

MINUTES
AGENDA FOR A REGULAR MEETING OF THE CIVIL SERVICE COMMISSION
TO BE HELD AT 6:00 P.M., THURSDAY EVENING, AUGUST 10, 2006
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: Boureslan, Ali - Chair
 Gezelius, Ken
 Graham, Elijah
 Mosher, Fran
 Ruck, Lance
 Schwartz, Elma
 Scott, Valerie
 Brannon, Edith

MEMBERS ABSENT: Reynolds, Thurman

The meeting convened at 6:00 p.m. with 8 Commissioners and Chair Boureslan presiding. Chair Boureslan began the meeting by asking if there were any changes to the agenda. Ms. Thomas requested that Item 12 be deleted. City Attorney John Batoon provided additional backup for Item 16. Chair Boureslan then asked if there were any corrections to the minutes and Commissioner Brannon said she was mistakenly counted as absent and requested that it be corrected on the minutes. Commissioner Schwartz also requested a change to the minutes. She said the minutes incorrectly identified Commissioner Brannon as requesting that the minutes be amended to reflect two abstentions regarding the selection of the Civil Service Commissioner Recorder when it was actually Commissioner Schwartz who made the request.

CONSENT AGENDA

1. Discussion and Action on Approval of Minutes:

July 27, 2006

MOTION MADE TO APPROVE ITEM 1 AS AMENDED BY COMMISSIONER BRANNON AND COMMISSIONER SCHWARTZ MADE BY COMMISSIONER BRANNON, SECONDED BY COMMISSIONER SCHWARTZ AND UNANIMOUSLY PASSED.

2. Notice of Promulgation of Eligible Lists:

- A. Public Services Librarian = Promulgated 07/31/06 (O-6)
- B. Public Services Senior Librarian = Promulgated 07/31/06 (P-2) (O-5)
- C. Accountant = Promulgated 07/27/06 (P-7) (O-6)
- D. Financial Systems Coordinator = Promulgated 07/27/06 (P-1) (CR-1) (O-1)
- E. Fixed Route Assistant Superintendent = Promulgated 07/27/06 (P-1)
- F. Plan Reviewer II = Promulgated 07/27/06 (O-1)
- G. Traffic Engineer = Promulgated 07/27/06 (P-1) (O-1)
- H. Customer Accounts Tax Clerk II = Promulgated 07/24/06 (P-4) (O-12)
- I. Procurement Analyst = Promulgated 07/24/06 (P-5) (O-8)

3. Discussion and Action on addendums to the new Classification and Compensation Plan for positions within the General Services Compensation Plan pursuant to the Classification and Compensation Study completed by the Human Resources Department.

	<u>Title</u>	<u>Code</u>	<u>Grade</u>
A.	Proposed: Traffic Signs & Markings Technician	17515	47
B.	Proposed: Public Safety Communications Specialist	19780	50

4. *Item Not Used*

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

- A. Ortiz, Sandra – Suspension – Police Dept.
 B. Zeh, Jr., Fernando – Termination – Fire Dept.

6. Discussion and Action on request to have named placed on Transfer List:

Cardona, Peggy A. – Personnel and Accounting Clerk – Fire

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

Jimenez, Maria Sandra – Grants Planner – Mass Transit

8. Discussion and Action on Request for Temporary Promotion:

Erives, Mario – Mass Transit (Extension)
 From: Paratransit Coach Operator
 To: Transit Route Supervisor

9. 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:

Morales, Victor – Labor Foreman – El Paso International Airport

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

- A-F. Borunda, Chris – Invoices 37605, 37606, 37607, 37608,37609,37610, – Dated 06/30/06

MOTION TO APPROVE CONSENT AGENDA MADE BY COMMISSIONER BRANNON AND SECONDED BY COMMISSIONER SCOTT AND UNANIMOUSLY PASSED.

REGULAR AGENDA

11. Discussion and Action on Appeal of Disqualification to take Examination and/or Removal of Name from Eligible List in accordance with C.S.C. Rule 8.1.d.1.:

A. Aranda, Edna – Zoo Keeper

Chair Boureslan asked if Ms. Aranda was present. Ms. Aranda asked the Commission why she was disqualified from the Zoo Keeper position. Mr. Peter Fargo, Employment Services Manager, then approached Ms. Aranda at the podium and Chair Boureslan asked Mr. Fargo to address the Commission. Mr. Fargo said he was trying to help Ms. Aranda address the Commission and said he had already explained the situation earlier in the day to Ms. Aranda and made himself available to answer questions from the Commission. Commissioner Ruck asked Mr. Fargo how Human Resources determined that the 16 months Ms. Aranda worked at Marine World would only qualify as four months of credit. Mr. Fargo explained that three months are given for one year of volunteer experience. He said Ms. Aranda was given three months for the first year and one month for the second year and that was why she lacked eight months experience to qualify for the position. Commissioner Graham asked Mr. Fargo if working one year with caged animals was the only qualification Ms. Aranda lacked and Mr. Fargo answered yes. Mr. Fargo said Ms. Aranda only has volunteer experience. Commissioner Brannon asked Mr. Fargo if he equates volunteer experience the same with all candidates. Mr. Fargo answered yes and Commissioner Brannon made a motion to deny the appeal.

MOTION TO DENY ITEM 11 MADE BY COMMISSIONER BRANNON AND SECONDED BY COMMISSIONER SCOTT AND PASSED BY A VOTE OF 5 TO 2.

Ayes: Commissioners Brannon, Gezelius, Scott, Mosher, Ruck

Nays: Commissioners Graham, Schwartz

12. Discussion and Action on Parking for Civil Service Commission Subcommittee Members on Dates and Times other than Regular Civil Service Commission Meetings.

ITEM WAS DELETED AT THE REQUEST OF MS. THOMAS.

13. Discussion and Action on Amending the current Civil Service Policy on Equivalency Guidelines to Allow for Substituting Experience for Education.

Commissioner Reynolds asked that the item be put on the agenda but he was absent. However, Chair Boureslan said he wanted to speak on the item. Chair Boureslan said when the item was originally discussed in March the idea was to upgrade the level of professionalism in the City. Chair Boureslan said the City is currently paying for the education of more than 100 City employees. According to Ms. Thomas the City is paying for 130 City employees and 20 El Paso Water Utilities employees. Chair Boureslan said this was a good thing the City was doing by helping employees who may otherwise not have the means to attend college. However, in the past some City Department Heads have promoted employees without a college degree which may cause a problem with the idea of substituting education for experience. Chair Boureslan said he is not against rewarding employees who have been with the City for 15 or 20 years. However, Chair Boureslan said that the people who have been hired by the City in the last four months since adopting this policy are better qualified than in the past. He supports maintaining this policy but opened it up for discussion from the commissioners and public. Commissioner Ruck said his main concern has to do with City employees who were put in positions either temporarily or by working out of class and had been in these positions for several years. He said it didn't seem fair that with the new equivalency guidelines the employee

who is currently in the position may not qualify to test for it because he or she does not have a degree. Commissioner Ruck said an exception needs to be made if this situation should occur. Commissioner Brannon said she applauds the City's willingness to support the educational efforts of city employees. However, she said her interest in looking at this policy is to see whether there are qualified candidates who may not be considered for a position. She said she would like to look at the past equivalency guidelines prior to making a decision about changing the rules. Commissioner Graham said he thought it would be wise to either delete or pick this item up when Commissioner Reynolds is present. Commissioner Graham said he has several reasons why he thinks this is not a good rule and one of those reasons is that it takes away the City's options. He said the City may already have an employee who does a good job but may lack a degree. He said such an employee can take and pass the test and probably score higher than anyone who has a degree and the employee also has the experience, professionalism and support from personnel. Commissioner Graham said for that reason it is not a smart thing to only consider candidates who have a degree. Chair Boureslan said people who are currently in these positions would not be moved out but if a position became vacant and required a college degree then they would like to see the college degree. Commissioner Schwartz said she would like to hear Commissioner Reynolds regarding this item that he put on the agenda. Commissioner Schwartz also agreed with Commissioner Brannon that she would like to look at the previous equivalency guidelines. Asst. City Attorney Lupe Cuellar said the item could be tabled until the next meeting and the backup provided at this meeting would be provided again along with the previous equivalency guidelines.

MOTION TO TABLE ITEM 13 MADE BY COMMISSIONER BRANNON, SECONDED BY COMMISSIONER GEZELIUS AND UNANIMOUSLY PASSED

14. Discussion and Action on Committee Report reference Performance Evaluation Appeal of Ricardo Villanueva, Mass Transit Department.

MOTION TO APPROVE THE RECOMMENDATION OF THE SUBCOMMITTEE MADE BY COMMISSIONER GEZELIUS AND SECONDED BY COMMISSIONER SCHWARTZ AND UNANIMOUSLY PASSED

Assistant City Attorney Lupe Cuellar asked Commissioner Boureslan if the chair of the subcommittee could read the determination paragraph for the record. Chair Boureslan commended Commissioner Mosher for her work on subcommittee. Chair Mosher read the determination as Ms. Cuellar recommended and said the subcommittee ruled in favor of the employee in accordance with section 2, item 1.

15. Discussion and action on assignment of disciplinary appeal of Lilia Hernandez to a hearing officer.

Attorney Bill Ellis appeared representing Lilia Hernandez. He said Ms. Hernandez currently has two appeals pending before the hearing officer. Mr. Ellis said on 03/03/06 Ms. Hernandez was called into the Sun Metro office with Mr. Scott and was presented with a proposal that she be disciplined for three days on account of an incident that occurred 12/13/05. She was told he was willing to reduce her three day suspension to a two day suspension but she had to agree to that immediately and execute a waiver of her rights to appeal to the Commission. Mr. Ellis said that when Mr. Scott offered to reduce that discipline he did so knowing there were other accidents involving Ms. Hernandez in April 05, Nov. 05, Dec. 05, and another incident in 06 for which he was going to terminate her and did so 17 days later after he offered her this deal. Mr. Ellis said Ms. Hernandez was not able to adequately reflect upon the significance of her choice to take that reduction thereby waving her rights to appeal. He said it was their contention that she did so not knowing fully the implications of what she was doing and therefore her waiver was not freely, intelligently or voluntarily given. Mr. Ellis said he had been in some discussion

with Assistant City Attorney Mr. John Batoon and he thinks that they consensus among them to the validity of Mr. Ellis' contentions raised in his letter and in this CSC appeal should probably be considered by a hearing officer to determine if the appeal should be permitted or a committee of the commission on that point because obviously people would want to be heard on this matter. Mr. Ellis said he would like this matter to be heard by a hearing officer or the Commission. Mr. Batoon said that because the hearing officer already has the matter before her on the merits that the Commission assign this issue to her to handle as part of the appeal of the merits to determine whether or the waiver provisions were violated. Assistant City Attorney Lupe Cuellar asked Mr. Ellis to clarify the date of the appeal of the suspension because she may have an issue if it was not made within 30 days of the suspension. Mr. Ellis said the date of the suspension was March 3, 2006 but he said that he didn't think it was right if an employee was tricked into signing a waiver then the city cannot tell the employee she cannot appeal said that the commission has to follow the provisions of the charter which states that an employee has 30 Days under the charter to appeal. She also said there was a civil service rule that would allow the department and employee to meet and see if they can come to some kind of resolution and if so the employee would wave right to appeal. She said by allowing the appeal to go through the Commission would be circumventing the charter and the Commission's rule.

Discussion

Commissioner Graham disagreed with Ms. Cuellar and said the way that he interprets Rule 16, and Section 6.1-16 in the City Charter, the commission does have the authority to assign this appeal to a hearing officer.

Commissioner Graham called for a point of order and Chair Boureslan passed on the point of order. Chair Boureslan told Commissioner Graham that he could ask the Commission to appeal his ruling on the point of order. Commissioner Graham said he did want to appeal Chair Boureslan's ruling. Chair Boureslan asked if anyone wanted to second the motion and there and no one did.

Discussion

MOTION TO DENY ITEM 15 MADE BY COMMISSIONER MOSHER AND SECONDED BY COMMISSIONER BRANNON AND PASSED BY A VOTE OF 6 TO 1.

Ayes: Commissioners Gezelius, Scott, Mosher, Schwartz, Ruck, Brannon

Nays: Commissioner Graham

16. Discussion and action on employment status of Rafael Segura (Mass Transit) and appropriate remedial action.

Attorney Bill Ellis appeared representing Rafael Segura. Mr. Ellis said it was his contention that Mr. Segura had been wrongfully separated from his employment with the city even though he complied with the instructions of the Human Resources Director, Linda Ball Thomas, and reported for work within the deadline that was given to him by Ms. Thomas. Mr. Ellis said Mr. Segura presented a slip from his doctor in compliance with rule 13 that he could return to work with certain restrictions and even though he did that somehow he is no longer an employee of the city. Mr. Ellis said that he thought it was pretty clear that the provisions allowing the city to deem that he resigned under rule 13, sec. D have not been met. Mr. Ellis said that the commission has the right and the duty to remedy this action by declaring that Mr. Segura continues to be an employee of the city. He said the city has a duty to find an accommodation for Mr. Segura where he can work while meeting the restrictions set by his doctor.

City Assistant Attorney Lupe Cuellar said that at this point in time the commission's jurisdiction has not been properly invoked. Ms. Cuellar said that if the commissioners look at the specific rule concerning leave of absences, we made it clear that nothing could be appealed to the Civil Service Commission because under the charter, the mayor is the only one that has the authority to approve leave of absences. Ms. Cuellar said she thinks the employee has the right to appeal the action if he feels he was improperly terminated but the appropriate mechanism is under Sec. 16.13-4. Ms. Cuellar said Mr. Ellis needs to invoke Sec. 16.13-4 so that the commission can go ahead and hear the appeal because it was not properly posted.

Discussion

MOTION TO DELETE ITEM 16 MADE BY COMMISSIONER GEZELIUS, SECONDED BY COMMISSIONER BRANNON AND PASSED BY A VOTE OF 4 TO 1.

Ayes: Commissioners Brannon, Gezelius, Scott, Mosher, Schwartz

Nays: Commissioners Graham, Ruck

The Civil Service Commission may retire into Executive Session pursuant to Civil Service Commission Rule 1, Section 11(a) and the Texas Government Code, Section 551, Subchapter D to discuss any of the following: (The items listed below are matters of the sort routinely discussed in Executive Session, but the Commission may move to Executive Session any of the items on this agenda, consistent with the terms of the Open Meetings Act.). The Commission will return to open session to take any final action.

- Section 551.071 CONSULTATION WITH ATTORNEY
- Section 551.074 PERSONNEL MATTERS

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

THE MEETING ADJOURNED AT 7:31 P.M.

Ali Boureslan

ALI BOURES LAN, C.S.C. CHAIR

Linda Ball Thomas

LINDA BALL THOMAS, C.S.C. SECRETARY

8-24-06

DATE APPROVED