

REGULAR CALLED CIVIL SERVICE BOARD MEETING

FEBRUARY 3, 2016

A regular called meeting of the Clayton County Civil Service Board was held on Wednesday, February 3, 2016, 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; County Attorney Michelle Youngblood; Human Resources Manager Tamara Duggans; Attorney Kimberly Bandoh; Fire Chief Landry Merkison; Sheriff Assistant Deputy Chief Shawn Southerland; Brenda Thomas; Mark Felgenhauer; Michael Hensley; Robert Lane; Timmy Sweat; various employees from County departments; and other individuals.

Chairman Bartlett called the meeting to order at 9:06 a.m.

Chairman Bartlett called for a motion to adopt the agenda. Mr. Trimble made the motion to adopt the agenda with the following addition of Item 10G – grievance of Robin Hollingsworth (Police), second by Vice-Chair Lancaster. No further discussion on the motion made. Motion carried by a unanimous vote.

1. Considered for approval the Civil Service Board Meeting Minutes held on January 6, 2016.
 - 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 a unanimous vote.

2. Considered for approval the Civil Service Board's Advisory Opinion and Grievance Recommendation regarding the **Charwyna Byrd, District Attorney/Child Enforcement**, grievance heard on January 6, 2016.
 - a. Chairman Bartlett called for a motion. Mr. Trimble made the motion to approve the Opinions and Recommendations, second by Vice-Chair Lancaster. No further discussion on the motion made. Motion carried by a unanimous vote.

3. Considered for approval the Civil Service Board's Executive Session Minutes regarding **Richard Fryza, Transportation and Development**, grievance heard on January 6, 2016.
 - 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 a unanimous vote.
4. Considered for approval the Civil Service Board's Advisory Opinion and Grievance Recommendation regarding the **Richard Fryza, Transportation and Development**, grievance heard on January 6, 2016.
 - a. Chairman Bartlett called for a motion. Mr. Trimble made the motion to approve the Opinion and Grievance, second by Vice-Chair Lancaster. No further discussion on the motion made. Motion carried by a unanimous vote.
5. Considered request from **Lisa Gillians, Tax Commissioner**, to use sick leave for the care of her Mother.
 - a. Chairman Bartlett called for a motion. Dr. Jackson made the motion to remove the request from the Agenda, second by Mr. Trimble. No further discussion on the motion made. Motion carried by a unanimous vote.
6. Considered request from the Sheriff's Office to extend the promotional probationary period of **Robyn Coles-Kidd** for six months.
 - a. Chairman Bartlett asked Assistant Deputy Chief Shawn Southerland what the justification was to extend Ms. Coles-Kidd's probationary period.
 - b. Assistant Deputy Chief Southerland explained that Ms. Coles Kidd's name surfaced in an external investigation.
 - c. Mr. Trimble asked if the Sheriff's Department will use the entire six months.
 - d. Assistant Deputy Chief Southerland stated that they may not use the entire six months. That will depend on the results of the investigation.
 - e. Ms. Robin Coles-Kidd was not in attendance.
 - f. Chairman Bartlett called for a motion extend the promotional probationary period for six months. Mr. Trimble made the motion to approve the request, second by Ms. Lancaster. No further discussion on the motion made. Motion carried by a unanimous vote.
7. Considered request from Chief of Police Michael Register to extend the provisional appointment of **Kenneth Chappell** for another 180 days or until new promotional lists are certified.

- a. Kenneth Green presented the request in detail.
 - b. Chairman Bartlett expressed his concern with the employees being treated as “pawns” and stated that this “song and dance” is getting old.
 - c. A discussion between the Board and Mr. Green occurred.
 - d. Mr. Kenneth Chappell was not in attendance.
 - e. Chairman Bartlett called for a motion to extend the provisional appointment for 180 days. Dr. Jackson made the motion to approve the request, second by Mr. Trimble. No further discussion on the motion made. Motion carried by a unanimous vote.
8. Calendar Call.
- a. **Mark Felgenhauer (Sheriff’s Office)** – Grievance filed October 31, 2014, regarding: “Promotion process and policies resulting in a lower pay Grade.”
 - i. Attorney Michelle Youngblood stated that she was ready to proceed on behalf of the County.
 - ii. Mark Felgenhauer was present and stated that he was ready to proceed.
 - b. **Michael Scott Hensley (Sheriff’s Office)** – Grievance filed October 31, 2014, regarding: “Promotion process and policies resulting in a lower pay Grade”.
 - i. Attorney Michelle Youngblood stated that she was ready to proceed on behalf of the County.
 - ii. Mr. Hensley was present and stated that he was ready to proceed
 - c. **Robert L. Lane (Sheriff’s Office)** – Grievance filed October 31, 2014, regarding: “Promotion process and policies resulting in a lower pay Grade”.
 - i. Attorney Michelle Youngblood stated that she was ready to proceed on behalf of the County.
 - ii. Robert Lane was present and stated he was ready to proceed.
 - d. **Timmy Ray Sweat (Fire Department)** – Grievance filed November 25, 2014, regarding: “The lack of parity between the pay of the second in command Officers of the Fire Department and Police Department”.
 - i. Attorney Michelle Youngblood stated that she was ready to proceed on behalf of the County and made the Board aware that Chief Merkison had an appointment to keep.
 - ii. Mr. Sweat was present and stated he was ready to proceed.

- e. **Fred Latimore (Police Department)** – Grievance filed March 26, 2015, regarding: “Salary with Educational Incentive”.
 - i. Chairman Bartlett stated that this grievance was withdrawn on January 9, 2016.
 - ii. This item was removed from the pending grievances to be heard by the Board.

 - f. **Brenda Lee Thomas (Sheriff’s Office)** – Grievance filed June 3, 2015, regarding: “Improper promotion within the department”.
 - i. Attorney Michelle Youngblood was present and ready to proceed.
 - ii. Attorney Kimberly Bando and Ms. Thomas were present and ready to proceed.

 - g. **Robin Hollingsworth (Police Department)** – Grievance filed November 19, 2014, regarding: “Out of class job/position in relation to pay grade and demotion without cause”.
 - i. Chairman Bartlett stated that this grievance was withdrawn by the employee on January 29, 2016.

 - h. Chairman Bartlett asked if there was a request to consolidate the Sheriff’s Office grievances.
 - i. Attorney Michelle Youngblood stated that it would be up to the employees to decide.
 - j. Robert Lane stood up and stated on behalf of the other Sheriff’s Office employees that they were willing to consolidate their cases.
 - k. Chairman Bartlett asked Attorney Michelle Youngblood for a timeline so that the other cases on the calendar call can be excused until their case is to be heard. Parties to the other cases were instructed to give their contact information to Human Resources Director Renee Bright so that they can be contacted during the lunch hour as to when the Board can get to their grievance.
10. **Grievance** – Considered grievance filed by **Mark J. Felgenhauer, Michael Scott Hensley and Robert Lane (Sheriff’s Office)**, on October 31, 2014, regarding: “Promotion process and policies resulting in a lower pay Grade”.
- a. Chairman Bartlett went over the County’s witness list and asked the employees if they had any other witnesses.
 - b. The employees stated that they did not have any other witnesses.

- c. Chairman Bartlett asked if there were any requests for sequestration. There was no request for sequestration.
- d. Chairman Bartlett addressed an objection from the County regarding an e-mail being presented as an exhibit.
- e. Attorney Michelle Youngblood stated that an exhibit was listed differently in Mark Felgenhauer and Robert Lane's exhibits. The document is listed as E-1 in Felgenhauer's exhibits and as E-8 in Lane's exhibits. The objection is based on Attorney/Client privilege. Attorney Michelle Youngblood is asking for the document to be removed.
- f. Board Attorney Joe Harris spoke on the matter of Attorney/Client privilege as it related to the e-mail which contained two threads. One thread consisted of communication between Attorney Michelle Youngblood and Director Bright. The other thread was communication between Assistant Chief Deputy Shawn Southerland and Director Bright.
- g. Robert Lane stood and spoke about the matter.
- h. Chairman Bartlett asked questions to obtain further clarity on this matter as it related to Attorney/Client privilege.
- i. Board Attorney Joe Harris explained the concept of Attorney/Client privilege further.
- j. Chairman Bartlett asked Board Attorney Joe Harris to examine the document in question.
- k. Attorney Michelle Youngblood, Board Attorney Harris and Mark Felgenhauer examine the document before the Board.
- l. Board Attorney Joe Harris stated that in his opinion, the communication between the employees was not privileged. The communication between Attorney Michelle Youngblood and Director Bright could be considered privileged and would need to be redacted.
- m. There was a discussion between the Board, Attorney Michelle Youngblood, Board Attorney Harris and the Grievants about Attorney/Client privilege as it relates to the e-mail.
- n. Chairman Bartlett stated that he would entertain a motion to remove the e-mail from evidence but would allow the redacted version of the e-mail that did not include communication between Attorney Youngblood and Director Bright to be entered as evidence. Chairman Bartlett stated that Attorney Youngblood will have the opportunity to enter an objection to the redacted version.

- o. Chairman Bartlett called for a motion to remove exhibit E-1 from Felgenhauer's exhibits and E-8 from Lane's exhibits in regards to anybody who has seen it based on Attorney/Client privilege. Mr. Trimble made the motion that document be removed, second by Chairman Bartlett. No further discussion on the motion made. Motion carried by a unanimous vote.
- p. Chairman Bartlett allowed the Grievants to submit the redacted version of the exhibit and allowed for any objections from Attorney Youngblood.
- q. Attorney Michelle Youngblood objected to the admittance of the redacted version of the exhibit.
- r. Chairman Bartlett called for a motion to remove the redacted version of the exhibit from evidence. Dr. Jackson made the motion that document be accepted, second by Ms. Phillips-Hall. No further discussion on the motion made. Motion carried by a unanimous vote.
- s. Board Attorney Joe Harris asked if the motion applied to both Lane and Felgenhauer's documents. The Board answered in the affirmative.
- t. Chairman Bartlett stated that the three individuals should select one spokesperson to speak on all of their behalf.
- u. Chairman Bartlett called for a motion to take a short break. Mr. Trimble made the motion, second by Vice-Chair Lancaster. No further discussion on the motion made. Motion carried by a unanimous vote.
- v. Chairman Bartlett called the meeting back to order.
- w. Board Attorney Joe Harris swore in all of the witnesses.
- x. Mark Felgenhauer gave the opening statement on behalf of his fellow Grievants.
- y. Attorney Michelle Youngblood gave the opening statement on behalf of the County.
- z. Chairman Bartlett asked about TAD positions.
- aa. Director Bright explained TAD positions to the Board.
- bb. The Board began a discussion about TAD positions with Director Bright, Assistant Deputy Chief Southerland, Attorney Michelle Youngblood and the Grievants.
- cc. Attorney Michelle Youngblood questioned Assistant Deputy Chief Southerland. Assistant Deputy Chief Southerland answers all questions.
- dd. Chairman Bartlett asked Assistant Deputy Chief Southerland questions. Assistant Deputy Chief Southerland answered all questions.

- ee. Robert Lane cross-examined Assistant Deputy Chief Southerland.
- ff. The Board questioned Assistant Deputy Chief Southerland. Assistant Deputy Chief Southerland answered all questions.
- gg. Attorney Michelle Youngblood questioned Director Bright. Director Bright answered all questions asked.
- hh. Robert Lane questioned Director Bright. Director Bright answered all questions asked.
- ii. The Board did not have any questions for Director Bright.
- jj. Chairman Bartlett asked if there were any other witnesses or objections to any of the evidence that has been tendered. There were no objections.
- kk. Chairman Bartlett called for a motion to take a short break. Mr. Trimble made the motion, second by Vice-Chair Lancaster. No further discussion on the motion made. Motion carried by a unanimous vote.
- ll. Chairman Bartlett called the meeting back into session.
- mm. The Grievants opted to present their closing argument last.
- nn. Attorney Michelle Youngblood presented the County's closing argument.
- oo. Robert Lane presented the closing argument on behalf of the Grievants.
- pp. Chairman Bartlett called for a motion to adjourn into Executive Session. Mr. Trimble made the motion, second by Dr. Jackson. No further discussion on the motion made. Motion carried by a unanimous vote.
- qq. Chairman Bartlett asked Director Bright to contact Attorney Kimberly Bando to inform her that they would not be able to get to the Brenda Thomas case today. Chairman Bartlett instructed Chief Merkison and Timmy Sweat to come back at 2:30 PM.
- rr. Chairman Bartlett called the meeting back into session.
- ss. Chairman Bartlett called for a motion in regards to the grievance filed by Mark Felgenhauer on October 31, 2014, regarding: "Promotion process and policies resulting in a lower pay Grade." Mr. Trimble made a motion that the employee receive an immediate 5% pay increase and 5% back pay from the time that his grievance was filed which was October 31, 2014, second by Dr. Jackson. No further discussion on the motion made. Motion carried by a unanimous vote.
- tt. Chairman Bartlett called for a motion in regards to the grievance filed by Michael Hensley on October 31, 2014, regarding: "Promotion process and policies

resulting in a lower pay Grade.” Mr. Trimble made a motion that the employee receive an immediate 5% pay increase and 5% back pay from the time that his grievance was filed which was October 31, 2014, second by Dr. Jackson. No further discussion on the motion made. Motion carried by a unanimous vote.

- uu. Chairman Bartlett called for a motion in regards to the grievance filed by Robert Lane on October 31, 2014, regarding: “Promotion process and policies resulting in a lower pay Grade.” Mr. Trimble made a motion that the employee receive an immediate 5% pay increase and 5% back pay from the time that his grievance was filed which was October 31, 2014, second by Dr. Jackson. No further discussion on the motion made. Motion carried by a unanimous vote.
 - vv. Chairman Bartlett wished the Grievants well.
 - ww. Chairman Bartlett called for a motion to take a lunch break. Dr. Jackson made the motion, second by Mr. Trimble. No further discussion on the motion made. Motion carried by unanimous vote.
11. **Grievance** – Considered grievance filed by **Timmy Ray Sweat (Fire Department)**, on November 25, 2014, regarding: “The lack of parity between the pay of the second in command Officers of the Fire Department and Police Department”.
- a. Chairman Bartlett called the meeting back into session. He asked if there were any issues in regards to any evidence submitted to the Board. All said there were no issues.
 - b. Joe Harris swore in all witnesses.
 - c. Assistant Chief Sweat gave his opening statement.
 - d. Attorney Michelle Youngblood presented her opening statement on behalf of the County.
 - e. Assistant Chief Sweat began to present his case. He provided a summary as to why he filed a grievance.
 - f. Mr. Trimble offered to recuse himself because he worked for the Fire Department and worked with both Fire Chief Merkison and Assistant Chief Sweat. Nobody took issue with Mr. Trimble hearing the case as a Board member.
 - g. Attorney Michelle Youngblood cross-examined Assistant Chief Sweat. Assistant Chief Sweat answered all questions asked of him.
 - h. Vice-Chair Lancaster asked questions of Director Bright pertaining to new hires getting paid a starting salary higher than Step 1 of the Grade for that position. Director Bright stated that they would “normally” be hired at Step 1. The Board continued to question Director Bright. Director Bright answered all questions.

- i. The Board began to question Assistant Chief Sweat. Assistant Chief Sweat answered all questions asked.
 - j. Attorney Michelle Youngblood questioned Director Bright. Director Bright answered all questions asked.
 - k. Assistant Chief Sweat did not cross-examine Director Bright.
 - l. The Board presented questions to Director Bright. Director Bright answered all questions.
 - m. Attorney Michelle Youngblood called Fire Chief Merkison as a witness. Chief Merkison answered all questions asked.
 - n. Assistant Chief Sweat cross-examined Chief Merkison. Chief Merkison answered all questions that were asked.
 - o. The Board asked questions of Director Bright pertaining to the matter at hand. Director Bright answered all questions asked.
 - p. Attorney Youngblood spoke about a cover letter from Chief Sweat to the Board and stated that this is not evidence. Chairman Bartlett stated that it would only be evidence if it was testified to.
 - q. Assistant Chief Sweat gave his closing statement.
 - r. Attorney Michelle Youngblood gave her closing statement.
 - s. Chairman Bartlett mentioned a Deputy Chief vacancy with the Police Department and asks what pay step will be advertised. Director Bright stated that she does not know if the position will be advertised and that Police Chief Register may do away with the position.
 - t. Chairman Bartlett called for a motion to go into Executive Session. Mr. Trimble made the motion, second by Vice-Chair Lancaster. No further discussion on the motion made. Motion carried by unanimous vote.
 - u. Chairman Bartlett called for a motion in regards to the grievance filed by Timmy Ray Sweat on November 25, 2014, regarding: "The lack of parity between the pay of the second in command Officers of the Fire Department and Police Department". Mr. Trimble made a motion that the Board recommend that the pay status of the Assistant Chiefs of the Fire Department be brought into parity with the Deputy Chiefs of the Police Department, second by Dr. Jackson. No further discussion on the motion made. Motion carried by unanimous vote.
12. Discussion item.
- a. Selected meeting date for April 2016.

- i. The first Wednesday in April is April 6, 2016.
 - ii. Chairman Bartlett asked Ms. Bright to set up the required yearly training for the Civil Service Board.
- 13. Other business.
 - a. None.

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