

TOWN OF GOLDEN BEACH, FLORIDA

RESOLUTION NO. 2141.10

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF GOLDEN BEACH, FLORIDA, ESTABLISHING PROCEDURES FOR CONDUCTING EMPLOYEE APPEAL HEARINGS BEFORE THE TOWN'S PERSONNEL BOARD PURSUANT TO SECTION 3.04 OF THE TOWN CHARTER; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 3.04(f) of the Town Charter calls for the Town Council to establish a board of personnel appeals (the "Board") to hear the appeal of any employee or department head subject to appointment and removal by the Mayor from any disciplinary order, suspension or removal; and

WHEREAS, Section 3.04(f) of the Town Charter mandates that the Town Council by ordinance or resolution establish procedures for the Board in conducting employee appeals.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF GOLDEN BEACH, FLORIDA, THAT:

Section 1. Recitals. The foregoing "Whereas" clauses are hereby ratified and confirmed by the Town Council, and incorporated herein.

Section 2. Hearing Procedures. The Town Council hereby establishes procedures to be used by the Board in conducting appeal hearings, which procedures are attached hereto as Exhibit "A."

Section 3. Severability. If any clause, section, or other part of this Resolution shall be held by any Court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part shall be considered as eliminated and in no way affecting the validity of the other provisions of this Resolution.

Section 4. Conflict. All Resolutions or parts of Resolutions in conflict herewith are hereby repealed to the extent of such conflict.

Section 5. Effective Date. This Resolution shall become effective immediately upon its passage and adoption.

Sponsored by Town Administration.

The Motion to adopt the foregoing resolution was offered by Councilmember Luskin, seconded by Councilmember Bernstein and on roll call the following vote ensued:

Mayor Glenn Singer	<u>Aye</u>
Vice Mayor Bernard Einstein	<u>Aye</u>
Councilmember Kenneth Bernstein	<u>Aye</u>
Councilmember Judy Luskin	<u>Aye</u>
Councilmember Amy Rojas	<u>Absent</u>

PASSED AND ADOPTED by the Town Council of the Town of Golden Beach, Florida, this 16th day of November, 2010.


MAYOR GLENN SINGER

ATTEST


LISSETTE PEREZ
INTERIM TOWN CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:


STEPHEN J. HELFMAN
TOWN ATTORNEY

EXHIBIT A

**PROCEDURES FOR CONDUCTING EMPLOYEE APPEAL HEARINGS
BEFORE THE BOARD PURSUANT TO SECTION 3.04 OF THE TOWN
CHARTER**

- A. Any Town employee who is subject to the appointment and removal of the Mayor (other than the Town Manager) who is terminated, demoted or suspended by the Mayor may appeal such disciplinary action to the Board.
- B. Such appeal must in writing and submitted to the Town's Human Resources Director within five (5) working days after the issuance of the challenged termination, demotion or suspension.
- C. Upon receiving a request for appeal of the disciplinary action referenced above, the Human Resources Director shall review the request and set a hearing date.
- D. An employee shall receive at least thirty (30) calendar days notice of the hearing on his/her appeal. The notice of hearing should include the time, date, and place of the hearing. Hearings may be continued by the Board for good cause shown.
- E. The Board shall conduct an evidentiary hearing and may sustain, reverse, or modify the disciplinary action taken by the Mayor.
- F. At the hearing, the Vice Mayor shall act as Chairman. The Chairman shall rule on any objections raised by either party.
- G. The Town Attorney shall act as advisor to the Board and shall provide advice as to all legal and procedural matters.
- H. An employee is entitled (but not required) to obtain legal representation for the hearing.
- I. The Town may retain counsel to act as prosecutor on its behalf at the hearing.
- J. The hearing shall be tape recorded. If either party desires the presence of a court reporter or a transcription of the hearing, such party is responsible for bearing the costs related to such services.
- K. At the outset of the hearing, any unresolved matters including motions or procedural questions shall be addressed and resolved or ruled upon by the Board.

- L. After any preliminary matters are raised and addressed, the parties may make opening statements, with the Town proceeding first.
- M. The Town shall then present its case-in-chief providing evidence to substantiate the disciplinary action taken against the employee.
- N. After the Town presents its case-in-chief, the employee shall present his or her case-in-chief to refute the Town's allegations.
- O. Both parties may cross-examine each other's witnesses. Re-cross and re-direct examination are allowed.
- P. Both parties are permitted to present rebuttal witnesses.
- Q. Testimony shall be taken at the hearing under oath or affirmation.
- R. The rules of evidence will not be strictly adhered to during the hearing. Hearsay evidence may be offered and accepted—at the discretion of the Board—to supplement or explain other evidence. Irrelevant evidence shall be excluded.
- S. At the close of all the evidence, both parties may provide a closing argument.
- T. After the presentation of closing arguments, the Board shall deliberate in public.
- U. In its deliberations, the Board will be charged with determining whether, based on the evidence presented by the parties, the Mayor had a good faith basis for the disciplinary action taken.
- V. The decision of the Board shall be final except as otherwise stated in the Collective Bargaining Agreement between the Town and the Florida State Lodge, Fraternal Order of Police as relates to bargaining unit members.
- W. If the employee fails to appear at the hearing, the Board shall enter an order dismissing the appeal.
- X. If the terms of a collective bargaining agreement or contract provide a Town employee with different procedural rules for a disciplinary appeal than those contained herein, any conflicting rules contained herein shall be superseded by the conflicting terms of such agreement or contract.