




## MEMORANDUM

TO: City Council

FROM: Jeffrey M. Gray, City Manager 

DATE: September 12, 2023

SUBJECT: Personnel Procedures

A number of questions were raised at the Council meeting on August 16<sup>th</sup> regarding the City's personnel policies. Although the City will not comment on specific personnel decisions, questions about City procedure are legitimate and can be addressed. This memo is intended to address some of the questions that came up at the meeting, as well as some follow up questions that might be anticipated based on the answers.

**Question: What does it mean that the City's employees are employed "at-will."**

Answer: Michigan is considered an at-will employment state and City employees serve on an at-will basis. This means that employment may be terminated by an employer at any time and for any reason, or no reason at all. Likewise, employees have the right to terminate their employment at any time and for any reason, or no reason. All City employees are advised of this at their hiring, and are issued an Employee Handbook that explains these terms of at-will employment.

**Question: Aren't firefighters volunteers? How can they be considered at-will *employees*?**

Answer: The fire department is called a volunteer fire department, based on the tradition that it started as a truly volunteer commitment, with members serving without pay. Currently, firefighters are paid on an on-call basis and all officers receive an additional stipend for their service and responsibilities. That said, firefighters typically are employed on a full-time basis in other jobs or careers; firefighting is usually not their primary career or source of income. Their employment with the City provides them with workers compensation coverage, liability insurance coverage while performing their duties for the City, life insurance coverage, and similar benefits typical of fire services. Firefighters are employees of the City of Jonesville and subject to the terms of employment under the Employee Handbook.

**Question: Who is responsible for disciplining City employees?**

Answer: Each employee reports to a supervisor, or Department Head. Each Department Head reports to the City Manager. The City's Rules of Conduct for employees are described in the Employee Handbook. When an employee is found to have engaged in misconduct, the Department Head reviews the action to determine if it constitutes minor misconduct, or major

misconduct. In the case where the action is found to be major misconduct, the Department Head then determines whether the action is subject to suspension or termination of employment. The Department Head's proposed disciplinary action is subject to the review and approval of the City Manager. In the case of the Fire Chief, the Director of Public Safety is the Department Head.

In all disciplinary matters, the employee is presented with the facts associated with their actions and the Department Head's recommended corrective action. The employee is given the opportunity to explain their actions and to provide additional information that they feel would change the findings or mitigate the corrective action. Following the discussion, the disciplinary action is administered. In most cases, the disciplinary meeting is attended by the employee, the Department Head, and the City Manager.

In short, disciplinary action for employee misconduct is discretionary on the part of the Department Head, and reviewed by the City Manager. The goal of discipline is to correct and improve actions of misconduct and to avoid repeat actions. Termination is considered when, in the judgment of the Department Head and confirmed by the Manager, other corrective action is unlikely to change employee behavior.

**Question: Why isn't the City Council involved in the decision of whether to discipline or terminate an employee?**

Answer: The City operates as a Council-Manager form of government. The City Council is responsible for setting policies and laws. The City Manager is responsible for the day-to-day operations of the City, as set forth in the adopted policies and laws.

The Council is, of course, accountable to the voters. In a home-rule City like Jonesville, the Council's authority to make laws and policies is defined by the City Charter, which was approved by the City voters on August 5, 2014. With regard to Police and Fire Chiefs, Section 7.10 (c) of the City Charter says:

(c) If the City operates its own police and/or fire department, the police chief and/or fire chief shall be appointed by the city manager, after consultation with the city council, on the basis of education, ability, training, and experience. The city manager shall supervise these department chiefs and have the authority of dismissal.

**Question: The Charter was approved in 2014. Is this a new process?**

Answer: No. When the Charter Commission drafted the City Charter, they committed to setting policies and procedures so that the City would operate in the same manner as the Village had. The Village Council adopted an ordinance in 1987 that described the duties and responsibilities of the manager. That ordinance has remained unchanged since 1987, except that the title has been updated from Village Manager to City Manager. The ordinance can be found in Chapter 2, Division 2 of the Code of Ordinances. Related to the management of personnel, Section 2-70 of the Code says the following about the City Manager's duties:

- (2) Be responsible for personnel management and shall issue, subject to council approval, personnel rules applicable to all city employees;

And:

- (12) Be responsible for the hiring and dismissal of city employees, subject to policies and procedures which may from time to time be adopted by the city council. However, the hiring of department supervisors (department heads) shall require approval of the council;

The provision in the Charter regarding the Manager's responsibilities related to Police and Fire Chief's is consistent with the long-standing ordinance regarding the Manager's duties, and the established employment policies in the Employee Handbook. These are standard operating procedures for most council-manager forms of government.

**Question: How does the City Council learn of an employee termination?**

Answer: In this case, the City Manager contacted each of the members of the City Council by telephone on the evening of July 31<sup>st</sup>, following the termination. The Manager spoke with six members on the evening of the 31<sup>st</sup> and the seventh on the morning of August 1<sup>st</sup>, answering various questions in those calls. In addition, the steps that had taken place to date, and those that would be taking place over the next several hours and days to assure continuity of fire services in the City and fire district were explained.

In the days and weeks that followed, several members of Council met with the Manager and spoke via telephone for additional discussion and follow up. Director Lance and the Manager met individually with some members of Council, as well. We have answered all questions as thoroughly and completely as possible. These calls and meetings have been intended to give members of Council access to the nature of information that they feel they need as elected officials to understand the cause for termination and the ongoing operations of the department. Members of Council have been advised of the need for confidentiality regarding that information, as would be expected of any employer in any personnel matter.

Staff will continue to be available to meet with any members of Council who have questions on this matter or any other City business.

**Question: Why doesn't the City discuss personnel matters at the City Council meetings?**

Answer: First and foremost, because sharing personnel information in open public meetings is bad practice and unprofessional. City employees are expected to conduct themselves with accountability and responsibility. We foster an environment where our staff is asked to be honest about their mistakes, with the goal of avoiding repeat errors or issues with work performance. The practice of management sharing staff mistakes, errors, omissions, and misconduct in open meetings would be unlikely to result in employees taking responsibility for their actions, learning from their mistakes, and improving their performance.

Second, current and former employees are entitled to privacy regarding their employment records. While we respect the right of former employees to air their opinion in public spaces, the decision to do so does not waive the obligation and desire of the City to act with discretion.

Third, former employees who feel that they have been aggrieved by the City have rights, including the right to seek a hearing if they feel that a termination action is wrongful or that they have been denied due process. However, that hearing would take place before the courts, not the City Council. The City respects the rights of a former employee to seek relief in the courts and would not attempt to influence the outcome outside of a court hearing.

In conclusion, I trust that this provides some clarity and answers some of the questions related to City policies and procedures regarding personnel matters. As always, please do not hesitate to contact me if I can provide additional information or if you have other questions.