

CIVIL SERVICE COMMISSION

MINUTES

Thursday – April 24, 2014 – 4:30 p.m.

Reno City Hall – Room 709

One East First Street, Reno, Nevada

MEMBERS

Jeannie Atkinson, Chair
Bertha Mullins, Vice Chair
Tray Abney
Darrin Georgeson
John Hester
Paul Lane
Jenny Martinez
Ric Bailey, Chief Examiner

1. CALL TO ORDER/ROLL CALL

Chair Atkinson called the meeting to order at 4:30 p.m. A quorum was established.

MEMBERS PRESENT: Jeannie Atkinson, John Hester, Paul Lane, Jenny Martinez and Bertha Mullins.

MEMBERS EXCUSED: Tray Abney and Darrin Georgeson.

ALSO PRESENT: Ric Bailey – Chief Examiner; Brad Drum – IAFF 731; Jo Ann Malugani – Civil Service Technician; Tim O'Brien – RFDAA; Susan Rothe –Deputy City Attorney and Renée Ruņģis – Director of Human Resources.

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

None.

3. APPROVAL OF AGENDA (For Possible Action)

It was moved by Vice Chair Mullins, seconded by Commissioner Hester, to approve the April 24, 2014 agenda as written. The motion carried: Chair Atkinson, Commissioners Hester and Lane and Vice Chair Mullins assenting; Commissioners Abney and Georgeson excused and Commissioner Martinez absent.

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

None.

Commissioner Martinez joined the meeting at 5:33 p.m.

5. **MINUTES** – Approval of the March 27, 2014 regular meeting minutes. (For Possible Action)

Chair Atkinson distributed and reviewed a copy of her requested amendments to the minutes (copy on file).

It was moved by Commissioner Lane, seconded by Vice Chair Mullins, to approve the March 27, 2014 minutes as amended. The motion carried: Chair Atkinson, Commissioners Hester, Lane and Martinez and Vice Chair Mullins assenting; Commissioners Abney and Georgeson excused.

6. CONSENT AGENDA

- A. Request to approve employee confirmations. (For Possible Action)
- B. Request to approve eligible list for Horticulturist. (For Possible Action)
- C. Request to be placed on the re-employment list for Maintenance Technician from Vladimir Chorniy. (For Possible Action)
- D. Request for one-year extension to be placed on the re-employment list for Tree Maintenance Worker from Robert Lawson. (For Possible Action)
- E. Request for one-year extension to be placed on the re-employment list for Park Ranger from John Nash. (For Possible Action)
- F. Request for one-year extension to be placed on the re-employment list for Firefighter from Jesse Rowan. (For Possible Action)
- G. Request for one-year extension to be placed on the re-employment list for Firefighter from Lawrence Smith. (For Possible Action)
- H. Request for one-year extension to be placed on the re-employment list for Public Arts Specialist from Stacey Spain. (For Possible Action)
- I. Request for one-year extension to be placed on the re-employment list for Recreation Program Coordinator from Rosalba Tibiduiza. (For Possible Action)
- J. Request for one-year extension to be placed on the re-employment list for Parks Maintenance Worker from Trey Watts. (For Possible Action)

It was moved by Commissioner Hester, seconded by Commissioner Lane, to approve Consent Agenda Item A, B, C, D, E, F, G, H, I & J as submitted. The motion carried: Chair Atkinson, Commissioners Hester, Lane and Martinez and Vice Chair Mullins assenting; Commissioners Abney and Georgeson excused.

7. REGULAR AGENDA

- 7-A. *Request for approval of abbreviated probationary period for re-employed Firefighter Jeremy Berzinski from Chief Michael Hernandez. (For Possible Action)*

Commissioner Hester: I understand Chief Hernandez is for it and I was wondering if our staff had any thoughts or recommendations.

Chief Examiner Ric Bailey: I agree with the Chief's recommendation.

It was moved by Vice Chair Mullins, seconded by Commissioner Martinez, to approve Item 7.A. as submitted. The motion carried: Chair Atkinson, Commissioners Hester, Lane and Martinez and Vice Chair Mullins assenting; Commissioners Abney and Georgeson excused.

- 7-B. *Update, discussion and possible direction regarding the Charter Committee proposed changes that may impact the Civil Service Article. (For Possible Action)*

Chair Atkinson distributed her memo to the Commission regarding revisions to Articles I, III & IX of the Reno City Charter (copy on file).

Chair Atkinson: For the last two months the Charter Review Committee (CRC) has been looking at questions of how the Charter is structured and within that structure what kind of checks and balances exist. They have focused, in large part, on Articles I & III which deal with appointive officers and Article IX which is Civil Service.

I have provided some background in this particular memo:

Section 1.090 of the Charter is that section that identifies appointive officers and appointive employees. It is not all inclusive so, to some extent, you have to be a student of the Charter to know where to look to find the other appointive employees. Part of the language amendment was an attempt to pull all of that together so it becomes a single point of reference.

Section 9.020 is the Section that deals with Civil Service and who is covered under Civil Service. It uses a general reference to positions appointed "...pursuant to this Charter..." Again, you have to be a student of the Charter to know who is included within and who is excluded from Civil Service.

There is some language that talks about the difference between an appointive employee and a Civil Service employee. Primarily there are two components that are different. An appointive employee is different by the nature of their appointment. They do not have to come in through a competitive process. They may be simply selected. There may be no recruitment or examination. There are, in certain instances, recruitments and examinations, just that it is not required. If you are in the Civil Service, by the same token, it is required. You can only gain access through a competitive process.

The second is the context in which the work is performed. An appointive employee typically is the right hand man or woman to Chief Executives. They are an extension of that Chief Executive for the purpose of trying to carry out policy direction. As a result of that, the appointive employee may hold their position only for the length of time that the people who made the appointment are actually in office. As that office changes over and somebody new comes in, they may bring with them their own right hand person. The theory is that it is someone in whom you have perfect trust and know will carry out your direction without challenge.

The nature of positions in the Civil Service is typically boots on the ground kind of personnel. It can be professional in nature (engineering, planning). It can be administrative in nature. It can be front line or rank and file in nature. The idea is, regardless of what the elected body looks like, that the folks within the Civil Service are the ones that actually produce the product.

The big difference is how someone acquires the job. Whether they go through a competitive process, how long they would hold that job, whether or not they would have some expectation of continuing past elected bodies and they are not as much involved in the policy setting.

The language that the CRC is looking at was an outgrowth of discussion amongst the CRC members and something that Assistant City Manager Matijevich and myself took back and attempted to put words to. What we were attempting to do was take discussion in that room and put it to form so that the CRC had something to work from.

Section 1.012 & Section 1.015 are definition cleanups and have already been approved.

Section 1.090 has a number of changes.

- Rewritten to provide a comprehensive reference to appointive officers/appointive employees. Approved.
- Identified the appointing authority in all instances. Approved.
- Expand the concept of appointive officer to include Assistant Fire Chief and Deputy Chief of Police which will now be called Assistant Chief of Police. Those are controversial. There is a bargaining unit implication. There are voices in opposition and voices in support of that expansion. I view that as a non civil service issue. It goes back to 288 which is the collective bargaining statute. At this point the CRC has voted to include an expansion that would incorporate one level below the Fire Chief and one level below the Police Chief.
- Redefined “special technical staff”. Removed the restriction of “...report(ing) directly to the City Manager.” Updated the definition using the administrative employee definition in NRS 288. Established a cap on the number of appointive positions that can be declared under this section. The cap limits the number to 3% of the permanent workforce. That cap is uncertain at this point. There are members on the CRC that would like to see no cap and members that would like to see a cap. This issue has been carried over to the CRC meeting on May 1st.

Chair Atkinson: I am working with Assistant City Manager Matijevich to try to put together some comparative data from other agencies to try to get a sense of what a prevailing practice might be. From what I have seen, I can't say there is a prevailing practice. I can tell you there are a whole bunch of different practices and no significant trend. That may be something that as a Commission you would like me to take back a message to the CRC.

Commissioner Hester: When I worked with Washoe County we had exempts to the department head of one, two or three, depending on the size. Is that what this is supposed to do?

Chair Atkinson: That was where we borrowed the language. We borrowed it from Washoe County and Clark County.

Commissioner Hester: Speaking as a former County Department Head, it was a great thing to have.

Chair Atkinson: The County is at about 1.8%. What they have found is that it doesn't benefit their agency to build an unclassified service because what they see is that it impacts their ability to attract a good candidate pool. That is on the low end of what I am finding.

Deputy City Attorney Susan Rothe: What direction are you looking for, if anything?

Chair Atkinson: How do you see that in relation to what Civil Service represents? How would you direct me to go forward so that I can be there as a representative of this Commission as a whole? Do you want to see it very large; do you want to see it contained?

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Commissioner Lane: The definition of “special technical staff” seems to me that it could be anybody that you wanted to put in there. What really makes somebody “special technical staff”?

Chair Atkinson: That is one of the problems with that definition. I believe it has its origin back to the late 60s early 70s. My guess is that the use of “technical” is an old usage that no longer has the same meaning today. I believe the language is designed to say that you can have a handful of people who are your right hand people and they have to report directly to you.

Commissioner Lane: On the expansion of the Assistant Chief of Police and Assistant Fire Chief, it seems to me it creates more political expediency as to allow whoever is in charge of the department to exercise their changes to the department.

Renée Ruņģis, Director of Human Resources: I think the issue from the City is that there is no one in the Police & Fire Departments, other than the respective Chiefs, that are able to assist and participate in collective bargaining.

Chair Atkinson: So your Chief, when he comes in the door, is faced with a wall of people whose alliance is to their union as well as to their function. It serves as a buffer whose only alliance is to the operation.

This language is unique to the Reno Charter. The language in 1.090 as it exists today says no position below the level of Fire Chief or Police Chief. The CRC has stricken that language from 1.090. It still shows in 9.020 which is the definition of Civil Service. For me, that is an open question.

The County has exempt, which would be those individuals who are in the Courts that are exempt by virtue of a separation of powers distinction. Or, people who are in the Fire District, where it is a separate entity who are simply exempt from the system because they are not employees within that system. Within the system, they use the term “unclassified” to refer to anyone below the department head and the County Manager who is identified by the department head as being unclassified and then they cap it. There is no definition.

The way the language before the CRC is designed today you would have your City Manager, his Department Heads and his Assistant or Deputy Department Heads (which includes Assistant City Managers) – all public officials. Then the group called “Administrative employee” would include your division level personnel together with other people that serve an executive in an administrative capacity up to a certain number.

Commissioner Hester: What you are telling us is nobody has had time to gather data to say what the norm is so it is kind of hard to say. I would feel comfortable saying whatever the practice is generally.

Commissioner Lane: I am more conservative. 3% sounds like a reasonable figure to me.

Chair Atkinson: We wrote it with the intent to make it citywide. It didn’t grow the number, but it gave greater flexibility. 60-65% of the City’s workforce is Police & Fire. Under the prohibition that currently exists in Charter, no one below the Chief can be appointed. So, 100% of these

appointive positions will be outside of Police & Fire which is a reasonably small group in the context of the whole.

Commissioner Hester: Worse case example, say I have 3% of 1,000 (30) and I decide I want to clean out Human Resources and put all my 30 there, get a new Human Resources Director and then they are all gone. I am not advocating the Washoe County system, it just happens to be one I know. Because they are limited to the number in a department, you can't have that. I just don't have enough information, but there was that protection because it was limited by department.

Chair Atkinson: There is protection in here that requires those positions declared to be within that appointive employee category have to be declared through an ordinance that is adopted by the City Council. There is a public hearing component.

Let me make a note of that and I will raise that. Your concern would be to try to create protections against using it as a mechanism to get rid of everybody within the organization.

- Moved the "special technical staff" group back under the requirement for declaration by ordinance. It was inadvertently dropped in the last legislative session. Approved.
- Appointment ratification language moved from section 3.020 to section 1.090. Approved.
- Added requirement that the City Manager publish and file with the City Clerk an organizational chart and a list of appointive employees each year (presumably with the budget). Approved.

Commissioner Hester: I know the budget is online. Can you make sure that the organizational chart is online?

Section 1.110 Appointive officers and appointive employees: Duties; salary; benefits - minor corrections. Approved.

Section 3.020 City Manager: Duties; compensation: CRC approved. Current language says the City Manager has the right to appoint any clerical or office personnel and assistance as he deems necessary to properly perform his function. That has been interpreted to be outside of Civil Service. We have broken that into two pieces so that the clerical/office personnel will be within Civil Service, but his direct Executive Assistant together with his appointive staff would be exempt from Civil Service. Approved.

Section 3.040 City Clerk: Duties – minor correction. Approved.

Section 3.060 City Attorney: Qualifications; duties; salary – We took an idea to the CRC that they pull the Assistant City Attorneys (Deputy City Attorneys) in under the Civil Service. The language retains the City Attorney's right to hire an Executive Assistant and Chief Deputy City Attorneys as he may deem necessary for the proper function of his office. These individuals would be exempt from Civil Service. The proposal to bring Assistant City Attorneys (Deputy City Attorneys) under Civil Service was rejected.

The CRC is recommending that the clerical staff be moved to Civil Service, the same as the City Manager's office.

Section 9.020 Civil Service and exempt positions: Rewritten so that the section serves as a single point of reference for positions exempted from Civil Service. Deleted "trainee" from the list of exemptions. Approved.

Section 9.060 Rules: Modified to address that part of the classification concern which falls within the authority of Civil Service Commission as defined in Article IX:

- Extended approval of class specifications for Civil Service positions from *minimum qualifications only* to *whole class specification*.
- Added an appeal process for Civil Service employees aggrieved by the City Manager decision on classification assignment.

Discussion tabled until May 1st meeting.

Section 9.120 Blanketing into Civil Service: Modified to allow the Commission the ability to create a special rule to help facilitate conversions in situations where positions which have not been within the Civil Service are declared by law to be included in the Civil Service. Approved.

Section 9.080 Classification specifications: Modified this section as an extension of the discussion above in Section 9.060. The proposed language provides structure and clarity.

Discussion tabled until May 1st meeting.

An issue regarding "confidential" employees was raised before the CRC and that is not being discussed at the CRC. The consensus was that is an issue that has its base under chapter 288 of NRS. It is a component that goes back to collective bargaining which is outside of the Charter.

8. IDENTIFICATION OF FUTURE AGENDA ITEMS

Charter Committee update and possible class specifications for temporary employees.

Chair Atkinson: The CRC will be taking their recommendations to the City Council. The City Council may or may not adopt those recommendations. I believe the CRC has the right, if it chooses, to pursue its recommendations independent of the City Council. As I understand, the CRC has the right to go independently to the Legislature.

Vice Chair Mullins: I would like a copy of the CRC's presentation to City Council.

Chair Atkinson: We will get a copy to the Commissioners once it becomes available.

9. SET NEXT MEETING DATE (For Possible Action)

The next regular meeting of the Civil Service Commission is Thursday, May 22, 2014 at 4:30 p.m.

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

None.

11. ADJOURNMENT (For Possible Action)

Chair Atkinson adjourned the meeting at 5:24 p.m.

Jeannie Atkinson, Chair

Date