

I N T E R

O F F I C E

MEMO

Office of the Mayor

To: City Council Members
From: John R. Pick *JRP*
Subject: Revised Grievance Procedure and Revision to City Code Provision regarding the Council Role as Personnel Board
Date: February 8, 2005

Attached are copies of two related documents for Council review and approval. The first is a resolution, which would amend the current grievance procedure found in the Employee Handbook, to create two separate grievance procedures - one for the appeal of severe disciplinary actions and one for all other grievances. The second is an ordinance amending Chapter 2.24 of the City Code to delete the designation of the City Council as the Personnel Board. These actions are related because one of the roles of the Personnel Board has been to hear appeals of employee disciplinary actions.

As proposed, the new Grievance Procedure would:

- 1) broaden the types of issues on which an employee could file a formal grievance;
- 2) create a procedure for grievances on all issues, except demotions, suspensions, and terminations, which permits the employee to grieve through the organizational structure to the City Administrator, whose decision will be final; and
- 3) create a procedure for appeals of demotions, suspensions and terminations, which permits the employee to appeal to a special panel composed of department heads and a fellow employee. This panel shall make a recommendation to the Mayor, whose decision shall be final, which is currently the protocol.

As proposed, the amendment to the City Code, would preserve for the Council the responsibility to approve all personnel policies, while relieving the Council of its role as an appeal board in disciplinary cases.

These proposals are being made to:

- 1) streamline the employee disciplinary appeals process;
- 2) permit employees to have more of their concerns heard at the highest levels of the organization;

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3) clarify the procedures to be followed in both the formal grievance procedure and the disciplinary appeal procedure.

This proposal was discussed at your December work session, however, it has been modified since that time to add the formal grievance procedure as noted.

If you have any questions, please let me know.

cc: Mayor Tilghman
Paul Wilber
Tom Calo
Brenda Colegrove

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RESOLUTION NO. 1193

A RESOLUTION of the Council of the City of Salisbury, Maryland, to revise the Employee Handbook to provide for revised grievance and appeal procedures.

WHEREAS, the City of Salisbury Employee Hand Book currently contains an informal grievance procedure (Section 0903) and a formal grievance/appeal procedure (Section 0904);

WHEREAS, the Mayor and Council desire to revise the grievance and appeal procedures to provide a broader definition of a grievance and a more direct and time sensitive appeal procedure;

NOW, THEREFORE, BE IT RESOLVED on this 14th day of February, 2005, that the Council of the City of Salisbury, Maryland, does hereby adopt the attached Employee Handbook-Grievance and Appeal Procedures (Section 0903 - 0912) to replace former Section 0903 and 0904 of the Employee Handbook.

The above resolution was introduced and read and passed at the regular meeting of the Council of the City of Salisbury held on this 14th day of February, 2005, and is to become effective immediately.

Brenda J. Colegrove,
City Clerk

Michael P. Dunn,
Council President

APPROVED BY ME this _____ day of

_____ 2005.

Barrie P. Tilghman,
Mayor of the City of Salisbury

CHAPTER 9

GRIEVANCE AND APPEAL PROCEDURES

0903 Policy. In an employee/employer relationship, matters of concern and dissatisfaction to employees occasionally arise. Both employees and management officials have the responsibility to consider and dispose of such matters promptly, and to the greatest extent possible, at the lowest supervisory level. Normal day to day discussions between employees and supervisors regarding working conditions and related employment matters are the most constructive and expeditious means of developing and enhancing favorable and effective work relationships. However, if such discussions fail to resolve a problem, then an employee will be free to use the procedures presented here, and each supervisor has the obligation to readily and fairly address the dissatisfaction of an employee.

0904 Grievance Definition. A grievance is a complaint arising from a disciplinary action, alleged discrimination, improper or unfair implementation of City personnel policies, rules, regulations, or procedures. In addition, the definition includes complaints about the existence of hazardous or unhealthy working conditions or improper conduct during work hours of fellow employees which poses a threat to health or well-being of others. Complaints pertaining to the establishment or alteration of City policy or procedure, performance appraisals, general level of wages, placement in a pay grade and/or increment step, fringe benefits, or other broad areas of financial management or staffing are not grievable.

0905 Informal Grievance Procedure

From time to time in any work place setting misunderstandings or differences of opinion may arise. Should this occur, employees are encouraged to meet with their immediate supervisor within five (5) days of the occurrence which gives rise to the concern. Immediate supervisors may request that any concerns be placed in writing. Each side is encouraged to be courteous to the other so that a productive discussion can occur. Employees are expected to be sensitive to the employment needs of the City and immediate supervisors are encouraged to be open-minded in reviewing any actions. The ability to resolve current concerns informally is viewed positively for both the employee and the immediate supervisor.

If the complaint is not resolved to the employee's satisfaction by his immediate supervisor, then the employee may present the complaint to the Department Head and then the City Administrator by the procedure set forth in 0906 below.

0906 Formal Grievance Procedure

- (a) Grievance. Any employee may file a formal grievance (except a disciplinary grievance set forth in Section 0908) as provided herein.
- (b) When submitted. A formal grievance shall be filed by the employee within ten (10) working days of the event causing the grievance.
- (c) How Submitted. A formal grievance must be presented in writing.
- (d) Submitted To. A formal grievance must be presented, in writing, to the immediate supervisor.

(e) Contents. A formal grievance must:

- (1) Set forth the basis for the grievance;
- (2) List the names of all witnesses, if any, to the event;
- (3) Indicate the date that the grievable event occurred;
- (4) Contain a recommendation or indicate the corrective action desired;
- (5) Provide notice as to whether the employee intends to be represented by counsel, or by another person.

(f) Procedure.

(1) The immediate supervisor shall make a careful inquiry into the facts and circumstances of the complaint. If the immediate supervisor fails to respond in writing within five (5) working days of filing, the grievance shall be deemed denied and the employee may forward the grievance to the department head, within five (5) working days. The employee may also request a meeting about the grievance with the department head. The request for a meeting shall be filed within the same five (5) working day period.

(2) The employee's immediate supervisor and the department head will then meet with the employee within five (5) working days of receipt of the grievance by the department head. A written decision by the department head shall be sent to the employee within five (5) working days following the meeting. If no meeting is requested, the department head shall issue a written decision within ten (10) days of receipt of the grievance.

(3) If the department head's decision does not resolve the grievance, the employee may appeal the grievance within five (5) working days from receipt of the department head's decision by forwarding the grievance to the City Administrator. The City Administrator shall meet with the employee, the department head, and witnesses within ten (10) working days of receipt of the employee's appeal. The City Administrator shall render a decision in writing to the aggrieved employee within five (5) working days after the meeting. The decision rendered by the City Administrator will be final.

(g) Closed Meeting/Hearing. All meetings/hearings will be closed.

0907 Human Resources Department. The employee may consult with the Human Resources Department at any time about a grievance. The Human Resources Department will provide information and consultation to an employee, but the Human Resources Department does not make a final decision on a grievance.

0908 Disciplinary Grievance Procedure.

- (a) Disciplinary Grievance. An employee who is demoted, suspended or terminated may file a disciplinary grievance as provided herein.
- (b) When Submitted. A disciplinary grievance shall be filed by the employee within ten (10) work days after receiving written notice of demotion, suspension, or termination.

- (c) How Submitted. A disciplinary grievance must be presented in writing.
- (d) Submitted To. A disciplinary grievance must be presented, in writing, to the Human Resources Director.
- (e) Contents. A disciplinary grievance must:
- (1) Set forth the basis for the grievance;
 - (2) List the names of all witnesses and those that the employee desires to have appear, if appropriate, before the Disciplinary Grievance Review Board;
 - (3) Indicate the date that the grievable issue occurred;
 - (4) Contain a recommendation or indicate the corrective action desired;
 - (5) Provide notice as to whether the employee intends to be represented by counsel, or by another person, during the grievance hearing; and
 - (6) Identify the department head selected by the employee to serve on the Board, as provided in Section 0909(b).
- (f) Disciplinary Grievance Presented. The Human Resources Director will determine whether to accept, return, or reject in whole or in part any disciplinary grievance presented. A disciplinary grievance may be rejected if the disciplinary grievance is not presented within ten (10) day time limit, if it does not relate to a grievable matter, or if it fails to contain any of the information required by Section 0908(e). The Human Resources Director may return the disciplinary grievance to the grievant, in which case the grievant shall be given five (5) business days to resubmit the disciplinary grievance with the required information. .

0909 Disciplinary Grievance Review Board.

- (a) Time Limits. The Disciplinary Grievance Review Board shall be notified and meet within fifteen (15) working days after the Human Resources Director has accepted the disciplinary grievance pursuant to Section 0908(f), unless extended by mutual agreement.
- (b) Board Membership. The Board shall consist of three members, consisting of two department heads and one employee of similar grade (i.e. at the same grade, or one grade higher or lower) as the grievant. The department head for the department in which the grievant is employed may not serve on the Board. The chairperson of the Board shall be a department head selected by the City Administrator. The second department head member of the Board shall be selected by the employee. The employee member of the Board will be selected by the chairperson of the Board, but the employee may not be employed in the department of either the grievant or of any department head serving on the Board.
- (c) Administrative. A representative from the Human Resources Department, assisted by a stenographer or by electronic recording device, shall act as the Secretary to the Board.

0910 Hearing. The Secretary shall provide a copy of the disciplinary grievance case file to each member of the Board, to management, and to the grievant. The chairperson will open the hearing before a full Board by briefly summarizing the employee's disciplinary grievance and the relief sought.

- (a) Closed Hearing. Disciplinary grievance hearings will be closed.
- (b) Recording. The Disciplinary Grievance hearing shall be recorded by or at the direction of a representative from the Human Resources Department. This record, along with the findings of the Board, and all exhibits introduced, shall be preserved for not less than three (3) years.
- (c) First Finding. The Board shall verify that the disciplinary grievance was submitted within the allowed time limit and that the complaint is a grievable matter.
- (d) Witnesses. All persons called before the Board will be sworn prior to providing information. The City shall make available any City employee requested to appear as a witness provided that such witness can be expected to contribute materially to the issues in the case, and further provided, that the appearance of witnesses may be staggered consistent with the manpower needs of the City. Provided that a written request is made at least five (5) days in advance of the hearing, the employee may request production of documents provided the documents requested are both material to the issues in the case and are documents which the employee would be entitled to obtain under the Maryland Public Information Act.
- (e) Grievant. The Board shall allow the aggrieved employee to restate their disciplinary grievance, if they so desire, to present additional information relevant to the disciplinary grievance, and to call any witness who can be expected to contribute materially to the issue. The grievant may be represented by any person of their choice (at the grievant's expense if other than an employee in the City service), if such person so consents, excluding members of the Board, the grievant's department head, the Human Resources Director or member of the Human Resources Department, the City solicitor or any assistant City solicitor.
- (f) Management. The department head of the grievant, with such assistance as may be appropriate (including, but not limited to, the City solicitor or any assistant City solicitor), shall represent management in these proceedings, and shall present all facts and evidence available to them which bear on the disciplinary grievance, including information which may support the contentions of the aggrieved employee. The burden of proof is on the aggrieved employee to persuade the Board by a preponderance of the evidence.
- (g) Proceedings. The Disciplinary Grievance proceedings will be conducted in a relaxed manner and will not be subject to formal rules of evidence. All parties present will be allowed to ask questions, provide information, and cross examine any witness.

0911 Findings and Decision of the Board. The Board after having heard the case and deliberated upon its findings, within five (5) working days of the conclusion of the hearing will by majority vote forward to the Mayor a recommendation.

0912 Findings and Decision of the Mayor. Within ten (10) working days of receipt of the Board's recommendation, the Mayor will review the Board's recommendation and the case records; will

determine if additional information is necessary; will make a decision as to an appropriate action; and will so notify the grievant and the department head. The decision of the Mayor shall be final.