NOTICE OF MEETING

CIVIL SERVICE MERIT BOARD MEETING
WEDNESDAY, DECEMBER 8, 2021 1:30 P.M.
CONFERENCE ROOM 461, CITY COUNTY BUILDING
400 MAIN STREET

With the expiration of Governor Lee’s Executive Order #78 on Wednesday, April 28th, 2021, the Civil Service Merit Board has resumed in-person meetings. Per City of Knoxville Executive Order, all persons attending this meeting are encouraged to wear face coverings consistent with current CDC and OSHA guidance. Also, all board members and attendees are asked to observe the CDC and OSHA social distancing recommendations.

The City of Knoxville Civil Service Merit Board’s meetings will be conducted permitting the public and City/Board staff to participate or view the meeting either in person, or by electronic or other means of communication using Zoom’s webinar platform.

To join the meeting via Zoom, either to view live or to participate, you must register in advance by going to the following link and providing your name and email address:

https://us02web.zoom.us/webinar/register/WN_HAinFMtIRbGsx6TPFYEy9w

After registering, you will receive a confirmation email containing information about joining the webinar for audible and/or live access by the public.

A copy of the agenda and agenda packet can be found on the CSMB website: https://www.knoxvilletn.gov/cms/One.aspx?portalId=109562&pageId=166147

Registering will only give you viewing access. If a member of the public wishes to be added to speak/participate on an agenda item, please email Vicki Hatfield at vhatfield@knoxvilletn.gov or call 215-2106 no later than Monday, December 6, 2021 at 1:30 p.m. and specify whether you plan to attend in-person or via the Zoom platform.

If a member of the public prefers to provide questions and/or comments on an agenda item to the board for their review prior to the meeting, please send those to Vicki Hatfield at vhatfield@knoxvilletn.gov or mail to: Civil Service Department, 400 Main Street Suite 569, Knoxville, TN 37902. All comments/questions must be received no later than Monday, December 6, 2021 at 1:30 p.m. so that they may be distributed to the board.

The City of Knoxville ensures meaningful access to City programs, services, and activities to comply with Civil Rights Title VI and ADA Title II laws and reasonably provides: translation, interpretation, modifications, accommodations, alternative formats, auxiliary aids and services. To request language translation services, contact Diversity and Inclusion Officer Tatia M. Harris at tharris@knoxvilletn.gov or 865.215.2831. For disability accommodations, contact City ADA Coordinator Stephanie Brewer Cook at scook@knoxvilletn.gov or 865.215.2034 at least 72 hours before the meeting.

If you need assistance, contact the Civil Service Department at 215-2106.
AGENDA
CIVIL SERVICE MERIT BOARD MEETING
WEDNESDAY, DECEMBER 8, 2021 1:30 P.M.
CONFERENCE ROOM 461, CITY COUNTY BUILDING

CALL TO ORDER

1. Approval of the Minutes of the previous business meeting held on Wednesday, November 10, 2021.

REPORTS

2. Reports regarding litigation.

3. Staff Report.
   • Police Recruit – Referred
   • New Employee – Ava Kelly, Civil Service Office Manager

UNFINISHED BUSINESS

NEW BUSINESS

4. Report by Civil Service Director on Mayor’s report to City Council on existing policies, practices, and recommendations for addressing racism/sexism in city government and board discussion.

5. Rule amendments to Article 15 “Requisition and Certification” of the Civil Service Merit Board Rules and Regulations.

6. Rule amendments to Article 21 “Promotions” of the Civil Service Merit Board Rules and Regulations.

7. Rule amendments to Article 25 “Classification and Compensation” of the Civil Service Merit Board Rules and Regulations.

OTHER BUSINESS
Such other business as may come before this Board.

This meeting and all communications between members is subject to the provisions of the Tennessee Open Meetings Act, TENN. CODE ANN. § 8-44-101, et seq.
A meeting of the Civil Service Merit Board (hereinafter referred to as the Board) held on Wednesday November 10, 2021, at approximately 1:30 p.m. in Conference room 461. Amanda Busby called this meeting to order. Vicki Hatfield, Executive Secretary, and Michael Winchester, Board Attorney, were also present. George Shields, City Law Department, was also present via Zoom video.

Board members present:

Amanda Busby  
Jamie Ballinger  
Stephanie Taylor  
Bill Lyons  
Debbie Helsley was unable to attend.

Amanda Busby called for approval of the Minutes of the previous business meeting held on Wednesday October 13, 2021. Bill Lyons made a motion to approve. Jamie Ballinger second the motion. The motion was approved.

George Shields, from the City Law Department stated that he had nothing to report. Michael Winchester, Board Attorney, updated the Board of the matter in the Dennis Bible case in Chancery Court. Mr. Winchester reported that Dennis Bible requested to have the Hearing Officer deposed. Mr. Winchester stated, as Board attorney he declined the request.

Dr. Hatfield updated the Board on the progress of testing for Police Recruits. Dr. Hatfield stated that posting closed at the end of October and testing will be wrapping up this month to be forwarded to KPD.

Dr. Hatfield updated the Board regarding the Civil Service staff positions. Dr. Hatfield stated that Whitney Crowe, the Office Manager accepted a position in the Fire Department. Dr. Hatfield also stated that she is in the process of interviewing applicants for that position.

Dr. Hatfield mentioned that there were Administrative Rule changes published to the City’s Intranet. Dr. Hatfield stated the changes were made to: Administrative Rule 2 – Classification and Compensation, Rule 3 – Pay Procedures, Rule 4 – Training and Development and a new Rule 16 – Unclassified Service. Dr. Hatfield also stated with the classification and compensation rule change, she would need to amend the Civil Service Merit Board Rules so that there are no conflicts with the Administrative Rule change.
Request by Police Chief Eve Thomas, to extend exemption from Civil Service one temporary position of Electronic Evidence Collection Specialist (PCN 2292) through September 30, 2022. The basis for this exemption is grant funding that lasts through September 2022. (Attachment: Exemption Request KPD Electronic Evidence Collection Specialist)

Dr. Hatfield stated that this position had been exempted by the Board previously. Dr. Hatfield explained that this was an extension based on grant funding and that KPD has grant funding through the next year. Board Chair called for a motion to approve. Jamie Ballinger made a motion to approve Bill Lyons second motion. All Board members present approved the motion.

Request by Police Chief Eve Thomas to permanently exempt from Civil Service one position of Assistant Chief (PCN TBD). (Attachment: Exemption Request KPD Assistant Chief) Dr. Hatfield stated that this is a new job class approved by City Council. Dr. Hatfield explained that the Assistant Chief would sit between Chief and Deputy Chief. Dr. Hatfield also stated this position would be comparable to other department’s deputy positions in the City. Board Chair called for a motion to approve. Bill Lyons made a motion to approve Jamie Ballinger second the motion. All Board members present approved the motion.

Report by Civil Service Director on past practices for CSMB rule amendments and discussion of board preferences for such amendments going forward. Dr. Hatfield stated that we have not had rule amendments under the existing Board. Dr. Hatfield explained the process of amending the Civil Service Merit Board Rules and posting the notice of a public hearing. Dr. Hatfield invited the Board for their input on how to proceed with the processes going forward.

Jamie Ballinger suggested having the Chair Person look over the proposed rule changes prior to the Board meeting.

Amanda Busby stated that she was concerned of the timing since there is a short window of past practices when the notice becomes public to when the hearing will take place. Ms. Busby asked if a rule needed further discussion within ten days, would it be appropriate to defer it for another meeting.

Mr. Winchester stated that he did not have a problem with it. Mr. Winchester stated we normally give a ten-day notice before the rule is amended and afterwards have a public hearing prior to the business meeting.

Dr. Hatfield stated that the purpose of the public hearing gives the Board the opportunity to hear if there are oppositions or give suggestions prior passing a rule.

Bill Lyons stated having the Chair look at the proposed rule is a good idea.

Ms. Busby called for a motion to approve. Jamie Ballinger made a motion to approve. Stephanie Taylor second the motion. All board members present approved the motion.
Report by Civil Service Director on “Report to City Council – Existing Policies, Practices, and Recommendations for Addressing Racism/Sexism in City Government” and board discussion. Dr. Hatfield stated that she prepared the report requested by City Council. Dr. Hatfield stated that she did not receive any comments from the Law Department. George Shields stated that feedback was provided from the Law Department after the agenda was sent out by way of email.

Mr. Winchester stated that he and George Shields had already spoken regarding the information in the Board packet. Mr. Winchester stated that he was looking for a collaborative report from both the Law Department as well as Civil Service to present to address City Council’s resolution.

Mr. Winchester also stated that City Council wanted to make sure that any recommendation made by the Administration strengthen any policies of the Board. Mr. Winchester went on to state that in the Board packet that he and Dr. Hatfield put together are practices of the Board from the existing authorities from the state’s statutes to the Charter, City code ordinances, and the Board’s Rules and Regulations.

Mr. Winchester stated the intent of the report was to respond to what the Board requested, to answer City Council’s request, and the work that Civil Service does. Mr. Winchester deferred to George Shields as to the timeline of where they are in reporting to City Council.

Mr. Shields stated he is awaiting final input from the Civil Service Department along with input from Law and Human Resources Departments. Mr. Shields stated these reports will be presented to the Mayor and her staff with the final report submitted to City Council by the deadline.

Mr. Winchester stated that the Board was hoping to see the report in order to review it prior going before City Council.

Mr. Shields explained the timeline and the process it would take to get the final report finished by the deadline to submit to City Council. Mr. Shields stated that the timeline does not allow for a second review of the report, nor did the resolution specifically state.

Ms. Busby stated that she also thought that the Board would receive input before the agenda went out last week because of the timing issue.

Mr. Winchester stated that it was clear at the workshop session that there was going to be a timeline to hear back from the Law Department about what portion of both reports to be presented to the Board.

Ms. Ballinger asked to see the City Council’s resolution.

Ms. Busby inquired of the date of the deadline for the report to be sent to City Council.
Mr. Winchester deferred the question to Mr. Shields. Mr. Shields stated that the packet would be printed on November 24, 2021. Mr. Shields stated the packet would be available for an agenda review meeting on November 23 and will be ready in its final form on November 22.

Ms. Busby stated it was not clear to her that we would see a report before it is filed at this time.

Mr. Shields stated that Civil Service’s report provides significant input along with the HR Department and Law will provide the Mayor and her staff the necessary information to prepare the report.

After looking over the resolution, Ms. Ballinger stated the way she understood it to read. That City Council asked the Mayor and her staff to work with three departments including Civil Service and that the Mayor would make a report to City Council.

Dr. Lyon agreed with Ms. Ballinger on her understanding of the resolution.

Ms. Busby’s concern was handling inconsistencies or issues before going to City Council. Ms. Ballinger stated that she did not foresee any issues.

Mr. Winchester stated that City Council’s concerns were focused on issues in the resolution. Mr. Winchester also stated that the Civil Service Merit Board Charter requires that we follow the laws set by the Charter on how to handle racist and sexist practices. Mr. Winchester wanted to ensure that the Board’s recommendations be presented before City Council.

Mr. Shields highlighted roles played outside Civil Service in these process. He stated that the rules regarding harassment and discrimination will live in the Mayor’s Administrative Rules and that Directors, Law, and HR participate in the discipline process. Mr. Shields stated that during investigations, a Law Department attorney typically assists in the investigations.

Mr. Winchester suggested practices that Civil Service does, would be part of the report presented to Council. Mr. Winchester asked Mr. Shields what the content of the report would be. In an email from Mr. Shields to Mr. Winchester, Mr. Shields stated, “I am sure that the Mayor and her staff will aim to include a number of your recommendations in the report”. Mr. Winchester was concerned that some or little of the recommendations would be added to the report submitted to City Council. Mr. Winchester stated that the Board has the right to see which recommendations will be excluded from the report.

Mr. Shields explained to the Board that this is the Mayor’s report to make and we cannot expect her to make a report that she does not support. Mr. Shields stated that the Mayor will take all inputs to form a final report.

Mr. Winchester asked if he will be able to view the final report and if he and George Shields could discuss the information in a collaborative effort. Mr. Shields stated that the report should be
available before the agenda is printed. Mr. Shields stated that there are going to differences, however they will not be resolved by Thanksgiving.

Ms. Busby referred to the report in the Board packet and asked for questions or comments to finalize it from the Board’s perspective. Ms. Busby went on to cite the contents of the report; the Charter, the code sections, and rules.

Dr. Lyons noted that he liked the recommendation for data collection. He also noted that he saw potential concern for questions about respecting each department’s role in the process.

Ms. Ballinger read excerpts from the report from Civil Service. Ms. Ballinger asked the Board if there was a need to do some sort of analysis to address testing issues. Ms. Ballinger stated that the resolution was very broad. Ms. Ballinger suggested amending the last sentence of the report that states, “We look forward to working collaboratively with the City to support efforts to address workplace discrimination and harassment.” Ms. Ballinger stated the request was to address racism and sexism in city government.

Dr. Lyons stated that the original request stated there would be zero tolerance.

Dr. Hatfield stated there is an Equity and Diversity Committee that both she and Dr. Drummond preside as a subcommittee where issues of testing are already addressed.

Dr. Hatfield stated that she completed a data analysis of applicants by a variety of groups. Dr. Hatfield stated that as of the last meeting, she had not seen any issues with minorities through the application or testing process.

Ms. Busby asked Ms. Ballinger if she suggested changing the last sentence of the report to “address racism and sexism in city government.”

Dr. Lyons made a motion to submit the amended report to the Mayor and her staff. Ms. Ballinger second the motion. All board members present approved the motion.

Ms. Busby stated that she had received a request from Steve King to speak, and a comment from Stephanie Guptail on the Administrative Rules that were published on Monday. Ms. Busby stated in order for their comments to be heard requires a majority vote from the Board. Ms. Ballinger made a motion to hear the comments. Dr. Lyons second the motion. All board members present approved the motion.

Steve King stated he is speaking on behalf of the City Employees Association. Mr. King stated that Ms. Guptail is the Civil Service Committee Chair Person. Mr. King stated that both he and Ms. Guptail were concerned of the impact of the Administrative Rules on the Civil Service Rules.
Mr. King stated that one of the important things the Merit Board provides is an oversight on discipline through the grievance and appeals process. Mr. King stated that employees are interested in this discussion.

Ms. Busby inquired of the Board to read Ms. Stephanie Guptail’s email. The Board agreed. Ms. Guptail wanted to know the potential impact of the Administrative Rules on the Civil Service Rules. Ms. Busby continues with Ms. Guptail’s comment. It seems as though rule 2 was sent out for a comment, but has the Board had advanced notice to review the Civil Service Merit Board Rule impacts. Ms. Busby stated that she had not reviewed the rules before they were published. Ms. Busby asked Dr. Hatfield if she had a chance to provide input on the rules. Dr. Hatfield stated that there is not a requirement on the Mayor’s Administrative Rules for review other than the class/comp rule. Dr. Hatfield stated any review of the Administrative Rules would be extended as a courtesy review. She stated that she was not given a prior review.

Mr. Shields stated that Dr. Hatfield has reviewed the class/comp rule and submitted an email with comments regarding the proposed draft of Administrative Rule 2 on February 25, 2021. Mr. Shields stated the email was also sent to Dr. Drummond, Mr. Shields and Mr. Winchester and copied to Ms. Jamie Ballinger.

Dr. Hatfield clarified that there were four rule changes and she had only had the opportunity to review the class/comp rule when it was published for all employees to review.

Ms. Busby called for a motion to adjourn. Jamie Ballinger made a motion to adjourn. Bill Lyons seconded the motion. All Board members present voted yes to adjourn.

The meeting adjourned at 2:38pm.

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Vicki Hatfield
Executive Secretary/Director

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Presiding Chair
November 30, 2021

Dear Councilmembers:

This letter transmits the Mayor’s Report to the Council of the City of Knoxville Pursuant to Resolution No. R-263-2021.

In that Resolution, the Council requested that I and my staff work with the Department of Law, the Department of Human Resources, and the Civil Service Merit Board and its Executive Secretary to study and make this Report regarding the City’s existing policies for racist and sexist misconduct within City government, as well as any recommendations to strengthen these policies as permitted under the City’s civil service rules and applicable laws.

I want to thank my staff, the Director of Law and his staff, the Director of Human Resources and her staff, and the members of the Civil Service Merit Board and their Executive Secretary for providing me with their views on this important subject. My staff and I carefully considered all views in preparing the recommendations contained in this Report.

I am committed to implementing these recommendations. To that end, I have engaged the University of Tennessee’s Municipal Technical Advisory Service and retained attorney Devin P. Lyon of Arnett, Draper & Hagood, LLP, to carry out the recommendations that call for the involvement of outside experts. At the completion of their work, my staff and I will be available to participate in a workshop, should you decide that one would be helpful.

It is my hope that this Report and the actions which may be taken as a result of it will contribute significantly to the improvement of the City’s personnel system and to the strengthening of the City’s ongoing commitment to anti-discrimination, both of which are objectives of my administration.

Sincerely yours,

Indya Kincannon
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RESOLUTION NO. R-263-2021

A Resolution of the Council of the City of Knoxville Respectfully Requesting the Mayor, Her Staff, and the Appropriate City Departments to Study and Make a Report to City Council Regarding the City's Existing Policies for Racist and Sexist Practices Within City Government, As Well As Any Recommendations to Strengthen This Policy as Permitted Under the City's Civil Service Rules and Applicable Laws

WHEREAS, The City of Knoxville is committed to providing a work environment that is safe and inclusive for all City employees; and

WHEREAS, racist and sexist practices, behaviors and actions threaten the health, safety and well being of City employees and residents; and

WHEREAS, City Council requests that the Mayor and her staff work with the Law Department, the Human Resources Director, and the Director of Civil Service and the Civil Service Merit Board to study and make a report to City Council no later than 120 days from the passage of this Resolution regarding the city’s existing policies for racist and sexist practices within City Government, as well as any recommendations to strengthen this policy as permitted under the City’s Civil Service Rules and applicable laws.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF KNOXVILLE:

SECTION 1: The Council of the City of Knoxville hereby respectfully requests the Mayor and her staff work with the Law Department, the Human Resources Director, and the Director of Civil Service and the Civil Service Merit Board to study and make a report to City Council no later than 120 days from the passage of this Resolution regarding the city’s existing policies for racist and sexist practices within City Government, as well as any recommendations to strengthen this policy as permitted under the City’s Civil Service Rules and applicable laws.

SECTION 2: Upon adoption, the City Recorder is hereby respectfully requested and directed to forward a true and correct copy of this Resolution to the Mayor.

SECTION 3: This Resolution shall take effect from and after its passage, the welfare of the City requiring it.
SUMMARY OF EXISTING POLICIES

This section summarizes existing policies relevant to responding to racist and sexist misconduct within City government. Policies set forth in the City Charter and Code of Ordinances are cited in footnotes, while policies set forth in the Administrative Rules and the Rules and Regulations of the Civil Service Merit Board ("CSMB") are reproduced in full in the cited appendices.

The Charter directs that the City's personnel system must provide "equitable treatment of [C]ity employees."\(^1\) The Charter further directs that "[a]ll personnel action shall be taken on a nondiscriminatory basis consistent with general law."\(^2\)

These requirements are reinforced by Chapter 15, Article II, Division 2 of the City Code, which prohibits employment discrimination, including, in pertinent part, on the basis of race, ethnic origin, color, national origin, gender, gender identity, and sexual orientation.\(^3\) This division also provides enforcement procedures to address charges of unlawful employment practices. Since its enactment in 1973, this division's prohibitions have been amended to keep pace with developments in employment law, but its enforcement procedures have not been revised in decades and are not consistent with either current City practices or human resources norms. For these reasons, these enforcement procedures have become dormant, and this division's prohibitions are instead enforced through the policies and procedures described throughout this section.

While all City organizations and employees have important roles to play in fulfilling these obligations, those with the most significant institutional roles within the executive branch are the Mayor and the Mayor's Office of Community Relations, the Department of Human Resources, the Department of Law, the directors of each department, and the CSMB.

The Charter vests "the executive and administrative powers and responsibilities of the [C]ity" in "the [M]ayor and such other departments, boards, commissions, officers, and agencies are created by or pursuant to this [C]harter."\(^4\) The Mayor appoints departmental directors and appoints the members of City boards and commissions.\(^5\)

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\(^1\) Charter § 1001.
\(^2\) Charter § 1001.
\(^3\) Code §§ 15-57, 15-58.
\(^4\) Charter § 301.
\(^5\) Charter § 303(C); Code § 2-3(1)(a)-(b).
Among the Mayor’s powers, duties, and authorities are ensuring that “all laws and ordinances are enforced” and “administer[ing], supervis[ing], direct[ing], and control[ling] the executive branch of the [City].”

The Mayor prescribes rules and regulations for the conduct of administrative agencies. The Mayor has prescribed several Administrative Rules relevant to preventing and disciplining racist and sexist misconduct. These Administrative Rules include:

- Administrative Rule 1.05 - Non-Discrimination (see Appendix 1);
- Administrative Rule 1.06 - Harassment Policy (see Appendix 2);
- Administrative Rule 1.06.01 - Offensive Materials Policy (see Appendix 3);
- Administrative Rule 1.06.02 - Computer Use Policy (see Appendix 4);
- Administrative Rule 1.07 - Workplace Violence Policy (see Appendix 5);
- Administrative Rule 1.09 - Employee Code of Ethics (see Appendix 6); and
- Administrative Rule 11 - Discipline (see Appendix 7).

These Rules specifically authorize and commit the City to engaging in all actions necessary to provide freedom from discrimination in all employment practices and to ensure compliance with state and federal employment law. They also create an extensive reporting and investigatory procedure for complaints alleging discriminatory harassment in which disciplinary action is authorized against any employee engaging in such behavior or failing to report knowledge of such behavior. Retaliation against an employee bringing a good faith complaint of harassment is prohibited.

The Mayor works “in conjunction with” the CSMB in “issu[ing]” the City’s equal employment and affirmative action policy (see Appendix 8), and the Mayor is responsible for “carry[ing] out the [C]ity’s plan to provide equal employment and affirmative action in all employment practices.” This policy confirms the City’s prohibition on discrimination in

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6 Charter § 303(G).
7 Charter § 303(A); Code § 2-3(1)(c).
8 Code § 2-3(2)(a).
9 Code § 2-3(1)(j).
employment because of, in pertinent part, race or sex. This policy also restates the Charter’s empowerment of the CSMB to “hear allegations of any persons on matters of discrimination in hiring, transfer[,] or promotion . . . .”10

The Mayor’s Office of Community Relations (more recently referred to as the Mayor’s Office of Community Empowerment) “[f]unction[s] as the [C]ity’s equal employment officer to administer the City’s equal employment program with the object of ensuring compliance with the equal employment laws and related executive orders.”11

Further, the Mayor’s Office of Community Relations is responsible for leading the Equity Committee, an initiative established by the Rogero administration and continued by the Kincannon administration to, among other objectives, help the City to hire and develop a workforce that reflects the diversity of the community we serve across both the breadth (functions) and depth (hierarchy) of City government. The Committee has participated in workshops and training through Government Alliance on Race Equity to better create a common knowledge base and identify and acknowledge systemic problems while breaking down personal barriers to address inequity.

The Office of Community Relations also oversees the City’s compliance with Title VI of the Civil Rights Act of 1964, which prohibits discrimination against any person on the ground of race, color, or national origin in any program or activity receiving federal financial assistance. The Office of Community Relations maintains a complaint and investigatory procedure to assess and remedy, as necessary, complaints of racial discrimination in City activities. The Tennessee Human Rights Commission reviews and assesses the findings of the Office of Community Relations.

The Charter requires the City to administer “[p]ersonnel programs, policies[,] and procedures . . . consistent with state and federal law and the charter and ordinances of the [C]ity,” including, in pertinent part, matters involving “employee relations,” “employee complaints,” and “training.”12 The Director of Human Resources is the City’s chief human resources officer, and the Department of Human Resources is responsible for most aspects of personnel administration, including, among other aspects, “[e]nhanc[ing] the relationship between the administration and employees.”13

10 Charter § 1003(F)(8).
11 Code § 2-111(c)(1)(b).
12 Charter § 1008.
The Director of Law is “the legal advisor and attorney for the [C]ity, and for all officers and departments thereof in matters relating to their official duties.”\textsuperscript{14} As such, the Director of Law’s duties include, but are not limited to:

- “Giv[ing] opinions upon any legal matter or question of law when submitted . . . by the [M]ayor, the [C]ouncil or any of its committees or members, the director of any department, or any officer or board not included within a department involving their respective powers or duties;”\textsuperscript{15}

- “Prosecut[ing] or defend[ing] for and in behalf of the [C]ity all complaints, suits, and controversies in which the [C]ity is a party or has an interest;”\textsuperscript{16} and

- “Advis[ing] the [M]ayor on the administration, amendment, and interpretation of the [C]ity’s [A]dmistrative [R]ules.”\textsuperscript{17}

The directors of each of the City’s 13 departments\textsuperscript{18} “manage” their departments,\textsuperscript{19} including hiring and disciplining employees pursuant to applicable rules and regulations.\textsuperscript{20} Consequently, directors are the disciplinary authority in most instances of racist or sexist misconduct.

When disciplinary action is taken against a classified employee, the classified employee has the right to have the disciplinary action reviewed by a hearing examiner designated by the CSMB.\textsuperscript{21}

The CSMB also “hear[s] allegations of any persons on matters of discrimination in hiring, transfer, or promotion . . . .”\textsuperscript{22}

The powers and duties of the CSMB also include “develop[ing] a program to provide for equal employment opportunities to all employees and applicants for employment with

\textsuperscript{14} Code § 2-131(a)(1).
\textsuperscript{15} Code § 2-131(a)(6).
\textsuperscript{16} Code § 2-131(a)(5).
\textsuperscript{17} Code § 2-131(a)(16).
\textsuperscript{18} Code § 2-111(a).
\textsuperscript{19} Charter § 305(C).
\textsuperscript{20} Charter §§ 305(C), 1007.
\textsuperscript{21} Charter §§ 1003(F)(6), 1007(C).
\textsuperscript{22} Charter § 1003(F)(8).
regard to all aspects of employment."23 As previously noted, the Mayor, "in conjunction with the [CSMB]," "issue[s]" this equal employment and affirmative action policy, and the Mayor is responsible for "carry[ing] out the City’s plan to provide equal employment and affirmative action in all employment practices."24 (see Appendix 8).

Finally, the CSMB may adopt rules and regulations necessary for the execution of its powers and duties.25 The CSMB has adopted certain rules and regulations relevant to misconduct, including racist and sexist misconduct. These rules and regulations of the CSMB include:

- Article 17 - Civil Service Investigations (see Appendix 9); and
- Article 27 - Disciplinary Action (see Appendix 10).

All of the above-described policies are relevant to responding to racist and sexist misconduct within City government.

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23 Charter § 1003(F)(11).
24 Code § 2-3(1)(j).
25 Charter § 1003(G).
RECOMMENDATIONS

The Council requested any recommendations to strengthen the foregoing City policies for preventing racist and sexist misconduct as permitted under the City's civil service rules and applicable laws. After consulting with and receiving input from the Department of Human Resources, the Department of Law, and the CSMB, the Mayor's recommendations are as follows:

- **Maintain an Index Summarizing Complaints and Outcomes:** At the time of this Report, the CSMB, through its Executive Secretary, had indexed past discrimination or harassment complaint records and summarized the outcome of those complaints for the past five years and intends to expand that index to include the past 15 years. This index should be continued going forward as shared project by and in aid of the Office of the Mayor, the Department of Human Resources, the Department of Law, and the CSMB in monitoring, tracking, and reviewing whether an alleged complaint was received, whether a received complaint was investigated, what the investigation concluded, and what action was taken in response to the investigation’s conclusions.

- **Review Peer Cities’ Policies and Procedures:** The Department of Human Resources began reviewing the equivalent policies and procedures of peer cities prior to the Council’s approval of Resolution No. R-263-2021. The City should engage the Municipal Technical Advisory Service to complete this review of peer cities’ policies and procedures as part of identifying areas that might need to be improved in the City’s policies and procedures.

- **Survey Employees:** The Department of Human Resources should gather data from employees via surveys, focus groups, etc. to assess issues like how well employees understand what constitutes a reportable offense, how well employees understand how to report a complaint, barriers to employee reporting, employee perceptions of existing policies and procedures, frequency of incidents of discrimination witnessed or experienced by employees on the job, etc. This data will help identify areas that might need to be improved in the City’s policies and procedures.

- **Identify Appropriate Organizational Placement of Equal Employment Officer and Related Responsibilities:** As described in the preceding section, the Mayor's Office of Community Relations (more recently referred to as the
Mayor's Office of Community Empowerment) functions as the City's equal employment officer, administers the City's equal employment program, and ensures (in cooperation with the Department of Law) compliance with the equal employment laws and related executive orders. This organizational placement has not been reviewed in decades. The City should retain an outside counsel to recommend to the Mayor the appropriate organizational placement of the equal employment officer function and related responsibilities. As may be required, the Mayor may propose an ordinance to effectuate that placement in due course.

- **Review Chapter 15, Article II, Division 2 of the City Code:** As described in the preceding section, the enforcement procedures of Chapter 15, Article II, Division 2 of the City Code have become dormant, and this division's prohibitions are instead enforced through the policies and procedures described in the preceding section. The Department of Human Resources and the Department of Law agree that these dormant enforcement procedures should not be revived in their present form. Instead, the City should retain an outside counsel to review this division and recommend improvements to Mayor, who may propose an ordinance to effectuate those improvements in due course.

- **Review Administrative Rules and Rules and Regulations of the CSMB:** Most of the current content and format of the Administrative Rules and the Rules and Regulations of the CSMB predate the reestablishment of the Department of Human Resources. The Department of Human Resources, in cooperation with the Department of Law, began reviewing the content and format of the Administrative Rules prior to the Council's approval of Resolution No. R-263-2021. For example, as part of this review, feedback from the Police Department's Internal Affairs Unit noted that its investigators have found the current text of Administrative Rule 1.06 - Harassment Policy (see Appendix 2) difficult to interpret and apply in practice. The City should retain an outside counsel to complete this review of the content and format of the Administrative Rules (including the Employee Code of Ethics) and propose improvements to the Mayor. The CSMB should then review its Rules and Regulations. The objective of these reviews should be to minimize overlap between the Administrative Rules and the Rules and Regulations of the CSMB. These revisions will aid employees' understanding of City policies and procedures by limiting the necessity of consulting multiple references on certain matters.
- **Train Supervisors and Employees:** After the City’s policies and procedures are updated, the Department of Human Resources should coordinate training to ensure supervisors and employees are aware of the revised policies and procedures.

- **No Changes to Powers and Duties of CSMB:** For the avoidance of doubt, none of the foregoing recommendations will result in changes to the powers and duties of the CSMB as provided for in the Charter.

Finally, while members of the Council initially expressed some interest in a zero-tolerance policy for racist and sexist misconduct, unless the Charter is amended to provide otherwise, such a zero-tolerance policy would not be permitted under the Rules and Regulations of the CSMB. Even if such a policy was permissible, however, it would be contrary to the recommendations of the United States Equal Employment Opportunity Commission. For these reasons, this Report does not recommend adopting such a policy.

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26 U.S. Equal Employment Opportunity Commission, *Report of the Co-Chairs of the EEOC Select Task Force on the Study of Harassment in the Workplace* (June 2016), https://www.eeoc.gov/select-task-force-study-harassment-workplace (“Accountability requires that discipline for harassment be proportionate to the offensiveness of the conduct. . . . While it is important for employers to communicate that absolutely no harassment will be permitted in the workplace, we do not endorse the term ‘zero tolerance’ to convey that message.”).
APPENDIX 1

Administrative Rule 1.05
Non-Discrimination

The City of Knoxville prohibits discrimination in employment on the basis of non-merit factors such as race, color, gender, age, religion, national origin, ethnic origin, gender identity, sexual orientation, creed, genetic information, and disability. The City will take all necessary steps to comply with existing federal and state fair employment laws and to provide freedom from discrimination in employment practices for all persons identified in this rule to the same extent as those protected classifications under federal and state law. Discrimination against any qualified individual in recruitment, examination, appointment, training, promotion, demotion, retention, discipline, or any other employment practices because of non-merit factors shall be prohibited.
APPENDIX 2

Administrative Rule 1.06
Harassment Policy

The City is committed to providing a work environment that is free of discrimination. In keeping with this commitment, the City maintains a strict policy prohibiting sexual harassment or any other harassment based on a protected class such as race, color, gender, age, religion, national origin, ethnic origin, gender identity, sexual orientation, creed, genetic information, and disability. All forms of harassment are strictly prohibited.

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment.

Sexual harassment can occur in a variety of circumstances, including but not limited to, the following:

- The victim as well as the harasser may be a woman or a man. The victim does not have to be of the opposite sex, but he/she must have been subjected to harassment because of the victim's sex.

- The harasser can be the victim's supervisor, an agent of the employer, a supervisor in another area, a co-worker, or a non-employee.

- The victim does not have to be the person harassed but could be anyone affected by the offensive conduct.

- Unlawful sexual harassment may occur without economic injury to or discharge of the victim.

- The harasser's conduct must be unwelcome.

Harassment based on a legally protected class, including race, color, gender, age, religion, national origin, ethnic origin, gender identity, sexual orientation, creed, genetic information, and disability may also constitute unlawful harassment and is strictly prohibited by the City. For example, derogatory or degrading remarks, jokes, objects or pictures, or negative
commentaries about a person’s race, color, gender, age, religion, national origin, ethnic origin, gender identity, sexual orientation, creed, genetic information, or disability are strictly prohibited.

Any employee who believes he or she has been the subject of harassment due to his or her race, color, gender, age, religion, national origin, ethnic origin, gender identity, sexual orientation, creed, genetic information, or disability should submit a written complaint of the alleged act immediately to the Civil Service Director. In the alternative, the written report may be made to the Director of Law. If such a report is made by an employee to a supervisor, Director, or Senior Director, the party to whom the report has been made must notify the Civil Service Director or the Director of Law as soon as possible. Supervisors must report harassment as a condition of employment. Failure to report known harassment may result in disciplinary action. If deemed necessary by the Civil Service Director or alternatively the Director of Law or their representatives will work with Police Internal Affairs to make an investigation of the complaint immediately after the report is made. This investigation may include, but is not limited to, interviews of witnesses and examination of relevant documents. A summary report of facts will be submitted by the Civil Service Director or Director of Law to the Mayor and the Department Head of the accused employee.

There will be no retaliation against an employee who brings a good faith complaint of unlawful harassment or against any employee who provides good faith testimony or evidence during an investigation.

After the investigation of the complaint has been completed, and where the facts support the allegations made in the complaint, appropriate disciplinary action will be taken, up to and including termination. During any investigation, the City may also take any temporary action necessary to prevent further harassment until the investigation is completed and permanent action can be taken.

This policy shall be reviewed from time to time by the Director of Law.
APPENDIX 3

Administrative Rule 1.06.01
Offensive Materials Policy

No City employee while on duty and/or on City property shall be in possession of any kind of sexually explicit material, and no City employee shall access such material through the City’s Internet system. Any violation of this policy may result in immediate disciplinary action, up to and including termination.

The term “sexually explicit material” means any printed or written material, or any audio, film or video recording, or any pictorial representation or graphic depiction, produced in any medium, which depicts or describes nudity, including sexual organs or excretory activities, in a lascivious manner (i.e., a manner which is lewd and intended or designed to elicit a sexual response).

All departmental supervisors are responsible for monitoring their employees’ work areas to ensure that this policy is enforced. Any employee encountering such material should immediately report the location and details related to the incident to the Civil Service Department as soon as possible. This policy shall not apply to employees who are required to take possession of such material during the performance of their official job duties, such as confiscation or other similar justification.
APPENDIX 4

Administrative Rule 1.06.02
Computer Use Policy

Computers and related items furnished by the City are City property, intended for use by employees for City business. Computers and related items include, but are not limited to, hardware, software (including e-mail and Internet software), computer files and documents. The City has the right, but not the duty, to monitor any and all of its computers and related items including, but not limited to: monitoring employees' visits on the Internet, reviewing material downloaded or uploaded by employees, and reviewing e-mail sent and received by employees.

Waiver of Privacy

Employees have no expectation of privacy in e-mail messages, data accessed through the Internet, or any other data or information created or stored on City computers, nor does the use of passwords by employees create any privacy rights in this information. The City may access, monitor, or reproduce these messages and data, without the consent of employees, when it is deemed necessary in the sole discretion of the City. All passwords must be provided to the Department Director or Information Systems upon request. The use of undisclosed passwords is prohibited.

Prohibited Uses

The sending, displaying, disseminating, or storing of inappropriate or sexually explicit material is prohibited, unless the employee can demonstrate a legitimate City interest in such conduct (such as police investigation of criminal activity). No City employee shall use City computers in a manner that is disruptive or offensive to others, or in violation of any provision of the City's personnel policy. Other prohibited uses include, but are not limited to, any material containing ethnic slurs, racial comments, off-color jokes, or material that may be construed as sexual, racial or other harassment, or the showing of disrespect of others.

No software may be installed or downloaded on to City computers without the written permission of the Information Systems Director.

The e-mail system should not be used to solicit or to conduct personal business ventures.
Compliance with Applicable Laws and Licenses

Employees must comply with all software licenses, copyrights, and all other state and federal laws governing intellectual property and online activity. No City employee may duplicate such software without the written permission of the Information Systems Director.

Violations; Disciplinary Action

Employees who violate this policy shall be subject to legal and/or disciplinary action, up to and including termination of employment. Employees should notify their immediate supervisor or department director upon receiving any inappropriate or sexually explicit material or upon learning of violations of this policy.
APPENDIX 5

Administrative Rule 1.07
Workplace Violence Policy

The City is committed to providing a safe workplace that is free from violence or threats of violence. “Violence” includes, but is not limited to, physical harm, shoving, pushing, harassing, intimidating, coercing, brandishing weapons, interfering with an individual’s legal rights of movement, and threatening or talking of engaging in violent activities. The City expressly forbids any acts or threats of violence by any current or former employee against other employees, citizens, or visitors in or around the workplace or elsewhere at any time.

All employees must submit a written report of any incidents of violent, threatening, harassing, or intimidating behavior to the Civil Service Department (or alternatively the Law Department). Any situation in which an employee witnesses actual violence or reasonably believes that there is an imminent threat of violence should be reported directly to the Knoxville Police Department or to 911.

All reports of violence, threats, harassment, intimidation, and other disruptive behavior will be taken seriously and investigated by the Civil Service Department and the Knoxville Police Department. Individuals who commit and/or threaten violent acts will be dealt with appropriately up to and including termination of employment and/or criminal penalties. There will be no retaliation against an employee who brings a good faith complaint of workplace violence or against any employee who provides good faith testimony or evidence during an investigation.
APPENDIX 6

Administrative Rule 1.09
Employee Code of Ethics

All City employees are required to maintain the highest ethical standards in the conduct of their official duties. In order to fulfill this requirement, the following points are made:

- There shall be no activity which is in conflict with the interest of the City or employee's official duties.

- City employees cannot use their position with the City for private interest.

- No employee shall directly or indirectly accept any gift, favor or service in any form under circumstances from which it could reasonably be inferred that the gift was intended to influence the employee, or reasonably be expected to influence the employee, in the performance of the employee's official duty or was intended as a reward for any official act by the employee which benefits another party.

- Personal characteristics such as honesty, courtesy, dependability, sobriety, industry, and use of sound judgment are requirements for all employees in all classes of work throughout City employment.

- To the extent of conflict between this rule and the provisions of any ordinance enacted by City Council, the provisions of the ordinance control.
APPENDIX 7

Administrative Rule 11
Discipline

11.01 POLICY

It is the policy of the City to act with integrity and justice toward each employee, recognizing his/her individuality as a human being and his/her right to fair, decent, and understanding supervision. Each employee is expected to comply with instructions, established policies, procedures, rules, and regulations. The supervisor is responsible for ensuring that each employee does his/her job properly and in accordance with work regulations. The Senior Director (or Director in those departments without a Senior Director) initiates all disciplinary actions.

Whenever an employee’s performance, attitude, work habits, or personal conduct on the job at any time falls below a desirable level, supervisors shall inform employees promptly and specifically of such lapses and give counsel and assistance. If appropriate and justified, a reasonable period of time for improvement may be allowed before initiating disciplinary action. In some instances a specific incident may justify severe disciplinary action in and of itself; however, the action to be taken depends on the seriousness of the incident and the whole pattern of the employee’s past conduct and performance.

11.02 TYPES OF DISCIPLINE

The following types of discipline are available and, unless circumstances dictate otherwise, should be accomplished in the manner indicated for all Civil Service employees. These measures may also be followed for employees not covered by Civil Service; however, the disciplining of such employees and of all other at-will employees is ultimately within the sound discretion of the appropriate supervisor.

A. Oral Reprimand

It is the responsibility of the immediate supervisor to recognize and handle disciplinary cases. Employees who violate a rule are not problem employees unless they are habitual offenders. A consultation between the employee and the supervisor is desirable. This discussion, in which the supervisor tries to reach an understanding of the causes for the offense and to impress upon the employee the need for corrective action, is called an oral reprimand. It can
eliminate misunderstandings immediately and set the desired standards of conduct and performance. Oral reprimand forms must be signed by the Senior Director (or Director in those departments without a Senior Director). Copies of oral reprimands shall be forwarded to the Civil Service Department for placement in the employee’s file.

B. Written Reprimand

Should oral reprimand(s) fail to achieve improved behavior it is likely a written reprimand is needed. The written reprimand discusses the nature of the employee’s offense, the efforts made previously to correct the problem, and often it warns the employee of future actions that may be taken if the matter is not corrected. Written reprimand forms must be signed by the Senior Director (or Director in those departments without a Senior Director). Copies of written reprimands shall be forwarded to the Civil Service Department for placement in the employee’s file.

C. Suspension

A Senior Director (or Director in departments that do not have a Senior Director) may, for just cause, suspend an employee without pay for a period not to exceed one (1) year. The length of the suspension should be relevant to the nature of the offense and the employee’s past history with the City. A suspension may follow earlier disciplinary action (i.e., written reprimand) or may be used when a particular incident in and of itself is serious enough to warrant immediate action.

In accordance with provisions of the Fair Labor Standards Act, an employee who is not eligible for overtime must be suspended for a period of at least one full work week with the exception of a situation involving a major safety violation or a serious infraction of workplace conduct rules in which case a suspension of less than one week can be considered.

D. Demotion

Conditions may occur which impair an employee’s ability to perform the assigned duties, but do not hamper his/her ability to work at lower paid duties. A Senior Director (or Director in departments that do not have a Senior Director) may, as a means of discipline, demote an employee in accordance with the provisions of the Civil Service Merit Board Rules and Regulations.
E. Termination

A Senior Director (or Director in departments that do not have a Senior Director) may, for just cause, terminate an employee. Just cause may be based upon an event or condition which is the culmination of a series of events or conditions for which disciplinary action(s) have been taken. Just cause may also be based upon a single event or condition without previous disciplinary action(s) if the event or condition in question justifies immediate termination.

11.03 REASONS FOR DISCIPLINE

Any employee may be disciplined or dismissed in the event that any of the following charges have been substantiated in accordance with Civil Service Merit Board Rules and Regulations. The following list is not intended to be exhaustive, but is an example of the types of charges that may result in appropriate disciplinary measures.

A. Insubordination against a superior officer or supervisor.

B. Oppression and tyranny (over those under their control).

C. Neglect of duty.

D. Absence without leave.

E. Violation of rules, regulations, and procedures of a department.

F. Violation of any provision of the City’s Drug Screen Program including, but not limited to, a confirmed positive drug/alcohol test result, refusal to participate in a drug/alcohol test, altering results, specimens or documents, or failure to complete a required referral to an educational or treatment program; possession of or drinking alcohol on duty; possession of or taking drugs, other than those prescribed by a physician, while on duty; being under the influence of drugs or alcohol while on duty; and additionally, gambling or conduct bringing discredit upon the City.

G. Any legal offense, depending on fine and/or sentence.

H. Any conduct injurious to the peace and welfare of the public.
I. Inability to perform assigned duties.

J. Work slowdown or work stoppage.

K. Misappropriation of City funds.

L. Willful damage to City property.

M. Unauthorized use or removal of City property.

N. Any other just and reasonable cause.

O. Is offensive in his/her conduct or language in public, or towards the public, City Officials, or fellow employees.

P. The City will not tolerate any violence in the workplace. Any employee who commits any act of violence in the workplace or threatens to commit any act of violence shall be subject to immediate disciplinary action up to and including termination.
APPENDIX 8

Article 3 of the Rules and Regulations of the Civil Service Merit Board
Equal Employment/Affirmative Action Plan

SECTION 301. It is the policy of the City of Knoxville to provide equal opportunity in employment to all employees and applicants for employment. No person will be discriminated against in employment because of race, religion, color, sex, age, national origin, disability, or military status.

SECTION 302. The City shall establish, implement, and maintain an Affirmative Action Plan which shall have the ultimate goal of making available all levels of employment within the City government structure to all persons who can perform the required duties regardless of age, race, religion, creed, national origin, sex, or for qualified persons with disabilities, or any other legally protected status. The goal of the Affirmative Action Plan is not to bias the process in favor of any group. It is to eliminate city procedures that may work against people who have background or other characteristics different from the majority. This plan shall be consistent with Section 1003(f)(11) of the City Charter, which states that the Board has the power and duty to “develop a program to provide for equal employment opportunities to all employees and applicants for employment with regard to all aspects of employment.” Copies of the Affirmative Action Plan shall be made available upon request to all City employees. Section 1003(f)(8) gives to the Board the power and duty to “hear allegations of any persons on matters of discrimination in hiring, transfer or promotion…”.

SECTION 303. No applicant seeking admission to the civil service eligibility register of the City or who is on the civil service eligibility register of the City shall be discriminated against or favored in any way because of race, national origin, disability, or sex; or because of political or religious opinions; provided however, that no member of a political party advocating overthrow of the Government of the United States by force shall be permitted to take an examination or be placed on the civil service eligibility register of the City of Knoxville.
APPENDIX 9

Article 17 of the Rules and Regulations of the Civil Service Merit Board
Civil Service Investigations

17.01 Authority
Pursuant to the City of Knoxville Charter, Article X Sections 1003. (F) and (G) and the City of Knoxville Code, Chapter 15. Section 15-53 and 15-54, the Civil Service Merit Board has the authority and responsibility to hear allegations of discrimination with regard to personnel practices, to conduct any investigation it deems necessary into matters of personnel administration, and to specify rules as to the conduct of investigations.

17.02 Purpose
The City of Knoxville (the “City”) prohibits discrimination in employment on the basis of race, color, sex, age, religion, national origin, and disability. The City will take all necessary steps to comply with existing federal and state fair employment laws and guidelines. The City is committed to providing a work environment that is free of discrimination.

In keeping with this commitment, the City maintains a strict policy prohibiting sexual harassment or any other harassment based on a protected class such as race, color, disability, national origin, age, sex, or religion. Any unlawful harassing conduct in the workplace, whether committed by supervisors or non-supervisory employees, is strictly prohibited.

17.03 Employee Complaints of Discrimination and/or Harassment
Any employee who believes he or she has been the subject of discrimination or harassment due to his or her sex, race, religion, age, national origin, color or disability should submit a written complaint of the alleged act immediately to the Civil Service Director. Upon request by the affected employee, the Board staff shall assist him/her with the transcription of the complaint as needed. In the alternative, the written report may be made to the Director of Law. If such a report is made by an employee to any supervisor, Director, or Senior Director, the party to whom the report and written complaint has been made must notify the Civil Service Director or the Director of Law as soon as possible. If the employee making the complaint does not believe his or her complaint is being addressed, the employee should immediately report this situation directly to the Civil Service Director or, in the alternative, to the Director of Law.

If deemed necessary upon review by the Civil Service Director, an investigation of the complaint will be undertaken by the Civil Service Director, or alternatively the Director of
Law, as soon as possible after the report is made. This investigation may include, but is not limited to, interviews of witnesses and an examination of relevant documents. A summary report of facts will be submitted by the Civil Service Director, or Director of Law, to the Mayor, Department Head of the accused employee, and the Director of Law.

17.04 Investigation Procedures

Upon receipt of a written complaint by an employee who believes he or she has been the subject of discrimination or harassment due to his or her sex, race, religion, age, national origin, color or disability, the Civil Service Director shall serve a notice of the complaint, to include the date, place, and circumstance of the allegation(s) as soon as is practicable to the Department Head of the department alleged to be responsible for the discrimination or harassment, to the Director of Law, and to the Mayor.

After serving notice, the Civil Service Director shall make an initial review of the charges as soon as is practicable. If it is determined upon initial review that the circumstances are not appropriate for the investigation process, a written explanation shall be provided to the complainant and shall be copied to the Department Head of the department alleged to be responsible for the discrimination or harassment, to the Director of Law and to the Mayor.

If it is determined upon initial review that the circumstances are appropriate for the investigation process, a Civil Service investigation shall be initiated as soon as is practicable. Civil Service investigations shall be conducted by the Civil Service Director and shall include an attorney from the Law Department to serve as co-investigator and witnesses to the investigation. A member of KPD Internal Affairs Unit or another trained member of the Civil Service staff may also serve as a co-investigator at the request of the Civil Service Director on an as-needed basis. Investigations shall include, but are not limited to, any or all of the following: interviews of the complainant and the accused, interviews of witnesses, and review of relevant documents. Pursuant to the City of Knoxville Charter, Article X., Section 1003. (F) (4), the Civil Service Board shall have the power to administer oaths and to secure, by subpoena, in the name of the City, the attendance and testimony of witnesses and the production of records and papers relevant to any investigation which it deems necessary concerning the administration of personnel. To the extent possible, scheduling of interviews shall be coordinated with the Department Head of the employee being interviewed so that work flow is not disrupted. To the extent practicable, interviews will be taped.

As may be appropriate, City employees questioned will be presented with, and have explained to them, a Garrity Warning which states that City employees questioned as part of a Civil Service investigation are compelled to answer questions or be subject to disciplinary action,
up to termination and that no information provided by a City employee as part of a Civil Service investigation may be used against him/her in a criminal matter.

At the conclusion of the fact finding process, a Summary Report of Facts shall be submitted by the Civil Service Director to the Mayor, Department Head of the accused employee, and the Director of Law for judgment and disciplinary considerations. The Civil Service Director shall also submit a letter to the complainant advising him/her that the investigation is complete.

All investigations will be conducted in the most sensitive manner possible, however, complete confidentiality cannot be guaranteed.

17.05 Non-Retaliation Policy
There shall be no retaliation against an employee who brings any good faith complaint of unlawful harassment or discrimination or against any employee who provides good faith testimony or evidence as required during an investigation.
APPENDIX 10

Article 27 of the Rules and Regulations of the Civil Service Merit Board
Disciplinary Action

SECTION 2700. PRE-DISCIPLINARY PROCEDURES

Section 2700.1. Whenever the suspension, demotion, or termination of an employee who can be discharged only for cause pursuant to the provisions of Sections 1006 and 1007 of the Charter of the City of Knoxville is contemplated, before said action is taken and prior to any other procedures set out in this article, the employee shall be given a pre-disciplinary hearing at which he shall be given written notice of the charges against him, an explanation of the employer's evidence, and an opportunity to present his side of the story, either orally or in writing. The pre-disciplinary hearing must be preceded by written notice of the reasons for the disciplinary action.

SECTION 2701. STATEMENT OF DISCIPLINARY ACTION

Section 2701.1. A Statement of Disciplinary Action shall be served on the employee either before or at the time of the disciplinary action contemplated pursuant to Section 1007 of the Charter. This document shall state the nature of the disciplinary action being taken against the employee.

Section 2701.2. The Statement of Disciplinary Action may be in any form, but attached to the statement, on a separate sheet, shall be a form providing for the signature of the employee, designating his receipt of the Statement of Disciplinary Action, and also a form for the signature of the individual who serves the statement, stating the time, date, and place of said service. These forms are available in the Civil Service Office.

Section 2701.3. The Statement of Disciplinary Action shall include a brief statement of the reasons justifying the disciplinary action taken.
Section 2701.4. The Statement of Disciplinary Action shall include a notice of the employee's right to seek a review by a Hearing Officer designated by the Board of the disciplinary action taken. This notice shall also include information as to the procedure to follow to obtain such a review.

Section 2701.5. The Statement of Disciplinary Action shall also notify the employee of his/her rights to be represented by counsel or another representative.

Section 2701.6. The Statement of Disciplinary Action shall be signed by the Department Head initiating the action and the original shall be forwarded to the Executive Secretary/Director to be placed in the employee's official file.

Section 2701.7. An oral or written reprimand given to an employee or placed in the employee's file shall not be construed to be a disciplinary action which is subject to the review process as set out in Article 27 or in the Grievance Procedure as set out in Article 28 of these Rules and Regulations; as long as said oral or written reprimand does not suspend, demote, discharge, or reduce the salary of the employee. The employee has the right to offer a written response to be attached to the reprimand in his/her file.

SECTION 2702. REQUEST FOR REVIEW OF DISCIPLINARY ACTION

Section 2702.1. If the employee desires a review of the disciplinary action, within ten (10) days after the Statement of Disciplinary Action is received by the employee, he/she shall file his/her request for a review of that disciplinary action with the Executive Secretary/Director of the Board. Said request shall be in writing and signed by the employee. Upon request by the affected employee, the Board staff shall assist him/her with the writing of the request for review.

Section 2702.2. Upon receipt of the request, the Executive Secretary/Director of the Board shall send a copy of the same to the Department
Head and to the City Attorney. Also upon receipt, the Executive Secretary/Director shall open a file with the Statement of Disciplinary Action and the Request for Review in regard to the matter in question.

Section 2702.3. The Request for Review of Disciplinary Action shall set forth with reasonable particularity (1) the grounds for attacking, objecting to, or challenging the validity of the disciplinary action; (2) whether the employee is contesting the entire scope of the disciplinary action or only a designated part thereof; (3) the particular relief demanded or requested.

Section 2702.4. The Request for Review will not be considered to have been filed until actually received in the Office of the Board.

Section 2702.5. The Department Head may, if he so desires, file a reply to the Request for Review, but such reply must be filed no less than three (3) days before that date set for the hearing.

Section 2702.6. If such a reply is filed, it shall be the duty of the Executive Secretary/Director to forward a copy of the same to the employee's attorney or representative, or if the employee has no such attorney or representative, to the employee himself.

SECTION 2703. SELECTION OF HEARING OFFICER AND DATE OF HEARING

Section 2703.1. Upon the timely receipt of a Request for Review of Disciplinary Action, the Executive Secretary/Director shall contact an individual on the list of Hearing Officers established by the Board.

Section 2703.2. The Executive Secretary/Director and the Hearing Officer, in cooperation with the City Attorney's Office and the employee's attorney or representative, if known, shall set the time for the hearing (or pre-hearing conference) of the Review of the Disciplinary Action, said time to be within ten (10) days of the receipt of the Request for Review.
Section 2703.3. The Executive Secretary/Director shall forward to the Hearing Officer a copy of all documents which have to date been filed with the Executive Secretary/Director. The originals of the documents and record shall be retained in the office of the Executive Secretary/Director when not requested by the Hearing Officer or Court.

SECTION 2704. NOTICE OF HEARING

Section 2704.1. Upon the selection of a date for the review hearing, it shall be the responsibility of the Executive Secretary/Director to forward a Written Notice of Hearing to all parties. This notice shall contain the time, date, and place of said hearing. The notice shall also contain notification to the employee of his right to be represented by counsel or another representative. The notice shall also inform the employee of his/her right to a continuance if it is desired. The procedure for obtaining a continuance shall also be noted.

SECTION 2705. CONTINUANCE

Section 2705.1. To be granted, any continuance must be at the employee's request or must have his/her consent. Any continuance granted shall in no way postpone or have any other effect upon the effective date of the disciplinary action instituted by the Department Head.

Section 2705.2. The employee shall be entitled to one continuance as of right, said continuance being for a maximum for forty-five (45) days from the original date of the hearing. Any other continuance requested by the employee, as well as the length of the same, must be for good cause shown and shall be granted or denied at the discretion of the Hearing Officer. The employee must request his continuance as of right no later than three (3) working days before the date set for the hearing. If the employee fails to make a timely request, the Hearing Officer
shall have the sole discretion as to whether the request is granted.

**Section 2705.3.**

If it receives the consent of the employee, the City is entitled to one continuance for a maximum of forty-five (45) days from the original date of the hearing. Said continuance, if consented to by the employee, shall be granted by the Hearing Officer as a matter of right. Any further continuance sought by the City must be for good cause shown and must receive the consent of the employee and the approval, at his discretion, of the Hearing Officer.

**Section 2705.4.**

A request for a continuance as of right must be submitted to the Hearing Officer no later than three (3) working days prior to the date set for the hearing. The Hearing Officer will have the sole discretion as to whether a request not filed in a timely manner is granted. The order granting or denying any continuance must be in writing and signed by the attorneys representing the appellant and appellee. The Hearing Officer’s signature is required, and it is the responsibility of the attorney seeking the continuance to have the order in the office of the Civil Service Merit Board within two working days from the date the order was signed by the Hearing Officer.

**SECTION 2706. PRE-HEARING CONFERENCE**

**Section 2706.1.**

The Hearing Officer on his own motion, or upon motion of one of the parties, may direct the parties and/or the attorneys of the parties to appear before him for a conference not less than three (3) days before the date of the hearing.

**Section 2706.2.**

The purpose of said Pre-Hearing Conference will be to consider the simplification of the issues, the necessity or desirability of amendments to the pleadings, the possibility of obtaining admissions of facts and of documents which will avoid unnecessary proof, and such other matters as may aid in the disposition of the action.
Section 2706.3. The Hearing Officer shall make an order which recites the action taken at the conference and which limits the issues for him to those not disposed of at the Pre-Hearing Conference.

SECTION 2707. NON-HEARING DISPOSITION

Section 2707.1. Disposition of requests for review may be obtained without a hearing by means of stipulation of the parties, agreed settlements, consent orders, and default. Any extra-hearing settlement or a request for review shall be reduced to writing and presented to the Hearing Officer for his signature. Said action is conclusive upon the Hearing Officer, who shall sign the document as a matter of course.

SECTION 2708. SUBPOENAS

Section 2708.1. At least three (3) working days prior to the date of the hearing, all parties shall provide the Executive Secretary/Director with a list of the individuals they wish to have subpoenaed to appear at the hearing. If this list is provided to the Executive Secretary/Director less than three (3) days prior to the date of the hearing, the Executive Secretary/Director has the discretion as to whether or not the subpoenas will be issued. Subpoenas requested after the deadline, if issued, must be honored by the individuals named, but the party requesting said subpoenas cannot rely upon the failure of a witness untimely subpoenaed to appear as grounds for a continuance.

Section 2708.2. The list specified in subsection 2708.1 must be typed and must include the name, address, and phone number (both business and home, if possible) of the individuals to be subpoenaed. If a subpoena duces tecum is requested, the nature of the documents or information sought by the party requesting the subpoena duces tecum must also be set out on the subpoena request list.
Section 2708.3. The subpoenas may be served by a Police Officer of the City or by any officer authorized to serve subpoenas from a State Court.

SECTION 2709. HEARINGS FOR THE REVIEW OF DISCIPLINARY ACTIONS

Section 2709.1. No disciplinary action shall ever be reversed or in any other way modified due to the form of the Statement of Disciplinary Action or of any other of the pleadings.

Section 2709.2. No charge contained in the Statement of Disciplinary Action or any amendment thereto shall ever be dismissed for insufficiency, vagueness, or other shortcoming as to form, but if after the hearing provided for, the employee who has been disciplined submits himself to examination, and after such employee has testified, he shall make affidavit: (1) that he was misled to his detriment by the insufficiency, vagueness, or other alleged shortcoming of the charge or charges, and (2) that he believes that he can obtain sufficient testimony to cause a dismissal of the charge or reversal or modification of the disciplinary action which has been taken, the evidence so taken shall become the charge and such employee shall be granted a reasonable time in which to obtain such testimony in his behalf.

Section 2709.3. The strict rules of evidence shall not apply. The Hearing Officer shall determine the evidence to be received.

Section 2709.4. The Hearing Officer may take notice of any judicially cognizable fact or facts.

Section 2709.5. Polygraph examinations, the questions pursuant thereto, the results thereof, and the impressions or conclusions derived therefrom, are inadmissible.

Section 2709.6. With the exception set out in subsection 2709.5, any evidence may be admitted if, in the opinion of the Hearing Officer, it is
of probative force and tends to prove or disprove a material fact.

**Section 2709.7.** The disciplinary authority shall bear the burden of establishing just cause for the disciplinary action taken by a preponderance of the evidence submitted to the Hearing Officer.

**Section 2709.8.** The final decision of the Hearing Officer shall be reduced to writing and entered into the record within ten (10) days from the date of the conclusion of the hearing. The Hearing Officer shall forward his written decision, along with the record (if in his possession), to the Executive Secretary/Director.

**Section 2709.9.** The written decision of the Hearing Officer shall include a recitation of the charges and/or specifications against the employee, the Hearing Officer's findings of fact, the Hearing Officer's conclusions of law, and the reasons for the decision which the Hearing Officer has reached.

**Section 2709.10.** It shall be the responsibility of the Executive Secretary/Director, upon receipt of the Hearing Officer's written decision, to file the original of that decision with the record of the hearing and to forward a photostat copy of the decision to all parties and other interested representatives of the City administration. By means of a cover letter or other notice attached to the employee's copy of the decision, the Executive Secretary/Director shall notify the employee of his right to appeal the decision of the Hearing Officer by the employee filing a petition for review in Chancery Court within sixty (60) days after the Order is entered.

**Section 2709.11.** Pursuant to T.C.A. Section 27-9-114, contested case hearings by Civil Service Boards of a municipality which affect the employment status of a Civil Service employee are to be conducted in conformity with contested case procedures under T.C.A. Section 4-5-301 et seq., from and after January 1, 1989. Therefore, for any disciplinary action pending or instituted on or after January 1, 1989, such procedures shall apply to all hearings and/or pre-hearing conferences before a Hearing
Officer held under this Article and to the extent any of the rules or procedures set forth herein conflict with the provisions of T.C.A. Section 4-5-301 et seq., the provisions of T.C.A. Section 4-5-301 et seq. shall control.

SECTION 2710. TRANSCRIPT OF PROCEEDINGS

Section 2710.1. All tape recordings of the hearing made either by representatives of the Board or by a Court Reporter retained for that purpose shall be labeled, sealed, and placed in the custody of the Executive Secretary/Director of the Board or retained by the Court Reporter, unless and until said recordings are actually transcribed. The tape recordings shall be retained by the Executive Secretary/Director or the Court Reporter until all rights to an appeal of the Hearing Officer's decision are exhausted. A copy of any transcript prepared shall be retained permanently by the Executive Secretary/Director.

Section 2710.2. The Executive Secretary/Director shall not be required to obtain a transcript of any proceeding until he has received a copy of a Petition for Review filed in the Chancery Court for Knox County, Tennessee, or other appropriate court or until he receives a written request for a transcript to be prepared in a non-appeal situation.

Section 2710.3. Upon receipt of a copy of a Petition for Review or of a written request (in a non-appeal situation) as specified in subsection 2710.2, it shall be the responsibility of the Executive Secretary/Director to have prepared a transcript of the proceedings. If the transcript is being prepared pursuant to an appeal, the Executive Secretary/Director shall send the original or a certified copy of the entire record of the proceeding under review to the reviewing court within forty-five (45) days of the receipt of the Petition for Review; unless a longer period of time is granted by that court. If the transcript is being prepared in a non-appeal situation, the Executive Secretary/Director shall forward the transcript to the requesting party as soon as is reasonably possible.
Section 2710.4. It shall be the responsibility of the party appealing the Hearing Officer's decision to pay for the preparation of the transcript. If the other party wishes a copy of the transcript, the only expense to that party shall be the reasonable expense of photocopying the transcript.

Section 2710.5. If the preparation of the transcript has been requested in a non-appeal situation by an individual who is not a representative of the City, that individual shall bear the total expense of the preparation of the transcript. The Board or any representative of the City of Knoxville shall have the right, at its own expense, to make a photocopy of any transcript so prepared.

SECTION 2711. NOTICE OF APPEAL OF THE HEARING OFFICER’S DECISION

Section 2711.1. A person who is aggrieved by a final decision of the Hearing Officer is entitled to judicial review pursuant to T.C.A. Section 27-9-114 and T.C.A. Section 4-5-301 et seq. In the event an aggrieved person to a disciplinary action appeals the decision of the Hearing Officer, that person must file a Petition for Review in the Chancery Court for Knox County, Tennessee, within sixty (60) days after the entry of said decision or in such other court as may be provided or required under the applicable statutory provisions. Said appeal shall be governed in all respects by the provisions of T.C.A. Section 27-9- 114 and T.C.A. Section 4-5-301 et seq. To the extent these rules conflict in any part with said statutory provisions, the statutory provisions shall control.

Section 2711.2. An aggrieved person who appeals the decision of the Hearing Officer shall have the responsibility of insuring that a copy of his Petition for Review of the appeal, in writing, is served upon the Executive Secretary/Director of the Board either before or simultaneously with the filing of the appeal with the appropriate court. Upon receipt of said Petition, the Executive Secretary/Director shall prepare the transcript of the hearing as provided for in this Article.
Amanda: We will go ahead and call the November 10th 2021 meeting of the Civil Service Merit Board to order. Um, The first order of business is the approval of minutes of the October 13th meeting. Those were distributed ahead of today’s meeting.

Bill: Motion to approve

Amanda: Do I have a second?

Jamie: Second.

Amanda: All in favor?

Bill, Jamie, and Stephanie: I

Amanda: Any opposed? Those are approved. Reports regarding litigation. Um, we have George Shields on Zoom and I will let him give his report.

George: Nothing to report this time. But, I appreciate the opportunity, though. Thank you.

Amanda: Thank you. Mr. Winchester?

Mike: Yes, thank you Madame Chair. I had one matter that came back up that I reported to the Board. I reported on several months ago involving um.. Officer Bible. He filed an appeal. Um.. that had gone up to Chancery Court. (Inaudible) Um, I know everybody will remember that. He had asked that our Hearing Officer be deposed. As part of um (inaudible). The Board authorized me to oppose. Which I did. It is unprecedented and the Chancellor agreed. He has now refiled seeking to add to that record but does not appear to be wanting to depose our Hearing Officer. Ron Mills of the City is handling that. He has done a great job. I don't think I need to get further involved but I wanted to report to the Board.

Amanda: Thank you. We next turn to the staff report.

Vicki: Sure, I just wanted to update you guys on the Police Recruit process. The posting closed at the end of October and we are currently in the testing process. Kent has been handing that. Kent and Missi have been doing that testing for us. I want to say we have one or two additional test dates. So, we should be wrapping that up sometime this month. Um, and then getting that referral on over to KPD. Um, Civil Service Staff positions. We did have a resignation. Whitney, as many of you any know, our Office Manager accepted a position in the Fire Department. So, I am actually interviewing today and Friday for that position. So, hopefully we will have a new staff member joining us soon and I will introduce them at a future Board meeting. Um, the only other thing I wanted to mention. It is not on here because I only became aware of it the last
couple of days. But the Administrative rule changes that were forthcoming were published on the City’s Intranet. Um, so, those rule changes um, have been made public. I want to say there were three I think three, rule 2, rule 3 and rule 4, and I think there is a new rule 16. Um, were all published on the City’s intranet. Um, I want to say yesterday or the day before. Maybe Monday. Maybe Monday. Those are live and those will. Um.. The class comp rule will require that we need to amend our own rules. Um, so they are not in conflict with that rule. So, that will be something that I have an agenda item on here I want to talk to you guys about how you want to do rule changes going forward. So we will talk about what format you want to use for me to prepare you for those as we bring rule changes going forward. That will be something we need to do.

Amanda: Thank you.

Vicki: Questions on any of those? I can answer any questions.

Amanda: As far as unfinished business um, I’m not sure if there is any unfinished business. New business, we have a request from Police Chief Eve Thomas to extend exemption from Civil Service for one temporary position of Electronic Evidence Collection Specialist PCN 2292 through September 30th of next year the basis of the exemption is grant funding that lasts through September 2022 and there is an attachment in our materials ah… for this exemption request.

Vicki: I can speak and Eve can add anything additional. Um, This is something that has been exempted by the Board already. Um.. it is recurring so they bring this exemption. They just basically bring it for an extension based on any extension of the grant funding. It looks like they do at least have grant funding though an additional year. So, they do want to go ahead and exempt this for an additional year.

Amanda: Do I have a motion?

Jamie: I will make a motion.

Bill: Second.

Amanda: Any discussion on this topic? All in favor?

Bill, Jamie, and Stephanie: I

Amanda: Any opposed? That is approved. We also have a request from Police Chief Eve Thomas to permanently exempt from Civil Service one position of Assistant Chief PNC to be determined is the verbiage there and there is a copy in our materials as well. So, I will let Vicki speak to that.

Vicki: I will provide the whole history and if there is any additional that you want Chief Thomas to fill back in. So, this is a new job class. It is not one that we have that we have had before. Um, it was approved by Council recently. So, Assistant Chief is going to sit between Chief and Deputy Chief. So, what we currently have is Deputy Chief. We have several Deputy Chiefs. For the Board to note, I don’t think anyone was here back
in the day, uh..we had one exempt position of Deputy Chief. So, every city department has a Deputy Director and other than uniform all Deputy Directors have been exempted by the Board. KPD opted to have all of their Deputy Chiefs, which is kind of their Deputy Director position up until now. All of those were Civil Service classified positions except one. I want to say it was in 1990 ish.. Um, the Board exempted one and um in 2009 I believe KPD stopped using that exemption. And since 2009 all Deputy Chiefs have been classified. So, basically this is..rather than having one Deputy Chief being unclassified and the rest classified it seems to make more sense to have a separate position that serves as that Deputy Director so there is not that awkward structure. So, um that is basically what this request is so that single Deputy type position um working in KPD that is comparable to other Departments. So, I will let Chief Thomas add anything extra.

Chief Thomas: Nothing to add

Vicki: Alright.

Amanda: Do we have a motion?

Bill: I will make a motion.

Jamie: Second.

Amanda: Any discussion? All in favor?

Bill, Jamie, and Stephanie: I

Amanda: Any opposed? So, that is approved.

Amanda: Next, we have a report by the Civil Service Director, Vicki Hatfield, on past practices by the Civil Service Merit Board rule amendments and discussion for preferences for such amendments going forward.

Vicki: Sure, so, we haven’t had rule amendments in quite some time. Certainly not under this current Board. Um, so I was going to tell you guys how these have been done historically. I have a feeling you might to do them differently going forward. I wanted you to have the opportunity to discuss that and decide what format you would like to see future rules come to the Board. Um, since, I can only to speak to my time with the City. Since I have worked for the City, and you may want Mike to chime in on his actual ( if I miss anything) on the actual requirements. We do have specific requirements under the Charter and our own rules for rule amendments. So, typically um a Civil Service rule amendment in my history has come forward one or two ways. Sometimes, a department will have a need and we work together to come up with some amendment that might serve their needs better and be agreeable to the rules. Uh, that might be one reason a rule change would come forward and sometimes it is my recommendation. Typically, one of those that is my own recommendation for something we were doing needed to be changed, we had a need for something to be done differently, or a Department had a need and we were trying to address that need. When
there was a proposed change in the past, the previous Director and then after that myself, we would just draft the change. Um, the change went out and there was no advance notice specifically to the Board other than we are required when there is rule change, a proposed rule change, we are required to put a public notice of ten days umm prior to that coming before the Board at a public hearing. So the process would be: I would draft a change, the first notice of it was that 10 day advance notice, that would go out publicly. It’s also posted in the paper, we put it everywhere we can think to put it, website, paper, um, just to make sure that is disseminated, um, emailed out that there is a proposed rule change and it will be a rule hearing in 10 days. Um, that’s the first time the the rule actually is sent out, that would be the first time the board, employees, anyone else would see that proposed change. Um, then on a regular board meeting date, prior to the board meeting we would have a public hearing. Um, and anyone who wanted to come and speak about that rule change, for or against, uh, that’s what that public hearing is for. It’s for the board to receive input on the proposed change, um, prior to considering that change in a meeting. Following the public hearing, we would have the board meeting, and that’s where the board would deliberate and make a decision on whether to adopt the change as proposed, amend the change to something different and adopt that, or or reject uh the rule change. So I guess what I’m asking the board is is that still how you want to do these going forward so I do actually have um a request from the uniformed departments that will be a slight amendment to how we do our testing, um, procedures and how long those folks will stay on the eligibility register. So we can do it the way we’ve always done it and basically that will go out to you and everyone else 10 days in advance and then we have the public hearing um, and then uh you consider it at the board meeting or if you feel it’s more appropriate going forward that I work with the chair, or that I bring something just sort of a general, not not a deliberation but sort of a general heads up, we’ve been asked to do this, uh the month prior, I just want to see what the board’s preferences are um, going forward. How how involved you want to be in that prior process before the rule actually comes to a public hearing. So if there are additional steps that you feel should be inserted in there prior to that public hearing. This would be a good time for y’all to just kind of decide, you don’t have to do it the way we’ve always done it if there are additional steps you want to add in. I wanted to see if y’all have any thoughts on that.

Amanda: anybody?

Jamie: well, my instinct is, and we haven’t had any problems in the past, but I think looping in the chair is probably just a good practice. Um, as far as, I just think that’s a good practice so you can troubleshoot any potential issues from whoever is the chair, they have an opportunity to say what about this what about this so I think that’s fine. I don’t think the whole board, my opinion, I don’t particularly think the whole board needs a heads up as long as the chair is involved.

Amanda: I do have a question just in terms of the timing because it sounds like there is a pretty short window of time normally, as far as past practice in terms of when it
becomes public and when the hearing is. If there was something that needed further discussion, like the 10 days we just can’t resolve it for some reason by the day that we have the public hearing, is it appropriate to defer it to a subsequent meeting, is that an appropriate procedural..

Mike: I don’t see any problem with that. The procedure is set by charter really and in your rule 601 just, excuse me, adopts that. In all the years I’ve been here we normally give the 10 day notice, have the public hearing immediately prior to a business meeting of the board because if there’s witnesses we really like to have a lot of witnesses because of a lot of the technical amendments but amendments that are being adopted that may involve classifications

Mike: Amendments that are either not involve job classifications or anything else that we still have any control over are usually well attended and the Board likes to hear from those witnesses then go right into a business meeting. Uhhh, only the full Board can adopt and advise the rules. So, um. If you ever had any triage before them there’s got to be a public notice, has to be 10 days before we adopt or amend or supplement and then uhh and then the Board votes on it and its either votes up or down and that’s the way it ought to work.

Amanda: Ok. That makes sense to me. That way it does sound like if the Board members had questions and we couldn’t get those resolved the day of the public hearing we could defer it and come back the next meeting and uh vote on it at that time.

Vicki: That’s really the purpose of that public hearing. That’s your opportunity to hear, is there opposition, are there folks who want to see it amended it differently, umm different suggestions and then if, I’ll be honest, in my 22 years every rule change has been pretty well a nonissue it just, we’ve never had a contentious issue umm and they have always been approved at the following Board meeting I mean right immediately after the public hearing, but if you had one that for whatever reason generated a lot of angst and opposition that’s your opportunity then at the meeting to say we are not prepared to approve this rule as written, as amended so we are gonna set up a meeting between Chief Thomas and the Board Chair and Vicki to flush this out or bring it back at a later date. That’s your opportunity to either pass it or defer it uhh with some additional or change it and amend it right there in the meeting.

Mike: If we amend it, they’ll vote on it right then.

Vicki: Have to have another hearing.

Mike: (Inaudible – Vicki and Man on right talking at same time) Have to have another hearing. I wouldn’t do that that way. I wouldn’t recommend you doing it that way because that’s not what the charter says we can do.

(Jamie?): From what I was saying is prior to being posted in the 10 days, just loop the Chair in and the thing is that you, Vicki, you do that every day. You’re always like
I’m working on this, I just want you to know, so you’re already pretty much doing that, but I think like if we put that as a process that’s a good idea.

Amanda: Sounds to me. Anybody else have any thoughts on it?

Bill Lyons: I think the idea of having the Chair know about it then it can be rare, but you could then, whoever the Chair, could then go well this is one we either need to talk about or even potentially discuss before we started the process you know officially, but I think everything else makes a lot of sense the way it’s been handled. Usually these aren’t that (inaudible) about are they? I mean it’s not … not such that you’ve gotta get it done by so and so.

Vicki: They’re usually not. I can’t think of an example where that would be the case. Ever. And they’re not frequent. We will probably have more in the upcoming year simply because there are things that need to change in our rules in response to the administrative rules. So there will probably be a brief period of time where you will have more frequent rule amendments uh more frequent, but typically you’re gonna see them every couple of years maybe and they’re usually fairly small. They’re not usually not very significant.

Bill Lyons: (Partially inaudible) Process of doing…sake of argument…having the Chair on the front end… and then keeping everything else as like I said, as the charter specifies, obviously that’s what we have to do anyways so it makes a lot of sense to me.

Unknown Female: What about you?

Amanda: Do I have a motion?

Unknown Female: I move.

Stephanie (?): I second.

Amanda: Any further discussion? Anybody? All in favor?

All: Aye.

Amanda: Any opposed? Alright, and then, the last new business item a Report by Civil Service Director on “Report to City Council – Existing Policies, Practices, and Recommendations for Addressing Racism/Sexism in City Government” and an opportunity for board discussion.

Vicki: So, what I sent to you guys was simply what I had understood you wanted me to prepare …um…based on the request from Council because a tremendous amount of that process lives with …ah…with Civil Service. There are things that I do that no one else does, um, so that is the report that you received, um…I’m going to defer to Mike, I think he had some conversations with the law department, so I’m not really sure what you need from me vs. you know, what you need from Mike.
Amanda: I think that the way we left it last time we were going to get some comments from the Law Department. Have we, have we received....

Vicki: I did not receive any comments from Law about it. I got it to them on …um…the 28th so that they would have time to review and comment prior to it going out with the agenda on the 4th and I did not get any feedback prior to that going out.

George: Madame Chair, one slight correction...It’s not that no feedback was provided, it’s that feedback was provided after the agenda was sent, and I believe…um…you may be aware of that by email.

Amanda: Okay.

Mike: I’ll respond. The …ah…first of all, the …ah…George Shields and I talked yesterday and I really appreciate it George. Thank you for your input. George had sent an email to …ah…Vicki Hatfield….ah….our chair….and me, as well as the law director, giving some observations, initial observations as to the report that’s in your package. Ah…and again, I’ll let the …I’ll let George speak for himself on it. Some of his concerns, and George I’ll let you specify them, but we…I talked to him about it and one of the …ah….one of the major, I guess, disconnects that I am perceiving is (inaudible). Is that…ah….I think we were all hopeful that perhaps on a very tight timeframe we were going to be actually looking at was either a joint report, or perhaps a report, a collaborative type report, that ….ah would be responsive to the City Council’s request at this meeting, but that is not going to happen. That doesn’t work…. that did not work out. Ah…our report ….ah…and again George I’m going to defer to you about your specific concerns, but one of the concerns is addressed to me that I’ve already addressed… is that in our …our sec…our draft…which ah…Vicki Hatfield prepared at our request…the board’s request, terms itself to be a report to City Council. Certainly, it is our portion of the report, and I informed George that it was not our intention to separately report anything. We were doing it as part of a joint effort that we understood that City Council wanted. I wanted to clarify that…ah…but that we did feel obligated, especially with time getting short, as stated in our work session that we had on October 25th, I believe and then in our last meeting that we wanted to be sure that we got our recommendations and our portion of a hopefully collaborative report together to address what the City Council in their resolution ….ah….I thought had made clear was going to be ..that we were going to…we were going to work with the Mayor, her staff, the law department, the HR director, the director of Civil Service and our board to study and make a report within that 120 day timeframe. City Council clearly was concerned, because they mention us, some part of us, 3 times in the resolution, that they wanted to be sure that any recommendations that are made by the Mayor, her staff, or whomever ah…strengthen whatever policies we have and that the recommendations, as permitted by our rules, Civil Service rules, are part of that effort. Taking that as the lead, ah…Dr. Hatfield put together, with my input and with our chair’s input …to some extent, because we looked at it as being perhaps …ah….that City Council really didn’t know what we did or how we did it. So, what….based on my advice…we put together, as you see in your
package, and you see a lot of yellow sheets, probably 90% of this report is in yellow, but what it is, it is the existing authorities from the state statues all the way down through our Charter, our City Code ordinances, our board rules and some of the rules and regulations that we’ve been abiding by as a board to tell the City Council and those that are interested ...these are the bases...these are the enabling statutes, rules, regulations, ordinances that, at least from the Civil Service perspective, this is what we’ve been looking at to justifying what we’ve been doing...ah...to address these policies...not only the adoption of rules but our practices flow from the state law, the Charter, the City ordinances all the way down to the board rules. Ah...I don’t know that ..ah, perhaps City Council ...or very many people in City government, know all of the different laws, rules, and regulations that impact those policies and practices. Ah...perhaps we were too inclusive, but we put in everything that we believe addressed that request. We also put in ...ah why we believe and how we pursue enforcing those provisions and some of that may require additional discussion, and then the last 2 portions, which are very important and I hope the members of the board had a chance to review it....existing practices, which our City Council specifically said they wanted to know about existing policies for racist and sexist practices within City government. Well, about the only expert I know on the existing practices is sitting right here next to me, your Civil Service Director, because in the 30 years I’ve been doing this I’ve not gotten involved in these practices at all. They are handled by the Civil Service Department to the extent they involve ...ah...the complaints and investigations section and then the role that is played by Civil Service in that process. That’s been a process that I think she’s outlined well because, quite frankly, that’s what she does. Ah...and then the last part, are the recommendations that she put together that we looked at to say, okay, are these consistent with our policies and where do we go from here? So, the intent of this report was 1) to respond to what the board requested, 2) to have something that we thought that City Council had requested that would be part of an omnibus report or position and 3) it was stuff that we do, peculiar to us, the board and the Civil Service, that...ah...we thought was particularly responsive. That...did I say that about the same way I said it to you, George yesterday?

George: I think so, Mike. Um...I really can’t think of anything...ah...about that that is inconsistent with what we discussed.

Mike: That being said, I'll defer to George now on ...ah...where we are on the ongoing timing procedure for ...ah...working with...ah...the law department and the HR Director. Where are we and where do we go from here?

George: Yeah, Mike, as I discussed with you yesterday, um, we are coming up on the Council's agenda deadline and so we are eager to receive the final input...the Civil Service slice of this report. Um, I’m glad that this meeting is happening so that we can take from it what that input will be, and that input, alongside input from law and human resources will go to the Mayor and staff as the resolution calls for and a final report will be produced in time for it to be transmitted to the City Council by their deadline. So, I
think…ah..I’m really glad that we’re at this point. It’ll …ah…make the remaining steps go much more smoothly now that we will have 1/3 of the ah…input…um…locked in, if you will. Um, I think that’s where we head from here.

Mike: One of my concerns was, to the extent this board makes recommendations, or that we have commented and outlined our policies, we were hopeful of being able to see the report as put together by whomever to …ah…to review it, and I made that request. Was that going to be something we can do or not?

George: Well, Mike, again, as we discussed yesterday evening, we have a timeline here that requires these inputs to be provided to the Mayor and her staff so that they can compile a final report and then that final report has to be physically printed on paper so that it can be distributed to the Council, um, the process does take time, and so to do that…ah…our intention is to stick to the timeline that we thought …ah…we were all on the same page about at our previous meeting which was that each entity would provide its input including Civil Service today and those inputs would come together to form a final report, but I do not recall discussion prior to yesterday about a …a second round review following today and I do not think the timeline allows for that or that’s what the resolution specifically called for.

Amanda: I thought we were going to get some input before the agenda went out last week, and I thought, because of the timing issue, that’s why we were hoping to get that so that we would be able to have a more comprehensive response, but it doesn’t sound like we have that or anything to look at. Is that right?

Mike: Yes, and I - I believe, and again I'll defer to George, but from talking to George yesterday, apparently if there was …and I’ll call it a disconnect…and if so, it’s something that I should have addressed or helped to address, I thought that we had made it clear in our work session and then at our last meeting that….ah….there was a timeline that we would hopefully hear back from …ah…from the law department or from George, about what portion of our report and theirs could be presented to this board today. Now, I don't believe that was their understanding. So, that’s what I thought we were going to do too and what we were working toward to meet these deadlines…but that is…from what I’m hearing…that’s not going to be…what they are able to do.

Jamie: Mike, do you have a copy of the resolution?

Mike: I do.

Jamie: (inaudible) I’d like to see it.

Mike: Yes, here it is. And I’m…what I’ve given you is (inaudible)

Amanda: What is the filing deadline, November 24th? Is that the day before Thanksgiving?
Mike: Well, George and I discussed that. George, would you inform our board what you believe that those dynamics are because you gave them to me yesterday and I wrote them down but I’ll refer back to you on that.

George: Sure, the packet itself is printed on November 24th. For it to be printed on November 24th it has to be ready for an agenda review meeting on November 23rd. For it to go to the agenda review meeting it has to be in its final form …um…ah…you know reviewed, approved, formatted, so there’s a variety of sort of administrative steps that go on behind the scenes but those steps have to be completed on November 22nd. Um… and so … um… I think… ah… that gives you some idea of the timeline and a typical agenda item, um, most everything would have to be completed by November 12th. ah… you know if it was a … ah… you know, it was the Fleet Services department asking for a contract to go on the agenda, this agenda, they would have to have everything prepared and ready … ah… for the lawyers to do their work by November 12th, so um… in this instance… ah… the drop dead deadline I’d say is certainly no later than November 22nd and in practice will have to be some number of days prior to November 22nd for those administrative steps to be completed on time.

Amanda: I mean, I guess I’m not clear, I guess, on whether we’re going to see anything before it’s filed or not. George, can you… can you speak to that? It does certainly appear to me from the resolution that it’s something where we are supposed to provide pretty significant input.

George: Well, Madame Chair, there’s certainly no disagreement with that. That’s what’s happening today. That’s what Dr. Hatfield’s report and your all’s endorsement of it or ah… amendment of it or whatever you choose to do is what provides that significant input, and with that input, combined with inputs from others, from HR and from Law, that will provide the Mayor and her staff with the inputs necessary to prepare that report.

Jamie: Okay, and I think this might be part of the disconnect and that’s why I wanted to reread the resolution, and I agree that people could read this and it might not be entirely clear in the resolution … the way I read it … is that City Council asked the Mayor and her staff to work with 3 departments, one of which is us, and the Mayor is to make a report to City Council. So, it’s my understanding that this is going to the Mayor, the law department will give a report to the Mayor, and Ms. Drummond, HR Director will give a report to the Mayor. The Mayor will use that to report as requested by City Council, so my read of this, and again I understand how folks read it differently, is that the Mayor is the one making the report to City Council. So, I just want to make sure we all agree that’s what the resolution says and then I think our job today is to look at the good work of Vicki and Mike and the Chair and make sure that as a board we’re comfortable with our portion that will be submitted to the Mayor. Is that… that is my read of this.

George: That reflects my understanding as well.

Bill: Yes, and that… that certainly makes sense and stems from the reading that… that you just made from the… ah… you know resolution. I guess what it means is potential
that some of these things might overlap or be somewhat potentially in conflict. I mean, like give an example, Civil Service can gather data from employees, maybe HR thinks they should gather ...I don’t know...just thinking...you know that there could be some misunderstanding who would do what, but that would be resolved with the Mayor’s Office and I guess what some of it the maybe sensitivity is ...well...this gets changed you know...would...you know who’s...how’s all that going to be ...um...made sure that the appropriate roles are respected. I’m not even sure what they...I can just see that as a potential as the kind of thing that could come up when the final merging of all 3 are put together because there could well be “who’s doing x next?” I think your recommendation of the kind of data collection from employees about how they feel makes sense to me. I think it’s a good suggestion

Jamie: And I would anticipate that you have an elected body asking an elected executive to prepare a report. My understanding is that City Council will address this at a City Council meeting and upon the review of the Mayor’s report, if Ms. Drummond, or the Law Department, or Amanda, or Vicki, or Mike felt you needed to speak at a City Council meeting because we feel like City Council needs to know that maybe some aspect of the report from Civil Service ...you know...that the master report ...for lack of a better word...that, from there is not accurate or there’s something you need to discuss, I think that, and we’ve spoken to City Council last year when we had some things to address, but I feel like that’s where you would air those sorts of things if necessary, but I think my read of this ...and we talked about in our working group...is this is...this is information gathering ...that is how I view this. I don’t think...I think we’re all jumping to what policies are going to be changed, but I don’t think we’re here yet. I think this is an elected body is trying to get more information.

Amanda: I guess what I was concerned about is that I was hoping it wouldn’t be necessary to go to that step of having to deal with inconsistencies between what maybe our role vs. whoever else’s role. I was hoping to avoid that by having some collaboration now as opposed to just having to respond to something once it’s filed. It just...it seemed to me that the...that everybody working together to study and make a report seemed like a more of a collaborative event...I guess...um...in my mind.

Jamie: I don’t disagree with you at all, Madame Chair, not at all but I don’t anticipate...naivety...perhaps I’m being naïve... I don’t think we’re going to have a bunch of differences. I doubt we’ll end up speaking to Council, I’m just saying to address Bill’s concerns, but if there...if there were, we certainly have the right and would be granted the right to speak, but I don’t anticipate issues. Maybe there will be, but....

Mike: My only concern, and I’ve voiced it to George and now I’ll voice it to the board. Obviously the City Council, at least in my estimation and my opinion, when this resolution was ultimately adopted, I think some of us will recall, but I’ll go ahead and remind you, originally there was a zero tolerance policy resolution that was set forward that was not adopted. And then there was a series of amendments that resulted in the
resolution that the City Council finally did adopt. And it appeared to me, from just a cold reading of this, and again, not just as a lawyer, but that the City Council's concerns were very much focused on, and certainly as one reason that a zero tolerance policy was probably not something that could be looked at or to move forward with because we have a Civil Service Merit Board by Charter that the we follow the law as set by the Charter, as approved by public referendum, on how we would handle certain harassment…other policy matters involving racist and sexist practices. So…and the fact that the City Council ultimately adopted this version to say, well we want to make sure it strengthens that whatever we’re doing. Well, part of what we’re doing, and this is my take from what I’ve learned during this, part of the practices, involving these topics, only happen in Civil Service through our director, am I right? I don’t know how anyone …we have reported that, and I’m hopeful that will be something that will go through in the report to City Council because that’s what they’ve asked for. No one else preparing a report, putting it together or whatever, will have any input on that other than what we give them. Now…if… and I’m just making a statement of …what if City Council says, “thank you…ah…Mayor….has the Civil Service Merit Board agreed with this or looked at this?” And if they say “no, they did not see a final report of recommendations,” what will they do? Especially since they have made it clear in their resolution that they want to make sure that whatever we’re doing or whatever recommendations come forward strengthen policy as permitted by our rules. So, it just seemed to me to be a logical thing that perhaps we ought to at least see the report or what is recommended in the event that that comes up. I don’t know how that would be explainable to the Council if they were looking for that and they don’t know that that has happened, and that’s one of the things I posed George when we talked was we…I just want us to give to the Council what they asked for, and if this board makes recommendations, which again, you haven’t voted on yet, I don’t know your input on what’s been presented hasn’t been looked at yet…we do need to go forward with that, but whatever format ultimately takes and we submit it, those are our recommendations and if those aren’t or not all going to go in front of the City Council I would think we would want to know that. Perhaps you don’t, that’s up to you to decide. These are important topics, obviously important topics, obviously unique to some extent on what we do in here and what Civil Service does, and it would be…it would be good if that was coordinated, because I always looked at this, and now I stand corrected, I looked at this as being a joint effort. I thought there was going to be a joint effort on this ultimate report….and apparently it’s not.

George: Mr. Winchester I’m obligated to respond to that if you’ll allow me.

Mike: Absolutely.

George: On the first point, matters concerning harassment and discrimination are not exclusively the purview of the Civil Service Merit Board and the Civil Service Director. As you well know, the Civil Service has an important role to play, no question, but the rules concerning harassment and other types of discrimination are in the Mayor’s administrative rule. When these issues occur, disciplinary action is taken by Directors.
Uh…the law department and the human resources department provide input into the final disposition of those actions. So, everyone has a role to play here. It’s not that one party to this report has an outsized role. We all play different roles. It’s a… it’s an assembly line process you know, where each party at the line has a part to insert, a gear to turn, a lever to pull. It is a…it is a spectrum of actions that occur along the way and that’s why it’s so important that we have the Civil Service input into the report so that those components that are exclusively the Civil Service… ah… space you know… in that process are accounted for in the final report, but you know, clearly simply having procedures to investigate harassment and discrimination by themselves do not complete the picture of what constitutes the City’s policies and practices. There’s also the disciplinary step that results from that, there’s the Director action that follows, and I think it’s important that that piece not be lost in this. Um… you know… in any way that would suggest that HR and that Law have a minimal or a lesser role to play. I mean, as Dr. Hatfield would acknowledge, in many of these, if not all of these investigations, at least in recent memory, a law department attorney sits side by side and helps conduct those investigations, so I wanted to address that first. Um, second… on… on… you know, I think there’s a subtext developing here that this is not a collaborative process and I have to reject that. Um… there has been an attempt to have good collaboration behind the scenes … ah… and that did not … did not go as smoothly as all parties had hoped that it would but, nevertheless we’re still able to comply with what the resolution calls for which is input from each of these departments, submitted to the Mayor, so that the Mayor and her staff can apply, you know, those inputs into a consolidated form … in a form the Mayor can put her name on, and submit to the City Council. So, um, I think, you know, I don’t think this has to be as adversarial perhaps as it is being presented. I think… ah… we all have important roles to play, we’re all able to comply with what’s been asked of us, without… um… you know… without a hint of sharp elbows I think… ah… coming out as we discuss these matters.

Mike: Let me… let me make sure now it’s clear. I’m not making this adversarial. This is not a courtroom. I did not say we did all of it, but there are parts of it that only we do. Those are part of the practices we hope will be part of the report. And again, not by way of being adversarial but part of this came up as a result of your email to me and others a day before yesterday when we asked about that. Would we be… would we see a report. What will be in it and your response was, “I am sure that the Mayor and her staff will aim to include a number of your recommendations in the report.” Well that implied … not just implied to me… when I asked you about that, you mean we may make recommendations that don’t get in the Mayor’s report and how will that play in front of City Council? Were you being adversarial? I don’t think so. You were telling me what you understood the process to be. I wanted our board to understand that we can make all the recommendations we want to today. They may or may not be reported to City Council depending on what the Mayor wants to recommend. That’s the point. So, we were hopeful that to avoid another disconnect if we make recommendations that aren’t going to go in front of the Mayor… I mean not the Mayor… that are not going to go to City Council … I would like to see what those are. I’d like to see the report. I think this
board would like to see it and the board can vote on that. Maybe they don’t (inaudible). I can’t imagine that they want to go to all the efforts that they’ve gone to on these important topics and not understand what part of their recommendations were not acceptable. Somebody can give us some feedback, and I think I asked you, could we have a meeting after our board acts to determine what’s maybe not acceptable and talk through this…not adversarial, but in a collaborative effort, which we all…I think…understood was the intent of the original resolution was for us to get together and do this together. To hear that, well, we’re doing it together but it may not all come out ah...ah...suggested study or report for recommendations by the Mayor…well…I never understood it that way, quite frankly, and I didn’t know if the board did or not. I guess we’ll find out. If the board says they’re okay with that procedure well…it’ll be what the board decides. That was not my understanding where we were headed based on my reading of the resolution.

George: Mr. Winchester, as we discussed, this is quite clearly the Mayor’s report to make. You cannot expect the Mayor to make a report that she does not support. In order for her to complete her report, she has to know what all inputs are. She can then take those inputs and form her final report. I- I don’t understand frankly what’s controversial about that. I think what you’re proposing is that the Mayor’s judgement is subject to the approval of this board, and that’s the opposite of what’s happening. The board is being asked to provide important input to the Mayor to inform her judgement of what goes on to Council, and what I said to you in that email was that I’m sure that she will aim to include those recommendations, but I can’t speak for her. I can’t be sure that she’ll include my recommendations, you know. This is the Mayor’s report and we’re all contributing to it in good faith.

Mike: Well I’m sure you’re going to see it before it goes before Council, aren’t you?

George: **Mr. Winchester, you will also see it before it goes before Council.** As I told you, we’re happy to provide you with a courtesy copy.

Mike: That’d be great. When will we get that?

George: Ah, it will be available certainly by the time the uh, the uh agenda is printed, and it very well may be available before then, but I can assure you that, you know, it has to be printed on paper and so it’ll be available by that point.

Mike: Are we going to be able to discuss these things with you in a collaborative effort to make sure if there are differences that we can talk about them?

George: You know, Mr. Winchester, I appreciate, you know the, the theater that we’re developing here, but you already know the answer to the question. We talked about this for more than 90 minutes yesterday evening. The answer to your question is, there are certainly going to be, undoubtedly, areas of disagreement between perhaps the way you interpreted some legal authorities and the way the law department interprets some legal authorities. We think it’s entirely appropriate to work through those differences, but
we don’t think we’re going to be able to work through those differences by Thanksgiving. It’s just gonna’...it....you know....Dr. Hatfield’s report was insightful in the sense that it presents her view, your view, of certain legal authorities. That is insightful information. We can certainly discuss a lot about that, but we can’t do it before Thanksgiving.

Mike: Thank you. That’s all I have Madame Chair.

Amanda: Okay, well, I think we need to turn our attention to the report and discuss any questions or comments anybody has about the report, and ah, try to at least finalize it from our perspective. So, I don’t know what comments other folks might have in terms of the suggested recommendations or any, um, any other portion of the report, but primarily the report is just citing the Charter and the Code sections, from, from what I can tell, and the Rules...ah, and then the recommendations of course are, are what ah, the Civil Service Director, in consultation with Mr. Winchester, um, and with my input as well, thought would be appropriate.

Bill: Well most of it, as you said, is the recitation, which is very helpful. All the responsibilities and duties are, and that, that was appreciated. I think, to me, the recommendations are, well, are important is to, you know, that they go to Council, and I think going back to the data collection...to me....maybe I’m seeing this differently...being at the meeting...the Council meeting...is “how well is this working?” is a lot of what the question is, which to me means...are there...do...are ...do...if there are violations, are they even being made...hypothetically...people are afraid to turn them in...uh, I mean that could be the case, for some reason...why...rightly or wrongly....or...you know, a fear that’s justified or not justified of some kind of retaliation...whatever it is...to me, that would be helpful to know. That’s why I like this data collection survey part, and that would be, to employees, all employees ...do you have an atmosphere such that you think, ah, people are...are... able to turn in complaints that...to easily...that, that (inaudible) puts people hypothetically could be on that side, or maybe more likely, are you comfortable, if you see discrimination or harassment, racial or sexual harassment, are you in a position that you feel you can engage in this process and have confidence in it? To me, that would be helpful. I mean, that would get at how well it’s working, which to me is a whole different step from the legal authority and what’s there, and there could also be recommendations that need to beef up, change, rules...you, you know....that’s where the law department...and you know...what Winchester has proposed...and you....or....the way you all see things could be addressed too, but to me, I’m more interested in that whole behavioral aspect of...none of this is working if the...if it’s all based on people’s experiences and they’re reporting their experiences and having those (inaudible) through and dealt with in a satisfactory manner...ah... legally and otherwise...for the.... You know, to create the kind of culture we want to create. So, that’s...that’s why I like this recommendation ...uh...that to me that gets at a lot of the heart of what we need to be doing this for. And hopefully, that'll get, in some form, presented to Council and they can basically go...and
I don’t know how this will work…whether when it goes to Council they will go “Yeah, we would like Civil Service, or however it works, we’d like this process to go ahead as recommended, or there could be some discussion of doing something else or adding…to me, that’s where we are right now…that is just the way I approach it, but I- I may be off base with that, but that’s…”

Jamie: I..I want to piggyback on….I want to note that every time…it’s also in the last page of the report …we have been asked to submit, um, recommendations for addressing racism and sexism….addressing racism and sexism. Very frequently when we were discussing this, we’re discussing discrimination and harassment, and I understand that those are the most common, or what people frequently associate with racism and sexism is discrimination and harassment, but it says addressing…it’s broader than that…what the request was….it’s addressing racism and sexism. So that goes to implicit biases, that goes to are our test questions written in a way that they are more beneficial to…to…you know, to certain races or sexes? There’s a lot of data in employment law out there on that, so I just want to pull us back a little bit. I think we’re zooming in on racism, you know, discrimination harassment, sexism discrimination harassment…that’s not what they asked. What they asked addressing racism and sexism. So I think you have to pull that lens back a little bit and go to, when we’re doing our testing, do we need to do an analysis to see if there is any implicit bias in any of our testing, ‘cause there’s a lot of research out there on that. So we just need to pull back and not just come in on harassment and discrimination, so I would like added in here funding, you know we always need money to figure out…and not (inaudible) a lot of money …and Debbi..er…ah… Vicki knows this better than anybody…but, like, how can we look at our testing to make sure our testing is not favoring a certain applicant pool? So I would like to see something added about that, and then the last…and any other ideas folks have using that broader lens…and then the last sentence says, “We look forward” …ah…“hope this information has been helpful. We look forward to working collaboratively with the City to support efforts to address workplace discrimination and harassment,” and that was not the request. It was to address racism and sexism in City government, and that is a broader…that is a broader request. Um, I (inaudible) I certainly think we’re real close to where we need to be, but if we pull that lens out a little bit, where we need to be on this report (inaudible) as a government, but, um, we need to drop our lens a little bit.

Bill: (inaudible) The original…and I think that’s exactly right what’s in there…the original request was zero tolerance…that is…that…when you talk about zero tolerance, that directly goes to these explicit acts of people, you know, that you’re not going to tolerate. It’s…we moved then…during… the Council moved during the discussion to identify it more broadly…’cause, you say… ‘cause zero tolerance is only…what…some proportion of racism and sexism…

Jamie: Right, in the broader…

Bill: Yes…
Jamie: I mean, this resolution is...I know we’re all struggling with it a little bit...and I get it...it’s broad....it’s real broad....ah, which makes it a challenge. Um, but I just wanna’ try...I wanna’ aim to get it right if we can.

Vicki: I can add, um, something to your point, um...and, and maybe this is not, ah, feels to me like that probably, at least my expectation, would be that that might be addressed by the Mayor’s part. We do have, uh, an equity and diversity committee. Ah, Kelly and I are both on the metrics subcommittee, and what you just discussed is something we are, that subcommittee is already attempting to do. Ah, we’ve already done a ton of data collection, um, that the Mayor’s office has translated. Basically, I –I collect that data for every phase of the hiring process so that we can see, is there a...a...part where we see some impact...some adverse impact...and based on that data collection ...we’ve done that...and at our last meeting, basically the assessment was we don’t see that we’re having any issues with minorities through the application process and the testing process, because the data simply doesn’t reflect it. So, I basically pulled out, you know, just to give you a breakdown, for any single job, I did it for a number of jobs, how many applications did we get and then broke that down by race, then how many actually made it through the screening process broken down by race, how many of those showed up for the exam, how many of those passed the exam, how many of those ended up on the eligibility register, how many were referred, ah...and who was selected. We broke down every single phase so that we could look at the data and say, is there a piece in here where it looks like we’re losing those minorities and what we found was it’s on the pre-application. Um....it’s not through the application process or the testing...it’s not getting the applicants.

Jamie: ‘Kay.

Vicki: So...so we have.... I feel like the Mayor might...I mean we might still want to ...to put something in ours but I feel like the Mayor probably is going to be addressing that too because we are already working on that through this committee....um...and we’re ....we’re looking at it from...from what we do, from what Kelly does, from what purchasing does....we’re all working on those metrics to identify if we have some .....some holes there...so that might already be part of ...um ...what the Mayor is...is gonna’ ....what’s gonna’ be in the Mayor’s .....because that’s really the Mayor’s.....that’s her committee...and we’re all just chipping in our piece....I figured y’all probably didn’t know that part.

Jamie: (inaudible) Well...no, that’s super helpful and if testing’s not the issue, that’s good news. ...(inaudible)

Vicki: So right now we’re looking at ....you know, I looked at our last....very last meeting and it looks like we’re ....we’re seeing issues with the applicants (inaudible)...not to say that shouldn’t be in there or that’s something we want to look at or address but I think the Mayor could potentially be including that under that diversity and equity committee. We’re doing a broad range of things. We’re just one little subcommittee.
Amanda: Are you suggesting a change maybe to this last sentence?
Jamie: Yeah, just that last sentence.
Amanda: Would…would it be something like “ to address racism and sexism…”
Jamie: “in city government.” I would just quote the resolution, right? That’s what they say…um…
Amanda: Any other suggested edits to the report?
Bill: I move we submit the report as amended with the last sentence.
Amanda: Do I have a second?
Jamie: I’ll second that.
Amanda: All in favor?
All: Aye.
Amanda: Any opposed? So we will submit this as our final report from …to the Mayor’s Office or to you, George…what…?
Mike: Do we give it to you, George?
George: No, it does not go to me. It’s…ah…you know the law department’s providing input, HR is providing input, and Civil Service is providing input, so …ah…you know, I think the most correct way to structure your resolution would be you know that it’s ….it’s, you know, input to the Mayor. …or to the Mayor and her staff I think is the language the resolution used.
Mike: Okay.
Amanda: We will move forward and get that to her. Um…Vicki, when do you think you can have that finalized?
Vicki: Today.
(inaudible)
Vicki: You changed 3 words, so I think I can handle that.
Amanda: We will get those sent out by the end of the day today…um…anything else related to item 7 on our agenda? Um….I did have 2 individuals …um… one who has asked to speak…Steve King…and then also got an email from Stephanie Guptail …um, regarding the Administrative Rule changes that just came out on Monday and I wanted to see if our board wanted to allow an opportunity for Mr. King to speak and then also I can read Stephanie’s question….um…for us to respond to. It does require a majority of us to agree to allow….
Jamie: I move we allow them to speak.
Amanda: Do I have a second?
Bill: Second.
Amanda: All in favor?
All: Aye.
Amanda: Okay, Mr. King, I'll welcome you and …
Steve King: Where do I go to speak?
Amanda: You're fine right there.
Steve King: Well, I came in part on behalf of Stephanie…so…
Amanda: Oh, great. Okay.
Steve King: That's perfect that…
Amanda: Good…
Steve King: I didn't realize you were gonna' do that, but …ah…just by way of introduction….uh…my name is Steve King. I work for the engineering department. I'm here representing the City Employees' Association which is an organization of, um, general government employees. Um…Stephanie is …ah…the association’s Civil Service Committee chair, so you'll begin to see her along with me periodically at board meetings, and she is responding …ah…to the admin rules as they came out. Many…many employees have contacted her, and me, wanting to be sure …ah…of the impact on the administration rules with the Civil Service rules, so I know the board has already talked about that, just to let you know we'll be anxious and watching to see how that plays out. And…ah…the other thing I'll just speak to quickly is about your last discussion …the previous item about the zero tolerance resolution. I appreciate the board's and Vicki and Mike’s input on this. Ah… there, there are valid concerns that Council brought up ….ah…that I think one of the important things that the Merit Board does for employees is to provide an oversight on discipline through the grievance and appeal process, so to…to ensure …we've all…all employees …not just this administration, all administrations, there's …there's something that happens where discipline may have been done inappropriately, but there are ways for employees to be heard and potentially appropriate resolutions. So, that's an important thing with any kind of ..ah…disciplinary action. So, employees obviously are interested in how that plays out. Thank you.
Amanda: Thank you. And now, Stephanie, in her email, had one kind of specific question, and I wanted to see if the board wants me to read that and then we can …can respond to it. I don’t know the answer to her question, but …um…do you all want me to read that out…? Okay, she says that um she wanted to ask about the potential impact on Civil Service due to the recent Administrative Rule changes sent out Monday evening…um…and that’s what Mr. King just spoke of and it seems as though Rule 2
was sent out for comment but has the board had any advance notice in order to review Civil Service Merit Board Rule impacts? And, I know that I have not had an opportunity to review the rules prior to them being published Monday, um, but I wanted to ask Vicki if she had any opportunity to provide input on the rules that were published Monday.

Vicki: No, and I will note that there’s not a requirement, um, unlike our rules that do require, you know, that 10 day public notice and a public hearing, there is actually no requirement on the Mayor’s Administrative Rules for any sort of notice or review with the exception of that class/comp rule. So any review we would be allowed to do would simply be a courtesy extended um, and, Kelly and I had had a conversation and it was my understanding that we would have that courtesy, um but no, we were not given any advance notice of those rules. I saw them when they were published to the entire city…so…

Amanda: But we will need to look at them and…and see what changes we will need to make based on …. 

Vicki: Correct.

Amanda: …whatever those changes were. Okay.

George: Madame Chair, I’m sorry but, I….I have to offer a correction. Dr. Hatfield submitted lengthy comments in proposed to …ah….draft administrative rule 2 on February 25th. Um, that email was sent to Kelly Drummond and I and copied Mike Winchester and Jamie Ballinger, so the final form of that rule most certainly includes ah, you know, the value, the input, ah..that Dr. Hatfield provided as well as other employees who provided input prior to its final publication.

Vicki: And I will correct that, there were 4 rule changes and we were given the opportunity to review the rule that everyone was given the opportunity to review. We were not given the opportunity to review those rules that they’re not required to share, but we did have an expectation that we would have that opportunity. So, I’m only, when I say that, I’m only speaking to the rules separate from the class/comp rule.

Amanda: Okay. Thank you for clarifying that. Any other questions or comments on this topic? I think that concludes our agenda today, so I will entertain a motion to adjourn.

Jamie: Motion to adjourn.

Amanda: Second?

Bill: Second.

Amanda: All in favor?

All: Aye.

Amanda: Thank you all. Appreciate your time.