



City of Culver City

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Staff Report

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Discussion of the Civil Service Commission's Role Regarding Labor Relations including Disciplinary Appeals and Grievances

Meeting Date: October 5, 2016

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Fiscal Impact: Yes ☐ No ☒

General Fund: Yes ☐ No ☒

Public Hearing: ☐ **Action Item:** ☐ **Attachments:** ☐

Public Notification: (Email) Civil Service Commission Meeting (09/29/16); (Email) All City Staff (09/29/16)

Department Approval: Serena Wright-Black, Director of Administrative Services (09/29/16)

BACKGROUND

The purpose of this agenda item is to convene a discussion regarding the Civil Service Commission's authority and responsibility pertaining to labor relations, specifically appeals and grievances. Several years have passed since the Commission last discussed its role in the City and the current commissioners did not have the benefit of those past discussions.

Civil Service Commission

The Civil Service Commission (CSC) is charged with specific powers and duties codified in the Civil Service Rules (CSR) and the Culver City Municipal Code (CCMC). CCMC § 3.03.100 provides the CSC with the following powers and duties:

- A. Act in an advisory capacity to the City Council on matters pertaining to the Civil Service System;
- B. Hear appeals or grievances of any officer or employee under the Civil Service System who is suspended, demoted or removed and report in writing its findings and conclusions;
- C. Examine witnesses under oath and compel their attendance or the production of evidence before it by subpoenas issued in the name of the City and attested by the City Clerk; and
- D. Recommend new or amended Civil Service Rules consistent with the City Charter and Civil Service System, holding public hearings thereon before presentation to City Council for approval.
- E. Periodically, at the discretion of the City Council, make a study of salaries being paid by other

public and private agencies, in order to ascertain whether the salaries being paid City employees for similar work are comparable, fair and reasonable and make recommendations with respect thereto to the City Council;

- F. Perform such other duties with respect to the Civil Service System, not inconsistent with the City Charter or this Code, as may be prescribed by ordinance, resolution, City Council policy or other City Council action.

CSR 2.8 empowers the CSC with the authority to:

- a. Act in an advisory capacity to the City Council on matters pertaining to the civil service system;
- b. After a public hearing thereon, recommend to the City Council the adoption of amendments to or repeal of the Civil Service Rules;
- c. Hear appeals of any employee under the Classified Service who has received a reduction in step within a salary range, suspension, demotion, or dismissal, or who is appealing the denial of a grievance, and report in writing to the appointing authority, City Manager, employee and/or City Council its findings and conclusions;
- d. Review city-wide salary studies for classified positions, conducted every five years among other public agencies, to ascertain whether the salaries being paid City employees for similar work are comparable, fair and reasonable, and make recommendations with respect thereto to the City Council;
- e. Exercise such functions with respect to the Civil Service System not inconsistent herewith, as may be prescribed by the City Council.

DISCUSSION

Labor Relations

California Government Code 3500 et seq., known as the Meyers-Milias-Brown Act (MMBA), requires public agencies to have good faith negotiations with recognized bargaining units on specific mandatory subjects, namely wages, hours, terms and conditions of employment.

“Terms and conditions of employment” include certain provisions that are outlined in the Civil Service Rules. Specific to this report, grievances and appeal procedures are terms and conditions of employment.

Grievances

CSR 12 governs employee grievances. The purpose of a grievance procedure is to establish communication between employees, supervisors and management, with the goal of resolving the grievance at the lowest level possible. As set out in Rule 12.2 of the CSR, for an issue to be a valid grievance, an employee in the civil service must show that the City violated, misinterpreted or misapplied an obligation set forth in an applicable Memorandum of Understanding.

Under CSR 12.4, certain issues, such as challenging a performance evaluation or removal from probation, are specifically excluded from the grievance procedure. Also excluded are matters where an alternative resolution procedure is provided for, whether in the CSR, other City provisions, or in state or federal law.

There are two grievance procedures: informal and formal. About 98% of all grievances are addressed and resolved at the informal level. The informal procedure is basically a conversation between an employee and their supervisor. Employees must present a grievance to their supervisor within 30 days of the incident or when they reasonably should have become aware of the incident. Supervisors attempt to settle the matter and inform the employee of his/her decision within five (5) working days after the informal grievance meeting with the employee. It is important to note that an employee may choose to waive this informal process and file a formal written grievance.

The formal written grievance provides four steps to resolution (supervisor, department head, City Manager, and CSC). There are time limits imposed at each step. If the time limits are not met at any stage, the grievance is deemed to be resolved. However, both parties may always agree to extend the time limits.

CSR 12.9 states that “only permanent employees within the classified service shall have the right to appeal a (grievance) decision up to the Civil Service Commission.” Employees not within the classified service may appeal up to the City Manager.

Once a grievance reaches the CSC, it may determine to hear the grievance itself or elect to send the grievance out to a hearing officer or board. The grievance hearing and deliberations are then conducted in accordance with the CSR. The CSC findings are final and may only be appealed to the Superior Court in accordance with Civil Code of Procedure 1094.5.

Appeals

The purpose of disciplinary actions is to enforce conformity to policies, rules, regulations, and other administrative or legal requirements or practices designed to maintain a standard of cooperation and conduct necessary to successfully carry out the mission of the organization. As an organization, the City strives to apply discipline in a consistent and equitable manner, ensuring that the corrective action is proportionate to the misbehavior and that the employee is thoroughly advised of the basis for the disciplinary action - before, during and after the action is taken.

When determining the appropriate level of discipline, appointing authorities should consider the seriousness of the violation, prior counseling on misbehavior, an employee’s overall record with the City and any mitigating circumstances.

The types of disciplinary actions that are imposed include written reprimand, suspension without pay, pay step reduction, demotion and dismissal. These can be sole actions or used in combination.

Employees receive a pre-disciplinary notice, commonly called the “Skelly” notice (named after the court case that validated the procedure under state law). This notice, in many ways, is the most important part of the disciplinary process. The notice includes a statement regarding the proposed discipline, an effective date of the discipline, the reason for the discipline, specific policy/rule violations, a statement advising employees of their right to respond to the notice - either orally or in writing (known as a “Skelly meeting”), copies (or an opportunity to inspect) any document relied upon in making the decision to discipline, consideration of any mitigating factors, conclusion regarding the appropriate discipline and right to representation. Once the Skelly meeting has been conducted, a final disciplinary decision is made in writing and discipline, if appropriate, is imposed.

Classified employees may then appeal the disciplinary action, excluding written reprimands, to the CSC. Specific appeal hearing procedures are outlined in CSR 11.14. As with grievances, the CSC may determine to hear the grievance itself or elect to send it out to a hearing officer or board. The CSC findings are final and may only be appealed to the Superior Court in accordance with Civil Code of Procedure 1094.5.

MOTION

That the Civil Service Commission:

1. Discuss the Commission's role pertaining to appeals and grievances.