

CIVIL SERVICE COMMISSION

MINUTES

Thursday – September 26, 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
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, Milven Hooper, Paul Lane and Jenny Martinez.

MEMBERS ABSENT: None.

MEMBERS EXCUSED: Bertha Mullins.

POSITIONS VACANT: One.

ALSO PRESENT: Andy Bass – PRCS; Tracy Chase – Chief Deputy City Attorney; Robert Chisel – Director of Finance & Administration; Julee Conway – PRCS Director; Kevin Croghan – Local 731; Brad Drum – Local 731; Darryl Feemster – PRCS; Jerry Frederick – Local 39; Jo Ann Malugani – Civil Service Technician; Peggy Nelson-Aguilar – RAPG; Renée Ruņģis – Director of Human Resources and Seth Williams – Local 731.

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.

Chair Atkinson: Ric is not here tonight because his mother passed away unexpectedly. With the help of Jo Ann, we have sent flowers on behalf of his family here at the City of Reno because I was pretty certain that you would want that expression at the services tomorrow. Our expectation is that he will be back on Wednesday, but my advice to him was to take care of your business and don't worry about us. Condolences to him and his family.

Bertha was asked by Wells Fargo to substitute for one of her superiors at another meeting tonight so she is unfortunately not able to be here.

The appointment to fill Maureen's vacant position was not on the City Council agenda on Thursday. My presumption is that it will rollover to the agenda on October 9. There are presently five applications on file with the City Clerk's office so there is some additional time if you know of anyone (and this is to the audience as a whole) that would have an interest on serving on the Civil Service Commission (CSC) please ask them to go ahead and look at it. You can access the applications through the City's website under City Clerk. It goes into Boards and Commissions.

Jerry Frederick inquired if the Commissioners are appointed by what wards are represented in the City.

Chair Atkinson: I don't know exactly what this Council's practice will be. Historic practice is that they represent Wards. I think the Ward that has no representation as of today is Ward 1.

3. APPROVAL OF AGENDA (For Possible Action)

It was moved by Commissioner Martinez, seconded by Commissioner Lane, to approve the September 26, 2013 agenda as written. The motion carried: Chair Atkinson, Commissioners Abney, Hooper, Lane and Martinez assenting; Vice Chair Mullins excused.

4. LIAISON REPORT *(Item for announcements and informational items only. No deliberation or action will be taken on this item.)*

None. Robert Chisel, Director of Finance & Administration, reported that Councilperson Dortch had a prior commitment.

5. MINUTES – Approval of the August 22, 2013 regular meeting minutes. (For Possible Action)

It was moved by Commissioner Abney, seconded by Commissioner Martinez, to approve the August 22, 2013 minutes as submitted. The motion carried: Chair Atkinson, Commissioners Abney, Hooper, Lane and Martinez assenting; Vice Chair Mullins excused.

6. CONSENT AGENDA

- A. Request to approve employee confirmations. (For Possible Action)
- B. Request to approve eligible list for Police Assistant I. (For Possible Action)

It was moved by Commissioner Martinez, seconded by Commissioner Lane, to approve Consent Agenda Items A and B as submitted.

Chair Atkinson: I would like to put on the record that David Hancock is listed. I believe that his actual confirmation date should be February 8, 2013. It was a six month probationary period; not one year. Let me check with Renee to make sure that is correct.

Robert Chisel, Director of Finance & Administration: It was six months; not one year.

The motion was amended by Commissioner Martinez, seconded by Commissioner Lane, to approve the confirmation date of February 8, 2013 (for David Hancock). The motion carried: Chair Atkinson, Commissioners Abney, Hooper, Lane and Martinez assenting; Vice Chair Mullins excused.

7. REGULAR AGENDA

7-A. *Discussion and possible approval of request from Kevin Croghan to be placed by the Chief Examiner on the re-employment list for Firefighters temporarily reopened by Civil Service Commission action on July 25, 2013. (For Possible Action)*

Chair Atkinson: At an earlier meeting a request came from the City to do a special opening that would allow the Firefighters who did not notify the City of their interest in re-employment an opportunity to put their applications in because their actions had been based on a letter that was sent by the Fire Chief in error. This Commission approved that and set a specific window in which to do that and delegated responsibility to the Fire Department and IAFF. Subsequent to that we have found (Mr. Croghan brought it to our attention.) that he had a contact phone number and because of circumstances in his life that contact phone number was his only contact. The methods that were used did not reach out to that contact phone number. We are bringing this item back and asking the Commission to make a specific exception to allow Mr. Croghan to put in his application given the circumstances of this particular issue.

Kevin Croghan: I am formally here to request that I be allowed to apply for the re-hire list that I unfortunately, due to circumstances in my own personal life, did not find out about until two days after that time period window had closed. Since that point in time I have been in contact with everybody that I need to be (and have been advised to be) to put myself in a position and hopefully have an opportunity to be positioned back on that re-hire list.

Seth Williams: I am Vice President of Local 731 Reno Firefighters. Cadence Matijevich isn't here, but Tracy is here and we have had a lot of discussion regarding this particular topic. There has been some discrepancy in the way that they looked at some of the language so there was advice to Mr. Croghan not to put in. I would hope that we wouldn't get caught up in a lot of discussion about why he didn't get notified, but that he wasn't. He had an expectation that he would be getting notified by mail through the CSC because that is normally how CSC contacts or a phone call from the Fire Department because that is normally how the Fire Department contacts. In this case, he got sent an email and the email address was not one that reached him so it was a simple mistake. The labor group and the City have worked very well together in that we would like to see this employee back at the City and the City would like to see the thousands and thousands of dollars that they have invested in him through training, academy, specialized equipment not all go to waste. I implore to you that it was really a clerical mistake that he didn't get notified and as far as the labor group goes we would love to see him on the list and as far as the City goes, I believe, they would also like to see him on the list.

Chief Deputy City Attorney Tracy Chase: I looked into the notice requirements and there was established a variance in the notification of this individual. We did have the information of his cell number to contact him so that is why legally we recommended that you consider this.

It was moved by Commissioner Abney, seconded by Commissioner Hooper, to approve Item 7.A.

Chair Atkinson: Mr. Croghan you need to put in an application either in written format or electronic format and submit it to Mr. Bailey.

Chief Deputy City Attorney Tracy Chase: There was some information, and Mr. Croghan was aware of this, that wasn't updated. He has updated that information for Civil Service so that is completed to what I have been informed of, but I want to put on the record that you understand your duty to keep that information updated in the future.

Kevin Croghan: Yes, ma'am.

Brad Drum: Is there a time frame that you want that done with Ric being gone?

Chair Atkinson: You can submit it directly to Jo Ann. The sooner the better.

Chief Deputy City Attorney Tracy Chase: I would recommend that we have at least a week time period because I know the department is ready to select or go through the process so I don't want to delay them.

The motion was amended by Commissioner Abney, seconded by Commissioner Hooper, to a one-week timeframe (one work week) for submission of application. The motion carried: Chair Atkinson, Commissioners Abney, Hooper, Lane and Martinez assenting; Vice Chair Mullins excused.

Items 7.B. & 7.C. were combined for discussion.

7-B. Presentation and discussion of action plan report from Renée Ruņģis, Director of Human Resources, regarding six month temporary employees and 1560 temporary appointments per Civil Service Commission direction on August 22, 2013. (Not for Action)

7-C. Discussion and possible direction regarding six month temporary employees and 1560 temporary appointments in furtherance of Civil Service Commission direction on August 22, 2013, including identification of future agenda items and possible rule amendment of Rule VII, Section 12. (For Possible Action)

Chair Atkinson: There are two documents (copies on file). The first one that I would like to direct attention to is titled "Conceptual Platform for Temporary Appointments." This document was put together for the purpose of addressing some inherent confusion within our existing rule – kind of an outgrowth of a memo that the City Attorney's office sent to the City and CSC which was included as a part of our packet. The second document is a draft conceptual proposed time line for purposes of implementation to get collectively the City, CSC, employees that are involved, and anyone else who has interest in this from where we are at this moment in time to where we need to be by the November 21 date that we set at our last meeting. It integrates how different parties have to come together in a cooperative effort to make this work.

Conceptual Platform for Temporary Appointments: At previous meetings we discussed the idea that there are only two types of appointment status within positions within the Civil Service. One of those is temporary and one is regular. There is no other kind of appointment status. Within those respective appointment categories, you can have people that work part time, full time, that work on an intermittent schedule, that work with programs that gear up and go down. This document is designed to put clarity to what kind of appointment falls under temporary and what kind of appointment falls under regular so that can move forward with a clear target. Under temporary we currently have language that speaks to a 1560 hour appointment and that is where a lot of the confusion rests is in the application of that language because it shifts from a reference to six calendar months to a time frame that is counted on the basis of hours. Those two are not easily integrated. The language under 1560 when it was originally adopted, at least my understanding of that language (and Ric's), is that the language was really designed to embrace an appointment to a position which had a seasonal duration (golf course) and that the appointment would end when that season closed down. In that instance they would work nine months. They may not work full time during that nine month period, but they would work for a

calendar period of nine months. They could work up to full time during that period. When the golf course closed down for winter, the employees who were hired to do that service would go off payroll and not return until the next season. What that rule never intended to embrace is where you get contiguous appointments. Someone who is appointed to a seasonal capacity here and when that season ends then it rolls to the next seasonal capacity. By example, going in as a lifeguard at the outside pools and when the pools close down then you rollover to a fall program and when the fall program closes down then you rollover to the ice rink. Over a period of time you work year round, but you work in different seasonal applications. The rule did not embrace that, but that has been how the practice has evolved to some extent. I believe in looking at the minutes some of that practice is based on a perception that in order to get the people you need to staff these programs you have to offer them some kind of continuing employment. That their willing to make those shifts in assignment, but it's easier to keep those people interested in working for the City under those programs if they work year round – even if it is on a part-time basis. That is kind of how we got to the point where we are right now.

The problem is that temporary, by its very nature, is limited duration. It always implies and embraces a start date and an end date. It also always embraces some kind of separation from service because if that separation does not happen what you effectively end up with is an appointment that continues quarter to quarter, year to year over a period of decades which clearly does not fall into a temporary definition.

Ric & I did a substantial amount of research on this issue to try and find out a couple of things. One would be what is the benchmark practice for the use of temporaries throughout this nation? We researched through the federal government, state agencies, local agencies and larger organizations to find out how they treat temporary employment. When we looked at that, the one thing that we can share is that temporary never exceeds – that magic break mark is somewhere between nine months and a year. The more common reference is six months. You see variances in how agencies treat it, they never exceed a twelve month period unless there are uniquenesses that they attach to the job. Generally, what you are seeing is nine months is that cut point. Six months with the opportunity for some extension, six months with no opportunity for extension. There is no uniform definition for temporary that we could find. What we found was consistency in practice that kept it between that six and twelve month period with the majority of the agencies falling on the six month side of that period. I want to emphasize there are also agencies out there that practice a twelve month period. Those that practice a twelve month period however, are pretty clear that it is a one-time appointment. It doesn't reoccur.

The challenge to this Commission is to devise a rule that is defensible that actually can be applied in a consistent fashion that is responsive to what operational needs might be and at the same time to do it in a context that is thoroughly consistent with our mandate under Charter. With all of those considerations on our design board, Ric and I came back with this idea which is to basically take the 1560 language and eliminate it. It is confusing; it switches measures in the middle of stream and results in misunderstanding. To move that out of play altogether and bring back into play a six-month period where the department acts independent of any kind of oversight from the CSC. If in instances they need a nine-month appointment or in the middle of an appointment they find that they need additional time, they can come back and ask the Commission to extend that appointment by three months (one three-month period). They need to ask for that extension before the first six-month period expires. There has to be a separation

in service and that separation has to be for six months. The reason for those definitions is to be able to defend that in fact that the appointment of that employee was of a temporary nature. That is was not designed as a means to circumvent the Civil Service rules. That it was not designed as a means to misclassify employees for other purposes. It has to have a break in service. The employee has to go out. I believe (and Tracy and I have talked about this) we can defend re-employment of an individual who has been in a temporary appointment, who has gone off on a six month break, who comes back and goes back into a temporary appointment, goes off on a six month break and does that over a succession of years that we can defend that as a temporary appointment. From my perspective, I believe we are on the edge of what we can defend.

Commissioner Lane: I have a question on the elimination of the 1560. For example on the golf courses, if you hire on March 1 and it goes six months and they come back for a three month extension, that effectively gives you the nine month that you had originally. If you require a six month separation of service at that point, then after that timeframe it might need to be brought back a little earlier. It needs to be flexed to accommodate the needs of the golf course. If they worked for nine months and were laid off three that would work I think. Laying them off for six would bring them back too late for the seasonal requirements of the operation.

Chair Atkinson: Our research found that State of Nevada has a category that is called “seasonal employee” that is exactly what you just referred to and it is a seasonal employee who has a nine month appointment duration. The State of Nevada treats that as a regularly funded classified position. The concern that is paramount for consideration is that whatever the rule says we have to be able to defend that it is in fact temporary and not just a part-time position who either front-end loads or back-end loads the appointment with hours. That is the struggle.

The other opportunity is to make it “up to” a period of nine months and take out that intermediate step of coming back for approval of a three-month extension which may facilitate operations. The six month separation of service is important because almost universally the measurement of full time is one year – private and public sector combined. If you have nine months on, three months off, nine months on, three months off, you have a $\frac{3}{4}$ part-time position that is permanent in its use and its application. If you have a position that is nine months on, six months off that span over that magic one year period you are in a better position to defend the temporary nature of that job. Regardless of what the time period looks like and that is the key element of the discussion tonight, the intended use is to use it in a way that the appointments can be defended as temporary. Traditionally, almost universally, this is used where you have people who have intermittent peak workload demands where rather than staffing at full level for your peak you staff at what is a more rational level and then you bring in people to cover your peak workload demands. The second place is when you have special projects that have a very fixed duration or you have people out on maternity leave, they are out on workers comp, they are out on military leave. You have a period of time that you need to bring in someone to temporarily cover. Having said that, military leave can extend sometimes well beyond nine months, but never the less at that point the agency has an opportunity to consider how to cover that vacancy. It does have the opportunity to do limited term appointments that aren’t temporary in nature, but fall under regular appointment side of this chart. When they are published and the hire is made, they are qualified as limited term appointments. This is for a specific period of time which exceeds what is normally considered temporary.

The other part of this is programs of limited duration. The golf course and pools are good examples. Youth programs are not. They are very difficult to staff because you are confronted schools that run on traditional school schedules with three months break in the summer and also programs that run year round. Some determination will have to be made on how to fit them into one or two of these categories. Those are some of the pieces that still need to be ironed out on this.

That next bullet reiterates that it is six months and they have to have that six month break and of course, implied in that is the fact if you get an extension it is nine months with a six month break.

Page Two: We found in every regard that you may not use a temporary appointment as a means of employing a regular full-time position. From my perspective that is concrete. You cannot use it as a subterfuge, it mislabels and it creates other issues that arise out of that. From a contiguous appointment perspective where you are jumping from seasonal program to seasonal program there is an absolute need to roll them to a regular appointment.

The Controls: Basically rather than making this up and saying we are going to do it on the fly, what is anchored in is the language that comes through the Charter which is driven by the Legislature. It is not something that we have control over. We have an obligation to work under it. It is a legislative mandate. It is also driven by the CSC rules and regulations which are adopted and can be amended periodically as long as they are consistent with the Charter. Whatever we do as a Commission, we have to be certain that we are acting in accordance with the Charter mandate. We do not have the opportunity to do otherwise.

Approval Requirements: The existing language allows the department to make the appointment without prior approval. Let's continue that. Extensions have to come back before the appointment expires. We cannot continue to turn a blind eye that these appointments are continuing in perpetuity and there is no procedure there. Example: We are all familiar with an incident that happened in Arizona with seasonal Firefighters. Seasonal Firefighters working side by side with permanent Firefighters were killed in the line of duty and the only distinction between those that died in that instance was part of those individuals were classified and hired under a temporary appointment and part of them were classified and hired under a regular appointment. They all suffered the same excruciating death. Their families suffered the same extraordinary loss. When the employer looked at this, the pregnant wives of the seasonal Firefighters came forward and became very public in their cry for equal treatment for life benefits which they were not entitled to because of the seasonal nature of those appointments. Whatever happens with that has the potential of a multi-million dollar impact for the organization that employs them. From my perspective, and I think it is something that this Commission needs to take to heart, the records that live behind those appointments will determine in part what happens with those demands. If the records are not good, if the records show that the use exceeded their permission under temporary it opens up a very real question in that instance of what status were they.

Selection Procedures: The selection procedure is done by the department. I'm presuming this happens today, but Julee I don't know, do you conduct criminal background checks?

Julee Conway, PRCS Director: Yes.

Chair Atkinson: It is still contemplated that you will take the proper steps in the hiring process to insure that they have the certifications, the criminal background checks are completed, that kind of thing. In terms of civil service status they are completely at-will employees. Under this concept, they come in and gain no career appointment, no privilege in the civil service side of the system that classified employees would enjoy; they have no right to automatically convert over. If they want to come into a position in the regular service, they have to go through the application/testing process to gain access. They have no layoff rights, no bumping rights, no appeal rights. Effectively they are at will employees in the true sense. Again, it is contingent on a clean record that they are in fact employed under these conditions and that the employment relationship with that individual is consistent with the conditions. The further that you get away from that conformance to the rule, the less likely you can defend it.

Records and Reporting Requirements: Regarding the current twenty (20) working day report requirement, the recommendation is to go to forty (40) working days. That keeps it contemporary information for our purposes, but it also allows for five weeks. As the City, you may want to look at that. My only concern is that the information be reasonably contemporary so that we don't get so far behind the ball on it that we have also created a non-compliance issue on this side so that we can stay abreast of those issues.

The other part would be and this is a component that this Commission put into Ric's performance plan as part of his evaluation, and that would be that we use NeoGov which is that component of the IT system that currently tracks an applicant from the point of application to the end of the testing and certification process. It is my understanding that it can communicate with your new payroll system.

Renée Ruņģis, Director of Human Resources: It has the capability of doing it, but it doesn't.

Chair Atkinson: The goal would be to integrate NeoGov and ADP so that rather than having paper exchanges we have a more efficient process.

Regular Appointments: Regular appointments are appointments that are expected to exceed whatever we define as temporary. You have only two appointment categories: temporary that starts and ends at a certain place in time and regular that picks up anything that is expected to continue beyond that period of time. A regular appointment under the civil service system meets the Charter mandate of competition and fitness. You can hire intermittent workers under a regular program and work them on this routine or erratic work schedule as your need demands. You can hire the seasonal workers that roll from one program to the next over the course of their employment. There are number of different uses from a civil service perspective and bear in mind our concern is very narrow. Our concern is that the way that an individual gains access to a position with the City of Reno within those positions that are covered by civil service (any position that works 18 hours or more per week) those individuals gain access to the position in accordance with the mandate of Charter which is competition and fitness except for the carve out of temporary where we will waive that requirement.

I realize that ADP is in its implementation steps and that we may be looking at that in the future, but I would ask the City to put in the back of its head.

Chief Deputy City Attorney Tracy Chase: On your records and reporting requirements idea you chose forty (40) working days. Your discussion really reflected forty (40) calendar days because a working day may be legally distinguished differently depending on whose work it is so I recommend a calendar day.

Chair Atkinson: I think it may be greater if it is calendar days. We can convert that. The forty was a count of Monday through Friday working days, but the point is very well taken that may look different for different people so we can convert that back to a calendar day count. The idea being that if the report would come to the second meeting following the close of the quarter because there is a carve off of time that has to go to the preparation and posting of the agenda that shortens down that time frame. We are attempting to provide some relief there.

Robert Chisel, Director of Finance & Administration: I want to let the Commission know that the City staff hears what the Commission is saying in regards to temporary part-time positions. We want to work with you in a collaborative manner to come up with a better set of rules. As the City Attorney and the Chair mentioned, we are all struggling with what the rules are and we think the process of going through and identifying what the rules are that we can all live with and understand would be a great first step in getting this issue resolved once and for all. The devil is in the detail and we need to work out what the details are. Primarily this is a PRCS Department issue. As you noticed in the report all the other temporary or part-timers have been cleaned up or identified under that six month rule or under the 18 hour rule. We need to make sure we work with our PRCS Department to make sure that they can deliver those services that the citizens need and work within the rules of the CSC. We know that we are going to have to balance those as we work forward and look at these rules and try to come to a mutual agreement. Whatever the CSC comes up with, we will follow and work with you.

Julee Conway, PRCS Director: With me tonight I have Darryl Feemster, Youth & Senior Services Division Manager, and Andy Bass, Recreation Division Manager. Under the conceptual platform for temporary appointments handout, I commend you for the work that you and Ric have done. I have a question to the second bullet under duration for regular appointments. It states “the attached census roster to determine if any function should be moved to regular appointment status.” What is that, I don’t see it?

Chair Atkinson: Can I ask you to hold your question because we haven’t actually spoken to this piece.

Julee Conway, PRCS Director: Okay, then let me ask the next question related to that bullet. The regular appointment status – on the following page the bullets of the recruitment/examination process, the minimum qualifications (MQ’s) that is what the Commission sees as the regular appointment status?

Chair Atkinson: Yes.

Julee Conway, PRCS Director: Also, I see on page 3 under CSC status is it that they would no longer be a hire/fire that would be controlled by the Department. It would be managed under CSC Rule XI. To clarify is that what I understand from that description?

Chair Atkinson: Yes, they effectively would become classified employees in the City of Reno with all the rights and privileges that attach to that. The Department in that instance makes the appointment and actually takes the action to remove. If you determine that there is a lack of work or a lack of funds, you layoff. If you determine there is a cause of action, you take action to layoff. We become an appeal tribunal. They can come to us if they feel there was some misstep, misunderstanding or misapplication of the causes.

Julee Conway, PRCS Director: So they have the ability to come to the CSC; however, not everyone has to come to the CSC.

Chair Atkinson: Correct, it is an election that the individual makes.

Julee Conway, PRCS Director: Last year in fiscal year 2012/13 we terminated through normal seasonal work approximately 233 individuals so that is a considerable amount of work the Commission may see depending upon the individual. I wanted to understand what that meant by regular appointment status and also whether it was elective or mandatory for the Commission to see those. Again, on page 3 CSC status under individual eligible for rights, Chair Atkinson your statement regarding the benefits and all of the rest of the regular appointments you did not indicate that they would have any other benefits from that regular appointment other than what is clarified here?

Chair Atkinson: Let me qualify on that. For our purposes as the CSC we are looking only at how someone gains access to the position, the conditions under which they get removed. That is our consideration and by Charter we are limited to that consideration. I believe that your question is outside of those parameters. The answer to that rests in any obligations you have outside of the appointment removal process. That will govern how they get treated.

Chief Deputy City Attorney Tracy Chase: Things that might apply to the employee would be PERS and all those other requirements under state law. There would be state law implications that this Commission would not enforce or control.

Julee Conway, PRCS Director: That was clear in the first meeting we had with the Commission that was outside of the purview of this Commission. Just by way of information for the Commission members (I just hold this up for the Commission's edification), this is our hiring packet that we have for our temporary and our part-time employees as you label them that is a very extensive packet that we go through. This is something, should we all chose to use this, that we already use for our employees. It is very thorough as well as a training manual for each temporary so that they go through an extensive process for vetting, recruiting, advertising and hiring for that temporary position. I just bring that as information only.

Jerry Frederick: In the event that the deadline is missed for an extension or the nine months are up and I kept you on, how are you going to handle that?

Chair Atkinson: I don't know. It's a good question.

Jerry Frederick: My concern is we are coming back to the Commission again and spending the next three months trying to figure out what to do when we missed the deadline. Shouldn't we have that taken care of up front so everybody knows the consequences? Depending on what

this Commission does with some of these appointments, some of them might have a community of interest with our bargaining unit.

Chair Atkinson: For purposes of the Commission those are determinations that are driven by agreements and conditions that are outside of our consideration. That would be an issue between the City and its respective bargaining units and employee groups.

The purpose of the discussion tonight is to provide this Commission with some insight as to how this might or might not work so that this Commission can then weigh it as it goes through this process.

Darryl Feemster, Youth & Senior Services Division Manager: The idea of an employee having a six month break in service would mean that we would have to employ an entire different staff at the beginning of every school year which would be detrimental to the service that we provide.

Chair Atkinson: If you were to hire them as temporaries or if you were to work them more than 18 hours per week. My point is we understand that you have a very difficult scheduling issue. You do have some options. One is to work them less than 18 hours a week which removes them entirely out of this and for our purposes we look at that on a quarterly basis so that you are not locked to the letter of less than 18 hours every single week, but over the course of a quarter. Many of your people do work in a category of less than 18 hours per week and we have seen that as part of the census data. The other would be that you would have an opportunity for select individuals amongst them. Particularly those that are essential to the continuation of your programs to look at those as a regular appointment as opposed to a temporary so that it allows you to work them month to month, year after year. There is some flexibility. Part of what we are faced with is reforming how we look at it. Adjusting our thought process to make sure people get slotted properly so that ultimately we are all reading from the same deck of cards. We have the same understanding. I do think it is important to weigh what Darryl said because he has an extraordinary job to balance those different schedules.

Jerry Frederick: On page 2, the one bullet “may not be used to supplant a regular employee/position.” Let’s say you have employee A who pounds square pegs into a round hole for six months, then employee B does it for six months, then employee C does it for six months, and then employee D does it for six months. They are all only there for six months, but the work is regular in nature. Does that apply to that?

Chair Atkinson: Yes and no. We struggled with this. If you have a position, a body of work, that moves from month to month, quarter to quarter, year to year, that body of work should be filled through a regular appointment status. If for some reason you don’t have an eligible list to fill that appointment, you may fill it on a temporary basis up front. Example: the pools run on a repeating cycle year to year to year to year, but because of the nature of them they are short term in duration, there is a start and finish within that six to nine month period, there is an opportunity to take those people off payroll to break service with the City. Then, what we are allowing (which is unique to some extent) if you observe those timelines, if you observe that break in service and remove them from payroll then you can rehire that individual in the future to perform a similar type of function. So, the yes and no is this. Could the City staff under those conditions? Yes, they could continue staffing some of these programs under those

conditions. What they may not continue staffing is where the person has no observable break in service of a length that allows us to defend the appointment as temporary – six months.

Jerry Frederick: Based on the circumstance that I gave you that is not work that is temporary in nature. The same work is being done 2080 hours out of the year. How can that be considered temporary?

Chair Atkinson: That is the \$24,000 question.

Jerry Frederick: Okay, if we want to talk seasonal. What is the season for senior services?

Chair Atkinson: We will put that on the table for discussion because I think those are good points and that is part of what we struggled with in this whole issue.

Julee Conway, PRCS Director: In prior meetings we have talked about this and I have also read the Charter regarding 18 hours per week and the documentation that HR provided related to each employee, the category that they worked, the number of hours. In prior meetings we provided you, per quarter, how many hours an employee had worked. In some cases an employee went over 18 hours a week only one quarter. The rest of the time they fell well under the 18 hours a week which equals 936 hours a year. There may be a time where we use a lifeguard in the summertime and we need them 20 hours a week. That employee will work more than 18 hours in that one quarter; however, over a whole year or nine months, in case we happen to lay them off, they may work an average of less than 18 hours per week. Based on this definition it falls within the Charter purview so for clarification regardless of whether it is an average over the year or average over a certain quarter, clarify that it does not matter. It is 18 hours per week regardless if it is only one quarter a year. Is that correct?

Chair Atkinson: The Charter is very specific. It says 18 hours or more per week. The question on the table is how does this Commission wish to measure it and is that in conformance with the Charter. That is a question that we will have to bounce off of legal about how we can apply that language. Is there a way to apply it in a more flexible fashion or are we locked into the actual language of the Charter.

Proposed Time Line and Implementation: When Ric and I sat down with Mr. Chisel and Mr. Thomas we hammered out a timeline in a very conceptual form. What we are looking at is that drop dead date of November 21 which is the period that this Commission has allowed those present incumbents to work. We took this concept and platform and gave it substance. It is broken down on a timing level. What we need to do between tonight and November 21 to get an implementation started and make progress on getting the problem solved. Tonight we are presenting a rule change concept for discussion so if this Commission is in agreement we can send word back to Ric to bring rule change language to our next meeting. What that means that our next meeting we actually put rule language to it instead of concept. We bring it, this Commission looks at it, it holds a hearing, it allows comment on it and then we massage that how we feel it is necessary and orders Ric to post it for ten days. Then we have a hearing at the November meeting that will be designated for approving the rule so then it applies prospectively from that point forward. It is a multi-step process. As part of that process the City Manager, City Council has the right to see and comment on the language so there has to be a City Council meeting somewhere in the middle of that. At the same time any of the bargaining

units have the right to look at the language, take it to the membership and bring those comments back. Departments have a right to look at the language and start looking at it from an implementation perspective and then come back so we can fine tune it.

Also when you overlay what the City's action would have to be during this period of time. They would present a conceptual draft to the Commission. Once we actually have language at our October meeting and they have real substance to what it is they have to do, they can start looking at the census data. The number of people they currently have in temporary positions, and they can start sorting them. These are positions that are essential to operations. They operate on a year round basis from year to year. They fit more appropriately as a regular appointment. They move to a regular appointment status. These are positions that are truly temporary in nature. They come in work for a program; they go off payroll after that program and serve a six-month separation of duty. They fit the temporary and you can hire them on that repeated cycle.

In order for any of this to work, they need to ladder or manage that work force in a different way. They have to have people that come into the workforce, go out of the workforce so they can observe that necessary break in service. They will need to provide notice to those individuals who are scheduled for an end of appointment separation.

For those positions that would roll into the regular side of the appointment schedule is we need to get class specifications and bring those back so that this Commission can adopt the MQ's so that Ric can put together the proper recruitment selection component. In the meantime those positions that are scheduled for recognition as regular appointments, there may be a need to provide an additional extension so the City can cover the services during that period between when the rule becomes clear and the point where we can get the recruitments completed.

This is a conceptual plan that tries to integrate the actions and assign responsibility for what those actions are to the different parties and put a time line to it. Because of the crunch of time I do not believe that Mr. Chisel or Mr. Thomas has had an opportunity to really take this back to their principals to get comment on it. I don't believe this requires any action, it is primarily for understanding.

Chief Deputy City Attorney Tracy Chase: CSC will meet towards the end of October. City Council stacks their meetings in November because of the holiday. They have it on the 6th and 20th so to get on an agenda you basically would have everything ready to go to City Council by the 6th. You have a very short window of time from the CSC meeting to have the staff report and everything ready to get on the Council agenda. You may want to take that into consideration. It is possible, but it is a very short time line.

Chair Atkinson: We put on the top of the proposed time line report that it definitely needs to be fine tuned. We would be foolish to believe that we could go through this without stumbling or finding delays that we can't avoid. There has to be a degree of forgiveness in how we approach this, but at the same time my understanding of the Commission's direction is to give us something that we can grab a hold of. This Commission may wish to accept this with an understanding that we may have to fine tune it. The other side is that it doesn't get pushed off to the side and not get attended to.

Robert Chisel, Director of Finance & Administration: It is a tight time frame and as we go along we may have to make adjustments. I can't control what the Council's abilities are so I beg the Commission's indulgence when it comes to the City Council.

Jerry Frederick: I believe it is a move in the right direction, but there are still a lot of unanswered questions. Looking at the seven page census report, if you look at some of the individuals and the comments you have permanent career positions listed in this report. On page 1, P. Uhrig (11 yrs.), M. Freeman (8 yrs); on page 2, D. Gibson (18 yrs). These are career positions. You will see many positions with "essential coverage of operations" noted in comments. How can you have essential to operations and it is not a civil service position? Some of the Head Lifeguards are essential to operations, but others aren't. How do you determine which ones are essential? If they are essential, why aren't they regular career appointments?

On page 3, J. Anderson is an Accounting Administrative Assistant (essential staff needed for operations). The name below, K. Logoteta, Administrative Assistant to Division Manager. Does a Division Manager only need an Administrative Assistant for "x" amount of hours per year? Those are the type of questions that we need answered.

Julee Conway, PRCS Director: We can come back to the Commission with written responses regarding those questions.

Chair Atkinson: What I am envisioning as part of this whole process is that you look at every individual that is listed and you weigh that against your need, the duration of that need and the appointment categories that we adopt as part of the rule so that they get properly fitted where they belong. That has to be a function that the department performs because you have more intimate knowledge of how they are used. I would ask you to weigh the comments that you hear here into that evaluation. I envisioned that would be something that the City would bring back to us and say we believe these appointments belong here and here is how we plan to transition them. The approach on this is to try to open the discussion up so that we are all working with a common language and understanding of issues.

Peggy Nelson-Aguilar: Actually, I think every single employee here is essential to the operation of our department. One of the rumors that I have heard since this discussion has started is that the City because of the complications, they are now considering using a temporary agency so that they can avoid making employees full-time or part-time or whatever. I think that needs to be brought to your attention. I don't know if it is true, but when you start reading through these I'm getting a little bit nervous.

Chair Atkinson: I realize this is a discussion item and I am not an attorney, but I believe that hiring temporary individuals through a temporary agency to the extent that the City retains control over the work that is done, the City's facilities are used for the performance of that work to the extent that the time is set based on the City's schedule not the individual's schedule that there several elements that come into weight there, but when those elements are present I believe those individuals are employees of the City even if they may be employees of a temporary agency at the same time. That as employees of the City that they have to be addressed through the Civil Service that it would be inconsistent with the Charter to address them in any other fashion. That is my personal point of view.

Chief Deputy City Attorney Tracy Chase: That issue would have to be analyzed by our office and the advice would go directly to the HR Department in a confidential memo and not necessarily to the CSC. I'm going to separate from this process. I understand the issue and question, but I would like to separate it legally so the advice goes appropriately to the City.

Chair Atkinson: So with respect to that question, we are going to roll that to the City Attorney's office as a legal question. We will be advised as to what the outcome of that legal question is at some point in time?

Chief Deputy City Attorney Tracy Chase: We will have to look at it and see who the appropriate client is to receive that information. We obviously represent both the City and the CSC and we have to look at those dynamics and that is one reason that I am not prepared to respond tonight to your question.

Jerry Frederick: Based upon that comment, if that rumor is true, I would hope that the City would come forward and let us know that rather than let us sit here and waste our time trying how to figure this out.

Commissioner Martinez: When you think of temporary appointments on this, we are talking about status. Sometimes I think there is a misconception with temporary appointments as a position. You can design a position that is temporary for nine months or a year, but in the language that we are speaking on behalf of the CSC today we are talking about status. A concern was brought up that if a person has a temporary status position that they cannot use a continuous assignment. Say there is a person: elderly, youth or handicapped or might be lacking in skills and appreciates going from one position to another whether it be six months or nine months, is it my understanding if they go from one seasonal position to another seasonal position that now they have to go through the CSC recruiting process? My concern is that an elderly, handicapped or youth person might not be able to get through a recruiting process if they agree to or fall within the qualifications of wanting to have a position or appointment six months to nine months that those people will get lost. It is my understanding that PRCS can handle those people that appreciate those positions or status of six months to nine months. It is my concern there might be additional costs or people or time if then we tell these people to go from temporary positions to regular positions.

Chair Atkinson: Appointments attach to people. The City determines how many positions they have to work with, they determine how the work needs to get done and they divide that and that is part of their right as a Manager. The way our rules apply, the appointments attach to people not to positions. If the appointment is a temporary appointment, the suggestion is it is a six-month appointment. If the appointment is designed to continue without limitation, it is a regular appointment. It's the nature of the appointment that they are hired to do. It is whether they are hired to do temporary or hired to do regular. It is important to keep it as simple as that in the discussion. We have had this issue before in discussion before this Commission. We don't create positions, we do not determine how the work within those positions gets distributed (that's a management reserved right), but we have an obligation to control how an individual gains access to the position. If they come in a six month or nine month position, if it is temporary then there is no appointment process. They have to come in and they have to go off payroll. If it comes in and it is an appointment to a position that the City determines is to be ongoing in nature, the appointment process is through the civil service recruitment process.

Ric and I, in our discussion with Mr. Chisel and Mr. Thomas, felt that the process itself does not have to be onerous. It can be streamlined in a way that makes it a fairly quick application review and rating system. What drives that is what we rely on Ric to do and that is a determination as to what is necessary in order to produce a list that meets federal guidelines on employee selection procedures and also produces the right candidate on the other end. It would not be cumbersome. We are envisioning that you could publish an announcement, declare the recruitment audience to be current employees in those positions (current employees in the City of Reno if they want to switch over to those kind of positions) and perhaps people that remain on the laid off list so that you could define your audience to a very specific recruitment group and then it could be based on an application review and ranking which is pretty simple and quick. The idea is not to displace individuals in the long run. The idea is to get them properly slotted so that we are bringing everything back in accordance with Charter.

Commissioner Martinez: I just wonder what percentage of people actually fall within what I was just talking about and should be regular appointments. I have this concern that appointment status being to an individual because you have elderly, handicapped or youth trying to have supplemental income.

Chair Atkinson: That goes back to the department. They have to look at how they want to schedule the work and in instances like that where it is just to add a few more dollars to their income that less than 18 hour appointment is a very usable vehicle. It is outside of our consideration and gives the department flexibility. Or, if it is more project oriented, you can use a temporary.

Commissioner Martinez: To clarify, if the position is under 18 hours then they would not have to go through the recruiting process?

Chair Atkinson: They don't have to come before the Commission. I will qualify that – it does not mean that the City does not have obligations to provide them workers comp. The City still bears responsibility to use them in the way that the law defines or to attend to those things which the law imposes that are outside of our consideration. One question before us is how do you count that. Can we count it over the course of the quarter or appointment period so that you can get some peaks and valleys in the way they are used or whether the Charter restricts us to something more closely aligned to what the language is.

Chief Deputy City Attorney Tracy Chase: I'll go back and pull the legislative history of the Charter because I need to look at the discussion that occurred relating to that provision to see if there is any interpretation of guidance on it. Then we will apply legal principles in interpreting laws to the Charter provision and return to you with that information.

Chair Atkinson: From my perspective as a Commissioner, I think a more generous reading of that is important than a more restrictive reading.

Commissioner Martinez: So this amendment gives temporary appointment status employees CSC rules? It gives them CSC rights?

Chair Atkinson: No, as it exists today they have no rights as classified employees. Bear in mind that CS embraces both temporary as well as tenured positions. They get no rights as a

person appointed to a regularly funded position who ultimately gains status. They have none of those rights. They are an at will appointee in the true sense.

Chief Deputy City Attorney Tracy Chase: I would add that any employment relationship has guidelines and federal laws. You can't discriminate and things like that so I want you to be aware that certainly would control.

Commissioner Martinez: Perhaps regarding the proposed time line implementation approach there could be a guideline to apply language to allow temporary appointment status to work an 18 hour week, but no more than 24 hours in a week. That would give leeway to administration

Chair Atkinson: Ric & I looked at that issue whether or not you could quantify this as an hour appointment. We both ultimately came to the conclusion that you have to use it in a month capacity because if you work someone part time, but you work them the majority of the year or longer than the majority (three quarters of the year or 12 months out of the year) that is truly a regular position that works on a part-time basis. It really needs to be qualified by calendar months. It is very difficult to maintain a distinction between temporary and permanent when you use hours.

Commissioner Lane: I'm concerned about some of the reporting requirements. Coming and asking for extensions after the fact, things expired. That shouldn't be allowed to continue in the future. That falls on the department heads as far as I know. Could that possibly be addressed through NeoGov. I'm not really sure how that works. I really want to make sure until such time, if that does work through a software basis, that the department heads retain that authority and responsibility to file those reports to make sure the terminations are posted and that the extensions are requested in a timely basis.

Chair Atkinson: My understanding in NeoGov from discussion with Ric is that NeoGov will allow, on an individual by individual basis, a query that lets you know the status that the individual is in. That is why we have coupled that with the quarterly report so that we have a check and balance within the system that Ric can monitor from his perspective, but we don't always know exactly who might be out there in temporaries particularly when you have an operation that works as quickly and under the conditions the PRCS does so the two pieces become necessary to allow for the monitoring of this. It also gives us a collective opportunity to sit down with the City and look at what is happening and test our rule to see if there is something else we need to look at or massage.

Commissioner Lane: As it has rested with the department heads to do this stuff in the past obviously there has not been any holding feet to the fire or it seems like they have just been able to ignore the requirements without any consequence. That doesn't seem correct. I would expect the department heads to administer according to the rules or not be an administrator.

Chair Atkinson: Are you asking that be built into the rule?

Commissioner Lane: I think that should be a consideration. There has to be something that holds people accountable or consequences.

Commissioner Hooper: No comment at this time.

Commissioner Abney: I appreciate the temporary versus regular instead of 1560. I appreciate us trying to clearly delineate between those two. Obviously we have a lot of details to work through. I am curious between the six months and the nine months because Paul mentioned the golf course operations as a good point. Darryl mentioned the school year. Is there anything that would last longer than nine months because I have heard that nine months be the top end. Would you need anybody longer than that and if not, it may make sense to do nine months plus the three month extension. If we do the six months and that messes up the golf course and school programs that is an issue. I appreciate Paul's point on the penalty, but I don't know what the CSC can do to City administration if they don't. I'm not sure legally what kind of things we can do. There needs to be something whether it comes from us or City Council or the City Manager to say these rules will be followed. Again, with the flexibility if it is something that it outside of somebody's control. I am curious about the legal opinion on the 18 hour schedule. As far as the timeline piece, it should be done right. If it doesn't get done by the November 21 deadline and it's until December or January it needs to stay on the front burner, but I would rather it get done right than meet that arbitrary deadline.

Chair Atkinson: This Commission has the ability to extend that if it feels that there is justification. From my perspective, I think the justification ties directly to the commitment to try to clean it up in a collaborative fashion. Those two pieces have to work in tandem or it comes back to this Commission and we have to decide what to do with it.

Commissioner Abney: I think it is important for you, this Commission and Ric to work with Mr. Chisel, Renee, Julee and everybody so we can all come to an agreement and so they are very clear on what is expected. We are not running things every day, they are and we understand what they are dealing with and we can make it work accordingly. I think the nine month thing is a good example.

Chair Atkinson: From the Commission's perspective what instruction do you want to send back to Ric? Do you want to send back instruction that he draft language to fit the concept that is before you? Do you want to send back instruction that he draft language to modify the concept? How would you like him to proceed on this?

Commissioner Hooper: I believe that Ric should communicate with legal and answer the questions that have been outlined tonight as a start and then we certainly want to hear from him what the essence of it is.

Commissioner Abney: I completely agree and may be in tandem at the same time have draft language that matches what you have here. Then maybe separate bullet points on the issues that came up: nine months. Then you already have the framework and you can just plug in some of those edits or changes if needed. I think this a very good framework. There is probably just some stuff (little pieces here and there) that you could change, but he can at least have the basic rule based on this ready to go and with the legal questions that we have to get answered before we obviously finalize it.

Chair Atkinson: So basically, draft it based on the concept that has been presented here and then add options a, b, c, etc. Part of that has to embrace what the City brings back to us as workable from your perspective as well. Understanding what our concerns and constraints are so that we can try to find a workable solution with clear definitions.

Paul, do you want consequences built into the rule? I think that has to go to the City Attorney's office.

Commissioner Lane: I do like the consideration. If I know some options that would be great.

Commissioner Abney: Yes, clarification from legal on what the Commission is allowed to do.

Chair Atkinson: Does this Commission have a position on application of the 18 hour per week language. Do you wish it to be construed in a very literal restrictive format or a more generous format? Do you have preferences? If there is an ability to do that how would you like that construed?

Commissioner Lane: It's an interesting point. I'd like to have the idea of some flexibility to make it work, but it also creates another layer for them to lay out exactly how they intend and envision using on a per hour basis the human resource.

Chair Abney: I like the idea of having as much flexibility as legal says we are allowed to have.

Robert Chisel, Director of Finance & Administration: I have heard a couple of comments that this may take past November 21 and I want to put it on the record so the Commission knows that if it does appear to be going past that date we would be seeking an extension of a number of those employees beyond November 21. There are people that we would probably be extending and continuing their services until we can come to some rule making.

Chair Atkinson: The one qualifier that I would ask is that it be tied to progress toward solution. I can see and accept the need for an extension when there is a desirable product at the end.

Robert Chisel, Director of Finance & Administration: Yes, and you are part of the process so you will see it. We'd be coming back seeking your approval so if you did not feel there was appropriate progress then you would just say "No". I want to make sure the Commission is aware.

Chair Atkinson: Those extensions are built into the conceptual timeline that we put together to allow that under certain circumstances with certain purposes.

It was moved by Commissioner Abney to direct Ric and staff to draft a rule change based on the chart that was produced here. In concurrence with that include options (discussion points that need to be talked about and determined that may edit or change that document). Additionally, get back from legal the questions that were presented here tonight and to approve in concept the timeline knowing that we may have to be flexible and extend that November 21 date. Get legal clarification on what this Commission is allowed to do if any on penalty consequences of not meeting these deadlines.

Chair Atkinson: We have a motion to direct Ric to draft a rule change based on the concept presented in the first document and to include in the draft other options that we may want to consider as part of its decision process. To obtain legal opinions on issues regarding application of the 18 hour appointment rule under the Charter and clarification on what we can

do as a Commission to enforce our rule and build that into the rule change language that comes back for Commission consideration. Also to accept in concept the work plan that we presented tonight with the understanding that there will most likely be need for changes and adjustments for that as we get more depth in this.

The motion was seconded by Commissioner Martinez. The motion carried: Chair Atkinson, Commissioners Abney, Hooper, Lane and Martinez assenting; Vice Chair Mullins excused.

8. IDENTIFICATION OF FUTURE AGENDA ITEMS

Chief Deputy City Attorney Tracy Chase: If there is going to be an extension based upon the work product that is brought each month you might have that separately on your agenda as a future item. You would have it as a separate agenda item. The motion has passed this proposed timeline and you could have an agenda item to determine if you want to modify it agenda per agenda.

Chair Atkinson: At our next meeting, if we are to stay in accordance to our timeline here, we would be bringing language for this Commission to review and then to post subsequent to the meeting.

Chief Deputy City Attorney Tracy Chase: I believe your rules require a 10 day posting for adoption of the rule prior to it. It will take the Chief Examiner and the City Attorney's office a little bit of work product time to complete these tasks. I would appreciate it if you would take that into consideration.

9. SET NEXT MEETING DATE (For Possible Action)

The next regular meeting of the Civil Service Commission is Thursday, October 24, 2013 at 5:30 p.m.

Commissioner Abney stated that he will not be able to attend.

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.

11. ADJOURNMENT (For Possible Action)

Chair Atkinson adjourned the meeting at 7:27 p.m.

Jeannie Atkinson, Chair

Date