

**PALMETTO CITY COMMISSION
LEGISLATIVE BODY HEARING
DECEMBER 18, 2012—5:30 P.M.**

Elected Officials Present

Brian Williams, Vice Mayor, Commissioner, Ward 3
Tamara Cornwell, Commissioner-at-Large 2
Jonathan Davis, Commissioner-at-Large 1
Charles Smith, Commissioner, Ward 1
Tambra Varnadore, Commissioner, Ward 2

Staff and Others Present

Mark Barnebey, City Attorney
Jim Freeman, City Clerk
Rick Wells, Chief of Police
Amber Foley, Assistant City Clerk
James Crosland, Bryant Miller Olive, P.C. Attorneys at Law
David Miller, Bryant Miller Olive, P.C. Attorneys at Law
Diane Morton, General Council, Southwest Florida Police Benevolent Association (PBA)

Vice Mayor Williams called the meeting to order at 5:30 p.m.

Vice Mayor Williams explained that the meeting being held tonight is to resolve the impasse that is the subject of PERC Case No. SM-2012-022.

1. OPENING STATEMENT MADE BY CITY ATTORNEY MARK BARNEBEY

Mr. Barnebey read the procedures for conducting the legislative body hearing. A copy of the procedures is attached to and made a part of the minutes.

2. PBA PRESENTATION 30 MINUTES

Diane Morton, representing the Palmetto Police Department, provided Commission with copies of the Magistrates ruling. A copy of the ruling is attached to and made a part of these minutes.

Ms. Morton reserved five minutes for rebuttal.

Ms. Morton stated that the last two issues tonight regard the standard for discipline and the take-home car policy.

In regard to the standard for discipline, the Magistrate ruled in favor of the Palmetto Police Department stating that other agencies in the area have adopted the "just cause" form of discipline. It was concluded that the public interest favors the inclusion of the "just cause" standard. Ms. Morton gave some of her time to allow Detective Joe Rogers to speak regarding the need for a "just cause" standard of discipline versus an "at-will" policy.

Detective Joe Rogers, Criminal Investigation Division (CID), stated he has been with the Palmetto Police Department for almost five years. He is in favor of the "just cause" standard of discipline, opining that it will protect the officers from being unfairly treated. The current City policy for employees states that they may only be discharged for cause. Detective Rogers stated that, if an "at-will" policy is adopted tonight, it would mean the officers will have fewer rights than the general employees.

Ms. Morton referred to page five of the Magistrates ruling citing that the City's proposal to change its current "cause" standard of review to "at-will" is not supported by the evidence.

Ms. Morton gave some of her time to Officer Martinez to speak regarding the take-home car policy.

Officer Luis Martinez stated that having a take-home car policy would boost morale with the officers. He opined that it would benefit the City and the citizens stating that this policy would permit officers to respond to calls directly while they are reporting to work rather than going to the station to get a vehicle.

Ms. Morton stated that the last issue regarding take-home vehicles is to decide if the Chief can withhold a take-home vehicle at his discretion.

3. CITY PRESENTATION 30 MINUTES

Mr. Crosland, representing the City, gave time to allow Mayor Bryant to speak on behalf of the City.

Mayor Bryant acknowledged the police officers and stated how proud she is of all of them and what they do for the public. She discussed the reasons for an "at-will" standard of discipline, stating that if a "just-cause" form of discipline is applied it could potentially increase litigation costs to the City.

Mr. Crosland explained that there are three issues before Commission tonight. The first issue is an "at-will" versus a "just cause" standard for discipline. The second issue is the take-home vehicle policy and the third issue is the police officers' work week.

Mr. Crosland stated that an "at-will" standard of discipline simply means there is a rational reason for termination of an employee. A "just cause" standard of discipline means there are certain steps and criteria that have to be met by the employer for termination of an employee. Mr. Crosland discussed the seven steps required for a "just cause" termination which is often a very time consuming, costly process, often leaving an employee on the job that shouldn't be there. An "at-will" standard of discipline will give the City the right to control its own affairs.

In regard to the take-home car policy, Mr. Crosland explained that the issue is how far outside of the City limits officers can take their cars and what is a reasonable reimbursement amount. There is currently an unwritten policy in place that states undercover detectives and K-9 officers take home their vehicles without being charged. The City is not proposing to change that.

Mr. Crosland discussed the current officer work week. He explained that the City operates pursuant to the Fair Labor Standards Act. The usual work period for officers is eighty-six hours in a fourteen day work period. What the City is proposing to change is for officers to get paid for actual hours worked. Pay for leave such as holiday pay or sick leave shall not count as hours worked for purposes of overtime calculation. This is in compliance with Federal Law.

PBA 5 MINUTE REBUTTAL

Ms. Morton stated that police officers should be given the same standard for discipline as general employees. She reminded Commission that the officers and the City are in agreement regarding the work week. She commended the officers for being here tonight.

4. CITY COMMISSION DELIBERATION

Commissioner Smith questioned the underlying issues surrounding the take-home vehicle policy. Mr. Crosland explained that the PBA would like no charge for vehicles up to six miles outside the City limits. Between six and fifteen miles there would be a \$25.00 fee per pay period and between fifteen miles and the County line, the officers would pay \$50.00 per pay period for gas expenses.

The City's position on the take-home car policy is no charge for officers who take vehicles within City limits. Officers who take home vehicles not more than 10 miles from the City limits would pay a \$25.00 fee per pay period, and a \$50.00 fee per pay period if the vehicle is ten miles outside the City to the County line. Mr. Crosland stated that there will be no charge to K-9 and undercover detectives who use take-home vehicles. The City is also proposing that the Chief may withhold or revoke authorization for any officer to use a take-home vehicle in his sole discretion, including, but not limited to, disciplinary reasons.

Chief Wells informed Commission that there are currently four CID detectives, three administrative personnel, and two K-9 officers who use take-home vehicles.

Discussion ensued regarding the Chief of Police using sole discretion to revoke the use of a take-home vehicle and whether it is a grievable issue or not.

Consensus of Commission was to adopt the PBA's proposal on the take-home vehicle policy regarding mileage with the exemption of undercover detectives and K-9 officers and to adopt the City's proposal to allow the Chief of Police to withhold or revoke authorization for any officer to use a take-home vehicle in his sole discretion, including, but not limited to, disciplinary reasons.

Consensus of Commission was to adopt the City's proposal regarding the eighty-six hour work week.

In regard to management rights and discipline and the "at-will" versus "just cause" standard for discipline, Vice Mayor Williams polled the Commissioners.

Commissioners Cornwell, Davis, Varnadore and Williams were in favor of the "at-will" standard for discipline.

Commissioner Smith was in favor of the "at-will" standard for discipline, with reservations.

Consensus of Commission was to adopt the City's position of an "at-will" standard for discipline.

Motion: Commissioner Varnadore moved, Commissioner Cornwell seconded, and the motion carried 5-0 to have staff draft a resolution reflecting the following:

1. In regard to the take-home car policy, adopting the Union's position on mileage and reimbursement to the City, exempting the K-9 officers and the CID vehicles from any payment, and accepting the City's position on the ability of the Chief of Police to withhold the use of cars for take-home purposes.
2. Accepting the City's position in regard to the work week proposal.
3. Accepting the City's position in regard to the disciplinary standard and policy.

Attorney Barnebey stated that the resolution will be brought forward for approval at the Commission meeting on January 7, 2013.

Vice Mayor Williams adjourned the meeting at 6:58 p.m.

Minutes approved: January 7, 2013

James R. Freeman

James R. Freeman
City Clerk