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**MINUTES FOR A REGULAR MEETING OF THE CIVIL SERVICE COMMISSION
HELD AT 6:00 P.M., THURSDAY EVENING, NOVEMBER 10, 2005
CITY COUNCIL CHAMBERS, #2 CIVIC CENTER PLAZA – 2ND FLOOR**

MEMBERS PRESENT: Boureslan, Ali
Ellis, William - Chair
Gezelius, Ken
Graham, Elijah
Peña, Andrew
Ruck, Lance

MEMBERS ABSENT: Martinez, Ramy
Schwartz, Elma
Scott, Valerie

ALSO PRESENT:

Aguilar, Eddy	Morales, Victor
Arballo, Bill – AFSCME	Núñez, Ernesto
Brey-Casiano, Carol – Library	O’Hara, Virginia
Brown, Norman	Ochoa, David
Buenning, Rosy – CSC Recorder	Puga, Monica – Human Resources
Chaparro, Luis	Stokes, Lowell - El Paso Water Utilities
Fargo, Peter - Human Resources	Thomas, Linda Ball – CSC Sec./Interim HR Dir.
Gardon, Rafael	Wilson, Joyce – City Manager
Loweree, Fred - El Paso Water Utilities	Zubia, Angel
Momsen, Richarda – Municipal Clerk	

The meeting convened at 6:08 p.m. with a quorum of 6 Commissioners present and Chair Ellis presiding.

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

CONSENT AGENDA

1. Discussion and Action on Approval of Minutes:
 - A. October 13, 2005
 - B. October 27, 2005

2. Discussion and Action on Approval of Contracts:
 - A. Personal Services Contract with Jerry Hudson to perform the duties of SCBA Training Instructor from November 11, 2005 through November 10, 2006, for the Fire Department.

 - B. Personal Services Contract with Evelina B. Martinez to perform the duties of Museum Store Sales Clerk from November 11, 2005 through November 10, 2006, for the Museum & Cultural Affairs Department.

 - C. Seven (7) Personal Services Contracts for the El Paso Police Department:
 1. Becerra, Norma P. – Victim Services Response Team Case Manager
 2. Carranza, Zulemma – Crisis Response Team Case Manager
 3. Monsisvais, Sylvia Ann – Special Promotions Coordinator
 4. Gonzalez-Graells, Gloria – Crime Victim Services Supervisor
 5. Moore, Leah – Domestic Abuse Response Team Case Manager
 6. Trejo, Leticia – Victim Services Volunteer Coordinator
 7. Zubia, Francisco J. – Domestic Abuse Response Team Case Manager

- D. Personal Services Contract with Noelle Crouthers to perform the duties of Public Information Officer from November 12, 2005 through November 11, 2006, for the City Manager's Office.
 - E. *Item Not Used*
 - F. Personal Services Contract with Sandra Macias to perform the duties of Assistant Clerk from November 14, 2005 through May 14, 2006, for the Museum & Cultural Affairs Department.
3. Notice of Promulgation of Eligible Lists:
- A. Engineering Technician II = Promulgated 10/18/05 (P-3)(O-2)
 - B. Cashier Clerk= Promulgated10/21/05 (P-3)(CR-4)(O-136)
 - C. Museum and Cultural Affairs Director = Promulgated 10/24/05 (O-14)
 - D. Customer Relations Representative = Promulgated10/25/05 (P-14)(CR-4)
 - E. Executive Secretary = Promulgated 10/27/05 (P-5)(O-4)
 - F. Senior Toll Collector = Promulgated 10/27/05 (P-3)
 - G. Departmental Research Assistant = Promulgated 10/28/05 (P-6)(CR-1)(O-14)
 - H. Grant Specialist = Promulgated 10/28/05 (P-1)(O-3)
 - I. Archives and Records Manager = Promulgated 10/31/05 (P-2)(O-2)
 - J. Deputy Director-Building Permits & Inspections = Promulgated 10/31/05 (P-2)(O-3)
4. Discussion and Action on request to assign pending appeal cases:
- A. Berry, Jorge – Termination – Public Transit
 - B. Zaragoza, Juan – Termination – Public Transit
5. Discussion and Action on request to have name placed on Transfer List:
- A. Brown, Elizabeth – Secretary I – Community & Human Development
 - B. Daniels, Blanca – Secretary III – Community & Human Development
6. Discussion and Action on request to have name placed on Reinstatement List:
- A. Cruz, Gabriela – Public Safety Dispatcher-Fire – Fire Dept.
 - B. Orozco, Lina – Secretary II – Airport
 - C. O'Hara, Virginia – Library Information Specialist I – Library
 - D. Zubia, Angel – Traffic Counter – Engineering Dept.
7. Discussion and Action on Request for Extension of Eligible Lists for an additional six months:
- A. EPWU Labor Lead Worker I-Water – Extended through 06/28/06
 - B. Inventory Coder – Extended through 06/28/06
 - C. Planner II – Extended through 06/11/06
 - D. Property Disposition Specialist – Extended through 06/28/06
 - E. Trades Helper – Extended through 06/27/06
8. Discussion and Action on Request for Temporary Promotion:
- A. Sanchez, Margarita – Municipal Court - Extension
From: Clerk Typist II
To: Clerk Typist III
 - B. Cano, Joe – Parks & Recreation
From: Trades Helper
To: Building Maintenance Worker I
 - C. Jasso, Francisco- Parks & Recreation

From: Laborer
To: Trades Helper

REGULAR AGENDA

9. Discussion and Action on Appeal of Performance Evaluation of:

A. Jimenez, Ivonne – Library Extension Services Administrator – Library (Tabled 10/27/05)

Chair Ellis commented that this was an appeal of an overall rating of Exceeds Performance Standards and he was concerned about the practicalities of appealing this type of rating. He suggested the Commission consider amending the process fairly soon by allowing appeals of performance evaluations below Exceeds Standards.

Chair Ellis assigned a committee consisting of Commissioners Ruck, Peña and Graham to hear Ms. Jimenez' appeal. Commissioner Ruck will chair the committee.

MOTION TO TABLE ITEM 9A MADE BY COMMISSIONER ELLIS, SECONDED BY COMMISSIONER MARTINEZ AND UNANIMOUSLY PASSED.

B. Juarez, Rebeca – Customer Relations Clerk – Building Permits & Inspections

Commissioner Boureslan reviewed the committee's recommendation and the Department Head's response memo. He commented that he wanted to see an evaluation on Ms. Juarez by the person who actually supervised her during most of her rating period. He understood that her present supervisor had evaluated her but this supervisor had only actually supervised her for a period of approximately six weeks out of the entire rating period.

Chair Ellis said that the committee's recommendation was to remand the performance evaluation back to the Department Head to resolve a procedural issue and to get input for the entire one-year rating period. He asked Mr. Shubert if that had been done.

Mr. Shubert said it was done. He said there was ultimately a corrected evaluation sent in to Human Resources, it was in Ms. Juarez' file. He explained that this was the evaluation done by George Phillips. He told the Commission he was willing to provide a copy to them if needed.

Commissioner Boureslan said that they had been provided a copy of the evaluation at the hearing. Nevertheless, his argument was that the supervisor who had evaluated her for six months would probably be more credible than the supervisor who had evaluated her for only six weeks.

Mr. Shubert said that according to the rules, Ms. Juarez had to be evaluated by her present supervisor and this supervisor may take into consideration her previous evaluation by her previous supervisor.

Assistant City Attorney Lupe Cuellar said that the department had done what the Commission had requested they do. This was sent back to the department due to a procedural issue. The department was to get input from Ms. Juarez' previous supervisor which Mr. Shubert said they have done. She said that the procedural issue has been taken care of so the Commission can now actually hear the merits of the case.

MOTION TO REMAND THIS CASE BACK TO THE COMMITTEE TO HEAR THE MERITS OF THE CASE MADE BY COMMISSIONER RUCK, SECONDED BY COMMISSIONER BOURESLAN AND UNANIMOUSLY PASSED.

10. Discussion and Action on Appeal of Denial of Reinstatement:

Rubalcava, Martin – Toll Collector – Street Dept. (Tabled 10/13/05)

MOTION TO TABLE ITEM 10 MADE BY COMMISSIONER RUCK, SECONDED BY COMMISSIONER GRAHAM AND UNANIMOUSLY PASSED.

11. Discussion and Action on appropriate processing of complaint by Eddy Aguilar, Parks & Recreation.

Ms. Thomas reminded the Commission that they previously had denied a grievance from an employee in this same department reference similar issues (i.e., moving their hours, moving them from one center to the other, etc.). She explained that Rule 19 gave the Department Head the authority make these changes within their department. She believed that the remedy that Mr. Aguilar was seeking was not something the Commission could remedy.

Assistant City Attorney Lupe Cuellar said that the grievance rule requires the employee to state what right or rule has been violated. She said Mr. Aguilar had stated a definition, not a right. She told the Commission that they had to distinguish between those areas that the Commission is given authority to remedy and those areas that are exclusively management prerogative. She said it was management prerogative to set the employee's hours and it didn't fall within the purview of the Civil Service Commission. She reminded the Commission that it was the Commission's instruction that anything that is brought to Human Resources for presentation to the Commission should be presented to them, however, she believed employees might abuse this by trying to present items to the Commission without them following the correct procedure.

Bill Arballo, AFSCME Local 59, said they were not challenging management's authority to assign and reassign as that was absolute. He said that when an order was given with capriciousness, with intent to do harm, that is what then becomes appealable to the Commission. He said that when a person of authority uses the authority to cause harm to an employee by utilizing the rule, then it becomes appealable by treating the employee disparately. Mr. Arballo said that the Department Head moved Mr. Aguilar in order to save the department some money which sounds bonafide. Well, as a result of the move, there are now four employees doing the job of two, and one of them is the same grade as Mr. Aguilar. Mr. Arballo said that after these actions, the rationale that the Department Head used didn't apply anymore.

Discussion.

Chair Ellis ruled that the Commission did have jurisdiction over this matter and assigned a committee of Commissioners Ruck, Scott, Gezelius and Martinez to hear the grievance.

MOTION TO TABLE ITEM 11 MADE BY COMMISSIONER RUCK, SECONDED BY COMMISSIONER GEZELIUS AND UNANIMOUSLY PASSED.

12. Discussion and Action on Hearing Officer's Report and Recommendation:

- A. Sweeney, Wilberto – Termination – EPWU (05-PS-12PP) (Tabled 10/13/05)

Bill Arballo, AFSCME Local 59, detailed his reasons for believing the department had not proven by a preponderance of the evidence the charges against his client.

Fred Loweree, EPWU Human Resources Manager, and Lowell Stokes, Assistant General Counsel for El Paso Water Utilities were present to answer the Commission's questions.

Mr. Loweree stated that they had sufficient cause to believe that Mr. Sweeney was under the influence of alcohol.

Commissioner Ruck asked if the smell of alcohol on Mr. Sweeney's breath by a supervisor was discovered before the driving of the forklift.

Mr. Loweree said yes.

Discussion.

Assistant City Attorney Lupe Cuellar requested that the corrected page 8 of the Hearing Officer's recommendation be replaced in the approved recommendation.

MOTION TO APPROVE THE HEARING OFFICER'S RECOMMENDATION (WITH CORRECTED PAGE 8) TO SUSTAIN MR. SWEENEY'S TERMINATION MADE BY COMMISSIONER RUCK, SECONDED BY COMMISSIONER PEÑA AND UNANIMOUSLY PASSED.

Items 16 and 17 were addressed here.

B. Ramirez, Manuel – Termination – EPWU (05-PS-14RC)

MOTION TO DENY THE APPELLANT'S APPEAL AND UPHOLD THE TERMINATION MADE BY COMMISSIONER PEÑA, SECONDED BY COMMISSIONER GEZELIUS AND UNANIMOUSLY PASSED.

13. 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. Ochoa, David J.- Airport Labor Supervisor

Mr. Ochoa was present. Chair Ellis read the specifics of the appellant's disqualification. Mr. Ochoa said he failed to read the entire job posting and explained the reason for that. He said that the HR staff allowed him to fill out an amendment to his application where he submits his experience. He also said that since then he has contacted Continental Airlines to get accurate information on his employment history and it is more than the 1 year that is required.

Monica Puga said that if Mr. Ochoa had put all of this information on his application he would have been qualified.

MOTION TO APPROVE ITEM 13A MADE BY COMMISSIONER RUCK, SECONDED BY COMMISSIONER GRAHAM AND UNANIMOUSLY PASSED.

B. Salinas, Robert – Building Maintenance Worker II

Mr. Salinas was not present. Chair Ellis read the specifics of the appellant's disqualification.

MOTION TO DENY ITEM 13B MADE BY COMMISSIONER RUCK, SECONDED BY COMMISSIONER BOURESLAN AND UNANIMOUSLY PASSED.

MOTION TO ADJOURN TO EXECUTIVE SESSION MADE BY COMMISSIONER RUCK, SECONDED BY COMMISSIONER BOURESLAN AND UNANIMOUSLY PASSED.

The Commission retired into Executive Session at 7:33 p.m. to discuss Item 14, and reconvened for Open Session at 8:01 p.m.

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

14. Discussion and Action on Appeal of Disqualification to take Examination and/or Removal of Name from Eligible List in accordance with C.S.C. Rules and Regulations:

A. Morales, Victor M. – Labor Foreman II (11.3.g.)

Mr. Morales was present. The matter was discussed in Executive Session. The following action was taken in Open Session.

Chair Ellis commented that the evaluation which purported to end the probationary period of this employee is irregular on its face in that it is dated by the reviewer a day before the rater certified that the

contents of the evaluation represents his best judgment. He said this was the classic example of how impossible it seems to be for people who are responsible for rating employees to do so responsibly and to do so correctly. He said that when a similar type of malfeasance is seen by the average employee, disciplinary action is sure and quick to follow and appropriately so. Yet in the face of continued non-compliance with the proper way and the timely way to do these evaluations, in his view there is no remedial action taken to try to improve the situation. He said he wasn't convinced that this employee did not successfully complete his probationary period as a Parking Meter Service Worker.

MOTION TO APPROVE ITEM 14A MADE BY COMMISSIONER GEZELIUS, SECONDED BY COMMISSIONER BOURESLAN AND UNANIMOUSLY PASSED.

- B. Nuñez, Ernesto – Labor Foreman I (Ord. 8064, 5.1.b.)

Mr. Nuñez was present. The matter was discussed in Executive Session. The following action was taken in Open Session.

MOTION TO APPROVE ITEM 14B MADE BY COMMISSIONER RUCK, SECONDED BY COMMISSIONER GRAHAM AND UNANIMOUSLY PASSED.

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

- A. Cross, Roberta – Dated 11/04/05 – September 2005
- B. Cross, Roberta – Dated 11/04/05 – October 2005
- C. Palafox, Patricia – Dated 11/06/05 – October 2005

MOTION TO APPROVE ITEMS 15A, 15B AND 15C MADE BY COMMISSIONER RUCK, SECONDED BY COMMISSIONER PEÑA AND UNANIMOUSLY PASSED.

- 16. Discussion and Action on Civil Service Rule 13, Leave of Absence, Resignation, Sick Leave and Vacations.

City Manager, Joyce Wilson, requested a status on this item.

Assistant City Attorney Lupe Cuellar told the Commission that the reason this item was being brought back to them was because of the proposition that was passed on Tuesday. This made it illegal for political subdivisions of the State to create and recognize an illegal status identical or similar to marriage. She said there were some provisions contained in Rule 13 that the Commission approved and passed which she recommended the Commission allow the City Attorney's office to take a look at. She believed they might just need to reword the rule to be in accordance with this new provision of the constitution and still accomplish what the Commission wanted.

Chair Ellis requested that a meeting of the same Rule 13 committee be scheduled.

MOTION TO DELETE ITEM 16 MADE BY COMMISSIONER BOURESLAN, SECONDED BY COMMISSIONER PEÑA AND UNANIMOUSLY PASSED.

- 17. Discussion and Action on the Commission's Policy regarding the applicability of set-off's for back-pay awards after reinstatement from termination and certain time periods excluded from inclusion in set-off computation.

Chair Ellis said he had placed this item on the agenda for discussion. However, he suggested the item be tabled until the entire Commission was present. He believed there was a policy adopted by the Commission before he was part of the Commission, that prohibited a set-off from back pay against money earned by an employee during the separation from the City while he was appealing it.

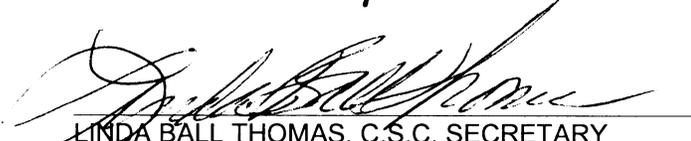
MOTION TO TABLE ITEM 17 MADE BY COMMISSIONER GRAHAM, SECONDED BY COMMISSIONER BOURESLAN AND UNANIMOUSLY PASSED.

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

THE MEETING ADJOURNED AT 8:02 P.M.



WILLIAM J. ELLIS, C.S.C. CHAIR



LINDA BALL THOMAS, C.S.C. SECRETARY



DATE APPROVED