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WSS/are/srf
12/21/92

RESOLUTION NO. 92-26

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF POULSBO, WASHINGTON, APPROVING THE LOCAL GOVERNMENT EMPLOYEE WHISTLEBLOWER ACT POLICY AND AUTHORIZING ITS INCLUSION IN THE CITY OF POULSBO PERSONNEL MANUAL ORIGINALLY ADOPTED BY THE CITY COUNCIL ON JUNE 27, 1990.

WHEREAS, revisions to state statute require that the City of Poulsbo implement a policy designed to encourage the reporting of improper governmental actions taken by City officers and employees and to protect persons who have made such reportings from retaliation; and

WHEREAS, the City Council has reviewed the policy attached hereto as Exhibit A and believes its adoption to be both required by law and in the best interest of the citizens of the City of Poulsbo, now, therefore,

THE CITY COUNCIL OF THE CITY OF POULSBO, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

Section 1. The LOCAL GOVERNMENT EMPLOYEE WHISTLEBLOWER ACT CITY OF POULSBO POLICIES AND PROCEDURES attached hereto as Exhibit A is hereby approved and adopted by the City Council, authorizing its inclusion in the City of Poulsbo Personnel Manual originally adopted by this Council on June 27, 1990. The Poulsbo City Clerk is hereby authorized to incorporate such document into the Manual at Chapter 3 assigning chapter, page and paragraph

numbers as may be appropriate for its incorporation into said Manual.

RESOLVED this 23rd day of December, 1992.

APPROVED:


MAYOR, RICHARD MITCHUSSON

ATTEST/AUTHENTICATED:


CITY CLERK, KAROL JONES

FILED WITH THE CITY CLERK: 12-22-92
PASSED BY THE CITY COUNCIL: 12-23-92
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CITY OF POULSBO



POST OFFICE BOX 98
POULSBO, WASHINGTON 98370

Administration 779-3901
Engineering 779-5111

Fire
Planning

779-3997
779-3006

Police
Public Works

779-3113
779-4078

Bremerton
Seattle

479-8441
223-5259

LOCAL GOVERNMENT EMPLOYEE WHISTLEBLOWER ACT

CITY OF POULSBO POLICIES AND PROCEDURES

Effective January 1, 1993

Policy Statement

It is the policy of the City of Poulsbo (city): (1) to encourage reporting by its employees of improper governmental action taken by city officers or employees, and (2) to protect city employees who have reported improper governmental actions in accordance with city policies and procedures.

Definitions

As used in this policy, the following terms shall have the meanings indicated:

1. "Improper governmental action" means any action by a city officer or employee:
 - a. That is undertaken in the performance of the officer's or employee's official duties, whether or not the action is within the scope of the employee's employment; and
 - b. That (i) is in violation of any federal, state, or local law or rule, (ii) is an abuse of authority, (iii) is of substantial and specific danger to the public health or safety, or (iv) is a gross waste of public funds.

"Improper governmental action" does not include personnel actions, including employee grievances, complaints, appointments, promotions, transfers, assignments, reassignments, reinstatements, restorations, reemployments, performance evaluations, reductions in pay, dismissals, suspensions, demotions, violations of

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collective bargaining or civil service laws, alleged violations of labor agreements or reprimands.

2. "Retaliatory action" means any adverse change in the terms and conditions of a city employee's employment.
3. "Emergency" means a circumstance that if not immediately changed may cause damage to persons or property.

Procedures for Reporting

City employees who become aware of improper governmental actions should submit a written report to the City Clerk stating in detail the basis for the employee's belief that an improper governmental action has occurred.

In the case of an emergency, where the employee believes that damage to persons or property may result if action is not taken immediately, the employee may report the improper governmental action directly to the appropriate government agency with responsibility for investigating the improper action.

The City Clerk shall take prompt action in investigating the report of improper governmental action. City officers and employees involved in the investigation shall keep the identity of reporting employees confidential to the extent possible under law, unless the employee authorizes the disclosure of his or her identity in writing. After an investigation has been completed, the employee reporting the improper governmental action shall be advised of a summary of the results of the investigation, except that personnel actions taken as a result of the investigation may be kept confidential.

City employees may report information about improper governmental actions directly to the appropriate government agency with responsibility for investigating the action if the employee reasonably believes that an adequate investigation was not undertaken by the city to determine whether an improper governmental action occurred, or that insufficient action has been taken by the city to address the improper governmental action or that for other reasons the improper governmental action is likely to recur.

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City employees who fail to make a good-faith attempt to follow the city's procedures in reporting improper governmental action shall not receive the protections provided by the city in these procedures.

Protection Against Retaliatory Actions

City officials and employees are prohibited from taking retaliatory action against a city employee because he or she has in good faith reported an improper governmental action in accordance with these policies and procedures.

Employees who believe that they have been retaliated against for reporting an improper governmental action should advise the City Clerk in writing. The City Clerk shall take appropriate action to investigate and address complaints of retaliation.

If the City Clerk does not satisfactorily resolve an employee's complaint that he or she has been retaliated against in violation of this policy, the employee may obtain protection under this policy and pursuant to state law by providing a written notice to the Mayor that:

- a. Specifies the alleged retaliatory action, and
- b. Specifies the relief requested.

City employees shall provide a copy of their written charge to the City Clerk no later than thirty (30) days after the occurrence of the alleged retaliatory action. The City Clerk shall respond within thirty (30) days to the charge of retaliatory action.

After receiving either the response of the City Clerk or thirty days after the delivery of the charge to the City Clerk, the employee may request a hearing before a state administrative law judge to establish that a retaliatory action occurred and to obtain appropriate relief provided by law. An employee seeking a hearing should deliver the request for hearing to the Mayor within the earlier of either fifteen (15) days of delivery of the City Clerk's response to the charge of retaliatory action, or forty-five (45) days of delivery of the charge of retaliation to the City Clerk for response.

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Upon receipt of request for hearing, the Mayor shall apply within five (5) working days to the State Office of Administrative Hearings for an adjudicative proceeding before an administrative law judge:

Office of Administrative Hearings
P.O. Box 42488, 4224 Sixth S.E.
Rowe Six, Building 1
Lacey, Washington 98504-2488
(206) 459-6353

The City will consider any recommendation provided by the administrative law judge that the retaliator be suspended with or without pay, or dismissed.

Responsibilities

The City Clerk is responsible for implementing the city's policies and procedures (1) for reporting improper governmental action, and (2) for protecting employees against retaliatory actions. This includes ensuring that these policies and procedures (1) are permanently posted where all employees will have reasonable access to them, (2) are made available to any employee upon request, and (3) are provided to all newly-hired employees. Officers, managers and supervisors are responsible for ensuring the procedures are fully implemented within their areas of responsibility. Violations of these policies and procedures may result in appropriate disciplinary action, up to and including dismissal.

List of Agencies

Following is a list of agencies responsible for enforcing federal, state and local laws and investigating other issues involving improper governmental action. Employees having questions about these agencies or the procedures for reporting improper governmental action are encouraged to contact the City Clerk.

Kitsap County Prosecuting Attorney
614 Division Street
Port Orchard, WA 98366
1-800-872-4503

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Bremerton/Kitsap County Health Department
109 Austin Drive
Bremerton, Washington 98312
(206) 478-5235

Puget Sound Air Pollution Control Agency
(206) 296-7330

State Attorney General's Office
Fair Practices Division
2000 Bank of California Center
900 Fourth Avenue
Seattle, Washington
(206) 464-6684

State Auditor's Office
Legislative Building
P.O. Box 40021
Olympia, Washington 98504-0021
(206) 753-5280

State Department of Ecology
3190 - 160th S.E.
Bellevue, Washington 98008-5852
(206) 649-7000

Human Rights Commission
402 Evergreen Plaza Building, FJ-41
711 South Capitol Way
Olympia, Washington 98504-2490

Department of Labor & Industries
300 West Harrison, Room 201
Seattle, Washington
(206) 281-5400

Environmental Protection Agency
Criminal Investigations
1200 Sixth Avenue
Seattle, Washington
(206) 553-8306

Equal Employment Opportunity Commission
2815 Second, Suite 500
Seattle, Washington
(206) 553-0968

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Department of Labor
Occupational Safety & Health (OSHA)
1111 Third Avenue, Suite 715
Seattle, Washington 98101-3212
(206) 553-5930

Adoption

These policies and procedures were adopted by the City Council of the City of Poulsbo on December 23, 1992 and are effective January 1, 1993.


Richard Mitchusson, Mayor

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