



**Personnel Board Meeting
Pelham Recreation Center – Meeting Room
September 18, 2019 – 5:30 p.m.**

MINUTES

Proper notice of the scheduled meeting of the Pelham Personnel Board was given in advance of such public meeting and the notice remained posted throughout the scheduled meeting.

Date: September 18, 2019
Time: 5:30 p.m.
Place: Pelham Recreation Center - Meeting Room
Present: Board Member Greg Darnell
Board Member Jim Collins
Board Member Bobby Hayes
Director of Human Resources Tracy Hill

Others Present: Attorney Josh Arnold, Mayor Gary Waters, Members of the City Council, city department heads, city employees, and members of the public

CALL TO ORDER AND INVOCATION

Director of Human Resources and Personnel Board Secretary, Tracy Hill, called the meeting to order at 5:32 p.m. and led the invocation.

RECORD OF ATTENDANCE

Ms. Hill asked Candy Porter to record attendance and all members were recorded present.

APPROVAL OF MINUTES

Mrs. Hill noted that the change requested by Mr. Collins to the minutes from July 24, 2019 had been made on the second paragraph of page 2. A motion was made by Greg Darnell to approve the minutes from the meeting on July 24th. Jim Collins seconded the motion and the minutes were recorded as approved by voice vote.

EXECUTIVE SESSION

Greg Darnell informed Mrs. Hill that before new business was addressed, the Board would like to enter executive session. The members left the room at 5:33 p.m. and returned at 5:52 p.m.

Once the Board members returned, proper protocol for Executive Session was retroactively followed by Mr. Darnell stating for the record the purpose of the Executive Session was to discuss legal ramifications of and legal options for pending litigation, to discuss with our attorney controversies not yet being litigated but imminently likely to be litigated if the governmental body pursues a proposed course of action. City Attorney Josh Arnold stated purpose of tonight's Executive Session is appropriate under Section 36-25-A-7(a)(6), Code of Alabama 1975, as amended. A motion was made by Greg Darnell, seconded by Jim Collins and affirmed by voice vote.

NEW BUSINESS

Mrs. Hill stated that she had asked Josh Arnold to attend the meeting to help her and the Board understand the procedures for establishing a promulgated rule as we seem to have one that is in conflict with the Civil Service Act. Mr. Arnold asked to note for the record that Senator Frank C. Ellis was responsible for the creation of this legislation; however, he/Mr. Arnold had been involved with the revision that was completed in 2015. Mr. Arnold explained that civil service legislation exists to protect civil employee's rights. It states that a Personnel Board will exist to hear grievances brought by employees. He quoted the following:

"From time to time by public hearing, the Personnel Board shall promulgate such policies, rules and regulations as necessary to carry out the provisions of this Act and to develop a comprehensive civil service system so long as such promulgated policies, rules and regulations do not modify or change the intent of this Act."

This Board is allowed to promulgate rules; however, there are limitations. He explained that the Board shall promulgate rules to clarify the intent of the Act but it cannot change the Act itself or the intent of the Act. In order to promulgate a rule, it must go through the public hearing process and cannot be adopted at the same meeting in which it is proposed. The first reading cannot be waived and it has to be done in multiple stages. Essentially, there must be a first reading, then a public hearing must take place and then it can be adopted, but only after civil employees have been given an opportunity to respond and be heard on the matter.

The promulgated rule in question deals with grievances and whether a grievance regarding a certain topic can be brought before the Board. We refer to the Act in section 33 deals with grievances. It defines grievance as a wrong, real or perceived, that is perceived by employees as grounds of complaint. Matters dealing with classification, pay, compensation, examination, leave, discipline and related actions specifically set forth shall not 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.

His advice is that if a promulgated rule exists that says anything different from that statement, it is void at face value as contradictory to the Act. It would be considered null; however, he recommended that the Board go through the repeal process which is the reverse of the adoption process.

Mrs. Hill advised the Board that a promulgated rule does exist that appears to contradict the Act as it relates to grievances. She referred to the promulgated rule from December of 2016, under Rule 8.6 (a) where it states that "matters dealing with classification, pay, compensation, examination, leave, discipline and related actions specifically set forth SHALL be considered under grievance procedures." She pointed out that the Act states they shall NOT and this promulgated rule changes the intent of the act to allow these issues to be grieved. Based on guidance from legal counsel, she believes that this rule may be void due to the conflicting language. Mr. Hayes stated that she may be right but feels that the word NOT was accidentally left out of the language and would like to know from Mr. Arnold if that matters. Mr. Arnold informed the Board that if that was the case and the word NOT was accidentally omitted and they would like to keep Rule 8.6 (a) they would need to amend the language by following the promulgated rule process and include the word NOT and that would clear up any potential issues as it related to this promulgated rule. Mrs. Hill asked the Board if they were aware of any other differences that were addressed in the promulgated rule and why it would have been created. She asked Board members if everyone was in agreement that the word NOT should have been included in the promulgated rule. Mr. Hayes stated that he was not positive, but was pretty sure that was the intent. Mr. Darnell stated that he didn't remember the reason it would have been addressed in a promulgated rule. He

realizes that if it was amended to include the word not then there would not be a need for the promulgated rule.

Mrs. Hill asked Mr. Arnold if the correct course of action would be for the Board to decide if they wanted to repeal or amend the promulgated rule, seek approval from legal counsel, then discuss in an open meeting and allow comments from employees. He stated that although the Act does not specify legal counsel be consulted, he would recommend it. The Board would need to decide which course of action they would like to take, openly present it at a meeting and (not less than 7 days later) schedule a public hearing for the employees and then vote on the matter at the next meeting.

Mr. Hayes made a motion to table this matter until they may research and decide which course of action they would like to take on this matter. Mr. Darnell seconded the motion and a voice affirmation tabled this matter until a later time.

Mrs. Hill then informed the Board that since these matters are new to her, she has taken the liberty to draft a proposed promulgated rule for this Board to consider related to overtime/compensatory time. She reminded Board members that the Civil Service Act limits the amount of overtime/compensatory leave that an employee may earn at 80 hours; however, it appears that his rule has never been enforced. The City Council recently approved a request to pay employees for all hours accrued over 80 to be in compliance with the CSA. In the future, employees will not be allowed to accrue more than 80 hours of overtime so that we remain in compliance. She presented drafts of promulgated rules that she would like for this Board to consider that will:

1. Require employees to use any leave time available to them before requesting leave without pay.
2. Require any comp time (overtime) balances be paid prior to a change of classification.

Mr. Collins stated that he doesn't feel that the Board should take action on this matter and that this matter should be a judgment by the Department Heads for their departments. After discussion between Board members and the Department Heads present regarding the matter, Mrs. Hill asked Mr. Arnold to provide guidance in the next weeks regarding if the City can require employees to use their accrued leave time prior to a leave without pay and then the Board members can decide if we should establish this requirement. Mr. Darnell stated that he feels that Mrs. Hill's logic regarding paying the comp time balances prior to a classification change is sound and he thinks that would be a good business practice. The Board members will address this matter later.

Next, Mrs. Hill asked the Board to consider abolishing the Assistant Director of Racquet Club job description and replace it with Director of Racquet Club. She explained that this position previously worked under the leadership of the Director of Parks & Recreation but is no longer functioning in that capacity. Mr. Collins asked if there was any need to keep the Assistant Director position for future use to which she replied we could revisit with this Board in the future if the need arose. Several members made inquiries from Chaney Mills regarding the number of members, number of visitors and numbers of tournaments. She explained that the tennis center had seen tremendous growth recently and that she was excited about the developments that were taking place there. The Board members stated that this was something they would like to think about and revisit later.

The next item was a request by Mrs. Hill for the Board to review a job description and new salary range for the Building Official. She explained that the person previously in this role had the oversight of the Revenue Division but going forward, this oversight of Revenue will be removed with this position assuming the responsibilities of the Building & Zoning Official. She explained that with this correction, the compensation range for this position would change. Board members were presented with a requested salary range based upon the draft recommendation from HRM referencing compensation data from Shelby County and Hoover. Mr. Darnell asked if we felt that we would be able to recruit a viable candidate with the requested compensation range to which the reply was yes. After discussion on the

compensation range requested, Mr. Collins asked if we would obtain the ranges from Trussville and Alabaster. Mr. Collins expressed his concern that the information provided by HRM would not provide them with the information on what cities in the local market were paying for their positions. Mrs. Hill asked the Board for clarification that they would like to see more data points in addition to the proposed recommendation from HRM which included a broad range of data and even possibly the information from those cities requested. Their reply was yes. Mayor Waters asked if we would proceed with announcing the vacancy and move forward with the process to fill this position. She replied that we shouldn't move forward posting it until we know how it will be compensated. Mayor Waters asked if the current higher compensation range currently applies even with the oversight of Revenue removed and she replied yes it did until a new range was approved by this Board. Mayor Waters informed the Board that he would recommend that we proceed with posting and filling this position using the current range because of the importance of moving quickly in filling this particular position. Mr. Collins proposed the Board convening tomorrow via phone to discuss and approve if the information can be obtained from Trussville and Alabaster. Mr. Arnold stated that they should call a special meeting so that a vote could be performed. Board members agreed that they could convene on Tuesday, September 24, to vote on the salary range for the Building & Zoning Official and asked Mayor Waters if we could wait until then for posting. He replied that was a reasonable request and we could wait until Sept 24. Mr. Darnell said that the Board would like to proceed by addressing the job description for the Director of Racquet Club on Sept 24 as well so as to clear the agenda for the HRM presentation on the compensation study.

Mrs. Hill discussed the upcoming Personnel Board elections by reviewing the qualifications and rules as they relate to the members and informed members that their current terms will be expiring in January of 2020. Mr. Darnell asked if anyone else in the room recalled action being taken in the past to stagger the terms of the members so that they would not all expire at the same time. Tom Seale stated that his records date back to 2000 and they all reflect the terms being the same. Mr. (Rick) Hayes stated that he thought it had been discussed in the past but there had never been any clear resolution as to how to achieve a change. Mr. Hayes asked if the City Clerk and HR Director would be the ones overseeing the process and she replied yes. He stated that he would not be comfortable with those two individuals being the only ones to count votes. He indicated he did not trust the HR Director and City Clerk to oversee the election process. She explained to him that counting the votes is not what is being referred to as the election process. She assured him that the voting process would be conducted the same way as it had been in the past. A police officer and a HR member would ensure that only full time employees cast one vote for a member during the election and a panel of three people would be present while votes were counted. Board members were informed that previously Janis Parks (HR Director), Marsha Yates (City Clerk) and Larry Palmer (Police Chief) counted the votes and there had been numerous people present to witness the process. Mr. Hayes stated that he would be comfortable if that was the same process that would be followed. She explained that she would take the lead role in the employee election and that Tom Seale would take lead in collecting resumes for the City Council appointment. She explained that she would like to have the roster in place prior to October 31st as that is the date for the Benefits Expo and she would like to have all candidates be present that day to meet the employees and answer their questions as they visit the Expo. She asked if there were any questions about this process and Board members had none.

Mr. Darnell asked if we had a date for the HRM presentation on the compensation study and she explained that she thought they could be ready whenever this Board could convene to hear the presentation. She asked about their availability to which members expressed their desire to move forward as quickly as possible. She will get this scheduled with HRM and let Board members know as soon as possible.

ADJOURNMENT

With no other business before the Personnel Board, Board Bobby moved to adjourn the Personnel Board meeting and Board Member Greg Darnell seconded the motion. By voice vote, the motion passed unanimously by the members and the meeting was adjourned at 7:35 p.m.

Respectfully submitted this 19th day of September 2019.

Tracy Hill, Secretary
Director of Human Resources