



## MINUTES

### CIVIL SERVICE COMMISSION MEETING NOVEMBER 14, 2023 3:30 P.M.

The City of Madeira Beach Civil Service Commission meeting was scheduled for 3:30 p.m. on November 14, 2023, in the Patricia Shontz Commission Chambers at City Hall, located at 300 Municipal Drive, Madeira Beach, Florida.

**MEMBERS PRESENT:** Cristina Ponte, Vice Chair  
Jerry Cantrell  
Paul Tilka  
Clara VanBlargan, Ex-Officio Secretary

**MEMBERS ABSENT:** Judithanne McLauchlan

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

#### 1. CALL TO ORDER

Vice Chair Cristina Ponte called the meeting to order at 3:32 p.m.

#### 2. ROLL CALL

City Clerk Clara VanBlargan called the roll. Commissioner Judithanne McLauchlan was absent

#### 3. PUBLIC COMMENT

There were no public comments.

#### 4. APPROVAL OF MINUTES

##### A. Approval of Minutes

- 2023-10-11, Civil Service Commission Meeting Minutes
- 2023-10-25, Joint Meeting with the Board of Commissioners

Commissioner Cantrell motioned to approve the minutes as written, and Commissioner Tilka seconded the motion. All were in favor. The motion carried 3-0.

## **5. HR REPORT**

HR Staff Megan Powers reviewed the HR Report.

Commissioner Cantrell asked that they discuss the salary and compensation pay study under old business.

## **6. NEW BUSINESS**

### **A. Oath of Office – New Member**

The item was moved to the 3:30 p.m., Monday, November 20, 2023, Civil Service Commission meeting.

### **B. Appointment of Chair**

Commissioner Cantrell motioned to appoint himself as Chair, and Vice Chair Ponte seconded the motion. All were in favor. The motion carried 3-0.

### **C. Appoint of Vice Chair**

Commissioner Tilka motioned to appoint Cristina Ponte as Vice Chair, and Chair Cantrell seconded the motion. All were in favor. The motion carried 3-0.

### **D. Set the Meeting Schedule for 2024**

The Civil Service Commission set its 2024 quarterly meetings:

- 4:00 p.m., Wednesday, January 3, 2024
- 4:00 p.m., Thursday, March 7, 2024
- 4:00 p.m., Wednesday, June 5, 2024
- 4:00 p.m., Wednesday, September 4, 2024
- 4:00 p.m., Wednesday, December 4, 2024

## **7. OLD BUSINESS**

### **A. RFP – Classification and Compensation Plan Study**

After a brief discussion, the Board decided to move forward with the RFP. Megan Powers, Assistant to the City Manager, said she will work with Attorney Eschenfelder on it.

### **B. "Draft" Personnel Policy Manual**

#### **I. EMPLOYMENT (Page I-7 of "Draft" Personnel Policy Manual)**

### **C. Joint Employment**

The intent of this policy is to allow employees to be employed in more than one position, and at possibly more than one pay rate, at the same time within the City payroll structure. The following criteria must be met for eligibility:

1. Only temporary O.P.S., part-time positions, which are considered to be occasional or sporadic (in accordance with 29 C.F.R., Section 553.30), will be eligible.
2. The employee's decision to work in a different capacity must be made freely and without coercion, implicit or explicit, by the employer.
3. The joint position must be in a different capacity, i.e., it must not fall within the same general occupational category as the employee's primary government employment.

Administrative procedures for implementation and tracking of this program will be published separately.

Chair Catrell asked to add language reflecting that the Civil Service Commission is able to review the document before it is put into effect. Attorney Eschenfelder suggested going back to the beginning and putting a provision stating, "that before any administrative procedures the manager would have presented go to the Civil Service Commission first." It could be put in the Code Amendments so that it will get into the ordinance.

#### **D. Employment of Relatives (Nepotism)**

1. Employment shall be in compliance with Florida Statutes § 112.3135 regarding "*Restriction on employment of relatives.*" Pursuant to this section, a public official may not appoint, employ, promote, or advance, or advocate for appointment, employment, promotion, or advancement, in or to a position in which the official is serving or over which the official exercises jurisdiction or control any relative of the public official. An individual may not be appointed, employed, promoted, or advanced in or to a position if such appointment, employment, promotion, or advancement has been advocated by a public official, serving in or exercising jurisdiction or control over a City department or office, who is a relative of the individual or if such appointment, employment, promotion, or advancement is made by a City board of which a relative of the individual is a member.
2. Relative, for purposes of this Section only, shall include father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, or half-sister; but shall not include any other relatives who become related by law or marriage not specifically listed above.
3. For purposes of this Section only, public official, hereinafter referred to as "official," shall include, but not be limited to, Commissioners, the City Manager, Assistant City Manager, City Clerk, City Attorney, City Treasurer, department directors, assistant

directors, managers, supervisory employees and any other City employee authorized to make employment-related recommendations or decisions, whether the official is elected, contracted, appointed, or hired.

4. It is the City's policy to prohibit an official from having direct supervision over any employee who is a relative of the official, as more fully set forth in Paragraph 1. It is also the City's policy to prohibit an official from having direct supervision over any employee to whom the official is engaged or is otherwise involved in a current romantic relationship.
5. Direct supervision shall include any situation in which the official would be in a position to make decisions concerning the terms and conditions of the person's employment with the City including decisions about hiring, promotion, transfer, reclassification, compensation, benefits, work assignments, performance evaluations, training courses and programs, layoffs, return from layoff, termination, and all other tangible aspects of employment.

#### **E. Re-employment and Disqualification**

1. An employee who has been terminated from City employment for violation of any conduct or performance rule set forth in this Policy, or who resigns after being notified of the City's intent to conduct a pre-termination meeting but prior to a final disciplinary decision, is ineligible for re-employment for three years from the date of such resignation or termination.
2. An employee terminated due to a positive drug/alcohol test, a refusal to test, or other violations of the drug-free workplace policy; or who voluntarily resigns within two weeks of a positive result in a test for drug use; or when an employee serves notice of resignation immediately upon notification of being selected for such test, is ineligible for re-employment for a period of three years after such resignation. Additionally, a former employee who owes the City money for drug testing or treatment which was the responsibility of the employee to pay shall be ineligible for re-employment until all funds owed are paid.
3. An employee who voluntarily resigns without giving the required two-week notice (see Section IX.A.4) or is separated from employment for absence without leave (see Section VIII) is ineligible for re-employment for a period of one year. In circumstances where the hiring department director certifies, to the Human Resources Staff's satisfaction, that a non-eligible former employee will meet a critical need of the City, the Human Resources Staff has the authority to waive this waiting period.
4. Employees who separate from City service due to failure to complete probation period where no discipline violation occurred, layoff, end of a temporary position, or whose employment is terminated because work is no longer available, are eligible for re-employment with no waiting period.

5. Notwithstanding the foregoing provisions, an employee may become ineligible for a longer period, or permanently ineligible for re-employment, as the result of independent action such as the settlement of a legal claim or an arbitration decision. Additionally, the City Manager shall have the authority, in exceptional circumstances and where the best interests of the City will be served, to waive or reduce the periods of ineligibility stated in paragraphs 1 and 2 above. Waiver justifications shall be documented by the Manager and placed in the employee's personnel file.
6. NOTE: The disqualification periods contained herein are distinct from the ability of a department to recommend or not recommend an employee for re-hire. Such recommendations are simply the opinion of the former employee's management. Though such recommendations may be taken into account should a former employee apply for re-employment, they do not create a bar against such applicant from being considered for re-hire so long as the applicant is not under a disqualification period and is otherwise qualified to perform the job duties.

Vice Chair Ponte asked the language in Section I.E.6. be made more clear. Attorney Eschenfelder said he would.

## **II. PERSONNEL FILES**

The changes made at the November 11, 2023 CSC Meeting are in red font.

### **A. File Location and Content**

1. The City's official records of present and past employees' personnel files are maintained by the Human Resources Department. The Human Resources Staff is the custodian of these records and may delegate maintenance and control responsibilities to staff members.
2. The Human Resources Department shall develop, revise, and authorize all forms related to personnel matters. Therefore, absent specific authorization from the Human Resources Staff to the contrary, departments may not promulgate or make use of any customized or unauthorized personnel forms, including leave requests, time records or employee evaluations. Department directors may, however, compile informational files on their employees. These files may duplicate information in the "official" personnel files. The department director is the custodian of personnel files maintained in his/her area of responsibility.

Vice Chair Ponte asked to make the last three sentences clearer to explain the documents are unofficial but still public. Attorney Eschenfelder said he would wordsmith it.

3. Public Records requests for personnel files made to the City must be transferred to the Human Resources Department for response. The Human Resources Staff, or designee, shall be responsible for reviewing files to ascertain any information which has been designated as confidential or exempt from public records disclosure, and in conjunction

with the City Attorney's Office, asserting applicable public records exemptions for such records.

*NOTE: Employees holding certain positions are entitled under Florida law to request that certain personally identifying information such as home addresses, not be released by other governmental agencies which may be in possession of this information. It is the responsibility of each employee holding such a position to make these requests to other governmental agencies.*

4. The official personnel record, which will be maintained by the Human Resources Department, shall contain at least the following paper or digital documents regarding the employee:
  - a. The employee's initial and any subsequent employment/transfer/promotion applications; I-9 form; interview forms; oath of employment; employment contract (if applicable); acknowledgments of receipt of benefits (to include secondary employment approval forms); conditional offer forms; retirement enrollment forms (when applicable); approved hire action forms authorizing employment; Eligibility Verification Report, and other related documents required by law or City policy to be included.
  - b. The employee's performance evaluation forms and written responses thereto;
  - c. All official personnel actions, such as promotions, transfers, and pay increases;
  - d. Official disciplinary notices and warning or counseling forms issued to the employee;
  - e. Signature forms demonstrating an employee's receipt of City policies;
  - f. Records demonstrating attendance at City training sessions.
  - g. Any separation surveys provided by a departing employee.
5. The personnel record may also contain the following items, at the discretion of the Human Resources Staff:
  - a. Correspondence from citizens, co-workers, etc., concerning the employee's performance of his or her job or contribution to the community (excepting documents which are found to be fraudulent, false, or which are required by law to be separately maintained);
  - b. Records regarding an employee's education or professional credentials;
  - c. Such other records as the Human Resources Staff deem appropriate for inclusion or which are not prohibited from inclusion by law.

6. The Human Resources Department will also keep and maintain separate and secured files of current and former employees which contain medical records or medical claim records exempt under Florida Statutes § 112.08, the results of drug tests (excepting discipline notices confirming a positive result was received), medical documents provided in support of sick leave requests (including those covered under the FMLA), reports of a healthcare provider discussing specific health conditions or status associated with a fitness-for-duty exam, medical records provided in support of a request for accommodation of a disability under the ADA, medical records received in the course of administering a worker compensation claim.
7. Notwithstanding the foregoing, the City Manager and all department directors are entitled to review medical records of applicants and current employees when these officials have the business need to do so. Such instances include reviewing an employee's defense against a disciplinary action where the employee cites a medical reason for the conduct or performance, reviewing requests for sick leave including decisions as to whether an absence is covered by the FMLA, reviewing requests for accommodation under the ADA or determining whether the applicant or employee presents a danger to him/herself or others due to a medical condition. The City Attorney or other attorneys representing the City in any employment claim or suit are also authorized to examine such records to the extent the claim or suit places the medical condition of the applicant or employee at issue.
8. In the event a City official examines records which includes information which is otherwise confidential or exempt from public disclosure under law, such official must exercise care and discretion so as not to further communicate any such information to subordinates or an employee's co-workers unless there is a valid legal reason to do so. City officials in doubt as to their duties in such circumstances are encouraged to seek advice from the City Attorney.
9. The City Manager is responsible for ensuring that human resources records are controlled, maintained, disposed of, and that requests for copies are processed, in accordance with the Public Records Act and the rules of the Florida Division of Archives, History and Records Management. To that end, the City Manager is authorized to develop additional administrative procedures and forms so as to accomplish this responsibility.
10. While managerial personnel responsible for drafting performance evaluations may, to assist them in drafting annual evaluations, maintain separate notes on positive/negative conduct or performance, including notes on verbal counseling events, such records are public records and, if specifically referenced in an evaluation or discipline notice, must be attached thereto.

**B. Access to and Retention of Official Personnel Files**

1. Personnel files (official and informational copies) are public records subject to review

under Florida Statutes § 119.07, subject to any applicable exemption(s). Official employee personnel files may be reviewed at the Human Resources Department during normal working hours. The records custodian, or designee, will assist and supervise during the review. Documents cannot be removed or rearranged within the official personnel file during review.

*~~NOTE: Employees holding certain positions are entitled under Florida law to request that certain personally identifying information such as home addresses, not be released by other governmental agencies which may be in possession of this information. It is the responsibility of each employee holding such a position to make these requests to other governmental agencies.~~*

2. Requests concerning past or present employee personnel information should be referred to the Human Resources Department. The Human Resources Staff will respond to inquiries from agencies and the general public regarding disclosure of official personnel data.
3. In accordance with the Florida Public Records Act, copies of personnel files may be made and furnished to requesters upon payment of the statutory fees. Money collected is remitted to the City's general fund. Employees are not charged for single copies made from their official personnel files. However, they shall be charged the established rate for additional copies. The Human Resources Department is responsible for reviewing a personnel file prior to production or copying to ensure all material exempt from public records disclosure has been covered.
4. Official personnel files must be retained for a length of time determined by the State of Florida Bureau of Archives and Records Management. This period is currently twenty-five (25) years following the employee's effective date of separation from City employment. Because of the permanency of such records, department directors must carefully review documents to determine their necessity before requesting entry to the "official" personnel file. The City Manager, in consultation with the City Attorney as needed, is authorized to develop administrative procedures concerning the proper storage of, and access to, records, including medical files, of current or former employees.

### III. PROBATIONARY PERIOD

1. The first ~~twelve (12)~~ six (6) months of employment serve as a probationary period for all non-at-will employees filling regular full-time or part-time positions and are used for the following:
  - a. To provide an adjustment period for an employee to become familiar with his/her job duties and responsibilities.
  - b. To provide on-the-job instruction, guidance, and counseling.



- c. To observe and evaluate employee job performance.
  - d. To remove/discharge an employee whose job performance fails to meet required work standards or who, for reasons stated in Section XI.B. of this Policy, must be removed/discharged for other reasons.
2. Probationary employees are not entitled to utilize the Employee Complaint Procedure (ECP) or appeal process unless a claim of unlawful discrimination is made, nor are they entitled to any hearing except as provided in Section XI.D.2.d. of this Policy.
  3. Regular employees accrue paid leaves of absence during the probationary period. They can use accrued sick or vacation hours subject to normal approval procedures (after they have been credited to their accrual accounts).
  4. Probationary employees who leave City employment are paid their compensatory time and accrued vacation leave balances in accordance with Section VII. A. of the Policy. This payment is made at the employee's base hourly pay rate in effect at the time of separation. If service is terminated by death, payment is made as authorized by Florida Statutes § 222.15.

#### **IV. PAY, HOURS OF WORK, AND WORKWEEK**

##### **A. General Policies**

1. Due to the variety of services provided by City departments, certain employees may be required to work varying days and hours. Department directors schedule work that is necessary and beneficial for the efficient operation of the City. It is the responsibility of the department director to manage overtime within budgetary constraints. Pursuant to 29 C.F.R. § 553.23, by accepting employment with the City, all overtime-eligible employees agree that the City may elect to provide compensatory time in lieu of payment of overtime work in cash pursuant to its compensatory time policies. Employees may also be required, at the discretion of the City, to use compensatory time in lieu of vacation pay when requesting vacation time off.
2. Non-Exempt Employees
  - a. For purposes of this Policy, all employees not considered exempt will be considered non- exempt, and therefore subject to the minimum wage and maximum hour provisions of the Fair Labor Standards Act (FLSA). Non-exempt employees are eligible to earn overtime (including premium pay differential when applicable) or compensatory time at one and one-half (1 ½) times their hourly rate.
  - b. Whenever a non-exempt employee becomes promoted or reclassified to an FLSA-exempt position, the employee shall have any accrued compensatory time paid to him/her at their rate of pay of the non-exempt position they held immediately prior to their promotion.

3. Exempt Employees:

- a. For the purposes of this Policy, exempt employees are expected to work whatever hours are necessary to accomplish assigned duties and responsibilities. However, it is recognized that because exempt employees are often required to work irregular and/or extended hours, it is appropriate that they be provided a certain latitude in occasionally being away from their place of work during normal work hours. It is the responsibility of the immediate supervisor or the department director to determine if the absences are inappropriate.
- b. Exempt employees are not eligible to be awarded compensatory time or premium pay differential.
- c. Department directors may suggest the exemption of certain job classifications from the provisions of the Fair Labor Standards Act (FLSA). However, the final determination is made and executed by the City Manager, in consultation with the City Attorney's Office.

**B. Allocation of Work Hours, Workweek and Work Period**

1. The *workweek* starts at 12:00 a.m. on Saturday and ends at midnight the following Friday. The normal full-time work schedule includes forty (40) hours during the workweek. These hours should not be construed as either a fixed minimum or maximum. Work hours that exceed a normal workweek may be required. Except as provided herein or as determined by the department director, in conjunction with the City Manager and payroll staff, normal hours are Monday through Friday, 8:00 a.m. to ~~5:00~~ 4:30 p.m.
2. *Lunch periods*- Bona fide meal periods (employee is completely relieved from duty for the purpose of eating regular meals) are not work time and are unpaid. The time scheduling and length of lunch periods are coordinated between the employee and the supervisor, according to that organization's needs. (Note: There is no federal or State of Florida law requiring meal breaks in industries or offices, with the exception that minors 17 years of age or younger shall not be permitted to work for more than 4 hours continuously without at least 30 minutes for a meal period.)
3. *Break (rest periods)* - Breaks (usually not more than 15 minutes each) may be permitted by supervisors when the work requirements allow them and must be allowed for nursing mothers to express milk for up to one year after birth. Break periods are considered to be rest periods and must fall within working hours (work is performed immediately preceding and following the break period) and may not be accumulated for additional time away from work.

*(Note: There is no federal or State of Florida law requiring rest periods, but if they are offered, they must be counted as hours worked.)*

4. *Flextime* is the generic term for flexible scheduling programs - work schedules that permit flexible starting and quitting times within limits set by management. Flextime requires employees to work a standard number of hours within a given time period (usually forty (40) hours during a five-day work week). Each City department has the option to use flextime if it can be adapted to better meet that organization's unique needs. However, each City department or division which elects to permit flextime must, with the assistance of the Human Resources Staff, adopt a flextime procedure which will be published to the department's employees, and which will be uniformly applied within that department or division.
5. *Work-at-Home Program* - ~~The Madeira Beach Board of Commissioners does not recognize a "work-at-home" program.~~ There may be times when certain projects could be performed by employees who are at home due to extenuating circumstances. Any such projects must be authorized by the department director and approved by the City Manager prior to work being done. If a project is approved to be completed at home, the project must be familiar to the employee concerned and have definite parameters for measuring the time necessary to perform the work. The employee will only be compensated for the standardized hours recognized for completion of the project. City equipment is not to be used outside the regular workplace, unless authorized by the department director and approved by the City Manager. All hours worked at home must be reported.
6. *Medical Attention* - In accordance with 29 C.F.R., § 785.43, time spent by an employee in waiting for and receiving non-elective medical attention on the premises or at the direction of the employer during the employee's normal working hours on days when he or she is working constitutes hours worked except for worker compensation visits (see also section VII.B.8.a. of this Manual).
7. *Furlough* - Notwithstanding any other provision of these policies to the contrary, where the City Manager, in consultation with the Board of Commissioners, determines that current budgetary conditions require a reduction in the overall hours employees work in order to remain within the authorized budget, the operational hours of any one or more office, service or function of the City may be reduced for one or more weeks, days or hours, either consecutively or sporadically. Such periods of reduction may be either by complete closure or operation with a less than full staff as deemed necessary. Employees working within such offices, services or functions will be placed on unpaid furlough during such periods, and hours spent on furlough shall not count as hours worked for any purpose. Pursuant to 29 C.F.R. § 541.710(b), the City Manager is authorized to deduct hours spent on any furlough from any employee being compensated on a salary basis if budgetary constraints require the deduction.
8. *Electronic Timekeeping* – In recognition of the limitations which may be inherent in the electronic timekeeping systems the City may now or in the future use, including limitations on the delineation of actual lunch or break schedules, employees who are unable to enter the actual chronological times for such events shall not be subject to

discipline for falsifying records. FLSA non-exempt employees must, however, ensure that their actual hours worked each day are truthfully and accurately recorded in any such system to ensure proper payment of wages due, including overtime and premium pay.

9. *Pay Class/Annual Base Salary Calculations* – Annual base salaries shall be calculated based upon the pay class and full-time equivalent assigned to the position.

### C. Pay Eligibility

#### 1. Extra Hours

The necessity to work extra hours is made at the discretion of the City Manager. It is important that department directors ensure that extra hours are distributed equitably among employees qualified to perform the work, while considering the personal wishes of employees involved. However, it is ultimately the department director's decision to designate who will perform the extra hours.

For overtime control purposes, overtime-eligible employees are prohibited from coming to work early and leaving late for purposes of conducting work, or working through lunch periods or bringing work home, unless specifically authorized by their supervisor in advance. Supervisors shall monitor the workplace to ensure that employees who are not scheduled to be working do not remain in the workplace. Nothing herein is intended to prevent an employee from remaining in a City building during a meal period. However, during such a period, the employee is not expected to, and is prohibited from, performing work of any kind (including answering phones or reviewing emails) for the City.

Unless otherwise specified by a collective bargaining agreement, an employee shall be required to work overtime when assigned unless excused by the supervisor. An employee who refuses to work overtime when assigned will be subject to disciplinary action for said refusal. An employee scheduled to work overtime who fails to fulfill the assignment for reported medical reasons will, at the City's discretion, be required to substantiate the medical absence with a doctor's note or similar proof.

Overtime ~~or compensatory time shall~~ be documented by an electronic time off request. However, if this is not feasible, a schedule of work hours or other form of written documentation should be available to support the designation of overtime or compensatory time.

##### a. Non-Exempt Employees

All hours worked over forty (40) in a workweek are considered overtime and are compensated by overtime pay or compensatory time as agreed or understood before the work in excess of forty (40) in a workweek is performed. Absent emergency circumstances, overtime must be approved in advance by the City Manager ~~in advance~~ or the manager with authority to approve.

b. Exempt Employees

For the purposes of this Policy, exempt employees are paid on a salaried basis and are expected to work the hours necessary to accomplish assigned duties and responsibilities. Paid extra hours are only to be considered under the terms of an approved performance bonus plan.

2. Overtime Pay

Employees entitled to overtime pay are paid for each work hour in excess of forty (40) hours in the workweek at a rate of one and one-half (1 ½) times their regular hourly rate of pay, including premium pay differentials when applicable.

The City Manager said he did not believe in allowing compensatory time and asked that it be removed from the employee policy handbook. The Commission consented.

~~3. Compensatory (Comp.) Time~~

~~Time off in place of overtime is called compensatory (comp.) time.~~

- ~~a. Non-exempt employees scheduled for extra hours of work designated as comp. time are credited at the rate of one and one-half (1 ½) hours for each hour worked. Used comp. time (reflected on the timecard) is deducted from the compensatory time accrual account hour for hour and does not count as hours worked.~~
- ~~b. Employees may be required to utilize compensatory time in lieu of leave time at the discretion of the department director.~~
- ~~c. Non-exempt employees are prohibited from accumulating comp. time balances in excess of one hundred twenty (120) hours (180 for certain Fire/EMS employees who work 24/48-hour shifts). Such employees who perform work and are not eligible for the accumulation of additional comp time shall be compensated by regular or overtime pay as the case may be. By accepting employment with the City, employees consent to be paid comp. time in lieu of overtime pay at the discretion of management.~~
- ~~d. Comp. time hours shall be paid out when an employee is promoted or reclassified to an FLSA-exempt position, as specified in Section IV.A.2.b., or when an employee separates (voluntarily or involuntarily) from City service.~~
- ~~e. An employee who has accrued compensatory time, and requests use of the time, must be permitted to use the time off within a reasonable period after making the request, if it does not unduly disrupt the operations of the agency (29 U.S.C., § 207 (O)(5)). Comp. time cannot be used in lieu of sick leave if sick leave balances are available.~~

~~f. When a non-exempt employee is designated as “acting” in an open exempt position (such as a manager position open due to retirement where a new manager must be recruited), the employee shall be compensated during this acting status as an FLSA exempt manager and shall therefore not be eligible for overtime, comp or premium pay differential.~~

~~g. However, when a non-exempt employee is only temporarily fulfilling the duties normally associated with an exempt position (such as to cover for a vacationing manager) in addition to their normal duties, the employee shall continue to be paid his/her normal rate of pay, and shall be eligible for overtime, comp and premium pay differential, as may normally be applicable.~~

After discussion, the Board agreed to have Attorney Eschenfelder remove all references to comp. time throughout the policy.

Chair Cantrell recessed the meeting at 5:46 p.m. for a five-minute break.

The Board reconvened the meeting at 5:55 p.m.

#### 4. On-Call Status

- a. Exempt employees are ineligible for on-call status.
- b. An employee required to remain on-call (on City premises or so close that he/she cannot use the time effectively for personal purposes) is considered to be working in an on-call status. On-call hours are designated as work hours for the workweek and count towards overtime.
- c. On-call hours for non-exempt employees are eligible for premium pay differentials, overtime, and compensatory time.
- d. On-call employees must always be reachable by a pre-designated means of communication and able to arrive at the work location within the time established by the department director or designee. As employees are compensated for on-call assignments, they must refrain from drinking alcohol, taking medications, or engaging in any other conduct which would prevent being ready for duty. Further, if they are unavailable when called in, they will be subject to disciplinary action and will not be paid any on-call pay for that assigned period. On-call assignments should be distributed equitably among qualified employees, consistent with operational needs.

#### 5. Standby Status

- a. Exempt employees are ineligible for standby pay.
- b. Employees who are not otherwise informed that they have been scheduled to work and who are placed on standby status (instructed to be available but otherwise able

to use the time effectively for personal purposes) may remain at home, or they may leave word how (pager, cell phone, etc.) and where they can be reached, but they must do one or the other. These employees receive straight time pay (compensatory time not allowed) for hours designated as standby assignment, with maximum accruable hours of three (3) in a 24- hour period. Standby hours must be outside the scheduled (regular or modified schedule) workday and may not be assigned to or worked by employees who do not work their regularly scheduled shift immediately prior to standby assignment, or who are unable to respond, due to illness. Employees who receive advanced notice of a requirement to report for duty, even where such work is to be performed outside of a regular schedule, are not eligible for standby pay. Since assigned standby hours can vary according to circumstances, guidelines will be used to award compensation as shown below. (Note: No other proration methods are authorized):

- ❖ Less than five (5) hours of standby status is ineligible for standby pay
  - ❖ One (1) hour of straight time pay for 5 up to 9 hours of standby status
  - ❖ One and one-half (1.5) hours of straight pay for 9 up to 12 hours of standby status
  - ❖ Two (2) hours of straight pay for 12 up to 16 hours of standby status
  - ❖ Two and one half (2.5) hours straight pay for 16 up to 20 hours of standby status
  - ❖ Three (3) hours of straight pay for 20 up to 24 hours of standby status
- c. If employees on standby status are required to report for duty, they are paid for hours worked, with a minimum of two (2) hours for the first “call out” regardless of time spent responding. Thereafter, employees shall only be paid for the actual hours worked on subsequent “call outs” during the standby period. Call-out hours are eligible for premium pay differentials and count as hours worked towards overtime. In addition to the call-out hours, employees are also compensated for standby status as reflected under Section IV.C.6.b.
- d. Employees placed on standby assignments must always be reachable by a pre-designated means of communication and able to arrive at the work location within the time established by the department director or designee. As employees are compensated for standby assignments, they must refrain from drinking, taking medications or engaging in any other conduct which would prevent being ready for duty. Further, if they are unavailable when called in, they will be subject to disciplinary action and will not be paid any standby pay for that assigned period.
- e. Standby assignments should be distributed equitably among qualified employees, consistent with operational needs.

The Board requested that the company hired through the RFP for the salary and compensation pay study look at Sections IV.C.4. and IV.C.5. to see if what the City is paying is comparable to other cities.

After a brief discussion, the City Manager and Attorney Eschenfelder agreed to confer about Sections IV.C.4. and IV.C.5. and make a recommendation at the next meeting.

#### **D. Work Time Records and Emergency Conditions**

1. The City's Work Time Records or timecards are designed to meet the record-keeping requirements of the FLSA. Department directors are responsible for maintaining a record of work schedules for non-exempt employees.
2. **Exempt Employees:** Due to their exempt, salaried status, and the expectation that they are often required to work irregular and extended hours but have the latitude of occasionally being away from their workplace during normal work hours, exempt employees complete work records but do not have to complete a daily record of time worked. For payroll accounting purposes, they will need to record absences charged to employee benefit accounts (i. e., sick, vacation, holiday, etc.). Exempt employees are not required to create time worked records unless absences are charged to their accrued benefit accounts.
3. **Non-Exempt Employees:** All hours (paid, unpaid or charged to accrual accounts) must be recorded in the City's time and attendance system daily for the non-exempt employee's scheduled work periods. Pay, including overtime pay, is calculated for each workweek, and paid (if overtime pay) or credited (if comp. time) to employees on a bi-weekly basis. Non- exempt employees are required to sign their time records, either physically or, where provided, via electronic means.
4. After payroll has completed processing, original records of time worked are maintained by human resources for the appropriate periods set forth in the FLSA and Florida records retention schedule. To the extent the City employs an electronic time and attendance system, such records maintenance may be performed electronically.
5. **Emergency Conditions:** When the Board of Commissioners formally declares a state of emergency, City employees who hold positions designated to perform essential services during the actual emergency declaration period shall, ~~if~~ report to work when required. The City Manager or department directors may also require employees who perform essential services to work during actual or impending extreme emergency situations or conditions (weather, hazard, etc.), not declared as a "state of emergency."
6. **Pay for Work During Declared Emergency:** During a declared emergency, City offices and operations may close. Employees who are not directed to work in any capacity during such closure must not report for duty during such periods. Employees are not authorized to designate themselves as essential or to perform work of any kind for the City during a closure of City offices and operations, unless expressly directed to work by their director or the city manager.

For all employees in positions classified as FLSA exempt, such employees will receive no additional compensation for any hours worked during any declared emergency. FLSA non-exempt employees shall receive compensatory time at 1.5 times their



regular hourly rate of pay for any hours worked during any declared emergency regardless of what non-emergency hours he or she may have worked during any given work week and regardless of what specific work assignment such employee is given during the emergency period.

Non-FLSA exempt employees shall not be compensated for any time off during such periods.

FLSA exempt employees shall be paid their established salaries except that if they are not directed to perform any work during the entire work week, such employees shall not receive their salaries for that week.

Employees who are not compensated due to a closure during a declared emergency may, at their discretion, use any available vacation or compensatory leave to accommodate otherwise unpaid periods. Employees may not use non-FMLA sick leave for such periods unless they demonstrate through medical documentation to their department director's satisfaction that they were medically unable to perform their duties during the period in question.

In the event a City holiday falls on a day where the City is closed due to an emergency condition, compensation of the holiday for employees not required to report for duty shall be as provided for in this policy with respect to holiday compensation. Employees required to work on a holiday during a declared emergency shall be entitled to take the equivalent unpaid time off with no reduction in leave balance once the declared emergency ends and the leave may be scheduled.

All employees with approved leave requests covering the declared emergency period, regardless of leave type, are subject to having such leave cancelled and to being recalled to duty during the emergency period. Directors shall make every effort to accommodate pressing conditions, and ill employees, when determining which employees to call back from leave. Notwithstanding the foregoing, employees who cannot report for duty due to a certified FMLA condition shall not be called back to duty during an emergency condition.

**Failure to Report for Duty When Assigned:** Any employee required to report for duty during an emergency condition who fails or refuses to report and/or to perform duties as directed will be subject to termination from employment. Failure to monitor on-call or stand-by phone numbers and respond to calls will constitute a failure to report. The only exception to this policy will be for employees physically or medically unable to report or perform as ordered, or where the employee is on pre-authorized FMLA leave during the emergency period. For non-FMLA medical conditions, the City will require after the fact medical verification of medical conditions and reserves the right to require second opinion examinations. Employees claiming a physical inability to report when required are not permitted to cite a mere fear of travel during the emergency condition, or a general concern for not staying with family. Employees, particularly those designated by their departments as being critical responders during

emergency conditions, have a responsibility to plan ahead for the safety and welfare of their families and the securing of their property so that they will have the ability to report when called. Only extraordinary incidents of inability to report wholly beyond the employee's ability to control will be excused.

Chair Cantrell asked the City Manager to send a sample Offer Letter to the Board.

## **8. ITEMS TO BE SCHEDULED FOR FUTURE MEETINGS**

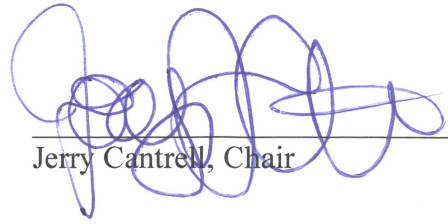
1. RFP – Classification and Compensation Plan Study – To include an analysis of the current staff positions and their responsibilities; increased efficiency and cross-training of personnel to develop teamwork within the departments and within the organization as a whole; a new classification and compensation plan with updated positions descriptions, policies and procedures for future classification action and related management/supervisory training
2. Classification of all Classified City Positions, based upon the Duties, Authority, and responsibility of each position, with adequate provisions for classification of any position whenever warranted by circumstances (City Charter, Sec. 5.7, C, 1)
3. Pay Plan for all Classified City Positions (City Charter, Section 5.7, C, 2)
4. Methods for determining Merits and Fitness of Candidates for Appointment or Promotions (City Charter, Section 5.7, C, 3)
5. Grievance procedures, including procedures for hearing of grievances by the Civil Service Commission, which may render advisory opinions based on its findings to the City Manager with a copy to the aggrieved employee. In this respect, the Civil Service Commission shall have the power to issue subpoenas to compel attendance by witnesses and to administer oaths (City Charter, Section 5.7, C, 6)
6. Implementation Process for making sure that all Rules, Regulations, and Procedures of the Employee Personnel Policy are working and are followed by everyone (City Charter, 5.7, C, 8)
7. Meeting Schedule for Regular Meetings
8. Ex Officio Board Member – Robert's Rules of Order
9. Employee Satisfaction Surveys
10. Department Specific Rules
11. Chair and Vice Chair Appointments in November 2023
12. HR Director Position
13. PowerPoint History Presentation- Civil Service Commission beginning when it was first created by the City of Madeira Beach Voters

## **9. NEXT MEETING**

Monday, November 20, 2023 at 3:30 p.m.

## **10. ADJOURNMENT**

Chair Jerry Cantrell adjourned the meeting at 6:27 p.m.



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Jerry Cantrell, Chair

ATTEST:



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Clara VanBlargan, City Clerk/Secretary Ex-Officio

