

EXECUTIVE SESSION OF THE CITY COUNCIL

February 6, 2024

The meeting was called to order by President Murphy-Romboletti at 6:04 PM

President Murphy-Romboletti called the roll. Absent members: 1 (J. Rivera) Present Members in person 12 (Anderson-Burgos, Bartley, Devine, Givner, Greaney, Jourdain, Magrath-Smith, Murphy-Romboletti, Ocasio, I. Rivera, Sullivan, Vacon,).

The Pledge of Allegiance was recited.

President Murphy-Romboletti stated that the purpose of the meeting was to go into executive session.

Councilor Bartley made a motion to go into executive session for the purposes of hearing from the Law Department on a litigation update. Councilor Vacon seconded the motion.

Councilor Bartley emphasized that this session should be capped a few minutes before 7 PM for the regular meeting.

President Murphy-Romboletti suggested trying to wrap up around 6:45 PM.

Motion passed on a call of the roll of the yeas and nays--Yeas 12--Nays 0--Absent 1 (J. Rivera).

President Murphy-Romboletti stated that Mayor Joshua Garcia, City Solicitor Lisa Ball, Police David Chief Pratt, as well as Dimarys Seymour from the Personnel Department were in attendance. She then stated that the agenda was a litigation update, noting that the Council felt it needed more time to answer questions and get more information.

(Section redacted)

Chief Pratt stated that he was not disciplined because he was retired. He added that the officer was promoted a year before this came to light even though the situation took place a couple years before that. He then emphasized the importance of understanding how these things work. He then explained that when this was brought to his attention, he contacted the D.A.'s (District Attorney) office, they got involved, did their investigation which lasted from the end of March until the end of June, and did not proceed with charges. He then stated that was when they started the internal investigation, which started in July. He added that came to a conclusion at the end of September or early October. He emphasized that they had procedures they had to follow that went along with Civil Service rules, with the person being excused having due process rights, or they risked it being overturned if procedure wasn't followed properly.

Mayor Garcia asked him to explain what would happen after getting the report.

Chief Pratt stated there would be another step in the form of a supervisor review group that would go over the report from the IA investigator, and they would then come back with a determination, and would then go to him for final disposition. He added that if the officer had not retired, he would have been brought in, disciplined, and then the procedure for an appeals process would have started. He explained that it all

had to line up according to a process. He added that once discipline was handed out, they had 2 days to appeal it to the mayor, who then would have to give them a hearing within 5 days. He then stated that missing one of those steps can cause Civil Service to overturn it. He then explained that they continue the process and still proceed with a report to POST (Massachusetts Peace Officer Standards and Training Commission), but without someone to discipline. He further explained that this was to ensure that if he were to reapply later on, the case would be reopened, and he would still have to be disciplined before he could come back. He noted that with the new reform bill, it made it harder for them to retire her and then try to apply to another police department.

Councilor Vacon asked for a walkthrough of the timeline of the internal complaints from the chain of command. She also asked for an explanation of why there could be an internal investigation taking place at the same time after a referral was made to the D.A.

Chief Pratt stated that they were made aware of it on March 28, 2023, the complaint was opened immediately, and he was placed on paid leave. He then explained that the internal doesn't take place at the same time as the criminal because anything coming out of the internal investigation could be used in a criminal investigation. He noted that the D.A.'s office asked them not to do that because they did not want information from the internal case to influence the criminal investigation. He added that was all run through POST who signed off and allowed an extension on their deadlines. He also stated that it was done this way across the board. He explained that if the criminal investigation had proceeded, the department would have moved in a different direction, the employee would be placed on unpaid leave for the criminal proceedings. He added that the internal investigation would take place upon the completion of that process.

(Section redacted)

Councilor I. Rivera emphasized the importance of having mechanisms in place to make sure this doesn't happen again. He then noted that while it was true that the allegations did not come to light until March of 2023, officers testified to other incidents that may have happened before considering the same individual. He suggested that there was a culture of people seeing what was going on but not saying anything. He then expressed an understanding that was the nature of many workplaces, but this one hit the city in the wallet. He then asked what the city was doing to mitigate this if other officers feel like something is happening.

D. Seymour offered an apology on behalf of Personnel Director, Kelly Curran, who could not be there that evening. She then stated that a lot of steps had been taken in the department to change the culture, noting that they had an open door policy that had not really been there before. She suggested that may have allowed this to come to light. She also stated that new hires are set up with ethics training that has to be completed within 30 days. She also stated that they were working on an employee handbook with personnel policies, where everyone would have to acknowledge that they understand everything put in place. She also stated that they held antiharassment and sexual harassment training the previous year. She added that they were holding a training for department heads on management.

Councilor Magrath-Smith noted that so much of culture comes from the top. She then asked Mayor Garcia where he saw his role in responding to this.

Mayor Garcia stated that he inherited quite a bit when he came in two years earlier. He then stated that they had been focused on the middle out. He then expressed his belief that in working with Atty Ball and Ms. Curran, they had transformed the culture at City Hall in establishing a new level of expectations in the workplace and centralizing things where before, a lot was siloed. He added that holding people more accountable had led to some people choosing to separate from their jobs. He then emphasized that while police and fire were their own culture, he had made clear he expected them to include Personnel when

investigating internal matters. He added that he was trying to create a culture of people in those departments knowing that they could go to Personnel if they did not feel comfortable addressing issues internally.

Chief Pratt stated that he saw his role and one of having to act when something comes to his attention. He added that he also has to take measures to ensure the same issues do not happen again. He then explained that they had added layers in the hiring process and bolstered the IA division especially for these kinds of matters. He then emphasized that nobody goes to him first to report issues, but first deal with their union president and their fellow workers. He added that he had a strong relationship with the two union presidents. He noted that this was one of likely thousands of incidents that had come through them first that the Council wouldn't hear about because they get dealt with. He then stated that this was an unfortunate incident. He then stated that he knew about a Facebook post, and that it was investigated because he was involved in it, but nothing came forward from that at that time. He added that the FBI and the Attorney General looked into that and found nothing. He also emphasized that as the chief, he can't just listen to rumors and stories and take them at face value without people coming forward. He then suggested that the Police Department didn't have an issue of people not coming forward, noting that they had good outlets to come forward both in and out of the chain of command. He also explained that while there was a culture with policing in general, new recruits were instilled with instruction about not being afraid to step up and say something and question authority.

Councilor Jourdain expressed concern with the culture in the city, recalling that there had been some horrific examples of sexual harassment in Holyoke, even with a zero tolerance policy. He suggested that nobody goes out of their way to create a culture of no sexual harassment. He further suggested that it had been happening for years, adding that the report rebuffed what Chief Pratt had just stated. He also questioned the claim that a (redacted) was investigated, noting that (redacted) claimed in the report that nobody every interviewed her or asked her about the allegation that she was having a relationship with Capt. Reyes. He then questioned how the department had a bad actor for years and nobody knew any of this was happening. He further questioned how he was put in charge of IA, as well as promoted, when nobody had anything positive to say about him, and had nothing but negative to say. He noted the report showed that (redacted) stated under oath, "Capt. Reyes would visit the records department when '[t]here seemed to be no business reason' for Captain Reyes to be there and that he 'did not try to hide the fact that he was leering and would look her up and down.'" He then suggested that this made clear this was common knowledge. He added that if the (redacted) was investigated, (redacted) should have been informed that there was a claim that she was having this relationship with Capt. Reyes, then Lt. Reyes. (redacted). He added that another issue was GJIS (criminal justice information system) reporting claim from (redacted) who stated that Capt. Reyes illegally acquired all of his information, and did records checks on him. He asked if charges were ever pursued for that.

Chief Pratt stated they were.

Councilor Jourdain asked what the department was told about that.

Chief Pratt stated that the D.A.'s office declined to prosecute.

Councilor Jourdain asked if that was their job or the A.G.'s job.

Chief Pratt stated that it was all given to the D.A. and it was given back to the department.

Councilor Jourdain stated that there was also releasing of psychological testing, and that there were four violations: sexual harassment against two female officers, the CJIS violation, and the revealing results of psychological testing. He added that Capt. Reyes used that information to threaten an employee. He then

questioned why the city could not have had grounds to terminate him years ago if they had investigated him before 2023, noting that 4 1/2 years of abuse was described in the report. He then emphasized that had Capt. Reyes been terminated for moral turpitude, it would have been grounds for him to lose his pension and the city would not have to give him his payout along with a lifetime pension. He then expressed frustration that Capt. Reyes was able to walk away with no consequences. He then questioned the claims that Personnel had a strong, we're on top of it, culture against harassment. He then observed that it appeared to be a department already dominated by men, and these officers did not feel they had anyone to turn to. He suggested that without any major change for reform, this was going to happen again.

D. Seymour stated that they were trying, and it was something that would not happen overnight. She noted that everyone at the table had been there just two years and these were matters that they inherited and were doing their best to change things. She emphasized that (redacted) was able to go into their office and make her claim because they were starting to change their culture.

Councilor Jourdain emphasized that it was 4 1/2 years later.

D. Seymour stated that she could not speak on who was there in the past.

Mayor Garcia stated that when they stepped in, they had to begin putting people in key positions to start changing things. He then stated that the situation with (redacted) was investigated and she denied the whole thing.

Chief Pratt stated that she said to the investigator, "it doesn't make it gospel." He emphasized that she was spoken to and he did not know why she said she wasn't. He then expressed frustration in being told that everyone must have known something.

Councilor Jourdain asked Chief Pratt if he read what the lieutenants and captains were saying, that everybody knew.

Chief Pratt stated that everyone knew after people came forward. He stated that he never had anyone tell him before that. He suggested that it was easy to look back at it now, but there were no indicators then, and he acted on it when he got the indicator. He stated that he understood the frustration, but still had to follow procedures or Capt. Reyes would be suing the city as well.

Councilor Jourdain asked Chief Pratt if anyone ever spoke to him when the promotion came up.

Chief Pratt stated that complaints come every time from those lower on the list. He added that there were no obvious indicators four years ago, emphasizing that he was a captain at that time and not the chief. He then questioned being told things should have been done four years ago when there were no indicators then. He added that Capt. Reyes was well respected then.

Mayor Garcia reiterated that Civil Service controls promotions, and Reyes was next on the list. He then stated that he had not heard any of these issues at that time but, even if he had, bypassing a candidate from Civil Service without formal evidence of an allegation opened the city up to litigation.

President Murphy-Romboletti noted that it was now 6:45 PM and they needed to be mindful of time.

Councilor Sullivan expressed skepticism that something like this could have gone unnoticed for that many years.

(Section redacted)

Councilor Anderson-Burgos suggested that this was a slippery slope, noting that when these kinds of incidents appears in the news, the woman rightfully was looked at as the victim. He then stated that while he could not speak to why she took time to speak out, he had known women who had gone through these kinds of scenarios and understood these were uncomfortable conversations to have with anyone, including themselves. He added that victims often aren't sure who to turn to and who to trust. He added that in a police force, it was like a brotherhood, or like in a gang where nobody wants to be the person going against the group's rules, and things get kept secret, until someone comes up for promotion, where jealousy starts to come out. He suggested that while it would be hard work to get done, language should be added to contracts that disqualifies people from benefits if situations like this come up.

Councilor Greaney asked what the D.A.'s rationale for not filing criminal charges.

Atty Ball stated that she did not know there reasoning, but they don't necessarily give their reasoning but often just give their decision whether or not they would be filing charges.

Councilor Greaney asked to confirm that they didn't give their rationale.

Atty Ball stated that they don't have to.

Chief Pratt stated that they investigated criminal charges being alleged, which was sexual assault - different then sexual harassment - and found there was not enough evidence to proceed at that time. He added they could reopen it if more evidence came to light. He added that they then referred it back to the department to handle it administratively.

Councilor Greaney stated that he asked because sexual assault was a felony and would absolve the city from liability for the pension.

Chief Pratt stated that was correct, but they did not find enough for that.

Councilor Givner suggested that there was a disconnect with how one entity such as a Police Department functioned versus a private entity, and that the body needed to be sensitive to how that works. She noted that as a child of an Army member, she understood there was a set of circumstances and laws people abide by, and things work differently. She further suggested that what may seem obvious may not be how things function. (redacted)

Councilor Vacon asked when the (redacted) investigation took place

Atty Ball stated that she believed it was in 2021.

Councilor Vacon asked if it was 2022.

Chief Pratt stated that he was sure it wasn't 2021 because it happened when he was not yet the chief. He added that it was definitely prior to August of 2021.

Councilor Vacon stated that she asked because at the time, the person was interviewed and expressed no issues.

Chief Pratt stated that was correct.

(Section redacted)

Councilor Devine asked how much the city expended on this matter.

(Section redacted)

Councilor Devine asked how much the investigator was.

Atty Ball stated that it was \$25,000.

Councilor Jourdain asked if a package of reforms was going to be submitted. (Redacted)_He suggested that another team could be there years later saying this was going to be fixed just like the last team had.

Mayor Garcia stated that they would plan to discuss how to make sure these things don't happen again. He emphasized that a lack of accountability was an issue throughout the city. He noted that he had a stern conversation during the last department head meeting about what their responsibilities were with the administration's concerns with enforcing policies, rules, and oversight of services to the community. He added that if anyone couldn't do that, he would start holding them accountable and even writing people up. He also stated that they would be doing training of staff on how to be better managers. He stated that they had been circulating a draft policy, getting feedback, and Personnel would be finalizing it for employees to sign. He then stated that he would work on getting reforms in writing to provide to the Council.

Councilor Vacon made a motion to go out of executive session. She noted that there was a female captain on the force during all of this.

Chief Pratt stated that was correct.

Councilor Anderson-Burgos seconded the motion. Motion passed on a call of the roll of the yeas and nays--Yeas 12--Nays 0--Absent 1 (J. Rivera).

Adjourned at 7:00 PM.