

DEPARTMENT OF CITY CLERK

CITY HALL

NOVEMBER 22, 1983

The Committee on Finance meets this day at 4:30 o'clock P.M. in Committee Room "A", City Hall.

Present: Chairwoman Brassil and Councilman Dillon. Subsequently, Councilwoman Fagnoli joins the Committee.

Also present are Frank Merlino, Personnel Director, Vincent J. Piccirilli, Labor Attorney, James Lembo, former Deputy Director of Public Works, Joseph V. Cavanagh, Jr., Attorney, representing Mr. Lembo and City Internal Auditor Woerner. (Rose M. Mendonca, Clerk).

HEARING RELATIVE TO THE SUSPENSION OF
JAMES LEMBO.

Chairwoman Brassil states the Members will proceed prior to a quorum being present.

She informs the Members she is in receipt of a communication from Mr. Cavanagh requesting a hearing before this Committee.

A petition was filed and transmitted by the City Council to the Committee on Claims and Pending Suits requesting back pay for Mr. Lembo.

Mr. Cavanagh states he transmitted the petition to the City Council on behalf of Mr. Lembo and requested a hearing before an appropriate committee.

He since then, felt a hearing should be held before the Committee on Finance as they have taken on the responsibility of the Committee on Employee Relations.

He states the basic reason for the request is that Mr. Lembo was treated unfair and was fired unjustly.

One, is they feel there has been a complete failure by the City to follow any procedures affording Jim Lembo to respond to charges against him.

He has never been told what specific mis-conduct he has been charged with. He received a short letter from Joseph C. DiSanto stating that : "Due to the investigation now underway of the sidewalk and road program, you are hereby suspended without pay until further notice from your duties in the Engineering Department.". dated August 29, 1983.

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Mr. Lembo had no opportunity to know what was going on regarding criminal conduct.

A communication dated October 21, 1983 from Frank Merlino, Personnel Director, which stated he examined the results of the investigation and has determined and decided to terminate Mr. Lembo for cause.

Mr. Cavanagh states the City has no procedure for Mr. Lembo to bring his grievance in or bear the charge.

Second, as a result of the suspension and firing in the middle of a grand jury investigation, his reputation has been harmed in this community. There is a lack of sensitivity by the people who fired him and their statements. His reputation has been harmed as a result of the conduct statement by the people of the Public Works Department.

Third, they feel he has been treated in a very uneven and unequal manner of specific facts of what happened.

Administrative Assistant to the Director of Public Works John Cherecellah was directly involved at the measuring stage of the sidewalk problems.

Mr. Cavanagh understands he initialed a number of invoices directly at the level Bill Conley did and he is still on the payroll and working.

Mr. Lembo was only a supervisor, he manages as a director does.

Fourth, is the basic claim. There is no basic reason, he believes, to fire Mr. Lembo if there was a procedural hearing and type of investigation they should have.

Mr. Lembo is a classic victim of a double standard. It is a disgrace that a man, whom everyone here says is a wonderful person, and a good employee, and yet no one does anything about it.

They thought someone would start to investigate. He does not know how this Committee handles this.

Chairwoman Brassil states this is fairly new to the Committee as they have recently absorbed the Employee Relations Committee.

She questions Mr. Piccirelli as to whether there is anything such as a procedural hearing when someone feels it is needed and Mr. Piccirilli states no.

She questions as to whether they have to show cause when suspending an employee and he states, yes.

She questions as to whether it is to be in a letter to the person and he responds, no.

Mr. Cavanagh states part of their complaint is that there is no procedure. The Charter is being violated in that the Personnel Director does not have the procedure in accordance with Sec. 904 of the Charter which states that the Personnel Director shall set up such procedures for employees let go for cause.

Under Sec. 905, certain employees are not covered. The exceptions do not include Deputy Directors, it includes department heads and officials.

Under Sec. 903 (j) certain procedures are supposed to be set up for the discharge of employees, etc. In the complaint submitted, is also the Charter is not being followed and Mr. Lembo's termination does not follow the Charter.

Discussion ensues, as the Members do not think it appropriate to get into the sidewalk situation due to some people having been indicted for actions involving the sidewalk situation.

It is also brought out these people remain on the payroll.

Chairwoman Brassil is of the opinion the Members will go into greater depth at a future meeting, perhaps in executive session with Messrs. Lembo, Merlino, Cavanagh and Piccirilli, due to pending litigation.

Mr. Piccirilli states that since there has been a public statement by Mr. Cavanagh, he would like to address certain points.

He had communication with Mr. Cavanagh before the suspension. He also recommended Mr. Lembo's termination.

The Director of Public Works and Chief of Police gave Mr. Piccirilli information and asked his opinion. He made his recommendations on Mr. Lembo as well as Mr. Martellini.

Mr. Cavanagh is correct in stating there are no procedural requirements for a hearing, out of Court. If a Judge asked for evidence, he would give it to him.

Each matter was treated separately based upon evidence available. He made the recommendations. There was no internal evidence available as far as the person that was indicted. He called the Attorney

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Generals office twice and asked for facts. The Attorney General was cooperative enough to share information relative to one employee and not the other. It just means there is not enough evidence to go on at this time.

Chairwoman Brassil questions Mr. Piccirilli's roll in this, he being a labor lawyer involved in suggesting to the Administration.

Mr. Piccirilli states he dealt with facts, they were Union people, Mr. Lembo was not.

Chairwoman Brassil does not feel this was Mr. Piccirilli's role.

Mr. Piccirilli responds he was not volunteering, he was asked his recommendation after reviewing the facts, he did not volunteer anything, he was asked. Information he received from the Police Department led him to conclude the recommendation could be made. It had nothing to do with the commission of a crime, it had to do with stewardship as a deputy director.

Mr. Cavanagh states he would like to see procedures set up, where all of these issues could be addressed.

Chairwoman Brassil questions as to whether he would like the Finance Committee to hold a hearing in executive session so that they will know the charges against Mr. Lembo. That is the best offer the Committee can make at this time. As far as the compensation, it would have to be handled by the Claims Committee.

Mr. Cavanagh states they would not be coming up for reinstatement or back pay until an initial determination is made.

His main concern is clearing him and getting him reinstated. The facts will be presented here or in Court. It will not affect their case in Court.

He thought he would give the City the opportunity to address this before it goes to Court. Once it is in the open, he is of the opinion it will be clear that something ought to be done.

Chairwoman Brassil schedules a meeting for Monday, November 28, 1983 at 3:30 o'clock P.M., at which time the Committee will go into executive session relative to the suspension of James Lembo.

She requests Mr. Piccirilli let Mr. Cavanagh know what the