

Clearwater, Florida, September 15, 2015

The Unified Personnel Board (UPB) met in workshop session at 6:35 P.M. on this date in the Clerk's Fourth Floor Conference Room, Pinellas County Courthouse, 315 Court Street, Clearwater, Florida, with the following members present: Ricardo Davis, Chair; Keith C. Dekle, Vice-Chair; Andrea S. Daggett; James Dates; William Shulz; Joan M. Vecchioli; and Ron Walker.

Also Present: Peggy Rowe, Former Director of Human Resources; Carole Sanzeri and Michelle A. Wallace, Senior Assistant County Attorneys; Jack Loring, Workforce Development Manager, County Administration; other interested individuals, and Lynn M. Abbott, Board Reporter, Deputy Clerk. Minutes by Ms. Abbott and Helen Groves.

AGENDA

PLEDGE OF ALLEGIANCE

Human Resources

- I. Personnel Rules Workshop
 1. Proposed Rules
 2. Proposed Policies

CALL TO ORDER

Chair Davis called the meeting to order at 6:35 P.M. and led the Pledge of Allegiance to the Flag. He thanked Ms. Rowe for her presence and participation in tonight's workshop; indicated that Human Resources Interim Director Beverly Waldron is not present and expressed condolences on the passing of a member of her family; and welcomed new Board Member William Shulz.

Chair Davis announced that the appeal scheduled in October has been cancelled, and discussion ensued wherein the members agreed to discuss the October agenda at the end of tonight's meeting.

PERSONNEL RULES WORKSHOP

Stating that no votes would be taken tonight, Chair Davis reviewed the process to make changes to the Rules and Policy; whereupon, Mr. Dekle, pointing out that content has been deleted from many of the current Rules, suggested reviewing each proposed new Rule with the current one to see if the changes are significant enough for the Board to take up.

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In response to query by Ms. Vecchioli, Ms. Rowe indicated that the document with yellow highlights titled *Personnel Rule Revisions* was compiled from comments offered by Messrs. Dekle and Loring and the Appointing Authorities, and the highlighted comments will be addressed today; whereupon, she suggested using the cross log showing where the current Rules will appear in the proposed Rules as a reference. Copies of both documents and the 08/04/2015 Revised Edition of the Classification Plan have been filed and made a part of the record.

At the request of Mr. Dekle, Chair Davis agreed that Employees Advisory Council (EAC) representatives Lisa Wombles and Charles Toney would be allowed to participate in the meeting, noting that the plan is to get input from all interested parties before the Board takes any action.

In response to comments by the members, Attorney Sanzeri, with input by Human Resources Administrative Manager Laura Berkowitz, affirmed that the Equal Employment Opportunity statement would be included at the beginning of the new Rules.

Later in the meeting in response to comments by Ms. Vecchioli, Chair Davis indicated that Rules 1, 2, 3, and 8 were being reviewed tonight due to comments and concerns that have been received; and that the other Rules would be reviewed later.

PROPOSED RULES

Rule I (Current Rules) - Definitions

Mr. Dekle observed that the current Rule I – *Definitions*, has been deleted from the current Rules, and expressed concern that the meaning and impact of a Rule could be altered if it is not codified, noting that if the definitions are contained in a Rule, they cannot be changed without action by the Personnel Board. Ms. Vecchioli stated that the definitions have not been eliminated, only moved to the Rule where they are used; whereupon, Attorney Sanzeri clarified that many of the definitions have been eliminated, as some served no purpose, and stated that any definition necessary to the context, interpretation, and application will appear within the Rule itself.

Following discussion and at the request of Chair Davis, Special Project Assistant Carol Barkalow agreed that Human Resources would review the documents and provide assurance to the Board at the next meeting that all pertinent definitions have been provided in the new Rules.

Mr. Dekle suggested adding an Index, and following discussion, Ms. Rowe confirmed with the members that a consensus has been reached that an Index will not be necessary since it will be a searchable PDF Word document and there will be a Table of Contents.

Ms. Vecchioli confirmed that the word “though” would be changed to “through” as suggested on the highlighted Personnel Rule Revisions document.

Rule II (Current Rules) – Recruitment, Selection, and Examinations

(The cross log referenced by Ms. Rowe showing where the current Rules will appear in the new proposed Rules indicates that much of the current Rule II would remain in the new Rule 2 - Filling Positions, and other components would be located in various Policies).

In response to queries by Mr. Dekle regarding the language in the new Rule 2 - Filling Positions, Ms. Berkowitz explained that as all employees do not work the same days and hours, the term “working days” has been changed to “calendar days” to avoid confusion and in the language referring to the extension of a probationary period, the wording has been changed to “consecutive working days.”

In response to query by Mr. Dekle regarding New Hires at the top of Page 3 of the new Rule 2, Ms. Rowe related that while it is rare for an Appointing Authority to remove an employee from probationary status before the end of the one-year period and place them in regular service, it does occur and the option should remain, and no objections were noted.

Mr. Loring explained the concerns he had highlighted on Rule 2, noting that the way the word “transfer” is used in different instances is confusing and the information regarding interns needs to be reviewed. Following discussion, Ms. Rowe recommended that Ms. Waldron look at Rule 2 again as related to the input provided by Mr. Loring.

Rule III (Current Rules) – Eligible Registers, Certifications, Appointment

(The cross log referenced by Ms. Rowe showing where the current Rules will appear in the new Rules indicates that a large portion of the current Rule III will be found in the new Rule 2 - Filling Positions, and the new Rule 3 – Compensation will contain elements concerning pay).

Stating that the Unified Personnel Board should be careful to retain its integrity, authority, and responsibilities, Mr. Dekle expressed concern that some of the changes being considered will make the Board a less effective body. Stating that the language occurs several times in the

document, he cited the wording under Classified Pay Plans on Page 1 of the new Rule 3, “*The Director of Human Resources shall prepare and present the Classified Employee Pay Plan to the Unified Personnel Board for adoption,*” and related that he would like to retain the wording “...*to the Personnel Board for approval,* as the new language gives the impression that the Personnel Director has authority that legally should rest with the Board.

Ms. Berkowitz stated that the words “adoption” and “approval” are synonymous and it is implied that the Board has the discretion to approve or not approve, and discussion ensued regarding the Board’s authority as it relates to the Classified and Exempt Pay Plans.

During discussion regarding the introductory paragraph to the new Rule 3, Attorney Sanzeri stated that it is intended as safe harbor language regarding compensation; and that she would revisit the Department of Labor’s current wording and bring back a recommendation at the next meeting, and the members concurred.

Referring to the highlighted document and his recommendation to omit Item B, Starting Pay on Page 1 of Rule 3, Mr. Loring indicated that it is an expensive proposition to hire someone at the minimum of the pay grade, as it is difficult to retain them, and discussion ensued about how the County makes it difficult to hire a Classified employee above the minimum salary grade. In response to query by Chair Davis, Ms. Rowe confirmed that the proposed changes were vetted with the Appointing Authorities and the County Administrator’s office, but hiring under or above the minimum could be revisited with all parties.

Referring to Item C on Page 3, Promotional Increase, EAC Chairman Lisa Wombles stated that the EAC is concerned that the Appointing Authorities would have unlimited latitude for giving promotional raises, noting that there is not a standard such as the one in the current Rules; whereupon, noting that the practice is rare and does not typically occur, Ms. Rowe indicated that the wide latitude allows the Appointing Authorities to recognize employees at salary levels they believe they deserve and avoids situations where County employees must first quit in order to be rehired at a competitive rate.

Mr. Dekle indicated that the latitude also presents a downside in that an employee could earn less if the Appointing Authority so desires, and suggested that the language be rewritten to reflect that there must be a pay increase if an employee is promoted. Ms. Daggett questioned whether the promotional raise defeats the intent of a merit increase. Mr. Dates stated that the new Rule would give Classified employees the ability to negotiate a higher salary, which they have not had before, and Chair Davis agreed. Ms. Rowe indicated that the current Rule requires approval from the Appointing Authorities, the Director of Personnel, and the Board; and that the new Rule

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would give the Appointing Authorities the ability to make the decision themselves and would create consistency and efficiency across the Appointing Authorities.

Mr. Loring explained his comments regarding Item D, Reclassification or Reallocation Increase; whereupon, Ms. Rowe indicated that Ms. Waldron will look at the Rule to see if the terms need to be defined and whether changes are needed so that there is a salary increase when a job classification is reallocated, as Mr. Loring had intended when he wrote the original draft of the Rule, and discussion ensued.

During discussion regarding Merit Increases on Page 2 of new Rule 3 and in response to queries by the members, Attorney Sanzeri responded that while the language makes clear to her that the merit pay is annual, Ms. Waldron would review the language regarding rewarding high-performing employees.

Regarding General Increases on Page 2, Mr. Loring indicated that general increases should be calculated on the mid-point market value for the position rather than on the salary of the employee, and Chair Davis confirmed with the members that they agree.

Referring to Item H under Temporary Pay Increases on Page 4 of new Rule 3, Mr. Dekle suggested that Items i and ii be combined. Ms. Berkowitz, with input by Ms. Barkalow and Attorney Sanzeri, explained the difference between the two types of temporary assignments, provided examples, and stated that the items should remain separate as the circumstances are different and the pay increase in i is mandatory and the one in ii is discretionary. Following discussion, Ms. Rowe confirmed with the members that no examples would be put into the Rule, but that Human Resources should be prepared to share verbal examples at the next meeting, if necessary, noting that the example Ms. Berkowitz shared earlier about her assuming the duties of Ms. Waldron in her absence would not be pertinent, as Ms. Berkowitz is an Exempt employee.

In response to query by Mr. Walker and acknowledging that these are the Board's Rules and subject to its interpretation, Attorney Sanzeri discussed the terminology decreeing that the amount of the temporary pay change shall not be "grievable," and discussion ensued. Ms. Daggett and Vecchioli expressed concern that to single out a specific item as not grievable might create an assumption that everything else is grievable; whereupon, Attorney Sanzeri indicated that while the current Rule regarding grievances is very open, Rule 7 of the new Rules defines what is grievable and lists grievable items.

Ms. Vecchioli recommended that the language under Item H indicating that the amount of pay change is not grievable be moved to the new Rule 7.

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In response to query by Chair Davis, Attorney Wallace advised that the proposed Rule 7 suggests that if a grievance is made to the Board about an item that is not on the new grievance list, the Board could not hear that grievance, as it would then be outside the Board's jurisdiction, and discussion ensued. Ms. Vecchioli suggested that it would not be a jurisdiction item, but due process, as the Board is laying out the rules and infractions, noting that the jurisdiction is defined by the Special Act, not by the Personnel Rules, and that the Board would be self-imposing what it would hear; whereupon, Attorney Sanzeri, with input by Attorney Wallace, advised that the Personnel Rules are not just for the benefit of the employee, but also for the benefit of the employer; however, the Board could always decide to amend its rules to add or remove items as provided for in the Special Act.

Mr. Toney stated that the EAC's opinion sometimes differs from the opinions of the County Attorney, and that all grievances concerning Classified employees and pay issues, whether or not written down, should go before the Board, and Chair Davis concurred.

Thereupon, Chair Davis indicated that the consensus of the Board is that the grievance language will be removed from Item H and the issue will be revisited under Rule 7; whereupon, at the request of Mr. Loring, he agreed that eliminating the language here would be revisited.

Mr. Loring related that he has other concerns regarding Item ii under Item H than those discussed above; that the term "significance of the duties and responsibilities" should be better defined," as it leaves it wide open and subject to abuse, including favoritism by the Supervisor; and that it calls for no oversight by the Board and has no controls, unlike the other Rules. Mr. Walker indicated that he feels Item ii provides a useful tool for the Appointing Authorities; whereupon, following discussion, Chair Davis indicated that it is the consensus of the Board that Item ii be kept in Rule 3.

In response to comments by the members regarding Item i, Voluntary and Involuntary under Demotion – Classified Employees, on Page 5 of new Rule 3, Attorney Sanzeri related that disciplinary demotions are rare; that the intent is not clear; that the terms "voluntary" and "involuntary" would be clarified; and that the item would be brought back before the Board.

Later in the meeting and in response to queries by Mr. Dekle on this item relating to the "between four- and ten-percent" pay reduction language and whether it would also relate to Disciplinary Actions, Attorney Sanzeri indicated that the four- and ten-percent language came about as a result of a meeting with the EAC; that a pay reduction is a disciplinary action on the employee's pay rate, requires a pre-disciplinary hearing, and the pay reduction currently is

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limited to a maximum of five percent. Following discussion, Ms. Vecchioli agreed that the wording is inartful and contradictory and needs to be revised; whereupon, Ms. Sanzeri indicated that she is hearing from the members that they would like the item to be brought back before the Board with some guideline language, but retaining the discretionary portion, and no objections were noted.

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At this time, 8:15 P.M., the meeting was recessed and reconvened at 8:24 P.M. with all members in attendance.

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Continuing with Rule 3 and referring to Item D-7, Market Driven Skills Supplement under Supplemental and Incentive Pay, located on Page 9, Mr. Loring, with input by Ms. Rowe, related that this supplement was originally approved by the Unified Personnel Board for the Information Technology profession and was for a very finite list of skills; that it has been incorporated in the new Rules so as to apply to other high-demand areas; and that the latitude being given to the Appointing Authorities and Human Relations is subject to abuse.

Thereupon, Mr. Dekle concurred, and stated that a recurring theme throughout the new Rules is to eliminate the approval of the Unified Personnel Board; and that the Board should review this process as well as similar ones, as it holds the ultimate responsibility and accountability, and discussion ensued with several members expressing concern.

After confirming with Ms. Rowe that the item had originally required the approval of the Board, as the additional pay fell outside the Pay Plan, Ms. Vecchioli recommended that an insertion be made in the language to the effect that the list will be updated every two years and *reviewed and approved* by the Unified Personnel Board; whereupon, Ms. Rowe advised that she will ask Ms. Waldron to revise the language and bring it back to the Board for approval.

Later in the meeting and in response to query by Mr. Shultz regarding Standby Pay, D-1, Page 6 of Rule 3, Ms. Rowe indicated that people in Utilities, 9-1-1, and plant operators are some examples of standby employees; whereupon, Attorney Sanzeri explained the difference between standby and emergency call-out employees, and provided examples of how each are utilized.

Rule XXV– Political Activities (Current Rules)

Referring to new Rule 8 – Political Activities, Ms. Rowe provided background information and explained that the current Rule requires that both Exempt and Classified employees resign to run for office; that the Special Act only requires a Classified employee to resign; and that State and Federal Laws require that an employee running against their boss has to resign. She indicated that the Constitutional Officers have requested that when the Rules are revised, they be allowed to make that decision regarding Exempt personnel, and discussion ensued.

Ms. Wombles suggested that the Unified Personnel Board would not have the authority to decide whether the Exempt personnel can or cannot run and spoke to the need for consistency throughout the County. Mr. Dates expressed concern that the Rule change would treat the Classified and Exempt employees differently and would be unfair. Attorney Wallace reiterated that the Special Act requires a Classified employee to resign; and related that she is unsure whether the Board has the authority to grant the Constitutional Officers the power to decide whether an employee has to resign their position or can run for election, and Chair Davis agreed that the matter needs to be researched carefully.

In response to comment by Mr. Loring regarding the potential for controversy, Ms. Vecchioli related that the Board is being asked to rescind a Rule that they were not authorized to enact; that nothing prohibits the Board from excluding Exempt employees; and that the Board should be silent on the issue so that the disparate treatment of Classifieds and Exempts is not highlighted; whereupon, Chair Davis concurred, and pointed out that the Appointing Authorities did consent to the previous enactment of the Rule requiring both to resign.

Ms. Vecchioli questioned the meaning of “running for office” versus “seeking appointment,” and asked if the verbiage should be changed. Attorney Sanzeri indicated that she would research the term “candidacy” and how the election laws define candidacy, and would bring the item back to the Board.

In response to query by Ms. Vecchioli, Attorney Sanzeri reviewed how violations of prohibited activities are reported and how the violations are dealt with and indicated that the Constitutionals do want Exempt personnel to be included in the prohibited activities. Chair Davis indicated that he recognizes the potential problems and would be comfortable being silent regarding Exempts, as there is no clear authority; whereupon, he suggested moving the reference to political activities out of the entire Rule.

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Following discussion, Chair Davis stated that all references to Exempt personnel would be removed from Rule 8, and no objections were noted.

MISCELLANEOUS

Rule XXIV – Discipline (Current Rules)

In response to query by Mr. Dekle, and referring to new Rule 3, Pay Reduction – Disciplinary, Page 6 of new Rule 6 – Discipline, Attorney Sanzeri, with input by Ms. Rowe and Vecchioli, reviewed the current and new Rules and stated that she would attempt to rewrite the pay reduction section for consistency, and discussion ensued.

Next Meetings

Following discussion, Chair Davis indicated that the Board would adjourn tonight's work session and continue workshopping the Rules at a later date, and no objections were noted; whereupon, Attorney Sanzeri indicated that Rules 1, 2, 3, and 8 were reviewed, and Ms. Rowe verified that Rules 4, 5, 6, and 7 remain to be discussed.

Chair Davis announced that, by consensus, the next Personnel Board meeting would take place October 1, 2015.

ADJOURNMENT

The meeting was adjourned at 9:29 P.M.

Chair