

MINUTES FOR A REGULAR MEETING OF THE CIVIL SERVICE COMMISSION
TO BE HELD AT 6:00 P.M., THURSDAY EVENING, APRIL 28, 2005
CITY COUNCIL CHAMBERS, #2 CIVIC CENTER PLAZA – 2ND FLOOR

2B

MEMBERS PRESENT: Boureslan, Ali
Ellis, William
Gezelius, Ken
Martinez, Ramy
Peña, Andrew
Ruck, Lance – Chair
Schwartz, Elma
Scott, Valerie

MEMBERS ABSENT: Graham, Elijah

ALSO PRESENT:

Arrieta-Candelaria, Carmen – Comptroller
Bond, Terry – CSC Secretary/HR Director
Buenning, Rosy – CSC Recorder
Bustamante, Angel – Fire Dept.
Chavira, Hernando
Chavira, Manuel – Fire Dept.
Cuellar, Lupe – Assistant City Attorney
Fargo, Peter - Human Resources

Fierro, Lilia – Arts & Culture
Loweree, Fred – EPWU
Mueller, Paul - Human Resources
Sink, Mark
Surface, Steven – Fire Dept.
Thomas, Linda - Human Resources
Wilson, Joyce – City Manager
Worrell, Lilia – Municipal Court

The meeting convened at 6:02 p.m. with a quorum of 7 Commissioners present and Chair Ruck presiding. (*Commissioner Peña arrived before voting on Item 15*)

CONSENT AGENDA

Ms. Bond requested Item 1 be tabled and Item 6 be deleted as the appellant had withdrawn her request. She also told the Commission that they had been given a memorandum requesting that Item 12 be tabled until the following meeting.

Commissioner Ellis said he didn't have any problem tabling Item 12 but requested they wait until that item was reached before tabling it. He also requested that Item 14 be moved after Item 11 since they are related.

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

1. Discussion and Action on Approval of Minutes:

April 14, 2005

2. Discussion and Action on Approval of Contracts:

- A. Independent Services Contract with Magdalena Giron from May 2, 2005 through August 31, 2005 to perform the duties of Court Interpreter for the Municipal Clerk.
- B. Independent Services Contract with George Rodriguez from May 2, 2005 through August 31, 2005 to perform the duties of Court Interpreter for the Municipal Clerk.
- C. Personal Services Contract with Chris Anthony Cummings to perform the duties of Grant Administrator from May 5, 2005 through May 7, 2006, for the Office of Management and Budget.
- D. Personal Services Contract with Delila R. Sattizahn to perform the duties of Daycare Director from May 1, 2005 through August 31, 2005, for Parks & Recreation.

- E. Personal Services Contract with Carolyn J. Tromer to perform the duties of Club Rec Administrator from May 1, 2005 through August 31, 2005, for Parks & Recreation.
- F. Personal Services Contract with Linda DeBeer to perform the duties of Job Express Grants Planner from May 28, 2005 through May 27, 2006, for Mass Transit.
3. Discussion and Action on Approval of Applications for Outside Employment:
- | | |
|----------------------------|-------------------------------|
| A. Adkinson-Robert-Police | G. Milian-Jose-Police |
| B. Castaneda-Juan-Police | H. Muniz-Guilibaldo-Police |
| C. Flores-David-Police | I. Murguia-Pablo-Police |
| D. Garcia-Jesus-Fire | J. Pena-Joel-Police |
| E. Garcia-Sergio-Police | K. Serna-Jaime-Community Dev. |
| F. Gonzalez-Gustavo-Police | L. Slape-Kevin-Fire |
4. Notice of Promulgation of Eligible Lists:
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| A. Communication Dispatcher II (P-6)(CR-3) |
| B. Customer Accounts Tax Clerk II (P-0) |
| C. EPWU Labor Lead Worker I-Water (P-4) |
| D. Personnel Technician I (Corrected P-4)(O-7) |
| E. Recreation Services Supervisor (P-2)(O-3) |

5. Discussion and Action on Approval of Classification Actions:

New Job Class/Revised Job Class/Revised Job Class & Grade/Revised Job Class, Title & Grade	<u>Title</u>	<u>Code</u>	<u>Grade</u>
Proposed:	Public Arts Program Coordinator	5177	PM 75

6. Discussion and Action on request to have named placed on Transfer List:
- Galindo, Emma – Accountant I – Comptroller (Tabled 01/27/05)
7. Discussion and Action on Approval of Merit Increases in accordance with C.S.C. Guidelines:
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| A. Building & Planning Svc - LePage, Michelle - Administrative Analyst |
| B. Engineering – Marquez, Ted – Traffic Eng. Division Mgr. |
| C. Human Resources - Gonzalez, Claudia - Personnel Analyst II |
| D. Human Resources - Ingle, Thomas - Training & Dev. Mgr. |
| E. Planning, Res & Dev. - Rosales, Veronica - Chief Urban Planner |
| F. Planning, Res & Dev. - Valdez, Rodolfo - Chief Urban Planner |

REGULAR AGENDA

8. Discussion and Action on the promulgation of a rule regulating working employees Out-of-Classification (Tabled 01/27/05; 02/24/05; 03/10/05; 04/14/05).

Commissioner Ellis told the Commission that the committee had met twice and had another meeting scheduled for the following week. He hoped they would be able to "wrap it up" and get the item on the next CSC agenda for the Commission.

MOTION TO TABLE ITEM 8 MADE BY COMMISSIONER ELLIS, SECONDED BY COMMISSIONER BOURESLAN AND UNANIMOUSLY PASSED.

9. Appeal of Denial of Protested Item filed by John Davis regarding Question #49 on the Fire Battalion Chief examination.

Mr. David was present. Chair Ruck told Mr. Davis that the Commission had reviewed all the documentation he had provided to them and asked him for any further comments.

Mr. Davis briefly reviewed his reasons for his appeal, which he had provided in the documentation. He told the Commission that he went to the Oxford Dictionary to look up the words "send" and "dispatch" because there was some argument in the difference between the two words. The definitions were; Dispatch: to send off to a destination or for purpose; Send: to order or cause to go to a certain destination. His contention was that the Fire Chief did have the authority to call dispatch and request them to send a unit to Mexico and dispatch would have to comply.

Chair Ruck said he would agree with Mr. Davis except that the question asked "according to the response manual" and not "according to the book of rules." He wondered what the response manual said.

Mr. Davis said that was word for word from the response manual.

Chief Surface said that in the Fire service "dispatch" meant something entirely different than "send." He said that dispatch would be where someone from Mexico could call and say their building is on fire, then they would dispatch a unit (he said they wouldn't send a unit to Mexico). On the equipment operations section, that section is specifically set up for the Chief to allow them administratively to take City vehicles into Mexico, which they have done in the past (i.e., for funerals, special events, etc.), but they do not dispatch units there.

Mr. Davis stated that actually they have dispatched fire units into Mexico such as the water rescue team. He said that his contention was that if the Chief were to call dispatch and ask them to send a unit to Mexico they would.

Chief Surface also reminded the Commission that they did have a protest committee consisting of one member of the Fire Administration and one member from Local 51 to review this protest and they were unanimous in their decision that this was not a valid appeal.

Commissioner Ellis asked Chief Surface various questions reference the questions and believed all of the answers were equally inappropriate and believed the question should be deleted.

Discussion.

Chair Ruck asked Chief Surface if they would be willing to delete or rewrite this question in the future and he was.

Paul Mueller, Human Resources, stated that they won't need to redo the question because once it is exposed to the public it won't be used again.

MOTION TO DELETE QUESTION 49 MADE BY COMMISSIONER ELLIS, SECONDED BY COMMISSIONER MARTINEZ AND UNANIMOUSLY PASSED.

10. Discussion and Action regarding a timeline in which Disciplinary matters (i.e., Terminations, Suspensions, etc.) are to be scheduled for hearing after assignment to Hearing Officers/Arbitrators.

Lupe Martinez, Assistant City Attorney, said the City Attorney was requesting that this be done through a policy instead of a rule. She also wanted the Commission to consider that the City Attorney's office had recently implemented a procedure for dealing with disciplinary cases. This procedure involved the Department Heads together with the City Attorney's office, this meant that some will be handled by the department and some will be handled by the City Attorney's office which will expedite the process and will finalize the cases sooner. Ms. Martinez told the Commission that if they were considering a policy to address this issue that they consider a 90-day period. Ms. Martinez said she had spoken with Hearing Officer Palafox and she agreed that a 90-day timeline was a reasonable amount and would support that.

Commissioner Ellis didn't believe it was the Commission's business as to how the City Attorney's Office handled these hearings. As far as policy versus rule, he was concerned that they would be circumventing the process of having City Council approval as is required for rules per the Charter. He stated that if a policy was adopted as opposed to a rule the Commission's position would be the same in terms of enforcement of that policy. Reference the 90 days versus 45 days, the employees are always impacted the worst because they are "out in the cold" for a period of time. Commissioner Ellis elaborated on why

the timeline should not be extended to 90 days. He reiterated that the Commission shouldn't tell the Hearing Officers how to run their dockets, but because of some historic problems in setting the cases, the Commission could force the matter to be set sooner..

Chair Ruck said that the last time he had discussed this matter with Ms. Elizondo she had agreed to a time period of 30 to 60 days and wondered why she was now requesting 90 days. He also told Assistant City Attorney Lupe Martinez that it would have been very helpful if she had provided the Commission with a potential policy.

Commissioner Ellis said he would be bringing a proposed amendment to Rule 15 at the next meeting covering this matter.

Elaine Hengen, Assistant City Attorney, clarified that the proposal presented by Ms. Martinez was to have the hearing completely done within 90 days.

Joyce Wilson, City Manager, stated that the City wants these hearings to be finalized as expeditiously as possible. She was open to the possibility of setting termination hearings within 30 days and completed within 90 days because it would force everybody to handle these matters in a timely manner and to bring the matters to closure.

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

11. Discussion and Action regarding conflict of language between CSC Rules and Charter reference Reinstatements.

Assistant City Attorney Lupe Cuellar stated that there was no conflict between Rule 11 and the Charter as she might have stated at a previous meeting. She said that based on her comments at the last meeting she may have precluded the Commission from discussing the matter reference Mr. Sink's reinstatement request and that is the reason she was bringing it to the Commission tonight.

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

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

Chavira, Hernando – Termination – Building Permits & Inspections (04-BP-16BY).

There was a request to table this item at the beginning of the meeting.

Commissioner Ellis told the Commissioners, especially the new Commissioners, that one of the things the Commission has attempted to do in the past is establish a law of the workplace so that they can achieve a degree of uniformity in how they rule on similar issues regardless of who the Hearing Officer might be. He said that because he noticed that the provision noted in this matter was the "just cause" provision, he requested the Commission be provided with additional documentation in the backup reference "just cause."

MOTION TO TABLE ITEM 12 MADE BY COMMISSIONER ELLIS, SECONDED BY COMMISSIONER MARTINEZ AND UNANIMOUSLY PASSED.

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

Yetter, Bruce – Dated 04/25/05

MOTION TO APPROVE ITEM 13 MADE BY COMMISSIONER ELLIS, SECONDED BY COMMISSIONER SCHWARTZ AND UNANIMOUSLY PASSED.

14. A. Discussion and Action on reconsideration of reinstatement request filed by Mark Sink for the position of Transit Communications Dispatcher.

This item was discussed immediately after Item 11.

MOTION TO APPROVE ITEM 14A TO RECONSIDER MADE BY COMMISSIONER ELLIS, SECONDED BY COMMISSIONER SCHWARTZ AND PASSED BY A VOTE OF 5 TO 1.

Ayes: Commissioners Martinez, Gezelius, Schwartz, Scott, Ellis
Nays: Commissioner Boureslan

- B. Discussion and Action on reinstatement request filed by Mark Sink for the position of Transit Communications Dispatcher.

Assistant City Attorney Lupe Cuellar told the Commission that up to this point based on the information Mr. Sink had provided to the Commission he was not complying with the rule. She said that her comment to the Commission at the time might have stopped the Commission from engaging in discussion and that was why she was bringing the matter before the Commission again.

Chair Ruck commented that the Commission had all the documentation Mr. Sink had presented and also had the Department Heads' affirmative recommendation for reinstatement.

Mr. Sink reviewed his reasons for applying for reinstatement after the one year period.

Commissioner Ellis believed Department Heads' recommendations needed to take into account applicable provisions of the rule. He asked Mr. Sink if he believed he had been engaged in a position tending to increase his value in this position, Transit Communication Dispatcher.

Mr. Sink said yes.

Commissioner Boureslan believed Mr. Sink could reapply for the Transit Communications Dispatcher position as an original entrant but didn't believe the rules allowed him to reinstate after this extended period of time because that would conflict with the rule.

Discussion.

MOTION TO APPROVE ITEM 14B MADE BY COMMISSIONER MARTINEZ, SECONDED BY COMMISSIONER SCHWARTZ BUT FAILED BY A VOTE OF 2 TO 4.

Ayes: Commissioners Martinez, Schwartz
Nays: Commissioner Gezelius, Boureslan, Scott, Ellis

MOTION TO DENY ITEM 14B MADE BY COMMISSIONER ELLIS, SECONDED BY COMMISSIONER BOURESLAN AND PASSED BY A VOTE OF 4 TO 2.

Ayes: Commissioners Gezelius, Boureslan, Scott, Ellis
Nays: Commissioner Martinez, Schwartz

Commissioner Peña arrived before voting on Item 15.

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. Rule 9.1.c.:

Rivera, Max – EPWU Labor Lead Worker II-Sewer

Mr. Rivera was not present. Chair Ruck read the specifics of Mr. Rivera's disqualification.

MOTION TO DENY ITEM 15 MADE BY COMMISSIONER ELLIS, SECONDED BY COMMISSIONER MARTINEZ AND UNANIMOUSLY PASSED.

Chair Ruck apologized to the two new Commissioners, Ken Gezelius and Valerie Scott, for not introducing them at the beginning of the meeting and welcomed them to the Commission.

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

THE MEETING ADJOURNED AT 6:50 P.M.



LANCE RUCK, C.S.C. CHAIR



TERRY BOND, C.S.C. SECRETARY

5-12-05

DATE APPROVED