go along. Conceivably, when we have someone who tests positive it could be \$1,200 cost to the City for the first year alone for the employee, plus additional tests for the second and third years. We could conceivably spent \$2,000 to \$3,000 for follow up tests. Right now the City is bearing that cost entirely. There is no cost that is being absorbed by the employee. The reason for the change is fundamental. Why should the City be absorbing the cost for someone who has failed a drug and/or alcohol test? When we are talking about drugs we are talking about marijuana, cocaine, PCP, and amphetamines. Those are the things they are tested for. If they are under a doctor's prescription, they don't test positive. That is all taken care of through the process and it comes back to us as a negative. The only time they show a positive is if there is no medical explanation to explain why certain drugs are within their system. That final determination is made by the medical review officer.

Alderman Arnold stated I presume that there is a small margin of error for false positives.

Mr. Robidas stated actually, no. That is really a fallacy that has been diminished over the years because of the testing standards. The testing standards are so extreme now that they must be certified by the federal government and the labs are consistently tested on blind samples by the federal government. We are only allowed to utilize labs that have been certified by the federal government. Right

now, the particular laboratory that our vendor is using is Medtox, which is in Minnesota. If someone says they don't believe the results, the second split specimen is then sent to another certified lab for another independent test to confirm.

Alderman Arnold stated we probably wouldn't be in the position, assuming the Board enacts this policy change, where one test is done and an employee tests positive then they get saddled with the burden of paying these costs and it was a mistake.

Mr. Robidas stated that's correct. That is the split specimen process that takes place.

Alderman Ouellette asked were the bargaining units notified of this change?

Mr. Robidas replied the collective bargaining units? No. The reason the collective bargaining units were not is because we followed the federal guidelines, the Federal Department of Transportation guidelines, and they are silent about discipline, about who pays the cost beyond the point of a positive test. There are certain rules about things that must occur, but whether the person is disciplined or whether they continue to be employed or whether the cost is absorbed by the employer or employee, they are silent to that.

Alderman Ouellette asked so they don't know of these changes that are going to be taking place?

Mr. Robidas replied the only changes right now that would be reflected are in the collective bargaining agreement with the fire fighters and the fire supervisors. That is covered within their collective bargaining agreement and has been since 2003.

Alderman Ouellette stated even though most of them don't include it in their collective bargaining agreement, when a change like this happens for employees they don't....who would be the one who is delegating the responsibility of letting the employees know that these changes are coming? Would it be the department head?

Mr. Robidas replied we conduct regular trainings and if there are going to be changes, as there are periodically changes in laws, I send a letter to the department heads in advance advising them of the change. Again, the change presented a fundamental. Not only is it a cost saver to the City, but it is a fundamental. If someone has tested positive for illicit drugs and/or was under the influence of alcohol at their time of work, it has gone above and beyond. We understand that there is a question of the financing, but the way the policy reads, again because we

have had very little success in the past collecting even though they have signed an agreement, they would just pay for the service as they went for the service at that time.

Alderman Ouellette stated I'm going to support this because it is too bad that for a few people who didn't take the responsibility to pay up that this could be a major financial burden on an employee if they test positive. The bottom line is that we want to help these people become healthy and recover. That is what the City's willingness to front the money in the first place shows so these people wouldn't have to make a choice of getting help or getting into a financial hardship. Unfortunately, you get burned a couple of times and then you ruin it for everyone else. I appreciate your work on this, Red, and I'm going to support this. I think it is good that the City has such a policy. It is much more important for a person in these types of situations to find the help that they need and know that the City provides the resources for that and the programs for that, not with the cost, but there is an avenue out there for them to get help and be clean and lead productive lives. I appreciate it.

Alderman Craig stated I did notice one change. You are now recommending that all employees receive a drug test upon employment.

Mr. Robidas stated that was going to be my second point. That was the second substantial change and if it is okay with the Chairman I'll jump into that one. The second substantive change to the policy would be the pre-employment testing. Presently what happens is that many of our employees are governed by the Department of Transportation. As an example, we have Highway employees who are coming in as laborers, but they are required to take a Department of Transportation pre entrance exam. The reason for that is not because they are operating commercial vehicles, but during their probationary period, the Highway Department utilizes and trains them to be CDL operators so that they can be promoted and move on. Prior to being able to operate a commercial vehicle under the federal regulations, you are required to have the test. We do that already at the pre-employment level. On the City side, people who are not involved, the only people we were testing were Police and Fire personnel. This would expand the Police and Fire to all City employees at an entrance level. They would not continue with a random, but at the pre-employment level. Believe it or not, we have had folks who have failed on a regular basis at the pre-employment basis. We want to expand that to all pre-employment applicants. It would obviously be conditional as part of their job offer and it would be part of their employment physical.

Alderman Roy stated thank you for allowing me to speak. One point I wanted to make to Alderman Arnold because he asked about the false positives...in the past, you may have had that issue, but today, and Red you can correct me if I am wrong, but they use a gas chromatograph mass spectrometer and there is no fooling that machine. The reality is that if it tests positive in a less expensive test they run it through this machine. For an example, if you are running a gas sample through there and at 90 seconds every single time something comes up it is benzene. It is all working on the different boiling points of different substances. Everything has its own boiling point. When they say that this tested positive for some drug it is dead on. There is no way that it is an error, especially with the split specimen like Red said.

Mr. Robidas stated if I may follow up, there are also safeguards to that. If there was a positive test, the medical review officer, who is a certified physician and employed by the vendor, contacts the individual directly and asks them if there is a medical explanation why this particular drug was in their system. If they provide a medical explanation that is verified and if all the facts check out, all we receive is a negative result. If they cannot provide, when contacted by the medical review officer, the explanation why they had marijuana or cocaine in their system without any acceptable medical explanation they fail. Even then the employee is still offered the opportunity to have that split specimen test completed. Above and beyond that, that split specimen is then sent to a second certified lab to confirm the test results.

Alderman Arnold stated I appreciate that explanation, thank you.

Alderman Roy stated one other point that I wanted to make, and you can correct me if I'm wrong, but the only department that has this in their contract where the employee doesn't pay for the testing is the Fire Department because it has been negotiated. This new policy will not affect that because it is in the contract, correct?

Mr. Robidas replied that is in the contract and that was part of the fact finders report during contract negotiations in 2002, 2003. There is an indemnity fund that was established.

Alderman Roy stated the new language will preclude any other group from coming forward and negotiating with the City. Correct?

Mr. Robidas replied correct, but everything is always subject to negotiation. That is up to the City.

On motion of Alderman Ouellette, duly seconded by Alderman Arnold, it was voted to accept this item.

Chairman Shea addressed item 4 of the agenda:

4. Communication from Jane Gile, Human Resources Director, requesting on behalf of Police Chief David Mara, the establishment of a new class specification, Accreditation Manager, salary grade 16 and the Program Specialist be reclassified to reflect the change in title and salary grade.

On motion of Alderman Craig, duly seconded by Alderman Ludwig, it was voted to discuss this item.

Ms. Jane Gile, Human Resources Director, stated I'll just give a brief overview. The Chief of Police has requested this reclassification of a program specialist to accreditation manager. After an extensive review by the HR Department, including a desk audit, a review of all the information regarding the position, interviews with the Chief as well as the program specialist and the scoring of the position to make sure that the internal integrity of the City's pay scale is not jeopardized in any way, the recommendation is that the program specialist be reclassified to accreditation manager. On that basis, I'll refer it over to the Chief for questions from the Committee.

Alderman Craig asked is this change reflected in your budget for 2011?

Mr. David Mara, Police Chief, replied yes, it is. In a nutshell, we are an accredited agency and we have the accreditation manager who is supposed to make sure that we are following all of the policies and procedures and making all the necessary changes and being updated on those changes. Once every three years we go through an accreditation process. This is a full time job. The way it was before, we had one person doing that as well as being the program specialist doing crime analysis. We now have been approved for the crime analyst position which is also a full time job. That is why we made this switch and separated the two.

Alderman Craig asked does the program specialist position go away?

Mr. Mara replied the program specialist position is going to be replaced by the crime analyst. I see Jane shaking her head. What is going to happen is we got approved for the position of a crime analyst and the crime analyst will be the program specialist.

Ms. Gile stated what has happened is the program specialist has been reclassified because his duties are for an accreditation manager. His position was previously split between both responsibilities so the program specialist position is eliminated and it is reclassified to the accreditation manager.

Alderman Ludwig stated I'm sorry I couldn't talk to you before about this Chief. I hate to make something look more complicated than it is because this isn't a huge issue to me, but it is a huge issue if, the way I read this, the program specialist position is not being eliminated. It is being eliminated to move that position to the accreditation manager. My second question is if the department had an accreditation manager previously. Is that correct?

Mr. Mara replied typically what would happen was a sworn police officer supervisor would take over the accreditation manager's duties, but typically, right before our accreditation process would happen and we would get certified or recertified, then that person would do it. The program specialist was supposed to assist, but over the years the program specialist and the accreditation manager was a civilian and those two duties got merged.

Alderman Ludwig asked is the program specialist going to continue to be in the complement at the Police Department? I don't know if that is for you or the Human Resources Department.

Ms. Gile replied this particular program specialist has now been reclassified to accreditation manager. Whatever happens with the crime analyst is a different position with different duties and responsibilities.

Mr. Mara stated I think the way she explains is it the correct way. We are planning on, once we get the crime analyst position, having the crime analyst person take over the duties of the program specialist.

Alderman Ludwig stated I can follow that. I'm okay with all of this. If that is the way it needs to be, you can come out and say it, but I want to know if the program specialist becomes the accreditation manager would the crime analyst be a new position?

Ms. Gile replied we haven't received the request yet for the crime analyst position so what we need to do is get that job description and make sure that it complies with whether it is a program specialist position or whether it is a new position. We would have to do that analyst before recommending that that position be added to their complement.

Alderman Ludwig asked so the crime analyst can't become the program specialist yet because there is no crime analyst?

Ms. Gile replied well, that's true.

Alderman Ludwig stated if that is what has to happen down the road.

Ms. Gile stated we're not clear on the duties and responsibilities of that position. I know that at one point it was going to be defined somewhat by what was needed: grant funding, etcetera, so we don't have a job description. We don't know what the duties and responsibilities are. If it fits as a program support specialist that's great; if it doesn't and the duties and responsibilities are at a level higher than that, then we need to take that into consideration as well. There is no such crime analyst position currently.

Mr. Mara stated we are working with Human Resources on that. We are going over different job descriptions.

Alderman Ludwig stated at this point there is no crime analyst. It has been talked about. Is it a part of your 2011 budget, Chief?

Mr. Mara replied yes. We got approved by the previous Board of Mayor and Aldermen to have the crime analyst position. I was then contacted by someone in the state government who said that there might be some grant money. I didn't want to go ahead and submit a request with a job description until I could find out whether the grant money that was available with the restrictions would mesh with what we wanted to do. We have since found out that it is not going to happen. Now we are working on the job description and we're going to be working with Human Resources and submitting something to them to make sure that it fits.

Alderman Ludwig asked how important is it that this move forward tonight? If this were referred to the budget process are you okay with that?

Mr. Mara replied the person that we are talking about is already doing the accreditation. He is doing all of the duties of the accreditation manager under the new job description. We have accounted for him in our budget already.

Chairman Shea stated part of the problem that I have putting this in action now is the fact that in the past, as a member of the Human Resources Committee, when someone comes in at this stage, which is now February, for a reclassification, then we have other people to also come in. They use this situation as precedent. That is to say, well you did it at this stage so why can't we. I have no objection to filling the position, but as he indicated, why wouldn't we want to wait until the 2011 budget is set instead of putting something in now. It is not very much. It is \$1,500,

but that's not the point. The point is that I find that it is doing something that in the past I have found has led to other implications, which I'm not comfortable with. I would leave it to the members of the Committee to vote the way they feel, but the way I reason is that once we decide to reclassify this position in February then there will be other departments coming forth saying that they have a legitimate concern and they want to reclassify now, rather than waiting until the end of the year. That is my concern. It is based on the fact that in previous times, and I gave some examples, that department heads came in and asked for a reclassification and they used that as precedent when the Human Resource Department allowed that reclassification to take place. I have no objections to the reclassification, but it is the timing that I am a little concerned about.

Mr. Mara stated of course I respect your opinions and will go with whatever you say, but I would comment that this isn't something that we just started. We went through a long process of working with Human Resources where they did the desk audit. Christine Martinsen contacted a lot of different departments and came up with the duties and the salary so this was a long process and it just happens to be culminating now. I think if other people were to come before you, they would have to start that process now and have a desk audit with the rest of the proper procedures as we did. I would point out that the person who is doing this job, it is a full time job, is doing all these duties and that is why I think we should do it now. As I said before, we have accounted for it in our budget.

Chairman Shea asked when did the accreditation take place?

Mr. Mara replied the last one we had took place in 2008. We will be due in 2011.

Alderman Ouellette stated I respect your opinion and your experience on this Committee; however I look at it a little differently. I think that this Committee should take reclassification requests on a case by case basis. Whether or not we approve this tonight or not, if someone else wants to come forward if we approve this tonight to say that we did it for the Police Department so we should do it for another department, they are going to have to come up with a better rationale for me to make a decision. I think we should take these things on a case by case basis. I think the Chief has gone through the process as he said. I think he has a good rationale for what he is doing. The \$1,500 he will be able to absorb into his budget.

On motion of Alderman Ouellette, duly seconded by Alderman Ludwig, it was voted to accept this item. Chairman Shea registered his opposition to the motion.

Chairman Shea addressed item 5 of the agenda:

5. Summaries of outstanding arbitrations and grievances submitted by Jane Gile, Human Resources Director.

Ms. Gile stated I do have the month of January that is completed. I will submit that to the full Board as requested at the last Special BMA. I just have a question of whether or not this Committee will continue to receive these reports since it is my understanding that the whole Board wants to have a copy of everything.

Alderman Ludwig asked have you been asked to provide this monthly to the full Board?

Ms. Gile replied originally the request came to provide it to this Committee on a monthly basis, which we were doing. There has been a request by other members of the Board that they want to see the information as well.

Alderman Arnold asked doesn't the full Board receive the Committee agenda?

Chairman Shea replied yes.

On motion of Alderman Ouellette, duly seconded by Alderman Arnold, it was voted to accept this item.

Chairman Shea addressed item 6 of the agenda:

6. Communication from Jane Gile, Human Resources Director, submitting a list of all approved grant positions as requested by the Committee at the November 10, 2009 meeting.

Chairman Shea stated this is just for informational purposes. Jane, what action do you feel should be taken regarding this?

Ms. Gile replied it is purely informational. If there are questions about individual grants within departments, I can take those questions and request information from the respective departments, but I don't have all the information relative to all the grants that the departments have.

Alderman Craig stated there seem to be a number of positions that are ending this year in June. What are we doing with those positions? I know you don't have an answer now, but if you could look into it.

Ms. Gile replied definitely. Most of the grants do have a term date of June 30, 2010. I will get that information to you and report it back at the next meeting.

Alderman Ouellette asked do a lot of these grants happen on a year to year basis? Do they reapply every year for these grants?

Ms. Gile replied I would assume that some are on a year to year basis. Some might be three year grants.

Alderman Ouellette stated I'm looking more at the Health Department. They seem to have one year terms rather than a three year term.

Ms. Gile stated some of the money might be CIP money. I believe that some of them are coming from that source.

Alderman Ouellette stated yes, they are.

Chairman Shea stated Jane, do you feel that you should continue to put this on the agenda or do you feel that you should add any new grants that might be applicable?

Ms. Gile replied my recommendation would be that if there are any changes, you do have this as a baseline, so in the event that there are new grants that are awarded to a department, we would supply that to the Committee as they come in.

Alderman Ouellette moved to accept the report. The motion was duly seconded by Alderman Ludwig.

Alderman Ludwig asked Alderman Ouellette, this isn't something that you are saying that she has to continue to submit monthly?

Alderman Ouellette replied that is her recommendation, not to submit, but any changes or new positions would be submitted.

Chairman Shea called for a vote on the motion. There being none opposed, the motion carried.

NEW BUSINESS

City Clerk Matt Normand stated we have a letter from Jane Gile regarding a request for reclassification as well as to add a HVAC technician.

On motion of Alderman Ouellette, duly seconded by Alderman Ludwig, it was voted to discuss this item.

Mr. Kevin O'Maley, Facilities Director, stated last July we had a supervisor in the Facilities Division retire rather suddenly. When that happened, we took a look at the whole organization. In the maintenance division we had two supervisors. One was supervising two people and the other was supervising seven people. When we looked at that structure it seemed like someone could easily manage nine or ten people. I don't know how far that goes back, but over a period of time, the Facilities Division has invested in some technologies where we can manage the information and the work requests a lot better. It seemed like it made a lot of sense for us to present this reorganization. I think it is more efficient and gives us more hands on people to actually go out and complete the work that needs to be done in the maintenance division.

Alderman Craig asked is there a savings with this reclassification?

Mr. O'Maley replied it is approximately a little over \$20,000 in savings because we are eliminating one supervisor position and we're reclassifying as a HVAC technician.

Alderman Craig asked with the reclassification and adding a position there is a \$20,000 savings?

Mr. O'Maley replied approximately.

On motion of Alderman Ludwig, duly seconded by Alderman Arnold, it was voted to accept this item.

TABLED ITEM

7. Communication from Jane Gile, Human Resources Director, recommending the City enter into a fiduciary partnership program and advisory services agreement with Mesirow Financial Investment Management, Inc. This agreement will in effect provide the necessary indemnification required by Mesirow.
(Note: A representative from Hartford Life is requested to present the costs associated with the recommendation.)

On motion of Alderman Ouellette, duly seconded by Alderman Arnold, it was voted to remove this item from the table.

Ms. Gile stated we will be meeting with Hartford in a couple weeks. I believe that we have a meeting with them on the 18th. They will be prepared to come before the Committee at the next Committee meeting of this group, which is in March. It will be on the agenda for next month.

Alderman Ouellette stated the goal of this is to allow...this is about the retirement plan?

Ms. Gile replied yes. It is about the 457 Plan.

On motion of Alderman Ouellette, duly seconded by Alderman Arnold, it was voted to return this item to the table.

There being no further business, on motion of Alderman Craig, duly seconded by Alderman Ludwig, it was voted to adjourn.

A True Record. Attest.

Clerk of Committee