

MINUTES
SPECIAL MEETING
LAWTON PERSONNEL BOARD
OCTOBER 2, 2002

The meeting was called to order by Rick Sinnreich, Chairman, at 9:02 a.m. in the Council Chambers, Wayne Gilley City Hall. Meeting notice and agenda were posted on the City Hall notice board as required by State Law.

ROLL CALL:

Members Present: Sarah Michener, Ray Polk, Rick Sinnreich.

Members Absent: None

Also Present: Frank Jensen, Deputy City Attorney, Hedy Jackson, Assistant City Attorney, Donna Mata, Municipal Court Clerk, Linda Hargrove, appellant; Charles J. Watts, attorney for appellant; James D. "Don" Porter, attorney for appellant; Kathy Fanning, Deputy City Clerk; Randy Schumacher, CSR, Certified Court Reporter.

2. Consider prehearing motions regarding the appeal of Linda G. Hargrove

Jackson provided an opening statement.

Sinnreich asked for pre-hearing motions.

Jackson objected to exhibits which were just presented today, contain nothing to indicate authenticity, some are very old and some may be irrelevant. Watts argued in behalf of being able to submit his exhibits, pointing out certain regulations in this regard. Board members discussed the matter.

MOTION by Polk, SECOND by Michener, that the City's motion, as to appellant's exhibit 4, be denied and each part of that exhibit be addressed as it comes up. AYE: Michener, Polk, Sinnreich NAY: None MOTION CARRIED.

Sinnreich asked to move on to the second part.

MOTION by Sinnreich, SECOND by Polk, that the City's motion to exclude the second exhibit 6 be sustained and the plaintiff, if she wishes, produce the witness. AYE: Michener, Polk, Sinnreich NAY: None MOTION CARRIED.

Watts provided an opening statement.

3. Consider the appeal of Linda G. Hargrove regarding a termination in employment with the City of Lawton, Municipal Court.

The following witnesses were called and sworn in on behalf of the appellant: Donna Mata; Linda G. Hargrove. All witnesses were excused after testifying.

The following witnesses were called on behalf of the City: Bill Baker, City Manager, Dawn Aust, Gina Vanover, Pam Adair, Judge Michael Corrales, Luis Curet. All witnesses were excused after testifying.

The following Appellant Exhibits were submitted and accepted:

1. Oct. 1998, Performance Appraisal
2. June 8, 2000, Performance Appraisal
3. July 20, 2000, Performance Appraisal
4. Sexually oriented jokes and e-mails
5. Linda Hargrove's records from Dr. Joe Langley
6. October 1, 2002, Statement of Lacoya Butler

The following City Exhibits were submitted and accepted:

1. Lawton Personnel Board Rules of Procedure - Pages 2-8
2. Lawton City Charter, Article 8, Officers and Employees Generally.
3. Lawton City Code 1995, Personnel Policies & Procedures, Pages 15-22
4. Lawton City Code 1995, Personnel Policies & Procedures, Chapter 17, Division 8, Personnel Board.
5. City of Lawton Employee Handbook
6. Acknowledgement Form for an Employee Handbook
7. Council Policy 13-1, Suspected Fraudulent Activities, Misappropriations and Similar irregularities
8. Acknowledgement of receipt of Council Policy 13-1
9. Ms. Hargrove's Personnel Appeal Form
10. Deputy Court Clerk Job Description
11. Performance appraisal of April 2001; Supervisor's signature - 4/20/01
12. Notice of Pre-Determination Hearing May 28, 2002.
13. Notice of Warning/Reprimand May 31, 2002.
14. Supervisor's handwritten notes of October 26, 2001.
15. Employee Warning/Reprimand Notice January 31, 2002.
16. Memo from City Manager, Administrative Leave January 31, 2002
17. Grievance/Appeal Form February 11, 2002
18. Memo from City Manager, Notice of Suspension Explanation February 15, 2002.
19. Personnel Action Form, February 18, 2002
20. Supervisor's handwritten notes, May 15-20, 2002
21. Supervisor's handwritten notes, July 1, 2002.
22. Cashier Daily Reconciliation Record, July 9, 2002
23. Supervisor's handwritten notes, July 11, 2002
24. Performance Appraisal, 2002 Supervisor Signature, July 22, 2002.
25. E-mail from supervisor to City Manager, July 30, 2002.
26. Facsimile/Oklahoma Department of Public Safety, Set Aside Order
27. Notice of Pre-Determination Hearing of July 30, 2002, with Notice of Suspension/Demotion/Discharge and Attachments.

28. Personnel Action Form, July 31, 2002
29. Photo of Linda Hargrove and Bill Anders
30. Memo to City Manager from Donna Mata, May 2, 2002.
31. Typewritten notes from Grandville D. Long, handwritten notes of Donna Mata, February 5, 2001 and consists of five pages.
32. Cashier Daily Reconciliation Record - May 7, 2001
33. Sexual Harassment Policy
34. Assault Acknowledgement of Receipt

Jackson provided her closing statements.

Watts provided his closing statements.

4. Pursuant to Section 307.B.1, Title 25, Oklahoma Statutes, consider convening in executive session to review and discuss evidence relating to the continued employment of Linda G. Hargrove, and consider action on the appeal in open session.

MOTION by Michener, SECOND by Polk, to convene in executive session to review and discuss evidence relating to the termination of Linda G. Hargrove. AYE: Polk, Sinnreich, Michener NAY: None MOTION CARRIED.

The Board convened in executive session at approximately 11:40 a.m. and reconvened in regular open session at approximately 12:34 p.m. with all those present who were present prior to executive session, with the exception of attorneys Charles J. Watts and James D "Don" Porter, who were absent with approval of appellant.

MOTION by Michener, SECONDED by Polk, to sustain the City Manager's actions. AYE: Sinnreich, Michener, Polk. NAY: None MOTION CARRIED

Sarah Michener: "Reluctantly, I sustain the City Manager's actions. This is a very difficult decision, just because I feel like, that the office in which Ms. Hargrove worked in, didn't follow policies and procedures, if they did, then the policies and procedures need to be more structured. I feel like there were a lot of things that happened that should not be happening in the Municipal Court Clerk's Office. I also feel like, that perhaps, the supervisor should have, looked into Mrs. Hargrove's issues, maybe referred to employee assistance, I know that the City of Lawton does have that service available. I feel like there were some things that perhaps maybe could have been helped. I agree that Mrs. Hargrove's actions, did deserve termination, but, that, it was just, there were, there's some things that need to be straightened out in that Court Clerk's Office. As far as the sexual harassment goes, I don't have any doubt that Mrs. Hargrove was sexually harassed and I feel like that, the actions were taken that were appropriate in that regard. But, this was just really difficult, it was just a whole, it was a difficult situation."

Ray Polk: "I would, echo the comments that are by Sarah, just add to that. There are, based on the evidence that was presented to us, there are some things that were allowed to happen in the office, that, in my opinion, promote an unhealthy atmosphere. The mere acceptance of sexually explicit email or, fax, if it happened to be fax, or other forms, such as what we've seen here, in my opinion, creates a very unhealthy, atmosphere for people to work in and I just think that, to allow something like this, condone something like this, certainly at some point, would eventually lead to other problems that, could be avoided."

Rick Sinnriech: "Well, I share my colleagues feelings. We, we looked at both pieces of this, all three of us, take sexual harassment very seriously, it wasn't our business to judge the sexual harassment issue, that's a different issue, and from the evidence we were presented, it sounded like the city dwelt with it as they should have and I understand the harasser is now gone. The question, the question we had to address, Ms. Hargrove was, what relationship that had to behavior by you, which on it's face, warranted the City Manager's decision. That behavior included taking actions with respect to tickets, in dealing with the Judge in an inappropriate way, it included removing funds; we understood that the business of taking funds from a drawer was common and we think that's wrong. Those are not your funds and they're are not employee's funds and I don't care whether it's 10¢, you've no business, no employee has any business using that for personal use. But there's a huge difference, in our view, between taking a buck or two out of the drawer, with the permission of the supervisor and putting it back, wrong as that is, taking \$40.00, not telling anybody about it, allowing the entire office to believe that it somehow disappeared, and then coming back several days later and fessing up. You shouldn't have done it, it was the wrong thing to do. So when you look at all those things, it's hard for us to turn to the City Manager and say, 'Mr. Manager, on the basis of what you saw, you made an improper decision.' Having said that, I think all three board members believe that a condition grew, in your office, Miss Moss (Mata), in which one employee clearly wasn't functioning right and the reasons for that may be many, but the sources of those stress may be a lot. The part of the business of a supervisor is to diagnosis it and try to take action before it comes to the point where have to reprimand, suspend or terminate. I believe you do care about your employees, the other employees that we've heard from all seem to enjoy working in the office. So here's one, who for whatever reason, whether it's partly the issue with Mr. Anders, or a ticket, or stresses she's under, anyway, something's changing in her behavior and it's changing over a relatively short period of time, compared to the entire length of employment, and, and I know you knew that, I know you could see it, and the question is why not do exactly what Ray suggested, or Sarah suggested and start taking action early, not in just a disciplinary sense, but using some of the other tools that the City's provided. We think that should have been done and we think that in the future you should consider doing that. So, that's where we kinda come down. We wish you hadn't done some of the things you did, so that we had some other alternative, but I'm afraid we don't. On the basis of the facts presented to the City Manager over a period of time and the Board concluded that the behavior warranted the termination."

MOTION by Polk, SCECOND by Michener, to approve minutes of August 21, 2001, special meeting. AYE: Polk, Sinnriech, Michener NAY: None MOTION CARRIED.

COMMENTS:

Discussion was held concerning including a provision in the Board's rules regarding timely submission of exhibits. The next agenda should contain an item to amend the Board's rules to state that "Witnesses and exhibits will be submitted to the City no later than 48 hours prior to the hearing and the City to the appellant. No witness or exhibit not so provided will be allowed to be presented without a showing of cause to the board and a vote thereon."

There was no further business to consider and upon motion, second and roll call the hearing adjourned at 12:55 p.m..

Rick Sinnriech, Chairman