



OFFICE OF THE CITY CLERK

BIANCA L. TIRADO, CITY CLERK

HEALTH & PUBLIC SAFETY

November 25, 2024, 4:10 P.M.

Committee Members Present:

Rachel Tomas Morgan, Troy Warner, Dr. Oliver Davis, Karen White, Frank Spesia, Savino Rivera

Others Present:

Bianca L. Tirado, Matthew Neal, Talia Thornton, Bob Palmer, James Luk

Agenda:

Bill No. 65-24 - Ordinance Adopting a Merit Board System Governing the South Bend Police Department (*Substitute*)

Members marked with an asterisk (*) are in virtual attendance.

Please note the attached link for the meeting recording:

<https://docs.southbendin.gov/WebLink/browse.aspx?dbid=0&mediaid=388371>

Committee Chair Rachel Tomas Morgan called to order the Health & Public Safety Committee meeting at 4:18 p.m.

Substitute Bill No. 65-24 - Ordinance Adopting a Merit Board System Governing the South Bend Police Department

Committee Chair Tomas Morgan stated that last Wednesday, November 20, 2024, the committee met to review statutes on establishing a merit system and Merit Board. Tonight, we'll hear Bill No. 65-24 and make a recommendation to the Committee of the Whole for the 7:00 PM Council meeting. Committee members will ask questions first, followed by council members. After public comment, starting with those in favor, then those opposed, she will return to the committee for final questions before we proceed with motions. Please be recognized by the Chair before speaking and maintain respect and decorum throughout. Disruptive behavior may result in forfeiting your speaking time.

Committee Member Karen White noted that the committee needed to accept Substitute Bill No. 65-24.

Bob Palmer, Council Attorney with offices on the 4th floor of the County-City Building, explained that the Substitute Bill was filed on Friday, November 22, 2024.

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Committee Vice-Chair Dr. Davis mentioned he had not received the Substitute Bill and requested a copy be printed and distributed to the committee members before making a motion.

Bob Palmer responded that the Substitute Bill was included in the agenda packet.

Committee Chair Tomas Morgan inquired if the committee could proceed with the presentation while waiting for the Substitute Bill.

Bob Palmer clarified that the amendments were non-substantive and that Attorney Connell could provide further details on the changes.

Committee Chair Tomas Morgan motioned to accept Substitute Bill *No. 65-24*, which was seconded by Committee Member Karen White. The motion was rendered null and void due to the incomplete roll call vote.

Committee Member Troy Warner motioned to proceed with the presentation and vote on the Substitute Bill afterward, allowing time to receive the Substitute before taking further action.

Kylie Connell, Assistant City Attorney with offices at 701 W. Sample Street, South Bend, IN 46601, clarified that the changes in the Substitute Bill were scrivener's errors. One code citation had been omitted, and another code citation was added to clarify a section. The only other change was the removal of a "whereas" clause.

Committee Vice-Chair Dr. Davis asked how this Substitute Bill differed from Option 4 presented by the council parliamentarian last week.

Committee Chair Tomas Morgan called for the presentation to continue.

Bob Palmer confirmed that, based on his review, there were no substantive changes in the Substitute Bill that would alter the options he had presented the previous Wednesday.

Committee Vice-Chair Dr. Davis inquired why Option Four (4) was not included in the Substitute Bill.

Bob Palmer explained that the options were not part of the Bill; they were presented separately to explain the relevant statutes.

Committee Vice-Chair Dr. Davis asked how the Committee would continue with the inclusion of the options.

Bob Palmer clarified that the committee would vote on the Bill itself, not the options.

Committee Chair Tomas Morgan confirmed that the committee would first vote to accept the Substitute Bill and then vote on the Bill, noting that the options are not part of the Bill.

Bob Palmer clarified that the Substitute Bill does incorporate Option 4.

Committee Vice-Chair Dr. Davis inquired if the Substitute Bill sets a limit on the number of appointments to the Merit Board.

Bob Palmer confirmed that the Substitute Bill calls for a five-member (5) board.



Committee Vice-Chair Dr. Davis then asked for clarification on his understanding of Option 4.

Bob Palmer responded that committee members can amend the Substitute Bill.

Committee Vice-Chair Dr. Davis asked if the Substitute Bill could be amended during the meeting. Bob Palmer stated that it could, provided the motion receives enough votes.

Committee Chair Tomas Morgan called for the presentation to continue.

Bianca Tirado, City Clerk, requested the presentation materials due to technical difficulties. She also confirmed that both physical and electronic copies of the presentation had been provided to the Council and committee members.

Kylie Connell asked if the slides are now visible to the public.

Committee Chair Tomas Morgan stated that they were and that she can proceed with the presentation.

Kylie Connell stated that the Police Department has two options for its system: follow the state model or create a South Bend-specific model. The current system will not be kept due to input from the Fraternal Order of Police (FOP). The proposed South Bend model includes a one-year (1) probationary period starting after Field Training Officer (FTO) completion, instead of the swearing-in date as required by the state. This allows for more time for training and assessment. Disciplinary procedures will remain like the Board of Public Safety's current process. Under the new system, discipline over five (5) days will be handled by the Merit Board, while the Chief will manage actions under five (5) days. The key difference between the state model and the South Bend model is that the state model has fewer disciplinary capabilities.

The Citizen Police Review Board (CPRB) will not be affected by the proposed changes and will continue its independent role in investigating complaints and collaborating with Internal Affairs. The Board of Public Safety may either remain a standalone body or be combined with the Board of Public Works, but it will continue overseeing policies, resolutions, and other administrative tasks for the Police Department. The Merit Board will handle personnel matters, such as appointments, promotions, and retirements. The promotion process will focus on ability and quality rather than ranking systems. Performance evaluations will be made by the Police Chief and Human Resources (HR). The proposed system ensures no major changes to discipline, personnel processes, or the role of the CPRB, while adjusting probation periods and aligning procedures with the needs of the department. The ordinance aims for approval by the committee and Common Council, with support from the FOP and department representatives.

Committee Chair Tomas Morgan thanked the petitioner for her presentation.

Committee Vice-Chair Dr. Davis inquired whether amending the Substitute Bill to include Option four (4) would be possible.

Bob Palmer explained that Option four (4) represents a statutory procedure through which the merit system can be established. He clarified that this bill was created under Option four (4), and while the ordinance can be amended as the council sees fit, the city's goal is to create its own merit



system, independent of state control.

Committee Vice-Chair Dr. Davis expressed confusion between the presentation from last week and the Substitute Bill presented tonight.

Bob Palmer clarified that the options discussed last week were based on available state statutes and were not directly related to the Substitute Bill being addressed tonight.

Kylie Connell explained that Option 4 allows the Common Council to amend or revoke the system as needed, creating a flexible framework based on the department's current practices.

Committee Member White asked how the number "five" (5) for Commission members was determined, noting there's no mandatory number, but the ordinance sets it at five (5), with one-third (1/3) being active department members.

Kylie Connell explained that the number five (5) was chosen after internal discussions, with seven (7) or five (5) being considered. Five (5) was consistent with the Board of Public Safety and was seen as a manageable number for ensuring quorum at meetings. She added that the department and FOP would be open to further discussions but felt five (5) was a good starting point.

Committee Member Warner how many on the board now if we go to seven, then the math on that works out, three from the FOP.

Bob Palmer stated that that was correct.

Committee Member Warner asked what would happen if the Bill were voted down.

Bob Palmer stated that without a merit system in South Bend, the city would be required to adopt the state model (Option One (1)). It's unlikely the Council could pass an ordinance and have the Police Department vote by year-end due to the required three-week notice.

Committee Member Warner asked if there could be a first reading.

Bob Palmer stated that technically, the Council could bypass all three readings and hold a special meeting for a unanimous vote on the same night.

Citizen Member Frank Spesia asked why the appointed members of the board serve at the will of the appointing authority, while the elected police members can only be removed through a recall petition by the committee members.

Kylie Connell explained that appointed members serve at the discretion of the mayor or council member, while elected police members can only be removed through a recall petition, ensuring the entire Police Department makes that decision.

Citizen Member Frank Spesia asked if this could apply to the appointed members as well.

Kylie Connell clarified that while a recall petition is unusual for other boards, it wouldn't need board approval. The Common Council or mayor could choose to implement a written petition process, like the one for department members.



Committee Chair Tomas Morgan asked the presenter to elaborate on the one-year (1) probationary period for Field Training Officers (FTO).

Kylie Connell explained that after completing their training with the department, officers enter a one-year probationary period, which starts once their field training officer (FTO) period ends. This allows the department to evaluate the officer's performance, and if needed, dismiss them without going through a hearing or Merit Board approval. The intent is to hold officers accountable after training, ensuring they're a good fit for the department. The probationary period is shorter due to the time spent on FTO training.

Councilmember Sherry Bolden-Simpson asked for clarification on the flexibility regarding the number of members on the Merit Board.

Kylie Connell explained that the Common Council could amend portions of the ordinance at any time, without waiting on (1) year. If necessary, amendments could be made sooner, or the Council could choose to revisit it after a year to decide if adjustments are needed, such as changing the number of members.

Bob Palmer clarified that the Common Council could amend the substitute ordinance at any time, including tonight, with a majority vote in a motion to amend.

Committee Member White expressed concern about being limited by the number of members and suggested the focus should be on the effectiveness of the individuals working, rather than sticking to an ideal number.

Councilmember Canneth Lee reiterated that on Wednesday, they agreed Option Four (4) was the better choice, as it provided more flexibility and input compared to the state model, which would be enacted if no action was taken.

Bob Palmer confirmed that was correct.

Committee Chair Tomas Morgan requested at least fifteen (15) minutes for public input, asking Council Vice-Chair Dr. Davis if it would be acceptable to move into his committee.

Josh Morgan, President of FOP 36, 701 W. Sample Street, South Bend, IN 46601, clarified that there are no "options" for the merit board, only two (2) scenarios: the ordinance or the state-mandated merit board. He stated that the FOP is in favor of a merit board and emphasized the confusion around the wording, explaining that the four options discussed earlier were only considered if there had been more time for a vote from the FOP. Ultimately, it came down to two (2) choices: Option Four (4) and the state mandate.

Aaron Knapper, Treasurer of FOP 36, 701 W. Sample Street, South Bend, IN 46601, stated that the FOP fully supports the merit board system, appreciates the cooperation from the Council, city, and police administration, and emphasized that there are no other options besides the ordinance or the state-mandated merit board.

Scott Ruszkowski, South Bend Police Chief, 701 W. Sample Street, South Bend, IN 46601, highlighted that the department has had a merit system for ten (10) years, including promotions,



and worked with the FOP on labor management. He emphasized that the choice is between this ordinance or the state model, which hasn't sought FOP input. He expressed concern about favoritism in smaller police departments and mentioned that the Indiana Chiefs of Police share this view. He will attend the 7:00 PM meeting for further questions.

Jorden Giger, 302 S. Falcon Street, South Bend, IN 46619, criticized the support for the ordinance coming from figures like Chief Ruszkowski, who has overseen a department with a controversial history, and Aaron Knepper, the FOP treasurer, who was involved in a 2012 incident with a 70-year-old Black man and has faced multiple misconduct cases. Jorden Giger argued that this merit system gives an unfair advantage to the FOP and the Police Department. He then asked the Council Attorney if it would be possible to amend the ordinance to create a fifteen (15)-member board, ensuring that the police still have one-third (1/3) of the appointments while giving each Council member at least one (1) appointment.

Bob Palmer confirmed that it is possible to amend the Substitute Bill.

Jorden Giger asked if it's possible for police members to appoint one-third (1/3) of the board, with each Council member appointing the rest, leaving the Mayor out of the process.

Bob Palmer stated that he believed that to be true.

Jorden Giger expressed that Black Lives Matter supports a 15-member board, with one-third (1/3) appointed by the police as required by state law, and the remaining members appointed by each Common Council member, feeling it would be more representative.

Carol Stuart, 1035 Allen Street, South Bend, IN 46616, asked if Option Four (4), as presented in the previous public meeting, could be decided strictly by the Council without requiring approval from the Police Department.

Bob Palmer confirmed that Option Four (4), if the ordinance is passed by the Common Council, does not require approval from the active members of the Police Department.

Carol Stuart asked if the requirement for Police Department approval applied to the current Substitute Bill and other ordinances.

Bob Palmer confirmed that to be true.

Kylie Connell clarified that the four (4) options presented last Wednesday were based on state statute. She explained that extensive research and discussions, involving the department, FOP, and mayor's office, led to proposing Option Four (4). This option, offering flexibility for both the Common Council and the department, aligns with the established process and community input.

Committee Chair Tomas Morgan closed the public hearing.

Committee Vice-Chair Dr. Davis asked if, with Option Four (4), the appointments could all be from the same political party, to which it was confirmed that there are no party requirements. He clarified that under the alternative option, the Mayor would be required to appoint individuals from at least two (2) different political parties, such as one (1) Democrat and one (1) Republican, or potentially a Libertarian.



Bob Palmer confirmed that to be true.

Committee Vice-Chair Dr. Davis clarified that if the board size were set to an odd number, such as nine (9), the police would receive one-third (1/3) of the appointments, which would amount to three (3) members.

Committee Member Warner motioned to accept the Substitute Bill No. 65-24, which was seconded by Committee Chair Tomas Morgan and carried by a vote of six (6) ayes.

Committee Chair Rachel Tomas Morgan - <i>Aye</i>	Committee Vice Chair Dr. Oliver Davis – <i>Aye</i>
Committee Member Troy Warner - <i>Aye</i>	Committee Member Karen White - <i>Aye</i>
Citizen Member Savino Rivera - <i>Aye</i>	Citizen Member Frank Spesia - <i>Aye</i>

Citizen Member Frank Spesia stated that he is interested in amending the bill to increase the number of members of the of the committee.

Committee Vice-Chair Dr. Davis attempted to articulate motions to increase the number of members. Committee Vice-Chair Dr. Davis moved first to increase the number of members to either nine (9) or fifteen (15). Committee Chair Tomas Morgan instructed Committee Vice-Chair Dr. Davis to specify a number. Vice-Chair Dr. Davis corrected his motion to specify fifteen (15) members. There was discussion among committee members about having Committee Vice-Chair Dr. Davis specify the exact numbers of members and the appointing body. Committee Member Warner requested that, with the assistance of Attorney Palmer, he submit in writing his amendment for the seven o'clock (7:00 pm) Council meeting. Additional committee member discussion ensued. Committee Member Warner demanded the motion be put in writing for the benefit of the committee.

Committee Vice-Chair Dr. Davis was instructed to handwrite the motion, and the Chair would read it aloud for consideration. Committee Vice-Chair Davis attempted several times to articulate a motion in keeping with his intent. Committee Vice-Chair Davis's written motion read "to amend the bill to specify fifteen (15) members with one-third being active police officers." Committee members, Attorney Palmer, and FOP representative, attempted to correct Dr. Davis that what he wrote "one-third being active police" was not in keeping with his intent which was "one-third being elected by active police."

The Chair read aloud the motion as Committee Vice-Chair Dr. Davis had written "to increase the number of members to fifteen (15) with one-third being active police officers," asked the committee members if there was a second, and suggested that the committee not second or to vote this motion down and propose another motion.

Committee Vice-Chair Dr. Davis rescinded his original motion, and with assistance from Attorney Palmer and Committee Member Warner, motioned to amend Substitute Bill No. 65-24 to specify fifteen (15) members, with one-third (1/3) of the members being elected by active police officers. The motion was seconded by Committee Member Warner for the purpose of discussion.

Committee Member Warner further recommended that the Bill be sent forward with no



recommendation for the seven o'clock meeting so that all Council members could discuss the Bill and any amendments.

Committee Chair Tomas Morgan stated that she would like the Bill to be sent to the Committee of the Whole for further discussion, clarification, and additional public comment, both for and against. She recommended voting to proceed with the committee meetings. Committee Chair Tomas Morgan also stated her belief in a fifteen (15) member board being too large.

After additional comments from the committee and further clarification and assistance, Committee Vice-Chair Dr. Davis rescinded his final motion.

Committee Member Warner then motioned to send Substitute Bill No. 65-24 to the Committee of the Whole with no recommendation, which was seconded by Committee Vice-Chair Dr. Davis and carried by a vote of six (6) ayes.

Committee Chair Rachel Tomas Morgan - <i>Aye</i>	Committee Vice Chair Dr. Oliver Davis - <i>Aye</i>
Committee Member Troy Warner - <i>Aye</i>	Committee Member Karen White - <i>Aye</i>
Citizen Member Savino Rivera - <i>Aye</i>	Citizen Member Frank Spesia - <i>Aye</i>

With no further questions, Chairperson Rachel Tomas Morgan adjourned the meeting at 5:42 pm.

Respectfully Submitted,


 Rachel Tomas Morgan, Committee Chair

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