

**MINUTES FOR A REGULAR MEETING OF THE CIVIL SERVICE COMMISSION
HELD AT 6:00 P.M., THURSDAY EVENING, OCTOBER 14, 2004
CITY COUNCIL CHAMBERS, #2 CIVIC CENTER PLAZA - 2nd FLOOR**

MEMBERS PRESENT: Berube, Paul
 Ellis, William
 Graham, Elijah
 Martinez, Ramy
 Ruck, Lance – Chair
 Schwartz, Elma
 Sutherland, Ken

MEMBERS ABSENT: Harris, Alvin
 Peña, Andrew

ALSO PRESENT:

Almonte, David – OMB	Harbour, Cori – Attorney at Law
Aranda, Javier	Lisko-Apodaca, Paula
Arballo, Bill – AFSCME Local 59	Locke, Michele – Assistant City Attorney
Arrieta-Candelaria, Carmen – Comptroller	Loweree, Fred – El Paso Water Utilities
Bond, Terry – CSC Secretary/HR Director	Matthys, Mark
Buenning, Rosy – CSC Recorder	Momsen, Richarda – Municipal Clerk
Chavira, Hernando	Saenz, Elena
Cohen, Michael – Attorney at Law	Sanchez, Ana – Human Resources
Cole, Daryl – Streets	Sienkiewicz, Jim – Human Resources
Cross, Paul – Police Dept.	Simental, Carlos
Cuellar, Lupe – Assistant City Attorney	Surface, Steven – Fire Dept.
Fargo, Peter - Human Resources	Thomas, Linda - Human Resources
Galceran, Rosario	Wilson, Joyce – City Manager

The meeting convened at 6:00 p.m. with a quorum of 7 Commissioners present and Chair Ruck presiding.

CONSENT AGENDA

Commissioner Ellis requested that Items 2A, 2E, 2F, 5B, 5C and 5D be moved to the Regular Agenda.

Bill Arballo, AFSCME Local 59, requested that Items 2B, 2C, 2D and 2G be moved to the Regular Agenda.

1. Discussion and Action on Approval of Minutes

September 23, 2004

2. Discussion and Action on Approval of Contracts:

- A. Personal Services Contract with Thomas M. Doyle to perform the duties of Senior Grants Coordinator from October 22, 2004 through ~~October~~ January 21, 2005, for Financial & Administrative Services (Tabled 09/23/04).

Ms. Bond advised the Commission that the ending date on Mr. Doyle's contract should be corrected to January 21, 2005. Also, the title should be corrected to Senior Grants Coordinator.

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

Commissioner Ellis wondered why the terms of the agreement were changed.

Ms. Bond said that Debbie Hamlyn is sharing the results of a study on this section with Ms. Wilson, the new City Manager, who needs time to review them and determine what the status of the section will be.

Commissioner Ellis asked if this person had ever been a Senior Grants Coordinator before tonight?

Ms. Bond said that as they were reviewing the contract and the report provided to the Commission, they noted that not all of Mr. Doyle's duties were discussed in the Scope of Duties, therefore they were added.

Discussion.

MOTION TO APPROVE ITEM 2A MADE BY COMMISSIONER BERUBE, SECONDED BY COMMISSIONER GRAHAM AND UNANIMOUSLY PASSED.

- B. Personal Services Contract with Jerry D. Hudson from October 29, 2004 through October 30, 2005, for the Fire Department.

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

Bill Arballo with AFSCME said he had the same questions for Items 2B and 2C. He said that the title of the jobs were not identified and wondered if these were classified positions that would also be available to City employees, or if the positions were temporary in nature, he wanted to get the details.

Chair Ruck asked him if he had been able to see the documents on the internet?

Mr. Arballo said they were not available on the internet.

Chair Ruck said he noticed the contract was not to exceed \$1900 for the whole year, which was a minimal amount of money.

David Almonte stated this was a part-time professional level position. He said that as Chief Surface said, this individual was the only person with the expertise needed to accomplish this job.

Discussion.

Chief Surface said Mr. Hudson was a retired Lieutenant who worked with the City for 32 years. He said Mr. Hudson wrote these procedures and was nationally recognized as one of the experts in the field. The department routinely uses him to train their trainers.

MOTION TO APPROVE ITEM 2C MADE BY COMMISSIONER SUTHERLAND, SECONDED BY COMMISSIONER SCHWARTZ AND PASSED BY A VOTE OF 5 TO 1.

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

- C. Personal Services Contract with Mark Matthys from October 15, 2004 through October 14, 2005, for the City Manager.

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

Joyce Wilson, City Manager, stated that this was not a classified position. This position was formerly with the Mayor's office, however it was transferred to the City Manager's office with the change in government on September 1st to a City Manager form of government.

MOTION TO APPROVE ITEM 2C MADE BY COMMISSIONER SUTHERLAND, SECONDED BY

COMMISSIONER MARTINEZ AND UNANIMOUSLY PASSED.

- D. Two (2) Independent Services Contracts from October 15, 2004 through August 31, 2005 for Municipal Court:
1. Armijo, Margarita A. - Court Interpreter
 2. Ceja, Juan J. - Court Interpreter

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

Bill Arballo said it was his belief that there was a classified position with the title of Court Interpreter and wanted to know the details of why these individuals were getting appointed through contract.

Richarda Momsen, Municipal Clerk, stated that this position was a contract position and had been since its inception. The reason the position came about was a change in law which required that courts including Class C jurisdiction courts such as Municipal Court, have licensed court interpreters.

Discussion.

MOTION TO APPROVE ITEM 2D MADE BY COMMISSIONER BERUBE, SECONDED BY COMMISSIONER GRAHAM AND UNANIMOUSLY PASSED.

- E. Personal Services Contract with Lea Hutchinson to perform the duties of Zoo Director from October 20, 2004 through April 19, 2005, for the El Paso Zoo.

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

Commissioner Ellis asked if this was an interim Department Head and wondered why City Council wasn't appointing one like they did with the Police Chief in the past.

Ms. Bond said it was an interim Department Head and it was being done through contract because Dr. Hutchinson was a retiree and wouldn't be able to work as a classified employee and continue getting his retirement.

MOTION TO APPROVE ITEM 2E MADE BY COMMISSIONER ELLIS, SECONDED BY COMMISSIONER BERUBE AND UNANIMOUSLY PASSED.

- F. Personal Services Contract with Yvonne Sanchez to perform the duties of Staff Assistant from November 1, 2004 through June 14, 2005, for the Mayor's Office.

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

MOTION TO APPROVE ITEM 2F MADE BY COMMISSIONER ELLIS, SECONDED BY COMMISSIONER MARTINEZ AND UNANIMOUSLY PASSED.

- G. Independent Services Contract with Peter M. Koplos, D.V.M. to perform the duties of On-Call Veterinarian from October 15, 2004 through October 14, 2005, for the El Paso Zoo.

Bill Arballo asked if this was to replace a vacant position, he wasn't sure since the language said "on-call veterinarian."

Chair Ruck pointed out that this was a renewal.

MOTION TO APPROVE ITEM 2G MADE BY COMMISSIONER ELLIS, SECONDED BY COMMISSIONER BERUBE AND UNANIMOUSLY PASSED.

Commissioner Ellis mentioned that the backup to agenda items is not available to the public. He understood that it was available to City employees through the City portal. He believed it was the goal to make the backup available to the public.

Chair Ruck said that he was supposed to talk to Tony Montoya from I.T. but had not been able to and would make it a point to talk to him about this issue. The Commission had agreed that there was no reason that the backup could not be available to the public just as City Council backup is available.

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

A.	Applegate-Steven-Police	S.	Macias-John D.-Police
B.	Archer-Glenn W.-Police	T.	Marquez-Leopoldo-Public Works
C.	Beltran-Luis M.-Police	U.	Martinez-Martin-Police
D.	Brown-Denise M.-Police	V.	Martinez-Martin-Police
E.	Campbell-Bruce-Police	W.	Medina-Ricardo-Police
F.	Cordova-Chris-Police	X.	Molina-Robert-Mass Transit
G.	Cox-David-Police	Y.	Nevarez-Freddy-Police
H.	DeLuna-Juan L.-Police	Z.	Reyes-Armando Jr.-Police
I.	Espinoza-Arturo-Police	AA.	Reyes-Javier-Police
J.	Estrada-Jorge-Police	BB.	Robles-Juan C.-Police
K.	Galindo-Marcos-Police	CC.	Shouse-Mark-Police
L.	Garcia-Sonia M.-Solid Waste Mgmt	DD.	Sierra-Jose-Police
M.	Garcia-Thomas A.-Police	EE.	Soto-Gonzalo-Fire
N.	Grajeda-Benjamin-Police	FF.	Terrazas-Wally-Police
O.	Grossman-Tyler-Police	GG.	Thompson-Marc-Museum
P.	Gurrola-Armando-Police	HH.	Walsh-Clifton-Police
Q.	Hernandez-Jesus-Police	II.	White-Thomas M.-Police
R.	Lara-Michael-Police		

4. Notice of Promulgation of Eligible Lists:

A.	Accounting Technician (P-4)(O-8)
B.	Automotive Service Worker II (P-1)(O-22)
C.	Bid Clerk (P-13)(O-4)
D.	Certified Firefighter Trainee (O-39)
E.	City Internal Auditor (O-2)
F.	Coach Operator Trainee (CR-4)(O-193)
G.	Electrician (P-4)(O-22)
H.	Electronic Control Specialist (P-0)(CR-1)
I.	EPWU Pretreatment Engineer (P-1)
J.	Hydrogeology Manager (P-1)
K.	Library Branch Manager (O-2)
L.	Planner I (P-3)(O-4)
M.	Police Records Specialist I (P-2)(CR-1)(O-42)
N.	Recreation Services Coordinator (P-7)
O.	Water Plant Superintendent (P-3)

5. 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.	<i>Item Not Used</i>		
B.	Proposed: Police Commander Official: Same	7563 Same	P 6 Same
C.	Proposed: Police Deputy Chief Official: Same	7566 Same	P 7 Same
D.	Proposed: Police Assistant Chief Official: Same	7567 Same	P 8 Same

Items 5B, 5C and 5D were addressed at the beginning of the Regular Agenda.

Commissioner Ellis pointed out that on the Police Commander specs there is a requirement for 2 years as a Lieutenant. Then when you look at the specs for Police Deputy Chief which is a higher grade, it only requires 1 ½ years as a Lieutenant. In other words the minimum qualifications are less demanding for a higher position than for a lower position.

Assistant Chief Paul Cross said that Chief Wiles wanted to make the time for a Lieutenant consistent at 2 years for the positions of Commander and Deputy Chief. However, the time to be a Commander for the Assistant Chief position he wanted to keep at 1 ½ years.

MOTION TO AMEND THE MINIMUM QUALIFICATIONS AS STATED IN THE BACKUP TO REQUIRE A MINIMUM OF 2 YEARS AS A LIEUTENANT OR ABOVE FOR THE POSITION OF DEPUTY CHIEF MADE BY COMMISSIONER ELLIS, SECONDED BY COMMISSIONER BERUBE AND UNANIMOUSLY PASSED.

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

E.	Official: Fire Medical Lieutenant Proposed: Same	7603 Same	FS 4 Same
F.	Official: Fire Paramedic Proposed: Same	7604 Same	FS 2 Same

6. Approve placement of incumbents into reclassified positions, in accordance with Rule 4, Section 4 and Rule 11, Section 9 and Personnel Department's recommendation:

TITLE	CODE	GRADE
-------	------	-------

Item Not Used

7. For Notation: Request to have appeal heard by Arbitrator:

Gonzalez, Adrian - Termination - Police Department (CP04-235)

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

- A. Esparza, Deborah - Termination - Fire Dept.
- B. Sandoval, Juan - Suspension - Tax Office

9. Approve merit increases in accordance with C.S.C. Guidelines:
 - A. Comptroller - Blackwood, Robert E. - Financial Reporting Manager
 - B. Tax - Montelongo, Alejandro E. - Customer Accounts Tax Clerk III
10. Discussion and Action on request to have name placed on Transfer list:
 - A. Villazana, Virginia - Personnel & Accounting Clerk - Fire Dept.
 - B. Ysasi, Sylvia - Information Entry Operator - Fleet Services
 - C. Esparza, Martha P. - Laborer - Solid Waste Management
11. Discussion and Action on Request to have name placed on Reinstatement List:
 - A. Aranda, Javier - Police Officer - Police Dept.
 - B. Galceran, Rosario - Public Safety Dispatch Shift Supervisor - Police Dept.
12. Discussion and Action on Request to Work Employee Out of Classification:
 - A. Acuna, Magda - Mass Transit
Current: Clerk Typist III
Proposed: Clerk III
 - B. Martinez, Valentin - Street Department
Current: Equipment Operator III
Proposed: Street Operations Supervisor

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

REGULAR AGENDA

13. Discussion and Action on Approval of Hearing Officer's Report and Recommendation:
 - A. Davis, John D. III - Suspension - Fire Dept. (03-FD-13BY)

Chief Surface with the Fire Department said that the department did not wish to contest the Hearing Officer's recommendation.

Michael Cohen, Mr. Davis' attorney, said he did not contest the Hearing Officer's recommendation either.

MOTION TO APPROVE HEARING OFFICER BRUCE YETTER'S RECOMMENDATION AS NOTED BELOW, MADE BY COMMISSIONER BERUBE, SECONDED BY COMMISSIONER SUTHERLAND AND PASSED BY A VOTE OF 5 WITH 1 ABSTENTION.

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

Abstain: Commissioner Ellis

"1. SUSTAIN THE CHARGES AND SPECIFICATIONS ONLY AS TO THE USE OF PROFANITY AND SECTION 9.03 OF THE FIRE DEPARTMENT RULES AND REGULATIONS GENERAL CONDUCT; 2. DISMISS THE CHARGES AND SPECIFICATIONS AS TO THE APPELLANT'S GRABBING OF THE COLLAR OF LT. S. D. GOLUCKE AND FOR VIOLATION OF THE 12/15/2002 GAG ORDER, AND ALL CHARGES RELATING THERETO. 3. REDUCE THE ASSESSMENT OF DISCIPLINE TO A WRITTEN REPRIMAND OF JOHN D. DAVIS III."

- B. Simental, Carlos - Suspension - El Paso Water Utilities (03-PS-14BY)

Mr. Simental said that although he doesn't agree with items 2 and 3, he was accepting the Hearing Officer's recommendation.

Cori Harbour, Mr. Simental's representative, said that while Mr. Simental's right to appeal was being denied, they wanted to ensure that the City's right to further appeal was also being denied.

Michele Locke, Assistant City Attorney, said the city wasn't objecting to the Hearing Officer's recommendation.

Commissioner Sutherland said that he noticed that a merit increase was affected due to the timeframe on this issue. He wondered if any of this action would not further affect Mr. Simental's merit increase chances.

Fred Loweree, El Paso Water Utilities, assured the Commission that this incident would not be taken into account when consideration for merit increases comes up.

Discussion.

MOTION TO AMEND THE HEARING OFFICER'S RECOMMENDATION MADE BY COMMISSIONER ELLIS BUT DIED FOR LACK OF A SECOND.

MOTION TO APPROVE HEARING OFFICER BRUCE YETTER'S RECOMMENDATION AS NOTED BELOW, MADE BY COMMISSIONER BERUBE, SECONDED BY COMMISSIONER MARTINEZ AND PASSED BY A VOTE OF 5 TO 1.

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

Nay: Commissioner Ellis

"1. SUSTAIN THE CHARGES AND SPECIFICATIONS, EXCEPT AS TO ANY ALLEGATIONS OF THE APPELLANT'S LYING, INTENTIONAL DECEIT, OR FALSIFICATION OF RECORDS; 2. REDUCE THE 2-DAY SUSPENSION AND CONFIRM THE ASSESSMENT OF A 1-DAY SUSPENSION OF CARLOS SIMENTAL; AND 3. DENY THE FURTHER APPEAL OF CARLOS SIMENTAL."

C. Sweeney, Wilberto - Suspension - El Paso Water Utilities (0f-PS-15PP)

Michele Locke, Assistant City Attorney, said that the City vehemently objected to the Hearing Officer's recommendation in this case. This was a case of borderline workplace violence. This employee was previously involved in horseplay and they are concerned that if he is not adequately disciplined now, the City may be subjected to liability at some point.

Chair Ruck believed there were problems with the way the department handled this, he said that if the department had charged Mr. Sweeney properly and done a fair and impartial investigation the outcome would have been different. He believed the conduct was serious enough to warrant a 2 or 3 day suspension if he had been charged with horseplay. He further stated that we set a very bad precedent when we charge an employee with wanton offensive conduct, an unprovoked attack, which is a dismissible offense but only give them a 2 or 3 day suspension. Chair Ruck said that under the circumstances, the Hearing Officer's decision was right on point.

Ms. Locke asked if the Commission is saying we can dismiss an employee for horseplay?

Chair Ruck responded, "That is not what we are saying," and Commissioner Ellis clarified the Commission's opinion on that issue.

Discussion.

MOTION TO APPROVE HEARING OFFICER PATRICIA PALAFOX'S RECOMMENDATION AS NOTED

BELOW, MADE BY COMMISSIONER ELLIS, SECONDED BY COMMISSIONER SUTHERLAND AND UNANIMOUSLY PASSED.

"I RECOMMEND THAT THE DISCIPLINE OF WILBERTO SWEENEY FOR THE APRIL 26, 2004 INCIDENT NOT BE SUSTAINED BY THE CIVIL SERVICE COMMISSION AND THAT WILBERTO SWEENEY'S APPEAL BE GRANTED."

14. Discussion and Action on Request to give credit to Paula Lisko-Apodaca for Working Out-of-Class as Consumer Affairs Administrator.

Assistant City Attorney Lupe Cuellar said the only way an individual can get credit for working out of class is by getting permission from this Commission. She suggested the possibility of reclassifying the employee.

Fred Loweree, El Paso Water Utilities, apologized for Mr. Archuleta's absence. He said this employee now has a Master's degree and is Mr. Archuleta's right hand. He detailed the circumstances of the situation and requested that this request be approved.

Discussion.

Ms. Cuellar recommended that Human Resources and Mr. Loweree meet with her to determine exactly what work she is and isn't doing.

MOTION TO TABLE ITEM 14 UNTIL MS. CUELLAR'S SUGGESTION CAN BE IMPLEMENTED MADE BY COMMISSIONER ELLIS, SECONDED BY COMMISSIONER BERUBE AND UNANIMOUSLY PASSED.

15. Discussion and Action on request from Hernando Chavira reference his pending termination appeal (04-BP-16BY).

Mr. Chavira was provided with the backup letter from Hearing Officer Yetter before he spoke. Mr. Chavira stated that the only reason he was appearing before the Commission was to voice his protest because his case had already taken 1 ½ years and still there was no decision. He hoped the Commission could expedite the matter.

Chair Ruck agreed that 2 years was way too long and reminded everyone of the circumstances as to why the case took so long. The initial Hearing Officer terminated and the case had to be reassigned to Mr. Yetter. Soon after that, the Assistant City Attorney who was handling the disciplinary cases was reassigned and Ms. Locke was given the disciplinary cases. He told Mr. Chavira that the Commission should be getting a final disposition from the Hearing Officer soon.

MOTION TO DELETE MADE BY COMMISSIONER ELLIS, SECONDED BY COMMISSIONER BERUBE AND UNANIMOUSLY PASSED.

16. 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.

Chair Ruck stated that the CSC committee was going to be meeting next week with the legislative review committee and Human Resources on this issue.

Commissioner Ellis briefly reviewed the backup given to the Commission reference Rule 13 and explained to them the work that the committee had done. He also told them he was presenting them with proposed language (i.e., "g. Review by Commission) for an appeal process for the employees denied a leave of absence.

Michele Locke, Assistant City Attorney, said the City would object the Civil Service Commission's oversight of the City Manager's final determination of leaves of absences.

Bill Arballo reiterated that he did not have access to these documents which were being referred to on this item and asked if those documents would be made available prior to the upcoming legislative review meeting.

It was suggested that Mr. Arballo submit an open records request for those documents.

MOTION TO TABLE ITEM 16 MADE BY COMMISSIONER ELLIS, SECONDED BY COMMISSIONER BERUBE AND UNANIMOUSLY PASSED.

17. Discussion and Action regarding pending City Layoffs.

Chair Ruck advised that Ms. Bond had provided him with copies of the last two letters involving the affected employees who had been placed in a job within the City.

Ms. Bond advised that she had one letter pending and would have it for Chair Ruck by the next meeting.

MOTION TO DELETE ITEM 17 MADE BY COMMISSIONER ELLIS, SECONDED BY COMMISSIONER BERUBE AND UNANIMOUSLY PASSED.

18. Discussion and Action on hiring of a Hearing Officer.

Ms. Bond said she was looking for direction on this item. She reminded the Commission that Human Resources readvertised for this position. She had copies of the new applicants' documentation and presented it to the Commission.

Chair Ruck suggested tabling the item as this would give them an opportunity to review the documents.

MOTION TO TABLE ITEM 18 MADE BY COMMISSIONER ELLIS, SECONDED BY COMMISSIONER BERUBE AND UNANIMOUSLY PASSED.

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

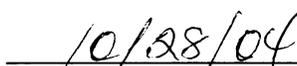
THE MEETING ADJOURNED AT 7:20 P.M.



LANCE RUCK, C.S.C. CHAIR



TERRY BOND, C.S.C. SECRETARY



DATE APPROVED