



Published on HamptonRoads.com | PilotOnline.com (<http://hamptonroads.com>)

Plan would make grievance boards keep punishments

NORFOLK

City Manager Regina V.K. Williams wants to alter Norfolk's grievance policy so employees would no longer be allowed to get punishments reversed that were imposed because of allegations of poor performance or wrongdoing.

The proposal, which was scheduled for a City Council vote last month but postponed, has angered many among the nearly 5,000 who work for the city.

It would strip the authority of grievance boards to overturn punishments handed down by supervisors when they find an employee has violated a policy.

The panels currently hear evidence, much like a court, and have the power to exonerate an employee or reduce punishments such as demotions, firings and suspensions, even if they find an employee has done something wrong.

Taking away the authority to reduce punishments is necessary, Williams said, because the panels' judgments should not supersede decisions made by management.

Some employees say the proposal would give city managers too much control.

"Unacceptable," said Mike McKenna, who heads the police union.

Andrew Sacks, an attorney who has represented employees, said the changes would violate state law. Virginia law mandates that all cities and counties have a grievance procedure for employees that includes a panel to review allegations of wrongdoing. Sacks said he thinks the code also grants panels the right to reverse punishments.

"I think they'll end up in court over this, and they'll lose," Sacks said.

Norfolk's grievance panels include three people. One is selected by the employee, one by the city, and the third is a lawyer chosen by the other two members.

Most of the grievance appeals involve the police, said Nancy Olivo, the director of human resources.

Williams said three police officers who had been fired were found by grievance panels to have violated rules, but were given their jobs back by the panels. Williams had recommended that they be fired.

"So the officer who a panel agrees has done something wrong comes back to work," she said. "What kind of message does that send to everyone else?"

Employees should have the right to challenge decisions, said Mike Imprevento, a lawyer who has represented employees in grievance hearings. Police Chief Bruce P. Marquis and Williams are not omniscient, he said.

"These panels are chaired by attorneys who have a sense of fairness," he said.

Under the proposed change, even if a panel finds punishment was based on erroneous assumptions, it has to be upheld, Imprevento said.

"Things sometimes get distorted up the chain of command and an employee is out of a job. Sometimes a panel hears evidence that the city wasn't aware of."

Imprevento said in the last year, Marquis has refused to put officers back on the street after they were reinstated by grievance panels.

Imprevento says he is contemplating a lawsuit to force Marquis to reinstate one officer to full duty.

McKenna of the police union said state code gives panels the right to review punishments for good reason.

"It's like someone being charged with murder, and a jury finds him guilty of manslaughter instead," he said. "The punishment is not the same for both charges, yet the city doesn't want panels to have any discretion over punishment.

"Regina Williams wants the ultimate power to fire you with no questions asked."

Other South Hampton Roads' cities have grievance procedures similar to Norfolk. Virginia Beach, Portsmouth and Chesapeake nearly always abide by decisions made by the panels, Imprevento and Sacks said.

Suffolk often rejects decisions by grievance panels and appeals them to the Circuit Court, Imprevento said.

Norfolk's council has not discussed the city manager's proposal, but has been hearing from employees.

"I'll wait until the briefing to make up my mind," Councilman W. Randy Wright said. "But anytime you talk about making the police chief more powerful, it's a concern."

McKenna and others say they are furious at what they say was an effort to slip the change past them. The council was scheduled to vote on the ordinance in late June, but after McKenna learned of the vote, he called Wright and Councilman Barclay C. Winn to protest. The vote was delayed.

"We had no idea it was coming," McKenna said.

Olivo says employees were kept apprised of the proposed changes.

Williams said she asked Olivo to meet with about 15 employee representatives to find out what their objections were.

Employees generally approve of most of the proposed changes, such as a request to speed up the hearings by limiting postponements and allowing testimony by telephone, said Jane Bethel, vice president of the city's employee union, which has about 150 members.

She said the employees who attended the meeting unanimously opposed the limitation on grievance panels to alter punishments.

Williams said she plans to stick to her position.

"I've been very clear with them that this in no way changes my mind," she said. "At the end of the day, this proposal will come forward again."

Pilot writers Dave Forster, Jen McCaffery and Mike Saewitz contributed to this report.

Harry Minium, (757) 446-2371, harry.minium@pilotonline.com

Source URL (retrieved on 07/27/2009 - 10:24): <http://hamptonroads.com/2009/07/plan-would-make-grievance-boards-keep-punishments>