

**CIVIL SERVICE COMMISSION
REGULAR MEETING
AUGUST 15, 2011**

The Civil Service Commission of the City of Milford held their regular meeting on Monday, August 15, 2011 at 5:00 PM in Conference Room C of the Parsons Government Complex.

1. Chairman R. Winfield called the meeting to order at 5:12 p.m.

2. Roll Call

Board Members Present

R. Winfield
J. Baldwin
R. Dowin
H. Healey
T. Toohey

Also Present

J. O'Connell
L. Pisacane
L. Sgrignari
D. Kelly
G. Martelon
S. Jelescheff
K. Kaminski
J. Mathiasen
K. Scarinzi
D. Sulkis
J. Cooper
J. Dion
B. McCready
J. Servin
M. Brown
A. Berman
V. Ferrante

3. R. Winfield asked if there were any additions or deletions to the minutes of the June 20, 2011 meeting and as there were none, he requested a motion to approve the minutes. H. Healey made the motion, J. Baldwin seconded, and the motion passed unanimously.

4 a). R. Winfield requested a motion to go into Executive Session. D. Kelly, G. Martelon, K. Kaminski, and K. Scarinzi were invited to remain for Executive Session. R. Dowin made a motion to go into Executive Session, T. Toohey seconded and the motion carried unanimously. Following the conclusion of Executive Session, J. Baldwin made a motion to uphold the grievance. R. Dowin seconded the motion and the motion passed unanimously.

4 b & c). After introducing herself and describing the origination of the department, J. Mathiasen addressed the reasons for the one day suspension. She stated that D. Sulkis has repeatedly tried to limit the scope of her authority and went on to give examples of same. She then spoke about his repeated resistance to obtain interpretation or clarification from the City Attorney's office. After many months and a number of discussions, emails, meetings and verbal warnings, she felt that the circumstances outlined in her letter to D. Sulkis dated June 20, 2011, warranted a one-day suspension without pay.

The 4 week suspension without pay was the result of allegations that D. Sulkis threatened and intimidated another employee concerning her contact with the City Attorney's office. The employee complained to J. Mathiasen who concluded that D. Sulkis should be out of the office while an investigation into the matter took place. After several attempts to meet with D. Sulkis, J. Mathiasen placed him on paid administrative leave and left the country for a vacation.

Upon her return, she reviewed the report and gave a copy to D. Sulkis along with an opportunity to comment. D. Sulkis declined to comment and was suspended for four weeks without pay.

J. Baldwin asked if there was a written policy about contacting the City Attorney's office. J. Mathiasen said that any employee may contact the City Attorney's office and that the Zoning Enforcement Officer is in regular contact with the City Attorney's office, sometimes several times per day and went on to give examples of such contact. J. Mathiasen stated that the ZEO is primarily in contact with the paralegal who has expertise in zoning matters and that politics are not involved.

L. Sgrignari offered that the Charter provides that the City Attorney's office shall be the legal advisor for the City and all Departments, Boards and officers of the City relating to their official duties, so clearly any officer of the City may consult the City Attorney.

J. Baldwin added that the City Attorney's office acts in an advisory capacity by issuing opinions. L. Sgrignari added that if two City boards or commissions are in conflict and the City Attorney's office represents them both then the mechanism to remedy that situation is to seek independent counsel.

L. Sgrignari then handed out the investigative report that was prepared by Attorney Dorney.

S. Jelescheff began by stating that D. Sulkis is not the problem, rather he is a victim and forced out of about \$7,000 in income. He went on to explain that State mediation is often successful in such cases and that is where these issues belong. He said these are disagreements and personality conflicts, not sexual harassment or threatening or insubordination. He said the biggest problem the union has with the one day suspension and the four week suspension is that they violate federal law. He provided the Commission with a handout describing Loudermill rights and due process. He went on to explain that D. Sulkis was not properly notified of his suspension and that violates his Loudermill rights. He then referred to the Dorney report and the interview with Ms. Kuchta. He read her account of the alleged encounter with D. Sulkis, described the conversation as heated and said that it causes concern because Ms. Kuchta is a Zoning Enforcement Officer, the key word being enforcement, and confronts angry people every day. She is responsible for regulation and law enforcement and most of the time the people she is dealing with are fairly hostile and on occasion the job requires a police escort. S. Jelescheff stated that Ms. Kuchta was so jarred by the encounter with D. Sulkis that she locked her door to her office and couldn't eat her lunch. He pointed out that D. Sulkis is not a formidable or threatening guy and that it is hard to believe that D. Sulkis could invoke that level of fear in anyone. He stated that some of the conversation might have been bordering on inappropriate but by the City censoring it through a four week suspension comes close to violating another Supreme Court decision, Pickering v. Board of Education which sets the ground rules for what free speech can be used in the workplace. He stated

that the four week suspension is extreme. He said there are problems in DPLU that he and D. Sulkis have been made aware of and then he said that Victor Ferrante from the Planning and Zoning Board would like to say a few words. V. Ferrante said that he had a written statement from Susan Shaw, who could not attend the meeting. He said it was long and that he wasn't going to read the whole thing. H. Healey stated that he already had it. V. Ferrante went on to say that S. Shaw's primary point seems to be that they are an elected body and that they have to act respectfully to every applicant but that wasn't the respect accorded to D. Sulkis. Handing out the notice at the end of the meeting was disrespectful to D. Sulkis and a 4 week suspension for a personnel matter is way over the edge. He also stated that J. Mathiasen's presentation completely overlooked the 10 elected officials. That the City goes out of its way to elect ten people to make zoning decisions and the way its supposed to work is that the City Attorney is advisory to them. You asked if there is a policy about contacting the City Attorney's office and J. Mathiasen's answer was anything of a controversial nature. V. Ferrante said that is not the way it is supposed to be. The way its supposed to be is that you have an official in the City, in this case the City Planner, and that person is the most knowledgeable person about Planning and Zoning. If a matter comes before the Board and the Board has an issue they can request an advisory opinion from the City Attorney. He's not in the chain of command. While J. Mathiasen may be an excellent manager, I think that hyper-managing the most knowledgeable person in the department is overboard and a personality conflict is not a reason to go to the City Attorney. It should come to the Board and they should refer it to the City Attorney if it is an issue. They have ten elected officials that have been cast aside. He is very distressed by the way it was handled and the severity of the punishment. He added that the City lost more than D. Sulkis because they were four weeks and two complete meetings without him.

S. Jelescheff then introduced Jean Servin, former Chair of the Zoning Board. J. Servin read a statement saying that she concurs with S. Shaw's letter and added that D. Sulkis is a man of integrity and competence and that his position is typically not a popular one. She said the development of the Permitting and Land Use department has been an enormous waste of taxpayer dollars. She feels that the Personnel department should have handled the situation and that the City should not have paid \$3000 to a consultant to conduct the investigation. She stated that the City Attorney is micromanaging and making decisions without a land use background.

J. Cooper spoke next. He said D. Sulkis received a one day suspension for what amounts to speaking ill of the City Attorney's office. With regard to the four week suspension, J. Cooper stated that he never heard of anyone getting a four week suspension and that the penalty under Civil Service rules is a maximum of two weeks. He said this situation has been politicized in the newspapers and that he has also never heard of a special attorney being hired by the City to handle such a situation.

L. Sgrignari spoke next and offered his assurance that the Loudermill rights of D. Sulkis were protected and that it is common to bring in an outside investigator in such situations. He said the one day without pay was not punitive and that the sole purpose of the meeting with D. Sulkis was to advise him of the investigation and that disciplinary action would take place. There was no Loudermill deficiency. He added that the fact that K. Kuchta must deal with hostile individuals and employees' guarantee of free speech rights does not mean you can threaten co-workers. He stated that if you read the report you may conclude the punishment was lenient. He doesn't understand how J. Cooper could not be aware of the prior verbal warning. He

said that you cannot tell a co-worker she may not seek the advice of the City Attorney. He said whether or not the department was a good idea should not be taken into consideration as the Board of Aldermen voted to implement it. He stated that J. Mathiasen administers the department and has a right to direct it as she sees fit and that D. Sulkis must follow directives. He added that the City Attorney micromanaging or politicizing the issue has nothing to do with the issues. The discipline is appropriate under the circumstances and at the end of the day, the Director had to make a call. He said that the one day suspension was a last ditch effort to try to get the attention of D. Sulkis. He stated that K. Kuchta is a long standing employee of the City and should not be threatened with firing by D. Sulkis.

J. Mathiasen gave some background on how and why the City Attorney's office gets brought in on issues in her office. She provided emails and memos disciplining D. Sulkis and advising him to cooperate with the City Attorney's office. She said either K. Kuchta is part of a vast conspiracy that J. Mathiasen is also a part of or what she said happened happened. She doesn't see any middle ground.

H. Healey asked for copies of the emails and memos to D. Sulkis and J. Mathiasen offered them for copying.

S. Jelescheff referred to the Dorney report and noted that there were no recommendations for discipline. He said that K. Kuchta never told D. Sulkis to leave, she didn't leave, and that she covered her ears instead and he hopes that isn't how she deals with the general public. He stated that D. Sulkis has no authority over her and that he is her professional peer, so there is nothing he can threaten her with. He spoke again of the lack of due process. He wanted to see a letter outlining the charges against D. Sulkis with a date and time to respond to those charges. Without that in place his due process as guaranteed by the U.S. Supreme Court does not exist. He doesn't expect J. Mathiasen to be an expert on labor law, but a consultation with an expert would have made things different. He doesn't know how this discipline can survive.

R. Winfield asked if there any other comments.

L. Sgrignari addressed the issue of due process. The process that is due under Loudermill depends on the circumstances. He gave an example of an employee slapping a customer and the supervisor disciplining the employee. It's appropriate to do that without sending out charges that say we're going to have a hearing to decide whether or not you struck this customer and decide what discipline is appropriate. The process that is due depends on the circumstances. The circumstances here were such that he was afforded the opportunity to provide answers to an interview, that he was aware the matter was being investigated, he was on administrative leave during the course of the investigation, he was given a copy of the findings and afforded the opportunity to then respond to those findings.

S. Jelescheff disagreed and said there was not a variable scale of the process that's due. That while the example employee might be due a termination or suspension or referral to EAP, it's going to happen at a Loudermill hearing. He said there is no act so egregious that strips someone of due process. He said not to take his word for it, it is a U.S. Supreme Court decision and he should have brought copies of it.

J. Baldwin said that a lot of the matters brought up are irrelevant. He also said that while J. Mathiasen said the time off was not punitive, he disagrees because it attacks one's reputation. He then said that because S. Jelescheff said that federal law has been broken, none of the Commissioners are an attorney and are not qualified to determine if that is true. He then asked S. Jelescheff what he meant about the matters being best left to mediators. S. Jelescheff explained what a mediator does in the instance of State employees. J. Baldwin stated that he is not sure how they can decide this matter as there appears to be serious legal issues involved. He didn't think it would be fair to D. Sulkis since his reputation has been sullied to not have the opportunity to fight it out in the court system. If they agree with D. Sulkis, it stops there, but the problem is not solved.

L. Sgrignari stated that over a year ago thirteen separate grievances came to the Board and because they denied the grievances, they went to mediation and resolved all of the grievances.

S. Jelescheff explained how if all the parties agree to it matters can be brought to mediation at any time.

L. Sgrignari explained that if the Board upholds the grievances it stops there, but if the Board denies the grievances, mediation is the next step in the process.

R. Winfield asked for a motion to uphold or deny the grievances. H. Healey asked for a few minutes to read the Dorney report.

After a few minutes, R. Winfield asked for a motion to uphold or deny.

J. Baldwin made a motion to deny Grievance #1-11/12, H. Healey seconded and the motion passed unanimously.

J. Baldwin made a motion to deny Grievance #2-11/12, R. Dowin seconded and the motion passed unanimously.

The commissioners proceeded to sign off on the grievances.

5). J. O'Connell discussed the Open Jobs Report. He discussed the openings for City Accountant, Public Health Nurse and Building Inspector A. He stated that we may have to hire the Building Inspector on a step higher than the minimum.

6). J. O'Connell gave his report.

7). H. Healey made a motion to adjourn. R. Dowin seconded the motion and the meeting adjourned at 7:17 PM.

Attest:

Lauren Pisacane