



Ruthanne Fuller
Mayor

City of Newton, Massachusetts
Office of the Mayor

#75-23

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February 27, 2023

Honorable City Council
Newton City Hall
1000 Commonwealth Avenue
Newton, MA 02459

Honorable City Councilors:

I respectfully submit this docket item to your Honorable Council requesting authorization to bring the City's ordinances relating to special officers (i.e. retired police officers) in conformance with the State law governing the Massachusetts Peace Officer Standards and Training (POST).

More specifically, I am requesting authorization to petition the General Court for special legislation to amend the provisions of the Acts 2014, c.96 An Act Relative to the Appointment of Special Police Officers In Newton, as most recently amended by Acts 2016, c.266, by expressly stating that special officers shall abide by and be subject to Chapter 6E of the General Laws, the law governing POST.

In addition, and in the event such special legislation is enacted by the General Court, I request that this Honorable Council authorize a corresponding amendment to Section 24-6 of the Newton Revised Ordinances, 2017, in order to implement such special legislation.

Attached is a memo from Chief Carmichael requesting the docket item, the Law Department's draft special act language, and the text of the most recent special act (Acts 2016, C. 266) regarding Newton Special Police Officers.

Thank you for your consideration of this matter.

Sincerely,

Mayor Ruthanne Fuller

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CITY CLERK
NEWTON, MA, 02459

#75-23



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City of Newton
Police Department

John F. Carmichael
CHIEF OF POLICE

Office of the Chief of Police
HEADQUARTERS
1321 WASHINGTON STREET
NEWTON, MASSACHUSETTS 02465

To: Mayor Ruthanne Fuller
From: Chief John Carmichael
Date: February 17, 2023
Subj: Docket Item for Home Rule Petition on Appointment of Special Police Officers

I respectfully request you docket item this item to the Honorable Council requesting authorization to petition the General Court for special legislation to amend the provisions of the Acts 2014, c.96 An Act Relative to the Appointment of Special Police Officers In Newton, as most recently amended by Acts 2016, c.266, by expressly stating that special officers shall abide by and be subject to Chapter 6E of the General Laws, the law governing the Massachusetts Peace Officer Standards and Training (POST) Commission.

In addition, and in the event such special legislation is enacted by the General Court, I request that this Honorable Council authorize a corresponding amendment to Section 24-6 of the Newton Revised Ordinances, 2017, to implement such special legislation.

Thank you for your consideration of this matter.

Respectfully,

Chief John Carmichael
Newton Police Department



AN ACT RELATIVE TO THE APPOINTMENT OF SPECIAL POLICE OFFICERS IN THE CITY OF NEWTON

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

SECTION 1. The mayor of the city of Newton may appoint, at the recommendation of the police chief and as the police chief deems necessary, retired Newton police officers as special police officers to perform police details or any duties arising therefrom or during the course of police detail work, whether or not related to the detail work. The retired Newton police officers shall have been regular Newton police officers and retired based on superannuation. Notwithstanding the maximum age restrictions applied to regular Newton police officers under chapter 32 of the General Laws, the retired Newton police officers shall be eligible to serve as special police officers pursuant to this Act until they reach the age of 75. Prior to appointment under this act, and annually thereafter unless required more often by the police chief, a retired Newton police officer shall pass a medical examination by a physician or other certified professional chosen by the city to determine whether the retired Newton police officer is capable of performing the essential duties of a special police officer under this act, the cost of which shall be borne by the retired Newton police officer.

SECTION 2. Special police officers appointed under this act shall not be subject to chapter 31, section 99A of chapter 41 or chapter 150E of the General Laws. Special police officers appointed under this act shall not be eligible for special leave, vacation or other benefits enumerated in article II of chapter 2 of Newton revised ordinances 2012.

SECTION 3. Special police officers shall, when performing the duties under section 1, have the same power to make arrests and perform other police functions as do regular police officers of the city of Newton.

SECTION 4. Special police officers shall be appointed for an indefinite term, subject to removal by the mayor or the chief of police at any time upon 14 days written notice prior to removal.

SECTION 5. The workweek for special police officers appointed under this act shall be 7 consecutive 24 hour periods, for a total of 168 hours, which shall commence at 8:00 AM. each Monday. A special police officer appointed under this act shall not perform police details or any duties arising therefrom in excess of 40 hours in a workweek.

DRAFT FOR DISCUSSION

SECTION 6. Special police officers appointed under this act shall be subject to the rules, regulations, policies, procedures and requirements imposed by the chief of police and the mayor of the city of Newton including, but not limited to: restrictions on the type of detail assignments, requirements regarding medical examinations to determine continuing capability to perform the duties of a special police officer, requirements for training, requirements for firearms licensing and qualifications and requirements regarding uniforms and equipment. Compliance with all requirements shall be at no cost to the city of Newton. Special police officers appointed under this act shall not be subject to section 96B of chapter 41 of the General Laws.

SECTION 7. Special police officers appointed under this act shall be sworn before the city clerk of the city of Newton who shall keep a record of all of the appointments.

SECTION 8. Special police officers appointed under this act shall be subject to sections 100 and 111F of chapter 41 of the General Laws. The amount payable under said section 111F shall be calculated by averaging the amount earned over the prior 52 weeks as a special police officer working police details, or averaged over such lesser period of time for any officer designated as a special police officer less than 52 weeks before the incapacity. In no event shall payment under said section 111F exceed, in any calendar year, the limitation on earnings contained in paragraph (b) of section 91 of chapter 32 of the General Laws. Payment under section 111F of chapter 41 of the General Laws shall terminate in accordance with said section 111F or when a special police officer appointed under this act reaches the age of 75, whichever occurs first. A special police officer appointed under this act shall not be subject to section 85H or 85H 1/2 of said chapter 32 or eligible for the benefits.

SECTION 9. Special officers appointed under this act shall abide by and otherwise be subject to chapter 6E of the General Laws.

SECTION 10. Appointment as a special police officer shall not entitle that person to assignment to any detail.

SECTION ~~40~~11. Special police officers appointed under this act shall be subject to the limitations on hours worked and earnings restrictions as provided in paragraph (b) of section 91 of chapter 32 of the General Laws.

SECTION ~~41~~12. This act shall take effect upon its passage.

Approved,

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Amend Newton ordinance Sec.24-6 as follows:

Sec. 24-6 Police Retiree Detail Patrol

The mayor may appoint, at the recommendation of the police chief and as the police chief deems necessary, retired Newton police officers as special police officers, to be known as the Newton Police Retiree Detail Patrol, to perform police details or any duties arising therefrom or during the course of police detail work, whether or not related to the detail work, subject to the following requirements and conditions. Special police officers appointed under this section shall be paid for performing assigned details at the same rate as regular police officers performing assigned details.

(a) The retired police officers shall have been regular Newton police officers and retired from Newton based on superannuation. Notwithstanding the maximum age restrictions as applied to regular Newton police officers under chapter 32 of the General Laws, retired police officers shall be eligible to serve as special police officers under this section until they reach the age of 75.

(b) Prior to appointment under this section, and annually thereafter unless required more often by the chief of police, a retired Newton police officer shall pass a medical examination by a physician or other certified professional chosen by the City to determine whether the retired Newton police officer is capable of performing the essential duties of a special police officer under this section, the cost of which shall be borne by the retired Newton police officer.

(c) Special police officers appointed under this section shall not be subject to chapter 31 of the General Laws, section 99A of chapter 41 of the General Laws or chapter 150E of the General Laws. Special police officers appointed under this section shall not be eligible for special leave, vacation, or other benefits enumerated in article II of chapter 2 of these ordinances.

(d) Special police officers shall, when performing the duties under this section, have the same power to make arrests and perform other police functions as do regular police officers of the City of Newton.

(e) Special police officers shall be appointed for an indefinite term, subject to removal by the mayor or the chief of police at any time with a 14 day written notice.

(f) The workweek for special police officers appointed under this section shall be seven (7) consecutive twenty-four (24) hour periods, for a total of one hundred and sixty-eight (168) hours, which shall commence at 8:00 A.M. at the start of each Monday of the calendar week. In no case shall any special police officer appointed under this section perform police details or any duties arising therefrom in excess of forty (40) hours in any given workweek.

(g) Special police officers appointed under this section shall be subject to the rules and regulations, policies and procedures and requirements as the chief of police and the mayor may impose from time to time, including, but not limited to restrictions on the type of detail assignments, requirements regarding medical examinations to determine continuing capability to perform the duties of a special police officer, requirements for training, requirements for firearms licensing and qualifications and requirements regarding uniforms and equipment. Compliance with all requirements will be at no cost to the City of Newton. Special police officers appointed under this section shall not be subject to section 96B of chapter 41 of the General Laws.

(h) Special police officers appointed under this section shall be sworn before the city clerk of the City of Newton who shall keep a record of all such appointments.

(i) Special police officers appointed under this section shall be subject to sections 100 and 111F of

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Amend Newton ordinance Sec.24-6 as follows:

chapter 41 of the General Laws. The amount payable under section 111F of chapter 41 shall be calculated by averaging the amount earned over the prior 52 weeks as a special police officer working police details, or averaged over such lesser period of time for any officer designated as a special police officer less than 52 weeks before the incapacity. In no event shall payment under section 111F of chapter 41 exceed, in any calendar year, the limitation on earning contained in paragraph (b) of section 91 of chapter 32 of the General Laws. Payment under section 111F of chapter 41 shall terminate in accordance with section 111F of Chapter 41 or when a special police officer appointed under this section reaches the age of 75, whichever occurs sooner. Special police officers appointed under this section shall not be subject to section 85H or 85H 1/2 of chapter 32, nor eligible for any benefits pursuant thereto.

(j) Special officers appointed under this section shall abide by and otherwise be subject to chapter 6E of the General Laws.

(k) Appointment as a special police officer under this section does not entitle that person to assignment to any detail.

(~~l~~) Retired Newton police officers serving as special police officers under this section shall be subject to the limitations on hours worked and on earnings restrictions as provided in paragraph (b) of section 91 of chapter 32 of the General Laws. (Ord. No. A-45, 09-15-14)

Acts (2016)

Chapter 266

AN ACT RELATIVE TO SPECIAL POLICE OFFICERS IN THE CITY OF NEWTON

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

SECTION 1. Section 1 of chapter 96 of the acts of 2014 is hereby amended by striking out the third sentence and inserting in place thereof the following sentence:- Notwithstanding the maximum age restrictions applied to regular Newton police officers under chapter 32 of the General Laws, the retired Newton police officers shall be eligible to serve as special police officers pursuant to this act until they reach the age of 70.

SECTION 2. Said chapter 96 is hereby further amended by striking out section 8 and inserting in place thereof the following section:-

Section 8. A special police officer appointed under this act shall be subject to sections 100 and 111F of chapter 41 of the General Laws. The amount payable under said section 111F of said chapter 41 shall be calculated by averaging the amount earned over the prior 52 weeks as a special police officer working police details or averaged over a lesser period of time for an officer designated as a special police officer less than 52 weeks before the incapacity. A payment under said

section 111F of said chapter 41 shall not exceed, in a calendar year, the limitation on earnings contained in paragraph (b) of section 91 of chapter 32 of the General Laws. A payment under said section 111F of said chapter 41 shall terminate in accordance with said section 111F of said chapter 41 or when a special police officer appointed under this act reaches the age of 70, whichever occurs first. A special police officer appointed under this act shall not be subject to section 85H or 85H $\frac{1}{2}$ of said chapter 32 or eligible for the benefits.

SECTION 3. This act shall take effect upon its passage.

Approved, September 16, 2016



Ruthanne Fuller
Mayor

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Office of the Mayor

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