

**CITY OF SPOKANE  
CIVIL SERVICE COMMISSION MEETING  
MINUTES  
December 19, 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 was put forth by Ms. Pam DeCounter and seconded by Mr. Scott Stephens to amend the agenda to add new Agenda Item VII – Election of Officers before the existing Agenda Item VII – Other Business.

**Agenda Item I.**

**Approval of Minutes:**

Mr. Craig Hult introduced the minutes from the regular meeting of November 21, 2017. A change from “Ms.” to “Mr.” was noted by Mr. Mark Lindsey. A motion to adopt with the recommended change was put forth by Ms. Gilmore and seconded by Ms. DeCounter. The motion passed unanimously.

**Agenda Item II.**

**Staff Activities:**

**November:**

Announcements issued:	5	Classifications revised:	5
Examinations:	57	Classifications new/deleted:	1/0
Requisitions received:	35	Requisitions certified:	31
Class Surveys completed:	0	Class Surveys in progress:	18
Requisitions pending no list:	11	Requisitions canceled:	15

Average days from department initiation of request to receipt in Civil Service:	4.3
Average days from requisition receipt to certification:	0.5
Percentage certified within 24 hours:	100%
Average days from department initiation to completion of hire:	0.7
(Excluding public safety, promotional and reclassifications)	

Ms. George-Hatcher reported on the monthly department statistics and provided explanations. She reported that there were a few typographical errors in the new rule book which were identified and provided to the Rule Review Committee and to the Commission. These will be corrected and the correct version placed on the website as well as printed.

**Agenda Item III.****Classification Resolution:**

SPN 537 - Title Change and Specification Revision to Facility Logistics Specialist from Warehouse and Yards Foreperson with no change to the SPN number.

Ms. DeCounter moved to adopt the classification resolution which was seconded by Mr. Scott Stephens and passed unanimously.

**Agenda Item IV.****Findings of Fact:**

Ms. Gilmore moved to approve the written Findings of Fact in the Administrative Complaint brought about by Mr. Tim Dunivant which was denied by the Commission by a 4-1 vote on November 21, 2017 thereby upholding the Chief Examiner's decision. The motion was seconded by Mr. Mark Lindsey and passed unanimously.

**Agenda Item V.****PAR Update:**

Reports to the Commission on the status of the work being conducted pertaining to electronic performance appraisal reports were provided by Human Resources in February 2015, January 2016 and August 2016. Ms. Chris Cavanaugh, Human Resources Director addressed the Commission about the current status of the electronic PAR's. She stated that the plan was to work with Local 270 and the M&P Association in the first quarter of 2018 as there had been some difficulties with respect to how the points that were being assigned. Ms. Cavanaugh stated that paper forms are still being utilized and they are working closely with each of the non-uniformed bargaining units to more closely meet the needs of each bargaining unit.

As soon as agreement is reached on the electronic PAR's it will be provided to the Commission for adoption before being used, per Civil Service Rule VI, Section 9.

**Agenda Item VI.****Administrative Complaint**

An administrative complaint was made by Mr. Jonathan Mallahan regarding a determination made by the Chief Examiner regarding the interpretation and application of Civil Service Rule V – Appointment and Probation, Section 5 – Senior Administrative Assistants.

The Chief Examiner provided the background for the complaint. A vacancy for Administrative Specialist occurred in the Business and Developer Services department under the division of Neighborhood and Business Services, headed by Mr. Jonathan Mallahan. On August 25, 2017, Civil

Service certified to the department, the name of Ms. Jacqueline Faught who was on layoff for the classification from a different department, along with the names of those on the transfer/voluntary demotion list per Civil Service Rule V – Appointment and Probation, Section 3 – Certification. Ms. Jennifer Saxon, HR Analyst, was included in the explanation of this process to the department at the outset. As no selection was made, the Chief Examiner withdrew the certification on 10/11/2017 per the rules.

On November 13, Mr. Mallahan again requested clarification as to why the entire list including the names of those on the open register for Administrative Specialist could not be provided as the rule states that in classifications such as this one that are designated as “Senior Administrative Assistants” per Rule V, Section 5 – Senior Administrative Assistants, “all candidates who attain a passing score on the examination shall be certified for the vacancy in order of their final score and without regard to promotional preference.”

The Chief Examiner provided information that Rule V, Section 3 provides for the order in which names are to be certified and that no exceptions are provided in the rule. Names from the layoff register of those laid off from the department in which the vacancy occurs are provided first and names from the layoff register of those laid off from a different department than the one in which the vacancy occurs, second, along with the names of those on the transfer and voluntary demotion lists. Ms. Faught’s name was certified along with the names of those on the voluntary demotion and transfer lists. Ms. George-Hatcher explained per the rules that persons on the layoff register are given preference above all other as provided in Rule IX - Layoff, Section 3 – Reinstatement and the procedure is provided in Rule IX, Section 4.

The Chief Examiner’s determination was that when the open and promotional lists are next in order to be certified per Rule V, Section 3 – Certification, if the classification is designated under Section 5, as “Senior Administrative Assistant,” all the names on both the open and promotional lists are required to be certified rather than the top 10 for open entry positions or the top number required by collective bargaining agreements for promotions. Mr. Mallahan contends that the statement in Rule V, Section 5 that the selection for Senior Administrative Assistant designated positions “*shall be governed by the certification and appointment procedures outlined herein irrespective of any other certification and appointment procedures provided in these rules*” would permit the provision of all names on all the registers to be considered for selection.

The Chief Examiner explained that there are no exceptions provided either in Rule V, Section 3 or in Rules IX, Section 3 or 4 with respect to eliminating the required preference for laid off persons or for the order in which the various lists are to be certified. Ms. George-Hatcher also explained that in making this decision as with all decisions, she reviewed the requisition, the rules, past practice and recent Commission decisions the past decisions before making a decision.

Layoff names get preference in all certification and hiring situations. Layoffs are due to budgetary reasons, and not due to any fault on the part of the individual employee/s. The Chief Examiner provided examples of issues brought to the Commission in February and March of 2015 which demonstrated the strength of past practice regarding the application of the rules when names are certified from the layoff list to departments other than the ones they were laid off from. In these cases also, the laid off names were the only ones submitted in addition to any names provided on the transfer and voluntary demotion lists. Open and promotional lists were not provided until the laid off persons were hired. The reason the issue came before the Commission in 2015 was because these individuals were laid off while they were under Work Improvement Plans which restricted them from operating City equipment and vehicles. This made them unqualified for the positions into which their names were being certified. At that time, the Chief Examiner provided the Commission with information that out of 88 layoff certifications going as far back as records were available, in 86 cases, the layoff names were the only ones certified in addition to any names that may have been on the transfers and voluntary demotions lists. In the other two cases, the employees had left the City and no records were available.

The Commission directed the Chief Examiner to go ahead and make a determination on the provision of names if individuals were unqualified to perform the essential functions of their jobs, and allow appeal rights. The Commission also directed that the layoff rule be discussed at Rule Review. Ms. George-Hatcher stated that all the rules were discussed at Rule Review and there was no interest in revising or updating the rules regarding layoff.

Senior Analyst, Bryan Sullivan was sworn in and addressed the Commission. He also provided an explanation of the rule and stated that there are currently 22 classifications designated as Senior Administrative Assistants and 43 employees in Senior Administrative Assistant designated positions at the City. If the decision is to allow all names to be submitted, then it would be problematic for these 43 employees to be reinstated if they were laid off and may be a recruitment issue in the future. Mr. Sullivan also stated that both Rule V, Section 5 regarding Senior Administrative Assistants and Rule IX regarding Layoffs provide absolutes which can appear to be in conflict with one another and recommended that the rule review committee be directed to address the issue. Mr. Hult, asked about how senior administrative assistant rule even came about and Ms. George-Hatcher and Mr. Sullivan responded that the purpose was to allow greater discretion to management in the selection, when the open entry and /or promotional lists are certified, and all the names on both the open entry and promotional lists are provided.

Ms. George-Hatcher also explained that when a laid off individual is hired in a department other than the one from which they were laid off, Civil Service rules provide a six-month probationary period.

Ms. Gilmore asked regarding the letter from Mr. Mallahan. Mr. Mallahan was sworn in and addressed the Commission and explained his position. Ms. Chris Cavanaugh, Human Resources Director was also sworn in and addressed the Commission. She stated that she agreed with Mr. Mallahan's position that Rule V, Section 5 supersedes all the other rules when it comes to Senior Administrative Assistants and that this situation is rare.

Ms. Gilmore commented that job descriptions would be different from department to department and wondered how a person could be automatically qualified to take up a job in another department when the requirements might be different. The Chief Examiner provided an explanation of classification specifications as opposed to job descriptions and stated that classification specifications have essential job functions and minimum requirements that are utilized to recruit for that specific classification regardless of which department has need for it. The variations from department to department may pertain to minor issues such as clientele or software programs and does not make a person from another department who has been in that classification unqualified for the same classification in another department. This is the reason for the six-month probationary period when reinstatement is to another department.

M&P President, Dave Kokot came to the podium and spoke in support the Chief Examiner's decision to only certify the laid off person's name to the department

Ms. George-Hatcher stated that she has not deviated from past practice by previous Chief Examiners and Mr. Hult commented that perhaps the other Chief Examiners were wrong.

Ms. George- Hatcher reiterated that there is a six-month probationary period when persons are reinstated into a department other than the one they were laid off from in order to facilitate the reinstatement of persons on the layoff register as well as to provide the ability for appointing officials to remove those who were not able to perform the requirements of the position. There was much discussion regarding what happens if someone fails probation with questions from Ms. DeCounter and Ms. Gilmore. Mr. Sullivan explained that if the person fails their six-month probation, they do not go back on the layoff list for that classification. Mr. Hult commented that it appears the system makes it difficult to get rid of an employee.

Mr. Joe Cavanaugh, President of Local 270 was sworn in and addressed the Commission. He said that the previous Chief Examiner and he had had an informal conversation that was not documented regarding a different opinion that Mr. Glenn Kibbey had about the reinstatement of persons from another department but acknowledged that the practice had not changed.

Mr. Mallahan again addressed the Commission and stated that in Senior Administrative Assistant designated classifications, it would be important for the appointing official to be able to select the best candidate as these positions have greater responsibility and authority and report directly to the Department Head.

Ms. George-Hatcher clarified that making a decision other than what has been past practice in this area for those on layoff from another department in Senior Administrative Assistant designated classifications would have the effect of removing the rights of a certain group of non-probationary employees who have ownership rights under Civil Service Rules to the classifications they were laid off from.

Ms. Chris Cavanaugh again addressed the Commission and supported the position of Mr. Mallahan. She said that the sentence in Rule V, Section 5 stating, *"These procedures shall not change the grading or scoring methods as established elsewhere in these rules"* as supporting her position that an exception is provided in the rules for Senior Administrative Assistants.

A motion to uphold Mr. Mallahan's complaint was put forth by Ms. DeCounter and seconded by Ms. Gilmore. The motion passed with a three to two vote with Ms. Gilmore, Ms. DeCounter and Mr. Hult voting in the affirmative and Mr. Stephens and Mr. Lindsey voted in the negative.

Mr. Cavanaugh addressed the Commission again and confirmed that the decision relates to Senior Administrative Assistant designated classifications when the certification is to a department other than the one they were hired from.

**New Agenda Item VII.  
Election of Officers for 2018**

A nomination for Mr. Lindsey to become Chair was put forth by Ms. Gilmore. A nomination for Ms. Gilmore to become the vice-chair was put forth by Ms. DeCounter.

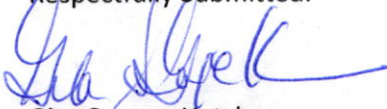
A motion for Mr. Lindsey as Chair and Ms. Gilmore as Vice Chair as put forth by Ms. DeCounter and seconded by Mr. Stephens. It passed unanimously.

**Agenda Item VIII (previously Agenda item VII).  
Other Business:**

There being no additional business to come before the Commission, the meeting was adjourned at 10:58 am.

PLEASE NOTE: The dictation software was not working and therefore these minutes were prepared from notes and memory due to the lack of dictation.

Respectfully Submitted.

A handwritten signature in blue ink, appearing to read 'Gita George-Hatcher', with a stylized flourish extending to the right.

Gita George-Hatcher  
Chief Examiner