

DEPARTMENT OF CITY CLERK

CITY HALL

DECEMBER 27, 1983

The Committee on Finance meets this day at 3:30 o'clock P.M. in Committee Room "A", City Hall.

Present: Vice-Chairman Dillon, Councilman Easton and Councilwoman Fagnoli.

Also present are Finance Director Baron, City Solicitor Pisaturo, City Internal Auditor Woerner and Council President Paolino. (Rose M. Mendonca, Clerk).

PERSONNEL DIRECTOR MERLINO INVITED TO APPEAR RELATIVE TO: AN ORDINANCE IN AMENDMENT OF AND IN ADDITION TO ARTICLE III, SECTION 17-59 OF THE CODE OF ORDINANCES OF THE CITY OF PROVIDENCE BY ADDING SUB-SECTION (c) TO BE ENTITLED: "SUPERVISORY PERSONNEL, AS AMENDED."

The following communication is presented to the Members addressed to Personnel Director Merlino from Wiley Archer, Chief Engineer of the Water Supply Board, he being present at this time:

WATER SUPPLY BOARD



CITY OF PROVIDENCE

December 13, 1983

Mr. Frank Merlino
Personnel Director
City Hall
Providence, Rhode Island

Dear Mr. Merlino:

The recent ordinance prohibiting overtime payment to non-union supervisors creates significant problems in administering the activities of the Water Supply Board staff.

The first problem relates to the need for adequate and proper supervision during the isolation of and repair work to a major break in a water main. There have been three major breaks in the last three years, all of which had a significant impact upon the downtown Providence commercial district. The isolation work was generally completed within hours of the notification of a problem, however, the repair required around the clock work for at least a week in each case. In addition to repair work on the mains, normal operations in the remainder of the system must be continued. This work requirement places a severe load on the supervisory staff which cannot be adequately compensated for by use of compensatory time. Rescheduling of work shifts for the supervisors is utilized to the extent that sound judgement dictates the need for supervisory coverage of emergency and regular work. The flexibility of the director to assure continuity of operations is severely limited by the elimination of one important tool of compensation.

The emergency cases above are peculiar to the distribution system; however, it must also be considered that the treatment plant in Scituate is a 24-hour a day 365 days a year operation and emergencies at the plant affect the ability to supply water to half the population of the state including the entire city of Providence

A second problem relates to the off hour supervision of activities of the Water Supply Board. In the normal course of operations there are sixteen hours each day plus two twenty-four hour periods on weekends during which the water system is operating but the normal work week supervision is not physically present. During these periods of time a non-union supervisor on a rotating basis is available and is the Water Supply Board's management representative. This rotation has been filled by supervisors on an overtime basis. It is imperative to have a non-union supervisor on duty during these periods. The problems that occur during off hours, e.g., detection of leaks in services, mains and/or meters, collection of bills, and re-establishment of water service, assistance to the fire department, as well as a myriad of other items require the experience and judgement of supervisors as well

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Mr. Frank Merlino
Personnel Director

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as the immediate availability of a supervisor to assure that proper service is rendered.

A third problem relates to the requirement for on-site inspection of construction work in various parts of the system by outside contractors. The construction effort required to complete within contract deadlines often requires contractors to work outside the normal city working hours in addition to the work completed during normal city working hours. This requirement relates to developer awarded contracts to extend the distribution system as well as Water Supply Board awarded contracts for work on many areas of the system.

Personnel included in the various functions are generally first-line supervisory personnel who have the demonstrated knowledge and experience to exercise the judgement required to perform as the management representative for the off hours operational requirements. The occasional requirement for higher level supervisory personnel can generally be adequately handled barring extreme emergencies.

The manner in which this off-hours management effort is handled is considered to be cost effective. Hiring additional supervisory personnel is not less costly than paying overtime when fringe benefits are considered (analysis attached) and extensive use of compensatory time seriously affects the capability of supervisory coverage for normal operations.

The existing City compensation system provides little flexibility for a director in handling the day to day administration of operations. The Water Supply Board operations are continuous and the ability to develop cost-effective methods of administering the daily management effort on a 24-hour per day, 7 day per week basis necessitates a variety of compensation tools. Judicious use of overtime is a major tool in the management effort and the arbitrarily elimination of the ability to use overtime without providing other compensation flexibility places the director in a position of being unable to assure proper operations.

Very truly yours,

Wiley J. Archer, P.E.
Chief Engineer/General Manager

ms

cc: Mr. Richard A. Carroll
Chairman, WSB

Mr. Archer proceeds to explain his communication in detail and states when he took over his present position virtually all of the chiefs were union positions except four, they being the Chief Engineer, Administrative Assistant, Principal Engineer and Deputy.

He made organizational changes within the department and had a management structure.

He states his department works seven days a week, twenty-four hours a day. He has twenty to twenty-five supervisors. A group of first line supervisors work after 4:30 and Sundays and Holidays, they had done the job while they were Union representatives and they get paid overtime.

Due to the Ordinance passed prohibiting overtime, it presented problems.

The other condition has to do with emergencies, these are persons asked to be representatives during the off hours to make management decisions and to avoid liability problems.

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Councilman Easton questions as to the pay received by a first line supervisor and Mr. Archer responds \$8.85 per hour and they work eight hours a week overtime. There are seven shifts in a week.

Councilman Easton is of the opinion no one should work 48 hours a week and it is brought out it would cost more money to hire additional people with the fringe benefits.

He states supervisors are not supposed to be paid overtime and if he finds one person, non-union, getting paid overtime, he will charge everyone that approved that payment with malfeasance of violating a City Ordinance. The Ordinance states it as it is.

Mr. Archer is of the opinion it makes it extremely difficult for a department head to get the job done.

Councilman Easton refers to the past when Executive Orders were issued, Council Resolutions and orders barring overtime and states they were all ignored. The people who could not be trusted abused the privilege and that necessitated the Ordinance.

Council President Paolino states he submitted the Ordinance to the Council and the intent was aimed at salaried supervisors, non-union, ^{as} it has been abused. He refers to certain instances. If a person is paid by the hour and is non-union, he has mixed emotions. Two things can be done, the Compensation Ordinance can be amended to state salaried employees, or the people involved can be changed from hourly employees to salaried.

Councilman Easton is of the opinion it would be best to submit an Ordinance changing the various rates of pay from the current hourly rate to a yearly salary that compensates them at pay they should receive. He is not in favor of amending the overtime Ordinance. He also states everyone was of the opinion these men were earning \$18,000 a year and basically they were earning \$24,000 for overtime included every year.

Council President Paolino suggests \$20,000 annually as it will benefit their pension.

Discussion ensues relative to changing the shifts to cover the night hours.

Personnel Director Merlino joins the Committee at this time by request.

Councilman Easton questions him relative to the payroll of the Water Supply Board and Mr. Merlino responds the City of Providence ?

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Councilman Easton questions as to how the overtime has been approved, which is illegal according to the Ordinance and who approved it.

Mr. Baron responds he was not aware of illegal payments being made. When he receives the overtime, he does not check as to whether they are supervisors or not.

Questioned relative to laws regarding overtime, Mr. Pisaturo is of the opinion that when an employee is paid hourly, federal and state laws state they must be paid overtime.

Councilman Easton states it seems to him that if people are being paid overtime in a supervisory position they are going against a City Ordinance.

Mr. Archer states if they work overtime, eight hours a day, they are entitled to overtime.

Mr. Merlino states he has problems as he has people in categories where people are listed as salaried and being paid by the hour and some are listed both ways.

Council President Paolino reminds him that the Compensation Ordinance is what he should be going by.

Following a lengthy discussion, Mr. Archer is requested to submit the proper Ordinance to the City Council changing the pays for the hourly employees to salaried employees retroactive to the date the overtime ceases to be paid.

Mr. Archer and Mr. Merlino are excused at this time.

AN ORDINANCE IN AMENDMENT OF AND IN ADDITION TO ARTICLE II OF CHAPTER 15 OF THE CODE OF ORDINANCES OF THE CITY OF PROVIDENCE ENTITLED, "IMPOUNDMENT OF VEHICLES."

Paul J. Bogosian, attorney is present relative to the above.

He states he represents Desmond Auto Body who are in opposition to the Ordinance.

Councilman Easton was of the opinion compromises would be made and suggest it be Continued until the next meeting.

Councilwoman Fagnoli submits the following copy of a communication which was transmitted to her:

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Accounting Services

147 HILARY DRIVE, PROVIDENCE, R. I. 02908

ACCOUNTING AUDITING BOOKKEEPING TAX SERVICE

LICENSED PUBLIC ACCOUNTANTS

EDMUND E. KELLY
944-4187

BERNARD A. SCANLON
831-2526

November 29, 1983

Sanford H. Gorodetsky
Public Safety Commissioner
LaSalle Square
Providence, Rhode Island 02903

Dear Commissioner Gorpdetsky:

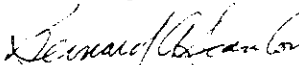
I read with interest the recent series of Journal-Bulletin articles on "Chasers" and can appreciate the problems they may cause. However, there is also a very serious problem with at least one of the towing companies on the police "Rotation Tow List" and a contract with the City of Providence.

The TRAVER CORPORATION d/b/a Traveler's Auto Body, has been held by the court "not responsible for bailee's property as they (Traveler's Auto Body) are located in a "High Crime Area." This decision, of course, puts the citizens of Providence and surrounding areas at a tremendous disadvantage when the Providence police use this company to tow stolen or disabled vehicles.

I have discussed this matter at length with Chief A.J. Mancuso's representative and he is in agreement that police report -83-1227- and photos substantiate negligence on the part of Traveler's Auto Body.

I am appealing to you and the Providence City Council, as a concerned citizen of Providence, to have Traveler's Auto Body removed from the authorized rotating list of towing companies until such time as they relocate out of the "High Crime Area" and can be held responsible for bailee's property as interpreted by the court. Your affirmative decision will do a great service to our community and protect its citizens from a company that is not sensitive to their needs.

Yours truly,



Handwritten signature of Bernard A. Scanlon in cursive ink.

Bernard A. Scanlon

BAS:as

cc: •Nicholas W. Easton, 219 Lenox Avenue, Prov. RI 02907
Evelyn V. Fagnoli, 24 Leslie Drive, Prov. RI 02908

Councilman Easton is of the opinion the problem was that going to a free enterprise system to a new closed system is that the City becomes more liable for the results of a system.

City Solicitor Pisaturo states the possessor is responsible unless the person signs an agreement in advance.

He reads the requirement of the towing list which is Sec. 15-23 of the Code of Ordinances.

Council President Paolino states he had requested the Ordinance be redrafted and Lt. Devine will be bringing it down, which subsequently, he does just prior to adjournment.

City Solicitor Pisaturo is of the opinion there are certain questions as to the constitutionality of the Ordinance. He reads certain sections which are ambiguous.

The matter is Continued and the Clerk is requested to transmit copies of the amended Ordinance as submitted by Lt. Devine to the Members.

AN ORDINANCE AMENDING THE APPROPRIATION ORDINANCE CHAPTER 1983-30 APPROVED JULY 10, 1983, BY TRANSFERRING THE SUM OF TEN THOUSAND DOLLARS (\$10,000.00) FROM WORKERS COMPENSATION (1-013-17-3-92) TO LAW DEPARTMENT CLAIMS ACCOUNT (1-01-05-331)

City Solicitor Pisaturo submits to the Members an explanation as to the reason the money was paid from the Claims Account as written by Paul T. Jones, Jr., Special Counsel who has consulted with Gerald Norigian, the City Attorney for Worker's Compensation.

Richard A. Campagnone, a city employee has suffered injuries at the Sewage Treatment Plant while employed there, on numerous dates, dating back to 1967, the last incident being April 23, 1982.

He filed a worker's compensation claim against the City which was dismissed after a negotiated settlement worked out with the City and a complete release. The settlement was for \$10,000, authorized by the Claims Committee.

It was the understanding that the \$10,000 which was taken from the Claims Account would be transferred from the Worker's Compensation account.

Mr. Norigian was of the opinion that the exposure to the City was much greater in terms of Workers Compensation since, should Mr. Campagnone successfully prosecute his compensation claim, he might have collected indefinitely.

With respect to the Narragansett Bay Water Quality Management District Commission, Mr. Campagnone's last incident occurred April 23, 1982 and the transfer of ownership occurred May 2, 1982.

On motion of Councilman Easton, seconded by Councilwoman Fargnoli, it is voted to approve the foregoing Ordinance and transmit same to the City Council with recommendation of Adoption.

AN ORDINANCE SPECIFYING PROHIBITED PERSONNEL PRACTICES.

City Solicitor Pisaturo submits an opinion dated December 27, 1983 in writing, to the Members, which states in part:

only items which may be found objectionable are: , The

(1) Section 1(b)(2)(B)(7) which prohibits appointment employment, promotion, advancement of any employee within a department who has a relative who is a department director or assistant. I do not believe that this section is properly drafted. It appears manifestly unfair, in essence, to discriminate against an employee because that individual has a "relative" in a supervisory position within the same department. While the proposal seeks to curtail nepotism, it goes beyond that and effectively discriminates against an employee when he or she is considered for employment or promotion within a department simply because of a "relative's" status.

The better view is to utilize language in the proposed ordinance which would prohibit the status of an individual as a "relative" of a department director or assistant to be given favorable and/or unfavorable weight, that is no weight at all. Another problem within this section is that the word "relative" is undefined and hence, subject to arbitrary application.

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(2) Section 1(b)(2)(B)(8), if enacted, would empower any employee of the municipality (a) to determine that a violation of law, rule or regulation or mismanagement, gross waste of funds, abuse of authority, or substantial and specific danger to public health or safety has occurred, and (b) to broadcast or disseminate that determination to any person or persons.

It is clear that conclusions of this type are extremely difficult to make and should be done cautiously. However, under the proposal, each employee is deemed an arbiter of what constitutes violation of law, rule or regulation, mismanagement, gross waste of funds, abuse of authority, or substantial and specific danger to public health or safety, regardless of that employee's lack of information, or personal prejudices. Essentially, the proposal vests in each employee the right to review public policy and, in fact, usurps the executive action of the mayor and the investigatory functions of that office and the City Council, as well as creates a potential for undermining the establishment of personal confidences which are often necessary to make government function and are protected by law.

Should an employee reveal information, it appeals to common sense that the employee's action and the rationale for it must be subject to review by his or her superiors. Should an employee then be sanctioned as a result of this review, there is case law, statutory law, an employment contract, and statewide employment practices to protect him or her from simple retaliation if his actions were appropriate.

The section, as drafted, is ill advised.

On motion of Councilman Easton, seconded by Councilwoman Fagnoli, the Ordinance is Continued.

AN ORDINANCE IN AMENDMENT OF AND IN ADDITION TO CHAPTER 15 SECTIONS 2-8 OF THE CODE OF ORDINANCES ENTITLED "MOTOR VEHICLES AND TRAFFIC".

The foregoing Ordinance had been referred to the City Solicitor and he submits copies of the explanation from the Providence Journal, today's edition.

City Solicitor Pisaturo states it adds in Sec. 15-3, "or operation of vehicles" may appear in court or one duly authorized by him to pay the designated fine.

It also provides payment by mail except where there are repeated violations. It obviates the need for those who are issued citations for appearing in Municipal Court for the first two offenses.

Discussion ensues relative to speeding violations which are handled by the State and the City Solicitor is requested to review controls of the fines and to prepare a redraft.

On motion of Councilman Easton, seconded by Councilwoman Fagnoli, it is voted to Continue the Ordinance.

AN ORDINANCE IN AMENDMENT OF SEC. 17-22 OF THE CODE OF ORDINANCES OF THE CITY OF PROVIDENCE BY ADDING SUB-SECTION "(a) IT SHALL HENCEFORTH BE UNLAWFUL TO HIRE ANY TEMPORARY, PART-TIME OR PERMANENT EMPLOYEES WITHOUT PRIOR APPROVAL OF THE CITY COUNCIL BY RESOLUTION."

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The report submitted to the Members by the Clerk from the City Solicitor has not be reviewed by all.

On motion of Councilman Easton, seconded by Councilwoman Fagnoli, the Ordinance is Continued.

RESOLUTION REQUESTING THE DIRECTOR OF THE DEPARTMENT OF INSPECTION AND STANDARDS TO RELEASE THE DEMOLITION LIEN IN THE AMOUNT OF THREE THOUSAND, SEVEN HUNDRED DOLLARS (\$3,700.00) AGAINST THE PROPERTY LOCATED ALONG 125 TELL STREET.

On motion of Councilman Easton, seconded by Councilwoman Fagnoli, it is voted to continue the above Resolution as a report has not been received by the Director of Inspection and Standards.

RESOLUTION REQUESTING THE DIRECTOR OF THE DEPARTMENT OF INSPECTION AND STANDARDS TO CAUSE THE LIEN TO BE REMOVED ON THAT PROPERTY LOCATED 113-115 COLFAX STREET.

The members review the report from Stephen J. O'Rourke, Deputy Director of Mayor's Office of Community Development which explains, in detail, the lien on the property and that it will expire on December 1, 1984.

On motion of Councilman Easton, seconded by Councilwoman Fagnoli, the Resolution is Continued and the Clerk is requested to invite Barbara Krank, Chief of Code Enforcement to the next meeting.

AN ORDINANCE IN AMENDMENT OF SECTION 3 OF CHAPTER 1983-53, APPROVED NOVEMBER 10, 1983, ENTITLED: "AN ORDINANCE ESTABLISHING THE CLASSES OF POSITIONS, THE MAXIMUM NUMBER OF EMPLOYEES AND THE NUMBER OF EMPLOYEES IN CERTAIN CLASSES IN THE CITY DEPARTMENTS AND REPEALING ORDINANCE CHAPTER 1982-44, APPROVED JULY 7, 1982, AS AMENDED, RELATIVE TO DEPARTMENT OF LAW."

AN ORDINANCE IN AMENDMENT OF CHAPTER 1983-52 APPROVED JULY 10, 1983, ENTITLED: "AN ORDINANCE ESTABLISHING A COMPENSATION PLAN FOR THE CITY OF PROVIDENCE AND REPEALING CHAPTER 1982-60, APPROVED DECEMBER 10, 1982, AS AMENDED", RELATIVE TO DEPARTMENT OF LAW.

City Solicitor Pisaturo explains the above Ordinances to the Members.

It is providing an increase in pay grades from 11 to 14 for John D'Amico, retroactive to October 1, 1983.

On motion of Councilman Easton, seconded by Councilwoman Fagnoli, it is voted to approve the Ordinances and transmit same to the City Council with recommendation of Adoption.

MEMORANDUM TRANSMITTED TO CHAIRMAN OF PORT COMMISSION RELATIVE TO OVERTIME AT PORT OF PROVIDENCE.

The Clerk is requested by Councilman Easton to inform Chairman

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Goddard of the Port Commission to respond to the memorandum transmitted, reminding him the Committee has subpoena powers and the matter is Continued.

ADJOURNMENT: On motion of Councilman Easton, seconded by Councilwoman Fagnoli, the Committee adjourns at 5:30 o'clock P.M.

Rose M. Mendonca
Clerk

Copied J.M.A.

Compared J.L.D.