

**MINUTES**  
**AGENDA FOR A REGULAR MEETING OF THE CIVIL SERVICE COMMISSION**  
**TO BE HELD AT 6:00 P.M., THURSDAY EVENING, SEPTEMBER 28, 2006**  
**CITY COUNCIL CHAMBERS, #2 CIVIC CENTER PLAZA – 2ND FLOOR**

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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  
                                  Brannon, Edith  
                                  Gezelius, Ken  
                                  Graham, Elijah  
                                  Mosher, Fran  
                                  Reynolds, Thurman  
                                  Ruck, Lance  
                                  Schwartz, Elma

**MEMBERS ABSENT:**         Scott, Valerie

The meeting convened at 6:00 p.m. with seven Commissioners and Chair Boureslan presiding. Chair Boureslan began the meeting by asking if there were any changes to the agenda. Human Resources Director, Linda Ball Thomas requested that Item 8 be moved to the top of the regular agenda and asked that Items 6 and 7 be moved to the end of the agenda. Commissioner Gezelius requested that Items 3A and 3B be moved to the regular agenda.

**CONSENT AGENDA**

1.     Discussion and Action on Approval of Minutes:  
  
                                  September 14, 2006
  
2.     Notice of Promulgation of Eligible Lists:
  - A. Fleet Maintenance Technician = Promulgated 09/15/06 (P-4) (O-1)
  - B. Chief Plans Examiner = Promulgated 09/14/06 (P-2)
  - C. Civil Engineering Associate = Promulgated 09/14/06 (P-3) (CR-1) (O-6)
  - D. Fleet Maintenance Worker = Promulgated 09/14/06 (P-2) (CR-2) (O-6)
  - E. Fleet Body Repair Technician = Promulgated 09/14/06 (O-0)
  - F. Mechanical Engineering Associate = Promulgated 09/14/06 (O-4)
  - G. Parking Meter Service Supervisor = Promulgated 09/14/06 (P-2) (CR-1) (O-2)
  - H. Lead Auditor = Promulgated 09/11/06 (O-3)
  
3.     Discussion and Action on request to assign pending appeal cases:
  - A.     Padilla, Arturo – Suspension – Street Department
  - B.     Molina, Raul – Suspension – EPWU

Commissioner Gezelius said he thought 3A and 3B could be heard by the full Commission instead of being referred to a hearing officer based on the amount of time of the suspensions that were being appealed. Commissioner Brannon said she was not in favor of doing that. Commissioner Ruck said that this issue was being brought up again from the 09/14/06 CSC meeting in which a discipline case was going to be heard by the full Commission. Commissioner Ruck said the difference between the case from the last meeting and the

discipline cases from this meeting was that the case from the last meeting was not a discipline case. He said it was a termination and considerably different from a discipline case. Commissioner Ruck said he agreed with Commissioner Brannon and was in favor of sending the cases to a hearing officer.

**MOTION TO ASSIGN CASES TO A HEARING OFFICER MADE BY COMMISSIONER RUCK AND SECONDED BY COMMISSIONER BRANNON AND PASSED BY A VOTE OF SIX TO ONE.**

Ayes: Commissioners Brannon, Graham, Reynolds, Schwartz, Mosher, Ruck

Nays: Commissioners Gezelius

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

- A. Howell, Lorena – Secretary – EPWU
- B. Alvarez, Mercedes – Office Assistant – City Attorney's Office
- C. Bencomo, Aide T. – Secretary – Sun Metro

5. Discussion and Action on Request for Temporary Promotion:

- A. Sigala, Tomas – Street Department  
From: Heavy Equipment Operator  
To: Streets Operation Assistant
- B. Calderon, Lourdes – Police Department (Extension)  
From: Police Sergeant  
To: Police Lieutenant

**MOTION TO APPROVE CONSENT AGENDA MADE BY COMMISSIONER RUCK AND SECONDED BY COMMISSIONER GEZELIUS AND UNANIMOUSLY PASSED.**

**MOTION TO MOVE ITEMS 3A AND 3B TO THE REGULAR AGENDA MADE BY COMMISSIONER GEZELIUS AND SECONDED BY COMMISSIONER RUCK AND UNANIMOUSLY PASSED.**

### **REGULAR AGENDA**

6. Discussion and action to amend CSC Rule One, Section 6. Committees.

At the request of Ms. Thomas, the item was moved to the end of the regular agenda. Chair Boureslan said whenever the Commission approves rules and policies the rules and policies should withstand the evidence of time. He said Rule 1 was discussed thoroughly and he did not feel the Commission should change it but opened the floor for discussion. Commissioner Gezelius put the item on the agenda and said the rule states that when a committee is formed the committee chooses their own chairperson. He said the Commission's practice has been that when a committee is formed the Commission Chair appoints the chair person. He said he was happy either way but he did not think they should break their own example. He said the change would make the Commission's practice align with the rule. Chair Boureslan said that at the 9/14/06 CSC meeting, the subcommittee selected a chair for their committee. He said the committee could select the chair during the CSC meeting or when the committee meets. He said at the last meeting he called for the committee to select a chair and they did. He said if the chair or subcommittee objected to the process, their objection could have been voiced. He said he did not think changing the rule would add to the democracy of the process.

Commissioner Ruck said that that rule was being followed. He said the only problem would be if three Commissioners wanted to be chair for the same committee or if no one volunteered to be chair, then the Commission would have to vote or pick someone. He said the Commission did not have a problem as long as people were volunteering to serve on the committee. He said when there were no volunteers then the chair would have to assign a person to the committee. He said he does not see any reason to change the rule.

**MOTION TO DELETE MADE BY COMMISSIONER RUCK AND SECONDED BY COMMISSIONER SCHWARTZ AND PASSED BY A VOTE OF SIX TO ONE.**

Ayes: Commissioners Brannon, Graham, Reynolds, Schwartz, Mosher, Ruck  
Nays: Commissioners Gezelius

7. Discussion and Action on receiving quarterly reports on the status of Hearing officer cases from the Commission Secretary, and a requirement that the CSC Secretary alert the Commission when time limits are exceeded.

At the request of Ms. Thomas, this item was also moved to the end of the regular agenda. Commissioner Gezelius put the item on the agenda and said Rule 16 established deadlines for the hearing officer and instructed the hearing officer to ask the Commission for an extension if the deadlines could not be met. He said there were still open cases from 2004 and 2005. He said by receiving a quarterly report the Commission would have somebody keeping track of the cases assigned to the hearing officers and reporting back to the Commission. Chair Boureslan asked Assistant City Attorney Lupe Cuellar if the procedures under Rule 16 would solve the concern. Ms. Cuellar said the Commission could certainly ask the Civil Service Commission Secretary to report to the Commission whether or not the hearing officers were following the provisions under Rule 16. She said the CSC Secretary could report to the Commission if there was a hearing officer who was in violation of the provision. Commissioner Ruck said a similar item was put on the 9/14/06 agenda requesting a monthly report. However, he said he did not have a problem receiving a quarterly report.

**MOTION TO APPROVE MADE BY COMMISSIONER GEZELIUS AND SECONDED BY COMMISSIONER REYNOLDS AND UNANIMOUSLY PASSED.**

8. Discussion and Action on documents submitted by Yvonne Lopez regarding Cancellation of Coach Operators sign-up effective September 24, 2006.

At the request of Ms. Thomas, the item was moved to the top of the regular agenda. Yvonne Lopez was present. Ms. Cuellar told the Commission that she did not think the item was properly before them. She said as a grievance, she did not think it had gone through the proper procedures under the Civil Service Rules. Chair Boureslan agreed with Ms. Cuellar and said he was concerned that Our Struggle for Survival and Justice Committee was appearing before the Commission and the committee was not recognized by the Commission or the City. Chair Boureslan said any employee could properly present the Commission with a grievance. However, the Commission would not entertain part of that as a collective argument the way it had been presented to the Commission. He said all of the names listed on the petition may go before the Commission on an individual basis if they have a grievance.

**MOTION TO DELETE MADE BY COMMISSIONER GEZELIUS AND SECONDED BY COMMISSIONER MOSHER.**

Discussion.

Jaime Arellano asked if he could present the case and Chair Boureslan said first the Commission had to decide whether or not they could hear it. Commissioner Ruck asked Ms. Cuellar if it was correct that in the past the basis for lack of jurisdiction was state law that prohibits the organization from representing an individual. Ms. Cuellar said that was correct and the item was not properly before the Commission because it had not gone through the grievance process. She said it was possible for an individual who was personally harmed by a rule that the Commission has jurisdiction to hear to bring something before the Commission in the form of a grievance. Commissioner Ruck asked Ms. Lopez if she had filed a grievance with management and Ms. Lopez answered no. Commissioner Ruck then informed Ms. Lopez if she wanted her case to be heard she was going to have to do that. Mr. Arellano told Commissioner Ruck that he was Ms. Lopez's representative. Commissioner Ruck told Mr. Arellano that he did not have any rights to represent Ms. Lopez. He also told Mr. Arellano that as he was previously informed that if an employee brings a grievance then the Commission can hear it if proper procedure is followed. He said first management at Sun Metro would be required to address the grievance and they would either approve or deny it. Commissioner Ruck said if Sun Metro denies it then Ms. Lopez can present it to the Commission. Commissioner Ruck then asked Ms. Lopez if the Our Struggle for Survival and Justice Committee ever advised her of how to properly bring the matter before the Commission and Ms. Lopez answered no. Commissioner Ruck then told her that if she had addressed her complaint to management and attached a grievance form and stated what she thought had been violated in the charter or rules then management would be required to answer it. He said if she was not satisfied with that outcome then the Commission could hear the case. Commissioner Ruck said that although employees have the right to bid on jobs, it was management's prerogative to set up the way they want the jobs to run. He also told Ms. Lopez if she thought that somehow they were setting them up to discriminate against an individual or a group, then those individuals need to file a grievance, state the rules and provide evidence that shows this was happening. Chair Boureslan suggested that Ms. Lopez request a copy of Rule 24 which outlines the grievance procedure. Commissioner Graham said this issue could be addressed if one or two people out of the 212 people who signed the petition filed a grievance. Ms. Cuellar said that only one person was needed to file a grievance and once the Commission heard the grievance and disposed of it, then it would be disposed for everyone who has the same grievance. Chair Boureslan said Ms. Lopez had to exhaust all efforts through the City before she could go before the Commission. He said what the Commission was not willing to do was except collective bargaining for a committee that was trying to get recognition from the Commission or the City. He said that the Fire Department and the Police Department are the only two organizations in the City that have collective bargaining power. Mr. Arellano said Ms. Lopez would file a grievance and it would reach the Commission.

MOTION TO DELETE MADE BY COMMISSIONER GEZELIUS AND SECONDED BY COMMISSIONER MOSHER AND UNANIMOUSLY PASSED.

9. Discussion and Action on EEO Discrimination Complaint

Lilia Fierro – 05/04/06 (Tabled 8/24/06 and 9/14/06)

Ms. Fierro was present and was represented by her attorney Constance Wannamaker. Ms. Wannamaker said Ms. Fierro filed the complaint because she felt she was being discriminated against. Ms. Wannamaker said after Ms. Fierro complained about her discrimination, she was retaliated against by being transferred to another position. She said Ms. Fierro's position was eliminated in August 2005 and she was transferred to a developmental position as Arts and Program Education Specialist in September 2005. She said once Ms. Fierro was in the new position she began to experience discrimination because of her health conditions. Ms. Wannamaker said Ms. Fierro was questioned about doctor's appointments when she didn't

have to provide a doctor's note because she was not out for three days under the CSC Rules. She said Ms. Fierro did so voluntarily but was told that the note was insufficient. Ms. Wannamaker also said that Ms. Fierro also felt like she was constantly being picked on because she was told she was not doing her job properly. She said Ms. Fierro was in a probationary position and repeatedly asked for training and guidance. On April 1, 2006, she received a negative evaluation which was the first negative evaluation she had received in an 18 year career with the City. She was told she could remain in that position for three months under a probationary status after which time if she was not performing up to standards she could be transferred into a different position. Ms. Wannamaker said that on April 19, 2006 Ms. Fierro wrote a letter to Ms. Thomas stating that she felt she was being discriminated against because of her health condition and she was asking that the discrimination stop and she be given the resources to perform her job properly. She said that on May 1, 2006, Ms. Fierro was told that she could either stay in her position in a probationary period or transfer to another position. Ms. Wannamaker said on May 2, 2006, Ms. Fierro was told that she would have to transfer to the museum or she would be terminated by May 15, 2006. Ms. Fierro decided to transfer to the museum and was now the Museum Event Coordinator. Ms. Wannamaker said though Ms. Fierro's salary did not change the transfer moved her from a professional/managerial position to a general service position and put her in a clerical position. She said Ms. Fierro felt that this was done in retaliation to her April 19, 2006 complaint. Ms. Wannamaker said on May 4 Ms. Fierro filed the EEO discrimination complaint. Ms. Wannamaker said she wrote a follow up letter in July to Ms. Thomas requesting action and Ms. Fierro received a response August 7, 2006. Ms. Wannamaker said she also had to postpone the CSC hearing a couple of times because she was out of town. Ms. Wannamaker said Ms. Fierro requests that she be returned to a professional/managerial position and the sick days she took be returned to her and her attorney's fees paid. Commissioner Ruck said the only thing the Commission had was Ms. Fierro's two page complaint and no correspondence. Ms. Wannamaker said she had copies of the letters that were sent to her client. Commissioner Ruck said based on what he was provided it would be difficult for him to make a decision without any facts. Furthermore, due to unforeseen events during the meeting, Chair Boureslan asked Ms. Wannamaker and Assistant City Attorney John Batoon if they wanted to table the item until the City and Ms. Wannamaker could produce the missing backup. Both Ms. Wannamaker and Mr. Batoon agreed. Mr. Batoon said typically the representative would provide the documentation presented to the Commissioners. He said he would coordinate with Ms. Wannamaker on the documents she provides to the Commission and his responsive documents. He said generally whoever is bringing the case ought to tell the City what documents they need. Ms. Wannamaker requested that the item be tabled for another month or five weeks to give both Mr. Batoon and her time to coordinate and discuss it. Ms. Thomas said she would not be present at the November CSC meeting and all parties agreed to move the item to the December meeting.

**MOTION TO TABLE UNTIL THE DECEMBER CSC MEETING MADE BY COMMISSIONER GEZELIUS AND SECONDED BY COMMISSIONER REYNOLDS AND UNANIMOUSLY PASSED.**

10. 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.:

Martin, Redmond – Chief Plans Examiner

Mr. Martin was not present.

**MOTION TO DENY MADE BY COMMISSIONER REYNOLDS AND SECONDED BY COMMISSIONER RUCK AND UNANIMOUSLY PASSED.**

MOTION TO ADJOURN TO EXECUTIVE SESSION MADE BY COMMISSIONER MOSHER AND SECONDED BY COMMISSIONER GRAHAM.

Before the Commission could retire to Executive Session Commissioner Ruck asked if Mr. Casas was present. He said because of past precedent he was going to move to approve the item. He said the Commission had dealt with issues of a similar nature involved in the case currently before the Commission. He said the consensus in the past had been not to turn down such a request.

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

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.2:

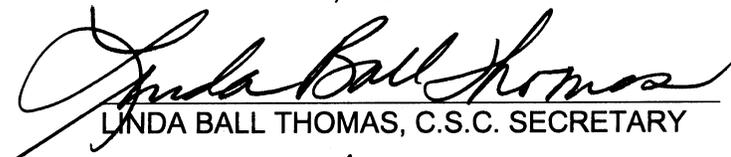
Casas, Raul – Messenger I

MOTION TO APPROVE MADE BY COMMISSIONER RUCK AND SECONDED BY COMMISSIONER GRAHAM AND UNANIMOUSLY PASSED.

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

THE MEETING ADJOURNED AT 6:52 P.M.

  
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ALI BOURESLAN, C.S.C. CHAIR

  
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LINDA BALL THOMAS, C.S.C. SECRETARY

  
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DATE APPROVED