

The City Council for the City of Junction City, held a work session at 6:30 p.m. on Wednesday, July 2, 2014, in the Council Chambers of City Hall, 680 Greenwood Street, Junction City, Oregon.

PRESENT: Mayor, David Brunscheon; Councilors Karen Leach, Bill DiMarco, Jim Leach, Randy Nelson, Steven Hitchcock, and Herb Christensen; City Attorney, Christy Monson; City Administrator, Melissa Bowers; and City Recorder, Kitty Vodrup.

I. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

Mayor Brunscheon called the meeting to order at 6:30 p.m. and led the Pledge of Allegiance.

II. PERSONNEL POLICY REVIEW

Attorney Monson provided information to the Council on questions they had raised:

Council Questions

- The scope and limits of the City Administrator's personnel management.
- The scope and limits of the Council's personnel management authority.
- How the City Administrator and the Council could best work together regarding personnel management issues.

City Charter – Sections 27 and 29 (City Administrator Authority)

The first place to look is the City's Charter, as like the U.S. Constitution, the Charter is the City's constitution and everything falls from that. Sections 27 and 29 outline the managerial authority of the City Administrator and provide her with a very broad administrative authority. She is charged with many duties that the Council is not charged with, including hiring, firing, disciplining, reprimanding, commending, promoting, and all day to day management over City personnel.

City Charter – Section 12 (Municipal Judge, City Administrator, Other Council Appointees)

However, the City Administrator does not have complete managerial authority over all City personnel. Section 12 of the Charter limits the City Administrator's hiring and firing authority for the Municipal Judge, City Administrator, and such other officers the Council deems necessary, by granting it instead to the Mayor acting with the consent of a majority of the Council.

How then should the day to day management be accomplished for the personnel outlined in Section 12? Section 12 reads, "The Council may designate any appointive officer to supervise any other appointive officer; except the municipal judge, who shall be supervised by the Mayor, except in the exercise of the judicial functions." Attorney Monson referred to the challenges for a Council to provide supervisory authority on a day to day basis, as the Council would have to convene to make decisions and this would be in addition to the tough political decisions the Council was charged with.

Attorney Monson highlighted three important points the Council should take away from the Section 12 limitation:

1. It only applies to the Municipal Judge, City Administrator, and such other officers the Council deems necessary.
2. It only grants the Council the authority to hire and fire the Municipal Judge, City Administrator, and such other officers the Council deems necessary. It is silent about the Council's day to day management duties of these employees, such as disciplining, promoting, reprimanding, or commending employees.
3. It requires approval by a majority of the Council to hire and fire the Municipal Judge, City Administrator, and other such officers. This means that a public meeting and a vote are required to hire or fire.

City's Personnel Manual Language in Conflict with Charter

Attorney Monson noted that there was ambiguous language in the City's Personnel Manual that was in conflict with the Charter:

12.2.1 “When disciplinary action is necessary, it will be administered by the employee’s supervisor. Supervisors will be disciplined by the supervisor’s department head. Department heads will be disciplined by the City Administrator or the City Council. The City Administrator will be disciplined by the City Council.”

The above section allows both the City Administrator and the City Council to discipline department heads. In addition, Sections 12.4.3 and 12.4.4 allow a department head to appeal the City Administrator’s discipline to a Council Committee or the Council. Attorney Monson stated that the reason these provisions were in conflict with the Charter was because they impinged upon the City Administrator’s sole authority under the Charter, over employees who are not the Municipal Judge, City Administrator, or other Council appointive employees.

Attorney Recommendation

The City Charter trumps any other personnel policy and if the Council wished to be absolutely clear about the City’s managerial authority over department heads, Attorney Monson would recommend amending the personnel policies to bring them in alignment with the Charter. This would avoid any confusion about these issues in the future.

Attorney Monson reviewed a diagram on Junction City Personnel Management Authority, which included that the Council and City Administrator take a “team approach” to the day to day management of the Section 12 Employees (Municipal Judge, City Administrator, and other appointive employees).

- **City Administrator Management Authority** – For Most Employees: Hire and fire, plus day to day management duties including discipline, reprimand, commend, or promote.
- **Joint Authority Over Section 12 Employees**
 - City Administrator - For Municipal Judge or Council Appointees: Day to day management duties, including discipline, reprimand, commend or promote. Seek direction of Council. No hire or fire authority.
 - Council – For Municipal Judge or Council Appointees: Hire and fire; provide direction to City Administrator regarding day to day management duties.
- **Council Management Authority** – For City Administrator: Hire and fire. Decide how the Council will handle day to day management of City Administrator, such as discipline, reprimand, commend or promote.

Attorney Monson recommended that the Council discuss passing a resolution that accomplishes the following:

1. Confirms that the City Administrator will have day to day management duties (not hiring and firing) for the municipal judge and “such other officers the Council deems necessary.” (No other employees presently fit within this category, except for the Municipal Judge).
2. Clarifies that the City Administrator has an increased duty to frequently inform and advice the Council of any management situations or actions regarding the Municipal Judge and “such other officers that the Council deems necessary.”
3. Selects a Councilor to act as the City Council’s “representative manager” for management issues regarding the City Administrator (such as performance reviews, leave requests, or personnel complaints).
4. Amends Section 12 and some definitions in Section 14 of the Personnel Manual to bring them in alignment with the Charter.

Council Questions

- **What liability issues would exist on a department head complaint, since department heads were hired under the current policies and processes?** Attorney Monson responded that there were two pieces: One is the Council could continue under the current policies and risk that a City Administrator would bring some kind of a suit or complaint that the personnel manual was in conflict with the

Charter. The other is that by not changing the current policies and beginning the practice of aligning more closely with the Charter, a department head could raise an issue; therefore, her recommendation to fix this problem was to amend the personnel manual language. She noted that it was always better to change a policy when there wasn't an issue than to wait until an issue arises.

- **When can the City Administrator ask the Council for help or when can she check in on a political question with the Council?** Attorney Monson responded that every good City Administrator knows that just because you have the power doesn't mean you don't share and get input from the Council. In the same way, even though the Council has the authority to hire and fire the Municipal Judge, doesn't mean that they couldn't ask the City Administrator for her input. She added that the Council and City Administrator should act as a team.

Councilors noted that the more information they have from the City Administrator, the better off they were. And in situations where the City Administrator would need to make a tough call on a potentially political situation, the Council could back up the decision.

- **What if the City Administrator can't do his or her job?** Attorney Monson responded that the Council's ultimate authority was not to overturn personnel decisions, but to address the City Administrator's employment. A good City Administrator was able to balance issues and knows when to check in with the Council.
- **How the Council should respond to a citizen who says the Council isn't dealing with a complaint regarding a department head, per the City's Personnel Manual policies?** Attorney Monson responded that the Council member can say the City's Attorney has said that the City Charter trumps the personnel policies and it was not appropriate for the Council to manage department heads. She added that the other answer would be to say that the Council was working with and being kept apprised of the personnel issues by the City Administrator. The Council and City Administrator work as a team and the City Administrator keeps the Council apprised of personnel issues. The Council cannot talk about the specifics of personnel issues, but can say that they are aware of issues and they are being handled by the City Administrator.
- **Why previous legal staff had allowed a personnel policy to be in conflict with the Charter?** Attorney Monson responded that she did not know the answer to that and noted that sometimes legal advice is offered but not taken by cities for one reason or another. Councilor DiMarco added that this language could have been constructed to support the Council's strong Committee system, which used to provide more direction and management over department heads.
- **How was a Charter amendment made?** Attorney Monson responded by a vote of the citizens. She added that her recommendation was to amend the personnel policies by resolution to conform with the Charter, once the Council felt like they had a full enough discussion. This would only handle certain amendments to the Personnel Manual and not provide a wholesale amendment, which could be addressed at a later time. The Council could also further clarify how the Council and City Administrator would work as a team to manage employees, which was outlined at the bottom of page 2 and top of page 3 of her memo.

Council Comments

- This was an important issue that could be addressed in between upcoming work sessions.
- The Council hired the City Administrator to take care of the day to day supervision.
- It was important for the City Administrator to keep the Council in the loop on personnel issues, and Council members liked the team approach.
- Attorney Monson's memo was a clear document that was easy to comprehend.
- It was important to update the City's outdated 1998 Personnel Manual policies and any Standard Operating Procedures, so it would be easier for the City Administrator to enforce policies. Attorney Monson responded that their firm had helped many cities revise the personnel policies and would be happy to help with this if needed.

- It was important for the City Administrator to be able to freely discuss his or her performance and challenges with supervision with the Council, so the Council could provide the political back up and the Administrator could feel safe in exercising his or her authority.
- Council members expressed concerns with the recommendation for one Councilor to act as the Council's representative manager, as the Council worked as a group and not as one individual. Attorney Monson responded that if the Council's preference was to take a team approach that would be fine. She added that if at some point in the future the Council felt they wanted to appoint a Council representative to handle a particular issue, they could do so for the duration of that issue.

City Administrator Response

Administrator Bowers stated that she agreed with and liked the concept of a team approach and the ability to share and receive input from the Council on issues. She agreed that the policies needed to be cleaned up and have a thorough review.

Administrator Bowers asked for Council interpretation of Personnel Manual Section 11.3.3 Complaint or Appeal Procedure. It reads that if an employee wishes to express a formal complaint related to employment conditions, relationships, or any other type of appeal other than disciplinary matters, the employee will submit to his or her supervisor a written statement describing the complaint or appeal within five working days.

Administrator Bowers stated that it was not clear to her who an employee should report to, if the employee's supervisor was a department head. She would assume that if a complaint was about a department head that the complaint would be submitted to the City Administrator.

The Council consensus was in agreement with that assumption. Attorney Monson added that she felt Section 11.3.2b would support that as it reads, "if the employee feels the problem has not been resolved satisfactorily, the employee may take his or her complaint to the next individual in the chain of command."

In response to how a complaint about the City Administrator would be addressed. Attorney Monson stated that Section 11.3.3 D read, "A complaint against the City Administrator will be filed with the Mayor..."

III. OTHER BUSINESS

It was noted that the Council consensus was in agreement with Administrator Bowers' interpretation of Personnel Manual Section 11.3.3 and if desired, they could made a motion at a regular Council meeting.

IV. ADJOURNMENT

As there was no further business, the meeting was adjourned at 7:38 p.m.

ATTEST:

APPROVED:

Kitty Vodrup, City Recorder

David S. Brunscheon, Mayor