

CITY OF SPOKANE
CIVIL SERVICE COMMISSION MEETING
MINUTES
February 17, 2015

Cheryl Beckett, Acting Chair, called the regular meeting to order at 9:30 a.m. Present were Cheryl Beckett, Phyllis Gabel, Craig Hult and Mark Lindsey.

Agenda Item I.

Approval of Minutes:

Ms. Beckett introduced the minutes from the regular meeting of January 20, 2015. Hearing no changes or corrections to the minutes, Ms. Beckett stated that the minutes were approved as submitted.

Agenda Item II.

Staff Activities:

The following are the statistics for January:

Announcements issued:	11	Classifications revised:	5
Examinations:	55	Classifications new/deleted:	1/4
Requisitions received:	42	Title changes:	2
Requisitions certified:	39	Class Surveys completed:	2
Requisitions pending	46	Class Surveys in progress	10
Requisitions canceled	4		
Average days from department initiation of request to receipt in Civil Service		8.7	
Average days from requisition receipt to certification		0.4	
Average days from requisition initiation to completion (by department)		9.0	
Percentage certified within 24 hours		100%	

The Chief Examiner, Ms. Gita George-Hatcher reported that the Mayor has forwarded Mr. Craig Hult's name on to the City Council for confirmation and that the item has been placed on the Council's agenda for February 23rd. She indicated that as soon as the Council approved the appointment she would notify the Commission and then the four Commission members could at the following meeting, appoint their fifth member.

Ms. George-Hatcher reminded the Commission that there was a new agenda item VI, titled Trainee/Apprentice Position that had not been previously published and deferred to Acting Chair, Ms. Beckett to consider amending the agenda to include it.

Mr. Craig Hult made a motion to amend the agenda to include the Trainee/ Apprenticeship position to the agenda. Ms. Phyllis Gabel seconded the notion and it passed unanimously and added to the agenda as Agenda Item VI.

The Chief Examiner distributed and discussed new Civil Service application forms that were revised based on the new Criminal Convictions policy. She indicated that there were two versions of the form, one with the Criminal Background check included for those positions that require that information up front and one without that information. Ms. George- Hatcher stated that Ms. Heather Lowe, the Human Resources Director would be presenting information on the policy to the Commission.

Ms. George-Hatcher also informed the Commission that Ms. Kelly Doty, Civil Service Clerk II would be leaving us, effective February 23rd to accept a promotion as Police Records Supervisor. She thanked Ms. Doty for her service, expressed that she would be missed and wished her all the best.

Ms. George Hatcher also informed the Commission that in the past, one of the two clerical positions in Civil Service had consistently been a Clerk III position and that it is staff's recommendation moving forward that this position be filled as a Clerk III due to the need for expanded duties. She informed the Commission that if this vacancy was converted to a Clerk III, the funds would be transferred by means of a line item transfer from Reserves and an Emergency Budget Ordinance would not be necessary.

Ms. George-Hatcher invited Ms. Heather Lowe to present information about the Criminal Background Checks. Ms. Lowe provided copies of the final policy and provided the background of how this policy came to be. Ms. Lowe indicated that both she and Ms. Nancy Isserlis, the City Attorney had been contacted several months ago by Ms. Julie Schaeffer regarding a "Ban the Box" initiative that had been gaining traction around the country. This issue came to the forefront as part of a discussion to provide a second chance to persons with criminal conviction records to get a second chance in life. This resulted in the "Ban the Box" effort to remove the question about criminal convictions up front on employment applications. Ms. Lowe explained that the policy would not eliminate the conduct of criminal background checks for the City positions that require them; it would merely place that process in a different part of the selection process. Ms. Lowe reported that the policies of a number of jurisdictions were reviewed including the City of Minneapolis. She stated that they were able to borrow policies

and processes on these issues from other jurisdictions and that all of the jurisdictions they reviewed utilized a similar process to that undertaken by the City of Spokane. A list of City positions by department has been created indicating which positions would require criminal background checks and which ones would not. Feedback on the policy was obtained from unions and departments, was agreed to by all parties and will be administered jointly by Human Resources and Civil Service. Ms. Lowe provided copies of the non-Civil Service applications forms also with the packet which will be available online along with the Civil Service application forms with Civil Service' implementation of NEOGOV. She reported that the Criminal Background Check policy is currently awaiting final signatures before implementation.

In response to a question from Ms. Gabel, Ms. Lowe responded that the City of Spokane's efforts are in line with the rest of the jurisdictions that are implementing this type of policy. Ms. Lowe also expressed that she would like to develop a joint training program with Civil Service for supervisors on how to interview people, ask the right questions, be trained on what they can and cannot ask with the goal of ensuring that there are no surprises for candidates during the process. Ms. Beckett expressed that this was an excellent idea and especially that the differences between arrests and convictions are understood. Ms. George-Hatcher thanked Ms. Lowe for her work on this and for the cooperative efforts. She expressed that it is good for the City of Spokane to be taking the lead on this issue as an example to other companies and agencies and commented that there has been some work at the State level to bring a bill before the legislature on this subject as well.

Agenda Item III.

Classification Resolution

Ms. Beckett introduced the agenda item. The Chief Examiner reported on the classifications for adoption and stated that they all had the concurrence of labor and management:

Credit and Collections Manager – SPN 455. The title and classification are being changed to broaden the classification in order for the classification to be applicable in more than one department. The title is being changed from Utilities Billing/Credit Manager and the SPN will remain the same. The Chief Examiner explained that this classification was being utilized only in the Utilities/Billing section but at this time, with the creation of My Spokane, the Director, Ms. Carly Cortright requested a similar classification to address Accounts Receivable in their section. Therefore, the classification was revised with the effect of broadening it for greater utility, and changes to the minimum qualifications were made for open entry and to widen promotional opportunities.

Grants and Contracts Financial Manager – SPN 112. The Chief Examiner provided information that as a result of the departure of Ms. Jerrie Allard, Director of Community Housing and Human Services, on an interim basis, this department is being administered by the Director of Grants Management, Jennifer Stapleton. This position will be located in Grants and Contracts Management and is a new position responsible for supervisory, administrative and complex analytical, financial and budgetary work specifically related to the specialized field of government grants and financial assistance.

Planning Specialist – SPN 225. This is a title change from City Planning Specialist I with minor revisions to the class specifications and qualifications in keeping with industry standards. The SPN will remain the same. This position will be in the line of progression to the other planning positions in the City.

WTE Environmental Manager – SPN 588. This classification and SPN were adopted as WTE Environmental and Safety Manager. The department director Mr. Chuck Conklin requested that the safety portion be separated from these specifications along with additional revisions to the class specifications, and qualifications as well as a title change. A new classification to address the safety aspects will be worked on in the near future. The SPN number will remain the same.

The Chief Examiner provided information on the classifications to be deleted and explained that each of the classifications to be deleted were replaced with new classifications that were adopted at the Commission meeting in January.

Programmer Analyst – SPN 164 (replaced with Applications Analyst – SPN 164)

Recreation Leader – SPN 695 (replaced with Recreation Aide – SPN 670)

Recreation Specialist – SPN 690 (replaced with Recreation Assistant – SPN 671)

Solid Waste Education Coordinator – SPN 064 (replaced with Education Coordinator – SPN 064)

Ms. Beckett raised questions about who was performing the safety aspects that have been removed, whether this would now be in a separate classification, and whether work was currently being done on it. The Chief Examiner responded that a separate classification would be created, that the work is currently being performed by the person formerly in the original classification (now the Plant Manager) and that until an investigation was done, it would not be known whether the new position would be at the level that it was originally. She reported that the Safety classification was not currently being worked on.

Ms. Phyllis Gabel made a motion to adopt the classifications of Credit and Collections Manager, Grants and Contracts Financial Manager, Planning Specialist and WTE Environmental Manager; and delete the classifications of Programmer Analyst, Recreation Leader, Recreation Specialist

and Solid Waste Education Coordinator. It was seconded by Mr. Craig Hult and the motion passed unanimously.

Next, Ms. Beckett introduced the resolution to adopt the various classification titles that are designated as Senior Administrative Assistant. The Chief Examiner explained that each year the Commission adopts the current list of Senior Administrative Assistants and read aloud the following titles for the record:

Administrative Secretary
Chief Examiner
Code Enforcement Supervisor
Deputy Fire Chief
Division Accountant
Fire Marshal
Senior Human Resources Analyst
Parks and Recreation Division Manager
Police Commander
Principal Engineer
Principal Planner
Probation Officer I
Probation Officer II
Supervisory Analyst (MIS [now IT] and Fire)
Waste Water Treatment Plant Operations Superintendent
Waste Water Treatment Plant Administrative Superintendent
Water Superintendent
Water System Engineer
Waste to Energy Plant Manager

A question was raised by Ms. Beckett and Ms. Gabel as to whether the newly adopted classification of WTE Environmental Manager was part of this list and whether it would be a Senior Administrative Assistant. The Chief Examiner responded that it was not part of the list and that it has not been designated as Senior Administrative Assistant. Ms. Gabel made a motion to adopt the list of Senior Administrative Assistants as read by the Chief Examiner. It was seconded by Mr. Hult and the motion passed unanimously.

Agenda Item IV.

Investigation of Complaint

Ms. Beckett introduced the complaint brought forward last month by Local 270 regarding a temporary/seasonal position in the Business and Developer Services Division (BDS) that staff was directed to investigate. The Chief Examiner reported that the purpose of the investigation was to determine whether the temporary/seasonal employee was performing classified work and that the investigation consisted of interviews with fifteen individuals including clerical employees of the Division, supervisors, the Director of Business and Developer Services, Ms. Jan Quintrall and Ms. Jacqueline Luenow, the temporary/seasonal employee who was hired in November 2014.

The Chief Examiner provided a summary of the investigation. She reported that the investigation included a review of the tasks currently being performed by Ms. Luenow, the qualifications of Ms. Luenow, the number of hours worked per week, the decision-making and supervisory authority of Ms. Luenow, the projects she is involved with, staff interviews and file reviews of staff.

Ms. George-Hatcher stated that Ms. Luenow was hired because of her extensive background running call centers and supervising employees, and that she was a very pleasant individual who was well liked by the people she works with. Ms. George-Hatcher reported that the investigation yielded information that Ms. Luenow was initially hired to supervise the clerical staff in BDS and that the supervisory work stopped sometime in mid January. She also reported that Ms. Luenow was currently involved in learning about payroll processes, interfund billing, evaluating the clerical work processes such as an afterhours call system, an automated queuing system within BDS as well as research on coordination and cost effectiveness of the maintenance of green spaces and electronic archiving of land survey maps. Ms. Luenow also monitors the work done by clerical staff that comes in through the general email to ensure that it is followed up on and routed as directed. The investigation concluded that the preponderance of the work being performed by Ms. Luenow was contained within the classification of Office Manager which staff reviewed and is recommending for the work being done.

The Chief Examiner reported that it is her understanding based on information provided by Mr. Scott Simmons, who will be taking over as Interim Director of BDS, that Ms. Luenow's work is coming to an end at the end of February. She stated that staff has already done the work required to classify the temporary/seasonal position and has distributed a copy of the job specifications to every department director that has an Office Manager employed within their department. Once that information is received, then the classification information will be provided to the appropriate departments.

Ms. Beckett thanked the Chief Examiner for the very thorough eight-page report presented in a very clear fashion and that the Commission's role would be to either accept or reject the report and given the additional information obtained this morning regarding the personnel transitions pending, to defer any further action until it is known what occurs at the end of February.

Ms. Beckett called for a motion. Mr. Hult said he would like to echo the comments regarding the report, that it was very well written, laid out and informative, and made a motion to accept the report and defer any further action pending the personnel transitions to occur at the end of February. The motion was seconded by Ms. Gabel and the motion passed unanimously.

Ms. Gabel clarified that if the temporary/seasonal position is eliminated, there would be no reason to bring that position back.

Mr. Joe Cavanaugh, President of Local 270 addressed the Commission and stated that he supported the acceptance of the report and asked for the status of the classification. Ms. George-Hatcher responded that the classification revisions have been sent out to department directors, that the senior analyst, Ms. Janet Cline has been working on it and once the revisions are adopted by both management and labor, then Civil Service will be recommending the classification of this position as an Office Manager.

Agenda Item V
Performance Appraisal Forms

Ms. Beckett introduced the topic of Performance Appraisal (PAR) and invited Ms. Heather Lowe, Human Resources Director to present information on the Performance Appraisal pilot program on which she had provided introductory information to the Commission at the previous month's meeting. Ms. Lowe distributed informational packets on the program and forms and addressed the Commission. She stated that in the past four years since she began working for the City, she had heard a number of comments and concerns expressed about the current performance appraisal system, process and forms. She explained that the largest concern was regarding scores and subjectivity. When the PeopleSoft System was launched there were to be two phases with respect to its implementation. Phase I included the financial information, tables, and the processes related to hiring. Phase II was to involve the Performance Appraisal System. However, Human Resources in conjunction with Information Technology (IT) have done the work with respect to the PAR System. Ms. Lowe thanked Mr. Michael Probst, as well as former Human Resources Analyst Patricia Hammett for her work on this and working with IT staff to create functionality of the proposed pilot Performance Appraisal program within PeopleSoft. Rather than spend thousands of dollars to outsource the work to an outside contractor, the work was done internally to put together the pilot program. Ms. Lowe explained that the packets

contained several pieces of information. The first shows the working document that allowed for the determination of what the performance appraisal system should address. Input obtained from department heads, employees, unions and other agencies reflects the template was put together. Rather than ask about dependability or quantity of work, it was determined that the performance appraisal should focus on core competencies, skill sets, how the employee works within the core values of the City of Spokane and what the City is trying to accomplish as well as identification of the employee's customers.

Once those criteria were determined, then the scoring system based on the measures identified was built into the system so that when a supervisor rates an employee, they would rate based on the qualitative description and the system would then assign the points. This would eliminate the subjectivity that now occurs when, for example supervisors provide ratings to two different employees with the same qualitative description but give them two different scores with no objective means of determining why those scores were different.

The next document she explained is a training manual with screen shots that would walk managers through the steps of how to conduct a performance appraisal in the system. The last item in the packet demonstrates how the system would work with respect to the total number of points. The document sample shows a total of 725 points but in order to work within the system the total number of points was required to add up to 1000. Ms. Lowe explained that the system would calculate the final score out of a total of 100 so that the promotional rules would not be affected. Ms. Lowe demonstrated how a manager would go into the system, input whether or not an employee meets, does not meet or exceeds expectations and how the system would assign the scores. Therefore, two different employees for whom the descriptors are exactly the same would receive the same score. This will alleviate concerns brought up under the current system regarding the lack of consistency.

Additional issues with respect to when the next performance appraisals might be due for employees both probationary and non-probationary as well as whether eligible for step increases are addressed in the proposed system. Descriptions have been expanded in the pilot PAR and greater detail provided so managers understand the meaning of each of the categories. Ms. Lowe provided an example of how an attribute such as dependability might mean different things to different supervisors. One supervisor she asked stated that dependability meant that an employee was always at work; to another supervisor this meant that an employee always completed assigned work on time and both of these would be valid definitions of dependability. This system would eliminate this type of lack of clarity.

Ms. Lowe stated that agreement has been obtained verbally from department directors, Local 270 and the Managerial and Professional Association to proceed with a pilot program for this

year along with training provided to managers. At the end of the year, the program would be reviewed to evaluate whether the pilot program is meeting our needs. Ms. Lowe said she would come back and provide a report to the Commission at that time.

Ms. Beckett enquired as to the time frame for implementation and Ms. Lowe responded that the first step would be to provide training for the managers both classroom and web based, and then implement within four weeks. Ms. Lowe said that she wanted to present the information to the Commission before providing the draft MOU's to the bargaining units for signature. Ms. Lowe requested the Commission for feedback and expressed willingness to wait for the response if the Commission wished to take additional time to review the information and make a determination later.

Ms. Beckett said that the program looked great and would like to take a look at it, that these efforts were very encouraging and that it appeared that there had been a lot of thought and feedback into the developing of this instrument. Ms. Beckett asked the Commissioners whether additional time was needed to review the program or if a vote could be taken on this at the meeting. Ms. Gabel responded that she would like to take the time to review but would like to hear from the other Commissioners. Ms. Beckett also commented that she had heard about the PAR program and the concerns with it since she began serving on the Commission and that the information the Commission had received in the past was that it was being generated and that it would seem that the system being presented would work well. She also said that the Commission has an obligation under Rule IV, Section 9 to ensure that any PAR procedure submitted for approval include the general areas of past experience and performance, preparation for advancement, and success potential for the higher position. She said that these areas have been addressed within the proposed procedure.

Mr. Hult said that he would support a vote today. Ms. Gabel said she did not have any concerns and Ms. Lowe indicated she would be able to come back in six months and provide an update to the Commission regarding the training and implementation. She said that there would be an evaluation of the pilot program at the end of one year with the department directors, employees and bargaining units and would again be able to come back and report again to the Commission at that time. Both Mr. Hult and Ms. Beckett expressed that both of those updates would be very helpful.

Mr. Mark Lindsey commented that the concern he had as with any tool used by management was that it be used appropriately, and that it improves the circumstances for the customers served. He said that having been subjected to a tool that was not used appropriately; he wanted to ensure that this program is agreed to, reviewed and appropriately embraced by the City's

employees. Mr. Lindsey said he did not have a problem with taking a vote on the matter but wants to make sure that employees provide feedback on the process.

Ms. Beckett invited Mr. Cavanaugh to provide input. Mr. Cavanaugh addressed the Commission and stated that Local 270 met with Ms. Lowe and her staff on this issue and that from initial observation and assurances received, the proposed tool appears to be a substantial improvement from the past. He said the concerns with PAR's have been how often they are conducted and how they are done. Mr. Cavanaugh stated he is supportive of the pilot program during the course of this year.

Ms. George-Hatcher requested permission to make a comment and expressed appreciation for all the work done by Ms. Lowe and the HR staff on this and the cooperation with Civil Service in a number of areas and stated that she looked forward to working with HR even more closely.

Ms. Beckett called for a motion and Ms. Gabel moved to approve and adopt the resolution on the pilot project for the performance evaluation. The motion was seconded by Mr. Hult and passed unanimously.

Agenda Item VI.

Trainee/Apprentice Program

Ms. Beckett introduced the item and the Chief Examiner provided a background that a request was received from Mr. Mike Sloon, Director of Information Technology (IT) to approve a trainee/apprentice program for Desktop Computer Specialist for one year. This program is being requested under Rule IV, Section 15 and requires agreement between Civil Service, the appropriate bargaining unit and the department requesting the apprenticeship program. The approval of the program by the Commission is required prior to proceeding. Apprenticeship programs are for the purpose of enabling persons to obtain full skill level for an entry level position and are required to be of short duration, generally within six months to one year and be similar in scope to State approved apprenticeship programs.

The Chief Examiner stated that this request is being made for the specific position of Desktop Computer Specialist for which there is a current vacancy in the IT Department, on a one time basis and has the support of the bargaining unit which represents the position. Ms. George-Hatcher said that she had worked with Mr. Cavanaugh and Local 270 to implement trainee/apprentice programs at the City in the past. She provided an explanation of how the process is expected to work. She said that merit principles are required to be followed in advertising the position and in receiving and evaluating applications. Interviews would then be

conducted and a selection would be made after which a training agreement would be drawn up with the appropriate parties and the selected trainee specifying the training criteria, time period and testing requirements. The selected candidate would be appointed on a provisional basis and subjected to regular performance evaluations during the training period and documented. If selected for a six month program, the evaluations are required to be conducted at the third and fifth months and if for a one year program, at the fourth, eighth and eleventh months. The individual may be released from the program at any time if requirements are not being met. At the completion of the program, the trainee would be required to take the open entry examination for the position being trained for and if the trainee passed the exam, the trainee's name would be carried at the top of the appropriate eligible register. The trainee may then be appointed as a probationary employee subject to a one year probationary period as provided in the Civil Service Rules.

Ms. Beckett asked a question on how the decision would be made as to when the exam would be required to be taken as the rules states that the exam may be taken either prior to or upon completion of the appropriate program. Ms. George-Hatcher said that would be by agreement and has normally in the past, been taken upon completion of the program.

Mr. Cavanaugh addressed the Commission and said that as the Chief Examiner explained, this rule has been used in the past but it has been some time since it has been used. He explained that he had recommended this program to Mr. Sloon as advancing technology requires people to be able to perform the work and is difficult to evaluate that ability on paper. It has to be observed. This resulted in a conversation with the Chief Examiner who then included Mr. Cavanaugh in the discussion. In the past, trainees were allowed to take the test only after they had met the training requirements of the department but this may be determined by agreement. He said the trainee/apprentice program would be an alternate avenue for people seeking employment with the City of Spokane especially in a rapidly advancing area where technical expertise is critical. Mr. Cavanaugh expressed support for this program.

The Chief Examiner reiterated that this approval is being requested in this specific situation for the specific position of Desktop Computer Specialist in the IT dept and that it is important to not utilize this program across the board without thought. She also expressed support for the program and that we would like to try out the program to see how it worked. This program would allow wide recruitment, assist with our focus on diversity recruitment, and would allow an individual to come in and be trained. This approval is being requested for one specific position on a one time basis. She responded that this would be a provisional appointment but if hired, the individual would still be subject to the one year probationary period after the training period.

Ms. Beckett clarified that the resolution stated that the approval would be on a one time basis for the specific position of Desktop Computer Specialist and called for a vote. Mr. Lindsey moved for approval of the trainee/apprentice program. It was seconded by Ms. Gabel and passed unanimously.

Agenda Item VII.

Other Business

Mr. Joe Cavanaugh addressed the Commission and explained that issues had come up regarding placement of individuals laid off at the top of the promotional registers and had requested Ms. George-Hatcher to place it on the agenda as it may at some point need Commission action. He stated that in 1984 at the rules review committee, he was in support of allowing names of laid off individuals to be carried to the top of the open and promotional registers if they were laid off from the specific classification being recruited for in the department from which they were laid off. He said that in these cases, individuals would have an absolute right to the positions in their own departments. If the vacancy was from another department, he had proposed at the time, that the names of those laid off should be submitted along with the names of those on transfers and voluntary demotion lists. He was overruled on that proposal at the time. He stated that there are several reasons for layoff – budgetary, lack of work and that over the months after that rules review there were a number of situations were brought to his attention regarding individuals laid off for disciplinary reasons. In the 1980's, 1990's and the first decade of the millennium, Mr. Cavanaugh said that there were discussions that caused him to change his opinion on the issue and that he was in favor of providing an absolute right to the position only in situations involving hiring in the department from which the employee was laid off. If a department was required to hire someone from outside the department, it could create a hardship for that department not knowing anything about the individual required to be hired. He spoke specifically about two employees working in the Solid Waste Department who were involuntarily demoted from their upper classifications to Laborer I due to a series of severe accidents but who were otherwise good employees. Instead of terminating those individuals, the department Director, Mr. Scott Windsor was willing to demote them as Laborer I at the Transfer Stations with restrictions on driving. When the Transfer Stations were eliminated from the City, the individuals were laid off as there would no longer be a need for Laborer I's. There have been two departments recently where there have been openings for Laborer I's. Mr. Cavanaugh said that the Chief Examiner brought to his attention examples of how the previous Chief Examiner had addressed these situations. She had informed him that in those examples, per the previous Chief Examiner had determined that whether the hires were occurring in the same department or a different department than where the employees were employed at the

time of layoff, the employees' names were carried at the top of the eligible promotional register for the position.

Mr. Cavanaugh provided an early example of where a department was not required to hire an individual not laid off from their department. In the case of these individuals currently under consideration, he said that placing them on the top of the promotional register when the hiring department is not the department that they were laid off from, would give the individuals appeal rights, which he feels would be disingenuous. He said that this was not what was intended, that it may have happened in a couple of instances but that it was not how this has been largely addressed in the past. Mr. Cavanaugh said that a decision may not be needed today but requested the Commission for a decision soon as there are current openings for Laborer I and that departments should not be subjected to an appeal for actions that were not taken by them.

Ms. Beckett asked whether it was the prevailing expectation of employees that if they were laid off from their own department they would have a right to their positions but if they were from another department that they would be considered but not required to be hired. Mr. Cavanaugh said that the "new" interpretation came as a surprise to him and that 96% of the time, employees that are laid off are returned to the departments they were laid off from and that there has been no requirement to hire employees laid off from departments other than their own.

Ms. George-Hatcher stated that it was important to bring this matter to the Commission since being new to her position, with the couple of recent decisions by the previous Chief Examiner, clarity was needed with respect to how much weight to give to the recent practice. She stated that the recent existing documentation was reviewed and that she had discussions with staff. In one of the cases the department that was hiring was not the department from which the employee was laid off and did not want to hire the laid off employee; rather, they wanted to go to the open list. The Chief Examiner, Mr. Glenn Kibbey sent a letter to the employee providing the individual with layoff rights due to the individual being passed over for cause. Rule IX, Section 3 requires the names of those laid off to be placed at the top of the Citywide promotion or open eligible list for that classification and grade in which they were employees at the time of layoff and Rule V, Section 4 provides for appeal rights upon rejection of a promotional certification, providing the rationale for Mr. Kibbey's actions. Subsequently, the letter sent to the employee was rescinded by Mr. Kibbey because the department decided to hire someone from the transfer/voluntary demotion list rather than the open list and the rules allow for that without giving rise to an appeal. In the second case where a similar situation was about to occur, the department opted to go ahead hire the laid off individual who was from a different department so there was no issue at hand.

Mr. Cavanaugh said that in the case of the two individuals currently on the layoff list, that none of the field offices were interested in hiring any of these individuals due to their performance issues. He said that Scott Windsor, Director of the Solid Waste Management Department was well aware of the process if the laid off employees were from his department. He said it would not be appropriate for the other departments that were not parties to the layoff action to go through the appeal process. He said that department heads and supervisors had commented to him that what they were hearing at this time was not the process that they understood. Mr. Cavanaugh said that the Rules Review Committee had not approved this new understanding and neither had the Commission.

Ms. Beckett commented that the lack of clarity in the rules, along with recent documented examples was the genesis of the problem and that it should be clarified and tightened in a rules review committee meeting. Mr. Hult said that Civil Service rules require service to the public and the employer, and that the rules review process cannot conceive of every possible situation. He said that it would not be in keeping with the rules to handcuff the departments. Mr. Cavanaugh said that his understanding of how the rules should be applied has been the consistent understanding at the City. He said that the 80's and 90's was a period with relatively volatile labor management relations and no one wanted to make any changes to the language in the rules. At that time, since there were no issues raised, the matter was not addressed and no language changes occurred. However, at this time, the issue has been raised.

Mr. Cavanaugh suggested that an interim rules review committee be put together over the next month so that a constructive proposal could be brought back to the Commission because there was enough interest to get this matter resolved. The Chief Examiner commented that interpretation of this rule was needed to provide guidance as to how to proceed. She stated that without the interpretation of the rules we have to rely what's been done but in this case, there is disagreement on what has been done.

The Chief Examiner deferred to Mr. Mike Piccolo, the legal advisor for input on the matter. Mr. Piccolo stated that we must follow past practice because it ensures consistency; however that he did not think that there was any specific obligation that the present Chief Examiner must follow prior decisions. He said that the Chief Examiner may use the best judgment and make an administrative decision which the employee should be able to appeal to the Commission. Mr. Cavanaugh discussed an example between 1984 and 1985 where an individual was not required to be hired by a department from which he was not laid off; his name had come up on the list and no one would hire the individual. Mr. Cavanaugh said that if this matter could not be resolved, then he would need to take other action. He said that some of these decisions that

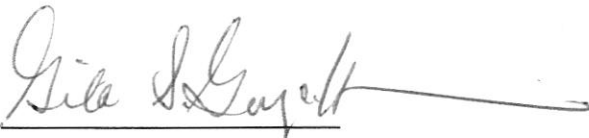
were made by the previous Chief Examiner were not known to others outside of the Chief Examiner and staff.

Ms. Beckett said that the best course of action was for the Chief Examiner at her discretion to make an administrative decision and allow the individuals to appeal and in the meantime, work for clarification within the rules. She stated that the Commission was not prepared to make a decision on interpretation at this time and that in this instance, directed the Chief Examiner in consultation with Mr. Piccolo to make a decision and allow appeal of the administrative decision.

Ms. Gabel commented that when there is discipline involved, it should be a consideration in layoff situations. The Chief Examiner clarified that both individuals had been disciplined and were demoted as part of the disciplinary action but that the discipline was not the reason for their layoffs. They were laid off from their current positions as a result of lack of work because the transfer stations were being eliminated. Mr. Hult commented that past disciplinary issues do come into play during layoff. Ms. Beckett commented that in this case, the individuals' past PAR's did come into play and with the rules and documented recent decisions, the issue is murky at best. Ms. Beckett thanked Mr. Cavanaugh for his input.

Ms. Beckett asked if there was any other business to come before the Commission. The Chief Examiner introduced Ms. Barbara Ackermann, the Civil Service Office Coordinator who was in attendance at the meeting due to the impending departure of Ms. Doty. Ms. Beckett welcomed Ms. Ackermann on behalf of the Commission. Ms. Beckett thanked Ms. Doty for her services, stated she would be missed, that she had enjoyed working with her and wished her the best in her new position.

There being no additional business to come before the Commission, the meeting was adjourned at 10:46 a.m.

A handwritten signature in cursive script, reading "Gita S. George-Hatcher", with a long horizontal line extending to the right from the end of the signature.

Gita S. George-Hatcher
Chief Examiner