



AGENDA MEMORANDUM

Action Item for the City Council Meeting of 12/10/13

DATE: December 10, 2013
TO: City Council
FROM: Ronald L. Olson, City Manager

Appeal of the Civil Service Board Decision Regarding Patrick Gonzales

CAPTION:

City Council consideration of an appeal by the City of the decision of the 558th Civil Service Board appeal hearing regarding Patrick Gonzales with possible action in the form of a denial of the City's appeal, or an order for further proceedings.

PURPOSE: To determine whether to deny the City's appeal of the decision of the 558th Civil Service Board appeal hearing regarding Patrick Gonzales or to order further proceeding related to this matter.

BACKGROUND AND FINDINGS:

On March 14, 2013, Patrick Gonzales's employment as a deputy city marshal with the City was terminated, pursuant to Article 5 Section of the Rules and Regulations of the Civil Service Board, for violation of the City's Workplace Violence Prevention policy. Mr. Gonzales appealed his termination to the Civil Service Board on March 19, 2013. A hearing was conducted on August 22, 2013 in which the Civil Service Board overturned the termination of Patrick Gonzales and imposed, instead, a sixty (60) day unpaid suspension. The City is appealing the decision of the Civil Service Board pursuant to Article VI, Section 2 of the City Charter. The City Council was presented with the City's statement of appeal and Mr. Gonzales's written response on November 12, 2013.

Section 2-25 of the City Code of Ordinances establishes the procedures for appeal. The procedure is summarized below:

Within thirty days of receipt of the City's appeal statement and Mr. Gonzales's response, City Council shall determine whether the facts presented in the briefs might justify reversal. If so, City Council may order further proceedings. If not, City Council may deny the City's appeal.

If further proceedings (i.e., a hearing) are ordered, City Council may request a copy of the Civil Service appeal hearing transcript. City Council will then determine whether they wish the hearing to be in the form of an oral argument or a written brief submitted by each party.

Within thirty days of ordering further proceedings (this may be extended if City Council needs more time to review the transcript), a hearing shall be held on the appeal.

No evidence will be considered that was not presented to the Civil Service Board.

City Council shall make a decision within fifteen (15) days from the date of the hearing. City Code Section 2-25 (c) states that the decision of the board shall be entitled to great deference and shall be affirmed unless it is found to be clearly unreasonable or capricious. Failure to render a timely decision means that the Civil Service Board's decision shall be affirmed.

ALTERNATIVES:

Possible Motions for City Council consideration:

- A. Motion to deny the City's appeal {thereby Mr. Gonzales would continue his City employment}.
- B. Motion to find that facts have been presented which might justify reversal of the Civil Service Board decision and ordering further proceedings pursuant to Section 2-25 of the City Code of Ordinances.

If Motion B is selected, then the following additional motions are suggested for consideration:

- B.1. Motion to order a transcript of the proceedings to be provided to City Council by Monday December 16, 2013.
- B.2 Motion to schedule further proceedings on January 14, 2014 in order to allow council time to review the transcript.
- B.3 Motion to declare that the further proceedings shall be conducted by consideration of written briefs of the parties, to be submitted to City Council no later than January 6, 2014.

OTHER CONSIDERATIONS:

None

CONFORMITY TO CITY POLICY:

Conforms to all City policies.

EMERGENCY / NON-EMERGENCY:

Non-Emergency

DEPARTMENTAL CLEARANCES:

Legal

FINANCIAL IMPACT:

Operating Revenue Capital Not applicable

Fiscal Year: 2013-2014	Project to Date Expenditures (CIP only)	Current Year	Future Years	TOTALS

Fund(s):

Comments:

RECOMMENDATION:

Staff recommends that Council order further proceedings and that such further proceedings be in the form of written briefs to Council.

LIST OF SUPPORTING DOCUMENTS:

None