

CITY OF SPOKANE
CIVIL SERVICE COMMISSION MEETING
MINUTES
November 18, 2014

Mary Doran, Chair, called the regular meeting to order at 9:30 a.m. Present were Mary Doran, Cheryl Beckett, Jim DeWalt, Phyllis Gabel and Craig Hult.

Agenda Item I.

Approval of Minutes:

Ms. Doran introduced the minutes from the regular meeting of October 21, 2014. Hearing no changes or corrections to the minutes, Ms. Doran stated that the minutes were approved as submitted.

Agenda Item II.

Staff Activities:

The Chief Examiner, Ms. Gita George-Hatcher reported the following statistics for October:

| | | | |
|--|-----|------------------------------|----------|
| Announcements issued: | 12 | Classifications revised: | 3 |
| Examinations: | 50 | Classifications new/deleted: | 3/0 |
| Requisitions received: | 55 | Title changes: | 1(Police |
| Evidence and Records Manager classification adopted in October; no separate title change in November) | | | |
| Requisitions certified: | 43 | Class Surveys completed: | 1 |
| Requisitions pending | 13 | Class Surveys in progress | 9 |
| Requisitions canceled | 0 | | |
| | | | |
| Average days from department initiation of request to receipt in Civil Service | 3.0 | | |
| Average days from requisition receipt to certification | 1.4 | | |

Ms. George-Hatcher reported that there had been an increase in response time as well as in the percentage of requisitions certified within 24 hours which is indicative of the increased workload. Ms. George-Hatcher also reported on the status of the Ban the Box Policy. She reported that staff is working with HR to ensure that Civil Service jointly administers this policy with HR due to the draft policy's impact on Civil Service application forms needing to be adjusted based on specific Civil Service classifications and because failure of background checks can be cause for individuals' names coming off the eligible register which would be appealable to the Commission. Ms. Doran asked Ms. George-Hatcher is the question on criminal background checks was still on the application forms and she responded that it was.

Ms. George-Hatcher reported that staff did a presentation to Cabinet the previous week on the online application project. Ms. George-Hatcher reported that commitment was received from Cabinet to move ahead with the project. NEOGOV was the successful vendor for the online recruitment/workforce management tool. This will be a cooperative venture between Civil Service, Communications and Information Technology departments with the funds being shared between Civil Service and Communications and will be a multi-year contract with NEOGOV and staff is working with Legal to draft the contract. She reported that the implementation of this project would be good for the City and for Civil Service, to improve our image with the public, provide a tool that would be user friendly and provide greater visibility for recruitment.

Ms. George-Hatcher also reported that she had attended an NAACP Gala and made connections with the President of the NAACP and has been working with Gloria Ochoa, Multicultural Affairs Director as well to improve targeted recruitment.

The recent Spokane Police Department Organizational charts were provided to the Commission per their request for the Commission to review and at the Commission's discretion, direct staff as to conducting research or obtaining additional information.

Ms. George-Hatcher reported that the Integrated Medical Services Manager classification was drafted and sent to the parties per the Commission's direction to staff in July. She informed the Commission that this has been placed on the Commission's agenda.

Ms. George-Hatcher reported that no applications had been received for the Commission vacancy, that staff was trying to conduct a concentrated search and if anyone had any recommendations to please pass them on to staff to forward to the Mayor's Office.

Ms. Phyllis Gabel had a question on whether the Ban the Box Policy would be owned by HR since it identifies Civil Service classifications that would need to be updated. Ms. George-Hatcher responded that the policy is still in draft form and that staff was currently working with HR on that. Ms. Gabel also had a question as to whether the online application tool would have the capability of applicant tracking for EEO reports and Ms. George-Hatcher responded that it would have that capability as well as the ability to conduct adverse impact analysis. Ms. Doran asked whether this was a local company and Ms. George-Hatcher stated that NEOGOV was based in California and that they work with a huge majority of Washington agencies including counties and cities. The report of staff activities was concluded with no further questions.

Agenda Item III.

Classification Resolution

Ms. George-Hatcher introduced three classification resolutions. Mail Courier, SPN 500 has the concurrence of Labor and Management for adoption. She stated that there was also concurrence from labor and management to adopt the title and SPN for WTE Disposal Supervisor. This position had not yet been created initially as it was being reviewed by both management and labor. We will be working with Mr. Chuck Conklin and Local 270 on finalizing the classification specification details.

The third item, the Integrated Medical Services Manager classification - SPN 926 is a continuation from the Commission's meeting in July. At that meeting staff was directed to conduct an in-depth analysis of the position and send the draft to all parties. The analysis was conducted and the drafted specifications were sent to all parties, both labor and management which included Fire Administration, and all the labor unions that might have had an interest in this position, namely, Local 29, SAFO (Spokane Association of Fire Officers) and M&P (Managerial and Professional Association). We received communication from Human Resources that this position was being assigned to M&P (B) and we heard from M&P that they were in concurrence. Ms. George-Hatcher stated information was received from Local 29 the previous day and that this information was provided to the Commission. Staff recommended that the Commission take action on each classification resolution separately and that with respect to the Integrated Medical Services Manager classification, the options would be for the Commission to either adopt or not adopt the classification, or place it in continuation until Commission has had a chance to review and ask any questions of the parties in attendance.

Ms. Doran agreed that that the items should be separated out. She asked if there were any questions pertaining to the classification of Mail Courier or the Waste to Energy Disposal Operations Supervisor. Ms. Gabel asked for clarification on the SPN number for the Mail Courier classification. It was stated incorrectly on the Commissioner packets and Ms. George-Hatcher clarified that the correct SPN number for this position was SPN 500. Ms. Gabel moved to adopt the classification of Mail Courier – SPN 500. It was seconded by Ms. Cheryl Beckett and the motion passed unanimously with no additional questions.

Ms. Doran introduced the Waste to Energy Disposal Operations Supervisor title with SPN number. Ms. Beckett moved to adopt the title of Waste to Energy Disposal Operations Supervisor – SPN 594. The motion was seconded by Mr. Craig Hult and passed unanimously with no additional questions.

Ms. Doran introduced the Integrated Medical Services and asked if a motion was needed to get the item on the table. Ms. George-Hatcher explained that a motion could be made and also that there is a separate agenda item for Integrated Medical Services Manager so Commissioners could ask questions at that time as well. Ms. Doran asked the Commission what they would like to do. Ms. Beckett stated that she is not prepared to make a motion on the topic and Mr. Craig Hult and Ms. Doran agreed. Ms. Gabel asked if a motion was necessary to table the topic as she would like to get input from people in the audience first. Mr. Mike Piccolo advised that it is not necessary to table an item before taking testimony and that Commission could proceed on the agenda item and request comment from the parties involved.

Ms. Doran requested that they were almost to the IMS agenda item already and recommended proceeding to Agenda Item #4 - Request to Void List for Arborist – SPN 694 and requested staff for an explanation. Ms. George-Hatcher explained that the list had been in existence for a year, that there were only 7 names on the list with only 4 being available to interview and that labor and management were in concurrence to move forward with a new recruitment for Arborist. In response to Ms. Doran's question about whether the candidates on the current register would be allowed to apply again, Ms. George-Hatcher responded that they would but that the new list would be subordinate to the old list. Ms. Doran said that then, the list was not really being voided. Mr. Joe Cavanaugh addressed the Commission and stated that his understanding was that if the list is voided, then the list ceases to exist and the four people on the list would have to test to re-establish their position on the list. He asked whether it was the interest of the Commission to subordinate the new list or void it. Ms. George-Hatcher explained that based on her understanding, the practice had been that if the qualifications were being changed, then the list would be voided and those on the list would be allowed to apply again. She said that since the qualifications were not changing, the new list should be subordinate to the old list with the expiration of the names on the current register occurring based on the date of the listing and the current names being considered first. There was discussion about exhausting the list as oppose to voiding the list and Ms. George-Hatcher read aloud from Rule V on page 23 of the rules regarding lists when there are too few names. After additional discussion and clarification and a review of both Rule IV and Rule V, Mr. Cavanaugh stated he was amenable to either exhausting the list or voiding it. The Arborist list has been in existence for one year and therefore it could be voided under Rule IV, Section 14 (b). Ms. Beckett made a motion to completely void the list without carrying the names over. It was seconded by both Mr. Hult and Mr. Jim DeWalt and the motion carried unanimously.

Ms. Doran introduces the next item on the agenda – the Integrated Medical Services Manager Job Specifications. She commented that there was no motion on the table but that the Commission needed more information.

Ms. Erin Jacobson, attorney representing the City provided brief background information with respect to what the procedure was and what is expected going forward with respect to the labor relations aspects of this case. She explained that the position was originally created outside of Civil Service rules under the existing ordinance at the time and since that ordinance has now been repealed, it has required the City to move this position into Civil Service. She reminded the Commission that at its July meeting, Civil Service staff was directed to review the position which they did. A draft job specification was developed and the draft was sent out for review to all the potentially interested parties including several unions, Human Resources and Fire Administration. The next step was to identify the bargaining unit which Human Resources designated as M&P based on the class review. In the City's view, the only appropriate bargaining unit was M&P since this was a civilian position and not uniformed. Ms. Doran interjected that it was being disputed. Ms. Jacobson said she would be addressing that and explained that the next step after the bargaining unit was designated was that concurrence was sought from the assigned bargaining unit which was M&P. There was concurrence between labor and the City on the proposed specifications. Ms. Jacobson's position was that for Civil Service purposes when the representing labor union and management concur on the specifications, they are presented to the Commission for adoption. She stated that she found nothing in the allowing for comments from other parties or other bargaining units. If the assigned bargaining unit assigned protested the Commission would make a determination but in this case, there is concurrence. Ms. Jacobson reported that Local 29 has filed a unit clarification petition with the Public Employment Relations Commission (PERC) set for a hearing in February, the outcome of which would determine definitively whether the position remains M&P or L 29.

In response to a question from Ms. Doran, Ms. Jacobson explained that there were other M&P positions at the Fire Department represented by M&P, such as the IT Manager and the Fire Protection Engineer and other employees as was the case in Police as well. She explained that ultimately this was a decision for PERC to make. Ms. Jacobson explained that this position was not operational. Ms. Doran commented that the positions would be responsible for supervising EMS staff and Ms. Jacobson clarified that the position would only have oversight over the two personnel assigned to day shift in EMS and not the paramedics in Operations. Ms. Doran commented that the decisions made will affect EMT's. Ms. Jacobson explained that the entire EMS division reports to Assistant Chief Schaeffer who is uniformed and a paramedic.

Ms. Jacobson commented that these were good questions but that we were getting into the purview of PERC and that the Commission is required to adopt specifications that have labor and

management concurrence. She explained that unless PERC determines differently, this would be an M&P position and that Local 29 did not have any standing as they were not the assigned bargaining unit. If PERC determines that the position should be represented by Local 29, then Local 29 would have standing to discuss changes to the specifications but there is nothing in the rules that would give them standing to stop adoption of the specifications at this time.

Mr. DeWalt asked what the harm would be if the Commission were to wait for the PERC decision on adoption and Ms. Jacobson responded that the employee would be in limbo and not properly classified and the state of uncertainty would continue. She stated that the City would not contest the open competitive recruitment. Ms. Beckett stated that if the Commission adopted this classification it would still be in limbo as it was already in limbo before PERC so that was her question - there would be no immediate harm and it would continue to be status quo until the PERC decision is received. Ms. George-Hatcher re-iterated that the individual in the position would not be a classified employee and Civil Service would not decertify the payroll if Commission determined that they would need to wait until the PERC decision. She stated that the drawback would be that the individual would not be in any particular status. Ms. Doran commented that the individual was currently also not in any particular status as he was selected and appointed against any Civil Service rules.

Ms. Doran asked if there were any additional questions. Ms. Gabel asked if the person that this position supervised would they be providing patient care. Ms. Jacobson responded they were not front line people but certified and can and will be able to provide patient care

Assistant Chief Brian Schaeffer presented information that EMS –was a team and that he was the EMS agency administrator by state law and had been functioning as such since the retirement of Rich Kness a few years ago. He stated that they needed a policy expert and that the position does not respond to incidents. The purpose of the position was to work with Dr. Edminster, the Medical Advisor and set policy for the Fire Chief, the Assistant Chief and the organization. Assistant Chief Schaeffer said that the two Medical Service Officers assigned (MSO's) report to him and that the strategy is done as a team. He explained that the current incumbent organizes the work to create strategic plan and is not a clinician. Assistant Chief Schaeffer said that the MSO's report to him for patient care, discipline etc. He said that he was responsible for the budget – hope this paints a better picture.

Ms. Gabel said that the job description states that the position supervises Emergency Medical Services staff and trains on clinical and quality control methods. Assistant Chief Schaeffer said that the job has to do with incorporation clinical best practices, interfacing with colleagues and feeding the information into documents; a dashboard has been built which now provides information on for example, how many pandemics, how many sick people, what type of illnesses

are occurring in neighborhoods and that the level of QI required of the job involves this type of information. He said that he does the performance reviews of the MSO's and that the two MSO's are out in the field monitoring the system and work with the lieutenants and captains. Assistant Chief Schaeffer stated that he worked collaboratively with Civil Service, Human Resources and others including the two MSO's to create a broad job description.

Ms. Doran asked if there were any questions. Mr. DeWalt asked whether there was any idea regarding the PERC timeline. Assistant Chief Schaeffer replied that it would be some time in April. Ms. Jacobson clarified that the hearing was scheduled for February and that it would take about two months for decision and then, a month to file post hearing briefs. She said that the PERC Executive Director would make the determination and that it could be decided anywhere from April to several months past that. She stressed that this would be incredibly challenging for the incumbent, that this has been a long drama and challenging for the employee's productivity, and was hoping for the Commission to make a decision today.

Mr. John Goodman, the Vice President of Local 29 said that one of their concerns was that if the Commission adopts the classification and PERC changes the bargaining unit representation, that it would do more harm to Mr. Mike Lopez. He urged the Commission to not make a rash decision, to look beyond the people that are currently in the job and make the right decision with respect to qualifications and education. He said he had no issues with Mr. Lopez but that we needed to think about the position for the future as well when incumbents leave. He felt it would be a fairly quick decision by PERC. Mr. Goodman also addressed the Commission about the IT and Fire Protection position and explained that those positions were not the same as the IMS position as the IMS position oversees the operations of EMS even though Assistant Chief Schaeffer is overall in charge. He said that someone who is not uniformed might have a different perspective than a civilian, which he admitted was neither good nor bad. He reinforced to the Commission that they table the matter until PER makes a determination, that there was no reason to put the cart before the horse as there was too much of that done in the City in the past. His opinion was that the job description is written incorrectly with respect to responsibilities and that this position was meant to be a technical expert and that the job description used to be written that way.

Ms. Doran asked about EMT training or certification. Mr. Goodman said that their attorney had brought that up and that they do not know the background of the candidate. He said the incumbent brings talent but we need to get the right job description moving forward. Ms. Doran agreed and thanks Mr. Goodman.

Ms. George-Hatcher stated that a job survey was done and the percentage information on job function was reviewed. The normal process is to survey the incumbent which was done. The job

description is then sent to management and to the unions. If there are if concerns, both labor and management have the opportunity to respond. The same process was followed in this case. Ms. George-Hatcher reported that the percentage of time spent in QI/QI was 20%, contract management was 26%, and Administration of the IMS program was 16%. She reported that Civil Service staff looked at time spent in different areas and the job description was put together and sent to all the parties. Changes were made based on feedback received. Ms. George-Hatchers explained that a paramedic license was required only if there is a requirement to be a first responder or practitioner which was not the case with this position. She referred the Commission to address specific questions to Assistant Chief Schaeffer. Assistant Chief Schaeffer agreed and stated that Civil Service rules were followed and that there was no requirement for personnel in the IMS position to be a first responder or provide direct patient care. He stressed that he was the director and that he possessed a paramedic license. He said his goal for the program was to have someone work strategically in coordinating with health care organizations. He said Mr. Lopes was known nationally as the expert in the field and has spoken at statewide conferences. He again stressed that they do not want the incumbent to be out in the field and that if they did, they would hire someone from within with that background. He said they recruited for talent and found the person. Assistant Chief Schaeffer said that they followed the rules to make the hire and that the rules then changed. He said that the incumbent has provided incredible service and that a badge is not needed for this position. He said they would be going through an open and competitive process and was not against that.

Ms. Gabel said that there was confusion with the job description and that it gave the impression of providing clinical services. Civil Service did send that job description out to the parties and to get that yesterday at 4:00 p.m. put us in a bad position.

Mr. Goodman said they were not able to respond because that had not seen the job description because it was not provided to them. Ms. George-Hatcher responded that that was incorrect and that she sent it out to all parties even before a determination was made by HR on the bargaining unit and that it was sent to all the parties. She said she had an email record of that. Mr. Goodman requested a copy of that email and Ms. George-Hatcher said that she would send it.

Ms. Jacobson again stressed that the process was followed and all of the interested parties notified weeks ago. She expressed concern that a response from Local 29 was only received the previous day and that the tone was accusatory and unprofessional and any issues could have been cleared up with a quick phone call. There was no conspiracy on the City's part and the determination on bargaining unit was based on Civil Service' job description. She expressed concern that the Commission has stepped into considering something that was submitted late. Ms. Jacobson cautioned that there was nothing in rules concerning this type of situation other

than to adopt the classification once there is concurrence from management and labor and that the issue could be revisited after the PERC decision. Adopting the classification would provide relief from the “limbo” status.

Mr. Goodman again addressed the Commission and requested that the Commission table the matter as there were a few things in dispute and to adopt the classification before PERC rules would be a bad idea.

Ms. George-Hatcher said that staff would recommend due to the concurrence of labor and management, they could choose to adopt the class as is and then if PERC comes back and says needs to be uniformed position, then the matter could be re-addressed. If however, the Commission felt that because Local 29’s comments were just received the previous day, the Commission may decide they would like to review that further.

Ms. Beckett said that she had not been convinced regarding concurrence and that the lack of concurrence was heard loudly and strongly and there was not concurrence of all of the labor unions. She felt that she was not prepared to make the motion for adoption.

Mr. David Lewis, President of M&P stated that he trusted in Civil Service and in the process. There was extensive work that went into that classification review and survey. He said he would question holding off on the decision on the off chance that it would change down the road and that it does not seem to be the logical approach and that M&P was the selected bargaining unit based on the Civil Service job description. Ms. Beckett said that M&P was selected but challenged. She explained that this was a unique situation and that Civil Service has been placed in a unique situation as well and that she hoped that would never be the case again in the future. Mr. Lewis reiterated that they have full faith in the Civil Service Commission and that it was strongly held by their membership that Civil Service will continue to work and act as they always have.

Ms. Beckett made a motion to hold off making a decision until PERC makes a determination of the correct bargaining unit and understanding that labor and management concurrence that we often use as determining factor in adopting our job classifications. Mr. Hult seconded the motion. Mr. De Walt initiated discussion on the effect of making or not making a decision today and whether that would have any impact on PERC. The Commission’s determination was that if they did make a determination today it would have no impact on PERC but would have an impact on the incumbent. Ms. Beckett further clarified that if the Commission were to adopt the classification as is and if PERC then rules that M&P is the correct bargaining unit then that’s how it would be going forward.

Ms. Jacobson again addressed the Commission and expressed her concern that when the matter comes before PERC, if there was no determination by the Commission; it would be confusing with respect to unit clarification as to what job description would need to be presented to PERC – whether the M&P job description, the exempt job description or some other. She said the incumbent was not grandfathered and the job he was currently doing would not change. Ms. Beckett countered by saying that PERC would be the fact finders; they would make the fact finding determination independently and having appeared before PERC she was familiar that they would make their determination de novo and would not rely on any type of job description. She said she had some outstanding questions, some procedural and some substantive as well. She said she wants to ensure that it is the correct bargaining unit that is concurring with the job description. Ms. Jacobson stated she wanted confirmation of what would happen with respect to Mr. Lopez’s status; she wanted assurance of the status quo being maintained with respect to the incumbent with no decertification of payroll as it was the City’s intent to classify the position. The Commission concurred with moving forward with the status quo and said they could not see anyone objecting to that who had standing to object. Ms. George-Hatcher stated that as long as all the parties are cooperating, there would be no reason to decertify the payroll. Mr. Goodman concurred that there should be no decertification of the payroll.

Ms. Doran asked if there were any additional questions. She then asked for a vote. The motion to table the adoption of the IMA Manager classification until the PERC determination was made passed unanimously.

Ms. Doran said she would send signed resolution for the Mail Courier and the WTE Disposal Operations Supervisor. She said they would need a separate resolution for the IMS Manager position.

Agenda Item IV.
Other Business

There was no other business to come before the Commission and the meeting was adjourned at 10:35 a.m.

Gita S. George-Hatcher
Chief Examiner