

RESOLUTION NO. 103-2009

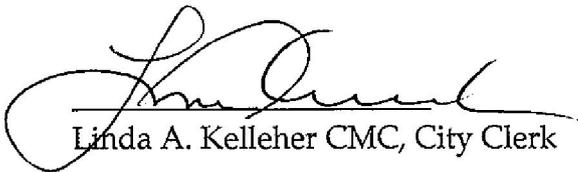
THE COUNCIL OF THE CITY OF READING HEREBY RESOLVES AS FOLLOWS:

Upholding and affirming the termination of Officer Mark S. Groff, #648 and upholding and affirming the decision to suspend Officer Mark S. Groff, #648 without pay and not to reinstate Officer Groff's pay during the appeal of the termination, as attached in the Findings of Fact and Conclusion of Law.

Adopted by Council August 20, 2009


Stephen Fuhs, Vice-President of Council

Attest:


Linda A. Kelleher CMC, City Clerk

I, LINDA A. KELLEHER, City Clerk of the City of Reading, Pa., do hereby certify, that the foregoing is a true and correct copy of the Resolution passed by the Council of the City of Reading, on the 20th day of Aug, A. D. 2009. Witness my hand and seal of said City this 20 day of Aug, A. D. 2009.

CITY CLERK

**Termination Appeal Hearing
Officer Mark S. Groff, #648**

IN THE MATTER OF	§	BEFORE THE
	§	
THE APPEAL OF THE	§	CITY OF READING
TERMINATION AND	§	
RESTORATION OF PAY	§	
FOR OFFICER MARK S.	§	CITY COUNCIL
GROFF, #648	§	
	§	

**FINDINGS OF FACT, CONCLUSIONS OF LAW,
ORDER, AND AGREED RESOLUTION**

On Wednesday, July 22, 2009 at 5:00 p.m. City Council held a hearing in Council Chambers to hear the appeal of the termination and restoration of pay for Officer Mark S. Groff, #648. The hearing was recessed and reconvened on Tuesday, August 11, 2009 at 5:00 p.m. in Council Chambers to hear testimony from the Reading Police Department and Officer Groff, represented by FOP Attorney Christina Fisher.

Findings of Fact

1. At the hearing Members of Council heard testimony from the Chief of Police, the Deputy Chief of Police and several Reading Police Officers about the off-duty and on-duty activities of Officer Mark S. Groff, #648.
2. The Chief of Police, in his opening statement, outlined the due process as follows:
 - June 10, 2009 - Officer Groff was served with a document outlining the allegations against him.
 - June 16, 2009 - Officer Groff, along with FOP representatives Officer Craig Christman and Officer Justin Uczynski, attended a pre-disciplinary hearing conducted by the Chief and Deputy Chief.
 - June 22, 2009 - Chief Heim forwarded his recommendation for termination to the Mayor.
 - June 24, 2009 - The Mayor notified the Chief of his agreement with the recommendation to terminate Officer Groff and a termination letter was issued to Officer Groff informing him of the termination and his appeal rights, including a hearing before Council.

3. The Chief of Police stated that the Reading Police Department has a General Orders Policy and Procedure manual., which is a comprehensive document promulgated by the Police Chief and Mayor that provides guidance to the Reading Police Officers about their duties and responsibilities as Reading Police Officers, both on and off-duty.
4. The Chief of Police stated that Officer Groff displayed off-duty behavior and activities that are in violation of the Department's General Orders Section #0408, Disciplinary System & Schedule, and Part IV as follows:
 - Section IV (A) (1) Conduct – *Violation of Rules*, which states, "Officers shall neither commit any acts nor omit any acts which constitute a violation of the rules, regulations, directives, orders, or policies of the Department."
 - Section IV (A) (3) Conduct - *Unbecoming Conduct*, which states, "Officers shall conduct themselves at all times, both on and off duty, in such a manner as to reflect favorably on the Department. Conduct unbecoming an officer shall include that which tends to bring the Department into disrepute or brings discredit upon the officer or the department and which affects the efficiency of the Department or the Officer."
 - Section IV (A)(6) Conduct - *Associations*, which states, "Officers shall neither associate with, be employed by, nor conduct business with persons who they know, or should know, are racketeers, sexual offenders, gamblers, suspected felons, persons under criminal investigation or indictment, or who have a reputation in the community for present involvement in felonious or criminal behavior, except as necessary to the performance of official duties or where unavoidable because the individual is a relative of the officer."
 - Section IV (C)(5) Insubordination – *False Testimony*, which states, "Officers shall not give false testimony in criminal or administrative investigations."
5. The Chief of Police and all witnesses presenting testimony at the hearing gave clear concise statements about their first hand observations of Officer Groff violating the sections listed herein. In summary Officer Groff was counseled on his need to obtain treatment for alcohol abuse. Officer Groff on several occasions was observed while off-duty freely associating with the Pagans motorcycle club, which is well-known as an outlaw organization, which has numerous members who have been convicted of felonies and other crimes. Officer Groff also presented false testimony during the Internal Affairs investigation.

Conclusions of Law

After considering all testimony at the hearing held on Wednesday, July 22 and Tuesday, August 11, 2009, the City of Reading City Council has determined that Officer Mark S. Groff, was in violation of the General Orders as set forth herein.

Order and Agreed Resolution

The City of Reading City Council hereby upholds and affirms the termination of Officer Mark S. Groff #648 as set forth herein. The City of Reading City Council also upholds and affirms Officer Groff's suspension without pay and not to reinstate Officer Groff's pay during his appeal process, as required per Codified Ordinance Section 1-271. Salary Administration. (7). Compensation of any City employee suspended from work for alleged improper conduct or behavior shall be placed in an escrow account under the City employee's name. Upon resolution of the pending allegations in the City employee's favor and his/her return to work, said escrow account balance shall be paid to him/her. [Ord. 46-2002][See 53 P.S. Section 39408]

Right to Appeal

If you disagree with the decision of City Council you may file an appeal with the Court of Common Pleas of Berks County within 30 days after notice of the decision has been made or proceed under the grievance procedure set forth in the 2007 to 2011 Collective Bargaining Agreement between the City of Reading and the Fraternal Order of Police, Lodge #9 within the time restraints therein
under Article VI Section 2. **YOU MUST ELECT WHICH APPEAL PROCEDURE TO PURSUE, YOU MAY NOT APPEAL BOTH IN THE GRIEVANCE PROCEDURE AND UNDER THE PROVISIONS OF THE THIRD CLASS CITY CODE AND THE LOCAL AGENCY LAW.**