



CITY OF NEW BEDFORD

JONATHAN F. MITCHELL, MAYOR

August 13, 2018

Council President Linda Morad
Members of the City Council
City Hall
New Bedford, MA

RE: Home Rule Petition to Appoint Retired Police Officers as Special Police Officers in the City of New Bedford

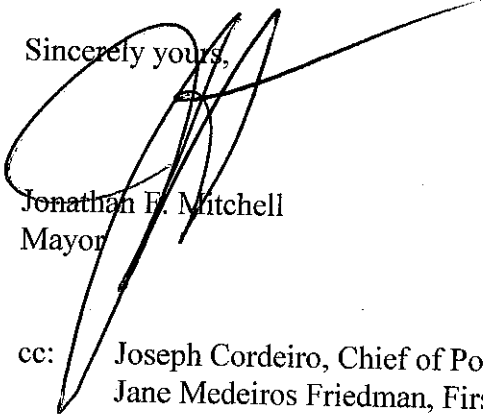
Dear Council President Morad and Members of the City Council:

Enclosed for your consideration, please find a proposed Home Rule petition that would enable retired New Bedford Police Officers to perform paid details in the City, when the New Bedford Police Department detail list for active Police Officers has been exhausted.

This petition is the result of the revisions to the collective bargaining agreement, between the City and the New Bedford Police Union, and the language of the proposed petition has been reviewed and approved by both parties.

Representatives of the Police Department and the City Solicitor's Office will be available to answer questions that you may have regarding this matter.

Sincerely yours,


Jonathan F. Mitchell
Mayor

cc: Joseph Cordeiro, Chief of Police
Jane Medeiros Friedman, First Assistant City Solicitor
Hank Turgeon, Police Union President



The Commonwealth of Massachusetts

IN THE YEAR TWO THOUSAND EIGHTEEN

AN ACT

AUTHORIZING THE APPOINTMENT OF RETIRED POLICE OFFICERS AS SPECIAL POLICE OFFICERS IN THE CITY OF NEW BEDFORD

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1.

The police chief of the city of New Bedford may appoint, as the chief considers necessary in the chief's sole discretion and judgment, retired New Bedford police officers as special police officers to perform police detail duties, and any other duties arising from or during the course of police detail work when the special police officer is on detail assignment and an emergency response by the special police officer is required due to the inability of a regular police officer to timely respond to the emergency. No such retired police officer shall be appointed under this act unless the officer previously served as a regular New Bedford police officer and is retired based on superannuation under the provisions of chapter 32 of the General Laws. No retired police officer shall be appointed under this act as a special police officer if that officer has been retired from the New Bedford police department for more than 4½ years, unless said

House, No.

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police officer has since maintained employment as an active police officer in Massachusetts. No retired police officer shall be eligible for appointment under this act if such officer has reached the age of sixty-five and the appointment of any officer under this act who after appointment attains the age of sixty-five shall terminate. Prior to appointment under this act, and in order to be eligible for such appointment, a retired New Bedford police officer must successfully pass a medical examination by a physician or other certified professional chosen or agreed to by the police chief to determine whether the retired New Bedford police officer is capable of performing the essential duties of a special police officer under this act. The cost of the medical examination shall be borne by the retired New Bedford police officer.

SECTION 2. Special police officers appointed under this act shall not be subject to chapter 31, chapter 41, sections 99A and 96B, chapter 150E or chapter 151A of the General Laws.

SECTION 3. When performing the duties set forth in section 1, officers appointed under this act shall have the same power to make arrests and to perform other police functions as do regular police officers of the city of New Bedford.

SECTION 4. Special police officers appointed under this act shall be appointed for a one year term subject to renewal at the sole discretion of the Chief and shall be subject to suspension or removal by the Chief at any time.

SECTION 5. Special police officers appointed under this act shall be subject to such rules, regulations, policies, procedures and requirements as the chief may impose from

time to time in his sole discretion, including, but not limited to, restrictions on the type of detail assignments, requirements regarding medical examinations to determine continuing capability to perform the duties of a special police officer, requirements for training, requirements for firearms licensing and qualifications, requirements for maintaining of a medical or liability insurance policy, and requirements regarding uniforms and equipment. The chief shall, in his sole discretion, set a schedule of fees associated with the costs of training, medical examinations, equipment, uniforms and any other requirements considered necessary by the chief that shall be paid by the special police officer. Nothing in this act shall establish the right or entitlement of any officer appointed under this act to a specific assignment and all such assignments shall be made by the chief in his sole discretion.

SECTION 6. Special police officers appointed under this act shall be sworn in by the police chief for the city of New Bedford.

SECTION 7. Special police officers appointed under this act shall be subject to sections 100 and 111F of chapter 41 of the General Laws. The weekly amount payable to a qualified officer under section 111F of said chapter 41 shall be determined by calculating the weekly average of the total amount earned by the officer as a special police officer working police details during the fifty-two weeks preceding the date of qualifying incapacity. In the case of an officer whose appointment under this act occurred fewer than fifty-two weeks before the date of qualifying incapacity, the weekly amount payable under section 111F shall be determined by calculating the weekly average of the total amount earned by the officer during the number of weeks served before the date of

incapacity. In no event shall payment under said section 111F of said chapter 41 exceed, in any calendar year, the limitation on earnings contained in paragraph (b) of section 91 of chapter 32 of the General Laws. Payment under said section 111F shall terminate in accordance with section 111F or at the conclusion of the term of appointment, whichever occurs sooner. Special police officers appointed under this act shall not be subject to sections 85H or 85H½ of said chapter 32 of the General Laws and shall not be eligible for any benefits pursuant to said sections 85 or 85H½ of said chapter 32.

SECTION 8. Appointment as a special police officer shall not entitle the appointee to assignment to any detail.

SECTION 9. Officers appointed under this act shall be subject to the limitations on hours worked and on total earnings as provided in paragraph (b) of section 91 of chapter 32 of the General Laws.

SECTION 10. Officers appointed under this act shall pay an administration fee to the New Bedford Police Union on an annual basis in January. The fee will be determined by the sitting executive board of the union annually in January and shall be reported to the office of the police chief. Any officer who is appointed under this act after January of each year will be responsible for the administration fee applicable to that calendar year regardless of when appointed during such year.

SECTION 11. This act shall take effect upon its passage.

**Memorandum of Agreement
Between the
City of New Bedford
And
New Bedford Police Union**

This Agreement between the City of New Bedford, hereinafter referred to as the "City", and the New Bedford Police Union, hereinafter referred to as the "Union", collectively referred to as the "Parties". The Parties agree that their 7/01/2015 - 6/30/2016 collective bargaining agreement (CBA) shall remain in effect with the following changes:

1. Article 44 – Duration

Two year contract for the term July 1, 2016 to June 30, 2018.

2. Article 23 – Wages

1.5% on January 1, 2017

1.75% on January 1, 2018

Effective July 1, 2018 establish a step 5A for officers with 28 years of service with the New Bedford Police Department at 3% above step 5. Rank differential will be based on step 5 and not step 5A. Rank to receive a step 5A (3% above step 5) with 28 years of service with the New Bedford Police Department.

3. Article 9 – Work Reliefs and Seniority

Amend first sentence in Section 8 as to read as follows:

"All police officers assigned to specialized units and/or collateral duties shall be assigned and reassigned at the Chief of Police's discretion."

Amend Section 8 by inserting the following sentence before the K9 language:

"The hours of work schedules within a calendar 24 hour period for officers assigned to specialized units and uniform captains shall be established by the Chief provided the officer(s) are given a week's notice of any change."

Add in Section 8:

"The City shall reimburse K9 Officers for the cost of kennel fees during the K9 Officer's vacation, not to exceed four (4) weeks per year."

4. Article 16 – Residence of Police Officers

Amend second paragraph as follows:

Police Officers hired prior to March 24, 2018 shall reside in the City of New Bedford for no less than four (4) consecutive years from date of employment. Police Officers hired after March 24, 2018 shall reside in the City of New Bedford for no less than ten (10) consecutive years from date of employment.

5. Article 7 – Uniform, Clothing, Maintenance & Replacement

Effective starting with fiscal year 2018, and annually the City shall purchase a ballistic vest for 1/5 of the membership, rotating by seniority, so that every officer receives a new ballistic vest every five years. The Union shall be afforded the opportunity to provide input in the development of specifications for the ballistic vests. New hires shall be required to purchase a ballistic vest that complies with Departmental standards, immediately upon being sworn in as an officer. Once the new officer has successfully completed his or her probationary period, the officer shall be reimbursed for cost of said vest and will fall into the five year rotation. If the ballistic vests are purchased by the City then officers shall be required to wear ballistic vests at all times while on duty. The City's obligation to purchase ballistic vests, pursuant to this section, shall be contingent upon the City's receipt of federal or state grant funds to reimburse the department for the total cost of such vests.

6. Article 32 – Police Education

Educational Incentive Pay for officers appointed on or after January 1, 2014 shall be increased effective July 1, 2018 as follows:

Associates Degree in Law Enforcement

Police Officer	\$2,800.00 per year
Sergeant	\$3,400.00 per year
Lieutenant	\$3,800.00 per year
Captain	\$4,400.00 per year

Bachelor's Degree in Law Enforcement

Police Officer	\$5,700.00 per year
Sergeant	\$6,500.00 per year
Lieutenant	\$7,600.00 per year
Captain	\$8,800.00 per year

Master's Degree in Law Enforcement or Law Degree

Police Officer	\$7,000.00 per year
Sergeant	\$8,000.00 per year
Lieutenant	\$10,000.00 per year
Captain	\$11,000.00 per year

7. Article 44 – Global Positioning System

Insert new article and renumber following article.

The parties agree that Global Positioning System or similar system may be activated in all Departmental vehicles and will be utilized by the Chief and his/her designees to monitor the location of City vehicles assigned to the department. The parties agree that such GPS will be used primarily for officer safety, efficiency of operations, incident response, dispatching, complaints, investigations, plan development and strategy, and deployment of personnel and performance improvement.

8. Article 8 - Paid Details

Amend Section 6 as follows:

Officers shall not receive refusal hours for work opportunities during any of his/her scheduled full week vacations.

Amend Section 9.A by inserting the following:

Effective 30 days after this Memorandum becomes effective, the paid detail hourly rate shall be \$50/hour. Details for a company who requests a detail with less than three (3) hours notice shall be a mandatory eight (8) hour minimum. The rate modifications set forth in this paragraph shall not apply to work performed by employees of the City of New Bedford Department of Public Infrastructure or any other type of road construction work being performed by employees of the City of New Bedford.

9. Special Legislation

The employer will support the City's filing of special legislation to allow retired bargaining unit members who are receiving a regular pension to be utilized for extra paid details provided that the assignment list has been exhausted.

Special Legislation must include the following:

- The Chief shall have the sole discretion to appoint retired New Bedford police officers as special police officers.
- New Bedford retired police officers must be retired on superannuation.
- No New Bedford retired police officer will be eligible to serve as a special police officer if 65 years old or older.

- A retired New Bedford police officer is eligible to be appointed as a Special Police Officer provided that s/he has retired from the City of New Bedford Police Department within the prior 4½ years or have been retired for more than the prior 4 ½ years and have maintained employment as an active police officer in Massachusetts.
- Special police officers shall not be subject to chapter 31, chapter 41, sections 99A and 96B, chapter 150E or chapter 151A.
- Special police officers shall be appointed for a one year term subject to renewal at the discretion of the Chief and shall be subject to suspension or removal by the Chief at any time.
- Special police officers appointed under this act shall be subject to the rules and regulations, policies and procedures and requirements as the Chief may impose from time to time including, but not limited to, restrictions on the type of detail assignments, requirements regarding medical examinations to determine continuing capability to perform the duties of a special police officer, requirements for training, requirements for firearms licensing and qualifications, requirements for maintaining of a medical or liability insurance policy, and requirements regarding uniforms and equipment. The Chief shall, at his discretion, set a schedule of fees associated with the costs of training, medical examinations, equipment, uniforms and any other requirements considered necessary by the Chief that shall be paid by the special police officer.
- Special police officers shall be subject to sections 100 and 111F of chapter 41 of the General Laws. The amount payable under section 111F of said chapter 41 shall be calculated by averaging the amount earned over the prior 52 weeks as a special police officer working police details, or averaged over such lesser period of time for any officer designated as a special police officer less than 52 weeks before the incapacity. In no event shall payment under said section 111F of said chapter 41 exceed, in any calendar year, the limitation on earning contained in paragraph (b) of section 91 of chapter 32 of the General Laws. Payment under said section 111F shall terminate in accordance with section 111F or at the conclusion of the employment term, whichever occurs sooner. Special police officers shall not be subject to sections 85H or 85H½ of said chapter 32 of the General Laws and shall not be eligible for any benefits pursuant to said sections 85 or 85H½ of said chapter 32.
- Appointment as a special police officer shall not entitle the appointee to assignment to any detail.
- Retired New Bedford police officers serving as special police officers shall be subject to the limitations on hours worked and on earning restrictions as provided in paragraph (b) of section 91 of chapter 32 of the General Laws.

- New Bedford retired police officers sworn in as special police officers shall pay an administration fee to the New Bedford Police Union on an annual basis in January. The fee will be determined by the sitting Executive Board annually in January and reported to the Chief's Office. Any retired police officer sworn in after January of each year will still be responsible for the administration fee.

10. Article 39 – Injured on Duty Billings

Amend Article 39 by changing its title from “Injured on Duty Billings” to “Injured on Duty Procedures.”

Delete paragraphs 5, 6, 7 and 9.

Add the following:

An officer who is on leave without loss of pay status pursuant to Chapter 41, Section 111F of the Massachusetts General Laws, for a period of at least fourteen (14) scheduled tours, may be required to perform limited duty on either a full-time or part-time basis, if the Chief determines that light duty is available, consistent with such individual's physical limitations as determined by the officer's treating physician or a physician selected by the City, who is a physician in the specific field of practice related to the officer's IOD injury.

Light duty assignments shall include any duty to which such employee might otherwise be assigned, consistent with such individual's physical limitations, for example: clerical, call taking, training, investigative assistance, station monitoring or other police officer duties that will attempt to prevent exposure to physical altercations. In no event will the officer be assigned to sit at the front desk, however, an officer may be assigned tasks associated with front desk duty, such as answering the telephone, calling to fill details and overtime assignments, entering stolen auto and missing person reports.

If light duty is available on the shift to which an officer has bid, the Chief will assign the officer to said shift. Light duty assignments will not displace members of the bargaining unit. Assignments to light duty shall not affect an officer's pay classification, such as night differential, pay increases or other employee benefits.

Officers may not refuse light duty assignments that are supported by and consistent with the recommendations of the physician selected under G.L. c. 41, section 111F.

An officer, who has been out on sick leave, with a physician's note, for a period of at least ten (10) consecutive sick days, may request that the Chief assign said officer to temporary light duty for a period of time not to exceed a total of thirty (30) days.

Renumber remaining paragraph.

11. Extra Work Assignment System

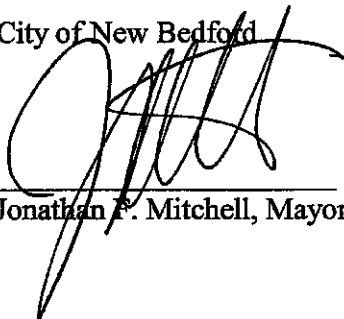
The City has satisfied its bargaining obligations with respect to the implementation of a new software system for assigning details/extra work. The City may implement such new system on or about July 1, 2018 subject to the New Bedford Police Department having funding for such system.

This Memorandum of Agreement is subject to ratification by the Union membership, approval of the Mayor of New Bedford, and funding of the incremental cost items by the New Bedford City Council.

New Bedford Police Union


Henry Turgeon, President

City of New Bedford


Jonathan F. Mitchell, Mayor

Signed this 19 day of March 2018