

NOV 06 2006

ORDINANCE NO. 2508


City Clerk

AN ORDINANCE TO AMEND SECTION 2.22.030 (PRINCIPAL DUTIES AND RESPONSIBILITIES) OF CHAPTER 2.22 (CHIEF OF POLICE) OF TITLE 2 (ADMINISTRATION AND PERSONNEL) OF THE CITY OF COLUMBIA, ILLINOIS MUNICIPAL CODE TO EXPRESSLY INCLUDE AMONG THE DUTIES OF THE CHIEF OF POLICE OF THE POLICE DEPARTMENT OF THE CITY OF COLUMBIA, ILLINOIS, THE AUTHORITY TO TAKE DISCIPLINARY ACTION AGAINST COMMISSIONED POLICE OFFICERS OF THE POLICE DEPARTMENT OF THE CITY

WHEREAS, on November 5, 1990, the City of Columbia, Illinois (the "City") enacted its Ordinance No. 866 to create the City's Board of Fire and Police Commissioners (the "Board of Fire and Police Commissioners" or the "Board") and to define their rights, powers and duties, in accordance with the authority granted to the City by Division 2.1 of Article 10 of the Illinois Municipal Code for municipalities of a population of at least 5,000 and not having a population of more than 250,000 (the "Board of Fire and Police Commissioners Act" or the "Act");

WHEREAS, Section 10-2.1-17 of the Act, as it then existed, made the City's Board of Fire and Police Commissioners the exclusive authority for the firing, promoting and disciplining of the members of the city's police department;

WHEREAS, thereafter, the Illinois Legislature enacted Public Act 91-650, which took effect November 30, 1999, and which amended the Board of Fire and Police Commissioners Act to allow and provide that non-home-rule municipalities (such as the City) which had collective bargaining agreements covering police officers in their police departments and which agreements provided an alternative means and procedure for the disciplining of those police officers, which collective bargaining agreements were in effect at the time of the amendment of the Act on November 30, 1999, the collective bargaining agreements rather than a Board of Fire and Police Commissioners would establish the mandatory procedures and due process requirements for the disciplining of their police officers;

WHEREAS, the City did have a collective bargaining agreement with the Illinois Fraternal Order of Police Labor Council/Monroe County Lodge No. 145, (the "FOP") as the collective bargaining representative for the City's police officers, that was in effect at the time of the enactment of the Board of Fire and Police Commissioners Act aforesaid and which collective bargaining agreement did establish in Articles 10 and 11 thereof, the dispute resolution practices and procedures required to be followed for the discipline and discharge of City police officers and which agreement therefore superseded the Act and pre-empted the Board regulations for the discipline of police officers in the City's Police Department;

WHEREAS, the City's Collective Bargaining Agreement with the FOP allows and provides for police officer discipline to include oral reprimands, written reprimands, disciplinary suspensions, demotions and discharges and establishes a grievance procedure for the adjustment of police officer complaints and for the appeal of disciplinary action taken by the City against an officer of the City's Police Department (to include mandatory arbitration as a final resort for the resolution of such disputes);

WHEREAS, with regard to disciplinary action to be taken by the City, the collective bargaining agreement contemplates the commencement of the dispute resolution process shall be initiated by the filing of a grievance by a police officer complainant against whom disciplinary action has been taken;

WHEREAS, it has long been the practice of the City Council of the City to rely upon the Chief of the Police Department to determine and initiate disciplinary action with regard to officers employed by the City in the City's Police Department, which disciplinary action is limited to and defined by that which is allowed by the collective bargaining agreement between the City and the FOP as the collective bargaining representative of the City's police officers, that is in effect at time of reference;

WHEREAS, Section 2.22.030 (Principal duties and responsibilities) of Chapter 2.22 (CHIEF OF POLICE) of Title 2 (ADMINISTRATION AND PERSONNEL) of the City's Municipal Code currently allows and provides, among other things: (i) that the Chief of Police shall supervise the Police Department, (ii) that all officers and employees employed by or assigned to the Police Department shall be under the direct supervision and direction of the City's Chief of Police, (iii) that the Chief of Police shall plan, organize and direct the activities of the commissioned officers and civilian employees of the Police Department, (iv) that the Chief of Police shall exercise general supervision over the Police Department, and, (v) that the Chief of Police shall take required action to meet department needs; and,

WHEREAS, the City Council of the City has found and determined and does hereby declare that it is necessary and appropriate that Section 2.22.030 of the City's Municipal Code be changed and amended to expressly state that the taking of disciplinary action against the commissioned officers of the Police Department who are employed by the City is the responsibility of the Chief of Police of the Police Department of the City, the Chief of Police being the legal representative of the corporate authorities of the City (same being the City Council comprised of a Mayor and eight [8] Aldermen) by virtue of the delegation of authority contained in said Section 2.22.030 of the City's Municipal Code.

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Columbia, Illinois, as follows:

Section 1. The recitals contained above in the preamble of this Ordinance are hereby incorporated herein by reference, the same as if set forth in this Section of this Ordinance verbatim, as findings of the City Council of the City of Columbia, Illinois.

Section 2. Section 2.22.030 (Principal duties and responsibilities) of Chapter 2.22 (CHIEF OF POLICE) of Title 2 (ADMINISTRATION AND PERSONNEL) of the City's Municipal Code is hereby changed and amended to read as follows:

"Section 2.22.030 Principal duties and responsibilities.

The city chief of police, subject to supervision by the mayor, the city administrator and the city council, shall be responsible for the performance of the police department of the city and all of its functions and all persons who are members of the department shall serve subject to the orders of the chief of police.

The chief of police and members of the police department shall have the powers of arrest and detention as set out in the Illinois Statutes and shall bear the responsibility for enforcement of all criminal and quasi-criminal statutes and ordinances. The chief of police shall supervise the police department to: preserve the peace and order of the city; protect persons and property from harm; prevent crime and detect and apprehend persons suspected of crimes (including felony, misdemeanor, traffic and petty offenses and ordinance violations); regulate traffic upon public thoroughfares; secure all necessary complaints, warrants and other documents for the enforcement of police duties; have custody of lost or stolen property; and maintain proper records of crimes and criminals and matters relating thereto.

All officers and employees employed by or assigned to the police department shall be under the direct supervision and direction of the city's chief of police.

With respect to commissioned officers of the police department of the City, the Chief of Police, along with the Columbia Board of Fire and Police Commissioners, shall be responsible for discipline, subject to the terms of any then applicable collective bargaining agreement between the City and the Illinois Uniform Peace Officer's Disciplinary Act (50 ILCS 725/1 et. seq.). With respect to non-commissioned employees of the police department, the Chief of Police shall be responsible for discipline up to and including discharge, subject to the terms of any then applicable collective bargaining agreement and City personnel ordinances.

The chief of police shall continuously learn and implement procedures necessary to insure the protection and legal rights of all persons, including those taken into custody, while reducing risks to all persons, including employees of the police department. He or she shall advise superiors of risks and manage risks to reduce undesirable outcomes.

The chief of police shall plan, organize and direct the activities of the commissioned officers and civilian employees of the police department. He or she shall communicate and enforce compliance with the city and departmental policies, rules, regulations and procedures in the police department. The chief of police shall exercise general supervision over the police department; formulate and enforce departmental rules, regulations, work methods, policies and procedures and initiate planning activities to improve departmental operations.

The chief of police shall manage or assist with the negotiations with bargaining units representing the commissioned officers and/or employees of the police department and shall work with the city council or its designee(s) in collective bargaining with the bargaining unit representing the police department officers or employees.

The chief of police shall direct the preparation of the police department budget; coordinate purchases of equipment and prepare reports on equipment, supplies, and personnel needs; shall approve purchase orders; shall maintain detailed expense records for the police department; and shall prepare monthly and annually activity reports outlining the activities of the department and present the same to the city council as the city council shall, from time to time, require.

The chief of police shall be responsible for scheduling shifts and assigning police department personnel; participate regularly in patrol, detective and other field operations of the department.

The chief of police shall advertise for, interview, test and recommend for hire, all police department officers and employees; direct evaluation of police department officers and employees; assess employment training needs and take required action to meet department needs.

The chief of police shall complete and assist staff to complete necessary documentation and prepare or supervise the preparation of cases for court presentation.

The chief of police shall design and implement vehicle maintenance schedules.

The chief of police shall be in charge of the investigation of major criminal cases; conduct internal investigations and make reports to the city administrator, the mayor and/or the city council regarding the same.

The chief of police shall be in charge of the personnel files of the police department and shall monitor the same and insure compliance with the city and departmental personnel policies.

For purchase of capital equipment of the police department, the city chief of police shall develop bid specifications and work with the city administrator and the city council in soliciting bids.

The chief of police shall perform such related work as shall be, from time to time, assigned to him by the city administrator, the mayor and/or the city council."

Section 3. All ordinances or resolutions or parts of ordinances or resolutions in conflict herewith, to the extent of such conflict, are hereby repealed.

Section 4. This Ordinance shall be in full force and effect retroactive to November 30, 1999 when Public Act No. 91-650, which amended the Board of Fire and Police Commissioners Act, took effect, due to the need to codify the City's interpretation of Section 2.22.030 of its Municipal Code and prior practices and activities of the City and the Police Department of the City regarding the disciplining of officers in the City's Police Department, following the enactment of Public Act 91-650, as provided by law.

Alderman Niemietz moved the adoption of the above and foregoing Ordinance; the motion was seconded by Alderman Ebersohl, and the roll call vote was as follows:

YEAS: Aldermen Conrad, Ebersohl, Agne, Niemietz, Unnerstall, Row, Huch and Mayor Hutchinson.

NAYS: None.

ABSENT: Alderman Koesterer.

ABSTENTIONS: None.

PASSED by the City Council and APPROVED by the Mayor, this 6th day of November, 2006.



KEVIN B. HUTCHINSON, Mayor

ATTEST:



WESLEY J. HOEFFKEN, City Clerk

(SEAL)