

MINUTES
Cuyahoga County Human Resource Commission
Wednesday, February 6, 2013
Lakeside Place Building
323 W. Lakeside Avenue, Suite 400
5:00 p.m.

1) CALL TO ORDER

Commissioner Palmer called the meeting to order at 5:05 p.m. Commissioner Simmons made a motion to approve the minutes from the January 23, 2013 meeting. Commissioner Palmer seconded the motion. All were in favor; no objections.

2) ATTENDANCE

Commissioner Kathleen Palmer, Commissioner Angela Simmons, HRC Administrator Rebecca Kopcienski, HRC Coordinator Jessica Vezina, Assistant Prosecutor Sara DeCaro, Assistant Law Director Amy Marquit Renwald, HR Director Elise Hara, Assistant Law Director Egdilio Morales, Jim Battigaglia of the Archer Company, Legislative Budget Advisor Trevor McAleer, County Council Chief of Staff Joseph Nanni, Prosecutor Tim McGinty, Prosecutor's Chief of Staff Jane Platten, HR Manager Bev Dean, Public Defender Robert Tobik, Attorney Supervisor John Martin, George George, Dan Misiewicz, and Jason Haller. Chairman Robert Wolff was not present.

3) PUBLIC COMMENT – Nothing Submitted

4) UNFINISHED BUSINESS

a) Appeals

i) Desotell, L. - Report and Recommendation

Assistant Law Director Egdilio Morales addressed the Commission. Discussion ensued.

COMMISSIONER PALMER: Desotell, does anyone want to be heard on that?

HR DIRECTOR HARA: Yes please, we brought our attorney.

ASSISTANT LAW DIRECTOR MORALES: We were not sure whether or not the Commission would actually vote on this manner today in light of the fact that one of the members isn't here.

COMMISSIONER PALMER: We had planned to, but if you have something you want us to hear we would be happy to hear you.

ASSISTANT LAW DIRECTOR MORALES: Thank you. Ed Morales on behalf of the Department of Law. We think it is important when the Commissioners decide in this case that we ask that you take judicial notice of certain provisions, first in the County's Policies and Procedures Manual, which were passed pursuant to an ordinance of Council. As you know the Charter requires in 9.01 that all

policies and procedures of human resources policies and procedures be past pursuant to ordinance. So the applicable law in this case that is important is first, the ordinance that was passed by Council adopting the policy manual and then the specific provisions of the policy manual, of which we don't think the Hearing Officer has given sufficient attention. In particular there is a provision in the policy manual that specifically incorporates Chapter 123 of the Administrative Code and there is another provision regarding layoffs that references both the Revised Code and the Administrative Code. And we think because the applicable law which is, in fact, the policy manual in this case incorporates both the code, the Revised Code and Administrative Code, it is incumbent on the Commission in fashioning its decisions to give the provisions in the Revised Code and Administrative Code that treat layoffs equal weight and to make sure that meaning is given to all the applicable provisions, of the Revised Code and the Administrative Code. To this extent we would point out that there are provisions that specifically address the issue of whether or not an individual can displace someone with more retention points, and we ask you to take notice of 123:1-41-11, paragraph D which clearly and unambiguously states "employees shall only have the right to displace employees with fewer retention points" in the order established in Rule 123:1-41-07 which refers to a specific order of layoff. So this provision clearly establishes that there is no ability to displace someone with retention points, someone who has more retention points regardless if that individual is in a lower class series. And we ask that the Commission take this into account. So the argument that has been made that the Revised Code specifically 124.321(D)(3)(d) that it somehow provides a right to displace someone in a, in the next lower class in the series regardless of the retention points, then that interpretation is clearly erroneous and I should point out that you cannot be shown, you have not been shown a single case in which any court or the State Personnel Board of Review has permitted an employee with more displacements, excuse me more retention points, to be bumped by someone with fewer retention points. There is not one case

out there that establishes the proposition that you can do that. Every instance in which a layoff has been ruled upon by the State Personnel Board of Review, that we could find, involves the situation where employees who are permitted to displace other employees have more retention points than the employees that they displace, consistent with a clear statement of that premise in the Administrative Code. So therefore we would respectfully request that the Hearing Officer's decision be rejected because his reasoning does not comport with the applicable law in this case which in the first instance is the County Ordinance incorporating both the Revised Code and the Administrative Code and those again in the Revised Code to the extent is unclear and we submit that it is unclear in this situation that it must be read in conjunction with the Administrative Code which clearly states that you can't bump unless you have more retention points. Thank you.

COMMISSIONER PALMER: Any questions? Okay. We are going to move to 5A Archer Final Report & Recommendation - Jim. Before Jim gets started we just want to put into the notes that we'll take into consideration what Mr. Morales told us this evening and put it as an agenda item on our next meeting.

Commissioner Simmons made a motion to move the Report & Recommendation to the February 20, 2013 meeting; Commissioner Palmer seconded the motion. All were in favor; no objections.

ii) Bennett, H. – Report and Recommendation

Commissioner Simmons made a motion to affirm the Report & Recommendation submitted by Hearing Officer Stevenson; Commissioner Palmer seconded the motion. All were in favor; no objections.

b) Modification to Proposed Classification Plan Changes

Director Hara addressed the Commission and referenced her presentation at the January 23, 2013 HRC meeting regarding proposed deletions from the County's classification plan. She explained that one of the twenty-one (21) classifications proposed for deletion is in fact a needed classification and asked that the Commission modify its recommendation to County Council. Discussion ensued. Commissioner Simmons made a motion to modify the HRC's recommendation to County Council to remove the Inspection and Permit Supervisor classification from the list of proposed classifications for deletion; Commissioner Palmer seconded the motion. All were in favor; no objections.

5) NEW BUSINESS

a) Archer Final Report & Recommendations

Mr. Jim Battigaglia presented Archer's report on the methodology used to conduct the salary survey and to develop recommended pay grade changes in the Prosecutor's and the Public Defender's Office. Prosecutor McGinty and Chief of Staff Platten requested that the HRC postpone action on the report to allow them adequate time to study the implications for their office. Discussion ensued and no further action was taken by the Commission.

b) Appeals

i) Kiser, A. - Report and Recommendation

Commissioner Simmons made a motion to affirm the Report & Recommendation submitted by Hearing Officer Stevenson; Commissioner Palmer seconded the motion. All were in favor; no objections.

ii) Schmitz, R. - Report and Recommendation

Commissioner Simmons made a motion to affirm the Report & Recommendation submitted by Hearing Officer Stevenson; Commissioner Palmer seconded the motion. All were in favor; no objections.

iii) Cugini, L. - Report and Recommendation

Commissioner Simmons made a motion to affirm the Report & Recommendation submitted by Hearing Officer Stevenson; Commissioner Palmer seconded the motion. All were in favor; no objections.

iv) Fena, J. - Report and Recommendation

Commissioner Simmons made a motion to affirm the Report & Recommendation submitted by Hearing Officer Stevenson; Commissioner Palmer seconded the motion. All were in favor; no objections.

c) HRC Lease Agreement

Commissioner Simmons made a motion to approve the lease agreement for offices located at 323 Lakeside Avenue, Suite 400 and to also give the HRC Administrator the authority to sign the lease agreement; Commissioner Palmer seconded the motion. All were in favor; no objections.

6) PUBLIC COMMENT– Nothing Submitted

7) OTHER BUSINESS– Additional discussion ensued regarding the role of the HRC in the salary study of the Prosecutor's and Public Defender's offices.

8) ADJOURNMENT

Commissioner Palmer made a motion to adjourn the meeting at 6:30 p.m. Commissioner Simmons seconded the motion. All were in favor; no objections.

Next Human Resource Commission meeting is scheduled for Wednesday, February 20, 2013 at 5:00 p.m. at Lakeside Place (323 W. Lakeside Avenue, Suite 400)