

BUDGET AND FINANCE/PERSONNEL COMMITTEE

May 18, 1999

4:35 P.M.

The meeting of the Budget and Finance/Personnel Committee was called to order by Councilman Hakeem, Chairman, with Councilmen Lively, Rutherford, Franklin, Pierce, and Hurley being present. Councilman Crockett joined the meeting later. Also present were City Attorneys Randy Nelson and Mike McMahan; Management Analyst Randy Burns; and Shirley Crownover, Assistant Clerk to the Council.

Others present included Adm. Traughber, George Morgan, Ann Coulter, Adm. Boney, and Tracy Clarke.

UPDATE ON CITY'S DRUG POLICY

Chairman Hakeem stated that the General Services Dept. would give us an update on the Drug Policy and called on Adm. Traughber.

Adm. Traughber stated that this was a two-prong Policy; that we were hearing employees talking about the old versus the new drug policy, and we were also talking about the Employee Assistance Program (EAP). He stated that Tracy Clarke was the Risk-Manager and George Morgan had also worked on this. He turned the meeting over to Tracy Clarke.

Mr. Clarke stated that they wanted a Policy that would be clear to all departments and would be a discipline; that they wanted employees to understand that this would be truly preventative and confidential; that an independent consultant would be handling this; that we were going to train employees in May and the supervisors in June to be sure that everyone is "reading off the same page".

Councilwoman Rutherford verified that we were talking about illegal drugs, alcohol use, and the mis-use of prescription drugs. Councilman Pierce asked if this would be "all the way up" and was told "yes". Attorney McMahan clarified that it would not necessarily include the Mayor, City Judge, and Councilmen. Councilman Pierce questioned how we deal with supervisors.

Dr. Calvin Paries spoke at this time. He explained that EAP would be a place that employees go to confidentially; that it would be a supervisory tool; that supervisors would be trained in June and orientated as to how to use this as a supervisory tool. He mentioned the "Reasonable Suspicion Drug Test" and how you really have to focus on the performance of employees; that supervisors did not need to go into a lot of details with employees' problems; that their role as supervisor is to hold employees accountable and responsible through a step-by-step process; that employees needed to be notified on a continuing basis as to their progress, and supervisors would use EAP as a referral; that if an employee was coming to

work late or had a bad attitude and their performance was suffering, then the supervisor needed to talk to the employee and find out what was happening and suggest that the employee get help—that the supervisor was *not* to act in the role of counselor; that an employee's performance in the workplace determined if they needed the services of EAP, and it was free and confidential and dealt with an assortment of personal problems; that it gives an employee an avenue to pursue to meet the expectations of the workplace.

Councilman Pierce stated that very often we are dealing with supervisors; that most of the problems come out of the Public Works Dept.; that supervisors are in the same category as employees when it comes to drug and other personal problems.

Dr. Paries responded that the supervisor would have to be accountable to someone; that there should be a mechanism in place to hold supervisors accountable to perform their duties; that you would need to address a problem with a supervisor to whomever they were accountable to.

Councilwoman Rutherford mentioned that often you might have a team of four workers and one supervisor out all day; that people other than these four workers might not see the supervisor very much but these workers are with him all day long and would recognize that the supervisor had a problem. She asked who these workers would communicate this problem to. Dr. Paries responded that there should be a mechanism for those employees to address supervisor concerns via a written grievance policy. He stated we might need to see if this needs to be looked at. Councilwoman Rutherford stated she thought this was a real weakness, and we needed to be specific.

Adm. Traughber stated this was more policy and personnel; that each department is headed by an Administrator; that part of the approach would be to go through a training program inclusive of and with strong endorsement from the Mayor—that employees might have a fear of reporting a supervisor, and this should not be the case.

Councilman Hakeem asked that Admin. Traughber get back with the Council on how they plan to do this. He mentioned that in the most recent Personnel Hearing, the individual did not come forward and seek help; that typically a person does not admit that he has a problem. He mentioned that others had been “tipped” that they were going to be tested, and they had gotten into a Program. He stated he felt this was unfair and questioned how we deal with such “tipping”. He stated he felt there was an inequity here.

Mr. Clarke stated that we already have random drug testing; that the supervisor does know the day before that employees are going to be tested. Councilman Hakeem still maintained that people were notified in advance that they would be tested and went into a Program. Adm. Traughber added that the EAP Program is not a shelter or shield—that employees will still be tested randomly.

Chairman Hakeem still questioned an employee who did not know he would be tested being put up for termination. Attorney Nelson assured Chairman Hakeem that we don't inform anyone.

Mr. Morgan stated that the intent is to help when we can; that management personnel are told the day before; that if they reveal the drug testing in order to allow employees to escape, then this is a violation, and they would be subject to disciplinary action.

Chairman Hakeem stated that this came out during the last hearing; that others had found out about the drug testing and had already asked for help.

Mr. Morgan stated that we were trying to unify the policy; that we need to do more—that we have the DOT Program, the Drug-Free Workplace, and Reasonable Suspicion Drug Test, and the end result is the same.

Chairman Hakeem asked about the penalty for someone who reveals that drug testing will take place.

Adm. Traughber responded that we are trying to even the playing field—that the penalty could be up to “possible termination”. He explained that the policy we are talking about now says “termination”, but we are offering the opportunity for assistance in helping with employees' problems; that we are providing support to use as a tool to help people. He agreed that there are still some issues on the table; that zero-tolerance is a new approach.

Dr. Paries explained that EAP deals with substance abuse; that when employees go back to work they will be clear. He, too, stated that EAP would not be a shield; that employees will be told that they are responsible and not to go back to work if they have a relapse—that if they have a relapse, they are to come to EAP and not continue working. He reiterated that the individual is accountable for his actions—that this will be made very specific and concrete; that this is a City of Chattanooga employee vehicle to assist employees in getting help; that the help is free and confidential; that if employees don't get help and get tested, then it is too late—that this is just the “roll of the dice”. He reiterated that employees need to feel confident when calling for help.

Councilwoman Rutherford asked how long this plan had been in place and was told since April 1st. Dr. Paries stated that they had had good response, which is an attribute to this city; that employees are orientated through EAP; that an understanding of EAP is shown in its utilization.

Chairman Hakeem asked if “zero-tolerance” had been in place since April of this year. Adm. Traughber responded “no”—just the EAP Program. Mr. Morgan added that EAP deals with emotional disorders and also substance abuse. Attorney Nelson added that EAP deals with anything that affects an employee's performance on their job.

Chairman Hakeem asked when “zero-tolerance” was implemented. Mr. Clarke responded April 15th.

Councilman Franklin explained that one policy said “zero-tolerance” and the previous policy indicated disciplinary action “up to and including termination”. He explained that at the last Personnel Hearing it was said that this Administration is exercising “zero-tolerance” even though it has not gone into effect. Mr. Clarke maintained that the City’s policy was “zero-tolerance”. Chairman Hakeem responded that if a policy is a policy, then it needs to be written down.

Adm. Traugher explained that a Drug Policy was instituted in 1989 and had been adjusted; that they thought the new Policy was adopted by Executive Order, and they had started their preparations. It was explained to them that this Policy was established by Resolution and had to be amended by Resolution—that it has to come back to the Council as a Resolution; that technically one might say that the original Resolution is still in effect until you actually adopt “zero-tolerance”. He stated they were asking the Council to endorse “zero-tolerance” as a concept.

Chairman Hakeem maintained that the person at the last Personnel Hearing was fired under the “old”, but the “new” Policy was used to uphold Administration’s action. Adm. Traugher explained to Chairman Hakeem that even under the “old” Policy an employee could be fired.

Councilwoman Rutherford verified that under the “old” Policy you *could* fire, but under the “new” Policy you *had* to fire.

Chairman Hakeem still questioned if this had not been approved or ratified by the Council, how the Policy could be in place?

Councilwoman Hurley explained that they had thought it was legal by Executive Order; that they had found that this was wrong and were now bringing this to the Council; that previously the Policy had been “up to and including termination”; that we were trying to make it consistent in all departments in adopting a Policy that would *not* designate “up to and including” but would require “termination”. She explained this would make it a level playing field.

Chairman Hakeem still maintained that “zero-tolerance” had not been put in place. Attorney Nelson stated that the Mayor can “set” certain disciplinary action. Chairman Hakeem asked if the “on a level playing field” was just coming to the Council right now.

Councilwoman Rutherford noted that we did not have “zero-tolerance” in place previously, but firing an employee was one option; that now the only consequence would be “firing”, which was making it a total level playing field; that a person who was fired like the employee Chairman Hakeem was referring to, would be fired under the new Policy also.

Councilman Franklin stated that the panel at the Personnel Hearing had an option. Chairman Hakeem stated that it was his understanding that the employee was fired under the “new” Policy and the “up to” did not *even* apply—that only the “new” Policy applied.

Councilman Franklin outlined what he based his decision on—that it was his understanding in this case that this person, in another department, still came in contact with kids, as well as the fact that this person had been given three or four opportunities and had been told if he had a problem they were willing to talk about it and get him some help. He explained that it was a combination of these factors upon which he based his decision; that he felt this was also Councilman Taylor’s reasoning, but he could not speak for him. He explained that the two policies were mentioned, and the Administrator of the Dept. said that this Administration was operating under “zero-tolerance”. He stated there were three different issues, and it was very easy not to be clear. He stated that he did not feel comfortable until he had heard everything.

Councilman Lively stated in talking about “zero-tolerance”, he thought there was a lot of tolerance for individuals willing to seek help—that the rules are clear and no one can argue about them.

Dr. Paries explained that we were still “zero-tolerance” in the working place; that when a person comes to work, the substance has to be out of their systems; that they can get into EAP. He went on to say that EAP is much more than just a substance abuse entity—that it also deals with marital and family problems, depression, stress, grief, anger, and financial problems—anything that affects an employee’s ability in the workplace. He stated that this was a vehicle the City was paying for that they did not have to; that it is an avenue for employees to maintain good mental health and substance abuse comes into this also. He reiterated that it was a vehicle to assist employees in getting help.

Councilman Pierce asked how they dealt with employees who have financial problems.. Dr. Paries responded that they do an assessment—that often financial problems are tied into marital problems; that they give employees the option of going to a Budget Counselor and also Debt Management; that they tried to use resources in this community and act as a directing mechanism.

Chairman Hakeem stated that being an African-American male he had to bring this up—that what he had seen thus far was that it was only African-American males who have alcohol and drug abuse problems; that these were the ones that came before the Council for Personnel Hearings; that the perception would be that the only ones before us for termination are African-American males, and he felt that everyone had problems.

Adm. Traugher responded that he had a White male come up for a Personnel Hearing, and the Council upheld his recommendation.

Attorney Nelson mentioned that when drug testing for reasonable suspicion first came up that a group of firemen brought a lawsuit against the City, and they were all White; that this was when we had a City Commission.

Chairman Hakeem clarified that he was just speaking of since he had been here. Attorney Nelson stated that this happened when it was just “out of the hopper”. Chairman Hakeem still maintained that there were others with problems, too.

Dr. Paries stated that supervisors would be well-trained in “reasonable suspicion” drug testing; that it has to be done in a certain specific way. Mr. Burns added that this is for prevention. Dr. Paries explained that a “form” would be used as a guideline. Adm. Traugher stated that we might need another session on what is “reasonable suspicion”. Councilman Pierce stated that he would like to see the “form” attached to the termination so that the panel hearing a Personnel termination case could see that the supervisors had gone through this process.

Councilman Franklin stated that this supervisor went to the “nth” degree to make sure that this person was extended the opportunity for help—that he had been approached several times. He stated he thought this Policy was a good playing field, and it has to be across the Board; that it would encourage supervisors to do their job and go to the “nth” degree.

Councilwoman Hurley stated that she thought this was a step in the right direction; that she did not think supervisors had followed through in the past; that it was part of an employee’s protection to know that they were treated fairly and this should perfect the supervisor-employee relationship.

Adm. Traugher stated that if this Resolution was to be on next week’s Agenda, they needed some guidance as to how to proceed. He questioned if we needed another meeting on this.

Mr. Morgan stated that Mr. Joe Shaw in Personnel is developing a Supervisor Certification Program, and he was hoping this would offer a whole new perception for supervisors; that he would be talking to him about this in the near future.

The meeting adjourned at 5:20 P.M.

