



MINUTES
CIVIL SERVICE COMMISSION
MEETING
MAY 30, 2023
9:00 A.M.

The City of Madeira Beach Civil Service Commission meeting was held at 9:00 p.m. on May 30, 2023, in the Patricia Shontz Commission Chambers at City Hall, located at 300 Municipal Drive, Madeira Beach, Florida.

MEMBERS PRESENT: Gene Embler, Chair (arrived at the meeting at 9:25 a.m.)
Cristina Ponte, Vice Chair
Judithanne McLauchlan
Paul Tilka
Jerry Cantrell
Clara VanBlargan, Ex-Officio Secretary

MEMBERS ABSENT:

CITY STAFF PRESENT: Robin Gomez, City Manager – Arrived late
Attorney Rob Eschenfelder, Trask Daigneault, L.L.P.
Megan Powers, Assistant to City Manager

1. CALL TO ORDER

Vice Chair Cristina Ponte called the meeting to order at 9:06 a.m.

2. ROLL CALL

City Clerk Clara VanBlargan called the roll. Chair Embler was absent for Roll Call.

The City Clerk administered the Oath of Office to new member Jerry Cantrell.

3. PUBLIC COMMENT

There were no public comments.

4. APPROVAL OF MINUTES

A. Approval of Meeting Minutes: 2023-03-29, Civil Service Commission

Judithanne McLauchlan motioned to approve the meeting minutes for March 29, 2023. Paul Tilka seconded the motion.

ROLL CALL:

Judithanne McLauchlan	“YES”
Paul Tilka	“YES”
Cristina Ponte	“YES”
Jerry Cantrell	“YES”

The motion carried 4-0.

5. NEW BUSINESS

A. City of Madeira Beach Pay Grades 2022-2023

Jerry Cantrell said the pay grade document on Page 9 did not look like an original document from Human Resources. It seems like they were trying to set up different gradations of pay. He compared that to other cities, and it does not make sense. Because of the many spelling errors on the document, it does not look like it came from a human resources aspect. He would like to see the human resources document that shows the roles and responsibilities for each position to see if they are commensurate with the pay grade. Compared to the pay scales of the three cities he looked at, they are not commensurate with the job responsibilities. He is willing to share that with the other members.

The City Clerk said she could add the item to the next agenda and include a copy of the job descriptions. They could work through those. She could send Mr. Cantrell's document to the other members before the meeting. The City Clerk received consent to add the item to the next agenda.

Vice Chair Ponte asked why the Civil Service Commission had the pay grades. The City Clerk said it was a City Charter responsibility that they work through it and add the rules to the handbook.

Mr. Cantrell asked the City Attorney if there was any labor law they needed to be cautious about because there is no human resources director. He wanted to make sure they were doing things properly. Attorney Eschenfelder said the City Manager appointed Ms. Powers as the HR staff. Ms. Powers said she would do the paperwork and onboarding, but the disciplinary responsibility would be with the City Manager. Mr. Cantrell asked if there was any intention to hire a Human Resources person and if the job had been posted. Ms. Powers said it had not and did not know the reason. Mr. Cantrell asked for the information, and Ms. Powers said she would provide that to him. Mr. Cantrell said it would be helpful to have a human resources director attend the meetings to help with the personnel systems.

Ms. Ponte said Mr. Sean Lilly had been at most meetings and asked why he had left. Ms. Powers said there was not much for him to do as HR director because of the onboarding. The City Manager reorganized to what they have now.

Mr. Cantrell said the Board of Commissioners is the only one to disband a department and reassign the duties. He said they would have problems getting the information needed to work through much of it without an HR director. He has been looking at everything provided to him, including

the personnel policy, and a lot seems to be missing and does not make sense. He asked how far they could go to determine why the pay grades were established. The document they provided does not look like an HR person prepared it and does not make sense.

Mr. Cantrell read City Charter, Section 5.7 Personnel Systems; Civil Service Commission, C, Personnel Rules. He said the rules must be included in the personnel policy. He said as stated, the Civil Service Commission prepares the rules, which shall include, but are not limited to:

1. The classification of all classified City positions, based upon the duties, authority and responsibility of each position, with adequate provisions for classification of any position whenever warranted by circumstances.

Mr. Cantrell said it was important to know that it is for all City positions, not just classified City positions. He said the personnel policy does not show that.

2. A pay plan for all City positions.

Mr. Cantrell said it was not just for all classified city positions.

3. Methods for determining the merits and fitness of candidates for appointment or promotions.

Mr. Cantrell said that would be about how they get promoted. Most must be based on individual departments and their decisions. They are the ones that know the quality and the aspects and the virtues of that person.

4. The policies and procedures regulating reduction in force, demotion, suspension and removal of employees.

Mr. Cantrell asked if there was a policy in place for that. The City Charter says that only the Board of Commissioners can assign and appoint dual roles for any employees.

5. The hours of work, attendance regulation and provisions for sick and vacation leave.

The Civil Service Commission is supposed to set that. However, it might not work for all departments.

6. Grievance procedures, including procedures for the hearing of grievances by the Civil Service Commission, which may render advisory opinions based on its findings to the City Manager with a copy to the aggrieved employee. In this respect the Civil Service Commission shall have the power to issue subpoenas to compel attendance by witnesses and to administer oaths.

Mr. Cantrell said the word "grievance" had been removed from the document. That is problematic, and that word needs restoring because it is specifically written in the Charter.

7. Other practices and procedures necessary to the administration of the City personnel system.
8. In connection with the aforementioned personnel rules, the Civil Service Commission shall inquire into the implementation of such personnel rules as considered necessary to ensure compliance therewith.

The City Clerk said for the record, Chair Gene Embler arrived at the meeting at 9:25 a.m.

Ms. Pointe briefed Ms. Embler on what they had discussed before her arrival at the meeting and said the City Clerk would add job descriptions and pay grades to the next agenda for a full discussion.

The City Manager explained that the pay grade document provided to them is a list of all job positions within the City, each listed in one of the seven pay grades. It is the same document that has been used for many years. Several adjustments were made for the current year due to salary and job responsibilities, and the minimum and maximum ranges were increased. Pay grades 4, 5, 6 & 7 will become exempt positions. For some reason, some supervisor positions in pay grade 4 had been classified as non-exempt and paid hourly and should have been exempt. The supervisors hire, fire, supervise, and direct.

Mr. Cantrell asked if they did the day-to-day work as well. The City Manager said some of it, but they are supervising. Mr. Cantrell said if they are supervising, that is a different level. They can do some of the administrative tasks. He asked why the change in classification. The City Manager said they are administrative managers and supervise.

Mr. Cantrell asked for a document showing their current job titles and if they passed the test for exempt status. The City Manager said they do similar tasks. From his perspective, they had misclassified the positions. He will provide the information showing the reason for the change.

Mr. Cantrell said he looked at the job classifications of other cities and could tell which positions were exempt and which were not.

Chair Embler agreed with Mr. Cantrell and said she had no problem with the supervisors being exempt but was not sure it was appropriate for an executive assistant to be classified as exempt. They would not pass the test unless their function is to hire, fire, etc. The City Manager said the executive assistants may not be exempt and will not pass the test for exempt status. They will either be moved to a different pay grade or left there and not be classified as exempt. The supervisory positions overlooked will be shown in next year's budget as exempt. They averaged about \$5,000 a year in overtime. The rate of pay will be adjusted to compensate for that based on a three-year average and reclassified as exempt status.

Chair Embler said she wanted to ensure that the exempt positions passed the test. She did not want anyone misclassified.

Mr. Cantrell said in the personnel policy, comp time is available to them. The City Manager said comp-time is bad because departments handle it different. Some are not paid time and a half per hour for every hour worked when using comp time. Mr. Cantrell said that needed addressing at a different level because comp time is addressed in the policy.

Chair Embler said as a group, they needed to decide the best next steps to finalize the document because it was far from final. There is a lot to be discussed going forward. Mr. Cantrell asked for a copy of the Attorney's original document. The City Clerk said she would provide it for him.

Vice Chair Ponte suggested establishing an orientation process for new members and separating the policy from implementation. Currently, they are disoriented. It is good to build off what has been done. They must implement something to bring them up to speed because it gets very confusing. She would like them to consider the policy and then the implementation separately.

Mr. Cantrell said if a policy is in place, it should be implemented. Vice Chair Ponte said they had not been involved in the implementation and is not sure they are tasked with that. The City Clerk said the Civil Service Commission is responsible for preparing the policy, and after concurrence by the city manager, the Board of Commissioners approves it with or without changes. The City Manager said, as the Clerk just stated, the role of the Civil Service Commission is listed in the City Charter and is straightforward. Vice Chair Ponte said they should be involved with the implementation.

The consensus of the Board was for the City Manager's office to create a policy for orientating new Civil Service Commission members and to welcome their input.

The consensus of the Board was to discuss the pay grades and job descriptions at the next meeting. The City Manager will bring back a recommendation of when to do a formal study.

Chair Embler asked what the City had done to compare its minimum and maximum pay range to market value. The City Manager said it had been a couple of years since the City performed a pay grade study, but they regularly look at what other cities pay when they have vacancies. For budget purposes, they look to see if any ranges need to be moved based on compression or other changes. He meets quarterly with the city managers of Treasure Island, St. Pete Beach, and South Pasadena, which resulted in creating an HR subgroup mainly to look at HR related issues. They are looking at having a pay study in the latter part of 2024.

Mr. Cantrell recommended they do a pay study now rather than waiting until 2024 since they have to adjust the pay scale, etc. It would make sense to do that to move forward. The City Manager said they adjust the pay scale with the budget yearly. Mr. Cantrell said adjustments to a pay scale are different than looking at it comprehensively. When looking at the pay scale of other cities, it was concerning that some cities are paying more for positions such as sanitation.

Vice Chair Ponte requested copies of the last two pay studies and the cost. The City Manager said they would have to bid out the pay study, the same as they do with every professional service, because the cost would probably be over \$30,000.

Vice Chair Ponte asked if they did any employee satisfaction surveys. The City Manager said they could look at that.

Ms. McLauchlan asked if employee satisfaction was part of the employee performance reviews. The City Manager said it was encouraged, but it is usually a discussion between the employee and supervisor about their performance for the year. He had read some of it in some of the employee performance evaluations.

Mr. Cantrell said there is a way in Office 365, called forms, to do surveys, and could choose to make them anonymous.

Chair Embler recapped the meeting:

- They will discuss job descriptions and pay grades in more detail at the next meeting. Additional information will be provided in the packet, including job descriptions.
- They will be discussing pay grades 4 through 7 to see if it is necessary to split the positions so they are compliant in placing people as exempt and non-exempt.
- The City Manager will come back with a recommendation of when it makes sense to do a formal study and whether they have time to do that before the next budget.

Chair Embler said she had been serving for three years, and it was the first time seeing anything. The City Manager said he thanked the staff for that. The City Clerk said she was happy to provide it.

The City Manager pointed out on the pay grade document toward the top that positions labeled in green are not safety-sensitive. Based on the court cases that Attorney Eschenfelder provided, they no longer required drug testing for those positions upon offering the position.

Mr. Cantrell asked if there would be an issue if they differentiated on who to provide the job to based on the analysis. Could it be across the Board, or must it be specific positions? Attorney Eschenfelder said there were several issues, one being a fourth amendment issue, search and seizure. The federal courts had ruled that it would be a violation of search and seizure by drug testing someone that would not be holding a safety-sensitive type position. Chair Embler said they had done the research, and the City is now compliant. The City Manager said when making an offer of employment, they do drug testing only for safety-sensitive positions.

Chair Embler expressed her concern that Jerry Cantrell is the spouse of an elected Commissioner and serving on the Civil Service Commission. Are they following their own rules and best practices by allowing that? She would like input from the Attorney and City Manager. It has nothing to do with Mr. Cantrell as a person. She is impressed with his initiative, and he will bring a lot to the Board. It is not that she did not value or respect him; it is about perception. If it were a distraction, she would be concerned.

Mr. Cantrell said he reached out to City Attorney Trask and asked if he had conversations with a board member or the mayor if it would be an issue. The City Attorney provided a legal opinion in an email, which he would happily share that there is no sunshine issue with him speaking to any

of them. It would be completely within his rights. The only people he could not discuss things with were the members of the Civil Service Commission outside a meeting.

Mr. Tilka said he could talk to any Commissioner and the Mayor, so he is okay with it. Ms. McLauchlan said it did not seem to violate any rules or procedures but was unsure about perception. Jerry has a lot to contribute to the panel, he would be an advantage and is highly qualified, and they have been trying to get good people on the Board. It would be sad to turn someone away from serving who is really good.

Mr. Cantrell said he could leave the room while they discussed it. The Attorney said the City Clerk would note in the minutes when he stepped out and stepped back in.

Mr. Cantrell stepped out of the room at 10:01 a.m.

Attorney Eschenfelder said Mr. Trask is correct, which would also be his advice. He explained why it would not be a sunshine law violation with Mr. Cantrell serving on the Civil Service Commission by being the spouse of a Commissioner. It is not up to the Civil Service Commission to take a poll to decide whether it is appropriate or not because the 100% sole judge of who should sit on any advisory board is the Board of Commissioners. An advisory board member speaking to a Board of Commissioner does not raise any sunshine issues unless it is quasi-judicial. If the person qualifies to serve, the judgment of only the Board of Commissioners matters. That is the political process for the Civil Service Commission to stay out of.

Mr. Cantrell returned to the meeting at 10:05 a.m.

Chair Emblar said she was excited and thrilled to have Mr. Cantrell on the team.

Mr. Cantrell received confirmation that the pay grade would come back to them at the next meeting and the last two dates when they did the pay analysis.

Vice Chair Ponte requested adding to new business, discussing employee satisfaction surveys, and that the Civil Service Commission be a part of the implementation process of the HR procedures and policies because that is part of what they do. She understands that is not part of the current Charter and would like to discuss amending that. Attorney Eschenfelder said they already had the authority to inquire into the implementation under the Charter. They had the authority to inquire about the administration at any time. He would recommend that once the policies are adopted, the Civil Service Commission set a schedule to review and choose what to discuss so the administration can plan to discuss that at the meeting.

Vice Chair Ponte said they are already part of the implementation process and have teeth. They have the authority to inquire about any policy adopted in the personnel policy to ensure compliance, choose what procedure to take, and recommend revisions that need making. She recommended that it be discussed at the next meeting.

Mr. Cantrell asked if it would be okay to meet once a month to discuss whatever they decided to review. Vice Chair Pointe said the policy is only as good as it is implemented.

Mr. Cantrell received confirmation that they will be adding implementation to the next agenda for discussion.

Mr. Tilka said it is in the Charter that they take responsibility for implementing the policy. Whatever the term used, they are there to do it.

Ms. McLaughlin said she was unsure if they needed to deviate from the quarterly meetings, but they should consider implementation. They first need to get through the personnel policy and decide how to implement it later.

Chair Emblar asked Ms. Pointe to take the lead and come to them with her recommendation for the next meeting.

Vice Chair Pointe recommended that Jerry go through the whole thing and submit his comments, and they can discuss that in two meetings to get it done. They had a big opportunity, as well as everyone else in the room, including the HR Director, to say what they wanted, but Mr. Cantrell did not. She would like him to have that opportunity. She would also recommend that they discuss implementation once a quarter. They take it section by section until they have other stuff to do.

6. OLD BUSINESS

A. "Draft" Employee Personnel Policies and Procedures Handbook

Chair Emblar said she would like everyone to review the document at home and come prepared for the next meeting with their final comments. She would like Attorney Eschenfelder to provide any concerns he might have with the document.

Mr. Cantrell said he would like the opportunity to go through everything that concerns him. Two hours would not be enough time. Some things are minor, but some do not make sense to him.

Attorney Eschenfelder asked that he provide the information in a Word document and send it to the Clerk, and she will ensure that everybody gets it before the next meeting. He said that Megan Powers would make the track changes. Megan said it is the City Clerk's office that maintains that. The City Clerk said Sean Lilly is the one that maintained it, but he is no longer there.

The City Manager said the document should incorporate every change and suggestion made at every meeting. He will provide his changes once all the changes have been added.

The Attorney said that Mr. Lilly had control of the document, which is why he assumed Megan had control. Mr. Lilly had indicated in the meetings that he was using different colors based on different iterations of the changes. He would not worry about what color it is. The document should be in track changes, and it is not.

Chair Emblar said the document had a lot of grammar errors that needed to be fixed. There were so many changes that the City did not incorporate everything. They need to spend some time and

work to ensure the document is what they thought it would be. She leaves it to the Attorney to inform them of any changes that need to be considered so they are not at risk. The goal is to complete the document in the next two meetings.

Mr. Cantrell said he would like to first send his comments to the Attorney before sending them to the Clerk so he can comment on them. He will send his final comments to the Clerk.

The City Manager said as an example of recommendations given over time, the original language to the sick leave policy was changed. Employees could cash out up to 24 hours of their earned sick leave at the end of each fiscal year in September for having perfect attendance without sick leave used during the previous fiscal year. At one time, they proposed only to require non-exempt employees to cash out, etc. All that was stricken because his suggestion would be to no longer allow that, which could be considered a benefit.

Chair Emblar said the document referred to classified and non-classified, p. 6 of 16 at the very front, and asked if the things in the document applied to everybody, classified or non-classified. The City Manager said it applied to everyone, including himself. Although he has an employment agreement, it says that he is subject to the rules in the personnel manual unless otherwise stipulated in the employment agreement between himself and the Board of Commissioners.

Chair Emblar said there had been a lot of discussion about the finance director and the vote taken by the voters. Would that apply to the finance director as well? The City Manager said it applies to all four charter officers: The City Attorney, City Treasurer/Finance Director, City Clerk, and himself. There is no employment agreement with the City Clerk but with himself, the City Attorney, and City Treasurer/Finance Director. Those agreements are not for an individual but for the firm. The agreements for the City Attorney and Finance Director do not stipulate that they apply to the personnel manual. Attorney Trask's law firm is the law firm, and Aclarian is the finance firm.

Mr. Cantrell said there are a few differentiations between the exempt and non-exempt employees, which are classified and non-classified, and those differences are spelled out in the document. He believes they belong there.

Chair Emblar said currently they do not have an HR director. The enforcement of the personnel policy is a key part of the HR person's roles and responsibilities. She asked about the City's current plans to hire a new HR director. The City Manager said they are not hiring an HR director unless that is their recommendation or the recommendation of the Board of Commissioners. A majority of the duties had been assumed either by Megan Powers. He would oversee the HR functions of the City. Mr. Lilly was averaging 5 to 10 hours a week. They are not successful unless all the employees are treated properly, equitably, fairly, compensated, and they receive all the recognized benefits. As the manager, he is responsible for personnel-related matters.

Chair Emblar requested more transparency related to key positions going forward about the key positions and key things that have been going on better than in the past. They were not made aware of any changes with HR.

Vice Chair Pointe asked that they add to their quarterly meeting agenda that the HR department updated them on the key happenings. She would like that to be a new line item on the agenda after the approval of minutes and before new business and asked if they needed to vote on it.

The Attorney said they would forget about it when they make motions like that. He said they were already in charge of creating a proposed work plan. They need to vote on it after that has been done. In years to come, new members will see that gloriously well-written work product when oriented.

Mr. Cantrell asked how to make a recommendation to the Board of Commissioners to put HR on the employment roster to hire an HR Director. The Attorney said they could make a recommendation to the Board of Commissioners at any time on anything related to HR matters by the passage of a vote.

Chair Embler asked the Attorney if it was legal not to fill the position long as the City Manager presented it to the Board of Commissioners. The Attorney said the City Manager has two options to ensure the HR department is managed. The first would be to appoint a different administrative officer, not necessarily a named director, to oversee the HR duties. Mr. Cantrell asked if she could serve a dual role without the Commission's approval, and the Attorney said yes. Since the position only required about five hours of work, it makes sense to have an administrative person to do it. He could get permission from the Board of Commissioners to do that.

Chair Embler asked the City Manager if he had already gotten approval from the Board of Commissioners. The City Manager said he notified them of the direction taken. It will be discussed more for the budget that they are not eliminating the HR Department. The person in charge of that is in a different location. There is no vote required. The Attorney said it did not need to go to the Board of Commissioners if Megan is HR staff and the City Manager oversees it.

Mr. Cantrell said he heard in the meeting two different stories, so he wanted to be clear on it. Originally, it was said Megan handled some tasks, and the City Manager handled the other tasks. The City Manager's function is a city manager function and not an HR function. The City Manager confirmed that he had not assumed any extra responsibilities since Mr. Lilly's departure. It is the City Manager's role, like any other department beneath him. Chair Embler said those roles would be defined in the policy.

Mr. Cantrell said they are talking about doing an audit and creating a survey, so he must mention that it will take more than five hours a week for an HR director. The City Manager said they will do how many hours it takes.

Mr. Cantrell said it is important to fill the role unless the Board of Commissioners abolishes that department. He recommended that they find somebody because they are going through the personnel manual, and the questions he has will take that person 40 hours a week. He sees value in having an HR person. They currently have a dedicated person split between two different roles. They need a dedicated person just doing the HR function.

Chair Embler asked that the City Manager find out what other cities are doing and how much time it should take so they can look at the best practice and make the best decision.

Ms. McLaughlin said she would be overseas and would like to participate online. Vice Chair Embler said it was documented in the minutes that participation must be in person. The Attorney said the sunshine law does not require everyone to be in attendance. City Attorney Tom Trask had taken a more conservative approach and opined to the Board of Commissioners that remote appearance would not be allowed.

Vice Chair Pointe recommended adding everything mentioned to the next agenda and making the meeting one month out. She received anonymous consent to add the HR report to the agenda, after the approval of minutes and before new business.

7. NEXT MEETING

The next Civil Service Commission meeting was scheduled for July 11, 2023, at 2:00 p.m. Comments should be submitted to the Clerk by June 30, 2023. The following meeting was scheduled for August 8, 2023, at 2:00 p.m.

Mr. Cantrell apologized for taking up a lot of time. He is a new member to the Commission and has lots of questions. The Chair and Vice Chair said they appreciated him being there.

8. ADJOURNMENT

Chair Gene Embler adjourned the meeting at 11:09 a.m.

ATTEST:


Gene Embler, Chair


Clara VanBlargan, City Clerk/Secretary Ex-Officio



CITY OF MADEIRA BEACH
OATH OF OFFICE
CIVIL SERVICE COMMISSION

I, Jerry Cantrell do solemnly swear that I will support the Constitution of the United States, the Constitution of the State of Florida, the Charter and the Code of Ordinances of the City of Madeira Beach and that I will faithfully discharge my duties as a member of the Civil Service Commission for the City of Madeira Beach to the best of my ability in the manner provided by law.

JERRY CANTRELL

Print Name

[Handwritten Signature]

Signature

Date: 30 MAY 23

STATE OF FLORIDA
COUNTY OF PINELLAS

The foregoing instrument was acknowledged before me this 30th day of May, 2023.

[Handwritten Signature]

City Clerk

[Handwritten Signature]

Title City Clerk/Secretary Ex-Officio