



**Ad Hoc Charter Advisory Committee Meeting
2nd floor City Council Chambers
Tuesday, January 22, 2013**

MINUTES

1. The Ad Hoc Charter Advisory Committee met at the above place and time. The meeting was called to order by Chair Yolanda Giner at 4:05 pm. The following committee members were present:

Bob Brannon
Antonio Williams
Gene Finke
David Thackston
Yolanda Giner
David Porras
Lisa Turner
Gustavo Reveles-Acosta
Eileen Karlsruher

Mr. Reveles-Acosta excused himself at 5:15 pm.

2. Motion made by Porras seconded by Thackston to approve with revisions. Motion carried unanimously.

3. Chair Giner opened the discussion. Ms. Karlsruher followed with comments as Chair of the Civil Service Commission who had discussed and made recommendations on the following proposed amendments. Chair Giner opened the floor to Ms. Hengen to introduce each of the recommendations made by the Civil Service Commission below:

RECOMMENDATIONS REGARDING THE PROPOSED REVISIONS RECOMMENDED BY THE CIVIL SERVICE COMMISSION

Section 6.1-1 GENERAL.

The Civil Service system exists to ensure a personnel system that is based solely on merit. The Civil Service Commission of El Paso exists for the purposes of overseeing the City's Civil Service system, the purpose of which is to ensure of ensuring its fairness, economy and efficiency in the selection process and personnel system created for the ~~and of hearing grievances by or against~~ classified employees, and performing the duty of hearing grievances by or against the classified employees. The Commission shall establish its own procedures within the framework of this Charter to carry out these functions.

CIVIL SERVICE COMMISSION ACTION: 6.1-1 ACCEPTED RECOMMENDATIONS WITH MODIFICATIONS: The second sentence modified to read: "The Civil Service Commission of El Paso exists for the purposes of overseeing the City's Civil Service system, the purpose of which is to ensure fairness, economy and efficiency in the selection process and personnel system created for the classified employees." No other changes.

Note: The above section incorporates the revisions recommended by the CSC which is to retain the wording relating to "overseeing" the process.

Section 6.1-1: Motion made by Mr. Thackston, seconded by Ms. Karlsruher, to ACCEPT RECOMMENDATION. Motion PASSED unanimously.

Section 6.1-2 FUNCTIONS AND DUTIES OF THE CIVIL SERVICE COMMISSION.

Special meetings shall be held as required for the proper discharge of the duties of the Commission, due notice having been given. Five members of the Commission will constitute a quorum. It shall be the duty of the Commission to:

A. Recommend to the Council:

1. Adoption of Rules for the administration of the Civil Service provisions of this Charter, and
2. Thereafter, appropriate amendments.

B. Investigate matters concerning the enforcement and effect of the Civil Service provisions of this Charter in the manner prescribed by the Rules or by established Commission procedure.

C. Hear and determine appeals or complaints as may be further prescribed in the Rules.

D. Oversee the Civil Service provisions of this Charter, the Rules or policies and procedures, ensuring fair and equitable treatment of all persons appearing before the Commission ~~classified employees.~~

E. Appoint hearing officers.

CIVIL SERVICE COMMISSION ACTION: 6.1-2 ACCEPTED RECOMMENDATIONS WITH MODIFICATIONS: Subsection D modified to read: "Oversee the Civil Service provisions of this

Charter, the Rules or policies and procedures, ensuring fair and equitable treatment of all persons appearing before the Commission.”

Note: The above section incorporates the revisions recommended by the CSC to subsection D which is to retain the first word “oversee.”

Section 6.1-2: Motion made by Mr. Thackston, seconded by Mr. Brannon, to ACCEPT RECOMMENDATION. Motion PASSED unanimously.

Section 6.1-3 APPOINTMENT

The Commission shall consist of nine persons, with each member of the Council appointing one member through a process established by resolution of the Council, which shall also provide for a process to fill a vacancy resulting from the failure of a Council member to make an appointment. ~~appointed by the Council.~~ All members serving on the Commission when this amendment takes effect will continue to serve until their terms of office expire. Appointments shall be for three-year terms, provided however, the terms of all members as established on the date on which this provision was approved by the voters shall be extended such that the terms shall end on August 31st. All terms thereafter shall commence on September 1st. Commissioners serving consecutive terms shall be limited to two full successive three-year terms, regardless of the date of their original appointments. No person may serve as a member on the Commission for more than a total of ten years throughout their lifetime and no person may be appointed as a member on the Commission if, serving out the full length of the term to which they would be appointed would result in the person having more than a total of ten years of lifetime service. The one-time extension of a term under this section to provide for a uniform termination and commencement date shall not be included in the calculation of the lifetime service of a member of the Commission.

CIVIL SERVICE COMMISSION ACTION: 6.1-3 ACCEPTED RECOMMENDATIONS as proposed.

Note: This change, and the change to the removal process below in Section 6.1-10, will completely revise the method by which the CSC Commissioners are appointed and removed. Rather than having each Council member submit a nomination, each Council member will be responsible to appoint and remove their appointee on the Commission. Provisions are added to allow the entire Council to take action to appoint and remove, should a Council member fail to take action.

Over the years, the terms have been inadvertently moved and adjusted from the original dates established in 1984. This provision will restore the terms to a defined starting and ending date and provide that the adjustment to the terms will not count for the calculation of lifetime service. The appropriate starting and ending date may need to be adjusted should the City move the regular elections from May to November.

Section 6.1-3: Motion made by Mr. Reveles-Acosta, seconded by Ms. Turner, to ACCEPT RECOMMENDATIONS. Motion PASSED unanimously.

Section 6.1-4 QUALIFICATIONS.

Members of the Commission must be residents of the City at the time of their appointment and remain a resident of the City throughout their term of office. No Commissioner may hold any salaried public office or other employment compensated by the City and any violation of this provision shall be deemed malfeasance in office and cause for removal therefrom. At least two Commissioners must hold or have retired from positions other than managerial or professional. No Commissioner shall be related in any manner described in Article III, Section 3.3 B to any employee of the City, the Public Service Board, ~~or~~ and an entity that has a contract with the City to operate or manage any City facility or department. No more than three Commissioners may be former city employees, and any such Commissioners are not eligible for appointment until two years following separation from the City. Any Commissioner may be either actively employed or retired.

CIVIL SERVICE COMMISSION ACTION: 6.1-4 ACCEPTED RECOMMENDATIONS WITH MODIFICATIONS: Proposed (underlined) sentence amended to read: “No Commissioner shall be related in any manner described in Article III, Section 3.3 B to any employee of the City, Public Service Board, or to any employee of an entity that has a contract with the City to operate or manage any City facility or department.”

Note: The CSC recommended adding “or any employee of” to the phrase “an entity that has a contract with the City . . .” Grammatically, this language is not needed and adding the phrase leads to a completely different interpretation from what is intended. However, based on additional review of this language by an attorney with an undergraduate degree in English, we recommend changing “or” to “and” as noted in the shading above.

Motion made by Mr. Thackston, seconded by Mr. Reveles-Acosta, to ACCEPT RECOMMENDATIONS WITH MODIFICATION (striking “and”, replacing with “and/or”). Mr. Williams opposed.

Motion made by Ms. Turner, seconded by Mr. Porras, to POSTPONE. Motion PASSED unanimously.

Motion made by Mr. Thackston, seconded by Mr. Reveles-Acosta, to RECONSIDER. Motion PASSED unanimously.

Motion made by Mr. Thackston, seconded by Mr. Reveles-Acosta, to POSTPONE. Motion PASSED unanimously.

Section 6.1-6 RULES.

A. Rules. The Rules shall be consistent with the principles and practices of the civil service system incorporated in this Article. They shall be adopted by the Council by ordinance or resolution, after considering recommendations of the Commission.

B. Procedures for Adoption. The Human Resources Director shall submit to the Commission proposed Rules for its review and recommendation to the Council. Failure by the Commission to recommend approval, modification or disapproval of proposed Rules within sixty days after receipt shall constitute authority for the Council to proceed without a recommendation from the Commission.

C. Changes, Additions or Deletions. Proposed changes, additions or deletions to the Rules shall be processed through the Commission to the Council in the same manner and subject to the same standards as for the basic Rules as set forth in A and B above.

D. Council Action. The Human Resources Director shall submit the Commission's recommendations regarding proposed Rules to the Council without delay. Failure by Council to approve, amend and approve, or deny the Commission's changes within sixty days after the Commission's action ~~Council's receipt~~ shall result in their automatic adoption. In the event of disagreement, the Council may deny or amend the Commission's changes, additions or deletions only by a two-thirds majority vote of the Council.

CIVIL SERVICE COMMISSION ACTION: 6.1-6 ACCEPTED RECOMMENDATIONS WITH ONE MODIFICATION: In subsection D, rejected removal of "two-thirds" majority vote.

Note: The above section incorporates the revision recommended by the CSC, which was to retain the two-thirds majority vote to deny or amend the Commission's changes.

Motion made by Ms. Karlsruher, seconded by Mr. Williams, to ACCEPT RECOMMENDATIONS.
Vote: Aye: Brannon, Williams, Finke, Thackston, Porras, Reveles-Acosta, Karlsruher; No: Turner.
Motion PASSED 7-1.

Section 6.1-10 REMOVAL.

Members of the Commission will not be removed from office except for incompetence or nonfeasance or misfeasance, misfeasance in office, such as neglect of duty or refusal to perform the duties imposed by this Charter. Action may be initiated in writing by any member of the Council or Commission. (CSC RECOMMENDS THAT NEW LANGUAGE COMPARABLE TO THE ETHICS ORDINANCE NEEDS TO BE INSERTED HERE) Any removal will required an affirmative vote of two thirds of the Council.

6.1-10 REJECTED ALL MODIFICATIONS. Restore original language, and add a statement before the last sentence of the section to the effect that the City Attorney makes a determination of whether the complaint, on its face, meets the threshold set forth in the Charter (i.e., incompetence, nonfeasance, misfeasance, malfeasance).

Suggested that this language may be similar to that in the Ethics ordinance, but needs to be further vetted.

Note—the above provision shows the recommendation of the CSC, which is to retain the original language, but add additional provisions regarding the review of the charges—see notation in italicized capital letters. If the CSC’s recommendation that the suggested revisions not be made, then no changes should be made to this section. It is not appropriate for the City Attorney to review the charges in this type of situation, as was suggested by the CSC.

Motion made by Ms. Karlsruher, seconded by Mr. Porras, to ACCEPT THE RECOMMENDATIONS AND DELETE THE REFERENCE to the Ethics Ordinance. Motion PASSED unanimously. *This action keeps the language that is currently found in the Charter and the grammatical correction of “required” to “require”.*

Section 6.1-11 NON-DISCRIMINATION.

The City shall afford equal employment and benefit opportunities to all qualified individuals in compliance with all applicable laws, without regard to their race, gender, gender identity, sexual orientation, marital status, color, religion, ethnic background or national origin, age, disability, or any other characteristic or status that is protected by federal, state, or local law. All personnel actions must be free of discrimination as is prohibited by law.

CIVIL SERVICE COMMISSION ACTION: 6.1-11 ACCEPTED RECOMMENDATIONS as proposed.

Note: This language was proposed by City Council members in 2010 to provide a broader and more inclusive provision requiring non-discrimination in the application of the City’s employment procedures and the benefits that are provided to employees.

Motion by Reveles-Acosta, seconded by Ms. Turner to ACCEPT RECOMMENDATIONS. Motion PASSED unanimously.

Section 6.2 DIVISION OF THE CITY SERVICE

Section 6.2-2 UNCLASSIFIED SERVICES.

The unclassified services shall include only the following positions:

- A. The City Attorney, Assistant City Attorneys, law clerks and paralegal personnel;
- B. The Mayor’s executive secretary(s) and Executive Assistant(s);
- C. Hearing officer(s) and the Commission Recorder;
- D. All elected officials;
- E. Members of all City boards, commissions, and committees who serve without compensation;
- F. Employees hired by contract, and short-term or limited-funding grant-funded employees as designated by the City Manager and hired on or after the effective date of this amendment as allowed under this Article;
- G. The City Manager;
- H All executive level employees, ~~Department Heads or Directors, Deputy City Managers,~~ and executive staff or salaried professional employees reporting directly to the City Manager;
- I. Employees hired on or after ~~the effective date of this amendment~~ May 18, 2007 who work at the Metropolitan Planning Organization; and
- J. Persons given provisional and temporary appointments who are not classified employees at the time of such appointment.
- K. A person hired solely as a District Representative’s legislative aide for the limited period of the term of office for that District Representative.

CIVIL SERVICE COMMISSION ACTION: 6.2-2 ACCEPTED RECOMMENDATIONS WITH MODIFICATIONS: In subsection H, insert “as defined in the classification plan” after “All executive level employees” and/or define the term “executive level employee” in the definitions section.

Note: Based on the CSC’s recommendation for clarification to the term “executive level employee”, a definition is being added to Section 6.14, rather than add further language to 6.2-2, H. The CSC also recommended using the term “executive level service employee”, however that is phrasing that is not currently used by the Human Resources Department and is not recommended and is not necessary as the term is being defined.

Motion made by Ms. Turner to ACCEPT changes as presented but to exclude Comptroller and Internal Auditor from the definition of “executive level employee”. Motion FAILS for lack of a second.

Motion made by Ms. Karlsruher, seconded by Mr. Porras, to ACCEPT RECOMMENDATIONS. Vote: Aye: Brannon, Finke, Thackston, Porras, Reveles-Acosta, Karlsruher; No: Williams, Turner. Motion PASSED 6-2.

Section 6.4 CLASSIFICATION AND COMPENSATION.

Section 6.4-1 CLASSIFICATION PLANS

The Human Resources Director shall update as necessary the classification and compensation plans of the City for the classified services and present such plans to the City Council as part of the annual budget. ~~The Director shall present such plans, and the recommendation of the Civil Service Commission, to the City Council for acceptance and approval.~~ Such plans shall include the annual sick leave and vacation benefits to be provided, and shall also include and address as necessary any reduction in compensation that is anticipated to occur during the next budget year, and establish the factors that are authorized for use in the payment of different rates within the grades or total compensation. The classification and compensation plans may be adopted as part of the budget or by separate resolution or ordinance in conjunction with the adoption of the budget.

CIVIL SERVICE COMMISSION ACTION: 6.4-1 ACCEPTED RECOMMENDATIONS as proposed.

Note: This section was inadvertently amended in 2007 to require that the classification and compensation plan (Ordinance 8064) go to the CSC for review. Prior to 2007, this plan did not go to the CSC as it covers financial matters such as the provision of benefits which are exclusively the decision of the City Council. This revision corrects this error and also puts all of the decisions regarding benefits such as sick leave and vacation into the classification and compensation plan, rather than having some provisions in the Rules and others in the plan. It also requires the plan to address the matters being deleted below in Sections 6.4-3 and 6.4-4.

Section 6.4-2 APPOINTMENT OF CITY EMPLOYEES.

Appointment of City employees to classified positions shall be made at pay rates within the appropriate grade and in accordance with the Rules or administrative policies or procedures.

CIVIL SERVICE COMMISSION ACTION: 6.4-2 ACCEPTED RECOMMENDATIONS as proposed.

~~**Section 6.4-3 COMPENSATION REDUCTION.**~~

~~The pay of any City employee or group of employees may not be reduced, except when such reduction is necessary to equalize the pay according to the provisions of the classification and compensation plans for reasons of economy, or as otherwise provided in this Charter. If a pay reduction is for reasons of economy or pay equalization, it must be uniform throughout the classified service on a proportionate basis.~~

CIVIL SERVICE COMMISSION ACTION: 6.4-3 ACCEPTED RECOMMENDATIONS as proposed.

~~**Section 6.4-4 SALARY STANDARDIZATION.**~~

~~Grades for classes of positions having substantially similar requirements as to duties, authority, responsibility, training and experience must be uniform for all Civil Service positions.~~

Payment of different rates within grades must be based only on factors of: longevity, merit increases, step increases, shift differentials and hazardous duty, as defined under the Rules.

Provided that, the Commission shall provide in the Rules and Regulations an exception to salary standardization in cases where downgrading has occurred as a result of reclassification.

CIVIL SERVICE COMMISSION ACTION: 6.4-4 ACCEPTED RECOMMENDATIONS as proposed.

ENTIRE SECTION 6.4 TAKEN TOGETHER

Motion made by Ms. Karlsruher, seconded by Mr. Brannon, to ACCEPT RECOMMENDATIONS.
Motion PASSED unanimously.

Section 6.5 CERTIFICATION AND SELECTION OF CANDIDATES

Section 6.5-1 CERTIFICATION PROCESS.

A. The Human Resources Director shall certify candidates eligible for hire or promotion based solely on their qualifications in accordance with established ~~departmental~~ administrative policies and procedures or by Rule, which may allow a preference for the hiring and promotion of former employees separated without fault or delinquency, or for other just and reasonable cause in conformity with the Charter and consistent with the principles of the civil service system and established policies.

B. When appropriate needed, the Human Resources Director will establish administrative procedures as necessary for the certification and selection process, including procedures to allow for a fair and competitive selection process designed to meet the needs of the departments while ensuring that the most qualified candidates are certified for selection. ~~compile lists of eligible candidates for job classifications and consolidate, revise and maintain them as necessary and appropriate, in accordance with established policies and procedures or by Rule.~~

C. When an employee is eligible for appointment to a position, but there is no vacancy in that position, the employee may be certified to an appropriate lower grade position. If a vacancy occurs in the higher graded position, while the employee is in good standing on the eligible list, the employee may be appointed to that position in accordance with the procedures established for the order of certification.

D. The Human Resources Director will permit persons on eligible lists to waive certification, reinstatement, or appointment two times, after which the person's name may be removed from such list in accordance with procedures established by Rule.

CIVIL SERVICE COMMISSION ACTION: 6.5-1 ACCEPTED RECOMMENDATIONS as proposed.

Section 6.5-2 RULE OF FIVE.

As necessary for the promotional process, the Human Resources Director shall certify the five highest names on ~~the proper a promotional only eligible list for one a vacancy, and additional names one~~ additional name (the next highest) for each additional vacancy ~~except as may be provided by appropriate policies and procedures or~~ in situations where eligible persons are serving in the department in which the vacancy exists and as authorized by Rule, in cases where a certification for incapacity or a reinstatement from layoff is being made, where there are fewer than five names on the proper eligible list, and in situations where eligible persons are serving in the department in which the vacancy exists.

CIVIL SERVICE COMMISSION ACTION: 6.5-2 ACCEPTED RECOMMENDATIONS WITH MODIFICATIONS: section proposed to read as follows: "As necessary for the promotional process only, the Human Resources Director shall certify the five highest names on a promotional eligible list for a vacancy."

Note: The CSC proposed to make revisions to the language, but it appears that they did not want to significantly change what was being proposed. Their proposal would read as set forth below. Upon reviewing their language, we believe the language used will create consequences that were not intended or discussed. Their language would require promotional applicants who scored lower than original applicants on a test to be placed on the eligible list ahead of higher scoring original applicants. It also appears that they may have struck out the language relating to the inclusion of persons within the department upon the belief that such persons could be put on a promotional list without taking the test, which is not correct.

Section 6.5-2 RULE OF FIVE.

As necessary for the promotional process only, the Human Resources Director shall certify the five highest names on ~~the proper a promotional~~ eligible list for ~~one a vacancy. one additional~~ name (the next highest) for each additional vacancy ~~except as may be provided by appropriate policies and procedures or, in cases where a certification for incapacity or a reinstatement from layoff is being made, where there are fewer than five names on the proper eligible list, and in situations where eligible persons are serving in the department in which the vacancy exists.~~

Motion made by Ms. Turner, seconded by Mr. Thackston, to POSTPONE item until January 28. Motion PASSED unanimously.

Section 6.6 APPOINTMENTS

Section 6.6-1 REGULAR APPOINTMENT.

Employees may be hired as regular full or part-time employees, provisional or temporary employees, or as contract appointments. The City Manager shall establish administrative policies and procedures for

each category of appointment consistent with the provisions of this Article and all applicable federal and state employment laws. The Human Resources Director shall establish administrative policies and procedures for the entrance process consistent with the provisions of this Article and all applicable federal and state employment laws. Contracts for personal or professional services shall also be subject to any limitations and requirements for Council approval as set forth by ordinance or resolution. Upon receipt of a certification list from the Human Resources Director, the City Manager or designee will appoint any person or persons certified to be within the applicable number of highest names from the list to fill the applicable vacancies to which the list applies. Regular appointments may be either full-time or part-time.

CIVIL SERVICE COMMISSION ACTION: 6.6-1 ACCEPTED RECOMMENDATIONS as proposed.

~~Section 6.6-2 PROVISIONAL APPOINTMENTS.~~

~~In the absence of an appropriate certification list, a provisional appointment may be made by the City Manager or designee as provided by appropriate policies and procedures or by Rule. Any person so appointed must meet the minimum qualifications established for the position. A provisional appointment will be effective only until a regular appointment is made from a certification list. In no case shall a provisional appointment extend beyond twelve months from the date of the original appointment.~~

CIVIL SERVICE COMMISSION ACTION: 6.6-2 ACCEPTED RECOMMENDATIONS as proposed.

~~Section 6.6-3 TEMPORARY APPOINTMENT.~~

~~When services to be rendered are of a temporary character, a temporary appointment may be made by the City Manager or designee from one of the first three persons on a certification list who is willing to accept the appointment or as may be provided by appropriate policies and procedures or by Rule. The person appointed will retain all rights to certification for permanent appointment as though no temporary appointment had been made. The duration of a temporary appointment may not exceed one year.~~

CIVIL SERVICE COMMISSION ACTION: 6.6-3 ACCEPTED RECOMMENDATIONS as proposed.

~~Section 6.6-4 CONTRACTORS.~~

~~The City Manager shall have the authority to contract for professional services and personal services for reasons such as economy, efficiency, immediate or temporary need, when such contracts are in the best interest of the City and not contrary to the principles and practices of the civil service system incorporated in this Article. Such contracts shall be subject to the limitations and requirements for Council approval as set forth by ordinance.~~

CIVIL SERVICE COMMISSION ACTION: 6.6-4 ACCEPTED RECOMMENDATIONS as proposed.

Note: The four subsections under this Section are being combined and the City Manager will be responsible to develop the criteria for when and how the different methods of appointment are utilized.

Motion made by Ms. Karlsruher, seconded by Mr. Williams, to ACCEPT entire section 6.6, Mr. Thackston offered an amendment to substitute the motion, seconded by Ms. Turner, to POSTPONE. Vote: Aye: Mr. Thackston, Mr. Porras, Ms. Turner; No: Mr. Brannon, Mr. Williams, Mr. Finke, Ms. Karlsruher. Motion to postpone FAILED 4-3.

Return to original motion made by Ms. Karlsruher. Vote: Aye: Mr. Brannon, Mr. Williams, Mr. Finke, Mr. Porras, Ms. Karlsruher; No: Mr. Thackston, Ms. Turner. Motion passed 5-2.

Section 6.7 ORIGINAL ENTRANCE EXAMINATIONS.

~~Section 6.7-1 EXAMINATION STANDARDS.~~

~~The Human Resources Director shall establish appropriate policies and procedures for the advertising of vacancies and the operation of the competitive process for selection including the administration of and standards for original entrance and related examinations such as oral examinations, practical tests, medical and physical examinations, and police investigations.~~

CIVIL SERVICE COMMISSION ACTION: 6.7-1 ACCEPTED RECOMMENDATIONS as proposed.

~~Section 6.7-2 PENALTY FOR DECEIT IN EXAMINATION.~~

An applicant in any examination who uses or attempts to use any unfair or deceitful means to pass the examination shall be excluded from further participation in the examination and the papers not rated, except as may be provided in the applicable Rules or policies and procedures.

CIVIL SERVICE COMMISSION ACTION: 6.7-2 ACCEPTED RECOMMENDATIONS as proposed.

Note: See the notation under Section 6.5 above as to why the first subsection is deleted. The phrase policies and procedures was added so as to include the provisions applicable to original applicants.

Motion made by Ms. Karlsruher, seconded by Mr. Brannon, to ACCEPT sections 6.7-1 and 6.7-2. Motion PASSED 6-1 with Ms. Turner voting No.

Section 6.8 PROMOTION.

Section 6.8-1 EXAMINATION AND ELIGIBILITY.

The Human Resources Director shall establish administrative policies and procedures for the promotion process, including examination and eligibility, consistent with the provisions of this Article and all applicable federal and state employment laws. Promotion to any position in the Civil Service shall be by examination weighed by seniority and performance record, except as otherwise provided in the Charter,

~~or Rules or policies and procedures.~~ Eligibility criteria and rating factors for promotions shall be established by Rule and shall include a credit for seniority.

CIVIL SERVICE COMMISSION ACTION: 6.8-1 ACCEPTED RECOMMENDATIONS as proposed.

~~Section 6.8-2 ELIGIBILITY.~~

~~A person will be eligible for promotion following successful completion of the initial probationary period and after meeting any criteria established in the Rules.~~

CIVIL SERVICE COMMISSION ACTION: 6.8-2 ACCEPTED RECOMMENDATIONS as proposed.

Note: The above amendment will require that administrative policies and procedures address the requirements of fairness and eligibility for a promotion which allows the specific details to be deleted from the Charter.

Motion made by Ms. Turner, seconded by Mr. Thackston, to ACCEPT RECOMMENDATIONS WITH MODIFICATIONS: Strike “or policies and procedures” from the second sentence. Vote: Aye: Mr. Brannon, Mr. Williams, Mr. Finke, Mr. Thackston, Ms. Turner; No: Ms. Karlsruher, Mr. Porras. Motion PASSED 5-2.

Section 6.9 SPECIAL PROVISIONS.

Section 6.9-5 DELEGATION ADMINISTRATIVE ACTION.

A. Policies and procedures utilized by the Human Resources Department shall be established administratively by the City Manager or the Human Resources Director as required or authorized by this Article or as necessary for the proper management and operation of the system.

B. The City Manager may delegate to appropriate individuals the execution of the functions, duties and responsibilities set forth in this Article, as he deems appropriate. Appropriate designees may include department directors and other persons able and assigned to execute the specific functions, duties or responsibilities.

CIVIL SERVICE COMMISSION ACTION: 6.9-5 ACCEPTED RECOMMENDATIONS as proposed.

Note: The new provision in subsection A serves to clarify the authority for the establishment of administrative policies and procedures. The revision to subsection B eliminates superfluous language.

Motion made by Mr. Williams, seconded by Ms. Karlsruher to ACCEPT RECOMMENDATIONS. Motion PASSED unanimously.

Section 6.10 LAY-OFF; LEAVE OF ABSENCE; VACATIONS; RESIGNATION AND REINSTATEMENT

Section 6.10-1 CONDITIONS FOR LAYOFF.

Whenever it becomes necessary through lack of work or funds, or through the abolishment of a position or class, or for any other reason not involving delinquency on the part of the employee, to reduce the number of employees in any class, the City Manager may order a layoff. The reduction will be made in accordance with the principles established procedures set forth in the Rules and the administrative procedures established by the Human Resources Director, consistent with the provisions of this Article and all applicable federal and state employment laws.

CIVIL SERVICE ACTION: ACCEPTED RECOMMENDATIONS as proposed.

Section 6.10-2 JOB RIGHTS.

Employees who are removed from their positions as the result of abolishment or a layoff (to include subsequent displacement action) will have the right to be appointed to any vacant position for which qualified, in accordance with the procedures established in the Rules or in policies and procedures.

CIVIL SERVICE ACTION: ACCEPTED RECOMMENDATIONS as proposed.

Section 6.10-3 LEAVE OF ABSENCE; REINSTATEMENT.

The City Manager shall establish administrative policies and procedures regarding the eligibility of employees to take a leave of absence and to be reinstated, consistent with the provisions of this Article and all applicable federal and state employment laws.

~~Permanent employees may be granted a leave of absence by the City Manager or designee under conditions set forth in the Rules. Provisions regarding the reinstatement of an employee upon the expiration of a leave of absence and the separation from the service of an employee who fails to report at the expiration of a leave of absence will be set forth in the Rules.~~

CIVIL SERVICE ACTION: ACCEPTED RECOMMENDATIONS as proposed.

~~**Section 6.10-4 SICK LEAVE.**~~

~~Classified employees are entitled to an annual sick leave, in accordance with the provisions set forth in the Rules. The City Manager may grant the same sick leave benefits to provisional appointees.~~

CIVIL SERVICE ACTION: ACCEPTED RECOMMENDATIONS as proposed.

~~Section 6.10-5 VACATIONS.~~

~~Classified employees who have held a city position for a period of six months, and who have successfully completed their respective probationary periods, will be entitled to take accrued vacation with pay as specified in the Rules.~~

| *CIVIL SERVICE ACTION: ACCEPTED RECOMMENDATIONS as proposed.*

~~Section 6.10-6 RESIGNATION.~~

~~The resignation of a classified employee will be filed and accepted on behalf of the City in accordance with the provisions set forth in the Rules.~~

| *CIVIL SERVICE ACTION: ACCEPTED RECOMMENDATIONS as proposed.*

~~Section 6.10-7 REINSTATEMENT FOLLOWING RESIGNATION.~~

~~Any person who has held a classified position and has resigned from the service in good standing and without fault or delinquency may seek reinstatement in accordance with the provisions set forth in the Rules.~~

| *CIVIL SERVICE ACTION: ACCEPTED RECOMMENDATIONS as proposed.*

Note: The above amendment will require that administrative policies and procedures address the matters such as leave of absence, resignation, reinstatement which allows the specific details to be deleted from the Charter. The provisions relating to vacations and sick leave will be addressed in the compensation and classification plan, per Section 6.4-1

Motion made by Ms. Karlsruher, seconded by Mr. Williams, to ACCEPT RECOMMENDATION to section 6.10-1. Motion PASSED 6-1 with Ms. Turner voting no.

Motion made by Mr. Thackston to strike “or in policies and procedures,” in section 6.10-2 seconded by Ms. Turner. Vote: Aye-Mr. Williams, Mr. Thackston, Mr. Porras, Ms. Turner; No: Mr. Finke, Ms. Karlsruher, Mr. Brannon. Motion PASSED 4-3.

Motion made by Ms. Turner, seconded by Mr. Porras, to POSTPONE the remainder of section 6.10. Motion passed 6-1 with Ms. Karlsruher voting no.

Motion made by Mr. Thackston to ADJOURN. Vote: Aye: Mr. Porras, Mr. Thackston; No: Mr. Brannon, Mr. Williams, Mr. Finke, Ms. Turner, Ms. Karlsruher. Motion FAILS 5-2.

Chair Giner called for a 10 minute break.

Motion made by Mr. Porras, seconded by Ms. Turner to RECONVENE. Meeting reconvened at 7:35 pm.

Section 6.11 TRANSFER AND REDUCTION.

Section 6.11-1 ~~WHEN TRANSFER IS PERMISSIBLE AND~~ REDUCTION.

The Human Resources Director shall establish administrative policies and procedures for the transfer and reduction process, including transfer and reduction for physical incapacity, consistent with the provisions of this Article and all applicable federal and state employment laws. Transfers may be made from a position in one department to a similar position, of the same class and grade, in another department, in accordance with the procedures set forth in the Rules.

| *CIVIL SERVICE COMMISSION ACTION: 6.11-1 ACCEPTED RECOMMENDATIONS as proposed.*

~~Section 6.11-2 REDUCTION FOR PHYSICAL INCAPACITY.~~

~~An employee may be reduced from a higher to a lower class when physically unable to perform the duties of the higher position, in accordance with the provisions set forth in the Rules.~~

| *CIVIL SERVICE COMMISSION ACTION: 6.11-2 ACCEPTED RECOMMENDATIONS as proposed.*

Note: The above amendment will require that administrative policies and procedures address transfers and reduction in force which allows the specific details to be deleted from the Charter.

Motion made by Mr. Porras, seconded by to POSTPONE, seconded by. Motion PASSED unanimously.

Section 6.12 STANDARDS OF EFFICIENCY.

The City Manager, ~~or by designation the Human Resources Director,~~ shall establish by written policy appropriate standards of efficiency for all positions in each class and grade in the classified positions.

| *CIVIL SERVICE COMMISSION ACTION: 6.12 ACCEPTED RECOMMENDATIONS as proposed.*

Note: Reference to the HR Director was eliminated, as that language was superfluous.

Motion made by Mr. Thackston, seconded by Mr. Porras to ACCEPT RECOMMENDATION. Motion PASSED unanimously.

Section 6.13 DISCHARGE, APPEAL, HEARINGS.

Section 6.13-2 DISCIPLINARY ACTION; REDUCTION.

A ~~permanent~~ regular employee may be discharged, suspended or reduced in rank or position as provided in this Charter or further defined in the Rules.

6.13-2 ACCEPTED RECOMMENDATIONS as proposed.

Note: The change from “permanent” to “regular” is made here and a number of other places, including in the definitions section in Section 6.14, to establish uniformity in the use of terms.

Motion made by Mr. Thackston, seconded by Mr. Porras, to ACCEPT RECOMMENDATION, Motion PASSED unanimously.

Section 6.13-3 CAUSES OF SUSPENSION, REDUCTION OR DISCHARGE.

The following, which may be further defined in the Rules, may constitute causes for discharge, suspension or reduction in grade of ~~permanent~~ regular employees:

- A. Conviction of, ~~or deferred adjudication community supervision for,~~ a felony or of a Class A or B misdemeanor involving moral turpitude;
- B. Abusive, threatening, or coercive treatment of another employee or a member of the public, the provocation or instigation of violence, b~~Brutality to a City prisoner, or abusive treatment to an animal in the care or control of the employee;~~
- C. Being under the influence of intoxicants or drugs or the use thereof while on duty;
- D. Being physically or mentally unfit for City service to the extent permissible under federal and state laws;
- E. Being wantonly offensive in conduct or language;
- F. ~~Performance of duty consistently below established minimum standards~~ Incompetency or negligence in the performance of duties, including but not limited to, failure to perform assigned tasks, or failure to discharge duties in an accurate, prompt, competent, or responsible manner;
- G. Dishonesty, theft, violation of a law or policies relating to the handling or procurement of property, or n~~Negligence in care or misuse of City property;~~
- H. ~~Unexcused absence from duty for a period of three or more successive days~~ Abandonment of position, repeated unexcused absence or tardiness, abuse of leave privileges, or absence without notification or the provision of a valid or acceptable reason for absence;
- I. ~~Exerting improper use of political influence~~ Failure to meet or maintain qualifications, including but not limited to, failing to obtain or maintain required certificates, licenses or other credentials established for the employee’s position or classification;
- J. Inducing or assisting another to commit an unlawful act;
- K. ~~Exerting improper influence on behalf of a relative~~ Deliberate or careless conduct endangering the safety of self or others;
- L. Engaging in improper political activity;
- M. Violates the City’s Ethics Ordinance;
- N. Refusal to follow the lawful order of a superior or supervisor;
- O. Subjecting a fellow employee or subordinate to unlawful intimidation, harassment or retaliation; and
- P. For just cause.

CIVIL SERVICE COMMISSION ACTION: 6.13-3 ACCEPTED RECOMMENDATIONS WITH MODIFICATIONS: In paragraph A, remove “Class C misdemeanor involving moral turpitude;” in paragraph E, leave in “wantonly;” and in paragraph F, delete “Inefficiency.”

Note: The above language includes the CSC’s recommendations for minor revisions to subsections A and F, and to delete the recommendation for change to subsection E which was to remove the word wantonly.

Paragraph A: Motion made by Mr. Thackston, seconded by Mr. Williams to REMOVE LANGUAGE “or deferred adjudication community supervision for”.

Vote: Aye: Mr. Brannon, Mr. Williams, Mr. Thackston, Mr. Porras, Ms. Turner; No: Ms. Karlsruher, Mr. Finke. Motion PASSED 5-2.

Paragraphs B, C and D: Motion made by Mr. Thackston, seconded by Mr. Porras to ACCEPT RECOMMENDATION. Motion PASSED unanimously.

Paragraph F: Motion made by Mr. Thackston, seconded by Mr. Porras, to ACCEPT RECOMMENDATION. Motion PASSED unanimously.

Paragraph G: Motion made by Mr. Porras, seconded by Ms. Karlsruher, to ACCEPT RECOMMENDATION. Motion PASSED unanimously.

Paragraph H: Motion made by Ms. Karlsruher, seconded by Mr. Brannon, to ACCEPT RECOMMENDATION. Motion PASSED unanimously.

Paragraph I: Motion made by Mr. Karlsruher, seconded by Mr. Porras, to ACCEPT RECOMMENDATION. Motion PASSED unanimously.

Paragraph J: Motion made by Mr. Williams, seconded by Ms. Turner to POSTPONE, seconded by Mr. Turner: Vote: Aye: Mr. Brannon, Mr. Williams, Mr. Thackston, Ms. Turner; No: Mr. Finke, Mr. Porras, Ms. Karlsruher. Motion PASSED 4-3.

Paragraph K: Motion made by Mr. Thackston, seconded by Mr. Porras, to ACCEPT RECOMMENDATION. Motion PASSED unanimously.

L: Motion made by Mr. Thackston, seconded by Ms. Turner, to POSTPONE. Vote: Aye: Mr. Brannon, Mr. Williams, Mr. Thackston, Ms. Turner; No: Ms. Karlsruher, Mr. Porras, Mr. Finke. Motion PASSED 4-3.

No action required on M-P.

Section 6.13-4 APPEALS.

A. Any permanent regular classified employee may appeal to the Commission any action taken pursuant to Section 6.13-2 order which is believed to violate the rights granted employees by this Charter. This appeal must be filed with the Commission within thirty days from the date of the action was taken. alleged violation and may be in any form clearly directing the attention of the Commission to the order complained of and the rights or provisions violated.

B. Any classified employee directly affected by the final decision made regarding a grievance filed by a classified employee may appeal to the Commission in the manner provided by the grievance policy and procedure established by Rule or by the City Manager.

CIVIL SERVICE COMMISSION ACTION: 6.13-4 ACCEPTED RECOMMENDATIONS WITH MODIFICATIONS: Amend paragraph A to read as follows: “Any regular classified employee may appeal to the Commission any action taken or order which is believed to violate the rights granted employees by this Charter. This appeal must be filed with the Commission within thirty days from the date of the action was taken and may be in any form clearly directing the attention of the Commission to the order complained of and the rights or provisions violated.” And, delete paragraph B in its entirety.

Note: The CSC proposed to delete some but not all of the new language and retain some but not all of the old language. Their proposal would read as set forth below. This would create an inconsistency and conflict between the Charter provision on appealing as applied to a grievance and the standards for processing a grievance as currently exist in the Civil Service Rules. If the proposed revisions are not wanted, then it is recommended that the original language remain as is, with no changes to the section, except to change “permanent” to “regular”. The original language is clear and does not need any clarification or revision, if the proposed changes are not desired.

Section 6.13-4 APPEALS.

A. Any permanent regular classified employee may appeal to the Commission any action taken or order which is believed to violate the rights granted employees by this Charter. This appeal must be filed with the Commission within thirty days from the date of the action was taken alleged violation and may be in any form clearly directing the attention of the Commission to the order complained of and the rights or provisions violated and may be in any form clearly directing the attention of the Commission to the order complained of and the rights or provisions violated.

B. Any classified employee directly affected by the final decision made regarding a grievance filed by a classified employee may appeal to the Commission in the manner provided by the grievance policy and procedure established by Rule or by the City Manager.

Motion by Mr. Porras, seconded by Mr. Thackston, to REJECT ALL CHANGES IN SECTIONS 6.13 A & B EXCEPT FOR MAKING CHANGE FROM “PERMANENT” TO “REGULAR” IN PARAGRAPH A. Motion PASSED unanimously.

Section 6.13-8 SUBSEQUENT ACTION.

Upon receipt of the Hearing Officer’s opinion and recommendations where applicable, the Commission will review the written record of the hearing, review any written briefs or oral arguments which the parties are permitted by the Commission to submit in accordance with the Rules, and take one of the following actions:

- A. Accept or reduce ~~modify~~ the Hearing Officer’s recommendations; ~~or~~
- B. Remand the matter to the Hearing Officer for development of such additional facts and findings as the Commission deems necessary. Consistent with the remand, the Hearing Officer must conduct an additional hearing and render a further opinion or recommendations for its further action pursuant to this provision; or
- C. Reject the Hearing Officer’s recommendations and refer the matter to the Civil Service Commission for a de novo hearing.

CIVIL SERVICE COMMISSION ACTION: 6.13-8 ACCEPTED RECOMMENDATIONS as proposed.

Note: This revision is being made to clarify the language and procedures of the Commission in light of current practices and applicable law.

Motion made by Mr. Thackston, seconded by Mr. Finke, to ACCEPT RECOMMENDATION. Motion PASSED unanimously.

Section 6.13-11 PENSION PLANS.

A. The Council shall continue a pension plan for all ~~permanent~~ regular full time employees. ~~Permanent~~ Regular part-time and eligible contract employees may elect not to participate in the plan. Other employees of the City and employees of governmental agencies of the City, except policemen, firemen, and elected officials of the City, shall have the option of participating in the plan. Eligible employees of an adopting employer of the plan shall be participants of the plan.

CIVIL SERVICE COMMISSION ACTION: 6.13-11 ACCEPTED RECOMMENDATIONS as proposed.

Note: See the note under Section 6.13-2 regarding the change from permanent employee to regular employee in this section and the below section.

Motion made by Mr. Porras, seconded by Ms. Karlsruher, to ACCEPT RECOMMENDATION. Motion PASSED unanimously.

Section 6.14 DEFINITIONS OF TERMS

The following definitions apply to this article:

Abolishment: Either temporary or permanent discontinuance of a given office, service, or position, by reason whereof the functions and duties of the office, service or employment cease; generally evidenced by the deletion of a position from a departmental manning table.

Certification: The process by which the names and addresses of persons on a proper eligible list are placed in the correct order in which vacancies are to be filled and thereby become entitled to be considered to fill a vacancy.

Class: A group of positions within the same title, so arranged because of similarity in duties and responsibilities and for which the same basic examination, compensation, and minimum qualifications apply.

Commission (when used by itself): The Civil Service Commission.

Dismissed, Discharged, and Removed: Actions under which employees are separated from their respective positions for cause.

Executive Level Employees: Those employees designated as executive level employees in their job descriptions and/or scope of duties based on the high level of management responsibilities and duties performed as determined by the Human Resources Director.

Grade: Term representing a specific range of compensation.

Human Resources Director: The director of the Human Resources Department or designee.

Permanent Regular Employee: Any classified employee who has been regularly appointed service.

Promotion: A change from a position in a lower class to a position in a higher class. It involves a change of duties or responsibilities as well as an upward change in compensation.

Rules: When used by itself, the Rules of the Commission.

Suspension: Action under which an employee is for cause temporarily separated without pay for a definite or indefinite period.

Note: The new definition to define executive level employees as used in section 6.2-2 is highlighted above.

CIVIL SERVICE COMMISSION ACTION: 6.14 ACCEPTED RECOMMENDATIONS as proposed.

Motion made by Mr. Porrás, seconded by Ms. Karlsruher, to ACCEPT RECOMMENDATIONS.
Motion PASSED unanimously.

4. Motion made by Mr. Porras, seconded by Ms. Karlsruher, to POSTPONE. Motion PASSED unanimously.

5. Motion made by Mr. Porras, seconded by Ms. Karlsruher, to ADJOURN. Meeting ADJOURNED at 8:37 pm.

DRAFT