

**HARRIS COUNTY BOARD OF COMMISSIONERS  
APPEAL HEARING OF TERMINATION ---- BRENDA MARSH**

June 18, 2013

5:00 PM

Commissioners Present: Harry Lange, Joey M. Loudermilk, Becky Langston, Jim Woods, Charles Wyatt. Staff Present: Greg Wood, County Manager; John M. Taylor, County Attorney; Nancy D. McMichael, County Clerk; Vickie Jamerson, Tax Commissioner.

**CALL TO ORDER.** Chairman Lange called the Appeal Hearing of Brenda Marsh to order, and turned the hearing over to John Taylor, County Attorney. Mr. Taylor said that regarding whether or not employees of Constitutional Officers are under the County's Personnel Policies, he had determined that based on records, all the Constitutional Officers requested to be included in the County's Personnel Policies in 1985 and 1986, which means their employees are not "at will" employees.

**APPEAL HEARING.** Mr. Taylor said that this hearing is in regard to the appeal of termination of employment of Brenda Marsh by Vickie Jamerson, Tax Commissioner, which was upheld by Nancy McMichael, County Clerk and who was Acting County Manager at the time of the termination. He then asked Mrs. McMichael, Mrs. Jamerson, Ms. Marsh, and David Helmick, attorney for Ms. Marsh, to take seats at the table and swore them in. Mr. Taylor then asked Mrs. McMichael to explain her role in this issue and to also explain the exhibits provided in connection with this matter.

Mrs. McMichael identified herself as Acting County Manager in connection with the termination of Ms. Marsh, and said that she talked with Vickie Jamerson, Tax Commissioner, on January 16, 2013, regarding a voice mail or message from Ms. Marsh indicating she would be out of the office due to dental matter, and regarding a motor vehicle title issue handled by Ms. Marsh which resulted in the title being addressed to the Tax Commissioner's office rather than to the owner of the vehicle, and Mrs. Jamerson, having investigated both issues, felt that disciplinary action was warranted. She then reviewed Exhibits "A" through "O" and said that the appeal hearing was originally scheduled for April 2, rescheduled to May 21, then again to tonight, June 18 due to various reasons. She then responded to questions from Mr. Helmick and the Board. [Evidence documents "A through "O" can be found in "Miscellaneous Documents" file as MD #13-09.]

Mr. Taylor then asked Vickie Jamerson, Tax Commissioner, to tell the Board what had occurred in connection with the termination of Ms. Marsh.

Mrs. Jamerson, in response, outlined what had occurred, and said that she felt that Ms. Marsh had lied to her by not being truthful as to the need for being out of the office the morning of January 16; that Ms. Marsh had indicated she had an emergency dental matter and needed to see her dentist; that also that morning a motor vehicle title bearing the name of a citizen but the address of the Tax Commissioner's office arrived, and upon questioning her employees, she learned that Ms. Marsh had handled the title; that when she (Jamerson) took office as Tax Commissioner on January 2, she had a meeting with her employees indicating that she was new to the office, that she wanted to learn about the various issues her office handles, and wanted to be kept aware of anything out of the ordinary; that she considered the title issue to be "out of the ordinary"; that she was aware that Ms. Marsh's granddaughter had a hearing scheduled in Columbus, and checked to see if Ms. Marsh had attend the court hearing only to learn that she had; and at that point, she talked to Mrs. McMichael about having a disciplinary letter drafted for Ms. Marsh, suspending her with pay, and giving her time to respond to the letter. Mrs. Jamerson continued by saying that while she had received a brief letter from Ms. Marsh regarding the vehicle title issue with no mention of the dental issue or the court case, she did not talk to Ms. Marsh before the deadline set out in the letter, and therefore, terminated her employment. Mrs. Jamerson responded to various questions from the Board and from Mr. Helmick to include that the issue of Ms. Marsh having run for the office of Tax Commissioner had no part in her decision to terminate Ms. Marsh.

Mrs. Jamerson called Elaine Rhodes as a witness, and Mr. Taylor swore-in Mrs. Rhodes. Mrs. Rhodes then stated she had had a conversation with Ms. Marsh upon her return to the office on January 16 during which time Ms. Marsh indicated she had had a root canal and they talked about who her dentist was.

Mrs. Jamerson then called Nancy Willard as a witness, and Mr. Taylor swore-in Mrs. Willard. Mrs. Willard then stated that she had been in the same room as Mrs. Rhodes and Ms. Marsh and heard their conversation during which Ms. Marsh indicated she had had a root canal.

Mr. Taylor then asked Mr. Helmick and Ms. Marsh for testimony. Ms. Marsh responded to various questions from Mr. Helmick regarding her actions on January 16 concerning the dental issue and the court hearing, as well as her actions regarding the vehicle title, which took place after Mrs. Jamerson took office. Ms. Marsh said that similar title issues had occurred during the term of the previous Tax Commissioner, Sarah McDowell; that the issues had been handled in the same manner as she had done after Mrs. Jamerson took office; and that such issues were rare.

Mr. Helmick submitted five documents (copy of pay stub information, copy of letter from the Department of Labor allowing unemployment compensation, a letter from Leslie Cohn (attorney) explaining that he asked questions of Ms. Marsh only because she was in attendance at the court hearing, and two letters of support from former employees of the Tax Commissioner's office. Mr. Taylor accepted the first three documents, labeled as D-1, D-2 and D-3, but refused the other two (labeled D-4 and D-5). [Evidence documents "D-1" through "D-3" can be found in "Miscellaneous Documents" file as MD #13-10.]

In response to questions from Mr. Helmick, Ms. Marsh said she would like her name cleared; does not think she could work for Mrs. Jamerson; and would like to be considered for other jobs with the County, and then later, said she would like to have her job reinstated. In response to questions from the Board, Ms. Marsh said that such title issues happened, but not often; that she had decided to contact the State about the title and did not talk to Mrs. Jamerson about same.

There being no further comments or questions, Mr. Taylor asked Mrs. Jamerson for her closing statement and for Mr. Helmick to give his statement afterward.

Mrs. Jamerson said that the County Personnel Policy sets out the reasons for which an employee can be disciplined and/or terminated; that Ms. Marsh lied to her regarding her need to be off the morning of January 16, but had she been honest about needing to see her dentist and wanting to go to the court hearing afterward, there wouldn't have been a problem; and that she (Jamerson) will not tolerate dishonesty from her employees in any form. Mrs. Jamerson also said that by not talking to her about the title issue, Ms. Marsh did not follow the directives given during her first department meeting after taking office; and that Ms. Marsh has indicated the title issue was out of the ordinary because it did not happen often.

Mr. Helmick asked the Board to consider reinstating Ms. Marsh, to remove the disciplinary and termination letters from her employee file and change the termination to one of a suspension for five days; that the Department of Labor, in granting unemployment compensation to Ms. Marsh, has indicated there is no misconduct or failure to follow instructions; and that the reasons for terminating Ms. Marsh were insufficient.

There being no further comments or questions, Mr. Taylor closed the Appeal Hearing. He then said that the documents submitted as evidence consisted of County Exhibits "A" through "O" and of Defendant's Exhibits "1" through "3", and are for consideration by the Board; that the Board can go into Executive Session for discussion, if it so desires, but must make its decision in open session.

**RECESS FOR EXECUTIVE SESSION.** The motion to go into Executive Session for the purpose of discussing this personnel issue was made at 7:04 PM by Commissioner Loudermilk, seconded by Commissioner Wyatt, and passed unanimously.

**RESUME APPEAL HEARING.** The Appeal Hearing was resumes at 7:20 PM upon the motion to Commissioner Wyatt, second by Chairman Lange, and unanimous vote.

The motion to deny the appeal of Ms. Marsh and to uphold the termination of employment was made by Commissioner Loudermilk, seconded by Commissioner Langston, and passed unanimously.

**ADJOURNMENT.**

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J. Harry Lange, Chairman

Attest:

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Nancy D. McMichael, County Clerk