

To: City Council

From: ERT Chair – Mike Bowden

Subject: Arbitration Removal from Personnel Regulations (Resolution #18.35)

Dear Council Members,

As the Employee Relations Team Representative I stand before you to present a collaboration of input given by the majority consensus regarding the removal of Arbitration from the Personnel Regulations. The Employee Relations Team and a majority of the employees it represents are strongly opposed to removing the arbitration clause from the personnel regulations at this time.

Basic History:

We, the ERT, were made aware a few months ago that the option for Arbitration Process as an employee was being reviewed with consideration of removal from the Personnel Regulations. The ERT has had multiple meetings with the City Manager for explanation of why this removal was being considered. The ERT has also had various group discussions over the past few months during our bi-weekly meetings.

Current Majority Consensus:

- If the processes in place, specifically section 8.301 and associated subsections covering “Progressive Discipline” were utilized consistently, a vast majority of personnel issues should be resolved at that level. We feel that certain parts of the Discipline sections in our Personnel Regulations are somewhat ambiguous and need further clarification to ensure consistent interpretation and utilization by Supervisors.
- There was no mention of Arbitration Removal in the July 2015 Baker Tilley report under the 23 recommendations. Furthermore the Baker Tilley report reaffirms a list of what we feel are “Root Causes” to some of the notable areas of concern such as:

- Complaints and Grievances
- Discipline and Termination
- Employee Relations
- Personnel Policy Interpretation
- Of the 23 recommendations that were listed by the Baker Tilley report, the following have bearing on the interpretation and utilization of the Personnel Regulations.
 - Item #2 – The lack of clarity surrounding... processes and policies. Vaguely written policies... has resulted in inconsistent application...
 - Item #3 – Lack of framework related to... process and policy interpretation and clarity...
 - Item #4 – With... extremely detailed set of personnel regulations... one cause of lack of clarity...
 - Item #5 – There are some elements missing and elements that could be further defined in order to provide more clarity. Many interviewees indicated that both the grievance and discipline processes are unclear...
 - Item #11 – The personnel regulations do not discuss general employee expectations for behavior...
 - Item #17 – Supervisor Training. Mandatory supervisor training is essential...
 - The attached survey chart for Question #5 shows a high level of “Not Confident” for Discipline/Termination and Complaints/Grievances.
- COST has been one of the primary rationales provided to the ERT. Although we do understand the cost can be expensive, the vast majority of City Employees feel that the option regarding Arbitration needs to be maintained currently. This will allow an employee a final path for grievance if they feel they have been removed from employment wrongfully. From our understanding the initial cost is burdened by the employee to start that process. If the employee does not win their case they can be held liable for

costs incurred by the City of Valdez. That last statement should ensure the employee gives careful consideration about their situation before starting the Arbitration Process.

- Provided the explanations currently given for and against we view this as a spontaneous reaction that should be avoided. We currently are aware of 5 situations involving Arbitration of which only 2 made it through the entire process.
- Additional Option question from ERT - What is the Legal standpoint of Arbitration compared to the new subsections that discuss the utilization of an “Independent Grievance Review Officer” (GRO)? IS the GRO decision Legal & Binding???
- We also see that the CM has final say in if the GRO is allowed to be utilized in Section 9.4, Subsection “B”. Given the past attitudes of previous City Managers we feel this provides too much power without any means of checks-and-balances.

FINAL ERT DECISION:

The ERT representatives, which sit amongst you in the audience, polled their department employees with 99 respondents. Of those that participated 97% (96-Yes) are asking to keep Arbitration within the Personnel Regulations at this current time. The remaining 3% (3-personnel) are in favor of removing Arbitration. Directors were included in this poll.

In addition we feel the issue at hand that has brought arbitration to this table is the lack of adequate Personnel Regulations and the proper training for supervisors in the utilization and interpretation of the Personnel Regulation. We are requesting that the removal of Arbitration be postponed until the current Personnel Regulations can be reviewed and rewritten. Immediately following adoption of new Personnel Regulations there needs to be mandatory supervisor training on the interpretation and utilization for given situations as well as training for all employees.

QUESTIONS?

Survey Findings

As part of this project, Baker Tilly administered a survey of all City employees. Although each question had varying levels of participation there were 65 overall respondents. Below is a summary of the survey results (see *Appendix A* for the full survey results and analysis).

Participation

The majority (55%) of respondents were staff. Senior Administration, Directors, Managers and Supervisors made up 43% of respondents and elected officials accounted for 2% of the total response. Approximately 32% of respondents have worked at the City for 2-5 years followed by 23% of respondents who have worked at the City for less than two years. 12% of respondents indicated that they have been employed with the City for 5-10 years. The remaining 32% of respondents have worked at the City for more than 10 years.

Areas of Concern and Improvement

The survey indicated a high level of dissatisfaction with human capital management at the City in general. Overall, only 24% of respondents indicated agreement that they are very confident or confident in the City's ability to manage human capital issues. While 47% believe that HR makes attempts to resolve their issues, 34% indicated they have a hard time finding the right person to answer their questions, and about 55% feel that getting HR information is more difficult than it should be given lack of sufficient staff resources dedicated to HR.

As it relates to the HR representatives specifically, overall the majority of respondents (57%) agreed that they have positive interactions with HR representatives and 56% indicated that they have good access to HR representatives for advice and assistance. In the survey, we asked respondents to rate 13 different HR services ranging from personnel policy interpretation to ADA accommodations. On average, 55% of respondents feel that HR services are adequate or more than adequate; however this percentage dropped to 15% and 25% respectively when rating grievances and complaints and disciplinary matters. The lowest scoring characteristic for the HR function was clarity (55% found inadequate) and accuracy (45% found inadequate). The HR function received high scores for availability, timeliness and manners/respectfulness.

The most notable areas of concern included the following:

- > Complaints and Grievances
- > Discipline/termination
- > Employee Relations
- > Personnel policy interpretation
- > Performance Evaluations
- > Workforce and organizational planning

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how to carry out a procedure is best documented in a desk procedure while high level descriptions of policies and processes are more appropriate for the Personnel Regulations. Based upon our interviews with staff, it appears that many look to the Personnel Regulations for content that we would typically see in desk procedures.

The table below defines our recommendations for areas determined to be especially problematic through our review of the Personnel Regulations, the survey and the interviews conducted. Many of the recommendations refer to an appendix where we have provided sample policies from comparable organizations or industry groups. Each recommendation also includes a recommended implementation time frame to further guide the City. Short-term recommendations should be implemented within 6 months. Mid-term recommendations can be implemented in 6 months to a year and long-term recommendations can be addressed after a year.

Item #	Category	Current State	Future State Recommendation	Implementation Time Frame
1	HR Organization	Currently, approximately 30% (self-reported) of the Assistant City Manager's time is focused on HR activities. There are no mandated or defined trainings for the Assistant City Manager to take to supplement HR knowledge. The City is understaffed in the area of HR.	The City should have 1 FTE that is trained or certified in HR.	Short-term
2	HR Policy and Process Clarity/Knowledge/Framework	There is a lack of clarity surrounding HR processes and policies. Vaguely written policies in conjunction with the absence of a trained HR professional to provide interpretation has resulted in inconsistent application of policies and procedures which has negatively affected the reputation of the Human Resources function. Additionally, information on certain topics may be contained in different areas of the policies and procedures. This can be confusing to the reader.	HR policies should be reviewed and updated at least annually. Additionally, desk procedure manuals should be created for common processes such as recruitment and the disciplinary process. Furthermore, process and policy updates/changes should be communicated City-wide and updated documentation made available online for easy access to stakeholders.	Short-term Ongoing

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Item #	Category	Current State	Future State Recommendation	Implementation Time Frame
3	HR Policy and Process Clarity/Knowledge/Framework	Additionally, there is a lack of framework related to HR process and policy interpretation and clarity (e.g., How is a policy created? How is a policy implemented? How is a policy monitored to verify it is working effectively?) For example, when processes and policies are changed they are not updated, interviewees indicated they were not informed and could not locate the documentation noting the changes/updates.	The City should also consider an established HR policy/process framework that includes the following: > How to: - Create a policy (e.g., draft policy and submit it to appropriate committee/team for review) - Implement a policy (e.g., Who is involved? Are there rules/regulations that need to be followed?) - Communicate a policy (e.g., distribute it online, send a City-wide email) - Monitor effectiveness of policy/accountability (e.g., conduct a survey) - Provide feedback on areas where employees feel there are conflicts or vague guidance. - Formal policy and procedure updates.	Mid-term
4	HR Policy and Process Clarity/Knowledge/Framework	With the absence of a trained HR professional, the City has created an extremely detailed set of Personnel Regulations for employees to refer to. The denseness of the Personnel Regulations is just one cause of the lack of clarity found in the document.	As the City moves forward with rewriting the Personnel Regulations, they should carefully consider the differences between Desk Procedures (standard operating procedures) and a policy document. Employees would be best served by having a slimmed down, easy to read set of Personnel Regulations with Desk Procedures that they can use if further guidance is needed. One example of this is the Educational Assistance and Training Policy in Section 10.4. For purposes of the Personnel Regulations, a general description of the benefit would suffice. The Personnel Regulations can refer the employee to the HR representative for an application and further details.	Short-term

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Item #	Category	Current State	Future State Recommendation	Implementation Time Frame
5	Disciplinary and Grievance Processes	While the Personnel Regulations do contain information regarding the disciplinary and grievance processes, there are some elements missing and elements that could be further defined in order to provide more clarity. Many interviewees indicated that both the grievance and discipline processes are unclear and these processes received some of the lowest ratings on the employee survey. Additionally, both supervisors and staff expressed concern over grievance and disciplinary actions taking place for incidents that occurred several months or years prior to the formal action.	The language used in the description of the disciplinary process should be specific to the City. In several places the process refers to a Personnel Officer. The City does not currently refer to the Asst. City Manager as the Personnel Officer so this may be confusing to new employees. As written, the disciplinary process is difficult to follow. Specifically, Section 8.3 – Forms of Discipline and Just Cause is vague and too open to interpretation. For example, it is unclear which step should be taken after the written reprimand and which behaviors listed in Section 8.302 warrant each of the listed actions. We recommend that the City simplify the disciplinary process to include 4 to 5 progressive actions and to define what type of behavior warrants each action. An example of a simplified process as well as an example of defined behavior is included in <i>Appendix C</i>. The example provided contains a 4 step disciplinary process. The City may wish to add a 5th step prior to termination that includes options for step reductions and demotions. The timeline of the grievance process should be clarified. For example, many of the steps indicate the number of working days that should pass between one action and the next. The City needs to clarify when the timeline for the step starts. For example, if the City Manager receives notification of a grievance does the timeline start at the moment they receive the grievance or at the start of the next business day? Additionally, a flowchart of the process should be included in the Personnel Regulations and will help clarify the process. For both the grievance and discipline process, the City should define the timeframe in which the complainant can bring a grievance or disciplinary action forward. Some examples of other cities who	Short-term

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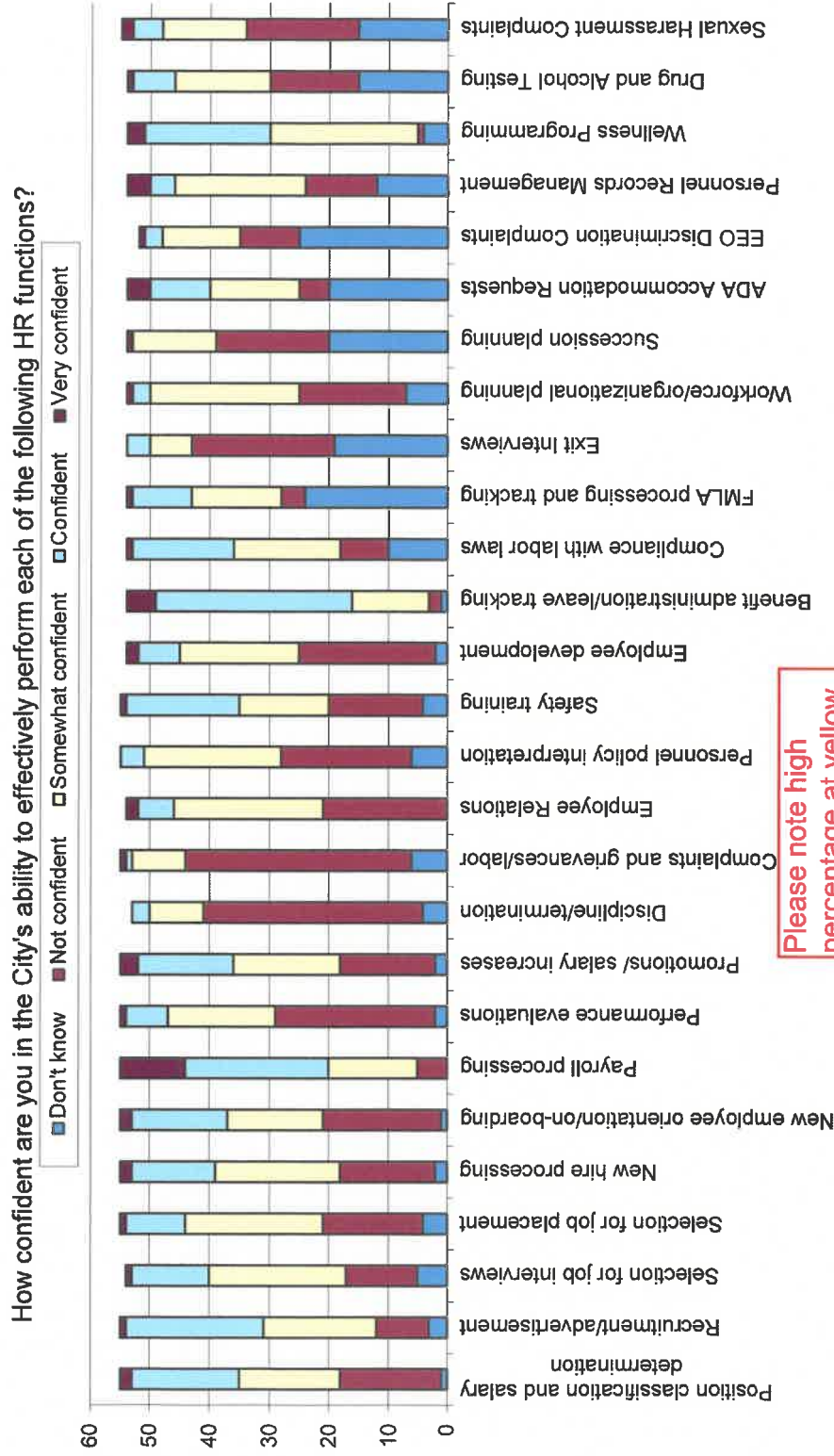
Item #	Category	Current State	Future State Recommendation	Implementation Time Frame
9	Marijuana Use	With the recent legalization of recreational marijuana use in the State of Alaska, the City has questioned whether its policies regarding marijuana use are still relevant.	As Colorado was the first state to legalize the recreational use and sale of marijuana, municipalities in Colorado have the most well developed drug use policies in accordance with the new law. Aurora, Colorado permits recreational marijuana retail within City limits but still considers job applicants to be ineligible for employment with the City if the fail a drug screening. Lakewood, Colorado permits medical marijuana retail within City limits but maintains a zero tolerance policy for impairment by drugs or alcohol when operating a City vehicle. Excerpts of these regulations can be found in <i>Appendix H</i> . It is important to note that marijuana use is still illegal according to Federal law. It is important that the City review any restrictions that may be applicable to them through Federal law or because they receive Federal grant money.	Mid-term
10	Recruitment and Selection	Guidelines for interviewing are not included in the Personnel Regulations.	The City should include some general guidelines for the interviewing process within the Personnel Regulations. Items the City may wish to address include: > Review of interview questions, including which questions should <i>never</i> be asked in interviews > Inclusion of HR representative in interviews (e.g. for all full-time, permanent hires) > Documentation of interviews > Education of which items may and may not be considered in hiring decisions	Short-term
11	Employee Expectations	The Personnel Regulations do not discuss general employee expectations for behavior. This is a standard section item in most Personnel Regulations. Additionally, this is an especially helpful resource for new employees to gain an understanding of the culture and expectations of the organization.	The City should add an Employee Expectations section into the Personnel Regulations which includes statements on: > Confidentiality (internal and external) > Conflicts of Interest > Outside Employment > Attendance and Punctuality	Short-term

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Item #	Category	Current State	Future State Recommendation	Implementation Time Frame
17	Supervisor Training	The City does not require mandatory supervisor training for employees who supervise other employees and are responsible for those employees' professional development. Mandatory supervisor training is essential to developing supervisors on how to: > Evaluate employees > Develop employees > Handle employee grievances > Manage administrative tasks (e.g., approving time) It is also essential in developing the City's human capital for future succession planning.	We highly recommend requiring all supervisors to attend mandatory supervisor training that is tracked and reported to Directors as well as the City Manager to emphasize its importance and hold supervisors accountable. Required training for supervisors would assist supervisors in managing the City's human capital in a more consistent, professional, and effective manner. See the <i>Training</i> section below for additional information.	Short-term
18	Time Entry and Payroll Processing	City staff indicated that they believe that the time and attendance and payroll process is relatively inefficient. This may be due to historical processing issues. Nevertheless, a single person is processing time entry for all employees in order to produce payroll. As a result, we have concerns about internal controls here.	The current financial system (Connect) would allow for decentralized time entry. This would improve internal controls and enhance the efficiency of the process. A deeper review of the payroll process and the difficulties with it should be undertaken.	Short-term
19	Certification Tracking	During the focus group sessions and one-on-one interviews, City employees indicated that individual Departments are responsible for tracking certifications. However, certifications are not tracked consistently and there is not a single person in charge of ensuring that the City is in compliance with Federal, State and local regulations regarding compliance.	The City should charge a single person with tracking certifications for City-wide, required trainings such as the FEMA Incident Command System training. This will ensure that the City is in compliance with all required certifications. An ideal candidate to track this information would be an administrative assistant supporting the HR representative.	Short-term

Question 5 – How confident are you in the City's ability to effectively perform each of the following HR functions?



Overall, responses to this question were skewed towards somewhat/not confident indicating a lack of confidence in HR decision making at the City. The sections "payroll processing" and "benefit administration/leave tracking" were the only sections to receive a majority rating (64% and 70% respectively) as very confident/confident. Processes with the lowest confidence scores were discipline/termination, complaints and grievances and employee relations. Additionally, compliance areas such as FMLA processing and EEO discrimination complaints received a high percentage of respondents who indicated "Don't Know" (44% and 48%, respectively). This indicates that City employees may be unfamiliar with these processes and that the City should consider training in this area.

