

Personnel Committee Minutes

Honorable Council
City of Newark, Ohio
May 14, 2014

There was a meeting of the Personnel Committee met in Council Chambers on Monday May 12, 2014 following the Capital Improvements Committee with these members in attendance:

Carol Floyd, Chair	Marc Guthrie
Ryan Bubb	Alex Rolletta
Doug Marmie	

1. **Ordinance No. 14-11** amending the position authorization tables of the City of Newark Division of Fire by creating three (3) new Lieutenant positions within the Department of Public Safety, Division of fire resulting in a strength authorization of nine (9) and reducing the position of Captain by three (3) through attrition resulting in a strength authorization of five (5) was considered.

Director Buskirk- we are asking you to pass this Ordinance 14-11. Talking with the Chief and the Director we feel that this will enhance our operational efficiency and improve our command structure. Basically what we are asking Council is to increase the number of Lieutenants from 6 to 9. The part with the Captains will be as they are leaving. Money won't be effected right away it is not like we are demoting anyone.

Mrs. Floyd- how many Captains are there now?

Director Buskirk- 7 one has retired.

Mr. Guthrie- Mike was this in any way a subject of the negotiations this whole issue of making this change or how it might relate to the promotional provision that is in the contract?

Director Buskirk- no sir

Dave McElfresh- I would like to briefly speak about Ordinance 14-11. I would advise Council on behalf of Local 109 to oppose this ordinance in its' current form and under these current circumstances. Though there are many issues surrounding this ordinance including philosophically, operational and safety issues I don't believe that we are at a point to even discuss them at this time. This issue was never brought up in the months of negotiations between the City of Newark and IAFF Local 109. Other than a brief discussion with the Chief after filing a grievance on this issue there has been no discussion recently on this issue. It should have been negotiated in good faith with the Union and not the way it is currently being handled. Because this is the subject of at least three grievances by our Local 109 members at this time I prefer not to speak on the details of this other than to say that it is a subject of a grievance. Because we believe that what the administration is trying to do is a clear violation of our collective bargaining agreement. I am aware that the Advocate has made public record requests of

the grievances so it is public record that our grievance pertains to a vacancy occurred in the promoted rank of Captain and per our contract the collective bargaining agreement the vacancy shall be filled in 10 days. Because this did not happen the corresponding vacancy for Lieutenant did not occur, leading to a grievance regarding Lieutenant vacancy that has not also been filled. Not only do we believe that it is a clear violation of the collective bargaining agreement it is also certainly a disservice to the members who have trained, studied and worked to be on the list to be promoted that have now without notice been denied that opportunity. Because Local 109 believes that there is a clear violation of our contract we have filed to proceed to arbitration on the first of the three grievances that we have received back. It would seem prudent and appropriate that Council not move forward on this ordinance pending the outcome of the grievance arbitration decision or the promotion to fill the current vacancies per the contract or any other possible resolution to this pending grievance.

Mr. Guthrie- I have a couple of questions regarding structure and I don't know whether Mr. Spurgeon you want to answer them or Chief Stickradt.

Director Spurgeon- I believe that Chief Stickradt would be the best to discuss our command structure.

Mr. Guthrie- Chief can you take a minute and tell us what the current Captains do. There are 7 and 1 vacancy is that right?

Chief Stickradt-yes, our current structure is 1 Chief, 4 Assistant Chiefs, 8 Captains and 6 Lieutenants. The 8 Captains responsibilities are very similar to that of a Lieutenant. How we came to have an excess of Captains is probably 20-25 years old and at the time there was a belief that by creating these additional Captains positions that would then offset some overtime costs. It was probably temporarily cost effective but over that 20-25 year period you have been paying people at a higher pay rate than what was necessary to fulfill that function. Now the function of the Captain is a field level Officer, they are in charge of a Company and a Company is comprised of 3 or more individual firefighters. They initially at the scene of fire emergencies initiate our incident command system. They basically oversee all operations of whatever unit they are on. Three of these Captains are assigned to shifts and they are in the stations, these are the ones that we are talking about eliminating. What happens there is that 2 out of the 3 days a Lieutenant is in that station basically doing the same functions as a Captain. So we believe that by trimming down the number of Captains you won't have 6 Lieutenants competing for 8 positions as Captain. You would have a more clear structure of 4 Assistant Chiefs, 5 Captains and 9 Lieutenants. I believe this will make it a little more competitive of a process for Lieutenants that want to become Captains. When you have 6 Lieutenants and 8 Captains it is almost a, if you took the exam and you score high enough then it is basically a matter of attrition whether or not you achieve that Captains level. I think that we have already promoted 2 Captains off of the current eligibility list so the top two scores were promoted. It's not like these people just took the test and we are cutting off their legs. This is something that I have suggested to at least the last two administrations as a way to reorganize our rank structure in which you would become a little more efficient, a little more effective and of course in these days a little more cost effective. Did I answer your question?

Mr. Guthrie- yes I just want to make sure that I understand. The three Captains that through attrition you are in essence saying that you want to eliminate are the 3 that are in the stations. In order to do that, are you saying that the Lieutenants have the exact same responsibilities as those Captains? If you do that is there no change that would have to be made to the Lieutenants job description?

Chief Stickrad- on 2 out of 3 days you have Lieutenants in those stations performing at the same level as those Captains. We would retain the 3 Captains that are downtown at Fire Station #1 who kind of back up and fill in for the Assistant Chiefs. We have 2 other Captains positions. One oversees training for the entire division and the other Captain oversees EMS. I know that we are the Newark Fire Department but 90 some % of our work is related to emergency squad work. So it is very important that we retain the EMS position and certainly I can't under value the importance of having someone in charge of our training programs to make sure that our certification levels are kept up to the appropriate levels.

Mr. Guthrie- the concept coincided with my philosophy that if you are top heavy at the top maybe you need to push down some. I have two sort of immediate concerns. One of them has to do with the timing. This is coming to Council at a time that there is a grievance and arbitration and it seems like that it couldn't be too big of a surprise to folks that this retirement was coming down the pike that maybe this is a little bit where it should have been as far as the process

Chief Stickrad- I would have to go back but Captain White didn't give us any more warning than probably a week to 10 days; it did come out of the blue. So again this is one of those issues that I have talked about with this administration and the previous. I can't really speak as to why it is coming forward at this particular time because again I was asked back in 2012, what are some optional organizational changes that we can make to the current form. This was one of the ones I suggested and I probably made 7 or 8 suggestions.

Mr. Guthrie- I am right assuming that for instance if a Lieutenant has to fill in for a Captain they are paid at a Captains' wages for that period of time, is that correct?

Chief Stickrad- they are

Mr. Guthrie- does that happen very often

Chief- I am not sure on the frequency of that. It does happen

Mr. Guthrie- can you give me a ...

Chief- no I cannot

Director Spurgeon- Chief Stickrad, my question is, this is your plan correct, to enhance your operations?

Chief- yes, again this was asked of me to submit some potential changes of the existing organization early on when the Hall administration came into office.

Director Spurgeon- and you think that it will enhance the public safety by improving your command structure.

Chief- absolutely I believe it will. It will make it more competitive, I think that it will make it more efficient. Right now I think that we are very top heavy. The Captain position is almost like a landing zone and we don't see them move up. Not everybody is going to be an officer but the cream does rise to the top. We use a very comprehensive

process, a combination of actual written test and also doing several assessment type scenarios through the Ohio Fire Chiefs. It is generally very competitive. But we are not seeing some of that competitiveness between the jump from Lieutenant to Captain, I think that it is kind of being deluded just by numbers.

Director Spurgeon- your proposal also gives three firefighters the opportunity to become officers that normally would not have had the opportunity does it not?

Chief- absolutely, under ICS you have to have somebody in charge, an officer in charge of a Fire Company and that can either be a Lieutenant or a Captain. This will open up to our firefighters more positions, 3 more positions at the lowest level of line officer for them to be promoted.

Director Spurgeon- I know the legislation said that you want to do this by attrition. It might help the Committee, why is that?

Chief- through attrition nobody is going to be harmed. When somebody leaves, retires these positions will just go away. We then create the extra Lieutenant. There won't be somebody getting demoted. I agree you work hard and you become promoted and you are good at work. I think that there is something to be said for not demoting somebody which is an option to go back and reform our division. Through attrition is a much softer approach than demoting people. I think that it would be a more friendly approach to doing it. Statutorily the City could demote people and do this in that manner but in the form that it is being presented it is a better match for the department and for the City.

Director Spurgeon- I did hear you say that it does happen to save some money so there is no increased costs to this proposal?

Chief- I believe it will although this was not developed so much as for a cost savings alternative but I believe that it will. I know the initial rough numbers that we ran back in 2012 it did, probably under \$10,000.00.

Director Spurgeon- total proposal or when it is fully implemented with all three?

Chief- the numbers that we ran back then were based on demotions and so forth so it will take longer.

Director Spurgeon- that is fine. Chief can you maybe just help the Committee. Chief how long have you served the Division of Fire? How long have you been leading our Division of Fire?

Chief- 35 years, 16 years

Mrs. Floyd- asked the Chief, a Lieutenant position would not be created until there was a vacancy in the Captain position is that correct?

Chief- I will give you the example that we have right now. Captain White retired and what we would do is, his position would be eliminated and we would promote somebody to Lieutenant.

Mr. Guthrie- Mr. Spurgeon, based on the Chiefs statements that he brought this to the administration early on, whose decision was it not to bring this to this Council before we have a grievance and arbitration in front of us? To me if the plan is to do it through attrition which makes sense why wouldn't it happen before this?

Director Spurgeon- because I met with the Chairperson of this committee and I asked as soon as we were aware of a vacancy in the Division of Fire to have a committee and she

was uncomfortable with that and she said we could do it on the 12th of May so here we are.

Mr. Guthrie- my point is that a long time has transpired since the Chief brought this to your attention. Correct? Did you not just ask the Chief a question about when he brought this and it was the beginning of the administration 2 years and 4 months ago, 5 months ago? What would be the reason why we would wait until we have a grievance an arbitration and a retirement before bringing legislation which made sense because you were simply proposing to do it through attrition?

Director Spurgeon- answered absolutely to Mr. Guthrie's first question. The grievance has nothing to do with the timing of it. The grievance was filed after I asked for it to come to committee. Why are we doing it now? Because we continually evaluate our safety services and we have to time things, we have to do things strategically and this was the time to do this.

Mr. Guthrie- I guess that is a matter of opinion.

Director Spurgeon- so it is, your welcome sir.

David Greene- 1791 Olympic Ct, I have a lot of respect for the process where workers get to bargain collectively for a better condition of life and for rules that fit the whole process of working wherever they are. I am concerned with some of the comments. I think many comments were good but concerned that this was not done and is not being done through the collective bargaining process. If an agreement is reached than it should be upheld by both sides of the agreement then when that is dissatisfying a grievance can be filed and there is a process. I am concerned that we don't undermine the process of collective bargaining.

Nancy Welu- 7441 Stewart Rd, as I listen to Chief Stickrad, being somebody who is prior military I understand a little bit about rank structure but I just wanted to clarify something. I thought I heard Chief Stickrad say that a Captain fills in for an Assistant Chief when there isn't an Assistant Chief available. Is that correct? So can a Lieutenant fill in for an Assistant Chief when a Captain isn't available?

Someone answered yes to her first question and Mrs. Floyd answered no to her second.

Nancy Welu- so I guess my next question would be how often do Captains fill in for Assistant Chiefs and would that be problematic with this plan? I don't know I am just asking that question.

Chief- I apologize I don't have the exact number. It depends on how often our Assistant Chiefs takes off. I don't believe eliminating these three station Captains are going to have a large effect on those costs. That was kind of why they were created in the first place. The problem then becomes what is the difference between a Lieutenant and a Captain in those stations. It has currently morphed into that 8 Captains and 6 Lieutenants and it just doesn't make sense. That has been something during my 16 years as Chief I have had to struggle with because I think the Captain rank is an important rank within our structure but it has not been delineated sufficiently to say they do this much more than a Lieutenant. They are that in between rank. You are getting off the first management line and on to the second line and they do have the ability to fill in for the Assistant Chiefs.

Rhonda Loomis- 870 W Church St, I was taking notes and listening to all of the questions and I am going to direct this to the chair but it is for Mr. Guthrie. You are asking why now and February 10th of this year after the majority on Council passed the pay raise I copied and pasted your quote to the employees and the administration you say "I fear that people are being led to believe here we have no options. If we approve this fact finders report but to lay off employees and that is why I am talking about every alternative and asking employees to come up with ideas to help us save dollars to help us save jobs. To your point about why now, I would also like to put that back to you as to station #1 that you voted against and were quoted in the paper saying no bricks and mortar over people. You actually touted station 1 and said that it was deplorable that employees were working in such an environment. I can't understand why you are asking the administration how or why now when that I exactly what you asked them to do February 10th when you passed the could be million dollar pay raises to the City of Newark in 2015.

Mr. Guthrie- to start with I don't think that we are here to debate the fire station, anybody who wants to talk to me about why I voted the way I did on the fire station I would be glad to do that after this meeting. As far as thinking outside of the box I have a number of recommendations and I am not going to get into them in a public meeting because I have made them privately to the administration. Ways that we could have cost savings in the City. My issue here boils simply down to, I am open to this proposal I have made that clear, I am open to this proposal, my issue is the timing of this proposal, coming to us at a time when we have grievances and arbitration when the Chief made a recommendation on this at the time the new administration came in. Here we are dealing with it at this very, very bad time in a bargaining process. I was one of the co-sponsors of Ohio's collective bargaining law so it is dear to my heart and I believe in the bargaining process. I believe that this arbitration has to be resolved and quite frankly I wouldn't vote in the affirmative on this until it is resolved. That is where I am coming from, it has nothing to do with the idea that I in same way don't believe that we need to save money. I have made suggestions on the past and I will continue to make suggestions and again I will be glad to talk to anyone who wants to know why I took the position I did on fire station number 1.

Steven Smith- 314 N 10th St, as a citizen just listening to the comments my concern would be the efficiency over safety. As the gentleman stated the two positions perform pretty much the same duties. I would like to know a little more about that and be careful if we don't sacrifice safety to save money. My question would be what are some of the safety duties of the Captain that can be performed or are performed that a Lieutenant cannot perform and are we giving up some of that just to move forward to save some money?

Chief- thank you Mr. Smith for presenting that question. Safety is our number 1 concern, your safety and the safety of our people. Our people go out there and work hard every day. I am very honored to be Chief of this department and happy to have served the citizens of Newark for 35 years. I know it seems illogical but these two positions are performing almost the exact same role. Two days you have a Lieutenant filling that role and on the third day you have a Captain. Essentially it is the same job. I

don't believe that there is anything detrimental as far as safety and performance wise in our operations that this would effect. It was created in an attempt to be a cost reducing proposal and I think that it was a little short sided when it was brought forth probably about 25 years and we are just trying to undo this.

Mr. Guthrie- it seemed in the comments that you stated the testing for a Captain is pretty high standards, is that correct?

Chief- all the promoted ranks are very comprehensive

Mr. Guthrie- is the Captain testing more extensive, deeper, than the Lieutenant testing?

Chief- it is very similar at all three ranks by the collective bargaining agreement but it is not identical. At each level we do try to create more challenge in the process, so yes.

Theresa Mitchell- 252 W Main St, asked Chief if her treatment on the bike path with her accident would have been any different if a Captain hadn't been there?

Chief- Ms. Mitchell I am glad to see that you are doing better and I am glad we were able to help you. I can attest to you there would not have been any difference in your care that day.

Mr. Bubb- I would just like to thank everybody for their comments, thanks Chief for coming in this evening. I would encourage this committee to look at the Chief's 35 years of experience and his comment that this will enhance his department with that I will make a motion to forward this ordinance on to full Council.

Motion by Mr. Bubb, second by Mr. Marmie

Mr. Marmie- in looking at the different entities within the City it is the administrations responsibility to make decisions as far as hiring, decisions as far as some of the different manners in which they have operating procedures. The collective bargaining agreement, that definitely comes into play. It creates as Mr. Greene indicated ways in which to protect the employees and that is in place. The grievance process is something that is an administrative duty and the strength authorization tables and creating a position and eliminating a position is a legislative requirement therefore those two entities are separate and are being handled by separate entities. If it is something that makes sense whether it is done with something that is going on outside of our legislative boundaries which the grievance process is then we should make decisions based on what is within our authority. As Mr. Guthrie indicated this does make sense and is something that possibly should have been done earlier. It wasn't and we do that in our government all the time we are very slow to react to things. I know there are other ideas; probably the other 7 and I hope that they come forward. Again a little bit at a time is usually what happens and usually it is to protect the employees. Just like in this situation the original would have been almost what you want to call cut the legs out from underneath employees and demote them. That is very tough even for this legislative body and if it makes sense to do that it individuals. In this situation they now have come up with a manner in order that it doesn't occur. If it makes sense and it should have been done months ago or even a year ago then it should make sense to do it now. I would encourage everybody to support it.

Mrs. Floyd- I basically support the idea of this legislation. I think that it is something that sets forth a sensible structure. I am concerned about the timing. The fact that there is a grievance filed and I am concerned about Mr. Spurgeon being asked about the timing of

this and it was said that I wasn't comfortable with having it earlier. The earliest it would have been would have been the committees last time and that was in large because Mr. McElfresh who represents the Union was out of town at that time and I felt that he should be here to speak to an issue of this magnitude. It's not something that has been on the table for months and months just so you are aware of that.

Mr. Guthrie made a motion to table Ordinance 14-11, second by Mr. Rolletta

Mrs. Floyd- would you like to explain why?

Mr. Guthrie- I would be glad to, it goes back to my point. I think that the concept has merit but I think the timing of us acting on this while the collective bargaining process is acting out as it should is in my opinion inappropriate and for that reason I have made the motion to lay this matter on the table.

Mrs. Floyd- there is no discussion on the motion to table. A vote was taken.

Motion to table Ordinance 14-11 passed by a 3 (Mr. Guthrie, Mr. Rolletta, Mrs. Floyd) to 2 (Mr. Marmie, Mr. Bubb) vote.

Mrs. Floyd- the ordinance has been tabled and I am assuming until no specific date. Are we talking in terms of until the grievance is settled?

Mr. Guthrie- that would be my interest

Mr. Marmie- may I ask what the result either in one direction or the other as far as the grievance, how will that weigh into this legislation or can it?

Mrs. Floyd- I guess my concern is that the legislation specifically talks about that position. We didn't get into that but it does specifically say in Section 2, the reduction in the strength authorization for the position of Captain within the Division of Fire will be accomplished by attrition and phased in with the future retirement of existing personnel now occupying the position of Captain it being acknowledged that there now exists one vacancy in the position of Captain within the Division that will not be filled by the decision of the administrative decision of the City leaving only two remaining positions to be eliminated when vacant.

Mr. Marmie- so could we have not just eliminated that language? I guess what I am wanting to know is if the grievance comes back that we have to do something the administration will be forced to act upon it anyway. If they don't then they don't. The arbitrator or whoever will make that determination and this legislation has no impact on that what so ever.

Mr. Guthrie- the decision has been made.

Mrs. Floyd- yes I think that we have made that decision

Mr. Marmie- I know I am just asking for discussion purposes. If we can't discuss it in committee when can we discuss?

Mrs. Floyd- I understand. It seems to me that the amendment could have been made earlier before we got to the situation where it was tabled.

Mr. Marmie- can I make a motion to bring it off the table to add the amendment.

Mr. Bubb- I will second the motion

Mrs. Floyd- we can do that can't we Mr. Law Director?

Law Director- sure can

Motion to bring Ordinance 14-11 off the table failed by a 2 (Mr. Marmie, Mr. Bubb) to 3 (Mr. Guthrie, Mr. Rolletta and Mrs. Floyd) vote.

Mr. Marmie- I guess what I am trying to find out is what is it going to take as far as if there is a decision either way in the arbitration what is going happen?

Mrs. Floyd- it would seem to me and I am not a lawyer, that the decision of the arbitrator is that the Captains position is filled then we will be basically back to the number of Captains that we have and if we pass this then as the attrition occurs we would lose one Captain at a time and add a Lieutenant.

Mr. Marmie- so we couldn't have done that now and just not filled the position.

Mrs. Floyd- it seems to me that we are messing with a position that is very difficult to understand. It is going to go to arbitration and I know people can't talk about things as they go to arbitration but it seems to me that we maybe could have amended it but we have already made that decision at this point. So we will see where things go and my guess would be that we see this back here at a later time.

Mrs. Floyd, Chair