

Regular Meeting

March 30, 2009
12:30 p.m.

A regular meeting of the Municipal Civil Service Commission convened on Monday, March 30, 2009, at 12:58 p.m. with Grady Pettigrew, Jr. and Jeffrey Porter in attendance.

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RE: Review and approval of the minutes from the February 23, 2009 Regular meeting.

A motion to approve the minutes was made, seconded, and approved unanimously.

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RE: Review and approval of the minutes from the March 4, 2009 Special meeting.

A motion to approve the minutes was made, seconded, and approved unanimously.

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RE: Review of the results of the pre-hearing conference review:

No pre-hearing conference this month.

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RE: Rule Revisions.

No rule revisions were submitted this month.

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RE: Election of Commission President.

Grady Pettigrew was nominated for President of the Civil Service Commission, the nomination was seconded, and it passed unanimously.

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RE: Review of the Findings and Recommendation of the Trial Board hearing held on February 9, 2009, Fred Keene vs. Columbus City Schools, Appeal Number 08-BA-0013.

A motion to adopt the trial board's recommendation modifying the action of the Columbus City Schools discharging Mr. Keene was made, seconded, and passed unanimously.

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RE: Columbus City School classification actions.

PRESENT: Wayne Christie, Personnel Analyst Supervisor

Wayne Christie presented this request to create the classification of Safety and Security Supervisor to be responsible for the day to day supervision of the Student Safety Resource Coordinators and to designate it as noncompetitive with a probationary period of 360 days (Class Code 9333).

A motion to approve the request was made, seconded, and approved unanimously.

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RE: Request of the Civil Service Commission to reconsider the merge of the specification for the classification Water Service Technician II (Job Code 3276) into Electric Meter Technician (Job Code 3626), retitle it to read Utility Services Technician II, and amend Rule XI accordingly.

RE: Request of the Civil Service Commission staff to reconsider the merge of the specification for the classification Electricity Consumer Servicer (Job Code 3305) into Water Service Technician I (Job Code 3260), retitle it to read Utility Services Technician I, and amend Rule XI accordingly.

Tammy Rollins presented these requests to reconsider the merge of the specification for the classification Water Service Technician II into Electric Meter Technician, and to reconsider the merge of the specification for the classification Electricity Consumer Servicer into Water Service Technician I.

In November 2006, the Commission approved the request of the Department of Public Utilities to merge the Water Service Technician II class into the Electric Meter Technician class, and retitle it to read Utility Service Technician II and to merge the Electricity Consumer Servicer into Water Service Technician I, and retitle it to read Utility Services Technician I. The stated reason for the mergers was to create a more flexible and efficient workforce, and to eliminate redundant classifications. The expectation was that employees in the merged classifications would perform as fully skilled technicians servicing a variety of utility meters, both water and electric. However, more than two and a half years later, Memorandums of Understanding were never implemented to finalize the mergers and the reasons given to support the mergers never materialized. It was, therefore, recommended that the merge actions be canceled and that the Water Service Technician II and Electric Meter Technician class specifications be returned to their original form prior to the merge action and that the specifications for the classifications Electricity Consumer Servicer and Water Service Technician I be returned to their original form prior to the merge action.

A motion to approve these requests was made, seconded, and approved unanimously.

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RE: Request of the Civil Service Commission staff to revise the specification for the classification Education Program Instructor (Job Code 1619).

RE: Request of the Civil Service Commission staff to revise the specification for the classification Education Program Supervisor (Job Code 1620).

Tammy Rollins presented these requests to revise the specification for the classification Education Program Instructor and Education Program Supervisor. They were created in February 2008 with the intention of being utilized by the Mayor's Office, Office of Education. With the elimination of the Office of Education, restricting the use of Education Program Instructor and Education Program Supervisor to this office would be futile. Therefore, the removal of any reference to the Office of Education including the removal of the guidelines for class use section was recommended.

Education Program Instructor and Education Program Supervisor will now be utilized by the Recreation and Parks Department.

A motion to approve these requests was made, seconded, and approved unanimously.

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RE: Request of the Civil Service Commission staff to revise the specification for the classification Computer Operator I (Job Code 0538).

Barb Crawford presented this request to revise the specification for the classification Computer Operator I as part of the review of the Computer Operations series. It was created in 1965 and was last reviewed in 2007.

There were no revisions to the definition section. Revisions to the examples of work section reflect that microfiche work orders have been replaced with archival CD work orders. The substitution of an associate's degree for the required work experience was added to the minimum qualifications section, and the additional substitution of six months work experience in combination with the completion of two computer classes was removed.

There were no revisions to the knowledge, skills, and abilities section, the probationary period, or the examination type.

A motion to approve this request was made, seconded, and approved unanimously.

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RE: Request of the Civil Service Commission staff to revise the specification for the classification Computer Operator II (Job Code 0539).

Barb Crawford presented this request to revise the specification for the classification Computer Operator II as a part of the Civil Service Commission's effort to review all classifications every five years. It was created in 1969 and was last reviewed in 2004.

There were no revisions to the definition section or the examples of work section. Based on a review of questionnaires completed by incumbents and discussions with department representatives, the minimum qualifications section was revised to read "Two years experience as a Computer Operator I with the City of Columbus or comparable experience" and remove the substitution of the additional computer courses.

The knowledge, skills, and abilities section was revised to exclude the reference to, "...general knowledge of flowcharting." There were no revisions to the probationary period or examination type.

A motion to approve this request was made, seconded, and approved unanimously.

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RE: Request of the Civil Service Commission staff to revise the specification for the classification Computer Operations Supervisor (Job Code 0541).

Barb Crawford presented this request to revise the specification for the classification Computer Operations Supervisor as a part of the Civil Service Commission's effort to review all classifications every five years and as part of the computer operations classification series. It was created in 1975 and was last reviewed in 2005.

There were no revisions to the definition section or the examples of work section. Based on review of questionnaires completed by incumbents and discussions with department representatives, it was recommended that the minimum qualifications section be revised to include the language that one year of the two years of experience operating and monitoring computer and peripheral devices in a centralized data center or multiple network servers environment be in a lead worker or supervisory capacity.

There were no revisions to the knowledge, skills, and abilities section, probationary period, or examination type.

A motion to approve this request was made, seconded, and approved unanimously.

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RE: Motion to adjourn regular meeting to go into Executive Session to consider the remaining agenda items.

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RE: Personnel Actions

Request of the Civil Service Commission staff to reallocate position #60-09-00661, currently classified as Utility Service Technician II (Job Code 3626), to the Water Service Technician II classification (Job Code 3276) and to allow the affected employee to retain her current classification status.

PRESENT: Tammy Rollins, Personnel Administrative Officer

Tammy Rollins presented this personnel action request in conjunction with the request to reconsider the merge action between the Water Service Technician II and the Electric Meter Technician classifications that retitled the resulting classification Utility Service Technician II, which was essentially a retitling of the Electric Meter Technician class. While the merge was never fully implemented, the Utility Service Technician II title was used.

Kristen Miller was appointed promotionally to the Utility Service Technician II classification July 27, 2008 from Water Service Technician I. However, she has not yet begun to perform the work of the higher level. Ninety-five percent of Ms. Miller's time is spent reading electric meters with only five percent spent reading water meters. Given these percentages, the most appropriate classification for these duties would be Electricity Consumer Servicer. However, in addition to reading electric meters, the Electricity Consumer Servicer classification is also defined to inspect, remove, and install electric meters, which are not part of Ms. Miller's responsibilities. Still, the Electricity Consumer Servicer represents the best classification available for her assigned set of duties.

Based on the review of Ms. Miller's position, it was determined to be misclassified. The department has agreed to assign her Water Service Technician II level work. Her position will be reallocated to Water Service Technician II and her permanent status (M) will go with her into the higher class. However, because she has not yet performed this level of work, her rank date shall coincide to the effective date of this reallocation.

A motion to approve this request was made, seconded, and approved unanimously.

Request of the Civil Service Commission staff to reallocate position #60-09-00650, currently classified as Water Service Technician II (Job Code 3276), to the Electric Meter Technician classification (Job Code 3626) and to allow the affected employee to retain his current classification status.

PRESENT: Tammy Rollins, Personnel Administrative Officer

Tammy Rollins presented this request in conjunction with the request to reconsider the merge action between the Water Service Technician II and the Electric Meter Technician classifications that retitled the resulting classification Utility Service Technician II, which was essentially a retitling of the Electric Meter Technician class. While the merge was never fully implemented, the Utility Service Technician II title was used.

While classified as a Water Service Technician II, Von Downing volunteered to learn Electric Meter Technician responsibilities in 2006 in anticipation of the merger of water and electrical meter classifications being finalized. After more than two years of training and a limited background in electrical work, Mr. Downing admits to being able to perform the "basics" of everything. The most appropriate classification for the required duties would be Electric Meter Technician.

Based on the review of Mr. Downing's position, it was determined that he is performing the work of the former Electric Meter Technician classification. Therefore, it was requested that his position be reallocated to this classification and that he be permitted to carry forward his permanent status (O) into the new classification. Additionally, Mr. Downing has a grievance pending that may result in back pay. His classification seniority in the new classification shall coincide with the date to which his back payment is awarded.

A motion to approve this request was made, seconded, and approved unanimously.

Request of the Civil Service Commission staff to reallocate designated positions, currently classified as Utilities Service Technician II (Job Code 3626), to the Water Service Technician II classification (Job Code 3276) and to allow the affected employees retain their current classification status and seniority.

PRESENT: Tammy Rollins, Personnel Administrative Officer

Tammy Rollins presented this request in conjunction with the request to reconsider the merge action between the Water Service Technician II and the Electric Meter Technician classifications that retitled the resulting classification Utilities Service Technician II, which was essentially a retirement of the Electric Meter Technician class. While the merge was never fully implemented, the Utilities Service Technician II was used.

There are currently four individuals, Christopher Hlavsa, Charles Seeright, Eric Walker, and Robert Hoops, who were appointed promotionally to the Utility Service Technician II classification and who are responsible for performing the duties and responsibilities assigned to the Water Service Technician II classification. The designated individuals meet the minimum qualifications of the new class, have completed the probationary period and achieved permanent status in their current classification. Therefore, it was requested that the designated positions be reallocated to the Water Service Technician II classification and the affected employees retain their classification status and seniority.

A motion to approve this request was made, seconded, and approved unanimously.

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RE: *Residency Hearing Reviews.*

No residency hearing reviews were submitted this month.

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RE: *Background Removals.*

No background removals were submitted this month.

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RE: *Other Administrative/Jurisdictional Reviews.*

Review of the appeal of Charles A. Gunnell, Jr., Development Program Manager regarding his layoff and bumping rights, Department of Development/Housing, City of Columbus – Appeal No. 09-CA-0002.

The Commissioners reviewed the appeal of Charles Gunnell, Jr. regarding his recent layoff and the Commission staff determination that he had no bumping rights. His appointment date as a Development Program Manager was May 15, 2007. December 13, 2008 was used as the end date for calculating seniority in round one of the layoffs. His seniority was therefore 579 days.

With respect to potential bumping rights, the Commission Rules provide four opportunities. First, the Rules provided the Commission staff to ascertain if there was a less senior employee in the same job classification but in another division within his

department. In this regard, Mr. Gunnell was the least senior Development Program Manager in the Development Department, so there was no same class bumping opportunity. Next, the Rules provided the Commission staff to look to each lower class within the same job series to determine if there was a less senior employee Mr. Gunnell could bump. The classification Development Program Manager, however, is the lowest class in its series. In this regard, there was no job series bump available. Next, the Rules provided the staff to look at classifications within Mr. Gunnell's current job family, in which he previously served, and which met the test of a "lower class," to ascertain if there was a less senior employee he could bump. Development Program Manager is in the Administrative Job Family and has a minimum pay rate of \$22.82. A review of Mr. Gunnell's personnel records revealed that he served in two other job classifications but only one, Business Development Specialist was in the Administrative Job Family. To qualify for a job family bump, the other class must meet the "lower class" test which means that the minimum pay rate of his current class must be higher than the maximum pay of the class being considered. Business Development Specialist has a pay grade assignment with a maximum pay rate of \$30.55. Accordingly, it is not lower than \$22.82, the current minimum for his class. As such, there was no job family bump available. Finally, the Rules provided that the Commission staff identify any less senior part-time employees in the same job class as his current class. There were no part-time Development Program Managers within the department, so there was no part-time bump available to Mr. Gunnell. Accordingly, the Commission staff's determination that Mr. Gunnell was not entitled to bumping rights was accurate and no corrective action was warranted.

Based on this information, the Commission decided to dismiss Mr. Gunnell's appeal without a hearing.

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Review of the appeals of Audrey Owens, Development Program Manager, regarding her termination, Department of Development/Housing, City of Columbus – Appeal No. 09-CA-0003.

The Commissioners reviewed the two appeals filed by Audrey Owens where she stated that she believes her termination from the position of Development Program Manager was improper.

A review of Ms. Owens' personnel file revealed that she was appointed effective May 12, 2002 to her current position. Prior to the date of her appointment, she signed a Limited Employment Information form. This form outlines the conditions under which she was accepting the appointment as a Development Program Manager. It further provided that the condition of limitation for this position was "CDBG Funding." In section two, it provides:

If the condition limiting her employment occurs while she was serving in the position (such as the project is completed, the funding eliminated or the other employee returns from leave) she will be terminated from the position. This will not be regarded as a layoff or disciplinary action and she will have no appeal rights under Commission Rules.

The Notice of Termination which Ms. Owens received was issued in accordance with the condition of her employment with the City. The Rules do not provide a right to appeal a termination from a limited appointment. Since the record reveals this termination was properly executed, the Commission has no jurisdiction to review the action further.

The basis of Ms. Owens' second appeal was that her termination was handled improperly. She indicated that she was originally informed that her termination date would be February 20, 2009. However, she further indicated that on January 21, 2009, she was notified that February 20, 2009 would be her last paid day of work but that January 21 would be the last day she would actually report to work. She explained that this was unfair because she had already paid for childcare, had not yet cleaned out her

office, and had not notified her clients, all for which created a hardship for her. The remedy she requested was to continue to work until the final day of her layoff.

None of the matters raised within Ms. Owens' second appeal fall under the jurisdiction of the Civil Service Commission.

Based on this information, the Commission decided to dismiss Audrey Owens' appeals without a hearing.

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Review of the appeal of Gwendolyn Castlin, Office Manager, regarding her layoff and bumping rights, Department of Development, City of Columbus – Appeal No. 09-CA-0004.

The Commissioners reviewed the appeal filed by Gwendolyn Castlin pertaining to the Layoff Certification issued by the Commission Executive Director certifying her name for layoff from the position of Office Manager and indicating that she had no bumping rights. The basis of her appeal was simply that she believed the certification of her name and the bumping determination was improper.

Commission records show that her appointment as an Office Manager was effective March 18, 2001. A review of the layoff records revealed that the Development Department identified two positions in the Office Manager classification for layoff. Of the three Office Managers in the Development Department, the most senior was another employee whose date of rank was August 17, 1998. With only 2,824 days of seniority, it was clear that the certification of Ms. Castlin's name for layoff was proper over the remaining employee who has 3,772 days of seniority.

With respect to the bumping determination, the Commission Rules first provide that the staff look for other less senior employees in the department in the same job classification. Since the Development Department had no Office Managers outside Ms. Castlin's division, there was no bumping opportunity of this type. Next, the Rules provided the Commission staff to look at lower classes within the job series. The next lower classification in the series was Office Assistant III. A review of the records revealed that Ms. Castlin was more senior than one employee in the Office Assistant III classification; however, that employee was limited and was terminated due to lack of funding at the same time Ms. Castlin was laid off.

The next lower job in the class series was Office Assistant II. The Rules of the Civil Service Commission have, however, been modified by a provision in the contract between the City of Columbus and the American Federation of State, County, and Municipal Employees (AFSCME). That contract provides in Article 15 that "Non-bargaining unit employees shall have no bumping rights into an AFSCME bargaining unit classification." Since the next classification lower in Ms. Castlin's class series, Office Assistant II, belongs to the AFSCME bargaining unit, there was no other class series bumping opportunity.

Next, the Commission Rules provided that the staff look at other jobs Ms. Castlin previously served in within the same job family for a bumping opportunity. Although Ms. Castlin previously served in a different job class in the same job family, that class was subsequently abolished and is no longer used by the City. As such, there was no job family bump. Finally, the Rules provided that the Commission staff look to whether there were less senior part-time employees in the same job classification within the department. In this case, the Development Department had no part-time Office Assistant III's. Accordingly, there was no part-time bumping opportunity for Ms. Castlin and the bumping determination made by the Commission staff was correct.

Based on the foregoing, the Commission decided to deny Gwendolyn Castlin's appeal without a hearing.

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Review of the appeal of Trilisa Payne, Recreation Supervisor, regarding her layoff and bumping rights, Recreation & Parks, City of Columbus – Appeal No. 09-CA-0005.

The Commissioners reviewed the appeal filed by Trilisa Payne indicating that she was improperly bumped. At the time of Ms. Payne's layoff, her classification was Recreation Supervisor. She was appointed to this class on September 30, 2001. December 13, 2008 was used as the end date for calculating all seniority for all employees for this round of layoffs. As such, her seniority was 2,632 days.

In Ms. Payne's situation, during the first round, she was identified as a bump for Anna Marie Brown. Ms. Brown was a Recreation Center Manager taking a bump down to Recreation Supervisor. When the Commission staff reviewed the bumping opportunity for an employee in this situation, Anna Brown had the benefit of her seniority in the class from which she was being laid off, plus the seniority she had previously accumulated in the Recreation Supervisor class. In her situation, she had accumulated 1,743 days as a Recreation Center Manager and 931 days as a Recreation Supervisor, for a total of 2,674 days, making her more senior than Ms. Payne. Accordingly, it was clear that the determination that Ms. Brown had sufficient seniority to bump Ms. Payne was correct.

The other employees whom Ms. Payne referenced in her appeal were all in a higher classes than hers. All of these employees bumped less senior employees in accordance with Commission Rules and procedures. For each round of layoffs, the procedure looks only to the current status of employees. When there are multiple level layoffs, it is possible that a higher-level employee has the right to bump a less senior employee in Ms. Payne's class even though that higher-level employee could not have bumped her directly. Then another employee being laid off in a lower class (that is still higher than Ms. Payne's) may have sufficient seniority to bump her. When it is time to look for Ms. Payne's potential bumps, there is no procedure and has never been a procedure to look at higher level employees who have not yet bumped down into her classification. All the determinations were made on the same date and as of that date, the higher level employees were not in a class in which she may have bumping rights. The bumping procedure only looks at employees already in a lateral or lower position. A procedure which anticipates bumping is not appropriate because bumping is a matter of choice. If one employee chose not to take a bump, then all the subsequent determinations would be incorrect and the round would have to be completely reprocessed. Additionally, the design is intended in that it does not permit any employee to bump another employee who at the start of the process was in a higher class than his own. Accordingly, the Rules and procedures of the Commission were followed and the outcome was correct.

Based upon the foregoing, the Commission decided to dismiss Ms. Payne's appeal without a hearing.

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Review of the appeal of Thomas B. Hill, Jr., Recreation Supervisor, regarding his bumping rights, Recreation & Parks, City of Columbus – Appeal No. 09-CA-0006.

Review of the appeal of Roger M. Harper, Recreation Supervisor, regarding his bumping rights, Recreation & Parks, City of Columbus – Appeal No. 09-CA-0007.

The Commissioners reviewed the appeals of Thomas B. Hill, Jr. and Roger M. Harper which raised two issues: 1) the denial of bumping rights to the Recreation Leader classification and 2) the denial of their requests to voluntarily return to the Recreation Leader class during their probationary period as a Recreation Supervisor.

Both of these issues arise as a result of Mr. Hill and Mr. Harper receiving a notice of layoff on January 30, 2009. With respect to the issue regarding bumping rights to the Recreation Leader job classification, the basis of Mr. Hill's and Mr. Harper's appeals were that pursuant to Civil Service Commission Rules, they were entitled to bumping rights to lower classes in the series or job family. The collective bargaining unit agreement which is applicable to their positions (i.e. the contract between the City of Columbus and CMAGE/CWA, Columbus Municipal Association of Government Employees) provides that the

Commission Rules in effect on August 24, 2005 apply to Mr. Hill's and Mr. Harper's layoffs. The Civil Service Commission adopted rules which would afford them a bumping opportunity in this situation since their positions are part of a class series in which there were lower job classes. However, the Rules of the Civil Service Commission have been modified by a provision in the contract between the City of Columbus and the American Federation of State, County, and Municipal Employees (AFSCME). That contract provides in Article 15 that "Non-bargaining unit employees shall have no bumping rights into an AFSCME bargaining unit classification." As such, the Rules of the Commission are modified by that provision where applicable. Since the job classification lower in Mr. Hill's and Mr. Harper's class series belongs to the AFSCME bargaining unit, there was no bumping opportunity in their situations.

The second issue was concerning the denial of Mr. Hill's and Mr. Harper's requests to return to the classification of Recreation Leader. It is possible under Commission Rules for the department to grant such a request if there is a vacancy. However, there is no right to return to a former position during a probationary period in the higher job class unless the employee had been granted a leave of absence. A review of Mr. Hill's and Mr. Harper's personnel files revealed no such leave was processed. As such, Mr. Hill and Mr. Harper had no right to return to the Recreation Leader class.

Based on the foregoing, the Civil Service Commission denied Mr. Hill's and Mr. Harper's appeals.

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Review of the appeal of Phyllis Cunningham, Development Rehabilitation Technician, regarding her termination, Department of Development, City of Columbus – Appeal No. 09-CA-0008.

The Commissioners reviewed the appeal filed by Phyllis Cunningham wherein she states:

FUNDING FOR WORK PERFORMED IN POSITION CONTINUES TO EXIST AS EVIDENCED BY CONTINUED FUNDING OF SELECTIVE SPECIFIC INDIVIDUALS; AND WITNESSED STATED INTENTION OF THE HOUSING ADMINISTRATOR IN OCT 08 TO HIRE THIS CLASSIFICATION AS SOON AS TERMINATION OF THIS EMPLOYEE IS EFFECTED. HOUSING ADMINISTRATOR/ASST H.A. RESPONSIBLE FOR DESIGNATING TERMINATION OF THIS EMPLOYEE DOCUMENTED AS HAVING SELECTED THIS EMPLOYEE BASED ON BIAS AND DISCRIMINATION PROHIBITED BY LOCAL/STATE/FEDERAL EMPLOYMENT LAW. DEPT ADMINISTRATIVE PERSONNEL UP TO AND INCLUDING THE DIRECTOR, ARE AWARE OF THIS VIOLATION OF EMPLOYMENT LAW AND HAVE FAILED TO UPHOLD/ENFORCE NON-DISCRIMINATION AS PROSCRIBED BY APPLICABLE EMPLOYMENT LAWS.

In early 2009 the City of Columbus underwent a significant work force reduction. The impacted classified employees fell into one of two groups. The first group included regular, full-time employees, over 100 who were certified for layoff by the Civil Service Commission. The second group included limited, full-time, and part-time employees who held their positions under the condition that they would remain employed only so long as funding was available. Within the Development Department, approximately 36 employees were certified for layoff and another 12 employees were terminated, all as a result of a lack of funding.

A review of Ms. Cunningham's personnel file revealed that she was appointed effective August 26, 2002 to the Development Rehabilitation Technician position. Prior to the date of her appointment, she signed a Limited Employment Information form. This form outlines the conditions under which she was accepting the appointment as a Development Rehabilitation Technician. It states that the condition of limitation for this position was "CDBG Funding." In section two, it provided that if the funding for Ms. Cunningham's position was eliminated, she would be terminated from her position. It further states:

This will not be regarded as a layoff or disciplinary action and you will not have associated appeal rights under Commission Rules.

The Notice of Termination which Ms. Cunningham received was issued in accordance with the condition of her employment with the City. The Rules do not provide an appeal of any type from a termination of a limited appointment. Since the record revealed this termination was properly executed, the Commission had no jurisdiction to review the action further.

With respect to Ms. Cunningham's statement that others are still working as limited employees, this is an accurate statement since CDBG funding was not entirely eliminated. Commission Rules do not require that the most senior employees be retained in the event only some of the limited employees in a class are terminated and others are retained. Nonetheless, with respect to the Development Rehabilitation Technician class, one employee remains in the class following Ms. Cunningham's termination who also has a CDBG limitation. That individual was appointed to the job in 1995, and is as such six years senior to Ms. Cunningham in that position.

Additionally, Ms. Cunningham's appeal stated that her termination was discriminatory and in violation of local, state, and federal employment laws. These matters are outside the jurisdiction of the Civil Service Commission.

Based on the foregoing, the Civil Service Commission decided to dismiss Ms. Cunningham's appeal without a hearing.

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Review of the appeal of Crystal R. Carrera, Recreation Supervisor, regarding her bumping rights, Recreation & Parks, City of Columbus – Appeal No. 09-CA-0009.

The Commissioners reviewed the appeal filed by Crystal R. Carrera stating that there are other employees working as Recreation Supervisors who have less overall seniority than herself.

Ms. Carrera's current classification was Recreation Supervisor and she was appointed to this class on June 26, 2000. As of December 13, 2008, the end date for calculating seniority, her seniority was 3,093 days.

In the first round of layoffs, the department served layoff notices on six Recreation Administrative Managers, nine Recreation Center Managers, and four Recreation Supervisors. Civil Service Commission Rules and procedures are clear regarding the sequence in which layoffs and bumping determinations are made. First, the least senior employees were identified for layoff in each of the impacted job classes in the series. These employees were then excluded from the second step when the Commission determines if any of the employees identified for layoff have bumping rights against other remaining employees.

Two key rules apply. First, the Commission started with the highest job classification in the series; those employees had the first opportunity to acquire a bumping right. Beginning with the most senior employee identified for layoff in the highest class in the series (in this case, Recreation Administrative Manager), the Commission staff followed the sequence set forth in the Commission Rules and checked to see if there was a bump for that employee. The sequence is: 1) the same job class in another division, 2) any successively lower job classes within the job series, 3) any lower qualifying job class in the same family, or 4) a part-time job in the same job class. In each instance, the determination was made whether the employee identified for layoff had more seniority than the least senior employee at each step in the sequence.

The second key Rule is that once a bump is identified for an employee, the determination stops. The staff then moves to the next most senior person in the highest class in the series to be laid off to ascertain bumping rights for that individual. Each time an employee is identified to be bumped, then that individual is excluded from further

consideration for others to bump. Additionally, those identified for layoff and acquiring a bumping right are excluded from further consideration for others to bump in that round. After bumps were determined for the Recreation Administrative Managers, then bumps were determined for the nine Recreation Center Managers, and finally, the four Recreation Supervisors.

In Ms. Carrera's situation, during the first round of layoffs, an Administrative Manager bumped a Recreation Center Manager, who in turn could bump Ms. Carrera, a Recreation Supervisor. The Recreation Center Manager, who bumped down to Ms. Carrera's position as a Recreation Supervisor had 5,340 days of seniority compared to Ms. Carrera's 3,093 days. As such, there was no issue that she had more seniority than Ms. Carrera in exercising this bump. When the Commission staff followed the bumping determination procedure to find a potential bump for Ms. Carrera, there was no bump identified.

The concern raised by Ms. Carrera's appeal arose from the fact that when bumping was completed, there were employees who had less overall seniority than Ms. Carrera in the Recreation Supervisor class and whom Ms. Carrera cannot bump. This is true. Nonetheless, the Commission's Rules and procedures were carefully followed and the outcome was correct under the circumstances. When there are multiple level layoffs and bumping, it is possible for a higher-level employee to bump a less senior employee in Ms. Carrera's class even though that higher-level employee could not have bumped her directly. Then when the Commission proceeded to the next lower class, another employee being laid off, but with more seniority than Ms. Carrera, can bump her. When it was time to look for her potential bumps, there was no procedure and has never been a procedure to look at higher-level employees about to bump down to her classification. All the determinations were made on the same date and as of that date, the higher-level employees are not in the class yet. The bumping procedure only looks at employees already in a lateral or lower job class. In fact, the Commission could not have a procedure which anticipates bumping because it is voluntary and an employee may not take the bump. Additionally, the design is intended in that it does not permit one employee to bump another employee who at the start of the process was in a higher class than his own. Accordingly, the Rules and procedures of the Commission had been properly followed.

Based on the foregoing, the Civil Service Commission decided to dismiss Ms. Carrera's appeal without a hearing.

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The Commissioners adjourned its regular meeting at 1:14 p.m.

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Grady L. Pettigrew, Jr., President

Date