

An Emergency meeting of the City Council of the City of Newburgh was held on Friday, October 14, 2016 at 6:05 P.M. in the third floor Council Chambers at City Hall, 83 Broadway, Newburgh, NY.

Present: Mayor Kennedy presiding; Councilwoman Abrams, Councilwoman Angelo, Councilman Harvey, Councilwoman Holmes, Councilwoman Mejia, Councilwoman Rayford - 7

Mayor Kennedy asked for a Point of Order.

Corporation Counsel, Michelle Kelson said that there was an official communication from the Civil Service Commission to the City Manager and City Council yesterday and she believes that they were all copied on that communication. The Minutes have not been made public but if you watch the livestream there was a motion and a second with the motion carried by the Civil Service Commission to provide a response to the City Manager's question in a letter dated August 17, 2016 and that is the official communication that came to the City Council yesterday.

Mayor Kennedy asked if they should have public comment before they go into Executive Session. Should the City Manager read the communication? What is the order?

Corporation Counsel, Michelle Kelson responded that there is nothing unusual or out of order in the way the Agenda is presented. There have been Executive Sessions held by the City Council at the top of the Agenda and when you come back your regular order of businesses is to hear from the public with matters that are on the City Manager's Report on the Agenda so the members of the community will have an opportunity to comment on that issue.

Councilwoman Angelo moved and Councilman Harvey seconded to enter Executive Session to discuss matters pertaining to the medical, financial, credit or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation.

Ayes - Councilwoman Angelo, Councilman Harvey, Councilwoman Holmes, Councilwoman Rayford, Mayor Kennedy - 5

Nays - Councilwoman Abrams, Councilwoman Mejia - 2

The Council entered Executive Session at 6:10 P.M.

Councilwoman Abrams moved and Councilwoman Mejia seconded to exit Executive Session.

All in favor the Council exited Executive Session at 7:15 P.M.  
(Councilwoman Angelo did not return following Executive Session)

#### COMMENTS FROM THE PUBLIC REGARDING THE AGENDA

Mr. Hoffman, City of Newburgh said that he is confused. The Minutes aren't posted so we don't know what's happening and you had an Executive Session so a decision has been made. We are asked to comment on something that preceded the Executive Session. He doesn't have anything to say about the Police Chief but if a decision has already been made to remove him then it is a whole different discussion. He doesn't understand the system.

Mayor Kennedy explained that as of tomorrow the State Civil Service Commission has said that Dan Cameron can no longer serve as the Police Chief.

Councilman Harvey said that he didn't take the exam. He chose not to take the Civil Service exam for the open competitive test. He made that choice so now we are in a pickle because we have to decide to restore the Deputy Chief Position when, according to the Civil Service Commission and Law his temporary position of Police Chief expires tomorrow.

City Manager, Michael Ciaravino wished to clarify that the Mayor indicated it was the State that said this had to happen but it came from the City of Newburgh's Civil Service Commission and was signed by Thomas Murphy, Vera Best and John C. Powell.

Corporation Counsel, Michelle Kelson said it was upon the advice from the State. There is a cover letter from the City Commission and attached to it is the advice that the State Commission provided to the local Commission. This is available to the public and a FOIL can be submitted.

Mayor Kennedy said this is on the advice from the State and they needed to do this because of the State rules.

Councilwoman Mejia added that this is not a new topic of discussion. We have discussed how to continue to fill an open position for a permanent Police Chief when Civil Service rules state that you have to select based on the examination and we all know the history of what happened. She thinks that as a municipality they have been advocating in a way to figure out the challenge. We have someone who stood on principle and did not take the examination because of his perception of the rules that were being implemented and on the other end we have the great job that this individual has been doing for our City and the great support he has community wide. In August our City Manager sent a letter to Civil Service Commissioners stating where we were in the search and the process and asked questions about possible exemptions. She feels that all of these letters should be scanned and made public for everyone to read. After that it was followed up with a communication letter on September 20<sup>th</sup> that came from our Civil Service Commission recapping a phone conference call on September 16<sup>th</sup> regarding Police Chief options. On October 7<sup>th</sup>, a letter was received from the Department of Civil Service where they basically said that this is a local decision that our Civil Service needs to make. On October 13<sup>th</sup>, they wrote a cover letter summarizing what their local Civil Service decision was based on the recommendations from the State. She feels that the public needs to read and understand these letters so that everyone is on the same page. This has led us to figure out a middle ground of how we continue with the relationship that has been built with the Police Department, our current Chief and the community. This is the discussion we are starting to see here about the changes in the Personnel Booklet that we need to make in order to make sure that is a possibility. There are still several additional steps that need to be taken based on the recommendations from the State and the decision of the Civil Service. She thinks that the vote they are getting ready to take and the discussion is one of stability and continuity for our Police Department.

Kippy Boyle, 400 Grand Street thanked the Council for that explanation and hopes they all appreciate the fact that this many concerned citizens would come out on a Friday night at 6:00 P.M. to an emergency meeting. It means that they really care about this topic and as someone said earlier they are confused. She thanked the Council for starting to unravel the mysteries of the Civil Service Commission. From her perspective it seems like they are finding a middle ground tonight and she hopes that temporarily will help us out of a dark hole, however, this just speaks to the whole fact that the Civil Service Commission here does not work for the people of the City of Newburgh. They don't know what they are doing and the level of transparency between the Civil Service Commission, the City Council and the public is non-existent. She went online to read the Minutes from the Civil Service meeting of August 17<sup>th</sup> and none of the documents that should be attached to the Minutes that involve these kinds of things are there. They are talking about things that we haven't had a chance to look at and process so she asked if this involves any monetary change because if it does then according to the Open Meetings Law no decisions regarding

public monies can be made in Executive Session. It's confusing and she thinks the Council can do better. She wishes that the letter to the City Manager was read at the beginning of the meeting so that we had an idea of what they were going to be talking about in the Executive Session. It's all backwards.

Barbara Smith, City of Newburgh said not only is it backwards but before coming to the meeting this evening the Times Herald Record had an in depth update on what this was all about but not everyone read that. We should have had discussion before you went into Executive Session because there may have been some comments from the public asking them to think in terms of what they are going to vote for and for us to understand that it is in the best interest of our City. With regard to the Civil Service Commission meeting the other day, she watched it online and a person in attendance, Animal Hughes, gave the Committee something with regard to Open Meetings Law. According to the Open Meetings Law if you go into Executive Session and make a decision that affects the people and our funding then there should have been Minutes taken and those Minutes should have been available to the public within two to three business days. We should know a little bit about what you are going to do. If we knew, then maybe we could have spoken and asked questions. It is a little confusing.

Councilman Harvey said that this Legislative Body should have nothing to do with this Police Chief position. Civil Service is an entity that is separate from the Legislative Body because we are all Elected Officials. If you research Civil Service Law and Civil Service Commissions, they are separate from the Elected Officials on decisions and matters with public employees. Our City Manager and the Civil Service Commission can't get it together and compromise between those two entities so they are at odds and in a fight and they are bringing this Legislative Body into that fight. We have nothing to do with the hiring or firing of public employees. We are elected by the public and we serve at the will of the people, by the people and for the people. We vote on laws. Because our Civil Service Commission and our City Manager, who is the head of all of the departments, can't come to an understanding on this Police Chief position we are being brought into a fight that we don't want to be involved in. We had a Human Resource position budgeted part-time for the fiscal year of 2016 that has not been filled and we have a Human Resource position budgeted for the 2017 fiscal year and they are wondering if that's going to filled. We don't want to be involved with Human Resource issues because we don't have anything to do with it but now we are being brought into a fight or a conflict between the Executive Branch and the Civil Service Commission. We are legislative and we don't want anything to do with hiring and firing. That's why there is a Civil Service Commission which is a separate entity from the Elected Officials. The whole point of a Civil Service Commission is so that people don't get hired or fired based on political favors. Everybody wants to point fingers at the City Council and our Mayor but we do not get involved with Human Resource issues because we are Elected Officials. We are being

brought in on a Friday night unexpectedly with this situation and we don't want to be involved. We have to make tough decisions regarding a resolution that has been written by our City Manager and proposed to vote to try to resolve an issue that's between the Civil Service Commission and our Executive Branch.

Barbara Smith said to clarify, a former City Manager moved our Civil Service Office from the first floor to the Executive Office in order to make her a Human Resource person so why hasn't this Human Resource person done her job? Why is she intermingled with the rest of the Commission?

Mayor Kennedy said that's a question we are not going to get into tonight because Civil Service and Human Resources are not the same thing so whatever the former City Manager did it is not an appropriate direction to take and we have to straighten that out.

Stuart Sachs, 28<sup>1</sup>/<sub>2</sub> Lander Street said that everyone in this room supports Chief Cameron and we all want him to remain as the Police Chief. What's really important to get across is that what is in the way of that is a broken Civil Service Commission. He doesn't know why it's broken but it does not seem to be functioning properly. It has been an absolute charade over the past year or so watching this happen time after time again with this nonsense about tests when we have a highly qualified Chief of Police who has the support of the Government and the people of the City of Newburgh. That is an incredibly unusual thing in this Country so we have to stop and realize how unusual this is in this day and age when Police Chiefs are being run out of office and the Police are not thought of highly by the people that they serve. This is a man that we need to keep in office and that we the people, the taxpayers and the voters want to remain in office. We need to find a way to make that happen and if the Civil Service Commission can't figure that out it probably means that they are not smart enough. He doesn't know the answer but this is a broken system so we need to put our heads together and fix that. We all agree that the Police Chief is doing his job properly and he needs to stay in that job. All of these people who came out on a Friday night didn't really want to be here but we came because this is really important. Let's try to fix this broken system.

Peter Frase, City of Newburgh Heights, echoed many of the comments already made. He has been a member of the Police Community Relations Advisory Board for a couple of months now and has had the opportunity to interact with the current Police Chief. He would like to continue to work with him and he has not heard any reason as to why we should not continue with the leadership that this department currently has. He is not versed in in the Civil Service procedures but he hopes the Council will find some way to overcome whatever the technical obstacles are that they are dealing with so that

we can have continuity and we can move forward with someone who has been a very good and very popular Chief.

There being no further comments this portion of the meeting was closed.

#### COMMENTS FROM THE COUNCIL REGARDING THE AGENDA

Councilwoman Holmes said that she appreciates everyone coming out tonight. She is a former Civil Service Commissioner and she didn't have any problems because she was transparent with whatever went on. She didn't see eye to eye with the previous City Manager, Mr. Herbek, but we still did what we had to do professionally. We still talked to each other and did what we had to do even if we didn't want to. For Open Competitive Exams you have to take the test. If you don't take the test it's like you don't want the job. That's how simple it is. We just got this yesterday so it's kind of hard to explain. The City Manager sent a letter stating that he wanted to appoint Cameron without taking the test but it doesn't happen that way. You have to have Civil Service in a municipality. If anyone knows of another way, let her know. She wants to make the correct decision and she understands that the people in attendance are the voters but there are a lot more voters out there also. She thanked everyone for coming and she hopes this clarifies a little better because she was confused too when she saw this yesterday.

Councilman Harvey said that Mr. Sachs made some great points and whether or not the Civil Service Commission is a broken system or not is debatable. He thinks some changes need to be made with it as well and he thinks Chief Cameron is doing an excellent job. We have made some great progress in our City with crime but there is a counter argument which has been made very loud and clear to him through e-mails and phone calls. There are constituents in this City who feel that even though people believe the Civil Service Commission is broken and it needs to be fixed the rules have been made public and written out regarding Open Competitive Civil Service positions and if anything is altered or changed then people are getting into the Police Chief position without following the rules that everybody else has to follow. That's the whole point of having a Commission. The counter argument is that although Chief Cameron is a great guy and he is doing a great job there are people who believe that the rules have to be followed. That's the challenge. If rules have been readjusted or recreated just for Chief Cameron because we think he is doing a great job, is that really

fair when you have a Civil Service Commission that says these are the rules. Is it nepotism or privilege? Would the same rules be changed if the Chief were African-American or Latino? These are the questions that are coming into his e-mail. We have a set of rules that everyone is supposed to follow so do we change the rules for him and not everybody else? That is why we are in a tough position.

Mayor Kennedy said that we are in a tough pickle and it makes it tougher because we have State Civil Service rules and then each City has its own Civil Service rules. She called several Civil Service Commissions when this all began to find out what the flexibility is that Civil Service Commissions have in creating rules and what they can do. The truth of the matter is that they have a lot of flexibility. In Middletown, for instance, they strictly do promotional testing because they want to promote from within. The set of rules that are set up by any Civil Service Commission in any municipality is particular for that municipality. The rules between Middletown, Poughkeepsie, Kingston, Newburgh and the City of Beacon are all different. It has nothing to do with someone's qualifications; it has to do with rules as they are set. We need to understand if the rules are fair. The rules that were written concerning the Police Chief were set up around 2004 and at that time it had to do with the Deputy Chiefs and what the path forward was for people to move up in that department. When the tax cuts came in 2010 and the Deputy Chief Positions were done away with, they didn't change the rules. The same rules were left in place which left a hole in the way in which people could be promoted. That hole and those issues is what has now come forward in the last year and half to be a big part of the problem that we have going on at this particular time. We have a Police Chief who has been doing a stellar job for us and in general after so many years of dysfunction we actually have some functional things going on. It seems like this Council finds itself between a rock and a hard place position a lot but the compromise coming forward tonight has to do with the Deputy Police Chief position that perhaps somebody can be assigned to so that we can move forward. We have to have a leader in the Police Department and as of tomorrow or the next day it cannot be as it is today so we have to open another door and that is the resolution that is on the table tonight. This way we will at least have a temporary solution going forward while a whole lot of other questions are answered and issues are resolved so that we can hopefully move forward.

There being no further comments this portion of the meeting was closed.

**RESOLUTION NO.: 274 - 2016**

**OF**

**OCTOBER 14, 2016**

**A RESOLUTION AMENDING THE 2016 PERSONNEL ANALYSIS BOOK  
TO ADD A FULL-TIME DEPUTY POLICE CHIEF IN THE POLICE DEPARTMENT**

**WHEREAS**, it has become necessary to restore the position of full-time Deputy Police Chief in the Police Department; and

**WHEREAS**, the City Council has determined that restoring a full-time Deputy Police Chief position in the Police Department will promote continuity in leadership and efficiency within the Department; the same being in the best interests of the City of Newburgh; and

**WHEREAS**, restoring the full-time Deputy Police Chief position in the Police Department requires the amendment of the City of Newburgh Adopted Personnel Analysis Book;

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh, New York that the Personnel Analysis Book for 2016 be and is hereby amended to add a full-time Deputy Police Chief position in the Police Department.

Councilwoman Abrams wanted to publicly thank our great City Comptroller, Katie Mack who sat here with us through this ridiculous meeting and Executive Session. She noted that the resolution says this is to amend the Personnel Analysis Book for 2016. Should it be for 2017 or is this correct?

Michelle Kelson, Corporation Counsel, answered that it can only be for 2016 because the Council hasn't adopted the 2017 Personnel Book. They will have opportunities to do that as they work through the Budget as the 2017 Personnel Book is part of the Budget.

Councilwoman Rayford said that we undermine a lot of people. Maybe they haven't gone to College or received an adequate education for the positions that they are in but she believes that every City worker works hard at what they do and she appreciates their effort. She doesn't think there is on person who doesn't work hard in their position in the City of Newburgh. She was distraught to receive such notice yesterday and to be asked to come here on a Friday which starts the Sabbath in which she practices. It is her duty because she was elected and prayerfully she will come up with the right decision that will bless the City. She doesn't like being put in the predicament where she has to make a quick decision. She and Councilman Harvey are new to the Council and they are educators with Degrees beyond what is expected of them. We also have a conscience and a heart and want what is good for the City. Are we going to be truthful? Are we going to be honest? Are we going to be transparent and accountable? I don't like being put on the spot and we didn't know what was going on either but our City Manager knew. Why put us in this predicament at the last hour to make a decision which should have been handled between the City Manager's Department and Civil Service? She thanked everyone for coming out tonight.

City Manager, Michael Ciaravino noted for the record that this notice from Civil Service was received on October 13<sup>th</sup> and today is October 14<sup>th</sup>.

Councilwoman Rayford told the City Manager that he knew because he already tried to get things passed in the Courts and he knew that his contract was going to end sometime so this should have been dealt with.

Councilwoman Abrams moved and Councilman Harvey seconded that the resolution be adopted.

Ayes - Councilwoman Abrams, Councilman Harvey, Councilwoman Mejia, Mayor Kennedy - 4

Nays - Councilwoman Holmes, Councilwoman Rayford - 2

ADOPTED

There being no further business to come before the Council the meeting adjourned at 7:55 P.M.

LORENE VITEK  
CITY CLERK