

**HERNANDO COUNTY
EMPLOYEE COUNSELING / DISCIPLINARY ACTION FORM**

Employee: Charles Mixson Date: Jan 14, 2010
Position: County Engineer/Public Works Director Dept: 0307 DPW - Administration

This statement is used to provide uniform documentation of progressive disciplinary action(s) reflecting an employee's conduct and/or job performance.

- ☐ Verbal Warning
- ☐ Written Warning
- ☐ Suspension From _____ to _____
- ☒ Termination Date: Jan 14, 2010

Describe Event or Incident: (Attach additional sheets if necessary)

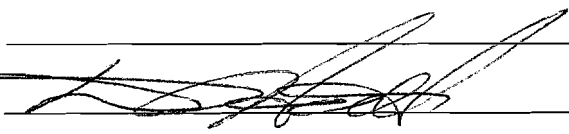
See attached memorandum.

Corrective Actions To Be Implemented: (Include Goals/Objectives, time frame etc.)

N/A.


Employee's Comments:

I have read this report and have been given an opportunity to comment. I fully understand that failure on my part to comply with the above recommendations may result in further disciplinary action up to and including termination. My Signature acknowledges that I have read and received a copy of this report.

Employee Signature/Title	_____	Date:	_____
Supervisor Signature:	_____	Date:	_____
Department Head Signature:		Date:	<u>01/14/10</u>
Witness Signature (Optional)	_____	Date:	_____

MEMORANDUM

To: Charles Mixson, P.E.
County Engineer

From: David N. Hamilton
County Administrator 

Date: January 14, 2010

Re: Notice of Termination of Employment

As you are aware, we have undertaken a review of your job performance as County Engineer/Director of Public Works. Recent events have convinced us that you have not been adequately performing your duties. Specifically, you have not fulfilled your duty to critically monitor the actions of the vendors and employees under your control. Therefore, it is with sincere regret that we must inform you that your employment by Hernando County will be terminated as of Thursday, January 14, 2010.

I. Factual Background

Though recent developments in the dredge project have brought this issue to a head, our decision is based on an overall evaluation of your job performance during the course of your employment. A review of your personnel file reveals that prior County Administrators have raised issues regarding your job performance, to wit:

- In your 1999 review, County Administrator Richard Radacky described DPW's road and drainage operation as "**weak, disorganized and poorly lead.**"
 - In your 2000 review, County Administrator Paul MacIntosh stated that your "performance during this period has been mediocre ... [s]ignificantly more accountability is expected from a department director." He further stated, "**Mr. Mixson needs to hold his department more accountable for results** and recognize the important role the department plays in the County." For the following year, he directed you to (1) provide clear direction to your department and hold [your employees] accountable for results, (2) take a more active role in the management of the department, (3) develop a "can-do" attitude that permeates throughout your organization, and (4) to provide your subordinates with clear direction.
 - In your 2001 review, Mr. MacIntosh stated that you needed "to continue to hold his senior managers more accountable for results and stay in touch with what they are doing." He further directed you to "**ensure that projects are completed in a timely manner.**"
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On August 29, 2008, we suspended you for ten days without pay, and placed you on six months of probation, for “not . . . adequately performing your duties.” We explicitly stated in our accompanying disciplinary memorandum that your continued employment would be conditioned on your meeting the several enumerated benchmarks by the end of 2008. One of those benchmarks stated that “you must provide us with a plan to reorganize DPW/Engineering in a manner that ensures **that you will be actively managing the activities of your department.**”

II. Current Deficiencies in Your Job Performance

It has now become apparent to us that you have not actively managed the contracts monitored by your department.

A. The Clean-Up of the Former DPW Compound

In our memorandum of August 29, 2008, we directed you to “ensure that FDEP approves the County's remediation plan for the former DPW compound.” Two years later, the FDEP has not yet approved the County's remediation plan. While the County has not made any demonstrable progress toward completing this project, Creative Environmental Services, the County's consultant, however, has obtained its thirteenth change order on its contract.

B. The Hernando Beach Channel Dredge Project

Your handling of the Hernando Beach Channel Dredge Project is disappointing and evidences a failure to properly oversee your staff, the County's outside consultant Halcrow, or to manage the Project in general – a Project which you have been told repeatedly is critical to the County and which you have been previously instructed to personally manage, accomplish in a timely manner, and complete within budget.

The presentation you made to the Board on May 26, 2009, seeking to award a Five Million Dollar contract to the dredge contractor, along with seeking to award a One Million Dollar change order to Halcrow, demonstrated either complete naivety on your part or a deliberate intent to mislead the Board as to future change orders. You advised the Board that you had all of the necessary permits in hand, with the exception of the Army Corp's permit which was in the mail. The Board asked you if there would be future change orders and you told them that you were 99% sure that everything could be handled under this (Supplement No. 7) amendment to Halcrow's contract. It is noted that representatives of Halcrow were in the audience during this discussion and made no effort to rebut your statement. Now, your current position has changed, as stated in your response memorandum dated January 13, 2010. Accordingly, when you made your presentation to the Board in support of Halcrow's change order, you knew or should have known that the sea grass mitigation requirements of the Department of Environmental Protection (FDEP) and the Army Corps were materially different (if they were not materially different, then there would be no need to request an

additional \$600,000 – the amount stated in your January 13, 2010 memorandum – as a proposed eighth supplement to Halcrow's contract).

That as of May 26, 2009, the County had nothing in writing from FDEP that indicated that it would agree to modify its sea grass mitigation requirements. This was a critical juncture for the County as the Board had committed the County to spending over Five Million Dollars to the dredge contractor and over One Million Dollars of additional funds to be paid to the County's consultants (Halcrow and its sub-consultants). Moreover, even if the County had received such an assurance from FDEP, modification to the FDEP permit dated May 8, 2008, would have created another opportunity for a potential administrative challenge along with the associated litigation costs and risks.

You were aware of the problems the County had with the multiple challenges to the disposal site permit and the County having had to pay hundreds of thousands of dollars to settle these challenges. However, you failed to disclose these important facts as part of your oral presentation or in your agenda item to the Board on May 26, 2009. In hindsight, it is apparent that the sea grass mitigation requirements imposed by the FDEP in the May 8, 2008, permit were not identified by you as being a problem, much less resolved, a year later when you made your May 26, 2009, presentation to the Board. Such a sequential or piecemeal approach to the permitting of this Project is indicative of your inability to properly manage this Project in terms of meeting the State and Federal requirements and keeping the Project on time and within budget.

C. The Spring Lake Highway Stimulus Project

You attempted to pressure Human Resources Director Cheryl Marsden, Risk Manager Christi Charlow, and Assistant County Attorney Erica Moore to disregard the County's vendor insurance requirements so that you could hire an archeological consultant to work on the Spring Lake Highway stimulus project. You indicated that the vendor in question was not actually going to conduct an archeological survey, but would merely drive down the road instead. You attempted to justify this behavior in an e-mail to Ms. Marsden, dated December 29, 2009, in which you stated "you do not get it, it is about time, not thoroughness, the [Florida Department of Transportation] want[s] it done fast."

III. Conclusion

The Department of Public Works oversees projects costing the taxpayers millions of dollars. The core function of your job is to ensure that those projects are completed at the highest level of quality at the lowest possible price. The Director of Public Works serves as the County's bulwark of cost containment against the claims for additional funds made by contractors.

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It has become apparent that instead of critically examining requests for change orders, you instead have become an advocate and spokesperson for the contractors. For example, you have uncritically accepted Halcrow's pending request for an approximately \$500,000 change order instead of demanding that they justify their request. You represent the County, not its contractors. Your uncritical acceptance of change order requests have cost the County millions of dollars without providing the County with any commensurate benefits. As recent examples, the DPW clean-up and the Hernando Beach dredge project are both over budget and behind schedule.

While we suspect that many of these problems stem from you placing trust in the assertions of your senior staff, it is a basic management principle that while a supervisor can delegate authority, he cannot delegate responsibility. You are ultimately responsible for the failures of the Department of Public Works. As a result, we are left with no alternative but to relieve you of your duties.
