



MINUTES
CIVIL SERVICE COMMISSION
MEETING
NOVEMBER 30, 2022
4:00 P.M.

The City of Madeira Beach Civil Service Commission meeting was held at 4:00 p.m. on November 30, 2022, in the Patricia Shontz Commission Chambers at City Hall, located at 300 Municipal Drive, Madeira Beach, Florida.

MEMBERS PRESENT: Gene Embler, Chair
Judithanne McLauchlan
Paul Tilka
Clara VanBlargan, Ex-Officio Secretary

MEMBERS ABSENT: Cristina Ponte, Vice-Chair

CITY STAFF PRESENT: Robin Gomez, City Manager
Lara Hooley, Executive Assistant to City Clerk
Megan Powers, Executive Assistant to City Manager
Attorney Rob Eschenfelder, Trask Daigneault, L.L.P.

1. CALL TO ORDER

Chair Gene Embler called the meeting to order at 4:06 p.m.

2. ROLL CALL

City Clerk Clara VanBlargan called the roll.

3. PUBLIC COMMENT

There were no members of the public present at the meeting.

4. ADOPTION OF MINUTES

A. Approval of Meeting Minutes: 2022-10-12, Civil Service Commission

Judithanne McLauchlan motioned to approve the meeting minutes for October 12, 2022. Paul Tilka seconded the motion.

ROLL CALL:

Judithanne McLauchlan “YES”

Paul Tilka "YES"
Gene Embler "YES"

The motion carried 3-0.

5. APPOINTMENT OF CHAIR
6. APPOINTMENT OF VICE CHAIR

Judithanne McLauchlan motioned to re-appoint Gene Embler to Chair. Paul Tilka seconded the motion.

Chair Embler motioned to re-appoint Cristina Ponte to Vice Chair. Ms. McLauchlan seconded the motion.

ROLL CALL:

Judithanne McLauchlan "YES"
Paul Tilka "YES"
Gene Embler "YES"

The motions carried 3-0.

7. OLD BUSINESS

A. "Draft" Employee Personnel Policies and Procedures Handbook

ARTICLE VII. EMPLOYEE TRAINING

Chair Embler requested the title, "Employee Training" be changed to "Professional Development." She said the attorney's version was more comprehensive and delineated the types of available professional development. In the working document, job training was separated from Professional Development (Section 607). They should be under the same section. HR can manage the needed training for employees.

Ms. McLauchlan said Professional Development could be considered a benefit.

The City Clerk explained she is responsible for ensuring special training and certifications for personnel in the City Clerk's Office such as in records management.

The consensus was for staff to re-visit and advise on merging Employee Training (Article VII) and Professional Development (Section 607), using the attorney's language, and to mention the required certification for the job as mentioned by the City Clerk.

The City Manager said the Fire Department personnel is also required to have certifications.

ARTICLE VIII. ACCIDENT PREVENTION, WORK SAFETY AND WORKER'S COMPENSATION

Chair Emblar recommended correcting the word "Worker's" to "Workers" in the title of Article VII.

- **Section 801. GENERAL PROVISIONS.**

She asked if there was a Workplace Safety Program dictating training and regular reinforcement or regularly scheduled training events. She was concerned no one was aware of the program and requested a copy for discussion at the next meeting. Attorney Eschenfelder said the Fire Department had its own detailed training protocols which included safety, but he did not know if other departments did.

- **Section 802. INJURY TREATMENT AND REPORTING.**

Chair Emblar asked how alcohol was addressed. Attorney Eschenfelder said he did not know what was currently done. Ms. McLaughlan said the Drug-Free Workplace Policy includes alcohol as part of the definitions. Chair Emblar said the Drug-Free Workplace Policy has not been revised since February 2007. Attorney Eschenfelder said the City understands the law and has adjusted its procedure. He has been working on making the changes.

- **Section 803. VEHICLE ACCIDENT REPORTING PROCEDURE.**

Chair Emblar asked if they would drug test only if there would be a liability to the City in a motor vehicle accident. Attorney Eschenfelder said vehicle accidents and injuries were broken down into two sections. Drug testing should be done post-accident or post-injury, whether there would be a liability or not. He recommended employees involved in any accident get tested, at fault or not at fault.

The City Manager said some employees might disagree. They are concerned about having to get drug tested if they were hit while stopped at a red light and were not at fault. Attorney Eschenfelder said if the employee filed a workmans compensation claim from the accident and had drugs or alcohol in their system, the claim could be denied.

The consensus was to recommend revising the policy to require testing for any workplace injury or accident.

- **Section 806. TRANSITIONAL DUTY ASSIGNMENTS.**

Chair Emblar asked if the language was compliant with Florida laws. Attorney Eschenfelder said it was, and it could serve as a form of ADA accommodation. Chair Emblar asked if there were any problems in the past. The City Manager said in most instances, the City did not have the ability to accommodate, but the departments understood that it would be a priority.

ARTICLE IX. CLASSIFIED EMPLOYEE APPEALS

Chair Emblar asked what the rationale was for changing the title of Article IX from “Grievances and Appeals” to “Classified Employee Appeals.” Attorney Eschenfelder said it was to make a clear distinction between at-will classified employees and those that are Civil Service protected and entitled to due process through the Civil Service Commission. It was to make the language consistent with who would have the right to appeal to the Civil Service Commission and who would not.

Chair Emblar recommended moving the first sentence, “The Civil Service Commission may render advisory opinions based on its findings to the City Manager,” to the last paragraph of the Article and beginning the Article with the third paragraph. The first paragraph should be merged with the last paragraph. Attorney Eschenfelder agreed and did not think the first two paragraphs of the Article were necessary.

Chair Emblar said there was a typographical error in the last sentence of the second paragraph. It should read, “nor any member thereof shall not give orders,” instead of “shall give orders.” If the second paragraph is not removed, then this should be changed. Attorney Eschenfelder agreed and said they should not be saying anything that the Commissioners shall or shall not do because they are governed by the Charter.

The consensus was to recommend staff strike the first and second paragraphs in Article IX.

Chair Emblar recommended correcting the grammar in the second sentence on page 41 of 274 to read “employee’s” instead of “employees’.”

Chair Emblar asked what the procedure was if an employee disagreed with their performance evaluation. Attorney Eschenfelder recommended having a provision stating if an employee did not agree with their performance evaluation, they would be authorized to submit a written rebuttal which would go in their personnel file. He did not recommend adopting an appeal process for a performance evaluation because it would undermine managerial authority.

Chair Emblar asked if the City was required to respond to a grievance in writing. Attorney Eschenfelder recommended they ask staff to add that the supervisor and director responses must be in writing. Ms. McLauchlan suggested including an employee response to the performance evaluation in Employee Performance Evaluations (Article V) Section 501. The City Clerk said the performance evaluation included a section for an employee comment.

The consensus was to request that staff consider adding the attorney’s language from #5 and #7 under XVI. Employee Performance Evaluation System on page 227 of 274 in the packet.

Chair Emblar asked if HR should be notified if an employee goes through Step One of the appeal process. The City Manager said he did not think it would be necessary.

Chair Emblar asked if they should re-state their role is advisory. Attorney Eschenfelder said it was not necessary. Attorney Eschenfelder asked that staff reword the second sentence in Step Three – Appeal to the Civil Service Commission to say, “The Civil Service Commission shall have the

power to issue subpoenas to compel the attendance by witnesses and to administer oaths,” instead of “The Civil Service Commission shall have the power to issue subpoenas to compel attendance so that it is limited solely to the appeal.”

Chair Embler asked if the attorney’s language in Employee Complaint Procedure (Article XII) Item D. Prohibition Against Retaliation on page 221 of 274 in the packet was covered in the new language. Attorney Eschenfelder said it was not and recommended staff include the anti-retaliation language.

The consensus was to request that staff include the anti-retaliation language from page 221 of 274 of the packet.

8. NEW BUSINESS

A. “Draft” Madeira Beach Complaint and Whistleblower Ordinance

Attorney Eschenfelder reviewed the item and said the City Manager oversees the complaint review process, but it would not work if the complaint were against him. The Board of Commissioners asked for a draft of an ordinance that provided a scheme for handling a complaint against a manager. The draft included the Whistleblower component. The Board was pleased with the draft but wanted the Civil Service Commission to look at it.

Ms. McLauchlan said the Civil Service Commission would not be engaged in the whistleblower complaints and Attorney Eschenfelder confirmed it. She asked how the new policy compared to other cities. Attorney Eschenfelder said Manatee County, Hillsborough County, and St. Petersburg have something similar. If a local government adopted a policy by ordinance to provide an internal complaint procedure by people who believed they were being retaliated against based on whistleblowing activity, then that employee should follow the internal process before suing the local government. Adopting the policy as part of the Code would allow the City to address the situation first. The manual would be adopted by ordinance separately, and first reading of the ordinance is planned for a workshop meeting in January or February.

The City Clerk said she had a few changes to make in the ordinance.

Chair Embler asked Mr. Tilka for his opinion of the ordinance. Mr. Tilka said he liked the concept and thought it was necessary. He asked if they had subpoena power. Attorney Eschenfelder said they did.

Chair Embler asked if the ordinance would change the power of the Civil Service Commission. Attorney Eschenfelder said they would continue as an advisory board. Chair Embler asked the City Manager if he had reviewed the language in the ordinance, and he said he did not have any objections to it.

Mr. Tilka said he would like the City Clerk to review the document. She said she would be happy to.

The consensus was to move forward with the ordinance.

The City Clerk distributed a copy of Florida Statutes, Section 112.3187, Adverse action against employee for disclosing information of specified nature prohibited; employee remedy and relief, so they could read both documents for comparison.

Mr. Tilka motioned to recommend approval of the ordinance subject to the edits to be made by staff. Ms. McLauchlan seconded the motion.

ROLL CALL:

Paul Tilka	“YES”
Judithanne McLauchlan	“YES”
Gene Embler	“YES”

The motion carried 3-0.

9. NEXT MEETING

Chair Embler said they would review Articles X, XI, and XII at the next meeting. She asked if they were obligated to review the policies referenced in the personnel policy. Attorney Eschenfelder recommended finishing the personnel policy and then coming back to review the other policies in 2023.

The next two meetings were scheduled for January 23, 2022, 10:00 a.m. to 12:00 p.m. and February 17, 2022, 9:30 a.m. to 11:30 a.m.

10. ADJOURNMENT

Chair Gene Embler adjourned the meeting at 5:41 p.m.

ATTEST:

Gene Embler, Chair

Clara VanBlargan, City Clerk/Secretary Ex-Officio