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**MINUTES FOR A REGULAR MEETING OF THE CIVIL SERVICE COMMISSION
HELD AT 6:00 P.M., THURSDAY EVENING, MARCH 9, 2006
CITY COUNCIL CHAMBERS, #2 CIVIC CENTER PLAZA – 2ND FLOOR**

MEMBERS PRESENT: Boureslan, Ali
Ellis, William - Chair
Gezelius, Ken
Graham, Elijah
Ruck, Lance
Schwartz, Elma

MEMBERS ABSENT: Peña, Andrew
Scott, Valerie

The meeting convened at 6:08 p.m. with 6 Commissioners present and Chair Ellis presiding.

Items 1 and 2A were addressed at the beginning of the Regular Agenda.

CONSENT AGENDA

MOTION TO APPROVE THE CONSENT AGENDA WITH THE MODIFICATIONS MADE BY COMMISSIONER RUCK, SECONDED BY COMMISSIONER GRAHAM AND UNANIMOUSLY PASSED.

1. Discussion and Action on Approval of Minutes:
 - A. February 20, 2006
 - B. February 23, 2006

The following corrections to the minutes of February 23, 2006 were made: Item 2H motion was to table, Item 10A both Department Heads should be included in the motion, and Item 11 correction to spelling of Martinez.

Chair Ellis stated that the rule specifically requires summaries of discussions and the votes of the Commission. He gave the Commission a little history as to when this rule was amended to include summaries for minutes.

Chair Ellis told the CSC Recorder that if in the future she was instructed to disregard any CSC rule she should report it to the Chair of the Commission.

MOTION TO TABLE ITEM 1 TO MAKE CORRECTIONS AND INSERT SUMMARIES PER CSC RULE 1.2.C. MADE BY COMMISSIONER BOURESLAN, SECONDED BY COMMISSIONER GEZELIUS AND UNANIMOUSLY PASSED.

Assistant City Attorney Lupe Cuellar said she didn't believe the two ordinances were in conflict with each other. She believed both ordinances had been followed and stated that maybe they just needed to change the sequence in the way items were placed at the beginning of the agenda.

Chair Ellis asked Ms. Cuellar to advise the CSC Recorder of these changes so those adjustments could be made.

2. Discussion and Action on Approval of Contracts:
 - A. Personal Services Contract with Cruz Garcia to perform the duties of Park Project Review Coordinator from March 14, 2006 through March 13, 2007, for Parks & Recreation. (Tabled 02/23/06)

Commissioner Gezelius asked if Mr. Garcia was a retiree and if he could receive his retiree pension and

get paid by the City as well.

Ms. Thomas said he was a retiree and he could receive pay and receive his retiree pension if he was a temporary employee.

MOTION TO APPROVE ITEM 2A MADE BY COMMISSIONER GEZELIUS, SECONDED BY COMMISSIONER RUCK AND UNANIMOUSLY PASSED.

- B. Professional Services Contract with Patricia Palafox to perform the duties of Hearing Officer from March 10, 2006 through March 09, 2007, for Human Resources.
 - C. Professional Services Contract with Bruce Yetter to perform the duties of Hearing Officer from March 10, 2006 through March 09, 2007, for Human Resources.
 - D. Personal Services Contract with Lisa Marie Perez to perform the duties of Daycare Supervisor from April 3, 2006 through April 2, 2007, for Parks & Recreation.
3. Notice of Promulgation of Eligible Lists:
- A. Purchasing Agent = Promulgated 02/27/06 (P-4)(CR-1)(O-8)
 - B. Environmental Services Director = Promulgated 02/20/06 (O-2)
 - C. Central Maintenance Services Supervisor = Promulgated 02/17/06 (P-5)
4. For Notation: Request to have appeal heard by Arbitrator:
- Campos, Carlos – Termination – Police Dept. (IA05-195)
5. For Notation and if appropriate, assignment of Hearing Examiner: Request(s) to have appeal(s) heard in accordance with Article 21 of the Collective Bargaining Agreement between the City and the El Paso Municipal Police Officers Association.
- A. Diaz, Mario – Suspension – Police Dept. (CP05-129)
 - B. Montoya, Edmundo – Suspension – Police Dept. (CP06-004)
6. Discussion and Action on request to assign pending appeal cases:
- A. Gutierrez, Kendall – Suspension – Fire Dept.
 - B. Tellez, Albert – Suspension – Sun Metro
 - C. Vasquez, Jose – Termination – Sun Metro
 - D. Villanueva, Ricardo – Suspension – Sun Metro
7. Discussion and Action on request to have name placed on Transfer List:
- A. Guereque, Arturo Jr. – Building Maintenance Worker I - Airport
 - B. Woolridge, Charlais – Customer Relations Clerk – General Services
 - C. Esparza, Melissa – Clerk Typist III – Police Dept.
8. Discussion and Action on request to have name placed on Reinstatement List:
- A. Fernandez, Jorge – Firefighter – Fire Dept.
 - B. Torres, Luis – Labor Foreman I – Street Dept.
9. Discussion and Action on Request for Temporary Promotion:
- Pazos, Cesar – Sun Metro
From: Coach Mechanic III

To: Coach Maintenance Supervisor

10. Discussion and Action on Approval of Hearing Officer's Invoice:

Palafox, Patricia – Dated 03/01/06 – February 2006

11. Discussion and Action on Request for Extension of Eligible Lists for an additional six months:

- A. Bid ClerkExtended through 09/16/06
- B. Library Information SupervisorExtended through 09/13/06

REGULAR AGENDA

12. Discussion and Action on appeal of Classification action filed by Armando Peña.

Chair Ellis asked Ms. Thomas if this was one of the items that was going to be considered by the committee and Ms. Thomas said yes. He asked Mr. Peña if he understood his appeal would be heard by the committee.

Mr. Peña said he understood.

Chair Ellis said his concern was that Mr. Peña had requested this item be placed on the CSC agenda and it was not. He said the Commission had made it clear that any item that anybody requests to be placed on the agenda should be placed on the agenda and the Commission will rule on whether it is a proper item for consideration.

MOTION TO DELETE ITEM 12 MADE BY COMMISSIONER GEZELIUS, SECONDED BY COMMISSIONER GRAHAM AND UNANIMOUSLY PASSED.

13. Discussion and action to repeal the Executive Level and Professional/Managerial Education/Experience Equivalencies approved by the CSC on May 14, 1992 and approval of new Equivalency Guidelines for the evaluation of an applicant's education and experience qualifications.

Ms. Thomas reminded the Commission that they had discussed this matter and had agreed that there should be no substitution for education, however, education can be substituted for experience. She said the proposed guidelines accomplished this and also shows how an employee can get credit for supervision, how they convert CEU's, etc.

Commissioner Ruck asked what these new guidelines would do to someone who is currently working and does not possess a degree. He asked if this would prohibit them from any advancement and in any way put their job at risk.

Ms. Thomas said not their current job. However, when applying for a promotion they would be requiring a degree.

Ms. Wilson said it was her understanding that persons currently in a position are grandfathered. Also, if there are current eligible lists those will be used until they expire.

Commissioner Boureslan believed there were many college graduates in El Paso that would prefer to work with the City in a non-degree position than to move away.

Discussion.

MOTION TO APPROVE ITEM 13 MADE BY COMMISSIONER GEZELIUS, SECONDED BY COMMISSIONER GRAHAM AND PASSED BY A VOTE OF 4 TO 1.

Ayes: Commissioners Graham, Gezelius, Schwartz, Ruck
Nays: Commissioner Boureslan

14. Discussion and Action on Proposed appointment to the Civil Service Commission:

Reynolds, Thurman – Appointment – District 3

MOTION TO APPROVE ITEM 14 MADE BY COMMISSIONER RUCK, SECONDED BY COMMISSIONER GRAHAM AND UNANIMOUSLY PASSED.

15. Discussion and Action on Report from Committee regarding Performance Evaluation of:

Mendoza, Francisca – Accounting Clerk – Information Technology

Chair Ellis requested legal advice in Executive Session.

MOTION TO ADJOURN TO EXECUTIVE SESSION MADE BY COMMISSIONER BOURESLAN, SECONDED BY COMMISSIONER GRAHAM AND UNANIMOUSLY PASSED.

The Commission retired into Executive Session at 6:53 p.m. to discuss Item 15, and reconvened for Open Session at 7:10 p.m.

MOTION TO ADJOURN EXECUTIVE SESSION AND RETURN TO REGULAR SESSION MADE BY COMMISSIONER BOURESLAN, SECONDED BY COMMISSIONER SCHWARTZ AND UNANIMOUSLY PASSED.

Commissioner Gezelius read the committee's recommendation, which was as follows:

"The Committee deliberated and agreed on the following: Ms. Mendoza's PE should be re-rated and Item 11 (Working Under Stress) should be increased from Competent (III) to Exceeds Standards (II) based on the testimony of the Reviewer; we also agreed that Item 13 (Cooperation with Coworkers) should be re-rated from Marginal (V) to Competent (III) based on a lack of effective supervision and counseling by the Rater. We agreed that the Overall Rating of 3-Competent should remain unchanged. It was noted that both the Rater and Reviewer need additional training on completing Performance Evaluations."

MOTION TO APPROVE THE COMMITTEE'S RECOMMENDATION ON ITEM 15 MADE BY COMMISSIONER RUCK, SECONDED BY COMMISSIONER GRAHAM AND UNANIMOUSLY PASSED.

Chair Ellis wanted the record to reflect that in this matter the Commission applied the presumption required by Rule 14, Section 7 regarding the accuracy of the rating, and with respect to any relief granted in the appeal also found by a preponderance of the evidence that the presumption was rebutted. He told the Commission Recorder that Ms. Cuellar would be giving her further guidance regarding certain matters of form that will be adjusted in future reports.

16. Discussion and Action on Appeal of Denial of Reinstatement:

Rubalcava, Martin – Toll Collector – Street Dept. (Tabled 10/13/05 & 12/08/05)

MOTION TO TABLE ITEM 16 TO THE FIRST MEETING IN APRIL MADE BY COMMISSIONER RUCK, SECONDED BY COMMISSIONER GRAHAM AND PASSED BY A VOTE OF 5 TO 1.

Ayes: Commissioners Graham, Martinez, Gezelius, Boureslan, Ruck

Nays: Commissioner Schwartz

17. Discussion and Action on Hearing Officer's Report and Recommendation:

A. Berry, Jorge – Termination – Public Transit (05-SM-21PP)

Chair Ellis noted that the Hearing Officer's recommendation was to reverse the termination and reinstate Mr. Berry.

John Batoon, Asst. City Attorney, said it was the City's position that the Hearing Officer made a fundamental error in that the City didn't carry its burden of proof. He said this case involved three separate instances where the employee was gone for three days or more and did not have adequate medical excuses as required by the rules.

Chair Ellis pointed out to Mr. Batoon that a portion of the Coach Operator's Manual that referred to "licensed physician in the United States" was contrary to the provisions of Rule 13 and needs to be amended to be consistent with the rule in regards to who could supply the notes.

Mr. Batoon agreed.

Terry Lee Scott, Director of Mass Transit, told the Commission that if an employee is sick for three consecutive days or more then they will require a doctor's note for those absences. The note needs to say that the employee is so sick that they cannot go to work. Mr. Scott detailed Mr. Berry's absences and said that he personally told Mr. Berry he needed doctor's excuses for his absences and Mr. Berry's response was that he didn't need them.

The Commission questioned Mr. Scott on the various aspects of this case and the Hearing Officer's recommendation.

Bill Arballo, AFSCME Local 59, representative for Mr. Berry stated that in this case the Hearing Officer actually reported all the evidence as it was extracted during the hearing. He said that basically the Hearing Officer indicted the department for their failure to adhere to their own rules in this case. He reviewed the case and the Hearing Officer's recommendation and requested that the Commission approve the Hearing Officer's recommendation.

There was extensive discussion and review of the Hearing Officer's recommendation by the Commission.

MOTION TO APPROVE THE HEARING OFFICER'S RECOMMENDATION MADE BY COMMISSIONER RUCK, SECONDED BY COMMISSIONER GRAHAM BUT FAILED BY A VOTE OF 2 TO 3.

Ayes: Commissioners Graham, Ruck

Nays: Commissioner Gezelius, Boureslan, Schwartz

MOTION TO DENY THE HEARING OFFICER'S RECOMMENDATION AND SUSTAIN THE TERMINATION MADE BY COMMISSIONER SCHWARTZ, SECONDED BY COMMISSIONER GEZELIUS AND PASSED BY A VOTE OF 3 TO 2.

Commissioner Ruck wanted the record to reflect that when you ignore these many improprieties by management and still take a person's job you are setting a real bad trend.

Ayes: Commissioners Gezelius, Boureslan, Schwartz

Nays: Commissioner Graham, Ruck

B. McLellan, Myron – Termination – Public Transit (05-SM-23PP)

Bill Arballo, AFSCME Local 59, stated that in this case he was here to plead the extenuating

circumstances on why his client hadn't renewed his license in a timely manner. In this case this employee is a 13-year City employee whose record was clean. Mr. Arballo explained that at the time that Mr. McLellan was supposed to renew his driver's license his mother had a serious fall, was injured and hospitalized and subsequently came under his care. The circumstances that caused him not to be able to renew his driver's license were so overwhelming that he just forgot to do it. He agreed that he violated the rules but believed that the termination was extreme due to Mr. McLellan's good work record in those 13 years. He asked that the termination be reduced to a suspension.

Assistant City Attorney John Batoon said that the Hearing Officer considered the appellant's circumstances and the fact that he had no blemishes on his record. Importantly what the Hearing Officer found was that those extenuating circumstances did not excuse Mr. McLellan for driving with a suspended license for at least three days. Mr. McLellan's testimony was that he thought he would get suspended not terminated. Mr. Batoon asked that the Hearing Officer's recommendation be upheld.

Terry Lee Scott, Director of Mass Transit, explained the progressive discipline policy along with examples.

Discussion.

MOTION TO DENY THE HEARING OFFICER'S RECOMMENDATION AND TO REDUCE THE TERMINATION TO A SUSPENSION FROM 11/02/05 THROUGH TODAY'S DATE 03/09/06, MADE BY COMMISSIONER BOURESLAN, SECONDED BY COMMISSIONER GEZELIUS AND PASSED BY A VOTE OF 4 TO 1.

Ayes: Commissioner Graham, Gezelius, Boureslan, Schwartz

Nay: Commissioner Ruck

C. Muñoz, Gabriel – Termination – Public Transit (05-SM-25PP)

Assistant City Attorney Lupe Cuellar commented that she was a witness in this case.

Terry Lee Scott, Director of Mass Transit believed that one of the poorest excuses an employee could have for misconduct was to say they were just following orders. He believed this case was malicious obedience in the fact that Mr. Muñoz did order the spray of a pesticide without a license. Mr. Muñoz met with an attorney from a state of Texas organization where he negotiated a settlement that bound the City to a \$3000 fine and one-year probation that puts a mark on the entire City of El Paso. He had no authority to do that. Mr. Scott asked the Commission to uphold the termination and asked them to consider some of Mr. Muñoz' history and detailed those. He told the Commission that if they decided to reinstate Mr. Muñoz to consider reinstating him but not as a supervisor.

Bill Arballo, AFSCME Local 59, requested that the Hearing Officer's recommendatino be upheld with the exception that the suspension be a 5-day suspension.

Discussion.

MOTION TO APPROVE THE HEARING OFFICER'S RECOMMENDATION TO REDUCE THE TERMINATION TO A 30-DAY SUSPENSION MADE BY COMMISSIONER GEZELIUS, SECONDED BY COMMISSIONER RUCK AND UNANIMOUSLY PASSED.

18. Discussion and Action on Appeal of Disqualification to take Examination and/or Removal of Name from Eligible List in accordance with C.S.C. Rule 8.1.d.1.:

Chair Ellis wondered if the Commission's earlier action on the equivalency guidelines was going to affect some of these appeals.

Asst. City Attorney Lupe Cuellar said it was and had asked the Human Resources Department to take a look at the individuals that were disqualified and to see if they were now qualified based on the new

guidelines.

Peter Fargo, Employment Services Manager, stated that the appellant on Item 18B was now qualified and asked that the item be deleted.

A. Abuissa, Waleed – Engineering Technician III

Chair Ellis read the specifics of Mr. Abuissa's disqualifications.

Mr. Abuissa believed his education qualified him. He stated he possessed a bachelor's degree in civil engineering and was pursuing his master's degree in construction management at UTEP. He believed he forgot to place some of his experience on the application and requested to be allowed to take the test.

Commissioner Boureslan reviewed Mr. Abuissa's transcript and believed it qualified him.

Discussion.

MOTION TO APPROVE ITEM 18A MADE BY COMMISSIONER RUCK, SECONDED BY COMMISSIONER GEZELIUS AND UNANIMOUSLY PASSED.

B. Alvara, Michelle – Groundskeeper

MOTION TO DELETE ITEM 18B MADE BY COMMISSIONER GEZELIUS, SECONDED BY COMMISSIONER BOURESLAN AND UNANIMOUSLY PASSED.

C. Solano, Juan – Labor Foreman I

Chair Ellis read the specifics of Mr. Solano's disqualifications.

Mr. Solano told the Commission he believed Human Resources would review all his previous applications and therefore didn't write all his experience on the application.

MOTION TO APPROVE ITEM 18C MADE BY COMMISSIONER RUCK, SECONDED BY COMMISSIONER BOURESLAN AND UNANIMOUSLY PASSED.

D. Kidder-Lopez, Lisa – Library Information Specialist II

Chair Ellis read the specifics of Ms. Kidder-Lopez' disqualification.

Ms. Kidder-Lopez said she appealed because she was told that her eight years of experience in three different library systems was only worth one year and four months. She detailed her experience for the Commission. She told the Commission she had approximately 225 college credits which should qualify her.

Discussion.

MOTION TO APPROVE ITEM 18D MADE BY COMMISSIONER RUCK, SECONDED BY COMMISSIONER GRAHAM BUT FAILED BY A VOTE OF 2 TO 3.

Ayes: Commissioners Graham, Ruck

Nays: Commissioners Gezelius, Boureslan, Schwartz

MOTION TO DENY ITEM 18D MADE BY COMMISSIONER SCHWARTZ, SECONDED BY COMMISSIONER BOURESLAN AND PASSED BY A VOTE OF 3 TO 2.

Ayes: Commissioners Gezelius, Boureslan, Schwartz

Nays: Commissioners Graham, Ruck

E. Burns, Brian – Library Information Specialist II

Chair Ellis read the specifics of Mr. Burns' disqualification.

Mr. Burns said he was planning to pursue his master's degree in library science over the summer and felt that his experience over the past twelve years in different fields was somewhat applicable in this case.

Commissioner Ruck asked Mr. Burns if he was in the Naval Reserves?

Mr. Burns said he was for six years.

Commissioner Boureslan reviewed Mr. Burns' experience.

Mr. Fargo explained why Human Resources believed Mr. Burns did not possess the paraprofessional experience required in this case.

Discussion.

MOTION TO APPROVE ITEM 18E MADE BY COMMISSION BOURES LAN, SECONDED BY COMMISSIONER RUCK AND PASSED BY A VOTE OF 3 TO 2.

Ayes: Commissioners Graham, Boureslan, Ruck

Nays: Commissioners Gezelius, Schwartz

F. Dunn, Raquel – Library Information Specialist II

G. Hardy, Denis – Library Information Specialist II

Items 18F and 18G were deleted concurrent with approval of the Consent Agenda.

H. Reyes, Alfredo – Park Area Supervisor

Mr. Reyes was not present.

MOTION TO DENY ITEM 18H MADE BY COMMISSIONER RUCK, SECONDED BY COMMISSIONER GEZELIUS AND UNANIMOUSLY PASSED.

I. Salazar, Edward – Park Area Supervisor

Chair Ellis read the specifics of Mr. Salazar's disqualification.

Mr. Fargo stated that Mr. Salazar's college was above and beyond what was required, therefore he now lacked only 2 years of experience instead of 4.

Mr. Salazar stated that when he filled out his application he left out some information. He said he managed a Payless Shoe store, a multimillion dollar business, from 1982 to 1989. He told the Commission that he had previously been qualified to take this test and had actually taken the test.

MOTION TO DENY ITEM 18I MADE BY COMMISSIONER SCHWARTZ, SECONDED BY COMMISSIONER BOURES LAND AND PASSED BY A VOTE OF 4 TO 1.

Ayes: Commissioner Gezelius, Boureslan, Schwartz, Ruck

Nay: Commissioner Graham

J. Welch, Joseph – Public Safety Dispatcher

Chair Ellis read the specifics of Mr. Welch's disqualification.

Mr. Welch said he failed to put on his application that he was a lifeguard for four years, specifically a senior lifeguard and dealing specifically with public relations. He detailed his experience.

Discussion.

MOTION TO DENY ITEM 18J MADE BY COMMISSIONER SCHWARTZ, SECONDED BY COMMISSIONER GRAHAM AND PASSED BY A VOTE OF 4 TO 1.

Ayes: Commissioners Graham, Gezelius, Boureslan, Schwartz

Nay: Commissioner Ruck

MOTION TO ADJOURN TO EXECUTIVE SESSION MADE BY COMMISSIONER GEZELIUS, SECONDED BY COMMISSIONER RUCK AND UNANIMOUSLY PASSED.

The Commission retired into Executive Session at 10:24 p.m. to discuss Item 19, and reconvened for Open Session at 11:12 p.m.

MOTION TO ADJOURN EXECUTIVE SESSION AND RETURN TO REGULAR SESSION MADE BY COMMISSIONER RUCK, SECONDED BY COMMISSIONER GEZELIUS AND UNANIMOUSLY PASSED.

19. Discussion and Action on Appeal of Disqualification to take Examination and/or Removal of Name from Eligible List in accordance with C.S.C. Rules and Regulations:

A. Gatling, Matthew – Police Officer (8.1.d.4.) (Tabled 02/23/06)

The matter was discussed in Executive Session. The following action was taken in Open Session.

MOTION TO APPROVE ITEM 19A MADE BY COMMISSIONER RUCK, SECONDED BY COMMISSIONER GRAHAM AND PASSED BY A VOTE OF 4 TO 1.

Ayes: Commissioners Graham, Boureslan, Schwarz, Ruck

Nay: Commissioner Gezelius

B. Gonzalez, Veronica – Customer Relations Clerk (Ord. 8064, 5.1.b.)

MOTION TO APPROVE ITEM 19B MADE BY COMMISSIONER RUCK, SECONDED BY COMMISSIONER SCHWARTZ AND UNANIMOUSLY PASSED.

C. Piña, Bertha – Customer Relations Clerk (8.1.d.4.)

This item was deleted concurrent with approval of the Consent Agenda.

D. McReynolds, Terry – Graphics Technician (Ord. 8064, 5.1.b.)

The matter was discussed in Executive Session. The following action was taken in Open Session.

MOTION TO APPROVE ITEM 19D MADE BY COMMISSIONER SCHWARTZ, SECONDED BY COMMISSIONER GRAHAM AND PASSED BY A VOTE OF 4 WITH 1 ABSTENTION.

Ayes: Commissioners Graham, Gezelius, Schwartz, Ruck

Abstain: Commissioner Boureslan

E. Muñoz, Jose – Groundskeeper (Ord. 8064, 5.1.b.)

The matter was discussed in Executive Session. The following action was taken in Open Session.

MOTION TO APPROVE ITEM 19E MADE BY COMMISSIONER RUCK, SECONDED BY COMMISSIONER GEZELIUS AND UNANIMOUSLY PASSED.

F. Muñoz, Oscar – Groundskeeper (Ord. 8064, 5.1.b.)

The matter was discussed in Executive Session. The following action was taken in Open Session.

MOTION TO APPROVE ITEM 19F MADE BY COMMISSIONER RUCK, SECONDED BY COMMISSIONER GRAHAM AND UNANIMOUSLY PASSED.

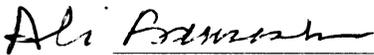
G. Salazar, Ramon – Labor Foreman I (8.1.d.4.)

The matter was discussed in Executive Session. The following action was taken in Open Session.

MOTION TO APPROVE ITEM 19G MADE BY COMMISSIONER SCHWARTZ, SECONDED BY COMMISSIONER GEZELIUS AND UNANIMOUSLY PASSED.

THERE BEING NO FURTHER BUSINESS BEFORE THE COMMISSION, A MOTION TO ADJOURN WAS MADE BY COMMISSIONER RUCK, SECONDED BY COMMISSIONER BOURESLAN AND UNANIMOUSLY PASSED.

THE MEETING ADJOURNED AT 11:15 P.M.



ALI BOURESLAN, C.S.C. CHAIR



LINDA BALL THOMAS, C.S.C. SECRETARY

04-13-06

DATE APPROVED