

AGENDA

CIVIL SERVICE COMMISSION

Friday, August 7, 2015
8:15AM

Helling Conference Room
City Hall
410 E. Washington St.
Iowa City, IA

1. Fix time and place for hearing of Chris Buckman appeal
2. Procedural Issues for upcoming hearing
 - A. Advance information requests from Commission
 - B. Issuance of subpoenas
 - C. Sequestering of witnesses
 - D. Use of court reporter
 - E. Attorney for Commission
 - F. Other matters
3. Old Business
4. New Business



CITY OF IOWA CITY MEMORANDUM

Date: July 31, 2015
To: Civil Service Commission
From: Karen Jennings, Human Resources Administrator *KJ*
Re: Termination appeal hearing

Fire Lieutenant Chris Buckman has appealed the termination of his employment to this Commission. Pursuant to Iowa Code §400.23, the Commission shall, within ten days of the filing of the specification of charges, fix the time, place, and date of the hearing, which shall not be less than five nor more than twenty days after the Commission sets the hearing. The Commission shall also notify the parties in writing of the time and place so fixed, and the notice shall contain the specification of charges. To meet this provision, the hearing must be scheduled between August 12, 2015 and August 27, 2015, inclusive. Please review your availability during this timeframe in preparation for the August 7th meeting.

City staff will be available at your August 7th meeting to discuss any other procedural matters related to this appeal.

Thank you.

The Civil Service Commission of the City of Iowa City, Iowa, hereby adopts the following as its Rules of Procedure for Appeals and Hearings.

RULES OF PROCEDURE FOR APPEALS AND HEARINGS
Revised November 1989

Section 1. Complaints: Employees in the Civil Service shall have the right to appeal to the Commission relative to any situation affecting employment status or conditions of employment, except where the right of appeal is denied by the Code of Iowa. An employee may appear before the Commission at any of its meetings to request a hearing on his or her complaint, or such complaint may be filed in writing with the Commission. It shall be the duty of the Commission to inform the appointing authority or other persons involved in the filing of the complaint.

Section 2. Appeal: In the event of the suspension, discharge, or demotion of any person possessing civil service appeal rights pursuant to Chapter 400 of the Iowa Code, such person may, within fourteen calendar days thereafter, appeal therefrom to the Civil Service Commission. The person who has suspended, demoted, or discharged the employee may in like manner appeal. Any other complaints must be presented to the Clerk of the Civil Service Commission within fourteen calendar days after the appellant has knowledge of the occurrence which precipitated the complaint.

Section 3. Notice of Appeal: If an appeal be taken by the person suspended, demoted, or discharged, notice thereof, signed by the appellant and specifying the ruling appealed from, shall be filed with the Clerk of the Commission (City Clerk); if by the person making such suspension, demotion, or discharge, the notice shall also be served upon the person suspended, demoted or discharged.

Section 4. Charges: Within fourteen calendar days from the service of such notice of appeal, the person or body making the ruling appealed from shall file with the body to which the appeal is taken a written specification of the charges and grounds upon which the ruling was based. If such specification of charges are not so filed the persons suspended or discharged may present the matter to the body to whom the appeal is to be taken by Affidavit, setting forth the facts, and such body shall forthwith enter an Order reinstating the person suspended or discharged for want of prosecution.

Section 5. Time and Place of Hearing: Within ten calendar days after such specification of charges are filed, the Commission shall fix the time, which shall be not less than five nor more than twenty days thereafter, and place for hearing the appeal and shall notify the parties in writing of the time and place so fixed, and the notice shall contain a copy of the specification of charges so filed.

Section 6. Appeal Proceedings:

1. The Commission shall hear the evidence upon the specification of charges as filed with it by the appointing authority. The proceedings shall be as informal as is compatible with the requirements of justice.

2. The order of business at the hearing shall be as follows:

- a. The appointing authority shall present evidence in support of the charge. The appellant or his or her counsel shall then produce such evidence as he or she may wish to offer in support of the appeal. The parties in interest may then offer rebuttal evidence.
- b. The Commission shall have the power to subpoena and to require the attendance of witnesses and the production of pertinent documents, and to administer oaths. The appointing authority may be represented by the City Attorney or other counsel. The appellant may also be represented by counsel.
- c. If the employee shall fail to appear or be represented by counsel at the time fixed or a hearing, the Commission shall hear such evidence as may be produced, or as it shall deem proper or necessary and make a finding according to the evidence.
- d. Upon conclusion of any investigation or hearing, the Commission shall cause its findings and decisions to be prepared in writing and shall certify the same. Such findings shall be co-signed and filed as a permanent record in the files of the Commission. The Commission shall deliver a certified copy of such findings to the appointing authority and to the employee affected, and such judgment shall become effective forthwith.
- e. Any member of the Commission may submit a supplemental or minority report which shall be filed as a permanent part of the record of the Commission.

3.

The Commission may, in its discretion,

- a. require each party to submit, prior to the hearing, a written statement containing any or all of the following:
 - 1) statement of facts;
 - 2) name of each witness the party intends to call;
 - 3) specifications of which he/she has personal knowledge;
 - 4) essence of the testimony to be given; and
 - 5) basis for the witness' knowledge;
- b. limit each side to a certain number of witnesses based on which issues or specifications the Commission wishes addressed;
- c. limit the length of examination, direct and cross, of any witness called;

- d. itself conduct the direct examination of any witness called and limit the length of the cross-examination by any party;
 - e. rule on the admissibility of evidence;
 - f. refuse to allow or limit the length of opening or closing arguments of the parties involved;
 - g. limit the scope of testimony to only those specifications which constitute an adequate basis for termination, suspension or demotion;
 - h. may require the attendance of witnesses and the production of documents/exhibits through the use of subpoenas. In the event that a party should designate a witness to be subpoenaed, the Commission shall issue it for that party.
4. The City, or any Civil Service employee shall have the right to appeal to the District Court from the final rule and decision of the Civil Service Commission. The appeal shall be taken within thirty days from the filing of the formal decision of the Commission. The District Court of Johnson County shall have full jurisdiction over the appeal and the said appeal shall be a trial de novo as an equitable action in the District Court.
5. The appeal to the District Court shall be perfected by filing a notice of appeal with the Clerk of the District Court within the time herein prescribed and by serving notice thereof on the Clerk of the Civil Service Commission.
6. In the event the ruling or decision appealed from is reversed by the District Court, the appellant, if it be an employee, shall then be reinstated as of the date of the said suspension, demotion, or discharge, and shall be entitled to compensation from the date of such suspension, demotion, or discharge.

Rules adopted this 29 day of November, 1989, by the Civil Service Commission of the City of Iowa City, Iowa.

By: 
Chairperson, Civil Service Commission


Member, Civil Service Commission


Member, Civil Service Commission

BEFORE THE IOWA CITY CIVIL SERVICE COMMISSION

CITY CLERK
IOWA CITY, IOWA

2015 JUL 16 AM 9:36

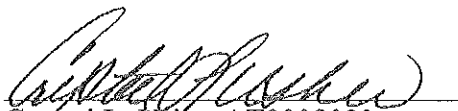
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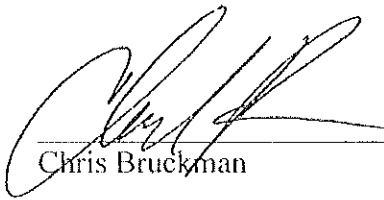
NOTICE OF APPEAL OF CHRIS BUCKMAN:

1. Chris Buckman, Lieutenant of the Iowa City Fire Department was terminated on July 7, 2015
2. Iowa Code Chapter 400.18 provides that a person holding civil service rights shall not be removed arbitrarily.
3. The removal of Lieutenant Chris Buckman was done arbitrarily and without sufficient basis in violation of Iowa Code Section 400.18.
4. The arbitrary removal was based upon a policy established by the City of Iowa City requiring certain residency requirements.
5. Said policy is arbitrary and capricious and bears no rational relationship to the job duties required of an Iowa City Fire Fighter.
6. The policy fails to define "residence" so as to alert a firefighter as to what behavior is proscribed. The definition was not provided to the firefighters even though requested.
7. Chris Bruckman did not violate the City of Iowa City's policy regarding residency as the City is unable to establish that Chris Bruckman's residence is at a location other than 2233 9th Street, Coralville, Iowa.
8. Chris Bruckman did not violate the other policies specified in the document dated July 7, 2015 entitled "Investigative Findings"
9. This Appeal is timely

10. Appellant requests that this matter be set for proceedings pursuant to Iowa Code Chapter 400.

**Nazette, Marner, Nathanson
& Shea L.L.P.**
615 2nd St. SW
P.O. Box 74210
Cedar Rapids, Iowa 52407
Phone: (319) 366-1000
Fax: (319) 364-1116
Crystal.usher@nazettelaw.com


Crystal L. Usher AT0008023
ATTORNEY FOR CHRIS BRUCKMAN


Chris Bruckman

CERTIFICATE OF SERVICE
The undersigned certifies that the foregoing instrument served upon all parties to the above cause to each of the addresses of record herein at their respective addresses disclosed on pleadings on 7-16, 2015.
By: Overnight Courier FAX U.S. Mail
 Hand Delivered U.S. Mail
 Certified Mail Scanned
Signature 
B. C. Pflieger 7/16/2015

cc: CA (Thornton)
HR (Jennings)

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2015 JUL 16 AM 9:36
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IOWA CITY, IOWA

BEFORE THE CIVIL SERVICE COMMISSION FOR IOWA CITY, IOWA

IN RE: THE DISCIPLINARY)
DISCHARGE OF LT.)
CHRIS BUCKMAN)

APPELLANT)
V.)
CITY OF IOWA CITY, IOWA,)
IOWA CITY FIRE DEPARTMENT, and)
JOHN M. GRIER, FIRE CHIEF,)

APPELLEES)

CITY'S SPECIFICATION OF CHARGES

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IOWA CITY, IOWA

COME NOW the City of Iowa City, Iowa, the Iowa City Fire Department and John M. Grier, Fire Chief, Appellees in the above-referenced matter, and hereby specify the charges and grounds upon which Lt. Chris Buckman (hereinafter, "Buckman") was terminated, stating as follows:

1. Living within a specified distance of his place of employment has been a condition of Buckman's employment with the City of Iowa City since he was hired as a firefighter. At the time Buckman was promoted to lieutenant, the requirement was included in the job description. The City's Administrative Regulation on Residency Requirements, which took effect in May, 2015, actually loosened the Fire Department's earlier requirements.
2. On December 17, 2013 Buckman filed an Address Change Form, reporting that he lived at 2233 9th street in Coralville, IA. He also verbally stated to Chief Grier, on multiple occasions, that he lived at this Coralville address.
3. The Fire Department received information indicating that Buckman was living outside the boundaries of the City's Administrative Regulation on Residency Requirements, while claiming to reside at 2233 9th St. in Coralville, IA.
4. On or about June 17, 2015, Buckman was provided a Summary of Charges outlining the policy requirements in question, a copy of which is attached hereto and incorporated herein. He was also provided a Notification of Administrative Proceedings Rights, a copy of which is attached hereto and incorporated herein, which stated that Buckman was obligated to answer all questions truthfully, and that failure to do so would serve as a basis for discipline, including discharge.
5. A formal investigation was conducted into the matters, including use of a private investigator to explore the issues of residency. That investigation revealed that Buckman was not living at the Coralville address he provided.
6. An interview of Buckman took place on June 19, 2015. At the beginning of Buckman's interview, he was again verbally reminded that the City was exploring both the issues of residency and integrity.
7. During his interview, Buckman initially claimed that he lived at the Coralville address, but eventually conceded, in response to a question from his union steward, that he did not

live in Coralville. Instead, he was living with his fiancée in Marion, IA, outside the residency boundary.

8. The investigation concluded that Buckman not only violated the City's Administrative Regulation on Residency Requirements, but also lied about his residency, attempting to cover up his actual residence, and coming clean only when confronted with water usage records at the Coralville address.

On July 7, 2015, Lt. Chris Buckman was discharged from employment with the Iowa City Fire Department for misconduct based on the above, and for the following violations of Iowa City Fire Department General Policy and the City of Iowa City Personnel Policies:

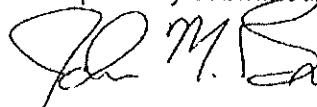
Iowa City Fire Department General Policies:

1. ICFD General Policy No. 150.02-Residency Requirements, which has been superseded by the more generous May, 2015 City Administrative Regulation on Residency Requirements.

City of Iowa City Personnel Policies

1. City of Iowa City Personnel Policies Section 8, b (6), "violation of departmental rules, City Personnel Policies or any other rules, policies, or regulations promulgated by the City."
2. City of Iowa City Personnel Policies Section 8, b (7), "Lying or providing false, inaccurate, or incomplete information either verbally or in writing."

Respectfully submitted,



John M. Grier, Chief
Iowa City Fire Department

2015 JUL 29 PM 1
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IOWA CITY, IOWA

Original: Iowa City City Clerk
copy: Crystal L. Usher
Attorney for Appellant

The undersigned hereby certifies that a true copy of the foregoing instrument was served upon each of the parties or their attorneys of record to the above-entitled cause in person or at their respective addresses as disclosed by the pleadings of record herein, on 7-29, 2015, by

- U.S. Mail
- Hand Delivered
- Overnight Courier
- Fax
- Fed Ex

Mary Mc Christy



IOWA CITY FIRE DEPARTMENT

410 E. Washington Street – Iowa City, IA 52240-1821
Phone: 319.356.5260 www.icgov.org FAX: 319.356.5269



2015 JUL 29 PM 1:33
CITY OF IOWA
IOWA CITY, IOWA

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Date: June 17, 2015
To: Chris Buckman, Lieutenant
From: John M. Grier, Fire Chief *JMG*
Re: Summary of Charges

The department has received information indicating that you have been living outside the established residency boundaries, while claiming to reside at 2233 9th Street in Coralville, IA.

As a basic requirement of your position as a Fire Lieutenant, you are required to maintain residency in the boundaries outlined in ICFD General Policy No. 150.02— Residency Requirements, which was superseded by the May 2015 City Administrative Regulation on Residency Requirements, and the Fire Lieutenant job description. Failure to maintain residency in the defined boundaries is a direct violation of the established residency requirements policy. Furthermore, the City of Iowa City's Personnel Policies Section 8, b (6) states that violation of rules, policies or regulations promulgated by the City and Section 8, b (7) states that lying or providing false, inaccurate, or incomplete information on a City record are grounds for discipline.

Consider this a summary of the charges to be investigated as well as notice that a formal investigation will be conducted. During this investigation, you will be ordered to answer all questions truthfully, under potential penalty of further disciplinary action, and none of your answers may be used against you in any subsequent criminal proceeding.

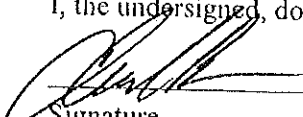
You are mandated to attend an administrative interview to be held on Friday, June 19, 2015 at 2:00 PM in the Human Resources conference room.

Notification of Administrative Proceeding Rights

You are being advised of the following:

1. This is an administrative hearing during which you will be interviewed regarding events which may be used as the basis for disciplinary measures including discharge or suspension. Any admission made in the course of any administrative hearing or interview may be used as the basis for disciplinary measures, including discharge or suspension.
2. You have the right to have legal counsel present, at your expense, during your interview. In addition, you have the right, at your expense, to have a union representative present during the interview or, if not a member of a union, you have the right to have a designee present.
3. You have no right to remain silent at this administrative proceeding. You have an obligation to truthfully answer questions put to you. Untruthful answers constitute a violation of the Policies of the Iowa City Fire Department and the City of Iowa City and will serve as a basis for disciplinary measures, including discharge or suspension.
4. If you refuse to answer questions put to you, you will be ordered by a superior to answer the questions. If you persist in your refusal to answer after the order to answer has been given to you, or if you do not answer a question truthfully, you are advised that such refusal or untruthful answer constitutes a violation of the Policies of the Iowa City Fire Department and the City of Iowa City and will serve as a basis for which your discharge may be sought.
5. You are further advised that by law any admission made by you during the course of this proceeding cannot be used against you in a criminal proceeding.
6. Your interview will be audio recorded, as required by law.
7. Prior to your interview you are being provided with a written summary of the complaint made against you.

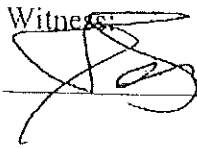
I, the undersigned, do hereby acknowledge that I have been informed of the above rights.



Signature

CHRISTOPHER BUCKMAN
Printed Name of Employee

Date: 6/19/15

Witness:


CC: HA Jennings
Legal Thornton

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IOWA CITY, IOWA