



MINUTES

CIVIL SERVICE COMMISSION MEETING JULY 11, 2023 2:00 p.m.

The City of Madeira Beach Civil Service Commission meeting was scheduled for 2:00 p.m. on July 11, 2023, in the Patricia Shontz Commission Chambers at City Hall, located at 300 Municipal Drive, Madeira Beach, Florida.

MEMBERS PRESENT: Gene Embler, Chair
Paul Tilka
Jerry Cantrell
Clara VanBlargan, Ex-Officio Secretary

MEMBERS ABSENT: Judithanne McLauchlan
Cristina Ponte, Vice Chair

CITY STAFF PRESENT: Robin Gomez, City Manager
Attorney Rob Eschenfelder, Trask Daigneault, L.L.P. (via Zoom)
Megan Powers, Assistant to City Manager & HR Staff

1. CALL TO ORDER

Chair Embler called the meeting to order at 2:02 p.m.

2. ROLL CALL

City Clerk Clara VanBlargan called the roll. Judithanne McLauchlan and Vice Chair Cristina Ponte were absent.

3. PUBLIC COMMENT

There were no public comments.

4. APPROVAL OF MINUTES

A. Approval of Meeting Minutes: 2023-05-30, Civil Service Commission

Paul Tilka motioned to approve the minutes.

Jerry Cantrell said on Page 11 of the packet, in the May 30, 2023 meeting minutes, it states, "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." He did not believe the statement, "He believes they belong there" is incorrect because the Charter states differently than what is in the policy. The policy further differentiates based on what the Charter states. The City Clerk said they would listen to that on the tape.

Jerry Cantrell motioned to approve the meeting minutes for May 30, 2023 with that change. Paul Tilka seconded the motion.

ROLL CALL:

Jerry Cantrell	"YES"
Paul Tilka	"YES"
Chair Emblar	"YES"

The motion carried 3-0.

Chair Emblar reminded the City Clerk to provide the meeting minutes at least two weeks before the meeting.

Jerry Cantrell said in the May 30, 2023 meeting minutes, Page 6 of the packet, stated "Jerry 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 would provide the information showing the reason for the change."

Mr. Cantrell said he had not been provided the document and asked the City Clerk if the City Manager had provided that to her. The City Clerk said no. Mr. Cantrell requested that it be added to the minutes they need the document.

Jerry Cantrell said in the May 30, 2023 meeting minutes, Page 7 of the packet, they had talked about comp time, and the City Manager had said it was not currently being performed routinely or consistently among different departments or areas. He would like to know where they are with that because, under the current terms of the personnel policy created in 2019, it says that employees are paid out their comp time at a specific time of the year. He asked if that happened over the last two years.

The City Clerk said that the employees are paid time and a half in her office. The employee usually chooses comp time and takes it in the same pay period. The remaining comp time was paid out in their last check in December.

5. HR REPORT

Megan Powers reported that she had been tasked to review the handbook for grammatical errors, spacing, and formatting. It looked like the document originated with an older version of Word, making it difficult to copy and paste, so they must redo the handbook. She is also updating the job descriptions—some dates to 2015.

The City Clerk said a former city manager asked the department directors to update their department job description. They must be somewhere. She will provide the updated job descriptions for the City Clerk's Office.

6. OLD BUSINESS

A. "Draft" Personnel Policy – Discussion by Jerry Cantrell, Civil Service Commission Member

Chair Embler said she had a very productive meeting with Robin and Megan on Friday afternoon. They discussed the difficulty of following the document from the last meeting. She had a problem looking at it for substance due to the various changes made to the document over time. There were grammar and clerical issues. She left it to the City on how to correct it. Since there are so many changes to be made, she will wait to see what Mr. Cantrell has to say to decide if it makes sense to delay it until the next meeting so they can have a clean document to go through.

The City Manager said they also needed to add Mr. Cantrell's documents since they just received them this morning or yesterday. They will add them for the next meeting. Chair Embler said in the past, they discussed the changes that members submitted and then decided to add them or not as a group. The City Manager said he could bring back a final draft with the grammatical corrections and changes proposed by Mr. Cantrell that the Board approves today.

The City Clerk said at the last meeting they agreed for Mr. Cantrell to provide his notes. Someone had asked if they could get a copy, and Attorney Eschenfelder said he would first like to go through them. She understood that the notes had been submitted to the attorney, but he did not respond. The City Manager asked when the attorney received the documents. Mr. Cantrell said he had the emails to show the specific dates. He sent them four or five times and consistently asked for a follow-up, but no response was received each time. He needed the comments back because they make a difference. The Mayor was copied on the emails, but not sure if he had copied the City Manager. The City Manager said the direction was to submit the comments to the attorney no later than two weeks. Mr. Cantrell said they were sent to the attorney immediately because he asked to look at them first.

Chair Embler asked Attorney Eschenfelder if he had received the information. The attorney responded he had a conversation with the Mayor and a follow-up conversation with Mr. Trask after their last meeting. The consensus was that they work through the Civil Service Commission in the Sunshine. Extensive requests from any member outside the meeting could cause excessive billing on something the Commission may or may not agree to. He was to wait until the full Civil Service Commission meeting. Mr. Cantrell asked Attorney Eschenfelder when that had been decided. The attorney said probably days after the last Commission meeting. Mr. Cantrell asked why he did not get a response telling him that. There were things he could have done to get his notes out quicker. Attorney Eschenfelder said he should have conveyed that and apologized for not doing so.

Chair Embler said she had substance issues that had not been submitted. Jerry will go through his substance issues. The document will not be changed until they hear everyone's substance issues

because they may agree or disagree. They will not go through the draft until they hear back from Megan when all the grammar changes can be implemented, and a clean copy sent to them. The City Manager said a corrected document could be sent to them by July 18.

Chair Embler said they could review the updated document at their August 8, 2023 meeting. She asked that they submit their suggestions to the City Clerk in Word to go through them efficiently. The City Manager asked that he and Megan be copied on them so they can bring back a clean version. Chair Embler said no, to only bring back a document with the grammar changes and not their feedback on substance. The substance will be discussed in the Sunshine at the meeting.

Mr. Cantrell suggested that they only send the documents to the ex officio to ensure they are in concert with each other and then ask for input from the five members. He did not want to exclude anyone, especially the City Manager, or they would not be doing their job. It is the responsibility of the Civil Service Commission to develop the personnel policy. They include in the document what they decide before including the City Manager. As they go through the implementation process, they evaluate every level to ensure the steps they asked happened. If the City Manager is included upfront, they might miss something. When the City Manager concurs with the document they prepared, it gets forwarded to the Board of Commissioners for consideration and approval, with or without changes. If they cannot reach common ground, the Board of Commissioners will be the ultimate decision maker.

Chair Embler said they had been doing what Mr. Cantrell suggested. Before each meeting, they decided on sections to review at the meeting. They asked everyone to provide their notes beforehand to allow time for everyone to think about them to have a productive meeting. They discuss them in the presence of everyone, including the City Manager and HR, and get input from the attorney and staff to avoid any problems.

Attorney Eschenfelder said the current document has unnecessary historical references to ordinances and resolutions that need removing. That can be deleted while Megan goes through it.

Chair Embler said she looked at Jerry's presentation before the meeting and looked forward to hearing the words behind it.

Mr. Cantrell presented his PowerPoint Presentation prepared for the meeting:

POWERPOINT PRESENTATION – REVIEW OF PAST MEETINGS

Introduction

Mr. Cantrell said at the May 30, 2023 Civil Service Commission meeting, he was asked to review past meetings and to give a synopsis of what documentation the Civil Service Commission reviewed and what happened. He read through the current personnel policy adopted in 2019. It had been revised from the original policy approved in 2014. There was a lot that did not make sense in the current policy. He researched a lot of information to learn what happened. He went through meeting notes dating back to 2018. He read through meeting notes from the Civil Service Commission, joint Civil Service Commission meetings, budget review meetings, BOC regular

meetings, and BOC workshop meetings. He did not see where there were any Civil Service Commission meetings in 2016 and 2017. He would like to request information to research further back.

Article V, Section 5.7, Personnel Systems; Civil Service Commission

(B), Civil Service Commission; Membership

There shall be a Civil Service Commission of the City of Madeira Beach, Florida, which Commission shall be composed of five citizens of said City. The Civil Service Commission shall be appointed by the Board of Commissioners of the City of Madeira Beach, Florida. ...

Mr. Cantrell said that section establishes who they are. They must be residents, and they are the Civil Service Commission. Their rules they make separately.

Article V, Section 5.7 (C), Personnel Rules

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:

Mr. Cantrell said concur means the City Manager must agree. If the City Manager does not concur with what the Civil Service Commission would like in the personnel document, they can call a joint meeting with the Board of Commissioners. The Board of Commissioners will be the sole judge of the document.

Mr. Cantrell left the room at 2:33 p.m. to answer a very important phone call that Chair Embler said he informed her of before the meeting.

The City Manager said it would be very difficult to not concur with the entire document. He is fine with how the Civil Service Commission would like to do it. He will still be at all the meetings.

Mr. Cantrell returned to the meeting at 2:34 p.m.

Attorney Eschenfelder said the Civil Service Commission could only call a meeting with the Board of Commissioners through a majority vote of the Civil Service Commission. However, the Board of Commissioners are not compelled to meet with them. The Civil Service Commission is compelled to prepare personnel rules. After being concurred by the City Manager, they are proposed to the Board of Commissioners to consider and adopt with or without changes.

Mr. Cantrell said, for the record, that when he says the word city manager during the rest of his presentation, he is not referring to the current city manager, Mr. Gomez. There were two city managers before Mr. Gomez referenced in the information. He did not want anyone to feel that he

or any other Civil Service Commission member had made derogatory or negative statements about the current city manager.

- 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 the Civil Service Commission is required to classify based on duties, authority, and responsibility. It is not a pay scale classification. It does not differentiate if a person is salaried or not salaried. His understanding is that classified employees are every employee that works for the City. They cannot deal with the four charter officers because they fall directly under the Board of Commissioners. That is their responsibility under the Charter, and they have no reflection on any decisions made by them. However, they reflect on whether those jobs are being performed adequately and fairly for all employees.

- 2. A pay plan for all classified City positions;**

Mr. Cantrell said classified does not differentiate between hourly and salaried employees. They are inclusive in the context.

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

Mr. Cantrell said the rule is covered under the current policy. There are things he would like to add because there are certain things that need to be more specific.

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

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

Mr. Cantrell said he would like clarification from Mr. Eschenfelder on what hours of work mean. If they should set the hours, they may not work for every department. That should be left to the city manager and department directors to decide.

Attorney Eschenfelder explained that hours of work typically meant when city hall was open. For example, 8:00 a.m. to 5:00 p.m. or 7:30 a.m. to 4:00 p.m. There would be a qualifier provision to say, "unless otherwise provided for by the job description and the schedule established by the manager."

Mr. Cantrell asked the City Clerk to add hours of work to the agenda for the next meeting because they do not have a general statement in there saying what the normal hours would be for the City in general, with the exceptions allowing departments to make those rules outside what they need to be. It must be flexible. However, there should be set hours for when City offices are open outside of national or City emergencies or holidays.

The City Clerk said the hours are currently 8:00 a.m. to 4:30 p.m., and some employees are trying out the four-day, ten-hour work week. One employee in her office is doing that. Mr. Cantrell said that should be included in the personnel policy. It is okay for people to do that, but it must state the regular hours.

Chair Embler asked for the attorney's recommendation.

Attorney Eschenfelder read the following recommendation he made in the version of the personnel policy he submitted back some years ago:

Article IV. Pay, Hours of Work and Workweek, A, General Policies

1. Due to the variety of services provided by City departments, certain employees may be required to work varying days and hours. Department directors schedule work that is necessary and beneficial for the efficient operation of the City. It is the responsibility of the department director to manage overtime within budgetary constraints. Pursuant to 29 C.F.R. § 553.23, by accepting employment with the City, all overtime-eligible employees agree that the City may elect to provide compensatory time in lieu of payment of overtime work in cash pursuant to its compensatory time policies. Employees may also be required, at the discretion of the City, to use compensatory time in lieu of vacation pay when requesting vacation time off.

Mr. Cantrell asked Attorney Eschenfelder if that was from his 2020 document that was decided not to be used. Attorney Eschenfelder said yes.

Chair Embler told Mr. Cantrell that he put it in his notes to be relooked at and reincluded. They will discuss it at the next meeting and decide whether it will go.

- 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 "grievance procedures" is the exact wording stated in the Charter. They need a grievance procedure. It cannot be an appeal, only a grievance procedure. There have been two grievance hearings since 2018. He could only find notes on one.

Chair Embler received confirmation from Mr. Cantrell that they had changed the word "grievance" to "appeal" in the updated personnel policy document they have been using. She asked Mr. Cantrell to add it to his notes for them to change it back.

Mr. Cantrell said he put it in his notes to go over. He said Mr. Lilly had said grievance had something to do with organized labor, and appeal was different, which is an inaccurate description. The policy must state grievance. It is the minimum. Chair Embler thanked Mr. Cantrell for catching that.

7. Other practices and procedures necessary to the administration of the City personnel system;

Mr. Cantrell said this section meant that if something is not covered in the rules they need, they could add them. They must be careful not to step outside the Charter when doing that to avoid violating the law. It does give them some leeway. If they notice something not being accomplished, they could re-address it. It also does not prohibit them from asking for a change to the Charter if one is needed.

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.

Mr. Cantrell said they discussed this rule in the last meeting and will discuss it in today's meeting.

ITEMS OF NOTES

Mr. Cantrell said as he goes through his notes, he will explain where they are now. The original policy was adopted in 2014. The policy they are working on was adopted in 2019 by Ordinance 2019-13.

1. The FY 2018 budget had a finance director allocation and an HR person allocation. He will not mention much more about that.
2. In August 2018, the Civil Service Commission and the Charter Review Committee had a joint meeting. The Charter Review Committee has since disbanded. Both committees agreed that the Civil Service Commission needed more power to make decisions, especially regarding grievances and appeals. That happened because there was an employee grievance hearing in March of that year. The Civil Service Commission went through the grievance hearing process and had a court reporter present, documenting every word spoken at the meeting. There were three lawyers inside that meeting: one for the Civil Service Commission, one for the City, and a separate Civil Service attorney from the City Attorney. They understood that arbitration steps needed to be put in place so that all employees would have due process in the event an employee was terminated.

In September of that year, the Civil Service Commission had a grievance hearing regarding the grievance and termination of Miranda Patten. The grievance hearing went through January 2019. The labor attorney had explained it was the city manager's final decision to cut out the possibility of a phase two hearing and to terminate any further discussions about the Civil Service Commission's findings. The city manager at that time, Jonathan Evans, sat on the document and did not take it to the Board of Commissioners. From that point, the Board of Commissioners said they needed to do a few things differently and wanted the Civil Service Commission to have more teeth.

3. In July 2019, the Board of Commissioners had a joint meeting with the Budget Review Committee and the Civil Service Commission. They discussed the proposed personnel

policy that was being updated from the one adopted in 2014. In the meeting, Commissioner Andrews noticed that Article X, Disciplinary Action, had been removed from the policy. The then city manager, Jonathan Evans, removed that section from the policy without notifying the Civil Service Commission. They asked that the document be returned to the Civil Service Commission for corrections. The document was corrected with Article X added back in. The Board of Commissioners adopted it in August 2019.

4. In June 2020, they were trying to fill a vacancy for the city treasurer and advertising for the position. The city manager at that time was Robert Daniels. The Commissioners interviewed Andrew Laflin individually to determine if he would be a finance consultant.
5. In August 2020, the Civil Service Commission had a joint meeting with the Board of Commissioners. It was mentioned about the former city manager removing Article X, Disciplinary Action, from the 2019 proposed personnel policy without the knowledge of the Civil Service Commission. The Board of Commissioners would not adopt it until Article X was put back in the policy. The labor attorney, Rob Eschenfelder, offered to create a better version for the Civil Service Commission to consider. Commissioner Price would work as a liaison with the labor attorney to create a workable document. The document was to include a section on whistleblowing. Each member was asked to forward their changes to the City Clerk.
6. In August 2020, the first draft of Attorney Eschenfelder's new personnel policy and associated ordinances were transmitted to the Board of Commissioners. It was suggested that the following actions occur:
 1. Provide the document to the Civil Service Commission in advance of their next meeting.
 2. Schedule a meeting with the Civil Service Commission to review, get feedback, and provide recommendations.
 3. Provide a courtesy copy of the personnel policy to the union president.
 4. After the Civil Service Commission provided its recommendations, the final version would be presented to the Board of Commissioners with input from Commissioner Price.
7. In August 2021, the personnel manual was rewritten and recommended changes for adoption. It was a comprehensive review of the documentation provided by labor attorney Eschenfelder. The document was reviewed, and it was approximately 60% completed.
8. In March 2021, at the Civil Service Commission meeting, HR Director Lilly stated HR needed flexibility and not be locked in with the labor attorney's version of the personnel policy. All participants in the meeting were informed that the Board of Commissioners instructed the Civil Service Commission to set aside the old personnel policy, the 2019 version they were currently working with, and to use the labor attorney's version as a framework. The labor attorney advised against using the original personnel policy because it potentially opens the City to litigation. Flexibility is an issue because, with flexibility, there is no set of rules. It is differentiated for what is provided for one person and another,

The attorney had stated, now that management's recommendation was to go with an entirely different document, he could no longer talk about the one he produced. The city manager sitting inside the meeting, telling them they would not be using the attorney's version of the document but using the 2019 version instead because they wanted flexibility, prohibiting Eschenfelder at that point from representing the City administration and discussing his document, a better version of a personnel policy that the Board requested of Commissioners.

9. By January 2022, it had been ten months since the Civil Service Commission had a meeting. There was a resignation of a Commissioner, a Commissioner termed out, and a new Commissioner. There were not three members to hold a quorum, and the city manager at the time wanted to delay the meetings so the new city manager, Robin Gomez, could be present. It was stated in the January 2022 meeting that per the city charter, the city manager must agree with all recommended changes to the document before it goes to the Board of Commissioners for adoption. The HR director must also be involved in the process.
10. There are five members of the Civil Service Commission, and all five members must agree on what to put in the personnel policy. When they agree, it is then suitable to ask for advice from the city manager. They do not want to be so inflexible that it makes the City Manager's job impossible. Per the Charter, the Civil Service Commission must prepare personnel rules, and when concurred by the city manager, the rules shall be proposed to the Board of Commissioners. It does not say the city manager takes them to the Board of Commissioners. They are allowed to request a joint meeting with the Board of Commissioners. They ask for acceptance if they have a consensus or ask for direction if there is no consensus.
11. The meetings in April 2022, June 2022, August 2022, and November 2022 were meetings where they discussed the policy forced to use the 2019 version. In every meeting except for the first one, when they had received the documents, people consistently requested they use the attorney's document. That has not changed. The attorney's document is comprehensive, not inflexible, and provides more safety for the City in consistency in how it deals with employees.
12. At the April 2022 Civil Service Commission meeting, Commissioner Ponte discussed using the more inclusive, detailed version of the personnel policy. Commissioner Tilka thought that the Board of Commissioners had made changes to simplify the more complex personnel policy. He wanted to follow the version the Board of Commissioners voted on, the attorney's version. Commissioner Embler requested to follow the labor attorney's document during that meeting. Commissioner McLaughlin wanted to use the more appropriate Plan for the City, working with the original draft and taking some things from the labor attorney's draft. The labor attorney had clarified that the original Plan was for him to produce a draft because the original handbook was confusing, outdated, and unorganized, which is the 2019 version they are currently using. The administration wanted to stay with the original draft, which is the document they must proceed with. The administration was the city manager at the time. He would provide input on any changes

as appropriate in each section. In the April 2022 meeting, Articles I, II, and III were reviewed. Hard copies of the attorney's documents were requested.

13. At the June 2022 Civil Service Commission meeting, Commissioners did not receive the documents requested from HR. Two Commissioners submitted comments. The Commission agreed to work on Articles IV and V at the next meeting. They consistently addressed using the labor attorney's version of the policy in the meeting. Attorney Eschenfelder had stated that if the code did not provide what the Commission needed, they could discuss it in a meeting and send a code amendment recommendation to the Board of Commissioners. They are allowed to ask the Board of Commissioners for advice and recommendations.

14. At the July 2022, Board of Commissioners Regular Meeting, they discussed the Civil Service Commission bylaws. He could not tell at that point if they knew what was happening in the Civil Service Commission meetings or if anybody was going to the Board of Commissioners and providing feedback. Although it didn't look like it, that does not mean it did not happen. Vice Mayor Andrews acknowledged problems with the grievance procedures and the mistakes not corrected. The Civil Service Commission conducts grievance hearings and makes a recommendation to the city manager, a charter officer. One grievance case was found in favor of the employee and against the city manager. The city manager ignored the recommendation, and the Board of Commissioners did not act upon it. It appeared the Board of Commissioners never received that input. The minimum per city charter is that they give it to the employee and the city manager. The Civil Service Commission needed more teeth to do their job, so it did not happen again. A city manager should not decide their own fate. Suppose an employee file a complaint against a charter officer, and the Civil Service Commission finds favor of the employee. In that case, the complaint and recommendation should be given to the Board of Commissioners, not the city manager. He would disagree with not giving it also to the city manager because that is a charter requirement; they give it to the employee and the city manager. The Board of Commissioners has consistently stated inside the meetings they wanted a copy for any charter officer with a complaint lodged against them. So, in their rules, they can write to say they have that extra step. At a minimum, they must give it to the employee and the city manager. For that to be altered, for them not to give it to the city manager would have to be changed by a vote of the citizens. They can write their own rule to give a copy to the Board of Commissioners if it involves a charter officer. The procedures currently in place allow that. Mayor Hendricks agreed with Vice Mayor Andrews and supported a charter amendment change that would give the Civil Service Commission more teeth. He was involved in the Civil Service hearing when that happened in 2018. He was very disappointed in how it was handled and how the employee was handled. The Civil Service Commission is an impartial group, and if a complaint is filed against the City and there is a grievance hearing, they need the ability to fight back when told their decision was meaningless. Mayor Hendricks had said if a complaint against an employee resulted in a complaint against a charter officer, the complaint against the charter officer should go before the Board of Commissioners and not to the charter officer that filed the charges. The only exception is if charges are filed against the city manager; a copy of the findings must

be provided to the city manager as required in the city charter. So, they can add to their rules, allowing it to go to the Board of Commissioners.

15. In August 2022, the Civil Service Commission was informed they could make their own rules. They can convey their concerns to the city manager or the Board of Commissioners. He believed it was Attorney Eschenfelder that made that statement. Articles V and VI were discussed in the meeting, and Articles VII, VIII, and IX were to be reviewed for the September 12 meeting. In the meeting, Chair Emblar asked for clarification on the whistleblower ordinance, Ordinance 2023-07, referenced on page 141 of the labor attorney's document. HR Lilly stated that the law overrides anything they do with the personnel policy; in some respects, that is correct. If the law says they are not doing something right, it will overrule it. He believes that when they pass the ordinance, it provides for severability in any section of the ordinance that does not comply with the law. Attorney Eschenfelder said if a subordinate governing board adopts something that is inconsistent with state law, the court can sever the part inconsistent, and the rest of the ordinance will be saved.
16. In the October 2022 Civil Service Commission meeting Article VI was discussed and it was consistently addressed using the labor attorney's version of the personnel policy.
17. At the November 2022 Civil Service Commission Meeting, the labor attorney requested an amendment to the City's code to address when an employment complaint is brought directly against the city manager. Under the current policy, complaints are brought to the city manager. There was an instance in the past where a complaint was brought against a former manager that did not fit in with the process that was in place at the time. He recommended the following:
 1. A whistleblower process by ordinance.
 2. Improvements that could be made in terms of specifying the role and the responsibility of the Civil Service Commission.

Mayor Hendricks reviewed that ordinance and was happy with it. Commissioner Kerr asked if the Civil Service Commission had an opportunity to review it. The City Manager stated it would go before the Civil Service Commission on November 30. The consensus was to move forward with it to the Civil Service Commission and return it to the Board of Commissioners by January.

18. At the February 2023 Civil Service Commission meeting, Articles X, XI, and XII were discussed. Those are disciplinary, harassment, and miscellaneous provisions. Director Lilly said supervisors only had the authority to give verbal warnings. If it went to a higher level, the department director gets involved. If the written warning was justified, then the written warning would be discussed by human resources and the city manager. Vice Chair Ponte asked if the supervisors could write an email about the infraction. Mr. Lilly said yes, a written warning is an official warning letter placed in the employee's personnel file. Ms. Ponte asked staff to consider adding the language from the attorney's version. Director Lilly said they changed Grievance to Appeals because grievance is a collective bargaining

and the City does not have a collective bargaining contract, which is incorrect. The fire department is a collective bargaining. It has different stipulations that supersede and extend beyond what is provided in the personnel policy. If correct, it still falls under the personnel policy. Changing the name to appeals contradicts the City Charter in its wording because the City Charter states explicitly grievance and not appeals. They must have a grievance policy and not an appeals policy.

19. How did we get where we are? They consistently stated they needed to follow the labor attorney's version. It was 60% completed until Mr. Daniels and Mr. Lilly stopped them from using it. They said that staff did not want to use the attorney's version and would rather use the older version. It is not comprehensive, not inclusive. It gives too much flexibility that it can differentiate treatment from one employee to another and one instance to another. That sets the City up for liability, and that is problematic.

ITEMS OF NOTE

The Board of Commissioners decided they wanted to use Attorney Eschenfelder's version of the employee policy. Will the City Administration agree to moving forward with that version?

Ms. Powers said she would have to refer that to the City Manager. The City Manager said he was fine with whatever version they wanted to use. He continued using what they were using when he arrived. He is fine with whatever version they decide to use.

Mr. Cantrell recommended they go back to the attorney's version and stop using the one they are reviewing because it is not comprehensive. They need to return to Attorney Eschenfelder's document he submitted in 2020. They were 60% of the process of being validated and used that document. It will put the City in better standing; it protects the City and all employees. Some words must be changed in it, but it is less work than what they are currently doing. He asked if he needed to make a motion to do that.

Chair Embler said she would like to pause before doing that. She thanked Mr. Cantrell and said his presentation was well thought out and well done. It laid out how many hands touched the document along the way. Everything brought up accurately reflected discussions they had, including the 2018 situation. The attorney is the one to let them know which version to use. She would like to hear his side on how it went.

Attorney Eschenfelder explained why he thought his version was not being used. It is a better version; it is better organized and contains a lot of best practices needed. It could be customizable to Madeira Beach. The only feedback from Mr. Daniels and Mr. Lilly was that his version was too long. He was open to the concerns; all he ever got was that it was too long. It is better to have provisions in a personnel policy even if they are rarely used, but they are there when needed. On March 29, 2022, Chair Embler asked that he compile a history for him because he wanted to know what had occurred, and he sent him that email.

Mr. Cantrell asked Attorney Eschenfelder if Commissioner Price had told him she did not want to go with the model he had prepared and presented or if he heard about it from Mr. Daniels and Mr.

Lilly. The attorney said it was conveyed to him from Lilly and Daniels. Commissioner Price was not present, and she had never spoken to him about his draft. When it became apparent that Mr. Daniels was not going to use his draft and he did not have the City's document in Word form, Mr. Daniels instructed Mr. Lilly to take over whatever changes or drafting tasks would need to occur during the project's scope. They began drafting what they wanted at that meeting and asked that he provide what he thought should be included, which he gave the most critical thing that should be included. That still did not make it into the draft until later in the project when those topics came back up and the Civil Service Commission members began where they were. His role at that point was trying to prevent a bad policy from going forward or trying to make a not good policy a little bit better through his comments. Mr. Daniels said he would take it from there, thank you very much.

Chair Embler said the attorney and Mr. Cantrell had done an excellent job helping them put the puzzle pieces together and how they got there. She now wants to discuss the future and where they go.

Mr. Cantrell said they are the Civil Service Commission, and the City Manager plays an important role. If they run into a position at the Civil Service Commission and need to make decisions, and the City Manager decides not to agree with them, could he get input from Mr. Eschenfelder, or do they need separate legal advice? The attorney said he could give legal advice and did so along the way, even if it was something Mr. Daniels did not want to hear. If the Civil Service Commission had a quasi-judicial discipline appeal hearing, there would be two attorneys, one representing the manager if desired, an attorney and himself representing the Civil Service Commission.

Mr. Cantrell said that in March 2021, the verbatim words on the Civil Service Commission meeting notes, "Now that management's recommendations is to go with an entirely different document, he cannot talk about the one he produced." How do they avoid that in the future? They should be able to do that if they want to move forward with a document. The attorney said they could do that, but what he was conveying is that because it was not his document, he could not speak to the recommendations being made by management. But, through the project, he gave his thoughts, advice, and recommendations even if Mr. Daniels felt differently. His duty is to the City of Madeira Beach, and no city manager will ever refrain from providing full advice and service to the City.

Chair Embler said as a senior member of the committee; she takes responsibility for not having spoken up against the prior city manager and let him know they did not like what he was doing and that they would be going to the Board of Commissioners and get their permission or recommendations. In looking at how Mr. Cantrell presented it, they are not just advisors; she could have directed the Civil Service Commission to have more teeth to speak up to the former city manager.

Mr. Cantrell said he would like to recommend that they no longer use the 2019 version and continue using Mr. Eschenfelder's version as the Board of Commissioners originally intended. He would need a motion and a second. Mr. Tilka said he seconded it.

Mr. Cantrell motioned to discontinue the 2019 version and continue with the 2020 Eschenfelder version that is 60% completed. Mr. Tilka seconded the motion.

Roll Call:

Jerry Cantrell	"Yes"
Paul Tilka	"Yes"
Chair Embler	"Yes"

The motion carried 3-0.

Mr. Cantrell said he would like to re-address Ordinance 2023-06 and discuss it at the next meeting because it does not provide for the things that the Board of Commissioners requested that they include in their rules. They did vote on it, but they need to go back and look at it. Ordinance 2023-06, amends Division 4, Civil Service Commission structure. It is the rules of what the Civil Service Commission will do. It says who the Commission members are, how they would proceed forward, and their rules to conduct meetings. There are things in there based upon what the Board of Commissioners requested that they include. He has what has been looked at and reviewed and has a proposed document that states there are times when they need to go beyond the city manager and report specific information to the Board of Commissioners. The minimum in a grievance is the employee and the city manager. Based on the Board of Commissioners' request, they need to add to their rules that if a charter officer is filed against, the grievance document goes to the Board of Commissioners. Other things need to be addressed in the rules, but that is one of the major things that must be included. Per the City Charter, the Civil Service Commissioner makes their rules, and the Board of Commissioners must approve them with or without changes, but they must rewrite them.

Chair Embler said they have been hell bent on updating the policy document and need to focus on that although she agrees they need to focus on other things. They need to spend the time updating the attorney's version with what they have agreed to put in the policy so far to make sure it is there. She asked the City Clerk to send within the next few days the 2020 version they had been working on that is 60% completed. The City Clerk said she would, and that the City Attorney had the Word version. The attorney said he would send the Word version to the City Clerk to send to them.

Mr. Cantrell agreed that they need to finish the policy. He asked if they needed the rules first or the rules second. They need to fix the rules because the rules are how they dictate what they are going to do or do they finish the policy.

Chair Embler said her preference would be to get the personnel policy up to date because they are at risk as the City.

Mr. Tilka said the policy is one thing, and the procedures are another, but they co-mingle. He could not come up with what was more important than the other. They both are very important. He is glad it all came up today, glad they took a vote and the direction they are headed currently. They needed to be on that track a long time ago. He thinks that Mr. Eschenfelder's expertise will keep them out of trouble. He felt a lot of the policy was born to play. They do not vary that much from other communities. They are just following their procedures. They could do both simultaneously

and delegate a portion of their time doing both. Do they all have to be all policy, or do they have to be all procedure?

Chair Embler asked Mr. Cantrell if he would be willing to put together a rough draft for them. Mr. Cantrell said he already had it and would give it to them.

Mr. Cantrell recommended allocating an hour and a half on the policy and 30 minutes on the rules. Now that they are working with the 2020 version, they should have it done in two meetings. He asked that they hold off on sending Ordinance 2023-06 to the Board of Commissioners until they completed that redress of it. Chair Embler agreed.

Attorney Eschenfelder reminded the Commission they had already voted to recommend approval of the ordinance to the Board of Commissioners. Mr. Cantrell asked how they would address it because there are things in there that need to be addressed based upon the Board of Commissioners guidance. That had not been done yet. There are items in there that must be corrected. It adds people to the Civil Service Commission that are not supposed to be part of it. The City Clerk is their secretary ex-officio. They must review things that the City Manager is doing. The City Manager should not be involved in deciding whether to cancel a meeting. If they are going to do that, it should be addressed through their secretary. The rules provide that the City Manager can cancel the meeting, and that should not be there. It should be the Civil Service Commission, the Chair, and the secretary ex-officio that recognize if there is something to discuss. If there is not, the chair and the secretary ex-officio decide to cancel the meeting, not the City Manager. There are historical problems, and they need to avoid duplication, which means the rules need to be restated. The City Manager said they had no issues for 18-1/2 months. They have been working well.

Chair Embler asked about the whistleblower ordinance. It had not been adopted yet. The City Clerk said at the last Civil Service Commission meeting, Christina Pointe asked Mr. Cantrell to review all their documents and provide his feedback.

The City Clerk said the Civil Service Commission rules (Ordinance 2023-06) is something they put together because it is their rules. Christina Pointe had asked Jerry to go through everything and provide his comments. Instead of somebody just writing the rules, they can weigh in on the rules. She can put that on the next agenda for them to write their rules and when they want to meet.

Attorney Eschenfelder said he felt like the staff did not want to move it forward. The City Clerk said that the ordinance is listed on the City Manager's Excel spreadsheet to go to the Board of Commissioners. The ordinance was pushed back because there was a new Board of Commissioners. The City Manager said Ordinance 2023-06 and Ordinance 2023-07 are listed for first reading on August 9, 2023.

The City Clerk said at one of the Board of Commissioners meetings that Civil Service Commission Bylaws were listed because of the Miranda grievance hearing. They said that if the Civil Service Commission should rule in favor of employees and against the city manager, they wanted a copy of the complaint document to come to them because they are responsible to charter officers. Jerry wanted that language to be added to the ordinance because that had not happened yet.

Mr. Cantrell said that was only part of the change. There are two or three fixes in there that need to be re-addressed and changed. Although they have approved it, nothing stops them from changing something. If something has been omitted, they need to add it. Or they could send a report to the Board of Commissioners asking them to hold off on it. He did not know what the rules are.

Attorney Eschenfelder said his preference is for both ordinances to go forward and be adopted. Nothing stops the Civil Service Commission from simultaneously letting the Board of Commissioners know that certain tweaks need to be made. A new ordinance will be drafted, and it is recommended that the Commission approve that. The Civil Service Commission members may not all agree with Mr. Cantrell's changes and fixes. He does not want to delay the entire package to deal with those issues.

The City Clerk said an ordinance can be changed on first reading if its title does not change. The City Manager suggested making the changes before the ordinances go to the Board of Commissioners. It was discussed at a workshop in November 2022. If the Civil Service Commission wants to make any changes to the ordinances, they can before they go to the Board of Commissioners. The Civil Service Commission has the authority to make the rules they must follow.

Chair Embler asked that the ordinances be forwarded to them before the meeting so they can look at them and be prepared to talk about it at the meeting. They can approve of moving them forward with or without changes. The City Clerk said it would be better to change them at the first reading, so they do not have to create a new ordinance. The City Manager said they could make the changes at their August 8 meeting and then go to the first reading and public hearing at the September meeting. Mr. Cantrell said he had not had an opportunity to yet to review the whistleblower ordinance.

Chair Embler summarized the meeting:

1. The next meeting is August 8, 2023, at 2:00 p.m.
2. Mr. Cantrell will send the revisions to the ordinances right away.
3. They decided to dedicate an hour and a half to the personnel policy document at each meeting until it is updated and a half hour on other things and other issues.
4. Have an HR report.
5. They will move forward with the items listed on their agenda today they did not get to with the understanding that only a half hour would be spent on them unless the attorney or the city manager decided they need to be done immediately.

Mr. Cantrell thanked the city manager for listening to the presentation and agreeing to allow them to move forward. The City Manager said it is work for the Civil Service Commission. He will do whatever the Commission offers and asks of him. That has been his role since he had been there to be collaborative and cooperative. He and the staff will continue doing that.

Chair Emblar said they were so appreciative of all the work and effort Jerry put into it. It was worth every second.

7. NEW BUSINESS

A. HR Director Position

B. Pay Plan for all classified City positions, (City Charter, Sec. 5.7, C, 2)

C. Classification of all classified City positions, based upon duties, authority and responsibility of each person, with adequate provisions for classification of any position whenever warranted by circumstances (City Charter, Sec. 5.7, C, 1)

D. Employee Satisfaction Surveys

E. Implementation Process for making sure that all rules, regulations, and procedures of the Employee Personnel Policy are working and is followed by everyone.

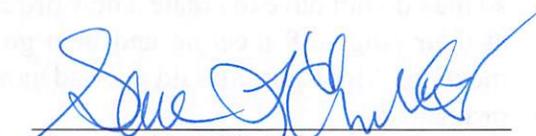
8. NEXT MEETING

The next Civil Service Commission meeting is on Tuesday, August 8, 2023, at 2:00 p.m.

9. ADJOURNMENT

Chair Gene Emblar adjourned the meeting at 4:10 p.m.

ATTEST:


Gene Emblar, Chair


Clara VanBlargan, City Clerk/Secretary Ex-Officio