



MINUTES
CIVIL SERVICE COMMISSION
MEETING
MARCH 29, 2023
2:00 P.M.

The City of Madeira Beach Civil Service Commission meeting was held at 2:00 p.m. on March 29, 2023, 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
Attorney Rob Eschenfelder, Trask Daigneault, L.L.P.
Megan Powers, Assistant to City Manager

1. CALL TO ORDER

Chair Gene Embler called the meeting to order at 2:01 p.m.

2. ROLL CALL

City Clerk Clara VanBlargan called the roll.

3. PUBLIC COMMENT

There were no public comments.

4. APPROVAL OF MINUTES

A. Approval of Meeting Minutes: 2023-02-15, Civil Service Commission

Judithanne McLauchlan motioned to approve the meeting minutes for February 15, 2023. Paul Tilka seconded the motion.

ROLL CALL:

Judithanne McLauchlan "YES"

Paul Tilka
Gene Embler

“YES”
“YES”

The motion carried 3-0.

5. OLD BUSINESS

A. Civil Service Commission Roles and Responsibilities

Chair Embler asked for clarification on Section 5.7 – Personnel systems; Civil Service Commission in the Madeira Beach Code, and Division 4. - Civil Service Commission in the City Charter.

City Clerk Clara VanBlargan said the rules in the City Charter could only be changed by the voters. The City Code is adopted by ordinance, which the Board of Commissioners can change.

Attorney Eschenfelder said the Board was asked to look at Ordinance 2023-06 and Ordinance 2023-07. The City Clerk said they could make suggestive changes to them.

B. Proposed Ordinance 2023-06, Revisions to Code of Ordinances, Division 4 - Civil Service Commission

Chair Embler commented on City Code, Sec 2-127 (d):

“The failure of any member of the Civil Service Commission to attend two of three successive meetings without cause and without prior approval of the Commission Chair shall result in the member’s seat becoming vacant and the City Clerk, serving as Ex-Officio Secretary to the Civil Service Commission, shall report the vacancy to the Board of Commissioners, which shall promptly fill such vacancy.”

Chair Embler said in the past, she had not been notified if people would not be attending. Attorney Eschenfelder said it was incumbent upon each member to notify the City Clerk if they could not attend a meeting. The City Clerk would verify from the Chair that the person could be excused. The minutes would reflect the excused absence. Multiple unexcused absences would result in abandonment of their role and a vacant seat. Chair Embler agreed.

Ms. McLauchlan asked if attending meetings virtually would count as participation. Attorney Eschenfelder said the City Attorney advised the Board of Commissioners that attendance must be in person. Chair Embler asked if they should add it to the language. Attorney Eschenfelder said it would be covered in new member orientation.

Sec. 2-126. – Intent; appellate jurisdiction.

Sec. 2-126 (d)

Attorney Eschenfelder said the role of the Civil Service Commission is to provide a due process opportunity for Civil Service protected employees. He wanted to bring greater clarity and specificity to what goes before them.

Sec. 2-127. – Appointment and membership.

Sec. 2-127 (a)

Chair Embler said the change would allow the Chair, in conjunction with the City Clerk, to cancel a meeting if there were no agenda items.

Sec. 2-127 (k)

Chair Embler asked about Human Resources Director Sean Lilly not attending. The City Manager said Mr. Lilly was no longer with the City. Megan Powers would be the staff person for HR.

Sec. 2-127 (m)

Chair Embler asked what the intent was with the language. Attorney Eschenfelder referenced a court case where the Florida Supreme Court ruled a government lawyer cannot act as both a prosecutor and advisor to the Board.

Sec. 2-127 (n)

Chair Embler asked if the new language meant a terminated employee could come to the Civil Service Commission and they could make non-binding recommendations. Attorney Eschenfelder said yes. Chair Embler asked how many times it occurred in the past. The City Clerk said there had been two cases since 2017. Chair Embler asked what happened to the recommendation of the Civil Service Commission in the two cases. The City Clerk said in one case, the recommendation was given to the City Manager, and the other ended in litigation. Chair Embler asked if the recommendations were adopted in the end. Mr. Tilka said he sat on both, and they were not adopted.

Chair Embler said she thought they were allowed to subpoena witnesses. Attorney Eschenfelder said they still are. Chair Embler asked what would happen if the person did not show up. Attorney Eschenfelder said the non-compliance would go to the Board of Commissioners. If they thought the person needed to be compelled, they would instruct the City Attorney to file a legal petition before a Circuit Judge, who would give an order compelling the person to appear under penalty of arrest.

Sec. 2-128. – Procedural matters.

Mr. Tilka asked where it was cited that they act as an advisory board only. The City Manager said City Charter, Section 5.7 C. (6). Attorney Eschenfelder said they render advisory opinions based on findings to the City Manager.

Sec. 2-129. – Non-appellate powers and duties.

Sec. 2-192 (a)

Chair Embler said she did not feel qualified to discuss pay plans for the staff. She thought the City Manager and his staff would be better qualified to do it. Attorney Eschenfelder said it was a Charter provision and a function of the Civil Service Commission.

The City Manager said the pay plan would be on the agenda for the next meeting. After he briefs the Board of Commissioners, he will present a pay plan with some salary adjustments that would be part of the budget for the next fiscal year.

The City Clerk cited the City Charter Section 5.7 C:

“The Civil Service Commission shall prepare personnel rules. When concurred by the City Manager, the rules shall be proposed to the Board of Commissioners, and the Board of Commissioners may by Ordinance adopt them with or without amendment. These rules shall include, but are not limited to...”

The City Clerk explained the Civil Service Commission prepares the personnel rules. One rule is the pay plan, Sec. 5.7, C. 2. After concurrence by the city manager, the personnel rules go to the Board of Commissioners in an ordinance for consideration and approval.

Chair Embler asked if the Board would be expected to research comparative wage data. The City Manager said he and his staff would do the research. Attorney Eschenfelder said they could do their own research as someone who is neutral.

Chair Embler said she felt the role of a Civil Service Commission could take one of three directions. One being with “teeth,” a second as an advisory board, or there would be no Civil Service Commission. She asked the other Board members which direction they thought they should be heading.

Mr. Tilka said he felt they were necessary. He thought they were a safety net for the employees and would choose the middle-of-the-road advisory board. He felt they had more authority than they realized.

Attorney Eschenfelder said he agreed with Mr. Tilka, but the Charter states they are advisory until the voters decide to change it. Ms. McLauchlan agreed with the attorney and Mr. Tilka. Chair Embler said she was pondering whether they should stay as an advisory board or go to the voters to be done away with. She would never want more authority. She thanked the Board for helping to clarify her thoughts. They are a safety net with more steps available.

The City Clerk said the personnel policy would go to the Board of Commissioners at a joint workshop with the Civil Service Commission to work through everything. The Board of Commissioners could adopt it as is or with changes at a regular meeting.

Attorney Eschenfelder asked if the minutes could reflect their recommendation to the Board of Commissioners to adopt Ordinance 2023-06.

Chair Embler motioned that the minutes reflect they favor Ordinance 2023-06, revision to Code of Ordinances, Division 4 – Civil Service Commission. Mr. Tilka seconded the motion.

ROLL CALL:

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

The motion carried 3-0.

C. Proposed Ordinance 2023-07, Whistleblower Ordinance

Attorney Eschenfelder said Ordinance 2023-07 stems from a situation where a former city manager had a role to play in reviewing his own conduct. Part of the ordinance creates a separate system, and things could be investigated in a way the manager cannot exert their influence. The other component of the ordinance is the whistleblower component. There is a Florida Statute that protects public employee whistleblowers from retaliation. If a local government adopts an ordinance providing a system for employees to report whistleblower-covered activities, then the employee needs to follow the internal process before suing.

Mr. Tilka asked if it only pertained to employees. Attorney Eschenfelder said it focused on employees. Vendors of the City would be covered under the Florida Statute. Mr. Tilka asked if residents could present an issue they encountered with a City employee. Attorney Eschenfelder said they could approach the government to petition for redress of grievance. There is case law under the first amendment in federal court that says you cannot retaliate against someone for exercising their first amendment rights. The City Clerk said citizens could file a complaint with the Commission on Ethics or other organizations.

Mr. Tilka motioned to approve Ordinance 2023-07, Whistleblower Ordinance. Ms. McLauchlan seconded the motion.

ROLL CALL:

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

The motion carried 3-0.

Attorney Eschenfelder excused himself from the meeting at 2:55 p.m.

6. NEW BUSINESS

The City Clerk said she was working on putting the last changes in the handbook. It should be ready for review for their next meeting.

7. NEXT MEETING

The next Civil Service Commission meeting was scheduled for Tuesday, May 30, 2023, at 9:00 a.m.

8. ADJOURNMENT

Chair Gene Embler adjourned the meeting at 3:00 p.m.

ATTEST:

Gene Embler, Chair

Clara VanBlargan, City Clerk/Secretary Ex-Officio