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**MINUTES FOR A REGULAR MEETING OF THE CIVIL SERVICE COMMISSION  
HELD AT 6:00 P.M., THURSDAY EVENING, APRIL 27, 2006  
CITY COUNCIL CHAMBERS, #2 CIVIC CENTER PLAZA – 2ND FLOOR**

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MEMBERS PRESENT: Boureslan, Ali - Chair  
Brannon, Edith  
Gezelius, Ken  
Graham, Elijah  
Mosher, Fran  
Reynolds, Thurman  
Ruck, Lance  
Schwartz, Elma  
Scott, Valerie

The meeting convened at 6:04 p.m. with 9 Commissioners present and Chair Boureslan presiding.

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

MOTION TO APPOINT COMMISSIONER GEZELIUS AS VICE CHAIR MADE BY COMMISSIONER RUCK, SECONDED BY COMMISSIONER GRAHAM AND UNANIMOUSLY PASSED.

Commissioner Graham requested that Item 1 be moved to the Regular Agenda.

Commissioner Ruck requested that Item 3A be moved to the Regular Agenda.

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

**CONSENT AGENDA**

1. Discussion and Action on Approval of Minutes:

April 13, 2006

Commissioner Graham stated that the minutes didn't reflect the motion to appoint Commissioner Boureslan as Chair correctly. He said the motion included that the persons appointed as Chair and Vice Chair could be elected again in the May election of officers.

MOTION TO TABLE ITEM 1 FOR THE AMENDMENTS TO BE MADE TO THE MINUTES MADE BY COMMISSIONER RUCK, SECONDED BY COMMISSIONER SCHWARTZ AND UNANIMOUSLY PASSED.

2. Discussion and Action on Approval of Contracts:

Personal Services Contract with Monica Acuña to perform the duties of Legal Secretary from May 19, 2006 through November 18, 2006, for the City Attorney's Office.

3. Notice of Promulgation of Eligible Lists:

A. Department Administrative Manager = Promulgated 03/29/06 (P-2)(O-2) (Tabled 04/13/06)

Michelle LePage had requested this item be tabled.

Linda Thomas, CSC Secretary/HR Director, requested that this item not be tabled and that they hear the appeal on Item 13 which was related to this item before making a decision.

MOTION TO TABLE ITEMS 3A AND 13 MADE BY COMMISSIONER RUCK, SECONDED BY COMMISSIONER GRAHAM BUT FAILED BY A VOTE OF 5 to 3

Ayes: Commissioners Brannon, Gezelius, Schwartz, Scott, Mosher  
 Nays: Commissioner Graham, Reynolds, Ruck

Discussion.

David Almonte, OMB Director, asked the Commission to not table the item. He said that this was a critical position for his department and he needed the list approved so that he could hire someone.

MOTION TO APPROVE ITEM 3A MADE BY COMMISSIONER GEZELIUS, SECONDED BY COMMISSIONER SCHWARTZ AND PASSED BY A VOTE OF 6 TO 1 WITH 1 ABSTENTION.

Ayes: Commissioners Brannon, Gezelius, Schwartz, Scott, Mosher  
 Nays: Commissioner Graham  
 Abstain: Commissioner Ruck

- B. Personnel Technician = Promulgated 04/17/06 (P-9)(CR-3)
- C. Accounting Technician = Promulgated 04/14/06 (P-8)(O-13)
- D. Deputy Director of Financial Services = Promulgated 04/10/06 (O-1)
- E. Airport Operations Officer = Promulgated 04/05/06 (P-1)(CR-3)(O-1)
- F. Public Services Librarian = Promulgated 04/05/06 (O-5)
- G. Traffic Signs & Markings Worker II = Promulgated 04/05/06 (P-8)

4. Discussion and Action on request to assign pending appeal cases:

Sifuentes, Manual – Termination – Environmental Services

5. Discussion and Action on request to have name placed on Reinstatement List:

Ayers, Celia – Secretary I – Development Services

#### **REGULAR AGENDA**

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

Gardon, Rafael – Recreation Services Supervisor – Parks & Recreation

Commissioner Scott read the committee' recommendation which was to deny Mr. Gardon's appeal.

MOTION TO ACCEPT THE COMMITTEE'S RECOMMENDATION MADE BY COMMISSIONER GEZELIUS, SECONDED BY COMMISSIONER BRANNON AND UNANIMOUSLY PASSED.

7. Discussion and Action on Civil Service Rules:

- A. Rule 1, Civil Service Commission
- B. Rule 2, Human Resources Director
- C. Rule 3, Department Heads
- D. Rule 4, Classification
- E. Rule 7, Provisional and Temporary Appointments
- F. Rule 8, Applications
- G. Rule 19, Departmental Rules
- H. Rule 25, Driver Safety Standards

A committee consisting of Commissioners Graham (Chair), Scott, Reynolds and Boureslan was assigned to review the proposed amendments and make a recommendation to the Commission.

Bill Arballo, AFSCME Local 59, requested that he be notified of the date and location of the meeting.

Joyce Wilson, City Manager, commented that her office set up an employee ad hoc advisory group which had representation for employees city-wide, to include AFSCME Local 59.

Discussion.

Assistant City Attorney Lupe Cuellar said the law prohibits the City from recognizing a union as a collective bargaining agent for the employees. This doesn't mean that they can't attend, they can attend and submit their input.

Rafael Gardon, City Employee, stated he was a member of the Employee's Association and of AFSCME and requested that a representative from AFSCME be allowed to participate so they could bring in their expertise and insight to the process.

Chair Boureslan stated that input from all interested parties is welcome.

8. Discussion and Action on the impact of Rule 15, Section 3.d. as it applies to the facts and timing of discipline in the Lucy Bruce case (05-ZO-19BY).

MOTION TO ADDRESS ITEM 8 AFTER ITEM 9 MADE BY COMMISSIONER RUCK, SECONDED BY COMMISSIONER SCOTT AND UNANIMOUSLY PASSED.

9. Discussion and Action regarding Rule 15 of the Civil Service Rules.

This item was discussed before Item 8.

Lisa Elizondo, prior City Attorney, stated that this rule was amended approximately a year ago to include a timeframe for which the City must act for disciplinary action. It provides for a 60 working day period of time for them to complete the investigation and take the disciplinary action. There has been some confusion about what the appropriate occurrence is that should trigger the 60-day time period. She believed that in cases where the incident occurs and management is aware of the incident shortly thereafter, the 60-day clock should begin from the date of the incident. She said that was nearly 90 actual days which they believed was reasonable.

John Batoon, Asst. City Attorney, believed the rule was very clear and he read the rule. He explained that what prompted the Commission to impose a limitation was that there were a few cases which involved delays of 1-2 years where the Department Head had ample time to investigate an issue, didn't do it and then imposed the discipline. He agreed that was clearly inappropriate but believed the rule now was very clear. He believed that in the case at point, the Lucy Bruce case, they needed to determine if the Department Head's time to investigate was reasonable or not.

Commissioner Ruck said that he was one of the Commissioners who served on the committee when this rule was revised, therefore he knew what the intent of the committee was when they revised this rule. He said there were only two Commissioners left who were on the committee. He gave a little history of how the rule was amended because he attended the City Council meeting when it was approved unanimously. He said he was having a problem because the City Attorneys never made the current arguments previously, not before the Commission, before City Council twice, or before the committee that was established after the amendment was approved. He believed the City was now trying to interpret what the Commission's rule meant, basically nullifying the authority of the Commission and the Council. He said he could tell them exactly where the time limit was but he wanted the entire Commission to review all the documents he had researched and would be presenting to them so they could read the history of this issue.

Assistant City Attorney Lupe Cuellar said she specifically remembered asking the Commission what the remedy for a violation would be. She was told at that time that they would get to that question when they had to. She wanted to make sure it was clear that if there was a violation of the rule it didn't mean that the charges and specifications were going to get thrown out.

Discussion.

MOTION TO TABLE ITEMS 8 AND 9 MADE BY COMMISSIONER RUCK, SECONDED BY COMMISSIONER GRAHAM AND PASSED BY A VOTE OF 7 TO 1.

Ayes: Commissioners Graham, Reynolds, Gezelius, Schwartz, Scott, Mosher, Ruck  
Nays: Commissioner Brannon

Commissioner Ruck also requested that Item 9 be placed before Item 8 on the next agenda.

10. Discussion and Action on appeal filed by Manuel Sifuentes reference unpaid sick leave in violation of Rule 13.

Bill Arballo, AFSCME Local 59, representative for Mr. Sifuentes, requested that the issue of the de facto suspension be included in the same hearing so that the Hearing Officer could determine whether in fact Mr. Sifuentes was the recipient of a de facto suspension which is in violation of Rule 13.

Commissioner Gezelius believed that since the case was already assigned to a Hearing Officer, the Hearing Officer could submit his recommendations to the Commission.

MOTION TO DELETE ITEM 10 MADE BY COMMISSIONER GEZELIUS, SECONDED BY COMMISSIONER SCHWARTZ AND UNANIMOUSLY PASSED.

11. Discussion and action on Civil Service Commission's prior action, taken on March 9, 2006, concerning the termination appeal of Jorge Berry.

Elaine Hengen, Assistant City Attorney, believed that at this time the Commission did not have substantive subject matter jurisdiction to go forward and consider this item any further. She detailed her reasons for this opinion.

Assistant City Attorney Lupe Cuellar agreed because there has to be finality to the Commission's actions, in this case a termination that was sustained, she referred to Charter Section 6.13-8. The only recourse the employee would have would be to go to court.

Mr. Arballo reminded the Commission that they voted to reconsider Mr. Berry's appeal of termination.

Discussion.

MOTION TO DELETE ITEM 10 MADE BY COMMISSIONER GEZELIUS, SECONDED BY COMMISSIONER RUCK AND PASSED BY A VOTE OF 7 TO 1.

Ayes: Commissioners Brannon, Reynolds, Gezelius, Schwartz, Scott, Mosher, Ruck  
Nays: Commissioner Graham

12. CIVIL SERVICE COMMISSION, ATTENDEE: "By means of this letter, I want to request in the most respectful way, that I be given the opportunity to bring my job problem before the previously named committee, with the purpose that they restore to me my job at the Street Department. And furthermore, that I be compensated according to internal regulations of the municipal government of El Paso, and according to the labor laws of this great company.

Assistant City Attorney Lupe Cuellar told the Commission that they no longer had jurisdiction because this person was no longer a City employee. She said there was a Charter provision which allows citizens to prefer charges but the provision has not been complied with. She said Mr. Medina was an employee of the City, he was going to be terminated but he resigned in lieu of termination, thus foregoing any right to appeal.

Mr. Medina brought a Spanish/English interpreter with him. Mr. Medina stated that he only wanted justice and a reasonable vote from the Commission in his case. He believed the information he was presenting to the Commission was a closed case and asked the Commission to please investigate the Street Department for their corruption of which he was a victim. He asked the Commission to please help him.

MOTION TO DELETE ITEM 12 MADE BY COMMISSIONER GEZELIUS, SECONDED BY COMMISSIONER SCOTT AND PASSED BY A VOTE OF 7 WITH 1 ABSTENTION.

Ayes: Commissioners Brannon, Reynolds, Gezelius, Schwartz, Scott, Mosher, Ruck  
Abstain: Commissioner Graham

- 13. Discussion and Action on Miscellaneous appeal filed by Michelle LePage reference Department Administrative Manager examination.

MOTION TO TABLE ITEM 13 MADE BY COMMISSIONER RUCK, SECONDED BY COMMISSIONER GRAHAM AND PASSED BY A VOTE OF 7 TO 1.

Ayes: Commissioners Graham, Reynolds, Gezelius, Schwartz, Scott, Mosher, Ruck  
Nays: Commissioner Brannon

- 14. 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. Ayala, Alejandro – Customer Service Inspector

Mr. Ayala was present and said he didn't realize he had to have a valid driver's license to qualify for this examination and explained that he did not have a valid driver's license.

Discussion.

MOTION TO DENY ITEM 14A MADE BY COMMISSIONER GEZELIUS, SECONDED BY COMMISSIONER BRANNON AND UNANIMOUSLY PASSED.

- B. LePage, Michelle – Strategic Budget Advisor

Ms. LePage was not present.

David Almonte, Director of OMB, stated that he was not in favor of this item being tabled because it was a critical position to his department in the midst of a budget process and it is imperative that he have a list in order to get someone on board to start as soon as possible.

MOTION TO DENY ITEM 14B MADE BY COMMISSIONER RUCK, SECONDED BY COMMISSIONER SCHWARTZ AND UNANIMOUSLY PASSED.

- C. Ayala, Ricardo – Traffic Signal Technician

Mr. Ayala was present. He stated he had experience in the Army and in addition has a bachelor's degree in electrical engineering plus 4 years of direct experience with computers and/or electronics.

MOTION TO DENY ITEM 14C MADE BY COMMISSIONER GEZELIUS, SECONDED BY COMMISSIONER BRANNON AND PASSED BY A VOTE OF 4 TO 4 WITH THE TIE BROKEN BY THE CHAIR.

Ayes: Commissioners Brannon, Gezelius, Scott, Ruck, Boureslan  
Nays: Commissioner Graham, Reynold, Schwartz, Mosher

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

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The Commission retired into Executive Session at 8:18 p.m. to discuss Item 15, and reconvened for Open Session at 8:32 p.m.

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

15. 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. Ayala, Alejandro – Customer Service Inspector (8.1.d.4.)

Mr. Ayala was present.

MOTION TO DELETE ITEM 15A MADE BY COMMISSIONER RUCK, SECONDED BY COMMISSIONER GEZELIUS AND UNANIMOUSLY PASSED.

B. Murphy, Arturo – EPWU Labor Lead Worker I (Ord. 8064, 5.1.b.)

C. Murphy, Arturo – Pipelayer (Ord. 8064, 5.1.b.)

Mr. Murphy was present. The matters were discussed in Executive Session. The following action was taken in Open Session.

MOTION TO APPROVE ITEMS 15B AND 15C MADE BY COMMISSIONER SCHWARTZ, SECONDED BY COMMISSIONER GEZELIUS AND UNANIMOUSLY PASSED.

D. Ovalle, Agustin – Groundskeeper (Ord. 8064, 5.1.b.)

E. Ovalle, Agustin – Laborer (Ord. 8064, 5.1.b.)

F. Ovalle, Agustin – Labor Foreman I (Ord. 8064, 5.1.b.)

Mr. Ovalle was present. The matters were discussed in Executive Session. The following action was taken in Open Session.

MOTION TO APPROVE ITEMS 15D, 15E AND 15F MADE BY COMMISSIONER GEZELIUS, SECONDED BY COMMISSIONER SCHWARTZ AND UNANIMOUSLY PASSED.

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

THE MEETING ADJOURNED AT 8:34 P.M.

*Ali Boureslan*

ALI BOURESLAN, C.S.C. CHAIR

*Linda Ball Thomas*

LINDA BALL THOMAS, C.S.C. SECRETARY

05/25/06

DATE APPROVED