

MINUTES

SPECIAL MEETING OF THE HUMAN RESOURCES BOARD
TUESDAY, JULY 10, 2012, 5:30 P.M.
22 S. BEACH STREET, ORMOND BEACH, FLORIDA

Those present were: Mr. Rick Fraser, Mr. Bob Henry, Mr. Clark Rohmer, Mr. Ted West, Ms. Shelly Arzola, Human Resources Director; Ms. Jayne Timmons, Recording Secretary, Ms. Ann-Margret Emery, Deputy City Attorney and Mr. Charles Cino, Attorney for the Board.

Absent from Meeting: Mr. Matt Coleman.

The meeting was called to order at 5:35 P.M by Mr. Fraser and roll call was conducted by the Recording Secretary.

A motion was made by Mr. Henry and seconded by Mr. Rohmer to approve the minutes of the meeting held June 26, 2012 as presented. All were in favor. Carried.

The special hearing was requested by Sabrina Johnson, Planning Technician for the City of Ormond Beach as an appeal to her termination on June 4, 2012 for violation of the Human Resources Policy, Section 14.02 (c)(k) and (v) unexcused absences and/or late arrival to work, neglecting job duties, and unacceptable interpersonal skills and poor attitude.

Mr. Fraser opened the hearing regarding Ms. Johnson's termination. Mr. Cino introduced himself as the attorney for the Board and explained that according to the Rules of Procedure for the Human Resources Board of the City of Ormond Beach the Appellant (Ms. Johnson) has the burden of proof by clear and convincing evidence in this matter. He went on to explain the process for conducting a hearing on termination and the responsibilities of both parties. The Board was instructed that after hearing the evidence presented, they would have to determine Findings of Fact with respect to the employment action which will then be reduced to writing and forwarded to the City Manager with a recommendation for action within seven (7) days of the hearing.

Ann-Margret Emery, Deputy City Attorney, introduced herself and provided a brief overview of the facts leading to the dismissal of Sabrina Johnson. She stated that Ms. Johnson had been employed with the City since 2005 holding positions such as Permit Technician and most recently Planning Technician. She stated that the employee had the skill, intelligence, and ability to perform her job duties. She continued that, unfortunately, what led to her termination was her lack of dependability, difficulty working with others, and a poor work attitude. She said that the evaluations would show that this had been a consistent problem, with periods of improvement, but falling back on the same problems. The City had tried to work with Ms. Johnson on the problems for quite some time but unfortunately had no success in resolving the issues.

Ms. Emery said that on May 29, 2012, a pre-determination conference was held during which Ms. Johnson had the right to explain why the termination should not occur. Those reasons were unexcused absences and/or late arrival to work, neglecting job duties and refusing to carry out reasonable directions from her supervisor to the extent that it became disruptive to the department. On June 4, 2012, she was given the Notice of Final Action for the aforementioned actions upholding the termination effective immediately. Ms Emery reiterated what Mr. Cino had stated, that Ms. Johnson must prove by clear and convincing evidence that the termination was not warranted.

Mr. Cino asked Ms. Johnson to come to the podium and was sworn in for the record. Ms. Johnson stated that she had a statement to read and asked the Board to be patient with her, that she would be brief as possible. Ms. Johnson stated that she did not believe that the decision to terminate her would be reversed and that for that reason she was going to speak frankly and openly. She stated that she felt that she had tried on several occasions to try to find resolution to the issues creating her frustrations. She felt that her attempts were met with opposition and a lack of interest. She stated that one and half years ago the Joint Permit Center was created and payments were to be taken at the counter. Two instances occurred early after the opening of the Permit Center involving other employees making mistakes which resulted in the money drawers being stolen in one case and significantly not balanced in the other. Both resulted in verbal counselings. Shortly thereafter, both the Permit Tech and herself left their drawers at their desks after closing and were given a written reprimand even though this was the first incident for Ms. Johnson. She stated that she was very upset at not being given a verbal warning for the first incident and expressed this to her supervisor. This led to a poor performance review resulting in her reassignment to supervision by the Permit Counter Supervisor while still being in the Planning Department. The

other employee disciplined was still supervised by the City Engineer who refused to assign her to the Permit Counter Supervisor. She stated that with very little knowledge of what her Planning & Zoning duties were, the new supervisor assigned her to take up the slack of the Permit Tech position that was lost in the transition to one department. The Supervisor set two hours aside on Thursday and Friday for the Planning & Zoning work but Ms. Johnson felt that was insufficient and said that she was called back to the counter repeatedly after about 45 minutes. Ms. Johnson stated that she felt that she did not neglect her duties and stated several instances where she felt that there were extenuating circumstances to explain the amount of time it took to complete certain permits. She stated that the instances stated on the attached Incident Timeline were inflated and absurd. She stated that she received many returned Comment Card from citizens praising her work and attitude. Ms. Johnson continued by saying that the unexcused absences were due to a documented physical issue as well as the loss of her first granddaughter. She said that she thought the Incident Timeline sheet was created by her supervisor in retaliation.

Ms. Emery said that part of the termination was unscheduled leave and being late to work and asked Ms. Johnson to address that. Ms. Johnson stated that she felt that she had by talking about her physical issue stating that there was no way to determine in advance when you would have a good day or bad day. Ms. Emery asked, pertaining to the written warning she received, whether she remembered responding to Mr. Goss the Planning Director about the warning she received in an email? Ms. Johnson stated that she did and that she copied H.R. She was asked to read the email into the record. Ms. Johnson said that she would but to please understand that she was extremely upset at the time that she sent it. She read "That's fine, Ric. Write me up for forgetting. You have been told this is too much for us (talking about the Permit Counter and all the changes). Finance only has to remember their cashier function. I have never performed a cashier function in my life of fifty-three (53) years. Not only do I do Planning inquiries for anyone who walks in, LDC, etc. Now I do all Building, Special Events permits, fences, sheds, business licensing, fire inspections, what else, I forgot, that's all. Maybe it's time I seek legal advice". Ms. Emery asked "what did she mean by the last part" and Ms. Johnson stated that she thought that maybe she should have sought legal advice. Ms. Emery asked whether Ms. Johnson thought that the email was an appropriate, professional response to the warning and Ms. Johnson said that perhaps it was not. But she felt it was a frustrated response for being singled out for being the only employee to not have a verbal counseling prior to receiving a written warning.

Ms. Emery said that Ms. Johnson had stated that she had tried to talk to the H.R. Director several times and asked her to explain. Ms. Johnson said that she had sent Ms. Arzola an email on two different occasions and that they had an appointment set at one time and she cancelled because she had a meeting that she had to attend and Ms. Johnson felt a lack of interest. She wanted some assistance with the resolution of the written warning.

Mr. Fraser asked Ms. Johnson whether she had any witnesses to have testify and Ms. Johnson stated that she did not. Mr. Fraser asked Ms. Emery if there were any witnesses for the City and Ms. Emery called Shelly Arzola, H.R. Director to the podium. Mr. Cino swore Ms. Arzola in for the record. Ms. Emery said that she would like to clarify a point with Ms. Arzola about the statement Ms. Johnson made regarding trying to meet with Ms. Arzola about the written warning that she had received. She asked whether she received an email from Ms. Johnson about the written warning. Ms. Arzola said that she did not recall receiving an email from Ms. Johnson requesting to have a meeting. She said that she did remember meeting her in the hall on a couple of occasions and Ms. Johnson asking to meet with her and Ms. Arzola always agreeing but Ms. Johnson did not call and make an appointment. Ms. Emery asked whether Ms. Arzola had reviewed her evaluations and disciplinary record to which Ms. Arzola replied that she had as a result of the most recent discipline. Ms. Emery stated that Mr. Goss, the Planning Director, was hired in 2007 and asked whether Ms. Arzola thought that Ms. Johnson had had difficulty with unscheduled leave or being late to work since that time. Ms. Arzola answered, "yes". Ms. Emery then asked if that was consistent with the timeframe from her initial employment through 2007 to which Ms. Arzola answered, "yes". Ms. Emery asked about the other issues for which Ms. Johnson was terminated and whether she had had issues with these things since her initial employment? Ms. Arzola stated, "that was what her evaluations showed, yes". Ms. Emery said that was all she had for Ms. Arzola.

Ms. Emery called Mr. Richard Goss, Planning Director, to the podium and Mr. Cino swore him in for the record. Ms. Emery said that she would like to ask Mr. Goss about the first evaluation that he completed on Ms. Johnson from 2007 to 2008. Mr. Goss stated that after signing the first evaluation for Ms. Johnson, which had been completed by another supervisor, they (Mr. Goss and Ms. Johnson) had a meeting and he told her that they were starting a new employee/supervisor relationship and whatever went on before was past and they would begin their working relationship with a clean slate. For that first year he evaluated her and she came in as an average

employee but there were issues with how she approached people, particularly customers, whether they were internal or external, he said that he knew that she was working at it but it was a difficult thing. So he included in the evaluation that she needed to continue to work on her inter-personal skills and her attitude. The 2008 to 2009 evaluation included the notation that she was coming in late and needed to work on her inter-personal skills, continue to focus on improving inter-personal skills and that she must continue to assess her tone, body language, and facial expressions in dealing with internal or external customers. She must continue to support her fellow Planning Tech by sharing the duties of answering the phone, filing and maintaining the office equipment. Mr. Goss discussed the need for all permit counter employees to be on time and available due to the sharing of duties that were now expected of them. He noticed that Ms. Johnson was noticeably missing more time and reporting late for work. I'm not saying that this was happening infrequently, it happened a lot, more than any other employee. It was becoming a disruption to the counter.

Ms. Emery asked about the 2009 to 2010 evaluation and Mr. Goss said that under the section for attendance, he rated her "Needs Improvement". He indicated that Sabrina often filled in for lunch when her co-worker was out unexpectedly and that she did this without complaint. This was counter balanced however by the tardiness particularly in the morning hours. She has been late more than four times, one time for more than twenty minutes. While he understood that everyone can be late it should not be happening with such frequency. With regard to inter-personal skills, he noted that Sabrina had a goodly number of comment cards from customers who had a good experience with her. It seems that when Sabrina took on a customer's issue as her own, she exceeded their expectations. In other instances, Sabrina came across as detached, sometimes rude and uninterested in the person's issues. He read that it was more important than ever that she improve her relationships with fellow employees because the joint permit counter demands teamwork and cooperation in order to be efficient. This closer working environment demands that teamwork become the number one priority. He also noted that while she met standards and exceeded standards when learning and performing tasks that require a high degree of intellect and aptitude, her attitude towards the job and people that she was associated with required improvement.

The negative input I received regarding Sabrina revolved around her negative attitude. In this evaluation, she scored high when it came to aptitude but not when it came to attitude. In my view, Sabrina could be the best Permit Tech in the Planning Department if she chose to be. The Standard Operating Procedures for the counter could be written based upon what she does and knows, however, because of her attitude employees with lesser skills but good attitude will get and keep better jobs. She needs to work on these attributes such as channeling negative energy, which in turn affects motivation. I believe she would like to have a job that showcases her talent.

Unfortunately this is not always possible with the Permit Technician, there are challenging aspects and mundane aspects. It is no longer sufficient to be a person with just a high degree of aptitude. As the physical environment becomes smaller and more stressful, her attitude towards her job, her fellow employees and customers will have much more importance than having a high degree of intellect or aptitude. I would encourage Sabrina to make this adjustment, if she cannot make this positive adjustment over the next year, I would encourage her to seek employment opportunities and advancement in another department or elsewhere. While I highly value her abilities and skills, it is increasingly hard for me, as a manager, to ignore attitudinal issues which negatively affect her colleagues. That was the evaluation for 2009-10.

Ms. Emery asked Mr. Goss to go over the 2010-2011 evaluation. Mr. Goss said that again Ms. Johnson rated low on attendance. Sabrina has been late on six occasions, and by the way, there were more after the named dates. Making phone calls in the morning to inform us that she will be late does not make the tardiness acceptable. It is unacceptable. While everyone is occasionally late to work, her tardiness is such that it is noticeable and it affects the operations negatively. Under inter-personal skills I rated her low again. This year I continue to find Sabrina's ability to get along with people and her supervisor an enigma as well as vexing. I rated Sabrina as falling below standards and that evaluation was given about this same time last year. Within five months Sabrina received a written reprimand from the Director because she violated HR Policy 14.02, Employee Misconduct, Unacceptable Behavior. Three months later, I had a conversation regarding her tardiness and advised her on June 17th that future attendance violations would result in me initiating proceedings to terminate her employment. As she left my office she stated, "Well then, I will also initiate proceedings" or words to that effect. These abrupt and out-of-the-mouth without thinking first comments are disrespectful to her supervisor. I am also disappointed that she doesn't remember that our employee-supervisor relationship in 2007 began on a clean slate. I chose not to allow previous evaluations or comments by past supervisors to influence me one way or another. With that said, Sabina has been an above average employee since June and my review of the monthly customer service questionnaires document glowing remarks on Sabina's helpfulness, competence, and resourcefulness. The drastic swing in performance is troublesome. This scenario of unacceptable behavior followed by a period of above average performance is typical of Sabrina. The only reason I have not rated interpersonal skills as a 1 (unable to relate to

others effectively) is her service to our customers. Let me be clear however concerning my comments. Sabrina's attitude and behavior continues to negatively affect her working relationships. She must bring her attitude under control and modify her behavior or, if she can't do that consistently, then she should seek employment elsewhere. Otherwise, Sabina's departure will not be under good terms. Ms. Emery asked if during the time that encompasses this performance evaluation also was the time that she was given the written warning about the cash box and Mr. Goss answered yes. She then asked whether Mr. Goss was more concerned about the cash box or the response that you got in regard to the cash box? I was concerned about the cash box because I was concerned that there was some sloppiness going on. But after I indicated that I was going to discipline her, she sent me the email. I saw the email bordering on insubordination. It was in capital letters, I would have had sufficient evidence to fire her right there on the spot. I didn't do it, but I was extremely upset. I would like to make one more point. I don't believe employees try to fail. And if you notice in these evaluations, I have attempted to work with Sabrina and even show here under Employee Training that she could get better. I even offered some books that I had to do my own research on that pertained to how an employee could get better. So, it was extensive, I spent a lot of time on this evaluation but unfortunately I'm still here. Ms. Emery asked if Ms. Johnson ever took him up on any of the training? Mr. Goss said that he didn't believe that she took him up on any of the sixteen points that he asked her to look at. I don't know if she ever looked at the books or not.

Ms. Emery said that on May 7, 2012 you wrote a memo to Ms. Arzola regarding your concern about Ms. Johnson's attendance, being late, and with respect to her job duties. She stated that this would have come a few months after this last evaluation (2010-2011) and Mr. Goss answered, "yes". He stated that he had transferred the supervisory responsibilities to the Joint Permit Manager. Not in an attempt to pass off an employee to another supervisor but in an attempt to make the Joint Permit Counter a better operating function. Ms. Emery asked if after this performance evaluation, there were any other instances of poor performance. Mr. Goss said that the Joint Permit Manger came to him to discuss some issues regarding Ms. Johnson. The Manager said that there were a number of instances where she came in late, or called in when she wasn't coming in at all, some where she was going to come in a 10:00 A.M. and the Manager made arrangement to move everybody around till 10 and then she didn't come in at all. Then there were a number of instances regarding following directions from her supervisor where it appeared that she did not want to comply with the directions. There were attendance issues, issues with following directions, attitude issues toward her supervisor. If fact, I felt compelled to document to her by email that the Joint Permit Manager was her boss and she needed to follow her direction, whether she liked it or not. Ms. Emery asked whether the memo to the H.R. Director was prompted by the fact that since the last evaluation, things had not gotten better but instead had degraded. Mr. Goss answered that he came to the realization that he was going to have to learn to accept that Sabrina was not going to get any better than she was or that something was going to have to be done. When he looked over her record since he became her supervisor, it was good, then bad, ebb, then flow. It was not getting better, in fact, it was getting worse. So I came to the conclusion that we needed to discipline her. At the time that I wrote the Pre-determination Notice, the discipline was going to be suspension for a couple of days up to termination. By the time we got to the hearing, I had reviewed the record and found that Sabrina was no longer the valued employee that I was hoping she would be.

Ms. Emery stated that May 29, 2012 was the date of the Pre-determination Hearing and asked if Ms. Johnson provided any information, at that time, that changed Mr. Goss's decision? Mr. Goss stated, "absolutely not, if anything it convinced me that it needed to be done". Ms. Emery asked Mr. Goss if he then provided to Ms. Johnson, on June 4, 2012, the Notice of Final Action regarding her termination. Mr. Goss answered that, "yes, he did." Ms. Emery asked if the termination was due to unexcused absences, late arrival to work, neglecting job duties, unacceptable interpersonal skills and poor attitude? Mr. Goss answered, "yes." Ms. Emery informed the Chairman that she was through with Mr. Goss and there were no more witnesses.

Mr. Cino asked whether Ms. Johnson had any questions for Mr. Goss and she replied that she did. Ms. Johnson stated that during the time of her tardiness and absences it was when she was having a medical issue and a death in her family. She asked if Mr. Goss was aware that another Permit Technician during the months of March, April and May came in every day at 8:30 A.M. instead of 8 A.M.? Mr. Goss said that he was there today to talk about her. He said that he thought she didn't understand that and that he wasn't going to answer the question. He said that if you look at Ms. Johnson's record, she has had issues with tardiness and not showing up to work not just for one year, not just for two years, not just for three years but there is a history of it dating back to 2005. So while there had been times where there was improvement, overall the tardiness or calling in and not showing up at all or coming in late was the issue before the Board. Not whether some other employee was disciplined. Ms. Johnson asked whether he disciplined the other Planning Technician when she came in late or not at all while caring for her

sick husband? Mr. Goss replied that the other Technician made arrangements to work that out in other ways and he understood that. Ms. Johnson said that she felt that she was singled out and treated differently and was the only employee at the counter that had to fulfill duties for the Planning Department as well as Building. Mr. Goss said that was true but with the loss of the other Permit Technician the other employee at the counter had to take on additional duties as well. Ms. Johnson thanked Mr. Goss for his compliments on her job skills and knowledge but told him that she was set up to fail when he moved her to the Joint Permit Counter and transferred her supervision to the Manager. Mr. Goss said that her skills were excellent however, when she wanted to be good, she could be good and when she wanted to be bad she would be bad and that she was consistently never consistent. Ms. Johnson stated that she felt great frustration in that she could not get Mr. Goss to understand that she felt her issues were being ignored and she was being told "Just do what your supervisor tells you to do". Mr. Goss said that he did not want to get into a debate however, he would say that the Department had progressed a lot in the last year and that they were progressing forward. He stated that Sabrina had not progressed forward, she remained in 2005. He stated that in his view she should not be a member of the department. Ms. Johnson started to read favorable comment cards into the record and Ms. Emery requested that she refrain from doing so, that she needed to ask questions. Ms. Johnson then asked Mr. Goss whether the cards received about her were glowing. Mr. Goss agreed but stated that customer service was but one aspect of the job. Important, but one aspect, and when balanced against the other things that she was doing was why he rated her two instead of one in inter-personal skills. He stated that there were other things including teamwork that were important, you have to rely on you team to be there and be reliable. Ms. Johnson said that in closing; to her, customer satisfaction was number one. She stated that the redundancy and ineptitude that was rampant throughout the department, as opposed to giving good customer service, was very frustrating.

Mr. Cino asked Ms. Johnson if she wanted to make a closing statement and she replied that she had seven pages of customer comments and they were glowing. She said that there were times that her interaction with her coworkers was not always good but that it was due to her frustration. That she could not get anyone to listen to what she had to say. With that being said Ms. Johnson thanked the Board for affording her the opportunity to say what she wanted to say.

Ms. Emery, in closing, said that everyone knew what it felt like to be frustrated at work. Everyone experienced frustration at some point in their job. She stated that you must still deal with the frustrations in a professional and courteous manner with your co-workers, supervisors and the public. She stated that clearly the things that were in the Notice of Final Action were on-going and were not getting better and in fact were going downhill. Everyone agreed that Ms. Johnson had a lot of ability but given the disruption in the department Ms. Emery said, "I don't believe that Ms. Johnson has proven by clear and convincing evidence that her termination was inappropriate. I believe that what Mr. Goss explained to you was that many years have gone by and ample opportunity for improvement was given and unfortunately that didn't happen."

Mr. Cino then explained the process for determining the Findings of Fact and making a motion for approval. Mr. Fraser asked for comments in order to help determine the facts.

Mr. Henry stated that there were many instances that were well documented. It would seem to validate the City's termination of Ms. Johnson.

Mr. Fraser said that in his career, he worked in Human Resources so he was looking at the process. He stated that he looked at it to see if there were any breaches in policy that had happened here. He said that the process the City had in place was appropriate. That there was an attempt to remedy the situation and that it didn't work. Mr. Fraser said that he believed that the City made the correct decision after repeatedly trying to remedy it.

Mr. West said that he had been on the Board for many years and felt strongly that the City had a policy in place and had followed that policy consistently. He felt that there was ample documentation to show that this was an on-going issue.

Mr. Rohmer stated that he thought that Ms. Johnson had demonstrated a lot of talent with the way she had conducted herself at the meeting. But, he felt the documentation presented demonstrated a lack of improvement and that the City was correct in the action taken.

Mr. Henry made a motion that based on the evidence presented and being otherwise fully advised of the premises, the Human Resources Board issues the following findings of fact and recommendation to approve Ms. Johnson's

termination based on unexcused absences and/or late arrival to work, neglecting job duties and unacceptable interpersonal skills and poor attitude. The Board upholds Management's decision to terminate the employee as appropriate. This motion was seconded by Mr. West. The roll was called; Mr. Henry-approve, Mr. Rohmer-approve, Mr. Fraser-approve, Mr. West-approve. All were in favor.

Mr. Fraser asked if there was any other business to be discussed. There being none, he asked for a motion for adjournment.

A motion was made by Mr. Henry and seconded by Mr. West that the meeting be adjourned. All were in favor. Carried.

Rick Fraser, Chairman

Shelly Arzola, Human Resources Director

Adjourned: 6:40 P.M.