



Public Safety & Transportation Committee Report

(Part 1)

City of Newton In City Council

Wednesday, February 3, 2021

Present: Councilors Downs (Chair), Markiewicz, Lipof, Grossman, Bowman, Malakie and two vacancies

Also Present: Councilors Greenberg, Albright, Wright, Humphrey, Noel, Baker, Ryan, Laredo, Norton, Leary, Krintzman, Danberg, Crossley, Kelley and Kalis

City Staff: Jonathan Yeo, Chief Operating Officer, Chief Gino Lucchetti, Newton Fire Department, Interim Chief Howard Mintz, Newton Police Department, Joseph Mulvey, Chief Information Officer, Jini Fairley, ADA Coordinator and Michelle Pizzi O'Brien, Director of Human Resources

Others Present: Senator Cynthia Creem, Richard Powell, and Brittany Web, NewTV

Newton Police Task Force: Chair Sonja Spears, Malick Ghachem, Achille Vann Ricca, Derege Demissie Bill Hoch, Joshua Levy, Randy Johnson, Hattie Kerwin Derrick, Alison Tarmy, Brian Henderson and Jadeque Douglas

Strategy Matters: Josh Moulton and Liz O'Connor

Chair's Note: *Senator Creem will join the Committee for an overview of the State Police Reform package, passed in 2020.*

Note: The Programs & Services Committee and Senator Creem joined the Committee for discussion on this item.

Chair Downs stated that tonight's meeting is not a public hearing, although the public is welcome to listen. She asked the public to please email any questions or concerns to the City Council.

Senator Creem provided a detailed PowerPoint presentation, attached to this report. The PowerPoint depicts what the State Legislature passed, and the Governor signed regarding police reform. Senator Creem stated that she supported the legislative package restricting police use of force, creating a Peace Officer Standards and Training commission, State Police reforms, enforcement of police

misconduct, stopping the school to prison pipeline, reducing the burden of policing on people of color, mental health interventions and commissions and police training mandates. This bill was passed in 2020 and will be implemented statewide.

Committee members questions:

Regarding the Recruitment and Cadet Program, does the legislation make changes recruitment of the police force? In particular, are family preferences and military service preferences changed; is a Cadet Program a way to recruit different individuals from different backgrounds to serve on a police force? Senator Creem stated that they have been watching the State Police. Each community deals with their policing differently, each community is different. She then stated that she supports eliminating Veterans preferences because it discriminates against women. Individually, communities would deal with supporting or eliminating Veterans preferences.

Is there a timetable regarding implementing body cameras? Senator Creem answered that timetables have not been set. Different committees will work on this.

Is the Cadet Program specific to the State Police? Senator Creem answered yes.

Councilors questions:

Please explain the differences between the legislation and what you were seeking with the facial recognition program? Senator Creem answered that she feels facial recognition should not be used by any Government agency. The bill banned using facial recognition in policing, but the Governor vetoed and modified that. Municipalities can implement a local ban if they choose as done in Brookline, MA. She then said a Commission was formed with the hopes of making additional recommendations and stated that she was hopeful the facial recognition ban would be brought further.

This past summer, Ms. Lemieux, Chief Financial Officer informed the City Council that due to collective bargaining rules, when the City goes to an arbitration trial the City may lose. Has legislation changed the criteria on what can be negotiated? Senator Creem answered that people deal with collective bargaining in different ways. As a City, you may be limited until a new contract is put in place. Newton will be guided in their collective bargaining process. Each community is different.

Without further discussion, Committee members and Councilors present thanked Senator Creem for her presentation.

Referred to Public Safety & Transportation and Finance Committees

#53-21

Appropriate \$139,254 for the purchase of a used ladder truck

HER HONOR THE MAYOR requesting authorization to appropriate the sum of one hundred thirty-nine thousand two hundred and fifty-four dollars (\$139,254) from Acct # 7608E210-585030 to a Capital Account for the purpose of purchasing a used ladder truck that will be used as a spare.

Action: Public Safety & Transportation Approved 6-0

Note: Chief Gino Lucchetti, Newton Fire Department joined the Committee for discussion on this item.

Attached are answers from Chief Lucchetti regarding the public inquiry on the spare ladder truck and the latest update on Newton Fire Departments apparatus.

Chief Lucchetti stated that this appropriation will allow the department to purchase a used ladder truck that will be used as a spare. In March 2019, a new ladder truck was put into service. Approximately \$140,000 in funding remains from the original appropriation allowing the department to make this purchase.

The two spare vehicles, a 2007 and a 1995 ladder trucks are no longer in service due to mechanical issues which are too costly to repair. Both vehicles have safety issues. The department cannot indefinitely borrow ladder trucks (when available) from Waltham and Boston. The department is working with a broker, who has found a used ladder truck in Maryland which the department will consider purchasing.

A Committee member asked if the department currently has any functioning ladder trucks? Chief Lucchetti answered that the department has three ladder trucks in service, but there are no spare vehicles available.

Without discussion, Councilor Lipof made the motion to approve this appropriation request. Committee members agreed 6-0.

Chair's Note: The Newton Police Reform Task Force will report on their findings and recommendations.

Note: A report to reflect the Chair's Note will be available at a later date.

Without further discussion, at approximately 9:15 p.m., Councilor Markiewicz made a motion to adjourn in the Public Safety & Transportation Committee and Councilor Albright made a motion to adjourn in the Program & Services Committee. Council members agreed.

**Respectfully submitted,
Andreae Downs, Chair**

State Policing Reform: An Overview

February 3, 2021

Restricts Use of Force

- Use of force must be: necessary, proportionate, after de-escalation
- Bans training and use of chokeholds
- Eliminates arrest or escape as reasons for deadly force
- Prohibits firing at moving vehicle, unless proportionate and necessary to prevent harm to an individual
- Creates a duty to intervene and report for police

Use of Force (cont.)

- Prevents use of tear gas, chemical weapons, attack dogs, or rubber bullets, unless:
 - De-escalation tactics have been attempted; and
 - Tools are necessary to avoid imminent harm
 - Must also be proportionate to the threat of harm
- Bans no-knock warrants for evidentiary preservation
 - Allow only for safety
 - Not permitted if there is reason to believe children or seniors are present, unless there is a credible risk of imminent harm to such minors or seniors
 - Must be issued by judge

Peace Officer Standards and Training Commission

02-03-21

Senator Creem

- Fully independent authority with executive powers
- Civilian majority
- Approves certification standards and training developed with the Municipal Police Training Committee (MPTC)
- Receives all police misconduct complaints from any source (direct or indirect)
- Authorized to investigate any complaint against law enforcement (excluding corrections)

POST Commission

- Tracks all complaints and local investigations into police misconduct; can receive complaints directly
- May investigate on evidence it deems sufficient, but **MUST** investigate most serious cases
- Authority to suspend certification after preliminary investigation
- Decertifies, or suspends officers after finding serious violation
 - Clear and convincing evidence
 - Majority vote
- No appeal of decertification or termination resulting from decertification, no employment of decertified officers

POST (cont.)

- Public database of all final de-certifications, suspensions, retraining orders
- Law enforcement misconduct investigations subject to public records requests
- Participation in national decertification index

State Police Reforms

- Creates new state cadet program as alternative path to employment
- Redefines state police promotion process
- Allows the Governor authority to appoint the colonel from outside of the state police system
- Provides colonel additional resources to discipline officers for certain infractions, if necessary

Court Enforcement of Police Misconduct

02-03-21

Senator Creem

- Revises qualified immunity defense
 - No QI for officer's conduct resulting in de-certification
- Prohibits NDAs in police misconduct settlements (unless requested in writing by victim)
- Treble damages for overtime fraud
- Criminal penalties for sex with persons in custody
- Allows Attorney General to bring pattern and practice cases in response to allegations of racial profiling or mishandling of complaints

School to Prison Pipeline

- Made school resource officers (SROs) optional at the choice of superintendents
- Strengthens MOU between SRO and schools by setting up a model MOU review commission to create a template for districts
- Prohibits school departments from sharing certain student information with police, (ex. immigration status, gang affiliation)
 - Exception, if germane to specific unlawful incident
- Specialized training and certification for SROs

Reducing Burden of Policing on People of Color

02-03-21
Senator Creem

- Bans racial profiling; permits AG to file lawsuit for injunction to enforce
- Broadens interpretation of juvenile expungement
 - Allows up to two records of conviction
 - Multiple charges arising out of the same incident considered one incident
- Limits law enforcement's use of facial recognition technology
 - Must include written request to RMV, FBI, or State Police pursuant to court order
 - Exception for emergency situations
 - Law enforcement must report each search to EOPSS

Mental Health Interventions

- Expands mandate of the Center for Police Training in Crisis Intervention
 - Adds to mission - to promote the use of trained community-based crisis response resources to assist residents when police response is not best suited (ex. mental health interventions)
- Creates study to develop new evidence-based crisis response models
- Creates a new emergency hospitalization commission

Commissions and Training Mandates

02-03-21
Senator Creem

- Permanent Commissions
 - African American Commission
 - Latinx Commission
 - Commission on status of persons with disabilities
 - Commission on Black men and boys
- Temporary Commissions
 - Civil service commission to examine hiring and promotion practices
 - Commission on structural racism
 - Body camera taskforce
 - Use of force in corrections
 - Commission on facial recognition
 - Statewide law enforcement cadet program
 - Qualified immunity

Dear Councilors,

Much to say about last night's fantastic meeting featuring Senator Creem and the Police Reform Task Force But first I wish to reflect on the special vote to appropriate \$140,000 to the Fire Department for a 4th ladder.

It appears that the Chief's letter to the mayor provided very little information and the Mayor's letter to the Council basically repeated what the Chief said and the Council approved this funding without any questions.

Here's what I wonder:

1-What are the ages of trucks/ladders 1,2 and 3 and how frequently is a spare brought into service?
L-1 – 2013, L-2 – 2019, L- 3 – 2009 We use our spares frequently because of repairs, certification checks, and maintenance.

2-How often have we asked for backup from Waltham or Boston and is there a financial or political cost to doing so? It is very infrequent that we have to use outside resources because we have our own spares.

In other words, I think they should have to demonstrate, with facts, the need.

Also,

3-What is the age of the new truck that is proposed for purpose?

We are currently looking at a 2006 ladder

4-What do we know about the shape it's in?

Fire Department mechanic is scheduled to look at the vehicle and give his opinion

5-How long do we expect the new truck to last?

We expect the get 5 to 8 years out of the spare until we purchase a new ladder

6-What is the cost of the new truck?

I am hoping to purchase for \$150,000

7-Is that a reasonable cost?

The cost is very reasonable if it is the shape we expect

In other words, they should have to demonstrate why this particular purchase is a good one.

Also,

8-Why was there \$140,000 left over from the purchase of truck 2? (Why was the original budget request so far off?) When we request the cost of the apparatus, we also include what cost to dress the truck with new state of the art equipment. With lead time on putting equipment cost out to bid and purchasing equipment we were dealing with Covid. Spending was kept to a minimum and we used the equipment from the old ladder that was now a spare.

9-Why wasn't this purchase anticipated in the FY21 budget?

New ladder 2 was put into service in March of 2019, at that time we had 2 working spare ladder trucks. There was no sign of failure of either truck when converted to spares

10-Is the replacement of this truck projected in the capital forecast? (From a quick, it seems there is a new truck planned for 2023 and a 1.2 million purchase scheduled for 2025 that would make ladder 3 into a spare. There is no mention of what would happen to the truck retired in 2023.)

The used vehicle is not in the capitol budget. Because it could be 5 years before we purchase a new ladder we need the spare. Upon acquiring the new ladder the old ladder 3 would be our newest spare.

11-Are maintenance and operating costs for this truck already budgeted or will there be additional, unplanned costs associated with this purchase?

Repair and maintenance cost our budgeted annually

In other words, they should have to explain what unforeseen event or management process resulted in the need for an extra appropriation (not that this is necessarily bad).

Most importantly:

12-What other public safety need will not be bought or funded because of the purchase of this truck? In other words, is this the best investment of our public funds? **We have not eliminated any public safety need. The equipment that we would have purchased still meets all safety standards. It is of my opinion that we are in need of a spare ladder to be able to work in a safe manner. Borrowing a ladder truck from other municipalities are not available and that would create a public safety issue.**

I know these questions are really hard to answer! The Fire Department report, like the Police Department report, is buried in the budget section of the Comptroller's space on the City website. Unlike the PD, the Fire Dept doesn't have a public website and other than numbers of incidents (over 10,000 with almost half being EMS) and response times, it's really hard to get a sense of whether we are appropriately staffed/equipped in Fire, too much, or not enough. Theoretically, we can never have too much fire protection, but since funding for the Fire Department reduces the amount available for other public safety needs (like domestic violence), we have to ask.

It might seem a bit strange to ask these questions of a fire chief. Certainly they know best what they need to do their jobs. But the whole point of oversight is to have another bunch of eyes on these critical public safety questions. If the mayor doesn't ask questions before passing on the recommendation and if the City Council doesn't ask questions before approving the funds, it is possible that all these decisions are being made by just one man -- the chief -- and that's really not a good process IMHO.

My covid silver lining has been being able to attend these city meetings and learn more about how our local government works. I have great respect for the incredible amount of work you do on our behalf and (not but) I think we can do even better with more transparency and better oversight practices.

Sincerely,

Nora Lester Murad
32 Holman Rd, Auburndale

Newton Fire Apparatus - February 1, 2021 Status

ENGINES

UNIT	YEAR	DESCRIPTION	STATION
FRONT-LINE			
Engine 1	2016	E-One Typhoon 1250/750/30B	1
Engine 2	2020	E- One Typhoon 1250/75030f	2
Engine 3	2017	E-One Typhoon 1250/750/30F	3
Engine 4	2010	Pierce Arrow XT 1500/750/25F	4
Engine 7	2007	Pierce Arrow XT 1500/750/25F	7
Engine 10	2012	E-One Typhoon 1250/750/30f	10
SPARE			
Engine 8	2004	E-One Cyclone II 1250/750 (ex E3)	2
Engine 9	2000	E-One Cyclone II 1250/500/40 (ex E1)	7
Engine 12 (old #2)	2007	Pierce Arrow XT 1500/750/25f	2

LADDERS

UNIT	YEAR	DESCRIPTION	STATION
FRONT-LINE			
Ladder 1	2013	E-One Cyclone II 100' RMA	2
Ladder 2	2019	E-One Cyclone 100' RMA	7
Ladder 3	2009	2009 Pierce Arrow XT 100' RMA	1
SPARE			
OOS Ladder 4	1995	75' Quint	10
OOS Tower Ladder 5	2007	Pierce Arrow XT 95' MM Twr (ex TL2)	1

SPECIAL UNITS

UNIT	YEAR	DESCRIPTION	STATION
FRONT-LINE			
Rescue 1	2016	E-One Cyclone II Heavy Rescue	3
OTHER			
Rescue 2	1995	Pierce Saber Heavy Rescue (from Hopkinton)	3
Air Supply Unit	2014	Ford F-550/E-One Mobile Cascade	4
Special Ops	1994	Ford/Wheeled Coach (ex AMR)	2
Emergency Response	1985	Chevy/Hessey Support	3
Paramedic 1 (PM1)		Fallon	
Paramedic 2 (PM2)		Fallon	
Paramedic 3 (PM3)		Fallon	
Paramedic 4 (PM4)		Fallon	
Paramedic 5 (PM5)		Fallon	
EMS Field Supervisor (FS1)		Fallon	
Lighting Trailer			4