



TOWN OF HAYMARKET TOWN COUNCIL

EMERGENCY MEETING ~ AGENDA ~

David Leake, Mayor
<http://www.townofhaymarket.org/>

15000 Washington St
Haymarket, VA 20169

Friday, January 24, 2014

7:00 PM

Council Chambers

1. Call to Order

2. Public Portion

a. Mayoral Veto



TO: Town of Haymarket Town Council
SUBJECT: Mayoral Veto
DATE: 01/24/14

Veto by Mayor David Leake.

ATTACHMENTS:

- Call for Emergency Meeting 1-24-2014 (PDF)
- Mayor Leake Veto of suspensions 01-23-2014 (PDF)

Town of Haymarket – Mayor David Leake
15000 Washington Street, Haymarket, Virginia 20169

CALL FOR AN EMERGENCY MEETING OF THE HAYMARKET TOWN COUNCIL
FRIDAY, JANUARY 24, 2014
7:00PM

PURSUANT TO HAYMARKET TOWN CHARTER ARTICLE III “Administration and Government” Section 1 (10).....

Regular and Special Meetings of the Council

The Council shall by ordinance, fix the time for their regular meetings, which shall be held at least once a month, Special meetings may be called by the clerk at the instance of the Mayor or any two (2) members of the Council in writing; and no other business shall be transacted at a special meeting except that stated in the call, unless all members are present and consent to the transaction of such other business. The meetings of the Council shall be open to the public except when in the judgment of the Council the public welfare shall require executive meetings.

- 1) Mayoral Veto of January 23, 2014

The emergency meeting will be held at the Haymarket Town Hall, 15000 Washington Street, Haymarket, Virginia 20169 at 7:00 pm.

Signed:



Vice Mayor Jay Tobias

Signed:



Councilwoman Mary Lou Scarbrough

ATTEST:



Sherrie Wilson, Deputy Town Clerk

Attachment: Call for Emergency Meeting 1-24-2014 (1740 : Mayoral Veto)

MEMORANDUM

To: Jennifer Preli, Town Clerk

From: Mayor David M. Leake

Date: January 23, 2014

Subject: Notice of Veto of the following:
Motion to suspend Chief James Roop
Motion to suspend Deputy Chief Greg Breedon
Motion to suspend Officer Jake Davis
Motion of appointment of Brian Henshaw and Jeff Shaver
Motion to amend three motions of suspension

Jennifer,

Please record the following comments into the official meeting record/minutes for the January 20th, 2014 Town Council Special meeting books as per the charter requires.

As Mayor of the Town of Haymarket, I hereby veto the above subject motion(s) for the following reasons:

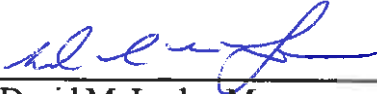
The internal investigation done by council was not performed by qualified personnel. The decisions made and motions were based on this flawed investigation which was conducted by members not properly trained, experienced and licensed to conduct such an investigation.

The Town of Haymarket Police Department's General Orders were not followed and therefore neglected and violated.

The disciplinary actions taken against Deputy Chief Breeden and Officer Jacob Davis were both harsh and unfair.

These are very serious allegations and we need to ensure that our due diligence is performed in both the process and the outcome. The only way to ensure this is by having an outside and independent investigation done as originally requested by our Town Attorney.

Please include all the attachments as part of the record.



David M. Leake, Mayor
Town of Haymarket

From: Jake Davis <jtd8213@hotmail.com>
Date: January 22, 2014 at 11:58:31 AM EST
To: "bhenshaw@townofhaymarket.org" <bhenshaw@townofhaymarket.org>
Cc: "dleake@townofhaymarket.org" <dleake@townofhaymarket.org>

Subject: Letter Notifying of J T Davis Grievance

January 22, 2014

To: Mr. Brian Henshaw, Town Manager for the Town of Haymarket Virginia and the Town Council for the Town of Haymarket Virginia:

My name is Jacob T. Davis and I am a Police Officer for the Town of Haymarket. My unit number is 7108 and I have been employed since December 17, 2012.

On 01/20/2014 at approximately 9:50pm I was notified by Mr, Crim (town attorney) that I am suspended without pay for sixty (60) days.

This letter is to inform you of my intent to appeal this action and to formal note my grievance of this action and to note that I do not understand the action of the Town Council.

Sincerely,

Jacob Davis

Please respond via this email address as to receiving this email.

Sent from Windows Mail

From: Jake Davis <jtd8213@hotmail.com>
Date: January 22, 2014 at 12:07:07 PM EST
To: "bhenshaw@townofhaymarket.org" <bhenshaw@townofhaymarket.org>
Cc: "dleake@townofhaymarket.org" <dleake@townofhaymarket.org>

Subject: Letter Notifying of G A Breeden Sr. Grievance

January 22, 2014

To: Mr. Brian Henshaw, Town Manager for the Town of Haymarket Virginia and the Town Council for the Town of Haymarket Virginia:

My name is Gregory A. Breeden Sr., and I am the Deputy Chief for the Town of Haymarket. My unit number is 7102 and I have been employed since March 2000.

On 01/21/2014 at approximately 11:20am I was notified by Mr. Crim (town attorney) that I am suspended without pay for sixty (60) days.

This letter is to inform you of my intent to appeal this action and to formal note my grievance of this action and to note that I do not understand the action of the Town Council.

Sincerely,

Gregory A. Breeden Sr.

Deputy Chief Unit #7102

Please respond via email to jtd8213@hotmail.com as to receiving this email.

Sent from Windows Mail



The Town of
HAYMARKET
Established in 1799

January 23, 2014

Officer Jacob Davis
614 Dellinger Drive
Strasburg, Virginia 22657

Dear Officer Jacob Davis, *Ja*

I am in receipt of your email dated January 22, 2014 regarding notification of your grievance of your suspension without pay and the mandatory counseling implemented by council. As outlined in the Town of Haymarket Police Department's General Orders, the required necessary procedures were not followed.

As a mutually agreed resolution on this matter and as outlined in the General Orders under Grievances, I hereby authorize the action(s) against you to be immediately rescinded. No further action(s) will be made to you until the completion of a independent internal affairs investigation. In addition, I have notified the town clerk of my veto of the motion to suspend you and the mandatory counseling (see attached)

Sincerely,

David M. Leake
Mayor

cc: Brian Henshaw, Town Manager
Martin Crim, Town Attorney



The Town of
HAYMARKET
Established in 1799

January 23, 2014

Deputy Chief Greg Breeden, Sr
3113 Rivermont Drive
Front Royal, Virginia 22630

Dear Deputy Chief Breeden,

I am in receipt of your email dated January 22, 2014 regarding notification of your grievance of your suspension without pay and the mandatory counseling implemented by council. As outlined in the Town of Haymarket Police Department's General Orders, the required necessary procedures were not followed.

As a mutually agreed resolution on this matter and as outlined in the General Orders under Grievances, I hereby authorize the action(s) against you to be immediately rescinded. No further action(s) will be made to you until the completion of a independent internal affairs investigation. In addition, I have notified the town clerk of my veto of the motion to suspend you and the mandatory counseling (see attached)

Sincerely,

David M. Leake
Mayor

Cc: Brian Henshaw, Town Manager
Martin Crim, Town Attorney

SUBJECT: Gratuities.

Policy

It is the policy of the Town of Haymarket that its employees not solicit or accept any gratuities. It is expected that they should comply with the provisions and ethics in the Virginia Public Procurement Act (Section 2.2-4367) of the Code of Virginia (1950), as amended, et seq., and the Virginia State and Local Government Conflict of Interest Act (Section 2.2-3100) of the Code of Virginia (1950), as amended.

Employees shall not, under any circumstances, solicit or accept, directly or indirectly, any gifts, gratuities, loan, fee, service or any other thing of value arising from or offered by any person or organization which could influence directly or indirectly the actions of said employees or any other employee in any matter of Town of Haymarket business.

Any unauthorized gift, gratuity, loan, fee, reward or other items falling into any of these categories coming into the possession of any employee shall be forwarded to the office of the Mayor for disposition. A written report explaining the circumstances connected with the gift will be submitted without delay.

SUBJECT: Grievances.

PURPOSE: To resolve problems related to work or supervision in a systematic manner.

Policy

A grievance is defined to be any difference regarding wages, hours, the administration of perceived unfair or inequitable treatment of discipline, working conditions, advancements or any other conditions of employment. Employee grievances must be filed, in writing, within three working days of the perceived inequity. The employee should include what their expectation of the outcome is perceived to be.



All grievances shall be presented to the Mayor who will make every effort resolve any problems that might arise. However, if after consulting with the mayor, the employee is still not satisfied, he/she can put the grievance in writing and present to the Town Council.

- a. It is anticipated that any grievance shall be brought to the attention of the Mayor as soon as possible. It is anticipated that resolution be reached within two (2) day following the filing of the grievance.

If a resolution is not reached by both parties:

- 1. The Mayor will act on the issue within five (5) days. However, before the Mayor renders a final decision, an advisory team (Council Members) will be impaneled. The team will consist of two (2) Town Council members and a staff member selected by the employee filing the grievance. The advisory team will meet with the Mayor and submit their recommended course of action.



Satisfactory resolution of grievances is important to both the employee and the Town of Haymarket; therefore, these procedures should be followed. Should extenuating circumstances merit, an employee may, after careful consideration, submit a written grievance directly to the Town Council explaining why the normal chain of command was not followed.

SUBJECT: Harassment.

PURPOSE: It is the policy of the Town of Haymarket that sexual harassment and all other forms of harassment of employees in the place are unacceptable and will not be tolerated.

Policy

The Town of Haymarket is committed to maintaining a work environment free of discrimination. In meeting this commitment and enforcing our policy of equal opportunity, we will not tolerate harassment of Town of Haymarket employees by any person, including the Mayor, Town Council members, co-workers, vendors, clients, customers, visitors.

- G. Except as provided by Constitutional guarantee, failure of any officer to answer questions posed or to give false statements during the internal investigation interview are grounds for immediate dismissal from the Department.
- H. The investigating officer shall submit to the Chief of Police the investigation narrative with the original complaint form. Included at the end of the narrative shall include a conclusion of either **Founded** or **Unfounded** against the officer, and a recommendation of disciplinary action per General Order 2-10.
- I. It shall be the discretion of the Chief to **Accept** or **Reject** the investigating officer's findings and the recommendation of disciplinary action will be at the discretion of the Chief to impose, reject, or increase.
- J. Nothing in this order prohibits the Chief of Police to reassign the investigation to another member at his discretion.

§ 9.1-501. Conduct of investigation.

The provisions of this section shall apply whenever an investigation by an agency focuses on matters which could lead to the dismissal, demotion, suspension or transfer for punitive reasons of a law-enforcement officer.

1. Any questioning of the officer shall take place at a reasonable time and place as designated by the investigating officer, preferably when the officer under investigation is on duty and at the office of the command of the investigating officer or at the office of the local precinct or police unit of the officer being investigated, unless matters being investigated are of such a nature that immediate action is required.

2. Prior to the officer being questioned, he shall be informed of (i) the name and rank of the investigating officer and of any individual to be present during the questioning and (ii) the nature of the investigation.

3. When a blood or urine specimen is taken from a law-enforcement officer for the purpose of determining whether the officer has used drugs or alcohol, the specimen shall be divided and placed into two separate containers. One specimen shall be tested while the other is held in a proper manner to preserve the specimen by the facility collecting or testing the specimen. Should the first specimen test positive, the law-enforcement officer shall have the right to require the second specimen be sent to a laboratory of his choice for independent testing in accordance generally with the procedures set forth in §§ 18.2-268.1 through 18.2-268.12. The officer shall notify the chief of his agency in writing of his request within 10 days of being notified of positive specimen results. The laboratory chosen by the officer shall be accredited or certified by one or more of the following bodies: the American Society of Crime Laboratory Directors/Laboratory Accreditation Board (ASCLD/LAB), the College of American Pathologists (CAP), the United States Department of Health and Human Services Substance Abuse and Mental Health Services Administration (SAMHSA), or the American Board of Forensic Toxicology (ABFT).

(1978, c. 19, § 2.1-116.2; 1992, c. 221; 1993, c. 229; 2001, c. 844; 2005, cc. 868, 881.)

§ 9.1-502. Notice of charges; response; election to proceed under grievance procedure of local governing body.

A. Before any dismissal, demotion, suspension without pay or transfer for punitive reasons may be imposed, the following rights shall be afforded:

1. The law-enforcement officer shall be notified in writing of all charges, the basis therefor, and the action which may be taken;

2. The law-enforcement officer shall be given an opportunity, within a reasonable time limit after the date of the written notice provided for above, to respond orally and in writing to the charges. The time limit

shall be determined by the agency, but in no event shall it be less than five calendar days unless agreed to by the law-enforcement officer;

→ 3. In making his response, the law-enforcement officer may be assisted by counsel at his own expense; and

→ 4. The law-enforcement officer shall be given written notification of his right to initiate a grievance under the grievance procedure established by the local governing body pursuant to §§ 15.2-1506 and 15.2-1507. A copy of the local governing body's grievance procedure shall be provided to the law-enforcement officer upon his request.

B. A law-enforcement officer may proceed under either the local governing body's grievance procedure or the law-enforcement officer's procedural guarantees, but not both.

(1978, c. 19, § 2.1-116.4; 1987, c. 461; 2001, c. 844.)