

Regular Meeting of the Dallas Civil Service Board

Present:

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

Attendees:

Milton Henderson, Assistant City Attorney
Jennifer Huggard, Assistant City Attorney
H.L. Jones, Visitor
Vanessa Jones, Human Resource Generalist
Sarah Mendola, Assistant City Attorney
Dixon Merkt, Assistant City Attorney
Bernadette Mitchell, Interim Housing Department Director
Kojo Nkansah, Grievant
Nicholas Palmer, Assistant City Attorney
Aye Powers, Executive Assistant City Attorney
John Snider, Attorney-at-Law
Alan Thornton, Former Grievant

Civil Service Department Staff:

Michelle Hanchard, Assistant Director
Patricia Marsolais, Secretary to the Board
Pamela McDonald, Manager - Examining and Recruitment Division
Lily Patel, Ph.D., Coordinator
Poomima "Savina" Rikhilal, Budget Analyst
Martha Santos, Executive Assistant
Andrew Yurkon, Test Development and Validation Specialist
Joseph Zaragoza, Test Development and Validation Specialist

The meeting was called to order at 9:40 a.m.

The Chair welcomed new Board Member Sharon Van Sell.

AGENDA ITEM 1 – Approval of the minutes of the Wednesday, November 5, 2014 special called meeting

The Board approved the minutes of the November 5, 2014 special called meeting with the circulated revisions. Dr. Van Sell did not vote since she was not present at the meeting.

AGENDA ITEM 2 – Election of Vice-Chair

Vice-Chair Sidney Miller submitted his resignation from the Board, effective January 8, 2015. The Chair thanked him for his service and described him as a loyal and steadfast rudder to an active Board. All the members of the Board echoed the Chair's sentiments and said they would miss his voice on the Board.

Mr. Miller challenged the Board to do its job and do it correctly and to be a Board representative elected by the City Council to direct the Civil Service.

Flora Hernandez was unanimously elected as the next Vice-Chair of the Board.

AGENDA ITEM 3 – Consider Fire Driver Engineer Allen Thornton's Motion for Rehearing on his grievance concerning the March 2014 assessment center for Fire-Rescue Lieutenant

The Board considered Fire Driver Engineer Allen Thornton's motion for a rehearing of his grievance heard by the Board on October 7, 2014. The basis for a rehearing is his belief that the Board exceeded its authority when it dismissed the grievance as being untimely. Assistant City Attorney Nicholas Palmer represented the City. Attorney John Snider summarized the facts and arguments in his motion on behalf of Mr. Thornton. Mr. Snider asserted that Mr. Thornton's grievance was timely. He stated that there are portions of the personnel rules that allow the ten working days rule to be excused if the delay is due to reasons beyond the employee's control. A motion for rehearing may only be granted in one of four circumstances listed in section 34-39 (e) (2) (a). Mr. Thornton was seeking a rehearing because he believed the Board's decision to dismiss his grievance exceeded the Board's authority. Mr. Palmer stated that the only question before the Board was whether or not the Board believes it exceeded its authority for denying Mr. Thornton's grievance for lack of jurisdiction. Mr. Palmer argued that the Board only has jurisdiction to hear the limited number of grievances that are listed in Section 34-39 of the Personnel Rules. The Civil Service Director has broader jurisdiction to hear grievances that involve her department as long as they contain the five requirements of a grievance. The Director was within her rights to hear Mr. Thornton's appeal. The Board was within its authority under the rules to dismiss the grievance for lack of jurisdiction.

After hearing arguments from both sides, the Board voted unanimously to deny the motion for rehearing and the amended motion for rehearing. Ms. Van Sell recused herself from voting since she was not present at the initial hearing. The Chair renewed, on behalf of the Board, the invitation to Mr. Thornton to meet with department staff or to make a presentation to the Board at a future meeting.

AGENDA ITEM 4 – Update on CPS findings

Manager of Examining and Recruitment Pamela McDonald gave the Board an update on the steps her division has taken to address the findings CPS identified in the hiring process report. Ms. McDonald reported on the staff's research on the use of autoscoring in other cities who also have the NEOGOV workforce management system. Staff found that the use of autoscoring in compiling eligibility lists varies from city to city. Ms. McDonald described the process currently being used by the department to autoscore applications. The majority of positions advertised now are being autoscored. The use of supplemental questions on applications may enhance the use of autoscoring by providing the means by which eligible lists can be rank ordered in the future.

Ms. McDonald added that additional ways to advertise positions are being explored to expand the applicant pool. Opportunities with churches, community colleges, technical schools, etc. are being examined. Dr. Van Sell suggested sending information to organizations that serve veterans and the disabled. She asked Ms. McDonald to add Texas Woman's University (TWU) to the list.

The Chair asked Ms. McDonald to give an update on all recommendations that are being worked on at future meetings. Specifically, the action taken on each of the recommendations, the goal, and progress to date. Dr. Van Sell pointed out that graduate programs in business schools often have students available to do a project such as how to recruit for hard-to-fill positions. She is sure that TWU and other schools would be interested.

The Chair suggested that as part of the orientation for a promotional assessment center the grievance process should be explained ahead of time so candidates will know what to do if something happens.

AGENDA ITEM 5 - Examination and Recruitment Division report

Manager of Examining and Recruitment Pam McDonald briefed the Board on test and application review activities. Ms. McDonald provided a current organizational chart to the Board. She has one office assistant vacancy that she plans to fill soon. Ms. McDonald described the procedures the division will use to notify candidates about the "no cell phone or electronics" policy during examinations. The procedures include sending reminders, video recording the sign-in/testing area, and making periodic announcements in the exam room prior to commencement of the exam. Ms. McDonald provided updates on preparations for the Police Officer Trainee, the Fire Rescue Officer Trainee and the Senior Corporal examinations. Ms. McDonald also addressed the 911 hiring efforts. There was discussion about minimum qualifications, the pass rate for the examination, and the small number of hires made compared to the number of applicants who applied and were tested.

AGENDA ITEM 6 - Test Development and Validation Division report

Assistant Director Michelle Hanchard briefed the Board on the division's testing projects and issues. Ms. Hanchard introduced two new team members, Andy Yurkon and Joseph Zaragoza, to the division. She provided an overview of the test development schedule. Ms. Hanchard stated that the division will re-evaluate the 911 examination. There had been previous discussion regarding the low pass rate for this examination. She also reported that a job analysis will commence for the Office Assistant B and Office Assistant II-D positions. Ms. Hanchard noted that the Police Department withdrew its request to extend the Lieutenant eligible list which expires on January 29, 2015.

Technology Briefing

1) Video recording assessment centers

Ms. Hanchard reported that the Computer and Information Services Department (CIS) requires a business technology request (BTR) for any technology initiative. The BTR allows CIS to properly consider the request and vet it and rank it against competing requests by the Information Technology Executive Committee. Civil Service submitted two BTRs for review. They were video recording assessment centers and computerized testing.

Test Validation Specialist Andy Yurkon gave a summary of the results of a survey conducted to determine if cities used video recording in their assessment center process. Based on the survey, there is no one way to conduct the video recording process. It is largely dependent on the purpose. Two cities had an open records issue regarding the recordings. There was discussion on the logistics of the process, the number of assessors and panels, proctors for the process and the current assessment process. Ms. Hanchard reported that the division is researching a second camera so that a trial run can be done.

2) Computer-based testing

Ms. Hanchard reported that the 20 civilian examinations will be computerized. Most of the Office Assistant B exam has been entered into the computer using the customized examination feature of CritiCall. An upgrade to CritiCall is needed to complete the process. CIS is working on executing the upgrade.

The department will not pursue on-line testing due to concerns such as cheating and proctoring the examination that seem to be problems that can occur.

Job Analysis Briefing

1) Job analyses for 10 uniformed ranks in the Fire-Rescue Department

Ms. Hanchard reported that three vendors responded to the Request for Confidential Sealed Proposals (RFCSP) for job analyses for 10 uniform ranks in the Fire-Rescue Department. Business Development and Procurement (Procurement) made a recommended a vendor to perform the job analyses and to develop and administer the first round of tests. This recommendation was rejected by the Fire-Rescue Department. The Fire-Rescue wants the job analysis done only. This issue will be discussed further with the Procurement Department.

2) Equipment Operator

The Equipment Operator is a hard-to-fill position. Hiring Managers expressed concern about the difficulty in finding applicants who have commercial driver's licenses (CDL) and who can operate the required equipment. It was also discovered that the departments were developing and administering their own tests. Staff completed a job analysis for this classification and followed up with an investigation of the hiring process. The purpose of the investigation was to identify problems the hiring managers were facing in finding qualified applicants and to determine how the Civil Service Department could help alleviate those problems. Test Validation Specialist Andy Yurkon developed a survey and administered it to the hiring managers as well as conducted meetings with several hiring managers. Some of the findings from the survey included

- a) Civil Service needs to tighten the screening process
- b) Civil Service should develop a written examination
- c) Some departments train applicants to operate the required equipment while others do not
- d) Some departments conduct a "field test" where applicants demonstrate their ability to operate the required equipment.

Andy Yurkon also consulted other cities to determine their hiring process for the Equipment Operator. He found that some cities train their Equipment Operators, some worked with a group called the Texas A & M Engineering Extension Service to administer tests. Andy Yurkon stated that the department was in the process of developing a letter to the departments regarding departmental testing and the department ensures that the City Attorney's Office and Risk Management be made aware of the field testing.

AGENDA ITEM 7 – Update on Fiscal Year 2014-15 budget expenditures

The financial report was deferred to the next meeting.

AGENDA ITEM 8 – FY 2014-15 Goals and Objectives

The Board discussed the fiscal year 2014-15 goals and objectives. The Chair emphasized that the goals and objectives need to be aspirational. She stressed that items that seem to be “just doing the job” should not be included. Examples of goals would be to keep the Board and adjunct panel fully staffed, implement computerized test and video recording of assessment centers, and acquire better tracking capability for the requisition process. The Secretary explained the goal of applying for ISO (International Operation Standards) certification to the Board. The department is going to seek ISO certification for its Test Development and Validation Division. Achieving this certification will be an endorsement of the department’s test development, policies, practices and procedures as well as quality control.

The Chair also requested that a Board calendar be added to the goals and objectives. The Board needs to keep up with what is going on and not lose it in institutional memory. Incoming Vice-Chair Hernandez has been working with the Secretary on the goals and objectives and will continue to flesh them out until they reflect the Board’s vision.

AGENDA ITEM 9 – Designation of panel members for Trial Board hearings

There were no new Trial Boards for the Chair to designate.

AGENDA ITEM 11 - A closed executive session will be held pursuant to Section 551.074 of the Texas Open Meetings Act to discuss an adjustment in compensation for the Secretary to the Board based on the FY 2012-13 and FY 2013-14 evaluations

The Board went into closed session from 1:40 p.m. to 1:52 p.m. to discuss an adjustment in compensation for the Board Secretary for fiscal years 2012-2013 and 2013-2014. After coming out of executive session, the Chair announced that the Board had approved a three percent pay increase, effective January 1, 2015, for fiscal year 2013-2014 and three percent pay increase, effective April 1, 2014, for fiscal year 2012-2013 for the Secretary.

AGENDA ITEM 10 - Grievance appeal of Senior Contract Compliance Administrator Kojo Nkansah of the Housing and Community Service Department

The Board heard the grievance appeal of Senior Contract Compliance Administrator Kojo Nkansah of the Housing and Community Service Department in which he claims that the Housing/Community Service Department discriminated against him when it made interim appointments to a Manager III and Manager II position. The City was represented by Assistant City Attorney Sarah Mendola with assistance from Senior Assistant City Attorney Jennifer Huggard. Mr. Nkansah represented himself. H.L. Jones sat with Mr. Nkansah.

The Chair stated that the grievant would be limited to the claims he made in the grievance that was submitted and signed by him on July 16, 2013. The grievance involves the interim appointments of two individuals, Candy Coblyn and Roger Demas. However, Mr. Nkansah said these appointments were referenced as examples of the Housing Department not having rational guidelines, criteria, policies and procedures for making interim appointments and promotions. Mr. Nkansah said that if his grievance is limited to the two individuals’ appointments, it is being misconstrued. The Chair stated that the Board will focus on the interim appointments of Candy Coblyn and Roger Demas. Mr. Nkansah stated that the specific references to Coblyn and Demas were indicative of many appointments in the department. The Chair responded that the Board cannot hear a grievance on just a policy or anything that is broad. Kojo Nkansah will need to express a specific incident, which he has. He should be able to demonstrate to the Board that the two interim appointments were done in an inappropriate manner or without reference to any type of rational guidelines. Assistant City Attorney Sarah Mendola directed the Board to Personnel Rule 34-39 (a) (4) (a). The City Council has specifically enumerated the issues the Board can hear. She stated that the issue before the Board is a claim of discrimination because of the employee’s race, color, religion, sex, sexual orientation, national origin, age, disability as affecting employee’s training, promotion, and transfer. The Chair stated that the grievance would have to be based on discriminatory application of the rules based on the grievant’s membership in a protected class. Mr. Nkansah said there were two types-race and age. The Chair stated that Mr. Nkansah will need to address the two specific interim appointments that he claims are discriminatory against him based on the protected classifications he identified.

Mr. Nkansah objected to the City Attorney’s office changing attorneys for his grievance. He was aware of the change on the day of his hearing. The Chair told Mr. Nkansah that it is acceptable for the City to designate an attorney from the City Attorney’s Office. If he feels he has been prejudiced by the change, he should let her know. He said that the change in attorneys did prejudice his case. Ms. Mendola responded by pointing out Personnel Rule 34-40 (g) (6) which states “a party may be heard through a representative if that representative is designated on the record at the hearing before evidence is accepted.” She explained that she was originally assigned to handle another grievance for Mr. Nkansah, but that grievance was removed from her schedule. She stated that her designation is specifically permitted by the rules and that there is no prejudice involved. The Chair asked if she was designated in writing and filed with the secretary. Senior Assistant City Attorney Jennifer Huggard stated that she is on record for this grievance and that her co-counsel, Sarah Mendola, is taking the lead. The chair denied Mr. Nkansah’s objection to the City to Ms. Mendola representing or acting as lead counsel for the City. Mr. Nkansah did not have any other preliminary matters. Attorney Mendola had two motions. She moved to dismiss the interim assignment of Candy Coblyn from this grievance hearing and to exclude certain witnesses and exhibits.

After discussion, the Chair asked Ms. Mendola to move to accept an exhibit if she needed it. Ms. Mendola concurred.

Ms. Mendola moved to dismiss the interim assignment of Candy Coblyn from this grievance hearing because the original grievance was not timely. She cited Section 34-38 (f) (1) of the City of Dallas personnel rules. After discussion of the matter, the Chair decided to take the motion under advisement.

Ms. Mendola made a motion to exclude certain witnesses but said she can do it witness by witness. There was discussion about having 48 witnesses. The Chair wanted to address having the Secretary of the Civil Service Board as a witness if it is the subject of an objection. The Chair deferred the ruling.

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There was discussion regarding objections Mr. Nkansah made to the statement of questions. He later amended his objections. After discussion regarding these objections, the Chair overruled the original objection and amended objections to the statement of questions.

The Board heard testimony from one witness. The Board recessed the hearing based upon time constraints. The grievance will be continued at a future hearing.

The Board meeting adjourned at 3:44 p.m.

(A complete transcription of this meeting is available)



ATTESTED



APPROVED