



	Approved	Denied
Date Action Taken:		
Other:	Postponed Indefinitely	
	1/14/08 - Request withdrawn	
Verified by:	K. Smith	

WASILLA CITY COUNCIL ACTION MEMORANDUM

AM No. 08-07

TITLE: CITY EMPLOYEE APPEAL OF PUBLIC RECORDS REQUEST FOR PERSONNEL FILE INFORMATION (WMC 3.90.020.A.4.b)

Agenda of: January 14, 2007

Date: January 4, 2008

Originator: Kristie Smithers, MMC, City Clerk

Route to:	Department	Signature/Date
X	Deputy Administrator Planning, Economic Development, Human Resources	J. Kaul 01-04-08
X	City Clerk	K. Smithers

REVIEWED BY MAYOR DIANNE M. KELLER: Dianne M. Keller 1/7/08

FISCAL IMPACT: yes \$ _____ or no Funds Available yes no
Account name/number:

Attachments: November 28 & December 14, 2007 E-mails to and from Mayor and City Clerk
December 4, 2007 Letter from Employee
December 11, 2007 Letter from Mayor to Employee
January 2, 2008 email from Employee to Mayor

SUMMARY STATEMENT:

Per WMC 3.90.020.A.4.b, a city employee has appealed the Mayor's decision to release information from the employee's personnel file in response to a public records request.

The appeal of the employee falls within the discretion of the City Council. In accordance with WMC 3.90.020.A.4.b, the appeal may be denied or granted by the Council.

The Council has the option, but is not required, to consider the matter in executive session. If the Council elects to consider the matter in executive session, the employee may request a public discussion of the matter. This topic has been advertised on the agenda of January 14, 2008 in case the Council would like to enter executive session

on this matter. ***Please note, the employee has requested an executive session on this matter.***

If the Council desires to enter into executive session a motion will need to be made to enter executive session with the topic being "**subjects that tend to prejudice the reputation and character of any person--city employee appeal of public records request for personnel file information (WMC 3.90.020.A.4.b).**"

After the executive session or discussion of the Council, Council will need to take action on this action memorandum.

ACTION:

This matter of appeal of a public records request for personnel file information falls within the discretion of the City Council. In accordance with WMC 3.90.020.A.4.b, the appeal may be denied or granted.

If the Council wishes to *grant* the appeal, please make the motion as outlined in *Option 1*, listed below. If the council chooses to *deny* the appeal, please make the motion as outlined in *Option 2*, listed below.

Option 1: If the council chooses to **grant the appeal**, the following motion will need to be made from the floor:

*MOTION: To approve AM No. 08-07 **by granting** the appeal of the employee; directing the Mayor not to release the information requested in the public records request.*

OR

Option 2: If the council chooses to **deny the appeal**, the following motion will need to be made from the floor:

*MOTION: To approve AM No. 08-07 **by denying** the appeal of the employee; directing the Mayor to release the information requested in the public records request.*

performance appraisal report. Such written comments shall be attached to the report and become a part of it.

F. **Distribution of Reports.** The department head shall furnish the employee with a copy of the performance appraisal report. The original shall be filed with the employee's personnel file.

G. The substance of a performance appraisal report shall not be the subject of a grievance.

H. The employee's signature shall not constitute agreement with the appraisal. (Ord. 03-33(SUB)(AM) § 2 (part), 2003)

3.90.020 Personnel records and general personnel files.

A. Personnel records containing information about employees will be maintained as set forth herein. Access to personnel files is authorized only as delineated below.

1. **Personnel Records.** Personnel records are those documents which reflect an individual's status during the period of his or her employment and take two forms:

a. **Central Personnel File.** The central personnel file is the official personnel record for an individual employee and may include, but is not limited to, employment applications, prior employment, performance appraisals, disciplinary actions, personnel action forms and tax withholding and benefits information. Medical records shall be maintained in a separate file but are considered part of the personnel records.

b. **Department Evaluation File.** Any evaluator may establish and maintain a file for individual employees for use by supervisors during the performance evaluation process.

2. **Access to Personnel Files.**

a. Employees shall have access to their own personnel files during normal office hours within a reasonable period of time following

the employee's request to review their files. A personnel file may be inspected by the employee's department head, the mayor and any other city employee or agent authorized by the mayor. Access to employee personnel files by other persons shall be governed by subsection (A)(4) of this section.

b. Review of any personnel files shall be conducted in the presence of the mayor or his or her designee. No document shall be removed from a personnel file without prior written approval from the mayor and notice to the employee. The mayor or his or her designee may record a written note on a personnel file for every person who reviews it.

c. Employees may comment on any document placed in their personnel files.

3. **Confidentiality of Personnel Records.**

a. **Confidentiality Policy.** State and federal law generally provide that all city documents are public records available for inspection by members of the public. Additionally, state and federal law recognize that personal information contained in a personnel file is confidential unless a member of the public's need to review it outweighs an employee's right to privacy in the information.

4. **Access to City Personnel Records.** City personnel records, including employment applications and examination materials, are confidential and are not open to public inspection except as provided in this section.

a. The following information or records are generally available for public inspection, in accordance with the procedures established by this chapter:

1. The names and position titles of all city employees;
2. The position held by any city employee;
3. Prior positions held by any city employee;

4. The dates of hire and separation of a city employee;

5. The compensation authorized for a city employee;

6. Time sheets; and

7. Any other information that does not contain any personal information the release of which would be an unwarranted invasion of privacy, or concern the personal, intimate or otherwise private life of the employee.

b. Special Procedures for Obtaining Access to Personnel Records. All persons who wish copies of city personnel records shall submit their request for this information in writing to the mayor. Within five working days after receipt of such a request, the mayor shall give the city employee for whom access to information has been requested a copy of the request. If the employee objects to release of the requested information, the employee shall inform the mayor of the objection and the reasons for the objection in writing five working days after receipt of the copy of the request. The mayor shall then make a decision in writing as to whether the record will be provided and give a copy of the decision to both the affected employee and the person requesting the personnel record. Any person not satisfied with the decision of the mayor may appeal the mayor's decision to the city council at its next regularly scheduled meeting. (Ord. 03-33(SUB)(AM) § 2 (part), 2003)

3.90.030 Program development.

A. Each department head may develop and conduct such practical training programs as are suited to the special requirements of his or her department. The mayor may institute and provide for the conduct of training programs which are needed for efficient management of city departments. Training programs shall particularly emphasize accident prevention, employee

safety, and public relations, as well as increased competence.

B. The city may reimburse employees for tuition for career improvement training or education which is approved by the mayor. Tuition assistance, if granted, is designed to provide a better trained work force that remains employed in their current location. After training has been received and paid for by the city, if the employee leaves the city work force for any reason he or she will be required to reimburse the city for tuition assistance received while employed if the assistance was received within one year of termination.

C. A department head may allow an employee to work in accordance with a flex time schedule to take training or education classes with the approval of both the department head and the mayor. (Ord. 03-33(SUB)(AM) § 2 (part), 2003)

3.90.040 Travel.

When traveling on official city business, reasonable actual expenses of conducting business will be reimbursed only if approved by the mayor. Eligible expenses shall include lodging, meals, airfare and other transportation expenses, registration for seminars and trainings and other expenses if approved by the mayor. Travel schedules shall be arranged to the city's best advantage and any deviations from the shortest or least expensive route will be the responsibility of the employee. Private vehicle mileage shall be reimbursed at the current rate allowed by IRS for use of privately owned vehicles. Reimbursement for actual costs of parking, ferry fare, bridge, road and tunnel tolls shall be reimbursed only if approved by the mayor. (Ord. 03-33(SUB)(AM) § 2 (part), 2003)

Mayor Keller

From: Mayor Keller
Sent: Friday, December 14, 2007 12:25 PM
To: Kristie Smithers; Sandra Garley
Cc: Jamie Newman
Subject: RE: Council Member Request - Job Application and Resume

Kristie,

Per the process spelled out in WMC 3.90.020 7(b) I have notified Mr. Reynolds of this request and he has provided to me a written objection to this request. I gave him a letter dated 12/12/07 notifying him of my decision to release this information and he is considering appealing my decision to the Wasilla City Council as per the code. His deadline to notify me of his appeal request is January 2, 2008. If he chooses to appeal my decision to the Council we will schedule it to be placed on the agenda of the 1/14/08 meeting (under executive session if he requests).

No information will be provided until a) he informs me of his appeal decision or b) if he does appeal, the decision of the Council is made. If the Council upholds my decision to provide the information, the information will be provided at that time.

Thank you for checking on the status of this request. Please feel free to provide this information to any Council members who have requested to receive this information.

Thanks,

Dianne M. Keller

Mayor, City of Wasilla

907-373-9055 Phone

907-373-9096 Fax

mayor@ci.wasilla.ak.us

"In matters of style, swim with the current; In matters of principle, stand like a rock." - Thomas Jefferson

From: Kristie Smithers
Sent: Friday, December 14, 2007 11:30 AM
To: Mayor Keller; Sandra Garley
Cc: Jamie Newman; Kristie Smithers
Subject: FW: Council Member Request - Job Application and Resume

I'm checking on the status of this request. Please let me know when you plan on having this complete.

Thank you, Kristie

Kristie Smithers, MMC
City Clerk
City of Wasilla
290 E. Herning Avenue
Wasilla, AK 99654-7091
907-373-9090
ksmithers@ci.wasilla.ak.us

From: Kristie Smithers
Sent: Wednesday, November 28, 2007 10:26 AM
To: Marilyn Frankel

1/3/2008

Cc: Sandra Garley; Jamie Newman; Dianne Woodruff; Doug Holler; Kristofer Larson (klarson@ci.wasilla.ak.us); Marty Metiva (cmm@mtaonline.net); Stephanie Massie (stephanie0708@msn.com); Steve Menard ; Steve Menard (SMenard@ci.wasilla.ak.us)

Subject: Council Member Request - Job Application and Resume

Council Member Woodruff would like to request a copy of the job application and resume that was submitted by Casey Reynolds when he applied for employment with the City.

Council: If any of you would like to have a copy of the requested information, please let me know.

Thank you, Kristie

Kristie Smithers, MMC
City Clerk
City of Wasilla
290 E. Herning Avenue
Wasilla, AK 99654-7091
907-373-9090
ksmithers@ci.wasilla.ak.us



CITY OF WASILLA

• Economic Development Office •

December 4, 2007

Dianne Keller
Mayor, City of Wasilla
290 E Herning Ave
Wasilla AK, 99654

Dear Mayor Keller:

Pursuant to Wasilla Municipal Code 3.90.020 I am writing to formally object to the release of information from my personnel file to Councilwoman Diane Woodruff. I feel Ms. Woodruff is attempting to obtain my personal information as part of an effort to find something embarrassing or harmful to me. As such I believe any information contained in my personnel file beyond the six exemptions laid out in WMC 3.90.020.A.4 and any information on places and dates of prior employment would create an unwarranted invasion of privacy. Therefore I request that Ms. Woodruff's information request be granted for only this information.

Sincerely,

Casey Reynolds
Economic Development Planner
City of Wasilla

DIANNE M. KELLER
MAYOR

CITY OF WASILLA
290 E. Herning Ave.
Wasilla, AK 99654-7091
Phone: (907) 373-9055
Fax: (907) 373-9096

December 11, 2007

Casey Reynolds
290 E. Herning Avenue
Wasilla, AK 99654

Dear Mr. Reynolds,

Thank you for your letter dated December 4, 2007, objecting to the release of information in your personnel file in response to a public records request. After reviewing your objection to the public records request and WMC 3.90.020.A.4 concerning access to city personnel records, I have determined that the information sought in the public records request is public information, except to the extent that it contains personal information, the release of which would be an unwarranted invasion of privacy.

In considering whether to comply with a public records request for personnel information, it is my responsibility to determine whether the content of the requested information is such that it should be withheld from disclosure under the City Code. I am not allowed to consider the possible motivation of the person requesting the information —the information either is public or is not, regardless of the motivation for the request.

I have consulted with the city attorney and he has informed me that city employee job applications and resumes are public information, except to the extent that their release, as stated in WMC 3.90.020.A.4.a.7, "would be an unwarranted invasion of privacy, or concern the personal, intimate or otherwise private life of the employee." I have attached a copy of the requested information and I would ask that you review it and black out any information that concerns your private life (such as home address and telephone number, names of spouse and children, medical history information, etc.).

Please be aware that you are entitled to appeal my decision to the Council at its next regularly scheduled meeting pursuant to WMC 3.90.020.A.4.b. If you wish to appeal my decision to the Council please notify me in writing no later than January 2, 2007 so I can ensure this topic of discussion is added to the agenda for the January 14, 2007 meeting. Please also be advised that you may request that this matter be discussed in an executive session as it is dealing with a personnel matter (WMC 2.04.080 B.6). Also, because you have informed me that you object to the release of the information requested, no information will be released until either you have not filed an appeal within the time stated above, or the Council has denied your appeal.

Sincerely,


Dianne M. Keller

From: Casey Reynolds
Sent: Wednesday, January 02, 2008 7:51 AM
To: Mayor Keller
Cc: Sandra Garley
Subject: Personnel Information request
Mayor,

I would like to formally appeal the decision to release information out of my personnel file. I would also request this appeal be heard by the city council in executive session as it pertains to a personnel issue.

Sincerely,

Casey Reynolds
Economic Development Planner
City of Wasilla
(907) 373-9030