

Unified Personnel Board
Pinellas County
April 1, 2021 Meeting Minutes

The Unified Personnel Board (UPB) met in regular session at 6:29 PM on this date in the Magnolia Room at the Pinellas County Extension Office, 12520 Ulmerton Road, Largo, Florida.

Present

Joan M. Vecchioli, Chair
Ricardo Davis, Vice-Chair
Jeffery Kronschnabl
Peggy O'Shea
Kenneth Peluso
William A. Schulz II

Not Present

Paul Rogers

Others Present

Jack Loring, Human Resources Officer
Jennifer Monroe Moore, Ogletree, Deakins, et. al, P.C., Board Counsel
Shirley Westfall, Board Reporter
Other interested individuals

All documents provided to the Clerk's Office have been made a part of the record.

CALL TO ORDER

Chair Vecchioli called the meeting to order at 6:29 PM; whereupon, she led the Pledge of Allegiance.

CITIZENS TO BE HEARD – NONE

EMPLOYEES' ADVISORY COUNCIL (EAC) REPRESENTATIVE

EAC Representative Charles Toney reported on the following items:

- EAC plans to have an EAC Delegates meeting in May.

- He expressed appreciation to Senior Assistant County Attorney Carole Sanzeri for her presentation on the Sunshine Law.
- Revisions to the EAC bylaws will tentatively be discussed at the next UPB meeting.
- The EAC has been submitting monthly articles to *The Pen* newsletter.
- The Benefits Advisory Committee has established several subcommittees, including subcommittees regarding voluntary benefits and leave time off.
- A bill to eliminate new employees' entry into the pension side of the Florida Retirement System is pending in the Florida Senate.
- Human Resources Director Kimberly Crum has been meeting with the EAC on a regular basis.

CONSENT AGENDA

Upon motion by Mr. Peluso, seconded by Mr. Davis and carried unanimously, the minutes of the regular meeting held on March 4, 2021, were approved.

INFORMATIONAL ITEMS

Update from Human Resources

Mr. Loring updated the members on the following items:

- HR recently concluded a special enrollment period for benefits that enabled employees to enroll or make changes in their flexible spending accounts.
- HR classification compensation team is collaborating with the Appointing Authorities to streamline position maintenance processing.
- An Oracle system upgrade is expected to be concluded in July.
- Workforce strategy staff has assisted hiring managers with a total of 112 new hires this year and continues to do so.
- HR has created a special COVID-19 edition of *The Pen* newsletter.
- Learning and Development has launched a new leadership development program for the Utilities Department.

The documents titled *Action Taken Under Authority Delegated by the Unified Personnel Board* and *EAC – Representative Meeting Minutes of December 16, 2020*, have been made a part of the record.

TERMINATION APPEAL

The appeal of termination filed by Derrick Clark, formerly of Pinellas County Public Works, was presented by Employee Advocate Tammera Maloney, representing the Appellant, and by Assistant County Attorneys Ashley N. Donnell and Jeff Klein, representing the Appointing Authority.

Chair Vecchioli indicated that exceptions submitted by the Appellee would be considered first.

Attorney Donnell referred to the Appellant's Exhibits Nos. 11 – 14 and requested that they be excepted from the Appellant's testimony as not relevant to the hearing, and in response to a query by Chair Vecchioli, she stated that she is not certain how Exhibit 10 can be authenticated, and requested that it also be excepted, unless relevancy can be shown.

During discussion, Ms. Maloney related that the exhibits are necessary to show the discriminatory treatment of employees with regard to insubordination. Responding to queries by Chair Vecchioli and Attorney Moore, she confirmed that the exhibits are offered without additional witness testimony, and Attorney Donnell stated that she does not object to the Appellant's Exhibit No. 9; whereupon, the Chair reminded the members that the Board does not adhere to the rules of evidence as strictly as a law court and has historically been liberal concerning the introduction of evidence to ensure due process.

Upon call for a motion by the Chair, Mr. Schulz moved, seconded by Mr. Davis and carried unanimously, that the Exhibits Nos. 10-14 be allowed into evidence.

The meeting was recessed prior to the Appeal at 6:55 PM and during testimony at 9:20 PM and reconvened at 7:12 PM and 9:34 PM, respectively.

Those planning to testify were sworn by the Deputy Clerk; whereupon, Attorney Donnell and Ms. Maloney presented opening statements.

Following testimony, cross-examination, and questioning of the parties and witnesses by the Board, the members consented to forego closing arguments; whereupon, Attorney Moore reviewed the three issues to be resolved.

1. Does the Board find that the Appellant committed the activities for which he was terminated?

Mr. Peluso stated that the Appellant admitted that he committed the activities for which he was terminated; whereupon, he moved, seconded by Mr. Kronschnabl, that the Board find that the Appellant did so. Discussion ensued, and the members expressed concerns regarding conflicting testimony and the lack of progressive discipline, as well as the County policies and whether they were violated and consistently applied. Upon call for the vote, the motion carried 4 to 2, with Messrs. Schulz and Davis dissenting.

2. Does the Board find that cause existed for the disciplinary action in that the above activities violated the Personnel Rules cited by the Appointing Authority?

Attorney Moore indicated that there are three rules to be considered under the above issue, Personnel Rule 6(D)(7), leaving workstation without authorization, Personnel Rule 6(D)(11), unauthorized use of County equipment or property, and Personnel Rule 6(D)(29), the employee's conduct interferes with the proper cooperation of co-workers or impairs the efficiency, morale, good order, or discipline of the workplace; whereupon, Chair Vecchioli recommended that the Board consider each rule separately.

PERSONNEL RULE 6(D)(7)

Mr. Peluso moved that Rule 6(D)(7) was violated, seconded by Ms. O'Shea. Mr. Schulz indicated that the Appellee obtained his supervisor's permission to leave the workstation for a meeting, and Mr. Davis expressed his concern regarding the rules being applied evenly and fairly across the board. Messrs. Peluso and Kronschnabl opined that the Appellant failed to heed the direction of his supervisor to get authorization to attend the meeting from the supervisor's manager; and that the Appellant and the manager had a conflict. Upon call for the vote, the motion carried 4 to 2, with Messrs. Schulz and Davis casting the dissenting votes.

PERSONNEL RULE 6(D)(11)

Mr. Peluso moved, seconded by Ms. O'Shea, that if Rule 6(D)(7) was violated, then Rule 6(D)(11) was automatically violated. Ms. Schulz emphasized that employees do not need permission to speak to Human Resources, Human Rights, or Employee Relations offices; and that only notification is needed; therefore, the Appellant did not violate the rule by driving a County vehicle without authorization, noting that other employees were allowed to drive their vehicles to the same meeting, and Mr. Davis echoed the sentiments. Chair Vecchioli noted the distinction between the vehicles driven by the Appellant and the other employees, and Ms. O'Shea related that based on her interpretation of the rule, the

Appellant did not use County equipment for personal purposes, because he drove a County truck to a County meeting.

Mr. Schulz questioned if there is a written policy regarding permission being required to attend meetings with the aforementioned office representatives. Mr. Davis reiterated his concern regarding unfair treatment of the Appellant, noting that a meeting regarding the Appellant's concerns still has not been scheduled.

Discussion continued, and upon call for the vote, the motion carried 4 to 2, with Messrs. Schulz and Davis dissenting.

PERSONNEL RULE 6(D)(29)

Mr. Peluso moved, seconded by Mr. Kronschnabl, that the rule was violated; whereupon, Mr. Kronschnabl expressed concern regarding issues within the department, including morale, discipline, communication, and diversity. Upon call for the vote, the motion carried 4 to 2, with Messrs. Schulz and Davis dissenting.

3. Does the Board find that the disciplinary action taken by the Appointing Authority was appropriate?

Mr. Schulz moved that the termination was not appropriate, noting that prior disciplinary actions were irrelevant to the current case. The motion was seconded by Mr. Davis, and discussion ensued. Mr. Davis expressed his concerns on how management handled the situation and did not step forward to alleviate potential issues. Chair Vecchioli indicated that while there were issues such as attitude and cooperation to be addressed with the Appellant, there was a lack of progressive discipline; and that termination may not have been an appropriate action for the incident that led to it. Upon call for the vote, the motion carried unanimously.

Upon discussion of further action in light of overturning the termination, Attorney Donnell indicated that she will communicate an alternative proposal of the Appointing Authority to the Board, the Appellant, and his advocate; whereupon, Attorney Moore indicated that if the proposal is agreed upon, the Appellant could report back to work earlier than the next Board meeting; and that the Board's final approval of the matter would occur at the next Board meeting through a stipulated action.

A digital recording of the proceeding has been made a part of the record.

OTHER BUSINESS

Mr. Schulz expressed his concerns about fairness, suggesting that if an employee, the Appellant, is represented by an advocate, then management of the department of the Appointing Authority, the Appellee, should represent themselves, and if an employee has an attorney, then a County attorney should represent the Appointing Authority. Ms. Moore stated that although she understands his concern, there is nothing within the rules that provides for this requirement. Mr. Schulz requested that the matter be included on a future meeting agenda for discussion, and Chair Vecchioli provided input.

ADJOURNMENT

There being no further business, Chair Vecchioli adjourned the meeting at 12:15 AM.