

City of Dade City

AGENDA MEMO

To: Honorable Mayor and Members of the City Commission
From: Karla S. Owens, City Attorney/Community Development Director
Subject: Employee Grievance Process/Amendment to Personnel Code
Date: January 6, 2009

It is requested that the City Commission consider the following information and recommendation(s):

BACKGROUND:

Article IV, Section 4.01(c) of the City's Charter requires that the Commission maintain a written grievance process for all City employees. Currently, Section 8.06 of the Personnel Rules only provides a grievance procedure for non-exempt employees.

ISSUES:

The attached procedure is applicable to all employees regardless of their position with the City. Since a grievance can exist between an employee and their direct supervisor, the attached process provides an additional, completely impartial and law-based method of hearing such disputes. The attached process will be added to the existing grievance procedure as set forth in Section 8.06 of the Personnel Rules.

ALTERNATIVES:

1. Approve the incorporation of the attached grievance procedure into Section 8.06 of the Personnel Rules; or
2. Do not approve the use of the attached grievance procedure; or
3. Direct staff to take some other action.

RECOMMENDATION:

Staff recommends Alternative No. 1 above.

FUNDING:

No funding is required for this item.

Employee Grievance/Administrative Hearing Process

Section 8.06(E).

- (1) Any employee not satisfied with the resolution of a grievance following compliance with the above-referenced process may file a request for administrative hearing within five (5) working days of the written decision of the City Manager or his designee.
- (2) If a request for an administrative hearing is timely made, an evidentiary hearing on the merits shall be held. The City, through the City Attorney's Office, shall arrange for the services of a hearing officer to conduct the administrative hearing. Hearing officers shall be selected from a list of candidates approved by the City Commission for such purpose. The City Commission shall also have the authority to contract with the state Division of Administrative Hearings to provide a hearing officer.
- (3) It shall be the duty of the hearing officer to represent the public interest by reviewing employee appeals resulting from alleged adverse employer action, including but not limited to violations of the adopted personnel rules and regulations, unwarranted demotion, dismissal or suspension. During such review, both the appealing employee (hereinafter "complainant") and the City Manager (or his designee whose action is being reviewed, hereinafter "respondent") shall have the right to be heard publicly, to be represented by legal counsel or other qualified representative, to conduct cross-examination and submit rebuttal evidence, and to present evidentiary facts argument on all issues involved. At the hearing of such appeals or grievances, technical rules of evidence shall not apply.
- (4) In conducting administrative hearings, the hearing officer shall have the power to administer oaths, issue subpoenas, compile the production of books, papers and other documents, and receive evidence. The hearing officer, in the conduct of administrative hearings, shall utilize a procedure similar to that set out in Sections 120.57(1) and 120.58, Florida Statutes. Any conciliation agreement reached prior to a scheduled hearing may result in such hearing being canceled. In construing this provision, the hearing officer may consider judicial interpretations of substantially similar state and federal laws.
- (5) All orders prepared by the hearing officer as a result of such hearings shall conform to the requirements for such orders as set out in Section 120.59, Florida Statutes. The hearing officer shall transmit a final written order composed of findings of fact, conclusions, and penalties to the complainant and respondent within ten (10) week days following the conclusion of the hearing. The order and penalties shall be considered a binding final order, and neither the City Manager nor the City Commission may reopen any hearing or commence taking or retaking any evidence or testimony.

(6) Any party adversely affected shall have the right to have the administrative proceeding reviewed by filing a petition for writ of certiorari with the circuit court of the county as provided by Rule 4.1, Florida Rules of Appellate Procedure. The City Commission shall have authority to bring an action in equity to enforce the final order pursuant to Section 120.69, Florida Statutes.