

**MINUTES FOR A REGULAR MEETING OF THE CIVIL SERVICE COMMISSION
HELD AT 6:00 P.M., THURSDAY EVENING, APRIL 8, 2004
CITY COUNCIL CHAMBERS, #2 CIVIC CENTER PLAZA - 2nd FLOOR**

MEMBERS PRESENT: Berube, Paul
Ellis, William J.
Graham, Elijah
Harris, Alvin
Martinez, Ramy
Peña, Andrew
Ruck, Lance
Schwartz, Elma
Sutherland, Ken

ALSO PRESENT: Almonte, David – OMB
Bond, Terry - C.S.C. Secretary
Buenning, Rosy - C.S.C. Recorder
Cross, Paul – Police Dept.
Czerwinsky, Michael – Police Dept.
Fargo, Peter – Human Resources
Foust, Marvin – Asst. City Attorney
Martinez, Lupe – Assistant City Attorney
Mueller, Paul - Human Resources
Peña, Armando - Human Resources
Sienkiewicz, Jim - Human Resources
Thomas, Linda – Human Resources
Van Lauwe, Elizabeth – Sun Metro

The meeting convened at 6:00 p.m. with a quorum of 9 Commissioners present and Chair Berube presiding.

(Before considering the Consent Agenda, Chair Berube thanked Rosy Buenning, CSC Recorder. Ms. Buenning was resigning from City employment and this was her last meeting.)

CONSENT AGENDA

1. Discussion and Action on Approval of Minutes:

March 25, 2004

Commissioner Ellis requested Item 1 be moved to the Regular Agenda. *(This item was addressed during the Regular Agenda.)*

Commissioner Ellis requested that under Item 18, the paragraph numbered 2 of Item 18 on page 7 be deleted.

MOTION TO APPROVE ITEM 1 WITH THE MODIFICATION MADE BY COMMISSIONER ELLIS, SECONDED BY COMMISSIONER SUTHERLAND AND UNANIMOUSLY PASSED.

2. Discussion and Action on Approval of Contracts:

- A. Personal Services Contract with Ricardo Pando to perform the duties of Computer Operator from April 16, 2004 through April 15, 2005, for the El Paso Public Library.
- B. Personal Services Contract with Marlo L. Tena to perform the duties of Department Volunteer Coordinator from April 24, 2004 through April 23, 2005, for the El Paso Police Department.
- C. Eight (8) Employee Services Contracts with Liliana Bañuelos, Nichole Chaplin, Donna Grable, Yolanda A. Moreno, Rosa I. Olivas, Andrea Quintanar, Roman Garcia and Irum Hussain from June 1, 2004 through August 31, 2004, for the Parks & Recreation Department.

- D. Personal Services Contract with Rene Navarro to perform the duties of Neighborhood Liaison for the Mayor's Office.

Ms. Bond requested that Item 2D be deleted.

MOTION TO DELETE ITEM 2D MADE BY COMMISSIONER ELLIS, SECONDED BY COMMISSIONER RUCK AND UNANIMOUSLY PASSED.

3. Discussion and Action on Approval of Applications for Outside Employment:

- | | |
|---------------------------------------|------------------------------------|
| A. Alvarado - Antonio E. - Street | S. Julius - Mike R. - Police |
| B. Alvarez - Manuel III - Police | T. Lozano - Pedro R. - Police |
| C. Carreon - Antimo - Human Res. | U. Lozano - Roger - Police |
| D. Castañeda - Juan - Police | V. Marquez - David - Police |
| E. Chavez - Daniel - Police | W. Natividad - Patrick G. - Police |
| F. Chavez - Lupe V. - Human Resources | X. Pelletier - Patrick - Police |
| G. Davila - Enrique - Police | Y. Perez - Jorge E. - Police |
| H. Davila - Enrique - Police | Z. Perez - Patricia - Police |
| I. Diaz - Orlando - Police | AA. Reyes - Jaime H. - Police |
| J. Farley - Mitch - Fire | BB. Roberts - Adrian M. - Fire |
| K. Garcia - Sergio - Police | CC. Rodriguez - Richard - Police |
| L. Garcia - Sylvia - Police | DD. Ruiz - Jose L. - Police |
| M. Giner - Marta - Police | EE. Sanchez - Andres E. - Police |
| N. Gonzalez - Adrian - Police | FF. Vazquez - Michael - Police |
| O. Gurrola - Miguel - Street | GG. Villalobos - Saul - Police |
| P. Gutierrez - Jose Luis - Street | HH. Yanez - Fernando - Police |
| Q. Haywood - Jeffrey Karl - Police | |
| R. Holguin - Steven L. - Police | |

4. Notice of Promulgation of Eligible Lists:

- A. Chemist (P-3)
- B. Deputy Museums Director (P-1)(O-4)
- C. Equipment Operator I (P-9)(CR-4)(O-65)
- D. Industrial Engineering Associate II (P-1)(O-4)
- E. Information Entry Operator (P-8)(CR-5)(O-79)
- F. Library Branch Manager (O-1)
- G. Library Collection Development Manager (CR-1)(O-2)
- H. Recycling Manager (P-0)(O-0)
- I. Public Safety Dispatcher Shift Supervisor-Police (P-6)
- J. Public Services Librarian I (O-9)
- K. Water Reclamation and Biosolids Manager (P-1)(O-1)

5. Discussion and Action on Approval of Classification Actions:

<u>TITLE</u>	<u>CODE</u>	<u>GRADE</u>
Landscape Inspector	9166	GS 22

6. Discussion and Action on Assignment of pending appeal cases to Hearing Officer:

- A. Barajas, Marco A. - Suspension - Solid Waste Magement

Commissioner Ellis requested Item 6A be moved to the Regular Agenda. *(This item was addressed during the Regular Agenda.)*

Commissioner Ellis said he wanted to bring this to the attention of legal counsel and the Commission secretary as he had some concerns as to the contents of the notice. He asked that when this case is assigned to a Hearing Officer, that the Hearing Officer address whether or not the first five paragraphs of the specification portion are matters for which the appellant has already been disciplined, yet they are set

forth on the specifications as though he is being disciplined for the same infractions. Furthermore, the Hearing Officer should address whether or not the charge set forth on February 3, 2004 is supported by the charges.

MOTION TO ASSIGN ITEM 6A TO A HEARING OFFICER MADE BY COMMISSIONER ELLIS, SECONDED BY COMMISSIONER RUCK AND UNANIMOUSLY PASSED.

B. Hulsey, Anita C. – Suspension – Police Dept.

7. Discussion and Action on Request to have name placed on Transfer List:

A. Salazar, Teresa L. – Information Entry Operator – Solid Waste Mgmt.

B. Tovar, Denise – Secretary III – Building Permits & Inspection

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

REGULAR AGENDA

8. Discussion and Action on amendment of Civil Service Rule 14, Efficiency Ratings, Section 7, Appeals (Tabled 02/12/04; 02/26/04; 03/11/04; 03/25/04).

Commissioner Ellis noted that there were a couple of versions of the proposed amendments. The version with the bigger font was submitted by the City Attorney's office. The other version is the one that this Commission has previously looked at, it is date-stamped "Received April 5, 2004 Human Resources Dept," and says "Subject to the provisions of this section, the employee has the right to appeal any rating..."

Chair Berube clarified that except for probationary ratings.

Commissioner Ruck commended Commissioner Ellis on his work on this amendment proposal and commented on his memorandum reference this item. He said that the City Attorney's proposal is a blatant change from what they had discussed in legislative review. The City Attorney's proposal takes the Commission's authority away and wants to replace it with an arbitrator's decision being final and binding. He believed this completely new wording was clearly outside the bounds of the Charter.

Ms. Bond commented that Representative Cushing attempted to conduct a legislative review meeting reference this issue but it had to be cancelled and there are plans to schedule it in the future.

MOTION TO APPROVE THE VERSION WITH THE HUMAN RESOURCES DATE STAMP OF APRIL 5, 2004 AND THE WORDING "ANY RATING" MADE BY COMMISSIONER ELLIS, SECONDED BY COMMISSIONER RUCK AND UNANIMOUSLY PASSED.

9. Discussion regarding Civil Service Commission secretary (Tabled 03/25/04).

MOTION TO TABLE ITEM 9 TO EXECUTIVE SESSION MADE BY COMMISSIONER ELLIS, SECONDED BY COMMISSIONER MARTINEZ AND UNANIMOUSLY PASSED. *This item was discussed in Executive Session after Item 21.*

NO ACTION WAS TAKEN ON THIS ITEM.

10. Discussion and Action regarding promulgation of procedural rules governing Commission meetings, duties of the Chair, Vice-Chair and Secretary, and Committees (Tabled 03/25/04).

MOTION TO DELETE ITEM 10 MADE BY COMMISSIONER ELLIS, SECONDED BY COMMISSIONER SUTHERLAND AND UNANIMOUSLY PASSED.

10.1 Discussion and Action regarding promulgation and adoption of amendments to Rule 1 relating to procedural rules governing Commission meetings, duties of the Chair, Vice-Chair and Secretary, provisions related to the Commission Recorder and Committees of the Commission.

Commissioner Ellis summarized what they had discussed during the committee meeting on this issue and advised that they were going to meet again on April 15th.

MOTION TO TABLE ITEM 10.1 MADE BY COMMISSIONER ELLIS, SECONDED BY COMMISSIONER HARRIS AND UNANIMOUSLY PASSED.

11. Discussion and Action on amendment to Civil Service Rule 21.

Commissioner Ruck stated that this was considerable improvement over the existing rule which nobody could explain. He recommended removing the words "or impending."

MOTION TO APPROVE ITEM 11 AFTER REMOVING THE WORDS "OR IMPENDING" MADE BY COMMISSIONER RUCK, SECONDED BY COMMISSIONER ELLIS AND UNANIMOUSLY PASSED.

12. Discussion and Action on amending Rule 20, Lay-offs, Job Rights, Reinstatement.

Ms. Bond stated that there were a few changes to Item 12 and reviewed them for the Commission. She said they wanted to be able to look at every possible position that a person who is being laid off can qualify for. She reviewed the other changes also.

Commissioner Ruck asked why a person who might have been working for the City for 20 years would be required to pass a probation and treated as a new employee?

Ms. Bond said that although they might be of the same grade and the fact that they have the qualifications doesn't mean that they can actually perform the duties.

David Almonte, OMB Director, said it was twofold. Sometimes it is unfair to the Department and sometimes unfair to the individual because they may be adequate in one position and not in another. He said they didn't want the employees to fail, and it was certainly unfair to them if they placed them in a position where they can't perform adequately.

Commissioner Peña stated that this was a pretty standard condition of employment after layoff.

MOTION TO APPROVE ITEM 12 MADE BY COMMISSIONER PEÑA, SECONDED BY COMMISSIONER RUCK (no vote taken)

Commissioner Ellis stated that he was troubled by the concept that an employee who had been with the City for many years and through no fault of his own would be back on probation. He asked if this item was approved tonight, how would this be sent to City Council?

Ms. Bond said it would be placed in an ordinance format and placed on the City Council agenda. Backup is submitted to the City Clerk's office at set times.

David Almonte, OMB Director, added that any Department Head that submitted items for the agenda was also responsible for submitting backup for those items to City Council representatives.

Commissioner Ellis said he hadn't had time to give the amendment some thoughtful consideration and wasn't in a position to vote intelligently on the item, therefore, would prefer the item be tabled.

MOTION TO TABLE ITEM 12 MADE BY COMMISSIONER ELLIS, SECONDED BY COMMISSIONER GRAHAM AND PASSED BY A VOTE OF 6 TO 2.

Ayes: Commissioners Graham, Martinez, Sutherland, Harris, Ruck, Ellis

Nays: Commissioners Peña, Schwartz

13. Discussion and Action on Rule 13, Leave of Absence, Resignation, Sick Leave and Vacations and associated changes to Ordinance 8064.

MOTION TO DELETE ITEM 13 MADE BY COMMISSIONER ELLIS, SECONDED BY COMMISSIONER RUCK AND UNANIMOUSLY PASSED.

14. Discussion and Action on Request to have name placed on Reinstatement List:

A. Casillas, Thomas – Coach Operator – Sun Metro

MOTION TO APPROVE ITEM 14A MADE BY COMMISSIONER SUTHERLAND, SECONDED BY COMMISSIONER MARTINEZ AND UNANIMOUSLY PASSED.

B. Rodriguez, Oscar – Police Officer – Police Department

MOTION TO APPROVE ITEM 14B MADE BY COMMISSIONER SUTHERLAND, SECONDED BY COMMISSIONER MARTINEZ AND UNANIMOUSLY PASSED.

15. Appeal of Denial of Reinstatement Request by Department Head:

Sanchez, Antonio - Police Officer - Police Department

Commissioner Ellis asked if this was a matter that should be heard in Executive Session. Mr. Sanchez said Open Session would be fine.

Commissioner Sutherland asked Mr. Sanchez how he arrived at being the Station Manager.

Mr. Sanchez explained that the previous incumbent had been terminated and he was considered for the position and selected, he detailed the events that led to this. He explained that the Station Manager position is a civilian position and detailed the duties of that position and answered the questions from the Commission.

Paul Cross, Interim Deputy Chief for the Police Department, stated that the Department's position was not to reinstate Mr. Sanchez..

Commissioner Ellis asked if a PID (Investigative Document) was initiated.

Chief Cross said it was not.

Discussion.

Commissioner Ellis commented that usually a 2 weeks notice was required when an employee submits his resignation.

Commissioner Peña believed that denying Mr. Sanchez reinstatement was rather harsh. He commented that the incident that took place was in-house and there was no danger to society.

Chief Cross explained that being insubordinate was a very serious allegation within the Police Dept. He also told the Commission that they tried to talk Mr. Sanchez out of resigning before he resigned.

Discussion.

Commissioner Ellis asked Mr. Sanchez if he had previously intended to leave the City.

Mr. Sanchez said he intended to go to the Border Patrol and was going to give a 2 weeks notice, however, due to the circumstances he resigned on the day of the incident.

Ms. Bond read Rule 13.5.f reference two-weeks notice to the Commission.

Commissioner Martinez suggested that his reinstatement be approved with the condition that he attend anger management counseling.

Assistant City Attorney Martinez stated they could not make that request of the Department.

MOTION TO APPROVE ITEM 15 MADE BY COMMISSIONER MARTINEZ, SECONDED BY COMMISSIONER GRAHAM BUT FAILED BY A VOTE OF 5 TO 4 WITH THE TIE BROKEN BY THE CHAIR.

Ayes: Commissioners Peña, Graham, Martinez, Ruck
Nays: Commissioners Sutherland, Schwartz, Harris, Ellis, Berube

MOTION TO DENY ITEM 15 MADE BY COMMISSIONER SUTHERLAND, SECONDED BY COMMISSIONER ELLIS AND PASSED BY A VOTE OF 5 TO 4 WITH THE TIE BROKEN BY THE CHAIR.

Ayes: Commissioners Sutherland, Schwartz, Harris, Ellis, Berube
Nays: Commissioners Peña, Graham, Martinez, Ruck

16. Approve merit increases in accordance with C.S.C. Guidelines:

- A. Airport – Flores, Mercedes – Accounting Clerk
- B. Planning, Res & Dev – Valles, Maria C. – Planner I

MOTION TO APPROVE ITEM 16 MADE BY COMMISSIONER RUCK, SECONDED BY COMMISSIONER HARRIS AND UNANIMOUSLY PASSED.

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

- A. Rodriguez, Alfredo – Suspension – Sun Metro (03-SM-40PP)

Commissioner Ellis commented that in recent meetings they have seen various cases from Sun Metro in which the discipline is quite lenient.

Assistant City Attorney Marvin Foust said that he didn't understand the Hearing Officer's thought process as she sustained the charges yet reduced the discipline. He recommended the discipline of 3 days be upheld.

MOTION TO APPROVE THE HEARING OFFICER'S RECOMMENDATION AS FAR AS SUSTAINING THE CHARGES AND SPECIFICATIONS, THAT THE MITIGATION OF REDUCING THE SUSPENSION FROM 3 DAYS TO 2 DAYS BE SET ASIDE, AND THAT THE ORIGINAL SUSPENSION OF 3 DAYS BE UPHELD, MADE BY COMMISSIONER ELLIS, SECONDED BY COMMISSIONER HARRIS AND UNANIMOUSLY PASSED.

- B. Thomas, Robert – Termination – Sun Metro (04-SM-03PP)

MOTION TO APPROVE HEARING OFFICER PATRICIA PALAFOX' RECOMMENDATION AS NOTED BELOW, MADE BY COMMISSIONER ELLIS, SECONDED BY COMMISSIONER GRAHAM AND UNANIMOUSLY PASSED.

"I RECOMMEND THAT THE TERMINATION OF ROBERT THOMAS BE SUSTAINED."

- C. Moncada, Carlos – Suspension – Police Dept. (03-PD-39JO)

Commissioner Ellis didn't believe there was a recommendation for them to approve. Apparently the employee wanted to abandon his appeal.

MOTION TO DELETE ITEM 18 MADE BY COMMISSIONER RUCK, SECONDED BY COMMISSIONER MARTINEZ AND UNANIMOUSLY PASSED.

18. Approve Hearing Officer's Statement:

Olivas, Jesus M. – Dated 03/29/04 – 03PD39JO

MOTION TO APPROVE ITEM 18 MADE BY COMMISSIONER SUTHERLAND, SECONDED BY COMMISSIONER ELLIS AND UNANIMOUSLY PASSED.

19. Discussion and Action on Appeal of Disqualification to take Examination in accordance with C.S.C. Rule 9.1.c.:

Ayala, Robert Jr. – Airport Maintenance Worker

Mr. Ayala was present. The Commissioners asked Mr. Ayala several questions reference the book he studied. He told the Commission the book did give him new knowledge to help him be better prepared for the test.

MOTION TO APPROVE ITEM 19 MADE BY COMMISSIONER RUCK, SECONDED BY COMMISSIONER GRAHAM AND PASSED BY A VOTE OF 6 TO 2.

Ayes: Commissioners Peña, Graham, Martinez, Sutherland, Harris, Ruck

Nays: Commissioners Schwartz, Ellis

20. 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.:

A. Gomez, Jose – Airport Maintenance Worker

Mr. Gomez was present. Chair Berube read the specifics of Mr. Gomez' disqualification.

Mr. Gomez stated that he was focusing on building maintenance experience as opposed to grounds maintenance. He doesn't have formal experience except for his home, but he can catch on fast.

Discussion.

MOTION TO APPROVE ITEM 20A MADE BY COMMISSIONER GRAHAM, SECONDED BY COMMISSIONER RUCK BUT FAILED BY A VOTE OF 6 TO 2.

Ayes: Commissioners Graham, Ruck

Nays: Commissioners Peña, Martinez, Sutherland, Schwartz, Harris, Ellis

MOTION TO DENY ITEM 20A MADE BY COMMISSIONER ELLIS, SECONDED BY COMMISSIONER HARRIS AND PASSED BY A VOTE OF 5 TO 3.

Ayes: Commissioners Graham, Sutherland, Schwartz, Harris, Ellis

Nays: Commissioners Peña, Martinez, Ruck

Commissioner Sutherland asked if Human Resources could speak to Mr. Gomez and explain to him what he needs to do next time he fills an application so he will turn it in better prepared.

B. Guzman, Miguel – Airport Maintenance Worker

Mr. Guzman was present. Chair Berube read the specifics of Mr. Guzman's disqualification. Mr. Guzman detailed his experience for the Commission.

Commissioner Sutherland asked Mr. Guzman about the inspections that were done after he built his home. He said there are building codes that have to be met.

Mr. Guzman stated he had several people help him and everything was approved by the City. He also commented that since he lives in the colonias they didn't have to abide by the codes.

MOTION TO DENY ITEM 20B MADE BY COMMISSIONER ELLIS, SECONDED BY COMMISSIONER HARRIS AND PASSED BY A VOTE OF 7 TO 1.

Ayes: Commissioners Peña, Martinez, Sutherland, Schwartz, Harris, Ruck, Ellis

Nay: Commissioner Graham

C. Yzaguirre, Francisco N. III – Airport Maintenance Worker

Mr. Yzaguirre was present. Chair Berube read the specifics of Mr. Yzaguirre's disqualification. Mr. Yzaguirre stated he didn't list the grounds maintenance experience because this is work that he did 26 years ago as his very first job.

The Commission suggested to Mr. Yzaguirre that he include this in his next application and it will most likely qualify him.

MOTION TO DENY ITEM 20C MADE BY COMMISSIONER ELLIS, SECONDED BY COMMISSIONER HARRIS AND PASSED BY A VOTE OF 7 TO 1.

Ayes: Commissioners Peña, Martinez, Sutherland, Schwartz, Harris, Ruck, Ellis
Nay: Commissioner Graham

D. Anaya, Edmundo – Communication Dispatcher II

Mr. Anaya was not present. Paul Mueller, Human Resources Analyst told the Commission that Mr. Anaya had to go out of town on personal business but requested the Commission consider his appeal. Chair Berube read the specifics of Mr. Anaya's disqualification.

Commissioner Sutherland asked why the radio experience Mr. Anaya had was not substantial enough for him to qualify.

Mr. Mueller said it did not qualify him because the experience Mr. Anaya had was with a mobile unit in the field and this position is as a dispatcher in a central dispatching station.

Commissioner Ruck asked where it said it had to be experience in a fixed station.

Mr. Mueller said it wasn't in the job specifications, it came from the subject matter expert.

Discussion.

MOTION TO APPROVE ITEM 20D MADE BY COMMISSIONER ELLIS, SECONDED BY COMMISSIONER RUCK AND UNANIMOUSLY PASSED.

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

The Commission retired into Executive Session at 8:15 p.m. to discuss Item 21, and reconvened for Open Session at 9:25 p.m.

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

21. 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. Moore, Guillermo – Airport Maintenance Worker (11.3.g.)

Mr. Moore was not present. The matter was discussed in Executive Session. The following action was taken in Open Session.

MOTION TO APPROVE ITEM 21A MADE BY COMMISSIONER RUCK, SECONDED BY COMMISSIONER SUTHERLAND AND UNANIMOUSLY PASSED.

B. Yzaguirre, Francisco N. III – Airport Maintenance Worker (Ord. 8064, 5.1.b.)

(This item was moot as Mr. Yzaguirre was denied under Rule 8.1.d.1.)

MOTION TO DELETE ITEM 21B MADE BY COMMISSIONER ELLIS, SECONDED BY COMMISSIONER RUCK AND UNANIMOUSLY PASSED.

22. Discussion and Action on Review of Open Items List:

A. Professional/Managerial Guidelines Exploratory Committee

B. Quarterly and Yearly Reports of the CSC (Proposed Measurables)

Ms. Bond gave the Commission a report on the Performance Evaluation status for all departments.

Commissioner Berube commented that this was a tremendous improvement from when this issue started and all departments were so far behind on their evaluations.

C. Review and amend CSC rules as appropriate

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

THE MEETING ADJOURNED AT 9:26 P.M.


PAUL BERUBE, C.S.C. CHAIR


TERRY BOND, C.S.C. SECRETARY

4-22-04
DATE APPROVED