



MINUTES

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

The City of Madeira Beach Civil Service Commission meeting was scheduled for 3:30 p.m. on September 13, 2023, in the Patricia Shontz Commission Chambers at City Hall, located at 300 Municipal Drive, Madeira Beach, Florida.

MEMBERS PRESENT: Gene Embler, Chair
Cristina Ponte, Vice Chair (via Zoom at 3:52 p.m.)
Jerry Cantrell
Paul Tilka
Clara VanBlargan, Ex-Officio Secretary

MEMBERS ABSENT: Judithanne McLauchlan

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

1. CALL TO ORDER

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

2. ROLL CALL

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

3. PUBLIC COMMENT

There were no public comments.

4. APPROVAL OF MINUTES

A. Approval of Minutes

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

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

ROLL CALL:

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

The motion carried 3-0.

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

Joint Workshop Meeting with Board of Commissioners

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

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

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

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

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

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

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

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

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

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

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

ROLL CALL:

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

The motion carried 2-1.

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

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

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

ROLL CALL:

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

The motion carried 2-1.

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

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

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

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

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

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

5. OLD BUSINESS

A. "Draft" Personnel Policy Manual

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

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

XXV. MISCELLANEOUS POLICIES

K. Searches on City Property

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

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

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

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

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

Attorney Eschenfelder said they could add language that says,

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

The consensus was to add the language.

L. Employee Arrest or Charge

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

M. Use of Tobacco and "e cigarettes"

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

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

The consensus was to add the language.

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

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

N. City Bulletin Boards and Common Areas

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

O. Communicable Diseases

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

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

P. Inventions and Intellectual Property

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

Q. Letters of Reference

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

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

R. Funds Owed by Employees; Debt Collection Calls

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

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

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

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

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

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

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

The consensus was to make the change.

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

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

The consensus was to add the language.

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

influence of illegal drugs or alcohol.

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

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

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

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

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

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

The consensus was to change smart phones to cellular phones.

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

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

The consensus was to add the language.

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

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

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

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

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

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

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

The consensus was to add the language.

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

GENERAL POLICY STATEMENT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Equal Employment Opportunity

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

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

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

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

There were no changes made.

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

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

I. EMPLOYMENT

A. Non-Temporary (Regular) Employment

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

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

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

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

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

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

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

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

6. NEW BUSINESS

A. HR Report

Ms. Powers gave the HR report.

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

B. Items to be Scheduled for Future Meetings

7. NEXT MEETING

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

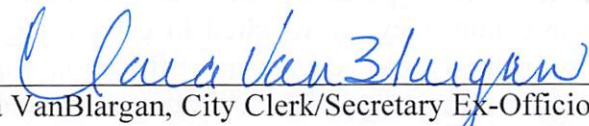
Chair Embler announced that her term on the Civil Service Commission expires on October 30, 2023, and she will not be applying for reappointment. She enjoyed her time on the Commission but has much going on with the family and other commitments.

8. ADJOURNMENT

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


Gene Embler, Chair

ATTEST:


Clara VanBlargan, City Clerk/Secretary Ex-Officio