

CITY OF STEVENS POINT

PERSONNEL COMMITTEE AGENDA

Monday, May 12, 2014 – 6:00 p.m.

(or immediately following previously scheduled meeting)

Lincoln Center – 1519 Water Street

[A quorum of the City Council may attend this meeting]

Discussion and possible action on:

1. Amendment to Administrative Policy 2.10 Grievance Procedure.
2. Consideration of reimbursement of uniform purchase from November of 2013 for Administrative Assistant in the SPFD.
3. Update and modification to pay plan appeal process.
4. Adjournment.

Any person who has special needs while attending this meeting or needs agenda materials for this meeting should contact the City Clerk as soon as possible to ensure a reasonable accommodation can be made. The City Clerk can be reached by telephone at (715) 346-1569, TDD #346-1556, or by mail at 1515 Strongs Avenue, Stevens Point, WI 54481.

Copies of ordinances, resolutions, reports and minutes of the committee meetings are on file at the office of the City Clerk for inspection during normal business hours from 7:30 a.m. to 4:00 p.m.

May 6, 2014

MEMORANDUM

TO: Personnel Committee Members

FROM: Lisa Jakusz, City Personnel

RE: May, 2014 Agenda

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1. Enclosed in the packet is a recommended amendment to City Administrative Policy 2.10 ~ Grievance Procedures. A December 2013 Court of Appeals decision concluded that the Legislature intended all "terminations" to be subject to the grievance procedure. The Court relied on the dictionary definition of a "termination" to define the word's meaning and concluded that it means to "discontinue the employment of; dismiss".

A review of the City Policy by the City Attorney and me resulted in the policy amendment enclosed.

2. Please refer to the "starred" item on P. 2 of the memo from Chief Kujawa requesting consideration for payment of an outstanding invoice in the amount of \$114.85 for two pairs of pants and a belt.
3. Mayor Halverson as advised that prior to the end of business on Friday, he will send electronic correspondence regarding the update.

**** CITY OF STEVENS POINT ****
ADMINISTRATIVE POLICY

Policy Title: Grievance Procedures

Policy No. 2.10

Date of Issuance: December 18, 1989

Revision Date: September 19, 2011, January 21, 2013

1. Purpose

The purpose of this Policy is to set forth the procedure to be followed with respect to grievances by employees, union, and non-union. The terms of this Policy shall control unless another valid and enforceable grievance procedure exists in a collective bargaining agreement that applies to the matter.

This policy is intended to comply with Section 66.0509, Wis. Stats., and provides a grievance procedure addressing issues concerning workplace safety, discipline and termination. This policy applies to all employees covered under Section 66.0509, Wis. Stats., other than police and fire employees subject to Section 62.13(5), Wis. Stats. An employee may appeal any level of discipline under this grievance procedure. Nothing in this policy is intended to create a legally binding contract. The City of Stevens Point reserves its management rights to exclusively manage its operations in the best interest of the taxpayers of the City.

2. Definitions

A grievance is defined as a dispute or misunderstanding regarding the actions of City officials with regard to the following:

- Employee termination

“Termination” includes an involuntary end to employment but excludes a voluntary quit; a layoff or failure to be recalled from layoff at the expiration of any recall period; retirement; job abandonment such as “no-call, no-show,” or failure to report to work; any workforce reduction activities; job transfer; ~~action taken for failure to meet the qualifications of a position; action taken pursuant to an ordinance other than an ordinance specifically addressing employee discharge;~~ death; or the end of the employment of a temporary, contract or part-time employee.

- Employee discipline

“Discipline” includes verbal reprimands; written reprimands; and suspensions without pay. Discipline does not include action taken because of poor job performance, performance evaluations, performance improvement plans, or counseling (verbal or written) regarding job performance.

- Workplace safety

“Workplace safety” includes conditions of employment affecting an employee’s physical health or safety, the safe operation of workplace equipment and tools, environmental hazards, safety of physical work environment, personal protective equipment, and workplace violence.

3. Preliminary Procedures

A. Preliminary Grievance Steps

Step 1: Prior to filing a written grievance, employees should discuss any problem or complaint with his/her Immediate Supervisor to determine if the grievance can be resolved.

Step 2: If the grievance cannot be resolved at Step 1, the employee must file a written grievance with the City Human Resource Manager no later than ten (10) calendar days from the date the employee first becomes aware of the termination, discipline, or workplace safety condition causing the grievance. The written grievance shall include: (1) a summary of the facts pertaining to the grievance and issue involved; (2) the date(s) the event(s) giving rise to when the grievance occurred; (3) a listing of all parties involved; (4) the remedy sought by the employee; and (5) the employee’s signature and date. The City Human Resource Manager shall respond to the grievance in writing within ten (10) calendar days of receipt of the written grievance.

B. Appeal to Personnel Committee

Step 3: If the grievance is not resolved at Step 2, the employee may appeal a denial by filing a written appeal of the grievance with the Personnel Committee within ten (10) calendar days from receipt of the City Human Resource Manager’s decision. The Personnel Committee shall meet with the parties to discuss the matter. Within ten (10) calendar days of the meeting, the Personnel Committee shall issue a written decision sustaining or denying the grievance.

4. Hearing Officer Proceedings

A. Appeal to Hearing Officer

Step 4: If the grievance is not resolved at Step 3, the employee may appeal a denial by filing a written request for a hearing before a Hearing Officer. This request must be received by the Personnel Committee no later than ten (10) calendar days after the employee receives the Personnel Committee's written response.

On appeal, the Personnel Committee shall transmit the grievance, all grievance responses, and this Grievance Procedure to the Hearing Officer. As soon as is practicable thereafter, the Hearing Officer shall schedule a date for a hearing. The hearing shall be held at a mutually agreeable time in a public building and shall be open to the public unless the Hearing Officer otherwise directs.

B. Hearing Procedure

The Hearing Officer shall have the authority to administer oaths and issue subpoenas at the request of the parties and shall be responsible for the fair and orderly conduct of the hearing and the preservation of the record. The hearing shall be conducted in accord with the hearing procedures of the American Arbitration Association. Any party requesting a subpoena from the Hearing Officer is responsible for the fees associated with the subpoena. All testimony shall be taken under oath and shall be recorded by a court reporter under the supervision and control of the Hearing Officer, unless another method of recording is mutually agreed to by the parties and approved by the Hearing Officer. All costs associated with the court reporter and preparation of a transcript of the hearing shall be evenly split between the parties. In all cases, the grievant shall have the burden of proof to support the grievance. The Hearing Officer may only overrule a disciplinary action if the action taken was arbitrary or capricious.

C. Hearing Officer Decision

The Hearing Officer shall submit his or her decision affirming or reversing the action with the reasons therefore in writing to the Personnel Committee and the employee within thirty (30) calendar days of the close of the hearing or the submission of the parties' written briefs, if any, whichever is later, or on a later date mutually agreed upon by the parties.

5. City Council Review

A. Appeal to City Council

Step 5: Within fourteen (14) calendar days of the date that the Hearing Officer's decision is mailed, either party may file with the City Council a written notice of appeal of the Hearing Officer's determination to the City Council. Any such appeal shall be on the written record, the preparation of which shall be the responsibility and at the cost of the party seeking the appeal. The appealing party shall supply a copy of the written record to the other party without charge. The written record shall be filed with the City Council within twenty (20) calendar days of the notice of appeal. No formal hearing shall be held before the City Council. The Council shall receive no further evidence on the matter but may request additional written submittals of the parties on matters which were raised before the Hearing Officer or, at its discretion, meet with the parties to review the matter. The City Council may retain outside counsel if necessary during the process.

B. City Council Decision

Step 6: Within forty (40) calendar days of the receipt of the written record, the City Council shall make and file its written decision with the Clerk's office. The Clerk or designee shall, within five (5) calendar days, mail a copy of the decision to the last known address of the employee or the employee's representative and provide a copy of the decision to the Personnel Committee. The Hearing Officer's determination may be affirmed, modified, or reversed by a majority vote of the City Council. The City Council's decision shall be final and binding on the parties. There shall be no subsequent right of appeal.

6. Hearing Officer Selection

A. Qualifications/Selection

The City may contract with a Hearing Officer to hear and determine appeals at Step 4. Any Hearing Officer so engaged shall not be a City employee or receiving any compensation or benefits from the City other than those described below.

The City Clerk or designee shall create a panel of at least three (3) individuals when needed who have indicated a willingness to serve in the capacity of Hearing Officer and who are experienced in personnel matters and/or who are active or retired attorneys, retired members of the judiciary, retired administrative staff, or currently on the list of arbitrators or mediators for the Wisconsin Employment Relations Commission. The City Clerk shall draw three (3) names and list them in order of drawing with the first drawn name being appointed as the Hearing Officer. In the event a Hearing Officer is unable to accept the designation as Hearing Officer, the

next numeric selection by the Clerk shall be appointed.

B. Compensation

The Hearing Officer shall be compensated at the Hearing Officer's regular rate for the hearing, travel time, and time spent preparing a written decision. The compensation for the Hearing Officer will be split evenly between the parties.

C. Conduct of Hearing

- 1) Generally. The Hearing Officer is not bound by the strict rules of procedure and the customary practices of courts of law.
- 2) Opening Statements. Opening statements are optional and shall be confined to a brief summary of the nature of the case, the evidence intended to be offered, and the controlling legal authorities.
- 3) Order of Proceeding. The grievant shall present evidence first.
- 4) Evidence. The Hearing Officer is not bound by common law or statutory rules of evidence. All testimony having reasonable probative value shall be admitted, and immaterial, irrelevant or unduly repetitious testimony shall be excluded. The Hearing Officer shall give effect to the rules of privilege recognized by law. Hearsay evidence may be admitted into the record at the discretion of the Hearing Officer and accorded such weight as the Hearing Officer or commission deems warranted by the circumstances.
- 5) Testimony of Witnesses. (a) Witnesses may testify by answering questions posed to them. (b) Cross-examination is not limited to matters to which the witness testified on direct examination. (c) At the discretion of the Hearing Officer, witnesses' testimony may be taken via telephone rather than in person. (d) At the request of either party, the Hearing Officer may order the exclusion of the witnesses in accordance with the provisions of s. 906.15, Stats.
- 6) Stipulations. Parties may stipulate to some or all of the facts that are material to a case and the Hearing Officer may base an order upon the stipulation.
- 7) Sanctions.
 - (a) Unless good cause can be shown, any party who fails to appear at a hearing after due notice is deemed to have admitted the accuracy of evidence adduced by the parties present and the Hearing Officer may rely on the record as made. If the absent party has the burden of proof, the

Hearing Officer shall consider a motion to dismiss by the parties present without requiring presentation of any evidence.

(b) If a witness fails to appear despite the issuance of a subpoena, the Hearing Officer may seek initiation of contempt proceedings.

(c) If a witness refuses to answer a proper question or otherwise engages in misconduct, the Hearing Officer may exclude the witness, may strike all or part of the witness' testimony, may make an appropriate inference or may impose any combination of sanctions under this paragraph.

(d) The Hearing Officer may exclude persons other than witnesses from the hearing for misconduct.

7. Settlement of Grievance

A grievance shall be considered waived if not filed or appealed within the designated grievance timelines. Dissatisfaction is implied in recourse from one step to the next step. A grievance shall be deemed settled and dismissed at the completion of any step in the grievance procedure if all parties concerned are mutually satisfied or the grievance has not been timely processed to the next level. All settlements shall be in writing and signed by the employee in question and the appropriate City official(s) involved at the step level that the grievance was settled.

8. Revisions/Updating

This Policy may be amended or repealed by the City Council at any time.

Memorandum



Date: March 31, 2014
To: All Alderpersons
From: Tracey Kujawa, Fire Chief
Cc: Mayor Andrew Halverson, Lisa Jakusz
RE: Request to change City Administration Policy 3.01(11)

Dear Alderpersons,

This memorandum is simply to provide you with information specific to a request I am making to amend language to the City Administrative Policies. This request will be going to the Personnel Committee on April 7, 2014, with the agenda item reading "Amendment to City Policy 3.01(11)." The part of the policy I would like to see amended in this section has to do with uniforms worn by the Administrative Assistants within the Police and Fire Departments. The following is the current language:

If the Administrative Assistant(s) in the Police and Fire Department(s) are required to wear uniforms, the City will provide uniform shirt and badge.

I actually presented the circumstances of this request to the Police and Fire Commission at the March 18, 2014, meeting. The following was the language that they proposed:

"To support the Fire Chief's recommendation that the Personnel Committee be petitioned to modify Administrative Policy 3.01(11) to allow the chiefs, at their discretion, to place civilians in uniform."

If the chiefs decide to place civilians in uniform, they will be permitted to purchase two (2) shirts, two (2) pairs of pants, one (1) belt and one (1) pair of black shoes annually.

There are several reasons for this request of a full uniform provision specific to the Administrative Assistant for the fire department:

- It has always been the expectation of the Fire Chief that the Administrative Assistant abide by the uniform policy and report to work in full uniform; and therefore, it should be the Department's responsibility to budget accordingly to provide for the purchase of this uniform.
- A uniformed individual exhibits authority and professionalism. The current location of our Administrative Assistant is the office adjacent to the front door; and therefore, is the first person the public will encounter.
- There are occasions when all personnel need to leave abruptly from the fire station for an emergency when the public is in the building, and the Administrative Assistant is tasked with completing the tour, or explaining the situation and then assisting people out of the building. It is helpful that this position is in uniform because she is immediately recognized as a person of authority that can be of assistance to them.

- City Administrative Policy has never addressed uniforms specific to the Administrative Assistants for Public Safety.
- The Administrative Assistant within the Fire Department has always been provided a uniform allowance.
- The Administrative Assistant has always been considered part of the “team” at the Department and being provided a similar uniform is important.

Research has also revealed other positive impacts realized by organizations who uniform their personnel; all of which I believe are an asset to our profession:

- Those wearing a uniform are more aware of the responsibility toward the sponsoring organization and understand they are authorized agents and are more likely to behave in a manner that best represents the organization.
- The public is more respectful and compliant in their demands when encountering individuals in uniform.
- Society has come to expect certain behaviors from those wearing a uniform; and therefore, those wearing a uniform tend to be more accountable.
- A uniform can affect employee performance. If an employee is satisfied with the required job attire, they are more likely to perform at a higher level.

I appreciate your consideration in amending this City Administrative Policy. There are many significant reasons listed to support the request for this amendment. The Department benefits from the position of Administrative Assistant being in full uniform; and therefore, I believe it is the responsibility of the Department to budget appropriately and provide the items being requested.

In addition, if the Committee does approve the requested amendment, I would make an appeal to approve the payment of Invoice 156671 in the amount of \$114.85 which is related to a uniform reimbursement from 2013. This invoice was denied payment last year in December and it was a uniform purchase by the Fire Department’s Administrative Assistant, which was denied because of the change in policy just a month earlier. The language change to policy 3.01(11) took place late in the year and did not allow the Administrative Assistant reimbursement for two pairs of pants and a belt at the end of the year. The funds to pay this invoice would come from monies already budgeted by the Fire Department for uniform allowances.

The following is the recommendation from the Police and Fire Commission at the March 18, 2014 meeting specific to the request for invoice payment:

“The Commission will support payment of uniform costs incurred by Lorna Whalen in 2013 reference invoice 156671 in the amount of \$114.85 out of an account at the discretion of the City Treasurer.”

Thank you so much for your consideration in these two matters; if you have any questions please feel free to contact me.

Tracey Kujawa, Fire Chief