

MINUTES
Cuyahoga County Human Resource Commission
Wednesday, May 1, 2013
Lakeside Place Building
323 W. Lakeside Avenue, Suite 400
5:00 p.m.

1) CALL TO ORDER

Chairman Wolff called the meeting to order at 5:00 p.m. Commissioner Palmer made a motion to approve the minutes from the April 17, 2013 meeting. Chairman Wolff seconded the motion. All were in favor; no objections.

2) ATTENDANCE

Chairman Robert Wolff, Commissioner Kathleen Palmer, Commissioner Angela Simmons, HRC Administrator Rebecca Kopcienski, HRC Coordinator Jessica Vezina, Assistant Prosecutor Sara DeCaro, Prosecutor's Office Civil Division Supervisor David Lambert, Assistant Prosecutor Nora Graham, Assistant Law Director Amy Marquit-Renwald, HR Recruitment & Retention Manager Albert Bouchahine, Attorney James Budzik, Dan McNea, Suzanne Britt, Bryan Hitch, Mitch Holt, Gary Green and Guy Swindell.

3) PUBLIC COMMENT – Nothing Submitted

4) UNFINISHED BUSINESS

a) Update to Classification Plan – Public Works

HR Manager Bouchahine spoke with the Commission regarding the proposed updates to the classification plan in Public Works. Mr. Hitch addressed the Commission about his concerns regarding the proposed changes. Discussion ensued. The Commission asked that Director Teeuwen be present at the May 15, 2013 HRC meeting to discuss the proposed updates to the classification plan.

5) NEW BUSINESS

a) McNea, D. & Samerigo, J. – Appellee's Motion

Appellants' Attorney James Budzik and Mr. McNea addressed the HRC regarding the Appellee's motion for an additional extension of time to file their objection and response to the Hearing Officer's Report and Recommendation (R&R) and the Appellant's Objection to the R & R. Attorney Budzik expressed his objections to the motion, asserting that because 1) the motion was untimely and no reason was provided for the request, 2) the Ohio Attorney General's opinion clarified that the Prosecutor should represent the County in HRC administrative hearings, 3) the County Law Department has no legal standing to represent the County in these appeals, 4) he understood the Administrator's response on behalf of the Chairman to the Law Department's request for an extension to reflect that the Chairman had already decided on the Appellee's motion before the Appellant could respond, and 5) because neither Ms. Laubenthal (of Giffen and Kaminski, LLC) the legal counsel of record in these appeals, nor the County Prosecutor, the only legal representative of the Executive, had not filed an objection, the Commission should deny and overrule the request for an extension of time and consider only the timely Objections filed by the Appellants.

Assistant Law Director Marquit-Renwald addressed the HRC and stated that Attorney Budzik had agreed to a prior request for extension which should render his concern moot. She stated the County Prosecutor and County Executive had an agreement regarding the Law Department's role in representation at HRC appeals. Attorney Budzik stated that Assistant Law Director Marquit-Renwald had informed him she was filing the prior request for extension on behalf of Giffen & Kaminski, LLC. The Chairman asked Attorney Budzik how his client would be prejudiced by the full development of the record. Discussion ensued.

At 7:00 p.m. Commissioner Palmer made a motion to go into Executive Session for legal counsel from the Prosecutor's office. Commissioner Simmons seconded the motion. All were in favor; no objections.

Attorney Budzik expressed his objections to the Commission going into Executive Session.

At 7:20 p.m. the Commission was back on the record.

Chairman Wolff acknowledged that Attorney Budzik made a very substantive argument on the issue of the authority to represent, but clarified the HRC does not believe it has authority to refuse to consider objections based upon the Attorney General's (AG's) decision. He further acknowledged there may be individuals who have a right to some sort of redress if the individuals representing the Executive, who by the decision of the AG should not be, but the HRC does not believe in this context, when it is just the filing of a non-jurisdictional document to help the HRC reach a decision, that a substantive right is being affected or that the HRC or Attorney Budzik has standing to reach that particular issue under these circumstances. The Chairman noted for the record that Attorney Budzik raises a very substantial issue and the HRC looks forward to reviewing the R&Rs from the Hearing Officers.

Chairman Wolff recommended that the HRC allow the brief to be filed, and overrule the objection to the request for the third extension, with the understanding that while ALD Marquit-Renwald has no record of being dilatory there has been a bit of history of more extensions than the HRC should have been seeing for writing these briefs and that the HRC should have been doing a better job of moving these along. He stated the HRC would very much like to address the merits of the R&Rs at their next meeting. Discussion ensued about the deadline for submission of the Appellants' response to the Appellee's objections.

Attorney Budzik requested clarification of the HRC's recommendation, and questioned his understanding that the HRC stated that the Law Department has standing and has a right to represent the County Executive in this case; the Chairman clarified that the HRC was not reaching that issue, nor were they certain of whether it is appropriate for the Appellant to raise the issue. He stated the HRC's position is they acknowledge that the issue raised by Attorney Budzik seems to have serious facts to support it but in the context of representatives of the Executive bringing to our attention any document that might be helpful in our reaching a decision, the Commission thinks it is more likely that it will be interjected into the record by not considering such a document than by doing so.

Attorney Budzik stated his strong objection that the Chairman ruled on the Appellee's motion to approve the request for extension before he had a right to file his response and he did nothing more than approve that again today with the concurrence of the two Commissioners.

Discussion ensued about the minutes that would be prepared for the meeting and the right of Attorney Budzik to not only argue on the merits of the appeal but also to object to the minutes if he feels they do not reflect the meeting accurately.

Chairman Wolff made a motion to approve the Appointing Authority's third request for an extension of time and to allow the Appellee's April 30, 2013 Objection to the Report & Recommendation and Response to the Appellant's Objection to be filed.

Attorney Budzik expressed his objection to the motion asserting the Commission had just approved the Appointing Authority's request, and the Appointing Authority did not file a request but the Law Department did. ALD Marquit-Renwald responded that Cuyahoga County filed the motion. Discussion ensued regarding the documents filed and submitted by the Appellee's legal counsel and the timing requirements of additional Objections to be filed by the Appellant.

Chairman Wolff made a motion to approve the Appellee's third request for extension of time; Commissioner Palmer seconded the motion. All were in favor; no objections.

Chairman Wolff made a motion to overrule the Appellants' motion to strike the third motion for extension and (to overrule) the Appellants' Objections to the Commission's acceptance of the Appellee's Objection and Response to Appellant's Objection. Commissioner Simmons seconded the motion. All were in favor; no objections.

Discussion ensued about the County's contract with Giffen & Kaminski, the County's legal counsel in appeals, the HRC's role as a neutral adjudicatory body in the appeals.

b) Appointment of Staff Attorney

Chairman Wolff made a motion to approve the appointment of Sara DeCaro as Staff Attorney for the HRC as of May 20, 2013; Commissioner Palmer seconded the motion. All were in favor; no objections.

6) PUBLIC COMMENT– Nothing Submitted

7) OTHER BUSINESS– Nothing Submitted

APA DeCaro updated the Commission about the Charter Review Commission meeting she attended. Discussion ensued.

Administrator Kopcienski presented the Commission with the draft of the HRC year-end report. The Commission will review and provide input.

8) ADJOURNMENT

Chairman Wolff made a motion to adjourn the meeting at 8:00 p.m. Commissioner Palmer seconded the motion. All were in favor; no objections.

Next Human Resource Commission meeting is scheduled for Wednesday, May 15, 2013 at 5:00 p.m. at Lakeside Place (323 W. Lakeside Avenue, Suite 400)