



**CIVIL SERVICE COMMISSION RETREAT  
EXECUTIVE SESSION CONFERENCE ROOM**

**APRIL 14, 2011  
2:00 P.M.**

**MINUTES**

**CALL TO ORDER**

Chairman Dan Archibeque called the Civil Service Commission Retreat to order.

**ROLL CALL**

**Commission Members Present:** Dan Archibeque, Sharon Bonner.

**Commission Members Tardy:** Guy Kennedy

**Administrative and Civil Service Staff Members Present:** Civil Service Administrator Toni Selman, Counsel for the Commission Robert Jagger, Counsel for the Commission Carla Sikes, HR Director Marisa Walker, Fire Chief Chris Riley, and Secretary Lynne Huskins

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1. Ms. Selman provided the Commission with an update regarding 2010 accomplishments. She stated all departments were asked by the City Manager to provide a brief summary of accomplishments for 2010 and year-end goals for 2011. All the departments' information was compiled into the State of the City Report. She showed the Commission the final copy of the report. Ms. Selman highlighted some of the information that was specific to our department.

She reported that since the office implemented NEOGOV two years ago, we have received three times more applications than we have historically received. In 2008, we received 483 applications, in 2009, 1048 applications, and in 2010, 1408 applications. She stated the increase in applications shows that NEOGOV is reaching far more potential applicants. Ms. Selman noted that the state of the economy also may play a role in this spiked increase of applicants. Ms. Selman reported that we have begun to accept temporary applications via NEOGOV for the Parks Department. To date, we have received 826 temporary applications through NEOGOV. She noted that Creighton Wright, Director of Parks and Recreation, stated that the online application process is helping in his department tremendously with regard to application accountability. Ms. Selman also noted that we have conducted temporary recruitments for Municipal Court and will be doing so for Housing and Citizen Services in the near future. She anticipates that eventually all temporary applications will be accepted through NEOGOV. She noted in the report that the increase in applications processed by the Commission may warrant an additional staff member in the future.

Mr. Archibeque asked how another position for our department could be compensated to deal with the extra workload. Ms. Selman felt that the City Manager would need to adjust our budget should additional staff be necessary. If we begin to help the Transit Department with their applications, that may have to be dealt with through a contractual

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agreement with the City. Mr. Archibeque also stated he had some concerns that our department is taking on extra work even though there was a budget cut this year. Ms. Selman stated that the temporary application process was taken on voluntarily by our department and was not something that was expected of us. We feel it is a service that we provide to the citizens in order to make the entire temporary application process more accessible and streamlined by providing a centralized location for applications. Ms. Selman noted we are simply taking the temporary applications and then forwarding them to the respective departments for screening and further processing of the applications. Ms. Selman said the State of the City report would be available to the Commission should they like to review it.

Mr. Archibeque stated he knew the staff was doing a great job, but wanted to be sure we were not being inundated by taking on several small projects at once. Ms. Selman thanked Mr. Archibeque for his comments and concern.

2. Discussion with attorneys regarding Commissioner conflict of interest. Mr. Archibeque asked Counsel if they see something that could be a potential conflict of interest to please keep an open line of communication to advise the Commission and give direction regarding this. He stated the Commission may not always be aware that appealing employees within the Police or Fire Departments may actually be a part of the general services union. Mr. Jagger noted that some of the supervisory positions in the City are actually in the general services union, and the Commission may not always be aware of that. Mr. Archibeque wants to avoid any potential conflicts in the future, and would appreciate direction from counsel. Mr. Jagger stated that neither counsel nor the Commission may have advance notice that an employee is going to be represented by P.A.G.E. prior to the hearing. Mr. Archibeque said the Commissioners are aware of the form they need to complete should a conflict of interest be brought to light.

Mr. Jagger said he did not feel that the mere fact that the appellant is a union member would preclude a Commissioner from hearing a matter. It may just be that a Commissioner feels a potential conflict may exist. Mr. Archibeque stated he was just encouraging some communication between the Commission and Counsel when Counsel feels that a conflict could be perceived. Ms. Sikes said that Counsel would gladly advise the Commission in such instances, but there may be factors that Counsel are not aware of. She asked that the Commission make Counsel aware of any potential conflicts in order they may advise. Mr. Archibeque stated that the Commission is aware that just because they may know an individual who is before the Commission, that does not necessarily constitute a conflict of interest. Mr. Jagger stated this would only be a conflict if that knowledge of the individual would affect the Commissioner's ability to render a fair decision.

At this time, Mr. Kennedy arrived at the meeting.

3. Discussion regarding attorney/Civil Service Commission relations. Mr. Jagger stated that when the City Attorney's office receives a request from Ms. Selman requesting assignment of counsel to the Commission for a hearing, all information pertaining to that hearing is moved from the shared files on the computer to the respective attorney's own computer to limit general access.

Mr. Archibeque asked if there may be instances where Ms. Sikes is representing the Administration regarding a matter set for hearing and therefore Mr. Jagger would represent

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the Commission. Mr. Jagger currently normally represents City Administration, but assignments are at the discretion of City Attorney Tom Florzcak. He stated there may possibly be situations in the future where Ms. Sikes may have been the primary contact on an Administration issue. In cases like that, Mr. Jagger would in turn represent the Commission.

Mr. Archibeque stated he prefers the current arrangement of the Commission being able to utilize Ms. Sikes for hearings rather than contracting out legal representation as it facilitates a better understanding of the issues. He feels the current legal advice the Commission is receiving is allowing everyone to be on the same page. Mr. Archibeque commended Ms. Sikes on the job she has done regarding the recent hearings the Commission has conducted.

4. Discussion was held regarding the following rule changes:

Rule 6-12-2 – Appeal procedure.

Ms. Selman stated this rule deals with the requirement to hold a hearing within five days of receipt of an appeal. Mr. Jagger stated this rule references back to the City Charter Section 8-4-8. Ms. Selman stated she would add this section to the list of Charter items being looked at for revision. Mr. Archibeque said in the past when the Commission has a request to change a Charter item and the Commission is in support of it, a letter of support has actually been written to go with the request' He asked if it was appropriate for the Commission to write a letter to City Council regarding this change. Mr. Jagger stated that in this instance, it may be beneficial for the Commission to do so, or there just needs to be a regular agenda item showing that the Commission supports the change. Mr. Archibeque stated he believes that is what the Commission has done in the past. Mr. Jagger read the verbiage of Charter Section 8-4-8 for the Commission. Ms. Walker asked if this current rule was the reason we are having appellants sign a waiver. Ms. Selman said it was, and indicated the intent of this section was that these matters need to be handled quickly, with an informal hearing. Ms. Selman stated that the request to change from the current five days to 14 is to facilitate setting of the hearing and notification of all those affected by it. She asked if the Commission would support her recommendation of changing the number of days from five to 14. Mr. Archibeque said they would support that change.

Class B positions

Discussion was held regarding the need to post Class B positions externally. Ms. Selman reminded the Commission that Mr. Jagger had advised a few months ago that these positions needed to be posted externally. Mr. Jagger elaborated that this was precipitated because of the Court Administrator position which was recruited for in 2010. The classification for Court Administrator did not require prior City service. Mr. Jagger was trying to express that if it is not in the class spec, the Commission has no authority to limit the recruitment to City employees. Ms. Selman stated that this issue has come to light recently with the posting of the HR Analyst position. That position required a year of working for the City in

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various clerical capacities. The position was posted externally, and generated 15 applicants. Only one applicant actually had prior City experience that qualified her for the position. Ms. Selman would like permission to post Class B positions internally when prior City service is listed as a requirement in the class specification.

Mr. Jagger noted there is a notification provision in the Civil Service Rules, Rule 18(e), and stated the Commission may want to amend this rule. Ms. Selman stated she has that as one of her requested rule changes. Mr. Jagger thought in some instances where the class specification does not have a line of promotion but merely states the candidate must have prior City experience, there may be former City employees who would qualify for these positions and would not be able to apply. Ms. Selman stated that Rule 18(e) is basically obsolete because of the electronic application process, although external positions are still posted in the Chieftan. Ms. Selman stated these provisions need to be changed to support the new application process. Mr. Archibeque asked Ms. Selman if she had suggested language for Rule 18 (e). She said she did not at this time, but she and Mr. Jagger could work on that. Mr. Archibeque stated he would support this rule change.

Regarding the Class B positions, Mr. Jagger stated when the job classification requires prior City service, the City Manager has the authority to designate it a closed recruitment. This practice could be in effect until the rule is amended. After that time, the positions would just be listed as a promotion.

Rule 18 (g) Large Groups May Be Divided

Ms. Selman would like to change the language in the rule from "different but equivalent exams" to "the same exam administered one after the other". She stated this would eliminate the extra expense of having two exams written for the same recruitment. Currently when the need to test two groups of applicants for the same position arises, we give the exams one right after the other to avoid collusion of the part of the candidates. Mr. Archibeque asked what other options there may be. Ms. Selman said the only other option would be to order two completely different exams for the same recruitment. Mr. Archibeque asked if two tests could run concurrently in two separate places. Ms. Selman stated that would not be possible due to current staff constraints. Mr. Jagger suggested Ms. Selman look into what other cities do in these circumstances. The Commission supported this request.

Rule 38. Refusal of Appointment

Ms. Selman suggested that this rule be removed because the language in this provision is already stated in Rule 30 (5), (6) and (8). Mr. Jagger felt the rule needed to stay in effect and pointed out the differences between the sections.

5. Discussion regarding options for hearings. Mr. Archibeque noted that after a recent Civil Service Commission hearing, City Manager Jerry Pacheco made a comment that if the appealing employee had approached him regarding the disciplinary action, Mr. Pacheco would have had flexibility to give the employee more options than they had by appealing

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to the Commission. Mr. Archibeque stated the Commission only has the option of upholding or reversing the decision. Mr. Archibeque asked how much the Commission can inform appellants as to their options. Mr. Jagger stated the Commission can have no ex parte communications with employees prior to a hearing. The Commission must be impartial and can only make determinations on record. He further stated that under the P.A.G.E. contract, the options the employee has are clearly outlined. Once an appeal is filed, this constitutes an election of waiver to go another way and that is the avenue the employee has to pursue. He stated this is clearly a union issue, and is up to the union to advise the employee as to their appeal rights.

Mr. Archibeque said the Commission understands the process, but he is not sure the employees understand it. Mr. Jagger reiterated that the Commission does not want to get in the middle of this issue because it is a union issue. Mr. Archibeque asked if Ms. Walker and Mr. Jagger could somehow bring this issue to light during negotiations to get this information to employees. Mr. Jagger stated he felt this is already being done. Ms. Walker stated the City has communicated this to the Union. They hold labor management meetings every month and have other discussions with the union directly to bring these issues to light.

Mr. Jagger said if the Commission wanted to, they could amend the appeal form the Commission currently has the employee complete to include contract language that states if the employee files an appeal with the Commission, they cannot pursue any other means of appeal. Mr. Archibeque said he didn't feel that was necessary at this point. He felt that in some instances, appealing the action to the Commission was not the most beneficial to the employee, but if there is nothing the Commission can do, he accepts that. He just wanted to make sure that he had a clear understanding of what the Commission can and cannot do.

6. A special meeting date to discuss the recent Fire Captain examination was set for Wednesday, April 20, 2011 at 3:00 p.m.

With no further items to discuss, the retreat adjourned at 3:05 p.m.



Chairman