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January 23, 2024

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Re: In the Matter of a Disciplinary Appeal by Appellant Paul Matecjek
City Manager's Decision Rejecting Hearing Officer's Recommendation

Dear Mr. Brown and Ms. Fox:

Paul Matecjek ("Appellant") appealed his termination from employment with the City of Brentwood ("City") Police Department pursuant to the Public Safety Officers Procedural Bill of Rights Act ("POBR") and the Police Department Policy Manual, Policy 1028. Consistent with Policy 1028, a hearing was conducted in Brentwood, California on August 8 and 9, 2023. On December 12, 2023, Hearing Officer Paul Roose issued his recommendation that the termination be set aside, and the discipline be reduced to a one-week suspension.

Policy 1028.2.3 provides that "the City Manager shall render a written decision after receiving the advisory findings of the hearing officer. The City Manager's decision shall be final and conclusive." My decision takes into account all of the evidence and arguments presented at the hearing, and is made after a careful review of the Hearing Officer's written decision.

I have decided to reject the advisory findings and uphold the City's decision to terminate Appellant.

My decision is final and appealable pursuant to Code of Civil Procedure section 1094.5, *et seq.* A writ petition challenging the decision must be filed within 90 days of the mailing of this notice.

I. Factual Findings

I accept the factual findings of the Hearing Officer without modification.

II. Discussion

The City has the burden of proof to demonstrate by a preponderance of evidence that Appellant violated City rules and policies and that because of those

violations, termination is the appropriate level of discipline. (*Brown v. City of Los Angeles* (2002) 102 Cal.App.4th 155, 175; *Gardner v. Commission on Professional Competence* (1985) 164 Cal.App.3d 1035, 1039.) I find that the City has demonstrated sufficient evidence to support the termination.

A. The Evidence Demonstrates that Appellant Violated the Police Department's Use of Force Policy.

The evidence demonstrates that Appellant violated the Police Department's Use of Force Policy (Hearing Exhibit 15) by using force in excess of "that amount of force that reasonably appears necessary given the facts and totality of the circumstances known to or perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose." (Policy 300.3.) In making this finding, I adopt all the findings and reasoning of the Hearing Officer enumerated and explained on pages 16-17 of his written recommendation.

B. Termination is an Appropriate Level of Discipline and Within the Police Chief's Discretion.

Former Chief of Police Thomas Hansen testified at the hearing that he believed Appellant's violations were "extremely serious" (Transcript at 83:18) and that "Ms. V1 was handcuffed when he kicked her, and this could have resulted in -- in serious injury, if not death." (Transcript at 83:25 - 84:2.) He further testified: "Ms. V1 was smaller than those three able-bodied police officers that were standing in front of her. She was handcuffed. In my 35 years in law enforcement, I have never been trained to kick anyone that's in handcuffs. That's extremely dangerous." (Transcript at 84:13-18.)

Chief Hansen testified that "police officers are held at a high standard" and that "[u]se of force like this breaks down trust in the community." (Transcript at 83:10-12.) He testified that Appellant showed no acknowledgment of wrongdoing (Transcript at 84:19-20) and that he had no faith that Appellant would use the appropriate level of force in other situations in the future. (Transcript at 84:21-23.)

The question before me is not whether I would have chosen the same level of discipline for Appellant, but whether the evidence shows that Chief Hansen properly exercised his discretion as the head of the Police Department. As a City Department Head, Chief Hanson was granted the discretion to set standards of conduct and appropriate levels of discipline. He was tasked with maintaining the trust of the community and ensuring that members of the Police Department acted lawfully, reasonably, and in accordance with Department policies. Chief Hansen's testimony at the hearing makes clear that his decision to terminate Appellant was made after careful consideration of multiple factors. It was not a decision taken

lightly or with disregard to the evidence before him, including a thorough investigation by a neutral, third-party investigator.

Police officers are, as Chief Hansen testified, held to a higher standard of conduct than civilians. Chief Hansen made the decision not to tolerate excessive use of force against a vulnerable, handcuffed individual, especially without a significant threat of escape from the location surrounded by three officers, or threat of bodily injury to them. It has long been established that "in police officer cases it is imperative that special emphasis be placed upon the paramilitary nature of police operations; the necessity of developing and maintaining discipline, morale, loyalty, confidentiality and efficiency of the force with view toward the proper protection of the public safety, which is the primary object and function of a police department." (*Unruh v. City Council* (1978) 78 Cal.App.3d 18, 24-25.) Cities have broad discretion in the discipline of their employees, and termination of employment based on a sustained allegation is not an abuse of discretion. (*Griego v. City of Barstow* (2023) 87 Cal.App.5th 133.) Termination was supported by the weight of the evidence, and the decision to terminate employment was well within the City's disciplinary authority.

IV. Conclusion.

After considering the evidence and testimony in this matter, I find that the City demonstrated sufficient evidence to support its decision that termination is the appropriate level of discipline. Accordingly, I reject the Hearing Officer's recommendation. The termination is upheld.

Sincerely,

Tim Ogden
City Manager