



Personnel Board

December 8, 2016

The Personnel Board was called to order by Janis Parks, Human Resources Director in a meeting held, Thursday, December 1, 2016 at 5:30PM in the Conference Room at Pelham City Hall. Present were Board members, Greg Darnell, Bobby Hayes and Jim Collins. Also present was Bent Owens, Attorney for Wallis, Ellis, Head & Owens.

Greg Darnell made a motion to convene into Executive Session; seconded by Jim Collins; all members voted affirmed. Time to reconvene would be approximately 20 minutes.

The Personnel Board reconvened from Executive Session at 5:50PM. The Board meeting had been called to hear a termination appeal submitted by Firefighter Mark Caton. Ms. Parks instructed the attendees of the hearing to silence their phones and to respect the process for the board members to conduct the hearing. Ms. Parks explained that each person providing testimony in this appeal would be required to give oath. Also as defined in the Civil Service Law Rule 6.10 the proceedings would be recorded. (Please refer to the recorded file for all testimony in this hearing.)

At approximately 7:10PM to the board convened into Executive Session. At 7:25PM the board reconvened from executive session. Mr. Caton had presented a flash drive during testimony that will need to be copied. Chief Larry Palmer will have the detective division make appropriate recordings or copies and have available by Monday, December 5, 2016 for the board to listen. Until the Board can listen to the additional evidence, a motion was made by Jim Collins to recess the meeting until Tuesday, December 6, 2016 at 5:30PM; Greg Darnell seconded the motion and all board members voted affirmed. Meeting recessed at 7:33PM.

A meeting announcement will be posted that the board meeting in recess and will reconvene on Tuesday, December 6, 2016 at 5:30PM.

At 5:30PM on Tuesday, December 6, 2016 the Personnel Board meeting was called from recess by Janis Parks. All Board members were present.

Discussion continued in connection with the appeal process for Firefighter Mark Caton. The additional evidence of the flash drive that Mark provided had not yielded any other creditable evidence of the dispute of an appointment with Dr. Turnley's office. However, the dismissal reason was not about whether there was or was not an appointment, the cited reason is conduct and behavior as unbecoming.

The Board recognized Chief Ray who was providing additional information about the termination notification, and had to be placed under oath to continue. He advised the board that when he had been notified of the behavior, the timeline of preparing documents and reviewing the recommendation with the Mayor and Human Resources on Monday October 31st, would have then met with Mark on his next shift of November 1, 2016. Ms. Parks added that all notifications for Mr. Caton were send via certified mail. (Ms. Parks should have been placed under oath for this to be part of the testimony.)

A motion was made by Greg Darnell to uphold the termination; a second was made by Jim Collins; all members voted affirmed. Ms. Parks advised the notice would be sent to Mr. Caton via certified mail on Wednesday, December 7, 2016.

In other business before the board, in the matter of a pay dispute on Lt. Billy Earnest. Chief Ray and Ms. Parks investigate Mr. Earnest's request and made a recommendation to the Mayor. Mayor Waters was ready to award the pay, but requested he (Lt. Earnest) follow his chain of command. Mr. Hayes stated that you can't hold their pay. Mayor Waters stated the process is to follow the chain of command in order not to set a different precedence. Mr. Earnest stated he had tried to resolve this situation for over a year and a half. Mr. Earnest also included that other people have approached of the same situation and are expecting the Board to make it right. Mr. Earnest expressed that he didn't feel the chain of command had worked for him.

Mr. Earnest stated that a number of employees are receiving education incentive and the education ordinance needs to be reviewed as it has not been rescinded. Mr. Rick Hayes was attending the board meeting and explained to Mr. Earnest on how the process to correct the education ordinance has been handled by this council and there is no longer an education incentive in the pay plan.

Mr. Earnest made a suggestion to have his retroactive pay divided among the Fire Medics since they didn't receive Medic pay. Mr. Bobby Hayes stated that would not be possible. Chief Danny Ray explained he uses the entry level pay for both firefighters and fire medics; he has not had anyone turn him down. Mr. Rick Hayes also added that the revision in the 2013 and 2016 pay plan continued to make appropriate adjustments for the Firefighter classification, especially when looking at the comparisons in other cities. Chief Ray uses the Step one entry level for equal treatment for new hires.

Former and retired Battalion Chief Don Green was also in the meeting and Mr. Hayes asked if you had received his step; Mr. Green stated he had received a correction to the salary step, but did not know about the back pay.

Ms. Parks explained how the Classification Pay plan from 2010 was very specific in its promotions to the next step and class. The next pay plan revisions (including Mercer) didn't provide for these situations. Each classification stands on its own.

Mr. Earnest stated he is now a Lieutenant, but there are firefighters receiving education incentive. Mr. Rick Hayes reiterated the changes that the council had made regarding the education incentive and it was no longer applicable.

Mr. Darnell recommended that other situations needed to be reviewed. Ms. Parks made a suggestion to have Chief Ray and Chief Palmer notify their command staff if anyone would like to have their pay reviewed. Mr. Hayes advised the board for Ms. Parks to follow through on the review with the employees.

Mayor Waters indicated that the grievance process in the Civil Service Law should be followed. The rule is there to have a record and time lines to resolve issues so they don't linger for a year and a half as this situation presented by Mr. Earnest. Mr. Collins stated that this situation should not have come before the board. Mr. Hayes stated yes there can be a grievance. But Rule 8 indicates that pay is not a grievable offense. The Board suggested a promulgated rule to include that a grievance may be for anything. Ms. Parks will prepare a draft promulgated rule and forward to Butch Ellis' office review.

Also included will be a draft promulgated rule to allow a department head to advance a promotion for more than one step, but not more than two. This is in Rule 2.1 of the Civil Service Law.

Mr. Earnest stated that while there are promotions happening, some of the employees are scared if they say anything about their pay, they won't be promoted. Mayor Waters added that could be true as there had been a cultural change in the fire department after the lawsuit from 2009.

Prior to adjournment the board recognized Mr. Rick Hayes. He presented a request to the board to consider a classification pay change for the Finance Director to add one additional specialty step for interim city clerk duties. Mr. Rick Hayes also stated that the Mercer pay plan did not have an approved grade for the city clerk. The Board will review Mr. Rick Hayes' proposal for any further questions at the next board meeting.

Due to the pending items before the board, it was suggested to recess and reconvene when practical. Mr. Hayes made motion to recess; Greg Darnell seconded; all members affirmed and the board meeting is in recess at 6:50PM.

December 20, 2016

The Personnel Board reconvened from recess on December 20, 2016 at 5:00PM. All board members were present.

Old business item included the proposed Promulgated Rule for Rule 2.8.c ; Salary Rate in Promotion. Additional verbiage was added to allow more than one step increase for proper placement in the pay plan. Rule 8.6, Definition of a Grievance, changed the wording of 'shall not' to the word, shall, for matters that that will be considered under the grievance procedures.

At the conclusion of the discussion of the rule changes and need for these changes, member Bobby Hayes made a motion to approved the promulgated rule changes as presented. Jim

Collins seconded; all members voted approved. The Promulgated Rule will be added to Rule 11 of the Civil Service Law and included in the document posted on the website. Effective date of the rule is December 20, 2016.

Mayor Waters provided an update of the review of the firefighter promotion pay and the budget impact. The Fire department will absorb the cost of the retro pay amounts with no additional funding required.

In other business Ms. Parks presented an updated status on the Unemployment Comp appeal for Jennifer Smith. The Alabama Court of Appeals denied the request. Also, Mark Caton has filed an appeal for his Unemployment Compensation denial. The hearing is scheduled for January 6, 2017.

The Board recognized Rick Hayes. Mr. Rick Hayes gave comments and updates about the hiring of the City Manager. As that moves forward by the Council, and no action is required by the Personnel Board, he wanted to advise the board of status.

Included in his comments was the request to the board to approve the classification pay plan update to the Finance Director to include one additional 'incentive' step. This additional step is in anticipation of the Finance Director assuming duties of the City Clerk. A motion was made by member Greg Darnell to approved the classification change as presented; Bobby Hayes seconded and all members voted affirmed for the change. An update for the classification pay plan will be included in the current copy. A copy is also available on the City's website.

During the discussion, Mr. Rick Hayes addressed the situation of the how to handle the assignment of the City Clerk classification as it had not been approved by the Personnel Board. The City Clerk position was separately appointed in January 2013, but the division of the duties from the Finance Director prior to January 2013, did not introduce a separate classification for City Clerk. Mr. Rick Hayes stated he had discussed this situation with Butch Ellis and all are working toward a resolution. Mayor Waters stated to address this situation after the City Manager is on board.

With no other business to come before the board, Mayor Waters advised the board that this was Ms. Parks last Personnel Board meeting. She is retiring effective January 1, 2017. The Mayor is conducting interviews for her replacement.

A motion was made by Bobby Hayes to adjourn, seconded by Jim Collins. All members voted affirmed and the meeting was adjourned at 6:30PM.

PROMULGATE RULE

The City of Pelham Personnel Board hereby adopts the following Promulgated Rule(s) in accordance with Rule 1.1.p of the Civil Service Act 2015-419:

Rule 2.8 Administration of the Plan-

- c. Salary Rate in Promotion, Transfer, or Demotion – In the event a classified employee is promoted, transferred or demoted, his or her rate of pay for the new position shall be determined as follows:
1. Promotion – Upon promotion, the incumbent's regular base pay shall determine the new rate in the promotional class. The new rate shall be set to (a) allow one or more step increase above the former rate, or (b) the new rate shall be the entrance rate for the promotional class, or as defined in Paragraph (e.) Conflict in Pay/Supervisor-Subordinate, and (c) whichever increase is greater shall be applied.

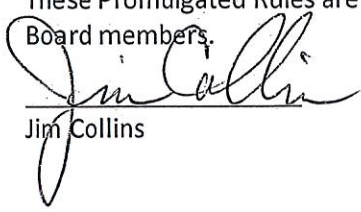
Rule 8.6 Grievances –

The most effective accomplishment of the work of the various departments requires prompt consideration and equitable adjustment of employee grievances. It is the desire of all parties to adjust grievances informally, and both supervisors and employees are expected to make every effort to resolve problems as they arise. However, it is recognized that there will be grievances which will be resolved only after a formal appeal and review.

A. Definition of Grievance –

A grievance is a wrong, real or perceived, considered by an employee as grounds for complaint. Matters dealing with classification, pay, compensation, examination, leave, discipline, and related actions specifically set forth shall be considered under grievance procedures, but shall be addressed in accordance with the provisions of this act. Any question as to what constitutes a grievance or what should be processed, shall be determined by the Director, subject to the review of the Board.

These Promulgated Rules are effective December 20, 2016 as signed by the Personnel Board members.


Jim Collins


Greg Darnell


Bobby Hayes