

**MAYOR AND COMMISSIONERS MEETING  
CITY OF REHOBOTH BEACH**

**April 15, 2011**

The Special Meeting of the Mayor and Commissioners of the City of Rehoboth Beach was called to order at 2:02 p.m. by Mayor Samuel R. Cooper on Friday, April 15, 2011 in the Commissioners Room in City Hall, 229 Rehoboth Avenue, Rehoboth Beach, DE.

**ROLL CALL**

Present:     Commissioner   Bill Sargent  
              Commissioner   Pat Coluzzi left at 4:43 p.m.  
              Commissioner   Kathy McGuiness  
              Mayor             Samuel R. Cooper  
              Commissioner   Dennis Barbour  
              Commissioner   Stan Mills  
              Commissioner   Lorraine Zellers

Also in attendance were:     City Manager Gregory Ferrese  
                                  City Solicitor Glenn Mandalas

The purpose of this Special Meeting was to hear and decide an appeal of the City Manager's determination to issue an intent to terminate notice to a regular employee where the employee has filed a timely appeal in accordance with Section 46-10(E) of the City Code. This appeal is referred to as No. 0411-01. Note: In accordance with 29 Del.C §10004(b)(8) the hearing portion of this meeting will be conducted in open session.

Mayor Cooper noted that Mr. Chuck Melton had spoken with him since his termination; and in turn, Mayor Cooper called the City Manager in regard to what was relayed to him. Mr. Melton acknowledged that he did not have an issue with Mayor Cooper not recusing himself.

City Solicitor Glenn Mandalas noted that this is a personnel matter and under the Freedom of Information Act, issues related to personnel can be conducted in Executive Session unless the employee requests that it be in an open forum.

Mr. Chuck Melton acknowledged that it was his desire to be heard in open session.

City Solicitor Mandalas noted that by a letter dated March 8, 2011, City Manager Gregory Ferrese provided Mr. Melton with a notice of intent to terminate; and on March 16, 2011, Mr. Melton requested a public hearing. City Solicitor Mandalas presented the procedures for the public hearing. This meeting today was held for the purpose of conducting a hearing under Section 46-10(E) to review Mr. Ferrese's March 8, 2011 decision. City Solicitor Mandalas read Section 46-10(E) of the City Code. The legal standard set out in Section 46-10(E) that the Board of Commissioners applied today was whether Mr. Ferrese's decision was supported by a preponderance of the evidence. The Commissioners' decision was to either affirm or reverse Mr. Ferrese's intent to terminate.

Mr. David Williams, Esq., representative of Mr. Ferrese, provided an opening statement. This case involved a pattern of misconduct which covered a period of nine months with the first incident occurring in late May 2010, the second incident occurring in late January 2011, and the third incident occurring on February 21, 2011. The incident which occurred in May 2010 was the subject of a prior hearing before the Commissioners.

Mr. Chuck Melton presented an opening statement. In regard to what happened on February 21, 2011, there were some discrepancies with what Mr. Ferrese thought he was reading. Mr. Melton also addressed the issue regarding the Walmart situation which he agreed that he was wrong for what was done that day. He presented what happened on February 21, 2011. In regard to the first situation, Mr. Melton said he was unduly punished for something he had no knowledge about.

Attorney Williams presented the City Manager's case and exhibits.

City Manager Exhibit 1 – Memorandum dated October 7, 2010 from Mr. Ferrese to Mr. Melton regarding disciplinary suspension.

Exhibit 2 – Report dated September 16, 2010 from Corporal Sweet to Mr. Ferrese regarding the internal investigation referencing Mr. John Brisco, etal.

- Exhibit 3 – Memorandum dated February 22, 2011 from Mr. Ferrese to Mr. Melton regarding disciplinary suspension without pay.
- Exhibit 4 – Letter dated March 8, 2011 from Mr. Ferrese to Mr. Melton regarding the Notice of Intent to Terminate. Attachments included a memorandum dated March 4, 2011 from Mr. Ferrese to Mr. Melton regarding the request for a meeting, medical forms dated February 21, 2011 from the Beebe Medical Center Emergency Room, Overtime Approval form dated February 28, 2011, Posting Transaction Audit Report from February 14, 2011 to February 28, 2011, Request for Leave form dated February 25, 2011, memorandum dated February 2, 2011 from Mr. Ferrese to Mr. Melton regarding disciplinary suspension without pay, memorandum dated October 7, 2010 from Mr. Ferrese to Mr. Melton regarding disciplinary suspension.
- Exhibit 5 – Memorandum dated January 20, 2006 from Mr. Ferrese to all Department Heads regarding time clocks/phone system.
- Exhibit 6 – Memorandum dated March 21, 2006 from Mr. Ferrese to Department Heads/all City employees regarding the policy on clocking in and out for work.
- Exhibit 7 – Daily Water Flow Reports from February 21, 2011, February 26, 2011 and February 27, 2011.
- Exhibit 8 – Report covering the time period from October 2010 through February 2011 when Mr. Melton was engaged in water testing to see on average how long it took to complete that task.

Attorney Williams called on Mr. Ferrese as first witness. Mr. Ferrese was sworn in by City Solicitor Mandalas. Mr. Ferrese confirmed that Mr. Melton was an employee of the City and worked for the Water Department for approximately 20 years. In reference to Exhibit 1, the disciplinary memorandum arose out of the incident where a pipe was taken from a project which occurred in the City. The pipe was then taken to a City facility, broken up with a City vehicle, loaded onto a City vehicle and sold at a scrap yard. Mr. Melton was disciplined because he was involved in the incident along with the other employees; he had taken money from the selling of the pipe; and he was aware of what had occurred. Mr. Melton chose not to appeal Mr. Ferrese's decision of a one-day suspension without pay, within the 10 day period. Mr. Ferrese confirmed that this incident was summarized in Exhibit 1. Prior to issuing this discipline, an investigation was conducted by the Police Department. Mr. Ferrese confirmed that Exhibit 2 was Corporal Sweet's report to him. In addition to reviewing the report, Mr. Ferrese reviewed the recordings and videotapes Corporal Sweet had done in which it was concluded that Mr. Melton was aware the pipe was taken from the sanitary sewer line job and was taken to the salvage yard. Mr. Melton had admitted to Corporal Sweet that he had received \$100.00 of the proceeds from selling the pipe. This situation occurred during the work hours of 7:00 a.m. to 3:00 p.m. which was checked against the timesheets. Mr. Ferrese confirmed that on Saturday, January 29, 2011, he went to Walmart at 8:15 a.m. and saw a City of Rehoboth Beach truck parked in the Walmart parking lot. Mr. Ferrese had approached Mr. Melton inside Walmart; and Mr. Melton had acknowledged that he was on City time and he was driving the vehicle parked in the parking lot. Mr. Ferrese left Walmart and suspended Mr. Melton three days without pay for the incident. This incident was not appealed, and Mr. Melton had not requested a review of Mr. Ferrese's decision. The disciplinary memorandum had also served as a warning that if Mr. Melton would engage in similar misconduct in the future, he would be terminated from employment with the City of Rehoboth Beach. Mr. Ferrese confirmed that February 21, 2011 was a City holiday, and it is a requirement by the State that the City tests its water seven days a week. On Saturdays and Sundays, the employees are guaranteed three hours at time and a half; and on holidays, they are guaranteed four hours at time and a half. The employees are to test all the wells and other locations in the City to make sure of adhering to the State requirements. Water samples are collected at approximately eight to ten sites around the City and are taken to the Water Department to be tested. All employees are required to punch in and punch out. With respect to water testing on holidays and weekends, Mr. Ferrese has permitted employees in the past to use a call-in system in order to effectively punch with the time clock. He has reminded employees more than once by memorandum or otherwise of the requirement that they punch in and punch out. Exhibits 5 & 6 were two memorandums that emphasized this requirement. In regard to Exhibit 4, Mr. Ferrese indicated the ADP Posting Transaction Audit Report showed the phone calling system recorded Mr. Melton calling in at 8:02 a.m. on February 21, 2011 to report to work which represented that he was working and called out at 11:05 a.m. representing that he had finished the work at that point. Mr. Ferrese discovered that Mr. Melton was not working at 8:02 a.m. when he reviewed the medical records from Beebe Hospital and noticed that Mr. Melton had been discharged from the

emergency room at 9:08 a.m. Mr. Melton had presented the medical records to the City with his request to have approved sick leave. In Exhibit 4, it indicated that Mr. Melton was greeted at the emergency room of Beebe Medical Center at 5:55 a.m.; and there were several notations of what occurred at various times. Mr. Melton was released from the emergency room at 9:08 a.m. Mr. Ferrese said it would take approximately 20 minutes to get to the first testing site from Beebe Hospital which would have been approximately 9:30 a.m. Mr. Melton had represented that he had reported to work at 8:02 a.m. and concluded the water testing at 11:05 a.m. which would be approximately one and a half hours from 9:30 a.m. On February 26, 2011 the testing took more than three hours. Mr. Melton had punched in at 6:56 a.m. and punched out at 10:00 a.m. On February 27, 2011 the testing took more than three hours. If in fact Mr. Melton had started working at 8:02 a.m. on February 21, 2011 and concluded at 11:05 a.m., this would have been about the same timeframe. Mr. Ferrese was unable to confirm if Mr. Melton had collected the water samples and did the water testing on February 21, 2011 because he had no way of concluding that Mr. Melton had done what he said he did on February 21, 2011. Since this incident, Mr. Ferrese has instructed the Water Superintendent to make sure that the Daily Water Flow Reports are signed and dated by the employee who collects and tests the water samples. In regard to Exhibit 4, the medical records were attached to the sick leave request from Mr. Melton, which indicated that Mr. Melton was to be off from work for one to two days. He was off from work Tuesday, February 22, 2011, Wednesday, February 23, 2011 and Thursday, February 24, 2011, and returned to work Friday, February 25, 2011. Mr. Ferrese met with Mr. Melton on March 8, 2011 which was prior to his decision to terminate. Mr. Melton had told Mr. Ferrese that the Beebe Hospital medical records and times were wrong; and he had started work at 8:02 a.m. Mr. Melton later admitted he was not working at that time. Mr. Ferrese had Ms. Diane Ewart call the Medical Records Department of Beebe Medical Hospital which confirmed that the times on the hospital forms were accurate. At that point, Mr. Ferrese informed Mr. Melton that he was going to terminate him from employment with the City. Mr. Ferrese confirmed that this case involved a pattern of misconduct, and he had given Mr. Melton plenty of warnings before deciding to terminate him.

Attorney Williams called on Ms. Diane Ewart as second witness. Ms. Ewart was sworn in by City Solicitor Mandalas. Ms. Ewart confirmed that previously the City had a system with time clocks and paper timecards. The employees were to punch the timecards in and out; and that information was manually entered into the computer. The City went to the totally automated ADP system which requires that employees have to scan their own hand into the computer; or if they are away from a site where there is no time clock, the employees have access to a dedicated toll free number which they can call in to register the in and out times. One problem with the old system was that there were a lot of manual errors which either the supervisor or Ms. Ewart may have made with entering time. There were also issues with some employees punching other people's timecards. Ms. Ewart confirmed that payroll, etc. is her area of responsibility. It has been made clear to employees even on those days such as water testing where the employees are paid a minimum number of hours that they need to clock in and clock out of the system. In those instances, the payroll system is such that it recognizes there is a guaranteed minimum so it will automatically pay the guaranteed minimum. A statement was provided in Exhibit 6 about the problems that are created if employees fail to clock in and out, and about the risks that employees will not be compensated for time worked or not worked. Ms. Ewart confirmed that it creates a problem for her to sort out payroll. If the times are not entered correctly the system will not calculate properly; and someone has to figure out when the employee actually worked so he/she can be paid correctly. Attorney Williams had asked Ms. Ewart to look at a larger sample of weekends and/or holidays when Mr. Melton was engaged in water testing to see on average how long it took to complete that task. Ms. Ewart confirmed that the document covered the time period from October 2010 through February 2011. The report represented a sampling of 22 days on a weekend or holiday when Mr. Melton was engaged in water testing. In looking at the report, on all of the days the water testing took place, it took approximately three hours. Ms. Ewart confirmed that she had called the Medical Records Department at Beebe Hospital with respect to the record that Mr. Melton provided in order to justify his absences on February 22, 2011 through February 24, 2011. The Medical Records Department would not address Mr. Melton's case specifically because of privacy laws. It verified that the times which would be on a sheet such as the medical record, would be accurate. Ms. Ewart confirmed that the Medical Records Department was unequivocal with respect to the accuracy of the records.

Mr. Melton exercised his right to cross-examine Ms. Ewart. He directed questions to Ms. Ewart regarding her conversation with the Medical Records Department at Beebe Hospital. Ms. Ewart confirmed that the Medical Records Department did not refer to his specific record, but to the accuracy of the times recorded on an emergency room report.

Mr. Melton presented his case. He was sworn in by City Solicitor Mandalas. When the situation with the pipe took place, he along with his supervisor, Mr. Howard Blizzard, two workers from the Water Department and two workers from the Wastewater Treatment Plant were working on Virginia Avenue. Two City

employees along with a Teal Construction employee had a conversation with regard to the pipe. They took the pipe down to the yard, broke it up and took it away. Mr. Melton did not know how or when the pipe was taken away because he never left the job at Virginia Avenue. The following day was when Mr. Melton received some money, and he was told that an employee had bought some food. Mr. Melton had a conversation with Corporal Sweet, and he stated that Mr. Melton was one of the only ones who spoke the truth. Mr. Melton read an excerpt from Corporal Sweet's report. Mr. Melton talked about this situation to Mr. Ferrese at a later date, after Mr. Brisco had been fired for that incident and got his job back. Mr. Melton said that he never left the job at Virginia Avenue and did not know what had occurred that day. Mr. Melton said that he should not have been suspended; and at most, he should have been asked to give the money he received to Teal Construction. The pipe was not given to the City; it was given to one individual. In regard to the Walmart incident, Mr. Melton confirmed that he had gone there. He got in his City vehicle, went to Breezewood (well) and did the job he had to do. After leaving Breezewood, Mr. Melton pulled into Walmart which was a bad decision. He should have come back to the shop, clocked out and then gone to Walmart. In regard to the most recent incident, Mr. Melton noted that there had been a fire at his residence, and he went to the emergency room at Beebe Hospital for treatment. Mr. Melton called in to the automated system to clock in to go to work as he was leaving the emergency room. As explained to him, employees are allowed to call in to clock from where they are when they are going to the jobsite. Mr. Melton was stopped from leaving Beebe Hospital because one of the workers had told him she thought he was going to another hospital for additional treatment; but a nurse told him that he was fine to leave. Mr. Melton left Beebe Hospital and proceeded to go to work. Mr. Melton said that he did not know of a set time limit to perform the work, but he had always done the samples in approximately one and one half to two hours. On Saturdays and Sundays, he would get three hours; and on holidays, he would get four hours. Mr. Melton noted that he worked more than two hours, and did his time he was supposed to do. While Mr. Melton was at the hospital, he called another employee to report what had taken place. He had asked that employee if she would come in because he was not sure at that time if he would be able to work. That employee said that she would come in if needed. Mr. Melton said that he left the hospital and went work, did his job and put his time in. He called in to clock in and went to the first job because it was on the way to work. Mr. Melton used his own vehicle and had sample bottles with him to obtain water samples. To do water sampling, it would take Mr. Melton approximately one hour and forty-five minutes to two hours. Mr. Melton noted that he had a witness who is a Beebe Hospital employee and who could discredit the times recorded by Beebe Hospital.

Melton Exhibit 1 – Newspaper article, “Fire causes minor damage at Lewes home”.

Exhibit 2 – Doctor's prescription dated February 22, 2011.

Exhibit 3 – Doctor's prescription dated March 14, 2011.

Mr. Melton called on Ms. Laurie Kries, Beebe Hospital employee, as first witness. She was sworn in by City Solicitor Mandalas. Ms. Kries noted that she works in admissions/registration in the emergency room. She has known Mr. Melton for seven years. Upon arriving at work at 6:30 a.m. on February 21, 2011, Ms. Kries immediately went to Mr. Melton's room in emergency to check on him. From the time she had arrived at his room, Mr. Melton seemed ready to leave. Ms. Kries spoke with Ms. Ashley Thompson, the nurse on duty about the possibility of Mr. Melton being treated at another medical facility for burns. Mr. Kries questioned Ms. Thompson regarding the times she had recorded. Ms. Kries noted that nurses do not always record what is done at that particular moment in time. Mr. Kries verified that Mr. Melton had come through checkout at 8:15 a.m.. Ms. Thompson had verified with Ms. Kries that Mr. Melton's IV was removed and he was discharged at 8:15 a.m., but the information was not inputted into the computer until 8:58 a.m.

Mr. Melton called on Ms. Barbara Cairns who works in the Water Department, as second witness. She was sworn in by City Solicitor Mandalas. Ms. Cairns verified that she works in the Water Department and does the water samples every other weekend. On February 21, 2011, Mr. Melton had called her that there had been a fire at his home. Ms. Cairns told Mr. Melton that she would come into work to help him. Nothing else was discussed at that time. Ms. Cairns went to work and did not clock in. She wrote down the chlorine and ph sample results on February 21, 2011 in the office. Ms. Cairns had no knowledge of what time the telephone call came in.

Mr. Melton called on Mr. Howard Blizzard, Water Department Superintendent, as third witness. Mr. Blizzard was sworn in by City Solicitor Mandalas. Mr. Blizzard noted that in regard to the incident where Teal Construction gave the pipe to the employees on the job site, he was not aware at that particular time that the pipe was given to them. Mr. Blizzard was asked what should be done with the pipe; and he told Teal Construction employees that it was their pipe, and they could do with it what they wanted. Teal Construction employees did not want to haul the pipe. Two City employees told Teal Construction employees that they

would take the pipe. It was his understanding that Teal Construction loaded the pipe in the City employees' truck, and he was not sure where the pipe was taken. At no time did the pipe belong to the City. The money received for the pipe was the City employees' money, not the City's money. In regard to the Walmart incident, Mr. Blizzard agreed that Mr. Melton was wrong in using a City truck. In regard to the last incident and the samples taken, Mr. Blizzard said that the policy is that if Mr. Melton calls in sick and cannot fulfill his part of the job, he is to call another employee. Mr. Blizzard does not have to be called first. If an employee is going to work on a weekend, two sample bottles would be taken home with them. Wells Nos. 7 & 8 are primary wells, and water samples are taken on their way into work. There has been some questions about the liability of an employee using their own vehicle. More samples are being taken than have been in the past. Samples are tested at two different places: 1. Office for normal pH and chlorine samplings. 2. Lynch Well for fluoride samplings. Sometimes not every well is tested. The well which is running is the one that is tested. If there are no problems, the samples can be taken in two and one half to three hours. Mr. Blizzard said that when Mr. Melton called to clock in from Beebe Hospital, this would be the equivalent of leaving from his home.

Mr. Melton said that he called in to clock in at 8:02 a.m. when he thought the hospital was going to discharge him.

Attorney Williams cross-examined Mr. Blizzard. Mr. Blizzard acknowledged that he is a supervisor. Mr. Blizzard said that he was not aware that the City employees broke up the pipe and where the pipe was after it left the jobsite. He found out about the pipe after it was taken to the salvage yard and money was received for it. Mr. Blizzard did have a problem with using the City truck to take the pipe to the salvage yard. Mr. Blizzard thought it was perfectly alright to sell the pipe. He found out the next day that Teal Construction had given the pipe to the employees. He did not know when the City employees broke up the pipe. In regard to the last incident, Mr. Blizzard talked to Ms. Cairns about it on February 22, 2011. When Mr. Blizzard met with Attorney Williams and Mr. Ferrese approximately three weeks ago to talk about this incident, he never mentioned the fact that Ms. Cairns was present on February 21, 2011 because he was not asked that question.

Attorney Williams cross-examined Ms. Cairns. On February 22, 2011, Ms. Cairns said that she had asked Mr. Blizzard if he was aware of Mr. Melton's fire. She had told Mr. Blizzard that Mr. Melton had called her. Ms. Cairns also told Mr. Blizzard that she had gone into work to see if she could help Mr. Melton with his work. Ms. Cairns acknowledged that she had filled out the water sampling form, but she had not done the testing of the samples.

Attorney Williams cross-examined Mr. Melton. Mr. Melton acknowledged that it was his responsibility to go to work on February 21, 2011, and he was able to work on that day. It would have been his responsibility to go to work on February 22, 2011 also; but he was unable to work on February 22, 2011, February 23, 2011 and February 24, 2011. Mr. Melton returned to work on February 25, 2011. He met with Mr. Ferrese on March 8, 2011 to talk about this incident. Mr. Melton had not mentioned that Ms. Cairns was present at the office of the Water Department on February 21, 2011. He had asked Mr. Ferrese to call Ms. Cairns so she could provide information as to what had occurred.

Mr. Melton noted that he had been employed by the City for 22 years. The first time he had been cited for disciplinary reasons was with the pipe incident. He did not know what was done or how it was done. Mr. Melton acknowledged that he knew the City employees were getting the pipe from Teal Construction, but he did not know where the pipe was taken or how it was transported. He was with Mr. Blizzard and other people on Virginia Avenue for approximately the entire day. Mr. Melton was unsure, but he thought Commissioner Mills had walked by the jobsite a couple times. The incident occurred in May 2010, but he was not suspended until September 2010.

Ms. Cairns acknowledged that she had written the overtime approval form for Mr. Melton, and Mr. Melton signed it along with Mr. Blizzard signing it for approval.

Mr. Ferrese acknowledged that he was not aware that employees were driving their personal vehicles. After the last incident, the policy was changed that employees are not allowed to stop by the wells to take samples on their way to work. Employees are required to report to the office first and clock in, and then go out to the wells to get the samples.

Mr. Melton acknowledged that by 8:30 a.m. he was at Well No. 8 collecting his samples. In approximately two to two and one half hours, he had collected his samples and returned to the shop at the Water Department. Mr. Melton had also acknowledged that at other times he had used a City vehicle to run an errand and stop in a 7/11 for a soda. Mr. Blizzard said that it is not uncommon to stop at a 7/11 or Royal Farms for a soda or coffee.

Mr. Melton acknowledged that all samples were done while using his personal vehicle. Then he would go to the office to do the testing. A lot of times Mr. Melton would not clock out until after he had gone to the well on Highway One, checked for leaks and locked the gate on the way out.

There was no redirect by Attorney Williams.

Attorney Williams provided a closing statement. He noted that there are credibility issues and conflicting testimony about how long the entire process takes. The objective evidence of how long the process takes is that it takes approximately three hours from start to finish. In looking at Exhibit 8, Mr. Melton represented on 22 different occasions how long it took to go through the process from start to finish. There were only two occasions when it was less than three hours. In most cases, it took more than three hours. Apparently an IV was removed at 8:15 a.m. and nothing else happened thereafter despite the fact that there are notes about instructions which were given, follow-up, prescription, etc. The Commissioners were being asked to believe that immediately at 8:15 a.m. or earlier Mr. Melton was on the road which would be a remarkable experience in a hospital. Under the best of circumstances, a record was set for doing the process on February 21, 2011. Attorney Williams submitted that the likelihood is that Mr. Melton did not do it or he did not do it from start to finish as was represented that he did. There is also a situation where Mr. Melton suffered burns on February 21, 2011 and Beebe Hospital wanted to send him to a burn center in Chester, PA of which Mr. Melton declined to go, but he was unable to work for most of the rest of that week. Mr. Melton worked on February 21, 2011. What is being seen in the Water Department is a culture that is troubling, and it comes from the top. The fact is that there is a very cavalier attitude about how people report time, and what people do with their time while they are on the City's clock. That resulted in a situation now where this had to be tightened up in a way that is inefficient. It may be more efficient to collect the samples on the way in, in personal vehicles; but it had to be tightened up because there is just not a lot of credibility about what is being recorded and what was reported on February 21, 2011. This most recent episode comes on the heels of being warned about the same thing at Walmart, using a City vehicle and being on the City clock. This is an attitude and culture that this is alright and is not important to work for the City when an employee says they are working for the City. It is not important to clock in when an employee really started working as opposed to some other time. Mr. Melton was warned at that point that if there was a similar occurrence it would result in termination; and there was a similar occurrence within less than a month. This is not an incident that should be viewed in isolation. For those reasons, it is urged that the Commissioners affirm the decision to terminate. The employee received fair warning and handled the situation the way that was very cavalier. There was also a huge credibility issue when on March 8, 2011, Mr. Ferrese testified that when he pressed and confronted Mr. Melton there was a concession that that was the case – he was not working when he reported that he was working. It was well after the point when he reported that he was working and he was actually doing so. There is an issue about whether this had occurred at all in terms of whether Mr. Melton did the work that day; and there is certainly an issue of whether he accurately reported the situation when he called in at 8:02 a.m.

Mr. Melton provided his closing statement. He said that when he called in at 8:02 a.m., he thought he was being released from the hospital. In regard to the credibility issue, Mr. Melton stated what he had done; and he did not try to hid anything. In regard to Mr. Melton's time he put in, he worked the necessary time and did his job. In regard to a cavalier attitude, Mr. Melton stated that he did not have a cavalier attitude about his job. He enjoyed his job. In regard to taking the truck to go to Walmart, Mr. Melton did not take the truck just to go to Walmart. He went to the Breezewood well and later stopped at Walmart. He did not mean to do anything to discredit what he was doing. He did his job. He was wrong to stop at Walmart. He was not trying to do anything to discredit himself to cause him to lose his job. The situation with the hospital was out of his hands. He did what the hospital employees told him to do. Mr. Melton called a coworker to come in if he was not able to come to work. He did not see anything wrong with going in to do his job. Mr. Melton had two doctor's appointments following the incident.

Commissioner Sargent made a motion, seconded by Commissioner Zellers, that the Commissioners enter into Executive Session to discuss a personnel matter at 3:58 p.m. Motion carried unanimously.

Commissioner Sargent made a motion, seconded by Commissioner McGuiness to reconvene to the public forum at 4:53 p.m. Motion carried unanimously.

Commissioner Sargent made a motion, seconded by Commissioner McGuiness that the Commissioners affirm the decision of the City Manager. Progressive discipline has been followed in that Mr. Melton has received written reprimand and suspension without pay in at least two instances. In this instance, he clocked in prior to being on City business which raises questions about falsification of records. The City Manager's

decision is supported by a preponderance of the evidence. (Sargent – aye, for the reasons stated in the motion. Coluzzi – absent, McGuinness – aye, for the reasons stated in the motion. Cooper – aye, for the reasons stated in the motion. Barbour – aye, for the reasons stated in the motion. Mills – aye, for the reasons stated in the motion. Zellers – aye, for the reasons stated in the motion.) Motion carried.

There being no further business, Mayor Cooper declared the meeting adjourned at 4:55 p.m.

Respectfully submitted,

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**(Kathy McGuinness, Secretary)**