

June 28, 2024

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INVESTIGATION REPORT
CITY ADMINISTRATOR

EXECUTIVE SUMMARY

In May 2024, the Richland Center City Administrator, Ashley Oliphant, notified the City Attorney and the Personnel Committee that employees expressed concerns that Oliphant is creating a hostile work environment. Oliphant also notified the Committee that there has been negative and harmful information disseminated about her in the public sphere related to employee turnover and an airplane crash. Oliphant requested a formal investigation to determine if the complaints have merit. On May 27, 2024, this matter was referred for investigation to determine if Oliphant was creating a hostile work environment or if she violated any other City policies. The undersigned attorney was retained to conduct an impartial investigation.

This investigation included a review of the City's policies and ordinances, Oliphant's job description and contract, relevant employee personnel files, email correspondence between Oliphant and employees, aviation reports from the National Transportation Safety Board and Aviation Safety Network, as well as interviews with [19 NAMES REDACTED].

Based on this investigation, there is insufficient evidence presented to allow this investigator to conclude that Oliphant is creating a hostile work environment in violation of the City's policies or that she has violated any other City policy. Six witnesses commented that Oliphant has made positive changes for the City to make it more efficient and has held employees accountable for their jobs.

Although it does not rise to a violation of the City's policies, there are, however, common concerns among employees that Oliphant is inaccessible and has displayed poor communication skills and follow-through. It is the lack of communication in combination with employee discipline that has

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exacerbated employee concerns of retaliation. This report summarizes the results of the investigation.

RELEVANT POLICIES

The City maintains an Employee Handbook, which provides the General Powers of its personnel. It states:

- A. The Personnel and Insurance Committee of the Common Council shall have the general power to oversee city employment and employees, including the power to oversee all department heads and other supervisory personnel in the performance of their duties.
- B. The City Administrator shall have the specific power to act as management in initiating and imposing disciplinary actions against department heads or supervisory personnel where warranted, up to and including termination. Prior to the termination of a department head, the City Administrator shall obtain final approval for termination from the Personnel & Insurance Committee.

The Employee Handbook includes an Anti-Harassment and Non-Discrimination Policy, which states:

The City believes all employees should be able to work in an environment free from any form of harassment and discrimination. The City is also subject to laws that prohibit harassment and discrimination in the workplace. Accordingly, the City prohibits all forms of verbal, physical, written or psychological harassment/discrimination. In particular, the City prohibits any conduct that violates anti-harassment/discrimination laws, including harassment/discrimination based on race, color, religion, sex/gender, national origin, age, disability/handicap, status or service as a veteran, marital status, sexual orientation, arrest or conviction record and any other status protected by applicable law.

This policy applies to the conduct of all City employees, officers, management, and other third parties who interact with City staff members, including vendors, independent contractors, and other members of the public.

Harassment/Discrimination is a single incident or a pattern of unwelcome behavior or acts which is based on or is directed to an employee due to the employee's protected class status which:

1. Unreasonably interferes with a person's work performance.
2. Can reasonably be seen to create a hostile, intimidating, or offensive environment, or
3. Submission to or rejection of the acts is made either explicitly or implicitly a term or condition of employment or otherwise is used as a basis for a decision affecting employment.

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Harassment can occur on or off official work time and on or off City premises. Employees must be aware that comments, gestures, and other conduct while not intended to be offensive may be interpreted as such by others.

The City also maintains Work Rules, which provide:

D. Personal Actions and Appearances

The following acts shall be violations of work rules and may be grounds for disciplinary action:

3. Threatening, intimidating, interfering with, or using abusive language toward fellow employees or members of the public while working as a City employee, including slurs based upon race, creed, gender, or place of national origin.

...

6. Making or disseminating false or defamatory statements concerning other employees, supervisors or officers of the City.

...

20. Retaliating against any employee who, in good faith, reports any violation of these policies.

BACKGROUND, INTERVIEWS AND ALLEGATIONS

Oliphant began working as the City Administrator on December 28, 2021. At this time, Richland Center had not had a City Administrator for approximately 20 years. Upon hire, Oliphant was advised that she should focus on personnel issues and the budget. Since beginning employment, Oliphant has made changes, including a financial software update, an email system update, and changes to the City's employee handbook. Oliphant has received resistance from employees who have had a hard time adjusting to change.

During a May 7, 2024, meeting with the City Utilities Commission President, Scott Sawle, Council President Ryan Carins, and City Utilities Office Manager, Vanessa Mueller, Mueller and Sawle voiced several complaints regarding Oliphant and specifically advised Oliphant that employees feel that she is creating a hostile work environment and are fearful to raise concerns due to retaliation. As a result of this conversation, Oliphant notified the City Attorney and the Personnel Committee that employees expressed concerns and requested a formal investigation.

On May 27, 2024, this matter was referred for investigation to determine if Oliphant is creating a hostile work environment in violation of the City's policy or has violated any other City policy. The undersigned attorney was retained to conduct an impartial investigation. From June 13, 2024 through June 26, 2024, this investigator met with 19 current and former employees, alderpersons, and council members, as well as Oliphant.

Hostile Work Environment

It was first reported that Oliphant is creating a hostile or toxic work environment through fear of retaliation in the form of disciplinary write-ups and termination. Five current and three former employees stated that they are/were fearful that they would be terminated or written up by Oliphant for voicing concerns. No employees reported unlawful retaliation based on any protected activity or categories, including age, sex, race, color, religion, or any other protected characteristics.

Oliphant stated that she has written up approximately five employees and terminated two employees since she became City Administrator two years ago. Oliphant has not targeted any one employee; rather, she has tried to hold all employees accountable for their specific job duties. This formal disciplinary action has been reviewed by the Personnel Committee, the City Attorney, or outside counsel. Further, while Oliphant recommended holding three members of the Utilities Department accountable for certain actions, formal disciplinary action was not taken.

Six witnesses reported that many employees, especially long-term employees, have not been receptive to changes Oliphant has made within the organization. Oliphant has attempted to hold employees accountable and discipline them when they have not met job expectations.

Communication

Seven current and four former employees raised concerns about Oliphant's communication style and approach. Five witnesses stated that she is difficult to get ahold of and schedule meetings with; five witnesses stated that she often has her door and/or her blinds shut and/or is working in her office in the dark creating an appearance of being unavailable; and two witnesses stated that she is slow to respond to emails. Additionally, rather than have a face-to-face conversation with employees, three witnesses expressed that Oliphant uses email correspondence, which may be misconstrued. Finally, it was expressed that Oliphant is not empathetic to employee concerns, which is critical when there is low staffing and high workloads.

Employees stated that Oliphant's communication was initially good, but has deteriorated since she moved into her new office. For example, Oliphant initially took and disseminated Department Head meeting notes. However, this lasted only one to two months. Further, when employee handbook changes were made, employees stated that they were not notified of such changes in advance.

Finally, three current and four former employees reported that Oliphant is not receptive to others' opinions, ideas, or concerns. When concerns are voiced, employees have felt that Oliphant is not willing to work with them to find a solution. Additionally, it was expressed that Oliphant is not trusting of employees' knowledge and experience.

Oliphant stated that the location of her office makes it difficult for her to keep the blinds and door open, as it faces the lobby of the building. Leaving the door and blinds open is often distracting. Additionally, when her office is messy, she does not want to portray a negative image of City Hall and, therefore, keeps her blinds closed. Oliphant indicated that she welcomes others into her office when they knock. Oliphant is willing to make changes and is receptive to having "open door"

hours, putting up a sign to inform others to knock, and moving offices to be more accessible to employees.

Employee Turnover

It was next reported that Oliphant is responsible for the high employee turnover. Since becoming City Administrator, approximately eleven (11) employees have ended their employment with the City. This includes early retirements, voluntary resignations, and two terminations. The undersigned spoke with four former employees who stated that they left due to policy changes Oliphant made, Oliphant's job expectations and related stress due to low staffing, and/or disciplinary measures.

Six witnesses expressed that many employees, especially long-term employees, have not been receptive to changes Oliphant has made within the organization. Oliphant and two other witnesses indicated that when Oliphant was hired she was advised that she needed to focus on personnel issues and the budget. When Oliphant began working, she quickly learned of employee issues and attempted to rectify those issues, working with outside counsel, the personnel committee, and the City Attorney. Six witnesses indicated that Oliphant has attempted to hold employees accountable and discipline them when their job duties have not been fulfilled.

Favoritism

Two current and two former employees expressed that Oliphant has displayed favoritism in the workplace. Specifically, Oliphant hired an employee who is her friend's child. It was reported that Oliphant did not post a job advertisement for this position or go through the formal recruitment process. This employee was also given a bonus and vacation above and beyond what is normally provided to new hires.

Oliphant stated that during this hiring process, she was open and honest with the personnel committee about her friendship with the employee's mother. Oliphant followed the City's normal recruitment processes. She posted the position, interviewed other candidates, and was not the only individual on the hiring/interview panel. Additionally, while the employee negotiated vacation time and a bonus, this was approved by the personnel committee, not Oliphant.

Airplane Crash

It was next reported that Oliphant is responsible for an airplane crash that occurred near Richland Airport on February 22, 2024. Specifically, it was reported that Oliphant would not allow tree trimming at the airport, which caused the crash. The majority of employees stated that they have heard this rumor, but do not believe it to be true. Aviation reports from the National Transportation Safety Board and Aviation Safety Network do not support this allegation.

Relationships with Utilities

Finally, it was reported by multiple witnesses that there is an ongoing conflict between the City Administrator and the Utilities Commission/Department. Both Oliphant and Utilities employees reported that there is a lack of trust. The evidence established that the City Administrator and Utilities employees do not trust each other's judgment or intent. Both parties have spent

unnecessary time questioning each other's actions and information. A suggestion was made at a Special Council meeting on June 25, 2023, to dissolve the Utilities Commission.

CONCLUSIONS

Based on the interviews conducted during the course of this investigation, there is insufficient evidence presented to allow this investigator to conclude that Oliphant has created a hostile work environment or violated any other City policies. While employees may be concerned about disciplinary action, discipline has only occurred in situations where employees did not meet the City Administrator's work expectations. There is no evidence that employees were targeted or singled out in this regard based on any protected characteristics or activities. Rather, discipline was well documented and was issued when there was clear indication of insubordination, costly errors, or repeated mistakes. While employees may not be accustomed to disciplinary write-ups under the City's old structure which did not include a City Administrator, the write-ups do not constitute a policy violation.

Furthermore, while the evidence substantiated that there has been turnover due to changes and job expectations under the new Administrator, this too does not rise to the level of a policy violation. As City Administrator, Oliphant has the authority to set job expectations, make changes to the employee handbook, and oversee the City departments that fall under her authority. As such, there is no policy violation in this regard.

Based on the investigative interviews, it is apparent that employees' fear of retaliation results from a lack of knowledge about employee turnover in combination with Oliphant's communication style. Many witnesses expressed that Oliphant is unapproachable and often maintains the appearance of being unavailable, keeping her door and blinds shut. Additionally, when complaints have been raised among employees, Oliphant has not always communicated with both parties before issuing discipline. Employees have also expressed that they would appreciate additional communication from Oliphant, including notes of department head meetings and employee handbook changes. Employees also expressed wanting more empathy and understanding from Oliphant, especially when staffing is low and job expectations and workloads are high. While Oliphant's communication style does not lead to a City policy violation, that is not to say there is no room for improvement. As City Administrator, Oliphant should make an effort to be more open and available to employees. Oliphant indicated that she is receptive to making changes. Even small changes, such as posting "open door" hours, putting up a sign to inform others to knock, and trying to engage in more face-to-face communications with employees can make a big difference. Additionally, as time allows, this investigator recommends that Oliphant continue to make an effort to disseminate notes following Department Head meetings (whether those notes are written by her or others) and that she seeks the return of employee handbook acknowledgments to ensure employees are aware of the changes that have been made.

In regard to the issue of favoritism, there is insufficient evidence presented to allow this investigator to conclude that Oliphant has engaged in inappropriate favoritism and held employees to different standards. While Oliphant admitted participating in the hiring decision of a friend's

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child, the personnel committee was responsible for approving the employee's vacation and bonus, not Oliphant.

Based on the interviews and evidence gathered, there is insufficient evidence presented to allow this investigator to conclude that Oliphant had any connection to the airplane crash or that she violated City policies in this regard.

Finally, based on investigative interviews as well as a review of email correspondence, it is clear there is a lack of trust between the Utilities Commission/Department and the City Administrator. While this lack of trust does not constitute a policy violation, it is in the best interests of the City that both parties put forth effort to repair the relationship and rebuild trust to ensure that they can collaboratively work together when required to do so. While a suggestion was made at a Special Council meeting on June 25, 2023, to dissolve the Utilities Commission, regardless of the Commission's existence or structure, Oliphant and Utilities management will continue to need to work together to best serve the City.

RECOMMENDATIONS

Based on the evidence gathered during the course of this investigation, I recommend the following:

1. Oliphant should undergo training in the area of Human Resources/management communication.
2. When time permits, Oliphant should make additional efforts to disseminate notes of Department Head meetings and collect employee handbook acknowledgments.
3. Oliphant should maintain an open-door policy, designate certain open office hours for the public and employees, place a sign on her door indicating her availability, and/or make an effort to engage in more face-to-face communications with employees.
4. Regardless of the existence or structure of the Utilities Commission, Oliphant and the City Utilities' leadership team should continue to meet regularly to communicate and resolve concerns. Should regular meetings be ineffective and disruptive trust issues continue to arise, EAP mediation should be considered at a later time to assist in repairing the relationship.

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Please let me know whether you have any questions or if you wish to discuss this matter directly. I can be reached by email at swood@lindner-marsack.com or by phone at (414) 273-3910.

Best regards,



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