



Public Safety & Transportation Committee Report

City of Newton In City Council

Wednesday, July 13, 2022

Present: Councilors Downs (Chair), Markiewicz, Malakie, Oliver, Lucas, Lipof and Grossman

Absent: Councilor Bowman

City Staff: Lieutenant George McMains, Newton Police Department and City Clerk Carol Moore

#382-22 Request for authorization on the number of police officers detailed at each polling place for elections

CITY CLERK, in accordance with MGL Chapter 54, section 72, recently amended by "The VOTES Act" (6/2022), which changed the responsibility for detailing a sufficient number of police officers for each polling place from the Chief of Police to City Council; requesting approval of a detail of a sufficient number of police officers and staffing hours for each polling place to preserve order and to protect the election officers from any interference with their duties and to aid in enforcing the laws relating to elections. The Chief of Police, in consultation with the City Clerk, will provide a plan for providing police officers at polling locations in the number required by the City Clerk to meet this obligation.

Action: Public Safety & Transportation Approved 5-2, Councilors Lucas and Grossman opposed

Note: Lieutenant McMains and City Clerk Carol Moore joined the Committee for discussion on this item.

Ms. Moore stated that with the passing of the state Votes Act, City Council is the body that approves a "sufficient" number of police details at polling places during elections. Previously, this was done solely through the Police Chief in discussion with the City Clerk (Mass General Laws Chapter 54 Section 72). Now it inserts the Select Board, Board of Selectmen, Town Council or City Council of each City and Town, in consultation with its election officers and registrars, shall detail a sufficient number of police officers. Tonight, Election Commissioners voted in agreement with our recommendation, made after consultation with City Solicitor Guiliani and Chief Carmichael. We agreed that current practice provides a sufficient number: one officer at each polling location during open polling hours on election days, plus one additional officer in some elementary schools, upon principal's request, during open school hours. Also, during early voting periods, one officer will be present at City Hall for that poll.

Lt. McMains stated that the department forces approximately 10 officers to work on voting days who do not volunteer. Polling locations include 12 schools, 2 of which are middle schools. The high schools are not polling locations. The Lincoln Elliot, Cabot, Peirce, Franklin, Williams, Zervas, Bowen, Mason Rice and Countryside elementary schools are polling locations and several others for a total of 25 polling locations which is a significant number of officers, we would have to force to work. We have 25 officers that are assigned, 10 ordered and 15 volunteer. On the night shift, we never have to force officers to work. Ms. Moore added that the Pierce school will not be a polling location this year. The Election staff will be reviewing schools to determine whether it is necessary to have polling locations at schools.

Committee members questions, answers, comments and request:

How many polling places do we have? Lt. McMains answered 25. At four elementary schools a second officer has been added. Twelve additional officers is quite a request. Ms. Moore added that the second officer request is for elementary schools, not every school.

Are the forced officers working on their days off and being paid overtime or are they being reassigned? Lt. McMains answered that this is for off-duty officers who will collect overtime pay.

Does this Committee need to determine the number of officers, or can we leave the discretion to the Chief and City Clerk? Ms. Moore answered that she understood from City Solicitor Guiliani that we didn't have to designate a specific number. Ms. Guiliani requested that the Committee not get into each too much detail with each polling location and assign a certain number of officers because over the years polling locations will change.

Is it necessary for this Committee to determine who will be making those decisions, and whether we're comfortable leaving it as it is or whether we want to take it into the Council? Ms. Moore answered that it is her understanding Council still needs to approve a plan for a sufficient number of officers. We should determine what that plan is moving forward and to receive Council approval. Our desire is to approve this item and not return before every election unless there are significant changes in the rules or polling locations. We've had several principals request a second officer. Lt. McMains agreed.

We should leave enough flexibility in this plan, so that the Police Chief, in consultation with the schools and City Clerk, can make decisions quickly on last minute requests.

We could approve the current 25 officers plus 1 additional officer at elementary schools with the departments discretion to perhaps increase the number of officers.

How many officers are necessary for public and school children safety? It may be best to have two officers at each school including middle schools. It should be the Police Department's responsibility to add officers once this Committee decides.

Would the department assign 37 officers to work at the 25 polling location and 12 schools? Lt. McMains answered yes if each and every school is covered.

Are there 150 sworn officers? Lt. McMains answered the department is down to 138 sworn officers.

An additional 37 officers to work at polling locations is a significant number of the department. The department should determine what the most appropriate number should be. If the department has concerns about being able to assign the number of officers, they would communicate back to the administration.

Does the new law state the increased need for officers then the past or is it a separate issue? Chair Downs answered this Committee should review the plan and determine if it is adequate. Previously this would have been up to the Chief in consultation with the schools and the City Clerk. We are looking to approve authorization by approving the plan for September's Election and in the future. My preference would be to maybe have a check-in but not have this happen every election. We can set a floor, or we could set a ceiling on the number of officers. Some Councilors may feel that they don't want police officers at polling places because some people do not feel safer with officers present. We may want to delegate this plan to staff, who have been making the decision until now, so that we are not discussing this before every election. But we can establish the plan, delegate to staff, or establish the number of officers. It is this Committee's decision.

Does the Law Department interpret the law that we can make the decision to hand it back in perpetuity and that we don't have to look at it every election? Ms. Moore answered that she worked with City Solicitor Guiliani who tried to create a Council Order where we wouldn't have to return each election. If there is a desire to change the number of officers, we would return.

Would officers who are already on duty be available to fill in on election days? Lt. McMains answered that no officer working a particular shift would be assigned to polling locations.

Are we delegating to the Chief the decision to determine how many officers is enough? Lt. McMains answered that the decision is between Chief Carmichael and City Clerk Moore.

It is not necessary for City Council to determine the number of officers. We could leave it to the discretion of the Police Department if that number should be tweaked. The law does not state that City Council makes this decision.

I want to advocate for 25 or 37 officers to be the floor. The floor is at least one officer per polling location, plus an additional officer at each school. That determination should not be made on the basis of whether or not the school requests it. We should not be providing certain coverage to one elementary school and different coverage to other elementary schools. The decision should be made on the basis of what the department deems necessary to ensure safety at that location.

I've heard teachers say they are uncomfortable when our schools are used as polling places. Teachers feel uncomfortable having to police unknown adults.

The police should have the flexibility to determine what they feel is needed for safety and the ability to make changes leading up to an election.

We are not the public safety experts. We should not determine how many officers are needed in certain locations.

Opening schools for elections deserves the same level of security for other City gatherings. At City events, are officers forced to work? Lt. McMains answered yes, BC football games, Boston Marathon, Walk for Hunger, Fourth of July, etc. Unfortunately, we order many officers to work details.

Is the Election Commission considering not using schools as polling locations to reduce the number of schools that are used or are there other options available that we could or maybe should use? Ms. Moore answered we're not going to lower the number of polling locations. We started the conversation with Peirce School because we were very close to changing the location. Hearing the concerns makes it possible to reevaluate and perhaps introduce a new location that may be better and also talk to the school administration. Lt. McMains added that they visited the Peirce School. One of their concerns is that to access the polling area you have to walk through the school. That's not the case in all schools. We also visit schools and look for safety issues that may arise and address them.

Will increasing the number of officers to 37 cause stress on the department? Lt. McMains answered that we will do what we have to do. If 37 is the number, we will try to hit those numbers and would take every threat seriously. For example, if we had threats at a school or house of worship, we would add officers to those locations.

How many patrol cars are on each shift? Lt. McMains answered that there are 10 patrol cars on the day shift, 12 on the first half shift, and 8 on the overnight shift.

First Motion

Councilor Grossman made a motion to approve a minimum 37 police officers, one at each polling location plus 1 officer at each school even after school hours. Committee members voted 2-4-1, Councilors Lucas and Grossman in favor, Councilors Downs, Oliver, Malakie and Markiewicz opposed and Councilor Lipof abstaining. **This motion failed.** Councilor Markiewicz stated that he opposed because the number should be the police department's decision in consultation with the Election Commission. We have to consider available resources. Chair Downs agreed that this decision should be left to the professionals.

Ms. Moore reiterated the previous plan.

What are the reasons for fewer officers after school is dismissed? Lt. McMains answered that this is the way it's been for quite some time. We've never had issues during the day or at night. It's a more recent addition to the normal 25. There have been schools who requested additional officers. In the past 2 officers were at Peirce, Bowen, Oak Hill Middle School, Countryside and the library. Ms. Moore added that 4 elementary schools have requested an additional officer.

Ward and the old Horace Mann Schools are polling locations, not included on your list.

Is it your understanding that we would be expanding to all elementary schools? Lt. McMains answered that is his understanding. The change is 1 officer at each polling location which is mandated by law and 1 officer at each elementary school during open hours. We have typically assigned 4 additional officers at 4 elementary schools.

Are we looking to staff 1 officer and 1 additional officer at the elementary schools during school hours or poll hours? Chair Downs answered school hours.

Why wouldn't we staff one officer at each middle school? Lt. McMains answered the 4 additional officers were requested by the principals.

Would this be a strain on the department? Lt. McMains answered that 37 officers on a polling day is a strain on the department. Two at every location, totaling 50 would be overwhelming. It would be virtually impossible for the department to staff.

Judiciously, use as many officers as possible to ensure the safety of children and citizens.

It is difficult to vote without understanding the actual numbers. **Are numbers available?**

When a second officer is at a polling location, what is their duty? Lt. McMains answered usually it is for security and the open doors inside the schools. In the past, there have been people with signs causing disturbances and officers were assigned for those reasons.

Are officers shifting their normal hours to accommodate voting hours within one or two shifts? Lt. McMains answered that it is two shifts. The first shift begins at 5:15 a.m. to 4:00 p.m. The second shift begins at 4:00 p.m. with shift changing occurring at 3:30 p.m. which allows an officer to get to the polling location. In some cases, 1 officer will work the same polling place from the morning through the afternoon. Ms. Moore added that on election days the officers begin at 5:30 a.m.

Chair Downs suggested approving this docket as a trial run for the September 6 election and revisit with the City Clerk Moore and Chief Carmichael or his designee to discuss how voting went, how they felt and what plan they desire for the next election moving forward.

Second and Final Motion

Councilor Malakie made a motion to approve 1 officer per location with additional officers being assigned at the discretion of the Police Chief in consultation with the City Clerk. Committee members agreed 5-2, Councilors Lucas and Grossman opposed.

Request

Ms. Moore, please provide an email to the Committee, City Council and publish on the Friday Packet with an accurate assessment on the numbers of officers required on election days before this item is discussed at the next full council.

The Committee adjourned at 9:09 p.m.

Respectfully submitted,

Andreae Downs, Chair