

DRAFT

CIVIL SERVICE APPEALS BOARD AGENDA

Civil Service Appeals Board Meeting - May 30, 2018 at _____ P.M.
City Hall - Second Floor Conference Room, 100 North U.S. #1, Fort Pierce, Florida

0. CIVIL SERVICE APPEALS BOARD - RULES MEETING - TO REVIEW CSAB RULES
1. **CALL TO ORDER**
2. **ROLL CALL**
3. **MINUTES**
4. **APPEALS BOARD HEARINGS**
5. **NEW BUSINESS**
6. **BOARD COMMENTS**
7. **STAFF COMMENTS**
8. **ADJOURNMENT**

Any person seeking to appeal any decision by the Civil Service Appeals Board with respect to any matter considered at this meeting is advised that a record of proceedings is required in any such appeal and that such person may need to insure that a verbatim record of the proceedings is made including the testimony and evidence upon which the appeal is to be based.

In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons with disabilities needing special accommodation to participate in this meeting should contact the City Clerk's Office at (772) 467-3052 at least 48 hours prior to the meeting.

Civil Service Appeals Board

0.

Meeting Date: 05/30/2018

SUBJECT:

CIVIL SERVICE APPEALS BOARD - RULES MEETING - TO REVIEW CSAB RULES

Attachments

Notice of CSAB Meeting re: CSAB Rules

CSAB Rules Draft

CSAB Rules Markup



May 29, 2018

Notice of Civil Service Appeals Board Meeting on CSAB Rules

This letter is to confirm that a Civil Service Appeals Board Meeting will be held on **Tuesday May 30, 2018, 2017 at 12:00 Noon to Review / Approve Civil Service Appeals Board Rules.** The meeting will be held at:

**City of Fort Pierce
2nd Floor Conference Room
100 N US1
Fort Pierce, FL 34950**

If you have any questions or concerns, please contact Kevin Browning at 772-467-3764 or Barbara G. Moore at 772-467-3765.

Sincerely,

Kevin E. Browning
HR Manager



THE SUNRISE CITY
FORT PIERCE
Florida

CIVIL SERVICE APPEALS BOARD

ARTICLE VII-CIVIL SERVICE AND MERIT SYSTEM
EXCERPTS FROM CITY CHARTER

RULES, REGULATIONS AND PROCEDURES
FOR THE CONDUCT OF CIVIL SERVICE

APPEALS BEFORE THE CIVIL SERVICE APPEALS
BOARD FOR THE CITY OF FORT PIERCE, FLORIDA

Adopted June 18, 2018

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ARTICLE VII. - CIVIL SERVICE AND MERIT SYSTEM

Sec. 78. - Establishment of merit system; repeal of previous act.

All appointments and promotions in the administrative service of the city shall be made according to merit and fitness to be ascertained, so far as practicable, by competitive tests. In order to permit the adoption and use of a modern merit system which is efficient and fair to officials, employees and the public, Chapter 23296, Acts of 1945, and all acts amendatory thereto are hereby repealed and a merit system is hereby created which shall conform to the provisions hereinafter set forth.

Sec. 79. - Classified and unclassified service.

The following shall constitute the unclassified service of the city and shall be exempt from the provisions of this chapter [article]:

- (a) Members of the city commission and all elected officials.
- (b) The city manager, city clerk, city auditor, city attorney, personnel officer, director of finance, chief of police, department heads, and all members of any board or commission or any individual in a specialized field appointed by the city commission.
- (c) Part-time or temporary employee[s].

The classified service shall include all other positions now existing or hereafter created, and the provisions of this act shall apply thereto except as hereinabove set out.

(Laws of Fla., Ch. 65-1556, § 4; Laws of Fla., Ch. 65-1557, § 2; Ord. No. G-356, § 6, 8-1-77)

Amendment note— Ch. 65-1556, § 4, amended § 79(c) by deleting the words "day laborer." Ch. 65-1557, § 2, amended § 79(a) by including all elected officials and § 79(b) by adding the prosecuting attorney and department heads to the unclassified service.

Sec. 80. - Status of present employees.

Any person holding a position in the classified service when this act takes effect, who shall have served in such position for a period of at least six (6) months, shall be retained without preliminary or performance tests and shall thereafter be subject in all other respects to the provisions of this act. Any other persons in the classified service at the time this act takes effect shall be considered as having been given probationary appointments at the time this act takes effect.

Sec. 81. - Personnel officer.

There shall be a personnel officer, who shall be appointed or removed by the city manager with the approval of the commission. The personnel officer shall administer the merit system of the city in accordance with this charter and the personnel rules adopted thereunder. To this end, his powers and duties shall be:

- (a) To prepare competitive examinations and tests of various types for all appointments in the classified service, restricted to persons reasonably qualified to perform duties of the position;
- (b) To give wide publicity through appropriate channels in each case to all announcements of competitive examinations to the end of encouraging qualified persons to take such examinations;
- (c) To prepare and recommend to the city manager such rules as he may consider necessary, appropriate or desirable to carry out the provisions of this chapter [article] except rules, regulations and procedure pertaining to suspension, removal or demotion of any person in [the] classified service;
- (d) To prepare, install, and maintain a classification plan based on the duties, authority and responsibility of positions in the city service;
- (e) To prepare and submit to the city manager and the city commission for its consideration a pay plan for the city service;
- (f) To establish and maintain a roster of all persons in the municipal service in which there shall be set forth, as to each officer and employee, (1) the class title of the position held, (2) salary or pay, (3) any changes in class title, pay or status, and (4) such other data as may be deemed desirable or useful to produce significant facts pertaining to personnel administration;
- (g) To certify all payrolls for persons in the classified service. No payment for personal service to any person in the classified service of the city shall be made unless the payroll vouchers bear the certification of the personnel officer or his authorized agent that the persons mentioned therein have been appointed and employed in accordance with the provisions of this act;
- (h) To assist the city manager in developing and establishing training and educational programs for persons in the municipal service, so that wherever possible vacancies may be filled within the service;
- (i) To perform such acts, consistent with this charter and the personnel rules adopted thereunder, as he may deem desirable to administer the provisions of this chapter [article].

Sec. 82. - Civil service appeals board created.

(a)

Upon the taking effect of this act, the board of civil service created by Chapter 23296, Acts of 1945, shall be abolished and shall be superseded by a civil service appeals board consisting of five (5) members. Two (2) members shall be appointed by the city commission of said city, and two (2) members shall be elected by the members of the civil service of said city. The fifth member shall be named by the other four (4) members. In the event said four (4) members shall not agree upon the fifth member within fifteen (15) days after said four (4) members take office, the county judge of St. Lucie County, Florida, shall designate such fifth member. The said board shall elect one of their members to be chairman. The two (2) members named by the city commission and the two (2) members of the board named by the employees shall serve for a term or a period of two (2) years except the first member appointed by the city and the first member appointed by the employees shall serve for a term of only one year, but thereafter all terms of members of the board shall be for two (2) years. The fifth member of the board named by the other members of the civil service [sic] shall hold office for a period of one year. All members of the appeals board shall hold office until their successors are duly elected or named and qualified.

(b)

The city commission of said city shall elect two (2) alternate members of the civil service appeals board and the members of civil service of said city shall elect two (2) alternate members of the civil service appeals board. The five (5) members of the said board shall elect two (2) alternate members of the civil service appeals board to serve in the event of disqualification or absence of the five (5) members of the said board.

(c)

If there exists any ground which under the laws of the State of Florida would disqualify the judge of any court, or which is a ground of challenge for cause to disqualify any juror then such procedure shall apply to members of the civil service appeals board and any member who shall be disqualified shall not be permitted to hear and determine any cause wherein he is disqualified.

(d)

Whenever a person [sic] to any charge or proceeding, shall make and file an affidavit that he fears a fair trial cannot be had before said board, where charges are pending, on account of the prejudice of any member or members of said board against the applicant or in favor of the adverse, and thereupon, such member or members shall proceed no further therein, but an alternate or alternates for such member or members shall be designated in the manner prescribed for the substitution of members for the trial of any case when any member is disqualified.

The member or members may, however, examine the affidavit supporting the motion to disqualify any of them for prejudice, to determine its legal sufficiency but shall not pass on the truth of the facts alleged nor [ad]judicate the question of disqualification.

Every such affidavit shall state the facts and the reasons for the belief that any such bias or prejudice exists, and such affidavit shall be filed not less than forty-eight (48) hours before the time the case is called for hearing or good cause shown for the failure to so file the same within such time.

Any such affidavit so filed, shall be accompanied by a certificate of counsel representing the applicant stating that such affidavit and application are made in good faith and the facts stated as a basis for making the said affidavit shall be supported in substance by affidavits of at least two (2) reputable citizens of St. Lucie County, not kin to the applicant or of the counsel for the applicant. Provided, however, that when a suggestion of disqualification of any member or members has been made and the disqualification of such member or members shall have been admitted and an alternate member acting in lieu of the member so held to be disqualified [is designated], the said alternate member shall not be disqualified on account of alleged prejudice against the party making the suggestion in the first instance, or in favor of the adverse party unless such alternate member shall admit that it is then a fact that he, the said alternate member does not stand fair and impartial between the parties and if the alternate member shall state and hold that he does stand fair and impartial between the parties and their respective interests, he shall cause such statement or holding to be entered on the minutes of the said board and shall proceed to serve as member of said board in the pending case. The foregoing holding or ruling may be reviewed by the appellate court, as are other rulings of the said board.

(e)

In event a member of the civil service appeals board shall refuse to qualify as such member, or if said office shall become vacant by reason of death, resignation or otherwise, the proper alternate shall become a member of the civil service appeals board for the unexpired term of the member vacating said office, and a first alternate shall be elected as herein provided for the election of a second alternate.

(As amended by Laws of Fla., Ch. 59-1290, § 1)

Sec. 83. - Qualifications of board members.

Each member of the civil service appeals board shall be a resident of St. Lucie County, shall be known to be in sympathy with the merit principle as applied to the civil service, shall neither hold nor be a candidate for any other public office or position, and shall not be a member of any local, state or national committee of a political party or an officer in any partisan political club or organization. No person who has been convicted of a crime involving moral turpitude, or who is an officer or employee of said city shall be eligible to hold said office.

(Ord. No. J-17, §§ 1, 2, 5-4-92)

Sec. 84. - Term of office; employees; meetings and compensation.

Members of the civil service appeals board elected as herein provided shall take office within ten (10) days after their election or appointment. The oath of office shall be administered to each member of the civil service appeals board by the city clerk.

The personnel officer shall act as secretary to the appeals board of civil service. The city commission may employ such additional personnel for said board as said city commission shall deem necessary.

The civil service appeals board shall hold not less than one regular meeting each month and may hold special meetings when required for the transaction of business by said board. Such members may be called by the chairman or any three (3) members of the board, upon

giving each member written notice thereof served personally, or left at the members usual place of residence. A majority of the board shall constitute a quorum for all meetings; except, however, for all hearings there shall be a full board.

Members of the civil service appeals board shall each receive compensation in the amount of ten dollars (\$10.00) per meeting, contingent upon attendance at the meeting, payable on a quarterly basis. Responsibility for reporting attendance to receive compensation shall be placed with the board's staff coordinator.

(Ord. No. I-12, § 1, 6-6-83; Ord. No. K-288, § 1, 10-4-04)

Sec. 85. - Duties of board.

It shall be the duty of the civil service appeals board:

- (a) To make any investigation which it may deem desirable concerning personnel administration in the classified service and to that end, any member of the board shall have the power to administer oaths.
- (b) To report to the city commission and expose publicly any abuses or improper practices which it may find in the classified service of the city.
- (c) To provide rules for the procedures and grounds for suspension, demotion and dismissal of employees, said rules being subject to the approval of the city commission, and for the filing of appeals with the civil service appeals board herein created.
- (d) To sit as a body to hear appeals of any person in the classified service who is dismissed, demoted, suspended or transferred.
- (e) To supervise the holding and grading of all competitive examinations held under the merit system.

(Laws of Fla., Ch. 65-1557, § 2)

Amendment note—Ch. 65-1557, § 2, amended § 85 to provide for approval of the rules by the commission in paragraph (c).

Sec. 86. - Existing rules and regulations stand until superseded.

The rules and regulations of the board of civil service which are in effect upon the taking effect of this chapter [article] shall remain in full force and effect until superseded by the rules adopted under this chapter [article].

Sec. 87. - Personnel rules.

Immediately after the taking effect of this act, the personnel officer shall prepare personnel rules to govern the merit system and carry out the provisions of this chapter [article]. The city manager shall approve them with or without modification. When approved by him they shall be submitted to the city commission and shall become effective thirty (30) days after the commission by resolution adopts them, with or without amendment. Thereupon, the rules and regulations of the board of civil service passed on June 19, 1944, and amended as of July 15, 1954, shall be automatically repealed and superseded by the rules herein provided, except rules promulgated by the civil service appeals board under subsection (c) of section 85 of this act.

The personnel rules shall provide for:

- (1) The classification of city positions which classification shall be based on the duties, authority and responsibility of each position;
- (2) A pay plan for all city positions embodying the principle [of] equal pay for equal work which plan shall become effective when the commission by resolution adopts it with or without amendment;
- (3) The method of holding competitive tests for fairly determining the merit and fitness of candidates for appointment and promotion;
- (4) The establishment, maintenance and certification of eligible lists for filling vacancies;
- (5) The order and manner in which layoffs may be effected;
- (6) Hours of work, attendance, regulations and provisions for sick and vacation leave;
- (7) The procedure governing provisional or probationary appointments;
- (8) Other practices and procedures necessary for effective administration of the merit system under the provisions of this charter;
- (9) To make rules and regulations for the selection of a grievance committee by members in the classified service.

Sec. 88. - Rules to incorporate principle of merit and fitness.

The rules required by section 87 shall be so prepared that all decisions on personnel matters shall be made solely on the basis of merit and fitness of the individual, and the various practices and procedures established thereunder which are to govern these decisions shall incorporate established professional standards and techniques which will serve to further that end.

Sec. 89. - Causes for suspension and dismissal.

Any member of the civil service under this act who shall be incompetent, neglect his duty, be guilty of insubordination, immorality, drunkenness, any felony or crime involving moral turpitude or for the violation of any rules and regulations adopted by the civil service appeals board pursuant to subsection (c) of section 85 of this act shall be subject to reduction, suspension, fine or dismissal; provided, however, that no officer or employee shall be fined a sum in excess of one month's compensation.

Annotations— Grounds for discharge interpreted generally, see *Bloodworth v. Suggs*, 60 So.2d 768(1952); *City of St. Petersburg v. Pfeiffer*, 52 So.2d 796(1951); *Becker v. Merrill*, 20 So.2d 912(1944); *Barron v. Vailles*, 26 So.2d 449(1944); *Nelson v. State ex rel Quigg*, 23 So.2d 136, 90 L. Ed. 1016(1945).

Sec. 90. - Removals, fine and appeals.

(a)

The city manager may at any time fine or suspend or dismiss or demote or transfer any employee of the classified service for any cause which will promote the efficiency of the service but only in accordance with the rules and regulations of the merit system and the civil service appeals board.

(b)

The members of the civil service appeals board shall not discuss the facts or merits of any case which may be tried before them with any person or persons whomsoever, except to receive the list of witnesses by any person or which the said city desires to subpoena before the board.

(c)

Violations of the foregoing provisions of this section by any member of the board shall be grounds for disqualifications.

(d)

In investigation of charges each member of the civil service appeals board shall have the power to administer oaths, and said board is hereby authorized to compel by subpoena the attendance of witnesses, [and] the production of books and papers relevant to such investigation, said subpoena to be served by a member of the police department.

(e)

It shall be unlawful for any person to fail or refuse to respond to any subpoena duly issued by the civil service appeals board, without a legitimate excuse therefor, and such failure or refusal to respond is hereby declared to be a misdemeanor and shall be punishable as is now provided by [the] criminal code of the city for violation of misdemeanors.

(f)

All witnesses demanding witness fees for attendance shall be entitled to a per diem of one dollar (\$1.00) to be paid by the city, but no employee of the city summoned before said civil service appeals board to testify shall be entitled to any compensation.

(g)

Upon dismissal, suspension or demotion, the city manager shall within twenty-four (24) hours give the employee a written statement of the reasons for his dismissal, suspension

or demotion and shall immediately file a copy thereof with the civil service appeals board. If the employee desires, he may within seven (7) days file with the board a request for a hearing upon the dismissal or suspension or demotion. Any employee under the classified service of the city transferred within the classified service shall also have the right of appeal to the civil service appeals board within seven (7) days after such transfer upon written request to the board. The board upon receiving such notice of appeal, shall within five (5) days set a date for a hearing. Notice of the time and place of such hearing shall be served upon the city manager and the employee either personally or by registered mail at least five (5) days before the date of hearing.

(h)

The board shall conduct the hearing at the time set, which hearing shall be public and may adjourn the hearing from time to time upon cause shown, or upon its own motion, provided that such adjournment in all shall not extend beyond thirty (30) days from the date of dismissal or fine or demotion or transfer, except for good cause shown. Both the affected employees and the city manager shall be given full opportunity to be heard in person or with counsel. The personnel officer shall spread on the official minutes of the board the facts contained in the appeal, the board's findings and its decision which shall be final. Such decisions shall be transmitted to the city manager and executed by him.

(Laws of Fla., Ch. 65-1557, § 2)

Amendment note— Ch. 65-1557, § 2, amended § 90(h) by providing that a hearing may be extended beyond thirty days for good cause shown.

Annotation— Appeals, procedure. See *City of Miami v. Huttoe*, 38 So.2d 819(1949).

CIVIL SERVICE APPEALS BOARD RULES AND REGULATIONS

PART I GENERAL PROVISIONS

RULE 1 RULES AND PURPOSE

The rules established in this Policy are to be followed by the City in its personnel program so that City employees are treated fairly and equitably in their Employment.

SECTION 1: EFFECT OF RULES ON APPOINTING AUTHORITY

These rules shall have the force and effect of law insofar as they apply to positions, offices and personnel coming within the provisions of the Civil Service System of the City of Fort Pierce, Florida. Nothing in these rules shall be construed to limit, abrogate, or repeal the provisions of the appointing authority governing the removal, suspension, transfer, lay-off or reduction in grade of employees in the classified service.

SECTION 2: POSITIONS COVERED BY THESE RULES

These rules shall apply to all positions and offices in the classified service, except as excluded by the City of Fort Pierce, Florida Charter Article VII § 79.

(FPUA and St. Lucie Fire District employees included):

per **City of Fort Pierce, Florida Charter Article XII § 180. - City employees to continue under city's pension plans, civil service merit system.**

All employees of the City of Fort Pierce on the effective date of this article who shall be under the supervision of the authority shall continue without any loss of rights or benefits as employees under the pension plans and civil service merit system of the city existing on the effective date of this article or hereafter.

RULE 2 DEFINITIONS

SECTION 1: CLASSIFICATION

Classification shall mean a position or group of positions having similar duties and responsibilities, requiring similar qualifications, which can be properly designated by one title indicative of the nature of the work and which carry the same salary range.

SECTION 2: CLASSIFIED SERVICE

Classified Service shall mean all permanent employees as specified in Article VII Section 79 of the Fort Pierce City Charter.

SECTION 3: CONTINUOUS SERVICE

Continuous Service shall mean employment in the classified service which is uninterrupted except for authorized leave of absence.

SECTION 4: DAY OR CALENDAR DAY

Day or Calendar Day shall mean an un-interrupted 24 hour period of time between 12:01 a.m. to 12:00 midnight Sunday through Saturday, including, unless otherwise provided, weekends, and holidays observed by the City of Fort Pierce as designated by the City's Holiday schedule, designated by the City Manager or pursuant to the City's Emergency Plan. (Adopted 2017) Time periods under this section shall not include the day of the act or event from which the designated period of time begins to run.

SECTION 5: DEMOTIONS

Demotion shall mean the transfer of any employee to a position in one classification to a position in another classification for which a lower maximum rate of compensation is prescribed whether such transfer does or does not involve an immediate reduction in pay.

SECTION 6: ELIGIBLE

Eligible shall mean a person listed on an active eligible list.

SECTION 7: ELIGIBLE LISTS

Eligible List shall mean an employment list, promotional list, re-employment list or reinstatement list comprised of names of persons who have been found qualified through suitable tests, arranged in the order of merit.

SECTION 8: HEARINGS

(a) Appeal Hearing

Appeal hearings shall mean a public hearing conducted in accordance with the provisions of City Of Fort Pierce Charter Article VII § 90.

(b) Other Hearings

Other hearing shall mean a public hearing, other than an appeal hearing, provided for by State Law, or arising under the provisions of the City of Fort Pierce City Charter for which any person may have the opportunity to be heard.

SECTION 9: POSITION

(a) Permanent Position

Permanent Position shall mean any position in the classified service to which an employee has been appointed after completing a probationary period as defined in the employee personnel handbook.

(b) Temporary Position

Temporary Position shall mean any position which is not designated as permanent.

SECTION 10: PROBATIONARY EMPLOYEE

Probationary Employee shall mean any employee who is serving a trial period to determine fitness to perform the specified position prior to being regularly appointed in the classified service as outlined in the Personnel Handbook.

RULE 3 CHANGE IN CLASSIFICATION, REMOVAL, DISCHARGE, DEMOTION, SUSPENSION OR REDUCTION

SECTION 1: TRANSFER HIGHER CLASSIFICATION

The transfer of an employee involving a change from a position in one classification to a position in another classification for which a higher maximum rate of compensation is prescribed shall be considered a promotion.

SECTION 2: ADVERSE ACTION IN GENERAL

(a) By Appointing Authority

The Appointing authority may at any time suspend , dismiss, demote, layoff or transfer any employee of the classified service for any cause which will promote the efficiency of the service but only in accordance with the rules and regulations of the various appointing authorities, and as specified in Article VII Section 89 of the City Charter for the City of Fort Pierce. Such action shall be forthwith reported in writing to the Human Resources Department together with the cause therefore.

(b) Citizen Complaint

Any citizen may file a written complaint alleging misconduct by an employee in the classified service. Such Complaints are to be filed with the Appointing Authority and maybe filed with the Board, with a copy provided to the department head in the department to which the Employee is assigned

(c) Written Charges Required

Cause for removal, discharge or other discipline must be made in writing. No employee who is a member of the Civil Service and who is appointed, employed, promoted, or confirmed under the terms and provisions of the Appointing Authority shall be removed, suspended, demoted, reduced or discharged, except for cause shown on written charges preferred by the Appointing Authority. Such charges may be preferred for incompetency misfeasance, malfeasance, nonfeasance, misconduct, or a violation of the law or rules.

(d) Immediate Suspension of the Employee

Upon charges being preferred in accordance with these rules the employee may be immediately suspended with or without pay, until such time as the complaint is sustained or overruled by a hearing before the Civil Service Appeals Board . If the employee is suspended without pay and the complaint is overruled then the employee shall be eligible to receive back pay for the period of time between the effective date of the employee's suspension and the final determination by the Board. If the complaint is sustained then the employee shall not be reimbursed and shall have no claims against the Appointing Authority for back wages under these rules.

(e) Investigation of Charges

Whenever any allegation of misconduct or other rule violation is filed against a member of the classified service in accordance with the provisions of this rule, by any person other than the appointing authority the allegations forwarded shall be thoroughly investigated by said appointing authority and such shall be investigated as outlined in Article VII Section 85 of the City Charter for the City of Fort Pierce-. Within twenty (20) days receipt of an allegation of misconduct arising under these rules the appointing authority shall make a determination as to how to proceed, based on the rules of the appointing authority.

(f) Effect of Rules on Authority of Department Heads to File Charges

Nothing contained in these rules shall interfere with the authority and the duty of a Department Head to file allegations of misconduct on any grounds which are justified under these rules.

(g) Notice to Departments

A copy of these rules shall be available in each department and institution of the Appointing Authority.

SECTION 3: SUSPENSION

The Appointing Authority or the head of a department shall have the authority to suspend employees for cause and without pay; and for a reasonable period of time, in accordance with the Rules of the Appointing Authority. Such suspension requires the Authority or Department Head to provide the employee with notice and the rationale for the suspension.

SECTION 4: REDUCTION IN GRADE

(a) Misconduct

The Appointing Authority shall have the authority to reduce employees to a lower grade; if the employee is found to have committed an infraction of institutional rules, conduct unbecoming to an employee, inefficiency, or other similar justifiable cause.

(b) Reduction due to other circumstances

The Appointing Authority shall be notified when it becomes necessary to reduce in grade any employee due to insufficient funds or workload to support the position.

PART II CIVIL SERVICE APPEALS BOARD

RULE 4 ORGANIZATION AND DUTIES OF CIVIL SERVICE APPEALS BOARD

SECTION 1: ADMINISTRATION AND ENFORCEMENT

The Civil Service Appeals Board (the “Board”) shall direct the administration and enforcement of the Civil Service Ordinance and rules promulgated as authorized pursuant to Article VII §85 of the Charter of the City of Fort Pierce.

SECTION 2: ELECTION OF CHAIR PERSON:

At the First regular meeting of the Civil Service Appeals Board (“The Board”), the Board shall elect one of its members as Chair Person and one member as Vice- Chairperson. The Chair shall be the presiding officer at all meetings of the Board, shall maintain order in the proceedings and shall sign the Minutes of the Board.

The vice chair shall assist the Chair and shall succeed to the duties of the Chair in his/her absence or during the Chair’s inability to serve, or as requested by the Chair.

SECTION 3: ADOPTION OF CODE RULES AND PROCEDURES

It shall be the duty of the Board to adopt, amend and enforce a code of rules and procedures for the suspension, demotion and dismissal of employees. The Board shall also hear civil service appeals including those from dismissal, demotion and transfer. The Board shall have authority to amend these rules as authorized by Article VII §85 of the City Charter.

SECTION 4: QUORUM AND MAJORITY VOTE

A quorum consists of a majority of members of the board members. No official business shall occur, nor official act adopted in the absence of a quorum. In all matters coming before the Board, a majority vote shall control. For All Hearings, a full Board is required as provided in Article VII section 84.

SECTION 5: PERSONNEL OFFICER

The personnel officer or his designee shall act as secretary to the appeals board of civil service, and shall maintain a record of proceedings before the Board, and shall when requested under these provisions transcribe or cause to be transcribed audio recordings of proceedings before the Board As outlined in Article VII section 84 of the City Charter for the City of Fort Pierce.

SECTION 6: COMPENSATION OF THE BOARD -REPORT TO THE CITY COMMISSION

The employees of the Board shall receive such compensation if authorized under the city charter. It shall be the duty of the Board to make an annual report to the City Commission as soon as possible after the close of each calendar year. The report shall outline the Boards activities during the year and shall make such recommendations, as it may deem in the best interest of the Civil Service.

SECTION 7: MAINTENANCE OF CIVIL SERVICE OFFICE

A Civil Service place to meet will be maintained in City Hall where the Board will meet, as called for the purpose of conducting hearings and handling routine business. Hearings will be held in Fort Pierce City Hall unless otherwise arranged.

SECTION 8: ALTERNATES

In the event of the absence or disqualification of a member of the Board, an alternate shall serve on the Board and shall participate in the same manner as other members of the Board for the meeting during which the employee is absent or otherwise unable to participate.

SECTION 9: AGENDA

Items which are requested to appear on the agenda for any scheduled meeting must submitted no fewer than 7 calendar days before a scheduled meeting.. Items must be submitted to the secretary for the board in writing prior to the deadline.

PART III APPEAL PROCESS AND HEARING PROCEDURES

RULE 5. PROCEDURE ON APPEAL AND CONDUCT OF HEARING

SECTION 1: NOTICE OF APPEAL

Whenever any Employee in the classified service of the Appointing Authority has been suspended, demoted, reduced in rank, laid off or dismissed from the Civil Service, the employee has the right to appeal to the Civil Service Appeals Board. Appeals to the Civil Service Appeals Board under this section must be filed within 7 days, except for good cause of the effective date of the adverse action as described above. The appeal shall be commenced by the filing of a written notice of appeal filed with the Board the notice shall specify that the proponent is requesting a hearing before the Board. The notice must be signed personally by the employee or his legal counsel.

FAILURE TO PROSECUTE AN APPEAL

Following the filing of a request for a hearing where it appears on the face of the record that no activity, has occurred for a period of thirty (30) days shall cause the Appeal to be subject to dismissal by the Civil Service Appeals Board; on its own motion, or on the motion of any interested person, whether a party to the appeal or not, after reasonable notice to the parties, unless a stipulation staying the action is approved by the Chairman of the Civil Service Appeals Board or a stay order has been filed or a party shows good cause in writing why the appeal should remain pending. Mere inaction for a period of less than thirty (30) days shall not be sufficient cause for dismissal for failure to prosecute.

SECTION 2: NOTICE OF HEARING COMMENCEMENT OF ACTION

(a) Notice of Hearing

Within 5 days receipt of the notice of appeal under this section, the Board shall set a date for a hearing. A notice of hearing shall be provided to the Parties which

shall specify the date, time and place of the hearing. The petitioner shall also be provided with a copy of the allegations and specifics of the alleged misconduct.

(b) Hearing

The Board shall hear the appeal within 30 days' receipt of the notice of appeal, unless a timely written request for continuance is received by the Board Secretary. . The Secretary shall contact the opposing party and determine whether the party has any objection to the Continuance. If there is no objection the matter shall be rescheduled by the Secretary on the next available calendar for the Board. If there is an objection the matter shall be submitted to the board chair for determination of whether the matter shall be rescheduled to a later date.

SECTION 3: FLORIDA SUNSHINE LAW AND DISCLOSURE OF COMMUNICATIONS

(a) Open Meetings and Communication between Board Members

Any hearing conducted pursuant to these rules shall be open to the public, and shall be noticed in conformity with §286.011 Florida Statutes. No member of the Board shall discuss any matter pending before the Board with any other member outside of the confines of a scheduled public meeting in conformity with the provisions relating to §286.011 Florida Statutes (2016). Any violation of this rule shall constitute cause for the imposition of sanctions up to and including imprisonment for willful violations as outlined in FS §286.0111.

(b) Disclosures

Any communication between staff and any member of the Board or a member of the public and any member of the Board shall be disclosed in the public meeting, prior to commence of the hearing.

SECTION 4: CONDUCT OF HEARING

(a) The Board shall hear the evidence upon which the allegations have been made. Evidence shall include testimonial, demonstrative and documentary materials which are produced during the hearing. Stenographic notes and/or a mechanical recording shall be kept of all hearings, and may be transcribed at the

request of either party. Requesting party shall pay cost of transcription. Standard transcription fees will apply. Either party may furnish their own court reporter, however if a transcript is ordered the opposing party must be notified and be given an opportunity to order an additional copy

(b) A Joint Pre-trial Stipulation of facts and issues to be considered relating to the Appeal shall be submitted in writing to the Board Secretary no fewer than 5 (five) days prior to the date of the hearing. If the parties are unable to agree as to the facts they shall submit individual Pre-trial statements, however the parties so submitting shall include a statement attesting that a good faith attempt to confer with the opposing party has been made and the parties are unable to agree to the facts and/or issues.

(c) All Board meetings will begin at 6:00 o'clock p.m. and conclude no later than 11:00 o'clock p.m. If the parties have not concluded the presentation of evidence within that time, the hearing will be continued no longer that 30 (thirty) days and written notice of hearing there for will issue from the Secretary for the Board within 24 hours and will be forwarded via us regular mail and/or email to all parties.

(d) The Appointing Authority shall require employees to be present to appear as a witness upon reasonable request by the Petitioner in writing. The Board has authority through its attorney, to issue subpoenas to any witness upon the request of any party, in accordance with §120 Florida Statutes (2017).

(e) Each party shall have the right to be represented by Counsel. The parties are encouraged to confer prior to the hearing to attempt to resolve any administrative issues regarding the evidence and or objections thereto, in order to avoid spending excessive time on these issues during the hearing.

(f) Following the recitation of procedural posture by the Appointing Authority, each party shall have the opportunity to make a brief opening statement. Opening statements shall elicit the facts that the party will prove in his

case and shall be restricted solely to the evidence which the party expects to prove.

(g) The Board's Attorney shall advise on a ruling on all motions and objections. The Florida Rules of Evidence shall be used as a guideline in ruling on all motions and objections. Hearsay shall be admissible, however no decision by the Board may be based solely on extrajudicial evidence or hearsay, unless introduced and supported by evidence produced during the hearing. The parties shall maintain proper decorum and civility during the hearing; and Attorneys shall conduct themselves in accordance with the rules of professional conduct promulgated by the Florida Bar. Failure to do so may subject the non-compliant party to the following sanctions:

- (1) An order to prohibit the party from being physically present during the presentation of evidence.
- (2) An Order requiring the parties questions to be written and read into evidence by the secretary of the Board.
- (3) An order striking pleadings or portions thereof.
- (4) An order staying further proceedings until a Board order is complied with.
- (5) Notwithstanding any other sanction, the Board may order the non-complaint party to pay of costs and attorney fees.

(h) Petitioner shall present his case first. The Appointing Authority shall have the right to cross examine the Petitioner's witnesses, and the Petitioner may ask rebuttal questions. The Board has discretion to permit further examination by parties. Cross examination and rebuttal examination shall address matters which arose in the context of the previous examination and is limited in scope to matters raised in the immediate preceding examination.

(i) The Board or any member thereof may direct questions to any witness during his testimony. The scope of questions must be reasonably related to the issues of fact which have been alleged by the parties.

(j) At the conclusion of the Petitioner's case, the Appointing Authority has the right to put on rebuttal evidence. During Authority's the rebuttal case in chief the Petitioner may cross-examine the Authority's witnesses in accordance with Subsection (e) above. The Board shall have discretion to permit the introduction of such additional evidence by the parties but solely for the purpose of rebuttal of preceding evidence.

(k) All documentary or demonstrative evidence introduced shall be marked as entered and indicate the party introducing the item (e.g. "Petitioner's Exhibit 1"). Copies shall be provided to the Board as well as to the opposing party. Either party may interpose a legal objection to the item sought to be admitted prior to its admission. The Board may sustain or overrule the objection to the introduction of the evidence, and should be guided to appropriate legal grounds for such action by the Board Attorney; who shall state the legal rational for the Boards action on the objection.

(l) After both sides have rested The Board may render its decision to affirm, modify or reverse the decision of the Appointing Authority. The Board may elect to;

(1) Reinstate the employee, with or without back pay.

(2) Modify the imposed penalty or references of charges in the employees' personnel file.

(m) The burden of proof shall be by preponderance of the evidence.

The Board shall issue a written order within 10 (ten) days of the oral pronouncement. Said order will contain findings of fact, applicable rules, and conclusions of law. Copies of the final order shall be forwarded via US mail and/or e-mail to the parties to the Appeal.

RULE 6. DISCRIMINATION EXCLUDED

The Civil service Appeals Board does not have jurisdiction to hear cases of Discrimination.

PART IV SEVERABILITY CLAUSE AND EFFECTIVE DATE

SEVERABILITY CLAUSE

If any rule or part of these rules should be declared unconstitutional or is preempted by state law or rule or ordinance, the same shall not affect the remaining rules, which shall remain in full force and effect.

EFFECTIVE DATE

These rules and regulations are hereby promulgated by the Civil Service Appeals Board and shall take effect upon approval by the City Commission.

For the Board,

Chairman Civil Service Appeals Board

Date



THE SUNRISE CITY
FORT PIERCE
Florida

CIVIL SERVICE APPEALS BOARD

ARTICLE VII-CIVIL SERVICE AND MERIT SYSTEM
EXCERPTS FROM CITY CHARTER

RULES, REGULATIONS AND PROCEDURES
FOR THE CONDUCT OF CIVIL SERVICE

APPEALS BEFORE THE CIVIL SERVICE APPEALS
BOARD FOR THE CITY OF FORT PIERCE, FLORIDA

Adopted June 18, 2018

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ARTICLE VII. - CIVIL SERVICE AND MERIT SYSTEM

Sec. 78. - Establishment of merit system; repeal of previous act.

All appointments and promotions in the administrative service of the city shall be made according to merit and fitness to be ascertained, so far as practicable, by competitive tests. In order to permit the adoption and use of a modern merit system which is efficient and fair to officials, employees and the public, Chapter 23296, Acts of 1945, and all acts amendatory thereto are hereby repealed and a merit system is hereby created which shall conform to the provisions hereinafter set forth.

Sec. 79. - Classified and unclassified service.

The following shall constitute the unclassified service of the city and shall be exempt from the provisions of this chapter [article]:

- (a) Members of the city commission and all elected officials.
- (b) The city manager, city clerk, city auditor, city attorney, personnel officer, director of finance, chief of police, department heads, and all members of any board or commission or any individual in a specialized field appointed by the city commission.
- (c) Part-time or temporary employee[s].

The classified service shall include all other positions now existing or hereafter created, and the provisions of this act shall apply thereto except as hereinabove set out.

(Laws of Fla., Ch. 65-1556, § 4; Laws of Fla., Ch. 65-1557, § 2; Ord. No. G-356, § 6, 8-1-77)

Amendment note— Ch. 65-1556, § 4, amended § 79(c) by deleting the words "day laborer." Ch. 65-1557, § 2, amended § 79(a) by including all elected officials and § 79(b) by adding the prosecuting attorney and department heads to the unclassified service.

Sec. 80. - Status of present employees.

Any person holding a position in the classified service when this act takes effect, who shall have served in such position for a period of at least six (6) months, shall be retained without preliminary or performance tests and shall thereafter be subject in all other respects to the provisions of this act. Any other persons in the classified service at the time this act takes effect shall be considered as having been given probationary appointments at the time this act takes effect.

Sec. 81. - Personnel officer.

There shall be a personnel officer, who shall be appointed or removed by the city manager with the approval of the commission. The personnel officer shall administer the merit system of the city in accordance with this charter and the personnel rules adopted thereunder. To this end, his powers and duties shall be:

- (a) To prepare competitive examinations and tests of various types for all appointments in the classified service, restricted to persons reasonably qualified to perform duties of the position;
- (b) To give wide publicity through appropriate channels in each case to all announcements of competitive examinations to the end of encouraging qualified persons to take such examinations;
- (c) To prepare and recommend to the city manager such rules as he may consider necessary, appropriate or desirable to carry out the provisions of this chapter [article] except rules, regulations and procedure pertaining to suspension, removal or demotion of any person in [the] classified service;
- (d) To prepare, install, and maintain a classification plan based on the duties, authority and responsibility of positions in the city service;
- (e) To prepare and submit to the city manager and the city commission for its consideration a pay plan for the city service;
- (f) To establish and maintain a roster of all persons in the municipal service in which there shall be set forth, as to each officer and employee, (1) the class title of the position held, (2) salary or pay, (3) any changes in class title, pay or status, and (4) such other data as may be deemed desirable or useful to produce significant facts pertaining to personnel administration;
- (g) To certify all payrolls for persons in the classified service. No payment for personal service to any person in the classified service of the city shall be made unless the payroll vouchers bear the certification of the personnel officer or his authorized agent that the persons mentioned therein have been appointed and employed in accordance with the provisions of this act;
- (h) To assist the city manager in developing and establishing training and educational programs for persons in the municipal service, so that wherever possible vacancies may be filled within the service;
- (i) To perform such acts, consistent with this charter and the personnel rules adopted thereunder, as he may deem desirable to administer the provisions of this chapter [article].

Sec. 82. - Civil service appeals board created.

(a)

Upon the taking effect of this act, the board of civil service created by Chapter 23296, Acts of 1945, shall be abolished and shall be superseded by a civil service appeals board consisting of five (5) members. Two (2) members shall be appointed by the city commission of said city, and two (2) members shall be elected by the members of the civil service of said city. The fifth member shall be named by the other four (4) members. In the event said four (4) members shall not agree upon the fifth member within fifteen (15) days after said four (4) members take office, the county judge of St. Lucie County, Florida, shall designate such fifth member. The said board shall elect one of their members to be chairman. The two (2) members named by the city commission and the two (2) members of the board named by the employees shall serve for a term or a period of two (2) years except the first member appointed by the city and the first member appointed by the employees shall serve for a term of only one year, but thereafter all terms of members of the board shall be for two (2) years. The fifth member of the board named by the other members of the civil service [sic] shall hold office for a period of one year. All members of the appeals board shall hold office until their successors are duly elected or named and qualified.

(b)

The city commission of said city shall elect two (2) alternate members of the civil service appeals board and the members of civil service of said city shall elect two (2) alternate members of the civil service appeals board. The five (5) members of the said board shall elect two (2) alternate members of the civil service appeals board to serve in the event of disqualification or absence of the five (5) members of the said board.

(c)

If there exists any ground which under the laws of the State of Florida would disqualify the judge of any court, or which is a ground of challenge for cause to disqualify any juror then such procedure shall apply to members of the civil service appeals board and any member who shall be disqualified shall not be permitted to hear and determine any cause wherein he is disqualified.

(d)

Whenever a person [sic] to any charge or proceeding, shall make and file an affidavit that he fears a fair trial cannot be had before said board, where charges are pending, on account of the prejudice of any member or members of said board against the applicant or in favor of the adverse, and thereupon, such member or members shall proceed no further therein, but an alternate or alternates for such member or members shall be designated in the manner prescribed for the substitution of members for the trial of any case when any member is disqualified.

The member or members may, however, examine the affidavit supporting the motion to disqualify any of them for prejudice, to determine its legal sufficiency but shall not pass on the truth of the facts alleged nor [ad]judicate the question of disqualification.

Every such affidavit shall state the facts and the reasons for the belief that any such bias or prejudice exists, and such affidavit shall be filed not less than forty-eight (48) hours before the time the case is called for hearing or good cause shown for the failure to so file the same within such time.

Any such affidavit so filed, shall be accompanied by a certificate of counsel representing the applicant stating that such affidavit and application are made in good faith and the facts stated as a basis for making the said affidavit shall be supported in substance by affidavits of at least two (2) reputable citizens of St. Lucie County, not kin to the applicant or of the counsel for the applicant. Provided, however, that when a suggestion of disqualification of any member or members has been made and the disqualification of such member or members shall have been admitted and an alternate member acting in lieu of the member so held to be disqualified [is designated], the said alternate member shall not be disqualified on account of alleged prejudice against the party making the suggestion in the first instance, or in favor of the adverse party unless such alternate member shall admit that it is then a fact that he, the said alternate member does not stand fair and impartial between the parties and if the alternate member shall state and hold that he does stand fair and impartial between the parties and their respective interests, he shall cause such statement or holding to be entered on the minutes of the said board and shall proceed to serve as member of said board in the pending case. The foregoing holding or ruling may be reviewed by the appellate court, as are other rulings of the said board.

(e)

In event a member of the civil service appeals board shall refuse to qualify as such member, or if said office shall become vacant by reason of death, resignation or otherwise, the proper alternate shall become a member of the civil service appeals board for the unexpired term of the member vacating said office, and a first alternate shall be elected as herein provided for the election of a second alternate.

(As amended by Laws of Fla., Ch. 59-1290, § 1)

Sec. 83. - Qualifications of board members.

Each member of the civil service appeals board shall be a resident of St. Lucie County, shall be known to be in sympathy with the merit principle as applied to the civil service, shall neither hold nor be a candidate for any other public office or position, and shall not be a member of any local, state or national committee of a political party or an officer in any partisan political club or organization. No person who has been convicted of a crime involving moral turpitude, or who is an officer or employee of said city shall be eligible to hold said office.

(Ord. No. J-17, §§ 1, 2, 5-4-92)

Sec. 84. - Term of office; employees; meetings and compensation.

Members of the civil service appeals board elected as herein provided shall take office within ten (10) days after their election or appointment. The oath of office shall be administered to each member of the civil service appeals board by the city clerk.

The personnel officer shall act as secretary to the appeals board of civil service. The city commission may employ such additional personnel for said board as said city commission shall deem necessary.

The civil service appeals board shall hold not less than one regular meeting each month and may hold special meetings when required for the transaction of business by said board. Such members may be called by the chairman or any three (3) members of the board, upon

giving each member written notice thereof served personally, or left at the members usual place of residence. A majority of the board shall constitute a quorum for all meetings; except, however, for all hearings there shall be a full board.

Members of the civil service appeals board shall each receive compensation in the amount of ten dollars (\$10.00) per meeting, contingent upon attendance at the meeting, payable on a quarterly basis. Responsibility for reporting attendance to receive compensation shall be placed with the board's staff coordinator.

(Ord. No. I-12, § 1, 6-6-83; Ord. No. K-288, § 1, 10-4-04)

Sec. 85. - Duties of board.

It shall be the duty of the civil service appeals board:

- (a) To make any investigation which it may deem desirable concerning personnel administration in the classified service and to that end, any member of the board shall have the power to administer oaths.
- (b) To report to the city commission and expose publicly any abuses or improper practices which it may find in the classified service of the city.
- (c) To provide rules for the procedures and grounds for suspension, demotion and dismissal of employees, said rules being subject to the approval of the city commission, and for the filing of appeals with the civil service appeals board herein created.
- (d) To sit as a body to hear appeals of any person in the classified service who is dismissed, demoted, suspended or transferred.
- (e) To supervise the holding and grading of all competitive examinations held under the merit system.

(Laws of Fla., Ch. 65-1557, § 2)

Amendment note—Ch. 65-1557, § 2, amended § 85 to provide for approval of the rules by the commission in paragraph (c).

Sec. 86. - Existing rules and regulations stand until superseded.

The rules and regulations of the board of civil service which are in effect upon the taking effect of this chapter [article] shall remain in full force and effect until superseded by the rules adopted under this chapter [article].

Sec. 87. - Personnel rules.

Immediately after the taking effect of this act, the personnel officer shall prepare personnel rules to govern the merit system and carry out the provisions of this chapter [article]. The city manager shall approve them with or without modification. When approved by him they shall be submitted to the city commission and shall become effective thirty (30) days after the commission by resolution adopts them, with or without amendment. Thereupon, the rules and regulations of the board of civil service passed on June 19, 1944, and amended as of July 15, 1954, shall be automatically repealed and superseded by the rules herein provided, except rules promulgated by the civil service appeals board under subsection (c) of section 85 of this act.

The personnel rules shall provide for:

- (1) The classification of city positions which classification shall be based on the duties, authority and responsibility of each position;
- (2) A pay plan for all city positions embodying the principle [of] equal pay for equal work which plan shall become effective when the commission by resolution adopts it with or without amendment;
- (3) The method of holding competitive tests for fairly determining the merit and fitness of candidates for appointment and promotion;
- (4) The establishment, maintenance and certification of eligible lists for filling vacancies;
- (5) The order and manner in which layoffs may be effected;
- (6) Hours of work, attendance, regulations and provisions for sick and vacation leave;
- (7) The procedure governing provisional or probationary appointments;
- (8) Other practices and procedures necessary for effective administration of the merit system under the provisions of this charter;
- (9) To make rules and regulations for the selection of a grievance committee by members in the classified service.

Sec. 88. - Rules to incorporate principle of merit and fitness.

The rules required by section 87 shall be so prepared that all decisions on personnel matters shall be made solely on the basis of merit and fitness of the individual, and the various practices and procedures established thereunder which are to govern these decisions shall incorporate established professional standards and techniques which will serve to further that end.

Sec. 89. - Causes for suspension and dismissal.

Any member of the civil service under this act who shall be incompetent, neglect his duty, be guilty of insubordination, immorality, drunkenness, any felony or crime involving moral turpitude or for the violation of any rules and regulations adopted by the civil service appeals board pursuant to subsection (c) of section 85 of this act shall be subject to reduction, suspension, fine or dismissal; provided, however, that no officer or employee shall be fined a sum in excess of one month's compensation.

Annotations— Grounds for discharge interpreted generally, see *Bloodworth v. Suggs*, 60 So.2d 768(1952); *City of St. Petersburg v. Pfeiffer*, 52 So.2d 796(1951); *Becker v. Merrill*, 20 So.2d 912(1944); *Barron v. Vailles*, 26 So.2d 449(1944); *Nelson v. State ex rel Quigg*, 23 So.2d 136, 90 L. Ed. 1016(1945).

Sec. 90. - Removals, fine and appeals.

- (a) The city manager may at any time fine or suspend or dismiss or demote or transfer any employee of the classified service for any cause which will promote the efficiency of the service but only in accordance with the rules and regulations of the merit system and the civil service appeals board.
- (b) The members of the civil service appeals board shall not discuss the facts or merits of any case which may be tried before them with any person or persons whomsoever, except to receive the list of witnesses by any person or which the said city desires to subpoena before the board.
- (c) Violations of the foregoing provisions of this section by any member of the board shall be grounds for disqualifications.
- (d) In investigation of charges each member of the civil service appeals board shall have the power to administer oaths, and said board is hereby authorized to compel by subpoena the attendance of witnesses, [and] the production of books and papers relevant to such investigation, said subpoena to be served by a member of the police department.
- (e) It shall be unlawful for any person to fail or refuse to respond to any subpoena duly issued by the civil service appeals board, without a legitimate excuse therefor, and such failure or refusal to respond is hereby declared to be a misdemeanor and shall be punishable as is now provided by [the] criminal code of the city for violation of misdemeanors.
- (f) All witnesses demanding witness fees for attendance shall be entitled to a per diem of one dollar (\$1.00) to be paid by the city, but no employee of the city summoned before said civil service appeals board to testify shall be entitled to any compensation.
- (g) Upon dismissal, suspension or demotion, the city manager shall within twenty-four (24) hours give the employee a written statement of the reasons for his dismissal, suspension

or demotion and shall immediately file a copy thereof with the civil service appeals board. If the employee desires, he may within seven (7) days file with the board a request for a hearing upon the dismissal or suspension or demotion. Any employee under the classified service of the city transferred within the classified service shall also have the right of appeal to the civil service appeals board within seven (7) days after such transfer upon written request to the board. The board upon receiving such notice of appeal, shall within five (5) days set a date for a hearing. Notice of the time and place of such hearing shall be served upon the city manager and the employee either personally or by registered mail at least five (5) days before the date of hearing.

(h)

The board shall conduct the hearing at the time set, which hearing shall be public and may adjourn the hearing from time to time upon cause shown, or upon its own motion, provided that such adjournment in all shall not extend beyond thirty (30) days from the date of dismissal or fine or demotion or transfer, except for good cause shown. Both the affected employees and the city manager shall be given full opportunity to be heard in person or with counsel. The personnel officer shall spread on the official minutes of the board the facts contained in the appeal, the board's findings and its decision which shall be final. Such decisions shall be transmitted to the city manager and executed by him.

(Laws of Fla., Ch. 65-1557, § 2)

Amendment note— Ch. 65-1557, § 2, amended § 90(h) by providing that a hearing may be extended beyond thirty days for good cause shown.

Annotation— Appeals, procedure. See *City of Miami v. Huttoe*, 38 So.2d 819(1949).

CIVIL SERVICE APPEALS BOARD RULES AND REGULATIONS
PART I GENERAL PROVISIONS

RULE 1 RULES AND PURPOSE

The rules established in this Policy are to be followed by the City in its personnel program so that City employees are treated fairly and equitably in their Employment.

SECTION 1: EFFECT OF RULES ON APPOINTING AUTHORITY

These rules shall have the force and effect of law insofar as they apply to positions, offices and personnel coming within the provisions of the Civil Service System of the City of Fort Pierce, Florida. Nothing in these rules shall be construed to limit, abrogate, or repeal the provisions of the appointing authority governing the removal, suspension, transfer, lay-off or reduction in grade of employees in the classified service.

SECTION 2: POSITIONS COVERED BY THESE RULES

These rules shall apply to all positions and offices in the classified service, except as excluded by the City of Fort Pierce, Florida Charter Article VII § 79.

(FPUA and St. Lucie Fire District employees included):

per City of Fort Pierce, Florida Charter Article XII § 180. - City employees to continue under city's pension plans, civil service merit system.

All employees of the City of Fort Pierce on the effective date of this article who shall be under the supervision of the authority shall continue without any loss of rights or benefits as employees under the pension plans and civil service merit system of the city existing on the effective date of this article or hereafter.

RULE 2 DEFINITIONS

SECTION 1: CLASSIFICATION

Classification shall mean a position or group of positions having similar duties and responsibilities, requiring similar qualifications, which can be properly designated by one title indicative of the nature of the work and which carry the same salary range.

SECTION 2: CLASSIFIED SERVICE

Classified Service shall mean all permanent employees as specified in Article VII Section 79 of the Fort Pierce City Charter.

SECTION 3: CONTINUOUS SERVICE

Continuous Service shall mean employment in the classified service which is uninterrupted except for authorized leave of absence.

SECTION 4: DAY OR CALENDAR DAY

Day or Calendar Day shall mean an un-interrupted 24 hour period of time between 12:01 a.m. to 12:00 midnight Sunday through Saturday, including, unless otherwise provided, weekends, and holidays observed by the City of Fort Pierce as designated by the City's Holiday schedule, designated by the City Manager or pursuant to the City's Emergency Plan. (Adopted 2017) Time periods under this section shall not include the day of the act or event from which the designated period of time begins to run.

SECTION 5: DEMOTIONS

Demotion shall mean the transfer of any employee to a position in one classification to a position in another classification for which a lower maximum rate of compensation is prescribed whether such transfer does or does not involve an immediate reduction in pay.

SECTION 6: ELIGIBLE

Eligible shall mean a person listed on an active eligible list.

SECTION 7: ELIGIBLE LISTS

Eligible List shall mean an employment list, promotional list, re-employment list or reinstatement list comprised of names of persons who have been found qualified through suitable tests, arranged in the order of merit.

SECTION 8: HEARINGS

(a) Appeal Hearing

Appeal hearings shall mean a public hearing conducted in accordance with the provisions of City Of Fort Pierce Charter Article VII § 90.

(b) Other Hearings

Other hearing shall mean a public hearing, other than an appeal hearing, provided for by State Law, or arising under the provisions of the City of Fort Pierce City Charter for which any person may have the opportunity to be heard.

SECTION 9: POSITION

(a) Permanent Position

Permanent Position shall mean any position in the classified service to which an employee has been appointed after completing a probationary period as defined in the employee personnel handbook.

(b) Temporary Position

Temporary Position shall mean any position which is not designated as permanent.

SECTION 10: PROBATIONARY EMPLOYEE

Probationary Employee shall mean any employee who is serving a trial period to determine fitness to perform the specified position prior to being regularly appointed in the classified service as outlined in the Personnel Handbook.

RULE 3 CHANGE IN CLASSIFICATION, REMOVAL, DISCHARGE, DEMOTION, SUSPENSION OR REDUCTION

SECTION 1: TRANSFER HIGHER CLASSIFICATION

The transfer of an employee involving a change from a position in one classification to a position in another classification for which a higher maximum rate of compensation is prescribed shall be considered a promotion.

SECTION 2: ADVERSE ACTION IN GENERAL

(a) By Appointing Authority

The Appointing authority may at any time suspend , dismiss, demote, layoff or transfer any employee of the classified service for any cause which will promote the efficiency of the service but only in accordance with the rules and regulations of the various appointing authorities, and as specified in Article VII Section 89 of the City Charter for the City of Fort Pierce. Such action shall be forthwith reported in writing to the Human Resources Department together with the cause therefore.

(b) Citizen Complaint

Any citizen may file a written complaint alleging misconduct by an employee in the classified service. Such Complaints are to be filed with the Appointing Authority and maybe filed with the Board, with a copy provided to the department head in the department to which the Employee is assigned

(c) Written Charges Required

Cause for removal, discharge or other discipline must be made in writing. No employee who is a member of the Civil Service and who is appointed, employed, promoted, or confirmed under the terms and provisions of the Appointing Authority shall be removed, suspended, demoted, reduced or discharged, except for cause shown on written charges preferred by the Appointing Authority. Such charges may be preferred for incompetency misfeasance, malfeasance, nonfeasance, misconduct, or a violation of the law or rules.

(d) Immediate Suspension of the Employee

Upon charges being preferred in accordance with these rules the employee may be immediately suspended with or without pay, until such time as the complaint is sustained or overruled by a hearing before the Civil Service Appeals Board . If the employee is suspended without pay and the complaint is overruled then the employee shall be eligible to receive back pay for the period of time between the effective date of the employee's suspension and the final determination by the Board. If the complaint is sustained then the employee shall not be reimbursed and shall have no claims against the Appointing Authority for back wages under these rules.

(e) Investigation of Charges

Whenever any allegation of misconduct or other rule violation is filed against a member of the classified service in accordance with the provisions of this rule, by any person other than the appointing authority the allegations forwarded shall be thoroughly investigated by said appointing authority and such shall be investigated as outlined in Article VII Section 85 of the City Charter for the City of Fort Pierce-. Within twenty (20) days receipt of an allegation of misconduct arising under these rules the appointing authority shall make a determination as to how to proceed, based on the rules of the appointing authority.

(f) Effect of Rules on Authority of Department Heads to File Charges

Nothing contained in these rules shall interfere with the authority and the duty of a Department Head to file allegations of misconduct on any grounds which are justified under these rules.

(g) Notice to Departments

A copy of these rules shall be available in each department and institution of the Appointing Authority.

SECTION 3: SUSPENSION

The Appointing Authority or the head of a department shall have the authority to suspend employees for cause and without pay; and for a reasonable period of time, in accordance with the Rules of the Appointing Authority. Such suspension requires the Authority or Department Head to provide the employee with notice and the rationale for the suspension.

SECTION 4: REDUCTION IN GRADE

(a) Misconduct

The Appointing Authority shall have the authority to reduce employees to a lower grade; if the employee is found to have committed an infraction of institutional rules, conduct unbecoming to an employee, inefficiency, or other similar justifiable cause.

(b) Reduction due to other circumstances

The Appointing Authority shall be notified when it becomes necessary to reduce in grade any employee due to insufficient funds or workload to support the position.

PART II CIVIL SERVICE APPEALS BOARD

RULE 4 ORGANIZATION AND DUTIES OF CIVIL SERVICE APPEALS BOARD

SECTION 1: ADMINISTRATION AND ENFORCEMENT

The Civil Service Appeals Board (the “Board) shall direct the administration and enforcement of the Civil Service Ordinance and rules promulgated as authorized pursuant to Article VII §85 of the Charter of the City of Fort Pierce.

SECTION 2: ELECTION OF CHAIR PERSON:

At the First regular meeting of the Civil Service Appeals Board (“ The Board”), the Board shall elect one of its members as Chair Person and one member as Vice- Chairperson. The Chair shall be the presiding officer at all meetings of the Board, shall maintain order in the proceedings and shall sign the Minutes of the Board.

The vice chair shall assist the Chair and shall succeed to the duties of the Chair in his/her absence or during the Chair’s inability to serve, or as requested by the Chair.

SECTION 3: ADOPTION OF CODE RULES AND PROCEDURES

It shall be the duty of the Board to adopt, amend and enforce a code of rules and procedures for the suspension, demotion and dismissal of employees. The Board shall also hear civil service appeals including those from dismissal, demotion and transfer. The Board shall have authority to amend these rules as authorized by Article VII §85 of the City Charter.

SECTION 4: QUORUM AND MAJORITY VOTE

A quorum consists of a majority of members of the board members. No official business shall occur, nor official act adopted in the absence of a quorum. In all matters coming before the Board, a majority vote shall control. For All Hearings, a full Board is required as provided in Article VII section 84.

SECTION 5: PERSONNEL OFFICER

The personnel officer or his designee shall act as secretary to the appeals board of civil service, and shall maintain a record of proceedings before the Board, and shall when requested under these provisions transcribe or cause to be transcribed audio recordings of proceedings before the Board As outlined in Article VII section 84 of the City Charter for the City of Fort Pierce.

SECTION 6: COMPENSATION OF THE BOARD -REPORT TO THE CITY COMMISSION

The employees of the Board shall receive such compensation if authorized under the city charter. It shall be the duty of the Board to make an annual report to the City Commission as soon as possible after the close of each calendar year. The report shall outline the Boards activities during the year and shall make such recommendations, as it may deem in the best interest of the Civil Service.

SECTION 7: MAINTENANCE OF CIVIL SERVICE OFFICE

A Civil Service place to meet will be maintained in City Hall where the Board will meet, as called for the purpose of conducting hearings and handling routine business. Hearings will be held in Fort Pierce City Hall unless otherwise arranged.

SECTION 8: ALTERNATES

In the event of the absence or disqualification of a member of the Board, an alternate shall serve on the Board and shall participate in the same manner as other members of the Board for the meeting during which the employee is absent or otherwise unable to participate.

SECTION 9: AGENDA

Items which are requested to appear on the agenda for any scheduled meeting must submitted no fewer than 7 calendar days before a scheduled meeting.. Items must be submitted to the secretary for the board in writing prior to the deadline.

PART III APPEAL PROCESS AND HEARING PROCEDURES

RULE 5. PROCEDURE ON APPEAL AND CONDUCT OF HEARING

SECTION 1: NOTICE OF APPEAL

Whenever any Employee in the classified service of the Appointing Authority has been suspended, demoted, reduced in rank, laid off or dismissed from the Civil Service, the employee has the right to appeal to the Civil Service Appeals Board. Appeals to the Civil Service Appeals Board under this section must be filed within 7 days, except for good cause of the effective date of the adverse action as described above. The appeal shall be commenced by the filing of a written notice of appeal filed with the Board the notice shall specify that the proponent is requesting a hearing before the Board. The notice must be signed personally by the employee or his legal counsel.

FAILURE TO PROSECUTE AN APPEAL

Following the filing of a request for a hearing where it appears on the face of the record that no activity, has occurred for a period of thirty (30) days shall cause the Appeal to be subject to dismissal by the Civil Service Appeals Board; on its own motion, or on the motion of any interested person, whether a party to the appeal or not, after reasonable notice to the parties, unless a stipulation staying the action is approved by the Chairman of the Civil Service Appeals Board or a stay order has been filed or a party shows good cause in writing why the appeal should remain pending. Mere inaction for a period of less than thirty (30) days shall not be sufficient cause for dismissal for failure to prosecute.

SECTION 2: NOTICE OF HEARING COMMENCEMENT OF ACTION

(a) Notice of Hearing

Within 5 days receipt of the notice of appeal under this section, the Board shall set a date for a hearing. A notice of hearing shall be provided to the Parties which

shall specify the date, time and place of the hearing. The petitioner shall also be provided with a copy of the allegations and specifics of the alleged misconduct.

(b) Hearing

The Board shall hear the appeal within 30 days' receipt of the notice of appeal, unless a timely written request for continuance is received by the Board Secretary. . The Secretary shall contact the opposing party and determine whether the party has any objection to the Continuance. If there is no objection the matter shall be rescheduled by the Secretary on the next available calendar for the Board. If there is an objection the matter shall be submitted to the board chair for determination of whether the matter shall be rescheduled to a later date.

SECTION 3: FLORIDA SUNSHINE LAW AND DISCLOSURE OF COMMUNICATIONS

(a) Open Meetings and Communication between Board Members

Any hearing conducted pursuant to these rules shall be open to the public, and shall be noticed in conformity with §286.011 Florida Statutes: No member of the Board shall discuss any matter pending before the Board with any other member outside of the confines of a scheduled public meeting in conformity with the provisions relating to §286.011 Florida Statutes (2016). Any violation of this rule shall constitute cause for the imposition of sanctions up to and including imprisonment for willful violations as outlined in FS §286.0111.

(b) Disclosures

Any communication between staff and any member of the Board or a member of the public and any member of the Board shall be disclosed in the public meeting, prior to commence of the hearing.

SECTION 4: CONDUCT OF HEARING

(a) The Board shall hear the evidence upon which the allegations have been made. Evidence shall include testimonial, demonstrative and documentary materials which are produced during the hearing. Stenographic notes and/or a mechanical recording shall be kept of all hearings, and may be transcribed at the

request of either party. Requesting party shall pay cost of transcription. Standard transcription fees will apply. Either party may furnish their own court reporter, however if a transcript is ordered the opposing party must be notified and be given an opportunity to order an additional copy

(b) A Joint Pre-trial Stipulation of facts and issues to be considered relating to the Appeal shall be submitted in writing to the Board Secretary no fewer than 5 (five) days prior to the date of the hearing. If the parties are unable to agree as to the facts they shall submit individual Pre-trial statements, however the parties so submitting shall include a statement attesting that a good faith attempt to confer with the opposing party has been made and the parties are unable to agree to the facts and/or issues.

(c) All Board meetings will begin at 6:00 o'clock p.m. and conclude no later than 11:00 o'clock p.m. If the parties have not concluded the presentation of evidence within that time, the hearing will be continued no longer than 30 (thirty) days and written notice of hearing there for will issue from the Secretary for the Board within 24 hours and will be forwarded via us regular mail and/or email to all parties.

(d) The Appointing Authority shall require employees to be present to appear as a witness upon reasonable request by the Petitioner in writing. The Board has authority through its attorney, to issue subpoenas to any witness upon the request of any party, in accordance with §120 Florida Statutes (2017).

(e) Each party shall have the right to be represented by Counsel. The parties are encouraged to confer prior to the hearing to attempt to resolve any administrative issues regarding the evidence and or objections thereto, in order to avoid spending excessive time on these issues during the hearing.

(f) Following the recitation of procedural posture by the Appointing Authority, each party shall have the opportunity to make a brief opening statement. Opening statements shall elicit the facts that the party will prove in his

case and shall be restricted solely to the evidence which the party expects to prove.

(g) The Board's Attorney shall advise on a ruling on all motions and objections. The Florida Rules of Evidence shall be used as a guideline in ruling on all motions and objections. Hearsay shall be admissible, however no decision by the Board may be based solely on extrajudicial evidence or hearsay, unless introduced and supported by evidence produced during the hearing. The parties shall maintain proper decorum and civility during the hearing; and Attorneys shall conduct themselves in accordance with the rules of professional conduct promulgated by the Florida Bar. Failure to do so may subject the non-compliant party to the following sanctions:

- (1) An order to prohibit the party from being physically present during the presentation of evidence.
- (2) An Order requiring the parties questions to be written and read into evidence by the secretary of the Board.
- (3) An order striking pleadings or portions thereof.
- (4) An order staying further proceedings until a Board order is complied with.
- (5) Notwithstanding any other sanction, the Board may order the non-complaint party to pay of costs and attorney fees.

(h) Petitioner shall present his case first. The Appointing Authority shall have the right to cross examine the Petitioner's witnesses, and the Petitioner may ask rebuttal questions. The Board has discretion to permit further examination by parties. Cross examination and rebuttal examination shall address matters which arose in the context of the previous examination and is limited in scope to matters raised in the immediate preceding examination.

(i) The Board or any member thereof may direct questions to any witness during his testimony. The scope of questions must be reasonably related to the issues of fact which have been alleged by the parties.

(j) At the conclusion of the Petitioner’s case, the Appointing Authority has the right to put on rebuttal evidence. During Authority’s the rebuttal case in chief the Petitioner may cross-examine the Authority’s witnesses in accordance with Subsection (e) above. The Board shall have discretion to permit the introduction of such additional evidence by the parties but solely for the purpose of rebuttal of preceding evidence.

(k) All documentary or demonstrative evidence introduced shall be marked as entered and indicate the party introducing the item (e.g. “Petitioner’s Exhibit 1”). Copies shall be provided to the Board as well as to the opposing party. Either party may interpose a legal objection to the item sought to be admitted prior to its admission. The Board may sustain or overrule the objection to the introduction of the evidence, and should be guided to appropriate legal grounds for such action by the Board Attorney; who shall state the legal rational for the Boards action on the objection.

(l) After both sides have rested The Board may render its decision to affirm, modify or reverse the decision of the Appointing Authority. The Board may elect to;

(1) Reinstate the employee, with or without back pay.

(2) Modify the imposed penalty or references of charges in the employees’ personnel file.

(m) The burden of proof shall be by preponderance of the evidence.

The Board shall issue a written order within 10 (ten) days of the oral pronouncement. Said order will contain findings of fact, applicable rules, and conclusions of law. Copies of the final order shall be forwarded via US mail and/or e-mail to the parties to the Appeal.

RULE 6. DISCRIMINATION EXCLUDED

The Civil service Appeals Board does not have jurisdiction to hear cases of Discrimination.

PART IV SEVERABILITY CLAUSE AND EFFECTIVE DATE

SEVERABILITY CLAUSE

If any rule or part of these rules should be declared unconstitutional or is preempted by state law or rule or ordinance, the same shall not affect the remaining rules, which shall remain in full force and effect.

EFFECTIVE DATE

These rules and regulations are hereby promulgated by the Civil Service Appeals Board and shall take effect upon approval by the City Commission.

For the Board,

Chairman Civil Service Appeals Board

Date