

**CITY OF SPOKANE  
 CIVIL SERVICE COMMISSION MEETING  
 MINUTES  
 November 21, 2017**

Craig Hult, Chair, called the regular meeting to order at 9:30 a.m. Present were Craig Hult, Judith Gilmore, Pam DeCounter, Mark Lindsey and Scott Stephens.

**Amend Agenda:**

A motion to amend the agenda to remove the classification of SPN 563 - Street Maintenance Operator was put forth by Ms. Pam DeCounter and seconded by Mr. Scott Stephens. The amended agenda passed unanimously.

**Agenda Item I.**

**Approval of Minutes:**

Mr. Craig Hult asked for a motion to adopt the minutes. Ms. Judith Gilmore made the motion and it was seconded by Ms. DeCounter. The motion passed unanimously.

**Agenda Item II.**

**Staff Activities:**

**October:**

Announcements issued:	9	Classifications revised:	4
Examinations:	15	Classifications new/deleted:	4/0
Requisitions received:	19	Requisitions certified:	20
Class Surveys completed:	0	Class Surveys in progress:	6
Requisitions pending:	14	Requisitions canceled:	2
Title Change	3		

Average days from department initiation of request to receipt in Civil Service:	4.8
Average days from requisition receipt to certification:	10.2
Percentage certified within 24 hours:	100%
Average days from department initiation to completion of hire	2.5

Ms. George-Hatcher provided statistics on number of applicants over time. In October there were a total of 440 applicants for all positions. Staff participated in two Police recruiting meetings in October, the STEM job fair at EWU as well as the ACCESS job fair at the Red Lion hotel.

Ms. George-Hatcher also provided an update regarding the 2018 budget that the additional increases in the Civil Service budget for an additional staff member were not approved although the numbers were well within the 1% that the Charter states Civil Service may use. The rationale

provided by Mr. Tim Dunivant for the increases were that Civil Service's budget had increased considerably between 2013 and 2017. The 2013, 2014, and 2015 budgets were created and submitted by the previous Chief Examiner. Ms. George-Hatcher provided information on the accomplishments over the past 4 years and that there was an increase in the 2016 budget, still within the mandated 1% of the classified personnel budget per the City Charter due to one additional hire, staff promotions, implementation of new technology, continuous testing for Police and Fire entry level uniformed positions, contracts to conduct adverse impact analysis, analyze the language of recruitments to ensure inclusivity and non-discrimination, conduct job analyses, item banking and other essential enhancements. She stated that the increase between 2016 and 2017 was only 2.06% and was within the mandated 1% of the classified personnel budget as mandated by the City Charter.

Ms. Crystal Rodgers, Civil Service Office Coordinator was invited to the podium by the Chief Examiner. Ms. Rodgers spoke about the increases in workload and presented a few graphs showing that requisitions were up by 37% since 2013. Ideally, she said, Analysts should have about six tests to work on at a time. At this point, the Analysts' work is double what they should normally have.

Ms. George-Hatcher requested any Analysts who may wish to speak on the matter to comment. Mr. Hult said he understands the budget constraints placed on the department and also understands the work load issues and that the Commission would be discussing the budget issues shortly. Ms. Gilmore reminded the Commission that they had just passed a resolution for the supported employment program that will add additional work to staff (Agenda Item III – Supported Employment Program - was placed ahead of the Staff Report due to the Mayor's schedule).

Ms. George-Hatcher announced to the Commission that she will be retiring in April of 2018.

### **Agenda Item III.**

#### **Supported Employment**

Ms. George-Hatcher introduced the concept of implementing a Supported Employment Program for hiring individuals with significant disabilities. Pursuant to a request from Mayor Condon and the City Administration, Ms. George-Hatcher conducted research into other jurisdictions with supported employment programs and developed a paper with various options for implementation. The Chief Examiner described the options she provided in the paper, that it had been sent out to management and all the bargaining units as well as the Civil Service Diversity Recruitment Committee, and explained how the program could either be adopted within the Civil

System under Rule IV- Examinations and Eligible Lists, Section 15 – Trainee and Apprentice Positions or outside the system with a Charter change.

Ms. George-Hatcher introduced Mayor David Condon to address the Commission about his thoughts on the implementation of a Supported Employment Program. Mayor Condon described his administration's vision for a 21<sup>st</sup> century workforce which includes a diverse labor force with a push to include veterans, women, minorities and those with disabilities. The Supported Employment Program for persons with significant disabilities would identify positions within the City that could be classified under Civil Service and would create jobs for those with intellectual disabilities. Mayor Condon introduced a representative from Skills'kin, Mr. Mark London. Mr. London explained what Skills'kin does to assist those with significant disabilities including helping them with job skills, resume writing and job training. He also described how job coaches can assist when an individual achieves employment with communications between employer and employee and address other work related issues. Mr. Hult asked about the longevity of the job coaches. Mr. London explained that coaches eventually fade out but can stay on with the employee for as long as needed. The cost for the job coach is paid for by the agency working with the individual and not the employer. Ms. Gilmore stated that job coaches seem like a key and asked how the Civil Service process and coaching would work together. Mayor Condon said that he envisioned these positions as City employees with all the benefits and rights of any City employee.

Ms. George-Hatcher clarified to the Commission that they will be voting on either: (1) the Supported Employment Program within the confines of the Civil Service rules, specifically under Rule IV, Section 15 – Trainee/Apprentice program or (2) to have the Supported Employment Program outside of Civil Service which would necessitate changes to the City Charter. This program if adopted under Civil Service would have separate classifications. The Chief Examiner reported that Human Resources is currently in the process of identifying tasks that are not currently being done by already established classifications.

Ms. George-Hatcher commented that there are still many questions that will need to be worked on such as issues pertaining to layoffs, promotions, transferability between the Supported Employment Program and other Civil Service classifications among others. Mayor Condon's desire is that this would not be just a training program but a full employment program. Ms. George-Hatcher explained how the trainee program would enable persons with significant disabilities to enter the Supported Employment Program and after a short period of time, the individuals in the trainee program would be appointed as classified employees subject to all the Civil Service rules. She was of the opinion individuals would be provided with the appropriate type of test designed to determine qualifications which may not necessarily be a written exam and may involve other types of selection measures.

Mr. Scott Stephens asked about support from bargaining units and if the supported employment program hires would be represented. Ms. Christine Cavanaugh, HR Director, stated that most likely they would be Local 270 members and that the union was supportive.

Mayor Condon thanked the Commission for their time and said he hoped that his vision for a 21<sup>st</sup> century workforce would be realized. Mr. Hult asked Mr. Piccolo if there would be any Charter violations if the program was adopted under Civil Service Rules as proposed. Mr. Piccolo responded that there were no legal concerns and that the program adopted within Civil Service Rules would not violate the Charter. He said the rules provide a way for the Supported Employment Program to exist within the confines of Civil Service.

Mr. Hult asked for comments from staff and the audience. Ms. DeCounter asked about other outside organizations besides Skills'kin that the City would be working with and also asked about how this will be paid for. Ms. Cavanaugh stated that for the success of the program, they are working with only Skills'kin for ease and streamlining. Also, there is no funding source for this program but that the experience, integration and things that we can all learn makes this a worthwhile program regardless of the cost. Ms. George-Hatcher said she had also been in touch with Sima Thorpe of ARC and that information on this was also provided to the Civil Service Diversity Recruitment Committee. She also expressed that the program will add to the workload of Civil Service Analysts and another benefit of the request for an additional Analyst for 2018.

Mr. Hult read both resolution options to the Commission.

A motion to adopt the Supported Employment Program through the Civil Service rules was put forth by Ms. Gilmore and was seconded by Mr. Lindsey. The resolution passed unanimously.

#### **Agenda Item IV.**

##### **Class Resolution**

##### **Adopt:**

SPN 154	Public Safety Systems Analyst
SPN 155	Senior Public Safety Systems Analyst
SPN 156	Supervisory Public Safety Systems Analyst
SPN 577	WTE Maintenance Planner

##### **Title Change:**

SPN 174 Buyer I	to	SPN 174 Assistant Procurement Specialist
SPN 176 Buyer II	to	SPN 176 Procurement Specialist

SPN 177 Senior Buyer to SPN 177 Senior Procurement Specialist

A motion to adopt was put forth by Ms. DeCounter and seconded by Ms. Gilmore. The motion passed unanimously.

**Agenda Item V.**

**Voiding of Lists**

A request for the current Permit Technician I and the Senior Project Manager lists to be voided has been brought forth with the concurrence of both labor and management.

There was discussion and clarification provided by the Chief Examiner regarding the situation.

Ms. Kris Becker Development Service Manager addressed the Commission, provided input and responded to questions.

A motion to void the current Permit Technician I and Senior Project Manager List was put forth by Ms. Gilmore and seconded by Mr. Lindsey. The motion carried unanimously.

**Agenda Item VI.**

**Administrative Complaint**

An administrative complaint has been brought forth by Mr. Tim Dunivant in response to the decision made by the Chief Examiner. Ms. Gita George-Hatcher, the Chief Examiner determined that Ms. Kimberly Bustos who was terminated from her non-classified position as Director of Accounting had reinstatement rights to her classified position of Division Accountant from which she was granted an indefinite leave of absence by the Civil Service Commission. Additionally, the Chief Examiner determined that Ms. Bustos also had bumping rights for the Division Accountant position, over someone with less seniority than her.

The summary of Mr. Dunivant's complaint is that civil Service Rules do not distinguish between voluntary and involuntary separations and therefore there should be no difference as to bumping rights; that Ms. Bustos should not be provided reinstatement rights after five years of having left the classified service; and that the rights provided to exempt employees returning to the classified service are greater than those provided to classified employees who move from one classified position to another.

Ms. George-Hatcher provided a background of the complaint and that the decision before the Commission was to determine whether the Chief Examiner's interpretation and application of Article IV, Section 24 of the Spokane City Charter and Rule X Section 4 (f) of the Civil Service Rules in the case of the reinstatement rights of Ms. Kimberly Bustos who was on an approved indefinite

level of absence were interpreted and applied correctly, consistent with past practice as well as with guidance and interpretation by past Chief Examiners.

Mr. Michael Piccolo responded with respect to process, that the Chief Examiner would proceed first and then the City would present its case with witnesses being sworn in.

The Chief Examiner, Ms. George-Hatcher provided a historical account of Ms. Bustos' initial hire as Division Accountant on 9/2/2008, her subsequent request for an indefinite leave of absence effective 7/9/2012 to accept the non-classified/exempt position of Chief Accountant and then later, another exempt position of Director of Accounting. The Chief Examiner provided information and documentation pertaining to notification received regarding the separation of Ms. Bustos from her non-classified/exempt position and her response to Mr. Dunivant. The Chief Examiner also provided recent and detailed examples of others who had been on approved leaves of absences and returned to their positions. She provided the example of Ms. Karen Stratton who returned to her classified position, bumping a less senior employee in the classification from which she received approval for an indefinite leave of absence. The Chief Examiner also provided the example of Mr. Mark Serbousek who was on an approved indefinite leave of absence and returned after 24 years. Mr. Serbousek was placed on layoff from the classified position he had occupied at the time of approval for an indefinite leave of absence as that position no longer existed in the department. Mr. Serbousek demoted in lieu of layoff and remains on the layoff register for his previous classification of Principal Engineer despite having accepted another position since then.

The Chief Examiner provided information on her decision making in this case and that she reviewed the language of the Charter, the Civil Service Rule, and documentation of the guidance provided by the previous two Chief Examiners, Mr. Glenn Kibbey and Mr. Denny Desmarais with Mr. Desmarais' guidance occurring even before the language of the Charter was included in the Rule Book in 2008 and which remains consistent with the historic application of the Charter language and Rule X, Section 4(f).

Further, the Chief Examiner pointed out that the termination letter provided to Ms. Bustos on September 29, 2017 signed by City Administrator Theresa Sanders contained language informing Ms. Bustos that she may have bumping rights and to contact Civil Service concerning the same. The letter also stated that if Ms. Bustos did not have bumping rights, that her employment would end on October 13, 2017.

The Chief Examiner also responded to other concerns in Mr. Dunivant's complaint including Mr. Dunivant's opinion that the bumping rights should be the same whether the separation was voluntary or involuntary, that exempt employees should not have greater rights than classified



employees with respect to returning to the classified service and that classified promotional rules be applied to exempt employees.

Mr. Nathaniel Odle from the City Attorney's Office addressed the Commission and stated that he was representing the City and Mr. Dunivant. Mr. Odle provided a summary of the complaint and also gave a history of Ms. Bustos' employment and termination. He stated that Ms. Bustos was terminated "for cause." Mr. Odle stated that Mr. Serbousek voluntarily demoted and that Ms. Stratton was terminated because Mayor Verner was leaving office and the new Mayor replaced her with his staff. Mr. Odle stated that because classified employees terminated for cause are not allowed to return to their classified positions that exempt employees terminated for cause should also not be allowed to return to their classified positions.

Mr. Odle summarized the document explaining reinstatement from indefinite leaves of absence and opined that exempt employees who are separated either due to "removal" by the Mayor or due to deletion of the position due to reorganization either should be treated as though they were being laid off because of the explanation provided in scenarios 1 and 2.

Mr. Tim Dunivant was sworn in and he addressed the Commission. He said he doesn't have anything to add to Mr. Odle's presentation. He stated he agrees with Mr. Desmarais' language that the rules do not provide any greater or lesser rights; that the indefinite leave of absence is for the purpose of ensuring that there is no break in service and neither adds nor subtracts rights. He stated that he has struggled to understand why an employee who voluntarily demotes for personal reasons has less rights than someone who is terminated for cause.

Ms. Bustos was sworn in and addressed the Commission. Ms. Bustos stated that at a meeting she had with Mr. Tim Dunivant, on 9/29/2017. Mr. Dunivant suggested that she contact Civil Service as well, consistent with bumping rights language in the termination letter. Additionally, Ms. Bustos read from an email she had sent Mr. Dunivant after the termination regarding some staffing ideas. She read the email response from Mr. Dunivant thanking her and letting her know that he thought she could be an asset to the City, that there were pressing needs in some departments where she could add significant value. She said this was contrary to the statement that she was terminated for cause. Ms. Bustos also stated that she is a CPA in good standing that her entire career has been in the public service and that in the nine years she has been at the City she received one evaluation, she has never been under any Work Improvement Plan, has never been reprimanded for anything or other discipline in her file.

Ms. George- Hatcher provided clarification that the reinstatement rights provided to Mr. Serbousek on his termination were consistent with that provided to Ms. Bustos and past practice.

The Chief Examiner also clarified how the rules address voluntary demotions. There is no requirement for any hiring official to hire someone from a voluntary demotion list and no bumping rights are provided whether voluntarily demoting from a classified position or from an exempt position.

Mr. Lindsey requested that the Human Resources Director address that Commission as Rule X requires the Human Resources Director Ms. Christine Cavanaugh to advise the Commission on all leaves of absence. Ms. Cavanaugh addressed the Commission. She said she drafted the letter for the Mayor's signature and in this case the City Administrator as the designee of the Mayor and said that as she crafted that letter she did not anticipate that it would be interpreted in the manner than it was with respect to bump back rights as the termination was for cause. Ms. Cavanaugh stated that she did not state that the letter was for cause as this is not required in an exempt position and that she did not want to harm Ms. Bustos' chance for other employment.

Additional clarification was provided by both Ms. Cavanaugh and Ms. George-Hatcher as well as additional comments and questions by members of the Commission.

Mr. Dunivant again addressed the Commission at the request of Mr. Craig Hult. Mr. Hult asked why there was not more than one performance review in nine years. Mr. Dunivant stated that frequent feedback is provided and that he was not the supervisor for the entire period. He said he had expressed concerns to her verbally that were not placed in her file.

Ms. Gilmore stressed that if there are problems with employees, that they should be documented always. She stated that under Rule X, Section 4 (f) an employee on an indefinite leave is able to return and that an indefinite leave is indefinite. Additionally she said during the lengthy rule review process and the study sessions with the Commission, nothing was brought up regarding Rule X, Section 4 (f).

A motion to deny the complaint from Mr. Dunivant was put forth by Mr. Lindsey and seconded by Mr. Scott Stephens. Mr. Stephens made a comment that he has had experience with indefinite leaves and that the purpose of this is to encourage current City employees to apply for and serve in appointed positions. Mr. Stephens expressed that without some sort of mechanism to return to the classified service, there would be no incentive for the employee and no opportunity to retain a good employee. The motion passed with one dissenting vote, thereby denying Mr. Dunivant's complaint and upholding the Chief Examiner's decision.



**Agenda Item VII.**

**Request for Investigation**

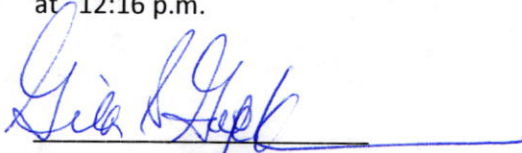
Local 270 had requested a review of a matter brought forth by a Local 270 member. This issue has since been resolved and per Local 270, has been removed from the agenda.

The Commission went into executive session at 11:54 a.m. and returned at 12:15 p.m.

**Agenda Item VIII.**

**Other Business**

There being no additional business to come before the Commission, the meeting was adjourned at 12:16 p.m.



Gita S. George-Hatcher  
Chief Examiner