



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.

ATTEST:


Clara VanBlargan, City Clerk/Secretary/Ex-Officio


Gene Embler, Chair