

BRIAN WILLIAMS
Mayor

JACKY CAGLE
Councilmember

ANDREA WITT
Councilmember



ESTHER HELTON
Vice Mayor

MIKE CHAUNCEY
Councilmember

KENNY CUSTER
Assistant City Manager

City of East Ridge

*1517 Tombras Avenue
East Ridge, Tennessee 37412*

March 13, 2019

J.R. Reed



East Ridge, Tennessee 37412

Re: Notice of Termination

Dear Mr. Reed:

On March 8, 2019, a hearing was held for you in the administrative conference room at City Hall to give you an opportunity to respond to the pending investigation. This hearing followed the meeting with you and your legal counsel on February 14, 2019, at which time you were offered an opportunity to discuss the charges against you and for you to provide an explanation in response to the findings relative to the charges. We met for approximately two hours on February 14, 2019, at which time we discussed at length the charges against you and the details of the investigation, including without limitation interviews with various leadership members of the Police Department, the City's Administration Department, and former city employees.

As you were advised initially and throughout the investigation, this matter related to the internal financial audit of confiscated funds and goods, lack of department leadership, management of investigations, handling of open records requests and allowing a hostile employment environment to exist. As we discussed in detail during our meeting with you on February 14, 2019, the charges to which findings of fact existed were the following:

1. Noncompliance with East Ridge Internal Control Policy.
 - a. Discovery of over \$24,000 of collected funds not properly reported.
2. Mishandling investigations.
 - a. Failing to fully evaluate internal investigation.
 - b. Ordering officers to perform tag identification searches on HOA vehicles.
3. Lack of department leadership and control.
 - a. Neglecting repeated notices from member of your department of outdated and expired police equipment.
 - b. Failing to maintain updated policies and manuals.
 - c. Failure to properly budget to meet operational needs.
 - d. Failure to develop long-range strategic planning goals and mission.
 - e. Absence of institutional confidence by department.

The information pertaining to the aforementioned charges was provided to you throughout the investigation. On March 8, 2019, a hearing was held for you to present evidence to refute the findings. You read a prepared letter out loud for the court reporter and submitted the following exhibits:

1. Custer Letter to Reed, dated November 21, 2018;
2. Reed Letter to Custer, dated November 28, 2018;
3. Open Records Request, dated February 14, 2019;
4. Reed Letter to Custer, dated March 4, 2019;
5. Reed Letter to Custer, dated March 6, 2019; and
6. Hyatt Letter to Reed, dated March 4, 2014.

No other exhibits, witnesses, testimony, or evidence was presented by you at the hearing.

In connection with this investigation, I have reviewed many forms of facts and evidence based on the records, documents and information previously provided to you, including the investigation information regarding interviews with the following:

1. J.R. Reed;
2. Stan Allen;
3. Josh Creel;
4. Daniel Stephenson;
5. Clint Uselton;
6. Celeste Owens;
7. Diane Qualls;
8. Scott Miller; and
9. Tim Mullinax.

I have also reviewed the City's internal control policy manual and the City's organizational policy 6.1., and the transcript of the March 8, 2019 hearing.

After reviewing all of the applicable facts of the investigation and policies of the City and/or Department, and based upon the record as a whole, the consensus that resulted is that there is an institutional lack of leadership by you as the chief of the Police Department and low morale among the staff and police officers. Specifically, the investigation involving interviews with the members of the leadership personnel within the Police Department and other officers and administrators of the City depicted a harrowing and disturbing environment within the Department. The prevailing issues that were identified in each of the interviews included the following:

1. Neglecting repeated notices from members of your department of outdated and expired police equipment;
2. Failing to maintain updated policies and manuals;
3. Failure to properly budget to meet operational needs;
4. Failure to develop long-range strategic planning goals and mission;
5. Ordering officers to perform tag identification searches on HOA vehicles within gated community;

6. Lack of interpersonal and communication skills with your lieutenants and sergeants;
7. Failing to motivate and inspire staff or develop long-range strategic planning goals;
8. Absence of institutional confidence by department; and
9. Blaming your staff and the administration for police department shortcomings and not taking ownership.

Other issues raised in the interviews included lack of support for your sergeants and lieutenants, limited contact with your personnel, substantial divisions within the Department, and high patrol turnover rates.

The City's organization policy for the Police Department, 6.1, plainly states that the "chief of police is the administrative head of the East Ridge Police Department." Further, the chief "has the ultimate responsibility of the department for the preservation of life and property, preservations of law and order, ... and shall establish rules and regulations, policies and procedures...." Additionally, the delineation of responsibility for the chief of police involves the following relevant description:

A. *Chief of Police*

1. Shall be the commanding officer of the East Ridge Police Department....
2. Shall be responsible for organizing and managing the department as necessary to accomplish the mission consistent with this organizational manual and policies.
- ...
4. Shall be responsible for planning, budgeting, directing, coordinating, controlling, and staffing all activities of the department.
5. Shall be responsible for the department's continued and efficient operation
6. Shall instill high standards of morale and confidence through exemplary leadership and provide for instruction and training for members of the department.
7. Shall annually prepare a written document establishing goals, objectives, priorities, and general law enforcement strategies for each organizational component of the department. Progress reports and revisions shall be submitted on established quarterly dates.
8. Shall ensure departmental goals and objectives are distributed to all members.
9. Shall conduct regular staff meetings to ensure coordination of effort in accomplishing the mission of the department.
- ...
11. Shall direct and control all internal affairs matters.

In short, the qualifications necessary to perform satisfactory services as the chief of police are, at a minimum, effective leadership, management and operational skills to guide the Police Department, including planning, organizing and directing the activities of the Department to ensure that the appropriate protocols are implemented to prevent crime, and to protect the public safety of the community.

I am aware that you claim you were never provided any counseling or direction from the City Administration regarding deficiencies in your leadership performance as the chief of police.

This assertion is refuted by former City Manager Scott Miller who advised that he met several times with you during his two plus years as the City Manager regarding your leadership expectations. Specifically, I am aware that in mid-2018 it was discovered that the police department had outdated and/or expired equipment which resulted in the City spending in excess of \$107,000 from its unassigned general fund to cover the cost for new safety equipment. Mr. Miller had previously discussed with you about an equipment replacement plan for budgeting purposes and that some of the equipment had been expired in excess of ten years. The failure to properly plan and budget resulted in Mr. Miller de-activating the SWAT team until the City received the updated safety equipment. As you are aware, the SWAT team engages in some of the most intensive and risky situations and to not properly equip this unit with safety equipment is unacceptable.

Further, I am aware that you were instructed by Mr. Miller on numerous occasions throughout his tenure to update and implement current police policies and procedures which you failed to accomplish. I understand you claim that you were stalled by forces that were out of your control, but it is clear you did not begin to initiate updating the policies and procedures pursuant to Mr. Miller's direction until mid-September 2018. I further understand Mr. Miller repeatedly counseled you that the police chief is the most visible and recognizable figure within the Police Department and responsible for managing the budget, establishing an ongoing strategic plan for the Department, as well as ensuring staff development and stewardship. As part of this position, Mr. Miller directed you to establish and maintain a healthy working environment for all personnel and develop current policies and procedures that reflected best practices nationally in law enforcement and public safety. Simply put, despite Mr. Miller's repeated efforts to counsel and assist you in improving your leadership and administration of the police department, you failed to meet the standards required for the chief of police. As previously stated, your sergeants, lieutenants, and officers within the Department have confirmed they have no confidence in you as their leader and I cannot have the City's first responders being led by a chief they do not trust or have confidence in to lead them. While throughout my investigation I maintained an open and impartial mind as to these claims, the weight of the evidence provided by all of the members of the leadership personnel within the Police Department cannot be ignored, particularly when I must consider the greater good and safety of the entire Department and the community at large.

Additionally, as you were notified, the issue regarding your handling of a recent internal investigation within the Police Department was raised in this investigation. Specifically, I understand per the hearing transcript that you claim you "reviewed the material before [you] gave an opinion" on the internal investigation. The findings of fact obtained during the investigation, however, demonstrate this assertion is incorrect. Specifically, you admitted that you failed to review all of the evidence obtained by Detective Massengale in rendering your conclusion on the investigation findings. Specifically, you confirmed you did not watch any witness videos or listen to any witness audio recordings in your possession prior to rendering your opinion on the internal investigation. I understand you claim that you did not want to interfere with the investigation. However, reviewing the evidence after the conclusion of the investigation to render an opinion has no impact on the investigation. As the chief of the Police Department, you are well aware of the critical importance of conducting thorough investigations and failing to review all available material without justification breaches the confidence and trust required of your position. Indeed, it is your express responsibility to direct and control all internal affairs matters and you failed to fulfill this duty.

Lastly, as you were notified throughout this matter, the issue of your compliance with the City's internal control manual was investigated. As you are aware, the City adopted the internal control manual in 2016 and both Diane Qualls and Mr. Miller discussed the importance of full compliance with the manual at or near the time of its adoption. It was discovered during the investigation that over \$24,000.00 of collected funds were found to have been stored in a decentralized location rather than delivered to City Hall as mandated by the City's internal control policy. As you are aware, the City's internal control policy requires that all monies collected at decentralized locations must be delivered to City Hall not later than 11:00 a.m. on Monday, Wednesday and Friday. While I realize some of the collected funds pre-date your time as the police chief, you are the responsible party for the Police Department to ensure that compliance is achieved regardless of when the event occurs, especially if the non-compliance existed at the time you became chief of the Police Department and continued thereafter with your knowledge. You confirmed during the hearing that you were in fact aware the funds were stored at the Police Department and not turned over to City Hall. I understand you claim that you were never "warned, cautioned, or counseled that [you] needed to do anything beyond what was being done." However, as stated above, Ms. Qualls and Mr. Miller reviewed the internal control policy with you and you were placed on notice at that time all decentralized funds were to be delivered to City Hall not later than 11:00 a.m. on Monday, Wednesday and Friday.

Based upon the findings of facts established in the investigation and the record as a whole, it is my determination that the aforesaid charges are sustained. You were repeatedly notified that your leadership of the police department failed to meet the necessary skills and qualifications. Taken as a whole, the investigation demonstrates a pattern of performance that fails to meet the minimum acceptable level expected and required by the chief of police and I must consider the safety and well-being of the City's officers and the entire community. Accordingly, you are hereby relieved of your police duties effective immediately and your employment with the City of East Ridge is terminated.

I am aware that you submitted a right of reversion letter dated March 4, 2014 by former City Manager Andrew Hyatt as Exhibit 6 to the hearing. I have considered this letter thoroughly, but I do not find it to be applicable. Specifically, Mr. Hyatt did not have the authority to usurp the City Code which identifies the basis for continued employment. In this situation, it is my determination that the grounds for termination under the City's personnel policy have been met. Thus, the right of reversion is not entitled to act as a shield against terminable conduct. Further, it is my position that Mr. Hyatt did not have the authority to control a future administration regarding personnel matters or guarantee you a right to any continued employment with the City. Essentially, you are attempting to rely upon the right of reversion as a vehicle to guaranteed continued employment notwithstanding your failure to perform to the job requirements of that which you were hired to perform as the chief of police. To that end, allowing a document that was executed behind closed doors and out of the public's awareness violates the public trust and confidence of the police department. This would set an unprecedented standard and would essentially provide a license to city employees that underachieving has minimal consequences, none of which involve termination.

You are instructed to meet with the City's Human Resource Officer to determine what amount of paid leave you have accumulated during your employment with the City. The City will honor all accumulated vacation time and other paid-time leave for purposes of determining your remaining wages and/or salary that you are entitled to receive. All department equipment that remains in your possession shall be returned to the Police Department immediately. This decision is effective as of March 13, 2019.

Be advised that you have the right to appeal this action pursuant to the provisions of the City's Personnel Rules and Regulations. It is your obligation to be aware of any timing limitations relative to such appeal.

Sincerely,



Kenny Custer

Assistant City Manager *Interim City Man* (423) 867-7711