



**JOINT MEETING WITH THE BOARD
OF COMMISSIONERS AND CIVIL
SERVICE COMMISSION AGENDA**
Wednesday, October 25, 2023 at 3:30 PM
Commission Chambers, 300 Municipal Drive,
Madeira Beach, FL 33708

Meetings will be televised on Spectrum Channel 640 and YouTube Streamed on the City's Website.

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. PUBLIC COMMENT**

Public participation is encouraged. If you are addressing the Commission, step to the podium and state your name and address for the record. Please limit your comments to five (5) minutes and do not include any topic on the agenda. Public comment on agenda items will be allowed when they come up.

If you would like someone at the City to follow up on a comment or question made at the meeting, you may fill out a comment card with the contact information and give it to the City Manager. Comment cards are available at the back table in the Commission Chambers. It is not mandatory to complete a comment card.

- 4. DISCUSSION ITEMS**

A. At the September 13, 2023 Civil Service Commission Meeting, they voted to approach the Board of Commissioners for the Civil Service Commission to be able to have the ability to reinstate an employee wrongfully terminated. The motion carried 2/1.

B. At the September 13, 2023 Civil Service Commission Meeting, they voted that they vote on whether directors are civil service protected. The motion carried 2/1.

- 5. BACKGROUND DOCUMENTS**

A. Florida Statute, Section 166.031 Charter Amendments

B. 2023-05-30, Civil Service Commission Meeting Minutes

C. 2023-07-11, Civil Service Commission Meeting Minutes

- D. 2023-08-08, Civil Service Commission Meeting Minutes
- E. 2023-08-17, Civil Service Commission Meeting Minutes
- F. 2023-09-13, Civil Service Commission Meeting Minutes
- G. 2023-10-11, Civil Service Commission Meeting Minutes
- H. City of Madeira Beach, City Charter, Section 5-7 - Personnel Systems; Civil Service Commission
- I. City of Madeira Beach, Code of Ordinances - Division 4 - Civil Service Commission
- J. Saint Petersburg Civil Service Board

6. ADJOURNMENT

One or more Elected or Appointed Officials may be in attendance.

Any person who decides to appeal any decision of the Board of Commissioners with respect to any matter considered at this meeting will need a record of the proceedings and for such purposes may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. The law does not require the minutes to be transcribed verbatim; therefore, the applicant must make the necessary arrangements with a private reporter or private reporting firm and bear the resulting expense. In accordance with the Americans with Disability Act and F.S. 286.26; any person with a disability requiring reasonable accommodation to participate in this meeting should call the City Clerk at 727-391-9951, ext. 231 or 232 or email at cvanblargan@madeirabeachfl.gov.

Attorney Eschenfelder said they need to take a position before meeting with the Board of Commissioners. He would recommend breaking the two issues apart. (1) Who should have the authority to order reinstatement? If it is going to be someone other than the manager, he highly recommends it be the Civil Service Commission. He would like to keep the Board of Commissioners free of being in the midst of employment litigation as a decision-maker. It would be more appropriate for the Civil Service Commission to transition from being advisory only to having the authority to order reinstatement. The Board of Commissioners is a policy-setting body that must avoid individual employment.

Chair Emblar said the other issue is who the Civil Service Commission has jurisdiction over. Attorney Eschenfelder said it would be which employees get to appeal a discipline put upon them, who would be civil service protected. If not civil service protected, they are just at the manager's will. They need to hear from the Board of Commissioners where it wants to go from a policy perspective. Language would need to be added to the code and policy, making that clear.

Commissioner Cantrell said he would like to make a motion that they discuss and vote on the Civil Service Commission approaching the Board of Commissioners to allow them to put forth an amendment to have the authority to reinstate an employee wrongfully dismissed. Commissioner Tilka seconded it.

Chair Emblar said they have a motion and a second to write a charter amendment to allow the Civil Service Commission to reinstate an employee, which she nicknamed "having more teeth."

Commissioner Cantrell motioned that they approach the Board of Commissioners for the Civil Service Commission to be able to have the ability to reinstate an employee wrongfully terminated. Commissioner Tilka seconded the motion.

ROLL CALL:

- Commissioner Cantrell "YES"
- Commissioner Tilka "YES"
- Chair Emblar "NO"

The motion carried 2-1.

Commissioner Cantrell said the other issue is the "at will." For someone in a high-level leadership position, there should be little room for or tolerance for disruption in the workforce. That should not happen. He sees the value in having sustainability and employment. Some employees migrated through the ranks and have a historical perspective of what is happening in the City. They can hold stability when there is a change in employment. If the person is causing a disruption and is given 48 hours or so to correct it and they do not, the City Manager should be able to dismiss that person. He would back the City Manager if there was documentation for that and it is proven. However, a person should not be terminated just because someone or the City manager did not like them; they would lose longevity, sustainability, and morale by doing so. He would like everyone, except the Charter Officers hired and fired by the Board of Commissioners to be classified as civil service protected. There must be a just cause reason for terminating someone. Attorney Eschenfelder said

termination can happen if just cause is proven. Commissioner Cantrell said no one should be let go for no reason at all.

Commissioner Cantrell motioned they vote on whether directors are civil service protected. Commissioner Tilka seconded the motion.

ROLL CALL:

Commissioner Cantrell	"YES"
Commissioner Tilka	"YES"
Chair Embler	"NO"

The motion carried 2-1.

The City Clerk reported that Commissioner Ponte arrived at the meeting via Zoom at 3:52 p.m.

Chair Embler said they do not need to take that to the Board of Commissioners. They just change the rules to say everybody is civil service protected.

Attorney Eschenfelder said that the Board of Commissioners will need to parse the issue at the end of the day. To be efficient, they need to talk to the Commission about both issues voted on.

Chair Embler said both items will be put on the meeting agenda to discuss with the Board of Commissioners.

The City Clerk said two Board of Commissioners and two Civil Service Commissioners are unable to attend the September 18 joint workshop meeting and asked that they pick a couple different dates to choose from. Attorney Eschenfelder suggested that the dates be scheduled on the day there is a Board of Commissioners meeting.

The Civil Service Commission picked 3:30 p.m. on Wednesday, October 11, and at 3:30 Wednesday, October 25. Whichever date the Board chooses the other date the Civil Service Commission will have a regular meeting.

5. OLD BUSINESS

A. "Draft" Personnel Policy Manual

The Civil Service Commission asked that instead of an amended document provided in the meeting packets, the attorney would update the policy as they worked through it and provide them with a completed version when done. Commissioner Eschenfelder said when they get it back, they could go through it one more time.

The City Clerk said they would start at XXV, Miscellaneous Policies, K. Searches on City Property, where they left off on August 8.

2023 Florida Statutes

[< Back to Statute Search](#)

Title XII MUNICIPALITIES

Chapter 166 MUNICIPALITIES

SECTION 031 Charter amendments.

166.031 Charter amendments.—

(1) The governing body of a municipality may, by ordinance, or the electors of a municipality may, by petition signed by 10 percent of the registered electors as of the last preceding municipal general election, submit to the electors of said municipality a proposed amendment to its charter, which amendment may be to any part or to all of said charter except that part describing the boundaries of such municipality. The governing body of the municipality shall place the proposed amendment contained in the ordinance or petition to a vote of the electors at the next general election held within the municipality or at a special election called for such purpose.

(2) Upon adoption of an amendment to the charter of a municipality by a majority of the electors voting in a referendum upon such amendment, the governing body of said municipality shall have the amendment incorporated into the charter and shall file the revised charter with the Department of State. All such amendments are effective on the date specified therein or as otherwise provided in the charter.

(3) A municipality may amend its charter pursuant to this section notwithstanding any charter provisions to the contrary. This section shall be supplemental to the provisions of all other laws relating to the amendment of municipal charters and is not intended to diminish any substantive or procedural power vested in any municipality by present law. A municipality may, by ordinance and without referendum, redefine its boundaries to include only those lands previously annexed and shall file said redefinition with the Department of State pursuant to the provisions of subsection (2).

(4) There shall be no restrictions by the municipality on any employee's or employee group's political activity, while not working, in any referendum changing employee rights.

(5) A municipality may, by unanimous vote of the governing body, abolish municipal departments provided for in the municipal charter and amend provisions or language out of the charter which has been judicially construed, either by judgment or by binding legal precedent from a decision of a court of last resort, to be contrary to either the State Constitution or Federal Constitution.

(6) Each municipality shall, by ordinance or charter provision, provide procedures for filling a vacancy in office caused by death, resignation, or removal from office. Such ordinance or charter provision shall also provide procedures for filling a vacancy in candidacy caused by death, withdrawal, or removal from the ballot of a qualified candidate following the end of the qualifying period which leaves fewer than two candidates for an office.

History.—s. 1, ch. 73-129; s. 1, ch. 86-95; s. 1, ch. 90-106; s. 43, ch. 90-315; s. 45, ch. 94-136.



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 complaint. 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. McLaughlan 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 Embler 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 Embler 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 Embler 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.


Gene Embler, Chair

ATTEST:


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] ex-officio
Title



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 Ember 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

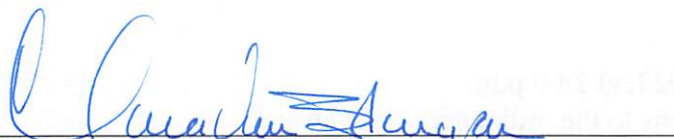
The next Civil Service Commission meeting is on Tuesday, August 8, 2023, at 2:00 p.m.

9. ADJOURNMENT

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

ATTEST:


Gene Emblar, Chair


Clara VanBlargan, City Clerk/Secretary Ex-Officio



MINUTES
CIVIL SERVICE COMMISSION
MEETING
AUGUST 8, 2023
2:00 p.m.

The City of Madeira Beach Civil Service Commission meeting was scheduled for 2:00 p.m. on August 08, 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
 Jerry Cantrell
 Paul Tilka
 Clara VanBlargan, Ex-Officio Secretary

MEMBERS ABSENT: Judithanne McLauchlan

CITY STAFF PRESENT: Robin Gomez, City Manager
 Attorney Rob Eschenfelder, Trask Daigneault, L.L.P.

1. CALL TO ORDER

Chair Gene Embler called the meeting to order at 2:06 p.m.

2. ROLL CALL

City Clerk Clara VanBlargan called the roll. Judithanne McLauchlan was absent.

3. PUBLIC COMMENT

There were no public comments.

Chair Embler said they agreed to spend one hour and a half going through the personnel policy and thirty minutes on the remainder. To follow Robert's Rules of Order, she asked for the following changes to the order of business on the agenda:

1. Old Business before New Business
2. HR Report moved to under New Business
3. Approval of the minutes will be the first order of business.

Mr. Cantrell received confirmation that they would discuss the 2020 version of the personnel policy and then Ordinance 2023-06.

The Commission consented to the change.

3. HR REPORT

4. APPROVAL OF MINUTES

A. Approval of Meeting Minutes: 2023-07-11, Civil Service Commission

Chair Embler asked that the minutes be corrected to state that Chair Embler called the meeting to order and to add under Roll Call that Judithanne McLauchlan and Christiana Ponte were absent.

Chair Embler asked that the PowerPoint presentation by Jerry Cantrell in the last meeting packet be reprinted in the packet. It looked fine on the screen, but the pages did not print properly in the packet, and half the words were missing. If they had to refer to the packet and check the PowerPoint presentation, she would like it captured correctly.

Chair Embler said the minutes accurately reflect what Mr. Cantrell said in his presentation. It was very informative and brought forth a lot of information, but she did not necessarily agree with his comments in some areas. Rather than rehash it in the minutes, she would like to comment on it when they review the appropriate documents. Attorney Eschenfelder said they could do that.

Jerry Cantrell motioned to approve the meeting minutes for July 11, 2023 as corrected. Paul Tilka seconded the motion.

ROLL CALL:

Jerry Cantrell	"YES"
Paul Tilka	"YES"
Chair Embler	"YES"
Cristina Ponte	"ABSTAINS"

Christina asked if she could abstain because she did not review the minutes in detail. Attorney Eschenfelder explained to Christina Ponte that under Florida law, a member of a public body is required to vote unless they declare a conflict of interest and fills out a form (Form 8B, Memorandum of Voting Conflict for County, Municipal, and other Local Public Officers).

Vice Chair Ponte changed her vote to approval. The motion carried 4-0.

5. OLD BUSINESS

The order of business on the agenda was changed as requested.

A. "Draft" Madeira Beach Personnel Policy 2020

Chair Embler said they had unanimously agreed to use the attorney's version of the handbook and make changes. She recapped how they stopped using the attorney's 2020 version and returned to it. They had already gone through a good portion of it when using it. She had spoken

to the City Clerk, and they were to start where they left off, Section XXIV. Uniforms (Page 624 of the agenda packet). They will revisit from Section I to ensure it captures all their intent, which would be a better use of their time than starting again in Section I.

Commissioner Cantrell said he respectfully disagreed. He sees value in starting at XXIV because some members covered stuff, but most of them have not. No matter what happens, they are starting with ground zero. A perspective given to them on what was discussed from the beginning would benefit them. It might help them make decisions as they move forward. He went through everything and made a lot of notes. He would like to ask things that will make a difference to what he will ask later.

Commissioner Ponte said when discussing the City's version for the last year and a half, they asked to use the attorney's version in two or three meetings and somehow got pushed down. She would like them, as a team, to do a case study review of how they got there. She appreciated the review and research by Commissioner Cantrell. It pushed them over the hump to return to the attorney's version. She would like to see some review by their team to make sure something like that never happens again. They spent about a year and a half on something that would go into the garbage. The Chair said she believed they had already taken steps in the new ordinance to ensure it does not happen again. It spells out better communication flows.

Commissioner Ponte said she would like to start over, pretend the year and a half did not happen, and give it the due diligence deserved. Hopefully, they learned from it. The Chair said she agreed 100%. They will go back to the very start, but first go through the remainder of the document, allow the City Clerk to give them an updated version, and then start from the beginning and go through it to ensure it contains everything they agreed upon. Commissioner Ponte asked that the attorney review the entire document before they start going through it again.

Commissioner Cantrell said he had lengthy discussions with Attorney Eschenfelder about which version they should use, the 2020 or 2023. He never saw the 2023 version until Attorney Eschenfelder provided it. It contains more pages than the 2020 version, and differences when comparing it to the 2020 version. He does not want to try to state their significance, but there is more pagination and better formatting.

Attorney Eschenfelder said he had met with Mr. Daniels and Sean Lilly twice, and from those meetings, he went through and made adjustments. It would not seem logical to return to the 2020 version, but that was the decision. When the Commission circles back to Chapter 1, he will let the Board know what changes he made.

Commissioner Ponte asked who in the City wanted to use the 2020 version. The City Clerk said it was a vote by the Civil Service Commission at their last meeting.

The City Clerk said she did not receive the 2020 version that the attorney said he would send her. Instead, he sent a 2023 version that she sent to all the members as he requested. She included only the 2020 version in the meeting packet because that is the version they voted on.

Commissioner Ponte motioned to use the attorney's 2023 version. She felt more comfortable using the current version. She wanted the attorney to review it entirely before they start over with

it, so they know the changes. Attorney Eschenfelder suggested they start now with the Section where they left off. He will take notes and include those changes in his most recent version for the Clerk to send to everyone.

Chair Emblar said they talked about version control and how important it is. She asked the Clerk before the meeting to include a footnote with a date at the bottom of each revised version to avoid confusion about what version they are using. The attorney said he could use track changes when making the revisions. It shows the date of the revisions and what changes were made. Chair Emblar said she would still want the footnote added.

Commissioner Ponte said when they meet, she would like the information they are discussing projected on the screen, so everybody is on the same page. They make comments and edits as they go along, which they are allowed to do to have a usable version.

Attorney Eschenfelder said he has the master Word version. He will make the changes using track changes. He will deliver it to the Clerk to provide to the Commission. Commissioner Ponte said she would rather do live edits as they make discussions to avoid waiting on it.

The Commission decided that the attorney be the keeper of the document, make the track changes, and be accountable for what is said.

The Commission discussed the 2020 personnel policy starting with XXIV. Uniforms, beginning on Page 133 through XXV, J. Loss of or Failure to Obtain Professional Certification or License on Page 137 of the agenda packet. Commissioner Cantrell read aloud each Section as they made discussions, comments, and changes. The changes are shown in red font with strikeouts and underlines. Strikeouts mean removing language, and underlines mean adding language.

XXIV. UNIFORMS

1. Purpose

It is the intent of this policy to provide the following guidelines to City employees required to wear uniforms in the performance of their duties.

1. If the City provides an employee a uniform, the employee shall be required to wear such uniform as a condition of employment.
2. Employees required to wear uniforms shall only wear the uniforms while on duty or commuting. Wearing uniforms at any other time is strictly prohibited.
3. Uniforms are City property and must be returned to the department upon separation or transfer to a position which does not require use of the uniform.
4. It is the responsibility of the employee to ensure that their uniforms are properly maintained and laundered.

5. Employees may be subject to disciplinary action, up to and/or including dismissal, for violation of any of the above.

The Commission did not discuss Section 1.

~~2. Uniform Maintenance Allowance~~

- ~~1. Employees required (as a condition of employment) to wear, maintain and launder uniforms purchased by their department will receive a \$*** uniform maintenance allowance each pay period.~~
- ~~2. This allowance is to cover the cost of cleaning and maintaining the uniforms in accordance with departmental standards.~~
- ~~3. 2. Any taxes due on uniform maintenance allowance shall be the responsibility of the employee.~~

Commissioner Cantrell asked if a dollar amount would be added for uniform maintenance allowance. The City Manager said he did not believe it was being done that way.

Commissioner Cantrell asked if there was an annual allotment for employees to get uniforms. The City Manager said the cost of uniforms is budgeted in each department. If the personnel manual does not list an amount, there is no amount other than what is budgeted in each department for uniforms. The City provides uniforms, whether they need steel-toed shoes, pants, shirts, etc.

Commissioner Cantrell asked if employees washed their uniforms. The City Manager said they do. Commissioner Cantrell asked if it was different for the fire department. Attorney Eschenfelder said anything they do would be through their collective bargaining agreement. He recommended they think that provision through. An argument could be made that the City is not reimbursing them for washing the uniforms they are asked to wear. Employees must give them back when they are no longer working for the City. That can be resolved by plugging in a small allowance. If it is not a moral issue, they could strike it; if it should become an issue, they could always add it.

The Commission consented to strike Section 2, Uniform Maintenance Allowance, and making Section 3. Uniform Rental Service, Section 2.

~~3. 2 Uniform Rental Service~~

1. If the City contracts for uniform rental and maintenance, the City's contract for uniform rentals will provide for maintenance and laundering services for uniforms.
- ~~2. If a City uniform maintenance contract provides for laundering of uniforms supplied under the contract, employees will not receive a uniform maintenance allowance.~~

Attorney Eschenfelder said since they are taking out the allowance, #2 goes away. The Commission consented to strike #2.

XXV. MISCELLANEOUS POLICIES

A. Departmental Rules

Though Madeira Beach attempts, where possible, to maintain uniform rules generally applicable to all City employees, unique departmental needs may call for customized rules. Therefore, each City department director may promulgate and implement departmental rules based upon operational needs and requirements as a supplement to the Personnel Policy, Rules and Procedures Manual. Such rules, when issued, shall be applicable to employees of that department as though they were published herein. Any such department-based rule shall be reviewed by the Civil Service Commission prior to implementation.

Commissioner Cantrell said he has an objection to that rule. He would like to add a phrase that if department rules are part of the policy, the Civil Service Commission must review them before they are implemented. He does not object to any department wanting extra rules. If they give grounds for dismissal, the Commission must have something to do with the implementation, or how else would they know if they are fairly and accurately applied to all employees across the board. It does not make sense for one department to be stricter and another to be less restrictive. Commissioner Ponte said the Civil Service Commission is responsible for writing the policies.

Attorney Eschenfelder said due to some department operations there could be attendance issues that do not occur in other kinds of departments. The department director might have a particular procedure for employees to follow when calling in sick to avoid problems of not having enough people in place to do the job. He asked that when reviewing the rules, allow the director to make their case for the reasons needing them.

Commissioner Cantrell said if the Commission must decide in some quasi-judicial forum, they need to know what those rules are based on ahead of time and not learn about it at the last minute. The attorney said there is a benefit to them knowing ahead of time if a grievance or an appeal is filed and the person points to the rule as unfair and oppressive. Chair Embler said the HR report at every meeting would be the time to bring it up.

Attorney Eschenfelder recommended adding at the end of the rule, "Any such department-based rule shall be reviewed by the Civil Service Commission prior to implementation." The Commission consented to add the language.

Commissioner Ponte asked if the City had a centralized location on its website to access all its policies. Everybody should have access to an understanding of the policies. She asked if new employees had access to them. The City Manager said the policies are provided in electronic format, and they are shown where to locate them. Commissioner Ponte asked if the Commission had access to all supplemental policies. The City Manager said they could provide them. Not all departments have their own, but most do.

Commissioner Cantrell said they have a rolling agenda of things they need to cover but cannot get to all of them in the next meeting or two. He would like to add department rules to the list.

The City Manager said he will email those to them. If the Commission would like to expand it to departments, he has no problem providing them, but to be clear, he believed it is not the Commission's charge. The Charter references explicitly Citywide.

Commissioner Ponte said in the policy, the departments had the ability to make rules. The goal of the personnel policy and the rules is to minimize any opportunity for litigation. The City Manager said department rules are specific to their operations. Commissioner Ponte said although it is department-specific, it is under the umbrella of the personnel policy. Chair Embler said they will add it to the list for discussion. They agreed to prioritize the list as a team.

Commissioner Ponte asked for clarification that the City Manager would prefer not to reference department rules in the policy. The City Manager said they typically do not. Attorney Eschenfelder recommended referencing it. If not in the policy, a plaintiff's attorney could ask why they are separate and who authorized them. If employees can be terminated based on those department-specific rules, they need to be referenced in the policy. Chair Embler said they are adding language to allow it. The City Manager disagrees with it, but that is his opinion.

Commissioner Cantrell asked the City Clerk to add the department-specific rules to the list of items on the agenda for discussion.

B. General Appearance and Work Attire

The City's management staff are authorized to adopt reasonable standards of personal dress, appearance and hygiene during working hours. Personal appearance should be evaluated based upon the type of work, the work environment, and the amount of public contact required by the job. Designated uniforms or work clothes shall be worn as required by City or departmental policy.

Commissioner Cantrell said it was concerning that the City's management staff are authorized to adopt reasonable standards of personal dress, appearance, and hygiene during working hours because there is not enough definition. He does not know what is reasonable, but that leaves it too loose. However, he does not want to make it so restrictive it cannot be accomplished.

Attorney Eschenfelder said in a governmental organization, they cannot adopt one standard. Employees that work in the field would not be required to wear business casual attire. The provision falls more in the line of things that should be in the policy. The City could be accused of making up rules to discriminate against employees that are in a protected category. The rule gives reason management is allowed to promulgate the rules.

Commissioner Ponte said employees in a public facing must dress business casual. The rule allows freedom without opening themselves up to litigation. If an issue should arise, they handle it by department rules. They have the tools to resolve it if it becomes a management issue.

C. City Property and Supplies

1. Employees are expected to take proper care in the handling and use of all City equipment and property. Employees are not to remove City property from the premises without authorization by the department director with the exception of those items that have been authorized for use off the premises such as cellular phones, pagers, laptop computers, etc.
2. Employees are not permitted to "recycle," "scavenge" or take for personal use any used or excess supplies, tools or equipment, including construction materials and office supplies, absent a published City policy on re-use or recycling of such materials.
3. Upon request or separation from employment, or extended leave, employees shall return all City property to the City. By accepting employment with the City, employees agree that the replacement cost for all property damaged, lost or not returned may be deducted from the employee's paycheck without need to file any further legal action against the employee, except to the extent a deduction would reduce pay to an hourly rate below the prevailing minimum wage.

Commissioner Cantrell said he had no objections.

Commissioner Ponte asked if language could be added to #3 about a person going on unpaid leave. The attorney said they could add "extended leave" in the first sentence of #3. The Commission consented.

D. City Communications Equipment

All City equipment, including electronic communications systems such as e mail and voice mail, and video recording and streaming systems is the property of the City and is subject to monitoring at any time, with or without further notice, at the sole discretion of management. All City employees are required to comply with the terms of the City's computer and internet use policies, to the extent such are adopted by the Board of Commissioners.

Chair Emblar asked if they needed to include video, text, social media, and audio at the end of the first sentence. The attorney said the provision dealt with City equipment. It is a warning that it could be monitored. The federal courts require them to alert employees about that upfront.

Commissioner Cantrell asked regarding the recent House Bill on social media use, specifically TikTok, if anything needed to be covered. The attorney said no, it was likely to be struck down as a First Amendment violation.

Attorney Eschenfelder recommended adding "and video recording and streaming systems" to the list in the first sentence. The Commission consented.

E. Address and Telephone Number

Each employee shall provide his or her department with a current physical address, telephone number, and contact information. The employee shall also provide and maintain a current name and telephone number of an emergency contact. The department and Human Resources department must be informed of any change in the above-required data in a timely manner.

Commissioner Cantrell asked if departments were required to give that information to Human Resources or if it was a collective set of data. The City Manager said employees provide information in their application, which enters the HR system and payroll. The system is electronic. The employees and HR can access the system to make changes.

F. Solicitation of Contributions, Membership, or Business

1. The solicitation of contributions, memberships, or business among employees of the City shall not be permitted on City property during the employee's working time except for those charity drives or employee benefit promotions specifically authorized by the Board of Commissioners. Employees may, with department approval, engage in limited, temporary, passive solicitation such as the temporary posting of a girl scout cookie order form, placement in break area of little league candy box, and the like. However, other forms of direct solicitation, including direct or network marketing, whether for charitable, business or other reasons, is prohibited.
2. Employee organizations, their members, agents, representatives, or persons acting on their behalf are prohibited from soliciting employees during working hours. This Section shall not be construed to prohibit solicitation by employee organizations during the employee's lunch period or in such areas not specifically devoted to the performance of the employee's official duties. This provision is not intended to conflict with the provisions of the National Labor Relations Act and where any conflict is shown, the Act shall prevail.

The Commission did not discuss Section F.

G. Statements by City Employees to Attorneys, Law Firms, or Others Concerning Employees or City Business

City employees may from time to time be requested or subpoenaed to make a statement to an investigator, an attorney, or a law firm. These statements may be concerned with an actual or contemplated legal action against the City. Employees are not generally authorized to make representations to anyone regarding City business. Therefore, should any employee receive either a request to make a statement or be subpoenaed regarding City business, the employee shall discuss the matter first with his or her department director and, prior to making any oral or written statements, discuss the matter with the City Attorney's Office. Nothing herein should be interpreted as preventing an employee

from speaking with his or her own legal counsel regarding personal legal matters, nor from speaking with a representative of a labor association concerning any grievance, mutual aid or concerted activity as protected by Florida Statutes § 447.301.

Commissioner Cantrell said he did not understand the requirement to discuss matters with the City Attorney's Office. The Charter for that position is City Attorney. It should state City Attorney instead because, per the Charter, they are to discuss the matter with the City Attorney and not the City Attorney's Office. The City Manager said it might be semantics. The same thing applies to the City Manager and the City Clerk. It could be the City Manager's Office or the City Clerk's Office. If they changed it for the City Attorney, they would need to do it for the City Manager and City Clerk.

Commissioner Ponte asked what representation of City business meant. The City Manager said it concerns legal matters.

Attorney Eschenfelder said there is a rule of evidence called admission by a party. The plaintiff will want somebody, particularly somebody in management, to say something, for example, about the accident that just happened. Then, in court, they will say that the City admitted it. Having it in the policy allows them to defend that.

H. Media Relations, Requests for Interviews

- 1. General Policy:** The City's official positions and policies are set and communicated to the public by the elected Board of Commissioners and, in certain circumstances such as litigation or administrative matters, the City Manager or City Attorney. However, other City employees may from time to time be asked by various media outlets to provide comments or interviews concerning the City's policies, operations, or other such matters. To ensure that the City's official positions on matters related to the business of the City are communicated to the media in a consistent and informed way, any employee, with the exception of the City Manager or City Attorney or their respective assistants, who receives a request to be interviewed or provide comments concerning City business shall refer the matter to his or her department director or designated media officer for response. Unless first authorized by the applicable department director, employees shall refrain from providing comments or being interviewed regarding City business or policy.
- 2. Exceptions:** Certain City departments or functions, by their nature, draw frequent media requests for interviews or information. In these circumstances, such as hurricane and other emergency services operations, the department chief or director overseeing the department or function may designate an employee as a "spokesperson" regarding that matter and that employee, once designated, may then provide interviews and information to the media concerning their area of responsibility without the need to obtain individualized prior approval. Such employees should, however, keep the City Administration and, where appropriate

Board of Commissioners and the City Attorney informed of interviews or information requests of significant concern.

3. Nothing herein shall be interpreted or applied so as to prevent any employee from the exercise of the personal right to free speech as a citizen, as that right is defined by the federal courts. However, employees in such situations should be clear they are speaking for themselves and refrain from stating or implying that they are speaking for or as representatives of Madeira Beach.

The Commission did not discuss Section H.

I. Recording Workplace Communications Prohibited

Chapter 934, Florida Statutes, prohibits interception of wire or oral communications by electronic, mechanical or other device without the consent of all parties involved. Recordings related to City business are also public records subject to being retained and inspected. Employees are therefore prohibited from recording any conversations between individuals, whether fellow employees, subordinates or citizens, with or without the permission of all parties, except as otherwise provided by law, as part of an official City broadcast production, as may be authorized by a criminal investigation conducted by law enforcement, or as is authorized by City policies regarding City-owned phones, faxes, radios and computers.

The Commission did not discuss Section I.

J. Loss of or Failure to Obtain Professional Certification or License

1. Where an employee's position with the City requires any specific certification, license or other credential, including driver's license, as a condition of holding that position, the employee is required to obtain and maintain the certification, license or credential, and to provide written proof thereof upon request. An employee who loses or within the provided amount of time fails to obtain the required certification, license or credential for whatever reason, including suspension, revocation, or expiration, has a responsibility to immediately report this fact to his or her department director. Failure to provide timely notice will result in discipline up to termination.
2. Upon timely notification by an employee that he or she has lost or failed to obtain the certification, license or credential, his or her department shall have the following options:
 - a) Make a reasonable effort to reassign the employee, on a temporary basis, to appropriate and available responsibilities not requiring the certification, license or credential, for a reasonable timeframe up to the subsequent exam/incident follow-up and results notification date to provide continuous

- employment during his or her efforts to attempt to acquire or obtain reinstatement.
- b) Allow him or her to use any available and applicable leave during the allotted timeframe while obtaining reinstatement.
 - c) Place him or her on a temporary administrative leave of absence without pay not to exceed the allotted timeframe.
3. An employee who fails to have his or her certification, license or credential reinstated, or to initially obtain same within the allotted period, may apply for and be considered on a competitive basis for any vacant City position for which he or she is qualified. The City Manager determines the timeframe or his designee. If the employee is not selected or does not apply for such position prior to expiration of the allotted timeframe, then he or she shall be non-disciplinarily separated for failure to obtain or maintain a necessary job qualification.

Chair Emblar asked how to implement Section J.1. For example, the City Clerk must have a certification, and if the certification expires, would the City be responsible for advising the City Clerk or anybody else? The City Manager said they would not know unless the employee told them. They must notify their employer of a change.

Commissioner Cantrell said in his line of business, he is required to recertify every five years. That is up to the school board and him. He asked if there were any positions requiring the person to be certified. The City Manager said they have professional engineers and CPAs. Their license expires every year. The City Clerk must have a certification; continuing professional education is required to maintain it. She must notify them if it expires, or they would not know.

Chair Emblar asked if the City should be tracking it. The attorney said no. He has a license to practice law, and it is not the firm's responsibility to check the Florida Bar website every morning to see if it is still active or switched to suspended. That is his obligation. Every licensed employee is responsible for informing management if the license expires or is suspended. The Chair said it would be onerous for the City to track it. The attorney said it could cause a legal claim to the City to undertake that effort and not monitor it.

The City Clerk said she has an ethical duty to notify the Board of Commissioners if something should happen with her certification. The position requires that the person be a professional city clerk with a Master Municipal Clerk Certification before being hired. She has a master's degree and a master's municipal clerk certification.

Commissioner Ponte asked about the allotted timeframe and who determined it. The attorney said the timeframe depended on the type of license. Some require a shorter period, such as reinstating a driver's license; the process could be longer for a professional license. He could add,

“The City Manager determines the timeframe or his designee.” The Commission consented to add the language behind the first sentence in #3.

Following the discussion on the personnel policy, Attorney Eschenfelder said he would add what the Commission did to the most recent version and send it to the City Clerk to send to the Civil Service Commission. At the next meeting, they will finish it and then circle back around, beginning with Section 1, so they all agree.

K. Searches on City Property

The Commission will start with K. Searches on City Property at the September 13, 2023 meeting.

5. B. Ordinance 2023-06, Amendment to Civil Service Commission Rules

Chair Emblar said they discussed the ordinance in a previous meeting, and there was an opportunity for discussion by all members, including the City Manager. She asked why it had not been brought forward. The City Clerk said the City Manager has the ordinance on an Excel spreadsheet to go to the Board of Commissioners for the first reading in September. The Civil Service Commission discussed the ordinance in April and discussed it again at the last meeting. It was agreed at the previous meeting that since Commissioner Cantrell was a new member, he was to look at it and provide his comments and changes at this meeting. The City Manager advised the Commission at that meeting to make the changes they want made before the ordinance goes to the Board of Commissioners for approval so it would include those changes. The rules are what the Civil Service Commission will follow.

Chair Emblar said they discussed it after the new Board was in place. They questioned some areas, and all voted to agree on it. Commissioner Cantrell is coming in new, and he has some glaring differences in opinion, but the Board approved the version of the ordinance before them.

Vice Chair Ponte said she would like them to talk about Commissioner Cantrell's changes and recommendations to decide if they want to consider them further. Taking the time to do it might be the answer.

Commissioner Cantrell said it was at the May meeting when they asked him to go through the ordinance. He could point out simple things. One is changing the grievance to appeal. It states grievance in the City Charter. No matter what they call it, he does not want there to be a problem by changing it.

Chair Emblar asked the Vice Chair how she would like to handle it since it would be a long discussion. There are significant points and philosophies. The Vice Chair said she is okay to consider it if he is right. If it is wrong, they will talk about it. They could table it until the next meeting if it is a long discussion. Chair Emblar said she would like to put it to vote.

Commissioner Cantrell said they have the policy they must create based on the Charter and are getting good cooperation and productive discussions on it. The Charter is the base root of what they must do and not less than that. When they write the rules, if doing the base stuff, they can

relinquish some of what they are supposed to do. Inside the documents, he noticed issues that take away the authority for them to make decisions and allow the City Manager and Human Resources Director to make those decisions on their behalf. Those are things that concern him. They improve the policy by discussing and fixing any errors they see when going through it.

Vice Chair Ponte said she did not recall them having an all-out discussion on the Commission rules, so she is open to it. She asked if they could continue with the rules the way they are now and make it a later item. Commissioner Cantrell said they needed to do it before the first reading of the ordinance in September. If not, it might be too late to submit revisions. It would require a new ordinance to make changes. There are things the Board repeatedly asked to be included in their rules. The rules determine how they function and what they can do with the policy. In the 2019 policy they were working on, grievance excluded half the employees. The salaried employees could not hold a grievance or an appeal, whichever they want to call it.

Chair Emblar said the difference between a grievance and an appeal is critical. The Charter refers to a grievance. That is a language dating back to 1975 or 1983. The modern language now says a grievance is a complaint, whereas an appeal is when an employee does not agree with something done, and they come to them. The policy allows the City employees to go through due process. Then, in the end, if the employee still says they want to appeal it after due process, they come to the Civil Service Commission. They need to move on from it because they are defined in the new document. They can make those changes per the Charter. Commissioner Cantrell said he read the entire document. The word grievance is not defined in the document anywhere.

Commissioner Ponte asked the legal definitions of both a grievance and an appeal. The attorney said the ordinance and the personnel policy go hand in hand. His counsel to the City of Madeira Beach and all his clients is to stop using the antiquated word grievance, which leads to a union-setting situation. Unions and collective bargaining agreements still speak in those terms. In the union world, grievance often blends with appealing discipline issues and complaining about the air conditioning. Because Madeira Beach is largely non-unionized, he has a standalone section in his personnel policy called employee complaint procedure. That is his recommendation for handling non-disciplinary things. For example, an employee says that the air conditioning is too cold, and they are being placed in an unsafe situation that is against the safety manual or whatever. Those things are not an appeal of discipline. They also have a section in his personnel policy on discipline and discharge. He recommends separating classified employees who are civil service protected from at-will management. The department heads and above are at the will of the City. If the City Commission wants their department heads to be civil service protected, that is a policy decision they can make. If the Civil Service Commission felt that the department heads should be civil service protected, they can make that recommendation to the City Commission. He will inform the City Commission when the policy gets to them that it could create problems. A department director working for the City Manager might think they can undermine him. The City Manager is responsible for what they do.

Chair Emblar said she found three general philosophical differences. As much as she wants to go forward, if they have not reviewed the packet, then they will do it.

1. Grievance versus appeal.

- 2. Who it applies to and at what level. The Charter says that if it is a complaint against the City Manager, it goes to the Board of Commissioners, not them. The City Manager and City Clerk go directly to the Board of Commissioners. Below department directors, it is clear they come to the Civil Service Commission. They must think about what the right thing for the City is.
- 3. In her opinion, a lot of Jerry's comments have shifted the responsibility of how they interact instead of working with the City Manager to working with the City Clerk.

Chair Emblar said the three philosophical differences are critical to how they operate.

Vice Chair Ponte said she had no recollection of discussing and commenting on Ordinance 2023-06.

Commissioner Cantrell said it did not matter whether they called it a grievance or appeal. The word grievance is what is written in the Charter. There is a process to follow if they disagree with the wording in the Charter. They could request an amendment to the Charter that can be voted on, changing that from grievance to appeal.

Attorney Eschenfelder said per City Charter, Section 5.7, D. Duties and Powers of the Civil Service Commission, they can change the word from grievance to appeal. Commissioner Cantrell said that is what he needed to hear. It makes sense to use the word appeal. He would love to readdress it.

Vice Chair Ponte said she would love to have the conversation. She does not recall the rules ordinance, and the whistleblower ordinance opened to discussion and comments.

Attorney Eschenfelder said he would like to keep both ordinances on the adoption track for the first reading in September. They can discuss them between now and when the second reading and public hearing occurs in October.

Commissioner Cantrell said he was trying to prevent the Board of Commissioners from having to reproduce their work.

Vice Chair Ponte said she would like to make a motion to push the whistleblower ordinance forward and bring the rule's ordinance back for discussion.

Attorney Eschenfelder said they voted to have the two ordinances adopted. They can make a motion to withdraw the recommendation to adopt Ordinance 2023-06 and/or Ordinance 2023-07.

Vice Chair Ponte motioned to withdraw Ordinance 2023-06 to allow more time for discussion so they can align better. Commissioner Cantrell seconded the motion.

Roll Call:

Vice Chair Ponte	"YES"
Commissioner Cantrell	"YES"
Commissioner Tilka	"YES"

Chair Emblar

"NO"

The motion carried 3-1.

Vice Chair Ponte said Commissioner Cantrell is a new member, so they might as well discuss it again. She recommended they start with the ordinance at the next meeting before they do the policy. They bring their comments and spend 30 minutes to resolve it. Chair Emblar said she wanted to see the original ordinance and the ordinance with Jerry's highlighted changes so they could do the stare and compare individually.

Commissioner Cantrell said after what Attorney Eschenfelder said about an appeal, he has no objection to using the word appeal.

Chair Emblar said they needed to think about who it applies to. There are numerous instances where Jerry's version wants to put more authority on the Clerk instead of the City Manager, and they must decide if that is appropriate. There are a couple of other things.

The consensus of the Commission was to have a separate meeting to discuss Ordinance 2023-06 for an hour. The ordinance would be the only item on the meeting agenda.

5. C. Ordinance 2023-07, Whistleblower Ordinance

The consensus of the Civil Service Commission was to forward Ordinance 2023-07 to the Board of Commissioners for approval.

6. NEW BUSINESS

- A. Pay Plan for all Classified City Positions (City Charter, Section 5.7, C, 2)**
- B. Classification of all Classified City Positions, based upon the Duties, Authority, and Responsibilities of each position, with adequate provisions for classification of any position whenever warranted by circumstances (City Charter, Sec. 5.7, C, 1)**
- C. Methods for determining Merits and Fitness of Candidates for Appointment or Promotions (City Charter, Section 5.7, C, 3)**
- D. Hours of Work, Attendance Regulation and Provisions for Sick and Vacation Leave (City Charter, Section 5.7, C, 5)**
- E. HR Director Position**
- F. Employee Satisfaction Surveys**
- G. Implementation Process for making sure that all Rules, Regulations, and Procedures of the Employee Personnel Policy are working and is followed by everyone (City Charter, 5.7, C, 8)**

7. NEXT MEETING

The Civil Service Commission meeting scheduled two meetings:

1. Thursday, August 17, 2023, 4:00 p.m. to 5:00 p.m. for Ordinance 2023-06 only.
2. Wednesday, September 13, 2023, 3:30 p.m. to 5:30 p.m. for a regular meeting to review the policy and then circling back from the beginning of the policy to the stopping point and then to the new business.


The City Manager said he would be out of the office the week of September 13.

The City Clerk said there are two Board of Commissioners meetings on Wednesday, September 13, 2023. The first at 5:45 p.m. and the other at 6:00 p.m. They will need enough time to set up those meetings.

Attorney Eschenfelder said he would like to work with Megan during the interim to put the measurements of how the City does its leave accumulations and so forth into the policy. He would like it in the new version to save time discussing it.

8. ADJOURNMENT

Chair Gene Embler adjourned the meeting at 4:15 p.m.



 Gene Embler, Chair

ATTEST:



 Clara VanBlargan, City Clerk/Secretary Ex-Officio



MINUTES
CIVIL SERVICE COMMISSION
MEETING
AUGUST 17, 2023
4:00 p.m.

The City of Madeira Beach Civil Service Commission meeting was scheduled for 4:00 p.m. on August 17, 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
 Jerry Cantrell
 Paul Tilka
 Clara VanBlargan, Ex-Officio Secretary

MEMBERS ABSENT: Judithanne McLauchlan

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

1. CALL TO ORDER

Chair Gene Embler called the meeting to order at 4:08 p.m.

2. ROLL CALL

City Clerk Clara VanBlargan called the roll. Commissioner McLauchlan was absent.

3. PUBLIC COMMENT

There were no public comments.

4. OLD BUSINESS

A. Proposed Ordinance 2023-06, Civil Service Commission Rules

[Chair Embler and Commissioner Cantrell prepared a PowerPoint presentation for the meeting. The PowerPoints were distributed to the members before the meeting.]

Chair Embler presented her PowerPoint presentation first.

Ordinance 2023-06 "The Rules"

Section 5.7. D of the City Charter provides that the Board of Commissioners may provide for the duties and powers of the Civil Service Commission by Ordinance passed by the BOC.

Chair Emblar said the meeting's purpose was to continue the discussion on Ordinance 2023-06, Civil Service Commission Rules. Hopefully, everyone had an opportunity to go through both versions of the ordinance, the Attorney's version, and Commissioner Cantrell's proposed changes. The differences mainly center on three areas. The City Charter provides for the Board of Commissioners to approve their rules by ordinance on how they want to conduct themselves as it relates to the duties and powers of the Civil Service Commission.

Eschenfelder and Cantrell – Version Comparison: 3 major areas for discussion.

(1) Grievance vs Appeal

Attorney Eschenfelder clarified the purpose of the verbiage change and stated that the Ordinance is in alignment with the proposed Employee Handbook. He also clarified that no judge would require them to use the word 'grievance' simply because that was the word used in the City Charter. CSC members unanimously agreed with not using the word 'grievance' but rather using the termination 'appeal.'

Chair Emblar said at their last meeting they had addressed a difference of opinion concerning grievance vs. appeal, the first major difference between the two ordinances. The Attorney had clarified the verbiage change and confirmed that no judge would require them to use the word grievance. They unanimously agreed not to use the word grievance but to use the word appeal as stated in the Attorney's version.

Commissioner Cantrell said he appreciated the explanation by the Attorney. He was good with using either one.

(2) Who Can Appeal to the CSC? (Disciplinary Terminations)

- **Attorney: Regular, not 'at-will'**
- **Mr. Cantrell: Classified, delete 'at will' language**
- **Classified, per the current Handbook includes "All employees of the City not employed as a Charter Officer, Department Head, or confidential officer."**
- **Part II Code of Ordinances, Division 4 also states "rules with regard...to classified employees"**
- **Regular employees include individual contributors, supervisors, and Managers, not Department Heads.**
- **Question: Should the CSC hear the appeals of Department Heads, or should Department Heads appeal to BOC, like Charter Officers?**
 - **Historically to BOC**
 - **The Attorney opined that appeals should go to BOC, not CSC.**

Chair Emblar said the second major difference between the two is who can appeal to the Civil Service Commission regarding disciplinary terminations. The word in the Attorney's version applies to regular, not at-will employees. Jerry's version references classified and would like to

strike at-will language. Classified, per the current handbook, are all employees of the City not employed as a Charter Officer, Department Head, or confidential officer. The Code, Division 4, is in regard to classified employees. The regular employees include individual contributors, supervisors, and managers, not department heads. That has been the historical Intent of who can appeal to the Civil Service Commission. At their last meeting, the Attorney explained why he recommended that department heads not be included. She asked the Attorney to speak to that and remind them of the definition of at-will.

Commissioner Cantrell said before the Attorney does that, he would like to present the historical things said by Mr. Hendricks, Ms. Price, and Mr. Andrews. It would be better if they looked at everything when presenting and then make comments. He made notes to request clarification of at-will and would like to address Charter Officers and department heads.

Chair Embler said they must agree on whether the Civil Service Commission should hear appeals of department heads or should department heads appeal to the Board of Commissioners the same as the Charter Officers. Historically, they would appeal to the Board of Commissioners. The Attorney told them that the department heads should appeal to the Board of Commissioners, not the Civil Service Commission. They have the power to change that. The question is, does it make sense?

Commissioner Tilka asked if that had changed from the previous procedures. Chair Embler said no, it has been that way. The department directors and the Charter Officers will go directly to the Board of Commissioners. The Charter Officers include the City Clerk, City Manager, Finance Director, and the City Attorney if they do not have a contract. The City Clerk said the City Charter does not require all Charter Officers to have a contract. The City Clerk and City Treasurer were meant to be long-tenured employee Charter Officers.

Commissioner Cantrell said City Charter, Article V, lists the Charter Officers as the City Clerk, City Attorney, City Manager, and City Treasurer. Those are the positions appointed by the Board of Commissioners.

Chair Embler said before they decide, they look at it historically, listen to the Attorney's recommendation, look at other things, and look at the pros and cons and decide accordingly.

Commissioner Ponte asked that the Chair and Commissioner Cantrell present together so they could make comments on both as they go along. Commissioner Cantrell said he would prefer that the Chair present first, and following his, they discuss and decide.

(3) City Manager / City Clerk: Roles and Responsibilities

- **Attorney verbiage provides authorization for City Manager to**
 - **Schedule / Cancel Meetings with CSC Chair approval, Clerk providing notification**
 - **Schedule Personnel meetings that cannot wait until the next formal meeting**
 - **Agree on Agenda items with CSC Chair**
 - **Request legal advice (intended to preclude conflict of interest)**

- **Co-develop classification and pay plans with CSC**
- **Mr. Cantrell's version provides authorization for the Clerk to**
 - **Schedule / Cancel Meetings with CSC Chair approval, Clerk providing notification**
 - **Schedule Personnel meetings that cannot wait until the next formal meeting**
 - **Agree on Agenda items with CSC Chair**

Chair Emblar said the third area of difference she saw between the two documents was the attorney version referenced in several places the role of the City Manager, and Commissioner Cantrell cited a desire to change many of them to the City Clerk. Some duties stated in the City Clerk's job description and included in the packet are setting up and handling elections, records management, public notices, and notary services. She saw nowhere in the City Charter that they work directly with the Clerk. Instead, the Clerk is there as a support person. Section 5.7 (C) in the City Charter says they give advisory opinions to the City Manager. Division 4 of the Code of Ordinances says the Civil Service Commission makes non-binding advisory recommendations to the City Manager. She has the historical perspective they should be working with the City Manager. However, it is up to the Civil Service Commission if they want to change the responsibilities to the Clerk.

The City Clerk said the City Charter, Section 5.2, says the City Clerk shall be the secretary ex-official of the Civil Service Commission. She does not know why that language is not referenced in Section 5.7 also.

Commissioner Cantrell asked the definition of the ex-officio secretary. He understands that the City Clerk is part of the Civil Service Commission and a non-voting member. The City Clerk said research showed that there are ex-officio members who take part in debates and votes. There are different things that an ex-officio member does. One city had an ex-officio finance member on a board that did not vote only because their City Charter said non-voting. She participates in the Civil Service Commission meetings and discussions. The City Charter does not state non-voting.

Chair Emblar said the City Clerk plays an important role and participates, which they welcome. In the business world language, the Clerk is an enabling and support organization, not a line organization. The Clerk is there to support the line people. The Commission reports to the City Manager, not through the Clerk.

Attorney Eschenfelder said every city clerk and county clerk essentially serves the same role. They are a supporting entity but are not meant to be a participating member of the various boards but are stakeholders they must listen to. Municipal and county clerks have a unique existence in the country. If the City Clerk were a member of the Board, there would be a potential dual office holding situation but not to an advisory board. The City Clerk said it is not considered dual office holding when both duties are stated in the City Charter.

Vice Chair Ponte said since they are talking about who is part of the Civil Service Commission, she would like to know why former HR Director Sean Lilly sat with them and participated in the meeting and the City Manager did not. She would like the City Manager to be involved in the same

capacity as the City Attorney and City Clerk, participating in the discussions and giving them advice. She would like them to discuss it at the next meeting.

Commissioner Cantrell said he had documentation where the Board of Commissioners in the past and the current have specifically stated they want a HR Director. That would be separate from the City Manager, but there are not enough hours for a full-time HR Director. He is certain that their decisions as a Civil Service Commission impacted their ability to do their job and how well the City will function. The Civil Service Commission is not doing its job if they do not have input. Commissioner Ponte said she would like them to discuss the expected participation level.

Chair Emblar said they have said that the City Manager will be there when possible. If the City Manager is not available, should they cancel the meeting, and if he is there, where does he sit?

Commissioner Cantrell presented his PowerPoint presentation. He said he only pulled out things specific to what the Civil Service Commission said, detailing what they would like them to do regarding the rules.

2018-08-20, Joint CSC and Charter Review Committee Meeting

- **Both committees agreed that the Civil Service Board needed more power to make decisions, especially regarding Grievances and Appeals.**
- **Arbitration steps must be in place, so all employees have due process if an employee is terminated. It specifically stated all employees.**

Commissioner Cantrell said at the August 8, 2018 Joint Meeting that Mr. John Hendricks was part of the meeting as a member of the Civil Service Commission, and Mr. Doug Andrews was part of it as a member of the Board of Commissioners.

Vice Chair Ponte asked if the information was obtained from meeting minutes and meeting videos. Commissioner Cantrell said it came directly from the minutes.

2019-07-12, Joint BOC, Budget Review, and CSC Meeting

- **The Personnel Policy has not been updated since 2014.**
- **Commissioner Andrews noticed that Article X, Disciplinary Action, had been removed from the Policy. The City Manager removed that section from the Policy without notifying the CSC.**
- **The Personnel Policy was returned to the CSC.**

Commissioner Cantrell said at the July 12, 2019 Joint Meeting with the Board of Commissioners, Budget Review Committee, and the Civil Service Commission, it was brought up that the personnel policy had not been updated since 2014. Commissioner Andrews had noticed that Article X, Disciplinary Action, had been removed from the policy. The City Manager had removed it without notifying the Civil Service Commission. The personnel policy was then returned to the Civil Service Commission for corrections. The City Manager should be involved in what is on

their meeting agenda and when they are having the meeting. Any type of grievance or information must be reported to the City Manager to share with personnel, and they must also report it to the Board of Commissioners.

2020-08-04, Joint BOC and CSC Meeting

- **The entire discipline section of the Personnel Policy had been removed. The BOC sent the document back to the CSC to continue working on it.**
- **The Labor Attorney offered to create a better version for the CSC to consider. The CSC members were to send their changes to the City Clerk. Commissioner Price would work as a liaison with the Labor Attorney to create the workable document.**
- **The document is to include a section on whistleblowing.**

Commissioner Cantrell said at the August 4, 2020 Joint BOC and CSC Meeting, the Board of Commissioners noticed that Article X, Disciplinary Action, still had not been put back in and sent the document back again to the CSC. The Labor Attorney offered to create a better version and created a whistleblower ordinance for the Board of Commissioners to approve.

2022-01-31, CSC Meeting

- **It had been 10 months since the last Civil Service Commission meeting: resignation, commissioner termed out, there were not 3 members to hold a quorum. The City Manager also delayed meetings as he wished the new City Manager to be present.**

Commissioner Cantrell said because of the delay, the City Manager should not be making those decisions.

2022-07-20, BOC Meeting: Civil Service Commission By-Laws

- **Vice Mayor Andrews acknowledged, "Problems have occurred with the grievance procedures and mistakes were made that had not been corrected. The Civil Service Commission conducts grievance hearings, and makes a recommendation to the City Manager, a Charter Officer. In one case, the grievance was found in favor of the employee and against the City Manager, and he ignored recommendation by Civil Service Commission and the Board of Commissioners did not act upon it. The grievance hearings are time-consuming, and the Civil Service Commission felt they had spent their time for nothing. They need more teeth to do their job so that does not happen again. A City Manager should not decide their own fate. If a Charter Officer files a complaint against an employee and the Civil Service Commission finds in favor of the employee, the complaint and recommendation should be given to the Board of Commissioners and not to the City Manager. The procedures need to be made by the voters or the Board of Commissioners could do it. That would change the dynamic and direction of it.**

- **Mayor Hendricks agreed with Vice Mayor Andrews and supported a change giving the Civil Service Commission more teeth. He was involved in the Civil Service hearing when that happened, and 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 found against the City in a grievance hearing, they need the ability to fight back when told their decision was meaningless.**
- **Mayor Hendricks read City Charter, Section 5-7, Personnel Systems, Civil Service Commission, Subparagraph A (p. 3 of 56, agenda packet): "Merit Principal. All appointments and promotions of City employees shall be made solely on the basis of merit and fitness demonstrated by examination or other evidence of competence."**
- **The Mayor said the department heads should be the ones determining whether an examination is needed, and he does not know if they give examinations to City employees. The City Manager said currently only fire employees are given examinations, written and physical.**
- **Mayor Hendricks read City Code, Section 2-126, Intent, (c), (p. 5 of 56, agenda packet): "The Civil Service Commission members also recommend cost of living increases and employee pay adjustments to the Board of Commissioners for consideration."**
- **The Mayor said that the department directors should determine the cost of living and pay adjustments for their employees, but since it is only a recommendation, he is okay with the language as is.**
- **Mayor Hendricks said if a Charter Officer brings a complaint against an employee and the Civil Service Commission finds in favor of the employee, then that should come before the Board of Commissioners and not to the Charter Officer that filed the charges. Attorney Mora thanked the Mayor for the clarification and said he would follow through with his colleague to ensure the best procedural mechanism to make the change.**

Commissioner Cantrell said he listed all four Charter Officers as at-will, the way they have it. Anyone else is a classified or a regular employee. To that extent, if the City Manager had a problem with one of his department heads, he would not want to interfere with him taking corrective actions. If the City Manager puts an employee's expectation in writing and the employee does not do that, the City Manager has the right to release that person. However, if the City Manager does that unfairly, that person has the right to come before the Civil Service Commission. They all say the same thing, so how do they resolve it? He looked at what was historically said and tried to figure out how they could make it happen based upon the things already brought up, which is why he is saying all employees.

Vice Chair Ponte said it seems like Commissioner Cantrell and the Attorney's language is different and a difference in opinion. So, they need to resolve it.

Chair Emblar said she would like to hear the recommendation of the Attorney if department heads should go to the Board of Commissioners or should it be changed to go to the Civil Service Commission.

Attorney Eschenfelder said philosophically his advice would be that a line be drawn between management and civil service-protected employees. His draft policy defines it as at-will. The first provision he has is that for purposes of the policy, the term at-will or serving at-will shall mean that employees holding positions designated by the Board of Commissioners as such serve at the will and pleasure of the City Manager. That includes but is not limited to all deputy or assistant City Managers, directors, deputy or assistant directors, division Managers, division chiefs, section managers, or trusted aides or assistants regardless of specific position title, which positions exist or may in the future be created. All employees directly reporting to the City Manager shall be deemed as directors for purposes of the policy, notwithstanding their actual title. A trusted aide is any employee working as an administrative assistant to the City Manager or one or more members of the Board of Commissioners. Absent City Charter or contract terms to the contrary, the City Manager and City Clerk serve at the will and pleasure of the Board of Commissioners subject to the terms of any employment contract to the contrary. That is his line drawn. However, the Board of Commissioners could give civil service protection to department directors. If it does, it could set up tension between the Manager and his or her senior management team. The City Manager would need the ability to require his or her directors to perform in the manner they want without them going before an advisory board. The employee, when hired, understands what is expected of them and their role and responsibility. The Board of Commissioners could choose to give directors civil service protection. If they should do that, he will revise the policy to state that and that the four Charter Officers appeal to the Board of Commissioners.

Vice Chair Ponte asked Commissioner Cantrell if it changed his opinion after hearing that from the Attorney. Commissioner Cantrell said no, he could add more to it.

Commissioner Tilka asked the Attorney if the City Manager could terminate an employee without cause. The Attorney said under his draft policy rules before the Civil Service Commission, the City Manager could terminate any of his direct reports, confidential employees, and executive assistants. The City Manager does not terminate people below the rank of his direct reports. He is recommending a tiered system where each director oversees his or her department, and each director makes the termination or suspension decisions subject to review by the Manager, and if it is a termination, it is subject to review by the Civil Service Commission. Each department head can have his or her own disciplinary philosophy. Some directors could be stricter than others. That would be fine by the courts as long as the department head is consistent and non-discriminatory in how they treat the people in their department. The rules must be applied equally in that department. Across departments, there could be differences of opinion, which is fine. The Civil Service Commission will review that.

Commissioner Tilka asked for a yes or no answer: Can a City Manager terminate an at-will employee without cause? The Attorney said yes. They have no appeal process.

Commissioner Tilka said he sat on the Civil Service Commission some years ago, and the Manager terminated two employees. Following the hearings of both employees, the Manager proceeded with termination, although they found in favor of the employees. The City Manager did not listen to their reasons. So, he is in favor of having more teeth for the employees.

Attorney Eschenfelder said they continue to be an advisory commission without a Charter amendment and cannot become the type of Civil Service Commission with the power to overrule the Manager.

Commissioner Cantrell said they would not overrule the Manager. They would come up with a fair and distinct decision and take that before the Board of Commissioners, which is their job. They are supposed to supply the information to the City Manager and requested to supply it to the Board of Commissioners. If they have to make a ruling based on their decisions, they are ultimately the ones to choose, but they must do the research and background to get it done. He was on the Board of Directors while working at Medical Education Technologies in Sarasota, Florida. If the boss wanted to let him go, he could have, but just like any other employee, he had the right to be treated fairly. If he is not doing his job, let him know. Put the expectations in writing and hold him to it. If it is at a director's level, they do not need to be given more than 24 hours. There should be significant expectations from that position. If they cannot uphold it and cause disruption to the rest of the workforce, remove the person from that position. But that person deserves the opportunity to go through the process everyone else goes through. When he was at Siemens Medical Solutions as a senior manager of field engineering, he had to make all sorts of decisions, and many of his employees worked in at-will states. However, although it was an at-will state, he still had to go through the documentation process if that employee needed to be terminated. If a new city manager comes in and he already does not like somebody, the person would be gone, and that is not fair practice. If the rule is in the employee manual that they are at-will and they are let go because someone did not like them, he is competent that they might come back and sue. It would make sense they at least have the authority to look at it first to determine what is or is not fair and provide their recommendation to the City Manager and the Board of Commissioners. They must decide to leave the City Charter as is or write in their rules that they provide their recommendation to the City Manager as required by the City Charter and go a step further and provide it to the Board of Commissioners. He does not think it is wise to put anyone in the position to file a grievance with the Board of Commissioners when the Board of Commissioners does not hire that person. It is the job of the Civil Service Commission to review that grievance, not the Board of Commissioners. If a Charter Officer wants to file a grievance, the Civil Service Commission should not have anything to say about it because the Charter Officers are hired and fired by the Board of Commissioners. The Board of Commissioners is the one to fire a Charter Officer if they are not doing their job. The Civil Service Commission should have something to say about everybody the City Manager hires and fires because the City Charter says they review grievances. They provide a recommendation to the Board of Commissioners. If they find against the City Manager, the Board of Commissioners should know about it. Vice Chair Emblar said that seems reasonable and valid.

Commissioner Tilka asked how the Civil Service Commission would get more authority, as Mr. Hendricks and Mr. Andrews suggested. Commissioner Cantrell said they would need to agree on a recommendation to take to the Board of Commissioners and request a vote by the citizens. If the

Board of Commissioners asks for more teeth, the only way to make it permanent is for the citizens to vote on it. The Civil Service Commission has the authority to request an amendment to the City Charter to change its rules.

Attorney Eschenfelder said Commissioner Cantrel and Vice Chair Ponte are going in the right direction in terms of amending the Charter. If the Civil Service Commission believes they should have actual authority to overrule or modify the Manager's discipline decisions, that needs to be a Charter amendment. Currently, the City Charter gives the authority to the Manager, who is hired by the Board of Commissioners, to hire and fire someone below them. If a majority of the Board of Commissioners feels that the City Manager fired someone unfairly, they could choose to terminate their contract. It would require a Charter amendment to change the procedure. Long ago, when he was the City Attorney for St. Petersburg, their Civil Service Commission had the authority to overrule a termination, and if they ruled in favor of someone, they got their job back. That is not how the Madeira Beach Charter reads.

Vice Chair Ponte said she would think the value of having the Civil Service Commission is to have a hearing to present the other side of the case. They must submit to the Board of Commissioners even though they are advisory. In essence, they are representing the employees against the City Manager. Commissioner Cantrell said they are representing the City, not the employees. They decide what is fair. Vice Chair Ponte said as the Charter is written, their unbiased opinion on a department head appeal or any of it is valuable, even in an advisory position. They could move forward with getting an amendment to the Charter, but they still have value as it is with having the appeal process and the review. Commissioner Cantrell said they need to decide whether they request an amendment or say that the department heads go through the appeals process with the Civil Service Commission. They give a report to the City Manager and give it to the Board of Commissioners.

Commissioner Tilka said even if the Board of Commissioners decided the employee should be reinstated the Manager can still go ahead and terminate. Vice Chair Ponte said they seem to be on the same page. They want to address that. Chair Embler said she does not know if they are on the same page but does want to address it. To simplify it, they only talked about what happens to department heads or directors. Vice Chair Ponte said Commissioner Tilka is asking to amend the Charter for them to have the final say and can overturn a regular employee's termination. Commissioner Cantrell said Tampa's Civil Service Commission can do that. Chair Embler said that is another issue outside the ordinance. Commissioner Cantrell said they need to decide what they want to do because it impacts the ordinance. That is what they are trying to get at; what do they want to do? He does not know the process to request a Charter amendment.

Attorney Eschenfelder said there are two distinct issues. The Commission can deal with the first issue through a combination of the ordinance and the personnel policy. If they want to recommend that every employee, no matter how high ranking except for the Charter Officers, can appeal to the Civil Service Commission for an advisory opinion if they get terminated. Then, the advisory opinion gets given to the Manager and the Board of Commissioners. That could be written in the personnel policy. The only issue with that is they would be raising an expectation among those employees that if they agree with their position, the Manager would be forced to change his mind,

which is not the case. That gets to the second distinct legal issue: Do they want authority to overrule the Managers' discipline decision? That would require a Charter amendment.

Commissioner Cantrell said if they brought a grievance or appeal to them, they should be able to report that to the Board of Commissioners because the Board of Commissioners employs the Manager. If the Manager is firing somebody for an unjust reason, they need to know it anyway. It does not matter if they overturn it; the Board of Commissioners still needs to know there is a problem, a bigger issue.

Vice Chair Ponte said she agrees with Commissioner Cantrell on it. Hearing both sides, she agrees with the Attorney in the sense that, yes, managerially, it is appropriate for the Manager to be able to make decisions and to hire and fire. Ideally, those are sound, without bias or any other reason that could come back to them for litigation. However, it could be that the City Manager is wrong. In those instances, it seems reasonable for a department director to go through the process. She does not see why that would be a problem with the regular expectations. The same relationship would still exist. It would only be a problem if there were something out of line. An appeal process would only be used in a very extreme process. It should be negligible almost.

Commissioner Tilka said he could go along with reporting to the City Manager and the Board of Commissioners, which is how it should go. If there is a complaint against the Manager, it should go to the Board of Commissioners.

Chair Emblar said there is no appeal process for a department head terminated, but could they hire an attorney to defend them to seek their job back? The Attorney said they could hire an attorney to file a lawsuit that they were terminated for an unlawful reason. They are still protected by all the civil rights laws, such as Title VII, race discrimination, disability discrimination, and gender. The Americans with Disabilities Act covers them; they could say they were terminated for First Amendment retaliation, and there are a lot of state and federal civil rights laws that at-will employees can invoke. The key difference is that they do not have a property interest in their job. There must be just cause for terminating the employee. That is the line drawn between the civil service-protected and at-will groups. The Civil Service Commission can say that even the at-will group can still come and make a case that they shouldn't have been terminated, and if they agree, they can develop a report agreeing they should not have been terminated, and that gets sent to the Manager and the Board of Commissioners. If the Civil Service Commission decides to do that, the director must understand that unless the Charter is changed, it doesn't change the fact they are still terminated.

Commissioner Tilka said if they cannot get a referendum to go forward, he would be inclined to go with Commissioner Cantrell's recommendation.

Vice Chair Ponte asked the City Clerk if it were to be extended and written in the policy, would it cause any difference in managerial style? As a manager in her profession, it would not. The City Clerk said she did not believe it would cause a problem if done fairly. Any side of the party could be abusive to it. In the Civil Service Commission policy, the City Manager and the employee are expected to do what they are supposed to do. If an appeal is filed, the Civil Service Commission would be doing due diligence by listening to both sides and making their recommendation to the

City Manager and Board of Commissioners based on that. Employees can also go to the Civil Service Commission if they feel they might be getting terminated, and it has not happened yet. The Civil Service Commission is like a mediator, listening to both sides settling that way and giving the recommendation to the City Manager.

Chair Emblar asked if the language in the ordinance should include all employees or should remain that all at-will are not included. She asked for a motion. Commissioner Cantrell said he considers at-will as the four Charter Officers hired by the Board of Commissioners. Commissioner Tilka said at-will would mean all employees.

Vice Chair Ponte asked the Attorney who in the City is at-will by his definition. The Attorney said at-will means employees holding positions designated by the Board of Commissioners as such serve at the will and pleasure of the City Manager and includes but is not limited to all deputy or assistant City Managers, directors, deputy or assistant directors, division Managers, division chiefs, section managers, or trusted aides or assistants regardless of specific position title, which positions exist or may in the future be created. All employees directly reporting to the City Manager shall be deemed as directors for purposes of the policy, notwithstanding their actual title. A trusted aide is any employee working as an administrative assistant to the City Manager or one or more members of the Board of Commissioners.

Commissioner Tilka asked if all regular employees were at-will. The Attorney said they are technically because the Civil Service Commission has no power to reinstate. Commissioner Cantrell said they want to make sure that all employees who feel they were unfairly terminated can appeal to the Civil Service Commission. They listen to both sides of the information and determine whether the employee was terminated fairly or not. They provide the findings to the City Manager and Board of Commissioners. The Board of Commissioners decides if the employee is or is not reinstated.

Vice Chair Ponte asked the City Manager if the department directors should be allowed to enter an appeal process. The City Manager said no. The City Manager should still have the authority to hire and fire. To change that it would require a different form of government. Department directors should not be able to appeal against the termination. Department directors should have an employment agreement with their employees, so they know their expectations. The Board of Commissioners hires their CEO based on their qualifications. The Vice Chair asked what happens if the Board of Commissioners does that and the City Manager does not do what he is supposed to do. The City Manager said they need to get a new Board of Commissioners because they are responsible for hiring the right person. It is properly managing the employees and providing clear expectations.

Commissioner Cantrell said the City Manager is asking to change the entire process. They would have to write additional procedures to accommodate a contract. Other employees have it, which is done through the Board of Commissioners. The City Clerk said employees are hired to do a job. They sign a document accepting the position. That is a service contract stating they will do what is expected. Commission Cantrell said if the person does not do the job hired to do, they get terminated. Department directors must document what did not happen. The City Manager needs a significant degree of latitude regarding a director. If a director does not do what they are supposed

to do and causes disruption, the City Manager has a right to terminate that director. Still, that does not take away their right to an appeal if something else happened. As stated on August 8, 2018, in the Joint Civil Service Commission Meeting with the Charter Review Committee, arbitration steps must be in place, so all employees have due process if an employee is terminated. It specifically stated all employees.

Chair Embley told Commissioner Cantrell that he cited people from 2018 who are not part of the current Board of Commissioners. Their philosophy does not count. Vice Chair Ponte said it was not about philosophy. The idea is to prevent something that happened in the past multiple times. There was an ability to do something to prevent that. Now, they are trying to have the ability to prevent that from happening again.

Chair Embley said the two employees went through the regular process. The problem they are trying to solve has never happened before. What happens to a department head if a City Manager decides to fire them? They've heard from the Attorney, who said it should stay status quo, and the City Manager, who said he would be a good leader. At that high level of the organization, they must trust that. Anything below that is spelled out. They are civil service employees. They can appeal to the Civil Service Commission, so they are involved.

Commissioner Cantrell said he read the last six years' documents that were sidestepped. The Board of Commissioners had asked for additional steps to ensure that what happened previously does not happen again. Do they make sure it does not happen to a few or all employees? It has been routinely addressed as 'all employees.'

Attorney Eschenfelder said they really would not be changing what happened back then. It would still happen unless the voters give the Civil Service Commission the authority to overrule a Manager's employment decision. Those two people who had disputes did get to come before the Civil Service Commission. The problem was, as he understands it, that the City Manager utterly ignored the process and chose not to listen to what the Civil Service Commission had to say and forged ahead and did what he did. The voters would need to give the Civil Service Commission or the Board of Commissioners the authority to overrule.

Commissioner Cantrell said they are trying to address how to take care of it right now. It has to be the Civil Service Commission or the Board of Commissioners to have the ability to overturn it when something has been wrong. The Chair said there was a third option that they not be involved. Commissioner Cantrell said per Charter Section 5.7, they are supposed to be involved. It says they are supposed to hear grievances, which are now appeals. Only four employees are employed by the Board of Commissioners directly. Everyone else is under the guidance of the Manager. Based on what the Attorney is telling them, do they want the authority to overturn a decision by the Manager, or do they want to ask the Board of Commissioners to have that authority? It is one or the other.

The City Manager said his concern would be that they are trying to remove the authority from the Manager. The Vice Chair said they should only be involved when somebody has done something incorrectly because it has happened historically, which they are trying to prevent. The City Manager said it did not happen to a department head. Commissioner Cantrell said it could.

Commissioner Cantrell said, as he stated before, he has been in companies where he was a director, and only one person was above him. In those cases, if they wanted to eliminate any director, they still had to go through the same process and document what was happening. They could not just fire them. Commissioner Ponte said they like to think things through. It is not that they would not support a correct decision. They are trying to prevent anything that would come back as an issue and a liability. That is what they are after and to prevent liability.

Commissioner Cantrell said the Attorney had said if, through the appeal process, they agreed with the employee they had unfair treatment, they send it to the Board of Commissioners, there is still no process to rehire an employee. The Vice Chair said that is reality, and she would like to put it to a workshop. There is value in their history, and they do need more teeth. They should have a workshop to discuss that. Commissioner Cantrell and Commissioner Tilka said they agreed.

Chair Emblar said they are an advisory group, and the Board of Commissioners needs to hire competent people. The Civil Service Commission does not need more teeth but instead needs to trust the people. They mentioned before they did not need much teeth. What has changed now to have more teeth? Commissioner Cantrell said it was probably because they now know the historical information they asked him to research. He presented that. He read six years of documents.

Commissioner Tilka said they need more teeth. He would like to find a way to do it without a Charter amendment, but there is not. The City Clerk said they and the Board of Commissioners always brought it up. Nothing has ever been put on the agenda to make that happen.

Vice Chair Ponte asked the City Clerk if they have always been an advisory Commission. The City Clerk said yes, but their advisory opinion is based on court cases or whatever may have happened to reach the recommendation to the City Manager. The opinions are like those of the Attorney General. The City Manager said it had read the same for a long time. The Charter can only be changed by referendum. Before a referendum occurs, an ordinance puts the referendum to the voters. If the voters approve the referendum, the ordinance would be codified in the Charter. In a workshop, the Board of Commissioners would listen. If it were to be a Charter amendment, the City Attorney would write an ordinance for the Board of Commissioners to approve to put the amendment on the ballot for voter approval.

Commissioner Ponte motioned to have a workshop meeting with the Board of Commissioners to do that. The Attorney asked that the motion be for a joint meeting.

Commissioner Ponte motioned to host a joint meeting with the Board of Commissioners to understand the option to make a referendum to the City Charter. Commissioner Tilka seconded the motion.

ROLL CALL:

Vice Chair Ponte	"YES"
Commissioner Tilka	"YES"

Commissioner Cantrell	"YES"
Chair Emblar	"YES"

The Motion carried 4-0.

The City Clerk said she would put it on the agenda for the Board of Commissioners to set a date.

Ordinance 2023-06, Civil Service Rules

Chair Emblar said of the three issues, they resolved one, changing grievance to appeal. She would like to resolve the issue of the role of City Manager and City Clerk. She asked who oversaw scheduling and canceling meetings. She has always seen it as a joint decision. The City Clerk said the City Manager's office and the City Clerk's office work together in scheduling meetings. The Civil Service Commission is supposed to set its meeting calendar for the year and the items they wish to discuss so everyone is aware. If there is nothing to discuss, the meeting gets canceled. Commissioner Cantrell said the City Manager should not be the one canceling their meetings. The Chair or the Vice Chair needs to be in that loop.

Commissioner Cantrell said on the first page of Ordinance 2023-06, shown on Page 11 of the agenda packet, that the language in red was only for his notes and did not need to be there.

Attorney Eschenfelder said that 2-127 (g), Page 13 of the agenda packet, says that members of the Civil Service Commission shall schedule in advance quarterly meetings. However, if the Chair, in consultation with the City Manager, determines that there are no agenda items to discuss in the scheduled meeting, the Chair is authorized to cancel the scheduled meeting and instruct the City Clerk, acting as ex officio secretary, to notify the members of the cancellation. In addition to its scheduled quarterly meetings, the Civil Service Commission shall promptly schedule hearings on employee post-termination appeals. The City Manager or their designee may request unscheduled meetings to discuss personnel matters that cannot wait until the next regularly scheduled meeting. Commissioner Cantrell said the language in the ordinance also says that it will be at the behest of staff in collaboration with the Chair of the Civil Service Board. That language is stricken out and should not be.

Chair Emblar asked Commissioner Cantrell if, in paragraph (g), he wanted to replace where it says City Manager with ex officio secretary. Commissioner Cantrell said he did not want to exclude the City Manager, although the former City Manager prevented things from happening inside the Commission and should not have. The City Manager should always be able to give them input. Chair Emblar said the discussion should be with the City Manager, not the City Clerk. The Clerk is an enabling body. Commissioner Cantrell said he was okay with that as long as the Chair decided to cancel the meeting and not the City Manager. He did not want the Chair to lose the authority to cancel a meeting. The City Clerk said there were only two instances where they had to cancel a meeting: one was when there was a storm and a hurricane, and the other was because there would not be a quorum.

Chair Emblar asked Commissioner Cantrell if he wanted to change City Manager to City Clerk in 2-127 (g) where it says any other unscheduled meetings may be requested by the City Manager or

his or her designee through the Civil Service Commission chair. Commissioner Cantrell said he was okay with that as long as it reads that way. The City Clerk said they also have to check with her because the City Clerk is required to be at the meetings. The consensus of the Civil Service Commission was to keep the Attorney's version of paragraph 2-127 (g).

Chair Emblar said in Commissioner Cantrell's version that paragraph ~~(h)~~(g) is stricken. She asked if they wanted to keep the language in that section that says the City Manager shall coordinate with the Civil Service Commission chairperson and the human resources coordinator to choose and set meeting dates and times before a meeting is noticed. Vice Chair Ponte said that would be a conflict. Why would the City Manager be scheduling their meetings if it is their regular meetings? The Civil Service Commission should choose their meeting dates and times. They are allowed to meet without the City Manager, who is not responsible for scheduling their meetings. The Attorney said the "City Manager shall coordinate" is already the current language. He is the one that has to bring the resources to bear. Commissioner Cantrell said that the five commissioners are doing the coordination for normal meetings and would like it to read that way. The Chair said they could say that the Civil Service Commission chairperson coordinates with the City Manager.

Commissioner Ponte suggested they bring the meeting to a wrap and continue the discussion at their next meeting. The Chair said they would put paragraph ~~(h)~~(g) on hold to think about.

Chair Emblar said Commissioner Cantrell wants to change City Manager to ex officio in paragraph ~~(h)~~(j), where it says the City Manager and the chairperson of the Civil Service Commission shall coordinate and agree on all agenda items prior to the civil service commission meetings. That should be the City Manager because they are dealing with personnel issues. The personnel people report to the City Manager and not the City Clerk. The City Clerk is an enabling organization.

Commissioner Cantrell said when he added his edits, the whole idea was for the City Manager not to make their decisions for them, and he knew that the City Clerk was the one who coordinated the meetings. He wanted to ensure they were not taking the authority away from themselves. They can retain it but not exclude the City Manager or human resources. Vice Chair Ponte said she agreed with Commissioner Cantrell on some of it because whenever they have some conversation where they are not in agreement, it usually falls back on what the rules are in the City Charter. She would like it made to support them and what they need to accomplish. She does not want to see what happened in the last year and a half happen again. The meetings were canceled, which prevented the Civil Service Commission from meeting. She would like that considered because a lot of time was wasted on their behalf.

Chair Emblar said in paragraph ~~(k)~~(l) that Commissioner Cantrell wants to change the City Manager to ex officio secretary, where it says that prior to each Civil Service Commission meeting, the City Manager and the commission Chair shall confer on the agenda and determine if the City Attorney's attendance would be necessary or desired. The City Manager is in a better position to determine that. Commissioner Cantrell said it should be the Chair in consultation with someone else to determine that because, in the past, having an attorney was the Manager's decision. Miranda was fired, and there was no alternative to his decision. In paragraph ~~(k)~~(l), it says that the city attorney shall be the primary legal advisor to the Civil Service Commission on all matters of municipal law, and if the Civil Service Commission should require specialized labor or

employment counsel of a nature the city attorney cannot provide, the City may within established budgets provide additional specialized counsel. The City Manager should not be involved in what Attorney is in the meeting. It should be up to the Civil Service Commission when having problems with counsel to go directly to the Board of Commissioners and request an attorney to help. It would be up to the Board to get them that legal counsel.

Chair Embler said they had identified four areas, and there could be more where they disagree with the roles and responsibilities, taking things away from the City Manager and giving them to the Clerk. Commissioner Cantrell said after they discussed it, he agreed that it should not be changed in some areas. Chair Embler said they could continue discussing the four areas of differences at another meeting.

Commissioner Cantrell said it is important not to overlook that they need to be in control of what is happening. They do not need to relinquish that to any other person, or otherwise, they lose the ability to make the decisions that need to be made. He does not want to downplay anyone because they have good people employed, but they do not want past instances to reoccur should people leave their positions. It is their job to make sure that does not happen again. Vice Chair Ponte said she agreed.

5. NEW BUSINESS

6. NEXT MEETING – September 13, 2023; 3:30 p.m. to 5:30 p.m.

The Civil Service Commission scheduled a Joint Workshop Meeting with the Board of Commissioners and the Civil Service Commission at 4:00 p.m. on Monday, September 18, 2023, to discuss their options to put a referendum on the ballot to amend the City Charter.

Commissioner Tilka asked the City Clerk to come up with rules of appeal and look at other communities to see how they go about it. The City Clerk said she already had some information from other cities when asked to work on it before the Civil Service Commission stopped meeting for a while. She would add the item to their list for discussion and provide the information well in advance to allow them time to review it before they meet to develop their appeal process rules. Attorney Eschenfelder said he could also provide some information. Commissioner Tilka and Commissioner Cantrell said both would be helpful.

Chair Embler said they will finish up on the Attorney's version of the handbook at their next meeting on September 13, 2023, at 3:30 p.m. and then circle back around at the beginning and go through it. The City Clerk will check with the Board of Commissioners to see if they can get together in a Joint meeting with the Board of Commissioners on September 18, 2023, at 4:00 p.m. to specifically discuss a possible Charter amendment ordinance and who should be included under their purview.

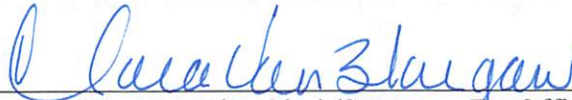
7. ADJOURNMENT

Chair Gene Embler adjourned the meeting at 6:09 p.m.



Gene Embler, Chair

ATTEST:



Clara VanBlargan, City Clerk/Secretary Ex-Officio



MINUTES
CIVIL SERVICE COMMISSION
MEETING
SEPTEMBER 13, 2023
3:30 P.M.

The City of Madeira Beach Civil Service Commission meeting was scheduled for 3:30 p.m. on September 13, 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 (via Zoom at 3:52 p.m.)
 Jerry Cantrell
 Paul Tilka
 Clara VanBlargan, Ex-Officio Secretary

MEMBERS ABSENT: Judithanne McLauchlan

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

1. CALL TO ORDER

Chair Gene Embler called the meeting to order at 3:36 p.m.

2. ROLL CALL

City Clerk Clara VanBlargan called the roll. Commissioner McLauchlan was absent. Vice Chair Ponte entered the meeting via Zoon at 3:52 p.m.

3. PUBLIC COMMENT

There were no public comments.

4. APPROVAL OF MINUTES

A. Approval of Minutes

- **2023-08-08, Civil Service Commission Meeting Minutes**
- **2023-08-17, Civil Service Commission Meeting Minutes**

Commissioner Cantrell motioned to approve the minutes as written. Commissioner Tilka seconded the motion.

ROLL CALL:

Commissioner Cantrell	"YES"
Commissioner Tilka	"YES"
Chair Emblar	"YES"

The motion carried 3-0.

The Civil Service Commission moved under New Business, Agenda Item 5. B., Ex Officio Board Member – Robert's Rules of Order, and to discuss Agenda Item 5, C., Ordinance 2023-06, Civil Service Rules, after the joint workshop meeting with the Board of Commissioners.

Joint Workshop Meeting with Board of Commissioners

Commissioner Cantrell asked about the process for requesting a joint meeting with the Board of Commissioners to propose an amendment change. Attorney Eschenfelder said they only need to ask for a meeting.

Commissioner Cantrell said if an employee is terminated, he would like to know how they would like to resolve the issues. Currently, there is no method to rehire an employee terminated. Attorney Eschenfelder said there are two issues that the Civil Service Commission discussed:

1. Whoever is civil service protected, what are the due process steps they would like in place? Do they want to create a Civil Service Commission empowered to order a reinstatement instead of their current advisory status?
2. At what level do they want to cut off civil service protected employees versus people who serve at will? Do they want the directors to be able to appeal?

Chair Emblar said there are a lot of verbiage differences between the roles and responsibilities of the City Manager and the City Clerk she would like to discuss. Commissioner Cantrell said they could resolve that themselves.

Chair Emblar said the City Clerk informed her that the City Attorney would like more of a reason than what they voted on for holding the joint meeting. Commissioner Cantrell said he would like a process for reinstating an employee if wrongfully terminated and the Board of Commissioners' guidance from a policy perspective on who should reinstate them. If it is the Civil Service Commission to reinstate them then they ask for an amendment to be created to make it happen.

Attorney Eschenfelder said it should be a discussion on who has the authority to require reinstatement and who is entitled to civil service protection. Commissioner Cantrell said until they iron it out about "at will" or "all classified employees" it does not need to be taken to the Board of Commissioners.

Attorney Eschenfelder said they need to take a position before meeting with the Board of Commissioners. He would recommend breaking the two issues apart. (1) Who should have the authority to order reinstatement? If it is going to be someone other than the manager, he highly recommends it be the Civil Service Commission. He would like to keep the Board of Commissioners free of being in the midst of employment litigation as a decision-maker. It would be more appropriate for the Civil Service Commission to transition from being advisory only to having the authority to order reinstatement. The Board of Commissioners is a policy-setting body that must avoid individual employment.

Chair Embler said the other issue is who the Civil Service Commission has jurisdiction over. Attorney Eschenfelder said it would be which employees get to appeal a discipline put upon them, who would be civil service protected. If not civil service protected, they are just at the manager's will. They need to hear from the Board of Commissioners where it wants to go from a policy perspective. Language would need to be added to the code and policy, making that clear.

Commissioner Cantrell said he would like to make a motion that they discuss and vote on the Civil Service Commission approaching the Board of Commissioners to allow them to put forth an amendment to have the authority to reinstate an employee wrongfully dismissed. Commissioner Tilka seconded it.

Chair Embler said they have a motion and a second to write a charter amendment to allow the Civil Service Commission to reinstate an employee, which she nicknamed "having more teeth."

Commissioner Cantrell motioned that they approach the Board of Commissioners for the Civil Service Commission to be able to have the ability to reinstate an employee wrongfully terminated. Commissioner Tilka seconded the motion.

ROLL CALL:

Commissioner Cantrell	"YES"
Commissioner Tilka	"YES"
Chair Embler	"NO"

The motion carried 2-1.

Commissioner Cantrell said the other issue is the "at will." For someone in a high-level leadership position, there should be little room for or tolerance for disruption in the workforce. That should not happen. He sees the value in having sustainability and employment. Some employees migrated through the ranks and have a historical perspective of what is happening in the City. They can hold stability when there is a change in employment. If the person is causing a disruption and is given 48 hours or so to correct it and they do not, the City Manager should be able to dismiss that person. He would back the City Manager if there was documentation for that and it is proven. However, a person should not be terminated just because someone or the City manager did not like them; they would lose longevity, sustainability, and morale by doing so. He would like everyone, except the Charter Officers hired and fired by the Board of Commissioners to be classified as civil service protected. There must be a just cause reason for terminating someone. Attorney Eschenfelder said

termination can happen if just cause is proven. Commissioner Cantrell said no one should be let go for no reason at all.

Commissioner Cantrell motioned they vote on whether directors are civil service protected. Commissioner Tilka seconded the motion.

ROLL CALL:

Commissioner Cantrell	"YES"
Commissioner Tilka	"YES"
Chair Emblar	"NO"

The motion carried 2-1.

The City Clerk reported that Commissioner Ponte arrived at the meeting via Zoom at 3:52 p.m.

Chair Emblar said they do not need to take that to the Board of Commissioners. They just change the rules to say everybody is civil service protected.

Attorney Eschenfelder said that the Board of Commissioners will need to parse the issue at the end of the day. To be efficient, they need to talk to the Commission about both issues voted on.

Chair Emblar said both items will be put on the meeting agenda to discuss with the Board of Commissioners.

The City Clerk said two Board of Commissioners and two Civil Service Commissioners are unable to attend the September 18 joint workshop meeting and asked that they pick a couple different dates to choose from. Attorney Eschenfelder suggested that the dates be scheduled on the day there is a Board of Commissioners meeting.

The Civil Service Commission picked 3:30 p.m. on Wednesday, October 11, and at 3:30 Wednesday, October 25. Whichever date the Board chooses the other date the Civil Service Commission will have a regular meeting.

5. OLD BUSINESS

A. "Draft" Personnel Policy Manual

The Civil Service Commission asked that instead of an amended document provided in the meeting packets, the attorney would update the policy as they worked through it and provide them with a completed version when done. Commissioner Eschenfelder said when they get it back, they could go through it one more time.

The City Clerk said they would start at XXV, Miscellaneous Policies, K. Searches on City Property, where they left off on August 8.

XXV. MISCELLANEOUS POLICIES

K. Searches on City Property

Madeira Beach seeks to provide a safe work environment for all its employees. To that end, the City reserves the right whenever a manager or department director has reasonable suspicion to believe an employee has brought on City premises or work sites alcohol, illegal drugs or controlled substances, or any other illegal or prohibited item, weapon, or stolen property; or has misused City equipment, to search City property including, but not limited to work locations, desks, file or storage cabinets, computer files (including software, hardware, e mail, voice mail, and internet activity), lockers (locked or unlocked), City vehicles and private vehicles parked on City property or being used at the time of search for City business, and all other City equipment.

On a case by case basis, employees may be requested to display personal property for visual inspection. Failure to comply with a search or visual inspection request from supervisory or security personnel will be grounds for discipline. Searches of an employee's personal property, such as purses or briefcases or lunch containers, will take place only in the employee's presence unless an emergency condition exists which would, if confirmed, endanger others or the employee him/herself. Employees who do not wish to subject personal items to possible inspection are strongly advised to leave such items at home.

The City will make every effort to honor the personal dignity of employees during any search but will take appropriate disciplinary action in cases where prohibited items or activities are uncovered, regardless of how such item(s) or activity has been discovered (accidentally or in the process of a search).

"Unless circumstances prohibit a search it shall be conducted by a department director or above with one other member of management also present."

Chair Embler said there should be two people when doing a search. Attorney Eschenfelder said creating a rule that there must be two people can create an issue. They could say that the manager could encourage two people to be present. The City Clerk said in a recent supervisor class she had with one of the universities, they had encouraged two people, one to be an observer. Chair Ember said it would be good practice to have an observer who is in a leadership position. Commissioner Cantrell said they would want both to be in a leadership role, the one doing the inspection and the observer. Commissioner Ponte said if something just happened and coincidentally discovered, there might not be time to get an observer. Commissioner Cantrell said it should be one person in an emergency, and if not in an emergency, it be two persons.

Attorney Eschenfelder said they could add language that says,

"Unless circumstances prohibit a search it shall be conducted by a department director or above with one other member of management also present."

The consensus was to add the language.

L. Employee Arrest or Charge

Employees must inform the City's Human Resources Staff, either verbally or in writing and either personally or via an attorney or family member, etc., within three (3) business days of their being criminally arrested, charged or convicted of any state or federal crime, including for violation of parole or probation. Failure to do so will result in disciplinary action.

M. Use of Tobacco and "e cigarettes"

Use of any tobacco product or "e-cigarettes." is prohibited within City owned/leased buildings, including bathrooms and stairwells, except in areas specifically designated and designed for smoking. ~~Department directors may prohibit the use of, or adopt rules related to the use of, "e-cigarettes."~~

Commissioner Cantrell asked to add language to the first sentence that says, "Use of any tobacco product, is prohibited..." to say, "Use of any tobacco product 'or e-cigarettes,' is prohibited..." and then get rid of the last sentence.

The consensus was to add the language.

Chair Emblar asked if chewing tobacco was included in the definition of tobacco products. The Attorney said yes. The Supreme Court ruled long ago that local governments can require complete smoke-free environments. Employees cannot smoke in their free time, and they cannot be a smoker. Some did that to help lower their health insurance rates.

Chair Emblar asked if the City had any designated smoking areas. Ms. Powers said they have one which is located by the City's generator.

N. City Bulletin Boards and Common Areas

The City may from time to time establish and ordain certain display cases, bulletin boards, or the like for the purpose of posting authorized communications to employees and/or the public. The purpose of such bulletin boards or display cases is not to create a general speech area but is instead intended to effectively and efficiently communicate information to citizens and employees. Employees are thus prohibited from posting any item not approved by the City Manager or Human Resources Staff in advance and not related to City government or City employment. Employees are likewise prohibited from removing any posted notice or item from a City display case or bulletin board unless authorized, and from posting, or facilitating or authorizing anyone else to post any advertisement, notice, solicitation or any other printed materials in, on or along any common area of any City building or facility. Common areas include, but are not limited to, break rooms, entryways, doors, elevators, hallways and parking facilities.

O. Communicable Diseases

Madeira Beach government desires to maintain a workplace free from preventable risks of

communicable illness or disease. Therefore, all employees of Madeira Beach government are required to properly treat any communicable disease which would present a danger to the health or safety of fellow employees. Employees should, in consultation with their health care providers, take appropriate precautions within the workplace to reduce any infection risks to co-workers. Madeira Beach does not seek to needlessly impose on the medical privacy of its employees and where a communicable disease or illness is adequately managed and treated, the employee need not disclose same to co-workers or the City. However, should the employee desire the assistance of the City in modifying working conditions to prevent risk of transmission, the Human Resources Staff should be consulted and any records generated concerning the medical condition will be treated as confidential as permitted by state and federal law.

P. Inventions and Intellectual Property

Any invention, method, program, publication or other form of intellectual property which is developed by a City employee during work hours or using City equipment or resources, is the property of Madeira Beach. Employees are prohibited from seeking to patent, trademark, service mark, copyright or otherwise register such intellectual property without the prior authorization of the Board of Commissioners.

Q. Letters of Reference

Though all employees have the right to express their personal opinions regarding another current or former co-worker, no employee below the rank of Department Director may write any letter of recommendation, commendation, etc. on City letterhead without the express prior approval of the Department Director or City Manager.

Chair Emblar said at a number of places she worked, they only provided the name of the employee, the start date, and the end date. No reference was given, good or bad. The Attorney said that is unfair to employees when future employers ask for a reference. Florida Statute grants a huge amount of immunity for any lawsuit that a former employee may bring, stating their reference was bad. As long as they give a truthful reference, they are okay, which he encourages.

R. Funds Owed by Employees; Debt Collection Calls

Employees may on occasion become indebted to the City. By accepting employment with the City, employees acknowledge and consent to the City's authority to retain or otherwise withhold portions of an employee's compensation to allow such funds to be recovered by the City except to the extent the deduction would reduce regular pay to an hourly rate below the prevailing minimum wage, or as otherwise prohibited by law. The City does not authorize or permit the use of City communication assets, including phones and e mail systems, to be used to make or receive messages related to debt collection efforts. Employees are not authorized to initiate, receive or forward such communications to any other person, and debt collectors violating this policy shall be subject to fines and penalties as provided for by federal and state debt collection practice laws.

Chair Embler pointed out a typographical error in the last sentence to be corrected. The word "sand" should be "and."

XXVI. USE OF CITY VEHICLES & USE OF PRIVATE VEHICLES FOR CITY BUSINESS

1. When it is necessary to allow an employee to carry out assigned job duties, an employee may be required to operate and control City-owned vehicles, or to operate a personally owned vehicle for City business. When possessing a City-owned vehicle for such a reason, employees may only use it during the course and scope of their assigned employment duties, and under no circumstances is the vehicle to be used for personal business or pleasure, whether during duty hours or not. However, employees may make ~~work day~~ workday deviations to use restrooms or take meal/comfort breaks.

Commissioner Cantrell asked that the words "work day" be changed to "workday" in the last sentence. The Attorney said he would make the change.

2. An employee driving a City vehicle, or a personal vehicle for City business, must have in his or her possession a valid Florida State driver's license with any required endorsements or classifications.

Commissioner Ponte asked if it had to be a Florida driver's license because they have 30 days to get a Florida driver's license. Commissioner Cantrell said they could change the word "Florida" to "State." The Attorney said he would make the change.

The consensus was to make the change.

3. Except as to transporting citizens related to a City program. City vehicles will not be used. City vehicles will not be used to transport anyone other than City employees unless the person(s) to be transported are directly involved in the provision of City-related services or otherwise involved in City government operations.

Ms. Powers said the Recreation Department picks up kids and they are not employees. The Attorney said they could add to the beginning of #3. "Except as to transporting citizens related to a City program, City vehicles will not be used."

The consensus was to add the language.

4. In normal circumstances, City owned vehicles are to be driven over the most direct route. Any out of Pinellas County travel must be pre-approved by the employee's director unless emergency circumstances prevent prior approval.
5. No employee shall operate a City vehicle or personal vehicle on City business when any physical or mental impairment causes the employee to be unable to drive. This prohibition includes, but is not limited to, circumstances in which the employee is temporarily unable to operate a vehicle safely or legally because of illness, medication or being under the

influence of illegal drugs or alcohol.

6. Vehicles driven on City business must be driven in accordance with all applicable traffic and parking laws, including applicable speed limits. Seat belts must be used by vehicle occupants at all times. Each employee shall be personally responsible for any fines or penalties incurred as a result of driving or parking violations while operating a City vehicle.
7. Any accident involving a City-owned vehicle which results in property damage and/or personal injury will be reported without delay to the operator's immediate supervisor, regardless of whether such accident occurs during or after regular duty hours, as well as to the law enforcement agency with jurisdiction over the accident scene.
8. Employees assigned a City vehicle for use to and from work shall be responsible for the personal tax liability for the value of this use. Employees using take-home vehicles must record such use when recording their hours in the City's time and attendance system.

Chair Ember asked if the City currently allows employees to take home City vehicles. Ms. Powers said only in emergencies like a hurricane to get City vehicles off the island.

9. City vehicles must be maintained in good working order at all times. An employee who observes an apparent safety or equipment defect regarding vehicle equipment should report it to a supervisor immediately and if the vehicle is unsafe, it shall not be driven further. Employees who have been assigned a take home vehicle shall store the vehicle in a safe, secure area at the employee's residence, keep it locked, and shall take all reasonable measures to prevent damage to the vehicle.

Chair Embler asked if they needed to mention that any City documents needs to be removed and taken in the house. The attorney said nothing would be in a City vehicle that would not be subject to public records disclosure. There is little that is confidential.

10. Employees are on notice that they should avoid bringing valuable personal items into City vehicles. The City will not be responsible for the loss or theft of any personal items from City vehicles, and City vehicles may be inspected or searched at any time at the City's election.
11. Employees who are assigned a City vehicle, or who are using their personal vehicle while on City business, must refrain from speaking on cellular phones while driving the vehicle unless the employee makes use of a "hands-free" device. Employees not using hands-free devices must bring their vehicles to a full stop in a safe location prior to using a cellular phone. Employees shall not text or type on smart cellular phones while driving.

Commissioner Ponte asked in the last sentence if they could call it cellular phones, not smartphones.

The consensus was to change smart phones to cellular phones.

12. Employees who are assigned a City vehicle, either permanently or on a rotational or pool basis, shall not smoke or use e-cigarette smokeless tobacco within the vehicle.

The Attorney said he would add the word "e-cigarette" before the words "smokeless tobacco."

The consensus was to add the language.

13. No City employee shall order, authorize or permit any non-City employee, including contractors and temporary workers, to operate any City vehicle, including cars, trucks, earth- moving equipment, ~~airplanes~~ drones, all-terrain vehicles, and boats, unless same is absolutely required to respond to an extreme emergency or imminent threat to life or safety and no City employee is available to operate the vehicle.

Commissioner Cantrell asked to add the word "drones" because the City is probably using them. Ms. Powers said the City has a couple of them. The Attorney said he would replace the word "airplanes" with "drones."

14. Employees may not use a City owned take home vehicle to engage in personal business while commuting to and from work, including shopping trips, stopping at dry cleaners (other than to pick up or drop off City uniforms), or picking up or dropping off school children.
15. Under Florida law, the City may not be required to cover injuries or damages resulting from use of vehicles by its employees unless such use was in the course and scope of employment. Employees are therefore warned that failure to limit use of City vehicles to such purposes may result in personal financial liability for any such damage or injury to the employee or third persons. To the extent the City Manager determines appropriate, employees being granted use of City vehicles or being instructed to use personal vehicles to conduct City business may be required to execute acknowledgement forms concerning issues of liability.
16. Authorization given to an employee to use a City owned vehicle, whether take home, daily assignment, pool or otherwise, is not and shall not be construed as being a guaranteed benefit or entitled form of compensation to the employee. Vehicles are assigned based on operational needs and budgetary limitations and the City may remove, reassign or decommission any of its vehicles at any time within its discretion.
17. The City Manager is authorized to issue operational procedures which govern the administration of this vehicle policy by the departments.

Commissioner Cantrell said he would like to add, "with the concurrence of the Civil Services Commission." Chair Emblar disagreed. She said it was not their role to write policies. Commissioner Cantrell said if it is something that an employee could be terminated or reprimanded for the Civil Service Commission should be aware of it. He would not necessarily want to overrule but would like to see it. Chair Emblar said it would be opening Pandora's box by saying that. If they had to approve that policy then they would have to approve every policy he does. Commissioner Cantrell said one of the things they have asked for is to see the standard operational procedures that could be a supplement to the document. It appears to be the same because it says operational procedures.

Attorney Eschenfelder said he recalled an earlier conversation they had when talking about administrative procedures. The Civil Service Commission had agreed that once they were done with this project, they would start looking at all the City Manager's administrative policies and give feedback. When they circle to the beginning of the policy there is a more general statement that says the City Manager is authorized to adopt administrative procedures that are not inconsistent with this policy. If the Civil Service Commission is asked to review them, that would be the place to put it.

Commissioner Tilka asked to go back to #13 where it was suggested that they put drones in the place of airplanes. The more appropriate language would be UAV unmanned aerial vehicles because drones are considered quadcopters. Aerials vehicles can be a glider or other kind of aerial vehicles. The Attorney said he could say, "drones or other unmanned vehicles."

13. No City employee shall order, authorize or permit any non-City employee, including contractors and temporary workers, to operate any City vehicle, including cars, trucks, earth- moving equipment, ~~airplanes~~ drones or other unmanned vehicles, all-terrain vehicles, and boats, unless same is absolutely required to respond to an extreme emergency or imminent threat to life or safety and no City employee is available to operate the vehicle.

The consensus was to add the language.

The Civil Service Commission went back to the beginning of the personnel document and started with Page i. General Policy Statement, Page 44 of the packet.

GENERAL POLICY STATEMENT

Excellence in government public service is attained, in part, through personnel systems that reflect merit principles and sound administrative management. It is the intent of Madeira Beach's Board of Commissioners that its Personnel Policies, Rules and Procedures Manual provide firm and clear direction to its employees. To this end, every reasonable effort is made to protect the personal rights and privileges of individual employees.

Furthermore, it is the intent of the Board of Commissioners that no unlawful discrimination exists in the application and administration of any Madeira Beach Board of Commissioners' policy, practice, rule or regulation.

The City Manager, through the City department directors, in coordination with the Human Resources staff, is charged with ensuring that the provisions of this Policy are implemented and made known to the employees of Madeira Beach Government.

~~Executive contract employees hired by the Board of Commissioners shall have the same authority and responsibility as the City Manager, where cited, in matters pertaining to this Policy, unless specifically excluded by Contract or Resolution.~~

Commissioner Cantrell asked what was meant by "Executive contract employees." The City Manager is the only executive manager with a contract hired by the Board of Commissioners. Attorney Eschenfelder said it would be mostly applicable if the City ever created a deputy city manager position and hired them by contract. They could take that language out for now to not create any issues. The City Clerk said that type of position to have the same authority as city manager could only be established by City Charter.

These Personnel Policies are not and shall not be considered an employment contract with any person. Nothing herein is intended to create an employment contract between the City and any person for the purposes of employment, promotions, or for the providing of any benefit.

The provisions contained within this Manual are and shall be considered as part of the terms and conditions of employment of all regular employees with Madeira Beach and should thus be adhered to by all regular City employees. Madeira Beach reserves the right to establish, modify, or make exceptions to these rules when necessary. Any question concerning the interpretation or application of these rules shall be referred to the Human Resources staff for resolution.

Commissioner Cantrell said he would like to remove any reference to regular employees because right now it should be all employees. There is a differentiation in the document between regular and "at will."

Attorney Eschenfelder said it was important to flow through the terminology that he uses in the document. On Page 47 of the packet, in the first section of the policy, Section I, Employment, A. Non-Temporary (Regular) Employment, they are separating out temps. Commissioner Cantrell said with that clarification he was good with it.

Attorney Eschenfelder said where he delineates "at will" and "civil service protected," he used the word "at will." All employees, including directors, are regular employees. It needs to be separated if they should hire temps.

Madeira Beach may, from time to time, designate certain positions, such as part time, temporary, initial probationary, managers or directors, as serving at the will of the City Manager and exempt from "regular employee" status. In such cases, the provisions within this Manual regarding regular employees, including just cause and disciplinary appeals, are inapplicable.

Madeira Beach endeavors to include a comprehensive overview of the rules and policies governing employment with Madeira Beach within this Personnel Policy Manual. However, there may from time to time be additional personnel rules or policies issued by the Board of Commissioners. The City Manager or a particular department head may also issue additional rules so long as such additional rules do not conflict with the provisions in this Manual and have been reviewed by the Civil Service Commission." All such additional rules shall also constitute

a part of the terms of employment. Violation of any provision of any such additional rules will subject an employee to discipline.

Chair Embler asked if that section was the right place to put the blanket statement about the administrative policies that need to be reviewed by the Civil Service Commission. The Attorney said they could add at the end of the sentence, before the last two sentences in the paragraph, behind the word Manual, "and have been reviewed by the Civil Service Commission."

If a direct conflict exists between policies and procedures included in these rules and a current labor agreement to which the City is a party, the terms and conditions of the labor agreement shall take precedence for employees in classifications represented by a bargaining agent, whether the rights and benefits are greater or less than those provided in these rules.

Chair Embler said everyone should be prepared for the meeting to go through the policy, and instead of reading the document, they could ask if anyone has anything to add. She said they would do that as they continue.

Equal Employment Opportunity

It is the continuing policy of the Board of Commissioners of Madeira Beach, Florida, to promote the concepts of equal employment opportunity in its employment function and to comply with all federal, state and local laws, rules and regulations pertaining to fair employment practices.

1. All employees and applicants for employment will be treated fairly with respect to all terms and conditions of employment regardless of race, color, religion, national origin, ancestry, gender, age, marital status, or physical or mental disability which does not preclude the performance of the essential functions of the job with or without reasonable accommodation(s).

Commissioner Cantrell asked if it would be appropriate to add after marital status, "sexual orientation or gender identity." Attorney Eschenfelder said about four years ago, the United States Supreme Court ruled that the Title VII reference to gender includes sexual preference or sexual identity or whatever they want to parse that. It would be redundant to add it the way it is worded.

2. All personnel opportunities and decisions related to employment, promotions, transfers, reclassifications, compensation, benefits, performance ratings, training courses and programs, layoffs, returns from layoff, terminations, and all other aspects of employment with Madeira Beach will be in accordance with the principles of the merit system, which afford equal opportunity by imposing only valid requirements.
3. The Board of Commissioners reaffirms its commitment to equal employment opportunity through a formal Affirmative Action Program.

There were no changes made.

4. Employees who allege that they have been unlawfully discriminated against or treated unfairly in the application or employment process must follow the steps outlined in the policy on Illegal Harassment or Discrimination, as described in Section XIII of this Policy. Non-employee applicants and applicants for temporary employment alleging unlawful discrimination must complain in writing to the Human Resources Staff, who will conduct an investigation in accordance with the applicable portions of this Policy.

Commissioner Cantrell asked if they would need to inform the Civil Service Commission to conduct the investigation. The Attorney said they cannot conduct the investigation because they are a Sunshine body. Management will do the investigation or call in a lawyer or a consultant to do the investigation because it must be done thoroughly to protect the employer. The person to do the investigation must be qualified, know all the labor laws, and know what Title VII is, ADA, etc.

I. EMPLOYMENT

A. Non-Temporary (Regular) Employment

1. In the interest of hiring "best qualified and available" people to meet City employment requirements, and to avoid favoritism in hiring practices, the Human Resources Department is responsible for ensuring that all interested applicants have an equal opportunity to apply for City employment.
2. Notices of open positions will be published interdepartmentally and/or publicly according to the department's request and concurrence of the Human Resources Department. Notwithstanding the foregoing, where a department director or other official with hiring authority determines that a particular candidate is fully qualified for a position (for instance where an intern or employee in acting status has been working successfully in the position for some time), the Human Resources Staff may authorize that candidate to be offered the position without the need to post the position. However, to prevent undue favoritism or nepotism and ensure a diverse, well qualified work force, this exception should not be regularly used in place of posting opportunities and allowing candidates to apply.

Commissioner Cantrell said there are times when people internally deserve promotions and they would want to target those people to put them where they belong. He asked if there would ever be a time not to post the position internally to get other applicants to apply. Ms. Powers said to be fair, they always post the position regardless of there being someone internally who would be qualified for the position.

Attorney Eschenfelder said it would be the decision of the Civil Service Commission on how it would like the language to be read. The way it is written provides the City with an additional tool. By posting the position, you might get an external candidate who is more qualified than the internal candidate. You could be in an uncomfortable position by not picking that person because you want to promote the person within due to morale issues and to allow people to see a path forward in the organization. If the rule is to hire the most qualified individual you must open it up to do that. With

the additional tool, you could give the job to a qualified person internally.

Commissioner Cantrell asked if a degree is required to fill a position or some specific type of certification, would it always be a prerequisite to fill those positions? Ms. Powers said it would not necessarily be the case if they have a plan stating they are required to get the degree or certification within a specific time, depending on the type of degree or certification required. Commissioner Cantrell said if the job specified an undergraduate, it would take more than four years to fill it. If the job requires a master's degree and the person is already in a master's program when applying, that would be suitable to consider. But, if they have not started it and cannot finish within three years, there should be a candidate to fill that position. Chair Emblar said they could ask if they meet the requirements when they get the monthly HR report. Ms. Powers said they put what is required in the job description and the offer letter.

Chair Emblar said they needed to wrap up the meeting. At the next meeting, they could start with #3 in 1. A. Non-Temporary (Regular) Employment where they left off. They will not read the document, so everyone must read it before the meeting.

5. A. Ex Officio Board Member – Robert's Rules of Order

5. B. Ordinance 2023-06, Civil Service Rules

6. NEW BUSINESS

A. HR Report

Ms. Powers gave the HR report.

The City Clerk was asked to add an exit interview survey to their continuing list of items.

B. Items to be Scheduled for Future Meetings

7. NEXT MEETING

The Civil Service Commission picked 3:30 p.m. on Wednesday, October 11, and 3:30 p.m. on Wednesday, October 25, to have the joint meeting with the Board of Commissioners. On the date the Board does not choose, the Civil Service Commission will have a regular meeting on that date at 3:30 p.m.

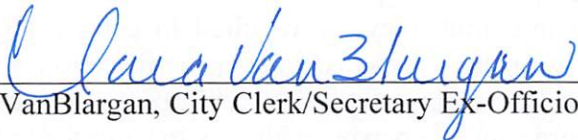
Chair Emblar announced that her term on the Civil Service Commission expires on October 30, 2023, and she will not be applying for reappointment. She enjoyed her time on the Commission but has much going on with the family and other commitments.

8. ADJOURNMENT

Chair Emblar adjourned the meeting at 5:13 p.m.


Gene Embler, Chair

ATTEST:


Clara VanBlargan, City Clerk/Secretary Ex-Officio



MINUTES
CIVIL SERVICE COMMISSION
MEETING
OCTOBER 11, 2023
3:30 P.M.

The City of Madeira Beach Civil Service Commission meeting was scheduled for 3:30 p.m. on October 11, 2023, in the Patricia Shontz Commission Chambers at City Hall, located at 300 Municipal Drive, Madeira Beach, Florida.

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

MEMBERS ABSENT: Gene Embler, Chair

CITY STAFF PRESENT: Robin Gomez, City Manager
 Attorney Rob Eschenfelder, Trask Daigneault, L.L.P.

1. CALL TO ORDER

Chair Gene Embler called the meeting to order at 3:36 p.m.

2. ROLL CALL

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

3. PUBLIC COMMENT

There were no public comments.

4. APPROVAL OF MINUTES

A. Approval of Minutes

- **2023-09-13, Civil Service Commission Meeting Minutes**

Commissioner Tilka motioned to approve the minutes as written. Commissioner Cantrell seconded the motion.

ROLL CALL:

Commissioner Tilka	"YES"
Commissioner Cantrell	"YES"
Commissioner McLauchlan	"YES"
Vice Chair Ponte	"YES"

The motion carried 4-0.

5. OLD BUSINESS

A. "Draft" Personnel Policy Manual

I. EMPLOYMENT (Page I-1 of "Draft" Personnel Policy Manual)

A. Non-Temporary (Regular) Employment

1. In the interest of hiring "best qualified and available" people to meet City employment requirements, and to avoid favoritism in hiring practices, the Human Resources Department is responsible for ensuring that all interested applicants have an equal opportunity to apply for City employment.
2. Notices of open positions will be published interdepartmentally and/or publicly according to the department's request and concurrence of the Human Resources Department. Notwithstanding the foregoing, where a department director or other official with hiring authority determines that a particular candidate is fully qualified for a position (for instance, where an intern or employee in acting status has been working successfully in the position for some time), the Human Resources Staff may authorize that candidate to be offered the position without the need to post the position. However, to prevent undue favoritism or nepotism and ensure a diverse, well qualified work force, this exception should not be regularly used in place of posting opportunities and allowing candidates to apply.

Paragraph 1 & 2 discussed at the September 13, 2023 Civil Service Commission Meeting.

3. Applicants for City employment apply to the Human Resources Department in the form and manner, including electronic application submission, as the Department designates. Applicants who make initial contact with an individual City department and/or applications/resumes received by other City departments shall immediately be directed to the Human Resources Department. ~~The Human Resources Staff or designee may grant exceptions for certain special programs.~~

Commissioner Cantrell said it does not mention the "certain special programs." That is the only reference to special programs in the entire document. It is for non-temporary employment, so it might not qualify in that section. Attorney Eschenfelder said they could remove that sentence. The Commission consented to removing the sentence.

4. Applications are accepted for announced openings during the published advertising

period.

5. Once a position has been filled, the position is closed. Should one or more of the same positions come open again within ninety days after first being filled, a department may make an offer to the next most qualified candidate from among the original applications. Alternatively, or if the vacancy arises more than sixty days later, the position will, absent an exception approved by the Human Resources Staff, be re-advertised and new applications sought.

Commissioner Cantrell said the 90 days makes sense but not sure about the 60 days. Vice Chair Ponte said the sentence could be revised for clarity. Attorney Eschenfelder said the intent is to pull from the original pool of applicants to prevent staff from wanting to re-advertise because their desired person did not apply. They have to wait 60 days. It would not be fair to those who submitted their application by the advertised deadline. He will try rewording it.

The City Manager said they must wait 90 days, although it does not make sense. Companies would want to re-advertise ASAP to fill the position.

Vice Chair Ponte said she was currently doing a lot of recruiting, which was not easy. The idea of delaying it by 60 days troubles her. She is not comfortable with Paragraph 5 as it stands. It is prohibitive to operations.

Attorney Eschenfelder said they could revisit that when he comes back with a reword.

6. Employees chosen for interviews for other City jobs will be allowed to interview during work hours if necessary. Departments shall work with the employee to make reasonable adjustments to the employee's schedule to permit the interview. ~~If the interview takes place during the employee's scheduled work hours, the time will not be paid, and employees should use available vacation leave for such purposes.~~ Employees who interview during work hours shall receive their normal pay. All other interviews are unpaid.

Commissioner Cantrell said he disagreed with it. If they are trying to fill a position within the City to promote people to move forward, they should be paid for their time during their work hours to do an interview and not be required to take vacation time. The Commission agreed and asked if they needed to remove the last sentence in the paragraph.

Attorney Eschenfelder said the last sentence has nothing to do with non-employee applicants but when the interview occurs. They have to think about what compensable work is. It is not compensable work to be interviewing for a job that is not the job they currently have. The argument is that the taxpayers are paying those people to do their current job. They want employees to advance but paying them their time for an interview would be generous.

Commissioner McLauchlan asked if it mattered if they were hourly employees on the clock versus salaried employees. The Attorney said salaried employees are exempt under FLSA. Salaried employees must receive their entire salary if they work only one hour during the pay period. The

paragraph deals with hourly employees. Hourly employees must work the whole pay period and can use their vacation time to do the interview. Commissioner Cantrell said if they are trying to promote people within, employees deserve to be paid for that time if it is during their working hours. Salaried employees get paid regardless.

Attorney Eschenfelder suggested rewording the sentence to say, "Employees who interview during work hours shall receive their normal pay." The Commission and the City Manager said it was reasonable.

7. The Human Resources Staff may establish eligibility registers for positions as required by turnover frequency or other recruitment issues. Positions that are identified by departments or the Human Resources Department as being vacant on a regular basis or having certain recruitment needs, may have an eligibility register of qualified applicants established. The Human Resources Staff is responsible for establishing the registers in accordance with the City's policy of non-discrimination.

Commissioner Cantrell said it is the right idea, but he does not understand an eligibility register. The Attorney said it was for positions that constantly turnover, such as in the solid waste division. They want to put a list together. They are eligible to be on the list regardless of their application date. They could reach out and offer the position.

8. No employee may begin activities associated with working for the City, including engaging in post-offer screening activities, until the candidate signs, electronically or otherwise, a conditional offer of employment. No term or condition of employment, including matters of pay, bonuses, expense reimbursement, or other similar matters, shall be effective unless included within a conditional offer of employment.

The City Manager said the offer of employment would be automated in the payroll system.

9. The City Manager and Human Resources Staff are authorized to adopt such forms and procedures as are deemed necessary to effectively implement these employment policies and to conduct such pre-employment screening as may be either legally or administratively required, including background and reference checks and physical or psychological examinations related to job functions. For any position requiring a pre-employment, post-offer examination, it shall be job-related, and given uniformly to all candidates conditionally offered the position. Candidates must meet/satisfy any established screening requirements and any candidate who fails to do so may be denied employment. In addition to the foregoing, for any City position requiring interaction with law enforcement personnel, records or other matters, access to secure facilities, or otherwise required to pass background standards promulgated by a regulating agency with jurisdiction over such records, personnel or facilities, employees holding such positions must be able to pass the relevant standards and their inability to do so will disqualify them from continued employment.

Commissioner Cantrell asked if the paragraph dwelt with certain certifications or licenses that certain positions require before starting the position. Attorney Eschenfelder explained that the

logistical things allow the manager to adopt whatever forms and procedures are needed. There are other governmental regulations in addition to the City's requirements. For positions requiring specific certifications and licenses before working, they must already have that before being offered the job.

Commissioner Cantrell said the requirements must be stated in the offer letter, so it does not come back as a potential appeal. He would like to review the forms to see what they look like before implementation, ensure they have document control, and ensure the revisions are standardized. The Attorney said, as previously discussed, they would look at all the administrative procedures and forms after completing the personnel policy project. The City Manager said it is not a form but an offer letter stating the required requirements and certifications.

Commissioner Cantrell said that any position requiring a pre-employment, post-offer examination shall be job-related and given uniformly to all candidates conditionally offered the position. There are things in there that should be consistent in every single form for that specific job. If it is an offer letter, it should be a standard offer letter. Attorney Eschenfelder said they would not hear an appeal for not getting a job. The City Manager said he would email them copies of the issued offer letters.

Vice Chair Ponte asked the City Clerk to add the review of the offer letter and document control as two separate items to their rolling list. They can revisit the item when they review the policy after it is completed and updated.

10. For purposes of this Policy, the term "at-will" or "serving at-will" shall mean that employees holding positions designated by the Board of Commissioners as such serve at the will and pleasure of the City Manager, and includes, but is not limited to, all deputy or assistant city managers, directors, deputy or assistant directors, division managers, division chiefs, section managers, or trusted aides or assistants, regardless of specific position title, which positions exist or may in the future be created. All employees directly reporting to the City Manager shall be deemed as "director" for purposes of this Policy notwithstanding their actual title. All employees directly reporting to a director shall be deemed as "division manager" notwithstanding their actual title. A trusted aide is any employee working as an administrative assistant to the City Manager or to one or more members of the Board of Commissioners. Absent City Charter or contract terms to the contrary, the City Manager, City Clerk, City Treasurer, and City Attorney serve at the will and pleasure of the Board of Commissioners subject only to the terms of any employment contract to the contrary.

Attorney Eschenfelder suggested they skip #10 because it ties in with the discussion they will have with the Board of Commissioners at the joint meeting. The City Clerk said the City Charter says the City Treasurer also serves at the will and pleasure of the Board.

Commissioner Cantrell said they are trying to identify what "at will" and "serving at will" and what positions they are. Every person has to go through a dismissal for cause or if the City Manager can dismiss "at will" people for any cause, no cause or for cause. They discussed it at the last meeting; they would like to identify what they would like to happen going forward. It will be

discussed at the joint meeting with the Board of Commissioners on October 25.

Attorney Eschenfelder said there are two issues. Would the Civil Service Commission become an adjudicatory body that can overturn a dismissal, and at what level below the manager, if any, will "at will" occur?

Vice Chair Ponte said they will revisit #10.

11. All volunteers are not City employees for any purpose. However, ~~pursuant to~~ Florida Statutes § 440.02 provides eligibility for certain worker compensation benefits for municipal volunteers. Therefore, City volunteers must comply with all related City accident or injury reporting procedures.

Attorney Eschenfelder said he would take out "pursuant to" for grammar purposes.

12. Employment of persons under 18 years of age in either regular or temporary positions shall be subject to and in accordance with applicable child labor laws.
13. To ensure compliance with the Affordable Care Act, when an employee formerly eligible for health benefits leaves the City's employ for any reason, he/she shall be ineligible for rehire until the former employee has been separated from the City for a minimum of thirteen (13) weeks.

Attorney Eschenfelder said that is what everybody calls Obamacare.

B. Temporary Employment

1. Temporary employment, for purposes of this Policy, shall include:
 - a. O.P.S. regular (Other Personal Services) positions (including non-student interns) which ~~cannot~~ usually does not extend beyond six (6) consecutive calendar months.

Commissioner McLauchlan asked if the six months could be extended if needed. The Attorney said the legal answer is no. The practical administrative answer would be to try having some separation points. For example, you do not want the employees to argue they have been with the City for 17 years and ask why they are not at least part-time employees instead of still being down as O.P.S.

Commissioner McLauchlan said she hired O.P.S. people when there were insecure budget projections and maybe not able to hire a permanent person but had a need they could fill with O.P.S. Vice Chair Ponte asked why they could not do part-time. Commissioner McLauchlan said once they are part-time, they are like a permanent employee. O.P.S. allows for filling a need without a long-term commitment or budget projection. Operating the organization on temporary employees is not ideal, but she has had to do that for an extended time. Commissioner Cantrell said O.P.S. is not intended to be operational needs.

Commissioner McLaughlan said she is uncomfortable with "cannot extend" because there could be a circumstance when the City Manager might need to extend. The Attorney said they could change cannot extend to "usually does not" extend. The Commission agreed with the change.

- b. O.P.S. on-call positions where employees are called unexpectedly, on an as-needed basis, to complete a specific task or assignment.
- c. O.P.S. Seasonal positions where employees work a seasonal assignment (such as summer camp or pool guard).
- d. O.P.S. Intern positions follow guidelines provided in Section I. B. 3. of this Policy.

Commissioner Cantrell asked if it meant that interns were O.P.S. employees or some other form of temporary employment. The Attorney said correct. In the past ten years, the labor department cracked down on what people call interns. There were employers brought them in and used them like slave labor. The labor department adopted the standards employers must follow and show that they are abiding by them. It talks about it in #3.

- e. Other temporary employment programs, not specifically defined herein, shall be considered at the option of the Human Resources Staff in compliance with any federal, State or local laws, rules or regulations governing such programs.
2. Unless waived by the Human Resources Staff, employment procedures described in Section I. A of this policy shall apply to employees hired in temporary positions with the exception of temporary employees defined in Section I.B.1.d.e. of this Policy unless waived.

Commissioner Cantrell asked why human resources waived it. The Attorney said they would waive "d" if somebody, for instance, from USF (University of South Florida) knocked on the door, saying they were interested in a future career in government work and would like to be an intern. They would not fill out an application but submit a resume. Commissioner Cantrell said he did not understand why they would not be filling out an application.

Vice Chair Ponte said it is saying that all except for "d & e" have to do the regular stuff. The Attorney said unless waived by human resources. Vice Chair Ponte suggested adding "unless waived" at the end for clarity. The Commission agreed to the change.

3. Interns

- a. The City provides internship opportunities for students to experience work in City government that is relevant to their educational goals and objectives or personal career interests, and to non-students seeking to experience working in a City position.
- ~~b. Recruitment of interns shall be conducted through the City's regular recruiting procedures, outlined in this section, unless otherwise approved by the Human~~

~~Resources Staff.~~

Vice Chair Ponte said it was confusing because it was said they are not doing regular stuff. The Attorney said they will drop "b." The Commission agreed to drop "b."

- c. Interns shall not be recruited to fill regularly authorized position vacancies or displace regular employees. Interns are considered temporary employees and are not eligible for benefits provided to regular employees. Intern appointments shall not exceed 12 months.
- d. In order for a student to be eligible for employment as an intern, an individual must be a student in good standing, enrolled in or on school-approved break from an accredited secondary or post-secondary school, junior college, college or university, or a vocational-technical school.
- e. Student Interns are required to notify the employing department of any change in their academic or disciplinary standing at the institution.
- f. Interns will be paid at the minimum pay rate of assigned pay grades. A departure from the minimum pay rate may be approved by the Human Resources Staff upon request and proper justification from the relevant director.

Commissioner Cantrell said he is sure the limits must be within whatever that position is, but why would they be paid more than the minimum pay rate if they are interns? The Attorney said there are various reasons, and they really want the person to work there when they graduate.

- g. Persons who may be students but who wish to volunteer with the City outside of any academic program must complete a Volunteer Service Agreement to be developed by Human Resources with assistance from the City Attorney as needed.
- h. Students who are present in the workplace and who are not performing any services for the City, nor participating in any related academic program, are considered to be "job shadowing" and are not considered to be volunteers, or employees, of the City. Any persons who are "job shadowing" must be approved by the relevant department director in advance, must not perform any work for the City, and must be under the supervision of an employee-mentor.
- i. Students who are present in the workplace and who may perform work for the City but who are not compensated shall meet the requirements of the federal Department of Labor concerning the acceptance of work by student interns. Interns who are not students must be compensated at least the prevailing minimum wage for work performed for the City.
- j. The Human Resources Department is responsible for the development, coordination and promotion of intern recruitment activities and is responsible for ensuring that all interested persons have an equal opportunity to apply and be considered for

internship opportunities.

- k. Notwithstanding the foregoing, Madeira Beach may, from time to time, enter into agreements with educational institutions whereby student interns will be identified, assigned and compensated pursuant to the terms of such agreements. In such cases, Human Resources shall assist hiring departments as needed to implement the terms of the agreements, even where same may vary from the provisions of this Policy.
4. Employment of temporary personnel shall be subject to the equal employment opportunity provisions of this Policy.
5. To ensure compliance with the federal Affordable Care Act, except for Seasonal O.P.S. staff, all persons employed in temporary/O.P.S. positions who are not offered health care coverage shall not be scheduled or permitted to work more than 27 hours per week.

Attorney Eschenfelder says that if someone works longer than that, they must be offered healthcare. Management cannot schedule them for more than 27 hours. Commissioner Cantrell asked if that was 27 hours of overtime or 27 period. The Attorney said it is 27 hours period.

Vice Chair Ponte asked why seasonal workers are allowed to except for O.P.S. staff. The Attorney said that Obamacare only deals with full-time and part-time employees. The Affordable Care Act makes an exception for seasonal employees, no matter how many hours they work.

Commissioner Cantrell said there was a question if the 27 hours was a typo. He asked that the 27 hours be verified and if it was not 29 hours. Commissioner McLauchlan said they are considered full-time if they work at least 30 hours. The Attorney said employees do that as a trigger for full-time and part-time employees. He is fairly certain that 27 hours is the trigger, but he will look it up to make sure.

6. Unless otherwise required by law, individuals performing work for the City through temporary employment agencies shall not be considered "employees" for the purposes of this Policy.

At the next meeting, they start with I. Employment, Joint Employment

Joint Workshop Meeting with Board of Commissioners

Commissioner Cantrell said he would like to prepare for the October 25th joint workshop meeting with the Board of Commissioners. There are two items:

- a. What is their ability to overturn a decision to dismiss an employee, and when and what conditions? He had provided information to the City Clerk to send to them. He found some wording. If they have an appeal and find that the person was dismissed for an inadequate reason and say the person must be rehired, and if the Board of Commissioners agrees with it, the Civil Service Commission has no other authority other than to reinstate the person. Then, the City Manager has to do that within five or ten days, whatever the case is. They

cannot give backpay, force him to do a different punishment, or prevent him from doing a different punishment, but only to say the employee should be reinstated because it was an incorrect dismissal. That would be the only opportunity they would have.

Commissioner Tilka said they ran into a situation in the past where the Civil Service Commission requested the presence of the city manager, who is now the former city manager, to appear before them during an appeal, and he did not come. The city manager was told by either the city attorney or the City's employment attorney at that time not to appear.

Vice Chair Ponte asked if that would be rectified if the city manager did not attend. The Attorney said he could not do anything about the past. If the Civil Service Commission should need to subpoena the manager, they would vote to ask him to issue a subpoena and it be served to the city manager by law enforcement. He would be their legal advisor for any quasi-judicial hearing if they should ever get judicial power. A different Attorney, who could be his colleague from the same law firm, would assist the administration in processing the case.

Commissioner Tilka said he hoped they could achieve that ability when they hear the cases as they arise, and, hopefully, they would be rare or never. He does not know how they would present it to the Commission and get them to see their side.

Commissioner Cantrell said the wording he found was legally written and minimizes what they can do. They should never interfere with the City Manager doing day-to-day operations, but from the things he looked at and what has been said in the past Board of Commissioner meetings, they should have the ability only to overturn a decision to dismiss an employee if it had been an incorrect process of dismissing an employee. They also need to discuss if somebody was disciplined and suspended for more than ten days without pay and they felt suspension was ineffective. They must decide what they would like the Board of Commissioners to consider.

Commissioner McLauchlan asked Commissioner Cantrell if he was talking about the suggestion for modifying the ordinance related to the scope of their activities. Commissioner Cantrell said the information concerned City Charter, Article V, Section 5.7, Personnel Systems; Civil Service Commission. One of the listed things is that they serve as an advisory role and would like it to become a decision-making role.

Attorney Eschenfelder recommended they go first in the meeting because they asked for the meeting. They need to set forth the two issues to discuss with the Board of Commissioners. The first issue is the scope of their authority. Under the code, they are advisory only in terms of discipline appeals. A majority believe and have voted that they should have the authority to review employee discipline. Talk about that without getting into the wording of what the ordinance says. The Board of Commissioners will ask questions about the pros and cons, and the Civil Service Commission will need to figure out what it is. If the Board wants the Civil Service Commission to have that authority, they will ask the City Attorney to draft an ordinance. The Civil Service Commission could give him what the language should read. That language would come back to them first to review, and if good with it, he would forward it back to the Board of Commissioners for consideration and adoption.

Vice Chair Ponte said they only want to focus on what they are trying to accomplish. Commissioner Cantrell said they are trying to accomplish that if a person has been dismissed from employment on things they find do not comply with the personnel policy and rules; they should be able to reinstate that employee. The Attorney said they have to be precise. It would be addressed in the ordinance.

Commissioner Cantrell said that Happy Price, John Hendricks, and Doug Andrews all asked for it in several Board of Commissioners meetings that the Civil Service Commission have the authority to make those decisions, and they need to ask the Board of Commissioners if they can have that authority. There is also a thing in there if a person is suspended for more than ten days, they have to decide if that is something they want to ask about because if you get to the point where you have excessive punishments rather than firing somebody, there are just going to quit, and that is not fair. Then, they have a different appeal on top of that. So, at what point is a suspension without pay excessive? Is that something they want to ask about?

Vice Chair Ponte said they discussed for employees to have due process and what due process steps they want in place. Do they want to create a Civil Service Commission empowered to order a reinstatement instead of the current advisory status? The second one is, what level do they want to cut off civil service protected employees versus people who serve "at will." Do they want directors to be able to appeal? Those are the two primary items they want to discuss.

Commissioner Cantrell said their vote on the last one was that they determined as a Civil Service Commission, they feel all employees should have the same protections through the appeal process through the Civil Service Commission. So, if they are going to be removed from their position, it must be for just cause. They must be let go for a reason and not just terminated.

Commissioner McLauchlan asked who are the "at will" employees. Commissioner Cantrell said the Board of Commissioners appointed positions, the four Charter Officers. The Board of Commissioners supervises them, and the Civil Service Commission has no say.

Vice Chair Ponte asked Commissioner Cantrell to take the lead at the joint meeting and explain the two points. They want to be more than just an advisory board. Commissioner Cantrell said they would only overturn employee dismissal decisions and for management to show just cause for dismissal. The Attorney said it is any level of discipline and not just termination and suspension. They will need to be clear when talking to the Board of Commissioners. If they want the Civil Service Commission to have authority power, would that be for terminations only, and how far down the food chain do they go? It being a small organization, there are probably not a lot of suspensions issued. If they do that, it becomes due process that the employee is entitled to, and due process cannot be indefinitely delayed.

Vice Chair Ponte said Commissioner Cantrell could start by summarizing all the points and then have everybody speak, which would be good. She asked the City Clerk to provide guidance at the meeting. The City Clerk said she would also include the meeting minutes in the agenda packet for the Board to read their discussions before the meeting. She also included the Saint Petersburg city charter regarding their Civil Service Commission that Attorney Eschenfelder mentioned about. She will be prepared to speak and answer any questions and invite former Civil Service Commission

members to attend and talk about the things that happened in the past while serving on the Civil Service Commission that Commissioner Tilka spoke about.

Commissioner McLauchlan said they might want to take the second step regarding who is "civil service protected" and who is "at will." They go in on a united front that they no longer want to be advisory and would like to have some purpose for being there, a meaningful thing they can accomplish, which could do a review on those that are dismissed, and they do believe there is a level of civil service protected that people can only be fired for just cause.

6. NEW BUSINESS

A. HR Report

7. ITEMS TO BE SCHEDULED FOR FUTURE MEETINGS

1. RFP – Classification and Compensation Plan Study – To include an analysis of the current staff positions and their responsibilities; increased efficiency and cross-training of personnel to develop teamwork within the departments and within the organization as a whole; a new classification and compensation plan with updated positions descriptions, policies and procedures for future classification action and related management/supervisory training
2. 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 (City Charter, Sec. 5.7, C, 1)
3. Pay Plan for all Classified City Positions (City Charter, Section 5.7, C, 2)
4. Methods for determining Merits and Fitness of Candidates for Appointment or Promotions (City Charter, Section 5.7, C, 3)
5. Grievance procedures, including procedures for 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 (City Charter, Section 5.7, C, 6)
6. Implementation Process for making sure that all Rules, Regulations, and Procedures of the Employee Personnel Policy are working and are followed by everyone (City Charter, 5.7, C, 8)
7. Meeting Schedule for Regular Meetings
8. Ex Officio Board Member – Robert's Rules of Order
9. Employee Satisfaction Surveys
10. Department Specific Rules
11. Chair and Vice Chair Appointments in November 2023
12. HR Director Position
13. PowerPoint History Presentation- Civil Service Commission beginning when it was first created by the City of Madeira Beach Voters

8. NEXT MEETING

The Civil Service Commission scheduled their next two meetings for 3:30 p.m. on Tuesday, November 14, 2023 and 3:30 p.m. on Monday, November 20, 2023.

9. ADJOURNMENT

Chair Gene Embler adjourned the meeting at 5:36 p.m.

ATTEST:

Gene Embler, Chair

Clara VanBlargan, City Clerk/Secretary Ex-Officio

DRAFT

- A. *Merit principal.* All appointments and promotions of City employees shall be made solely on the basis of merit and fitness demonstrated by examination or other evidence of competence.
- 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. The term of office for each member shall be three years and shall be staggered so that not more than two terms expire within any one year. Three Commissioners shall constitute a quorum. Members of the Civil Service Commission shall hold no remunerative office or employment under the City of Madeira Beach, Florida. The Board of Commissioners of the City of Madeira Beach, Florida, shall have the authority to remove for cause any and/or all Civil Service Commissioners.
- 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:
 - 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;
 - 2. A pay plan for all classified City positions;
 - 3. Methods for determining the merits and fitness of candidates for appointment or promotions;
 - 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;
 - 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;
 - 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.
- D.

Duties and powers of the Civil Service Commission. All duties, powers, reservations of power, and functions for the Civil Service Commission may be provided for by Ordinance duly passed by the Board of Commissioners of the City of Madeira Beach, Florida.

E. *Powers to collectively bargain recognized.* Nothing contained in this Charter shall limit the power of the Board of Commissioners of the City of Madeira Beach, Florida, acting through its Manager from entering into collective bargaining negotiations with any officers, employees, or group of employees for the purpose of establishing by contract conditions of employment, rules or compensation of said officers, employees, or groups of employees. For the purposes of this Charter, ARTICLE I, Section 6, of the Constitution of the State of Florida is specifically recognized.

(Ord. No. 446, 1-28-1975; Ord. No. 664, 8-14-1984/11-7-1984; Ord. No. 2018-09, § 1(Exh. A), 8-20-2018)

DIVISION 4. - CIVIL SERVICE COMMISSION

Footnotes:

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Charter reference— *Civil service commission, § 6.6.*

Cross reference— *Personnel, ch. 50.*

Sec. 2-126. - Intent.

- (a) The intent of this division is to create a civil service commission in order to review, prepare, and recommend rules for the city's personnel policies and procedures with regard to classified employees.
- (b) The civil service commission shall hear grievance for classified employees who believe they have a grievance arising from their employment and render recommendations as provided in the Charter § 6.6C.6.
- (c) The civil service commission members also recommend cost of living increases and employee pay adjustments to the board of commissioners for consideration.

(Code 1983, § 2-502)

Sec. 2-127. - Organization.

- (a) The civil service commission membership and appointment shall be as provided in Charter § 6.6B. The term of each person appointed shall be staggered so that not more than two terms expire within any one year. Any civil service commission member may be reappointed by the board of commissioners. Appointments to fill vacancies shall be for the unexpired term of office.
- (b) Members of the civil service commission shall be residents of the city at the time of their appointment and throughout the term of office. Any member who is no longer a resident of the city shall be automatically removed, and that vacancy filled as provided in this division.
- (c) Members of the civil service commission shall be suspended or removed for cause upon the filing of written charges by the mayor. The written charges shall be served by hand delivery or certified mail upon the member being charged. The member being charged shall have 15 days to appeal the charges to the board of commissioners. If the charges are appealed, the member of the civil service commission being charged shall be afforded a prompt public hearing on the matter. The member shall be retained, suspended or be removed by majority vote of the board of commissioners.
- (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 chairman, the civil service commission shall then declare the member's seat vacant and the board of commissioners shall promptly fill such vacancy. The failure of any individual civil service commission member to attend four meetings of the civil service commission in any contiguous 12-month period shall be cause for removal.

- (e) Appointments shall be made, consistent with the Charter on the basis of demonstrated experience or interest in the subject matter.
- (f) The members of the civil service commission shall, in November of each year, elect a chairman and a vice-chairman from among its members who shall be voting members.
- (g) Members of the civil service commission shall meet quarterly, and when grievances are filed. Any other meetings will be at the behest of staff, in collaboration with the chair of the civil service board.
 - (1) The city manager shall coordinate with the civil service commission chairperson and the human resources coordinator to choose and set meeting dates and time before a meeting is noticed; and
 - (2) The city manager and the chairperson of the civil service commission shall coordinate and agree on all agenda items prior to the civil service commission meetings.
 - (3) Human resources staff or the city manager's designee shall serve as staff person(s) for the civil service commission and attend meetings of the civil service board.
 - (4) The city attorney or an employment lawyer for the city may attend civil service commission meetings as may be necessary or desired.
 - (5) As set forth in the Charter, the civil service commission is an advisory board that makes non-binding advisory recommendation to the city manager.
- (h) Civil service commission members shall serve without compensation, but may be reimbursed for such travel, mileage, and per diem expenses as may be authorized by board of commissioners or as otherwise provided by law.

(Code 1983, § 2-503; Ord. No. 1028, § 2, 8-24-04; Ord. No. 1075, § 1, 4-25-06; Ord. No. 2019-03, § 1, 3-19-19)

Charter reference— Civil service commission membership, § 6.6B.

Sec. 2-128. - Conduct a meeting/hearing.

- (a) *Notification.* When and at such time a meeting is scheduled the city administration shall post a notice of the time and place when the civil service commission shall meet and the topics on their agenda.
- (b) *Meetings/public hearing.* At the hearing of the civil service commission any interested person may be heard upon the subject matter.

- (c) *Recommendations.* The civil service commission, by majority vote, shall conclude recommendations.
- (d) *Written records.* Minutes shall be kept of all meetings and hearings by the civil service commission, and all hearings shall be open to the public. The board of commissioners shall provide clerical and administrative personnel as may be reasonably required by the civil service commission for the proper performance of its duties. The written record shall include the vote of each member of the civil service commission upon each question, or if absent or failing to vote, indicating such fact. The minutes of all proceedings, decisions and/or recommendations of the civil service commission shall be made public record on file in the office of the city clerk.

(Code 1983, § 2-504)

Sec. 2-129. - Powers.

The civil service commission shall have the power to establish rules and regulations for its own operation not inconsistent with the provisions of this Code.

(Code 1983, § 2-505)

Secs. 2-130—2-150. - Reserved.

ARTICLE II. PERSONNEL MANAGEMENT SYSTEM

DIVISION 1. GENERALLY

Sec. 22-19. General policy.

Section 4.04 (b)(1) of the Charter provides that the Mayor shall establish written personnel rules and regulations so that appointments and promotion of employees within specified classifications shall be made solely on the basis of merit and fitness demonstrated by examinations or other evidence of competence. The Mayor is authorized to include, in the personal rules and regulations, among other conditions, conditions that address:

- (1) Employment and promotion in the City government based on merit and fitness, free of personal and political consideration and, in no way, influenced by race, religion, creed, color, ancestry, sex, sexual orientation, gender identity and expression, marital status, age, disability or national origin.
- (2) Just and equitable incentives and conditions of employment shall be established and maintained to promote efficiency and economy in the operation of the City government.
- (3) A system to provide the means to recruit, select, develop, and maintain an effective and responsive work force, and to provide plans for employee hiring and advancement, training and skill development, job classification, salary administration, retirement, fringe benefits, discipline, dismissal and other related activities.
- (4) A system by which employees covered by the personnel management system are subject to satisfactory work performance, necessity for performance of work and the availability of funds.

(Code 1973, § 22-131; Code 1992, § 22-26; Ord. No. 368-H, § 2, 5-2-2019)

Sec. 22-20. Classified and exempt status.

All employees of the City shall be designated in either classified or exempt status, as defined in the personnel rules and regulations promulgated by the Mayor pursuant to the Charter. However, the personnel rules and regulations shall not apply to elected officials who shall be deemed to be exempt employees but whose conduct shall be governed by the Charter, ordinances authorized for this purpose by the Charter or State law, and by State law.

(Code 1973, § 22-132; Code 1992, § 22-27)

Sec. 22-21. Organization; Mayor; rules and regulations.

- (a) Pursuant to the authority granted in the Charter and only to the extent granted thereunder, the Mayor shall be in charge of the administrative offices of the City and in charge of the organizational structure of the employee organization and the employees within that structure.
- (b) The Mayor shall be responsible for the development of the personnel rules and regulation pursuant to the Charter. The Mayor shall install, implement and be responsible for the administration and management of a personnel management system conforming to the personal rules and regulations.

- (c) In furtherance of the Charter requirement that appointments and promotions shall be made solely on the basis of merit and fitness demonstrated by examinations or other evidence of competence, the Mayor is encouraged to include within the personnel rules and regulations specific policies and procedures to govern the following phases of the personnel system:
- (1) Announcement of employment vacancies and the acceptance of applications for employment.
 - (2) Preparation and administration of examination.
 - (3) Establishment and use of eligibility lists.
 - (4) Certification of employment of persons from employment eligibility lists to fill vacancies.
 - (5) Employee performance evaluation system.
 - (6) Establishment of a probationary period prior to appointment as a classified employee.
 - (7) Administration of a classification plan.
 - (8) Administration of pay plan.
 - (9) Establishment of promotional policies.
 - (10) Establishment of hours of work, holidays, annual leave, attendance and leave regulations and procedures.
 - (11) Development of safety and training programs.
 - (12) Outside employment of municipal employees.
 - (13) Relations with employee organizations.
 - (14) Reinstatement and rehiring of former employees.
 - (15) Separation from employment of employees by resignation, suspension, dismissal, layoff, and/or incapacity to perform required duties.
 - (16) Establishment of a grievance procedure for classified employees.
 - (17) Such other matters as may be necessary to carry out the intent and purpose of this article.
- (d) Amendments, changes or revisions of the personnel rules and regulations shall be promulgated by the Mayor. Upon enactment, any amendments, changes or revisions shall be forwarded to the City Clerk, City Council, all City departments and others, as appropriate, and be filed with the POD.

(Code 1973, § 22-136; Code 1992, § 22-31)

Sec. 22-22. Civil service board.

- (a) *Board created.* A Civil Service Board (the Board) is created by the Charter. The purpose of the Board is to provide classified employees with an economical and less formal opportunity to have certain discipline reviewed by a board of lay persons. The Board will also hear complaints and make recommendations to the final decisionmaker related to the Whistle-blower's Act and Article II, Division 2 of this Chapter.

The board is a fact finding body that determines whether or not just cause existed with respect to the charges brought by management which resulted in certain disciplinary actions. A classified employee is not required to have an attorney to appear before the Board.

- (b) *Employee rights.* The City will make a reasonable effort to advise a classified employee of his/her rights under this section, identifying the time limitation by which a written grievance must be filed with the civil service board's secretary.

- (c) *Composition of board and terms of office.*
- (1) The board shall be composed of five regular and three alternate members.
 - (2) The regular and alternate members of the Board shall be residents of the City and be appointed by the City Council to serve overlapping terms of three years.
 - (3) Alternate members shall serve in the absence of any of the regular members.
 - (4) Members of the Board may only be removed during their term by the City Council for cause.
 - (5) Vacancies on the Board, from whatever cause, shall be filled by appointment by the City Council for the unexpired term.
 - (6) No person shall be appointed to the Board who holds any salaried office or employment in the City government nor shall any member be eligible for employment with the City while serving on the Board.
- (d) *Appropriations to enable administration.* Adequate annual appropriations shall be made to enable the Board to effectively administer the provisions of this section.
- (e) *Officers.*
- (1) The Board shall have a Chairperson and Vice Chairperson who shall be regular members of the Board.
 - (2) The Chairperson and Vice-Chairperson shall be elected for one year terms commencing on July 1st of each year who shall serve until a successor is elected. All regular and alternate members present for such election may vote.
 - (3) The Chairperson and Vice-Chairperson shall be nominated and elected by ballot with voting to continue until a majority has agreed.
 - (4) The Chairperson and Vice-Chairperson may serve in each capacity for three consecutive terms only.
 - (5) In the absence of the Chairperson, the Vice-Chairperson shall act as Chairperson.
 - (6) In the absence of the Chairperson and Vice-Chairperson, a chairperson pro-tem shall be elected by the members present to act as Chairperson.
- (f) *Secretary to the civil service board.*
- (1) The City's Human Resources Director (or the Director of a similar City department designated by the Mayor to fulfill the administrative duties of this section) or his/her designee shall serve as the Secretary to the Board. Any reference to the Secretary shall include the Secretary's designee.
 - (2) The Secretary shall determine whether a grievance or issue is timely filed and is within the power and authority of the Board to review, as is established by this section of the Code.
 - a. If the grievance is within the power or authority of the Board and is timely filed, the Secretary will contact all regular members of the Board to schedule a hearing. If a sufficient number of regular board members are not available, alternate board members will be contacted.
 - b. If the grievance is not within the power or authority of the Board or if the grievance is not timely filed, the Secretary will so notify the grievant and no hearing will be scheduled or held.
 - (3) The secretary shall attend all meetings and hearings of the Board and record its official actions in the minutes.
 - (4) The Secretary shall notify all members of the Board, including regular members and alternate members, of all hearing/meeting dates.
 - (5) The Secretary shall provide all members of the Board, including regular members and alternate members, with copies of all correspondence.

(g) *Quorum and voting.*

- (1) A minimum of three members must be present for a quorum.
- (2) A majority of members present and voting must agree for any vote to be effective, except for tie votes as noted in subsection (j) of this section.
- (3) Absent regular members shall be temporarily replaced by alternate members. When seated, alternates shall have all voting powers exercised by regular members.

(h) *Minutes.*

- (1) The official minutes shall, at a minimum, consist of:
 - a. The time and place of each meeting or hearing of the Board;
 - b. Names of the board members present;
 - c. A record of all official acts of the Board;
 - d. The votes of each board member unless the vote is unanimous, which shall be recorded as such;
 - e. When requested, a board member's dissent along with his/her reasons for the dissension.
- (2) The minutes, or a true copy thereof, shall be made available for public inspection.
- (3) The minutes and files of the Board shall be maintained by the Secretary.

(i) *Meetings.*

- (1) The Board shall determine the frequency, day, and place of its meetings in order to best carry out the powers and duties entrusted to it by the Code.
- (2) Meetings will be used to conduct the administrative affairs of the Board, elect the Chairperson and Vice-Chairperson, receive any informational or educational matters, and handle any other business that falls within the purview of the Board including the holding of hearings provided by this section.
- (3) Meetings of the Board are open to the public.
- (4) Notice of Board meetings shall be published in the manner required by law.

(j) *Hearings.*

- (1) The Board shall hear complaints related to the Whistle-Blower's Act pursuant to Chapter 22, Article II, Division 2 of this Code.
- (2) The Board shall also hear and review grievances submitted by classified employees resulting from disciplinary actions of demotion, dismissal, or suspension in excess of 15 calendar days.
- (3) In the event a grievance is timely filed, the Board will meet within a reasonable period of time and continue until both the grievant and the department have rested their respective cases and made their respective closing arguments. This shall not prevent the Board from continuing a hearing or conducting a hearing on more than one day.
- (4) The secretary shall record the hearing. Neither the City nor the Board shall be held responsible for a recording that is incomplete or inaudible. The Board shall have the authority to reject any request to make an audio or video recording of the hearing unless a nondisruptive recording device is used.
- (5) Should either party desire to have proceedings of the Board recorded by a court reporter, that party shall arrange for and bear the cost of such court reporter.
- (6) The board shall have the power to question witnesses and receive relevant evidence.

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- (7) The secretary shall administer the oath to all witnesses prior to a witness testifying.
 - (8) During the hearing, both the grievant and the department that administered the disciplinary decision shall have the right to be heard, be represented by persons of their choice who are authorized by law to represent them, and to present evidence and testimony to the Board.
 - (9) At the hearing, the technical rules of evidence shall not apply.
 - (10) It shall be the City's burden to demonstrate by a preponderance of the evidence that there was just cause for the charges of misconduct made by the City. Once the City has presented evidence sufficient to establish just cause for the charges, the grievant must demonstrate that there was not just cause for the charges.
 - (11) After the parties have made their closing arguments, the Board shall close the evidentiary phase of the hearing, deliberate, and issue a written order setting forth the Board's findings. The parties shall have no right to address the Board after the evidentiary phase of the hearing is closed; however, the Board may ask questions of the attorneys/representatives if they deem it necessary, but shall ensure that both sides have an opportunity to answer the questions.
 - (12) In the event of a tie vote by the Board concerning whether just cause existed for a charge of misconduct, the City shall not have met its burden and the City's charge of misconduct shall not be deemed upheld.
 - (13) Within seven calendar days of the conclusion of the hearing, the Board shall forward its written order to the grievant, the department, and the Mayor.
 - (14) The Board shall not have the authority or power to award damages, costs and/or attorney's fees. The Board shall not have the authority or power to order that any particular action be taken except to reverse the discipline when, based upon the facts found by the Board, the Board has found that no just cause existed for the charges of misconduct brought by management which resulted in the discipline. The Board shall not have the authority or power to review the procedures used to impose the discipline.
 - (15) Evidence introduced shall be retained and the records and files shall be maintained by the Secretary as required by the F.S. ch. 119, and may be destroyed as allowed by law.
- (k) *Continuances of hearings.*
- (1) When either party requests a continuance of a hearing prior to the commencement of a hearing:
 - a. If both parties consent, the Secretary may approve the continuance; and
 - b. If either party objects, the Board shall schedule a meeting to promptly resolve the request. Both parties shall be permitted to be represented and to present argument on that issue at such meeting.
 - (2) If the hearing has commenced and either party requests a continuance, the Board shall resolve the request.
 - (3) If the grievant is the party requesting the continuance, the City's obligation (if any such legal obligation exists) to pay backpay shall end on the date of the originally scheduled hearing.
- (l) *Review of the Board's findings.*
- (1) With regard to all adverse employment actions being reviewed, the grievant shall have the right to have the decision of the Board reviewed in accordance with the law.

- (2) With regard to the review of demotions or suspensions in excess of 15 calendar days, the decision of the Board shall be binding on the Mayor to implement within 15 calendar days after receiving the written order of the Board.
- (3) With regard to the review of dismissals, the Mayor shall have the right to have the decision of the Board reviewed in accordance with the law.
- (m) Business meetings and hearings of the Board shall be governed by Robert's Rules of Order unless modified by the Board or otherwise specified by ordinance or by law.

(Code 1973, § 22-135; Code 1992, § 22-30; Ord. No. 836-G, §§ 1, 2, 6-21-2007; Ord. No. 42-H, §§ 1—3, 9-6-2012; Ord. No. 474-H, §§ 3—5, 8-19-2021)

Sec. 22-23. Unlawful acts.

- (a) No person shall give, offer, or promise to any employee, or of an employee request, solicit, accept or agree to accept any pecuniary or other benefit not authorized by law in connection with past, present or future employment with the City.
- (b) No City employee, examiner, or other person shall defeat, deceive or obstruct any person in the right to examination eligibility, certification or appointment under policies and principles established by this article, or furnish to any person any special or confidential information for the purpose of affecting the rights or prospects of any person with respect to employment with the City.

(Code 1973, § 22-138; Code 1992, § 22-32)

Sec. 22-24. Penalties.

Any person determined to be in violation of this article shall be ineligible for employment with the City, and, if such person is an officer or employee of the City government, shall forfeit the office or position.

(Code 1973, § 22-139; Code 1992, § 22-33)

Sec. 22-25. Cooperation with other governmental agencies.

The Mayor may cooperate with other governmental agencies charged with public personnel administration in conducting personnel tests, recruiting personnel, training personnel, establishing lists from which eligible applicants shall be certified for appointment and for the interchange of personnel.

(Code 1973, § 22-140(b); Code 1992, § 22-34)

Sec. 22-26. Code of ethics.

Pursuant to section 3.07 of the Charter, the code of ethics for public officers and employees set forth in F.S. ch. 112 shall apply to all elected and appointed officers and employees of the City. Additionally, section 22-23 shall be considered part of this code of ethics.

Secs. 22-27—22-49. Reserved.

DIVISION 2. WHISTLE-BLOWER PROTECTION

Sec. 22-50. Purpose and findings.

The City Council finds that it is in the best interests of the City of St. Petersburg to ensure that employees who have knowledge of unlawful activity, misfeasance or malfeasance by the City or its independent contractors report such knowledge to the appropriate authorities for investigation and corrective action. In order to encourage employees to report such information without fear of reprisal, it shall be the policy of the City to prohibit adverse action against an employee who has been properly designated as a whistle-blower for disclosing such information to an appropriate official or agency. Recognizing that the State of Florida has adopted the Whistle-blower's Act, F.S. §§ 112.3187 et seq., which provides for the adoption of local procedures for administrative enforcement, the City Council intends that this section be interpreted consistently with the Act, as it may be amended from time to time.

(Ord. No. 474-H, § 2, 8-19-2021)

Sec. 22-51. Definitions.

The following words, terms, and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Adverse personnel action means the discharge, suspension, transfer or demotion of any employee or the withholding of bonuses, the reduction in salary or benefits, or any other adverse action taken against an employee within the terms and conditions of employment by the City.

City shall include all City of St. Petersburg, Florida departments, divisions, and offices.

Employee shall mean a person who performs services for, under the control and direction of, or contracts with, an agency or independent contractor for wages or other remuneration.

Independent contractor means a person, other than a federal, state, or local government entity, engaged in any business and who enters into a contract with the City.

Whistle-blower Official means the City Auditor or designee. For the purposes of this division, and pursuant to state law, the City Auditor shall be the designated appropriate local official.

All other words or terms used in this section shall have the same meaning as such words and terms have under the state Whistle-blower's Act.

(Ord. No. 474-H, § 2, 8-19-2021)

Sec. 22-52. Actions prohibited.

- (a) The City shall not dismiss, discipline, or take any other adverse personnel action against an employee for disclosing information pursuant to the provisions of this division.
- (b) The City shall not take any adverse action that affects the rights or interests of an employee in retaliation for the employee's disclosure of information under this division.
- (c) The provisions of this division shall not be applicable when an employee discloses information known by the employee to be false.

(Ord. No. 474-H, § 2, 8-19-2021)

Sec. 22-53. Disclosure of information.

- (a) The information disclosed under this division must include:
- (1) Any violation or suspected violation of any federal, state, or local law, rule or regulation committed by an employee or agent of the City or independent contractor which creates and presents a substantial and specific danger to the public's health, safety, or welfare; or
 - (2) Any act or suspected act of gross mismanagement, malfeasance, misfeasance, gross waste of public funds, or gross neglect of duty committed by an employee or agent of the City or an independent contractor.
- (b) *Confidentiality of individuals disclosing information.* The City intends for the protections of state law to be afforded to any individual who discloses information in compliance with this division to the Whistle-Blower Official. The identity of such individuals shall be confidential and exempt from the provisions of the public records laws to the fullest extent permitted by, and in accordance with, law including, but not limited to, the confidentiality requirements and exemptions set forth in F.S. §§ 119.0713 and 112.3188. The name and identity of the designated whistle-blower shall remain confidential unless the whistle-blower waives this confidentiality. The Whistle-Blower Official shall establish procedures to safeguard the identities of designated whistle-blowers.
- (c) *Investigation by Whistle-Blower Official.*
- (1) The information disclosed in writing under this section must be disclosed to the Whistle-Blower Official. An employee who discloses such information and is officially designated as a whistle-blower, pursuant to F.S. § 112.3187 and 112.3189 as amended, shall be entitled to the full protection of this division and to the remedies and awards it provides.
 - (2) Upon receipt of the written complaint, the Whistle-Blower Official shall determine whether the employee is a whistle-blower pursuant to F.S. § 112.3189, as amended.
 - (3) The Whistle-Blower Official shall establish an investigative plan considering the factors found in F.S. § 112.3189, as amended. The information may be forwarded to the State Attorney's Office, the appropriate human resources personnel, an ethics commission, if applicable, or any other appropriate agency. Prior to forwarding the information, the name and identity of the whistle-blower shall be redacted.
 - (4) When the investigation is complete and the complaint deemed compliant with state law and this division, the report shall be forwarded to the complainant who shall be officially designated as a whistle-blower for any comments. The report is then a public record, but the identity of the whistle-blower shall always remain confidential, per F.S. § 112.3188.
 - (5) If the Whistle-Blower Official does not designate a complainant as a whistle-blower, copies of all documents shall be returned to the complainant with a statement as to why the complainant was not so designated and with an explanation that the complainant is not designated as a whistle-blower and cannot rely on the provisions of this division.

(Ord. No. 474-H, § 2, 8-19-2021)

Sec. 22-54. Employees and persons protected.

- (a) This division protects employees and persons designated official whistle-blowers, who disclose information on their own initiative in a written and signed complaint; who are requested to participate in an investigation, hearing or other inquiry conducted by the City, or by any state agency or federal government

entity having the authority to investigate, police, manage, or otherwise remedy the violation or act; who refuse to participate in any adverse action prohibited by this division; or who are otherwise protected by the Whistle-Blower's Act. The provisions of this division may not be used by persons while they are under the care, custody or control of the state or county correctional system, or after their release from the care, custody or control of the state or county correctional system, with respect to circumstances that occurred during any period of incarceration.

- (b) No remedy or other protection under this division applies to any person who has committed or intentionally participated in committing a violation or suspected violation for which protection under this section is being sought.
- (c) An employee who provides false information pursuant to this section may be investigated and prosecuted pursuant to state law, including, but not limited to, F.S. §§ 837.06, False Official Statements; 838.022, Official Misconduct, 837.05, False Reports.
- (d) It shall be an affirmative defense to any complaint brought pursuant to this division that the adverse personnel action was predicated upon grounds other than, and would have been taken absent, the employee's exercise of rights protected by this division.

(Ord. No. 474-H, § 2, 8-19-2021)

Sec. 22-55. Hearings, remedies, and relief.

- (a) If a disclosure under this section results in alleged adverse personnel action by an employer the whistle-blower may file a written complaint within 60 days after the adverse personnel action prohibited by this division is alleged to have occurred. The complaint shall be filed with the Whistle-Blower Official who shall then acknowledge its receipt within five business days.
- (b) The Whistle-Blower Official shall forward the adverse personnel action complaint to the Civil Service Board to determine whether any retaliatory action has taken place. The Civil Service Board shall make findings of fact, conclusions of law and recommendations.
- (c) In the event a complaint is timely filed, the Board will meet within a reasonable period of time, conduct a hearing, and continue until both parties have rested their respective cases and made their respective closing arguments. This shall not prevent the Board from continuing a hearing or conducting a hearing on more than one day.
- (d) Within seven calendar days of the conclusion of the hearing, the Board shall forward its finding of facts, conclusion of law and recommendations to the Mayor for a final decision. Alternatively, if the complaint involves the Mayor's Office, the recommendations will be forwarded to City Council for final decision. A copy shall be forwarded to the whistle-blower who placed the complaint and the department about which the complaint was made, if applicable.
- (e) The Board shall not have the authority or power to award damages, costs and/or attorney's fees. In any case brought under this division the recommendations must consider all relief pursuant to F.S. § 112.3187(9).
- (f) Within 180 days after the entry of a final decision and after exhausting all available contractual or administrative remedies, the employee who filed the complaint may bring a civil action in any court of competent jurisdiction.
- (g) This division shall not be construed to diminish the rights, privileges, or remedies of any employee under any other law or rule or under any collective bargaining agreement that may exist.

(Ord. No. 474-H, § 2, 8-19-2021)

Sec. 22-56. Outreach to employees and mandatory training.

The Human Resources Department or designee may provide training regarding this division as part of the initial City orientation to all new City employees hired after the effective date of the ordinance from which this division is created. The Human Resources Department or designee shall also provide training regarding this section to all City employees from time to time.

(Ord. No. 474-H, § 2, 8-19-2021)

Secs. 22-57—22-79. Reserved.