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**MINUTES FOR A REGULAR MEETING OF THE CIVIL SERVICE COMMISSION
HELD AT 6:00 P.M., THURSDAY EVENING, APRIL 13, 2006
CITY COUNCIL CHAMBERS, #2 CIVIC CENTER PLAZA – 2ND FLOOR**

MEMBERS PRESENT: Boureslan, Ali
Ellis, William - Chair
Gezelius, Ken
Graham, Elijah
Peña, Andrew
Reynolds, Thurman
Ruck, Lance
Schwartz, Elma
Scott, Valerie

The meeting convened at 6:05 p.m. with 9 Commissioners present and Chair Peña presiding.

Appreciation plaques were presented to Commissioners Ellis and Peña, this was their last meeting. Commissioners Peña and Ellis briefly spoke about their experiences on the Commission.

Mayor Cook told the Commission that they played an extremely important role in our government and thanked the Commissioners for their service.

CONSENT AGENDA

Discussion and Action on appointment to fill unexpired term of Chair in accordance with Rule 1, Section 3.

Assistant City Attorney Lupe Cuellar said that Section 6.1-11 of the Charter states that a Chair may not be elected for successive terms. She said that if a Chair was elected tonight to finish the term for 2 more meetings, that person could not be elected to serve the next term.

Commissioner Ellis disagreed and stated the Charter states that the Chair can be elected to a one-year term. He also referred to Rule 1, Section 3, and explained his understanding of that rule. He believed the Commission was not electing a Chair tonight, they were appointing someone to fill the unexpired term of Chair.

Discussion.

MOTION TO APPOINT COMMISSIONER BOURESLAN AS CHAIR AND TO NOTE THAT THE SAME PERSON(S) COULD BE APPOINTED AGAIN AT THE MAY OFFICER ELECTIONS, MADE BY COMMISSIONER GRAHAM, SECONDED BY COMMISSIONER SCHWARTZ AND UNANIMOUSLY PASSED.

Commissioner Ruck wanted it noted for the record that Section 6.1-11 of the Charter stated that the Chairman could not be elected for successive terms, a term being a one-year period. He said they wouldn't be in violation of the Charter because Commissioner Boureslan would only be serving for a two-meeting period.

Linda Thomas pointed out a correction to Item 8C, the letter "t" should be removed after the name "Chris." She also wanted to delete Items 9A and 9B.

Commissioner Gezelius requested Item 5C be moved to the Regular Agenda.

Commissioner Boureslan requested Item 1A be moved to the Regular Agenda.

Michelle LePage requested that Item 2D be moved to the Regular Agenda.

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

CONSENT AGENDA

1. Discussion and Action on Approval of Minutes:

- A. February 20, 2006 (Tabled 03/09/06; 03/23/06)

Chair Boureslan stated that during the February 20th meeting they discussed the Engineering Section Chief job specification. The City Manager had said this position had been removed completely from the list of classified jobs. He wanted the minutes to reflect that.

Ms. Thomas said that was correct, the position no longer existed in the new Classification and Compensation study.

(The minutes will be corrected.)

- B. February 23, 2006 (Tabled 03/09/06; 03/23/06)
C. March 9, 2006 (Tabled 03/23/06)
D. March 21, 2006
E. March 23, 2006

2. Notice of Promulgation of Eligible Lists:

- A. Automotive Service Worker = Promulgated 04/04/06 (P-3)(O-24)
B. Transit Planning & Program Manager = Promulgated 03/31/06 (P-4)
C. Labor Foreman I = Promulgated 03/30/06 (P-13)(CR-1)(O-1)
D. Department Administrative Manager = Promulgated 03/29/06 (P-2)(O-2)

This item was addressed at the beginning of the Regular Agenda.

Ms. LePage requested that this item be addressed after Item 16C, her appeal of disqualification for this position.

MOTION TO TABLE ITEM 2B TO THE END OF THE AGENDA MADE BY COMMISSIONER RUCK, SECONDED BY COMMISSIONER PEÑA AND UNANIMOUSLY PASSED.

This item was addressed after Item 16.

Ms. LePage told the Commission that she was not on the list.

Ms. Thomas told the Commission that Ms. LePage would not be on the list because she did not pass the exam. She stated that Ms. LePage could review her feedback.

Ms. LePage stated that similar to an earlier case she had submitted an appeal to the Commission which was not posted on the agenda at the time. She told the Commission that that particular appeal was bulked up with the backup on her current item. She stated that she had filed a miscellaneous appeal on some questions that were contained in the supplemental documentation that she submitted. She said that if the records review was based on an evaluation of education and experience and the Commission just qualified her on her education and experience she didn't understand why she could not possibly make a passing score.

Ms. Thomas explained that the records review was an evaluation of education and experience. She said that an applicant could meet the minimum qualifications but still not meet the standards for the examination. Ms. LePage could be added to the eligible list as "failed."

Discussion.

Ms. Thomas suggested this item be tabled and then Ms. LePage could submit her other appeal at the next meeting if she desired, and the list could be approved then.

MOTION TO TABLE ITEM 2D MADE BY COMMISSIONER SCHWARTZ, SECONDED BY COMMISSIONER PEÑA AND UNANIMOUSLY PASSED.

- E. Aquatics Supervisor = Promulgated 03/28/06 (O-6)
F. Groundskeeper = Promulgated 03/28/06 (P-12)(O-47)

- G. Human Resources Director = Promulgated 03/27/06 (O-4)
 - H. Park Area Supervisor = Promulgated 03/23/06 (P-5)
 - I. Public Safety Dispatcher = Promulgated 03/23/06 (P-9)(O-85)
 - J. Library Information Specialist II = Promulgated 03/21/06 (P-10)(O-7)
 - K. Graphics Technician = Promulgated 03/20/06 (O-7)
 - L. Engineering Technician III = Promulgated 03/17/06 (P-3)(O-4)
 - M. Customer Relations and Billing Supervisor = Promulgated 03/16/06 (P-17)
 - N. Customer Relations Clerk = Promulgated 03/15/06 (P-2)(CR-1)(O-30)
3. Discussion and Action on request to assign pending appeal cases:
- A. Hernandez, Lilia – Termination – Mass Transit
 - B. Muñoz, Belinda – Termination – Fire Dept.
4. Discussion and Action on request to have name placed on Transfer List:
- A. Bailon, Alfredo Jr. – Laborer - El Paso Water Utilities
 - B. Gonzalez, Maria – Personnel and Accounting Clerk – Airport
5. Discussion and Action on request to have name placed on Reinstatement List:
- A. Bejarano, Jose – Firefighter – Fire Dept.
 - B. Lopez, Leticia – Public Safety Communicator – Police Dept.
 - C. Perez, Jose Luis – Coach Operator – Mass Transit

This item was addressed at the beginning of the Regular Agenda.

Commissioner Gezelius pointed out that the department did not recommend reinstatement.

Terry Lee Scott, Director of Mass Transit, stated that the department has a policy that when an employee leaves they give a 2-week notice. Mr. Perez didn't give a two-week notice, therefore they do not recommend reinstatement because he did not leave the department in good standing.

Discussion.

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

Ayes: Commissioners Graham, Reynolds, Ellis, Scott, Schwartz, Ruck

Nays: Commissioner Gezelius, Peña

- D. Zacarias, Mario – Recreation Leader II – Parks & Recreation
 - E. Ruiz, Monica – Cashier Clerk – El Paso Zoo
6. Discussion and Action on Request for Temporary Promotion:
- A. De Los Santos, Victor – Police Department
From: Police Records Unit Supervisor
To: Records Supervisor
 - B. Sandoval, Susana – Police Department
From: Police Records Specialist III
To: Police Records Unit Supervisor
 - C. Parra, Abraham – Street Department (Extension)
From: Laborer
To: Street Resurfacing Inspector

7. Discussion and Action on request to reset ending date of probationary period in accordance with Article VI, Section 6.9-1 of the C.S.C. Charter:
- Urquizo, Arturo – Equipment Operator III – Street Department
8. Discussion and Action on Approval of Hearing Officer's Invoice:
- A. Borunda, Chris – Invoice #36352
B. Borunda, Chris – Invoice #36353
C. Borunda, Christ – Invoice #36354 (*correction*)
9. Discussion and Action on Request for Extension of Eligible Lists for an additional six months:
- A. Accountant II.....Extended through 10/25/2006
B. Personnel & Accounting Clerk.....Extended through 10/27/06
C. Recreation Specialist.....Extended through 10/21/06

REGULAR AGENDA

Items 1A, 2D and 5C were discussed at the beginning of the Regular Agenda.

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

Mosher, Fran A. – Appointment – Mayor's Office

MOTION TO APPROVE ITEM 10A MADE BY COMMISSIONER PEÑA, SECONDED BY COMMISSIONER GEZELIUS AND UNANIMOUSLY PASSED.

11. Discussion and Action on appropriateness of request by Attorney Lisa Elizondo to discuss Rule 15 due to pending prehearing issue regarding Rule 15, and regarding Rule 15, Section 3 e as it concerns the pending issue.

Ms. Elizondo gave the Commission some background as to how this item came to them. She said that Lucy Bruce, her client, is an employee who is involved in an appeal before a Hearing Officer. The Hearing Officer requested that the parties submit briefs within two weeks regarding Rule 15 and the time provisions cited by that particular rule. She explained that the item posted on the agenda was not what she requested be posted. She said that the parties disagree as to what the triggering event is that occurs with respect to Rule 15 that the 60-day timeframe is supposed to run. She wanted clarification from the Commission on what is the triggering event for the 60-day time period.

Commissioner Ellis said this was Ms. Elizondo's item and it should have been posted as was tendered by her. He said that anybody who wishes to post an item on the agenda has the right to do so and they do so at their peril if the item is improperly or inadequately posted. He believed the Commission shouldn't consider the item until they have received a recommendation from the Hearing Officer.

Chair Boureslan asked if Ms. Elizondo was contacted before changing the wording on the agenda and if the Commission would be able to discuss the case.

Assistant City Attorney Lupe Cuellar said that the way the item was posted they would not be able to discuss the merits of the case.

Ms. Elizondo said that her goal was to get the Commission to clarify the Rule and even though the posting was modified without her consent she believed the posting was broad enough to discuss Rule 15.

John Batoon, Asst. City Attorney, believed it was incumbent upon the Hearing Officer to come back to the Commission with a recommendation since the case had been assigned to him.

Commissioner Ruck agreed that Ms. Elizondo's item should have been posted as she requested.

Discussion.

Elaine Hengen, Assistant City Attorney, said that it was such a fundamental issue that was coming forward that the City felt they needed to bring it forward the way it was posted. She said that communication was not had with Ms. Elizondo and that was an oversight on the City's part and Ms. Elizondo has gotten an apology for that.

Commissioner Ellis said that if somebody submits something to be posted on the agenda it should be posted exactly as it is submitted.

MOTION TO DELETE ITEM 11 MADE BY COMMISSIONER ELLIS, SECONDED BY COMMISSIONER GEZELIUS AND UNANIMOUSLY PASSED.

12. Discussion and Action on Request filed by Jorge Berry for Reconsideration to be heard by the full Civil Service Commission.

Bill Arballo, AFSCME Local 59, representative for Mr. Berry, stated that the Commission is charged with following their own rules.

Assistant City Attorney Lupe Cuellar told the Commission that they needed to make a motion on whether they were going to reconsider this item and someone who voted in the majority at that time would have to make the motion. If the reconsideration was approved they would not be able to take action on the termination itself.

Commissioner Ellis disagreed and believed they could have discussion on the termination itself.

Discussion.

Commissioner Ruck believed that they would have to wait until the next meeting to actually discuss the termination because some of the Commissioners are not familiar with the case and they need to read the backup.

There was discussion on whether the motion had to be seconded by a Commissioner who voted in the majority on the original motion.

Commissioner Ellis read Rule 1, Section 7.2.b. which reads, "Motions shall pass upon a majority vote of Commissioners present, provided further, that any Motion to Reconsider a prior action of the Commission shall only be made and seconded by Commissioners who voted with the majority in the original action."

Commissioner Ellis told the Chair that he couldn't vote but that he could second the motion.

MOTION TO RECONSIDER MR. BERRY'S ITEM MADE BY COMMISSIONER GEZELIUS, SECONDED BY COMMISSIONER BOURESLAN AND PASSED BY A VOTE OF 7 TO 1.

Ayes: Commissioners Peña, Graham, Reynolds, Gezelius, Ellis, Scott, Ruck

Nays: Commissioner Schwartz

Commissioner Ruck commented that the Secretary should post the item for the next meeting.

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

Rubalcava, Martin – Toll Collector – Street Dept. (Tabled 10/13/05; 12/08/05; 03/09/06)

Commissioner Ruck reminded the Commission that this man was waiting for documentation from the City Attorney's office and didn't see why the item wasn't tabled.

MOTION TO DENY ITEM 13 MADE BY COMMISSIONER ELLIS, SECONDED BY COMMISSIONER GEZELIUS AND PASSED BY A VOTE OF 6 TO 2.

Ayes: Commissioners Peña, Reynolds, Gezelius, Ellis, Scott, Schwartz

Nays: Commissioner Graham, Ruck

14. Discussion and Action on Grievance filed by:

A. Arellano, Jaime – Mass Transit – Violation of Rule 13

Chair Boureslan commented that this looked like a group of employees wanted to grieve and he didn't believe they could unless they were under collective bargaining.

Assistant City Attorney Lupe Cuellar asked Mr. Arellano if he was making an allegation that the rule was violating his own rights. Mr. Arellano said yes.

Chair Boureslan told Mr. Arellano to address the item as an individual, not as a group.

Mr. Arellano stated that in 2004 he worked an average of 70 hours per week, yet he was given benefits as a 40-hour per week employee instead of the 56-hour per week benefits he believed he should receive.

Commissioner Ruck asked Mr. Scott if Mr. Arellano was considered a 40-hour per week employee and if he were to work over 40 hours he would be paid overtime at time-and-a-half but he would not get additional benefits such as the collective bargaining employees do.

Terry Lee Scott, Director of Mass Transit, said that was correct.

Commissioner Reynolds said that the Classification and Compensation Ordinance clearly stated that the basic work-week was 40 hours as stated under "Hours of Work."

Mr. Arellano felt that the rules that he submitted showed two tables to determine benefits and at this point believed he had exhausted all his resources within the City and would forward his grievance to the U.S. Department of Labor for further analysis.

Commissioner Ruck asked Mr. Scott if any employee's leave balances had ever been determined by their overtime hours.

Mr. Scott said not to his knowledge.

MOTION TO DENY ITEM 14A MADE BY COMMISSIONER ELLIS, SECONDED BY COMMISSIONER PEÑA AND UNANIMOUSLY PASSED.

B. Arellano, Jaime – Mass Transit – Unsafe Bus Stops

Mr. Arellano said that his superintendent did not respond to this grievance claiming that he couldn't because it was submitted by a group. He thanked Mr. Scott for responding to the grievance. However, he said that only 3 of the 10 mentioned unsafe bus stops were removed. He gave a couple of examples of unsafe bus stops and stated there were several unsafe bus stops.

Chair Boureslan asked if he knew how many accidents had occurred at these bus stops.

Mr. Arellano said he didn't.

Commissioner Ellis said the grievance cited Rules 27 and 28 and he believed those rules didn't have anything to do with the substance of the grievance. He didn't believe they had the authority to order the reengineering of the bus stops.

MOTION TO DENY ITEM 14B MADE BY COMMISSIONER ELLIS, SECONDED BY COMMISSIONER GEZELIUS AND UNANIMOUSLY PASSED.

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

Alvarez, Jose – Police Officer

Commissioner Gezelius said that within the body of the writeup was a mention of a Mr. Senclair and wondered about that.

Minnie Holguin, Police Department, stated that it was an oversight on her part and it should say Mr. Alvarez.

MOTION TO APPROVE ITEM 15 MADE BY COMMISSIONER ELLIS, SECONDED BY COMMISSIONER RUCK AND UNANIMOUSLY PASSED.

16. 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. Talamantes, Rosa – Accountant III

Ms. Talamantes was present and believed she was qualified to take this examination. She said that it was an oversight on her part that she forgot to include her resume with her application, thus all of her experience was not counted. She requested that her appeal be granted.

Commissioner Peña asked if Ms. Talamantes would meet the qualifications with the information submitted in her resume.

Mr. Fargo said yes.

Commissioner Gezelius asked if it was possible to screen the applications so that they wouldn't have to come to Commission.

Mr. Fargo said they receive over 1,000 applications per month and they didn't have a mechanism or the resources to check every single application as it arrives.

Discussion.

MOTION TO APPROVE ITEM 16A MADE BY COMMISSIONER RUCK, SECONDED BY COMMISSIONER GRAHAM BUT FAILED BY A VOTE OF 3 TO 5.

Ayes: Commissioners Graham, Reynolds, Ruck

Nays: Commissioner Ellis, Gezelius, Peña, Schwartz, Scott

MOTION TO DENY ITEM 16A MADE BY COMMISSIONER ELLIS, SECONDED BY COMMISSIONER SCHWARTZ AND PASSED BY A VOTE OF 5 TO 3.

Ayes: Commissioners Ellis, Gezelius, Peña, Schwartz, Scott

Nays: Commissioner Graham, Reynolds, Ruck

B. Frausto, Ray – Automated Refuse Collection Operator

Mr. Frauso was present and stated that he left some things out of his application as well but was allowed to take the test conditionally.

MOTION TO DENY ITEM 16A MADE BY COMMISSIONER ELLIS, SECONDED BY COMMISSIONER PEÑA AND PASSED BY A VOTE OF 7 TO 1.

Ayes: Commissioner Ellis, Reynolds, Gezelius, Peña, Schwartz, Scott, Ruck

Nays: Commissioners Graham

Commissioner Gezelius asked how long an applicant would have to wait to retake a test.

Mr. Fargo explained the procedures.

C. LePage, Michelle – Department Administrative Manager

Ms. LePage said the first issue was her disqualification for lack of a bachelor's degree. She said that when she first called HR she was told that her degree was relevant and that that was not an issue. She said she is currently an Administrative Analyst and to qualify for this position she needed the same degree that this position she is appealing today requires. She said she was currently on the eligible lists for two other positions which required the same degree, the Transit Planning and Program Manager and the Consumer Affairs Administrator. She said that as far as supervisory experience, she had recently applied for a position called Strategic Budget Advisor and had elaborated on her supervision experience (she had copies for the Commission).

Discussion.

MOTION TO APPROVE ITEM 16C MADE BY COMMISSIONER ELLIS, SECONDED BY COMMISSIONER GEZELIUS AND UNANIMOUSLY PASSED.

D. Prine, Laura – Deputy City Clerk

Ms. Prine told the Commission that she believed her 19 years of experience qualified her to take this examination. She said she was currently performing the duties of the Deputy City Clerk since June 2005 and was doing a good job of filling that position temporarily. She told the Commission she was pursuing her degree even though she was a single parent and was working full-time. She asked for the Commission's consideration.

MOTION TO DENY ITEM 16D MADE BY COMMISSIONER PEÑA, SECONDED BY COMMISSIONER ELLIS AND PASSED BY A VOTE OF 5 TO 2 WITH 1 ABSTENTION.

Ayes: Commissioners Ellis, Gezelius, Peña, Schwartz, Scott

Nays: Commissioner Graham, Ruck

Abstain: Commissioner Reynolds

E. Salcido, Michael – Photocopy Operator

Mr. Salcido was not present.

MOTION TO DENY ITEM 16E MADE BY COMMISSIONER SCHWARTZ, SECONDED BY COMMISSIONER GEZELIUS AND UNANIMOUSLY PASSED.

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

The Commission retired into Executive Session at 8:35 p.m. to discuss Item 17, and reconvened for Open Session at 9:20 p.m.

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

17. 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. Delgado, Cynthia – Accountant III (11.3.g.)
- B. Canales, Alvaro – Automated Refuse Collection Operator (Ord. 8064, 5.1.b.)
- C. Muñoz, Carlos – Automated Refuse Collection Operator (Ord. 8064, 5.1.b.)
- D. Muñoz, Carlos – International Coach Operator (Ord. 8064, 5.1.b.)
- E. Muñoz, Oscar – Automated Refuse Collection Operator (Ord. 8064, 5.1.b.)
- F. Gomez, Jaime – Coach Mechanic I (Ord. 8064, 5.1.b.)
- G. Gomez, Jaime – Coach Mechanic II (Ord. 8064, 5.1.b.)
- H. McReynolds, Terry – Photocopy Operator (Ord. 8064, 5.1.b.)

- I. Ortiz, Martin – Pre-Treatment Inspector EPWU (Ord. 8064, 5.1.b.)
- J. Yamaguchi, Jesus – Refuse Collection Division Supervisor (Ord. 8064, 5.1.b.)

The matters on Item 17A through 17K were discussed in Executive Session. The following action was taken in Open Session. The appellants for Items 17A-H and 17J-K were present. Appellant for Item 17I was not present.

MOTION TO APPROVE ITEMS 17A-17J MADE BY COMMISSIONER ELLIS, SECONDED BY COMMISSIONER GRAHAM AND UNANIMOUSLY PASSED.

- K. Lozano, Salvador – Shuttle Bus Operator (8.1.d.4.)

Bill Arballo, AFSCME Local 59, said that Mr. Lozano had been present with his small child most of the evening but was not able to stay until now because of his child and requested the item be tabled until the next meeting.

MOTION TO TABLE ITEM 17K MADE BY COMMISSIONER ELLIS, SECONDED BY COMMISSIONER REYNOLDS BUT FAILED BY A VOTE OF 5 TO 3.

Ayes: Commissioners Ellis, Reynolds, Schwartz
Nays: Commissioner Graham, Gezelius, Peña, Scott, Ruck

MOTION TO DELETE MADE BY COMMISSIONER GEZELIUS BUT FAILED FOR LACK OF A SECOND.

Mr. Arballo said that this has nothing to do with anything discussed previously. He said this had to do with the CSC Rules and the information provided by HR being conflicting information.

MOTION TO DENY ITEM 17K MADE BY COMMISSIONER ELLIS, SECONDED BY COMMISSIONER PEÑA AND PASSED BY A VOTE OF 6 TO 2.

Ayes: Commissioners Graham, Reynolds, Gezelius, Peña, Scott, Ruck
Nays: Commissioner Ellis, Schwartz

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

THE MEETING ADJOURNED AT 9:26 P.M.

Ali Boureslan

ALI BOURESLAN, C.S.C. CHAIR

Linda Ball Thomas
LINDA BALL THOMAS, C.S.C. SECRETARY

05-11-06

DATE APPROVED