

## REPORT OF THE FINANCE COMMITTEE

JULY 20, 2016

A meeting of the Finance Committee was held on Wednesday, July 20, 2016, at 7:00 p.m. in the Aldermanic Chamber.

Mayor Jim Donchess, Chair, presided.

Members of the Committee present: Alderman-at-Large Mark S. Cookson, Vice Chair  
Alderman-at-Large Lori Wilshire  
Alderman-at-Large Michael B. O'Brien  
Alderman June M. Caron  
Alderman Ken Siegel

Members not in Attendance: Alderman Benjamin M. Clemons

Also in Attendance: Dan Kooken, Purchasing Manager  
Andrew Lavoie, Chief of Police

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PUBLIC COMMENT – None

### COMMUNICATIONS

From: Dan Kooken, Purchasing Manager  
Re: Purchase of Two (2) 2016 Ford Fusion SE Hybrids (Value: \$50,160)

**MOTION BY ALDERMAN SIEGEL TO ACCEPT, PLACE ON FILE AND AUTHORIZE THE PURCHASE FROM MHQ IN THE AMOUNT OF \$50,160. FUNDS ARE AVAILABLE IN DEPARTMENT 173, ENVIRONMENTAL HEALTH; 2016 AND 2017 CERF - VEHICLES**

### ON THE QUESTION

#### Alderman Cookson

In the correspondence which is used to justify this, I have a question about the 2002 Chevy Malibu. It said it passed state inspection; it just needs new brakes and tires prior to the winter. It only has 74,000. It says: "this care had some major repairs. It's 14 years old." I understand the age. What kind of repairs has it had? What kind of costs are associated with those repairs? The cost of tires and brakes with mileage that low, I'm just trying to draw a comparison between the two.

#### Mr. Kooken

I don't have any repair records. I can get back to them and ask about that. Typically these vehicles are about done when they get to that age. This one in particular isn't rusted like many, many of them are. Certainly if it is more feasible to repair, it could be repaired. I don't know what the past repairs were, whether they were very high dollars or not.

#### Alderman Cookson

Both vehicles, in and of themselves, have relatively low miles: 80,000 and 74,000, respectively.

#### Mr. Kooken

It hasn't been unusual for many, many of our vehicles to have that miles or lower and just be beyond their life. They don't get washed regularly. They sit outside a lot of them and they rust prematurely.

Alderman Cookson

With that statement, what are you going to do with the new 2016 hybrids? Are you going to take care of them or are we going to let them sit out and rust? It's only 74,000 miles. Come on, most people have their own vehicles for well into the 150,000's if not higher than that. This is literally half that mileage. I understand it's in CERF and we've geared them up to come in and out of service. One is using '16 funds, one is using the '17 funds. But this mileage is relatively low. I think people would go out and purchase a used vehicle with maybe that would be the max of the mileage that they would be looking for. I don't think it is that high of a mileage. I have questions about that just for that sole reason.

Alderman Wilshire

Having a fleet of vehicles where I work, myself, it's not always the number of miles but the type of miles. Most of these are inner city. They are not highway miles that a lot of vehicles get. From my experience, the age of these vehicles kind of speaks to that. Mileage isn't always the telling factor.

Alderman Siegel

Is it reasonable for us to get some additional information about the nature of the repairs? I have a similar question. I'm used to seeing vehicles having rust with relatively low mileage. It's kind of annoying, but it's a function of us not having proper wash bays. However, I do agree with Alderman Cookson, that the other vehicle just doesn't seem to have the type of obvious problems that the first one might have. We don't know what the repairs were so I'm not sure there's a real time urgency to this. If we tabled it and got some additional information that might be helpful.

Alderman O'Brien

It seems like the Ford Taurus we don't have a question with. Reading the letter from Director Bagley it says it has 80,000. Yet the vehicle in question is the Chevy Malibu at 74,000. We're only talking about 6,000 miles. To be accurate to the people who do not see this letter that is before us, she says in her letter that the car has some major repairs but is also 14 years old, no longer reliable and also not used outside of Nashua. Repeated breakdowns of this vehicle are very inconvenient and always expensive. If we look at efficiency, I think is what we need to look at, the city is not the shade tree mechanic. If we're spending a lot of money for repairs on a vehicle that's not really that road worthy, and I'm seeing only 6,000 miles between the two vehicles, I can see where they would come up at the same time in the CERF account to be replaced. Particularly, we're talking about a hybrid which I am very excited about because a hybrid is a vehicle that I think we will get more productive miles out of it, more efficient in operation. I would recommend going forward. Anytime you start talking deficiencies, I think this needs to be looked at.

Alderman Siegel

The big question is if. If, in fact, it has repairs. We haven't seen anything documented. There doesn't seem to be a downside in getting more information. It may be the case, but we really don't know. We are supposed to be doing due diligence. I think Alderman Cookson did raise a valid point. We may end up voting for it but at least we would be doing it with more information and in good conscience.

Alderman Cookson

To address Alderman O'Brien's distinction between the two vehicles. You're absolutely correct that the mileage between the two is a difference of 6,000. But what you failed to mention is the 2002 Ford Taurus will not pass state inspection without cost of repairs. You've got a point there where it's not passing state inspection. The other vehicle has already passed state inspection but it just needs brakes and tires prior to winter. That's my concern. I'd love to see some additional information to support the second vehicle.

Alderman Caron

I agree with Alderman Wilshire that the mileage that is used on this is inner-city. That takes wear and tear. When I see this letter, I am relying on my division director or department head to be giving us as much information as they feel is appropriate. They are not just looking for a vehicle just for the sake of getting a new vehicle. I think we have to remember that. I understand that sometimes more information helps you to move that along, but I think that we also have to trust our division directors to do their due diligence to get that information. When I see this vehicle is not worthy of going outside of the city then I don't think that it is worthy to be inside the city and we should be replacing that. Thank you.

Alderman Siegel

Again, there doesn't seem to be a tremendous amount of time urgency. I think it's certainly reasonable to take a look at this. I understand Alderman Caron's point, but in fact, everybody can have a different view point of what it means to replace a vehicle. Director Bagley has just recently come on board. It might be the case that something is on the CERF schedule so, oh, something is on the CERF schedule, so let's just put it in under normal circumstances under auto pilot, shall we say. Maybe yes, maybe no. I would trust but verify shall we say?

Alderman O'Brien

Point of order, Mr. Mayor. My question would be in the point of order in the state house we sometimes divide a question. Do we have to look at this in its entirety or can we divide it? Can we okay the Ford Taurus replacement? Can we split the question?

Mayor Donchess

There's no problem in dividing the question.

Mr. Kooken

Brakes and tires are, rough, \$1,000. This vehicle that goes to auction would probably return somewhere between \$800 and \$1,250. It does not have a high value. Can we get another period of time out of it by doing the repair? Possibly. But they don't take it out of town. They make some runs to Concord and they don't use that vehicle for that. Beyond that, I don't have the dollar record.

Mayor Donchess

At this point the issue being raised is not whether we should refuse to make the purchase, it's can we get more information about the vehicle.

**AMENDED MOTION BY ALDERMAN SIEGEL TO APPROVE THE REPLACEMENT OF THE 2002 FORD TAURUS**

ON THE QUESTION

We can debate the other one, but there doesn't seem to be much controversy about the automobile that won't pass inspection.

Alderman O'Brien

Can we also amend the motion to have Director Bagley come forward with a presentation on the vehicle in question? The Chevy Malibu.

Alderman Siegel

Since I'm making the motion, I don't want to clutter it up.

**MOTION CARRIED**

**MOTION BY ALDERMAN SIEGEL TO TABLE THE PURCHASE FOR THE REPLACEMENT OF THE 2002 CHEVY MALIBU PENDING ADDITIONAL INFORMATION FOR OUR NEXT MEETING SUPPLIED BY DIRECTOR BAGLEY**

ON THE QUESTION

Alderman Cookson

I don't think we need to specify who the information is coming from, whether it be Director Bagley or Mr. Kooken. I just think we need additional information,.

Alderman Siegel

Fine. I'll change it to additional information from whatever source is appropriate.

**AMENDED MOTION BY ALDERMAN SIEGEL TO TABLE THE PURCHASE OF THE SECOND VEHICLE TO THE NEXT MEETING TO OBTAIN ADDITIONAL INFORMATION**

Alderman Cookson

With regard to the repeated breakdowns, what was raised a point of question this evening.

Mayor Donchess

The motion is to table the second vehicle until the next meeting to obtain additional information regarding its condition and repairs that may be necessary.

**MOTION CARRIED**

Alderman O'Brien

This will not affect any of the purchase of the first vehicle to replace the Ford Taurus? When we got a price on the hybrids was it on purchasing two vehicles? Will the price still hold?

Mr. Kooken

They are independent so there's not a problem. M-H-Q has both vehicles in stock. I anticipate when we come back, they will still have it available but there is no difference in the price.

UNFINISHED BUSINESS – None

NEW BUSINESS – RESOLUTIONS – None

NEW BUSINESS – ORDINANCES

**O-16-015**

Endorser: Alderman-at-Large Lori Wilshire  
Alderman Richard A. Dowd  
Alderman-at-Large Michael B. O'Brien, Sr.

**PROVIDING FOR CONFIDENTIAL REDACTIONS ON THE RECORD OF EXPENDITURES**

**MOTION BY ALDERMAN WILSHIRE TO RECOMMEND FINAL PASSAGE**

ON THE QUESTION

Chief Lavoie

I am here to support this proposed ordinance, and I'd like to speak to the police related aspects of the legislation. The city's Record of Expenditures lists the name of the person and entity receiving payment as well as the amount that the payment was. It also must list the fund or appropriation in which the account or claim was allowed. As you can see this proposed ordinance provides a mechanism for redacting the name of police department personnel or an entity the claim is paid to if the disclosure could endanger police department personnel. Some examples are when an undercover officer is paid travel and/or meal expenses for narcotic training, when a certain company is paid rent for certain facility used by undercover officers, or vehicles rented or leased for undercover operations and other similar situations. These certain non-salary payments are made out of a few very specific and quite frankly, very self-descriptive police funding accounts. I can't identify these in public session. A person seeing the names of these officers, combined with the specific accounts these funds come from, because again the funds are right out there in the expenditure report, could potentially lead to the identification of undercover officers, vehicles or facilities using our fight against the drug dealers currently plaguing Nashua. This could also, and definitely my opinion would, put the officers' lives in jeopardy. I'm not asking for the accounts, themselves, to be redacted. In my opinion the public has every right to see the account from which money is being spent. I'm not asking that the amount of the payments be redacted for the same reason, but I am asking for the ability to redact the names of these officers for their safety. Not one citizen has contacted me expressing any concern about this proposed ordinance. This was even after an article appeared in the Nashua Telegraph on or about July 10<sup>th</sup> and a Telegraph editorial that was published on July 12. Both were expressing concerns about this ordinance. I do have some serious questions about an editorial that was labeled "Privacy Bill Puts the Public in the Dark" yet the editor wrote, and I quote: "The police departments \$20.3 million budget affords ample areas where overtime, training, equipment and other costs could be paid out without specifically disclosing the name of an officer with a type of a vehicle being bought or rented." I have a lot of respect for Mr. Carroll, and I'm sure he didn't think the implication of this statement through. What he is suggesting, in my opinion, is against the rules since money spent from each account has to be reported as coming from that account, and not mixed in just in the general budget. The name has to be listed to whom the payment went. That's the whole reason we're looking to be completely transparent and enact this ordinance. I firmly believe that simply redacting a name, when the amount of the payment and the account from which the payment was charged are still present for review, keeps the police department accountable to taxpayers. I ask for some common sense to prevail. My business manager has estimated we would use the redaction of a name only about a dozen times a year. The safety of my officers is of paramount importance to me, and I hope it is of paramount importance to us all. Thank you for your time. That's all I have: a statement on the issue. Again, I am specifically talking about what I assume to be the police related portion of this ordinance.

Alderman Siegel

I absolutely support the goal, which is to keep to the police officers' information confidential. We're not looking to compromise identities. It's just a question of whether or not the ordinance, as currently structured, allows us to do that as effectively as possible. I think there's a couple of things that are worth noting. As far as the

Telegraph is concerned, I found it curious that they had never really seen a Record of Expenditures so didn't realize that there was already information that was redacted. I think it was part of their education when I described what's in the Record of Expenditures and how it works. Hopefully we won't see that type of editorial, but they can write whatever they want. It doesn't influence my opinion. The bigger problem I have with the way this is structured mechanically is a different problem I think other people have considered. Imagine a situation where we have a mayor hostile to the police department. Now it is up to the CFO or COO of the City to redact information. That person serves strictly at the whim of the mayor. It puts that person, in this case, Mr. Griffin, fortunately we don't have that situation with the current mayor but we certainly can imagine situations where that may occur, he's in a difficult, if not impossible position. His job is effectively dependent on whether or not he will follow orders which might get somebody injured or killed or something bad could happen. We never want to have that be the case. That was my initial concern that I had with this, separate from the scope of it. It was different than a privacy issue. It's actually forcing somebody to reveal information or refusing to redact information otherwise requested by the police department. Within the way this is structured, that can happen. I can definitely imagine situations where that is possible, and that's all I am going to say on that particular item. I believe that we can restructure this such that we make it that the police department is allowed to supply a redacted name, again the account information is available, and that that redacted name goes on the expense report to the finance committee. In non-public session, the finance committee can review that expense and vote, by majority vote, to unredact it, if required. I would assume under those circumstances the police department would be duly notified and would be able to give whatever reasoning is required. I wouldn't expect this would be something that we do very often, but it gives a mechanism by which the public has access to information, yet it is protected from general view unless there's a clear decision where we say something is weird here. We need an explanation. That's what I would like to see. By giving the police department the ability to send it through already redacted then we don't have an issue where the police department is under the thumb potentially of a hostile entity. We've set our police up, and part of the reason our police department is really, really excellent is we have a completely independent police commission overseeing a completely independent police department. If something is going on in the executive branch, they don't have to worry about reprisal. I would hate to have a mechanism by which that would be violated. Those are my thoughts about this legislation.

Mayor Donchess

The process you are suggesting is that the police department could ask for redactions subject to?

Alderman Siegel

The police department would submit the expense already redacted.

Mayor Donchess

If the finance committee didn't agree with that or wanted to question it, they could?

Alderman Siegel

In non-public session.

Mayor Donchess

What do you think about that Chief?

Chief Lavoie

As always, we welcome any opportunity to justify anything we do. We'd be more than happy to do that. I'm sure you've read the expense reports. The accounts that I am talking about are as self-describing as they can

possibly be. Then you throw a name into that and it's quite obvious what that person does. We don't want to get rid of the account, we don't want to get rid of the money because people should be able to see what account it came from and how much it was. But the officer's name, in my opinion, in that case, his safety or her safety completely outweighs the fact to have the name to go with those other two components. I think that certainly meets the criteria. But absolutely, I would be in favor of that for the police portion. We're always willing to justify anything we ask for.

Alderman Wilshire

I would be okay with the legislation be amended to do that. I think that works, especially in the climate that we have today. It's just not safe out there as it is. Anything that we can do to help our police, we should do.

Alderman O'Brien

Do you use any employee numbers or identification that the public does not have access to? I think we definitely want to see where the numbers are, where the account is going and if it is legitimate and question if it is not legitimate. But we really don't need the name of the officer. Is there an identifying number, other than a badge number that somebody can come out and take a look at, that the police department has in their file? Would that be a better way of tracking it?

Chief Lavoie

We have that for scheduling purposes through TeleStaff. Everybody has an employee number. But again, whether it's a name or a number, to me, I'd feel safer just redacting it completely.

Alderman Cookson

Two points. With CFO Griff in the audience, I would certainly tend to lean to him for a suggestion on a way that we might be able to do this. And to Alderman O'Brien's suggestion, whether it be a name or number, and don't know if the mechanics actually exists to be able to do that. I would ask CFO Griffin if there is an alternative to the way that we currently report our Record of Expenditures.

Mr. Griffin

Practically speaking, the check is going to be made out to the officer because we're paying the officer for the training. We're going to be paying a leasing company. What I would recommend is the police commission or chief's request of Karen Smith, the business manager, she would ask or request Rose Evans, Accounting Manager, to simply put "training." If it's training, put training. If it's leasing, put leasing. That way there the officer or the vendor doesn't get named. What happens now the other part of the ordinance, which I think they tried to capture some of the things that happen now, if we have a wage assignment where it's duly noted in the Record of Expenditures, for example the CFO got paid \$1,000 a week, I may have to direct that to someone other than me. The wage assignments are liabilities to the city. When we pay the IRS or a third party, it simply says "wage assignment." Workers' comp is tied up with some HIPA regulations so we simply put "workers' comp payment." We don't name the payees. If I could use that same logic, that might work. It would be the police department. I looked at the editorials. It was happening when I came back from vacation. I didn't want to be the redactor in chief. I couldn't agree more with safety. It's absolutely paramount. I wouldn't feel at all good if I put Record of Expenditures in front of you folks and something tragic happened. That wouldn't be good either. I'm in full support as well.

Mayor Donchess

I think we have the three examples that we want to redact: the things that are already being done, wage garnishments and workers' comp payments, and the payments that the chief is talking about with respect to

the officers and revealing their identity. I thought the objections to the ordinance were related to the broader category where it says: "name would be redacted if that information should be kept confidential for privacy or safety reasons. Examples include, but are not limited to..." and then it gives us the three examples, which is, the wage garnishments, the workers' comp and the payments that would reveal the identity of an officers. Would there be any problem, and I guess I'm putting this the sponsor or the chief, or both, if it simply said that there could be a redaction for wage garnishments, workers' compensation, I don't have the exact language, but in concept, the two categories or if revealing the name connected with the payment whose identity if disclosed could endanger or compromise the police department personnel. In other words, if we eliminated sort of this broad, open category and we limited it to these specific examples, would that, Chief or Alderman Wilshire, meet your needs? Chief?

Chief Lavoie

Specifically, it's not just the names. I don't know if this can be lumped together, but there's certain items as I discussed, rental things: rental properties, storage facilities, that all fall under payments made from certain accounts that, again, are extremely descriptive. Those need to be protected as well because again that could reveal a location, that could reveal a vehicle. Those, again, are all undercover capacity and that's what we are looking to keep out of the public plate.

Mayor Donchess

So basically payments that could disclose the identity of officers or be revealing concerning undercover operations, correct?

Chief Lavoie

Correct.

Alderman Wilshire

I don't have a problem with that. In Section B, you would take out "examples include, but are not limited to..." you would take that out.

Mayor Donchess

We take out this broader category and we list garnishments, list workers' compensation, and then more completely describe what the police are trying to do: if it's the name of the officer or if it would in any way be revealing concerning undercover operations. That would cover storage lockers or whatever else the Chief was talking about.

Chief Lavoie

The way I read it, it is a bit general, but I feel that would cover it because it does say "connected to payment whose identity..." It doesn't say a person. That could be an entity. The way that's worded, I think that would cover that already. Again, when it's talking about the name, it could be the name of a company, an entity or an officer.

Mayor Donchess

Do you expect this to come up in the next couple of weeks?

Chief Lavoie

It could. With the new fiscal year, there was just a large payment a couple of weeks ago. My business manager is telling me about a dozen times a year. About once a month, something like this comes up. It's certainly not an everyday type of thing. Again, this doesn't include salaries from those accounts. Salaries come out of the general fund. Just the salary coming with a name is not going to identify anybody.

Mayor Donchess

Here's why I ask the question. A couple of points have come up. I could get legal to prepare amendments that would match the comments which we would forward to you for your comment but to do that we would have to bring it back to the committee next time which is in two weeks. Would that be a problem in terms of revealing anything?

Chief Lavoie

I believe it comes out every two weeks.

Mayor Donchess

I would say if we take that approach and if there is a payment in the category that you have discussed then just don't put it on the record until we deal with ordinance. I don't think it would actually result in delay because the full Board can't pass this until August anyway. I would propose that I take the comments, my own and Alderman Siegel's and Mr. Griffin and come up with a revised version that would accomplish the goals that we have described while at the same time not creating this kind of fear that we are going to use some broad category to start hiding a bunch of other stuff. Does that seem reasonable?

Alderman Wilshire

It does to me.

Alderman Siegel

There is a Finance Committee meeting before the next Board of Aldermen so we are fine there. The other thing is I just wanted to make sure that all of our comments are properly captured so when legal actually does do this that they will get something that reflects our thinking going forward. I made an initial suggestion but then we sort of went in a slightly different direction, maybe we did and maybe we didn't, I don't know but we really didn't discuss the type of language that should be in here explicitly. For example, if we look at the ordinance itself in section B, the new part, I would change it to say "notwithstanding the foregoing for the following reasons, person or entities, a counter claim may be redacted." That gets rid of the wishy washy. Then name in parts one, two and three "wage garnishments, worker's compensation" and then the third one "names connected to payment whose identity if disclosed could endanger or compromise police department personnel." That way there is explicitly three items called out, the first two we are required to do anyway and the third one is the one that we are talking about now and there isn't any other wiggle room, that's it and if we need to we can put another ordinance in if we find another example. That gets rid of all of the hand waving stuff and I think there is general consensus to get rid of that. I just tried to put real concrete meat on that so when legal goes to do this they have got something there. Then we need another section with is E which describes the mechanics by which the redacted information can be reviewed in a non-public session by the Finance Committee and by an affirmative vote of the majority of the Finance Committee can be un-redacted and made available for public view so just add a section C to that affect and I believe that captures in its entirety all that we have been talking about.

Alderman Cookson

I think Alderman Siegel brings up some wonderful points and I absolutely concur with the language specifying one, two and three and specifically identifying those. As CFO Griffin was giving his description we understood that because of other situations, HIPA and so forth that other pieces of the record of expenditures are redacted and some way, shape or form I agree that we should be able to review those in a non-public session. I would exclude the last part because we can make any motion in non-public, we can seal the minutes until they no longer endanger somebody so I think we should leave the motions out of it and just say let's take it to non-public so that we can review the redacted at the pleasure of the Finance Committee.

Alderman Siegel

As long as there is an opportunity...I mean the whole point of being able to review is if we see if something doesn't look proper to have a discussion such that there is the public's right-to-know is satisfied by giving us the opportunity to make it public. I can't imagine any situation in which a majority of the Finance Committee would redact the police department but again, I think we need a safeguard. I wasn't sure if what you were suggesting still included that.

Alderman Cookson

If we were to go into a non-public session, once we are in non-public we can make any motion that we wanted to. I think whatever happens in non-public happens in non-public. It's not necessarily the motion, we can do anything and to your point if it needs to be made public then that's the motion that we would make in that non-public session.

Alderman Siegel

It's not clear though if we pass this ordinance that we would have the authority to make it public and so my suggestion explicitly grants the Finance Committee the authority to make it public or else everyone would say oh great they reviewed it but what happens if they said this is completely ridiculous but it's still hidden. Again, that's beyond an outlier. People have a legitimate right to be concerned about this stuff whether or not it reflects actual practice. That's why I wanted to keep that in.

Alderman Cookson

I would withdraw any comment. I think make it as transparent as we possibly can and explicitly state it. I'm fine with that.

Mayor Donchess

I think it will be easier when we come up with a specific proposal for this amendment to discuss the language.

Chief Lavoie

At the police commissioner's meetings there is a non-public session but there is a difference between non-public and it not being released. In other words there are certain timeframes...even though it is discussed in non-public you still have to document it and it has to be released within 30 days depending on what the issue is. I guess my question is that I don't know the rules on the Aldermanic non-public side and my question is do the minutes of a non-public ever get released in their entirety?

Mayor Donchess

It depends on the vote of the body. The minutes remained sealed unless...the committee would vote to keep the minutes sealed forever or to open them up but they can be kept, there is no requirement that they be made public later on.

**MOTION BY ALDERMAN WILSHIRE TO TABLE  
MOTION CARRIED**

NEW BUSINESS – ORDINANCES- None

TABLED IN COMMITTEE

From: Dan Kooken, Purchasing Manager  
Re: CodeRED Contract (Value: \$22,000)

DISCUSSION

RECORD OF EXPENDITURES

**MOTION BY ALDERMAN SIEGEL THAT THE FINANCE COMMITTEE HAS COMPLIED WITH THE CITY CHARTER AND ORDINANCES PERTAINING TO THE RECORD OF EXPENDITURES FOR THE PERIOD JULY 1, 2016, TO JULY 14, 2016  
MOTION CARRIED**

PUBLIC COMMENT - None

POSSIBLE NON-PUBLIC SESSION

ADJOURNMENT

**MOTION BY ALDERMAN WILSHIRE TO ADJOURN  
MOTION CARRIED**

The Finance Committee meeting was adjourned at 7:43 p.m.

Alderman Ken Siegel  
Committee Clerk