

**MINUTES FOR A REGULAR MEETING OF THE CIVIL SERVICE COMMISSION  
HELD AT 6:00 P.M., THURSDAY EVENING, MAY 26, 2005  
CITY COUNCIL CHAMBERS, #2 CIVIC CENTER PLAZA – 2ND FLOOR**

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

ALSO PRESENT:

Arballo, Bill – AFSCME Local 59	Loweree, Fred – EPWU
Avila, Fernie	Luevanos, Jesus – UOP
Bolivar, Albert	Martinez, Donna
Bond, Terry – CSC Secretary/HR Director	Martinez, Lupe – Asst. City Attorney
Buenning, Rosy – CSC Recorder	Mendoza, Rosanna – Office of the City Manager
Carbajal, Monica – University of Phoenix (UOP)	Momsen, Richarda – Municipal Clerk
Castor, Maria	Montoya, Martin – UOP
Chavez, Lupe	Morales, Leo – Solid Waste Mgmt.
Cuellar, Lupe – Asst. City Attorney	Portillo, Damaso III – Mass Transit
DeBruhl, Edward	Pucel, Gerald – Street Dept.
Duran, Bernice	Scott, Terry Lee – Mass Transit
Esparza, Deborah	Smyth, Ellen – Solid Waste Mgmt.
Gardon, Rafael – Parks & Rec.	Surface, Steve – Fire Dept.
Guerra, Rick	Sweeney, Will
Gutierrez, Jackie – UOP	Tejeda, Claudia – UOP
Hengen, Elaine – Asst. City Attorney	Thomas, Linda – HR Asst. Director
Howell, Lorene	Tobias, Susana
Longoria, Rafael – UOP	Vallejo, Joe – Mass Transit
Lopez, Marco	Wilson, Joyce – City Manager

The meeting convened at 6:03 p.m. with a quorum of 9 Commissioners present and Chair Ellis presiding.

**CONSENT AGENDA**

Ms. Bond requested that Item 1 be tabled, Item 7.31 Jeffrey Johnson be deleted, Item 8.1a be deleted.

Commissioner Martinez requested Item 2 B be moved to the Regular Agenda.

Chair Ellis requested that Item 2C and Item 3 be moved to the Regular Agenda. He also requested that Item 8.1a not be deleted, instead that it be taken up with Item 2C.

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

1. Discussion and Action on Approval of Minutes:

May 12, 2005

2. Discussion and Action on Approval of Contracts:

A. *Item Not Used*

B. Personal Services Contract with Sheila Davis to perform the duties of Secretary III from June 9, 2005 through July 9, 2005, for the Mayor's Office.

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

Commissioner Martinez pointed out that one Page 1 of the contract it stated Sheila Davis, yet the emails and other correspondence refer to Sheila Pucket. He wanted the record to reflect that they were one in the same.

MOTION TO APPROVE ITEM 2B MADE BY COMMISSIONER MARTINEZ, SECONDED BY COMMISSIONER BOURESLAN AND UNANIMOUSLY PASSED.

- C. Personal Services Contract with Richard Campbell to perform the duties of Construction Inspection Manager from May 31, 2005 through May 20, 2006, for the Street Department.

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

Chair Ellis told the Commission that he wanted this item addressed with Item 8.1a because he was reviewing the backup and noted that a reference is made that Mr. Cole is wanting a pavement manager and he agreed to revise the Civil Engineer III specs to include these duties. He asked if that contemplated the revision to the job description that was referenced in the email in Item 2C and if it did he believed that they should defer action on this item until the changes are made to the job specs.

Ms. Bond said they are in the process of changing that job description and will have it soon. However, in the meantime they need to fill this position. They need someone who has the knowledge, experience and skills as this gentleman does to start immediately instead of waiting for the recruitment process.

Chair Ellis asked why Item 8.1a was deleted then?

Ms. Bond said they were correcting the job description and because if it doesn't change substantively they can approve it internally. She said it would be ready within the next week.

Chair Ellis then asked if it would this position would then be filled with a Civil Engineer III?

Gerald Pucel, Assistant Director for Street Department, stated that the changes to the Civil Engineer III entail the pavement management system. Item 2C is inspection, manager, working capital projects which are unpaved rights-of-way, mostly which will be paving the alleys.

Discussion.

Chair Ellis suggested approving this contract for six months so that the position can be filled with a classified employee rather than with a contract for a year.

Commissioner Boureslan commented reference the civil engineer specifications saying they required an engineering degree. He didn't believe Mr. Campbell had this type of degree and wondered if the job he was filling required it.

Mr. Pucel said the position Mr. Campbell was filling was not a Civil Engineer position and didn't require a degree.

Discussion.

MOTION TO APPROVE ITEM 2C FOR A PERIOD OF SIX MONTHS MADE BY COMMISSIONER RUCK, SECONDED BY COMMISSIONER MARTINEZ AND PASSED BY A VOTE OF 6 TO 2.

Ayes: Commissioners Peña, Graham, Martinez, Gezelius, Schwartz, Scott  
Nays: Commissioner Graham, Boureslan

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

- A. Aguirre - Gabriel - Police
- B. Alvarez - Manuel - Police
- C. Avila - Roberto - Fire
- D. Chavez - Francisco - Police
- E. Davila - Enrique - Police
- F. Escalante - Joseph - Police

- G. Giner - Marta - Police
- H. Johnson - Louis - Police
- I. Medina - Jose - Police
- J. Melgar - Albert - Bldg. Permits & Insp.
- K. Pereda - Ruben - Fire
- L. Portillo - Damaso - Mass Transit
- M. Sanchez - Andres - Police
- N. Serna - Raul - Bldg. Permits & Insp.

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

Chair Ellis stated that the new rule 29 was promulgated on April 20, 2004, he explained what changes were made to the Outside Employment Policy (now Rule 29). He noted that two applicants from the Fire Department were using old forms. He stated he did some informal checking to see how many employees were complying with the rule. He said that the Police Department was complying with the rule but stated that perhaps the Fire Department wasn't aware of the requirement of quarterly reports.

Chief Surface stated that it is not that they are unaware of the quarterly reports, it is that they don't apply to them because they are collective bargaining agreement (CBA) employees. Under the CBA they have to follow the old CSC rules when it comes to any matter that has economic benefit and that is why many of their employees are filing the old forms. Not until the next collective bargaining will the new rules apply to them.

Discussion.

Chair Ellis asked reference Item 3L. He stated there was some backup on this particular employee which suggested that this employee may have already been working for the Socorro Police Department and that there might be a discrepancy in the hours worked, he asked Mr. Scott to comment.

Assistant City Attorney Lupe Cuellar told the Commission that their questions should be specifically limited to whether or not there is a discrepancy in the hours worked and listed.

Terry Lee Scott, Director of Mass Transit, stated they do not have any indication that Mr. Portillo has worked more hours than he indicated on his application or that there has been a violation.

Damaso Portillo stated that this is a reserve officer's unit and he is not compensated for this work.

MOTION TO APPROVE ITEM 3 MADE BY COMMISSIONER RUCK, SECONDED BY COMMISSIONER SCHWARTZ AND UNANIMOUSLY PASSED.

4. Notice of Promulgation of Eligible Lists:

- A. Accounting Clerk = Promulgated 05/05/05 (P-10)(CR-1)(O-18)
- B. Public Safety Dispatcher-Fire = Promulgated 05/05/05 (P-13)(CR-5)(O-47)
- C. Airport Operations Officer = Promulgated 05/09/05 (P-1)(CR-2)(O-1)
- D. EPWU Plant Technician I = Promulgated 05/09/05 (Corrected O-15)
- E. Police Sergeant = Promulgated 05/11/05 (P-25)
- F. Zoo Veterinarian = Promulgated 05/12/05 (O-3)
- G. Chief Building Inspector = Promulgated 05/16/05 (P-4)
- H. Environmental Engineering Technician I = Promulgated 05/16/05 (P-1)(O-2)
- I. EPWU Labor Lead Worker II-Sewer = Promulgated 05/16/05 (P-3)
- J. Fire Battalion Chief = Promulgated 05/17/05 (P-14)
- K. Fire Suppression Technician = Promulgated 05/19/05 (P-42)

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

Sweeney, Wilberto – Termination – El Paso Water Utilities

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

- A. Bolivar, Albert – Police Officer – Police Dept.

- B. Howell, Lorene – Secretary I – Police Dept.
- C. Payan, Jesus – Police Officer – Police Dept.

7. Discussion and Action on Approval of Merit Increases in accordance with C.S.C. Guidelines:

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| <ul style="list-style-type: none"> <li>1. Airport-Flores, Mercedes-Accounting Clerk</li> <li>2. Airport-Moore, Yvonne P.-Land and Contract Admin.</li> <li>3. Museums-Holguin, Gabriel-Museum Ops Asst.</li> <li>4. Museums-Munoz, Balthazar-Museum Ops Asst.</li> <li>5. Museums-Reed, Amy-Curator of Education</li> <li>6. Museums-Rodriguez, Sandra-Clerk Typist II</li> <li>7. Museums-Salinas, Harold-Guard</li> <li>8. OMB-Bertolli, Cecilia-Budget &amp; Mgmt Analyst II</li> <li>9. Street-Acosta, Gerardo-Laborer</li> <li>10. Street-Alvarado, Anastacio-Trades Helper</li> <li>11. Street-Anderson, William-Equipment Operator II</li> <li>12. Street-Barrera, Jose-Equipment Operator I</li> <li>13. Street-Barron, Gabriel-Toll Collector</li> <li>14. Street-Barroso, Jesus-Equipment Operator I</li> <li>15. Street-Briggs, Robert-Electronic Technician</li> <li>16. Street-Castaneda, Francisco-Laborer</li> <li>17. Street-Chavez, Roberto-Traffic Signs &amp; Mrkgs Wrk II</li> <li>18. Street-Cordero, Santiago Jr.-Equipment Operator II</li> <li>19. Street-Delgado, Adalberto-Traf Fld Ops Mgr</li> <li>20. Street-Delgado, Javier-Cashier II</li> <li>21. Street-Estrada, Ricardo-Electrician's Helper</li> <li>22. Street-Fierro, Joe A.-Sign Painter</li> <li>23. Street-Flores, Julian-Equipment Operator II</li> <li>24. Street-Gardea, David-Trades Helper</li> <li>25. Street-Gaucin, Daniel-Equipment Operator II</li> <li>26. Street-Gella, Ariel-Equipment Operator I</li> <li>27. Street-Gonzalez, Ruben-Labor Foreman I</li> <li>28. Street-Grajeda, Adolfo-Engineering Tech III</li> <li>29. Street-Herrera, Francisco-Street Ops Spvr</li> <li>30. Street-Hunter, Dehric-Laborer</li> </ul> | <ul style="list-style-type: none"> <li>31. Street-Johnson, Jeffrey-Equipment Operator II</li> <li>32. Street-Juarez, Armando-Stores Clerk II</li> <li>33. Street-Kutz, Harold-Civil Engineer III</li> <li>34. Street-Lopez, Rodolfo-Labor Foreman I</li> <li>35. Street-Lucero, Juan-Laborer</li> <li>36. Street-Maldonado, Josue-Traffic Signs &amp; Mrkgs Wrk I</li> <li>37. Street-Marquez, Maria-Accounting Clerk</li> <li>38. Street-Melendez, Jose-Vehicle and Equipment Spvr</li> <li>39. Street-Moreno, Eleuterio-Equipment Operator II</li> <li>40. Street-Muro, Rafael-Equipment Operator I</li> <li>41. Street-Muro, Sylvia-Toll Collector</li> <li>42. Street-Ortiz, Jose-Laborer</li> <li>43. Street-Ortiz, Raul-Equipment Operator II</li> <li>44. Street-Parada, Jorge-Traffic Signs &amp; Mrkgs Wrkr I</li> <li>45. Street-Perez, Carlos-Equipment Operator II</li> <li>46. Street-Porras, Pedro-Senior Toll Collector</li> <li>47. Street-Ramirez, Carlos-Equipment Operator II</li> <li>48. Street-Rangel, Jose-Equipment Operator I</li> <li>49. Street-Rebeles, David-Equipment Operator I</li> <li>50. Street-Rodriguez, Alfred-Equipment Operator II</li> <li>51. Street-Rodriguez, George-Traffic Signs &amp; Mrkgs Wrkr I</li> <li>52. Street-Rodriguez, Ignacio-Laborer</li> <li>53. Street-Sandoval, Marisol-Toll Collector</li> <li>54. Street-Segura, Antonio-Equipment Operator II</li> <li>55. Street-Serrano, Luis-Equipment Operator I</li> <li>56. Street-Sierra, Leandro-Equipment Operator II</li> <li>57. Street-Solano, Alfredo-Equipment Operator III</li> <li>58. Street-Tellez, Felix-Cashier II</li> <li>59. Street-Torres, Luis-Labor Foreman I</li> </ul> |
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8. Discussion and Action on Request for Temporary Promotion:

Rodriguez, Omar – Fleet Services  
 From: Building Maintenance Worker I  
 To: Maintenance Mechanic I

8.1 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>
A. Official:	Civil Engineer III .....	5813 .....	PM 80
Proposed:	Same .....	Same .....	Same

MOTION TO TABLE ITEM 8.1A MADE BY COMMISSIONER PEÑA, SECONDED BY COMMISSIONER MARTINEZ AND UNANIMOUSLY PASSED.

B. Proposed: Municipal Court Sentencing Coordinator ..... 5326 .....PM 75

8.2 Discussion and Action on request to have name placed on Transfer List:

Magaña, Connie – Administrative Assistant – Mayor & Council

8.3 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:

Diaz, Ana – Custodial Worker – Airport

*Items 2B, 2C, 3 and 8.1A were discussed here.*

9. Discussion and Action on Rule 13, Leave of Absence, Resignation, Sick Leave and Vacations and associated changes to Ordinance 8064, regarding approval of and length of leaves of absence, FMLA, benefits during leave, working hours and other benefits (Tabled 01/27/05; 02/24/05; 03/10/05; 05/12/05).

Chair Ellis told the Commission that the committee met and determined they would need to recess on this matter until soon after the 4<sup>th</sup> of July so that management could revise their proposal into a format similar to the one they had been working with. He also stated that another committee member needed to be appointed since Commissioner Harris' term had expired and asked for volunteers. Commissioner Scott was assigned as the third committee member.

MOTION TO TABLE ITEM 9 UNTIL THE FIRST MEETING IN JULY MADE BY COMMISSIONER PEÑA, SECONDED BY COMMISSIONER MARTINEZ AND UNANIMOUSLY PASSED.

10. Discussion and Action on amending Rule 16 to clarify and/or amend the section concerning "invoking the rule" which allows a party to the hearing to exclude from the hearing room certain witnesses.

Chair Ellis stated that they reformatted the rule and submitted it to City Council for approval. He said it occurred to them that there were some minor changes that needed to be made in Section 4 but they couldn't act on it at the last meeting because it wasn't properly posted. He directed their attention to the backup and said that on the third line from the bottom after the comma following "witnesses", the language currently reads "except the person preferring the charges or acting in the discharge, suspension or reduction of the employee." He said they needed to amend the rule to include the appellant himself or herself so that they could not be excluded. The proposed amendment would read, "except the department head or their representative and the appellant."

MOTION TO APPROVE THE CHANGES TO SECTION 4 MADE BY COMMISSIONER GEZELIUS, SECONDED BY COMMISSIONER MARTINEZ AND UNANIMOUSLY PASSED.

11. Discussion and Action on amending Rule 15 to correctly number Section 6 as Section 7.

Assistant City Attorney Lupe Cuellar said they have two sections numbered as Section 6 and they needed to correct it.

Ms. Bond commented that they have been working fairly well with two Section 6's and it hasn't caused any problems. She explained the costs associated with changing ordinances and recommended that they hold this until another change is needed.

Assistant City Attorney Lupe Cuellar said there was no problem in waiting.

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

12. Discussion and Action on Request to Work Employee Out of Classification:

Rivera, Victor – Fleet Services (Extension) (Tabled 05/12/05)  
From: Building Maintenance Worker II  
To: Building Maintenance Supervisor

Chair Ellis commented that this item had been tabled at the last meeting so Assistant City Attorney Lupe Cuellar could take a closer look at it and asked if it was appropriate to take action on it now.

Assistant City Attorney Lupe Cuellar said yes.

MOTION TO APPROVE ITEM 12 MADE BY COMMISSIONER PEÑA, SECONDED BY COMMISSIONER MARTINEZ AND UNANIMOUSLY PASSED.

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

A. Esparza, Deborah – Termination – Fire Dept.

Bill Arballo, AFSCME Local 59, stated that Ms. Esparza was present and wanted to address the Commission.

Ms. Esparza stated that her intentions were never of a monetary nature. She said she was here to ask for a second chance for her employment and to apologize as her actions affected many. She requested the Commission's approval and stated she would be willing to come back on a probationary status and was willing to surrender back pay, she said she wanted to prove to everyone that she would be back as a better employee.

Mr. Arballo said the record was absent and void to any action taken by the employer reference Ms. Esparza. He said the Hearing Officer's report stated that the department failed to carry their burden of proof with regards to the abuse of attendance and that they did not meet the 60-day benchmark. He requested that the Hearing Officer's recommendation not be approved after reviewing some of the recommendation.

Assistant City Attorney Lupe Martinez requested the recommendation be upheld.

Discussion.

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

"I RECOMMEND THAT THE TERMINATION OF DEBORAH ESPARZA BE UPHELD."

B. Morales, Leo – Suspension – Solid Waste Management

Mr. Morales requested the Hearing Officer's recommendation be upheld.

Ellen Smyth, Solid Waste Management Director, told the Commission that she opposed the Hearing Officer's recommendation and detailed her reasons.

Discussion.

Commissioner Ruck asked what the final outcome of the citation was.

Mr. Morales stated that it was still pending, he was still going to go to court for it.

MOTION TO APPROVE ITEM 13B MADE BY COMMISSIONER RUCK, SECONDED BY COMMISSIONER MARTINEZ AND PASSED BY A VOTE OF 7 TO 1.

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

Nays: Commissioner Peña

14. Discussion and Action on Grievance filed by:

A. DeBruhl, Edward – Vehicle Inspection Violation & Code of Conduct

Mr. DeBruhl was present and requested that the Commission consider his grievance and not go by the Human Resources Director's response. He said that Human Resources did not consider all his recommendations and they do not address them.

Assistant City Attorney Cuellar reminded the Commission that under Rule 24 the grievant must state what right has been violated and after reading Mr. DeBruhl's grievance didn't find this information.

Chair Ellis asked Mr. DeBruhl if he could site for the Commission any right that he has under the Charter or the rules that was violated in this matter.

Mr. DeBruhl said yes, Rule 19.2, the fact that Sun Metro submits memos and doesn't follow their memos was a violation. For example there are memos reference vehicle inspections at Sun Metro and their personnel didn't follow these memos and the procedures or their code of conduct.

Discussion.

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

B. Gardon, Rafael – Violation of Various CSC Rules

Chair Ellis told Mr. Gardon that the Commission has reviewed the documentation presented and that he had spoken to legal counsel about the best way to proceed with this matter. He also told Mr. Gardon that he mentions possibly making revisions to his performance evaluation but didn't believe he could address the performance evaluation issue through the grievance process because there is a rule governing the appeal of personnel evaluations and how those are to proceed. He said that Mr. Gardon's grievance did state matters which are properly grievable under the provisions of Rule 29 and because the grievance is extensive and requires some analysis he recommended a committee hear the grievance. A committee consisting of Commissioners Boureslan, Graham and Ruck were assigned to hear Mr. Gardon's grievance and make a recommendation to the Commission.

MOTION TO DELETE ITEM 14B MADE BY COMMISSIONER PEÑA, SECONDED BY COMMISSIONER MARTINEZ AND UNANIMOUSLY PASSED.

15. Discussion and Action on the Commission's pending amendment to Rule 1, Sec. 10.

Commissioner Schwartz commented that the Chair has complained on various occasions about receiving information in a timely manner and stated that she had just received backup for items 15, 16 and 17 just yesterday via email therefore she would not tolerate it either and moved to table those items for that reason.

Commissioner Ruck agreed with Commissioner Schwartz as far as receiving the late backup. He said he would prefer to address it and stated that he was at City Council on Tuesday to address the matter when it was postponed for the third or fourth time. He said the problem he had was that Rule 1, Section 10 as the Commission passed on March 24<sup>th</sup> was enacted as an ordinance on May 23<sup>rd</sup>, last Monday. He said the Charter was very clear in Section 6.1.6 about the original rules of the Commission adopted by City Council. This section states that immediately upon approval the Personnel Director would take these amendments to the Council to determine if they would accept it within 60 days. He didn't believe it meant that the amendment should be taken to Council next week, next month or next year or whenever the Personnel Director wanted. He believed that immediately upon approval started the 60-day time limit. He wanted to put this in perspective and stated that this dealt with the Commission Recorder as discussed in the March 10<sup>th</sup> meeting with the City Manager when the City Manager agreed there were issues between the Recorder, the Secretary and the Commission. He gave a little history as to how the Commission Recorder was contracted. He explained that when the Recorder resigned, the Secretary came forward with a new nominee immediately and even though the nominee was rejected (not because of lack of qualifications at all), the Commission decided to hire on contract and Ms. Buenning was able to apply for the contract. Even though the candidate was rejected, the following Tuesday on City Council her name was on the agenda for approval anyway. It was up to a Council member to delete the item on his understanding that the Commission had rejected it. Then the following Tuesday before the Commission met again, the item was back on the City Council but this time he (Commissioner Ruck) went to that Council meeting and the Secretary dutifully went to the podium and told the Council members that the item should be deleted. He observed that an item the Commission had rejected was placed before Council in four days and then in another eleven days, yet in this instance when this amendment was passed on March 24<sup>th</sup>, it took until April 19<sup>th</sup> to take it to City Council, a four-week period. He stated that the Secretary could not circumvent the Council and the Commission by taking her time. He believed the 60-day time period was in effect and that this was already an ordinance.

Chair Ellis commented that there was no backup provided for Item 15 at all and that the Commission has already adopted the reference rule and section.

Commissioner Ruck commented that when this rule was passed it was passed unanimously. He said Commissioner Schwartz had pointed out correctly at that time that she had not seen the actual reprimand that the Recorder received, only the Chair and Vice Chair had seen it. Commissioner Ruck provided the Commission with copies of the disciplinary action, Ms. Buenning's response and the February letter from the City Manager that acknowledges that there is a problem for backup for the next meeting when this item will appear on the agenda. He also wanted copies provided to the City Council for backup on the item also.

MOTION TO TABLE ITEM 15 MADE BY COMMISSIONER SCHWARTZ, SECONDED BY COMMISSIONER PEÑA AND PASSED BY A VOTE OF 7 TO 1.

Ayes: Commissioners Peña, Graham, Martinez, Gezelius, Boureslan, Schwartz, Scott  
Nays: Commissioner Ruck

*The following motion was made after discussing Items 17, 18 and 19.*

MOTION TO RECONSIDER ITEM 15 MADE BY COMMISSIONER PEÑA, SECONDED BY COMMISSIONER MARTINEZ AND UNANIMOUSLY PASSED.

Chair Ellis advised that it has come to the Commission's attention there are legal objections of some nature to the Commission's proposal to amend Rule 1, Section 10, by adding a sentence which in effect requires that prior to disciplinary action being taken against the Commission Recorder that the Commission must first approve of that disciplinary action by 2/3 majority of the Commissioners present and voting. He asked if there was someone from the City Manager's office or the City Attorney's office who could help the Commission understand what the objection was.

Elaine Hengen, Assistant City Attorney, stated that she was not able to respond directly to the question. She informed that the City Attorney's office with respect to representation of the management and the City Council was being conflicted out on this matter. Assistant City Attorney Lupe Martinez and herself were no longer representing the City with respect to this matter, the City has retained outside legal counsel, Steve Blanco. However, the particular matters that the Commission was inquiring about would likely be within the attorney-client privilege and even if Mr. Blanco were to come before the Commission on this matter it would be likely that he could not provide any answers.

Commissioner Ruck asked if Mr. Blanco was hired to research the matter or if he was hired to give a legal opinion that supports management's decision.

Elaine Hengen, Assistant City Attorney, said Mr. Blanco was hired by the City to represent and provide legal advice to the City Council on this matter.

Commissioner Ruck then asked when it would be appropriate to share the backup on the item with City Council.

Chair Ellis asked at whose direction Mr. Blanco was hired.

Elaine Hengen, Assistant City Attorney, said at the point in time in which they determined that there was a conflict of interest, the City Attorney's office made that decision.

*The Commission retired into Executive Session to discuss Item 19.*

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

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The Commission retired into Executive Session at 9:02 p.m. to discuss Item 19, and reconvened for Open Session at 9:37 p.m.

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

MOTION TO AUTHORIZE THE COMMISSION'S COUNSEL TO APPEAR BEFORE CITY COUNCIL AND ARTICULATE TO CITY COUNCIL WHY IT IS THE COMMISSION'S VIEW THAT THE PROPOSED AMENDMENT TO RULE 1, SECTION 10, DOES NOT VIOLATE THE CHARTER AND IS NOT ILLEGAL IN ANY OTHER WAY AND THAT THE COMMISSION IS UNAWARE OF ANY CONCEIVABLE VIOLATION OF THE CHARTER, HAS ATTEMPTED TO ASCERTAIN FROM THE REPRESENTATIVES OF MANAGEMENT THROUGH THE CITY MANAGER OR HER REPRESENTATIVES AS TO WHAT THOSE VIOLATIONS COULD BE BUT THAT EXPLANATION HAS NOT BEEN FORTHCOMING, AND TO URGE THEM NOT TO POSTPONE THE MATTER FURTHER AND TO ACT ON IT, MADE BY COMMISSIONER BOURESLAN, SECONDED BY COMMISSIONER GRAHAM AND UNANIMOUSLY PASSED.

Commissioner Ruck provided a copy of the backup he previously mentioned to each Commissioner, one to the Recorder and wanted to make sure each council member received the backup also.

Chair Ellis also passed out some backup documentation to the Commission and asked the Recorder to make sure Assistant City Attorney Lupe Cuellar received copies of all the documents being distributed.

Assistant City Attorney Lupe Cuellar suggested that the backup be provided to the Council's legal representative Mr. Blanco instead of directly to the Council. She also stated that the documents that were being passed out could be obtained through an Open Records request. She also advised the Recorder not to provide any backup to City Council.

Commissioner Ruck said he would provide the copies to City Council.

- 16. Discuss and Action to remove Terry Bond as Secretary of the Civil Service Commission and to appoint a successor.

MOTION TO TABLE ITEM 16 MADE BY COMMISSIONER SCHWARTZ, SECONDED BY COMMISSIONER PEÑA AND UNANIMOUSLY PASSED.

- 17. Discussion and Action on retaining independent legal counsel for the Civil Service Commission.

Chair Ellis said that this matter also related to Items 18 and 19 which were placed on the Commission by the counsel for the Commission and are somewhat interrelated.

Assistant City Attorney Lupe Cuellar requested that the Commission hold off on taking action on Item 17 until they hear from her on Item 18 and 19.

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

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The Commission retired into Executive Session at 7:32 p.m. to discuss Items 18 and 19, and reconvened for Open Session at 8:56 p.m.  
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*Motions on Items 18 and 19 were made before this item was deleted.*

MOTION TO DELETE ITEM 17 MADE BY COMMISSIONER RUCK, SECONDED BY COMMISSIONER BOURESLAN AND UNANIMOUSLY PASSED.

- 18. Legal advice on attorney client privilege and waivers. (Section 551.071 Consultation with Attorney)

MOTION TO AUTHORIZE THE CHAIR TO EXECUTE THE GENERAL WAIVER MADE BY COMMISSIONER RUCK, SECONDED BY COMMISSIONER MARTINEZ AND UNANIMOUSLY PASSED.

The Chair executes the general waiver.

- 19. Legal advice on Commission proposal for amendment of Rule 1, Section 10. (Section 551.071 Consultation with Attorney)

MOTION TO AUTHORIZE THE CHAIR TO EXECUTE THE SPECIFIC WAIVER CONCERNING THE PROPOSED AMENDMENT TO RULE 1, SECTION 10, MADE BY COMMISSIONER PEÑA, SECONDED BY COMMISSIONER MARTINEZ AND UNANIMOUSLY PASSED.

The Chair executes the specific waiver.

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

THE MEETING ADJOURNED AT 9:44P.M.

  
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WILLIAM J. ELLIS, C.S.C. CHAIR

  
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TERRY BOND, C.S.C. SECRETARY

7.14.05  
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DATE APPROVED