

REGULAR CALLED CIVIL SERVICE BOARD MEETING

DECEMBER 2, 2015

A regular called meeting of the Clayton County Civil Service Board was held on Wednesday, December 2, 2015, in the Commissioners' Board Room.

Members present: Larry Bartlett, Chairman
 Troyce B. Lancaster, Vice-Chair
 Virginia Phillips-Hall, Member
 Dr. Cephus Jackson, Member
 J. Mark Trimble, Member

Also present: Human Resources Director Renee Bright and staff; Civil Service Board Attorney Joe Harris; Police Department Legal Advisor Kenneth Green; Deputy Chief of Police Gina Hawkins; Fire Chief Landry Merkison; Building and Maintenance Director Les Markland; County Attorney Michelle Youngblood; Attorney Grady Dukes; Alan Smithwick; various employees from County departments; and other individuals.

Chairman Bartlett called the meeting to order at 9:07 a.m.

Chairman Bartlett called for a motion to adopt the agenda. Mr. Trimble made the motion to approve the agenda with the addition of Item 6A – Annual Leave Request, second by Vice-Chair Lancaster. No further discussion on the motion made. Motion carried by unanimous vote (4-0).

[For the record, Chairman Bartlett stated Board member, Virginia Phillips-Hall, and Civil Service Board Attorney Joe Harris were not in attendance (would be running late) due to a major accident causing traffic jams and that the Board would handle administrative issues but hold off on starting the appeal hearing until their arrival.]

1. Considered for approval the Civil Service Board's Meeting Minutes held on November 4, 2015.
 - a. Chairman Bartlett called for a motion. Mr. Trimble made the motion to approve the Minutes, second by Vice-Chair Lancaster. No further discussion on the motion made. Motion carried by unanimous vote (4-0).

2. Considered for approval the Executive Session Minutes regarding Michael McDonald, Corrections/Refuse, termination appeal heard on November 4, 2015.
 - a. Chairman Bartlett called for a motion. Mr. Trimble made the motion to approve the Minutes, second by Vice-Chair Lancaster. No further discussion on the motion made. Motion carried by unanimous vote (4-0).

3. Considered for approval the Civil Service Board's Decision regarding Michael McDonald, Corrections/Refuse, termination appeal heard on November 4, 2015.
 - a. Chairman Bartlett tabled this approval and confirmed that the Board had 45 days to sign its Decision.
 - b. County Attorney Michelle Youngblood stated she had not reviewed the Decision and that she was out of town last week and explained in detail. (Copies of Decision were provided to the Board and County Attorney Michelle Youngblood).
4. Considered request from **Robert Smith, Jr. Building & Maintenance**, to use Sick Leave for the care of his Father.
 - a. Building & Maintenance Director Les Markland stated he did not object to the request.
 - b. Mr. Smith was not in attendance.
 - c. Chairman Bartlett called for a motion. Mr. Trimble made the motion to approve the request, second by Vice-Chair Lancaster. No further discussion on the motion made. Motion carried by unanimous vote (4-0).
 - d. [For the record, Chairman Bartlett stated Board member, Virginia Phillips-Hall was present.]
5. Considered request from **Ayana Adams, Sheriff's Office**, for annual leave donation.
 - a. Human Resources Director Renee Bright advised that Chief Deputy Shawn Southerland stated the department had no opposition to the request.
 - b. Ms. Adams was not in attendance.
 - c. Chairman Bartlett called for a motion. Mr. Trimble made the motion to approve the request, second by Vice-Chair Lancaster. No further discussion on the motion made. Motion carried by unanimous vote (4-0).
6. Considered request from Fire Chief Landry Merkison to extend provisional appointments of the following, for six months: **Carl Whitlock** (*provisionally appointed to Fire Sergeant/Inventory Control Supervisor*), **Keith Marler and Christophe Plessy** (*provisionally appointed to Paramedic Sergeant*), and **Thomas Dixon and Benjamin Hill** (*provisionally appointed to Fire Sergeant*).
 - a. Fire Chief Landry Merkison presented the request in detail.

- b. A discussion among the Board, HR Director Bright and Fire Chief Merkison occurred regarding the department taking another three months to prepare a promotional list.
 - c. The Board did not have any additional questions for Fire Chief Merkison.
 - d. Chairman Bartlett stated the Board would vote on each employee separately.
 - e. Chairman Bartlett called for a motion regarding **Carl Whitlock** (*provisionally appointed to Fire Sergeant/Inventory Control Supervisor*). Mr. Trimble made the motion to approve the request, second by Vice-Chair Lancaster. No further discussion on the motion made. Motion carried by unanimous vote.
 - f. Chairman Bartlett called for a motion regarding **Keith Marler** (*provisionally appointed to Paramedic Sergeant*). Mr. Trimble made the motion to approve the request, second by Ms. Phillips-Hall. No further discussion on the motion made. Motion carried by unanimous vote.
 - g. Chairman Bartlett called for a motion regarding **Christophe Plessy** (*provisionally appointed to Paramedic Sergeant*). Mr. Trimble made the motion to approve the request, second by Vice-Chair Lancaster. No further discussion on the motion made. Motion carried by unanimous vote.
 - h. Chairman Bartlett called for a motion regarding **Thomas Dixon** (*provisionally appointed to Fire Sergeant*). Mr. Trimble made the motion to approve the request, second by Vice-Chair Lancaster. No further discussion on the motion made. Motion carried by unanimous vote.
 - i. Chairman Bartlett called for a motion regarding **Benjamin Hill** (*provisionally appointed to Fire Sergeant*). Mr. Trimble made the motion to approve the request, second by Vice-Chair Lancaster. No further discussion on the motion made. Motion carried by unanimous vote.
 - j. Dr. Jackson commended the Fire Department for its handling of provisional appointments and stated it needed to rub off on the Police Department.
7. Considered request from Interim Chief of Police Michael Register to extend the provisional appointments of the following, for 180 days or until new promotional lists are certified: **Manuel Santiago and Charles Hutchens** (*provisionally appointed to Sergeant*).
- a. Mr. Green presented the request in detail.
 - b. The Board did not have any questions for Mr. Green.
 - c. Messrs. Hutchens and Santiago were not in attendance.

- d. Chairman Bartlett called for a motion regarding **Manuel Santiago** (*provisionally appointed to Sergeant*). Mr. Trimble made the motion to approve the request, second by Vice-Chair Lancaster. No further discussion on the motion made. Motion carried by unanimous vote.
 - e. Chairman Bartlett called for a motion regarding **Charles Hutchens** (*provisionally appointed to Sergeant*). Mr. Trimble made the motion to approve the request, second by Vice-Chair Lancaster. No further discussion on the motion made. Motion carried by unanimous vote.
 - f. Chairman Bartlett advised Mr. Green that every month the Board sees the Police Department for provisional appointment extensions and it does not support what the Police Department is doing with the employees' careers and explained in detail.
8. **Appeal** – Considered appeal filed by **Alan Smithwick, Police Department**, on August 5, 2013, with regards to: Termination.
- a. Attorney Youngblood was ready to proceed for the County. Attorney Grady Dukes was ready to proceed for the Appellant.
 - b. Chairman Bartlett advised everyone in attendance that Attorney Joe Harris was not present and was anticipated to arrive by 9:45 a.m.
 - c. Attorney Youngblood stated all of the County's witnesses were not present.
 - d. Chairman Bartlett confirmed that objections to witness lists were previously "ironed out".
 - e. Chairman Bartlett called for a break until 9:45 a.m. Mr. Trimble made the motion, second by Vice-Chair Lancaster. No further discussion on the motion made. Motion carried by unanimous vote.
 - f. Chairman Bartlett called the meeting back to order and noted Civil Service Board Attorney Joe Harris was in attendance.
 - g. For a matter of record, Chairman Bartlett advised over 12-14 years ago, he, Alan Smithwick and Mr. Smithwick's Father were a part of a 28-member group who traveled to Myrtle Beach for a golf trip. He was not sure if he and Mr. Smithwick played golf together; never been to each other's home; and only interaction was in law enforcement duties.
 - h. Chairman Bartlett asked if there was a request for his recusal.

- i. Attorney Youngblood consulted with the County. The Police Department was fine with Chairman Bartlett remaining on the Board. Attorney Dukes did not have any objection.
- j. Chairman Bartlett asked if any side wished to extend their 90-minute time limit.
- k. Attorney Youngblood stated not at this time but down the road the issue could be entertained. Attorney Dukes did not make a motion to extend the time limit on behalf of the Appellant.
- l. Attorney Dukes requested an order of sequestration.
- m. Attorney Harris swore in all witnesses present.
- n. Chairman Bartlett asked both sides to identify all witnesses present. Attorney Youngblood: Gina Hawkins, Craig Hammer and Shelton Brown-Smith and Attorney Dukes: Doyle Hammock, Joseph Woodall, Michael Ward and Walter Dennard.
- o. Chairman Bartlett excused all witnesses to the lobby.
- p. Attorney Youngblood gave the opening statement for the County. Attorney Dukes gave the opening statement for the Appellant.
- q. Attorney Youngblood called Captain Craig Hammer to the witness stand. He stated his name, position, tenure and where currently assigned. Attorney Youngblood began questioning Capt. Hammer. Capt. Hammer responded in detail to all questions posed by Attorney Youngblood. Attorney Dukes objected to a question as to "hearsay". Chairman Bartlett stated the Board would not allow hearsay. Attorney Youngblood stated the witness could respond to what he heard during the investigation. Chairman Bartlett sustained the objection.
- r. Attorney Youngblood continued questioning Capt. Hammer. Capt. Hammer responded in detail to all questions posed by Attorney Youngblood. Attorney Youngblood showed the video captured by Ms. McKeever and mentioned County Exhibit 9 pages 95-104.
- s. Attorney Youngblood continued questioning Capt. Hammer. Capt. Hammer responded in detail to all questions posed by Attorney Youngblood. Attorney Youngblood mentioned County Exhibits 5, 6, 7, 9 (pgs. 71-78, pgs. 79-82, pgs. 83-89, pgs. 90-92, pgs. 107-132, pgs. 134-142, 170-215, pgs. 216-227, pgs. 318-325, pg. 326, pgs. 327-329, pgs. 331-334 and pages 408-421).
- t. Attorney Dukes began the cross-examination of Capt. Hammer. Capt. Hammer responded in detail to all questions posed by Attorney Dukes. Attorney Dukes

mentioned County Exhibit 9 – Ms. McKeever’s video and suspect’s interview at page 381.

- u. Attorney Dukes continued the cross-examination of Capt. Hammer. Capt. Hammer responded in detail to all questions posed by Attorney Dukes. Attorney Youngblood objected to a question posed as it called for a “legal conclusion” and explained. Chairman Bartlett sustained the objection.
- v. Attorney Dukes continued the cross-examination of Capt. Hammer. Capt. Hammer responded in detail to all questions posed by Attorney Dukes. Attorney Youngblood objected to a question posed as to “relevance”, as it only matter what was policy at the time of the incident. Attorney Dukes explained that it would be important to know if the policy was changed. Chairman Bartlett sustained the objection.
- w. Attorney Dukes advised the witness could be excused on behalf of the Appellant.
- x. The Board questioned Capt. Hammer. He responded in detail to all questions posed by the Board.
- y. There being no further questions, the witness was dismissed (subject to rebuttal).
- z. Mr. Trimble made a motion to break for lunch. The motion died for a lack of a second.
- aa. Chairman Bartlett called for a short break. Vice-Chair Lancaster made the motion, second by Ms. Phillips-Hall. No further discussion on the motion made. Motion carried by unanimous vote.
- bb. Chairman Bartlett called the meeting back to order.
- cc. Attorney Youngblood called Lt. Leo Hathaway to the witness stand. Attorney Harris swore-in the witness. He stated his name, department, tenure as a police officer, law enforcement career and tenure with the county. Attorney Youngblood began questioning Lt. Hathaway. Lt. Hathaway responded in detail to all questions posed by Attorney Youngblood. Attorney Youngblood mentioned County Exhibits 6 and 7.
- dd. Attorney Youngblood continued questioning Lt. Hathaway. Lt. Hathaway responded in detail to all questions posed by Attorney Youngblood.
- ee. Attorney Dukes began the cross-examination of Lt. Hathaway. Lt. Hathaway responded in detail to all questions posed by Attorney Dukes.
- ff. The Board questioned Lt. Hathaway. He responded in detail to all questions posed by the Board.

- gg. There being no further questions, the witness was dismissed (subject to rebuttal by the County). Attorney Youngblood asked for permission to allow the witness to attend a class on the range and she would be call him back for testimony. Chairman Bartlett granted the request.
- hh. Chairman Bartlett called for a lunch break until 1 p.m. Mr. Trimble made the motion, second by Vice-Chair Lancaster. No further discussion on the motion made. Motion carried by unanimous vote.
- ii. Attorney Dukes advised the Board there may be a possible problem with his witness, Walter Dennard, as he had to attend a grand jury hearing. Chairman Bartlett advised the Board would work with the witness.
- jj. Chairman Bartlett called the meeting back to order.
- kk. Attorney Youngblood called Officer Shelton Brown Smith to the witness stand. He stated his name and tenure with the department. Attorney Youngblood began questioning Officer Brown-Smith. Officer Brown-Smith responded in detail to all questions posed by Attorney Youngblood.
- ll. Attorney Dukes did not have any questions for Officer Brown-Smith.
- mm. The Board questioned Officer Brown-Smith. He responded in detail to all questions posed by the Board.
- nn. There being no further questions, the witness was released.
- oo. Attorney Youngblood called Deputy Chief Gina Hawkins to the witness stand. She stated her name, tenure with the County and explained law enforcement career in detail. Attorney Youngblood began questioning Deputy Chief Hawkins. Deputy Chief Hawkins responded in detail to all questions posed by Attorney Youngblood. Attorney Youngblood mentioned County Exhibits 9 (pages 71-78 and 58 to remainder of exhibit and pages 14-21), 6, 7, 5, 9 (pages 20-21), 12, 16, 13, 14, 15, 17, 18, 19, 20, 21, 22, 25, and 11.
- pp. Attorney Youngblood continued questioning Deputy Chief Hawkins. Deputy Chief Hawkins responded in detail to all questions posed by Attorney Youngblood. (During testimony, Deputy Chief Hawkins and Attorney Youngblood mentioned County Exhibit 9 pages 22, 35, 53 and 22-57).
- qq. Attorney Dukes did not have any questions for Deputy Chief Hawkins.
- rr. The Board questioned Deputy Chief Hawkins. She responded in detail to all questions posed by the Board.
- ss. There being no further questions, the witness was dismissed.

- tt. Chairman Bartlett called for a break. Vice-Chair Lancaster made the motion, second by Mr. Trimble. No further discussion on the motion made. Motion carried by unanimous vote.
- uu. Mr. Trimble advised Attorney Youngblood that the County had used 1 hour and 20 minutes.
- vv. Chairman Bartlett called the meeting back to order.
- ww. Attorney Youngblood asked to tender the following County Exhibits: 5, 6, 7, 9, 11-22 and 25. Attorney Dukes did not have any objections.
- xx. Attorney Dukes stated he would not present any witnesses for the Appellant.
- yy. Vice-Chair Lancaster asked for the Board to view the video from Officer Brown-Smith's police car.
- zz. A discussion between the Board, Attorney Harris and Attorney Dukes occurred.
- aaa. Mr. Trimble agreed with Vice-Chair Lancaster to view the video and explained in detail.
- bbb. Ms. Phillips-Hall stated it was either way for her but that it was same as what she already heard and seen.
- ccc. Chairman Bartlett polled the Board and four members had seen the video and one had not and stated all needed to see the video.
- ddd. Motion made by Vice-Chair Lancaster to view the video and asked to view video from Channel 2 as well. Dr. Jackson stated he did not want to see anything from the news since they can "skew it". Motion was not voted on.
- eee. Chairman Bartlett asked if all witness can be released and they were released.
- fff. [For the record, the Board watched the video from County Exhibit 9 – labeled Vehicle #9268.]
- ggg. Chairman Bartlett called for a five-minute break in order to fix issue with the video. Dr. Jackson made the motion, second by Mr. Trimble. No further discussion on the motion made. Motion carried by unanimous vote.
- hhh. Chairman Bartlett called the meeting back to order.
- iii. [For the record, the video did not resume.]
- jjj. Attorneys Youngblood and Dukes did not have any rebuttal witnesses to present and Attorney Youngblood reserved the right to present closing arguments last.

- kkk. Attorney Dukes presented closing arguments for the Appellant. Attorney Youngblood objected to “relevance” of the argument, as no testimony was given regarding P.O.S.T. Attorney Dukes withdrew his argument and continued his closing.
 - lll. Attorney Youngblood presented the closing arguments for the County.
 - mmm. Chairman Bartlett called for a motion to adjourn into Executive Session to discuss the appeal filed by **Alan Smithwick, Police Department**, on August 5, 2013, with regards to: Termination. Mr. Trimble made the motion, second by Vice-Chair Lancaster. No further discussion on the motion made. Motion carried by unanimous vote.
 - nnn. Chairman Bartlett called the meeting back to order.
 - ooo. Chairman Bartlett called for a motion regarding the appeal filed by **Alan Smithwick, Police Department**, on August 5, 2013, with regards to: Termination. Mr. Trimble made the motion that the department’s decision to terminate be overturned, second by Vice-Chair Lancaster. No further discussion on the motion made. Motion carried by a 3-2 vote (Yays: Bartlett, Lancaster and Trimble and Nays: Jackson and Phillips-Hall).
 - ppp. Chairman Bartlett asked Mr. Green to stay around for the Provisional Appointment issue.
9. Considered for approval the Civil Service Board’s Decision regarding **Michael McDonald, Corrections/Refuse**, termination appeal heard on November 4, 2015.
- a. Chairman Bartlett called for a motion. Mr. Trimble made the motion to approve the Decision, second by Vice-Chair Lancaster. No further discussion on the motion made. Motion carried by unanimous vote.
10. Discussion items.
- a. Selected meeting date(s) for February 2016.
 - i. Dr. Jackson made the motion to meet Wednesday, February 3, 2016, and not vote on a second date, second by Mr. Trimble. No further discussion on the motion made. Motion carried by unanimous vote.
 - ii. Discussion between the Board and HR Director Bright regarding designating February’s agenda to grievances only.

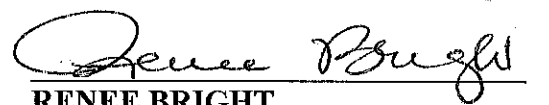
11. Other business.

- a. Considered updated of revised amendment to Civil Service Rule 7.202(f).
 - i. HR Director Bright read the recommended change to the Civil Service Rule.
 - ii. Chairman Bartlett called for a motion to accept the change and to have it presented to the Chief Operating Officer and the Board of Commissioners. Mr. Trimble made the motion to approve the change as read, second by Dr. Jackson. No further discussion on the motion made. Motion carried by unanimous vote.
 - iii. The Board wished all in attendance a Merry Christmas and extended birthday wishes.

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

Meeting adjourned.


LARRY A. BARTLETT
CHAIRMAN


RENEE BRIGHT
HUMAN RESOURCES DIRECTOR