

**Open Work Session
Personnel Manual-Chapters 9 through 11
July 18, 2017**

Mr. Ed Baker, former County Attorney and Ms. Sharon Morris, former Assistant Director of Administration came before Council. Mr. Hall clarified the process in reviewing the Personnel Manual. He asked once Council goes through the document and makes any changes and then gives it to the Executive to review and make changes, then hopefully it is done, correct. Mr. Baker responded they have asked the Executive to give his opinion at any point in time. At any point in time he can present Council with any changes that he would like to see made so that we can discuss them in the work sessions while we are going through the process as well. Mr. Hall then asked would it be easier to invite the Executive to this work session and get his input as we go along, to which Mr. Baker responded, we have told him that if he has any comments that he would like to make, he can present them to Council. Recommendations certainly could come to the table. Mr. Hall said I am just trying to expedite the process, and I think if we have the Executive in the room, then we have an opportunity to either expedite the process or slow it down to a dead stop, one or the other. Mr. Hall said he thinks it would probably be in the best interest to expedite the process as it has been over a year since the last time Council looked at it. Mr. Joe Holloway said he missed the first part of the suggestion, to which Mr. Hall said he suggested to have the Executive in the room. He said if he was in the room, we could resolve whatever issues he has at the same time. Mr. Dodd said he thinks it would drag the process out. Mr. Joe Holloway asked if Council should ask someone from Human Resources to attend. Mr. Cannon said initially it started with the Executive in Human Resources, and there was a lot of pushback from the employees. Now, Matt, Ed and Sharon have taken this on to tweak it as to what was recommended by the original committee. We are also requesting input from all the employees so they have their say in this matter and, in the same sense, we are also asking for the input from the Executive. By the time we are done, there is going to be a process where the Council gives it to the Executive, he sends it back, that is just how the process works. Mr. Joe Holloway asked do we have any input from the employees or from the County Executive's Office on what has been discussed so far, to which Mrs. Hurley responded, we have not had any comments submitted from employees. The County Executive made a couple comments on Monday. Mr. Dodd asked is it possible to let the employees know that Council is currently working on it as a reminder. Mr. Dodd said the employees knew that in the beginning, and that is when Council got a lot of emails, but now it is like everything went stagnant from them. Mr. Kilmer said this is strange as we got so many emails the first time, and we have zero this time. Mr. Cannon said he thinks they have a lot of confidence in how the process is working. We could certainly make a request to the Executive to reinform the employees that we are in the process of reviewing it, and to ask them one more time for their input. Mr. Cannon then asked Mrs. Hurley to approach that with Administration to see if they would send another note out, to which Mrs. Hurley responded, yes. Mr. Dodd said if the employees do not respond, then they have confidence.

Chapter 9

Mrs. Morris said, in looking at Chapter Nine, she is neither a medical person or a toxicologist, so she is just going to give Council what is before her for the substance abuse and drug testing. She said this chapter is to actually help employees as well as to help identify those problems that we cannot resolve. The County has an EPA program for assistance for drug and alcohol abuse. She said Chapter Nine starts at section 9-01, which just explains that there is a drug and alcohol policy in the workplace and the seriousness of that. The definition section for abuse, alcohol, conviction, drug testing and the employee are all spelled out. Mrs. Morris continued, she said the reasonable suspicion is that quantity of proof or evidence that is more than a hunch, less than a probable cause. Again, as defined by somebody who has more experience, sometimes we know what it looks like and that would be suspicion or reasonable cause. She said "safety sensitive positions" means that those classifications or jobs to be determined safety sensitive in accordance with this section and "substance" means alcohol or drugs. The supervisor, of course, would be the person with the day-to-day operation and responsibility over those individuals. Mrs. Morris said the application section is the illegal activity from an employee. They are not allowed to possess, use, manufacture, purchase, transfer, distribute or dispense any controlled substance. She said you can see we tried to cover all of it. In the workplace, employees must report to work in a fit condition. Mr. Kilmer said, for letter a, it says may not sell, distribute, dispense alcohol in the workplace, but now the County has alcohol sales at the Civic Center. Mr. Kilmer said it is not it is not illegal to possess alcohol, but you cannot possess alcohol on the job. People cannot have a beer riding around when they are working on parks or whatever. He said there probably needs to be an exception for the alcohol as there are County employees that dispense and sell alcohol at the Civic Center as part of their jobs now. Mrs. Morris said this manual was written prior to the sale of alcohol at the Civic Center. Mr. Kilmer said there probably needs to be something in the manual regarding that. Mrs. Morris said you will find that throughout this document that there are instances of things that have changed. Mrs. Morris continued, she said all employees must report to work in fit conditions. Employees that are undergoing prescribed medical treatment with any drug that may alter their behavior, physical or mental condition should report such. The employee, if there is a reason why they cannot perform and must use a prescribed treatment, the employee may be temporarily reassigned. Mr. Cannon clarified that is within the employee's rights. He said many sometimes they will say, well, if he is on medication that is a medical issue. He then asked are they obligated to divulge that information. They may not want to say, hey, I am on a particular medication. Mrs. Morris said that would be for HIPAA or something. Mr. Cannon said he just wants to make sure that we are not in violation of any of those laws. Mr. Dodd said if they have to take a drug test and Oxycodone and OxyContin show up and they did not disclose it, then we have a problem. Mrs. Morris said, yes, then we have a problem.

Mrs. Morris continued, she said nonsafety sensitive employees or safety sensitive employees must all report any charge, arrest or conviction relating to drug and alcohol possession. In both cases, they must report it in three days for nonsafety employees. At the beginning of their next scheduled workday for safety sensitive employees. Mr. Dodd asked if there is a definition for safety sensitive employees. Mrs. Hurley said it is listed in

the definition section. Mr. Baker said it is also on page 51, in section 9-04, letter g. Mr. Dodd said he sees it at the bottom of the page. Mrs. Morris said a classification of job is determined to be safety sensitive when in reasonable judgment it meets the following criteria. The classification of job contains a significant degree of responsibility or safety for others. The job contains the potential that impaired performance of the employee could result in the death or injury to the employee or others and the lack of close monitoring of the employee's behavior reduces the possibility of intervention or assistance by another when necessary. Mr. Dodd asked if it specifically says job titles, to which Mr. Baker responded, no. Mr. Dodd said he was just wondering why it is vague. Mr. Baker said it is the type of law that determines whether it is safety sensitive. Mrs. Morris said but you know what positions are in the County. Mr. Dodd said we already know that police officers is one. Mrs. Morris said, yes, and anybody who would handle or operate equipment. Mr. Dodd suggesting adding machinery. Mrs. Morris said as a suggestion that they could certainly do that.

Mrs. Morris continued, she said all drug and alcohol testing will be performed in conformance with applicable law. There is a certification for laboratory use for testing, and also the State of Maryland abuse and Mental Health Service Administration for specimen testing and laboratory. Mr. Dodd ask how often does the County do random drug tests, to which Mrs. Morris responded, I do not know. Mr. Dodd said he is asking because it is expensive to do a drug test. Mrs. Morris said, again, by reasonable suspicion or if Administration or HR feels there is a conversation that has been held with a supervisor. Mr. Dodd said that is not random. Mrs. Morris said the supervisor would possibly know that it was going to happen. Mr. Dodd said that is fine, it is just a big issue because it is expensive. Mr. Baker said, page 51, section F, deals with the type of testing programs, application for employment, transfer to safety sensitive position, reasonable suspicion, and random is four times per fiscal year. Mr. Dodd asked if that is for the safety sensitive employees. Mrs. Morris said safety sensitive positions are subject to random testing a minimum of four times a year. Mr. Dodd said that is a lot. Mr. Matt Holloway asked is it a State mandate that the County have rehabilitation programs available, to which Mr. Baker said he does not know if it is or not. Mrs. Hurley said she can look into that. Mr. Cannon said, in section 905, all the way at the bottom where it says Office of the Sheriff, under letter C, it says the Office of the Sheriff may have their own stand alone . . . upon review and approved by the Director of Administration. He said this brings up a point as to where we define everyone's role. He then asked should the Executive be part of this decision as opposed to just the Director of Administration. Where is it that we put the Director of Administration in a role of responsibility as opposed to the Executive, or whether it should be both? Mr. Baker said it is really a policy decision that the Council can make. He said he thinks, historically, it has been done by the Director of Administration because he is responsible to the Executive, and he is in charge of all the employees below. He said that is normally why it is in there, but if the Council desires it, they could also put the Executive in as well. Mr. Cannon said he understands what he is saying in that the Director of Administration works directly under the supervision of the Executive. He said it probably goes without saying that this would suffice. Mr. Cannon said he just wanted to bring that section to their attention and throughout the whole document.

Chapter 10

Mrs. Morris said in looking at Chapter 10, performance evaluations, the purpose of which is to provide supervisors a tool for evaluating their employees' performance from probationary periods forward. Mr. Baker said Section 10-01 is indicative of what they did when they were going through it, they went through all the employee comments and one of the comments by an employee pertain to this section. They went to a great deal of effort to explain the use of performance evaluations for the Executive or the management side, as to what benefit it has to the employees and that is why this was put in because the whole performance evaluation process allows the employee to gauge where he is in the process of complying with all the job requirements and job standards. Mr. Baker said that language was specifically put in to address that employee's comment. Mrs. Morris continued, she said in looking at evaluation techniques, the employee's performance should be done in as an objective manner as possible against goals and standards that have been established. The employee should be aware of what their responsibilities are and how to achieve the goals. If they are not, they have a process that, at any time, they can go to the employer for correction, to gain a better understanding so that when they get to the end of the year and they are rated and reviewed. The employee understands what has happened throughout the year with their work performance. All regular full-time and regular part-time employees, except appointed positions, must receive an evaluation of work performance during the following periods. She said that is not to say that somebody who is an appointed person could not be evaluated by the Director of Administration or Executive if he chooses to do so. The first performance evaluation form shall be completed two weeks prior to the end of their probationary period. If the evaluation is going to be unsatisfactory, their supervisor must contact and consult the Department of Human Resources prior to the evaluation completion. Mrs. Morris continued, she said the annual review, a performance evaluation, shall be completed whenever there are significant changes in the employee's performance or change of supervisors. Their extension of an evaluation period can be allowed, but the department head must inform the Director of Human Resources a reason for the delay. Where improvements are needed or unsatisfactory performance, a second evaluation is given by the department is conducted. The department should again contact the Department of Human Resources. Mrs. Morris continued, she said in looking at performance rating appeals. If the employee is not satisfied with their evaluation, the performance evaluation shall not be subject to the standard grievance procedure except in the case of an overall rating of less than satisfactory. The grievance process is going to be discussed later. If after a review of their performance evaluation with the rater, the employee believes that the performance evaluation is inaccurate, they can provide comment on the evaluation form or attach a written reason for their nonconcurrency with the evaluation. If attached, written reasons will become part of the official evaluation and used by the reviewer to finalize the evaluation and/or request a meeting with the reviewer. Appointed employees will be evaluated annually on a form approved by the Director of Administration. Mr. Hall asked, if a department head or someone who is derelict in performing the evaluations, is there a penalty, to which Mrs. Morris responded that is not explained in this document. Mrs. Morris said but, again, that would be up to the Director of Administration who oversees all County department

heads and who would expect them to adhere to County policy. Mr. Baker said it would reflect badly in their evaluation. Mr. Cannon said the form should say that a copy of the form will be supplied/given to the employee. Mrs. Morris continued, she said an employee who voluntarily resigns from the County is expected to give at least two weeks written notice to their immediate supervisor. The department head shall immediately forward the employee's resignation to HR on a Personnel Action Notification. Mr. Joe Holloway asked if there is an opportunity they could opt out of this if they wanted to express why they are leaving, to which Mrs. Morris responded, yes, there is an opportunity, or there was. Mr. Joe Holloway then asked is it defined in the manual, to which Mrs. Morris responded, it is not, but there is an exit interview. Mr. Joe Holloway said that is an interview, not a written resignation. Mrs. Morris said, no, but if an employee chooses to do that, she thinks that might be helpful going forward if there was a reason to explain departmental wise why they were leaving. She said most of the time an employee will give you a two liner when they resign. Mrs. Morris said that is why you provide the exit interview because, hopefully, they are comfortable enough to have that conversation. Mr. Joe Holloway said a conversation is fine, but later down the road, five years or ten years, if somebody comes back, say they reapply for their job or somebody calls, do you know at that time why they left. He said the person that talked to them might not be around. He said perhaps it should be written in the manual. Mr. Baker said he does not know what the general practice is, but his exit interview was a checklist with a place for comments. Mr. Joe Holloway said it should be written instead of just a verbal interview. Mr. Dodd said he thinks the exit interviews need to be improved, to which Mrs. Morris responded, yes. Mr. Hall asked if part of the exit interview, if there is a statement on whether the County would rehire or not recommend to rehire. Mr. Joe Holloway said that is basically all that you can say if someone calls for a reference check. Mrs. Morris she said if you think about the average temperament of an employee, most often they choose not to put it in writing, especially if they are leaving under terms that they do not feel are ones they want to return to. Mrs. Morris continued, she said nondisciplinary dismissal is the voluntary separation of an employee for such reasons as disability, expiration of a seasonal or variable employment, cancellation of a contract, completion of project, reduction in force or other forms of separation. The reason for terminating an employee should be entered on the Personnel Action Notification. The Personal Action Notification is a tremendous document and part of the HR module that was purchased through Munis. It has the life history of an employee now employed going forward. It documents everything that happens to an employee. It is a great tool, and it was a good investment. She said in looking at reduction in force policy, a lack of work, lack of funds, reorganization, policy change or a change in technology or similar circumstances may result in a need for the County Council to abolish or defund positions within the following groups upon recommendation of the County Executive. Mr. Baker said there are a number of technical issues that they have corrected as they went through the document. He said this originally read, "need for the County to abolish or defund positions," and they just clarified that it has to be on the recommendation of the County Executive, and it is the County Council who defunds. He said the places where it does not address the bifurcation of the government into legislative or the Executive have been clarified throughout here and this is one of them. Mrs. Morris said employees selected are given 30 days calendar notice of their proposed employment status change or dismissal. In cases of mass reduction where there are 50 employees or more, 60 calendar days

advanced written notice will be provided. Less than 50 employees require a 30-day notice. Beginning any reduction in force, alternative personnel measures might reduce the impact of reduction in force, such as partial or total hiring freezes, or dismissal of all employees that are not regular part-time, and then it gives you a variable list of choices that you can use lieu of mass reduction and the selection of positions. Once the position is to be changed, defunded or abolished within the appropriate groups have been identified, selection of employees from the affected group shall be made by the County Executive based upon the following factors, and it lists them according to groups. The Department of Human Resources will determine the race, gender and age distribution of County employees to be determined if a protected employee group will be disproportionately affected by the reduction in force. The statistics shall be made available to or used by the actual decision-makers in the selection of employees to be terminated, but shall be reviewed by the Director of Human Resources. Mrs. Morris said in looking at the employee's appeal right. Employees who believe that the job-related action has not been consistent with the County's reduction in force procedure shall have an opportunity for an administrative hearing. The County provides the following services offered by the Department of Human Resources to provide both logistical and counseling support to affected employees. Employees who have been subject to a reduction in force shall be eligible for recall upon the availability of a position for which they are qualified within one year of reduction based upon their previous employment history record with the County, and then the process to do so is spelled out.

Chapter 11

Mr. Baker said section 11-04 is another example of the comment he made previously dealing with furloughs, it is an involuntary separation of an employee for a period of time. Director of Administration deals with the Executive Branch, and they added that the County Council has sole discretion to approve positions and employees to be furloughed within the Legislative Branch with the physical bifurcation of the two branches of government, and for the fact that you only have one or two employees on staff.

Mrs. Morris said section 11-05, disability, the County reserves the right for the health, safety, productivity and security of persons, property and facilities at its discretion to the extent permitted by applicable law to require applicants for employment and employees to consent in writing and submit to medical or physical examination by a physician designated by or approved by the County at the County's expense for the following; temporary disability and long-term. She said section 11-06 is on retirement. Employees planning to retire must contact the Department of Human Resources at least 60 days in advance of the planned retirement date. In separation retirement pay, the employee will receive the salary or salary earned up to the effective date of separation or retirement including salary withheld at hire. They will receive the number of hours of unused accrued annual leave up to the maximum allowed, holidays not taken, the number of hours or unused accrued compensatory leave and one quarter of the unused accrued sick leave up to the maximum. Mr. Baker said that is a major change when you get to, he thinks, the benefits chapter, when you talk about sick leave, sick leave is entitled to a number of benefits. This one they have changed to one quarter of the unused sick leave for employees hired prior to the adoption of this

manual. Once this manual is adopted and assuming that they have ten years of continuous service, employees who are hired after Council adopts this manual would be ineligible for the one quarter payout of sick leave. Mr. Baker said he just wants Council to keep that in mind when sick leave is addressed later and combine it all together for the benefits. Mrs. Morris said a letter of reference to whom it may concern will not be provided to the employee as these letters can be easily misused. Requests for letters to specific companies giving information on terminated employees should be handled by the Department of Human Resources upon receipt of a written request from the employee.

Mrs. Morris said at the next work session they will review Chapters 12 through 13.



John T. Cannon, President




Larry W. Dodd, Vice President, District 3



Ernest F. Davis, District 1



Marc Kilmer, District 2



John B. Hall, District 4



Joe Holloway, District 5



Matt Holloway, At-Large



Laura Hurley, Council Administrator