



MINUTES
CIVIL SERVICE COMMISSION
MEETING
FEBRUARY 15, 2023
11:00 A.M.

The City of Madeira Beach Civil Service Commission meeting was held at 11:00 a.m. on February 15, 2023, in the Patricia Shontz Commission Chambers at City Hall, located at 300 Municipal Drive, Madeira Beach, Florida.

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

MEMBERS ABSENT:

CITY STAFF PRESENT: Lara Hooley, Executive Assistant to City Clerk
Sean Lilly, HR Director
Thomas Trask, City Attorney
Megan Powers, Executive Assistant to City Manager

1. CALL TO ORDER

Chair Gene Embler called the meeting to order at 11:01 a.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: 2022-11-30, Civil Service Commission

Vice Chair Ponte motioned to approve the meeting minutes for November 30, 2022. Judithanne McLauchlan seconded the motion.

ROLL CALL:

Cristina Ponte “YES”

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

The motion carried 4-0.

5. NEW BUSINESS

A. “Draft” Employee Personnel Policies and Procedures Handbook

ARTICLE X. DISCIPLINARY ACTION

• Section 1001. GENERAL PROVISIONS.

Chair Embler said the first sentence in paragraph three was duplicated in the fifth paragraph. Human Resources Director Sean Lilly said that would be fixed. Chair Embler asked for a legal opinion on the wording of the first sentence in the fifth paragraph. Director Lilly said the intent of the language was to mitigate circumstances. Vice Chair Ponte said the language in the Lawyer’s version in Section 11.C.6. was good and asked staff to consider it.

Chair Embler asked if the intent of paragraph nine was not to allow the supervisor to handle written warnings, only the department director, and that supervisors can only give verbal warnings. Director Lilly said supervisors only have the authority to give verbal warnings, but if it goes to a higher level, the department director gets involved. If the written warning is justified, then the written warning would be discussed with the Human Resources and the City Manager. Vice Chair Ponte asked if the supervisor could write an email about the infraction. Director Lilly said they could. A written warning is an official written warning letter that gets placed in the employee’s personnel file. Vice Chair Ponte asked staff to consider adding the language from the attorney’s version in 11.C.5.

Vice Chair Ponte said she did not see anything in the policy that dealt with employee complaints. Director Lilly said appeals were used for termination. Vice Chair Ponte asked staff to review the policy for a section on how to handle employee complaints similar to Section 12 in the attorney’s version. Director Lilly said they changed the section's name to Appeals because grievance is collective bargaining, and the City does have a collective bargaining contract.

Mr. Tilka asked where the whistleblower ordinance would be addressed in the new document. Vice Chair Ponte did not think it would be addressed in the new document. Mr. Tilka asked if ethics complaints would come before the Civil Service Commission. The City Attorney said they would not. The Ethics Commission for the State of Florida would handle the complaint process. Chair Embler asked what the role of the Civil Service Commission would be when they finished the handbook. Mr. Tilka asked if an ethics complaint that came back negatively should come before them. Chair Embler suggested they table that question until their next meeting.

The City Attorney asked if they had seen the draft whistleblower ordinance. City Clerk Clara VanBlargan said they saw the original ordinance but not since it was separated into two ordinances,

one for Civil Service Commission and the other for whistleblower. After she gets both ordinances from the attorney, she will send them to the Civil Service Commission. The City Attorney suggested they put the discussion on an upcoming agenda for discussion.

- **Section 1002. GROUP I OFFENSES.**

Director Lilly said as the offenses get worse, the discipline gets stronger. Vice Chair Ponte thought it made sense but suggested making the supporting language clearer. Anything with just cause should allow them to use their discretion to assign the right level of offense. Director Lilly said there is a catch-all phrase in each level of offense.

Chair Embler asked for a grammar correction in Item 16; remove the period after policy and change “Which” to “which.”

- **Section 1005. GROUP II OFFENSES.**

Chair Embler suggested they define what an item of value means by assigning a dollar amount. Vice Chair Ponte suggested stating, “as defined in the Code of Ethics, Section 1203”

Chair Embler asked where the use of company time to use social media or personal emails was defined. Theft of company time and company equipment should be addressed. Vice Chair Ponte said it was addressed in Section 1214 but agreed it should be included in the offenses. It was covered in the attorney’s version. The City Attorney said it was covered in Section 1002, Item 5, Wasting time. Vice Chair Ponte suggested adding a more explicit item that includes improper use of City equipment.

ARTICLE XI. SEPARATIONS

- **Section 1101. RESIGNATION.**

Chair Embler asked what the initial intent of paragraph three was and why it was stricken. Vice Chair Ponte said she could not find anything on discharge and recommended using the language in 11.D.2. of the attorney’s version. Director Lilly said Article X addressed disciplinary action and discharge.

Vice Chair Ponte asked the City Attorney if they should include name-clearing hearings in the policy. The City Attorney said he would highly recommend it. It should be included. Vice Chair Ponte asked staff to refer to Section 11.D.2.H. of the attorney’s version to see what should be included with discharges in the policy. Director Lilly agreed.

ARTICLE XII. MISCELLANEOUS POLICIES AND PROVISIONS

- **Section 1201. HARASSMENT POLICY.**

Chair Embler said age was not included in harassment in paragraph three. Vice Chair Ponte said Section 13 of the attorney’s version was more inclusive and recommended using the same

language. The City Attorney read an email from Attorney Eschenfelder saying he hoped the City would adopt his version of the illegal harassment policy versus sex harassment language, which was light on investigation process detail. Director Lilly agreed to review it.

- **Section 1202. FLORIDA CLEAN INDOOR AIR ACT.**

Chair Embler asked how smoking breaks were handled for employees that smoked and if people complained because an employee that smoked would take more breaks than a non-smoking employee. Director Lilly said he had not run into that yet.

- **Section 1203. CODE OF ETHICS.**

Vice Chair Ponte said she liked the attorney's version; it was more elaborate. She asked the City Attorney if what was in the policy was adequate or if it should be more defined. The City Attorney said Attorney Eschenfelder thought it should be defined and recommended it be added to the policy. Vice Chair Ponte suggested adding more detail on the Code of Ethics and the training rather than adding all the attorney's language. Chair Embler agreed and said they could refer to the Florida Statutes.

Vice Chair Ponte asked what the requirement was for ethics training. The City Clerk said ethics training was available every quarter. If the personnel manual refers to ethics, everyone should have something in their personnel file that they took the class. The state also required ethics training. The consensus was to add the statute and reference the required training. Ms. McLauchlan said the section on ethics in the disciplinary section did not have a dollar amount, but Section 1203 did. The document needed to be able to stay the same over time, so referencing the Code of Ethics and training would keep it simple.

- **Section 1204. ARRESTS.**

Vice Chair Ponte asked the City Attorney if it was appropriate to request an arrest report the next workday or should they allow for three days as stated in the attorney's version. The City Attorney said the problem was that sometimes people do not get arraigned immediately and may not have the opportunity to respond. Vice Chair Ponte asked if there was a risk leaving it the way it was written. The City Attorney said there was no legal risk. If an employee takes more than a day, it may not result in disciplinary action. The consensus was to leave the language the way it was if taking more than a day did not result in disciplinary action.

- **Section 1205. ATTENDANCE.**

Chair Embler questioned the language in the last paragraph. Should they allow an employee to return to work after unauthorized absences for three consecutive workdays. She thought no show, no call for three days should be considered a voluntary resignation. Director Lilly said he gives the benefit of the doubt until he needs to act on it. Chair Embler understood the leniency but wanted to make sure there was consistency.

Vice Chair Ponte said the case Mr. Tilka referenced at a previous meeting caused an issue, and she wanted to make sure they were protecting themselves. She requested the other members look at it.

Vice Chair Ponte asked whether voicemail and email notifications were accepted forms of notification for an absence. Director Lilly said they were allowed.

- **Section 1206. BORROWING CITY EQUIPMENT.**

Ms. McLauchlan asked if there should be clarification of what personal use is. Chair Embler said she did not think it needed to be expanded on. Vice Chair Ponte thought it would be better to add a little more information and clarity.

Vice Chair Ponte asked if review of electronic communication, scavenging, and recycling was addressed in the current policy. She recommended staff review the language in Section 25.C. of the attorney's version.

- **Section 1209. REIMBURSEMENT FOR TRAVEL EXPENSES.**

Chair Embler said there was conflicting language in Item a. and Item c and asked what the City's policy was for travel expenses. She did not think receipts were necessary for per diem. Megan Powers, Executive Assistant to the City Manager, explained how the City handled reimbursement.

Chair Embler asked how mileage was reimbursed. They could not put a specific rate in the policy because it was subject to change. Director Lilly said they use the number the IRS comes out with every year. Chair Embler recommended stating, "either in the travel policy or in the document, that reimbursement would be based on the current IRS amount.

Ms. McLauchlan suggested changing the word "performed" to the word "made" in the first sentence in Item b.

- **Section 1210. DRUG-FREE WORKPLACE AND SUBSTANCE ABUSE PREVENTION PROGRAM.**

Director Lilly said it was being worked on.

- **Section 1211. EQUAL EMPLOYMENT OPPORTUNITY / AFFIRMATIVE ACTION PROGRAM.**

Chair Embler asked why the City would not want to evaluate the performance of its management as it relates to affirmative action. Director Lilly said it was not a requirement to have an affirmative action plan. They would need to have a federal contract over \$50,000 to have one.

Ms. McLauchlan suggested adding sections regarding civil rights and non-discrimination into one section instead of in Miscellaneous. Anything related to harassment should all be in the same place.

Vice Chair Ponte said Director Lilly would work on changing the article title. She recommended it be placed earlier in the document.

- **Section 1212. DONATION OF SICK OR ANNUAL LEAVE.**

Ms. McLauchlan said the section was stricken. Section 1212 is now named “Employees Giving Back.” Employees can use eight hours of paid time off each year to volunteer in the community.

- **Section 1213. THE PINELLAS COUNTY SCHOOL PARTNERSHIP.**

Chair Embler said the section related to donating time specifically towards mentoring and tutoring. She asked if they wanted to keep Section 1213 or Section 1212. Ms. McLauchlan said they both required department head approval. Chair Embler asked if they were approved to do the school partnership, could they still do the eight volunteer hours. Director Lilly said he did not know.

Ms. Ponte asked if it would be better to put the two specific programs in a separate policy outside the personnel policy. Ms. Powers said the previous City Manager was a mentor for the Madeira Beach Fundamental School, and she did not know how far back the partnership went. The program was once a week during the school year, and the student did a Zoom call at lunch with the City Manager. Ms. Powers said she would have to check with the City Manager if an employee could do both.

Ms. McLauchlan said she thought it should stay in the personnel policy because it talked about authorized time off and provided documentation. It would be a significant time commitment by an employee. Ms. Ponte agreed.

- **Section 1214. EMAIL.**

Chair Embler said the section referred to City emails. She suggested replacing the word “discouraged” with “prohibited” in line ten under Social Media Policy. The consensus was to make the change, and staff agreed. Director Lilly said City cell phones should be included.

Ms. McLauchlan asked if it would be worth stating that City emails are public records as a reminder to employees.

Ms. Ponte suggested adding that a post could be asked to be removed if an employee misrepresents the City in the social media policy. She asked the City Attorney if it would fit within the legal regulations. The City Attorney did not know and made a note for Attorney Eschenfelder to address it.

- **Section 1215. VIOLENCE IN THE WORKPLACE.**

Ms. McLauchlan asked if the City could prohibit guns in the workplace regardless of what the state did. The City Attorney said there are certain Statutes already in place that deal with guns in City facilities and is preempted by the state. Ms. Ponte suggested they use the language in Section 23 of the attorney’s version. The City Attorney agreed, and staff would review.

6. OLD BUSINESS

There was no Old Business.

7. NEXT MEETING

Director Lilly said the next step would be to put the changes into an updated document. He would like payroll to review it. Chair Embler suggested Director Lilly and Attorney Eschenfelder review it together before the final review by them.

Ms. McLauchlan asked about the proposed changes to the Civil Service Commission. The City Attorney said it came to them as one ordinance and has been split into two ordinances. The first part, the role of the Civil Service Commission, was ready to move forward. He was waiting for Attorney Eschenfelder's comments on the whistleblower part. Both parts could be before the Board of Commissioners for first reading as early as April. A copy of both would be sent to them with a copy of the Board of Commissioner's meeting schedule. The City Clerk reminded that a new commission will be seated, and the document would go to them in a workshop meeting before going to first reading.

The consensus given:

1. Hold a meeting on the last Wednesday in March to discuss the roles and responsibilities of the Civil Service Commission.
2. Have the personnel policy document ready to send to the Civil Service Commission in April and hold a meeting in May for final review and changes.

8. ADJOURNMENT

Chair Gene Embler adjourned the meeting at 12:49 p.m.

ATTEST:

Gene Embler, Chair

Clara VanBlargan, City Clerk/Secretary Ex-Officio