

Minutes of a Regular Meeting of the
Civil Service Commission of January 12, 2006

**MINUTES OF A
REGULAR MEETING OF THE
CIVIL SERVICE COMMISSION
Coronado City Hall
1825 Strand Way
Coronado, CA 92118
Thursday, January 12, 2006**

CALL TO ORDER

The meeting of the Civil Service Commission convened at 5:35 p.m., January 12, 2006, in the Council Chamber at City Hall. Chair Bella instructed the Secretary to call the roll.

I. ROLL CALL

Present: Chair Bella
Vice Chair Walker
Commissioner Jensen
Commissioner Lusitana

Let the record reflect all members of the Commission were present.

Also Present: Leslie Suelter, Director of Administrative Services
Jim Lynch, Human Resources Manager
Fran Espinosa, Secretary
Morgan Foley, City Attorney

II. ORAL COMMUNICATIONS: None.

III. APPROVAL OF MINUTES: Minutes for January 13, 2005, February 2, 2005 and March 23, 2005 and April 14, 2005 were submitted.

The minutes of the special meeting of January 13, 2005, adjourned regular meeting of February 2, 2005, adjourned regular meeting of March 23, 2005 and regular meeting of April 14, 2005 were approved as amended. Minutes were approved by unanimous vote with Commissioner Jensen abstaining.

IV. WRITTEN COMMUNICATIONS: None

V. INFORMATIONAL ITEMS:

1. Jim Lynch, Human Resources Manager, updated the Commission on the current Personnel Recruitment Schedule.
2. Jim Lynch, Human Resources Manager, updated the Commission on the Status of Eligibility Lists.
3. Jim Lynch, Human Resources Manager, presented the Commission with the 2006 Meeting Schedule.
4. Jim Lynch, Human Resources Manager, stated this proposed rule change results from a disciplinary hearing, back in the spring of 2005. It involved a police employee and one of the issues was that Civil Service Rule VIII, §8, as it currently is stated says, basically you have to have a hearing within ten days of the filing of an appeal. During the disciplinary appeal process, there were several postponements of the appeal hearing. One was unavailability of a suitable room; another was the unavailability of counsel; and, there was one time the hearing was delayed because the counsel for the employee had a death/illness in the family and was not able to attend. The postponements definitely exceeded the ten day period. However, all of the postponements were mutually agreed upon by the parties and neither party raised the issue during the hearing.

One former Commissioner indicated that he thought that rather than extending the time beyond what the rules say, staff should develop a rule that addresses this issue. That is what we've tried to do with this proposed rule change. In other words, if staff seeks to extend the hearing date beyond ten days, it can be mutually agreed upon by the parties up to an additional thirty days. Beyond that time, staff would have to convene a meeting of the commission and obtain approval.

Commissioner Walker expressed concern that if the matter was brought before the Commission to determine if an additional postponement was appropriate the parties might have to reveal too much substance of their respective cases. Attorney Foley acknowledged this concern but indicated that staff could merely explain to the Commission that the parties will be unable to meet the thirty day deadline and would like an extension to a mutually agreeable date on which the Commissioners and parties could agree. Commissioner Walker asked that Attorney Foley's statement be reflected in the minutes.

Commissioner Lusitana suggested and Attorney Foley agreed that the revised rule should include a provision that prohibited the Commission from reviewing the substance of the matter during its review of the propriety of an extension.

Mr. Lynch then reminded the Commission that staff was seeking direction from the Commission and that this item was informational only. Any proposed rule change would have to be negotiated with the respective unions. He indicated that this should not pose a problem in that the new rule would require that both parties would have to agree to any extension.

Commissioner Jensen stated that his experience at the State would lead him to believe that ten days was an extremely short time to hold an appeal hearing. He also suggested that rather than enumerate the possible reasons for an extension as is currently suggested in the proposed rule change, a generic statement that the ten day limit could be extended by mutual agreement of the parties and any extension beyond thirty days must be approved by the Commission.

Mr. Lynch clarified that the reason that specific criteria were mentioned in the proposed rule is that this was the apparent request of the former Commissioner. Mr. Lynch indicated that he had no reason to oppose the more generic language.

Commissioner Lusitana recalled that the former Commissioner had expressed concerns that without specific criteria, the attorneys and staff may indefinitely extend the hearing date. Commissioner Walker agreed and suggested that rather than using a ten day initial deadline, the new rule simply allow the appeal hearing to commence within thirty days. Attorney Foley cautioned that because an employee's property right - income from his job - was involved, creating a rule that allows thirty days might be susceptible to a legal challenge. Attorney Foley stated that it is typical for Personnel or Civil Service Rules to specify an initial deadline of ten days to hold the hearing.

Commissioner Lusitana stated that he still supported the idea of listing criteria under which extensions beyond thirty days may be approved by the Commission. Chair Bella added that she was concerned that if you list some criteria, a situation might arise that does not easily fit the stated criteria. This might result in problems. Mr. Lynch added that the language "...in furtherance of justice ..." in proposed subsection (d) was intended as "catchall" to address this concern.

Commissioner Walker suggested, and Commissioners Lusitana and Bella concurred, that a period be added after the word "employee" in the first paragraph of the proposed language. Language then could be added that would use the four criteria for the Commission's determination as to whether to extend the date beyond thirty days.

Attorney Foley requested clarification by stating that: "what we would do... is take, as part of the meet and confer process, this policy with the changes that at the end of that underscored portion of the first paragraph, and the end of employee there would be a period. Then it would read: "Any extension of more than thirty days from the filing of the appeal or the scheduling of the hearing, whichever is later, shall be approved by the Commission, based on one or more of the following reasons: then we'll put a, b, c, and d." To finalize everything, there would be language added - something like "No information regarding the specifics of the allegations which is the subject of the discipline shall be disclosed to the Commission. Commissioners Lusitana, Bella and Walker confirmed that this was their intent.

Leslie Suelter, Director of Administrative Services asked whether this provision covers only situations in which the parties mutually agree to extend the deadline. Mr. Lynch indicated that this was the intent of the proposed language.

Attorney Foley added that it needs to be stated that “any extension requested by either or both parties, of more than thirty days, either mutual or not mutual, and if its not mutual, the Commission will decide if you think in the interest of justice, your going to grant the extension.”

Commissioner Walker confirmed his understanding that “there will be a hearing within ten days, unless both parties mutually agree to extend that up to thirty days. And then, if there’s going to be an extension greater than thirty working days from the date of filing the appeal, we would meet and agree either to extend or not extend for whatever reasons are presented.

Attorney Foley added that the provision really ought to have some criteria on how you’re going to decide whether the Commission was going to grant an extension especially when there is no mutual consent of the both parties. Commissioner Jensen again noted that using a simple statement such as “in the furtherance of justice” might be more practical.

In response, Attorney Foley stated that maybe we should take that “Any extension ...” language and change it to “Any party may request ... (because there may be more than one party), an extension of more than thirty working days from the filing etc....” and then “whichever is later”... say “if approved by the Commission based for any of the following reasons.”

Commissioner Bella noted that using the four criteria also emphasizes that the Commission is looking at scheduling issues, and that it is not interested in the facts of the case. It emphasizes that the issue is scheduling.

Mr. Lynch stated that staff will modify the language as proposed and meet and confer with the respective unions. The matter will be returned to the Commission sometime in the future for its approval.

VI. ACTION ITEMS:

1. Request to Approve Police Commander Classification Specifications

Jim Lynch, Human Resources Manager stated that this item was a result of a reorganization of the Police Department. The current structure is with a Police Chief, Police Captain. two Lieutenants, and several Sergeants and Police Officers. The item was presented to the City Council in December 2005, in which they approved the concept of a Police Chief, three Commanders, Sergeants and Police Officers subject to the approval of the class specification.

Mr. Lynch introduced Paul Crook, Police Chief, who stated prior to his promotion to Chief, the communication level within the organization suffered in that the staff was reporting to the Police Captain, who eventually would report to the Police Chief. As newly-appointed Chief, he has had an opportunity to look at the organization and believes that this new structure, will improve the communication levels within the department and the community. The two Lieutenants were in charge of a division and would rotate divisions every couple of years. They never had an opportunity to work at the Police Captain level. By creating this reclassification, it will add a third division in which they will have the opportunity to be involved with the budget, personnel issues, and investigations.

After brief discussion, Vice Chair Walker moved for approval of Police Commander classification specifications. Commissioner Jensen seconded the motion. The motion was approved by unanimous vote.

VI. OTHER BUSINESS:

VII. ADJOURNMENT: Commissioner Lusitana asked about status of the vacant Commissioner's position. Jim Lynch, Human Resources Manager stated the City has advertised in the local newspaper for several months. Leslie Suelter, Director of Administrative Services, stated that she has talked to other members of the City's Executive Team, to help with recruiting a fifth Commissioner.

VIII. ADJOURNMENT:

Vice-Chair Walker moved for adjournment. Seconded by Commissioner Jensen. The motion passed unanimously. The Civil Service Commission meeting adjourned at 6:18 p.m.

LAURIANNE BELLA
CHAIR
CIVIL SERVICE COMMISSION