

City of Cambridge

The City Council Committees on Civil and Human Rights and Public Safety conducted a joint hearing on Thursday, July 12, 1990 beginning at 5:54 p.m. in the Sullivan Chamber, City Hall.

Mayor Alice K. Wolf convened the hearing. Lead those assembled in the Pledge of Allegiance and upon completion asked for a moment of private meditation.

The Mayor then introduced the following: Vice Mayor Kenneth E. Reeves, Councillor Walter J. Sullivan, Councillor Edward N. Cyr, Councillor Timothy J. Toomey, Jr., Councillor Sheila T. Russell, Councillor William H. Walsh and Deputy City Clerk John E. Flynn.

Upon completion of the introduction the Mayor then turned the Chair over to Vice Mayor Reeves who stated the purpose of this advertised meeting was a discussion on the provisions of Personnel Administration Rule .10 or Par .10 as it relates to the Cambridge Police Department. The Vice Mayor then provided a Legislative history of the June 11, 1990 Council Order requesting the City Manager to submit to the Department of Personnel Administration of the Commonwealth of Massachusetts a request that PAR .10 consideration be applied to the Cambridge Police Promotional Examinations of April 7, 1990. At this time the Committee heard from Michael P. Gardner, Personnel Director for an overview of PAR .10. This rule has existed since 1978 and was designed to provide an affirmative action test for the appointing authorities to appoint members of protected groups from Civil Service eligible lists.

The protected groups for Par .10 purposes are females and minorities. Minorities include Blacks, Hispanics, Asians, Pacific Islanders, Native Americans and Alaskan Natives.

The applicability of this rule is as follows:

1) May be applied to any Civil Service classification in a municipality except for Fire and Police positions which are subject to the Castro v. Beecher or NAACP v. Beecher federal Court Decrees;

2) Use of Special Certification Procedures will be restricted to instances of substantiated underutilization of the protected groups, minority minority or female. The State's Personnel Administrator determines evidence of underutilization of a protected group through a statistical analysis of the municipality's Civil Service workforce; and

3) Further, Special Certification Procedures will be applied only when the appointing authority has on file with the Massachusetts Commission Against Discrimination or affirmative action plan containing approved provisions relating to personnel utilization analysis and numerical hiring and promotion goals.

Mr. Gardner further stated that Par .10 will be implanted when the Personnel Administration has determined that past personnel practices have discriminated against a particular group in the Civil Service Work Force and thus this implementation will provide increased opportunities to members of protected groups to be reached on the Civil Service eligible lists.

Mr. Gardner also outlined the instances in which the PAR .10 applicability would not be applied. Some examples include 1) for provisional, temporary, part-time and intermittent appointments: 2) Once a certification has been sent out and applicants have been interviewed, and 3) Absence of protected group members on the appropriate eligible list.

Councillor Toomey questioned the role of the Personnel Administrator and how the City could be found discriminatory when it follows the prescribed rules in the hiring process.

Mr. Gardner in response stated that it has been the City's Position since the 1980's when requesting the implementation of the PAR .10 procedures that the City's personnel practices are fair and equitable but because of the rigidity of the State's written examinations inequities have resulted and the Par .10 vehicle expands the discretion of the appointing authority.

Councillor Cyr in a procedural question to the Personnel Director asked who requests PAR .10 to be invoked? In response Mr. Gardner stated that a recommendation would be forwarded by the City's Affirmative Action Officer and Personnel Director to the City Manager as the appointing authority.

Councillor Toomey requested a further explanation by Mr. Gardner on the conflicting statements he made regarding the city's position and the invoking of PAR .10 in the hiring process.

Mayor Wolf is trying to clarify statements attributed to the Personnel Director stated that there were instances in which the phrasing of certain questions on previous written examining administered by the Department of Personnel Administration led to legal challenges of the examination results. Mr. Gardner cited the following analogy to better illustrate his statements regarding past practices: In 1971 minority applicants brought suit against the Boston Police Department and Civil Service claiming discrimination in the testing process. In the Court of Appeals decision it found Civil Service to be discriminatory and the Boston Police not to be discriminatory and to remedy the situation a ratio formula was instituted to assure minority consideration in the hiring and promotional process. Mr. Gardner also stated that the City of Cambridge is still subject to the court's decision in its personnel policies.

Councillor Toomey questioned Mr. Gardner further on what legal action has been undertaken at this point regarding the April 1990 examination? Mr. Gardner stated that no litigation or claims have been brought to his knowledge. Mayor Wolf in questioning those instances in which PAR .10 procedures would not be applied asked of Mr. Gardner to cite an example where it was asked for and turned down and by what criteria. Mr. Gardner cited an example where it was asked for and turned down and by what criteria. Mr. Gardner cited an example in the Purchasing Department for the hiring of a data entry operator position.

The decision based on statistical data provided for the total Municipal classification found it unnecessary to authorize the use of this alternative certification rule.

Vice Mayor Reeves in questioning the compilation of statistical data by classification asked of the possibility of looking at both Police and Fire in PAR .10 requests to the State. Mr. Gardner responded that PAR .10 has not been requested for in Police and Fire hiring or promotional processes.

Mr. Gardner stated that PAR .10 was requested by the City, granted by the Personnel Administrator and resulted in the hiring from the protected list of a Fire Alarm Operator position in the Electrical Department. Councillor Sullivan questioned Mr. Gardner on the fact that since the City has never requested PAR .10 in promotional matters whether or not it would require collective bargaining with the various municipal unions. Mr. Gardner responded in the affirmative.

Upon conclusion of Mr. Gardner's presentation, Vice Mayor Reeves introduced Anthony G. Paolillo, Chief of Police. The Chief read in to the record the following statement.

"I am distressed at the recent City Council vote regarding the promotion process in the Police Department. My goal has always been to have a unified, cohesive Police Department. Personnel Administration Rule .10, in my opinion, would be divisive to the Department.

Since 1977 when I became Chief Davenport's Administrative Assistant, I have advocated changes in policies which would bring the Cambridge Police Department and the community together in a setting where there is mutual trust. In my opinion, despite the allegations and suits against the City and our Police Department by individuals (and I emphasize the word individuals), I feel I have accomplished this. If there is doubt in your mind of the accomplishments, talk to some of the community leaders in the Black Order of the Elks, or the Ebony Social Club, or the combined Central Square ministers representing the minority parishes and congregations. In my opinion, minority and non-minority, have been afforded equal opportunities for promotions and advancements. I cannot recall, in my 10 years as Chief of Police, any instance where any officer, minority or non-minority, who has requested to attend a training session and been turned down. I cannot recall, in my 10 years as Chief of Police, where I've ever refused an officer, minority or non-minority, an assignment in any Division or Unit, type of work, or assignment in any section of the City, if it was available and the officer was capable of performing the assignment.

As far as advancement and promotions, our Police Department will never be a cohesive working organization if advancement is not achieved through the officer's personal achievements and accomplishments thereby earning the advancement. I strongly believe that and I also believe every officer in this room this evening knows this to be true.

I urge you to weigh carefully this move to recommend Rule .10 before you destroy many years of hard work on my part and on the part of the entire Police Department. You, Mr. Chairman, are a prime example of what hard work can accomplish as evidenced by your recent election campaign. You only get out of life what you put into it."

In response to the Chief's statement, Vice Mayor Reeves stated that as author and sponsor of the Council Order previously described that much thought was given prior to its introduction to the full City Council. This issue is how best to aid all of the department to reflect the diversity of the community and its interaction with the populace.

Councillor Toomey and Councillor Russell questioned the timing of the introduction of the order by Vice-Mayor Reeves, coming late in the evening of the Council's proceedings and passed without a full discussion with all affected parties.

Vice Mayor Reeves stated in response that given the fact that the City Council on June 11, 1990 conducted a public hearing on the issue of the City's affirmative action policies that introduction of the Council Order was germane to the proceedings.

Councillor Russell then questioned Chief Paolillo or eligibility requirements imposed on promotional examinations as well as the issuance of standardized study materials to candidates.

In a follow up question by Councillor Russell on the expiration of promotional lists the Chief responded that previously the list would expire every two years now in existence until a new list is established and certified.

The Chief further stated that to be an effective public safety function the department needs to be a cohesive organization and this issue will divide the Cambridge Police Department.

Councillor Walsh inquired of the Chief if studies had been conducted to determine if PAR .10 was necessary to be used as a vehicle in the promotion process. The Chief indicated that he was unaware of any studies conducted by the City. Councillor Walsh in further questioning to the Chief asked if the City Manager sought his advise on this matter. The Chief responded in the negative.

Councillor Walsh then inquired of Deputy City Manager Richard C. Rossi: if the City Manager had requested the use of PAR .10 in the matter of the April 1990 police promotional examinations? Mr. Rossi stated that the City Manager had not made a request for this alternative certification on rule.

Councillor Walsh citing page five of the memorandum issued by David A. Haley, Personnel Administrator dated October 9, 1984 entitled:

(D) Evaluation of other Indications of Past Discriminatory Practices suggested that since PAR .10 was promulgated to resolve a problem with regards to past discriminating practices and since no empiracal data supports this problem that implementation of PAR .10 results in a manipulative political tool.

In continuing his line of questioning, Councillor Walsh inquired of Deputy City Manager Rossi: if there existed any examples of discrimination in the hiring processes employed by the City of Cambridge, Mr. Rossi responded in the negative. Mr. Rossi further stated that the Purchasing and Electrical Departments as well as all other departments within the city were committed to affirmative action and that PAR .10 has been used to demonstrate that commitment.

In questioning Mr. Gardner, Councillor Walsh asked for a further listing of City Departments that have utilized the provisions of PAR.10. Mr. Gardner listed the Public Works Department and the Cambridge Hospital. Mr. Gardner further stated that the City Manager's overall goals, objectives and achievements have been exemplify.

Councillor Walsh then asked of the Personnel Director for the following statistical data:

- 1) Number of Superior Officers;
- 2) Percentage (%) of Minority Representation;
- 3) Minority Percentage (%) of total Cambridge Police Department workforce.
- 4) Citywide Percentage (%) of Minority Community
- 5) Mandatory Retirements in the rank of Chief, Captain, Lieutenant and Sergeant.

Mr. Gardner in response provided the following answers:

1) 63

2) 10%

3) 17%

4) 16.86% over the age of sixteen

5) Chief - 1; Captain - 3; Lieutenants - 0; Sergeant - 1.

Councillor Walsh then inquired of Deputy City Manager for an interpretation of a City Council Order based upon the City Charter. In response Mr. Rossi stated that it is a request of the City Council to the City Manager to take action on a specific topic.

In summary, Councillor Walsh stated that a Council Order is only a request and that it does not automatically become the policy of the City of Cambridge. Under the Charter the City Manager has discretionary powers and under the Charter - the City Manager is the appointing authority and in that role he and only he can request this alternative certification rule.

At this time the Committee then took public testimony on the subject matter. Speaking in opposition to this Department of Personnel Administration rule:

1) Detective Frank Pasquerello, 230 Upland Road, President of the Cambridge Patrol Officers Union, testifying that PAR .10 would split the department right down the middle.

He further stated that PAR. 10 stigmatizes blacks in the system. Also that promotions should be based on merit, not on race or color.

Mayor Wolf responding to Detective Pasquerello's statement stated that the Police Department should reflect the diversity of the community at large and that PAR .10 increases the number of candidates eligible to be selected but is not mandatory for appointment.

Vice Mayor Reeves questioned Detective Pasquerello on the Union's support for Veteran's preference in the hiring and promotional process. Detective Pasquerello in response stated that it was an Statutory requirement. In a follow up the Vice Mayor asked for the total membership of the union. In response Detective Pasquerello stated that the membership comprised 215 sworn personnel of the Cambridge Police Department.

Councillor Cyr then questioned Robert Wise, Esquire representing the Patrol Officers Union on the question of whether or not PAR .10 was an item for Collective Bargain?

Attorney Wise stated that the change in City Policy was subject to Collective Bargaining and past practices should continue until process is completed. Attorney Wise further stated that the Union should have filed an unfair Labor Practices Action against the City but did not and has requested the City to meet to discuss this rule change.

Also speaking in opposition:

2) John Lawless, 29 Grove Street, Medford, Present Local 30, Cambridge Fire Department.

3) Lt. George Powers, Secretary Superior Officers Association.

Speaking in Favor:

1) Cambridge Police Officer Lorraine Betts, Magee Street.

The Mayor congratulated Officer Betts for her courage in testifying before the Committee and stated it was scandalous that there were no female superior officers and wanted it corrected over time.

Further testimony against PAR .10 included:

4) Cambridge Police Officer Maureen Ford, 224 Norfolk Street.

5) Steven Williams.

Mayor Wolf stated that the City Council was the policy making body of Cambridge and that PAR .10 was the policy of the City.

Vice Mayor Reeves further commented that given the facts as presented that the City Council has to look at what serves the people of Cambridge and not just the people who are affected by this rule. The Vice Mayor further stated that the goal is the public safety of the community.

Councillor Toomey and Councillor Walsh continued their vocal disagreement with Vice Mayor Reeves over the timing, process, and request to the City Manager by the City Council for seeking the alternative certification rules.

The Vice Mayor in response stated that although the process may have been backwards but the results have been definitive, that the Council order has not been implemented but under consideration by the City Manager. A hearing is being held to air all concerns.

In response Councillor Toomey stated that the hearing was called wrongly and that the Council's action will serve to be divisive and that he did not want to see people divided in the department.

Councillor Walsh questioned why the Vice Mayor thought there was a necessity of a vote by the City Council before June 30, 1990 since the City Manager has had this vehicle available to hire for the past six years.

Vice Mayor Reeves stated that the Council, Applicants and Community should be assured prior to summer recess that the timing of the Council Order did not miss the instance in which PAR.10 procedures will not be applied if once certification has been sent out and applicants have been interviewed.

In accepting further public testimony, the Committee heard from:

6) Officer Richard Linehan, 7 Malcolm Road, stating his opposition to the provisions of PAR .10.

7) Officer Bab Pacho, 33 Rogers Street, suggested that additional training be provided on all levels to better interact with the community. Mayor Wolf stated her support of excellence in all appointments. To further include women and minorities will not be a diminution of the system. The Mayor further stated that people are people and not to infer that minority representation would diminish excellence.

Attorney Wise stated that the only way to strive for excellence is through the presentation examination system.

Vice Mayor Reeves commented that PAR.10 is an outgrowth of the present examination system and important that everyone in the city and society participation in the system.

Officer Joseph Bellissimo, 5 Western Avenue concluded the public testimony questioning the City Council's attention in this matter.

The Vice Mayor responded that through the sending of the applicable personnel administration rules that one can conclude that Affirmative Action Policies are good at the entry level but shgould be reflective at all levels.

The hearing was adjourned at 9:33 p.m.

For the Committees

A handwritten signature in black ink, appearing to read "Alice K. Wolf", written over the printed name.

Alice K. Wolf

Mayor

COMMITTEE REPORT 6-715

Report for the joint hearing of the Civil and Human Rights Committee and the Public Safety Committee for a hearing held on Thursday, July 12, 1990 to discuss the provisions of the Personnel Administration Rule .10 or Par .10 as it relates to the Cambridge Police Department.

In City Council,

July 30, 1990

*Report accepted
& placed on file*