

MINUTES
AGENDA FOR A REGULAR MEETING OF THE CIVIL SERVICE COMMISSION
TO BE HELD AT 5:00 P.M., THURSDAY EVENING, JULY 26, 2007
CITY COUNCIL CHAMBERS, #2 CIVIC CENTER PLAZA – 2ND FLOOR

All matters listed under the Consent Agenda below will be considered by the Commission to be routine and will be enacted by one motion in the form listed below. There will be no separate discussion of these items unless members of the Commission or persons in the audience request specific items be removed from the Consent agenda to the Regular Agenda for discussion prior to the time the Commission votes on the motion to adopt the Consent Agenda.

MEMBERS PRESENT: Ruck, Lance – Chair
 Armendariz, Albert
 Boureslan, Ali
 Brannon, Edith
 Gezelius, Ken
 Mosher, Fran
 Reynolds, Thurman
 Scott, Valerie

MEMBERS ABSENT: N/A

The meeting convened at 5:05 p.m. with seven commissioners present and Chair Lance Ruck presiding. Chair Ruck first introduced new CSC Member from District Six, Albert Armendariz. Chair Ruck inquired if Linda Thomas had any changes to the agenda. Commissioner Gezelius requested that Item 3.5 be moved to the regular agenda.

MOTION TO APPROVE THE CONSENT AGENDA MADE BY COMMISSIONER BOURES LAN AND SECOND BY COMMISSIONER GEZELIUS AND UNANIMOULSLY PASSED.

Commissioner Reynolds joined the meeting at 5:50 p.m.

Commissioner Scott left the meeting at 8:55 p.m.

MOTION TO POSTPONE ITEM #7 UNTIL APPELANT ARRIVES IN COUCIL CHAMBERS MADE BY COMMISSIONER BOURES LAN AND SECOND BY COMMISSIONER MOSHER AND UNANIMOULSLY PASSED.

CONSENT AGENDA

1. Discussion and Action on Approval of Minutes:

July 12, 2007

2. Notice of Promulgation of Eligible Lists:

- A. Collectively Bargained Payroll Clerk – Promulgated 7/13/07 (O-6) (P-5)
- B. Engineering Lead Technician – Promulgated 7/9/07 (P-2) (O-1)
- C. Industrial Electrician – Promulgated 7/16/07 (P-1)

- D. Neighborhood Relations Coordinator 7/13/07 (O-8)
- E. Parks and Recreation Assist. Director – Promulgated 7/9/07 (P-3) (O-9)
- F. Police Detective – Promulgated 7/10/07 (P-19)
- G. Senior Office Assistant – Promulgated 7/16/07 (O-25) (CR-1)
- H. Senior Secretary – Promulgated 7/16/07 (O-3) (P-6)

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

- A. Ruben Elias – Facilities Maintenance Technician – General Services
- B. Carl Trujillo – Fleet Maintenance Technician – EPWU
- C. Robert Ayala, Jr. – General Service Worker – Zoo
- D. Hugo Delgadillo – General Service worker - Zoo

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

Travis L. Smith – Senior Zoo Keeper – Zoo

Commissioner Gezelius inquired as to the ranking of this individual if approved in relation to all others currently interested in this position. Linda Thomas stated that this individual could be considered if there was a vacancy, but that he would not have priority over all others. He would be one of the five considered.

MOTION TO APPROVE ITEM 3.5 MADE BY COMMISSIONER GEZELIUS AND SECOND BY COMMISSIONER BOURESLAN AND UNANIMOUSLY PASSED.

3.75 Discussion and Action on Request for Temporary Promotions:

Neftali Cano – Police Department
From: Police Officer
To: Police Sergeant

REGULAR AGENDA

4. Discussion and Action on Approval of Hearing Officer Report and Recommendation:

- A. Clearchus Fitzpatrick– Termination – Sun Metro

Mr. Arballo spoke on Mr. Fitzpatrick's behalf.

(discussion)

MOTION TO APPROVE THE HEARING OFFICER'S REPORT AND RECOMMENDATION TO SUSTAIN THE TERMINATION MADE BY COMMISSIONER GEZELIUS AND SECOND BY COMMISSIONER BRANNON AND PASSED WITH ONE OPPOSITION BY COMMISSIONER BOURESLAN.

- B. Castillo, Hector – Suspension – Street Department

Mr. Arballo spoke on Mr. Castillo's behalf.

(discussion)

MOTION TO REMAND BACK TO HEARING OFFICER TO DECIDE ON THE MERITS MADE BY COMMISSIONER ARMENDARIZ AND SECOND BY COMMISSIONER MOSHER AND PASSED WITH ONE OPPOSITION BY COMMISSIONER GEZELIUS.

5. Discussion and Action on request for a termination hearing:

- A. Enrique Morales – Coach Operator – Sun Metro (*tabled from 7/12/07*)
- B. Jorge Hernandez – Trades Helper – Sun Metro

These are both under the 2 year leave of absence provision that the Commission did not believe was retroactive. Mr. Arballo and Mr. Batoon have had discussions relating to this matter and it was decided that they both would be deleted from the agenda. John Batoon advised that the City was prepared to notify these two employees that they will continue on their leave without pay status and we will begin counting the two years with the passage of the rule which was February, 2006

MOTION TO DELETE ITEM 5A & 5B MADE BY COMMISSIONER GEZELIUS AND SECOND BY COMMISSIONER BOURESLAN AND UNANIMOULSLY PASSED.

6. 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, Section 1.d.1:

- A. Gloria Saenz – Parks Superintendent

(discussion)

Peter Fargo spoke stating that they would now accept Gloria Saenz as qualified.

MOTION TO DELETE ITEM 6A MADE BY COMMISSIONER BOURESLAN AND SECOND BY COMMISSIONER GEZELIUS AND UNANIMOULSLY PASSED.

- B. David Ochoa – Parks Superintendent

Mr. Ochoa requested that the job qualifications be amended regarding college degree. He states that the current standards do not recognize the superior qualifications of current staff.

(discussion)

City Manager, Joyce Wilson requested to withdraw this position and go back and review the job description/classification for this position, and start the process over.

MOTION TO DELETE ITEM 6B MADE BY COMMISSIONER GEZELIUS AND SECOND BY COMMISSIONER MOSHER AND UNANIMOULSLY PASSED.

7. Discussion and Action of whether the Human Resource Director properly implemented the determination of the CSC concerning Item 8 of the March 22, 2007 agenda wherein the Commission determined Jake Canavan was medically qualified to be a Certified Firefighter Trainee.

(discussion)

Jake Canavan passed out additional reference materials to the Commissioners. Commissioner Mosher questioned Ms. Thomas and Fire Chief Rivera, why previously the backup included a possible disqualifier list from 1986, and the documents we received today are the NFPA Standards with the 2007 addition. Commissioner Mosher continued... So my questions is, when he was disqualified according to your process, were you using the documents that were provided to Mr. Canavan through his open documents request or were you using the documents that we received today? Linda Thomas replied that she suggested Commissioner Mosher ask him. Commission Mosher asked, did you receive these? Mr. Canavan replied ... No, I was not given the NFPA Guidelines. In fact, I didn't even know that is what they were going by. Commissioner Mosher continued that she has challenged the fact that the 1986 document was used when there have been huge changes in medication in the last 20 years.

Chair Ruck cautioned the audience not to talk during the proceedings or at least keep it down so that he could not hear it, or they would have to go outside for their discussions.

Chair Ruck continued by asking Linda Thomas if she just said they have always used these guidelines from the NFPA. described. I think they were described as the National Association of Firefighter Standards.

(discussion)

Chair Ruck questioned Chief Rivera as to when these guidelines were adopted. He responded that they have not been adopted, because they are broad in scope, and they would be hard to follow just budget-wise. Chief Rivera stated further, we just use them as guidelines so we can be as clear and as near to the national standards and national requirements as we can. Chair Ruck responded that you are going to use some of them as a safety issue but you are not going to use this one as a safety issue. Chair Ruck questioned, since you did not adopt the standards, can I also assume that you do not have a physician assigned under the standards? That is correct, we use the physician that HR uses.

(discussion)

Commissioner Boureslan questioned Ms. Thomas.... We qualified this gentleman last time, and you were aware that he had an asthma case. She responded, what you did was approve that he be put back on the list.

(discussion)

Mr. Canavan has proven that he has passed the agility test, not once but twice. We cleared him the first time. I don't even want to listen to any thing else. I make a motion to approve him again,.... So that he can begin the class on Monday. Second from Valerie Scott.

Mr. Batoon interjected that they may be a legal issue that applies in this case. He requested that they move to executive session.

MOTION TO MOVE TO EXECUTIVE SESSION MADE BY COMMISSIONER GEZELIUS AND SECOND BY COMMISSIONER MOSHER AND UNANIMOULSLY PASSED.

Executive session convened at 6:54 p.m.

MOTION TO RECONVENE TO OPEN SESSION MADE BY COMMISSIONER GEZELIUS AND SECOND BY COMMISSIONER BRANNON AND UNANIMOULSLY PASSED.

Reconvened to Open Session at 7:49 p.m.

Commissioner Boureslan withdrew his previous motion.

MOTION TO DIRECT THE CITY TO HAVE THE APPLICABLE TEST THAT IS OUTLINED IN NFPA APPENDIX A6.8.1.1, WHICH IS A TEST PERFORMED BY AN EXPERIENCED PROFESSIONAL, PREFERRABLY A PULMONOLOGIST OF MR. CANAVAN'S CHOICE, AND IF HE PASSES THAT TEST, THAT HE BE ADDED TO THE ACADEMY CLASS THAT IS SCHEDULED TO BEGIN ON MONDAY, JULY 30TH, 2007, MADE BY COMMISSIONER MOSHER AND SECOND BY COMMISSIONER BOURESLAN AND PASSED WITH COMMISSIONER ARMENDARIZ ABSTAINING.

Commissioner Mosher stated that referring back to Item #7, the motion on March 24 was to approve Mr. Canavan's appeal and the exact wording was "allow him to become a firefighter". Commissioner Mosher informed Ms. Thomas that If in the future there is some reason you can not fulfill the motion that is made, then it is your responsibility to work through the attorneys and tell us there is some legal reason why you can not carry forth with the determinations that we make. Not to make an interpretation about what we meant because the exact wording was to allow him to become a firefighter. That does not mean being put on an eligible list, and going through the process again.

- 7.5 Discussion and Action on revoking the Firefighter Eligibility List promulgated at the Civil Service Commission on July 12, 2007, pursuant to Rule 12, Section 4. Revocation of List.

MOTION TO DELETE ITEM 7.5 MADE BY COMMISSIONER BOURESLAN AND SECOND BY COMMISSIONER GEZELIUS AND UNANIMOULSLY PASSED.

Chair Ruck requested that Item 9 be move before Item 8 specifically if the current rules are going to be abused I don't know that we need to be discussing any changes that would allow this abuse to occur legally.

MOTION TO ENTERTAIN ITEM 9 BEOFRE ITEM 8 MADE BY COMMISSIONER BOURESLAN AND SECOND BY COMMISSIONER MOSHER AND UNANIMOULSLY PASSED.

8. Discussion and Action on Proposed Changes to Civil Service Rules: *(Rules 6-12 & 14)*

9. Discussion and Action on the recommendation of Item 10 of the May 24, 2007 Meeting - Using the provisions of the City Charter, Article VI, Sections 6.1-5B and 6.1-7 to investigate grievances to ensure classified employees are being treated fair and equitable in the hiring of contract positions.

(discussion)

City Manager, Joyce Wilson spoke and explained the intent of the city in contracting zoo positions. Ms. Wilson further stated that she needed the record to reflect that there was nothing intended in terms of our actions to subvert the system, undermine the principles of the civil service or to do anything inappropriate.

(discussion)

Commissioner Boureslan commented that we may be in a position where the CSC Recorder may have to prepare verbatim minutes again, if the Commission's directives are not followed.

(discussion)

MOTION TO DELETE ITEM #9 MADE BY COMMISSIONER BOURESLAN AND SECOND BY COMMISSIONER GEZELIUS AND UNANIMOULSLY PASSED.

(Continued at this point with Item #8)

The appeals portion of Rule 14 was left in tact, to allow employees to appeal to the Commission.

MOTION TO APPROVE RULE 14 MADE BY COMMISSIONER BOURESLAN AND SECOND BY COMMISSIONER BRANNON AND UNANIMOULSLY PASSED.

City Manager, Joyce Wilson, gave a brief review of the purpose of revising Rules 6 through 12.

(discussion)

MOTION TO APPROVE RULE 6 AS AMENDED MADE BY COMMISSIONER GEZELIUS AND SECOND BY COMMISSIONER GEZELIUS AND UNANIMOULSLY PASSED.

MOTION TO ADJOURN FOR A 10 MINUTE RECESS MADE BY COMMISSIONER BRANNON AND SECOND BY COMMISSIONER SCOTT AND UNANIMOULSLY PASSED.

MOTION TO RECONVENE TO OPEN SESSION MADE BY COMMISSIONER BROURESLAN AND SECOND BY COMMISSIONER GEZELIUS AND UNANIMOULSLY PASSED.

Meeting reconvened at 8:55 P.M.

(discussion of Rule 7)

MOTION TO APPROVE RULE 7 MADE BY COMMISSIONER GEZELIUS AND SECOND BY COMMISSIONER REYNOLDS AND UNANIMOULSLY PASSED.

(discussion of Rule 8)

MOTION TO APPROVE RULE 8 MADE BY COMMISSIONER REYNOLDS AND SECOND BY COMMISSIONER BRANNON AND UNANIMOULSLY PASSED.

(discussion of Rule 9)

MOTION TO APPROVE RULE 9 MADE BY COMMISSIONER BOURESLAN AND SECOND BY COMMISSIONER GEZELIUS AND UNANIMOULSLY PASSED.

(discussion of Rule 10)

MOTION TO APPROVE RULE 10 MADE BY COMMISSIONER BOURESLAN AND SECOND BY COMMISSIONER BRANNON AND UNANIMOULSLY PASSED.

(discussion of Rule 11)

MOTION TO APPROVE RULE 11 MADE BY COMMISSIONER GEZELIUS AND SECOND BY COMMISSIONER MOSHER AND UNANIMOULSLY PASSED.

(discussion of Rule 12)

MOTION TO APPROVE RULE 12 AS AMENDED MADE BY COMMISSIONER BOURESLAN AND SECOND BY COMMISSIONER BRANNON AND UNANIMOULSLY PASSED.

David Ochoa, spokesman for the Employee Association, thanked the City Manager, Ms. Hengen and the Commission for their hard work in revising the Rules.

MOTION TO ADJOURN MADE BY COMMISSIONER GEZELIUS AND SECOND BY COMMISSIONER BRANNON AND UNANIMOULSLY PASSED.

Meeting Adjourned at 9:40 p.m.



Lance E. Ruck, C.S.C. Chair



Linda Ball Thomas, C.S.C. Secretary

8/9/07

Date Approved