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**MINUTES FOR A SPECIAL MEETING OF THE CIVIL SERVICE COMMISSION
HELD AT 6:00 P.M., THURSDAY EVENING, MAY 27, 2004
CITY COUNCIL CHAMBERS, #2 CIVIC CENTER PLAZA - 2nd FLOOR**

MEMBERS PRESENT: Berube, Paul
Ellis, Bill
Graham, Elijah
Harris, Alvin
Martinez, Ramy
Peña, Andrew
Ruck, Lance (Chair)
Schwartz, Elma
Sutherland, Ken

ALSO PRESENT: Bond, Terry - C.S.C. Secretary
Buenning, Rosy - C.S.C. Recorder
Burman, Steve - Human Resources
Castillo, Norma
Cuellar, Lupe - Deputy City Attorney
Fargo, Peter - Human Resources
Harbour, Cori - City Employees' Association Representative
Ledesma, Norma
Myers, George - Sun Metro Amalgamated Union
Peña, Armando - Human Resources
Scott, Terry Lee - Sun Metro
Sienkiewicz, Jim - Human Resources
Surface, Steven - Fire Dept.
Thomas, Linda - Human Resources
Van Beek, Diana

The meeting convened at 6:03 p.m. with a quorum of 9 Commissioners present and Chair Ruck presiding. Chair Ruck introduced himself as the new Chair for the next year, he had been elected at the previous meeting. Chair Ruck also stated that the Commission has approved proposed Rule 1 amendments that have not gone before City Council but he said he would be implementing the Rules of Order for the Commission.

CONSENT AGENDA

Terry Bond, CSC Secretary, requested the following items be tabled or deleted from the Consent and Regular Agendas as follows:

Item 1 - Table
Item 2C - Delete
Item 20 - Table
Item 21 - Delete
Item 22A - Table

MOTION TO APPROVE THE DELETIONS AND TABLING OF ITEMS AS STATED BY MS. BOND MADE BY COMMISSIONER SUTHERLAND, SECONDED BY COMMISSIONER HARRIS AND PASSED BY A VOTE OF 7 TO 1.

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

Commissioner Peña recommended that all Executive Session items be addressed at the same time if possible.

Deputy City Attorney Cuellar said it was possible.

Chair Ruck said they would do that.

1. Discussion and Action on Approval of Minutes:

May 13, 2004

Item 1 was tabled at the beginning of the meeting.

2. Discussion and Action on Approval of Contracts:
 - A. One (1) Personal Services Contract with Salome Ochoa to perform the duties of PC/LAN Specialist II from July 7, 2004 through July 6, 2006 for Mass Transit.
 - B. One (1) Personal Services Contract with Thomas N. Cardona to perform the duties of Network Administrator from July 7, 2004 through July 6, 2006 for Mass Transit.
 - C. One (1) Personal Services Contract with Trista M. Fox to perform the duties of Business Manager/Coordinator from June 30, 2004 through June 29, 2005 for the Airport.

Item 2C was deleted at the beginning of the meeting.

- D. One (1) Intern Contract with Noelle Crouthers to perform the duties of Undergraduate Intern from June 11, 2004 through December 11, 2004 for the Airport.
 - E. One (1) Personal Services Contract with Hector H. Lopez to perform the duties of Industry Development Advisor from June 10, 2004 through September 9, 2004 for Economic Development.
3. Discussion and Action on Approval of Applications for Outside Employment:

A. Archer-Glenn W.-Police	N. Hernandez-Isabel A.-Police
B. Baeza-Robert-Police	O. Marmolejo-Antonio-Airport
C. Benavidez-Mario L.-Police	P. Martinez-Eduardo P.-Police
D. Cardenas-Roberto E.-Police	Q. McCord-Westy-Police
E. Castillo-Jeffery S.-Police	R. Melchor-Mariela-Police
F. Davis-Darrack A.-Fire	S. Mendez-Ricardo-Police
G. De La Hoya-Gabriel-Police	T. Mendez-Ruben-Police
H. Elias-Ricardo-Police	U. Perez-Sylvia R.-Police
I. Ferrel-Juan Francisco-Police	V. Sanchez-Michael D.-Police
J. Flores-Daniel-Police	W. Serna-Randy-Police
K. Gomez-Robert C.-Police	X. Spindler-Arthur H.-Police
L. Griffith-Samantha-Police	Y. Stevenson-Randal M.-Police
M. Harding-Christopher-Police	

4. Notice of Promulgation of Eligible Lists:
 - A. Engineering Section Chief (P-4)(O-4)
 - B. Municipal Services Assistant Director for Facilities Management (P-1)(CR-1(O-3)
 - C. Public Services Librarian I (O-14)
 - D. Systems Accountant (P-1)
 - E. Zoo Keeper (P-2)(O-24)

5. Discussion and Action on Request for Temporary Promotion:
 - A. Crumley, Barbara: – Purchasing
From: Procurement Analyst
To: Administrative Analyst

Commissioner Ellis requested Item 5A be moved to the Regular Agenda. *This item was discussed at the beginning of the Regular Agenda.*

Commissioner Ellis asked the reason for this request.

Ms. Bond said that the reason was that the incumbent was on a temporary leave of absence and was filling a position in another department through contract. She said this would fall under Rule 11, Section

10.a.1.

- B. Alfonso Guerrero: - Purchasing
From: Buyer
To: Procurement Analyst

Commissioner Ellis requested Item 5B be moved to the Regular Agenda. *This item was discussed at the beginning of the Regular Agenda.*

Commissioner Ellis noted that the documentation on this item presumed that Item 5A would be approved. He asked if the same logic was applicable to this item as was to Item 5A.

MOTION TO APPROVE ITEMS 5A, 5B AND 5D MADE BY COMMISSIONER ELLIS, SECONDED BY COMMISSIONER BERUBE AND UNANIMOUSLY PASSED.

- C. Martinez, Jose: - Parks & Recreation
From: Recreation Leader II
To: Recreation Leader III

- D. Fowler, Jeannine: - Sun Metro
From: Clerk Typist II
To: Clerk Typist III

Commissioner Ellis requested Item 5D be moved to the Regular Agenda. *This item was discussed at the beginning of the Regular Agenda.*

- E. Raul Escobedo: - OMB
From: Budget Mgmt. Analyst III
To: Budget Strategic Advisor

- F. Richard Bristol: - OMB
From: Budget Mgmt. Analyst III
To: Budget Strategic Advisor

6. 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:	Internal Auditor	5223	EX G
PROPOSED:	City Internal Auditor	5223	EX D

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

- A. Sarabia, Guillermina – Termination – Comptroller

Commissioner Ellis requested Item 7 be moved to the Regular Agenda. *This item was discussed at the beginning of the Regular Agenda.*

Commissioner Ellis asked which Hearing Officer was next on the rotation for Hearing Officer assignments.

Ms. Bond said Ms. Palafox was.

MOTION TO APPROVE ITEM 7 MADE BY COMMISSIONER ELLIS, SECONDED BY COMMISSIONER PEÑA AND UNANIMOUSLY PASSED.

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

- | | |
|----------------------------------------------------------------|----------------------------------------------------------------------|
| A. Fleet Services-Avalos, Lorenzo Sr.-Fleet Maintenance Chief | F. Fleet Services-Perales, Francisco-Auto. Maintenance Ticket Writer |
| B. Fleet Services-Gomez, Jose L.-Automotive Technician II | G. Fleet Services-Rivera, Daniel-Vehicle Parts Supervisor |
| C. Fleet Services-Klamborowski, Michael-Welder | H. Fleet Services-Tapia, Gilbert-Vehicle Parts Specialist |
| D. Fleet Services-Medina, Aurelio-Automotive Service Worker II | I. Fleet Services-Vicario, Sandra-Personnel & Accounting Clerk |
| E. Fleet Services-Peña, Louisa-Accounting Clerk | J. Fleet Services-Welty, John-Fleet Maintenance Chief |

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

- A. McKenzie, Enrique – Coach Operator

10. 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:

Garcia, Gilbert. – Automotive Service Worker I – Sun Metro

11. Approve Hearing Officer's Invoice:

- A. Olivas, Jesus. – Dated 04/24/04 – (03-FD-21JO) (Tabled 5/13/04)

Commissioner Ellis requested Item 11A be moved to the Regular Agenda. *This item was discussed at the beginning of the Regular Agenda.*

Commissioner Ellis asked if anybody had checked the math on the statement.

Ms. Bond said they had not.

Commissioner Ellis asked that the item be tabled until later in the meeting.

MOTION TO TABLE ITEM 11A UNTIL LATER IN THE MEETING MADE BY COMMISSIONER ELLIS, SECONDED BY COMMISSIONER MARTINEZ AND UNANIMOUSLY PASSED.

This item was addressed after Item 25.

MOTION TO APPROVE ITEM 11A MADE BY COMMISSIONER ELLIS, SECONDED BY COMMISSIONER BERUBE AND UNANIMOUSLY PASSED.

- B. Yetter, Bruce – Dated 05/07/04 – Services performed November 2003
 C. Olivas, Jesus. – Dated 05/21/04 – (04-SM-02-JO)

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

Porras, Sandy – Human Resources
 Current: Secretary I
 Proposed: Civil Service Commission Recorder

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

REGULAR AGENDA

Items 5A, 5B, 5D, 7 and 11A were moved from the Consent Agenda to the Regular Agenda and discussed here.

12. Discussion and Action on the status of Hearing Officers' pending appeals.

Chair Ruck commented that the Commission did receive a report from each of the Hearing Officers.

Commissioner Ellis asked if it would be appropriate to review these on a quarterly basis so that none of the Hearing Officers would be overwhelmed with cases.

Ms. Bond said she could request them quarterly and asked if the Commission wanted her to review them or if they should be brought before the Commission.

Commissioner Ellis said she could review them and only bring them to the Commission if anything was questionable.

13. Discussion and Action on amendment to Rule 1 and Motions to Reconsider Prior Action. (Tabled 5/13/04)

Commissioner Ellis told the Commission that the committee had met to bring the amendment into final form. He said that the draft in front of them conformed to what they approved at the committee meeting. He said that some of the matters in Sections 12 and 13 were already covered in Section 2c so they removed them from the previous draft. Some matters were not covered so they also included language in Section 2c to cover them. In section 7a in the last backup, there was an underlined sentence that was added after the committee met last time and the committee approved that language. The language was "A motion to reconsider any previous action by the Commission may be made, etc.", Commissioner Ellis told Deputy City Cuellar that it looked like that language didn't make it into this updated document presented to Commission today.

Deputy City Attorney Cuellar said she would add that language.

Commissioner Ellis asked Ms. Cuellar if she felt confident that the other matters that were discussed were properly modified in this updated backup.

Deputy City Attorney Cuellar said yes, and reminded the Committee that she previously told them she wanted to look at paragraph 2. She advised that Paragraphs 2 and 3 before them today were different from the previous draft.

MOTION TO RECOMMEND TO CITY COUNCIL FOR ADOPTION THE AMENDMENTS TO RULE 1 WITH THE MODIFICATIONS INDICATED ABOVE MADE BY COMMISSIONER ELLIS, SECONDED BY COMMISSIONER HARRIS AND UNANIMOUSLY PASSED.

14. Discussion and Action of amending Rule 12, Sec. 8. (Tabled 5/13/04)

Commissioner Ellis said the purpose of the item is to correct a problem that potentially exists where people on an eligible list who are not selected are being knocked off the list before they can be appointed. He recommended they consider enacting the proposed amendments he submitted in his memorandum and suggested a committee be appointed so that employees and Department Heads would have a chance to submit their input.

Chair Ruck appointed Commissioners Berube, Ellis and Harris to the committee to address Rule 12.

15. Discussion and Action on developing a system of rewards and recognition for City Employees. (Tabled 5/13/04)

Commissioner Ellis also suggested discussion by way of a committee where they could also solicit input from employees and departments. He commented that the Civil Service Commission should also take the time to reward what is good in the Civil Service instead of often being perceived as only ruling on grievances, etc.

Chair Ruck asked if this was similar to an awards system that was discussed previously by the Mayor.

Ms. Bond said that the City has an updated suggestion program and service awards. She reminded the Commission that at the last meeting she was instructed to get in touch with Department Heads and get their input on this issue but she hasn't had the time to do that.

Chair Ruck appointed Commissioners Ellis, Harris and Peña to the committee.

16. Discussion and Action on making CSC agendas and back-up material available online.

Commissioner Peña recommended that alternative methods of preparing and printing backup be examined. He gave the example of having items available electronically or in a method that is a little more economical in terms of cost.

Ms. Bond stated she had spoken with the Municipal Clerk and with Information Technology. She said this was possible even though it would be more time consuming because it would entail scanning all the documentation. Right now the Copy Center copies the documentation for CSC. She said that originally the goal for counsel was to send the documents electronically only but they are also provided with hard copies of the backup. She told the Commission she could provide the Commissioners with a laptop to use during the meeting. She said this would help in that the packets wouldn't have to be delivered to the Commissioners and it would save on mileage, etc. She did say that late items would be submitted in the way they are now, on hard copies.

Commissioner Ellis asked if the Commissioners could access the information from their homes?

Ms. Bond said yes.

Deputy City Attorney Cuellar said that if they received an Open Records Request they would still have to comply with federal law.

Cori Harbour, Attorney for the City Employees Association, said that this discussion somewhat encompassed the next item which they placed on the agenda. She asked if these items were placed online, if it would be available to the general public? If it was, they wouldn't need to be making their open records requests for copies of backup material.

Chair Ruck indicated that Ms. Bond was nodding to indicate "yes."

Ms. Harbour then said that this might take care of their next item.

Commissioner Sutherland commented that last minute backup would not be included, and this would also depend on whether the laptops would be available to them.

Ms. Bond said that Executive Session item backup would not be included. She also told the Commission that the laptops were already committed to them, they would be for use while at the meeting, they weren't for them to take home.

Chair Ruck commented that sometimes they received last minute backup through email and he doesn't always like to print out many pages as the printer cartridges are quite costly.

Ms. Bond advised the Commission that providing the backup electronically would take a few meetings to set up.

Commissioner Ruck said they weren't setting a timeline on this, they were passing the motion so that the process could begin.

MOTION FOR AGENDA BACKUP MATERIAL TO BE PROVIDED ELECTRONICALLY (SIMILAR TO CITY COUNCIL AGENDA ITEMS) MADE BY COMMISSIONER PEÑA, SECONDED BY COMMISSIONER ELLIS AND UNANIMOUSLY PASSED.

17. Discussion and Action on a proposed policy/rule regarding availability of back-up materials.

Cori Harbour, Attorney for the City Employees Association, stated that if the backup was going to be available on-line the would withdraw this item.

MOTION TO DELETE ITEM 17 MADE BY COMMISSIONER SUTHERLAND, SECONDED BY COMMISSIONER MARTINEZ AND UNANIMOUSLY PASSED.

18. Discussion and Action on the calculation of service time awarded to Jose Vasquez.

MOTION TO TABLE ITEM 18 UNTIL AFTER ITEM 19 MADE BY COMMISSIONER ELLIS, SECONDED BY COMMISSIONER GRAHAM AND UNANIMOUSLY PASSED.

This item was discussed after Item 19.

Mr. Vasquez was present and said he was ready to answer any questions the Commission had.

Deputy City Attorney Lupe Cuellar said there were two actions coming before the Commission. The first one concerns Mr. Vasquez believes CSC rules were violated because he was working temporarily for a period of 36 months and it should not have been more than a year and that is something that is under the Commission's jurisdiction. However, the pension benefits have to be directed to the Pension Board or Robert Ash the Pension Administrator, the CSC doesn't have jurisdiction over that matter.

Commissioner Ellis said he had looked at Rule 26 and didn't find any time limits for these appointments.

Mr. Vasquez said he was referring to pages 6 and 7 of the Employee Handbook, which states that no part-time employee can be kept more than 6 to 12 months, and they were kept from 3 to 5 years.

Chair Ruck told Mr. Vasquez said they could find out if any CSC rules were violated but they couldn't do anything about his pension request. He suggested he speak with Robert Ash, the Pension Administrator.

Commissioner Ellis wondered if there wasn't some portion of this complaint that Human Resources could investigate. He suggested to Mr. Vasquez that he and the other 14 people bring their concerns to Human Resources for investigation.

Ms. Vasquez said they have been trying to correct this problem since he started working here which has been 17 years.

Commissioner Peña asked if it was possible there might be discrepancies in the audit of Mr. Vasquez' service time that could have an impact on his pension.

Deputy City Attorney Lupe Cuellar said it was possible.

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

19. Discussion and Action on a proposed policy/rule regarding disbursement and posting of City Employees' Association events and meetings.

Cori Harbour, Attorney for the City Employees Association, said she had one correction to make to the backup material they had provided. On the second paragraph she had stated that their notices were taken down by Department Heads and she was corrected and told that they were taken down by a supervisor. She reviewed the backup she had provided reference the Association being allowed to post their literature at City Hall and outside of City Hall at other city departments since they were told they couldn't use City email for this purpose.

Chair Ruck asked if there were bulletin boards at these other locations.

Deputy City Attorney Lupe Cuellar said there was but this was a policy decision left to management. She also mentioned that they have to consider that there is also a statute which prohibits the City from recognizing any association as a collective bargaining agent. She suggested to Ms. Harbour that she present her request to CAO Martinez.

Commissioner Ellis said that he had come up with twelve different departments that have facilities away from City Hall who probably never or hardly ever see the postings on the bulletin boards at City Hall. He felt that possibly only 10 percent of city employees worked at City Hall so he believed this was a legitimate concern, which needs to be addressed. He commented that the state statute reference collective bargaining agents didn't have anything to do with this issue. He didn't believe the employees association or AFSCME were asking to be recognized as bargaining units. This issue was reference having communication of items of interest to city employees. He said that CSC could certainly pass a resolution urging City Council to take remedial action to make sure that there is a bulletin board in all the facilities so that information could be posted. He commented that the Commission's minutes could be posted on the bulletin boards also.

Deputy City Attorney Lupe Cuellar said the Commission's minutes could be posted because it was city business as opposed to what the employees association does which is not city business. She told the Commission that they could make such a recommendation to City Council for consideration but urged Ms. Harbour to take it back to CAO Martinez.

Ms. Harbour stated that they did speak to CAO Martinez after he sent the letter to the association and his words to her were "discussion on this matter is closed", which leads her to believe he won't reconsider.

Commissioner Schwartz said she believed they were deviating from the agenda item. She agreed that the City functions could be posted but did not agree with organizations passing out flyers.

Ms. Harbour said that CAO Martinez told her that anybody could post anything on the City Hall bulletin board, the City wasn't giving preference to one group over another. She just wanted to be allowed to post their notices on bulletin boards in other city departments outside of City Hall. She also said that if they weren't allowed to use email then they wanted the email policy enforced so no other group could use it for non-city business.

Deputy City Attorney Lupe Cuellar said that was a good point and everybody had to abide by the email policy.

George Myers, Sun Metro Union Representative, stated that they came to the Commission ten years ago and that at that time the Commission did rule on allowing them to post their meeting notices. They were allowed so long as they weren't soliciting for membership.

Chair Ruck asked if they were allowed to post their notices on the bulletin board at Sun Metro.

Mr. Myers said they were.

Deputy City Attorney Lupe Cuellar said she would have to research this matter and commented that there may be 13C federal implications because of Sun Metro.

Mr. Myers said this had nothing to do with 13c. He said they brought a grievance before the Commission and their ruling was that they were allowed to post anything so long as it wasn't related to soliciting for membership for the union. This was around 1990, he said he could look for the documentation.

Deputy City Attorney Lupe Cuellar said they could look into it.

Norma Ledesma, city employee with the Fire Department, said that the employees association didn't solicit for membership. She said that CSC agendas were being sent out to departments and it was up to the Department Heads if they would post them in their break rooms for employees to view. She said that as far as she knows only the Christmas party fliers are posted, outside of that it is strictly business.

MOTION TO TABLE ITEM 19 MADE BY COMMISSIONER ELLIS, SECONDED BY COMMISSIONER SUTHERLAND AND UNANIMOUSLY PASSED.

20. Discussion and Action on proposed revisions to Substance Abuse Policy for Sun Metro. (Tabled 5/13/04)

This item was tabled at the beginning of the meeting.

21. Discussion and Action regarding the request for investigation by Lt. Lisa Gailey. (Tabled 5/13/04).

This item was deleted at the beginning of the meeting.

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

A. Morrow, IV., Frank – Demotion – Fire Dept. (03-FD-31PP)

This item was tabled at the beginning of the meeting.

B. Hernandez, Lilia – Suspension – Sun Metro (04-SM-02-JO)

MOTION TO APPROVE HEARING OFFICER JESUS OLIVAS' RECOMMENDATION AS NOTED BELOW, MADE BY COMMISSIONER ELLIS, SECONDED BY COMMISSIONER HARRIS AND UNANIMOUSLY PASSED.

"THERE IS NO LONGER ANY MATTER BEFORE THE HEARING OFFICER REQUIRING ANY FURTHER ACTION AS SUN METRO WITHDREW THE DISCIPLINARY CHARGE."

- 23. 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.a
 - A. Torres, Mark Anthony. – Fire Lieutenant
 - B. San Roman, Gabriel. – Fire Lieutenant

Commissioner Ellis asked Ms. Bond if she had made a disposition whether or not there was good cause and these items might be on the agenda prematurely. Under the recent amendment to Rule 8.1 she could do this.

Ms. Bond said she was a bit confused about the amendment because of the words "subject to Commission review" and after reviewing the circumstances for these particular appeals, she would have approved them.

Steven Surface, Fire Assistant Chief, stated that the Fire Department's recommendation was to allow these appellants to take the test.

MOTION TO DELETE ITEMS 23A & 23B MADE BY COMMISSIONER ELLIS, SECONDED BY COMMISSIONER HARRIS AND UNANIMOUSLY PASSED.

- C. Castro, Laura. – Legal File Clerk

Ms. Castro was present. She asked the Commission to give her the opportunity to take this test. She said she had to leave to Mexico on a family emergency and had to take some time off. She said she has never been absent, she only had to take those three days because of the emergency.

Ms. Bond stated she believed the ruling on this item should come from the Commission because the appellant was here during part of the filing period.

Commissioner Ellis said that whether she was here for some of the filing period is not the issue. When the time ran out she wasn't present for the reasons stated and that should be the fundamental issue.

Deputy City Attorney Lupe Cuellar agreed.

Commissioner Berube said she had ample time to apply but waited until the last day and then an emergency came up.

Commissioner Ellis said that she had every right to wait until the last day, the fact that an emergency came up was unforeseen.

MOTION TO DENY ITEM 23C MADE BY COMMISSIONER BERUBE, SECONDED BY COMMISSIONER SCHWARTZ (no vote taken)(This motion was later withdrawn by Commissioner Berube).

Deputy City Attorney Lupe Cuellar stated that the Department Head wanted to be present to address this issue to the Commission. The Department Head wanted to recommend approval and wanted to come before the Commission and state her reasons for that recommendation.

MOTION TO APPROVE ITEM 23C MADE BY COMMISSIONER ELLIS, SECONDED BY COMMISSIONER PEÑA AND UNANIMOUSLY PASSED.

- 24. Discussion and action on reclassification of Secretary I to Secretary III for Representative District 8. If approved, discussion and action on placement of incumbent into reclassified position.

MOTION TO APPROVE ITEM 24 MADE BY COMMISSIONER SUTHERLAND, SECONDED BY

COMMISSIONER GRAHAM AND UNANIMOUSLY PASSED.

25. Discussion and Action on termination of hearing officer Jesus Olivas without cause.

Deputy City Attorney Lupe Cuellar recommended this item be taken in Executive Session.

Mr. Olivas was present and stated he would like this matter addressed in Open Session.

Chair Ruck said this decision was reached due to the hours and a couple of recommendations from Mr. Olivas.

Commissioner Ellis said there were a number of problems and said this item would require discussion several personnel matters reference disciplinary cases against some employees, so he believed this might need to be discussed in Executive Session.

Deputy City Attorney Lupe Cuellar agreed.

MOTION TO ADJOURN TO EXECUTIVE SESSION MADE BY COMMISSIONER ELLIS, SECONDED BY COMMISSIONER HARRIS AND UNANIMOUSLY PASSED.

The Commission retired into Executive Session at 7:20 p.m. to discuss Item 25, and reconvened for Open Session at 7:48 p.m.

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

Chair Ruck said that during Executive Session they were advised by counsel that because this was a termination without cause there was no need for them to meet in Executive Session.

Mr. Olivas said that when he took this position of Hearing Officer he took it with full knowledge that his recommendations could be approved, disapproved or remanded by the Commission. He said that his primary focus then and now was that each individual decision was going to be handled independently and fairly. He never anticipated that he would be asked to rule a certain way and he would not do that, he would rule according to what the evidence shows and hearing from all parties. He stated he has recommended on behalf of the City, against the City, and in the middle. He said he was very comfortable with his work and stood proud behind each and every recommendation because he felt he did the right thing on each one. He didn't know how somebody could second-guess a decision without hearing all the evidence. He said it had been a pleasure working for the Commission and would like to continue doing it as he had thoroughly enjoyed it. However, if the integrity of the process was going to be questioned because he didn't sway one way or the other, he would not be swayed. He told the Commission they can rest assured that all his decisions are made fairly, he didn't have a preconceived idea, he listened to the evidence and heard from all parties before making his analysis. He mentioned Assistant City Attorney Foust was a wonderful person to work with even though they didn't always agree. He reiterated that it had been a pleasure.

Chair Ruck asked Mr. Olivas if he was suggesting that any Commissioner might have wanted to sway his decisions one way or the other.

Mr. Olivas said no, he just brought up that issue specifically for two opinions that have been addressed.

MOTION TO TERMINATE THE CONTRACT WITHOUT CAUSE MADE BY COMMISSIONER BERUBE, SECONDED BY COMMISSIONER ELLIS AND PASSED BY A VOTE OF 6 TO 1 WITH 1 ABSTENTION.

Ayes: Commissioners Peña, Graham, Berube, Schwartz, Harris, Ellis

Nays: Commissioner Sutherland

Abstain: Commissioner Martinez

Mr. Olivas asked about his pending cases.

Chair Ruck asked what would happen with his pending cases.

Deputy City Attorney Lupe Cuellar said they would be reassigned. However, because his contract was being terminated without cause, the City had to give Mr. Olivas 30 days notice. If the Commission wanted him to continue working during those 30 days they could ask him to.

Commissioner Sutherland said he would like to see him continue for the next 30 days to handle some of his pending cases.

Mr. Olivas said that there were actually 2 cases that have actually been heard, the rest could be reassigned without problems.

Chair Ruck asked Mr. Olivas if he was willing to finish up those 2 cases.

Mr. Olivas said that since he didn't have the faith and confidence of the Commission he would rather not.

Chair Ruck asked that letters go out to the appellants explaining the circumstances.

26. Reconsideration, Discussion and Action on approval of hearing officer's recommendation regarding Everado Ochoa.

Mr. Ochoa requested this item be addressed in Executive Session.

MOTION TO ADJOURN TO EXECUTIVE SESSION MADE BY COMMISSIONER ELLIS, SECONDED BY COMMISSIONER HARRIS AND UNANIMOUSLY PASSED.

The Commission retired into Executive Session at 8:00 p.m. to discuss Item 26, and reconvened for Open Session at 8:06 p.m.

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

MOTION TO RECONSIDER THE LANGUAGE OF THE RECOMMENDATION MADE BY COMMISSIONER ELLIS, SECONDED BY COMMISSIONER SUTHERLAND AND UNANIMOUSLY PASSED.

Commissioner Ellis said that when this Commission adopts a recommendation, not only are they adopting the final recommendation but also the process of reasoning and the holdings that were a part of that recommendation. He believed there was a part of the opinion that was seriously flawed. He was referring to the portion giving the employees the right not to answer questions when an administrative investigation is being held.

Deputy City Attorney Lupe Cuellar agreed with Commissioner Ellis' assessment.

MOTION TO ADJOURN TO EXECUTIVE SESSION MADE BY COMMISSIONER BERUBE, SECONDED BY COMMISSIONER HARRIS AND UNANIMOUSLY PASSED.

The Commission retired into Executive Session at 8:10 p.m. to discuss Item 26, and reconvened for Open Session at 8:20 p.m.

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

MOTION TO APPROVE THE HEARING OFFICER'S RECOMMENDATION REGARDING THE REDUCTION OF THE SUSPENSION FROM 30 TO 15 DAYS AND DENY THE PORTION OF THE RECOMMENDATION ON PAGES 13-16 REFERENCE AN EMPLOYEE NOT HAVING TO ANSWER ADMINISTRATIVE QUESTIONS DURING AN INVESTIGATION.

27. Discussion and Action on hiring additional hearing officers.

Chair Ruck asked if there was a current list of Hearing Officers.

Ms. Bond said the list was exhausted.

Chair Ruck commented that they would then need to recruit for this position.

Ms. Bond said depending on how the Commission wanted to proceed. Prior to having three Hearing Officers the Commission only had two. If the Commission believed another Hearing Officer was needed, then a recruitment process could begin and she explained the process to the Commission.

Commissioner Berube recommended that they stay with the two they presently had until they felt they might be overworked.

Commissioner Sutherland said that it seems that in the proceedings they have recently had they have kept all three Hearing Officers pretty busy. He agreed that at one point only two were needed but now believes they should have three.

Commissioner Martinez agreed with Commissioner Sutherland and suggested that they should have a third Hearing Officer in case one of them were to be ill or there be mitigating circumstances cutting their Hearing Officers by one.

MOTION FOR THE HUMAN RESOURCES DEPARTMENT TO INITIATE THE PROCEEDINGS TO DEVELOP A LIST OF HEARING OFFICERS MADE BY COMMISSIONER ELLIS, SECONDED BY COMMISSIONER HARRIS AND UNANIMOUSLY PASSED.

Commissioner Sutherland mentioned that two of the cases that were pending from Hearing Officer Olivas should appropriately be assigned to the current Hearing Officers, not to any new ones.

Chair Ruck said that the current cases should go to the 2 Hearing Officers the Commission currently has. Also, the process to recruit new Hearing Officers should be initiated immediately. Chair Ruck asked the Commission if they were all in agreement on this.

The Commissioners responded affirmatively.

Ms. Bond advised that the entire process would take at least a couple of months. She also told the Commission that Bruce Ponder was one of the candidates that was left on the list from the last recruitment.

Commissioner Sutherland asked if it was possible to bring in Mr. Ponder temporarily during the recruitment process.

Commissioner Berube said Mr. Ponder knew the process as he had previously been a CSC Hearing Officer.

Ms. Bond reminded the Commission that even if Mr. Ponder agrees, the contract process needs to be followed.

MOTION TO CONTRACT BRUCE PONDER TEMPORARILY FOR A PERIOD OF 90 DAYS AS HEARING OFFICER TO HEAR CASES FROM THE TIME HE IS AVAILABLE UNTIL THE HIRING OF A NEW HEARING OFFICER MADE BY COMMISSIONER SUTHERLAND, SECONDED BY COMMISSIONER BERUBE AND UNANIMOUSLY PASSED.

28. Discussion and Action regarding request for legal opinion on construction and application of Charter Sec. 6.1-6.

Commissioner Ellis stated that at the last meeting of the Commission they had a rule that addressed layoffs and they were told they were under a time limit to act on this matter. He previously had asked legal counsel to prepare a legal opinion reference this platform.

Deputy City Attorney Lupe Cuellar said she will provide legal advice to the Commission as a whole.

MOTION THAT DEPUTY CITY ATTORNEY CUELLAR PREPARE A LEGAL OPINION REFERENCE THE APPLICATION AND CONSTRUCTION OF CHARTER SECTION 6.1-6, AND THAT SHE ADDRESS THE MATTERS RAISED IN COMMISSIONER ELLIS' LETTER DATED MAY 17, 2004 AS WELL AS ANY OTHER MATTERS DEEMED APPROPRIATE TO BE ADDRESSED MADE BY COMMISSIONER ELLIS, SECONDED BY COMMISSIONER GRAHAM AND PASSED BY A VOTE OF 6 TO 1 WITH 1 ABSTENTION.

Ayes: Commissioners Graham, Martinez, Sutherland, Schwartz, Berube, Ellis

Nay: Commissioner Peña

Abstain: Commissioner Harris

Chair Ruck said that Charter Sec. 6.1-6 appeared very clear and unambiguous to him. Is there any doubt in anyone's mind that the Civil Service Commission is the only body that can approve rule amendments and changes? Human Resources or City Council can suggest but the Commission has to approve. He believed that section of the charter made it clear that City Council or Human Resources didn't have any authority.

Deputy City Attorney Lupe Cuellar disagreed. They can't change it on their own, they can initiate it and recommend changes but there has to be a recommendation from the Commission.

Commissioner Ellis asked if a Department Head could propose a rule amendment.

Deputy City Attorney Lupe Cuellar said the Human Resources Director could be asked to place amendment on the Civil Service agenda by the Commission, from City Council, from management or even from employees. Once it is before the Commission there is a timeline of 60 days that starts to run.

29. Discussion and Action on Pending Rule Amendments.

Commissioner Ellis said that his concern was that when the Civil Service Commission approved these amendments, it was everybody's understanding that the 60 day time limit would start running shortly after those approval. He said if they were to ask they would probably find out that the time limit hasn't even started yet.

MOTION THAT THE CSC SECRETARY IMMEDIATELY WITH THE NEXT 24 HOURS DELIVER THE RULE AMENDMENTS TO CITY COUNCIL THAT CIVIL SERVICE COMMISSION HAS APPROVED (SPECIFICALLY THE RULES ON EX- PARTE COMMUNICATIONS, PERSONNEL EVALUATIONS, LAYOFFS, RULE 1), MADE BY COMMISSIONER ELLIS, SECONDED BY COMMISSIONER HARRIS AND UNANIMOUSLY PASSED.

Deputy City Attorney Lupe Cuellar said these rules would be put on the City Council agenda for introduction on June 8th.

30. 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)
- C. Review and amend CSC rules as appropriate

NO REVIEW.

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

THE MEETING ADJOURNED AT 8:45 P.M.



LANCE RUCK, C.S.C. CHAIR



TERRY BOND, C.S.C. SECRETARY



DATE APPROVED