

Asheville Civil Service Board Minutes

Meeting attended by: *Board members:* Chairman Marv Rosen, Carolyn Worthington, Lynn Moffa, Alan Coxie.

Board Attorney: Patsy Brison

City of Asheville Administration: Kelley Dickens, HR Director
Kelly Whitlock, Assistant HR Director
Derrick Swing, HR Manager
Robin Currin, City Attorney
Martha McGlohon, Deputy City Attorney
Paul Fetherston, Deputy City Manager
William Anderson, Chief of Police
Meredith Troughton; Board Clerk

Absent from meeting: *Board member:* Virginia Robinson

Date: July 9th 2014

Time: 2:30

I. Welcome

1. The meeting was opened by Chairman Rosen
2. Confirmation of agenda by Board

II. Minutes of Previous Meeting

1. Review Minutes of previous meeting
2. Motion to approve June 5th 2014 minutes made by board member Coxie; second by board member Moffa. Approved with a unanimous vote.

III. Session Law and Codified Version of Civil Service Law

Discussion points included:

- City Council's request for substantive rules.
Robin Currin and Deputy City Attorney Martha McGlohon gave a presentation on the Civil Service Law and the City Council's request for substantive rules. The City is requesting that the current policies remain status quo until substantive rules can be drafted by the board and voted on by City Council. HR is offering to work with the board to help draft the substantive rules.

There was discussion between the board and the City Attorney's office about process vs criteria and where there was there specific conflict between process and criteria in the Civil Service Law.

- Statutory interpretation of the Civil Service Law.
The City's interpretation of section 5 (1) of the Civil Service Law, is all being within the rulemaking authority. The City believes that the Civil Service Board may be able to approve criteria, only if they are acting under substantive rules that have been drafted approved by City Council.
- History of the Civil Service Law
There was discussion by the Board, Ms. Brison and Ms. Currin about the difference between the City's "cut and paste" version of the Civil Service Law and the Codified version of Civil Service Law.

Mrs. Brison provided the Civil Service Board and The City of Asheville with a notebook and presentation that covered the history of the Civil Service Law. The presentation included Civil Service Law-Codified Version and in Related Laws, Civil Service Law-Session Laws 1953-2009, Civil Service Law-City Attorney's Compilation and Case Law.

- The repeal of the substantive rules in 2005.

Ms. McGlohon spoke to the repeal of the rules and regulations in 2003 and how at that time Boards intention was to repeal any and all rules and regulations both procedural and substantive rules. She referenced that at the time or the repeal The Civil Service Board was unsure as to their authority, being that some of their substantive rules were taken away after the 1999 Session Laws. Later when it came time for the Board to come together and adopt rules of procedure the Board was not concerned about adopting substantive rules. So in 2003 when the Civil Service Board came together the intent under section (J) was to repeal any and all rules and regulations; the only rules that the Board has had as of 2003 have been the rules of procedure.

Action

Motion was made by Board member Coxie for the Board to go into closed session per G.S. 143 318.11 (A), second by Board member Moffa; approved with a unanimous vote.

- Closed Session
- Session Reopened: The following motion was made by Board member Moffa second by Board member Coxie and carried with a uniramous vote.

I move as follows:

(1) We believe the Board has been acting properly under the Civil Service Law since the 2009 Amendments to the Session Laws, based upon the interpretation of the law provided to us by Board counsel, which has been agreed to by City Staff and the City Council Board liaison since late 2009 and early 2010;

(2) Under the broad authority of the Civil Service Law, we believe we have the authority to continue to operate as we have been doing since 2009 without adopting new substantive rules, without conceding that there are no currently existing substantive rules;

(3) Nevertheless, we acknowledge that City Council has requested that the Board adopt new substantive rules, which we are not opposed to doing, and the Board will appoint a subcommittee to prepare draft rules;

(4) We believe we can continue to exercise the same authority that we have since 2009, under authority of the Civil Service Law, while the substantive rule process proceeds;

(5) We further request City Council appropriate funds for this rulemaking process to include attorneys' fees of independent counsel.

IV. Grievance hearing update

Hearing is set for September 9th 2014.

¹ Please note that all documentation that was presented in this meeting is available through the City's Human Resource Department. A request for full audio of the meeting can also be obtained from the City's Human Resource Department.

V. **Other Business**

Motion was made by Board member Coxie for the Board to cancel the August Civil Service Board in favor of the subcommittee meeting on the same date and same time. Second by Board member Moffa; approved with a unanimous vote.

It was agreed that the rest of today's agenda would be tabled until the Board reconvened in September.

VI. **Adjourn**

Motion was made by Chairman Rosen to Adjourn, Second by Board member Coxie; approved with a unanimous vote.

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