

CIVIL SERVICE BOARD MEETING

DECEMBER 4, 2013

A regular called meeting of the Clayton County Civil Service Board was held on Wednesday, December 4, 2013, in the Commissioners' Board Room.

Members present: Larry A. Bartlett, Chairman
 Troyce B. Lancaster, Vice-Chair
 Gbenga Osagie, Member
 J. Mark Trimble, Member
 Lori Favre, Member

Also present: Human Resources Director Renee Bright and various staff members; Civil Service Board Attorney Joe Harris; Civil Service Board Attorney Robert Mack; County Attorney Michelle Terry; Police Department Legal Advisor Kenneth Green; Sheriff Assistant Chief Deputy Shawn Southerland; Attorney Thomas Florio; Attorney Keith Martin; Attorney Steve Frey; Solicitor Tasha Mosely; Juvenile Court Director John Johnson; various employees from County departments; and other individuals.

Chairman Bartlett called the meeting to order at 9:15 a.m., and noted for the record that all Board members were present. Chairman Bartlett called for a motion to adopt the December 4th agenda. Mr. Trimble made a motion to adopt the agenda, second by Mr. Osagie. No further discussion on the motion made. Motion carried by unanimous vote (5-0).

1. Considered for approval the Civil Service Board Meeting minutes that was held on November 5, 2013.
 - a. Chairman Bartlett called for a motion to adopt the November 5th minutes. Mr. Trimble made a motion to adopt the minutes, second by Mr. Osagie. Chairman Bartlett entered into discussion that he recused himself from voting on this matter. Motion carried by unanimous vote.

2. Considered for approval the Civil Service Board Meeting minutes that was held on November 6, 2013.
 - a. Chairman Bartlett called for a motion to adopt the minutes for the November 6th meeting. Mr. Trimble made a motion to adopt the minutes, second by Mr. Osagie. Motion carried by unanimous vote.

3. Considered for approval the Civil Service Board's Executive Session Minutes for the Thomas David Ward, Police Department, appeal that was heard on November 6, 2013.
 - a. Chairman Bartlett called for a motion. Mr. Trimble made a motion to approve the minutes, second by Vice-Chair Lancaster. The only discussion was that of Chairman Bartlett stating that he recused himself from voting in that decision. Motion carried by unanimous vote.

4. Considered for approval the Civil Service Board's Decision regarding Linda Sue Ellis, Transportation and Development, appeal that was heard on November 5, 2013.
 - a. Chairman Bartlett called for a motion. Mr. Trimble made a motion to approve the decision, second by Mr. Osagie. The only discussion came from Vice-Chair Lancaster in reference to a misspelled word on page two of the decision. Chairman Bartlett went on to state that the error has not effect on the decision. Motion carried by unanimous vote.

5. Considered request from Sonja Sanchez, Solicitor General, to receive annual leave donation.
 - a. Solicitor Mosley spoke in favor of the annual leave donation
 - b. Chairman Bartlett asked Ms. Renee Bright if the request met all Civil Service requirements.
 - c. Director Bright replied in the affirmative.
 - d. Ms. Sanchez was not in attendance.
 - e. Chairman Bartlett called for a motion. Mr. Trimble made a motion to approve, second by Mr. Osagie. No further discussion on the motion made. Motion carried by unanimous vote.

6. Considered re-submitted request from Pamelyn Harris, Juvenile Court, to receive annual leave donation.
 - a. Ms. Harris presented her request.
 - b. Chairman Bartlett reminded the Board that Ms. Harris submitted a request last month, but needed some clarity on the policies as they pertain to annual leave donations.
 - c. The Board had no questions.
 - d. Chairman Bartlett called for a motion. Mr. Trimble made a motion to approve the request, second by Vice-Chair Lancaster. No further discussion on the motion made. Motion carried by unanimous vote.

7. Considered request for Annell Graniela, Juvenile Court, to receive annual leave donation.
 - a. Director John Johnson presented the request to the Board.
 - b. Chairman Bartlett asked Ms. Bright if the request met all of the Civil Service requirements.
 - c. Director Bright answered in the affirmative.

- d. Chairman Bartlett called for a motion. Mr. Trimble made a motion to approve the request, second by Mr. Osagie. No further discussion made on the motion. Motion carried by unanimous vote.
8. Considered request for Sharon Knox Crisler, Sheriff's Office, to receive annual leave donation.
 - a. Ms. Chrisler was not present.
 - b. Chairman Bartlett asked Assistant Chief Deputy Southerland if he had any opposition to the donation.
 - c. Assistant Chief Deputy Southerland had no objections.
 - d. Mr. Bartlett asked Ms. Bright if the request met all of the Civil Service rules.
 - e. Ms. Bright answered in the affirmative.
 - f. Chairman Bartlett called for a motion. Mr. Trimble made a motion to approve the request, second by Vice-Chair Lancaster. No further discussion made on the motion. Motion carried by unanimous vote.
 9. Considered request from Joyce Wright-Williams, Police Department, to use sick leave reserve hours.
 - a. Chairman Bartlett asked if Ms. Wright-Williams was present. Ms. Wright-Williams was not present.
 - b. Chairman Bartlett questioned Ms. Bright on the procedure to use sick leave reserve hours.
 - c. Ms. Bright informed the Board on the procedure to use sick leave reserve hours.
 - d. Chairman Bartlett called for a motion. Mr. Trimble made a motion to approve the request, second by Mr. Osagie. Motion carried by unanimous vote.
 10. *Appeal* – Considered appeal that was filed on February 14, 2011, by Barry O. Cauthen, Sheriff's Office, with regards to: Termination.
 - a. Chairman Bartlett acknowledges that Mr. Cauthen is being represented by Attorney Thomas Florio and addressed his request for a continuance
 - b. There were no oppositions to the request for continuance.
 - c. Chairman Bartlett called for a motion. Mr. Trimble made a motion to approve the request, second by Mr. Osagie. Motion carried by unanimous vote.

- d. Chairman Bartlett and Ms. Bright discussed moving the case to the January meeting.
11. **Continuance** – Considered continuance for appeal that was filed on February 22, 2011, by Deborah L. Kundrat, Sheriff's Office, with regards to: Termination.
- a. Chairman Bartlett acknowledged that Ms. Kundrat is represented by Attorney Keith Martin.
 - b. Mr. Martin confirmed that he is representing Ms. Kundrat, who was not present, and asked for a continuance due to his inability to contact Ms. Kundrat.
 - c. Chairman Bartlett inquired as to how Mr. Martin was retained for his services by Ms. Kundrat.
 - d. Mr. Martin stated that he was contacted right after Mr. Kundrat's termination.
 - e. Mr. Martin proceeded to state that he had not received any notification of this case until November 27, 2013.
 - f. County Attorney Michelle Terry responded that it was the employee's responsibility to notify Human Resources and update the department of any changes, including her retention of legal counsel. She stated that the County had been in contact with Mr. Martin's office to inquire as to whether or not he was still representing Ms. Kundrat, but received no response. Ms. Terry stated that a continuance should not be granted.
 - g. The Board questioned Ms. Bright as to when Human Resources was notified that Mr. Martin represented Ms. Kundrat.
 - h. Ms. Bright responded that the Human Resources department was not notified.
 - i. The Board took a short break while Human Resources Analyst, Ryan Shaw, went to the Human Resources department to obtain Ms. Kundrat's Civil Service file.
 - j. The meeting reconvened shortly afterwards when Mr. Shaw returned with Ms. Kundrat's Civil Service file.
 - k. Assistant Deputy Chief Southerland informed the Board that Human Resources policies have not changed and that it is the employee's responsibility to contact the Human Resources Department if she has moved out of the state.
 - l. Ms. Kundrat's file was reviewed to determine if Ms. Kundrat signed for the certified mailed document notifying her of the hearing date and other deadlines.
 - m. The document was signed by a 'Stephanie Kundrat' on November 9, 2013.
 - n. Chairman Bartlett called for a motion to grant the requested continuance.

- o. Mr. Osagie stated that he felt that a continuance should not be granted.
 - p. Chairman Bartlett called for a motion to deny the requested continuance. Mr. Osagie made a motion to approve, second by Mr. Trimble. No further discussion was made on the motion. Motion carried by unanimous vote.
12. *Appeal* – Considered appeal that was filed on February 22, 2011, by Deborah L. Kundrat, Sheriff's Office, with regards to: Termination.
- a. Chairman Bartlett asked Mr. Martin if he intended to represent Ms. Kundrat.
 - b. Mr. Martin replied in the affirmative.
 - c. Chairman Bartlett called for a motion to take a short break. Mr. Trimble made the motion to approve, second by Vice-Chair Lancaster. No further discussion was made on the motion. Motion carried by unanimous vote.
 - d. Chairman Bartlett called the meeting back to order.
 - e. Chairman Bartlett asked counsel on each side if they are ready to proceed and they both answered in the affirmative.
 - f. Chairman Bartlett stated for the record that the appellant is not present and will be represented by Mr. Keith Martin.
 - g. Chairman asked if there were any requests for sequestration. Mr. Martin answered in the affirmative.
 - h. Chairman Bartlett asked Mr. Joe Harris to swear in all the witnesses and they were sequestered.
 - i. Chairman Bartlett asked the County Attorney, Ms. Terry, to present her opening statement. Ms. Terry proceeded to present her opening statement.
 - j. Mr. Martin was then asked by Chairman Bartlett to present his opening statement. Mr. Martin proceeded to present his opening statement.
 - k. Chairman Bartlett asked the Ms. Terry to call her first witness. Ms. Terry called Major Samuel Smith, Clayton County Sheriff's Department, to the witness stand. Major Smith stated his name, department, title and tenure for the record.
 - l. Ms. Terry asked Major Smith questions regarding the Deborah Kundrat case.
 - m. Mr. Martin entered an objection to an answer Major Smith provided stating that it was "hearsay." Chairman Bartlett sustained the objection given that no foundation was laid as to how Major Smith obtained the information.

- n. Major Smith continued with his testimony and spoke on the investigation of this incident and the recommendation of termination.
- o. Ms. Terry asked Major Smith to refer to **Exhibit 11 pages 8-9 and 41-46.**
- p. Mr. Martin offered an objection that was initially over ruled and later sustained by Chairman Bartlett.
- q. Major Smith stated that he recommended termination based on safety reasons. He stated that Ms. Kundrat knew that she violated policy. Major Smith maintained support of his recommendation for termination.
- r. Ms. Terry concluded her questioning and Mr. Martin proceeded to question the witness.
- s. Mr. Martin questioned Major Smith on the matter of correctional officer training. Major Smith stated that Kundrat was trained not to do the action for which she was terminated.
- t. Mr. Martin questioned Major Smith as to what role each officer involved in the incident played. Major Smith answered the question.
- u. Mr. Martin stated that he had no further questions.
- v. Chairman Bartlett questioned Major Smith as to the areas in which the incident took place. Major Smith explained where each area is located in respect to one another.
- w. Chairman Bartlett proceeded to ask Major Smith if there was a policy in place for moving inmates with charges such as murder.
- x. Mr. Martin objected to this question based on the fact that if there is a policy, that policy has not been tendered.
- y. Chairman Bartlett over ruled the objection and Major Smith states that there is a policy for the movement of such inmates. Major Smith stated that there is a log that needed to be filled out.
- z. Chairman Bartlett asked if the policy was upheld in the movement of the inmate involved in this incident. Major Smith stated that he did not recall.
- aa. Mr. Martin objected to the question based on "hearsay."
- bb. Mr. Osagie asked Major Smith as to what time of day did the incident occur. Major Smith answered that the incident occurred around 1:00 am. Mr. Osagie also asked who was in the control tower to open the cell door when the incident occurred. Major Smith answered that Officer Jennings opened the cell and was relieved by the Appellant.

- cc. Mr. Martin offered another objection based on "hearsay."
- dd. Major Smith clarified his statements.
- ee. Mr. Martin offered another objection based on "hearsay." The objection was sustained.
- ff. Mr. Trimble asked Major Smith who was the supervisor.
- gg. Major Smith answered the question.
- hh. The Board continued their questioning of Major Smith. There being no further questions, the Board excused Major Smith but informed him that he was subject to recall.
- ii. The Board asked Ms. Terry to call her next witness. Major Robert Sowell, Sheriff's Department, was to be called to the witness stand.
- jj. Mr. Trimble offered a motion to take a short break, second by Vice-Chair Lancaster. Motion was carried by unanimous vote.
- kk. Chairman Bartlett called the meeting back to order.
- ll. Ms. Terry called Lieutenant Keith McLaughlin, Sheriff's Department, to the witness stand instead of Major Robert Sowell. Lt. McLaughlin stated his name, department, position and tenure for the record.
- mm. Ms. Terry asked Lt. McLaughlin to examine **Exhibit 11**.
- nn. Ms. Terry questioned Lt. McLaughlin about the contents of **Exhibit 11**.
- oo. Lt. McLaughlin answered Ms. Terry's questions. Ms. Terry had no further questions.
- pp. Mr. Martin cross-examined Lt. McLaughlin. Mr. Martin asked Lt. McLaughlin when was the last time he looked at the original copy of the record.
- qq. Lt. McLaughlin stated that it was a few weeks back.
- rr. Mr. Martin continued questioning the witness. Lt. McLaughlin responded to all questions posed by Mr. Martin. Mr. Martin concluded his questioning.
- ss. The Board did not have any questions for Lt. McLaughlin. Lt. McLaughlin was dismissed.
- tt. Ms. Terry called Major Robert Sowell, Sheriff's Department, to the witness stand. Major Robert Sowell stated his name, title, department and tenure for the record.

- Ms. Terry proceeded to question Major Sowell about the incident that occurred in which Ms. Kundrat was involved.
- uu. Ms. Terry asked Major Sowell to examine **Exhibit 11 pages 6-8 and 10-46**. Major Sowell answered questions posed by the Ms. Terry.
 - vv. Ms. Terry asked what Major Sowell's recommendation for Officer Kundrat was.
 - ww. Major Sowell stated that his recommendation was termination due to safety reasons.
 - xx. When asked if he still stood behind his recommendation, Major Sowell answered in the affirmative.
 - yy. Ms. Terry continued her questioning of Major Sowell. Major Sowell answered questions posed by the County.
 - zz. Ms. Terry had no further questions. Mr. Martin cross-examined Major Sowell.
 - aaa. Mr. Martin asked Major Sowell who was in charge out of the three individuals involved in the incident.
 - bbb. Major Sowell stated that there was nobody in charge. Mr. Martin asked if there was an "ad hoc" leader. Major Sowell stated that usually the person in the control tower is seen as the leader.
 - ccc. Mr. Martin continued with his questioning of Major Sowell. Major Sowell answered questions posed by Mr. Martin.
 - ddd. The Board did not have any questions for Major Sowell. Ms. Terry asked to hold Major Sowell.
 - eee. Ms. Terry called Lieutenant Kim T. Smith, Sheriff's Department, to the witness stand.
 - fff. Lt. K. T. Smith stated his name, title, department and tenure for the record. Ms. Terry continued questioning Lt. Smith about the incident that Deborah Kundrat was involved in. Ms. Terry asked Lt. Smith to refer to **Exhibit 11 pages 8-9, 6-7, 16-17 and page 10**. Lt. K. T. Smith answered questions posed by Ms. Terry.
 - ggg. Mr. Martin cross-examined the witness as to what actions did Ms. Kundrat commit. Mr. Martin asked Lt. Smith to refer to **Exhibit 11 pages 10-11**. Lt. Smith answered questions posed by Mr. Martin. Mr. Martin had no further questions.
 - hhh. The Board questioned Lt. Smith about his reasoning behind his recommendation for suspension. Lt. Smith answered questions posed by the Board.

- iii. Chairman Bartlett asked if the witness could be released. Ms. Terry asked that the witness be held.
- jjj. Chairman Bartlett called for a motion to take a lunch break. Mr. Trimble made the motion, second by Vice-Chair Lancaster. No further discussion was made on the motion. Motion carried by unanimous vote.
- kkk. Chairman Bartlett called the meeting back to order.
- lll. Ms. Terry called Assistant Chief Deputy Shawn Southerland, Sheriff's Department, to the witness stand. He stated his name, title, department and tenure.
- mmm. Ms. Terry asked Chief Southerland about the incident that occurred with Ms. Kundrat. Chief Southerland answered questions posed by Ms. Terry.
- nnn. Ms. Terry asked that Chief Southerland examine **Exhibits 5, 4, 6, 7, 8, 10 and 12-14**. Terry then proceeded to ask questions based on the information provided in the exhibits. Chief Southerland answered questions posed by Ms. Terry.
- ooo. Ms. Terry inquired as to whether or not Chief Southerland still stood by his decision to terminate Ms. Kundrat. Chief Southerland answered in the affirmative. Ms. Terry had no further questions.
- ppp. Chairman Bartlett asked Mr. Martin to cross-examine the witness.
- qqq. Mr. Martin questioned Chief Southerland about the incident in which Ms. Kundrat was involved. Chief Southerland answered questions posed by Mr. Martin.
- rrr. The Board had several questions for Chief Southerland. Chief Southerland answered questions posed by the Board.
- sss. Chairman Bartlett asked Mr. Joe Harris if Ms. Kundrat's statement could be admitted into evidence or is it hearsay. Mr. Harris stated that it is "admissible hearsay" and could be admitted into evidence.
- ttt. There being no further questions, Chief Southerland was dismissed. Ms. Terry stated that she had no further witnesses and would like to tender her exhibits.
- uuu. Ms. Terry tendered **Exhibits 4, 5, 6, 7, 8, 10, 11, 12, 13 and 14**.
- vvv. Mr. Martin objected to **Exhibit 11, pages 18, 19, 20, 21, 23 and 24** on the basis of "hearsay." He stated that they heard no one testify to these documents. Chairman Bartlett sustained the objection.
- www. Ms. Terry and Mr. Martin rested their cases.

- xxx. Chairman Bartlett suggested a motion for a ten minute break. Mr. Trimble moved on the motion, second by Ms. Lancaster. Motion carried by unanimous vote.
- yyy. Chairman Bartlett called the meeting back to order and asked Ms. Terry for her closing statements. Ms. Terry reserved the right to go last and took advantage of this option allowing Mr. Martin to close first.
- zzz. Mr. Martin presented his closing statement.
- aaaa. Ms. Terry presented her closing statement
- bbbb. Chairman Bartlett asked to adjourn into **Executive Session**. Mr. Trimble moved on the motion, second by Mr. Osagie. No further discussion was made on the motion. Motion carried by a unanimous vote.
- cccc. The Board called the meeting back to order.
- dddd. Chairman Bartlett called for a motion on the appeal filed by Deborah L. Kundrat in regards to her termination. Mr. Trimble made a motion that the decision of the Sheriff's Department to terminate Ms. Kundrat be upheld, second by Mr. Osagie. No further discussion was made on the motion. Motion carried by a unanimous vote.

13. Discussion Items

- a. Meeting date for January 2014 selected- January 7 and January 8.
- b. Mr. Osagie stated that he had a conflict on January 8.
- c. Vice-Chair Lancaster made a motion to approve the selected January 2014 meeting dates, second by Mr. Trimble. No further discussion was made on the motion. Motion carried by a unanimous vote.

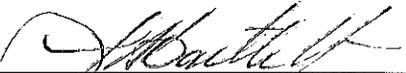
14. Other business

- a. Ms. Bright informed the Board that the COO has charged her with forming a committee to re-write the Civil Service rules. Ms. Bright stated that she would like a few members of the Civil Service Board to be a part of the committee. Chairman Bartlett asked who would be on the meeting as far as County officials. Ms. Bright stated that individuals such as representatives from the Sheriff, Police, Information Technology and Parks and Recreation Departments would be a part of the committee.
- b. Chairman Bartlett stated his belief that the employees needed representation on this Committee and that he did not mind being on the committee. Chairman Bartlett suggested that Ms. Lancaster also be a part of this committee. Ms. Lancaster concurred.

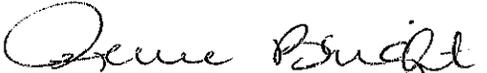
- c. Ms. Bright stated that the first meeting of this committee would be December 13, 2013 at 9:00 am in the Human Resources Training Room.

Chairman Bartlett stated that all matters had been concluded and called for a motion to adjourn this meeting. Mr. Trimble made a motion to adjourn, second by Mr. Osagie. No further discussion on the motion made. Motion carried by unanimous vote.

Meeting adjourned.



LARRY A BARTLETT
CHAIRMAN



RENEE BRIGHT
HUMAN RESOURCES DIRECTOR