

SPECIAL CALLED CIVIL SERVICE BOARD MEETING

NOVEMBER 5, 2013

A special called meeting of the Clayton County Civil Service Board was held on Tuesday, November 5, 2013, in the Commissioners' Board Room.

Members present: Troyce B. Lancaster, Vice-Chair
Gbenga Osagie, Member
J. Mark Trimble, Member
Lori Favre, Member

Member absent: Larry A. Bartlett, Vice-Chairman

Also present: Human Resources Director Renee Bright and various staff members; Civil Service Board Attorney Joe Harris; County Attorney Michelle Terry; Police Department Legal Advisor Kenneth Green; Police Deputy Chief Chris Butler; Tax Commissioner Terry Baskin; Police Chief Gregory Porter; Transportation and Development Director Jeff Metarko; Attorney Mary Huber; Thomas David Ward; various employees from County departments; and other individuals.

Vice-Chair Lancaster called the meeting to order at 9:27 a.m., and noted for the record that all Board members were present, except Larry Bartlett. Vice-Chair Lancaster called for a motion to adopt the November 5th agenda. Mr. Trimble made a motion to adopt the agenda, second by Ms. Favre. No further discussion on the motion made. Motion carried by unanimous vote (4-0)

1. Roll Call

- a. Vice-Chair Lancaster called for the parties in the Thomas David Ward, Police Department, Appeal. All were present.
- b. Vice-Chair Lancaster called for the parties in the Linda Ellis, Transportation and Development, Appeal. Ms. Ellis was not in attendance.
- c. County Attorney Michelle Terry moved to have Ms. Ellis' appeal dismissed and have the appeals stand.
- d. Vice-Chair Lancaster called for a motion. Mr. Trimble made a motion to approve Ms. Terry's motion, second by Ms. Favre.
- e. Vice-Chair Lancaster dismissed all witnesses who were in attendance for Linda Ellis, Transportation and Development, Appeal.
- f. Vice-Chair Lancaster noted for the record again, that all Board members were present except Larry Bartlett.

2. *Appeal* – Consider appeal that was filed on November 29, 2010, by Thomas David Ward, Police Department, with regards to: Termination.
 - a. Vice-Chair Lancaster stated there were legal issues that needed to be worked out prior to the actual appeal starting.
 - b. Vice-Chair Lancaster mentioned the letter from Michelle Terry dated November 4, 2013 regarding tendering of exhibits and confirmed that **County Exhibits 1, 2, 3, 4, 5, 6, 9, 10, 11 and 17 and Appellant Exhibits 1, 4, 6, 7 and 9** had been agreed upon by both parties.
 - c. Ms. Terry explained that **Appellant Exhibit 7** should not be considered because it is incomplete and that the entire Internal Investigation file should be considered.
 - d. Civil Service Board Attorney Joe Harris stated the Board would rule on the admissibility after the end of the case. Ms. Terry agreed.
 - e. Vice-Chair Lancaster mentioned the issue of having Police Department Legal Advisor Kenneth Green to provide testimony.
 - f. A discussion among Vice-Chair Lancaster, Mr. Harris, Attorney Mary Huber, and Ms. Huber occurred.
 - g. Mr. Harris confirmed that any communication between Mr. Green and Police Chief Porter would be inadmissible.
 - h. Ms. Terry on behalf of the County stipulated to the authenticity of **Appellant Exhibits 11-14**.
 - i. Ms. Huber released Mr. Green as her witness.
 - j. Vice-Chair Lancaster mentioned Appellant's Objection to County Exhibit 7.
 - k. Ms. Huber explained why she filed the Objection in detail.
 - l. Mr. Harris stated the Board would wait until after the case to see if this exhibit would be tendered into evidence.
 - m. Vice-Chair Lancaster mentioned Appellant's Motion to Dismiss Certain Charges.
 - n. Mr. Harris stated he needed to hear from both attorneys.
 - o. Ms. Huber explained that two of the charges were "vague" and that they lacked "specificity".
 - p. Ms. Huber responded and mentioned **County Exhibit 6 (pg. 2)** and asked that the Board deny the Motion.

- q. Mr. Harris explained in detail and recommended that the Board reserve its ruling and wait until the evidence has been presented.
- r. Vice-Chair Lancaster mentioned Appellant's Objection to Hearing Procedures.
- s. Ms. Huber stated she filed on behalf of Mr. Ward to "preserve" his rights on "record".
- t. Mr. Harris stated the Board must stand by its policy and it was his recommendation that the Board deny the Motion.
- u. Vice-Chair Lancaster called for a motion. Mr. Trimble made a motion to deny Ms. Huber's Motion regarding hearing procedures, second by Mr. Osagie. No further discussion on the motion made. Motion carried by unanimous vote (4-0).
- v. Vice-Chair Lancaster called to order the Thomas David Ward, Appeal.
- w. Ms. Huber invoked the order of sequestration.
- x. Mr. Harris swore in witnesses who were in attendance.
- y. Ms. Terry presented the County's opening statement. Ms. Huber presented the Appellant's opening statement.
- z. Ms. Terry called Robert Kershaw to the witness stand.
- aa. Vice-Chair Lancaster asked Mr. Harris to advise Ms. Huber that the Board could not impose a lesser charge instead of termination.
- bb. A discussion among the Board, Ms. Huber and Mr. Harris occurred (mentioned Civil Service Rule 11.310).
- cc. Systems Analyst Kershaw stated his name, where employed, tenure, title and duties. Ms. Terry began questioning Mr. Kershaw. Mr. Kershaw responded in detail to all questions posed by Ms. Terry.
- dd. Ms. Huber did not have any questions for Mr. Kershaw.
- ee. The Board questioned Mr. Kershaw. He responded in detail to all questions posed by the Board.
- ff. There being no further questions, the witness was dismissed. Ms. Terry stated she would re-call if needed for rebuttal.
- gg. Ms. Terry called Captain Richard Lavallie to the witness stand. He stated his name, where employed, position, tenure in position and tenure with department.

Ms. Terry began questioning Capt. Lavallie. Capt. Lavallie responded in detail to all questions posed by Ms. Terry. Ms. Terry mentioned **County Exhibit 7**.

- hh. Ms. Terry continued questioning Capt. Lavallie. Capt. Lavallie responded in detail to all questions posed by Ms. Terry. Ms. Terry mentioned **County Exhibit 7 (Tab 1)**. Ms. Huber objected to the graphics, as it was not mentioned in the Notice to Terminate. The objection was sustained.
- ii. Ms. Terry continued questioning Capt. Lavallie. Ms. Terry mentioned **County Exhibit 7 (Tab 2 pg. 9 and memo pg. 6)**. Ms. Huber stipulated that Tab 1 was attachment to email.
- jj. Ms. Terry mentioned **Tab 4**. Ms. Huber objected as its accounts were not bases for termination. Mr. Trimble explained. Ms. Huber stated that Mr. Ward did not get a chance to rebut as it was specified.
- kk. A discussion between the Board and Ms. Huber occurred.
- ll. The objection was over-ruled and Vice-Chair Lancaster explained in detail.
- mm. Ms. Terry continued questioning Capt. Lavallie. Capt. Lavallie responded in detail to all questions posed by Ms. Terry. Ms. Terry mentioned **County Exhibit 7 (Tabs 7, 8, 11, 12, 13, 14, and 15)**.
- nn. Ms. Terry continued questioning Capt. Lavallie. Capt. Lavallie responded in detail to all questions posed by Ms. Terry.
- oo. Vice-Chair Lancaster called for a motion (short break). Mr. Trimble made a motion, second by Ms. Favre. No further discussion on the motion made. Motion carried by unanimous vote (4-0).
- pp. Vice-Chair Lancaster called the meeting back to order.
- qq. Ms. Huber began cross-examination of Capt. Lavallie. Capt. Lavallie responded in detail to all questions posed by Ms. Huber. Ms. Huber mentioned **County Exhibit 7 (10/13/10 memorandum)** and got Capt. Lavallie to admit that Mr. Ward spent a total of 59 minutes on the computer from July 2010 – October 2010.
- rr. Ms. Huber continued the cross-examination of Capt. Lavallie. Capt. Lavallie responded in detail to all questions posed by Ms. Huber.
- ss. The Board questioned Capt. Lavallie. He responded in detail to all questions posed by the Board.
- tt. There being no further questions, the witness was dismissed. Ms. Terry will recall Capt. Lavallie for rebuttal.

- uu. Ms. Terry called Deputy Chief Christopher Butler to the witness stand. He stated his name, position, tenure, tenure with department and other positions held. Ms. Terry began questioning Deputy Chief Butler. Deputy Chief Butler responded in detail to all questions posed by Ms. Terry. Ms. Terry mentioned **County Exhibits 5 and 6.**
- vv. Ms. Terry continued questioning Deputy Chief Butler. Deputy Chief Butler responded in detail to all questions posed by Ms. Terry.
- ww. Ms. Huber began cross-examination of Deputy Chief Butler. Deputy Chief Butler responded in detail to all questions posed by Ms. Huber. Ms. Huber mentioned **Appellant Exhibit 6.**
- xx. Ms. Huber continued the cross-examination of Deputy Chief Butler. Deputy Chief Butler responded in detail to all questions posed by Ms. Huber.
- yy. Ms. Terry asked follow-up questions to Deputy Chief Butler. Deputy Chief Butler responded in detail to all questions posed by Ms. Terry.
- zz. Ms. Huber did not have any questions.
- aaa. The Board questioned Deputy Chief Butler. He responded in detail to all questions posed by the Board.
- bbb. There being no further questions, the witness was released.
- ccc. Vice-Chair Lancaster called for a motion (lunch break). Mr. Trimble made a motion, second by Ms. Favre. Discussion on the motion made: Vice-Chair Lancaster advised the hearing would continue at 1 p.m. No further discussion on the motion made. Motion carried by unanimous vote (4-0).
- ddd. Vice-Chair Lancaster called the meeting back to order.
- eee. Ms. Terry called Captain Craig Hammer to the witness stand.
- fff. Vice-Chair Lancaster called for a motion (short break) – microphone at the podium broke. Mr. Trimble made a motion, second by Mr. Osagie. No further discussion on the motion made. Motion carried by unanimous vote (4-0).
- ggg. Vice-Chair Lancaster called the meeting back to order.
- hhh. He stated his name, position, tenure, tenure with department and 2010 position in the department. Ms. Terry began questioning Capt. Hammer. Capt. Hammer responded in detail to all questions posed by Ms. Terry.
- iii. Ms. Terry continued questioning Capt. Hammer. Capt. Hammer responded in detail to all questions posed by Ms. Terry. Ms. Terry mentioned **County Exhibit 7.**

- jjj. Ms. Terry continued questioning Capt. Hammer. Capt. Hammer responded in detail to all questions posed by Ms. Terry.
- kkk. Ms. Huber began cross-examination of Capt. Hammer. Capt. Hammer responded in detail to all questions posed by Ms. Huber. Ms. Huber **mentioned Appellant Exhibit 7 and County Exhibit 7 (pg. 000028)**.
- lll. Ms. Huber continued cross-examining Capt. Hammer. Capt. Hammer responded in detail to all questions posed by Ms. Huber.
- mmm. Ms. Terry asked follow-up questions to Capt. Hammer. Capt. Hammer responded in detail to all questions posed by Ms. Terry.
- nnn. Ms. Huber asked additional questions to Capt. Hammer. Capt. Hammer responded in detail to all questions posed by Ms. Huber.
- ooo. The Board questioned Capt. Hammer. He responded in detail to all questions posed by the Board.
- ppp. There being no further questions, the witness was dismissed. Ms. Terry retained Capt. Hammer for rebuttal.
- qqq. Vice-Chair Lancaster called for a motion (short break). Mr. Trimble made a motion, second by Ms. Favre. No further discussion on the motion made. Motion carried by unanimous vote (4-0).
- rrr. Mr. Trimble advised Ms. Terry had used 50:05 and Ms. Huber 45:17.
- sss. Vice-Chair Lancaster called the meeting back to order.
- ttt. Ms. Terry called Police Chief Gregory Porter to the witness stand. He stated his name and position. Ms. Terry began questioning Police Chief Porter. Police Chief Porter responded in detail to all questions posed by Ms. Terry. Ms. Terry mentioned **County Exhibit 6 (the end)**.
- uuu. Ms. Terry continued questioning Police Chief Porter. Police Chief Porter responded in detail to all questions posed by Ms. Terry.
- vvv. Ms. Huber began cross-examination of Police Chief Porter. Police Chief Porter responded in detail to all questions posed by Ms. Huber. Ms. Huber mentioned **Appellant Exhibits 12 and 13**.
- www. Ms. Huber continued cross-examining Police Chief Porter. Police Chief Porter responded in detail to all questions posed by Ms. Huber.
- xxx. Ms. Terry had no follow-up questions for Police Chief Porter.


- yyy. The Board questioned Police Chief Porter. He responded in detail to all questions posed by the Board.
- zzz. There being no further questions, the witness stepped down.
- aaaa. Ms. Terry stated she had no more witnesses and tendered **County Exhibit 7**. Ms. Huber objected and stated anything dealing with computer usage should be excluded as it was not the basis for the charges (**Tabs 3-11 and 15**).
- bbbb. Ms. Terry responded that Mr. Ward was charged with charges mentioned in documents behind (**Tab 3**); entire exhibit should be admitted.
- cccc. A discussion among the Board occurred. All Board members wanted to keep the document in.
- dddd. Vice-Chair Lancaster called for a motion. Mr. Trimble made a motion to deny Ms. Huber's objection, second by Mr. Osagie. No further discussion on the motion made. Motion carried by unanimous vote (4-0).
- eeee. Vice-Chair Lancaster confirmed that **County Exhibit 7** would stay in its entirety.
- ffff. Vice-Chair Lancaster called for a motion (short break). Mr. Trimble made a motion, second by Ms. Favre. No further discussion on the motion made. Motion carried by unanimous vote (4-0).
- gggg. Vice-Chair called the meeting back to order.
- hhhh. Vice-Chair advised the Board would need to vacate the boardroom by 5 p.m. Mr. Trimble advised Ms. Terry had used 56:21 and Ms. Huber had used 52:15.
- iiii. Ms. Huber called GBI Investigator Donald Robinson to the witness stand. Mr. Harris swore in Mr. Robinson. He stated his name, where employed and that he was under subpoena. Ms. Huber began questioning Mr. Robinson. Mr. Robinson responded in detail to all questions posed by Ms. Huber. Ms. Huber mentioned **County Exhibit 7 (Tab 14)**.
- jjjj. Ms. Huber continued questioning Mr. Robinson. Mr. Robinson responded in detail to all questions posed by Ms. Huber.
- kkkk. Ms. Terry began cross-examination of Mr. Robinson. Mr. Robinson responded in detail to all questions posed by Ms. Terry.
- llll. Ms. Huber asked follow-up questions to Mr. Robinson. He responded in detail to all questions posed by Ms. Huber.
- mmmm. The Board questioned Mr. Robinson. He responded in detail to all questions posed by the Board.

- nnnn. There being no further questions, the witness was dismissed and thanked by the Board.
- oooo. Mr. Trimble advised Ms. Huber had used 1:00:47.
- pppp. Ms. Huber called Thomas David Ward to the witness stand and stated he would be her last witness. He stated his name, employed, tenure and whether P.O.S.T. certified. Ms. Huber began questioning Mr. Ward. Mr. Ward responded in detail to all questions posed by Ms. Huber. Ms. Huber mentioned **Appellant Exhibits 1 and 2.**
- qqqq. Ms. Huber continued questioning Mr. Ward. Mr. Ward responded in detail to all questions posed by Ms. Huber. Ms. Huber mentioned **Appellant Exhibits 3 and 4.**
- rrrr. Ms. Huber continued questioning Mr. Ward. Mr. Ward responded in detail to all questions posed by Ms. Huber. Ms. Huber mentioned **County Exhibit 17.**
- ssss. Ms. Huber continued questioning Mr. Ward. Mr. Ward responded in detail to all questions posed by Ms. Huber. Ms. Huber mentioned **County Exhibits 5 and 6.**
- tttt. Ms. Huber continued questioning Mr. Ward. Mr. Ward responded in detail to all questions posed by Ms. Huber. Ms. Huber mentioned **County Exhibit 7 (pg. 000030) and (Tab 14).**
- uuuu. Ms. Huber continued questioning Mr. Ward. Mr. Ward responded in detail to all questions posed by Ms. Huber.
- vvvv. Ms. Terry began cross-examination of Mr. Ward. Mr. Trimble advised Ms. Terry had 58:56 left. Mr. Ward responded in detail to all questions posed by Ms. Terry.
- wwww. The Board questioned Mr. Ward. He responded in detail to all questions posed by the Board.
- xxxx. Ms. Terry asked if she could ask an additional question.
- yyyy. Vice-Chair called for a motion (short break). Mr. Trimble made a motion, second by Mr. Osagie. No further discussion on the motion made. Motion carried by unanimous vote (4-0).
- zzzz. Vice-Chair called the meeting back to order.
- aaaaa. Vice-Chair Lancaster denied the request for Ms. Terry to ask an additional question.
- bbbbb. Ms. Terry reserved the right to call Mr. Ward as a rebuttal witness.


- cccc. Vice-Chair Lancaster advised the hearing would convene tomorrow, November 6, 2013, at 10 a.m. Mr. Trimble advised Ms. Terry had 18 minutes remaining and Ms. Huber had 3 minutes remaining.
- dddd. Vice-Chair Lancaster called for Other business. There were none.
- eeee. Ms. Terry confirmed she had two other witnesses besides Mr. Ward.
- ffff. Vice-Chair Lancaster asked counsel to remind witnesses that they are still sequestered and should not discuss the case with anyone.

Vice-Chair Lancaster 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 Mr. Osagie. No further discussion on the motion made. Motion carried by unanimous vote (4-0).

Meeting adjourned.



TROYCE LANCASTER
VICE-CHAIR



RENEE BRIGHT
HUMAN RESOURCES DIRECTOR