



METROPOLITAN CIVIL SERVICE COMMISSION

MINUTES

January 14, 2014

8:30 a.m.

Howard Office Building
Sonny West Room

700 2nd Avenue South and
Lindsley Avenue
Nashville, Tennessee 37210

MEMBERS PRESENT: Chairman William H. Farmer; Vice-Chairman R. Steve Corbitt; C. Michael Allen; D. Billye Sanders and Jo Ann North.

OTHER MEMBERS PRESENT: Veronica T. Frazier, Director; Nicki Eke, Metro Legal Department Attorney

Chairman Farmer called the meeting to order and said the first order of business was to determine if there were any amendments, corrections or questions from the minutes of the last **Regular Meeting** of **December 10, 2013**.

Seeing there were no corrections, Commissioner Allen moved for approval and a second was made by Commissioner North. There were no objections from the Commission and the regular minutes were approved.

Appeals Process: Nicki Eke read the memorandum pertaining to the Metropolitan Code of Laws 2.68.030 – pursuant to Ordinance BL2006-2050.

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APPOINTMENTS

<u>NAME</u>	<u>CLASSIFICATION</u>	<u>TYPE</u>	<u>DATE</u>
<u>CODES ADMINISTRATION</u>			
Hubbell Jr, Joe A.	Building Inspector 1	New Hire	12/09/13

EMERGENCY COMMUNICATION CENTER

Curtis, Nioka D.	Emer Telecommunications Supervisor	Promotion	11/30/13
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FINANCE

Friedmann, Starla M.	Finance Officer 3	Promotion	12/23/13
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GENERAL SERVICES

Eakes Jr, Kenneth L.	Automotive Mechanic	New Hire	11/25/13
Anderson, Micheal L.	Equipment & Supply Clerk 1	New Hire	11/25/13
Fuller, Christopher L.	Equipment & Supply Clerk 1	New Hire	11/25/13
Singleton, Patricia M.	Equipment & Supply Clerk 1	New Hire	11/25/13
Garcia, Juan F.	Equipment Servicer	New Hire	11/25/13
Laury, Ronnie R.	Radio Tech 3	New Hire	12/09/13
Hardin, Benjamin R.	Technical Specialist 1	Promotion	12/09/13
Nelson, Jaymie D.	Technical Specialist 1	Promotion	12/09/13

INFORMATION TECHNOLOGY SERVICE

Cathey, Laura L.	Info Systems App Analyst 3	New Hire	12/16/13
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METROPOLITAN CLERK

*Hall, Shannon B.	Metropolitan Clerk	Dept. Transfer/Promotion	12/04/13
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*Department Transfer from Human Resources (Human Resources Admin, SR13) to Metro Clerk (Metro Clerk, SR14)

PARKS

Edens, Daryl W.	Golf Course Manager	Promotion	12/06/13
*Gregory, Hunter R.	Maintenance & Repair Worker 2	Transition - Civil Service	12/06/13
Hoyt, Dillon D.	Specialized Skills Instructor	New Hire	12/01/13

*Transition to Civil Service from Part-Time/Seasonal Status

POLICE

Tharp, Barry D.	Admin Assistant- Latent Print Examiner	New Hire	11/16/13
*Arnett, Megan G.	Police Officer 1	Class Change	11/27/13
*Berry-Rollins, Elizabeth M.	Police Officer 1	Class Change	11/27/13
*Bingham, Ericka D.	Police Officer 1	Class Change	11/27/13

APPOINTMENTS

<u>NAME</u>	<u>CLASSIFICATION</u>	<u>TYPE</u>	<u>DATE</u>
<u>POLICE</u>			
*Birdwell, Bryan	Police Officer 1	Class Change	11/27/13
*Brooks, Michael L.	Police Officer 1	Class Change	11/27/13
*Collins, David C.	Police Officer 1	Class Change	11/27/13
*Dickall, Joshua W.	Police Officer 1	Class Change	11/27/13
*Frei, Kevin L.	Police Officer 1	Class Change	11/27/13
*Haley, Richard C.	Police Officer 1	Class Change	11/27/13
*Hammond, Ian W.	Police Officer 1	Class Change	11/27/13
*Hausman, Joshua P.	Police Officer 1	Class Change	11/27/13
*Hoopingarner, Cole E.	Police Officer 1	Class Change	11/27/13
*MacArthur, Ian A.	Police Officer 1	Class Change	11/27/13
*Murray, Joshua A.	Police Officer 1	Class Change	11/27/13
*Poole, Catherine M.	Police Officer 1	Class Change	11/27/13
*Schmidt, Jonathan	Police Officer 1	Class Change	11/27/13
*Silvers, Nathan R.	Police Officer 1	Class Change	11/27/13
*Stanfield, John L.	Police Officer 1	Class Change	11/27/13
*Stewart, Ricky J.	Police Officer 1	Class Change	11/27/13
*Tidwell, Dustin A.	Police Officer 1	Class Change	11/27/13
Allen, Wanda D.	Police Operations Assistant 1	New Hire	12/01/13
^Bass, Kevin J.	Police Operations Assistant 1	Vol Reduction In Salary Grade	11/21/13
Emberton, Larry B.	Police Operations Assistant 1	New Hire	12/01/13
Hesson, Jeanne S.	Police Operations Assistant 1	New Hire	12/16/13
Hudson, Myra D.	Police Operations Assistant 1	New Hire	12/01/13
Roper, Jalaya O.	Police Operations Assistant 1	New Hire	12/16/13
Davidson, Dawn L.	Police Operations Coordinator 2	Promotion	12/16/13
Johnson, Matthew P.	Police Security Guard 1	New Hire	12/01/13
Duval, Daniel	Technical Specialist 1	New Hire	12/01/13

*Class Change from Police Officer Trainee to Police Officer 1

^Voluntary Reduction In Grade from Police Officer 2 (PS4) to Police Operations Assistant 1 (SR4)

PUBLIC LIBRARY

*Nabours, Amy V.	Library Associate 1	Transition - Civil Service	12/23/13
*Transition to Civil Service from a Part Time Status			

PUBLIC WORKS

Hatcher, Kortland N.	Compliance Inspector 1	Class Change/Lateral	12/09/13
Frazier III, Fred L.	Equipment Operator 2	Promotion	11/25/13
Smalls III, Joseph	Equipment Operator 2	Promotion	11/25/13
Tate, Dominique D.	Equipment Operator 2	Promotion	11/25/13
Baker, Cody R.	Equipment Operator 3	Promotion	12/09/13
Lane, John D.	Equipment Operator 3	Promotion	12/09/13
Russell III, Garlon H.	Equipment Operator 3	Promotion	12/09/13
Gooch, Terry L.	Maintenance & Repair Leader 1	Promotion	11/25/13
Hale, Randy L.	Maintenance & Repair Leader 1	Promotion	11/25/13
Trotter, Steven A.	Maintenance & Repair Leader 2	Promotion	11/25/13
Cole, Erik S.	Maintenance & Repair Worker 1	New Hire	12/23/13
Hambrick, Johnathan D.	Maintenance & Repair Worker 1	New Hire	11/25/13
McRae, Shane P.	Maintenance & Repair Worker 1	New Hire	12/09/13
Metzger, Richard A.	Maintenance & Repair Worker 1	New Hire	12/09/13
Phelps, Jacob A.	Maintenance & Repair Worker 1	Re-Hire	12/09/13

PUBLIC WORKS

Ryman, Mark W.	Maintenance & Repair Worker 1	New Hire	12/09/13
Ryman, Matthew G.	Maintenance & Repair Worker 1	New Hire	12/09/13
Shelton Jr, Steve D.	Maintenance & Repair Worker 1	New Hire	11/25/13
Epperson II, Harvey	Maintenance & Repair Worker 3	Promotion	11/25/13
Tidwell, Stanley K.	Office Support Spec 2	Promotion	11/25/13
Burns, David S.	Signal Tech 1	New Hire	11/25/13

*Class Change from Equipment Operator 3 (TG8) to Compliance Inspector 1 (SR7)

SHERIFF

Denton, Parrish C.	Correctional Officer Lieutenant	Promotion	11/17/13
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WATER SERVICES

Gamble Jr, George C.	Application Tech 3	Promotion	12/07/13
Hiner, Marilynn E.	Office Support Spec 2	Promotion	11/23/13

MOTION: After some discussion, Commissioner North moved for approval of the appointments as listed. Commissioner Sanders second and the Commission approved without objection.

TERMINATIONS/ PENSIONS

<u>NAME</u>	<u>CLASSIFICATION</u>	<u>TYPE</u>	<u>DEPARTMENT</u>	<u>DATE</u>
Shumaker, Kara L.	Emergency Telecom Officer 1	Dismissal	ECC	11/22/13
Armstrong, James R.	Fire Captain	Pension	Fire	12/13/13
Turner, Troy S.	Equipment Mechanic-Certified	Pension	General Services	12/13/13
Stallkamp, Rick J.	Computer Operator 2	Resignation	ITS	11/25/13
Dodson, Tyson B.	Recreation Leader	Dismissal	Parks	12/16/13
Arnett, Joseph A.	Police Officer 1	Resignation	Police	11/22/13
Williams Jr, Robert E.	Police Officer 1	Resignation	Police	12/09/13
Homik, John P.	Police Officer 2	Resignation	Police	12/04/13
Meeks, Tommy H.	Police Officer 2	Resignation	Police	12/03/13
Park, Sungjun	Police Officer 2	Pension	Police	12/02/13
Simmons, Daniel S.	Police Officer 2	Resignation	Police	11/29/13
Stewart, William D.	Police Officer 2	Pension	Police	12/02/13
Belcher, Charles C.	Circulation Assistant 1	Deceased	Public Library	12/03/13
Reece, Stephen M.	Equipment Operator 3	Resignation	Public Works	12/02/13
Sawyers, John E.	Equipment Operator 3	Deceased	Public Works	12/11/13
Brock, Ronnie G.	Signal Tech 1	Resignation	Public Works	12/03/13
McKay, Ray O.	Correctional Officer 1	Resignation	Sheriff	11/27/13
McSweeney, Christopher	Correctional Officer 1	Resignation	Sheriff	11/23/13
Arnold, Kevin A.	Equipment Operator 3	Resignation	Water Services	11/29/13
Fugleberg, Scott J.	Equipment Operator 3	Resignation	Water Services	11/29/13
Wilson, Howard L.	Meter Repairer 1	Pension	Water Services	12/02/13
Rich, W. B.	Program Manager 1	Resignation	Water Services	12/20/13

MOTION: After some discussion, Commissioner North moved to accept the Termination/Pension report for dates and reasons stated. Seconded by Commissioner Sanders and the Commission approved without objection.

ELIGIBILITY REGISTER REPORT

<u>CLASSIFICATION</u>	<u>DEPT</u>	<u>ON LIST</u>	<u>TYPE</u>	<u>DATE</u>	<u>ESTABLISH/ABOLISH</u>
Maintenance & Repair Worker 1	Public Works	65	Continuous	12/03/13	E
Technical Specialist 1	General Services	2	Dept	12/04/13	E
Maintenance & Repair Worker 2	Parks	7	Open	12/04/13	E
Equipment Operator 3	Public Works	43	Open	12/05/13	E
Engineering Technician 2	Public Works	7	Open	12/09/13	E
Administrative Services Officer 4	Codes	89	Open	12/10/13	E
Radio Technician 3	General Services	12	Open	12/11/13	E
Maintenance & Repair Worker	Parks	8	Open	12/12/13	E
Information Systems Analyst 3	ITS	5	Open	12/16/13	E
Signal Technician 2	Public Works	2	Open	12/16/13	E
Police Operations Coordinator 1	Police	7	Dept	12/17/13	E
Library Associate 1	Library	123	Open	12/18/13	A
Librarian 2	Library	54	Open	12/18/13	A
Program Coordinator	Parks	33	Open	12/23/13	E

MOTION: After some discussion, Commissioner North moved to approve the register report. Seconded by Commissioner Sanders and the Commission approved without objection.

DEPARTMENTAL ITEMSHUMAN RESOURCES

(1: Election of Chairman and Vice-Chairman

MOTION: Commissioner Allen moved to re-elect Chairman Farmer for the position of Chairman. Second by Commissioner North and the Commission approved without objection.

MOTION: Commissioner Allen moved to re-elect Vice-Chairman R. Steve Corbitt for the position of Vice-Chairman. Second by Commission North and the Commission approved without objection.

LIBRARY

(2: Director Kent Oliver, represented by Associate Director Susan Drye, requested approval for the following:

- a. Nashville Public Library request to Hire Above Base and Civil Service status for Ms. Laura Ellison, Program Specialist 2 – Library Services Deaf & Hard Hearing, SR08

Ms. Ellison works in the Library as a non-civil service employee under a grant funded program. She has been a Program Specialist 2 since September 17, 2012 and will continue in that position under the same rate of pay. Ms. Ellison's knowledge, skills and experience as a certified interpreter for the deaf makes her unique in her field.

MOTION: After some discussion, Commissioner North moved for approval of the above request. Seconded by Vice-Chairman Corbitt and the Commission approved without objection.

b. Open Range Increase for Mr. Larry Jirik, Information Systems Advisor 1

Mr. Jirik's position as Systems Advisor 1 has received additional responsibilities since opening new locations for the Southeast and Bellevue branches. He will be involved in overseeing the evaluation, planning and implementation of new services of the Nashville Public Library. Mr. Jirik is responsible for repair, ordering equipment and understanding the knowledge of the equipment. Mr. Jirik will track systems, e-books, digital collections, additional public computers, high-tech studios and new trends in library-specific hardware and software. His unique skills and abilities are an asset for the Library.

MOTION: *After some discussion, Vice-Chairman Corbitt moved for approval of the above request. Seconded by Commissioner North and the Commission approved without objection.*

INFORMATION TECH. SYSTEMS

(3: Director Keith Durbin, represented by IT's HR Manger Cindy Maddox, requested approval to Extend Out of Class Pay Beyond 100 Days for Larry Law, Information Systems Advisor 2.

Mr. Law, Information Systems Advisor 2, has worked Out of Class since September 17, 2013. This is largely due to organizational changes caused by several vacancies within the division. Mr. Law is the lead for day to day operations of the Employee and Account Care (EAC) division and currently supervises two employees. He handles data collections, reconciliations and billing for ITS products and services as well as preparing financial worksheets, documents and accounting duties while performing his current duties. The request is to re-evaluate and post this position.

MOTION: *After some discussion, Vice-Chairman Corbitt moved for approval for thirty (30) days on the Out of Class Pay. Seconded by Commissioner Allen and the Commission approved without objection.*

POLICE

(4: Chief Steve Anderson requests reconsideration of Medical Waiver given to a Police applicant.

A matter was brought before the Commission in September regarding approval of a Waiver for a Police Officer Trainee applicant that had color vision issues but was permitted to wear contacts for correction. That waiver was approved by the Commission at that time. Human Resources was asked to review the color vision provisions under CS Policy 2.12-I, Metro Driver Safety Standards – Vision. In November 2013, a report was presented that explained the justification for restricting color correcting lenses that received support from the Civil Service Medical Examiner, Metro Police Department the Human Resources Department. Metro Police Department asked the Commission to reconsider the waiver granted to the applicant.

POT applicant ZV was represented by Attorney Nick Leonardo at the meeting who stated that he recently had recently been retained by his client. Mr. Leonard also stated that he had received documentation regarding his client's situation and asked if the Commission would consider deferring this matter until the next regular meeting so that he may review the information.

1st MOTION: *Commissioner Sanders made a motion to reconsider granting the waiver. Seconded by Vice-Chairman Corbitt and the commission approved without objection.*

2nd MOTION: *Commissioner Sanders made a motion and moved to give the Attorney for the applicant an opportunity to file a response. Seconded by Commissioner Allen and the Commission approved without objection.*

HUMAN RESOURCES

Human Resources Director, Veronica T. Frazier, submits the following for the Commission's consideration and appropriate action:

(5: **Appeal Medical Disqualification for Police Officer Trainee Applicant – KB**

Applicant KB was disqualified as a Police Officer Trainee due to his failure to pass a required physical examination administered by Medical Examiner Dr. Celia Goodson. She refers to the Standards of Medical Fitness AR 40-501, 2-7.c Current hearing threshold level in either ear greater than described does not meet the standard (1) pure tone at 500, 1000, and 2000 cycles per second for each ear of not more than 30 decibels (dB) on average, with no individual level greater than 35 dB at frequencies; (2) Pure tone level not more than 5 dB at 3000 cycles per second or 55 dB at 4000 cycles per second for each ear; (3) There is no standard for 6000 cycles per second.

The applicant's left ear hearing threshold is 65 dB at 4000 cycles per second and the right ear hearing threshold is 60 dB at 4000 cycles per second. He has normal hearing in the area of speech frequency. His diminished hearing at 4000 Hz would not limit his participation in the activities of law enforcement officer based on the nationally recognized medical guidelines for law enforcement officers. Dr. Goodson stated the condition is not expected to limit safe performance of the duties of a Police Officer Trainee or Police Officer. **Applicant - KB** was present to discuss the case.

MOTION: After some discussion of Applicant KB's medical situation and hearing from the applicant, Vice-Chairman Corbitt moved for approval of the applicant's request for a medical waiver. Commissioner North seconded and the Commission approved without objection.

(6: **Appeal Medical Disqualification for Sheriff's Office Applicant - MR**

Dr. Celia Goodson discussed the applicant's medical issues and disqualified this person for the position of Correctional Officer 1 due to failure to pass the required physical examination. She referred to the **job description for a Correctional Officer 1 and takes into consideration the major job duties, working environment and physical demands of the position.** Dr. Goodson stated the applicant has a history of chronic neck pain and receives therapy. The Cervical MRI of 2010 demonstrates mild disc herniation with narrowing at the site of the nerve root exit. The July 28, 2013 cervical MRI shows resolution of the disc herniation with normal findings and is unusual the applicant requires use of Morphine Sulfate three times a day.

The position of Correction Officer places the employee in a high risk situation that requires mental clarity, rapid reaction time and the ability to be actively involved in close quarter physical combat. The persistent neck pain seems severe enough to warrant narcotic therapy which indicates the applicant has a physical condition that puts him at an increased risk of injury. **Applicant - MR** was present before the Commission to discuss the matter and to provide additional information as needed.

MOTION: After some discussion, Vice-Chairman Corbitt moved to deny the Medical Waiver with a second from Commissioner Allen and the Commission approved without objection.

(7: **Request for Waiver of State Residency Requirement**

Ms. Seth Waltenbaugh stated that Mr. John Gilpin of the Metro Police Department, previously requested a waiver of state residency requirement in order to move to Kentucky for family and personal reasons. Mr. Waltenbaugh went on to say that he recently received an email from Mr. Gilpin requesting to withdraw the waiver. He is presently residing in Tennessee. The Police Department did not recommend the approval of the waiver request.

ACTION: This matter was withdrawn by request of the Grievant.

(8: Review “Order of Dismissal” - Terry Grissim, Public Works / 1 day Suspension

Terry Grissim, Signal Tech 2, was given a one (1) day suspension from his position effective October 9, 2013 for failure to comply and verify completed assignments. In August 2013, he was given a written reprimand for failure to comply with procedures; document reports / service reports and again on October 2, 2013 for not complying with call reports or time sheets on scheduled work.

On October 15, 2013, Mr. Grissim filed an appeal to the Civil Service Commission and the case was assigned to Administrative Law Judge Leonard Pogue. Metro Attorney Rachelle-Gallimore-Scruggs represented the Public Works Department. Mr. Grissim was to represent himself.

On November 26, 2013, Mr. Grissim made a request during the telephone conference to withdraw his appeal. An “Order of Dismissal” was then entered by Administrative Law Judge Leonard Pogue that same day granting the withdrawal and dismissing the case.

MOTION: Vice-Chairman Corbitt moved to approve Administrative Law Judge Leonard Pogue’s Order to Withdraw and dismiss the case. Seconded by Commissioner North and the Commission approved without objection.

(9: Review Petition of Reconsideration of Final Order - Jerry Clark, Sheriff / 13 Days Suspension & Termination

The matter of Jerry Clark came before the Civil Service Commission on December 10, 2013 regarding Mr. Clark’s termination from the Davidson County Sheriff’s Office (DCSO). Both Metro Attorney Jennifer Cavanaugh, who represented the Metro Sheriff’s Office and Attorneys David Krittell and T.J. Cross-Jones, who represented Mr. Clark, were present to review and discuss the case. Upon consideration of the Petition for Reconsideration that was submitted by Metro Government, Metro Attorney Jennifer Cavanaugh requested the Civil Service Commission to reconsider its decision in adopting the Initial Order that was entered by Administrative Law Judge Rob Wilson. It was the decision of the Civil Service Commission at that time to uphold the Initial Order and strike the language within the Initial Order pertaining to retaliation and T.C.A. 8-50-116 (The Whistleblower statute).

After much discussion and careful reconsideration from both attorneys at the January 14, 2014 meeting, the Commission stated the Initial Order entered by Administrative Law Judge Wilson reversing the termination of Mr. Clark and reinstating him to his former position – minus a ten (10) day suspension, shall be adopted and incorporated by reference and considered Final with exception of the language pertaining to retaliation and Tennessee Code Annotated 8-50-116 (The Whistleblower statute), which was not adopted by the Commission.

1st MOTION: Commissioner Sanders moved to reconsider the action that was taken at the December 10, 2013 meeting. Seconded by Commissioner North and the Commission approved without objection.

2nd MOTION: Vice-Chairman Corbitt moved to overturn the Initial Order’s ruling on the case and uphold for the Sheriff’s Office on termination. It failed for lack of a second.

3rd MOTION: Commissioner Allen then moved to affirm Administrative Law Judge Rob Wilson’s ruling in the Initial Order and note the language “Whistle Blower” listed in the Initial Order (T.C.A 8-50-116) not be adopted. Seconded by Commissioner Sanders and the Commission approved without objection.

(10: Review of Initial Order – Brandon Smith, Police – Termination

Officer Brandon Smith was suspended 13 days and then terminated from his position at the Police Department effective October 23, 2012 for the following violations:

- (1) General Order 09-03 violations: Department and Personal Appearance; Section VII, Personal Behavior Adherence to Law, (1) Employees are prohibited from violating any law or ordinance to wit: T.C.A. 39-13-101. Assault; (2) General Order 09-03, Department and Personal Appearance; Section VII. Personal Behavior (C) Conduct Unbecoming an Employee of the Department; (3) Metro Civil Service Rules – Section 6.7 Grounds for Disciplinary Action (#11) Violation of any written rules, policies or procedures of the department in which the employee is employed.; (4) Metro Civil Service Rules, Section 6.7 – Grounds for Disciplinary Action (#33) Conduct unbecoming an employee of the Metropolitan Government.
- (2) Officer Smith appealed his dismissal to the Commission and the case was assigned to Administrative Law Judge Ann M. Johnson. Metro Attorney Rachelle Gallimore-Scruggs represented Metropolitan Government during the hearing. Attorney Joshua L. Brand represented Officer Smith.

The hearing was set and was heard on February 19, 2013 by Judge Ann M. Johnson. Judge Johnson carefully reviewed the case and thereby entered in an **Initial Order on November 12, 2013 to Uphold the thirteen (13) Day Suspension and Termination that was imposed on Officer Smith by the Police Department.**

Metro Attorney Rachelle Gallimore-Scruggs and Attorney Joshua Brand were present before the Commission to review and discuss the case. There was no contesting from either party.

MOTION: Vice-Chairman Corbitt then moved to Uphold Administrative Law Judge Ann Johnson’s ruling in the Initial Order of the Thirteen Days (13) suspension and Termination from the Police Department. Seconded by Commissioner North and the Commission approved without objection.

(8: Human Resources Updates

HR Director Veronica Frazier stated the staff of Human Resources has been tasked with reviewing some of the Civil Service Policies regarding language changes for housekeeping purposes. She noted that upon completion, the policies will be presented to the Commission for review and consideration.

Ms. Frazier also said that Human Resources is working with General Services for HR’s move to Parkway Towers in mid – March. Finally, it was mentioned that the Human Resources Department continues to work on the Pay Plan Study in conjunction with Deloitte consultants. Water Services HR Manager, Mr. John Kennedy, is still directing the efforts in this process and should have some preliminary numbers available by mid-February. Those who are working on this project will meet with Deloitte again.

(9: Communiqués from the public on pending hearings

ACTION: None

With nothing further, the regular meeting adjourned at 9:50 a.m.

ATTEST:

APPROVED:

**Veronica T. Frazier, Director
Secretary to the Commission**

**Wm. H. Farmer, Chairman
Civil Service Commission**