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PLEASE RESPOND TO:
CLINTON/NORRIS OFFICE

October 22, 2021

Via Hand Delivery
Via Facsimile: 423-563-0703
Via Email: sfoust@lafolletttn.net

City of LaFollette
ATTN: Mike Stanfield, Mayor
207 S. Tennessee Avenue
LaFollette, Tennessee 37766

City of LaFollette
ATTN: Stan Foust
207 S. Tennessee Avenue
LaFollette, Tennessee 37766

Re: Jimmy Marlow v. City of LaFollette

Dear Mike and Stan:

Enclosed please find the filing we are making in relation to the proceedings which the City of LaFollette has initiated against Jimmy Marlow, albeit illegitimately.

In any event, we would request that the record reflect Mr. Marlow's response as enclosed herewith to the proceedings which I understand was unilaterally moved from November 2, 2021, to Monday, October 25, 2021, which would again restrict Mr. Marlow's opportunity for due process inasmuch as this was done without any notification to Mr. Marlow. The only way Mr. Marlow was notified was through local social media.

Enclosed is Mr. Marlow's formal response to the proceedings which the City intends to initiate against Mr. Marlow on Monday, October 25, 2021. We would request that the enclosed filings be presented to the Commission at the meeting on Monday, October 25, 2021, and be placed in the record as well.

Thank you for your attention and cooperation in this matter.

Sincerely yours,

Ameesh A. Kherani, Esquire
AAK/nmb
Enclosure

cc: Jimmy Marlow (*Via Email: jimmymarlow1969@gmail.com*)
Reid Troutman (*Via Facsimile: 423-566-4004 Email: rtroutman@troutmanlaw.com*)
Volunteer Times c/o Kelly Jo Wright (*Via Email: TheVolunteerTimes@comcast.net*)
1450 WLAF c/o Hon. Jim Freeman (*Via Email: jim@1450WLAF.com*)

CITY OF LAFOLLETTE

JIMMY MARLOW,)	
)	
Employee)	
)	COMMISSION MEETING
v.)	
)	
CITY OF LAFOLLETTE,)	
)	
Employer)	

**EMPLOYEE’S RESPONSE TO PROCEEDINGS
BY CITY OF LAFOLLETTE**

Comes now, the Employee, Jimmy Marlow, hereinafter “Mr. Marlow”, by and through counsel, and in response to the proceedings initiated against Mr. Marlow, would submit the following response to be considered by the Commission and to be made part of the record for any future proceedings in relation to these matters.

Mr. Marlow would show unto the City that Mr. Marlow has been an employee of the City of LaFollette hereinafter “City” for a duration of time of approximately fifteen (15) years. Suffice it to say that Mr. Marlow has dedicated over a decade of his life to the service of the City in the capacity of a heavy equipment operator. More recently, the City of LaFollette issued a “suspension” against Mr. Marlow for “leaving (without permission)”.¹

At the onset, Mr. Marlow would show unto the City that the disciplinary proceeding, and more specifically, “suspension”, is in blatant violation of the City of LaFollette’s personnel policy which in pertinent part provides as follows:

¹ Copy of Employee Disciplinary Report is attached hereto and incorporated herein by reference.

Whenever an employee's performance, attitude, work habits, or personal conduct fall below a desirable level, supervisor shall inform employees promptly and specifically of such lapses and shall give them **COUNSEL AND ASSISTANCE**. If appropriate and justified, **A REASONABLE PERIOD OF TIME FOR IMPROVEMENT MAY BE ALLOWED BEFORE INITIATING DISCIPLINARY ACTION**. In some instances, a specific incident in and of itself may justify severe initial disciplinary action; however, the action to be taken depends on the seriousness of the incident and patterns of past performance and conduct. The types of disciplinary actions are:

- (1). Oral reprimand,
- (2). Written reprimand,
- (3). Suspension, and
- (4). Dismissal.²

Mr. Marlow, in over the decade of service which he has rendered to the City of LaFollette has not been reprimanded until the present proceeding. Mr. Marlow has never received an "oral reprimand; written reprimand", or any other adversarial proceedings. Mr. Marlow has received excellent work evaluations and considers his work as public service to the City wherein he was born and raised and where he continues to raise his family.

These proceedings, however, are blatantly in violation, not only of the policy manual but every ounce of common sense if common sense was in fact applied before issuing said alleged wrongful suspension.

The alleged reason provided by the City for "suspension" was that Mr. Marlow "left early without permission". This is absolutely a violation of not only logic but also the personnel policy. In fact, for the past approximately fifteen (15) years of service for the City, an employee of the City, either Barbara or Cindy, would fill out the timesheets for the City employees, including Mr. Marlow. Recently, when the City's personnel were on leave, the City mandated its employees to fill out timesheets which they had never done, certainly not Mr. Marlow in the approximately

² See City of LaFollette personnel policy, p. 63-4, ¶G.

fifteen (15) years that he worked for the City of LaFollette. Mr. Marlow's work history with the City would reveal that Mr. Marlow has excellent knowledge and work habits in his training as a heavy equipment operator, but has negligible academic education. In that, Mr. Marlow does not even have a twelfth grade formal education. This certainly does not make Mr. Marlow a bad person; it simply reveals that Mr. Marlow's training has been hands-on and he is excellent at doing what he is trained to do, being a heavy equipment operator. Mr. Marlow never received training to perform a desk job, which certainly is not part of his forte. In requiring Mr. Marlow to complete his timecards, the City failed to provide the necessary training which the City should have provided, and the assistance which the City should have provided, which is not only logical but is required under the City's policy manual which states "shall give them counsel and assistance". No counsel and assistance was provided, and Mr. Marlow inadvertently completed a mistaken timesheet which the City is pretextually using to further its agenda in terminating Mr. Marlow rather than to provide him counsel and assistance. Not only did the City not provide Mr. Marlow counsel and assistance, the City did not even orally reprimand or issue a written reprimand, but directly jumped to third base "suspension" which violates not only the rules of sport; but also the City's own policy manual.

Not surprisingly, Mr. Marlow adamantly contests any proceedings of termination or suspension. The City has not met its burden to suspend and/or terminate Mr. Marlow, in that, for suspension, the policy manual requires,

The City Administrator, upon the recommendation of the Department Head/Manager may suspend an employee with or without pay. Pursuant to the appeals procedure, a written statement of the reason for suspension shall be submitted to the employee affected at least 24 hours prior to the effective date of suspension. This is providing that during the advance-notice period, the employee may be retained in active-duty status, placed on leave, or suspended with or without pay at the discretion of the City Administrator. Upon request, the employee will be granted a hearing before the City Administrator. An employee determined to be innocent of the charges shall

be returned to duty with full pay for the suspension period. The term "innocent" herein shall be determined by the City Administrator, in his or her sole discretion, during the requested hearing conducted by the City Administrator. Further, the term "innocent" shall not include a ruling from a court of law, and such ruling shall not be wholly binding on the City Administrator in arriving at a final conclusion. All records associated with a suspension shall become a permanent part of the employee's personnel file. Under certain circumstances, an employee may be suspended without 24 hour notice, if such suspension is in the best interest of the City of LaFollette.³

Suffice it to say that not only are these proceedings unwarranted, uncorroborated, unjustified, but are also in violation of the City's personnel policy wherein no due process was provided to Mr. Marlow.

The true motivation for Mr. Marlow's suspension would, of course, not be presented at this hearing, but suffice it to say, that the true motivation of Mr. Marlow's suspension is anything but the reason pretextually provided for his suspension. It could be that Mr. Marlow is now up in age and the City intends to replace Mr. Marlow with someone substantially younger, or alternatively, the fact that Mr. Marlow may have sustained injuries on the job and would be a "liability" may also be a motivation for suspension and potential termination of Mr. Marlow. It could also be that the more recent amendment to the City's employee manual removing the section of "nepotism" might also place a factor, but certainly would not be presented at this hearing inasmuch as this would certainly incriminate the City of LaFollette.

Mr. Marlow has been a noble man of great character who was born and raised in LaFollette, has dedicated over a decade of his life to the service of the citizenry of LaFollette, his hometown, only to be treated adversely.

WHEREFORE, for the foregoing reasons, Mr. Marlow would move the City to dismiss any and all adversarial proceedings and reinstate with full pay Mr. Marlow in his capacity so that

³ City of LaFollette Personnel Policy, p. 64-5, ¶J.

he can continue to serve the citizenry just as he has been doing for the past approximately fifteen (15) years.

RESPECTFULLY SUBMITTED, this 29th day of October, 2021.

JIMMY MARLOW

BY:



Ameesh A. Kherani, Esquire, BPR #030218
Kherani | Dunaway, PLLC
Attorney for Employee
2685 Andersonville Highway, Suite 2
Clinton, Tennessee 37716
Telephone: 865-777-0786
Facsimile: 865-622-8887
Email: akherani@kheranilaw.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and exact copy of the foregoing was served via hand delivery, and/or facsimile, and/or electronic mail, and/or United States Mail with sufficient postage thereon to ensure delivery, to the following:

Reid Troutman
Troutman & Troutman
124 Independence Lane
P.O. Box 757
LaFollette, Tennessee 37766
Facsimile: 423-566-4001
Email: rtroutman@troutmanlaw.net

City of LaFollette
ATTN: Mike Stanfield, Mayor
207 S. Tennessee Avenue
LaFollette, Tennessee 37766
Via Facsimile: 423-563-0703
Via Email: sfoust@lafollettetn.net

City of LaFollette
ATTN: Stan Foust
207 S. Tennessee Avenue
LaFollette, Tennessee 37766
Via Facsimile: 423-563-0703
Via Email: sfoust@lafollettetn.net

This 22nd day of October, 2021.



Ameesh A. Kherani
Attorney for Employee

CITY OF LAFOLLETTE
207 SOUTH TENNESSEE AVENUE
LAFOLLETTE, TN 37766

Employee Name: Jimmy Alvarado Date: 10/11/21

Position: Dispatcher Department: Street

- First Warning
- Second Warning
- Third Warning
- Suspension* Only by City Administrator *
- Termination ** Only by City Council**

NATURE OF INCIDENT

- Unexcused Absence
- Harassment
- Carelessness
- Tardiness
- Theft
- Improper Conduct
- Substandard Work
- Dishonesty
- Threatening/Engaging in Violence
- Destruction of Co. Property
- Substandard Housekeeping
- Leaving (without permission)
- Lack of Cooperation/Teamwork
- Violation of safety rules
- Drugs/Alcohol (while on duty)
- Failure to Follow Instructions
- Other: _____
- Violation of Company Rules of Conduct (refer to specific rule)
- Reporting Under Influence of Alcohol/Drugs

Description of problem requiring improvement or correction (include specific dates & examples): _____

Time reporting and time on time card.

Specific changes in performance or behavior required and the timeframe in which they must occur: _____

Department-Head Recommendation: Signed at employee's unit

Council meeting Nov 2, 2021 8:30 pm

Date follow-up review/evaluation of problem and correction: _____

Employee comment: _____

Failure of employee to correct problem may result in further disciplinary action up to and including termination of employment.

Signature of Immediate Supervisor: _____ Date: _____

Signature of Department-Head: [Signature] Date: 10/11/21

Signature of Witness (if employee refuses to sign) [Signature] Date: 10/11/21

Signature of City Administrator: [Signature] Date: 10/11/21

Signature of HR Director: [Signature] Date: 10/11/20

I HAVE READ THIS REPORT. I AM REQUESTING A HEARING WITH THE CITY ADMINISTRATOR. YES NO

Signature of Employee: _____ Date: _____

*THIS INFORMATION IS TO BE MADE PART OF THE OFFICIAL RECORD OF THE ABOVE-MENTIONED EMPLOYEE.

* Original to be given to HR Director to be placed in employee's personnel file.
Yellow copy goes to Department File
Pink copy goes to Employee