



**REGULAR MEETING NOTICE/AGENDA
THE CIVIL SERVICE COMMISSION
9:30 a.m. – JUNE 15, 2021**

Notice is hereby given that, pursuant to Governor Jay Inslee’s Fifteenth Updated Proclamation 20-28.15, dated January 19, 2021, all public meetings subject to the Open Public Meetings Act, Chapter 42.30 RCW, are to be held remotely and that the in-person attendance requirement in RCW 42.30.030 has been suspended until termination of the state of emergency pursuant to RCW 43.06.210 or until rescinded, whichever occurs first. Proclamations 20-28, et seq, were amended by the Washington State Legislature to recognize the extension of statutory waivers and suspensions therein until termination of the state of emergency pursuant to RCW 43.06.210 or until rescinded.

While all public meetings must continue to be held remotely, an option for an additional in-person meeting component is permitted in Phase 3 regions consistent with the business meetings requirements contained in the Miscellaneous Venues guidance incorporated into Proclamation 20-25, et seq. At this time, the Civil Service Commission has decided to continue its meetings with remote access only and to not include an in-person attendance component.

The regularly scheduled Civil Service Commission Meeting, June 15, 2021 at 9:30 a.m. will be held virtually, some members of the Civil Service Commission staff will be attending virtually.

Temporarily and until further notice, the public’s ability to attend Civil Service Commission meetings is by remote access only. In-person attendance is not permitted at this time. **The public is encouraged to tune in to the meeting by calling 1-408-418-9388 and entering the access code 1876 91 9370 when prompted.**

The public will be able to address the Commission regarding the agenda during the meeting by submitting written public comment via email to civilservice@spokanecity.org.



AGENDA

REGULAR MEETING OF THE CIVIL SERVICE COMMISSION

9:30 A.M. June 15, 2021

CITY HALL – CITY COUNCIL BRIEFING CENTER

808 W. SPOKANE FALLS BLVD., SPOKANE, WA 99201

1. CALL TO ORDER/ROLL CALL

2. APPROVAL OF MINUTES

- a. May 18, 2021 Minutes
(p. 3)

3. CHIEF EXAMINER UPDATE

4. NEW BUSINESS

- a. Findings of Fact, Conclusions of Law and Decision in the V. Nicholas Appeal (Piccolo, p. 5)

5. OTHER BUSINESS

- a. Chief Examiner Offer Letter
(Lindsey, p. 12)

6. ADJOURN

Note: The meeting is open to the public, with the possibility of the Commission adjourning into executive session.



**REGULAR MEETING OF THE CIVIL SERVICE COMMISSION
MINUTES - MAY 18, 2021**

1. CALL TO ORDER/ROLL CALL

Meeting called to order at 9:30 a.m.

Commissioner Lindsey was present via Webex and in-person.

Commissioners Gilmore, Hult, Palmerton, and Stephens were present via Webex.

2. APPROVAL OF MINUTES

- a. April 15, 2021 Minutes

MOTION: Move to approve April 15, 2021 Minutes.

Hult/Stephens: Motion passed unanimously.

- b. April 20, 2021 Minutes

MOTION: Move to approve April 20, 2021 Minutes.

Hult/Stephens: Motion passed unanimously.

3. CHIEF EXAMINER UPDATE

Interim Chief Examiner Pearson provided updates regarding Civil Service department operations.

- i. Pathways to Public Service Hiring Workshop, Thursday, May 20 at 12:00 p.m. and 5:00 p.m.
- ii. Lunch and Learn, Wednesday, May 19 at 12:00 p.m.
 1. Topic: Recruiting Plan for Civil Service
- iii. TEST FEST 2021
 1. Kathleen Myers, Civil Service Communications Manager, has been working with City Cable 5 to create a recruitment video to release to local media on June 18, 2021.
 2. One week worth of testing for Laborer I, Refuse Collector I, Custodian I, Park Caretaker, Meter Reader, and Radio Operator I.
- iv. Reminder of an additional appeal on the June Agenda.

4. NEW BUSINESS

- a. Nicole Palmerton Swearing In

Interim Chief Examiner Pearson welcomed Commissioner Palmerton.

- i. Ms. Palmerton was sworn in last Thursday, May 13, 2021 in front of City Clerk, Terri Pfister.

- b. Nicholas Appeal Hearing

- i. Mr. Nicholas a Certified Water Service Specialist at the Water Department was terminated on December 4, 2020. The City is being represented by Mr. Nate Odle. Mr. Vincent is being represented by Local 270, Natalie Hilderbrand.

- ii. City's Attorney – Nathaniel Odle

1. Argument
2. Witnesses
 - a. Pamela Bergin, Senior Human Resources Analyst – City of Spokane Human Resources Department
 - b. Gregory Burchett, Water Service Foreperson - City of Spokane Water Department
 - c. Tonya Reiss, Water Service Maintenance Supervisor – City of Spokane Water Department
 - d. Loren Searl, Water Superintendent – City of Spokane Water Department
- iii. Local 270 – Natalie Hilderbrand
 1. Argument
- iv. Commissioner’s Statements and Questions
 1. Commissioner Gilmore asked what steps it takes to become a Certified Water Service Specialist.
 2. Commissioner Hult followed up with Natalie Hilderbrand regarding statements made throughout their argument.
 3. Commissioner Stephens inquired about Vincent not denying any of the actions and asked what type of firework was discharged.
 4. Commissioner Gilmore reiterated their dislike of the City’s PAR process and how it is lacking with training for supervisors, in addition to employees not being warned of anything on their PAR’s.
 5. Commissioner Palmerton asked what the celebration was that the firework was discharged.
- v. Vincent Nicholas spoke to the Commission on behalf of himself.
- vi. The Commission adjourned into Executive Session at 10:53 a.m. and resumed open session at 11:18 a.m.

MOTION: Move to deny the appeal of Vincent Nicholas. Mr. Nicholas’s appeal failed to demonstrate the City’s decision to discipline him with termination was not for cause as set forth in Rule 8, Section 5 of the Civil Service Commission Rules.

Hult/Stephens: Motion passed unanimously.

5. OTHER BUSINESS

- a. The Commission adjourned into Executive Session at 11:22 a.m. and resumed open session at 11:55 a.m.
- b. Chief Examiner Selection
MOTION: Move that we select our next Chief Examiner, Kelsey Pearson.
Gilmore/Palmerton: Motion passed unanimously.

6. ADJOURN

The Commission adjourned at 11:59 a.m.

ITEM 4A – FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISIONS

BACKGROUND

The Civil Service Commission heard the Appeal of Vincent Nicholas at the May 18, 2021 regularly scheduled meeting. The attachment is the Findings of Fact, Conclusions of Law and Decision of the Appeal Hearing.

Attachments:

- Findings of Fact, Conclusions of Law and Decision of the Civil Service Commission



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3 BEFORE THE CIVIL SERVICE COMMISSION, CITY OF SPOKANE

4 In Re the Matter of:

5 Appeal of Discipline by Vincent Nicholas

6 FINDINGS OF FACT,
7 CONCLUSIONS OF LAW AND
8 DECISION OF THE CIVIL SERVICE
9 COMMISSION

10 On May 18, 2021, the Civil Service Commission (Commission) for the City of
11 Spokane conducted the hearing of the appeal of discipline filed by Vincent Nicholas.
12 The appeal was in regard to the determination of the Interim City Administrator to
13 terminate Mr. Nicholas' employment with the City Water Department for cause as set
14 forth in Rule VIII Section 5 of the Civil Service Rules. Mr. Nicholas was terminated
15 effective December 4, 2020. Mr. Nicholas timely filed his appeal on January 15,
16 2021 to the Commission pursuant to Rule XI Section 5. The Commission heard oral
17 argument from Assistant City Attorney Nate Odle, legal counsel for the City, and
18 Natalie Hilderbrand, Staff Representative for WSCCCE, representing Mr. Nicholas.
19 The Commission heard the testimony from the City's witnesses Pam Bergin, Senior
20 Human Resources Analyst, Greg Burchett, Water Service Foreperson, Tonya Reese,
21 Water Services Maintenance Supervisor, and Loren Searl, Water Superintendent.
22 The Commission also heard the testimony of Mr. Nicholas. The Commission also
23 considered the pre-appeal statement filed by the City. No pre-appeal statement was
24 filed on behalf of Mr. Nichols. Having heard and considered the above-cited
25
26

27 Findings of Fact, Conclusions of Law and
28 Decision of the Civil Service Commission

CIVIL SERVICE COMMISSION
Fourth Floor Municipal Building
Spokane, WA 99201-3315
(509) 625-6160
FAX (509) 625-6077

1 argument, testimony and pre-appeal statement, the Commission makes the following
2 Findings of Fact, Conclusion of Law and Decision.

3 FINDINGS OF FACT

4 On September 11, 2020, Mr. Nicholas received a Record of Counseling
5 regarding his attendance and continued absenteeism. Following a pre-disciplinary
6 hearing on October 13, 2020, Mr. Nicholas received a Letter of Reprimand from
7 Water Superintendent, Loren Searl, on October 19, 2020. The pre-disciplinary
8 hearing and Letter of Reprimand set out the causes for discipline including threats of
9 violence to a co-worker in the workplace and use of a City vehicle without
10 authorization.
11

12
13 On November 19, 2020, Mr. Nicholas was notified of a pre-disciplinary hearing
14 to be conducted on November 25, 2020, which set forth the causes the City was
15 considering in regards to taking disciplinary action, which consisting of 1) safety-
16 related incidents, including lighting a firework in the work place during work hours
17 and failing to wear a mask as required by City policy, 2) performance issues,
18 including leaving a City vehicle unattended and water meter-related performance
19 issues, 3) absenteeism issues, 4) behavioral issue including threat of workplace
20 violence towards a co-worker and 5) mandatory referral compliance issues, including
21 failure to maintain attendance for EAP counseling. On December 8, 2020, the Interim
22 City Administrator issued a letter of termination of Mr. Nicholas' employment for
23 violation of Civil Service rules, for safety-related incidents, performance issues,
24 absenteeism, behavioral issues and non-compliance with a mandatory EAP referral,
25
26

27 Findings of Fact, Conclusions of Law and
28 Decision of the Civil Service Commission

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1 all of which exhibit inappropriate, unprofessional and unsafe behavior. The
2 termination letter specifically set out provisions of the Civil Services Rules that
3 constitute cause for discipline established by Mr. Nicholas' behavior, which are as
4 follows:
5

6 Civil Service Rule VIII: Disciplinary Actions Section 5 Cause

7 (c) Is incompetent or inefficient in the performance of the duties and
8 responsibilities of the position held;

9 (d) Is willfully careless or negligent of the property of the City;

10 (e) Any willful violation of the Charter, these Rules, any written personnel
11 policies, written departmental rules or procedures, or of any reasonable
12 and proper order or direction given by a supervisor, where such violation or
13 failure to obey amounts to an act of insubordination or a serious breach of
14 proper discipline or resulted or might reasonably be expected to result in
15 loss or injury to the City, or the public, or to the prisoners or wards of the
16 City;

17 (f) Has been guilty of conduct unbecoming an officer or employee of the City;

18 (l) Excessive absenteeism or habitual pattern of failure to report for duty on
19 time without good and sufficient reason; and

20 (m) Has committed, or has induced or has attempted to induce an officer or
21 employee of the City, to commit an unlawful act or to act in violation of any
22 reasonable and lawful departmental or official regulation or order, or has
23 taken any fee, gift or other valuable thing in the course of work or in
24 connection with it, for personal use from any citizen, when such gift or
25 other valuable thing is given in the hope or expectation of receiving a favor
26 or better treatment than that accorded other citizens;

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2 CONCLUSIONS OF LAW
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4 Rule VIII Section 1 of the Civil Service Rules provides that a classified employee
5 may be discharged for disciplinary purposes. Rule VIII Section 4 c) provides that an
6 employee may be permanently discharged for cause. Rule VIII Section 5, regarding
7 "Cause," provides that merit principles of employment shall be the primary
8 consideration in any disciplinary action and that employees shall be disciplined only
9 for actions, which would affect their ability or fitness to satisfactorily perform their
10 assigned duties and not for non-merit factors. Rule VIII Section 5 further provides
11 specific conditions that are compatible to the principles of merit and may be
12 considered as cause for any classified employee to be discharged from employment.
13 The specific conditions cited in the December 8, 2020 termination letter are set out in
14 Rule VIII Section 5 (c) – (f) and (l) – (m). Rule VIII Section 3 provides that the
15 Commission may either sustain the discipline or order the employee reinstated. The
16 Civil Service Rules do not authorize the Commission to consider the level or severity
17 of discipline.
18

19 DECISION

20 Based upon the submitted record, oral argument presented by the parties,
21 witness testimony, the Civil Service Rules and the above Findings of Facts and
22 Conclusions of Law, the Civil Service Commission concludes, by a vote of five to
23 zero, that the appeal of Vincent Nicolas is denied. The record demonstrates that the
24 City's decision to terminate Mr. Nicholas' employment was based on cause as set out
25 in Rule VIII Section 5 of the Civil Service Rules. Mr. Nicholas' appeal failed to
26 demonstrate that the City's decision to discipline him was not based on cause.

27 Findings of Fact, Conclusions of Law and
28 Decision of the Civil Service Commission

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DATED this ____ day of June 15, 2021.

By: _____

Mark Lindsey - Chairperson
Civil Service Commission

Findings of Fact, Conclusions of Law and
Decision of the Civil Service Commission

CIVIL SERVICE COMMISSION
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CERTIFICATE OF SERVICE

The undersigned, under penalty of perjury, certifies that on the _____ day of June, 2021, I caused a true and correct copy of this document to be forwarded, with all required charges prepaid, by the methods indicated below, to the following person(s):

Assistant City Attorney Nate Odle [] VIA E – MAIL
[] VIA FACSIMILE
[] VIA U.S. MAIL
[] VIA OVERNIGHT SERVICE
[] VIA HAND DELIVERY

Natalie Hilderbrand, Staff Representative [] VIA E - MAIL
WSCCCE – Council 2 [] VIA FACSIMILE
[] VIA U.S. MAIL
[] VIA OVERNIGHT SERVICE
[] VIA HAND DELIVERY

Secretary to the
Civil Service Commission
Fourth Floor Municipal Bldg.
808 W. Spokane Falls Blvd.
Spokane, WA 99201

Findings of Fact, Conclusions of Law and
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ITEM 5A – CHIEF EXAMINER OFFER LETTER

BACKGROUND

The Civil Service Commission selected Kelsey Pearson to be the next Chief Examiner at the May 18, 2021 regularly scheduled meeting. The attachment is the Offer Letter to be signed.

Attachments:

- Chief Examiner Offer Letter



May 20, 2021

Kelsey Pearson
1026 E. 39th Ave.
Spokane, WA 99203

Dear Ms. Pearson,

It is with great pleasure that I offer you the position of Chief Examiner for the City of Spokane in the Civil Service Department. The Commission believes you possess the experience and qualifications our department is looking for, and that you will be a great addition to our team in your new role!

Your appointment to this position will be effective May 30, 2021. You will report directly to the Civil Service Commission. The salary for this position is Grade 57, Step 2 of the Managerial & Professional Association – B (M&P-B) pay plan, or \$99,848.16 annually.

Additionally, you will continue to receive the following benefits:

- Accrual of 6.78 hours of vacation per pay period.
- Accrual of 6 hours of illness leave per pay period. The illness leave accrual is split into two banks, with three (3) hours going into a reserve account with restricted access limited to absences protected under the Family Medical Leave Act (FMLA) or absences resulting from on the job injuries.
- Eight (8) hours of holiday pay for seven (7) fixed holidays, and forty (40) hours of floating holidays per calendar year.
- Medical and dental benefits, long-term disability, life insurance, and access to an IRC Section 125 flexible spending account.
- Option to participate in a 457 Deferred Compensation program and receive a match of up to \$150/month from the City if actively contributing.
- Participation in the Spokane Employees' Retirement System (SERS) with matching employee and employer contributions of 10.00% of the employees' salary earnings.

If you have any questions regarding the benefits described above, please contact Pamela Bergin in Human Resources at 625-6373.

Please note that the above benefits are those that have been negotiated between the City and the bargaining unit that represents your position and are subject to change as those bargained benefits change.

If you accept this offer, please sign and return it to Human Resources at your earliest convenience.

Sincerely,

Mark Lindsey
Chair – Civil Service Commission

I hereby accept the position of Chief Examiner with the City of Spokane in the Civil Service Department and agree to the salary and benefits stated herein.

Kelsey Pearson

Date