

# CIVIL SERVICE COMMISSION

## MINUTES

Thursday – February 28, 2013 – 5:30 p.m.

Reno City Hall – Room 709

One East First Street, Reno, Nevada

### MEMBERS

Jeannie Atkinson, Chair  
Bertha Mullins, Vice Chair  
Tray Abney  
Maureen Cole  
Milven Hooper  
Paul Lane  
Jenny Martinez  
Ric Bailey, Chief Examiner

### 1. CALL TO ORDER/ROLL CALL

Chair Atkinson called the meeting to order at 5:30 p.m. A quorum was established.

**MEMBERS PRESENT:** Tray Abney, Jeannie Atkinson, Maureen Cole, Milven Hooper, Paul Lane, Jenny Martinez and Bertha Mullins.

**MEMBERS ABSENT:** None.

**MEMBERS EXCUSED:** None.

**ALSO PRESENT:** Ric Bailey – Chief Examiner; Don Christensen – Deputy City Attorney; Dennis Jacobsen - IAFF; John Flansberg – Director of Public Works; Jo Ann Malugani – Civil Service Technician; Susan Rothe – Deputy City Attorney and Renée Ruņģis – Director of Human Resources.

2. **PUBLIC COMMENT** – This item is for either public comment on any action item or for general public comment and is limited to no more than **three (3) minutes** for each commentator.

None.

### 3. APPROVAL OF AGENDA (For Possible Action)

*It was moved by Commissioner Cole, seconded by Vice Chair Mullins, to approve the February 28, 2013 agenda as written. The motion carried unanimously.*

### 4. LIAISON REPORT

None.

5. **MINUTES** – *Approval of the January 24, 2013 regular meeting minutes. (For Possible Action)*  
*Approval of the December 13, 2012 regular meeting minutes. (For Possible Action)*

*It was moved by Commissioner Hooper, seconded by Vice Chair Mullins, to approve the December 13, 2012 minutes as submitted. The motion carried: Chair Atkinson, Commissioners Cole, Hooper and Martinez and Vice Chair Mullins assenting; Commissioners Abney and Lane abstaining.*

***It was moved by Vice Chair Mullins, seconded by Commissioner Abney, to approve the January 24, 2013 minutes as submitted. The motion carried: Commissioners Abney, Hooper and Lane and Vice Chair Mullins assenting; Chair Atkinson and Commissioners Cole and Martinez abstaining.***

## **6. CONSENT AGENDA**

- A. Request to approve employee confirmations. (For Possible Action)
- B. Request to approve eligible lists for Fire Captain – Prevention and Police Lieutenant. (For Possible Action)
- C. Request to be placed on the re-employment list for Maintenance Technician, Maintenance Worker III, Maintenance Worker II and Maintenance Worker I from Christopher Ellison. (For Possible Action)
- D. Request to be placed on the re-employment list for Community Services Officer II from Gloria Gaytan-Robles. (For Possible Action)
- E. Request to be placed on the re-employment list for Public Works Crew Supervisor from Timothy Hendricks. (For Possible Action)
- F. Request to be placed on the re-employment list for Office Assistant II from Rebecca Kajans. (For Possible Action)
- G. Request to be placed on the re-employment list for Maintenance Technician from Craig Larson. (For Possible Action)
- H. Request to be placed on the re-employment list for Community Services Officer II from Cindy Leslie. (For Possible Action)
- I. Request to be placed on the re-employment list for Senior Engineering Tech I from Edvaldo Martins. (For Possible Action)

***It was moved by Vice Chair Mullins, seconded by Commissioner Lane, to approve Consent Agenda Items A, B, C, D, E, F, G, H and I as submitted. The motion carried unanimously.***

## **7. REGULAR AGENDA**

***7-A. Report from Human Resources as to the Commission's request regarding Public Works Crew Supervisor and Traffic Signal Maintenance Supervisor roles.***

Renée Ruņģis, Director of Human Resources, recapped a few things on her staff report:

- The controversy arose from a layoff that the City did of a Traffic Signal Maintenance Supervisor that occurred as part of a mandated layoff in 2011.
- The layoff was appealed to the Civil Service Commission (CSC).
- The CSC denied that appeal stating that the layoff was done properly.
- Local 39 (the Union that represents the laid off employee) filed a grievance that went to arbitration.
- The arbitrator stated that nothing was improper in the way the City conducted the layoff.
- The arbitrator said that the City cannot assign the work of the Traffic Signal Maintenance Supervisor to another bargaining unit.

- The arbitrator said that the City did not have to bring back Mr. Sayyed (who had held that position of Traffic Signal Maintenance Supervisor) and make him whole as part of the remedy, only that the work for that particular classification remain in the bargaining unit.
- The City in an effort to comply with the arbitrator's award took the supervisory duties which it had assigned to a Traffic Engineer (which is outside of the bargaining unit) and brought those supervisory duties, which in this case were limited to managing the people (not doing the technical work), back into the bargaining unit and assigning them to a Public Works Crew Supervisor who testified at the hearing that it was about 13% of his time.
- The duties that were assigned to the Public Works Crew Supervisor are and fall within the range/scope/responsibility of the Public Works Crew Supervisor classification.
- The City did not violate the Civil Service rules in any way.
- Mr. Sayyed was properly laid off. It was decided by the Commission as well as the arbitrator.
- The City has not made an appointment to the classification of Traffic Signal Maintenance Supervisor of any type. Not provisional, not limited term, not regular.
- The City put the duties of managing the people back into the unit that Local 39 represented.
- Rule XV requires the City to notify the Commission if any position is abolished. No position was abolished.
- Rule XV requires the City to inform the Commission of any change in the organizational chart. No change has been made in the organizational chart.
- Rule V requires that the specs for any new position be prepared by the City Manager and presented to the Commission. The City did not create, or propose to create, a new position.
- There has been no violation of any reinstatement right. Mr. Sayyed is still on the reinstatement list and if the City were to fund that position, he would be recalled as he is number one on that reinstatement list.
- The City has the right to determine that remaining duties not be performed by the City because of funding issues.
- Local 39 claims that the City admitted to violating the Civil Service rules. That was mentioned more than once by Mr. Frederick, as well as in the letter that he submitted to the Commission this evening.
- Mr. Frederick has quoted the City of Reno's brief that it presented in the arbitration which I will pass out.

Deputy City Attorney Susan Rothe asked that document not be passed out. That is not the subject. It is the report of the roles of those two positions (Public Works Crew Supervisor and Traffic Signal Maintenance Supervisor). We do not want to focus on anything that has already occurred and it is not subject for consideration. If it is an informational item that is an addendum to your report and you are not going to discuss it.

Ms. Ruņģis responded that it is an information item just for the Commission. Mr. Frederick notes that again in his February 25 letter.

Deputy City Attorney Susan Rothe advised that we do not want to get into any specifics of something that has already been decided and heard by the Commission. It is not on the agenda and it is not subject for review or discussion.

Renée Ruņģis, Director of Human Resources, stated that the City did not admit in this particular brief that it violated the Civil Service rules.

Chief Examiner Bailey stated that he would like the public to know that the Local 39 response is available for anyone who would like a copy.

Deputy City Attorney Don Christensen stated that he has reviewed what occurred and he thinks the Commission was given a presentation that was difficult to follow as far as the actual factual occurrences that took place. There were some half truths that were presented to the Commission. His personal review of the facts is that he does not see how the City violated any rules.

John Flansberg, Director of Public Works, stated that it was a difficult situation after the arbitrator's decision that we needed to keep that assignment within the bargaining group. We only have eight individuals in the bargaining group that we could have assigned the work to without incurring additional costs and bringing someone else back in. Seven of those individuals are Public Works Crew Supervisors and one is our Survey Party Chief. It made the most sense for one of the Public Works Crew Supervisors to take that duty on and as you can see from the discussion in the meeting, it is about 13% of his time. It was a fine line of how do we still maintain the intent of the arbitrator, but not assign that individual the full duties of the Traffic Signal Maintenance Supervisor.

Chair Atkinson stated that there were three questions that she had and she believes that they were all answered. For the benefit of the Commission, she would just like to go over her questions.

1. Did the City have the right to reassign work and to reorder the way in which work gets performed?

Basically, there was an assertion that you do not. The arbitration decision, the State law (288), the contract – everything indicates that in fact that is a right that is protected for management. That is a right that management has that is actually essential to their function. If you take that right away, management has no way to effectively reorder business to stay in business. Chair Atkinson stated that she did not see anything that bridged that right.

2. Does an employee own individual duties of their respective position? Or do they own the right to be reinstated to a vacant position that has been assigned a set of duties consistent with their classification?

Part of the confusion may be that there is some argument that they own individual rights. Chair Atkinson stated that she does not concur with that. Our rules are very clear that reinstatement is to a vacant position. A position is comprised of a subset of duties, and management, if it has the right to reorganize, has the absolute right to move those duties back and forth across its workforce. In that event, there is nothing in our rules that requires that the City notify us of the fact that they are going to be reordering, but simply that we get notice of it after the decision has been made and implementation has taken place. That comes in the form of an organizational chart. Historically, organizational charts are contained in the program budget. That budget is updated every year and made available to all of the operating departments and those changes will reflect in there. The other way that we get notice of that is if there are layoffs that are taking place, we get notice because we work on the order of layoff in determining who actually is affected first, second, third

and fourth. If someone were to make the argument that the notification process was not complete, Chair Atkinson stated that she thinks that, in fact, it was complete.

Chair Atkinson stated that there was one area where communications may have failed. Not required communications, but communications that may have actually saved us some time in this process. She realizes that the City was operating under very tight timelines. They made a decision, implemented a decision that was challenged. That required undoing of the decision and redoing and this all happened in a very short period of time. Chair Atkinson stated that she thinks in the circumstance that Mr. Flansberg was faced with that just a phone call to Ric would actually alert Mr. Flansberg to something that we may need and at the same time actually alerts Ric so that he can be thinking about it and work in tandem so that this moves more efficiently. The opportunity for communication maybe was missed. Chair Atkinson stated that she is not suggesting that she is insensitive to how this happened. As a Commission it would help us also so that we can streamline how we look at these issues.

3. If the action that the City took amounted to a substantial change in the job that received those new duties.

If the duties are more of the same, there is no impact. It may increase the workload, but that is not our issue that is a staffing issue. But if it increases the level of how the position functions – either in complexity from a technical perspective and has an impact in that fashion, it could have a reclassification impact. In this event there was none. The information before us is that these were universal functions. They were the type of supervisory functions that exist in every supervisory job regardless of the nature of that job – whether that job is technical, professional, legal. There is still a subset of duties that are universal. It is only that component that was transferred over and merged with the position that was already functioning in that same capacity. In that instance, Chair Atkinson stated that she does not even see an issue of reclassification coming up.

Vice Chair Atkinson stated that she did not find any missteps from her perspective.

Deputy City Attorney Susan Rothe advised that comments can be made just in general as to roles, not as to any specifics of the hearing. We can't discuss something that was already heard that is not on the agenda.

Commissioner Cole stated that in that general sense when there is the need to condense staff, it is very difficult on a day-to-day, in the real world basis, say this is a general duty and you may have that. This is a specific duty and that cannot be completed any longer. Ms. Cole stated as staff looks at those decisions and how those decisions are implemented it is even more difficult for them to make that distinction. Certainly, in the previous course of events, they had someone to go to get advice and get direction from and to have that source, or resource, cut off is very difficult. In the real world, people are going to ask questions and probably their questions are going to be answered realistically. Commissioner Cole stated she does not know how you stop that or control that, but that is kind of the reality of the situation. That may be what generates some complaints and concerns on the part of other employees. It doesn't seem all that different except somebody else is performing that function. To the extent that someone may answer a question, does that really put them into another job classification? "No." There is that lingering perception that might be cured by more communication and communication over a longer period of time.

**8. IDENTIFICATION OF FUTURE AGENDA ITEMS**

None.

**9. SET NEXT MEETING DATE (For Possible Action)**

The next regular meeting of the Civil Service Commission is Thursday, March 28, 2013 at 5:30 p.m.

**10. PUBLIC COMMENT** – This is for general public comment limited to items that do not appear on the agenda and is limited to no more than **three (3) minutes** for each commentator. Pursuant to NRS 241.020, no action may be taken upon a matter raised under this item until the matter has been specifically included on an agenda.

None.

**11. ADJOURNMENT (For Possible Action)**

Chair Atkinson adjourned the meeting at 5:56 p.m.

\_\_\_\_\_  
Jeannie Atkinson, Chair

\_\_\_\_\_  
Date