



IN RE: Pre-Suspension Hearing of Lydia Musgrove

THIS MATTER came before me 30th day of January, 2019, on the proposed suspension of Ms. Lydia Musgrove, relating to alleged violations of the City's *Personnel Policies and Procedures*. The hearing was attended by Ms. Musgrove, Permit Technician, Rickie Lee, Chief Building Official, Wendy Cullen, Human Resource Director and the undersigned.

It is alleged that Ms. Musgrove violated the following provisions of the City of Palm Coast *Personnel Policies and Procedures Manual*:

- Section 3.05, A: *"Employees who may be in a position to influence actions and decision regarding the City's administration shall refrain from relationships that may adversely affect the exercise of his/her independent judgment in dealing with supplier, bidders, vendors and contractors or any other person doing business with the City."*
- Section 3.05, F: *"An employee accepting anything of value including but not limited to loans, advances, gifts, gratuities, rewards, favors or entertainment from a vendor, supplier, bidder or other party doing business with the City, promise of future employment etc. may be considered improper."*
- Section 3.16 A. 2: *"Employees shall not accept anything of value, including a gift, loan, reward, promise of future employment, or services that:*
 - *Would cause a prudent person to be influenced in the discharge of official duties.*
- Section 11.07, Group II Offense, #3: *"Neglecting to comply with requirements set forth in departmental rules and standards of conduct."*
- Section 11.07, Group II Offense, #18: *"Violating personnel policies."*
- Section 11.07, Group II, #21: *"Inappropriate display of temper or disrespect in the presence of a citizen, co-worker, supervisor or subordinate."*
- Section 11.07, Group III, #3: *"Receiving from any person, or participating in any fee, gift or other valuable thing in the course of work, when such fee, gift or other valuable thing is given in the hope or expectation of receiving a favor or better treatment than that accorded other persons."*
- Section 11.07, Group III, #7: *"Insubordination by refusing to perform work assigned, or to comply with written or verbal instructions of a supervisor."*
- Section 11.07, Group III, #12: *"Knowingly making or publishing false or untrue statements."*
- Section 11.07, Group III, #27: *"Any other offense of a similar nature deemed sufficient by the City Manager and not prohibited by law."*

Based upon the evidence submitted to me for my review and consideration, I have determined that Ms. Musgrove did violate the stated provisions of the personnel policies and procedures manual. Not only does the information provided to me in the form of the Investigative Summary developed by the Internal Control Team (ICE) reflect that Ms. Musgrove accepted a gift, Ms. Musgrove's own admission verifies the acceptance.

It should be noted that not only did I read the ICE report, but I viewed the video related to the event. There are many things about this situation, and Ms. Musgrove's role in it, which I find extremely concerning. Although it has been reported that you were not present when the gifts were initially brought into the City, it is apparent by the interviews conducted that you played a large part in the distribution of gifts to various staff members. As I am aware that you received a copy of the report, I do not feel it necessary to detail your interactions with other staff members here, but multiple employees recalled that they were aware of the gifts and/or prompted to take the gifts due to your influence.

I do feel, however, that I must call attention to your exchange with Mr. Lee as it relates to the bottle of Jack Daniels whiskey. The information provided in the ICE report is a touch contradictory in that, according to the report, you stated that you did not give the Jack Daniels to anyone, but then it indicated that you attempted to give the gift to Mr. Lee. Mr. Lee had reported that you had tried to give him the bottle concealed in a coffee box and he gave you instructions to give it back. The ICE report does not provide any information about you attempting to call the contractor to return the alcohol. You did indicate during our conversation that you did try to call him and the contractor's statement seems to support that. What is unclear to me is the timing of the phone calls and if it was the day you attempted to give the gift to Mr. Lee or a different day. Regardless of that question, you stated that you *did* take the bottle of Jack Daniels out of the building. (Whether it was "thrown away" as reported in the ICE report or if you just took it home to me is irrelevant.) It is of grave concern to me that Mr. Lee would tell you to return it and when you felt that that was not possible, you did not turn the bottle of Jack Daniels in to a supervisor and detail your attempts to return it to the contractor. It is further concerning that upon Mr. Lee's direction to return it, you also accepted and took home a Crown Royal gift set. Both of which were eventually returned to the City.

You made a statement during our conversation that I would also like to address. You stated that when you were being interviewed by ICE Team representatives, you had encouraged them to keep the investigation limited, or small, or something along those lines. The ICE Team has a very difficult job to do and to ask that they not fully address reported issues is concerning. If your concern was keeping the investigation as confidential as possible, then I must note that you contacted at least eleven (11) local businesses to provide "character references" for you. Some of them included statements such as, "...Libby has never received a gift from Waterside Pools, Inc., in return for favorable service...", "...she has never been favorable or accepted bribes...", and "...I was in no way trying to gain favor or bribe a city official and I had been doing so I certainly would have chosen something far more valuable than candy." Based on these statements, you shared enough about the events of this holiday season with people who have business dealings with the City for them to infer that an investigation was happening, or happened, and the nature of said proceedings.

Libby, as we discussed, you are a valued and long-term member of the Community Development Department. You did provide a number of character references as detailed above. At no point during this investigation did I get the impression that anyone was questioning the service you provide to our customers. You told me that during the events in question, everyone was happy and that it was nice to be appreciated. I can understand that sentiment, but I cannot allow the grave policy violations to go unaddressed. It is my expectation that this was a one-time lapse in judgement and I don't expect that we will have to have a similar conversation in the future.

Sections 1.04 [Management Rights] and 11.07 of the City's Personnel Policies and Procedures Manual make it clear that no particular grade or number of offenses is necessary to warrant suspension and that any level of discipline may be appropriate for any offense.

I find that the proposed disciplinary action, a five-day (5-day) unpaid suspension is consistent with the City of Palm Coast Personnel Policy and Procedures Manual and I uphold the recommended action.

Section 11.06 of the *City of Palm Coast Personnel Policy and Procedures Manual* provides that a regular non-probationary employee is further entitled to administrative due process by means of filing an appeal following disciplinary action being imposed and may, to exercise that right, submit an appeal to the disciplinary action determination. Appeals must be filed within five (5) days of the day of the receipt of the notice of disciplinary action by the employee. If the fifth day occurs on a non-City business day, the appeal may be filed on the next

business day. All appeals shall be submitted in writing and shall fully set forth all issues that the employee desires to be considered in the appeal and the relief that is requested by the employee. No additional information may be submitted after the appeal is decided. Materials submitted on appeal may include affidavits and written arguments. Your appeal would be a written appeal to the City Manager. Upon the decision of the City Manager, the appeal shall be considered concluded and the employee shall have no further right to appeal. Any hearings held in the appellate process and all other proceedings are administrative in nature and the Florida Rules of Evidence and the Florida Rules of Civil Procedure are not applicable.

If you have any questions or require additional information, please direct your inquiries to Ms. Cullen.

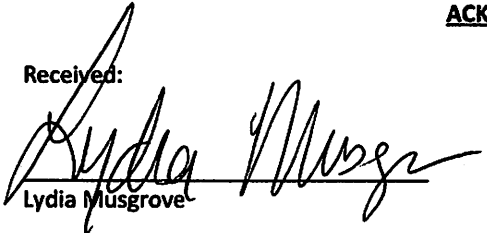
DATED this 6th day of February, 2019



Stephen Managan, Community Development Director

ACKNOWLEDGMENT OF RECEIPT

Received:



Lydia Musgrove

IF REFUSED:

I hereby certify that I delivered the above letter to Lydia Musgrove on February 6, 2019.

Printed Name: _____

cc: Wendy Cullen, Human Resources Manager

Appeal due by Thurs. 2/14/19 5:00pm