

Ad Hoc Transition Committee
September 1, 2011, 1:00 p.m. A231

Meeting called to order by Chairman, Miller at 1:02 p.m. Present; Ward, Croke, Sumpter and Miller. Excused: Johnson and Stuchlak. Also present Djumadi, Kaye and Phillippi.

The meeting was properly announced.

Motioned by Ward/West to approve the agenda. Motion carried by unanimous voice vote.

Motioned by Croke/Ward to approve minutes from August 15, 2011 with adding "not" in last part of this sentence (it does "not" change the intent.) Motion carried by unanimous voice vote.

Strike:

1. ~~"Employee" for purposes of a grievance for Discipline and Termination (as defined in this procedure) means a "regular full time" and "regular part time" employee who works at least sixty (60) hours per month as defined by the Adams County Personnel & General Administrative Policies and who has completed six (6) continuous months of employment with the County. "Employee" does not include, without limitation, any of the following: elected officials, other part time employees, temporary employees, contract employees, limited term employees, seasonal employees, contractors or their respective employees, employees covered by a collective bargaining agreement containing a grievance procedure which addresses Discipline and Termination (as defined in this grievance procedure) or any employees, officials or officers that serve at the pleasure of an appointing authority as provided by Wisconsin statutes.~~

Insert:

1. **"Employee"** for purposes of a grievance of Discipline and Termination (as defined in this procedure) means a "regular full time" employee who has completed six (6) continuous months of employment with the County and a "regular part-time" employee who regularly works at least sixty (60) hours per month and who has completed six (6) continuous months of employment with the County. "Employee" does not include, without limitation, any of the following: elected officials, other part-time employees, temporary employees, contract employees, limited term employees, seasonal employees, contractors or their respective employees, employees covered by a collective bargaining agreement containing a grievance procedure which addresses Discipline and Termination (as defined in this grievance procedure) or any employees, officials or officers that serve at the pleasure of an appointing authority as provided by Wisconsin statutes.

Strike:

1. ~~**Selection Of An Impartial Hearing Officer.** As soon as reasonably possible following the receipt of a timely request for a hearing by the Employee, or the County's failure to file a written answer in accordance with section 1.03(B) above, the County shall appoint an Impartial Hearing Officer and provide the Employee with the name of the individual appointed.~~

Insert:

1. **Selection Of An Impartial Hearing Officer.** As soon as reasonably possible following the receipt of a timely request for a hearing by the Employee, or the County's failure to file a written answer, the County shall appoint an Impartial Hearing Officer and provide the Employee with the name of the individual appointed.

Added language, shaded and underlined:

2. Hearing Date. Upon notification of his or her selection, the Impartial Hearing Officer shall schedule a hearing within a period of not less than twenty (20) working days nor greater than forty-five (45) working days. Within five (5) working days of the date of the appointment of the Impartial Hearing Officer, the Impartial Hearing Officer shall conduct a pre-hearing conference with the Employee and the Corporation Counsel to select the date for the hearing. Once a hearing date is scheduled, it may be adjourned only upon written request by the Employee or the County and a finding by the Impartial Hearing Officer that there is "good cause" for an adjournment. The Impartial Hearing Officer's decision regarding a request for adjournment shall be final, binding and not subject to appeal.

Grievance Form Appendix A:

Strike:

~~1. **USE:** This grievance form is for use in connection with the Adams County Grievance Procedure (Grievance Procedure) in the Adams County Personnel & General Administrative Policies (Policies). Only "regular full time" and "regular part time" employees who work more than sixty (60) hours per month and who have completed six (6) continuous months of employment with the County may use the Grievance Procedure. The grievance form may be used only in connection with "discipline" and "termination" as defined by the Grievance Procedure. Please refer to the Grievance Procedure in the Policies for additional rules and restrictions relating to the Grievance Procedure.~~

Insert

1. USE: This grievance form is for use in connection with the Adams County Grievance Procedure (Grievance Procedure) in the Adams County Personnel & General Administrative Policies (Policies) as it relates to Discipline and Termination as defined in the Grievance Procedure. Only "regular full time" employees who have completed six (6) continuous months of employment with the County and "regular part-time" employees who regularly work at least sixty (60) hours per month and who have completed six (6) continuous months of employment with the County are eligible to use the Grievance Procedure for Discipline and Termination. Please refer to the Grievance Procedure for additional definitions, rules and restrictions relating to the Grievance Procedure.

Strike:

Burden Of Proof; Impartial Hearing Officer's Decision; Remedies

~~1. **Burden Of Proof; Standard Of Review.** Except in a grievance involving termination of an Employee that is subject to Wis. Admin. Code Chapter DHS 5, the Employee bears the burden of proof to persuade the Impartial Hearing Officer by clear, convincing and satisfactory evidence that the County's decision to Discipline/Terminate the Employee was arbitrary and capricious. If the Employee does not meet his or her burden of proof, the Impartial Hearing Officer shall deny the grievance. For a grievance involving termination of an Employee that is subject to Wis. Admin. Code Chap. DHS 5, the County bears the burden of proof to persuade the Impartial Hearing Officer by a preponderance of the evidence that good cause exists to terminate the Grievant as provided in Wis. Admin. Code Chap. DHS 5.06(2)(b).~~

In determining whether an Employee (other than one that is subject to Wis. Admin. Code Chapter DHS 5) has proved by clear, convincing and satisfactory evidence that the County's decision to Discipline/Terminate was arbitrary and capricious, the Impartial Hearing Officer may only consider the evidence introduced at the hearing and the weight of that evidence. The Impartial Hearing Officer may not overturn the County's decision

~~to Discipline/Terminate based upon his or her own personal judgment or opinion regarding the matter. Moreover, the Impartial Hearing Officer may not determine a decision to Discipline/Terminate was arbitrary and capricious based on the County's failure to implement or follow concepts of progressive discipline or just cause, in whole or in part, in making the decision to Discipline/Terminate the Employee.~~

Insert:

1. Burden Of Proof; Standard Of Review. Unless specifically required by another statute or code, the Employee bears the burden of proof to persuade the Impartial Hearing Officer by clear and convincing and satisfactory evidence that the County's decision to Discipline/Terminate the Employee was arbitrary and capricious. If the Employee does not meet his or her burden of proof, the Impartial Hearing Officer shall deny the grievance.

In determining whether an Employee has proved by clear, convincing and satisfactory evidence that the County's decision to Discipline/Terminate was arbitrary and capricious, the Impartial Hearing Officer may only consider the evidence introduced at the hearing and the weight of that evidence. The Impartial Hearing Officer may not overturn the County's decision to Discipline/Terminate based upon his or her own personal judgment or opinion regarding the matter. Moreover, the Impartial Hearing Officer may not determine a decision to Discipline/Terminate was arbitrary and capricious based on the County's failure to implement or follow concepts of progressive discipline or just cause, in whole or in part, in making the decision to Discipline/Terminate the Employee. Finally, the Impartial Hearing Officer must recognize all County policies, rules, procedures and regulations and may not modify or disregard the same in determining whether the County's decision to Discipline/Terminate was arbitrary and capricious.

Miller asked about page 4 - Hearing representation. He questioned if an employee could have union representation rather than an attorney. It was determined that this would risk the order of the hearing, and it should be left as stated.

Chapter 19 applies to local government.

Kaye questioned if employees would be allowed to complete their forms on work time. It was determined that work is work. You work on work hours, grievance preparation is not considered work.

Motioned by West/Sumpter to approve the grievance procedure/forms. Motion carried by unanimous voice vote.

Discuss safety policy.

Ward questioned safety. Phillippi asked about the Alpha Terra documents. Kaye informed the committee she had safety policy and documents in her office. That safety training is currently taking place.

Discuss ethic ordinance. The committee had sample ethic ordinances and the stats. were distributed to them to review. They will discuss an ethics ordinance at their next meeting.

Safety Committee make up would be (3) three members, potential options – Brenda Rhinehart – Solid Waste employee, a person from Highway and a County Board Supervisor.

Reestablish safety concepts, highlight sections in handbook, ethics preliminary options, determine location of safety mat's if they exist, and what they consist of.

Set next meeting date for September 22, at 1:00 p.m.

Motioned by Croke/West to adjourn at 2:40 p.m. Motion carried by unanimous voice vote.

Respectfully submitted.

Cindy Phillippi
Recording Secretary