



CIVIL SERVICE COMMISSION

Meeting Report

April 1, 2010

ROLL CALL

PRESENT: Vice Chair Fitch, Commission Members Busse, Côté, and Soulé

ABSENT: Chair Brill

STAFF: Senior Deputy City Attorney Vera Todorov, Assistant City Clerk Dennis Hawkins, Deputy City Clerk Michelle Radcliffe, and Deputy City Clerk Ruth Krantz

ORDERS OF THE DAY

By motion unanimously adopted, the Orders of the Day were approved.

CONSENT CALENDAR

By motion unanimously adopted, the Consent Calendar was approved.

1. Information Only
 - a. Hiring Summary – Memorandum from Human Resources dated March 23, 2010, listing complaints about hiring issues and a summary of hiring activity for the period June 28, 2009, through March 20, 2010, was filed.
2. The following minutes were approved:
 - a. March 4, 2010
 - b. March 11, 2010

END OF CONSENT CALENDAR

3. The following hearings were scheduled:

- a. The appeal of the dismissal of Grant Siebert, Fire Engineer (2312) was scheduled for June 7, 2010, and June 10, 2010, at 6:00 p.m. (Fabela/Jensen)

Senior Deputy City Attorney Rob Fabela, appearing on behalf of the City, and Daniel Jensen, appearing on behalf of the appellant, were present. The parties requested to have the hearing scheduled for May 6, 2010 to be taken off calendar due to workload issues. Presiding Officer Côté advised that both parties participate in a pre-hearing conference with her one week prior to the hearing, be prepared to discuss issues, witnesses and have already exchanged documents.

- b. The appeal of dismissal of Ernest Austin, Firefighter (2311) was scheduled for for July 12, 2010, and July 13, 2010, at 6:00 p.m. (Winchester/Sekany)

Senior Deputy City Attorney Colleen Winchester, appearing on behalf of the City, and Amy Sekany, appearing on behalf of the appellant, were present. Presiding Officer Côté advised that both parties participate in a pre-hearing conference with her one week prior to the hearing, be prepared to discuss issues, witnesses and have already exchanged documents.

- c. The appeal of Police Officer Discipline, Case No. 10-09 was taken off calendar. (Hopper/Peterson)

Senior Deputy City Attorney Brian Hopper, appearing on behalf of the City, was present. Mr. Hopper stated that the appellant had decided to proceed to binding arbitration.

- d. The appeal of dismissal of Tommy Nelson, Maintenance Worker I (3113) was scheduled for May 6, 2010 at 6:00 p.m. (Nishigaya/Pope)

Senior Deputy City Attorney Brian Hopper, appearing on behalf of the City, and Bill Pope, appearing on behalf of the appellant, were present. Presiding Officer Côté advised that both parties participate in a pre-hearing conference with her one week prior to the hearing, be prepared to discuss issues, witnesses and have already exchanged documents.

4. Continue discussion and consideration of setting limits to amount of days hearings are set (Continued from February 4, 2010)

Commission Legal Counsel Vera Todorov stated that a draft order has been created but was not distributed in accordance of the open government regulations for the Commission to consider. She asked that the Commission defer this item in order to have the order reviewed by the Commission.

OPEN FORUM

There was none.

ADJOURNED Assistant City Clerk, Dennis Hawkins, announced that Deputy Secretary Michelle Radcliffe will be leaving the City of San José to take on a challenging new position as a District Clerk with the Midpeninsula Regional Open Space District. He commended Michelle for her dedicated and superior service to the Civil Service Commission and wished her success in her new endeavors. The Commission adjourned at 4:13 p.m. to May 6, 2010, at 4:00 p.m.

JON FITCH, VICE CHAIR (PRESIDING)

ATTEST:
CIVIL SERVICE COMMISSION
LEE PRICE, MMC, SECRETARY

Ruth Krantz, Deputy Secretary

EJC:VMT
04/01/2010

REVISED

**STANDING ORDER FOR CIVIL SERVICE COMMISSION DISCIPLINARY ACTION
PRE-HEARING TELEPHONE CONFERENCE**

A pre-hearing telephone conference is required to be held with Emily J. Cote, Civil Service Commission Hearing Presiding Officer at least ten (10) days prior to the date of the scheduled disciplinary appeal hearing.

The representative for the City is responsible for timely scheduling and initiating the telephone conference. It is the responsibility of the Appellant or Appellant's representative to provide a valid contact number to the City representative. ~~Commissioner~~ Presiding Officer Cote can be reached at (408) 824-4889.

The Appellant or the Appellant's representative and the City Attorney or Employee Relations representative assigned to the case are required to participate and should be fully prepared at the time of the telephone conference to discuss all relevant case issues.

The purpose of the pre-hearing telephone conference is to identify and resolve any discovery or evidentiary issues and to appropriately streamline presentation of the case at the hearing. The following timelines apply unless otherwise agreed to by the presiding officer and the participants.

An initial exchange of Exhibit and Witness lists should take place between the participants at least five (5) working days before the date scheduled for the pre-hearing telephone conference. No later than five (5) working days before the date scheduled for the pre-hearing conference, the participants should also discuss and agree upon any statement of stipulated facts to be presented to the Commission and agree upon any joint exhibits to be presented to the Commission with the hearing agenda and packet.

Any objections to the Exhibit or Witness lists should be exchanged in writing between the participants no later than three (3) working days before the date scheduled for the pre-hearing telephone conference. As many issues as possible should be worked out between the participants prior to the telephone conference.

At least 24 hours prior to the time scheduled for the pre-hearing telephone conference, each participant must submit their list of proposed Exhibits and Witnesses, any joint statement of stipulated facts, and all joint exhibits agreed upon by the participants, to the Hearing Presiding Officer by email at emilyjcote@gmail.com.

During the pre-hearing telephone conference, the participants must be prepared to discuss:

- 1) The basic theory of their case or defense.
- 2) What evidence they will be introducing and why.
- 3) What witnesses they will call and why.
- 4) Any evidentiary disputes.
- 5) Any disputes as to number or type of witnesses.
- 6) Each party's time estimate for their presentation at the hearing.

67) Any other anticipated issues or special circumstances.

Participants are cautioned to consider the matters to be discussed at the pre-hearing conference very seriously, and to be fully prepared to discuss the items listed above with the Presiding Officer at the pre-hearing telephone conference. It is the responsibility of the Appellant, whether appearing before the Presiding Officer and the Commission through a representative or on his or her own behalf, to comply with this Standing Order and all other rules relating to the conduct of the hearing before the Commission.

At the pre-hearing conference, the Presiding Officer shall determine the total amount of time required for the hearing based upon the reasonable representations of the participants, and shall specify the time allotted for the hearing in the Presiding Officer's order. Factors affecting the Presiding Officer's allotment of time for the hearing include, but are not limited to, the number of charges against the Appellant, the complexity of the charges, the number and complexity of exhibits, the amount of evidence stipulated to by the participants, the number of witnesses and estimated length of testimony, and the severity of the disciplinary charges.

The amount of time specified for the hearing may not be exceeded by the participants absent a showing of good cause, which may include, but not be limited to, unanticipated evidence, evasive or particularly difficult witnesses examination or cross examination, and similar unanticipated or unforeseen events. The amount of time allocated and used by the participants for direct and cross examination of witnesses may be tracked by the Clerk of the Commission.

The final lists and documents, stipulated facts, and joint exhibits, must be exchanged and provided to ~~Michelle Radeliffe of the Clerk of the Board Office~~ the City Clerk's Office, clearly identifying that the submittals are for the Civil Service Commission, identifying the hearing by title, and specifying the relevant hearing date(s), ~~at least no later than seven (7) days~~ before the scheduled hearing so that there is adequate time for City staff to prepare the packets for the Commissioners.

Dated: _____

EMILY COTE
Presiding Officer