

Clearwater, Florida, September 12, 2013

The Unified Personnel Board (UPB) met in regular session at 6:34P.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: Ricardo Davis, Vice-Chair; Andrea S. Daggett; Keith C. Dekle; Angela Outten; and Joan M. Vecchioli.

Not Present: Daniel M. Andriso, Chair, and Keith Bailey.

Also Present: Peggy Rowe, Director of Human Resources; Jason Ester, Senior Assistant County Attorney; Michelle Wallace, Senior Assistant County Attorney; Charles Toney, Employees' Advisory Council Chair; Laura M. Todd, Board Reporter, Deputy Clerk; and other interested individuals.

AGENDA

EAC	<u>Item I. Employees' Advisory Council Representative</u>
	<u>Item II. Consent Agenda</u>
Human Resources	Request Approval of the Minutes of the Regular Personnel Board Meeting held July 11, 2013.
	<u>Item III. Information Item</u>
Human Resources	Action Taken Under Authority Delegated by the Unified Personnel Board to the Human Resources Director.
	<u>Item IV. Appeal of Termination</u>
Public Safety Services	Karen Darby-Mack, Senior Information Specialist, Emergency Medical Services.

CALL TO ORDER/PRESENTATION OF AWARD

Vice-Chair Davis called the meeting to order at 6:34P.M. and led the Pledge of Allegiance to the Flag; whereupon, he presented Peggy Rowe an award for her 15 years of service to Pinellas County.

EMPLOYEES' ADVISORY COUNCIL (EAC) REPRESENTATIVE

Mr. Toney reported that County Administrator Robert LaSala attended the July EAC Representatives meeting and discussed the following:

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- Property taxes have increased slightly and more money is coming into the County coffers.
- The County is adding more employment positions, including three code enforcement officers.
- County employees will be receiving a salary increase in October.
- Pinellas County needs to maintain its job competitiveness in the Tampa Bay marketplace.

Mr. Toney indicated that now that the economy has improved, the EAC will be asking for a cost of living increase in addition to a merit increase; that some good employees have been lost during the past few years, and the work force is growing younger; that the younger employees have proved to be more transient; and that it is hoped that increased pay, along with some other things Personnel is doing, will keep the employees here and help them move through the pay scale. He indicated that the EAC would also like to have funds for training and travel put back in the budget.

Mr. Toney reported that he has attended several Personnel Rules review meetings; and that the Personnel Rules changes appear to be moving in a positive direction. He indicated that Ms. Rowe has promised that when the new Personnel Rules book is published, the changes will be evident. He related that some rules are being combined, some eliminated, and some things that are now considered rules will become policy and guidelines, noting the importance of being able to differentiate between which are policy and guidelines and which are rules.

Mr. Toney provided an update on the Florida Retirement System (FRS) Pension Plan, and reported that a recent newspaper article predicted that the Legislature will continue to scrap the traditional pension plan for public employees and move new hires into an investment retirement system that is popular in the private sector, noting that the article brought out that as of June 30, 2013, the FRS Pension Plan is currently valued at \$132 billion, a gain of 13 percent over the previous year. Mr. Toney indicated that the EAC is not in favor of the proposed changes and is concerned that an investment-only option would divert from the Pension Plan the money that accumulates when workers leave before becoming vested and when retirees collect the pension for only a short period of time, pointing out that the Pension Plan could become insufficiently funded for current and future retirees as that accumulated money helps to keep the FRS Pension Plan strong.

Responding to query by Mr. Dekle, Mr. Toney related that two bills were filed in the Legislature last year but did not pass; that one bill sought to stop new employees from participating in the historical plan by requiring them to enroll in an investment-type fund, and the other bill, as an incentive for selecting the investment plan, reduced the employee contribution from three percent to two percent; whereupon, he indicated that he does not see any benefit in the

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investment-type program; and stated that the Florida Retirement System is one of the best managed and well-funded pension plans in the Country.

In response to query by Mr. Toney, Ms. Rowe indicated that County Attorney James L. Bennett will appear before the Board at its November meeting to discuss the Special Act.

Mr. Toney extended an invitation to the Chairman, the Vice Chairman, or one of the members of the Personnel Board, other than the EAC appointees, to attend an EAC Delegate meeting to discuss the Personnel Board and how the interaction with the EAC is viewed and to field questions from EAC members.

CONSENT AGENDA

Minutes of regular meeting held July 11, 2013, approved.

Motion	Ms. Vecchioli
Second	Mr. Dekle
Vote	5 0

INFORMATION ITEM

Human Resources Director Action Taken Under Authority Delegated by the UPB

Ms. Rowe referred to a document titled *Human Resources Director Action Taken Under Authority Delegated by the UPB*, which has been added to and made a part of the minutes, and related that the report summarizes the actions taken during the period July 1, 2013 through August 25, 2013, per authority delegated to her by the Unified Personnel Board to act on its behalf.

During discussion and in response to queries by Mr. Dekle, Ms. Rowe indicated that the newly created position of deputy director of Health and Community Services has not been filled. She related that County Administrator LaSala consolidated Health and Human Services, Community Development, and Justice and Consumer Services into a "super department," that Gwendolyn Warren has been named the executive director of the new department; and that Ms. Warren has requested the creation of a new deputy director position.

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MISCELLANEOUS

Evaluation Process/Sunshine Law

In response to query by Vice-Chair Davis pertaining to discussions the Board held last year regarding the evaluation process in relation to the Sunshine Law, Ms. Rowe stated that Chief Assistant County Attorney Dennis Long indicated that the Appointing Authorities would email evaluation comments to the Human Services assistant, who will e-mail the comments to the Board members for their consideration during their evaluation. She indicated that Attorney Long advised that it is not a violation of the Sunshine Law for the members to email their performance ratings directly to the Chair, who will compile the information for the October meeting and provide copies to the Appointing Authorities, to the Clerk of the Circuit Court and Comptroller, and to the Human Resources Department for the personnel file; and that all information and comments will be public record.

Ms. Vecchioli requested that both the Office of Human Resources and the Office of the County Attorney designate informational email correspondence as "*information purposes only – do not reply*" or "*reply only to the sender*," otherwise members engaging in a two-way dialogue could inadvertently violate the Sunshine Law. She indicated that it is her understanding that communications from the members to the Chair and the responses from the Chair to the members are permissible as long as there is not a two-way dialogue, noting that responses are public record; whereupon, Ms. Rowe agreed that all future emails from her office will contain the requested verbiage.

Responding to query by Vice-Chair Davis, Attorney Wallace confirmed that it is no longer necessary to route information through the County Attorney's Office.

October Meeting Date

Ms. Rowe related that Chair Andriso had requested that the next UPB Board meeting be moved from October 3 to October 10, and no objections were noted.

Personnel Changes

Ms. Rowe related that tonight is the last Board meeting for her assistant, Connie Chancey, as she is retiring from County government; that Connie has been a tremendous asset to the department; and that Peggy Sellers will fill the position.

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APPEAL OF TERMINATION OF KAREN DARBY-MACK, FORMERLY OF THE OFFICE
OF PUBLIC SAFETY SERVICES DENIED

Appeal of Termination was filed by Karen Darby-Mack, Senior Information Specialist, Emergency Medical Services (EMS). Senior Assistant County Attorney Nancy S. Meyer represented the EMS, and Attorney Jan Press represented the Appellant.

Attorney Ester indicated that the first item to be addressed would be any exceptions filed by the parties in response to the preheating statement; whereupon, he confirmed that no exceptions were raised.

Attorney Ester related that Attorney Press has requested that the rule of sequestration of witnesses be invoked as is done in civil and criminal trials. He indicated that the Personnel Board is subject to the Sunshine Law; that the meeting must be open to the public unless there are specific statutory exemptions that apply; that there are no exemptions in this case relating to sequestration of witnesses; that case law concludes that while this board is quasi-judicial, it is not the same as judicial, and the strict rules of evidence do not apply; and that there is no exception to the Sunshine Law in this particular case; whereupon, he recommended that the request be denied.

Ms. Vecchioli moved, seconded by Ms. Daggett, that the sequestration of the witnesses be denied. In response to queries by the members, Attorney Ester discussed the case law, and opined that if a member of the public is barred from the proceedings without having a specific statutory exemption, whether or not it is an employee, it would be a violation of the Sunshine Law.

Thereupon, upon call for the vote, the motion carried unanimously.

At the request of Vice-Chair Davis, the witnesses proceeded to the microphone, stated their names, and were sworn by the Deputy Clerk; whereupon, Attorney Ester reviewed the procedural rules for the hearing.

Upon conclusion of the Appointing Authority's case, Attorney Press indicated that he is unfamiliar with the Board's procedure; that the Appellee failed to meet its burden of proof; and that no just cause existed to terminate Karen Darby-Mack, and discussion ensued.

In response to query by Ms. Vecchioli, Attorney Ester related that there is no procedure in the rules for such a motion at this stage of the hearing; whereupon Ms. Vecchioli moved that the motion be denied.

Responding to query by Mr. Dekle, Vice-Chair Davis reiterated that the motion before the Board is whether or not the Appellee met its burden without the Appellant having to call any witnesses. Ms. Vecchioli explained the rules of procedure for civil and criminal trials,

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noting that the Board is not bound to entertain the motion, and deferred to the Board's counsel. Attorney Ester confirmed that the Board is not bound by civil and criminal rules of procedure; that the burden of proof will be discussed after all testimony is received; and that the choice to entertain the motion now or wait until both sides have rested is at the discretion of the Board; whereupon, Mr. Dekle seconded the motion. Upon call for the vote, the motion to deny carried unanimously.

Following the testimony and final statements, Attorney Ester reviewed the issues to be resolved by the Board and indicated that the first issue to be resolved is whether the Appellant did commit the activities for which she was terminated; whereupon, following discussion, Ms. Vecchioli moved, seconded by Ms. Daggett, that the Board does find that the Appellant did commit the activities for which she was terminated. Upon call for the vote, the motion carried unanimously.

Attorney Ester related that the second issue to be resolved is whether the Board finds that cause existed for the disciplinary action in that the abovementioned activities violated Personnel Rule XXIV, Paragraph J, Items Nos. 16 and 44; whereupon, Ms. Vecchioli moved, seconded by Ms. Daggett, that the Board does find that such cause did exist. Following lengthy discussion and upon call for the vote, the motion carried 3 to 2, with Ms. Outten and Mr. Dekle casting the dissenting votes.

Attorney Ester related that the third and final issue to be resolved is whether the disciplinary action taken by the Appointing Authority was appropriate; whereupon, Ms. Outten moved, seconded by Mr. Dekle, that the Board does not find that the disciplinary action was appropriate. Following lengthy discussion and upon call for the vote, the motion failed 2 to 3, with Vice Chair Davis and Ms. Vecchioli and Daggett casting the dissenting votes.

Vice-Chair Davis noted that the motion failed 2 to 3; and that a new motion is needed; whereupon, Ms. Vecchioli moved, seconded by Ms. Daggett, that the Board finds that the disciplinary action was appropriate. Following discussion and upon call for the vote, the motion carried 3 to 2, with Ms. Outten and Mr. Dekle casting the dissenting votes.

This proceeding has been electronically taped and made a part of the record.

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MISCELLANEOUS INFORMATION ITEMS RECEIVED

The following miscellaneous information items were received for filing:

1. Management and Supervisory Notes for September 2013.
2. Training Schedule for September 2013.

ADJOURNMENT

The meeting was adjourned at 12:32 A.M.

Vice-Chair