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July 8, 2008

REPORT OF THE COMMITTEE
ON LEGISLATIVE MATTERS

The Committee on Legislative Matters convened on July 8, 2008 with Chairman Thomas Taylor presiding and Committee Members Aldermen Walter Pero, Rebekah Gewirtz, Robert Trane and Dennis Sullivan also present and voting. Also present were Mayor Joseph Curtatone, Chief of Staff Michael Lambert, Administrative Assistants Jessie Baker and Michael Buckley, Personnel Director Richard Tranfaglia, Solicitor John Gannon, Assistant Solicitors David Shapiro and Robert Collins, Police Chief Anthony Holloway, DPW Commissioner Stan Koty and Highway Superintendent Steve McEachern.

**184060 - Creating two Deputy Chief Positions in the Police Department and
184061 - HR Petition to exempt Deputy Police Chiefs from Civil Service:**

Mayor Curtatone spoke about the results of the Harshbarger committee and told the members that these positions were needed to meet the goals of the advisory committee and that the positions should be removed from civil service, since civil service is inefficient and does not work and is not based on merit.

Alderman Gewirtz stated her opposition to removing the positions from civil service saying that she is wary of the positions being secured by political appointments and also expressed her belief that the mayor should not be involved in the appointment process. As for the claims of accountability, Alderman Gewirtz asked for examples of civil servants who are not held accountable. Alderman Sullivan disagreed with the Mayor and said that he believes that the civil service process works.

Mr. Collins compared the current and proposed command structures and explained how the proposed salary was calculated. He also pointed out that the deputy chiefs would be able to return to civil service and to the union if they leave the position.

Chief Holloway said that there is a conflict between loyalty to the police chief and loyalty to the union and by making the deputy chief position non-union, the city would be better served. Mayor Curtatone stated that he would not implement the deputy chief positions if they are in civil service. Alderman Pero agreed that there is a loyalty conflict and said that he would like to be able to fill the positions from outside the department and Mr. Collins informed the members that the positions would be filled from within the

department. Alderman Gewirtz agreed that the position should be filled from within. Chairman Taylor stated 2 issues of concern, namely, taking the position out of civil service and filling the positions with individuals from below the ranks.

185799 and 185954 - double poles:

Mr. Shapiro cited case law on this subject and spoke about a bill in the state legislature and noted that state law pre-empts a city ordinance. Mr. Koty informed the members that the city withholds permits in an effort to get the utility companies to deal with the double pole situation and he pointed out that NSTAR does not follow through on their promises to correct the problem.

Alderman Gewirtz said that she would like to force NSTAR to act on the city's requests because they have failed to replace the trees killed by gas. Mr. Koty explained that NSTAR's stance is that gas is not hurting the trees and he suggested that it might be a good idea to turn the tree situation over to a claim company.

Alderman Gewirtz's motion *that NSTAR Gas reach an agreement with the Department of Public Works to resolve gas related tree damage within 30 days of this resolution's passage by the Board of Aldermen and that the Law Department take appropriate legal action against NSTAR if the company refuses to cooperate with the city*, was approved.

Alderman Trane's motion *that no further permits be issued to any utility company unless it reduces the number of double poles in the city by 50% within the next 45 days*, was approved.

185461 - Trash pickup:

Mr. Gannon reviewed the results of his research on this subject and told the members that the city's Noise Ordinance is enough to effectively address the noise problem. Alderman Sullivan said that he would like a home rule petition to be drafted to protect the quality of life of the citizens of Somerville.

185859 - Plastic Bag recycling ordinance:

Mr. Shapiro reviewed the pertinent sections of the ordinance, including in-store signage and making ISD the enforcing authority. Alderman Gewirtz stated that she would like stores to be required to sell reusable bags. Chairman Taylor expressed his concern that this requirement would place a burden on some stores and said that reusable bags are readily available in the larger stores. Alderman Trane isn't comfortable with adding requirements until he is sure that the New York ordinance can survive a challenge and he would like to see plastic bag recycling negotiated as part of the next trash contract. Alderman Pero stated that there are still many unanswered questions and that the ordinance is not yet ready for passage. Alderman Gewirtz wanted to act on the question. The item was approved on a vote of 4 in favor to 1 against (Ald. Pero).

184538 - Tree Preservation:

Mr. Shapiro reviewed the pertinent sections of the ordinance and Mr. Lambert expressed the Administration's concern regarding the authority vested in the tree committee, rather than allowing a set process to be followed. Alderman Gewirtz would like the tree committee to be responsible for the tree inventory. Chairman Taylor requested that Mr. Shapiro submit the proposed ordinance at the next Board of Aldermen's meeting. Mr. McEachern had concerns regarding the manner in which valuations would be assigned to trees and about the associated replacement costs.

185696 - Redacting information from ethic reports:

Mr. Gannon told the members that the Mayor would address the Board of Aldermen regarding this issue. Alderman Gewirtz is concerned with the solicitor's role and whether he is presenting the Administration's point of view or her point of view. Mr. Gannon stated that he has submitted an opinion, as requested.

Alderman Gewirtz asked that any information being presented at the next Board of Aldermen's meeting be submitted to Board members in advance.

The committee discussed matters before it and took action on the following 2 items:

185121: Ordinance - By Ald. Gewirtz, Proposing the adoption of a plastic bag recycling program similar to one initiated by the New York City Council in Jan., 2008, to require stores of 5,000 sq. ft. or more to provide plastic bag recycling on premises.

RECOMMENDATION: Should be placed on file

VOTE: Unanimous, 5 - 0 in favor

185859: Communication - Asst. City Solicitor submitting a draft Ordinance establishing an at-store recycling program for plastic bags.

RECOMMENDATION: Should be approved

VOTE: 4 in favor, 1 against

Alderman Walter F. Pero, Vice Chairman
Committee on Legislative Matters

COMMITTEE REPORT

Report of the Committee on Legislative Matters,
July 8, 2008

In Board of Aldermen

Clerk