

SPECIAL CALLED CIVIL SERVICE BOARD MEETING

MARCH 4, 2014

A special called meeting of the Clayton County Civil Service Board was held on Tuesday, March 4, 2014, in the Commissioners' Board Room.

Members present: Larry 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; County Attorney Michelle Terry; Fire Chief Landry Merkison; Assistant Deputy Chief Shawn Southerland; Attorney Darryl Scott; Attorney Keith Martin; Attorney Lansing Kimmey; Randy Wimberly; Ahmed Handfield; Khadidiatou M'Backe; various employees from County departments; and other individuals.

Chairman Bartlett called the meeting to order at 9:05 a.m., and noted for the record that all Board members were present. Chairman Bartlett called for a motion to adopt the March 4th agenda. Mr. Trimble made a motion to adopt the agenda, second by Vice-Chair Lancaster. No further discussion on the motion made. Motion carried by unanimous vote.

1. Calendar Call.

- i. ***Randy Wimberly (Fire & Emergency Services)*** – Suspension and Demotion
 - a. County - Attorney Michelle Terry (was present and ready to proceed)
 - b. Appellant - Attorney Darryl Scott (was present and ready to proceed)

- ii. ***Khadidiatou M'Backe (Sheriff's Office)*** - Termination
 - a. County - Attorney Terry (was present and ready to proceed)
 - b. Appellant - Attorney Lansing Kimmey (was present and ready to proceed)
 - c. Ms. M'Backe was not present.

- iii. ***Ahmed Handfield (Sheriff's Office)*** - Termination
 - a. County - Attorney Terry (was present and ready to proceed)
 - b. Appellant – Mr. Handfield (was present and ready to proceed)
 - c. Chairman Bartlett excused Mr. Handfield until 1:30 p.m., today.

iv. **Kimberle Windley (Sheriff's Office)** - Termination

- a. County – Attorney Terry (was present and ready to proceed)
- b. Appellant – Attorney Keith Martin (was present and ready to proceed)
- c. Attorney Martin stated he excused Ms. Windley until this afternoon.
- d. Chairman Bartlett excused Attorney Martin until after lunch on March 5, 2014.

v. **Scott Smith (Sheriff's Office)** - Termination

- a. Appellant - Attorney Kimmey was present and stated he was just hired; requested to have the hearing re-set with new deadlines and explained.
- b. County – Attorney Terry was present and ready proceed. She objected to Attorney Kimmey's request and explained in detail.
- c. A discussion among the Board, Attorney Terry and Attorney Kimmey occurred.
- d. Chairman Bartlett made a motion to continue Scott Smith's appeal, second by Mr. Osagie. No further discussion on the motion made. Motion carried by unanimous vote.
- e. Mr. Trimble made a motion to allow new dates for the Appellant to submit a witness list and documents, second by Mr. Osagie. No further discussion on the motion made. Motion carried by unanimous vote.

vi. **Khadidiatou M'Backe (Sheriff's Office)** - Termination

- a. Chairman Bartlett made a motion to continue M'Backe's appeal hearing with no new deadlines, second by Vice-Chair Lancaster. No further discussion on the motion made. Motion carried by unanimous vote.
- b. Attorney Kimmey confirmed that the Board would provide him with new notification.

2. **Appeal** – Considered appeal that was filed on March 4, 2011, by Randy Wimberly, Fire & Emergency Services, with regards to: Demotion and suspension.

- a. Attorney Darryl Scott was in attendance and stated he represented Mr. Wimberly.
- b. Board member, Mark Trimble stated a possible conflict with having worked with the Fire Department for 32+ years and was in direct supervision of those uniformed in the room and asked if he should recuse himself.
- c. County Attorney Terry, after conferring with Fire Chief Merkison, stated they were fine with him hearing the appeal as long as he was comfortable.
- d. Attorney Scott stated both he and Mr. Wimberly were fine with him hearing the appeal as long as he was comfortable.
- e. Civil Service Board Attorney Joe Harris stated that the hearing could proceed since neither side objected.

- f. Chairman Bartlett called for a short break. Mr. Trimble made a motion, second by Vice-Chair Lancaster. No further discussion on the motion made. Motion carried by unanimous vote.
- g. Chairman Bartlett called the meeting back to order.
- h. Attorney Terry stated all the County's witnesses were present.
- i. Attorney Scott requested an order of sequestration and stated one of his witnesses, Stanley Atkins was not present.
- j. Attorney Terry objected to all of the Appellant's witnesses and explained.
- k. Chairman Bartlett stated all witnesses that were present would be sworn in now and before testifying.
- l. Mr. Harris swore in all witnesses.
- m. Attorney Terry confirmed the County's witnesses present were: Fire Chief Landry Merkison, Deputy Chief Gerald Fordham and Lt. Robert Mundy.
- n. Attorney Scott confirmed the Appellant's witnesses present were: Randy Wimberly, Aaron Jackson, Joshua Ellington and (missing: Atkins).
- o. Chairman Bartlett stated there would be a 60-minute time limit for the hearing.
- p. A discussion between the Board and Mr. Harris occurred regarding how to hear the two personnel actions.
- q. A discussion among the Board, Mr. Harris, and HR Director Bright occurred. Mr. Harris asked for five minutes to review the Rules.
- r. Chairman Bartlett called for a short recess. Mr. Trimble made a motion, second by Vice-Chair Lancaster. No further discussion on the motion made. Motion carried by unanimous vote.
- s. Chairman Bartlett called the meeting back to order.
- t. Mr. Harris stated the Rule was very confusing and unclear but that there should be a separate decision for each disciplinary action. Neither the Appellant nor County had any questions.
- u. Chairman Bartlett explained once again there would be a 60-minute time limit and explained in detail. There were no objections by either the Appellant or County.
- v. Attorney Terry presented the County's opening statement.

- w. Attorney Scott presented the Appellant's opening statement.
- x. Attorney Terry called Lt. Robert Mundy to the witness stand. He stated his name, where employed, tenure and position. Attorney Terry began questioning Lt. Mundy. Lt. Mundy responded in detail to all questions posed by Attorney Terry. Attorney Terry mentioned County Exhibit C-6.
- y. Attorney Terry continued questioning Lt. Mundy. Lt. Mundy responded in detail to all questions posed by Attorney Terry.
- z. Attorney Scott cross-examined Lt. Mundy. Lt. Mundy responded in detail to all questions posed by Attorney Scott.
- aa. The Board questioned Lt. Mundy. He responded in detail to all questions posed by the Board.
- bb. There being no further questions, the witness was dismissed (but subject to recall by the County).
- cc. Attorney Terry called Deputy Chief Gerald Fordham to the witness stand.
- dd. Vice-Chair Lancaster made a motion for a quick break, second by Mr. Trimble. No further discussion on the motion made. Motion carried by unanimous vote.
- ee. Chairman Bartlett called the meeting back to order.
- ff. Deputy Chief Gerald Fordham stated his name, where employed, position, and tenure with the Fire Department. Attorney Terry began questioning Deputy Chief Fordham. Deputy Chief Fordham responded in detail to all questions posed by Attorney Terry. Attorney Terry mentioned County Exhibit C-6 page 36.
- gg. Attorney Terry continued questioning Deputy Chief Fordham. Deputy Chief Fordham responded in detail to all questions posed by Attorney Terry.
- hh. Attorney Scott cross-examined Deputy Chief Fordham. Deputy Chief Fordham responded in detail to all questions posed by Attorney Scott.
- ii. The Board questioned Deputy Chief Fordham. He responded in detail to all questions posed by the Board.
- jj. There being no further questions, the witness was released.
- kk. Attorney Terry called Fire Chief Landry Merkison to the witness stand. He stated his name, position, tenure in position and tenure with the Fire Department. Attorney Terry began questioning Fire Chief Merkison. Fire Chief Merkison responded in detail to all questions posed by Attorney Terry. Attorney Terry mentioned County Exhibit C-6 page 38.

- ll. Attorney Terry continued questioning Fire Chief Merkison. Fire Chief Merkison responded in detail to all questions posed by Attorney Terry. Attorney Terry mentioned County Exhibits C-7 page R9-5, C-9, C-6 pages 31-32, 35 and 1.
- mm. Attorney Terry continued questioning Fire Chief Merkison. Fire Chief Merkison responded in detail to all questions posed by Attorney Terry.
- nn. Attorney Scott cross-examined Fire Chief Merkison. Fire Chief Merkison responded in detail to all questions posed by Attorney Scott.
- oo. The Board questioned Fire Chief Merkison. He responded in detail to all questions posed by the Board.
- pp. There being no further questions, the witness was dismissed.
- qq. Attorney Terry tendered the following exhibits: C-6, C-7 and C-9. Attorney Scott did not have any objections. Attorney Terry stated the County rested.
- rr. Attorney Scott called Aaron Jackson to the witness stand. Attorney Terry renewed the County's objection to the Appellant calling any witnesses. Chairman Bartlett overruled the objection.
- ss. Attorney Scott began questioning Firefighter Jackson. Firefighter Jackson responded in detail to all questions posed by Attorney Scott.
- tt. Attorney Terry cross-examined Firefighter Jackson. Firefighter Jackson responded in detail to all questions posed by Attorney Terry.
- uu. The Board questioned Firefighter Jackson. He responded in detail to all questions posed by the Board.
- vv. There being no further questions, the witness was released.
- ww. Attorney Scott called Joshua Ellington to the witness stand. He stated his name, and where employed. Attorney Scott began questioning Firefighter Ellington. Firefighter Ellington responded in detail to all questions posed by Attorney Scott.
- xx. Attorney Terry cross-examined Firefighter Ellington. Firefighter Ellington responded in detail to all questions posed by Attorney Terry.
- yy. The Board questioned Firefighter Ellington. He responded in detail to all questions posed by the Board.
- zz. There being no further questions, the witness was released.
- aaa. Mr. Trimble advised Attorney Scott he had used 24:23 minutes and Attorney Terry she had used 28:25 minutes.
- bbb. Attorney Scott called Randy Wimberly to the witness stand. He stated his name and was sworn in again by Attorney Scott. Attorney Scott began questioning

- Firefighter Wimberly. Firefighter Wimberly responded in detail to all questions posed by Attorney Scott.
- ccc. Attorney Terry cross-examined Firefighter Wimberly. Firefighter Wimberly responded in detail to all questions posed by Attorney Terry.
 - ddd. The Board questioned Firefighter Wimberly. He responded in detail to all questions posed by the Board.
 - eee. There being no further questions, the witness was dismissed.
 - fff. Mr. Trimble advised Attorney Scott he had used 41 minutes and Attorney Terry she had used 33 minutes.
 - ggg. Chairman Bartlett called for a lunch break. Mr. Trimble made a motion, second by Vice-Chair Lancaster. No further discussion on the motion made. Motion carried by unanimous vote.
 - hhh. Chairman Bartlett called the meeting back to order.
 - iii. Attorney Scott called Stanley Atkins to the witness stand. Attorney Scott swore in Fire Medic Atkins and had him to state his name. Attorney Scott began questioning Fire Medic Atkins. Attorney Scott mentioned Appellant Exhibits A-4 page 2, A-11 and A-7. Attorney Terry objected to a question posed by Attorney Scott. The objection was sustained.
 - jjj. Attorney Terry cross-examined Fire Medic Atkins. Fire Medic Atkins responded in detail to all questions posed by Attorney Terry.
 - kkk. The Board questioned Fire Medic Atkins. He responded in detail to all questions posed by the Board.
 - lll. There being no further questions, the witness was released.
 - mmm. Attorney Scott stated the Appellant rested.
 - nnn. Attorney Terry called Fire Chief Merkison as a rebuttal witness. Fire Chief Merkison responded in detail to all questions posed by Attorney Terry.
 - ooo. Attorney Scott tendered the following exhibits: Appellant Exhibits A-4, A-7, A-8, A-11 and County Exhibit C-6 pages 14 and 15. Attorney Terry renewed her objections to any Appellant's exhibits and especially A-4 and explained in detail.
 - ppp. Mr. Trimble stated he had no problem with this document being tendered. Chairman Bartlett denied the County's objection but cautioned the Board about the document (handwriting was not part of the original document).
 - qqq. Attorney Terry objected to Appellant Exhibit A-8, as there was no testimony about this document and explained. Attorney Scott withdrew Appellant Exhibit A-8.

- rrr. Attorney Terry reserved the County's right to present closing arguments last.
 - sss. Attorney Scott presented the Appellant's closing arguments. Attorney Terry presented the County's closing arguments.
 - ttt. Chairman Bartlett called for a motion to adjourn into Executive Session to discuss the appeal that was filed on March 4, 2011, by Randy Wimberly, Fire & Emergency Services, with regards to: Demotion and suspension. Mr. Trimble made a motion, second by Vice-Chair Lancaster. No further discussion on the motion made. Motion carried by unanimous vote.
 - uuu. Chairman Bartlett called the meeting back to order.
 - vvv. Chairman Bartlett called for a motion regarding Randy Wimberly, Fire & Emergency Services *suspension*. Mr. Trimble made a motion to uphold the department's decision to suspend, second by Vice-Chair Lancaster. No further discussion on the motion made. Motion carried by unanimous vote.
 - www. Chairman Bartlett called for a motion regarding Randy Wimberly, Fire & Emergency Services *demotion*. Mr. Osagie made a motion to overturn the department's decision to demote with back pay and benefits, second by Mr. Trimble. No further discussion on the motion made. Motion carried by unanimous vote.
3. ***Appeal*** – Considered appeal that was filed on August 31, 2011, by Ahmed K. Handfield, Sheriff's Office, with regards to: Termination from the Sheriffs' Dept.
- a. Chairman Bartlett advised all parties this matter would be continued until 9:30 a.m., tomorrow, March 5, 2014.
4. Discussion items.
- a. There were no discussion items.
5. Other business.
- a. **John Strutko, Sheriff's Office** (termination appeal) – Mr. Strutko withdrew his appeal this month.
 - b. **Barry Cauthen, Sheriff's Office** (termination appeal) – Mr. Cauthen's appeal hearing was continued at Attorney Thomas Florio's request.

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

Meeting adjourned.



LARRY BARTLETT
CHAIRMAN



RENEE BRIGHT
HUMAN RESOURCES DIRECTOR