



COUNCIL MEETING AGENDA (Special)

Thursday December 22nd, 2016

10:00 a.m.

Belize City Hall Council Chambers

Members to be attending

- | | |
|-----------------------------------|-----------|
| 1. Mr. Darrell Bradley | Mayor |
| 2. Mr. Jason Edwards | Councilor |
| 3. Mrs. Alifa Elrington Hyde | Councilor |
| 4. Dr. Alain Gonzalez | Councilor |
| 5. Mrs. Hyacinth Latchman Cuellar | Councilor |
| 6. Mr. Kevin Singh | Councilor |
| 7. Mr. Michael Theus | Councilor |
| 8. Mr. Dion Leslie | Councilor |
| 9. Mr. Philip Willoughby | Councilor |
| 10. Mr. Bernard Pitts | Councilor |
| 11. Mr. Dean Samuels | Councilor |

12. Candice Burke, City Administrator
13. Lesbeth Butler, Administrative Officer

Persons to be attending by invitation

1. Ms. Ursula Smith, Manager HR

Agenda Items

1. Prayer

Mayor's Matters:

- i. Grievance Procedure – Jomo Elrington
2. Request for leave to move adjournment of Council on matters of urgent public notice
3. Motions relating to Council business or sitting
4. Adjournment
5. Setting the date for the next Council meeting



MINUTES OF SPECIAL CLOSED COUNCIL MEETING
Thursday December 22th, 2016 10:55 a.m.
Belize City Hall Conference Room

Present:

- | | |
|-----------------------------------|---------------------------|
| 1. Mr. Darrell Bradley | Mayor |
| 2. Mr. Dean Samuels | Deputy Mayor (11:17 a.m.) |
| 3. Mr. Jason Edwards | Councilor |
| 4. Mr. Dion Leslie | Councilor |
| 5. Mrs. Hyacinth Latchman Cuellar | Councilor |
| 6. Mr. Kevin Singh | Councilor |
| 7. Mr. Michael Theus | Councilor |
| 8. Mr. Bernard Pitts | Councilor |
| 9. Mr. Philip Willoughby | Councilor (11:00 a.m.) |
| 1. Ms. Candice Miller | City Administrator |
| 2. Mrs. Lesbeth Butler | Administrative Officer |

Present by invitation:

- | | |
|-----------------------|---------------------------------------|
| 1. Mr. Floyd Neal | Gen Secretary Christian Workers Union |
| 2. Mr. Jomo Elrington | Employee |
| 3. Ms. Ursula Smith | Manager Human Resources |

Absent with explanation:

- | | |
|------------------------|------------------------------------|
| 1. Dr. Alain Gongalez | Councilor (family member deceased) |
| 2. Ms. Alifa Elrington | Councilor (Out of the Country) |

Minutes of Meeting

The meeting was called to order at 10:55 a.m.

Councilor Singh opened the meeting with a prayer.

The Mayor welcomed Mr. Neal and Mr. Elrington to the meeting. He stated the meeting was convene to discuss only 1 item and that was Jomo Elrington's grievance.

Adoption of Minutes

Being a Special Council meeting the minutes of the previous meeting was not reviewed.

1. The Mayor commence by stating that this is the first time the Council was engaging in a grievance procedure since the Regulation has been implemented. He asked that questions and concerns be addressed to him as the chair.
2. The Mayor then proceeded to give a brief summary of the grievance. He stated that the matter arose due to a transfer process where Mr. Elrington was transferred from the Municipal Court to the Finance Department and Mr. Elrington express that he was aggrieved due to the transfer. The Mayor stated that he had one prior meeting with Mr. Neal where they discussed the matter of Mr. Earl Gentle and Mr. Jomo Elrington. Mr. Gentle matter was settled hence Jomo's grievance was the only outstanding matter to address.
3. Mr. Neal thanked the Mayor and then asked Jomo to state his case.
4. Mr. Elrington commenced by thanking everyone for the opportunity to express his grievance. He went on to state that he applied at the Court for a position as he was desirous of pursuing a career in law. He acknowledged that he is susceptible to being transferred, however he believed that his transfer was a result of his relationship with the director as the transfer came on the heels of his complaint against the director. He stated that to date his complaint has not been addressed. He further stated that he believed that a transfer should be lateral with similar roles and salary and his new role does not relate to what he was doing. In addition, he believed that a transfer should be temporary. He also believed that he was being set up to fail. Jomo said that he had always received good appraisals and was even recommended for a promotion, an opportunity he lost by being transferred. He said that he believed his transfer was arbitrary as the Council does not have a transfer policy.
5. After Jomo presented his case the Mayor stated that what he gathered is that the substance of his complaint was the matter of him being transferred.
6. Mr. Neal stated that they considered the transfer a form of retaliation.
7. Ms. Miller stated that was not the case and the transfer was a form of cross training.
8. There was a general discussion on Jomo's past appraisal and the timeliness in which it was signed off by the director after completion by the manager. They also discussed the matter of the grade being changed after sign off.
9. Ms. Miller clarified that the countersigning manager/director can make comments but not change the grade without the employee knowledge.
10. The Mayor requested clarity on what Mr. Neal wanted the Council to concentrate on as the Council has no knowledge of the day to day operations of the employee.
11. Mr. Neal said that the transfer happened too close to Mr. Elrington's complaint which gives them reason to believe that it was a form of retaliation. He said that Jomo was hired as a Court Prosecutor and was doing a great job. Jomo saw the court as a career path and being transferred he lost that opportunity. He also saw the move as detrimental to him.

12. The Mayor asked Jomo what degree he has. Jomo told him that he has an Associate Degree in Computer (MIS). He said that he was doing Paralegal studies but stopped due to finance.
13. The Mayor stated that Jomo wasn't the only staff who got transferred but also 4 other staff, these are Sandra Moguel, Charlene McDonald, Schroleen Sankey and Wayne Samuels. He said that management has the right to transfer staff.
14. Jomo stated that his move was from Court to Finance and that there is a difference in salary between a Procurement Officer and Court Prosecutor.
15. It was clarified that Procurement Officer is a pay scale 3 and Court Prosecutor is pay scale 5. However, Jomo was transferred as an Accounts Clerk, hence a lateral move.
16. Jomo stated that he felt as if he got a demotion while Mr. Samuels got a promotion.

Deputy Mayor arrived at 11:17 a.m.

17. The Mayor asked Jomo why he felt victimized and he said due to the proximity of his transfer with his response to a letter he received from Mrs. McKenzie.
18. The Mayor asked Ms. Miller what was the reason for the transfer. She that the transfer came about for several reasons. She also clarified that Mrs. McKenzie did not change Jomo appraisal. She only inserted comments on it but the grade remained the same. Jomo said that he was only aware of the comments when he reviewed his p/file.
19. Councilor Pitts asked what was the issue with Mrs. McKenzie and Jomo. Ms. Miller stated that the transfer had nothing to do with the matter.
20. Councilor Latchman also questioned the issue between Jomo and Mrs. McKenzie. Ms. Miller then read a portion of Mrs. McKenzie's letter.
21. Jomo said that he had a received a letter from Mrs. McKenzie prior to this one, which he had requested to be moved from his p/file and this was done. He said that he believed she was trying to fill his p/ file with negative letters in order to build a case against him.
22. Mr. Neal asked when was a transfer done and Ms. Miller said whenever the need arise.
23. The Deputy Mayor questioned whether it was a normal process for the Union to get involve in a transfer. Mr. Neal said that this is the first time they are activating this since the regulations.
24. The Mayor said that he believed that the Union should be cautious with getting involve in administrative decisions. He made reference to the matter of Mr. Gentle where the Council had to determine if an injustice was done. He said that in this case he did not see how this could be considered an injustice as the job offer does states that employees are subject to being transferred.
25. Councilor Pitts gave an example of him starting off as an Accounts clerk and is now a database administrator due to transfers.
26. Jomo stated the other staff were transferred to similar roles they were performing, however he was transferred to a post he is not familiar with.

27. Councilor Willoughby asked if there was a co-relation in having paralegal studies. The Mayor said that it would be an asset.
28. The Mayor stated that he was finding it difficult to see an area where the Council acted unjustly.
29. Jomo questioned Mr. Samuels being transferred while he was on probation. He said that Ms. Kerr had requested a transfer which was denied because she was on probation. Ms. Miller stated that they were there to discuss Jomo's concern and not that of other employees. She also stressed that Jomo's transfer was a lateral move.
30. Ms. Miller informed that the Council is currently working on a transfer policy. The Mayor requested that Mr. Neal give his input on the implementation of this.
31. The Mayor asked Mr. Neal if transfers were done in the Public Service. Mr. Neal said yes but it was usually in line with the person's career path, however they are susceptible to being transferred.
32. Councilor Willoughby said there is no guarantee that a staff will remain in a particular post and in this case Jomo was not even pursuing a degree.
33. Ms. Miller said that in reference to Jomo appraisal Mr. Bodden stated that the next level up for Jomo is Prosecutor. He did not necessarily make a recommendation for a promotion.
34. Councilor Singh questioned if a staff who is on probation is subject to being transferred. Both Ms. Ursula and Ms. Miller confirmed that they can, however they would still be on probation.
35. There was a general discussion on qualifications. It was stated that Jomo has a degree in MIS whereas Mr. Samuels is a sworn Special Constable and he has also completed one year of paralegal studies.
36. The Mayor asked Mr. Neal and Jomo if there was any further point they wanted to express. They both said no.
37. The Mayor then summarized the discussion stating that the 2 main issues presented were
 - i. punitive action and
 - ii. Denial of career path
38. The Mayor dismissed both Mr. Neal and Jomo.
39. There was a general discussion after which it was agreed that the Mayor would make a final decision on the matter. However, he asked that whatever procedure that should have been followed based on Jomo's response to Mrs. McKenzie be addressed.

40. The Mayor requested that a copy of his decision be attached to the minutes (see attached)




letter to Floyd Neal
grievance Jomo.pdf

41. The Mayor moved for a motion to adjourn the meeting. Councilor Latchman-Cuellar motioned that the meeting stands adjourned; Councilor Singh seconded the motion. **MOTION CARRIED.** All Councilors present voted in favor to adjourn the meeting. Meeting was adjourned at 12:25 p.m.



DARRELL BRADLEY, Mayor



CANDICE MILLER, City Administrator



Office of the Mayor
Belize City Council

12 January, 2017

Floyd Neal
General Secretary
Christian Workers' Union
Cemetery Lane
Belize City
Belize

Dear Mr. Neal:

Re: Grievance Procedure (Jomo Elrington)

I write further to the above captioned matter.

As you are aware, there was a grievance hearing before the Belize City Council ("Council") conducted at the request of Jomo Elrington and conducted on 22 December, 2016. Mr. Elrington had raised his grievance in respect to a transfer from his post as prosecutor in the municipal court to a finance officer or clerk in the Finance Department. The transfer was part of a cross training exercise involving five members of staff, including Mr. Elrington.

The grievance was mounted on two fronts. The first is that Mr. Elrington alleged that the transfer was penal in nature and was done as a result of complaints he made about the director of his department. He stated in the hearing that he felt he was the target of reprisal for making these complaints. He cited an email correspondence and certain incidents to substantiate his claim and he attempts to link these incidents to the transfer and argues that the transfer was done to somehow punish him.

The second front is that Mr. Elrington argues that the cross transfer exercise was done in circumstances that were unfair to him because it prejudices his professional development in the career path he has chosen. He says he joined the employment of the Council to pursue a career in legal affairs, and eventually he hopes to become an attorney. He has received training in prosecution and he has worked in the prosecution department of the municipal court for a period of over one year. He has received positive appraisals (forty eight out of a possible fifty points) and on one of his recent appraisals it was recommended that he would be suitable for promotion to the post of senior prosecutor. His argument is that it is unfair to transfer him without his prior input to a position in finance that he has no training and experience for and he sees the transfer as setting him up for failure. The transfer also denies him the opportunity to move forward in the legal area, including to be promoted in the service of the Council.

Mr. Elrington's transfer, as stated above, was part of a cross training exercise involving five members of staff. Mr. Elrington is the only member of staff to raise a grievance with the transfer. The City Administrator informed the Council that the Council routinely transfers staff so that staff receive training and familiarity with different departments and procedures of the Council and so that staff is more knowledgeable

concerning the Council's operational requirements. She said that there was nothing untoward about this particular transfer and it was not done at the request of the director of his department and there was no penal aspect to it. This was simply a routine exercise of the Council.

On this score, the Council finds that there is nothing to substantiate Mr. Elrington's claim that his transfer was penal. This is particularly due to the fact that the transfer was not requested by his department or the director of his department. The transfer originated from the human resource section and from the Office of the City Administrator and was part of the training protocols for the Council. The Council can therefore find no merit in saying that there was bad faith in the transfer or that Mr. Elrington was being penalized or victimized because he had complained about certain actions of his director.

The second point raised by Mr. Elrington was more difficult to determine.

I must first make the point that the Council is always reluctant to intervene in, or overturn, the decisions of the City Administrator and senior management. The Council is the political directorate and the Council makes strategic and policy decisions regarding the advancement of Belize City. It is not appropriate for the Council to impose or substitute its opinion in a situation where management has taken a certain course. This is because the Council is often unaware of the specific operational needs of various departments of the Council and if the Council intervenes too frequently that may involve political considerations and may imperil the overall efficiency of the Council's operations. It would also encourage a situation where every staff would come to the Council with a grievance and the Council would then become a management body taking up grievances routinely and eroding and usurping the management functions properly delegated to the City Administrator and senior management staff.

The Council should only intervene in circumstances where the policies and procedures set out by the Council for dealing with staff, including the Municipal Services Regulations, have not been followed, or where there is some demonstrated unfairness in the actions of management that would warrant intervention. The nature of the Council's intervention should also be to guide management in the appropriate corrective actions to take from a policy standpoint so that future problems do not arise.

I should also mention for completeness that it was pointed out to the Council that Mr. Elrington's employment letter, as does all employment letters issued from the Council, contains a provision saying that employees of the Council are subject to cross training exercises.

Having considered this matter carefully the Council feels that Mr. Elrington's second argument has merit.

A person enters the service of the Council to pursue professional goals. Of course, he is employed under the managerial prerogative of the Council and takes his job subject to the directions and wishes of the Council. But that right of the Council is not unfettered. The Council also owes the employee a duty to treat him fairly and to allow him, within reasonable limits and within the overall goals of the Council, to achieve his professional development while serving as a faithful employee.

The Council finds it to be of concern that the Council does not have a transfer policy in place to govern the procedures of a transfer and the Council can see no real value in transferring a person who has received training as a prosecutor to a finance clerk. Finance is a very technical and sensitive operation. So too, perhaps is prosecution. That strikes the Council as a rather strange transfer option. Mr. Elrington pointed out that the other transfers in the cross training exercises were secretarial positions and the transfers involved secretaries or support staff being transferred from one department to another department. In that case the skill set would remain the same and the secretary or support staff would be able to use the same skills, but in a different department learning the procedures of that department, but with no real prejudice to their professional development. In Mr. Elrington's case he is a trained prosecutor, of some merit or

advancement as indicated by the performance appraisal, and he has received training in prosecution, including trial advocacy paid for by the Council. To take a man with this particular training and then to put him into a post for which he has no training and a post as sensitive and as technical as finance seems to be unfair. I do not know that I would go as far as to say that it sets him up for failure, but I would agree that this would have some unfair prejudice to his professional development and would not seem in the interest of the Council.

The unfairness and prejudice, in the Council's view, is that Mr. Elrington has been placed in a position that he is not trained for and he has been denied the opportunity of moving up the professional ladder and advancing in his career in the service of the Council. Of course, he is subjected to cross training, but the cross training has to be something that take his particular circumstances into account. Not that he can direct where he is to be transferred to, but there has to be some demonstrated positive reasons both for the Council and for him involving the transfer. He could be cross-trained in enforcement or special constable or management or the legal department of the Council. But to put him in the finance department as a finance clerk seems to be prejudicial both to him and to the Council.

It is therefore the determination of the Council to grant the grievance of Mr. Elrington and to direct that the transfer be rescinded and he be restored to his previous position as a prosecutor. This is to be with immediate effect. The Council also directs that the Council draft a transfer policy to determine the circumstances and procedure of a transfer. This policy is to be developed in consultation with the union.

Mr. Elrington also indicated that certain comments were made on his personnel file and he was not given an opportunity to respond and to note his objections or non-agreement. The Council is unfamiliar with the procedures regarding appraisals and what input a staff has. But if Mr. Elrington has a right or opportunity to respond to comments placed on his file, as outlined in the Municipal Services Regulations, then he is to be given this opportunity immediately.

This letter is being copied to management for immediate action.

Yours faithfully,


DARRELL BRADLEY

Cc: City Administrator
Director of Administration
Jome Elrington

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