

# CIVIL SERVICE COMMISSION

## MINUTES

Thursday – May 23, 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

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

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

**MEMBERS ABSENT:** None.

**MEMBERS EXCUSED:** Jeannie Atkinson and Maureen Cole.

**ALSO PRESENT:** Ric Bailey – Chief Examiner; Michael Chaump – CD; Brad Drum – IAFF 731; Dennis Jacobsen – IAFF 731; Jo Ann Malugani – Civil Service Technician; Tom Metcalf – PW; Susan Rothe – Deputy City Attorney; and Fred Turnier – CD.

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 Abney, seconded by Commissioner Lane, to approve the May 23, 2013 agenda as written. The motion carried: Commissioners Abney, Hooper, Lane and Martinez and Vice Chair Mullins assenting; Chair Atkinson and Commissioner Cole excused.*

### 4. LIAISON REPORT

None.

5. **MINUTES** – *Approval of the April 25, 2013 regular meeting minutes. (For Possible Action)*

Approval of the April 25, 2013 regular meeting minutes was postponed as there were insufficient members that were present at the April 25, 2013 meeting at tonight's (May 23, 2013) meeting to take formal action.

## **6. CONSENT AGENDA**

Commissioner Lane requested that Item 6.D. be considered separately.

- A. Request to approve employee confirmations. (For Possible Action)
- B. Request to approve eligible lists for Associate Civil Engineer and Public Safety Dispatch Supervisor. (For Possible Action)
- C. Request to approve eligible list extension for Police Recruit for one year. (For Possible Action)
- D. Request to approve extension of Temporary Part-Time Employees Laurel Pedrick and Lauren Barrera from Fred Turnier, AICP, Community Development Director. (For Possible Action)
- E. Request to be placed on the re-employment list for Community Services Officer II from Angelica Borryo. (For Possible Action)
- F. Request to be placed on the re-employment list for Senior Network Analyst from Billy Chui. (For Possible Action)
- G. Request to be placed on the re-employment list for Community Services Officer II from Andrew Della. (For Possible Action)
- H. Request to be placed on the re-employment list for Traffic Signal Mechanic from Aaron Faigin. (For Possible Action)
- I. Request to be placed on the re-employment list for Information Systems Tech II from Steven Gibbons. (For Possible Action)
- J. Request to be placed on the re-employment list for Community Services Officer II from Bretta Inman. (For Possible Action)
- K. Request to be placed on the re-employment list for Maintenance Technician from Tom Metcalf. (For Possible Action)
- L. Request to be placed on the re-employment list for Landscape Architect from Donald Naquin. (For Possible Action)
- M. Request to be placed on the re-employment list for Network Analyst from Kathleen Nickel. (For Possible Action)
- N. Request to be placed on the re-employment list for Maintenance Technician from Anthony Ortiz. (For Possible Action)
- O. Request to be placed on the re-employment list for Firefighter from Martin Smith. (For Possible Action)
- P. Request to be placed on the re-employment list for Senior Engineering Tech I from Kevin Williams. (For Possible Action)

***It was moved by Commissioner Lane, seconded by Commissioner Hooper, to approve Consent Agenda Items A, B, C, E, F, G, H, I, J, K, L, M, N, O and P as submitted. The motion carried: Vice Chair Mullins, Commissioners Abney, Hooper, Lane and Martinez assenting; Chair Atkinson and Commissioner Cole excused.***

Item 6.D. Request to approve extension of Temporary Part-Time Employees Laurel Pedrick and Lauren Barrera from Fred Turnier, AICP, Community Development Director. (For Possible Action)

Commissioner Lane: I am looking and referring back to the Civil Service Commission (CSC) rules (Rule VII) Section 12 (a). It talks about seasonal or temporary not to exceed six months.

When I look back at the report that we got last month where it showed the two employees that are referenced, it looks to me that Pedrick worked three quarters. I am thinking that she is currently in the fourth quarter. I have a question as to whether there was consideration of an extension at that time to move from two quarters into three quarters of employment. Was that approved by the CSC?

Vice Chair Mullins: No, but according to the minutes of the last meeting there was a lot of discussion regarding that. The HR person isn't here tonight.

Chief Examiner Ric Bailey: We do have the department head here tonight.

Fred Turnier: My name is Fred Turnier, the Community Development Director. The last meeting was the first meeting that I have ever been to of the CSC. At that meeting Renee from HR had an annual report that I believe the City Manager submits to the CSC which outlined the status of all the temporary employees within the City. Being the only department head there, I focused in on the two that I had that I found out at that meeting exceeded the six months. With that said, at that time we went back and because of where we are in our budget process there is kind of a limit of what we can do right now from an operational and budget standpoint. So we are requesting from the Commission tonight if we can extend these folks another six months and during that time frame look at our next year's budget which starts July 1 whether these employees become full time, part time, we come over and talk about more temporary or that we are just done with having them in our employment.

Commissioner Lane: I understand that point. I don't understand from the first two quarters which has been July – September 2012 and October – December 2012. That would be the first six months of employment then the question is was anything brought up at that time for the next quarter.

Fred Turnier: No, in fact it was my understanding from Human Resources that it was relatively new to a lot of people here at the City what that rule was about the extension of the six months. So as the first department head coming through the City what I am requesting is time for us to address this reg. Personally as a department head I did not know about the regulation until the last meeting. What I am trying to do just from an operational standpoint is how can we extend these guys for another six months so we can figure out what we are going to do operationally with them.

Commissioner Lane: I see on 12a this was amended in 93. Is that the entire paragraph that was amended in 93? So this has been on the books since that point.

Chief Examiner Bailey: Yes, sir.

Commissioner Lane: So it is not a new regulation?

Chief Examiner Bailey: No, it is not.

Deputy City Attorney Susan Rothe: Apparently, there were department heads that were unaware of the reporting component.

Fred Turnier: I am not using ignorance of the code or of the regulations as an excuse. I have been with the City approximately one year today. I am learning about the civil service rules and that was one of the reasons that I came out last month to learn what the rules are about the operations for temporary and part-time employees. So that from an operational standpoint I can best deliver the services that I have in my department.

Commissioner Lane: I would like to ask the attorney. Even though we did not approve the minutes from the last meeting, Chair Atkinson stated several times through those minutes and referenced illegal appointments. Now that term “illegal” it was not said it was an inappropriate term to use at that time. We did have an attorney present. Was that tacit approval or if in fact those are illegal appointments. I would like to get some information as to whether those are illegal appointments; if this continuation past the six months is illegal. If having that continued prior to having the Commission approval – it seems to me that we have the cart before the horse.

Deputy City Attorney Susan Rothe: That was a discussion of the overall report. What he is saying is: I realize that this person has already been in a temporary position more than six months, will the Commission consider giving us another six months? He is seeking that approval now. Whether or not in the past it was or wasn't done and there may be some appointments that are starting to fall out of a true temporary. He is coming forward and asking the Commission. Okay, we are aware of the rule we have these two people and we would ask you to consider giving them six months of temporary. By giving this now, you are saying we recognize that these people have been in temporary positions six months already and they are asking for six months more. You can also vote “no” or you could vote “yes”, but this is it no more. The Commission will now start looking at all the temporaries and make sure that they are truly in the temporary position.

Commissioner Lane: If one of these employees came to you and said I want to leave/resign in two weeks, my assumption is that you would make changes in your staffing or procedures to be able to handle the business in your department.

Fred Turnier: Yes.

Commissioner Lane: So compliance, while it would be onerous, would be doable.

Fred Turnier: Compliance would be doable. We have had a couple of times during this past year where there was a lot of people sick and the service levels drop at that time. It is something that we address. Again, some of those things are unforeseen. What I am asking for is we want to foresee some operational changes and we are asking for some time from the Commission to allow us to look at our operations to see what we can do to either bring them on full time, permanent part time or just look and see if we need to change our operations.

Chief Examiner Ric Bailey: As you know, they would have to go through the testing process and then you would have a list.

Commissioner Hooper: I do have the same concerns as Paul at this time. I believe the rule should be followed and any time that you go beyond the rule, the rule is of no real value. I, too, would not like to see any services, regardless whether it is city, county, state, federal

diminished, but on the other hand there are reasons for the rules. Also, management has to be done in such a way in order to provide the services or explain to the citizens of Reno why services are not being provided. My mindset is that we do not approve it and see that we follow the rules at this point and in the future.

Vice Chair Mullins: When this first came up regarding the temporary part time (and this has been discussed at this body before), this did fall through the cracks for whatever reason. I would like to say I admire you from what I read stepping up to the plate as a manager and employee of the City trying to correct this and not waiting. I think that he went back and saw where there were two employees and he wants to be in compliance with the CSC rules and regulations. He has identified two people who are over that time, so he is coming back according to the rules and informing the Commission of such and asking the CSC for approval of an extension.

Commissioner Lane: I would like to make a suggestion. I seriously have difficulty in saying it has already been done so let's say it's all good. I don't like that way of conducting business. I like it up front, planned and managed. I understand being new you are not aware of everything and I don't want it to be too difficult so I have a problem with the six months thing. I see an awful lot of these temporary positions expire June 30. I would propose that we could approve an extension only to June 30 to give you a few weeks to get this in line and let the employee know. I don't think these things are discretionary whether you adhere to them or not.

Commissioner Martinez: I agree with Bertha that he is new to management so how much responsibility is it of the HR Director to educate him beforehand. It is not his fault. He is just trying to keep this together and keep these people employed until he has time. Knowing the City and some other aspects, it is going to take more than a month.

Commissioner Abney: I agree with Commissioner Martinez and Madam Vice Chair. This is a department head that took the initiative of his own to come here last month, learn about the issue, came immediately the very next meeting that he possibly could come to and say I learned last month that we had an issue and we need to extend this. Looking at his memo to us: quote "Her employment allows our compliance officers to remain in the field instead of working the customer counter." These are positions that improve and enhance services to the citizens of Reno. I appreciate the thought of just giving it until June 30 but these folks are right in the middle of approving budgets and June 30 is just a little over a month away. I would hate to sit here and make a decision after a department head came here in good faith and make a decision that would lower the services to the people of Reno who we are supposed to be ultimately serving. I personally support the six-month extension. Yes, things fell through the cracks, but I would hate to tell the citizens of Reno that you are getting less service because of some arcane CSC rule.

Commissioner Lane: If that situation happened, how long would those people be withdrawn from the field to come in and man the counter? Would that be all six months, would it be three months, two months, one month until someone is cross trained, capable of handling the front?

Michael Chaump: Michael Chaump, Business Relations Manager, Ms. Pedrick is under my supervision in the business license division. Compliance Officers (and this has happened in the past) isn't a position that you can fill in a short amount of time. The other side is that, as

Commissioner Abney said, the budget is in the process and is pretty much done. There is currently a hiring freeze in the City of Reno. I couldn't even guarantee that we could hire somebody. If we could hire someone full time, we would because we need that position to continue with customer service in the business license and compliance side of community development. If I bring Compliance Officers off the street to work the front counter, now I have somebody working out of class and at a much higher rate than my temporary employee. If we knew we needed to come here – because we are not trying to hide anything, we would have come here in the past.

Commissioner Lane: As I look down the list of all the people, it seems that same argument could be made of everybody that has an ending date of June 30, 2013. I could expect every department head to come here and say that – we need an extension because we are tight.

Michael Chaump: Quite possibly.

Commissioner Lane: I think that every time that you have a rule and you waive the rule, it weakens the rule and I am concerned about that.

Commissioner Hooper: I appreciate all the comments. Once again, the rule needs to be followed. The deal is that due to economics there were layoffs, there is a downturn, there is not the taxes that there once were and that means that services are going to suffer. Hopefully that will wake up the citizens and politicians to understand that in order to get some services that we need, people need to be cross trained, trained or we need to do without the services. I do not want to see the rule broken any further. The reason that it has come to this point since 1993 is that we were not getting the reports. We got the report last month. It was known that the rule was being broken and it is time for the Commission to step up and do what we do which is make sure that the rules are followed.

Commissioner Martinez: The comment was made if you could expect other management coming forward and asking for an extension, but with Mr. Turnier just new to the position how much responsibility was it for his manager or his boss to tell him.

Commissioner Hooper: I am actually not even talking about that. We have not been properly informed so we were not aware that people were going over the six months. Now that we are, I think that action should be taken to follow the rules.

Commissioner Lane: Section 12 (b) and also in paragraph (d) it states the requesting department must track and terminate the temporary appointment, providing a report to the City Manager. This goes back to the situation at hand. Evidently, it hasn't been happening. I'm not sure because if these reports are not forthcoming it's hard to understand where people stand. It says that it must happen and so if they are not happening I can see where we are getting into a little pickle. The other thing is to address your point (and I do applaud you coming), let's say I had a daughter 16 just new to driving, I think compliance with state highway rules is still expected.

Vice Chair Mullins: I really have a problem with the process and the buck doesn't stop with the manager that is here tonight. The buck actually stops with the City Manager and the Council. Having served on the Commission they have not, in other instances, followed the Civil Service

rules. I must say this is a rule that has now come up and has gotten the attention of some managers, but we still have to educate the City Manager and the other Council members whose responsibility it is to see that the Civil Service rules are followed and that is passed down. I have to say this rule (and you are absolutely correct, Paul), it has not been in compliance. The information, even the reports, we kept asking to get the reports and now that we have the reports and we are where we are and good intentions that is brought here tonight. I think the Commission has a responsibility to look at the whole and not just the part. The part is there and it is quite obvious – the rules have not been followed for several years. I think that we have an opportunity now since we are getting the reports and the managers are going to be getting the education and I'm sure that the Chair is going to follow it up, along with Ric, to bring this to the forefront. We have the reports to say who has been here for six months for "x" number of hours.

Commissioner Lane: As a Commission member I take a look at it and the scope of my being here is to understand and try to enforce the CSC rules. I am really not a watchdog for the well being and the ultimate good/bad of the City. I think that is up to the Council, the Mayor and the administrators. I don't believe that continuing to undermine or erode a rule that is on the books does anything to facilitate compliance, nor does it educate. I believe if you authorize a continued weakening of this process it is going to come back to bite us next month or the month thereafter. Obviously, education could be well had if we stuck to our guns. I know some services to the citizens could be slowed down or delayed as far as rendering efficiency.

***It was moved by Commissioner Lane to deny 6.D. as written, but allow an extension to June 30 for five weeks.***

Vice Chair Mullins called for a second. There was no second, so the motion died for the lack of a second.

***It was moved by Commissioner Hooper, seconded by Commissioner Lane, to deny 6.D. The motion failed: Commissioners Hooper and Lane assenting; Commissioners Abney and Martinez and Vice Chair Mullins dissenting; Chair Atkinson and Commissioner Cole excused.***

***It was moved by Commissioner Abney, seconded by Commissioner Martinez, to approve 6.D. as recommended in the staff report. The motion carried: Commissioners Abney and Martinez and Vice Chair Mullins assenting; Commissioners Hooper and Lane dissenting; Chair Atkinson and Commissioner Cole excused.***

## **7. REGULAR AGENDA**

7-A. *Consideration and potential direction of request from IAFF for exemption from the three (3) year deadline for reinstatement in Rule XII Reduction in Force, Section 6. Placement of Names on the Reinstatement List and Rule XIII Resignation, Retirement, Leave of Absence, Section 1. Resignation. (b). (For Possible Action)*

Dennis Jacobsen: For the record I am Dennis Jacobsen, President of the Reno Firefighters Association. Before us again is an unfortunate fallout of all the layoffs that the City faced and of course the Fire Department being at the top of that list. Some unexpected issues arose

throughout this period and I believe we have some good news to discuss because we have an opportunity to correct some of that tonight with the Commission's support. This is much more than just a difference of language between our negotiated contract article and the Commission's rules. That article doesn't recognize the three-year mandatory limit on rehire rights for reinstatement. I'm sorry, I probably confused that because you have a reinstatement list and rehire list which keeps getting me confused. My understanding through discussions with not only the Chief Examiner but other folks in the civil service world is that this rule is a very common rule – the three-year rule. It has to do with the ability of an employee to remain and maintain their skill level on very critical tasks such as firefighting which definitely falls in there. It is not a task that normally a person would maintain their skill levels at unless they stay proficient. In this particular situation and one of the reasons that we are asking for the consideration of the exemption is that the ex employees, in this case, that are affected virtually across the board have maintained their skill levels. Most of which are through other fire departments at other employers' expense which is good for the City to regain and recover that investment, and for the one or two who have not found employment they have maintained (and in one case actually increased) their skill levels through their own expense which in essence make them a more viable employee if they return back to the City. For those reasons that we believe that we would like to have the consideration of your three-year rule suspended in favor of our language to allow the Fire Chief who does support this measure as does the City Manager (from my meetings with him) to allow us to go and at least offer an attempt to recover these employees and these City assets back to the services of the City. They are, most of them, local and most are willing to accept and to at least hear the offer. Unfortunately, for us it is just a conflict between the language that the Fire Chief is bound by, which is our CBA, and your rule and so we are asking for a suspension of your rule to allow the Fire Chief through his designee to make these phone calls and see if we can recover these employees. The other important thing to note on the rule and, again, it is not just about two different documents, but to point out that the negotiating language in our document referencing our seniority list is an extension of the seniority list created by the consent decree. That being said, these employees were laid off in order of that seniority list in essence maintaining the integrity of the consent decree. If they are to be brought back under your other rule which is the re-hire rule, it is a random list. It is not ordered in any fashion which for us who have been working and living under the consent decree since 1988, we see a concern there depending on how the employees may or may not be brought back. Again, to maintain the integrity of that as well, understanding where that language came from by putting aside your Section 6 of Rule VII (Rule XII?) and allowing the Fire Chief to follow our contract language which using the seniority list for the rehire - we do have one current open position which is mandated to be replaced through our Safer grant. Our federal grant requires us to replace this position – we would not only be extending a gratitude to the employee we would be supporting legally the best interests of the City, best interests of the citizens by recovering these highly trained people and also maintaining the integrity of the intent of the consent decree as well. For those reasons I ask your consideration to set aside your rule in favor of the Chief being allowed to use the reinstatement list as it existed prior to the three-year expiration.

Public Comment:

Brad Drum: My name is Brad Drum. I am the Civil Service Chair for 731. I also hold the Chair spot for our Layoff Committee. First time ever 731 has had a Layoff Committee in the past couple of years and we all know the fallout from that. On a personal note I would appeal to this

Committee an extension of the three-year rule simply because as the Layoff Chair, we laid off 58 guys and gals. I came up with a layoff assistance packet. It was given to all 58 families and they all took it. Marlene Chapel helped me with it. In fact she loved it and used it for the rest of the City. These 58 families left the City's employment on the promise that they would come back through seniority because that's how they were laid off. Chief Examiner Bailey, I pity you. I feel for you because I know you have heard our seniority arguments for the 13 years that I have been here, whether it is promotions or hires you have to take the brunt of all that. We live and die on seniority, so we are laid off with the last hire. That's how the guys expect to come back. I'm not sure that the rehire list carries any seniority, so the chance of having lower seniority guys come back above higher seniority guys would be a headache for everyone. Lastly, the date put out by the CSC to get this reinstatement list because our guys' three-year window expired in February, Chief Examiner Bailey said put in your letter to be on this list and I believe it was at the end of January that six of our people did. It was approved here by the CSC. We have approximately ten guys left that are waiting in the wings as well. Tonight you guys just approved Martin Smith, almost four months later than the cutoff date for the reinstatement list.

Chief Examiner Ric Bailey: I need to clarify that. There is some confusion between the reinstatement list and re-employment list. Those letters that we sent out come in phases as the layoffs took place. As you know we had multiple layoff classes, if you will. This gentleman that you are referring to followed the rule regarding the re-employment list. The re-employment list provides an option for the department head to bring an individual back, but it is not mandatory, and a probationary period must be served once they are brought back and re-employed.

Brad Drum: What I'm appealing to is the three-year window that is coming in waves for us had a cutoff date for our first group of guys. If you cannot do nothing more tonight to extend the rule (and we would love to extend this three-year window), at the very least I would appeal to the Commission to allow all of my ten remaining guys to put in their letter so that they can be on the reinstatement/re-hire list (forgive me for my backwards of it). That's my appeal, thank you.

Chief Examiner Ric Bailey: To clarify, the reinstatement list has a three-year window for automatic reinstatement if the funding is available to the department. Individuals are returned based on their seniority. The least senior person, of course, is the last person to be brought back. The next phase we do and we do this as a favor for the employees; 90 days prior to the end of that reinstatement period, we notify them that they have the option voluntarily to be on the re-employment list. Any time within that 90 day period an individual can do what other individuals have done from various departments to request to be on the re-employment list. They can do that on an annual basis up to four different events. What we have now are individuals who are on the re-employment list for Firefighter. There is also a reinstatement list which would be the individuals who would supersede individuals on the re-employment list. Reinstatement list is automatic; re-employment list is optional. A re-employment list is for 12 months from the time it is approved. At about the 11<sup>th</sup> month an employee can come back in and ask for that re-employment list to be extended. After that initial request, they have three more opportunities according to the rule language.

Deputy City Attorney Susan Rothe: Just a couple of points. The consent decree doesn't apply at all to a reinstatement list. The consent decree has no applicability to this. The only item on

the agenda is whether or not the Commission can waive this rule, and the rule (as pointed out in the staff report) is mandatory. It says a name “shall” be dropped after three years.

Vice Chair Mullins closed public comment.

Deputy City Attorney Susan Rothe: There is no language that says there’s a wavier ability/exemption ability under the true meaning of the rule. They are coming to this Commission asking to waive the rule and there is no ability to do that.

Commissioner Abney: So you are saying there is no legal way.

Deputy City Attorney Susan Rothe: The rule as written is mandatory. There is no exemption, waiver, suspension language.

Commissioner Abney: What is the process for a rule change?

Deputy City Attorney Susan Rothe: You have to go through a public hearing and notice and go through the legal review and craft a rule.

Commissioner Abney: Does it go through us and then City Council?

Chief Examiner Ric Bailey: No, sir. What happens is that we have rule language that we present to the CSC at a meeting and at that point the Commission may direct us (Susan & me) to re-craft that language and then we may bring it back to a second meeting where it could be considered. There has to be a 10 day posting prior to that.

Deputy City Attorney Susan Rothe: The change or amendment to the rule is not retroactive it is prospective.

Commissioner Abney: That three years applies across all departments, all employees?

Chief Examiner Ric Bailey: All civil service employees are treated the same under that rule.

***It was moved by Commissioner Hooper, seconded by Commissioner Lane, to deny the request for Item 7.A. The motion carried: Commissioners Abney, Hooper, Lane and Martinez and Vice Chair Mullins assenting; Chair Atkinson and Commissioner Cole excused.***

## **8. IDENTIFICATION OF FUTURE AGENDA ITEMS**

1. June meeting: Renee bring back review of temporary appointments.
2. July meeting: Performance review for Chief Examiner Bailey.
3. August meeting: Bring back Police Sergeant MQ’s including education requirement.
4. August meeting: Renee – temporary report including the 4<sup>th</sup> quarter.

Vice Chair Mullins: I would just like to throw out to the Commissioners, under the discussion of Item 6.D., I think our Chair and Chief Examiner need to go higher up and that would involve meetings with the City Manager. I don’t know if those meetings are still going on. That door

used to be open.

Deputy City Attorney Susan Rothe: Temporary appointments are coming back in June and that would be a proper place for the discussion.

Vice Chair Mullins: I was just suggesting it for a future agenda item.

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

The next regular meeting of the Civil Service Commission is Thursday, June 27, 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)**

Vice Chair Mullins adjourned the meeting at 6:22 p.m.

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Jeannie Atkinson, Chair

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Date