

Regular Meeting of the Dallas Civil Service Board

Present:

Chair Anita Childress, Vice-Chair Flora Hernandez, Jeff Bryan, Johnny Clark, Albert Turner, Sharon Van Sell

Attendees:

Tanishia Dorsey, Sr. IT Manager, Communications and Information Services Department
Richard Etheridge, IT Business Analyst, Communications and Information Services Department
Milton Henderson, Assistant City Attorney
Pedro Martinez, Rehire Eligibility Applicant
Jennifer Huggard, Senior Assistant City Attorney II
L.C. Holton, Rehire Eligibility Applicant
Sarah Mendola, Assistant City Attorney
Kojo Nkansah, Housing and Community Services Department
Ayeh Powers, Executive Assistant City Attorney
Bright Siaw-Afryie, Grievant
Mrs. Siaw-Afryie, Grievant's wife
Crystal Watson, Citizen

Civil Service Department Staff:

Michelle Hanchard, Assistant Director
Patricia Marsolais, Civil Service Board Secretary
Pamela McDonald, Manager - Examining and Recruitment Division
Ana Monzon, Executive Assistant
Poornima "Savina" Rikhilal, Budget Analyst
Martha Santos, Executive Assistant
Norma Verino, Sr. Office Assistant

The meeting was called to order at 9:32 a.m.

AGENDA ITEM 1 – Approve the minutes of the Tuesday, January 27, 2015, special called meeting

The Board unanimously approved the minutes of the Tuesday, January 27, 2015, special called meeting.

AGENDA ITEM 2 – Approve the minutes of the Wednesday, February 4, 2015, special called meeting

The Board unanimously approved the minutes of the Wednesday, February 4, 2015, special called meeting.

AGENDA ITEM 3- Hear the rehire eligibility appeal of L.C. Holton a former employee with the Dallas Water Utilities Department.

The Board heard the rehire eligibility appeal of former Water Utilities Department employee L.C. Holton. After discussion with Mr. Holton about his previous employment with the City after and consideration of material provided for the Board's review, the Board voted five to one to approve Mr. Holton's request to apply for employment opportunities with the City.

Voting Aye: Childress, Hernandez, Clark, Turner, Van Sell

Voting Nay: Bryan

AGENDA ITEM 4 – Hear the rehire eligibility appeal of Pedro Martinez a former employee with the Dallas Water Utilities Department

The Board heard the rehire eligibility appeal of former Water Utilities Department employee Pedro Martinez. After a lengthy discussion with Mr. Martinez about his employment with the City after consideration of material provided for the Board's review, the Board unanimously approved Mr. Martinez's request to apply for positions with the City.

AGENDA ITEM 5 – Hear and rule on the Motion filed by Kojo Nkansah to replace Board members hearing complainant's grievance appeal begun on January 6, 2015 with Civil Service Adjunct Members

The City was represented by Attorneys Jennifer Huggard and Sarah Mendola. Kojo Nkansah represented himself and was accompanied by Crystal Watson who was there to provide assistance. The Chair stated that the motion had three parts. The Chair interpreted the first part as a motion to remove her from hearing Mr. Nkansah's grievance based on alleged conduct she engaged in that he felt was inappropriate. The Chair recused herself from this part of the proceeding and relinquished control to Vice-Chair Flora Hernandez. The Chair instructed the remaining Board members to discuss and rule on this issue only. The second part of Mr. Nkansah's motion involved an alleged violation of the Rule of Sequestration by Interim Housing Director Bernadette Mitchell. The third part of the motion dealt with replacing the entire Board with Civil Service Adjunct members to hear the complainant's grievance that began on January 6, 2015. There was ambiguity regarding whether the motion was based on some type of conduct by the entire Board or if it was simply a remedy for the other two issues. The Chair pointed out that the complainant does not have the option to replace the Board and still have his grievance heard. The adjunct panel can hear trial board issues but not grievances. Grievances must be heard by the Civil Service Board, subject to recusal or removal of someone for inappropriate conduct. Mr. Nkansah responded that based on his understanding of the Personnel Rules, adjunct panels can also hear appeals and that his situation is a grievance appeal. There was further discussion on this issue. Since there was no agreement, this issue will be addressed at the end of the motion hearing.

There was discussion regarding Board Secretary Patricia Marsolais and her role during this motion hearing. Assistant Director Michelle Hanchard will serve as the acting secretary. It was acceptable to both parties that Ms. Marsolais be present in the hearing until the issue of the violation of the Rule of Sequestration is discussed. Mr. Nkansah stated that Ms. Marsolais will be a witness for that part of the hearing. Mr. Bryan asked that Ms. Marsolais leave the meeting to avoid any confusion and any concern about Mr. Nkansah's decision as to what he would like to do. This was agreed to and Ms. Hanchard became the acting secretary.

Regular Meeting of the Dallas Civil Service Board
Page 2

Ms. Huggard expressed concern about the sequestration issue. It is the City's position that the Board members question witnesses regarding what they think is appropriate for the purposes of whether a sequestration violation occurred. In her view the Board would have the most knowledge of what they would be looking for in terms of whether the violation occurred. The Chair stated that the Board will allow Mr. Nkansah to make his presentation as to what he believes is the basis for the sequestration violation claim. The Board will take a role in questioning witnesses and deciding who it needs to hear from and Mr. Nkansah and the City may ask questions of those witnesses as they deem appropriate. Ms. Childress recused herself and left the room. Vice-Chair Hernandez presided over this portion of the meeting.

Complaint Against the Civil Service Board Chair

Ms. Hernandez asked Mr. Nkansah to present the basis for his motion and to limit it to the Chair and his complaint about the Chair. During Mr. Nkansah's objection to the City changing attorneys during his hearing and his recitation of the Texas Rules of Civil Procedure VIII and X to support his objection, Mr. Nkansah claimed that the Chair interrupted him by saying "You can't lecture me on the Texas Rules of Civil procedure and stuff like that." He said that this interruption disrupted his focus. He also stated that her comment was open to interpretation and showed that impartiality cannot be maintained in the hearing. Mr. Bryan asked if Mr. Nkansah objected to the Chair's statement. Mr. Nkansah responded that he did not at that time because he did not want to throw the proceeding into disarray and that the Chair had already told him not to lecture her, so he submitted this motion. Ms. Mendola stated that the disqualification of Ms. Childress to hear Mr. Nkansah's grievance is inappropriate based on the record before the Board. She believes that Mr. Nkansah was unhappy with Ms. Childress' ruling to allow Ms. Mendola to continue as lead counsel for the City. She stated that Ms. Childress ruled against both parties and that it was not apparent to the City that there was any bias in any of the rulings. Ms. Mendola read into the record the language that Mr. Nkansah found objectionable by Ms. Childress. She said that Ms. Childress explained that in a grievance appeal proceeding, the Civil Service Board has jurisdiction to hear the grievance and the Board follows the personnel rules of the City of Dallas, not the Texas Rules of Civil Procedure. There was additional discussion on this topic. Ms. Hernandez made a motion to deny Mr. Nkansah's complaint against the Board Chair. It was seconded by Mr. Clark. The Board voted unanimously in favor of Ms. Hernandez' motion. Ms. Childress returned to preside over the remainder of the meeting.

Violation of Sequestration Rule by Interim Housing Director Bernadette Mitchell

The Board asked Mr. Nkansah to discuss the basis for his motion. The City added that Mr. Nkansah should lay a proper foundation for the motion by providing names, facts, and circumstances. The City also requested that the foundation relate only to facts, circumstances, and events related to this hearing on this grievance and not to any prior hearings. Mr. Nkansah stated that after the January 6, 2015 hearing, he heard one of Ms. Mitchell's employees, Terry Williams relaying to another employee, Tony Edwards, information that, in Mr. Nkansah's view, could have only been obtained during the hearing and that the information conveyed between Mr. Williams and Mr. Edwards had to have come from Ms. Mitchell since she was the only person present during the entire meeting. Mr. Nkansah overheard Mr. Williams telling Mr. Edwards "to stay away from him (Nkansah), he is going to get you in trouble".

Ms. Childress asked the court reporter to confirm the exact testimony at the January 6th hearing. The Chair stated the court reporter could locate the testimony during a break or both parties can view her screen. But in the meantime discussion on the topic will continue. At the conclusion of the discussion with Mr. Nkansah, the Chair asked him if there was anything else that he had as a basis for the rule violation. Mr. Nkansah said no. The City requested to know what was in the transcript before taking a position.

Mr. Williams was called as a witness by the Board and efforts were made to locate him. The Chair restated that the board will question any witness. If Mr. Nkansah feels there is something that wasn't covered, he should let the Board know and it will address it with the witness. While Mr. Williams was making his way to the hearing room, a break was called. During this break the court reporter was asked to find the particular testimony mentioned by Mr. Nkansah.

The Chair reconvened the meeting at 12:03 p.m. She stated there is a new concern. According to Personnel Rule 34-39 (c) (8) (B) witnesses are not to converse with each other and with any other person about the case other than the attorneys in the case. It was determined that Mr. Williams had not been sworn in and had not been placed under the rule.

Ms. Mendola asked that before Mr. Williams is informed of anything, that he state on the record what Ms. Huggard discussed with him in the hallway. Board Attorney Milton Henderson said there has been an assertion by Mr. Nkansah of impropriety by Ms. Huggard in communicating with Mr. Williams. The Chair said the assertion had not been made on the record and asked Mr. Nkansah to restate what he believed he saw in the hallway during the break and after the parties read the transcript of his opening statement with the court reporter. Mr. Nkansah said he saw Ms. Huggard telling Mr. Williams something, but he did not know what was said. Ms. Huggard said that she is entitled to speak to City employees and that she did not say anything about what Mr. Williams would be questioned about during this hearing. She advised him that the Board wanted to speak with him. The Chair told Mr. Williams he would be testifying on a proceeding that is ancillary to a grievance that was filed by Mr. Nkansah concerning the lack of promotion to a Project Manager III position and involves an allegation of a violation of the Rule of Sequestration and a conversation he had with Ms. Huggard in the hallway while he was waiting to be called as a witness for this motion. The witness was questioned and provided sworn testimony.

After hearing testimony from one witness and further discussion, the Board voted unanimously that Mr. Nkansah failed to lay the proper foundation to proceed further with respect to a rule violation by Bernadette Mitchell. His motion on this issue was denied.

Replace the Civil Service Board with an Adjunct Panel

The Chair restated Mr. Nkansah's believe that grievance appeals could be heard by either Trial Boards or Adjunct Panel members. Neither Trial Boards or Adjunct Panel Members who serve on Trial Boards do not have jurisdiction to hear grievance appeals. The only body that can hear his grievance is the Civil Service Board. The Chair stated that she cannot remove the Board without it having the effect of essentially denying Mr. Nkansah's grievance. She asked if he wished to withdraw the motion to replace the Board. He said he would like a ruling on it. Ms. Mendola was provided an opportunity to respond to the motion. Ms. Mendola directed Mr. Nkansah to Section 34-39 of the personnel rules where it states the Board has jurisdiction of these grievance appeal proceedings. The Chair denied the portion of Mr. Nkansah's motion to replace the entire Board. Each of the Board members agreed with the ruling.

Regular Meeting of the Dallas Civil Service Board
Page 3

The Chair concluded that Ms. Mitchell will continue to serve as the representative of the department when Mr. Nkansah's hearing resumes, and Ms. Mendola will continue to provide legal representation for the City.

AGENDA ITEM 6 – Approve the Board's Fiscal Year 2013-14 Annual Report to the City Council

The Chair reiterated that the Board had discussed the annual report at the previous meeting. She acknowledged the work done by Vice-Chair Hernandez and staff who worked during the past month to improve the content, format, and amount of data conveyed. There being no further discussion on the report, the Board approved the annual report for submission to the City Council.

AGENDA ITEM 7 – Briefing on the proposed Civil Service Rule Change, Rule IX, Section 2, REGISTER OF ELIGIBLES

Board Secretary Patricia Marsolais briefed the Board on the proposed Civil Service rule change regarding Rule IX, Section 2, Register of Eligibles. In its hiring practices report, consultant CPS recommended that all lists of eligible candidates, whether they are comprised of internal candidates only or a combination of City (internal) and non-City (external) candidates, have a life of six months. Ms. Marsolais reported that currently the eligibility of non-City candidates expires after six months while internal candidates are eligible for one year. External candidates can ask for an extension for another six months. A Civil Service rule change is needed to implement CPS' recommendation. Ms. Marsolais described the rule change process. The first step is to brief the Board and discuss whether to implement the recommendation or modify it. The next step is to publicize the proposed rule change and call for a public hearing which will occur at the next Board meeting. During that meeting, written and verbal comments that have been received will be considered. The Board would then make a decision at this same meeting. Once the Board approves the change, the proposed rule change will be submitted to the City Council for final approval. Once approved by City Council, the Civil Service rules will be changed to reflect the modified language. Ms. Marsolais stated that the current process and proposed rule change apply to civilian lists only. There was some discussion on the specific wording of the current rules and what the proposed rule should be. The result of the discussion is that Section 2(A) will be removed and replaced with a rule that establishes six-month eligibility for all qualified candidates. Eligibility extensions are being eliminated. Manager of Examining and Recruitment, Pamela McDonald said that current lists will be phased out when candidates' eligibility expires. Ms. Van Sell asked if using six-month lists will facilitate the need to hire additional personnel for the Civil Service Department. Ms. McDonald replied that there is a request for additional staff but not for this recommendation only. Having a six-month list will necessitate an increase in job postings and testing. Additional staff would be needed to implement this CPS recommendation as well as other recommendations. Board Chair Anita Childress expressed concern that someone reading this briefing may think that changing this rule would require additional staff. Changing this provision has no staff impact at all. We are simply removing the mechanism for requesting an extension that we could have denied anyway. Ms. Marsolais stated that the request for additional personnel will be addressed in the budget process only.

Board member Sharon Van Sell asked about the Department's concern regarding test familiarity if examinations occur every six months for testable classifications. Assistant Director Michelle Hanchard stated that the plan for the future is to have two separate tests (different questions that measure the same knowledge areas) that are parallel in difficulty. The department can alternate using these examinations to reduce test familiarity.

Vice-Chair Flora Hernandez added that more staff will be needed due to the use of auto-scoring and the possibility of ranking candidates. More staff time is needed for each position prior to advertising so that the right metrics can be included.

Ms. Marsolais reminded the Civil Service Board that a motion on the rule change will be needed next month after the public hearing.

AGENDA ITEM 8-Approve Fiscal Year 2014-15 Goals and Objectives

The Chair introduced this agenda item by providing an overview of the importance of goals and objectives. The Chair stressed the benefit in setting goals and learning how to state them in a way is measurable. This significant project has been addressed at the last few meetings. They are largely the work product of the Vice-Chair, Secretary, Assistant Director, and Manager of Examining and Recruitment. The proposed goals and objectives have been broken down into three sections: administration, examination and recruitment, and test development and validation.

The Vice-chair pointed out that she had prepared a PowerPoint on goal setting and reviewed it with the executive staff. She said she was very pleased with the goals and objectives the Board would be considering at the meeting.

The Secretary introduced Tanishia Dorsey and Richard Etheridge from the Communications and Information Services Department (CIS) to preview a solution to the goal of implementing a grievance/hearing tracking system by the end of this year. Ms. Dorsey gave the Board an overview of software already in use by the Police and Human Resources Departments that appears to have many of the elements Civil Service needs to track its hearings and the key deliverables associated with them. Mr. Etheridge will support this project on behalf of CIS. He has identified the business requirements and will now continue the configuration and testing over the next few weeks.

Ms. Dorsey also described the business technology request (BTR) platform of funding technology needs as promoted by the City's Chief Information Officer William Finch. Civil Service has submitted two BTRs for review and consideration. With time running short, the Board unanimously approved the Fiscal Year 2014-15 goals and objectives.

AGENDA ITEMS 9, 10, 11, 12

9. Update on response to CPS findings
10. Examination and Recruitment Division report
11. Test Development and Validation Division report
12. Update on Fiscal Year 2014-15 budget expenditures and Fiscal Year 2015-16 budget development

These items were deferred to the next meeting due to time constraints.

Regular Meeting of the Dallas Civil Service Board
Page 4

AGENDA ITEM 13-Designation of panel members for Trial Board hearings

There were no new Trial Boards to designate.

AGENDA ITEM 14-Continue the grievance appeal of Bright Siaw-Afriyie in which he claims that the Communication and Information Services (CIS) Department discriminated against him in violation of City of Dallas Personnel Rules, Sections 34-35 (a) and (b), Fair Employment Practices, when it did not promote him to Project Manager III.

Mr. Siaw-Afriyie represented himself. Assistant City Attorney Jennifer Huggard represented CIS; Orrin Rugen was the CIS representative. The grievant agreed to let Patricia Marsolais remain and serve as the hearing secretary since she had already testified and been released as a witness in the case back in January.

The Chair advised the parties that the hearing would end at 5:00 p.m. with the expectation that the hearing would be completed. The Chair stressed that the Board had worked through lunch, taken short breaks and deferred several agenda items so there would be sufficient time to complete the grievance hearing.

Mr. Siaw-Afriyie continued presenting his case by calling several witnesses. Assistant City Attorney Jennifer Huggard cross-examined witnesses after Mr. Siaw-Afriyie concluded his questioning. When the grievant had finished presenting his case Ms. Huggard made a motion for a directed verdict pointing out that it was Mr. Siaw-Afriyie's burden to prove by a preponderance of the evidence that he was discriminated against with regard to the Project Manager III position for which he was not selected. The Chair denied the motion. After closing statements from both parties the Board deliberated in closed session at the grievant's request. The Board announced its decision in open session. After considering the evidence presented on two hearing days, the Board determined unanimously that the grievant did not establish by a preponderance of the evidence that he was discriminated against as it related to the promotion at issue.

AGENDA ITEM 15-Department News

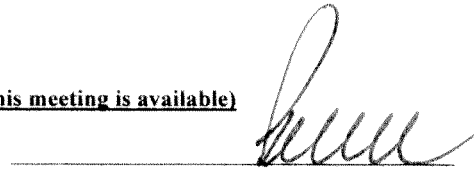
Board Secretary Patricia Marsolais announced that Executive Assistant Martha Santos will be retiring from the City of Dallas on April 1, 2015. Ms. Marsolais remarked on the dedication of Ms. Santos during Ms. Marsolais' 16 years of service with the City. Ms. Santos' position will be filled by Ana Monzon who has worked in various capacities with the City. She comes to the Civil Service Department with high recommendations. She started working in the Department on February 27, 2015. Board Chair Anita Childress expressed, on behalf of the Board, their extreme gratitude for the efforts Ms. Santos. She stated that the Board admires the dedication Ms. Santos has shown to the Board and the City over the years. The Chair welcomed Ms. Monzon. Board members Albert Turner, Johnny Clark, and Sharon Van Sell also commended Ms. Santos' work for the City.

There being no further business before the Board, the meeting was adjourned at 5:05 p.m.

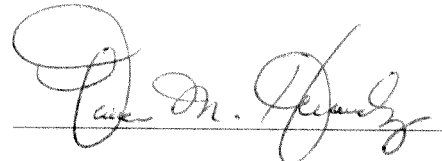
(A complete transcription of this meeting is available)



ATTESTED



APPROVED



ATTESTED FOR KOJO NKANSAH'S

COMPLAINT AGAINST THE CIVIL

SERVICE BOARD CHAIR



APPROVED