

Civil Service Commission Appeal Hearing – Scott Duncombe

September 27, 2016

Present: Dan Olson, Brandy Olson, Holly Jacobi

Commission Clerk: Stephanie Romagnoli

City: Matt Brick, Kat Hanson, David Gobin, Mike Stensland

Chairperson Brandy Olson called the meeting to order at 8:40 a.m. Olson reviewed that this is an appeal of the termination of Scott Duncombe.

She further reviewed the role of the Commission, and the Commissioners introduced themselves. The procedure for the hearing was reviewed.

Scott Duncombe indicated that he does not wish to be represented.

Both parties agreed on the exhibits to be used by the City. Mr. Duncombe did not provide any exhibits.

All witnesses were sworn in. These include Jay Franklin, Jake Gray, David Gobin, Justin Bender, Mike Stensland, Jerry Ewers, Scott Duncombe

Opening statements by City at 8:45 a.m. Statement made by Matt Brick. Main points that he failed to perform his duties, customer service issues, number of issues that caused the termination.

Mr. Duncombe chose not to make any opening statement. Olson pointed out that he may add closing statement if he wishes.

Mike Stensland called to stand.

Michael Vern Stensland. Current Occupation – Senior Building Inspector.

Asked as series of questions. Established position, supervisory relationship. Job description reviewed. Reviewed job description signature receipt signed by Scott

Matt reviewed a number of points in job description – asked Mike if he had difficulty with Scott performing specific items of the job description.

Moved to the City policies taken from the employee handbook. The policies were reviewed and asked Mike if he had difficulty having Scott follow these policies – specifically asked about “Government as Organization”, “Ethics Policy”, “Discipline Policy”, and “Dress Code Policy”. Mike answered affirmatively to all of these.

Matt reviewed the dress code with Mike – Mike in compliance today. Blue oxford shirt with City logo, dark pants, badge. City provides these shirts to employees.

Matt reviewed the performance evaluation. (Page missing in exhibit) Reviewed final evaluation – discussed changes made to evaluation. Mike pointed out that Scott argumentative about the results of his evaluation – scores were raised in the end. Why did you raise scores? Mike felt Scott was intelligent

and wanted to give him another chance to improve. Review of Scott's rebuttal to the evaluation. Matt reviewed that Scott's probation did not end in January. Memo from Dave Gobin – reviewed what the memo said. Extension of Mr. Duncombe's probation period. What was the alternative – Mike stated that he (Duncombe) would have been terminated. Mike was not in favor at this time – again, he wanted to give Scott an opportunity to improve because of what the City had invested in him.

Matt reviewing the specification of charges. Joe Hagerty – former City Inspector – contractor in town. Mr. Hagerty has complained regarding competence regarding electrical inspections and his general demeaning, unprofessional behavior. Several complaints – atypical of number of complaints received for other employees. Mr. Jake Gray – complained regarding Scott's condescending attitude, lack of customer service. Dan Keller – Mike was present for this interaction – Scott's behavior toward Mr. Keller made him quite angry. Hollenbeck – (exhibit 4) review of email. Temporary certificate of occupancy – Scott was arguing with Mr. Hollenbeck. Mike stated that he would follow through on that one because Scott was having difficulty getting along with Mr. Hollenbeck. Dr. Bark – Justin Bender complaint – Mike not present doing extensive demolition and Mike received the complaint from Justin Bender and from Dr. Bark. (Brandy asked for clarification on the asbestos question) Travelodge – complaints regarding this – communications from Corey and Troy complaining about Scott entering building and threatening to shut them down- Scott referred to her as "honey" in a condescending way and she complained that he did not identify himself. Chief Ewers also complained to Mike Stensland about being embarrassed by Scott's behavior on behalf of the City. Next – Jay Franklin – interaction – they felt they were not being treated fairly. Scott was accurate on what he was trying to get them to do, but his approach – he was not coaching/mentoring did not occur. Finally, HNI complaints about Mr. Duncombe – antagonistic approach. Review exhibit 3, 7, 8 – email chains between Mr. Franklin and Scott/Mike. (Brandy asked what comcheck code) Why did you give him so many chances? It was beneficial to the City, that if we could get Scott to work toward the customer service aspect of the job, the City would have a good employee.

Open permits – series of inspections, along with final inspection, that buildings are safe for the occupants. Dave asked the department to follow through and work to get open permits closed up. Mike asked him to follow through (so did Dave) on these because Mike was overloaded. Scott had time available and rather than studying he wanted him to work on the permits instead. Training materials- City purchased books for his certification tests – asked him not to mark in the books because others would have to use them. Scott did not comply with this request. CO Checklist – Mike created checklist to help department ensure topics are covered. Mr. Duncombe seldom completed these checklists. Sewer-water connections – form that code inspectors to fill this out. Been used since 1950's, purpose of them is when the sewer is extended from the house to the street – department inspects and record depth, location, etc...so plumbers can have information about the property to do proper repairs. Scott initially filled out the form, but then decided it was an old system and was a waste of time. Software development – asked Scott to complete electrical portions, had a difficult time getting him to follow through – timing issue and needed those to continue moving through the process of implementing the software. To Do List – Mike implemented to do list so everyone could see what status was of each project. Calendar – shared calendar turned off Stephanie's access to her calendar. Assignment delegated to someone else – code enforcement – lead person was ill, Michelle trying to pick up the slack and Scott was asked to follow up on a drainage issue and Scott asked Michelle to take care of it. Email between Scott and Mike on this matter (exhibit 5)

Again, why did you give this many chances? Mike reiterated the investment and his intelligence and that if he could provide better customer service he would be an asset.

Uniform – implementation. Scott did not comply. Mike thought he was quite disrespectful toward Dave about the uniform policy. Exhibit 6 – email from Scott to Dave regarding uniform implementation. No one else has refused to wear the uniform. Review what the uniform is - complaints about the uniform. Yes, other employees were asking why Scott was allowed to get away with not wearing uniform.

Review overall – what affect on department? People do not trust department; other employees complaining about additional stress caused by Scott.

Exhibit 9 – termination notice – hand written note by Stephanie Romagnoli that Scott walked out of meeting.

Specification of Charges – Exhibit #10 . Is there any question that he neglected his duties, etc...

Mr. Duncombe ask questions of Mike. Exhibit 12 – performs other related duties not done that. Would like to hear what examples he didn't do? To Do list, researching permits (Scott did not do),

Scott – did most inspections, (this is not Mr. Stenland's job description) – you would agree that contractors are not going to be please not matter what you say to them. Scott – did not receive all job descriptions from this position from Romagnoli

Scott reviewed dress code policy. Brandy stopped him – you must ask questions. Did you ever inform me in writing that I was to wear a uniform? Mike, I don't believe I did. Discussion about how everyone knew they were to begin wearing a uniform.

Sewer/water connection – (Scott) have never filled the card out. He felt this is plumbers responsibility –

Question about who he reported to.

Questions – Joe Hagerty – complaints how many? Were they relevant?

Brandy – asked question – holding someone to the code vs. – Mike states that he can't state that Joe's question related to competence and customer service.

Jake Gray – what were the complaints? Mike – a job where there was back filling required. Take pictures and go ahead with the project. First approach is not to shut the project down initially. Scott – wouldn't it be better to stop the project so they don't have to redo it. Mike states this is trust among reputable contractors there are times when you wouldn't shut the project down.

Dan Keller – appeared with no plans. Scott asked for more information. Reviewed dimensions of a job – Matt objected. Brandy allows it. Making assumption is not appropriate way to do something. Put stop to it at beginning – did you allow him further – Mike – it was the method in which you asked the questions. The customer service element was the issue. Pretended as if he wasn't there.

Jeff Hollenbeck – built a new house. Mr. Hollenbeck was difficult. Mike asked him to come along. (brandy – ask a question). Scott rephrased into questions. In the end, Mike ended up dealing with Mr. Hollenbeck.

Dr. Bark – what was the concern? Going beyond what they had a permit – is it typical to have an asbestos permit? Yes, and we did not have it. Scott did post the building have to have an asbestos assessment prior to this. Went “low key” to City Administrator about – Matt interrupted. Is there a question there?

Scott moved on to the next – Travelodge incident. Have you ever heard me say anything like “honey”? Mike said no – I was not there.

Jay Franklin – conversion of building. Review of the project. Is it normal for an insurance agent to put 10 apartments into a building without an architect? No – is it normal for an architect to be hired? Yes. Asked several follow up questions.

HNI – complaints – who did Mr. Carlson speak with? Mike stated that it was Dave Gobin. Did I say to you I would shut that project down? Mike – no

Open permits – did you tell me to follow up on open permits? Yes. How was I supposed to do this? Mike – explained how to do this? Did you give me any direction? Mike – I stated to go back 6 months Is there a policy stated? Mike – this is a code requirement. Asked some other follow up questions.

Study Guide mark up – City paid for the books. We asked that you not mark in the books so future people can use them. At what point is this a problem? Did not get reimbursed for books until after I passed the test. Mike – I don’t know.

Certificate of Occupancy checklist – do we have a copy of policy? No written policy – verbally told to use the checklist. 5 duplexes not issued cert of occupancy? Yes.

Sewer Repair Cards – whoever inspects those should do the card? Scott, who usually fills them out? Mike – the department staff fills those out.

What was Mike’s participation? Scott did eventually participate. Did I not do this? Mike, yes you did, but it took awhile

Calendar access – what happened? Mike stated he is not really sure. Do we have access to Stephanie’s calendar – Mike - I have never tried because I don’t need to since she doesn’t do inspection

Roselawn complaint – Michelle in code enforcement asked for our assistance? Scott did go do an inspection here. Review of this issue. What was the task that was delegated? Michelle –

Uniforms – have you ever or always worn a uniform? Was it in good humor to call it a monkey suit? Amongst the office, yes, but Mike did not think so as it was stated on the email. Entire department required to wear uniform? Code enforcement and building department – would he be required to the uniform – Dan – was there any question whether there was a policy? Mike- no question, everyone very clear – wearing the uniform. Chief building official - was he wearing uniform on a daily basis? Mike

Recess: 10:40 Reconvene at 10:50

Redirect – Mike – two categories. Review testimony – Matt Brick asked some follow up questions. You agree that following the code is important? Yes. Your issue was with the manner in which he asked people to comply with the code? Yes.

Scott – no follow up. Mike dismissed at 10:53

Called David Gobin – Full name – David Cedrick Gobin – Community Development for the City of Muscatine – about 2 years.

Involved to hire/fire him? Yes –

Worked directly under Mike Stensland. Mike reports to Dave Gobin

Matt asked about performance/customer service. Reference to exhibit 10. HNI complaint – site plan review process on 2nd Street – expressed concern treatment and harassment of their contractors by Scott. Questioning whether they should continue investment. This was last straw following all of the other complaints they received. Direction to employees – was it communicated? Yes. There was discussion in department. Shirts were ordered; date was set as July 1. Many department personnel chose to wear them early. Did any other employees fail to wear the uniform? No. Did he ever wear the uniform? No, he did not. Did he know he was supposed to wear the shirt? As far as I was concerned, he was aware of the requirement to wear the uniform.

Some additional questions – disagreements contractors/citizens will occur. David – yes. Did you ever have anyone with this number of complaints? No – some complaints regarding code, but not this amount.

Decision made to terminate? A series of questions regarding the termination of Scott...yes valid termination. This was justified. Matt rested at 11:05

Scott follow up – states no direct questions – HNI complaint – question – was I directly named in the complaint. Specifically, made regular threats to shut the project down – is that accurate? Gobin does not know where the statement came from. Brandy – can you give an example – Dave – two inspectors would show up on site. Mike Hopkins and Scott. They would go around the building at will and come up with the list of what need to be addressed. Their issue was with the manner in which Scott spoke to them – presented the information to them. What was Mr. Hopkins hired to do? HNI and hotel – Dave – no, he was to help take the burden from Mike as well. Dave - this was an in person meeting with

Brandy – did you have any reason to question the complaint – he said I did question it. HNI – long history of working with HNI – they have never complained before. This was the final piece of a long list of complaints received.

Other questions? Uniforms – what documentation do you have who was required to wear the uniform? No. Did you ever have a conversation with me? No – I didn't need to so I didn't

Redirect – a couple of questions about this. Mr. Gobin – not knowledge, but attitude.

City call Justin Bender – Justin Dale Bender. Contractor – 12 years. Work in several different jurisdictions. Interaction for building permits. Many times I've called Mike Stensland, or other inspectors in other areas. Code doesn't work for every situation. Justin states he checks in regularly with inspectors. Matt – several questions. How many building inspectors have you come into contact with – 30-40 – Work with Scott Duncombe – different – not even close. Most inspectors come up and are respectful – comes off very arrogant and comes off as very rude.

Dr. Bark complaint. Justin reviewed the project – Justin received call that Scott had shut the project down. Escorted his employees out of the building - Scott shutting everything down in front of Dr. Bark's patients. Improper way to go about it. Looked bad for the City – Scott was rude – it is the way he comes off. There is a respectful way to have disagreements and to enforce the code.

Scott – asked Justin – would you feel it is wrong to shut a project down? Yes – for this reason, the permit was in Justin's name, not Dr. Bark's. To make a scene about it – to escort people out. It was on video. He has seen the video. Scott – garbage collection brought up. Justin states that he had permission for the garbage collection from Mike S. Do you understand my concern for people's health? I do. Do you understand my sense of urgency? Yes.

Matt – redirect – clarifying issue is with approach not the enforcement issue.

Jake Gray called at 11:30 Jacob W. Gray Kelly Heating, Cooling and Plumbing. 14 years – Muscatine and other areas. 10 different inspectors Exhibit 10 – complaint regarding – Garfield school – had open permit. Shut the project down – cost the company 5 hours worth of work and a whole lot of lot of commotion. He does his job, but way he comes off...there was some transition in office and company missed some permits being called in. It's attitude – the way he talks to people. One other instance – 12 foot sewer – we don't leave that open – take pictures of it as directed by Mike S. – rain coming and concerned about safety if the hole was left open. If I miss something, I'd be glad to fix it, but don't be an asshole. Is this typical of interaction with other inspectors? Not at all. What is an open permit? I need to go into the project so I can see what the issue is and how I am going to fix it before a bid can be made.\

Jay Franklin – called at 11:40 Jay Michael Franklin – employed insurance and financial business. Property owner for purposes of the hearing. Permits - purchase of property. Mr. Stensland and Mr. Duncombe walked through the building prior to purchase of building. Have you had interaction with Mr. Duncombe – yes, no pleasant ones. Other inspectors, yes – all pleasant ones. Other interactions – go to person for projects – For purposes of the discussion, assume he was 100% right – couldn't get answers to simple questions. Combative – impression – put in position where he thought he had authority and wanted everyone to know it. Matt referred back to Exhibit 3. Email string to Mike Stensland. Why did you send? Scott asked multiple times for the same information. Mr. Franklin stated he was very close to hiring an attorney – he lost money due to incompetence. Comcheck – I sent multiple times – there was always a problem with it and spent money trying to comply with what Scott was asking. Problem is with the manner in which Scott interacts, which results in no trust in the answers Scott gives. I would add, considering hiring an attorney; other possible ideas. We decided if he was inspector we would not do any additional projects in Muscatine. Is there an architect? Yes. Owen Wagner – but, before we started the project we were told we didn't need one – four or five months later we were told we needed one. Comchecks were compliant – you didn't like them. Do you completely understand comchek? No – that's why I have the architect do it. Scott a few other questions – Jay Franklin – you're a bully that's what it boils down to. Brandy – how much time has it cost you – 6-8 weeks. \$ amount? In excess of \$20,000.

Jerry Ewers – 11:50 Jerry Patrick Ewers – Muscatine Fire Chief – Chief since 2009 on department for 28 years. Variety of interactions with building department. Contact with Mr. Duncombe? Yes. Exhibit 10 – Explain interactions. Received and email from Scott in reference to Travelodge – Scott's message seemed urgent and I was only one available. I went out there. No uniform – not identifiable as a City

employee. If this had been my employee I would have addressed it with him. I made comments in notepad. Talked with Stephanie R about how I was embarrassed by the way he treated the occupants of the building. I was stunned by the way he spoke to them. What he was talking about in reference to hazards, he was correct but the way he said, facial expressions, demeanor, talking about closing the building down. In my 29 years we have never shut a building down like this. There are different ways you can say things – everything that came out of his mouth was the wrong way to say it. He was condescending, poor customer service. I would have removed him from my site and spoke with him. I stayed and talked to the manager of the building to try and smooth things over for the Fire Department and the City. I followed up with an email to Dave Gobin – but I had already talked to Dave Gobin, and City Administrator. I have never had to do this in my career.

My other interaction that was poor customer service. Putting in an in ground pool – site inspection and I made sure I was home. Walking around job site, grabbing things - didn't introduce himself to contractor. Shaking his head, "we've got a problem" – contractor asked him who he was-why was he there. I'm not questioning the issue – it was the manner. Again, as a property owner, it was poor the way he entered the job site and spoke to them. I brought this to Dave's attention.

Not questioning the violations – it is the way it is presented.

Scott, no questions. Jerry excused at 12:05.

Scott the opportunity to make his presentation

The people who have complained have been doing things the wrong way for a long time. I am reverting to this is wrong and it need to be taken care of – Scott reviewed each of the specifications – chaos of organization of the office, listed a number of issues with the department and how he feels like it is a mess. Made a number of points - about how he believed the specification of charges to be wrong. HNI complaint was not me. I don't know what the complaint was. Felt overwhelmed with job – thrown into inspection job. Administration – terrible. Filing is terrible. There are better systems available. Our administration is terrible. Mike gives in to Dave...new business. Mike is very kind – violations in new business. Another frustration - I stand my ground. I don't care who it is – Dave should have gone a building inspection with him. Mike, you didn't go on inspections with me. Did not call anyone honey. HNI complaint did not happen.

Jay Franklin – review of building code – architect is required as the building official requires. According to Scott, Owen Wagner is not an architect. He says this is the wrong architect –

Brandy asked a question – item G – the Merrill hotel – work shoes – different types of work shoes. Was wearing athletic shoes that day. Says he did not have safety equipment – had to go out and by himself. Reference back to Exhibit 9 – need more guidance. Made points about disrespect. Uniforms...says he wasn't aware he was supposed to wear. You let it go 6-7 weeks and Dave to not wear the uniform. Nothing was said to me. Permits – Stephanie issuing okay prior to wo

Brandy – what other things are most important things for us know in order to make decisions? Follow up on open permits – it's a bad system. Brandy asked questions about the calendar issue. Scott followed up with answers. Study guides – I bought them, they were shipped to him. Holly – when were you told not to mark them up? He states after he passed test he was reimbursed. Has used checklist. There is no

follow through in City of Muscatine. Reviewed issues that he has implemented since he has worked here. Brandy questions...recess 12:40

Reconvene 12:50

Brandy questions – sewer as built cards. Explain what the issue is. He says he never filled out a sewer card and says he has never done it. Did participate in software information. ToDo List – I am out in field, doing all inspections, more field less study – Dave Gobin said he should get certifications, was never brought to his attention. Tons of backlash in this job. Raised the issue of Stephanie's attendance – filling in take over Stephanie's job. Thinks Stephanie complaining about Scott to Dave. Drainage issue on Roselawn – blown out of proportion.

Matt – a couple of follow up questions. Poor tone, poor demeanor. Everything is someone else's fault – what was your responsibility? I don't have best communication skills, get too stressed out over little things. What did you do to address the demeanor issue? I decided I wouldn't care anymore – just hand out violations and not follow up. You understand you received a number of complaints about you? Yes. You said you were only person in department who tried to enforce code? It's a minimum code. Matt, clarify the issue that people have an issue with the way you impart the information to people. Did you think you had an effective working relationship with contractors? I have a good working relationship with 98% of people. Yes. He believes he did. Are you authorized to direct Stephanie Oien to do work? Who directed your work? Dave Gobin, City Administrator, Mike Stensland. Matt – followed up on uniform. Brandy – uniforms are not usually an interactive process. This was never conveyed to you? He says no, no one told him about uniform. Your job is to keep the City(citizens) safe? Was everything you communicated in writing? Everything they tell you to do has to be in writing. How is it you were the only person who didn't get the information and everyone else was wearing the uniform. A number of follow up questions.

Commissioners – other questions? No. Short break to collect thoughts...1:10

Scott – last opportunity for closing comments. It was an eye opener when I was terminated, it's been an eye-opener. I wish I would have had better direction; you can say one thing not enough direction. We all don't have great days, so I guess coming back, if that's a possibility, guide me further – show me the way. It's obvious to me now that my attitude has been a problem. This is my dream job and I hope to see you guys soon.

Matt – closing remarks. Lawfully carried out and should be upheld. Not a case of one single incident that drove this termination. Both during probationary period and after his probation the City received a number of complaints. Weight of all incidences rose to level to merit termination. He takes no responsibility for his tone and demeanor. We request, based on the evidence, you find that the termination of Scott Duncombe be upheld.

Reconvene after deliberation - 1:40

Brandy – pointed out regardless of result of hearing today there is a proper

Uphold the termination – motion by Brandy – there are some items that were not proven4j - HNI Corporation specifically, 7c and 7 f were not shown. There was substantial proof to uphold the termination.

Holly second. Dan – your passion for your job is evident. Applaud you for the certification. City didn't prove everything and we agree with Brandy's comments.

Have a motion – Brandy – People respected the technical ability. Scott did well in sitting through the testimony and listening to the criticism. The getting along with people is the important parts of the job. Holly, Scott made some valid points, the department can improve in this area. Wish you the best of luck.

Brandy also raised the issue – even though you don't like the uniform, there was enough reason the expectation was set. It is unfor

Termination upheld unanimously.