PUBLIC HEARING AGENDA

Civil Service Merit Board
February 9, 2022
1:30 p.m., Conference Room 461, City County Building

CALL TO ORDER

ANNOUNCEMENTS

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

2. Rule amendments to Article 29 “Layoffs and Reduction in Force” of the Civil Service Merit Board Rules and Regulations.
SECTION 2501. CLASSIFICATION/COMPENSATION PROGRAM AUTHORITY
In accordance with Chapter 2, Article III of the Code of the City of Knoxville, the Civil Service Merit Board is responsible for developing, maintaining, and monitoring the classification and compensation plans; and the Board will, from time to time on its own initiative or upon request of the Mayor or his staff, conduct studies and present them to the Mayor for his approval and submission to City Council for final consideration.

SECTION 2502. PURPOSE

Section 2502.1. Classification Plans
There are three (3) distinct classification plans in the City of Knoxville—general government, police, and fire—each providing a complete inventory of all positions in the City’s service with accurate descriptions and specifications for each class of employment. The plans standardize titles, each of which are indicative of a range of duties and responsibilities and have the same meaning throughout the City’s service.

Section 2502.2. Compensation Plans
There are three (3) distinct compensation plans—general government, police, and fire—each designed to provide a fair and equitable method of payment for employees of the City of Knoxville. They also establish a set of rules and a uniform system of pay administration for the various classes with salary ranges consistent with the duties and responsibilities in the Classification Plan. The compensation plans are designed to provide the opportunity for progression through a pay range based on the individual employee’s level of skill, length of service, general job performance and conduct, and other legitimate factors.

SECTION 2503. DEVELOPMENT AND MAINTENANCE OF THE CLASSIFICATION/COMPENSATION PLANS

Section 2503.1. Review of Classification Plans
The Civil Service Merit Board, through its Executive Secretary/Director, is responsible for the proper and continuous maintenance of the classification plans so that they will reflect, on a current basis, the duties being performed by each employee covered by the plan and the class to which each position is allocated.

The Executive Secretary/Director shall periodically review the classification of positions and, upon the basis of his/her investigation, shall recommend to the Mayor, for submission to City Council, appropriate and necessary amendments to the classification plan. Amendments may be in the form of new classes, the revision of existing classes, or the abolition of classes no longer required in the plan.

The maintenance of the Classification Plan shall also include, but not be limited to, periodic review and maintenance of up-to-date classification specifications and job classification lists.
Section 2503.2. **Review of Requisitions**

All personnel requisitions submitted by City departments shall be reviewed by the Executive Secretary/Director to verify that the duties and responsibilities ascribed to the positions to be filled are properly assigned to the requested job classification. Approval of such requisition by the Executive Secretary/Director shall constitute an assignment of the position(s) to the indicated job classification.

If the requested job classification on the requisition is not appropriate for the duties and responsibilities of the position, the Executive Secretary/Director shall make appropriate recommendations for classification assignment.

**SECTION 2503.3.** 2501  **CREATION NOTIFICATION OF NEW POSITIONS**

When a Department Head desires the Human Resources Department creates a new position, he/she shall submit to the Civil Service Merit Board appropriate justification, which should include a job analysis along with a detailed description of the duties and responsibilities of the position to be filled and a statement of suggested minimum entrance qualifications shall be forwarded by the Human Resource Director to the Civil Service Director as soon as practicable. The Executive Secretary/Director shall ensure that the minimum requirements for new positions are properly and fairly stated. The Executive Secretary/Director shall:
- Classify the position and determine whether the position should be allocated to an existing job classification or to create a new job classification within the classification plan;
- Assign a new job classification to the appropriate pay grade;
- Make appropriate recommendations to the Director of Finance and Accountability and Mayor;
- Submit recommendations to City Council for final authority if amendments are required to the Classification/Compensation plan.

**SECTION 2503.4.** 2502  **NOTIFICATION OF ABOLISHMENT OF A POSITION**

Whenever it is the intention of a Department Head to abolish a position or positions, the Department Head Director of Human Resources shall notify the Civil Service Merit Board through the Civil Service Director of such intent—in accordance with Article 29 of these rules and regulations—at least 30 days prior to the effective date of the abolition. In no case will a position be abolished for the sole purpose of terminating an employee, rather than appropriately filing disciplinary charges.

**Section 2503.5.**  **Salary Survey**

Maintenance of the compensation plans shall include the annual survey of selected benchmark classifications and benefits in the City’s normal recruitment area to determine appropriate salary ranges with competitive minimum and maximum salary rates and benefits. To remain continuously competitive, the compensation structure shall recognize changes in the economic conditions and other variables through adjustments in the salary pay ranges (up or down). The Executive Secretary/Director shall conduct an annual compensation and benefits survey of selected benchmark classifications and benefits to determine appropriate pay scales and benefits. The annual compensation and benefits survey shall be conducted using input data from both public and private employers within the City’s normal recruitment area. The Executive
Secretary/Director, with the assistance of the Finance Department, shall submit the recommended adjustments to the salary plan of the City resulting from the survey to the Mayor not later than March first of each year along with the projected gross costs of such adjustments. Any proposed changes resulting from the annual salary survey shall be submitted to City Council for approval with the Mayor's proposed budget.

SECTION 2504 — ADMINISTRATION OF THE GENERAL GOVERNMENT CLASSIFICATION PLAN

The Executive Secretary/Director shall have the primary responsibility for the administration of the general government classification plan. The Executive Secretary/Director may delegate authority to staff members of the Civil Service Merit Board in carrying out the responsibility. The Executive Secretary/Director shall review the classification of all positions whenever:

A new position is created by budget or ordinance;

The organization of a department is changed;

There is a substantial change in the duties and responsibilities of a position; and/or

A review is requested by the incumbent of the position, the supervisor, or any party having sufficient knowledge of the position and the classification/compensation plan to suspect an incorrect classification or pay band.

SECTION 2504.1.2503 — NOTIFICATION OF CHANGES IN DUTIES OF POSITIONS

The Director of Human Resources will notify the Civil Service Director of any substantial changes in the duties and responsibilities of existing classified positions as soon as practicable shall be promptly reported in writing to the Executive Secretary/Director to determine if such changes affect the job classification assignment of the position and ensure merit system principles are upheld.

If such changes to the job classification are approved by the Executive Secretary/Director, a pay increase may be granted in accordance with Section 2505.6 of these rules and regulations.

Every Department Head is responsible for maintaining the integrity of the classification plan by limiting employees to the performance of duties within their classification or notifying the Civil Service Merit Board upon any change in the assignment of duties.

No portion of these rules shall be construed as permitting an employee to refuse to perform duties legally assigned by competent authority.

SECTION 2504.2 — RECLASSIFICATIONS Reclassification of a Position

Requests for Study

Requests for a classification study of existing positions shall be presented to the Executive Secretary/Director in writing prior to January 1st for inclusion in the next fiscal year’s budget, together with a statement of the reasons for requesting the study. Requests for study may be initiated by the Department Head or by an employee. In exceptional cases, reclassifications may take effect within a fiscal year.
2504.1 Determination, Review of Reclassification

It is the intent of this rule to provide guidelines for monitoring. The Civil Service Director shall monitor the reclassification of any employee to ensure that merit system principles are not circumvented. The basis for reclassification must be a gradual accretion of duties and not a sudden change occasioned by reorganization or the assignment of completely new duties and responsibilities. The process of placing an employee in an acting capacity in any position does not constitute a gradual accretion of duties. Any reclassification that is proposed for approval by the Director of Human Resources shall be forwarded for review to the Civil Service Director at least one week prior to the ten day posting of reclassification announcements. If upon review, the Civil Service Director identifies any approved reclassification that presents a potential circumvention of merit system principles, such reclassification shall be promptly reported to the Civil Service Merit Board by the Civil Service Director. Likewise, any employee who feels a proposed reclassification that is posted during the ten day posting of reclassification announcements presents a potential circumvention of merit system principles may present his/her objections to the Civil Service Director and those shall be presented to the Civil Service Merit Board for consideration at the next business meeting.

2504.2 Civil Service Status of Incumbent Employee

When a position is reclassified due to a change in duties and responsibilities of the position and is assigned to a different classification, and such change is not determined by the Civil Service Merit Board to be in conflict with merit system principles, such change shall be considered noncompetitive if the position is occupied and the reclassified employee shall not be subject to the conditions of the Civil Service probationary period.

Posting of Reclassification Announcements

In order to insure that all reclassifications are made in accordance with merit system principles, all proposed reclassifications will be posted by the Civil Service Merit Board for at least ten (10) days prior to reclassification to provide an opportunity for appropriate comment.

Time Restraint on Reclassifications

An employee who has been reclassified with his position shall not be eligible for subsequent reclassification with his position for a period of at least two (2) years from the initial action.

Funding

The Director of Finance and Accountability must review and approve all proposed position establishments, allocations, reallocations, and abolishments in order to determine whether a "certification of funds" can be made.

Salary Increases

Pay increases resulting from a reclassification may not exceed a five percent (5%) increase in pay.

SECTION 2505. ADMINISTRATION OF THE GENERAL GOVERNMENT COMPENSATION PLAN

Section 2505.1. Composition
The General Government Compensation Plan shall include the pay grades for all employees as approved by City Council. The schedule of salary ranges for each pay grade shall consist of a minimum base pay rate, midpoint, and a maximum base pay rate. The pay ranges shall be such as to provide equal compensation for work of equivalent responsibility; to facilitate adjustments to changing economic and employment conditions requiring changes in pay grades; and to establish pay rates which are comparable with those of regional public and local private employers in the City’s normal recruitment area.

Section 2505.2. Adoption and Amendment
The Executive Secretary/Director shall recommend an overall Compensation Plan to the Mayor for adoption by City Council. An annual review of the plan shall be made to reflect changes in cost of living, market conditions, employee recruiting, turnover, experience, and/or other related factors. The Executive Secretary/Director shall recommend appropriate annual revisions in the plan to the Mayor based upon the compensation and benefit survey results in the City’s normal recruitment area. Salary recommendations based upon survey results, as well as recommendations of the Mayor, if any, shall be submitted to City Council for consideration with the Mayor’s proposed budget each year.

Section 2505.3. Administration
The implementation and ongoing administration of pay within the pay grades shall be conducted in a manner that promotes equitable pay relationships and the efficient and effective practice of personnel administration. Department Heads shall have a responsibility to exercise the discretion included in these rules in a manner that avoids inconsistent, arbitrary, or discriminatory pay actions.

Section 2505.4. Starting Rate of Pay
Entry salaries are to be established at levels that properly relate qualifications to job requirements. The minimum rate of each pay range is the normal starting rate of pay or entry rate for employees who meet at least the minimum job requirements. All entry rates must be between the minimum rate and the midpoint rate of the pay range to which the job classification is assigned.

A Department Head may request that the starting rate of pay be set at any rate between the minimum and the midpoint of the pay grade to which the job classification is assigned if either of the following conditions exist:

1) The qualifications of the applicant(s) significantly exceed the minimum requirements for the job classification;

2) Demonstrated difficulty in recruitment efforts for that job classification.

In this event, the Department Head shall provide to the Executive Secretary/Director a written recommendation along with detailed written justification of the starting rate of pay that should be offered to the applicant. Should the Executive Secretary/Director determine that the advanced salary appointment recommendation is justified, the Executive Secretary/Director shall forward the recommendation to the Finance Director for authorization. Should the Executive Secretary/Director determine that the advanced salary is not justified, the Executive Secretary/Director shall provide a written response.
detailing the reason the recommendation was denied and forward all documentation to the Director of Finance and Accountability for approval or denial.

In the event a current employee promotes into a classification where his current rate of pay (excluding longevity) is equal to or higher than the new classification’s midpoint, or where a standard increase is limited by proximity to the midpoint (e.g., an employee should receive 5% for a one pay grade promotion but the employee’s current pay is 2% from the midpoint) the Department Head shall provide to the Executive Secretary/Director a written recommendation and justification of the salary rate that should be offered to the employee. Should the Executive Secretary/Director determine that the advanced salary appointment recommendation is justified, the Executive Secretary/Director shall forward the recommendation to the Director of Finance and Accountability for authorization. Should the Executive Secretary/Director determine that the advanced salary appointment recommendation is not justified, the Executive Secretary/Director will provide a written response detailing the reason the recommendation was denied and forward all documentation to the Director of Finance and Accountability for approval or denial.

Section 2505.5 General Structure Adjustments
The Civil Service Department will recommend general structure adjustments for each fiscal year based upon salary survey findings. These adjustments will be applied to the minimums, midpoints, and maximums of each general government pay range based upon salary survey data.

Section 2505.6 Advancement Through the Pay Range
Employees may receive salary increases in the following ways:

a) Standard across-the-board adjustments. Across-the-board adjustments will be made by adjusting the annual salary of all eligible employees at an equivalent rate or percentage.

b) Performance increases or bonuses may be granted in accordance with Administrative Rule 3.01 to those employees who have performed the duties and responsibilities of their positions in an outstanding manner and whose work is well above expectations.

c) Pay increases may be granted to employees who are promoted to a new job class or transferred to another position in the same or different job class.

d) Pay increases of up to ten percent (10%) of an employee’s annual base salary may be granted to employees whose job classifications undergo a substantial change in duties that are not currently covered by his/her job description pursuant to CSMB 2504.1, for internal equity purposes, or for recognition of ongoing outstanding performance. Bonuses of up to five percent (5%) of an employee’s annual base salary may be granted to employees as recognition of a significant job relevant achievement (e.g., obtaining a professional certification or degree), for completion of an extraordinary project, or for taking on new tasks or projects that are part of the employee’s job description, but that the employee has not performed previously. Requests must first be submitted in writing by the
Department Head to the Civil Service Director with detailed justification supporting the request. Upon review and determination that the request meets the criteria in this rule by the Civil Service Director, the Civil Service Director shall make a recommendation with regard to approval/denial and appropriate amount and the request will be forwarded to the Director of Finance and Accountability for a final decision. Each department may make requests in an amount up to an annual amount determined by the Finance Department. In no case will the amount exceed 0.5% of the department’s base salary budget for the fiscal year. This threshold shall apply to the amount that may be requested each fiscal year and does not guarantee that all requests will be approved. Approval will be determined on a case-by-case basis based upon the request’s compliance with this rule and the justification provided.

All salaries established effective July 1, 2008 or later (after all increases) are to be within range, i.e., no increase is to result in the final salary exceeding the range maximum and no salary is to fall below the minimum. An employee’s base salary may not exceed the maximum rate of pay established for the job class except to include longevity pay. Employees may receive the annual two and one-half percent (2.5%) increase as a bonus payment once their salary reaches the established maximum base rate of pay.

Section 2505.7. Annual Pay Increase
An annual increase of approximately two and one-half percent (2.5%) shall be granted to all employees whose pay is established in accordance with the classification and compensation plans of the City of Knoxville, with the following exceptions: (1) temporary and seasonal employees, and (2) employees who have not completed their initial probationary period. General Government employees who have not completed their initial probationary period shall receive a prorated portion of the 2.5% increase relative to time served. This two and one-half percent (2.5%) increase shall be accomplished by advancing employees within their respective pay range provided that this increase shall not cause an employee’s pay to exceed the maximum rate of pay established for the classification of the position which the employee occupies. Employees who are assigned to the maximum base salary of their assigned salary range shall receive an annual lump-sum bonus in the amount of approximately two and one-half percent (2.5%) of the annual salary. Employees in exempt positions subject to appointment by the Mayor do not automatically receive this increase.

Section 2505.8. Demotion Rate of Pay
When a classified employee is demoted pursuant to the lay-off procedures for economic reasons, the employee’s salary will be set at the salary rate in the new job classification which provides the smallest decrease in pay, if any. If the demotion is for cause and sustained in accordance with Civil Service Merit Board Rules and Regulations or as a result of a voluntary request by an employee, then the salary may be set at any appropriate pay rate in the lower class that is equal to or less than the employee’s existing pay.

Section 2505.9. Retreat/Reinstatement Rate of Pay
A classified employee who retreated during a lay-off situation and is reinstated within two years to his/her original job classification shall be paid at the same salary as was
received at the time of retreat or his/her current salary whichever is greater. A classified employee who is laid-off and re-employed within two years to his or her original class, shall be paid at the same salary as was received at the time of lay-off.

SECTION 2506. ADMINISTRATION OF THE UNIFORMED POLICE & FIRE COMPENSATION PLANS

Section 2506.1. Composition
The Uniformed Police and Fire Compensation Plans shall include the pay ranges for all uniformed employees as approved by City Council. The pay ranges shall be such as to provide equal compensation for work of equivalent responsibility; to facilitate adjustments to changing economic and employment conditions requiring changes in pay grades; and to establish pay rates which are comparable with those of regional employers in the City's normal recruitment area.

Section 2506.2. Adoption and Amendment
The Executive Secretary/Director shall recommend an overall Compensation Plan to the Mayor for adoption by City Council. An annual review of the plan shall be made to reflect changes in cost of living, market conditions, employee recruiting, turnover, experience, and/or other related factors. The Executive Secretary/Director shall recommend appropriate annual revisions in the plan to the Mayor based upon the compensation and benefit survey results in the City's normal recruitment area. Salary recommendations based upon survey results, as well as recommendations of the Mayor, if any, shall be submitted to City Council for consideration with the Mayor's proposed budget each year.

Section 2506.3. Administration
The implementation and ongoing administration of pay within the pay grades shall be conducted in a manner that promotes equitable pay relationships and the efficient and effective practice of personnel administration. Department Heads shall have a responsibility to exercise the discretion included in these rules in a manner that avoids inconsistent, arbitrary, or discriminatory pay actions.

Section 2506.4. Starting Rate of Pay
A uniformed employee hired as a Police Officer Recruit or a Firefighter Recruit shall normally be placed at the step associated with the Recruit classification.

In the event a current City employee is hired as a Recruit, and where his current rate of pay (excluding longevity) is higher than the Recruit step, the Department Head shall provide to the Executive Secretary/Director a written recommendation and justification of the salary rate that should be offered to the employee. Should the Executive Secretary/Director determine that the advanced salary appointment recommendation is justified, the Executive Secretary/Director shall forward the recommendation to the Director of Finance and Accountability for authorization. Should the Executive Secretary/Director determine that the advanced salary appointment recommendation is not justified, the Executive Secretary/Director will provide a written response detailing
the reason the recommendation was denied and forward all documentation to the Director of Finance and Accountability for approval or denial.

Upon promotion to a non-supervisory rank, to be defined as Firefighter, Senior Firefighter, or Master Firefighter for uniformed fire and as Police Officer, Police Officer I, Police Officer II, Police Officer III, or Police Officer IV for uniformed police, a promotional increase of 3.5% shall be given. Upon promotion to a supervisory rank, to be defined as Fire Officer, Fire Assistant Chief, or Fire Assistant Chief Senior for uniformed fire and as Police Sergeant, Police Lieutenant, or Police Captain for uniformed police, a promotional increase of 5% shall be given.

Section 2506.5. General Structure Adjustments
The Civil Service Department will recommend general structure adjustments for each fiscal year based upon salary survey findings. These adjustments will be applied to each uniformed pay range based upon salary survey data.

Section 2506.6. Advancement Through the Pay Range
Uniformed employees may receive salary increases in the following ways:

a) Standard across-the-board adjustments. Across-the-board adjustments will be made by adjusting the annual salary of all eligible employees at an equivalent rate or percentage.

b) Performance increases or bonuses may be granted in accordance with Administrative Rule 3.01 to those employees who have performed the duties and responsibilities of their positions in an outstanding manner and whose work is well above expectations.

All salaries established effective July 1, 2008 or later (after all increases) are to be within range, i.e., no increase is to result in the final salary exceeding the range maximum and no salary is to fall below the minimum. An employee’s base salary may not exceed the maximum rate of pay established for the job class except to include longevity pay and the educational incentive. Employees may receive the annual two and one-half percent (2.5%) increase as a bonus payment once their salary reaches the established maximum base rate of pay.

Section 2506.7. Annual Pay Increase
An annual increase of approximately two and one-half percent (2.5%) shall be granted to all uniformed employees whose pay is established in accordance with the classification and compensation plans of the City of Knoxville, with the following exceptions: (1) temporary and seasonal employees, and (2) employees who have not completed their initial probationary period. This two and one-half percent (2.5%) increase shall be accomplished by advancing employees within their respective pay range provided that this increase shall not cause an employee’s pay to exceed the maximum rate of pay established for the classification of the position which the employee occupies. Employees who are assigned to the maximum base salary of their assigned salary range shall receive an annual lump-sum bonus in the amount of approximately two and one-half percent (2.5%) of the annual salary. Employees in exempt positions subject to appointment by the Mayor do not automatically receive this increase.
Section 2506.8. Demotion Rate of Pay
When a classified employee is demoted pursuant to the lay-off procedures for economic reasons, the employee's salary will be set at the salary rate in the new job classification which provides the smallest decrease in pay, if any. If the demotion is for cause and sustained in accordance with Civil Service Merit Board Rules and Regulations or as a result of a voluntary request by an employee, then the salary may be set at any appropriate pay rate in the lower class that is equal to or less than the employee’s existing pay.

Section 2506.9. Retreat/Reinstatement Rate of Pay
A classified employee who retreated during a lay-off situation and is reinstated within two years to his/her original job classification shall be paid at the same salary as was received at the time of retreat or his/her current salary whichever is greater. A classified employee who is laid-off and re-employed within two years to his or her original class, shall be paid at the same salary as was received at the time of lay-off.
SECTION 2901. NOTIFICATION OF LAYOFF
The Department Head, upon determining that there is a need to reduce the number of employees within a section of a department, or within the department as a whole, shall determine the positions in which layoffs or reductions in force are necessary. When these positions have been identified, this shall be indicated to the Board by the Director of Human Resources through the Civil Service Director. The staff of the Board shall then develop retention registers for the affected position. Notification of the abolition of the position shall be sent to the individuals by the Director of Human Resources. Following such notification, the Civil Service Director shall send the individual a notice of any rights to transfer, retreat, or be laid off involved along with any rights to re-employment and/or reinstatement based upon the list developed from the retention registers as certified by the Board.

SECTION 2902. SECTION
A "Section" is defined as a recognized division or subdivision of a department and not the department as a whole. Determination of what constitutes the "sections" of a department may be based upon reference to prior or present budgets, organizational charts, or any other manner by which a recognized section in the organizational structure can be determined.

SECTION 2903. EMPLOYEE IN SAME CLASS PERFORMING DIFFERENT WORK
Employees having the same classification shall be construed as holding different positions if the nature of the work actually done by such employees is substantially different. If the Department Head determines that a situation exists in which two individuals have the same title but are involved in substantially different work, the Department Head shall submit a letter to the Executive Secretary/Director containing, with specificity, the nature of the work of the employees in the position from which layoffs are to occur and the justification for his determination that the work done by one or more of the said employees is substantially different from the work done by the remainder of these employees. If the Executive Secretary/Director finds that the justification is well founded, the employees shall be determined to hold different classifications and the Executive Secretary/Director shall recommend reclassification accordingly. The Executive Secretary/Director is authorized, at his discretion, to institute investigations into the nature of a position which is scheduled for layoffs if the Executive Secretary/Director has reason to believe that there are individuals within that position which are engaged in substantially different work although they hold the same classification.

SECTION 2904. REVERSE SENIORITY
The layoffs or reductions in force of a classification shall be executed on the basis of reverse seniority, with those persons having the least seniority in the classification being laid off first. This procedure shall continue until the reduction reaches a satisfactory level.

SECTION 2905. TRANSFER
Employees who are laid off shall be entitled to a transfer to a like position in any section or department for which they are qualified which is occupied by an employee with the least seniority in the classification. For positions which were covered by the civil service system prior to January 3, 1981, an employee shall be considered qualified if that employee has been certified to that position by the Board and has previously completed the probationary period. For positions which did not come under the civil service system until January 3, 1981, an
employee will be considered qualified if he has held a like position for the required probationary period.

SECTION 2906. RETREAT
Employees who are laid off and are unable to transfer or elect not to transfer to a like position in any section or department for which they are qualified shall be entitled to retreat to any existing lesser position which they previously occupied. Employees who have been laid off shall be entitled to return to any lesser position in any section or department for which they are qualified and for which they have the greatest seniority. As to positions which were covered by the Civil Service system prior to January 3, 1981, an employee is qualified for a position if that employee was certified through the Board and completed the appropriate probationary period. For positions coming under the Civil Service system as of January 3, 1981, an employee is qualified for that position if he has previously served in that position for the appropriate probationary period. If an employee elects to retreat to a position in a lesser skill level, the employee shall be entitled to receive the salary which is within the skill level of the lower position which provides for the least reduction in salary. Once an employee has been demoted for cause (a result of poor work performance, disciplinary action, etc.) from a classification, he or she shall not have retreat rights to the classification from which he or she has been demoted.

SECTION 2907. ABSENT RETREAT OR TRANSFER RIGHTS
If the employee who is to be laid off and who is not eligible to transfer to a like position or to retreat to a former classification as defined in Sections 2905 and 2906, then said employee can only be laid off.

SECTION 2908. RIGHTS OF AN EMPLOYEE WHO HAS BEEN BUMPED
An employee, who is laid off as a result of another employee transferring to or returning to the first employee’s position, is eligible to transfer or return to another position pursuant to these rules and regulations.

SECTION 2909. RE-EMPLOYMENT ELIGIBILITY FOR TWO YEARS
For a period of two years from the date of his layoff, any employee laid off in connection with a reduction in force is entitled to return to any position in any section or department of the City formerly held by him in the event a vacancy occurs in that position. This right to return is dependent upon the employee being on the re-employment list in accordance with the Rules and Regulations of the Board.

Section 2909.1 Re-Employment Seniority Status
Any classified employee laid off in connection with a reduction in force who is re-employed within two (2) years of his/her layoff shall retain all seniority rights and privileges obtained prior to the layoff. Any classified employee who is laid off and is not re-employed within two years of the layoff shall be considered as having a break in service; therefore, any re-employment thereafter will be as a new employee.

SECTION 2910. ELIGIBILITY LIST FOR TWO YEARS
Any employee laid off in connection with a reduction in force, for a period of two years thereafter, will, without taking any examination, be placed at the head of the civil service eligibility list in accordance with the Rules and Regulations of the Board.
CIVIL SERVICE MERIT BOARD RULES – CITY OF KNOXVILLE

Article 29– Layoffs and Reductions In Force

Section 2910.1. Promotional Preference for Two Years
Any classified employee laid off in connection with a reduction in force, for a period of two years thereafter, shall receive promotional preference in their standing on the eligibility register for classifications for which they apply and meet all the necessary qualifications or requirements as provided in Section 2107.

SECTION 2911. RIGHTS LIMITED TO OCCUPIED POSITIONS
An employee's rights, due to layoff, to transfer to a like position or return to a lesser position are limited to occupied positions, and the City is not obligated to fill a vacant position to comply with these rules.

SECTION 2912. WORK HISTORY RIGHTS
The staff of the Board shall develop a work history status for each employee who is laid off so that the employee's rights of transfer and return are known. The employee shall then be advised of those rights. If the employee does not agree with this determination, he may appeal the same to the Executive Secretary/Director. The Executive Secretary/Director shall make a decision regarding the employee's appeal of the determination of his/her work history rights within three (3) working days. This decision shall be final and shall not be grievable under Article 28 of these Rules and Regulations.

SECTION 2913. BOARD WILL REVIEW UNUSUAL SITUATIONS
Should a situation arise in which the above set out rules and regulations do not adequately provide guidance, the Board shall consider the individual case and make a determination pursuant, to the greatest extent possible, to these rules.

SECTION 2914. QUALIFIED TO FILL A VACANT POSITION
If a person on the reinstatement or re-employment list is referred to a Department where a vacant position exists and the Department Head determines that the individual is not qualified for the specific duties of the position which is vacant, the Department Head shall return the application of the individual along with a position description and justification for this determination. The Executive Secretary/Director shall then obtain from the individual, his former supervisor, or any other reliable source of description of the duties performed by this individual prior to being laid off. The Executive Secretary/Director shall then compare this information to determine if the individual is qualified for the vacant position based upon his previous duties. If the Executive Secretary/Director determines that the individual is qualified, his application shall be returned for consideration. If the decision is that the individual is not qualified, the next individual on the reinstatement or re-employment list (whichever is applicable) shall be referred to the Department Head. Absent individuals being available on these two lists, other lists shall be referred in accordance with the Rules and Regulations. (See Rule 15, Sections 1505, 1512, and 1515.)

SECTION 2915. VOLUNTARY TRANSFER TO A CLASSIFICATION IN THE SAME SKILL LEVEL
In a layoff situation caused by economic reasons, an employee requesting a transfer to a vacancy in a different classification in the same skill level may be considered for transfer to said classification providing he/she is fully qualified to fill the position. The Department Head of an agency where the employee is to serve must certify in writing to the Executive
Secretary/Director that the employee is fully qualified to fill the position. No action will be taken until the Board approves and certifies the employee in the new classification.
SECTION 2501 NOTIFICATION OF NEW POSITIONS
When the Human Resources Department creates a new position, a job analysis along with a detailed description of the duties and responsibilities of the position and a statement of minimum entrance qualifications shall be forwarded by the Human Resource Director to the Civil Service Director as soon as practicable.

SECTION 2502 NOTIFICATION OF ABOLISHMENT OF A POSITION
Whenever it is the intention of a Department Head to abolish a position or positions, the Director of Human Resources shall notify the Civil Service Merit Board through the Civil Service Director of such intent in accordance with Article 29 of these rules and regulations at least 30 days prior to the effective date of the abolition. In no case will a position be abolished for the sole purpose of terminating an employee, rather than appropriately filing disciplinary charges.

SECTION 2503 NOTIFICATION OF CHANGES IN DUTIES OF POSITIONS
The Director of Human Resources will notify the Civil Service Director of any substantial changes in the duties and responsibilities of classified positions as soon as practicable to ensure merit system principles are upheld.

SECTION 2504 RECLASSIFICATIONS

2504.1 Review of Reclassification
The Civil Service Director shall monitor the reclassification of any employee to ensure that merit system principles are not circumvented. Any reclassification that is proposed for approval by the Director of Human Resources shall be forwarded for review to the Civil Service Director at least one week prior to the ten day posting of reclassification announcements. If upon review, the Civil Service Director identifies any approved reclassification that presents a potential circumvention of merit system principles, such reclassification shall be promptly reported to the Civil Service Merit Board by the Civil Service Director. Likewise, any employee who feels a proposed reclassification that is posted during the ten day posting of reclassification announcements presents a potential circumvention of merit system principles may present his/her objections to the Civil Service Director and those shall be presented to the Civil Service Merit Board for consideration at the next business meeting.

2504.2 Civil Service Status of Incumbent Employee
When a position is reclassified due to a change in duties and responsibilities of the position and is assigned to a different classification, and such change is not determined by the Civil Service Merit Board to be in conflict with merit system principles, such change shall be considered noncompetitive if the position is occupied and the reclassified employee shall not be subject to the conditions of the Civil Service probationary period.
SECTION 2901. NOTIFICATION OF LAYOFF
The Department Head, upon determining that there is a need to reduce the number of employees within a section of a department, or within the department as a whole, shall determine the positions in which layoffs or reductions in force are necessary. When these positions have been identified, this shall be indicated to the Board by the Director of Human Resources through the Civil Service Director. The staff of the Board shall then develop retention registers for the affected position. Notification of the abolishment of the position shall be sent to the individuals by the Director of Human Resources. Following such notification, the Civil Service Director shall send the individual a notice of any rights to transfer, retreat, or be laid off along with any rights to re-employment and/or reinstatement based upon the list developed from the retention registers as certified by the Board.

SECTION 2902. SECTION
A "Section" is defined as a recognized division or subdivision of a department and not the department as a whole. Determination of what constitutes the "sections" of a department may be based upon reference to prior or present budgets, organizational charts, or any other manner by which a recognized section in the organizational structure can be determined.

SECTION 2903. EMPLOYEE IN SAME CLASS PERFORMING DIFFERENT WORK
Employees having the same classification shall be construed as holding different positions if the nature of the work actually done by such employees is substantially different. If the Department Head determines that a situation exists in which two individuals have the same title but are involved in substantially different work, the Department Head shall submit a letter to the Executive Secretary/Director containing, with specificity, the nature of the work of the employees in the position from which layoffs are to occur and the justification for his determination that the work done by one or more of the said employees is substantially different from the work done by the remainder of these employees. If the Executive Secretary/Director finds that the justification is well founded, the employees shall be determined to hold different classifications and the Executive Secretary/Director shall recommend reclassification accordingly. The Executive Secretary/Director is authorized, at his discretion, to institute investigations into the nature of a position which is scheduled for layoffs if the Executive Secretary/Director has reason to believe that there are individuals within that position which are engaged in substantially different work although they hold the same classification.

SECTION 2904. REVERSE SENIORITY
The layoffs or reductions in force of a classification shall be executed on the basis of reverse seniority, with those persons having the least seniority in the classification being laid off first. This procedure shall continue until the reduction reaches a satisfactory level.

SECTION 2905. TRANSFER
Employees who are laid off shall be entitled to a transfer to a like position in any section or department for which they are qualified which is occupied by an employee with the least seniority in the classification. For positions which were covered by the civil service system prior to January 3, 1981, an employee shall be considered qualified if that employee has been certified to that position by the Board and has previously completed the probationary period. For positions which did not come under the civil service system until January 3, 1981, an employee will be considered qualified if he has held a like position for the required probationary period.
SECTION 2906. RETREAT
Employees who are laid off and are unable to transfer or elect not to transfer to a like position in any section or department for which they are qualified shall be entitled to retreat to any existing lesser position which they previously occupied. Employees who have been laid off shall be entitled to return to any lesser position in any section or department for which they are qualified and for which they have the greatest seniority. As to positions which were covered by the Civil Service system prior to January 3, 1981, an employee is qualified for a position if that employee was certified through the Board and completed the appropriate probationary period. For positions coming under the Civil Service system as of January 3, 1981, an employee is qualified for that position if he has previously served in that position for the appropriate probationary period. If an employee elects to retreat to a position in a lesser skill level, the employee shall be entitled to receive the salary which is within the skill level of the lower position which provides for the least reduction in salary. Once an employee has been demoted for cause (a result of poor work performance, disciplinary action, etc.) from a classification, he or she shall not have retreat rights to the classification from which he or she has been demoted.

SECTION 2907. ABSENT RETREAT OR TRANSFER RIGHTS
If the employee who is to be laid off and who is not eligible to transfer to a like position or to retreat to a former classification as defined in Sections 2905 and 2906, then said employee can only be laid off.

SECTION 2908. RIGHTS OF AN EMPLOYEE WHO HAS BEEN BUMPED
An employee, who is laid off as a result of another employee transferring to or returning to the first employee's position, is eligible to transfer or return to another position pursuant to these rules and regulations.

SECTION 2909. RE-EMPLOYMENT ELIGIBILITY FOR TWO YEARS
For a period of two years from the date of his layoff, any employee laid off in connection with a reduction in force is entitled to return to any position in any section or department of the City formerly held by him in the event a vacancy occurs in that position. This right to return is dependent upon the employee being on the re-employment list in accordance with the Rules and Regulations of the Board.

Section 2909.1 Re-Employment Seniority Status
Any classified employee laid off in connection with a reduction in force who is re-employed within two (2) years of his/her layoff shall retain all seniority rights and privileges obtained prior to the layoff. Any classified employee who is laid off and is not re-employed within two years of the layoff shall be considered as having a break in service; therefore, any re-employment thereafter will be as a new employee.

SECTION 2910. ELIGIBILITY LIST FOR TWO YEARS
Any employee laid off in connection with a reduction in force, for a period of two years thereafter, will, without taking any examination, be placed at the head of the civil service eligibility list in accordance with the Rules and Regulations of the Board.
Section 2910.1. Promotional Preference for Two Years
Any classified employee laid off in connection with a reduction in force, for a period of two years thereafter, shall receive promotional preference in their standing on the eligibility register for classifications for which they apply and meet all the necessary qualifications or requirements as provided in Section 2107.

Section 2911. Rights Limited to Occupied Positions
An employee's rights, due to layoff, to transfer to a like position or return to a lesser position are limited to occupied positions, and the City is not obligated to fill a vacant position to comply with these rules.

Section 2912. Work History Rights
The staff of the Board shall develop a work history status for each employee who is laid off so that the employee's rights of transfer and return are known. The employee shall then be advised of those rights. If the employee does not agree with this determination, he may appeal the same to the Executive Secretary/Director. The Executive Secretary/Director shall make a decision regarding the employee's appeal of the determination of his/her work history rights within three (3) working days. This decision shall be final and shall not be grievable under Article 28 of these Rules and Regulations.

Section 2913. Board Will Review Unusual Situations
Should a situation arise in which the above set out rules and regulations do not adequately provide guidance, the Board shall consider the individual case and make a determination pursuant, to the greatest extent possible, to these rules.

Section 2914. Qualified to Fill a Vacant Position
If a person on the reinstatement or re-employment list is referred to a Department where a vacant position exists and the Department Head determines that the individual is not qualified for the specific duties of the position which is vacant, the Department Head shall return the application of the individual along with a position description and justification for this determination. The Executive Secretary/Director shall then obtain from the individual, his former supervisor, or any other reliable source of description of the duties performed by this individual prior to being laid off. The Executive Secretary/Director shall then compare this information to determine if the individual is qualified for the vacant position based upon his previous duties. If the Executive Secretary/Director determines that the individual is qualified, his application shall be returned for consideration. If the decision is that the individual is not qualified, the next individual on the reinstatement or re-employment list (whichever is applicable) shall be referred to the Department Head. Absent individuals being available on these two lists, other lists shall be referred in accordance with the Rules and Regulations. (See Rule 15, Sections 1505, 1512, and 1515.)

Section 2915. Voluntary Transfer to a Classification in the Same Skill Level
In a layoff situation caused by economic reasons, an employee requesting a transfer to a vacancy in a different classification in the same skill level may be considered for transfer to said classification providing he/she is fully qualified to fill the position. The Department Head of an agency where the employee is to serve must certify in writing to the Executive Secretary/Director that the employee is fully qualified to fill the position. No action will be taken until the Board approves and certifies the employee in the new classification.
AGENDA
CIVIL SERVICE MERIT BOARD MEETING
WEDNESDAY, FEBRUARY 9, 2022 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, January 12, 2022.

REPORTS

2. Reports regarding litigation.

3. Staff Report.
   • Recruitment update.
   • Uniformed testing update.
   • Budget update.
   • Hearing Officers.

UNFINISHED BUSINESS

NEW BUSINESS

4. Request by Engineering Director, Harold Cannon, to exempt from Civil Service a second Deputy Director of Engineering position for a period of 2 years for overlap/training purposes while current Deputy Director, Steve King, is on the DROP (PCN TBD). (Attachment: CSMB Exemption Form Eng)

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

6. Rule amendments to Article 29 “Layoffs and Reduction in Force” 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.
MINUTES
CIVIL SERVICE MERIT BOARD MEETING
WEDNESDAY, JANUARY 12, 2022 1:30 P.M.
CONFERENCE ROOM 461, CITY COUNTY BUILDING

A meeting of the Civil Service Merit Board (hereinafter referred to as the Board) held on Wednesday, January 12, 2022, at approximately 1:35 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
Stephanie Taylor
Debbie Helsley

Jamie Ballinger and Bill Lyons were unable to attend.

Amanda Busby called for approval of the Minutes of the previous business meeting held on Wednesday, December 8, 2021. Stephanie Taylor made a motion to approve. Debbie Helsley seconded the motion. All Board members present approved the motion.

Dr. Hatfield noted the misspelling of Tatia Harris’ name on the December 8, 2021 minutes.

Amanda Busby called for a motion to approve the minutes with the correction. Debbie Helsley made a motion to approve. Stephanie Taylor seconded the motion. All Board members present approved the motion.

Amanda Busby called for a motion to add the Public Hearing Minutes of the December 8 minutes to the agenda. Debbie Helsley made a motion to approve. Stephanie Taylor seconded the motion. All Board members present approved the motion.

Amanda Busby called for a motion to approve the Public Hearing Minutes of the December 8, 2021 Minutes. Debbie Helsley made a motion to approve. Stephanie Taylor seconded the motion. All Board members present approved the motion.

George Shields, from the City Law Department, stated that he had nothing to report. Michael Winchester, Board Attorney, also stated that he had nothing to report.

Dr. Hatfield stated that after the last board meeting, Ava contacted PBA to see why the audio equipment stopped working. Dr. Hatfield stated that PBA provided a workaround resolution if it were to happen again.

Dr. Hatfield stated that in reviewing the minutes from the last Board meeting, it was noted that Devin Lyon was hired by Civil Service to do some work in the past. Dr. Hatfield stated that she had received some questions in that regard. Dr. Hatfield stated that Devin Lyon was not hired by Civil Service to perform work. Dr. Hatfield clarified that when Mr. Lyon left the City in 2018, he was working on a background review project for KPD. Mr. Lyon completed that project after separating from the City by contracting with either KPD or the Law Department, but Civil Service staff did work with him to complete that project.

Dr. Hatfield updated the Board on the rules. She stated that she appreciated everyone’s comments and suggestions. Dr. Hatfield stated that she made the necessary amendments and forwarded them to Amanda Busby and Michael Winchester for review. Dr. Hatfield stated that later she conferred with both Ms. Busby and Mr.
Winchester regarding the changes and submitted a new draft of Article 25. Dr. Hatfield stated that she identified minor adjustments that needed to be made in Article 29 that is referenced in Article 25 to ensure that they are consistent. Dr. Hatfield stated that she would have a meeting with Dr. Drummond soon to get her input before submitting the revised draft to the Board for a Public Hearing.

Dr. Hatfield announced that CTV is here to record the Board meeting and soon to appear on their website in the near future.

Dr. Hatfield informed the Board that she had recently been asked to be deposed in a lawsuit brought by a candidate for the 911 Director position that took place several years ago. Dr. Hatfield stated that Civil Service assisted 911 with the hiring process. Dr. Hatfield stated that she would keep the Board updated on the development of the case.

Pursuant to CSMB 1805.1, request by Chief Eve Thomas and Civil Service Director, that the minimum one (1) year of service as a Cadet be waived by the Board for the following Cadets who will enter the March Academy:

- Hayden Proffitt – hire date 3/29/21
- Jaycee Reff – hire date 3/29/21

Dr. Hatfield noted that these Cadets are missing the one-year minimum by only a day. Dr. Hatfield stated that the timing was nominal.

Amanda Busby called for a motion on item 4 of the agenda. Debbie Helsley made a motion to approve. Stephanie Taylor seconded the motion. All Board members present approved the motion.

Pursuant to CSMB 1806, request by Chief Eve Thomas and Civil Service Director, that the following Police Cadets who will be attending the March 2022 Academy be certified as Police Officer Recruits as follows:

- Hayden Proffitt be certified as a Police Officer Recruit on the Academy start date, contingent upon successful completion of any required pre-employment processes.
- Jaycee Reff be certified as a Police Officer Recruit on the Academy start date, contingent upon successful completion of any required pre-employment processes.
- Arim Ismail be certified as a Police Officer Recruit, on or after turning 21 on 7/17/2022, contingent upon successful completion of any required pre-employment processes.

Amanda Busby called for a motion on item 5 of the agenda. Debbie Helsley made a motion to approve. Stephanie Taylor seconded the motion. All Board members present approved the motion.

Report by CSMB attorney, Mike Winchester, to review and compare the content of the CSMB November Report to the Mayor’s Report and provide such comparison analysis for the CSMB’s discussion.

Mike Winchester stated that he would not read the report. He noted that his report format was to:

1) Note Charter references, then Code, then Rules in both reports;
2) Compare recommendations in both reports; and
3) Identify commonality and where there are potential conflicts.
Mr. Winchester stated that he was prepared to hit the high points of the report to highlight common ground, differences, and how to address them. Mr. Winchester asked George Shields if he had recommendations on how to address conflicts.

Mr. Shields stated that he felt they should let outside counsel complete their work and then everyone should discuss what to do from there.

Amanda Busby asked what outside counsel is tasked with and what the timeframe was.

Mr. Shields stated that there are 2 categories:

1) Issues related to Chapter 15 of the Code and recommendations; and
2) Relevant Administrative Rules.

He stated the timeframe was still to be determined.

Mr. Winchester agreed that it would be better if there were input from outside counsel and MTAS to work with our issues.

Mr. Winchester stated that his biggest concerns were:

1) If there is more than one procedure or policy being developed, the CSMB needs to discuss that with the City, as this is a joint responsibility. The Charter has broken out certain function, but we don’t need to debate until we see what they come up with.
2) There needs to be consistencies. There can’t be two conflicting practices for harassment and discrimination. Council has said by Code an appointive member of the Civil Service staff has certain powers, and that can only be the Civil Service Director. The Code also says the Office of Community Relations will function as the EEO Officer to administer the EEO program. These appear to address similar practices that are in conflict with one another.

Mr. Winchester stated that he needs to discuss with Devin Lyon and others to ensure we agree on jurisdiction. The Charter specifically provides that the CSMB will develop the program for EEO for all aspects of employment and have rules to take such action.

Mr. Winchester provided a list of activities historically and currently performed by the Civil Service Director that make up EEO program actions.

The Code says EEO will be carried out by the Mayor in conjunction with the CSMB because the Charter requires that the CSMB be involved in the development of any EEO program or policy.

The Mayor can make or revoke Rules except those of the CSMB. Mr. Winchester noted that one way that has been done without conflict is that prior Administrations directed the Civil Service Director to administer and amend the Administrative Rules. This ensured there were not conflicts. For example, the non-discrimination policy, harassment policy, and investigation procedures are identical in both the Administrative Rules and CSMB Rules, because both were developed and administered by the Civil Service Director.

Mr. Winchester stated that if we are going to change Rules, and if the Administrative Rules and CSMB Rules don’t agree, there is an issue. He stated we need to ask City Council and address the Code sections that don’t agree on these matters. He stated that the CSMB Rules prime any other Rules that might be proposed.

Mr. Winchester stated that he hopes we all agree on who has jurisdiction; that we are consistent in how Rules are administered; and that we don’t have multiple practices that are in conflict with one another.

Mr. Winchester then moved to the recommendations comparison in the two reports. He stated that recommendations were similar but, “who” performs the activities differs. While both reports recommend an
index of investigations, a survey of employees on complaint procedures, and training of employees on complaints/investigations, the CSMB report recommends these be done by Civil Service and the Mayor’s report recommends these be done by HR and others. Both reports recommend a policy review and Mr. Winchester noted that the reports identify a need for a policy to address complaints not under Civil Service and specified examples such as complaints from vendors or non-employees and stated that we need to discuss this to make sure we’re talking about the same thing. He also mentioned the EEO Officer needs to be addressed.

Mr. Winchester stated that the Charter controls who does what and we need to discuss.

He then asked the Board if there were any questions.

Ms. Busby thanked him and stated this was helpful to highlight things that we need to come to some agreement on.

Mr. Shields stated that Devin Lyon has a copy of Mr. Winchester’s report and that his own report will be submitted to the Mayor. He stated that he can’t speak for how Mr. Lyon will engage with Mr. Winchester or proceed.

Mr. Winchester stated that he will invite Mr. Lyon to contact him, but will not reach out to him otherwise.

Amanda Busby invited Mr. Steve King to speak to the Board.

Mr. King, representative of the City Employee’s Association, stated that he appreciated the Board and Mr. Winchester’s analysis of the reports as well as him looking out for the interests of the City Employees.

Amanda Busby asked the Board if there were any questions for Mr. Winchester regarding the issues discussed.

Request by Councilwoman Amelia Parker to receive a copy of Mike Winchester's comparison report. Amanda Busby asked if the Board would like to provide City Council with a separate copy of Mr. Winchester’s report.

Ms. Debbie Helsley asked Mr. Winchester if there were any provisions for the Board to meet with City Council via a workshop. Ms. Helsley stated her reason for asking is, she has sent information to Council previously and never received a response from them.

Mr. Winchester stated yes, the Board could attend a workshop that has been called by City Council. Mr. Winchester stated that neither the Board nor City Council could deliberate during a workshop.

Mr. Winchester stated his recommendation was to send a copy of the report to City Council.

Ms. Busby called for a motion to send a copy of the report to City Council.

Debbie Helsley made a motion to send the report to City Council. Stephanie Taylor seconded the motion. All Board members present approved the motion.

There being no further business, Ms. Busby called for a motion to adjourn. Debbie Helsley made a motion to adjourn. Stephanie Taylor seconded the motion. All Board members present voted yes to adjourn.

The meeting adjourned at 2:26pm.

Vicki Hatfield
Executive Secretary/Director

____________________________
Presiding Chair
CSMB MEETING
TRANSCRIPTION OF MEETING DATED JANUARY 12, 2022

Amanda: Ok, I will go ahead and call the January 12th, 2022 meeting of the Civil Service Merit Board to Order and the first item on our agenda is to approve the minutes from the December 8th meeting and those are at tab 1 in your packet, uh, and I believe – does anyone have a motion to approve those?

Stephanie: I’ll motion to approve.

Debbie: Second.

Amanda: All in favor.

All Board Members present: Aye.

Amanda: Any opposed?

Vicki: I was going to note a spelling correction. I didn’t know if that was something that needed to be noted before you voted, but um there is a misspelling of Tatia Harris’ name.

Amanda: Ok.

Vicki: Um, it’s misspelled on page 4 on the fourth little paragraph and with your permission I will correct that in the final version.

Amanda: Ok, do I have motion to approve the minutes with that correct?

Debbie: I’ll move.

Amanda: And do I have a second?

Stephanie: I’ll second.

Amanda: All in favor?

All Board Members present: Aye.

Amanda: Any opposed? Ok. Those are approved. Um, it’s not on the agenda formally, but we do have uh meeting minutes from the Public Meeting that was also held on December the 8th and uh, it’s my understanding that if the Board approves to add that to the agenda so that they can be approved, that would need to be done by a majority vote, so if if anyone wants to make a motion so that we can approve those meeting minutes from the Public Hearing.
Debbie: Motion.

Amanda: Ok, so I have the motion uh to approve uh to add the minutes from the Public Hearing meeting to our Agenda for vote. Do I have a second?

Stephanie: Second.

Amanda: All in favor?

All Board Members present: Aye.

Amanda: Any opposed? Ok. So we will add that to the agenda and we will go ahead and take that up. Um, do I have a motion to approve the meeting minutes from the Public Hearing on December 8th?

Debbie: Motion to approve.

Amanda: Ok. And a second?

Stephanie: Second.

Amanda: Ok, hearing a motion and a second. All in favor?

All Board Members present: Aye.

Amanda: Any opposed? No. Ok, so those are also approved. And next on the agenda we have reports regarding litigation and I believe George Shields with the Law Department is on zoom. There you are George. Do you have any, anything to report?

George: Uh, no Madam Chair, nothing new this month.

Stephanie: You’re muted.

Amanda: Oh, we can’t hear you.

Vicki: Oh, come on.

Debbie: It’s just like a news anchor, he’s muted, that’s uh they do it all the time.

(Inaudible talking amongst those present in the room).

Amanda: Can you hear us, George?

George: Yes.
Amanda: You can. Ok.

Vicki: Ask. George, can you say something? We’re. PBA came down and showed her a couple of things to do so we’re trying.

George: Sure.

Vicki: Oh!

Amanda: Now we can hear you!

George: That was easy.

Amanda: Yeah, there you are.

George: Well, and for all that work Madam Chair, my report is that we have nothing new to report this month.

Amanda: Ok, ok. Well, thank you for that. We are glad we can hear you though, that’s good. Ok, Mr. Winchester do we have anything to report on litigation from the Board?

Mike: I have nothing to report, thank you.

Amanda: Great. The next item on the agenda is our staff report and I will turn that over to Dr. Hatfield.

Vicki: Uh, so for the first item which is not on here, I will note that uh after our last meeting Ava contacted PBA to find out what might have happened um cuz what was odd is it was mid-meeting, it wasn’t, no one had touched equipment and so uh they, they tried to see if there was a timeout issue; there wasn’t that they’re aware of so they just basically gave her this little work around and said if it happens again do this, see if it fixes it and apparently it works.

Amanda: It works.

Vicki: So we’re gonna call that a success and hope that it doesn’t keep happening. Um, I also wanted to just provide a correction. I really didn’t note it until we were um reviewing the minutes from the last meeting and I just thought the Board might have questions on it so I just wanted to make sure that the record uh was correct. It was noted in last week’s meeting that um, and it’s nothing for or against Devin Lyon, but it was noted that Civil Service had hired Mr. Lyon to do some work and I got some questions, has Civil Service ever hired someone other than Mike Winchester and the question is no uh we have never hired Mr. Lyon. Uh, when he left employment in August 2018, he was in the middle of a review project for KPD and I believe either KPD or the Law Department retained him to finish that project
and obviously it was something we were involved in um, but I just wanted to make sure the Board knew we, we only hire Mr. Winchester so, uh unless you guys give us permission to do something otherwise.

Debbie:  He’s our guy.

Vicki:  Just wanted to correct that.  Um, an update on the rules.  We have, you know, a lot of good discussion at our last meeting on the rules um, so where we are with that; I went ahead, and I really appreciated uh Nick Bradshaw’s comments.  I thought those were very constructive.  Um I think they’re going to be very helpful moving forward instead of me just sort of defaulting to language that is there kind of being a little more critical in my thinking and recognizing I need to not just default to what our rules said before and leaving that in there, but making sure it’s complimentary to any other existing rules.  I’ll be more cognizant of that going forward.  I thought they were very uh productive changes so I went ahead and, and made those amendments that we discussed in our last meeting, uh, sent those to uh Amanda and Mike.  They reviewed those then we had a conference call where we sort of fine-tuned that uh so we kind of got a new draft of that Article 25.  Identified a small tweak that also needs to be made in Article 29 which is referenced in Article 25 just to make sure that they’re consistent.  Um and at this point I am going to sit down with Dr. Drummond next week just to get her comments and input on those before I bring uh a revised to the Board, hopefully, for a public hearing in February.  So that is the, that is the plan at this point so, just wanted to let you guys know where those are.  Um, and as you can see we have CTV with us today.  You guys agreed to um have them in here for future meetings.  Today they are simply recording the meeting that will then be put on their, on the CTV uh site, so that someone can go in access it later.  So it’s not, you had asked if it’s being live broadcast or recorded, it’s just being recorded at this time.  So, uh so that will work in compliment with our uh live presentation via Zoom and we also have that Zoom recording uh afterwards.  So, I think we’re well covered.  Um, I added uh an additional item that was not on uh the original report listing because it came up after this had been sent out um, it’s just, I just want you to be aware of it because it’s a little unusual, um doesn’t happen often, um the uh 911 had asked that Civil Service assist them with the hiring process for their Director.  I’m going to say, maybe, it’s been a while.  A couple years ago?  It’s been a bit.  Um, I’m going to say I know that Mayor Rogero was still here so it’s been quite some time.  Um, so they wanted us to uh help us design a process, a hire process, and then we provided, basically we were part of the staff for that process.  Uh, we weren’t decision makers, we just provided uh a mechanism for them to use, documents, and then we, Missi and I, staffed the process for them and um and uh a lawsuit resulted from that process and uh, Mr. Howell, Don Howell, he is one of our Hearing Officers, he is the attorney for 911.  He contacted me uh this week and uh the attorney for the Plaintiff has requested to depose me.  So, I’m going to be deposed probably later this month or early next month.  Um, just regarding that hiring process.  So, just wanted to make you guys aware that that was ongoing um and I will keep you
updated on any, anything that you need to know there. So, and that’s it for the staff report unless you have any questions.

Amanda: Ok, thank you. Um, I don’t see any unfinished business on the report, but we do have new business to take up today and the first item is at tab 4 in your packet and pursuant to CSMB 1805.1, there has been a request by Chief Eve Thomas and the Civil Service Director that the minimum 1 year of service as a cadet be waived by the Board for the following cadets who will be entering the March Academy. The first um cadet is Hayden Proffit with a hire date of March 29th of ’21, and J.C. Reff with a hire date of March 29th ’21. So that request has been made by Chief Thomas and the Civil Service Director.

Vicki: And I will note that I believe they’re missing the year by a day. I think it’s by one day. I think it’s just being done in an abundance of caution.

Amanda: Ok.

Vicki: Just in case, sometimes the Academy gets pushed a week. Um, so they’re very close to meeting that one year requirement and I believe that the time missed will be very, very minimal. Um.

Amanda: Do we have a motion to approve item 4?

Debbie: I’ll move.

Amanda: Debbie’s made a motion to approve. Do I have a second?

Stephanie: Second.

Amanda: Second. All in favor?

All Board Members present: Aye.

Amanda: Any opposed? Hearing none item 4 is approved. Item 5 on the agenda, pursuant to CSMB 1806, there is also a request by Chief Eve Thomas and the Civil Service Director that the following police cadets who will be attending a March 2022 Academy, be certified as police officers which reads as follows: The first one is Hayden Proffit uh the Academy start date contingent upon successful completion of any required pre-employment processes. The second one is J.C. Reff on the Academy start date contingent upon successful completion of any required pre-employment processes. And the third one is Aram Ishmail on or after turning 21 on July 17, 2022, contingent upon successful completion of any required pre-employment processes. Um, we could take these up I guess separately or all together, but do I have a motion to approve them all together?

Debbie: I’ll move.
Amanda: So moved. Do I have a second?

Stephanie: Second.

Amanda: Second. All in favor?

All Board Members present: Aye.

Amanda: Any opposed? Carrying on, item 5 on the agenda is approved. Um, the next item on the agenda is item 6, report by CSMB attorney Mike Winchester to review and compare the content of the CSMB November report to the Mayor’s report and provide such comparison analysis for the Board’s discussion and I do believe um Steve King is signed up to speak on this item um, but I will turn it over to Mike Winchester and then if Mr. King wants to speak at some point um if you could raise your hand Mr. King, I think he’s online.

Mike: Thank you. Uh, I’ll defer to the Board on how they want me to do this other than, I do not plan, unless there’s no need, there shouldn’t be any need to do that, I’m not going to read this report. Everyone’s had it for a week. Uh, what I was tasked to do was to compare it with my analysis and the (inaudible) as to its contents uh, does this Board, uh, made its recommendations that were passed on to the Mayor’s staff uh in early November. The Mayor then made uh her report to the uh City Council consistent with or pursuant to the resolution that we all talked about many times, requesting that the Mayor and her staff work with uh the Law Department, the HR Director, the Director of Civil Service, and this Board to make a report about uh regarding the City’s existing policies for racist and sexist practices within City government as well as any recommendations to strengthen this policy permitted under City’s uh Civil Service rules and applicable law. That’s what I believe both the City, the Mayor and her staff, and this Board attempted to do that. And again, the report is in front of you. I have, what I tried to do, and it was, it was much more difficult than I thought it was going to be. Uh, simply because, not by way of complaining about it, but uh there were really two, two different formats to the report, which is fine. There was a lot of commonality. What I try to do and the only way I could really do it in the context of responding to what the Board tasked me to do was to figure out a way that someone could read this report without having 14 different sections of the Code and Charter and everything spread out like I do here. I know you, you wanna. You’re like a lawyer, George, you know what I’m talking about. It’s hard to see it all and uh go back through it and cross reference it and unless you are uh able to spread it out and you have all that material in front of you to have a consistent uh report that you can just look at and read and say well what are my take aways with my goal. I don’t know whether I achieved that or not. I tried to. But, the format of my report was to go through, and I keyed it by, first of all, references to Charter Sections uh to begin with. Then I went into um the applicable Code of Ordinances. That would be the uh the Code Sections adopted by City Council. And then I went to applicable Admin. Rules and Civil uh Civil
Service Merit Board Rules. I ended up comparing the recommendations that were made by the Mayor’s report and by this Board uh and then tried to compare those and say ok, where did we end up, where’s our commonality, where’s the potential conflict and uh what do we, what do we do from here which is really up this Board. Uh, let me stop there for a second. Does anyone have a specific question or comment that we need to go over now about the report and or, or, or is there an area we need to focus on? Otherwise, all I’m prepared to do is just hit the high points here. I have a list of what I think are common ground, what I think are matters that require both, um everyone’s attention really, uh as far as going down through it. Uh, and how we might best get with the, I don’t know I’ll have to defer to George on this, if we have questions and we have matters that we need to get together on and sort of caucus with the City uh how best to do that. Do we get with the Mayor’s staff, the Law Department, the HR Director, all the above. I really don’t know the answer to that. George, is there a uh, is there a approach we should take as we run into issues about how best to address ‘em?

George: Uh, Mike I think my overall answer to that is gonna be we should let the outside counsel complete their process and then, and then at the end of that maybe that’s when those discussions would be most productive. Uh, but I can certainly, you know, if there are particular issues uh that should not wait for that we can talk about that, but overall I think that would be my preference.

Mike: And, and I’m glad to hear that because that puts into, uh that would be uh, Devin, George? That’s Devin? I don’t think he can hear me. Can you hear me George?

George: I, I, I am. Are you asking me who the outside counsel is?

Mike: It’s Devin isn’t it?

George: Yes, that’s right.

Mike: Ok, well then uh that having been said, uh, I don’t know what the outside counsel’s recommendations are going to be and how they’ll uh agree/disagree or interplay with this madam chair, so I don’t really know how best to go through it other than to tell you what I perceive as potential issues that I believe may confront the Board. Uh.

Amanda: I do. I do have a question and it’s really for George. George, can you describe what the outside counsel is tasked with doing and what timeframe approximately you think that would be completed in? I’m just trying to determine I guess what you know what uh what we need to do and be prepared for.

George: I think in broad terms, the outside counsel is addressing uh much of what Mr. Winchester is also addressing I mean it, I think it falls into two broad categories uh from the Mayor’s report. The first category was issues related to um the um Chapter, I think it’s Chapter 15 Article 2 division 2 of the City Code and uh
recommendations on how to improve that, that Section of the Code going forward and then based on those recommendations to also look at the relevant rules particularly the Administrative Rules and make recommendations on improving those going forward so I think, virtually everything we’re talking about relates back to what he’s been tasked to do. As far as the timeline goes, um, he has I think some preexisting obligations you know that predate engaging him for this that he’s working on. Um, I think that the timeframe is still to do be fine-tuned you might say, uh M-Task is also a part of that effort. You may remember that the Mayor’s Report asked M-Task to survey similar jurisdictions and look at what they’re doing in this area so. I think it will, it’s a little premature I guess to say exactly what the, what the deliverable date will be because some of it depends on M-Task’s research being provided, Devin becoming available to finish you know his preexisting case load, and then putting his abilities and M-Task’s abilities together to you know produce the final product so we’ve got follow-up meetings uh arranged uh with both sides of that equation to work towards identifying what the final schedule will be, but uh I don’t think it would be fair to either M-Task or Devin to commit them to a date until we’ve talked about it a little bit more.

Mike: I certainly agree that it would be better if we had the input from um Devin, uh M-Task, or whomever is going to be the I guess the group or has the authority to deal with us, deal with this Board on matters that requires coordination; I think it all requires coordination, uh and certainly the suggestions that may come from their reviews are going to be really important to see, to see if we, in fact, have differences that uh need to be addressed or whether we agree on certain things. So, with that said um I recommend that we, other than ans me answering questions, I’ll be glad to go down through this report. I can, I can, I already stated and I hope it was understandable how I did it and what I said, uh, uh. My biggest concerns are these. One, is that if there is more than one procedure or policy that either is being developed at one level of the City uh one department of the City or another, uh, versus what this Board is tasked to develop or uh administer under the Charter, we need to talk about that with the City, with our counterparts in the City because the administration of the personnel department uh and matters of the City are a joint responsibility that we all have uh to the City employees and to the City to get it right. The Charter has broken out certain areas that I don’t think we need to try to debate until we see what, what the issues are. My biggest concern is how best to coordinate getting the right policy, the right programs, and to educate the City employees about things that I do not know and I’ll have to defer to others about, specifically now, what I’m talking about are discrimination, sexual discrimination, any type of discrimination in employment or in the administration of personnel, um and also harassment which is a form of discrimination. For instance, if there is an issue, right now uh by City employees classified/unclassified about who they report discrimination practices or harassment to, if there is in fact a need to address that by training, education, publication, whatever, uh, and to make sure that report that discrimination or harassment that that is occurring in the City is being properly channeled to the right investigation authorities; that is very important to address
that as soon as possible. Um, I’d have to defer to others on that volume on what happens. I can I know that our rules and regulations talk about investigations under Article 17. I’ve charted all that in the report. Uh, I believe that there are practices in place and requirements. My other concern is that there’s consistency. There certainly does not need to be, in my opinion, two different conflicting practices, and I don’t believe that’s happening now, uh, as to who you report it to and how it proceeds to either be investigated, remedied or the policies of this of the City and this Board’s impact on those policies, how they’re administered because the confusion that I saw perhaps a little bit uh from the comments we got last from the last meeting versus what’s in the Mayor’s report and then our report is this. City Council has said by Code and has recognized by the some of the Code Sections that I can mention again if I need to and it started in the Code Sections 15-51, etc. where there was mention of an appointed member of Civil Service Board staff, that can only be our Civil Service Director, at least in my estimation, would have certain powers to take action that involved a category of functions that are mention in Section 15-54 which includes investigating charges of unlawful employment practices, administering and enforcing provisions uh of the uh of these Code Sections which include basically the policies and practice, the policies of the City were mentioned in the Mayor’s report under uh 15-55,15-56, 15-57, about unlawful employment practices. Well, there’s also in Code Section 2-11(c)(1) and then a small b. Uh there is a office of community relations where the the Code has recognized that the Mayor uh has an office that has, I assume the Director, as a, will function as the City’s Equal Employment Officer to administer the City’s Equal Employment program to ensure compliance with Equal Employment laws and related executive orders. Those Code Sections, it doesn’t take a lawyer to understand or figure out, there are two Code Sections that appear to address similar practices involving Equal Employment laws and affirmative action plans, etc. that are in conflict with each other. Now, the overriding concern I have for this Board is that our Charter provisions, and this is where I need to get in and discuss with uh um Devin and others, to be sure that jurisdictionally we’re all on the same page. The Charter provisions that I’ve mentioned and referenced in my report, and they are mentioned in the Mayor’s report, these are not Charter provisions that are my provisions this isn’t my interpretation, these are Charter provisions that we all just have to to deal with and live with, specifically, specifically, provide that uh this Board develops a program to provide for Equal Employment Opportunities to all employees and applicants for employment with regard to all aspects of employment. And then this Board has the power under one thousand, Section 1003 sub g of the Charter to implement your rules and regulations to to take such action. There’s been some confusion about whether or not that there was an EEO policy or program and how it had been implemented and I think I provided an attachment that shows uh a list of those that uh I believe have developed over the years. My take away from reading the reports is this, uh, right now is that there’s a difference between administering a policy and developing it. I think that’s where uh the Code provisions that have been adopted by our City Council, that again are referenced in both the Mayor’s report and our recommendation is that the Mayor, and this is, I’m reading from Section 2-3 of the Code now, this isn’t Charter, but I believe that these
Code Sections under Section sub 1 under duties uh and then Section sub j, it’s small j period, says that an Equal Employment and Affirmative Action plan or policy um is to be carried out by the Mayor in conjunction with the Civil Service Merit Board. Well, I believe that has been put in there by City Council for their acknowledgement that the Charter requires that this Board be involved in the development of any policy or program that deals with Equal Employment and Affirmative Action because that’s what the Charter says. On top of that, the uh the power of the Mayor to adopt rules and regulations under 2 Section 2-3(1), uh, small A, which again these are sections that are mentioned in both reports, talks about developing rules and regulations by the City whichever department does that and it says that those that uh uh these kinds of practices and it’s under also under part 2, 2 small a, rules for administrative agencies. Those are what I’ve been, I refer to as the Administrative Rules. The Mayor has the power to prescribe those rules for the administration of of the policies of the City and the Mayor has the power to revoke, suspend, or amend those rules except those enacted by Council and by the Civil Service Merit Board. So what the Code Sections have attempted to do by our Council is recognize and try to coordinate actions between the City and this Board so that there won’t be a conflict between the City’s rules that may come from what they are doing to administer their policies and what this Board has promulgated over the years. Now one way that that, in my opinion, has been mitigated if not avoided to a large part, is that as we sit here today the Administrative Rules of the City as I report in the uh in my in my report to you these uh these provisions, for the most part, are mentioned in both reports. For all the years that I’ve been around, uh the Mayors and administrations of the City have dealt with the Civil Service Director who still to this day under Admin Rules 1.03 and 1.04 has the power to administer the rules and amend them with the subsequent approval of the Mayor and her department heads. I believe that has been, not just implicit, but has been the activity that the City’s administrations have followed over the years to avoid having administrative rules conflict with this Board’s rules over these policies over many of these policies. For instance, the non-discrimination policy under the admin rules of the City under 1.05 of the Admin Rules is identical to the rules to the non-discrimination language used by this Board in its rules where it’s adopting non-discrimination policies. Identical. The harassment policy under Admin Rule 1.06 of the City and the investigation procedures under that rule for the City, whoever is administering it, is identical to the to this Board’s rule under Section 17.04 on investigations and employee complaints. Right now employee complaints of harassment and discrimination are are should go through the Civil Service Director. That’s in both the Admin Rules and our rules. If we’re going to change rules or change focus or change anything and those rules are not maintained consistently to be sure that when they’re amended that they agree with each other, that’s a potential problem. You don’t need a lawyer to tell you that. I think that has been avoided over the years by the system that’s in place now. That doesn’t mean it can’t be better, but there are clearly Code provisions that I just mentioned and I think I spoke to it in our last meeting in response to one of the questions I had from uh an employee. Uh, I think there are two Code provisions that we do need to address and that someone needs to ask City Council and we need to cooperate with each
other on in addressing to be sure we don’t have different agencies of the City promulgating different rules than what we have on these types of matters because I believe that our rules and regulations on employment matters involving discrimination and involving those matters that are specified under the duties of the Charter to you, this Board, those prime any inconsistent rules and regulations that the Mayor or any City agency or department can promulgate. The Code sections match up with that that I’ve just mentioned. The Admin Rules match up with that as I just mentioned. I’m not saying that the Mayor’s report or that our report are going to conflict on what may go forward or may not. What I’m saying is, I hope that when we get together with Devin or whoever, that we all agree that we need to maintain one an an idea of who has jurisdiction to develop programs and policies. Number two, that we’re consistent with how they’re administered. And number three, that we don’t have three or four different procedures out there that are in conflict with each other that our employees or department heads or anyone is trying to figure out to address these real important matters. That’s my biggest concern. Now right now, the recommendations that you’ve made, and I point to this because this is action you’ve already taken. The recommendations and if you turn to my section of the report, I have listed the, and again in summary, uh I have uh looked at the recommendations of the Mayor, of this Board that you passed uh in your November meeting, and I tried to identify where there were some differences and I can go over those quickly if you would like for me to. I think the biggest take aways were that uh who, who is going to do some of these actions. For instance, one of the recommendations of of this Board uh was that the um that there be a data collection and creation of a of an index of complaints and outcomes. The Civil Service Director has been doing that. Uh, and has continued to do that. Uh, both reports recommend that that index be maintained on an ongoing basis. Of course, why wouldn’t it be? That just makes sense. But, the differences come down to who will continue to move forward with that. Um, the Mayor’s Report suggests that that be a shared project, the way I’ve read it, between this Board and the Civil Service Director with the office of the Mayor and various departments of the City. So that’s something we, that can be discussed certainly. Uh, whether or not the data collection and indexing proceeds jointly or through Civil Service is one of those matters that we need to talk about with uh and see what other recommendations are out there. Uh, I won’t comment on what’s best or what’s not because that’s not my task, but that’s just one of the differences. Both the Mayor’s Report and this Board’s Report suggested a procedure to survey employees to gather data on employee’s understanding of procedures to report offenses and existing procedures for investigation of harassment and discrimination in employment. Your report recommends that Civil Service proceed with those surveys and activities. My reading of the Mayor’s Report is that Human Resources gather such information. So we have a, we have a difference there on who should be doing that. Uh, how to implement it and and how to proceed with that are differences and conflicts that I see that we need to talk about. Uh, both reports suggest and recommend a policy review pertaining to the admin, Administrative Rules, I just mentioned and Civil Service Rules overrides that they need to be addressed pertaining to areas not under the Board’s authority. Let’s talk about that
for a minute to make sure we’re all on the same page, to make sure that I’m on the same page with our Director and uh and uh anyone else. If it is not employment related for harassment or uh, as far as harassment discrimination is involved; in other words if they were to report harassment by a vendor of the City, that would not come before this Board. That would be a matter that the City would need to handle, administratively. Uh, so there are situations where, uh, unless it involves employment or administration or personnel, that uh, Civil Service Board Rules and Admin. Rules may not be on, may not be consistent. Those are things we just need to talk about uh and see where the differences are. The uh, the implementation of communication with employees by training or developing a program to ensure that employees know how to use complaint and investigation procedures are mentioned in both, both reports. I believe this is probably, at least me talking and knowing that what our goals are, what all our goals are, is very important. The Mayor’s Report recommends that the HR Department coordinate such training of their supervisor’s employees uh while my reading of the, of our Report recommends that Civil Service launch a comprehensive communication program to train and advise employees. I’ll have to defer to uh, uh Dr. Hatfield on what training or what, what information is uh given to employees at this point on these types of programs, but to the extent there’s a conflict between recommendations the City might make through its HR Department or this Board is making, we need to resolve that. My comment about that is to the extent that there are recommendations that involve uh harassment training or identification and discrimination that I believe the Board Rules and Regulations under our Charter Sections are the ones that control those types of actions because that’s what the Charter says. It gives us priority and specific powers, and again, it’s not a matter of argument, it’s a matter of we need to make sure we don’t have a problem with who’s rules and regulations will control matters, but there may be conflict. Uh, then I think that, finally, to the extent there’s a uh, if the Mayor’s Report and recommendations include identifying an Equal Employment Officer with responsibilities, and I mentioned this earlier resolving those conflicts between the two Code Sections, I think are uh are this is the time to address it. Those kind of matters. Now again, I know that’s a lot of information. Not everyone may agree with my analysis of the Reports. I think the identification of the issues that are raised with potential conflicts are a matter of that I’ll uh differ to your reading and any questions you might have, but we have some work to do to make sure we’re all on the same page, we are all working in the same direction. I think the input from Devin and uh any other entity or a person who is going to have input in response to this is really necessary to know exactly what we agree and disagree on. And so, with that said, I will ask if you have any questions for me, specific questions, that I can try to answer.

Amanda: Does anyone have any questions for Mr. Winchester? I’d just like to say I appreciate your work and putting this together because I know that it was uh a laborious task, um but I think it’s helpful because I think it really highlights things that we need to come to an agreement on. So, hopefully the process, uh, that George has described with Mr. Lyon looking at this and hopefully, hopefully he can get in touch with Mr. Winchester so that we can resolve these.
Mike: Well, let me ask George this. George, do we know, do I need to make a contact with Devin or will he go back, if you know, will he know to contact me or go through you or the Mayor’s staff. Do we know what he’s been tasked to do and how to proceed?

Amanda: And, and George, has he been provided with a copy of Mr. Winchester’s report?

George: I’ll answer the second question first. The answer to that is yes, I forwarded it to him. Um, um Mike as far as uh how Devin is to report, you know the um, the task, uh and I should just go back actually just very briefly and say that when I enumerated what Devin has been asked to do, um I think I mentioned there were two categories. There are three. The third was the uh, the issue that Mike spoke about regarding the appropriate organizational placement of the EEO Officer function. I think I, I focused on uh the Code provision and the Administrative Rules, but uh I don’t want to omit that. All three of those involve giving recommendations back to the Mayor, um, so I think ultimately, you know, Devin’s report will be addressed to the Mayor. As far as how he will prepare the report, you know, and who he’ll talk to, you know, uh, sort of the uh, the uh, behind the scenes, you know, aspects of how the report gets generated, I really wouldn’t want to speak for Devin on that. I, I mean I think I know him well enough to know he would be interested in all views, uh, and will certainly be looking at this from all angles, uh, but as far as, you know, what format that will take, I I just feel like it would be better to let him, let him actually get started, you know, and get a sense of how, how to approach this, and then I’m sure he’ll reach out and give uh you know uh instructions you know about what he has in mind for for how to gather that input and then produce the final report. I just don’t think it would be fair for me to step on his toes until he’s had a chance to, you know, to to really grasp what it is he’s taking on. And, I guess while I’m on the subject of Devin as well, I just uh want to clarify the record very briefly. I know Dr. Hatfield, um, uh explained uh her interpretation of what Devin’s uh previous engagement with Civil Service has been. Um, the the longer, I think maybe more complete answer to that is that uh Dr. Hatfield and her then Deputy Matt Bradburn requested that the Law Department retain Mr. Lyon, Devin, to work on behalf of Civil Service. The Law Department approved that request as we do, you know, whenever anybody asks for outside uh counsel, it routes through the Law Department. Uh, Mr. Lyon subsequently interacted exclusively with Civil Service’s staff. The Law Department did not direct him, uh, in his work on behalf of Civil Service and whatever it was he produced, he produced it to the Civil Service office uh, not to the Law Department. So, I think it’s important to, you know, when we say what what Devin was hired or not hired to do, I think the uh details about who he took his directions from, who requested his help in the first place, that sort of thing is important to get right. Um, and then overall Mike, I mean I appreciated your report and uh I, I think uh you know we have some different interpretations, you and I, uh that’s um not a problem. You know. It’s not new it, it’s certainly not a scandal or anything. I think that’s why, I think that’s why Devin can be so useful to us here. You know he’s operating um, you know, uh in a non-advocacy role here, he’s able
to look at this at arm’s length and uh I’m interested to hear what he comes up with. I know you are as well and that’s why I think uh it’s really valuable to give him a chance to do that and then let’s talk about it, you know, uh, once we know where he’s at on these issues. So, that’s why I’m content to leave all of this, you know, all the detailed discussion on this to a later time once we have the benefit of all of those assessments, you know, all of that additional analysis to look at, so. Madam Chair I hope, maybe that could be one big omnibus answer, uh, to everything related to that um in the interest of keeping this brief.

Mike: I don’t disagree with anything you just said. We don’t need to, to retreat it, to retalk about it over and over again and then find out we’ve wasted time on matters we agree on and we haven’t identified every issue. I don’t have a problem with that at all. I just wanted to understand if I needed to reach out to him or not and I will not reach out to him unless he contacts me, but I, I will certainly invite him to contact me whenever he wants to. Ok. Thank you for that, George.

Amanda: Thank you, um, I know that Mr. King has signed up to speak on this issue and he is, I believe online. Um, Mr. King do you still wish to speak on the issue? Oh, he may have . . . he may have just dropped off. Is he still on there?

Mike: There’s somebody on there.

Amanda: There’s somebody with a hand up. Is that the hand up, at the top? I’m still trying to figure out how all of this technology works. There he is. Ok, so he does have his hand raised. So, um, would this be an appropriate time, Mr. Winchester, for him to speak or ask whatever questions he (inaudible).

Mike: Certainly. If he has a question that I can answer, that’s fine.

Amanda: Ok. Mr. King, are you there?

Steve: Yes. Thank you.

Amanda: You’re welcome.

Steve: This is Steve King representing the City Employee’s Association. I just have one very general comment. I just want to uh compliment Mr. Winchester on his analysis and uh well I want Mr. Winchester and the Merit Board to know how much the employees appreciate uh you all looking out for employee interests and look forward to future um analysis to come. Thank you.

Amanda: Thank you Mr. King. Do any of the Board members have any questions for Mr. Winchester or any, anything else on his particular issue? Thank you Mr. Winchester and we can, I think, move on to our next agenda item. And that is the final item, I believe, on our agenda today which is number 7. There has been request by Councilwoman Amelia Parker to receive a copy of Mike Winchester’s
comparison report which is item 6 that we just discussed. Um, I believe it was part of our packet today, um, but if the Board would also like to provide Council with a separate copy, if I could have a motion to do that, we can . . .

Debbie: We can do that, but I have a question for Mike.

Amanda: Ok, sure.

Debbie: Is there, I mean I realize we’ve got Devin and we’ve got outside lawyers and everybody’s like ya’ll are gonna have to (inaudible) out. Is there any provisions for this Board to either meet in a workshop with Council? And the reason I ask that is cuz we sent stuff to Council over and over and over again. And I know they’re busy and they get huge packets of stuff to wade through and I think it’s a time factor and I would just prefer it not go to a black hole. I, you know, not that it would intentionally go there, but is there any way, is that, can we do that, or?

Mike: I want to make sure I understand your question. What exactly is your question?

Debbie: Well, it’s to send this, it’s to send your comparison pack, we send it I know, I guess they got a copy of it, to resend it, but is there any way that this Board can meet with Council and I don’t mean, we could go to a meeting to go to a microphone, but to like in a workshop setting or anything?

Mike: Well, to answer your question about that yes we there we can go to a workshop and attend a workshop that’s called by City Council. We can’t, they can’t deliberate and we can’t either. We can talk to each other. But I’m not sure, I’m not sure, I can’t speak for City Council. I don’t know how they would handle that.

Debbie: Well, I’m just trying to figure out how to raise a motion, yeah I can make a motion that we send it to them, but I didn’t know what what.

Mike: I don’t think sending it to them uh, they probably already have it. Would they not have it as a result of you posting it through your website?

Vicki: They would. They would.

Debbie: They would, but if we formally send it it’s, it gets lost. I’m telling you Mike it gets lost. It gets lost because I’ve asked council people before about, not this in particular, and they’re like, “I didn’t see it,” so they get a lot of stuff.

Mike: Well, my recommendation Madam Chair is that we com, since we have a Council member specific request that we address it and send it specifically to them.

Amanda: Does someone want? Someone want to make a motion?
Debbie: I want to make the motion that we send it to everyone on Council, not just Amelia Parker.

Amanda: Ok, ok. Um, do I have a second to that motion? We’ve got a second from Dr. Taylor. Um, all in favor?

All Board Members present: Aye.

Amanda: Any opposed? Hearing none um we will um ask Dr. Hatfield to send a copy of Mr. Winchester’s report to all members of the Council so that they will have it. Ok. Um, any other business that we need to bring up today or does this conclude our meeting? Do I have a motion to adjourn?

Debbie: You do.

Amanda: Second?

Stephanie: Second.

Amanda: All in favor?

All Board Members present: Aye.

Amanda: And any opposed? Hearing none, our meeting today is adjourned. Thank you all so much.
REQUEST FOR EXEMPTION FORM  
CIVIL SERVICE MERIT BOARD

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This Is A:  
☐ Replacement  
☐ Increase in Force

Job Type:  
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☐ Temporary Full-Time  
☐ Temporary Part-Time

Pay Group:  
☐ ATH – Athletics  
☐ BWE – Event  
☐ BWF – Fire 56 hr.  
☐ BWG – General Gov’t.  
☐ BWU – Police/Fire 40 hr.

Pay Plan:  
☐ A – Fire  
☐ D – Gen. Govt.  
☐ E – Event  
☐ P – Police

Provide a summary of the duties and responsibilities and/or an explanation of request.

Stephen King, current Engr. Deputy Director, is on the drop plan beginning 1-1-2022. I would like to hire another Deputy Director to transition during these 2 years.

Is position currently vacant?  ☐ Yes  ☒ No*  
*If not, name of employee currently in position and job classification.

Stephen J. King

Will this position be repeated on a consistent basis during future years?  ☐ Yes*  ☒ No  
*If yes, explain duration.

Only until Stephen King's 2 year drop is completed.

Are there other current positions with the same or similar duties & responsibilities?  ☐ Yes*  ☒ No  
*If yes, are those positions exempt (E) or classified (C)?  ☐ Exempt  ☒ Classified

To your knowledge, have the duties or responsibilities of the position been performed in the past?  ☐ Yes*  ☒ No  
*If yes, was the employee exempt from Civil Service?  ☐ Yes*  ☒ No

Please list names of employees who have performed responsibilities in the past or who are performing similar duties and responsibilities.

Stephen J. King  Comments: This is for one-time use due to unforeseen issues on the department.

Director/Department Head’s Signature

1-25-2022

**For Finance Use Only**

Grant funding for 12 months has been verified for this position.  ☐ Yes  ☒ No*

If no, please list the amount of time funding is available.  NO grant funds involved

Finance Director Signature

1/27/22

**For CS Use Only**

Comments:

Civil Service Director

Date
