

**CITY OF SPOKANE
CIVIL SERVICE COMMISSION MEETING
MINUTES
December 20, 2016**

Craig Hult, Chair, called the regular meeting to order at 9:30 a.m. Present were Craig Hult, Kathy Sewell, Mark Lindsey, Judith Gilmore and Phyllis Gabel.

Agenda Item I.

Approval of Minutes:

Mr. Craig Hult introduced the minutes from the regular meeting of November 15, 2016. A correction on page 5, to correct the typographical error "lie" to "like" was brought forward by Judith Gilmore. The minutes are to stand as corrected.

Agenda Item II.

Staff Activities:

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

October:

Announcements issued:	8	Classifications revised:	1
Examinations:	289	Classifications new/deleted:	0/3
Requisitions received:	39	Requisitions certified:	44
Class Surveys completed:	1	Class Surveys in progress:	6
Requisitions pending:	4	Requisitions canceled:	1

Average days from department initiation of request to receipt in Civil Service:	3.3
Average days from requisition receipt to certification:	0.00
Percentage certified within 24 hours:	100%
Average days from department initiation to completion of hire	.8

Ms. Gita George-Hatcher introduced Ms. Kim Richards, new Clerk II for the Civil Service department to the Commission. She also recognized and thanked Ms. Jerri Bjork, Exam and Classification Analyst III for her ten years of service with the City. Ms. Bjork was presented with a ten year pin.

Ms. George-Hatcher updated the Commission on the progress of the rules review. All the rules have been reviewed; however, additional discussion is pending on a few of them including the passover rule change. The Chief Examiner reported that it was her intention to bring forward the rule change on the passover issue by itself to the Commission; however, due to additional clarifications pertaining to how the rule will be implemented, still needing to be addressed and a

lack of quorum due to the holiday schedule, this matter is still pending. A study session will be scheduled as soon as the process is completed.

The Chief Examiner provided an update on a new office titled Office of Diversity, Equity and Inclusion to be created under the Mayor. Ms. George-Hatcher has been serving on the Mayor's Advisory Committee for Multicultural Affairs (MACMA) and it was the recommendation of the Committee to create such an office. The purpose of this office would be to address three areas, namely, Equity in City Operations, Equity in Spokane Regional and Criminal Justice Reform and Community Engagement and Inclusion. Ms. George-Hatcher provided a handout to the Commission for informational purposes with the draft functions of this office and draft job description for the Director.

Civil Service staff participated in the Toys for Tots fundraiser with a game night themed basket that was auctioned off. The City Hall fundraiser generated over \$5,000 in donations for Toys for Tots.

The Chief Examiner reported that there are three applications for the open Commission position being vacated by Ms. Gabel – Mr. Christopher Savage, Ms. Pam DeCounter and Ms. Dorothy Webster. The mayor should be making a selection decision soon.

Ms. George-Hatcher displayed for the Commission, the new Civil Service banner to be used at job fairs and other recruitment events and thanked Matt Budke of the Reprographics section of the Communications Department for working on the design and creation of the banner in keeping with City branding.

The Chief Examiner reported that in response to items in the 2016 Business Plan to improve our internal processes and provide useful information and timelines on work products to our customers, an internal website has been developed. She invited Ms. Crystal Rodgers who has been the lead on creating this with input from all the staff members, to give a presentation to the Commission on the new Civil Service SharePoint site. Ms. Rodgers provided a PowerPoint presentation of the site, the information provided on the site as well as its capability. This is an internal city-wide intranet site that will provide our employees, supervisors and department heads information on hiring procedures, classifications, transfer and demotion information and other important functions of Civil Service. Civil Service will also begin providing Open Houses to address specific topic areas within the Civil Service rules.

Agenda Item III.

Classification Resolution:

The following classifications were presented for deletion.

Deletions:

SPN 213 Water Construction Inspection Supervisor
SPN 416 Custodial Foreperson
SPN 443 Meter Reader Foreperson

A motion to delete the classifications was put forth by Mr. Mark Lindsey and seconded by Ms. Kathy Sewell. The motion carried unanimously.

Agenda Item IV.

Request for Reinstatement to a promotional list by Mr. Peter Borg

Mr. Peter Borg, a former City employee, put in a timely request to be placed at the bottom of the current Refuse Collector III promotional list. He resigned voluntarily on January 9, 2016.

A motion to approve this reinstatement was put forth by Mr. Lindsey and seconded by Ms. Judith Gilmore. The motion passed unanimously.

Agenda Item V.

Findings of Fact regarding Diane Reynolds appeal denial.

A motion to approve the Findings of Fact regarding the denial of Ms. Diane Reynolds' appeal from the November 15, 2016 Civil Service Commission meeting was put forth by Ms. Phyllis Gabel and seconded by Ms. Gilmore. The motion passed unanimously.

Agenda Item VI.

Appeal of Mr. Gregory Borg

Ms. Gilmore recused herself from the appeal of Fire Captain Gregory Borg. Mr. Mike Piccolo also recused himself from representing Civil Service during the appeal proceedings and was replaced by Ms. Margaret Harrington from the City Prosecutors' Office.

Ms. Nathaniel Odle, representing the City of Spokane addressed the Commission and provided a background of the disciplinary action taken against Captain Gregory Borg. He stated that approximately two weeks after being promoted on June 13, 2016, Mr. Borg had an assault incident with a citizen while on duty. Criminal charges were filed in response to the assault incident. On June 25, 2016, Captain Borg was placed on paid administrative leave pending the investigation. During this administrative leave, Mr. Borg and the courts came to an agreement known as a Stipulated Order of Continuance or SOC. The SOC laid out specific items that Mr. Borg is required to complete by September 12, 2017 and if all of the stipulated items are adhered to, the assault charge would be dismissed. Mr. Borg returned from leave on October 9, 2016. He was disciplined for the assault with a three day suspension and an extension of his promotional probation until the completion of his Stipulated Order of Continuance. Mr. Borg is appealing the extension of his probation time as well as his failure to receive overtime drafts

while he was on administrative leave, citing that he was being disciplined twice for the same incident when he was denied the ability to work the missed overtime opportunities.

Mr. Craig Hult asked Mr. Odle about standards and past practices with regards to probation extensions. Mr. Odle cited Rule VI, Section 14 of the Civil Service rules that provide for probation extensions.

Fire Chief, Bobby Williams was sworn in by the Chief Examiner. Chief Williams acknowledged that Mr. Borg is a long serving member of the Fire department with an impressive employment record. However, Chief Williams stated that the incident that occurred on June 13, 2016 with Mr. Borg demonstrated poor judgement and questionable leadership ability, and that an assault of any kind on a citizen is unacceptable. A variety of scenarios were considered when determining the disciplinary action. The Fire Chief stated that Mr. Borg's many years of service in the Fire Department and to the community, and his personal situation were all taken into consideration as was his willingness to take a class to address his behavior and he was given only three shifts off without pay. Otherwise he said because of the nature of the violation, this incident would have resulted in termination. He said the probation was extended because of the SOC and the fact that Mr. Borg had only been promoted two weeks before the incident occurred.

Senior Analyst Meghann Steinolfson was sworn in by the Chief Examiner. Ms. Steinolfson addressed the Commission and described her function as advisor to both the Police and Fire departments in all personnel matters. She stated that she was involved throughout the entire disciplinary process pertaining to Mr. Borg. She stated that it was standard practice to place an individual on paid administrative leave when there was an investigation underway. She explained that the employee does not perform regular duties while on administrative leave. She also stated that at no time do they track missed overtime while on administrative leave. Ms. Steinolfson said that the employee is made whole with respect to pay and benefits and that overtime is an assumption and not calculated into back pay. She responded that there is nothing in writing with respect to overtime but that this is standard practice across the City. Ms. Steinolfson also stated that the reason for the extension of the probation was to evaluate whether the Stipulated Order of Continuance was met and responded to the Chief Examiner's question that a suspended discipline until conclusion of the criminal matter was not considered as far as she could recall.

In response to Ms. Gabel's question, Ms. Steinolfson responded that administrative leave time while paid is not regular time and that the employee is on call but not performing the duties of the employee's position.

Chief Williams addressed the Commission and stated in response to the Chief Examiner's question that by extending the probation, they could evaluate whether additional discipline would be necessary and that because the promotion had just begun, they felt that the extension of the probation was appropriate. The Fire Chief additionally asked that the Commission allow Mr. Borg's probation to be extended.

Fire Captain Gregory Borg was sworn in by the Chief Examiner. Mr. Borg apologized for his behavior and for having to come before the Commission. He provided a summary of his exemplary work record of 37 years including meritorious medals received, and having been a trainer and union president during that time. He stated that there were two separate issues he was bringing to the Commission, the first being that he was disciplined twice for the same incident when he was denied the opportunity to work the overtime shifts he missed while he was on paid administrative leave; the second that Civil Service Rules were not followed when his probation was extended beyond the six months normal probationary period and that because the rules were not followed, his probation should be deemed complete as of December 13, 2017. He said he had stated the original probation completion date incorrectly as November 15 in his letter.

Mr. Borg named two other Firefighters who were on paid administrative leave who were allowed to work the overtime that they missed and that there is a defined method to track overtime. He said that all he is asking is for the ability to work that missed overtime and that by not allowing him to do that, that he was being disciplined twice for the same incident in violation of Civil Service Rules. He stated that the administration is not being correct when they say that they do not have a way to track the overtime or that no one is provided the ability to make up their overtime. Mr. Borg responded to questions from the Commission about the overtime list stated that he was entitled to work his overtime

Mr. Borg stated that the extension of his probation should have been made by request of the Chief Examiner and that the procedure provided to extend probation was not followed. Mr. Borg acknowledged in response to Mr. Hult's question that his behavior was not appropriate, however, that the Chief has already made his disciplinary determination and that the issue has to do with his probation being extended by one year, two months and twenty seven days when the promotional probation is only authorized under the rules for six months and the procedure for extension of probation was not followed. He said that the administration had the option as to where to assign him on paid administrative leave and they chose to have him stay at home. Mr. Borg said that he was available to the administration as required and did everything that he was asked to do.

Mr. John Goodman the Local 29 Union President was sworn in by the Chief Examiner. In response to questions, Mr. Goodman provided an explanation of how overtime is calculated and allotted in Telestaff. He explained that one of the employees named was off five shifts and was allowed to make up his overtime. Mr. Goodman stressed that Mr. Borg is requesting only that he be allowed to work the overtime. Ms. George-Hatcher stated that the question needed to be asked as to whether overtime was considered an entitlement and if it was, whether it was disciplinary. Mr. Goodman, in response to questions by Mr. Lindsey explained that signing off on the disciplinary document was to acknowledge receipt and did not signify agreement.

There was additional discussion about the SOC and what occurs when a public employee is charged with a criminal issue.

Chief Williams again addressed the Commission and explained that there was disagreement as to whether overtime was a benefit and that the Fire Department does not consider it to be a benefit. Additionally, when considering discipline, he said overtime was not considered as part of any discipline since it was not seen as a right or benefit. He also stated that it was not their intention to violate the Civil Service rules concerning probation and that they were not aware of the limitation in the rules. He clarified in response to questions that he was making the decision to extend probation because he thought the rules allowed him the flexibility to do that, and because Mr. Borg had only been promoted two weeks prior to the incident. He further stated that if the rules do not allow the flexibility he would be submitting a rule change for consideration.

Additional comments were made by both Mr. Borg, Mr. Goodman and it was also discussed that probation may be extended by a collective bargaining agreement.

A motion to uphold the Appeal of Mr. Greg Borg regarding the extension of his probation time was made by Ms. Gabel and seconded by Mr. Lindsey. The motion carried with Mr. Hult opposing.

A motion to deny the Appeal of Mr. Borg's claim of double discipline was put forth by Ms. Gabel and was seconded by Mr. Lindsey. The motion passed unanimously.

Other Business:

This being Phyllis Gabel's last Commission meeting due to her term expiring at the end of the month, Mr. Hult presented Ms. Gabel with a framed letter signed by the Mayor to thank her for her eight years on the Civil Service Commission. Ms. George-Hatcher also expressed her appreciation for Ms. Gabel's service and contribution to the City and the Commission. She presented Ms. Gabel with a small token of appreciation from the entire Civil Service staff.

There being no additional business to come before the Commission, the meeting was adjourned
at 11:23 a.m.



Gita S. George-Hatcher
Chief Examiner