

Clearwater, Florida, March 1, 2012

The Unified Personnel Board (UPB) met in regular session at 6:29 P.M. on this date in the County Commission Assembly Room, Fifth Floor, Pinellas County Courthouse, 315 Court Street, Clearwater, Florida, with the following members present: Daniel M. Andriso, Chair; Keith C. Dekle; James P. Koelsch; and Joan Vecchioli.

Late Arrivals: George E. Tragos, Vice-Chair; and Ricardo Davis.

Also Present: Peggy Rowe, Director of Human Resources; Robert C. Swain, Senior Assistant County Attorney; Arlene L. Smitke, Board Reporter, Deputy Clerk; and other interested individuals.

AGENDA

EAC

Item I. Employees' Advisory Council Representative

Item II. Consent Agenda

Human Resources

1. Request Approval of the Minutes of the Regular Personnel Board Meeting held February 2, 2012.

Human Resources

2. Request Approval of Housekeeping Addition, Revision, and Re-Instatement of Class Specifications in the Pay and Classification Plan.

Item III. Information

Human Resources

1. Revisions to 2012 Performance Standards for Human Resources Director.

Human Resources

2. Personnel Rules Review Timeline.

Item IV. Workshop

Human Resources

Steps Toward Building Leadership.

CALL TO ORDER

Chair Andriso called the meeting to order at 6:29 P.M.; whereupon, he led the members and attendees in the Pledge of Allegiance to the Flag.

EMPLOYEES' ADVISORY COUNCIL (EAC) REPRESENTATIVE

EAC Chairman Charles E. Toney reported that, at the last EAC meeting, Senior Assistant County Attorney Carole Sanzeri gave an update on the Sunshine Law and how it relates to the EAC, and Executive Administrative Specialist Camille Evans provided information regarding Employee Appreciation Week, May 6 through 12, and solicited input for possible activities; whereupon, he noted that Human Rights Director Paul Valenti has been attending the EAC meetings regularly since his recent hiring.

Mr. Toney related that the EAC met with Appointing Authorities on February 29; that Mr. Tragos had attended the meeting; and that topics of discussion had included the health plan, a cost of living adjustment, a request for days off in lieu of pay increases, employee appreciation, Employee Advocate support, and recent training activities. He indicated that the Representatives had apprised the Appointing Authorities of their concerns regarding reports of abusive behavior on the part of co-workers, supervisors, crew chiefs, and managers; that the increase in incidents is likely a result of stress caused by the increased workload since the workforce reduction; that employees are more apt to complain now, when there is less threat of layoff; and that the Appointing Authorities had indicated that there is no place in the organization for that type of behavior.

Referring to EAC membership, Mr. Toney reported that all Representative positions are currently filled; and that there has been a drop in participation by Delegates and Employee Advocates, probably due to workload issues; whereupon, in response to query by Mr. Dekle, he confirmed that the Employee Advocate program is down to only seven Advocates, including one on hiatus; and that the Advocates are keeping busy; whereupon, he noted that there may be an increase in demand for Advocates related to claims of abusive behavior.

* * * *

Messrs. Davis and Tragos entered the meeting at 6:31 P.M. and 6:37 P.M., respectively.

* * * *

CONSENT AGENDA ITEMS NOS. II.1 AND II.2 – APPROVED

Motion	-	Mr. Tragos
Second	-	Mr. Davis
Vote	-	6 - 0

- #1 Minutes of regular meeting held February 2, 2012, approved.
- #2 Housekeeping addition, revision, and reinstatement of class specifications in the Pay and Classification Plan approved; changes reflect the current duties and responsibilities of the classifications, are housekeeping in nature, and will not affect the pay grade level of the classifications.

REVISIONS TO 2012 PERFORMANCE STANDARDS FOR HUMAN RESOURCES DIRECTOR

Ms. Rowe referred to the Management Staff Performance Appraisal form for her position, a copy of which is included in the agenda package, and noted that the form has been updated in accordance with Board discussions at the last meeting, revising the Volunteer Services goal to a one-year rather than a long-term goal, and including a goal pertaining to review of the Personnel Rules.

PERSONNEL RULES REVIEW TIMELINE

Ms. Rowe reported that she has begun discussions with the County Attorney's Office regarding consolidation of certain personnel rules in order to reduce redundancy. She related that the County is embarking on a high performance training initiative that will result in a cultural shift within the organization; and that, when more people have received the training, it will be necessary to review the rules, processes, and policies to align them with the behavior the program is trying to drive; whereupon, she suggested that she provide a monthly progress report to the Personnel Board rather than setting a specific timeline for the Personnel Rule review.

Indicating that he was able to observe a portion of the training, Mr. Davis related his understanding that the County's initiative may render current rules and policies obsolete, and that any wholesale rule revision at this time would be premature. Ms. Rowe provided an example, citing the County's current policy pertaining to bullying and how the problem might be approached under the new environment, and discussion ensued.

CONSIDERATION OF GRIEVANCE APPEAL FOR MICHAEL SEEL, UTILITIES

Chair Andriso indicated that Utilities employee Michael Seel has filed a grievance following his application for a promotion; and that the matter before the Board is to determine whether or not it has jurisdiction in an appeal.

Senior Assistant County Attorney Robert C. Swain related that Plant Operations Manager Kevin Becotte is in attendance representing the Appointing Authority, as is Mr. Seel, and provided background information pertaining to the case, indicating that Mr. Seel, who is currently in the Classified Service, applied for a position in the Exempt Service and was not hired; that he is grieving the interview process and the selection process for the Exempt position; that he is still employed by the County; that a pre-hearing is set for March 8; that the matter to be determined is whether the Personnel Act provides the Board any authority to deal with the grievance; that the Board does not have authority to grant the relief sought by Mr. Seel; that the Board has never addressed a similar issue; and that, in his opinion, the Board has three alternatives:

- Discuss the matter and deal with it summarily this evening.
- Bifurcate the hearing. First consider the respective positions on jurisdiction, and if the Board chooses to proceed, have the parties return the following month to argue the merits of the case.
- Hear the case next month and make a decision at that time.

Mr. Tragos noted that the Personnel Board does not have jurisdiction over hiring or firing of personnel for Exempt positions; and that the only jurisdiction may relate to interpretation of the veterans' policy and whether or not the policy was properly applied; whereupon, Attorney Swain related that the veterans' policy adopted by the Personnel Board does apply to Exempt positions; that how it applies is an interpretation of state law; and that Personnel Rules do apply to Exempt positions, but they cannot be enforced by the Personnel Board.

Discussion ensued wherein Attorney Swain indicated that any tribunal has the jurisdiction to say whether or not it has jurisdiction; that in a grievance hearing, the appellant has the burden of proof to show that the rule was not followed; and that the key question is whether

March 1, 2012

or not the Board can determine what the rule means. Responding to query by Ms. Vecchioli, Attorney Swain, Senior Assistant County Carole Sanzeri, and Ms. Rowe indicated that they were unaware of any precedent that would apply to this situation.

Responding to query by Chair Andriso, Mr. Tragos indicated that the issue relates to the difference between the Board having authority to make somebody do something versus having the authority to interpret its own rule; and that, because it is an Exempt position, a declaration that the rule was not properly applied may have no authority to change anything that has been done.

Discussion continued, and responding to query by Ms. Vecchioli, Attorney Swain confirmed that Mr. Seel appears to be grieving not only his treatment, but also other potential candidates in his category, noting that in a grievance proceeding, the evidence is closed; that only people listed as witnesses are allowed to testify; and that the grievance decision was unclear as to what evidence has been deduced; whereupon, Ms. Vecchioli indicated her preference that should the Board wish to take any action, it choose to bifurcate the matter and limit it to the jurisdictional issue.

Acknowledging that state law and Veterans' Affairs would dominate in the situation, Mr. Dekle pointed out that Mr. Seel is still a Classified, hourly employee under the jurisdiction of the Unified Personnel Board; and that it would be unfair for the Board to abandon his interests just because he may be transitioning into an Exempt position.

Responding to query by Chair Andriso, Messrs. Seel and Becotte indicated their willingness to speak on the matter this evening; whereupon, Mr. Seel related that his grievance began as a veterans issue, but had grown into a matter concerning all preference personnel, as it appeared the department was circumventing state statute. Referring to the *Pinellas County Government Employment Opportunities* listing for the Project Coordinator – Technical position dated July 25, 2011, a copy of which has been filed and made a part of the record, he related that the requirement for a Class-A Wastewater Operators License was included under *Highly Desirable* qualifications, not *Minimum Qualifications*; that state statute for veterans and other preference personnel pertains to minimum qualifications; and that he and a lot of other people met the *Minimum Qualifications* requirements. Mr. Tragos noted that the Grievance Committee had acknowledged that the Class-A license requirement was not properly designated as a requirement for the position; and that the matter before the Board at this time pertains to whether Mr. Seel, as a Classified employee applying for an Exempt position, received proper veterans'

March 1, 2012

credit and whether the Unified Personnel Board has authority to submit an opinion as to whether the preference was properly or improperly applied.

Mr. Seel indicated his belief that the Board members have an obligation to protect a Classified employee, even if doing so moves him out of their jurisdiction; and that they should decide whether that gray area can be used to circumvent employment preference for veterans and other protected persons. Acknowledging that he has the ability to bring his concerns to Veterans Affairs, he expressed a preference for keeping the matter “in-house,” requiring the department to stand by the Personnel Rules, and closing the gap where it started.

Thereupon, Mr. Becotte indicated that Florida Administrative Code Rule 55 provides a definition of *minimum qualifications*; that he believes the department has met the requirements; and that the Rule specifies that individuals who believe they were not treated fairly with respect to veterans’ preference should contact the Florida Department of Veterans’ Affairs at the address provided. He related that the Appointing Authority believes Mr. Seel was treated fairly; that he has a right to file a complaint under state law; and that the Department of Veterans’ Affairs would be the appropriate jurisdiction to address the issue.

Mr. Becotte noted that the County policy differs with regard to interviewing for Classified and Exempt positions, explaining that the Human Resources Department reviews applications for Classified positions and forwards those of qualified applicants to the departments for review; whereas, for an Exempt position, all applications are forwarded to the department, which determines who is qualified for the position. He stated that the documentation provided to Human Resources for advertisement of the position specifically stated that the applicant must have a Class-A Wastewater License; and that Mr. Seel and other preference-eligible applicants were not interviewed for the position because the department had determined they did not meet the minimum requirements. Responding to queries by the members, Mr. Becotte expressed his opinion that the Unified Personnel Board does not have jurisdiction over Exempt positions; that Mr. Seel’s exclusive remedy is to bring the matter to the Department of Veterans’ Affairs; and that the Personnel Board would have jurisdiction if the position were Classified, in which case, Human Resources would have reviewed the applicants and determined those meeting minimum qualifications.

Discussion continued and the members expressed their respective opinions, indicating that the Board does not have jurisdiction over the hiring process or the outcome, but it does have some jurisdiction over the process that a Classified employee is engaged in and whether the process followed the Board’s rules.

March 1, 2012

Attorney Swain inquired as to what the members would like him to prepare regarding the Veterans' Preference law, noting that the Personnel Rules do not set a different standard, but only state that the County will follow the law; and that there should be something in the record indicating that the Board considered the law behind the policy, as the department could appeal to the Circuit Court on the basis that the Board took jurisdiction where it had none.

Attorney Swain advised that under its appeal process, the Board would decide two issues: first, whether or not the appellant has shown that the action complained of should be modified or revoked; and second, if the evidence supports a modification of the action complained of, what modification should take place. He indicated that Mr. Seel would bear the burden of proving that the Veterans' Preference Rule that applies to the position was not followed; and that the Board would make a finding based on the evidence presented to the Grievance Committee, as well as any evidence submitted by the department.

In response to query by Mr. Tragos, Mr. Swain indicated that the Board, by a majority vote and with appropriate notice, could allow additional materials to be admitted in order to determine whether the policy has been misapplied in other situations; and that there is a provision in the Rules to allow the Board to conduct its own investigation; whereupon, he cautioned the Board against expanding its jurisdiction beyond the matter at hand.

Mr. Tragos suggested that the appeal be continued until the May meeting, allowing the members the opportunity to discuss the issue in April, with the benefit of any research conducted by Attorney Swain, to ensure that any decisions are based on solid legal ground; and Attorney Swain and Ms. Rowe confirmed that a motion is not necessary to continue the appeal, as it is within the 120-day timeframe.

Chair Andriso indicated that it is the function of the Human Resources Department to ensure that the veterans' preference is applied, and suggested that any deliberations undertaken by the Board be restricted to this particular incident. Attorney Swain indicated that he will prepare a memorandum for the Board on the Personnel Rule and state laws, with copies to the parties, for discussion and possible action by the Board at the April meeting; and that he will also obtain copies of the entire grievance package for the Board.

Thereupon, Mr. Tragos moved, seconded by Mr. Davis, that if the Board is determined to have jurisdiction, it be limited to an interpretation of the application of the Veterans' Rule in this case; and that the review not be extended to include interviews with other parties.

March 1, 2012

Responding to comments and concerns expressed by Mr. Dekle, Chair Andriso indicated that the Board has no knowledge or proof that the preference issue is prevalent throughout the organization; that anyone could make a claim that they were treated unfairly; that it is the job of the Human Resources Department, not the Personnel Board, to ensure that it is not happening; and that the Board should concentrate on this particular case. Discussion ensued wherein Mr. Tragos and Ms. Vecchioli noted that the motion does not limit the Board from acting on future grievances, should they arise, following disposition of the case at hand.

Responding to query by Mr. Davis, Mr. Tragos confirmed that the motion limits the Board's consideration to Mr. Seel's grievance, not including other veterans that may be involved, noting that the purpose of the motion was to limit the scope of the pre-trial materials and discussions; and Attorney Swain pointed out that Mr. Seel has the burden of proving that the veterans' procedures were not followed; and that no other grievances have been received.

Upon call for the vote, the motion carried by a vote of 5 to 1, with Mr. Dekle casting the dissenting vote.

Thereupon, in response to queries by Ms. Vecchioli and Chair Andriso, Attorney Swain confirmed that the Board will vote on the jurisdictional question at its April meeting; that if it takes jurisdiction, a hearing will occur in May wherein the parties will present evidence on whether the Rule was followed; and that, while the Board cannot dictate who the department hires, there may be evidence regarding minimal versus desirable qualifications that could impact the veterans' preference issue.

WORKSHOP – STEPS TOWARD BUILDING LEADERSHIP

Ms. Rowe related that the County is embarking on a new initiative focused on high performance and learning; that three training sessions have been held to date; that staff is still involved in defining the changes and how they will relate to Pinellas County employees; and that tonight's presentation will provide a frame of reference to help the Personnel Board members understand the issues and transformations that will take place, providing a basis for consideration of upcoming changes in rules and position descriptions.

Training Coordinator Joan Read related that Human Resources has been working with the Appointing Authorities for nearly a year to define best practices for creating a high-performance, learning organization; and that the employees she has interacted with have been very excited and energized after exposure to the training.

March 1, 2012

After displaying two videos, Ms. Read sought feedback from the Board members regarding their observations. Chair Andriso noted a transformation from chaos to a well-organized effort, and Mr. Tragos recalled a square ball that became round, moving in a smoother fashion.

Referring to a PowerPoint presentation, a copy of which has been filed and made a part of the record, Ms. Read reviewed a list of characteristics of a high-performance organization. She related that John Pickering, an expert in defining high performance, has been engaged to train employees to conduct workshops to talk about what is happening and to determine where County Government needs to go and how it will get there by defining what high performance means to Pinellas County Government; and that the County is also partnering with AchieveGlobal International to address the issue of how employees treat each other and provide tools to help them go through the system changes in a professional manner; whereupon, she displayed the dates for upcoming High Performance training and Vision to Performance workshops.

In response to query by Chair Andriso as to how the effectiveness of the program would be measured, Ms. Read indicated that part of the training process is to identify, up front, what success looks like in measurable terms; whereupon, Ms. Rowe stated that it is important not to view it as a temporary program, but as a change in lifestyle, stressing that high performance is not about having to do more work, it is about engagement, empowerment, and leadership skills.

Mr. Davis related that he had found the training interesting and thanked Ms. Rowe for inviting him to participate, noting that he was able to gain insight into where the organization wishes to go. He stated that changing the culture of the organization will not be an inexpensive proposition; that it is not easily achieved; and that many organizations have tried and failed and spent a huge amount of money doing so; whereupon, he pointed out that not all change results in value; and that, in the end, the question is going to be: What is the value of the change in terms of return on investment, and how will it be demonstrated?

Acknowledging that a decision whether to proceed with the initiative is not in the purview of the Personnel Board, Mr. Davis expressed concern, as a taxpayer, as to whether or not there is real, measurable value in the transformation; whereupon, speaking as a taxpayer and as a matter of public record, Mr. Tragos inquired as to the cost of the proposed transformation, and Ms. Rowe agreed to provide the information at next month's meeting.

March 1, 2012

Responding to queries by the members, Ms. Rowe, with input by Ms. Read, indicated that activities and training sessions are scheduled over the next couple of years; that training is beginning at the top of the organization; and that County Administrator Bob LaSala, the Assistant County Administrators, Clerk of Court Ken Burke, and several other Appointing Authorities have already attended training sessions; whereupon, Ms. Rowe emphasized that the concept is not just a program or a training session, it is an opportunity to provide tools for people to engage employees in a more productive and rewarding way; and that the Human Resources Department is not selling it, it is being driven from the top of the organization.

Acknowledging that the goal is to develop the ability to work better internally, Mr. Dekle noted that there appears to be very little focus on the public, while the purpose of County employees is to provide service to the public; and Ms. Rowe indicated that customers are a key focus of the process; whereupon, Mr. Tragos expressed his concern as a citizen that the County would not be able to maintain its level of service while reducing its workforce, indicating that he is glad to see a process put in place to change the way the County conducts business.

Responding to queries by Mr. Tragos, Ms. Read indicated that Hillsborough County is engaging in a similar process, as are many private industries in Pinellas County; and Ms. Rowe related that the Clerk of Court is currently involved in the process, but not to the same degree as the County Administrator.

ADJOURNMENT

The meeting was adjourned at 8:17 P.M.

Chair