

RESOLUTION NO. 92 - 23

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OTHELLO,
WASHINGTON ADOPTING A WHISTLE-BLOWER POLICY

WHEREAS, the State of Washington Legislature passed legislation in Chapter 44, Laws of 1992, known as the Local Government Employee Whistleblower Act; and,

WHEREAS, local governments are required to enact specific policies adopting the intent of this legislation by January 1, 1993; and,

WHEREAS, the City of Othello desires to comply with state law and has developed a policy to meet the Intent of said legislation,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF OTHELLO as follows:

1. The attached document, known as the Whistleblower Act policy, dated December 1992, is hereby adopted by reference.
2. The City Administrator is directed to take steps necessary to comply with state law to implement said policy.
3. The policy is effective, immediately.

DATED this 14th day of December, 1992.

By: 
TED MUSCOTT, Mayor

ATTEST:

 **rb%a** **MILL**
DEBBIE KUORNA, City Clerk

R⁷ PCRTING, IMPROPER GOVTRNMENTAL ACTION AND
PROTECTING Ei/EMPLOYEES AGALNST RETALIATION

<WHISTLEBLOWER ACT>

DECEMBER, 1992

It is the policy of the City of Othello (1) to encourage reporting by its employees of improper governmental action taken by City of Othello officers, or employees to protect the City of Othello Employees who have reported improper governmental actions in accordance with the City of Othello's policies and procedure(s).

DEFINITIONS

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

"Improper governmental action" means any action by a City of Othello officer or Employee:

- a. net is undertaken in the performance of the officers or employee's of duties, whether or not the is within the scope of the employment; and
- U. Mel (i) is in violation of any federal, state or local law or rule, (ii) is an abuse of authority of substantial and specific danger to the health or safety or (i) is a gross waste of public funds.

"Improper governmental action" does not include personnel actions, inclusive of, but not limited to employee grievances, hiring, complaints, appointments, promotions, transfers, assignments, re-assignments, re-instatements, restorations, re-employment, performance evaluations, reductions in pay, dismissals, suspensions, demotions, discipline, violations of 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 of Othello employee's employment. Except for changes authorized by civil service, collective bargaining agreement and/or personnel policies.

"Emergency" means a circumstance that if not immediately changed may cause damage to person or property.

PROCEDURES FOR REPORTING

City of Othello' employees who become aware of improper governmental actions should raise the issue first with their supervisor. If requested by the supervisor, the employee shall submit a written report to the supervisor, or to some person designated by the supervisor, stating in detail the basis for the employee's belief that an improper governmental action involves his or her supervisor, the employee may raise the issue directly with the City Administrator, or such other persons as may be designated by the City of Othello administrator to receive reports of improper governmental action.

The supervisor, the City of Othello administrator and the City of Othello administrator's designee, as the case may be, shall take prompt action to assist the City of Othello in properly investigating the report of improper governmental actions. City of Othello 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 of Othello employees may report information about improper governmental action directly to the appropriate government agency with responsibility for investigating the improper action if the City of Othello employee reasonably believes that an adequate investigation was not undertaken by the City of Othello to determine whether an improper governmental action occurred, or that insufficient action has been taken by the City of Othello to address the improper governmental action or that for other reasons the improper governmental action is likely to recur.

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

PROTECTION AGAINST RETALIATORY ACTIONS

If the employee's supervisor, the City of Othello administrator, or the City of Othello administrator's designee, as the case may be, does not satisfactorily resolve a City of Othello employee's complaint that he or she has been retaliated against in violation of this policy, the City of Othello employee may obtain protection under this policy and pursuant to state law by providing written notice to the City of Othello council that:

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

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

After receiving either the response of the City of Othello or thirty days after the delivery of the charge to the City of Othello, the City of Othello employee may request a hearing to the City of Othello administrator within the earlier of either fifteen (15) days of delivery of the City of Othello's response to the charge of retaliatory action, or forty-five (45) days of delivery of the charge of retaliation to the City of Othello for response.

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

Office of Administrative Hearings
P.O. Box 4246, 4224 Sixth S.E.
Rowe Six, Bldg. 1
Lacey, WA 96504-2466
(206)459-6353

The City of Othello will consider any recommendation provided by the administrative law judge that the retaliator be disciplined, inclusive of suspension at the motion, with or without pay, or dismissal.

RESPONSIBILITIES

The City administrator is responsible for implementing the City of Othello's policies and procedures (1) for reporting improper governmental action and (2) for protecting employees against retaliatory actions. This includes ensuring that this policy and these 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 newly-hired officers, administrators and supervisors. Officers, administrators and supervisors are responsible for ensuring the procedures are fully implemented within their areas of responsibility. Violations of this policy and these 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 administrator.

Local City Police Department or Clallam County Sheriff's Office
Local County Prosecutor's Office

LOC31 City Attorney

State Auditors Office
Legislative Building
P.O. Box 40021
Olympia, WA 98501-0021
(206) 753-5280

Washington Department of
Labor and Industries
300 West Harrison, 201
Seattle, WA
(206) 231-5400

Equal Employment Opportunity
Commission
2815 Second Avenue, Suite 500
Seattle, WA 98178
(206) 553-0968