

Agenda item #8
5:30 P.M.

**CITY OF SAN ANTONIO
OFFICE OF THE CITY MANAGER
INTERDEPARTMENTAL CORRESPONDENCE SHEET**

TO: Mayor and City Council

FROM: Andrew Martin, City Attorney

COPIES TO: Management Team Members; Sharon De La Garza, Director, Human Resources;
Nancy D. Trivino, Human Resources Administrator; File

SUBJECT: Proposed Ordinances for removal of two Municipal Civil Service Commission
members

DATE: October 29, 2004

SUMMARY AND RECOMMENDATIONS

- A. A Public Hearing and Ordinance removing David Soto, for cause, from the Municipal Civil Service Commission.
- B. A Public Hearing and Ordinance removing Henrietta LaGrange, for cause, from the Municipal Civil Service Commission.

BACKGROUND

The Municipal Civil Service Commission consists of a three (3) member board to include a designated chairperson. Each member serves a term of two (2) years and can be re-appointed up to a maximum of three (3) terms. In addition, there are three alternate Commissioners who serve in the absence of a regular Commissioner in the event that a quorum (which consists of two members) cannot be attained.

The Commission's purpose is to hear the appeals of City of San Antonio employees in the classified civil service who have been suspended, demoted or terminated from their positions. The Commission has the authority to make investigations, if necessary, and to report to the City Council and City Manager its findings, conclusions, and recommendations. The Commission can also issue subpoenas and subpoenas *duces tecum* to witnesses where reasonably necessary to obtain pertinent evidence.

The Commission is supported by the Human Resources Department, with one Human Resources Analyst assigned as acting Executive Secretary responsible for preparation of minutes and providing interpretation of administrative directives and personnel policies, and one Administrative Assistant to schedule and coordinate hearings, including coordination of evidence disclosure and issuing of subpoenas to relevant witnesses. The City Attorney's Office is also responsible for providing counsel to the Commission, currently done through outside counsel, as well as an Assistant City Attorney to present cases to the Commission on behalf of City departments.

The current Commission is comprised of the following members:

1. Isidro Cardenas – Chairperson (Appointed 08-21-03 / Term Expired 06-06-04)
2. David Soto – Vice-chairperson (Appointed 08-21-03 / Term Expires 06-06-05)

3. Henrietta LaGrange (Appointed 02-12-04 / Term Expires 06-06-05)

Alternate members include the following:

4. Roman Peña – Alternate Member (Appointed 02-13-03 / Term Expires 06-06-05)
5. Grace Hernandez – Alternate Member (Appointed 02-13-03 / Term Expired 06-06-04)
6. Mary Ellen Rodriguez – Alternate Member (Appointed 04-17-03 / Term Expired 06-06-04)

Those commissioners and alternates whose terms expired on June 6, 2004 continue to serve until new appointments are made.

Over the past eleven months, concerns regarding the performance and effectiveness, and impartiality or objectivity of, Commission members have arisen. On April 29, 2004, the City Council discussed these concerns in executive session, and asked for a thirty-day review of the Commission's performance. On May 26, 2004, an external legal advisor was retained to provide the Commission legal guidance, and a training session was conducted to refresh members of the Commission's duties and responsibilities. Due to various hearing postponements and cancellations, the Commission met only seven times during the months of May and June 2004. On June 30, 2004, a letter was sent to the Commissioners from Mayor Garza, outlining the City Council's concerns about board impartiality and decorum, and advising the members of the thirty-day review. In response to that letter, Commissioners LaGrange and Soto sent a letter to the Mayor on July 15, 2004, requesting "...to be informed of the behavior and performance issues that you and the City Council have been informed about and which actions taken have caused you and the Council concerns."

Mayor Garza's response letter of August 5, 2004 reiterated concerns about impartiality and fairness in the hearing of cases and evidence presented, stating "Our concerns center on reliable sources of information that the Commission's apparent inability to remain impartial, the inappropriate questioning and the raising of issues on behalf of one party or another." The letter further stated that the Human Resources Department and the City Attorney's Office would be reporting on the Commission's performance and conduct to the Governance Committee. That Committee met on September 1, 2004, and asked staff to bring forward for discussion during executive session a resolution requesting the resignation of each member of the Municipal Civil Service Commission. This resolution was first placed on the September 9, 2004 City Council agenda. At that meeting, the Mayor and City Council directed that the resolution requesting resignations be moved to the September 23, 2004 City Council Agenda, during which each commission member would be invited to discuss their performance with the Mayor and City Council in Executive Session, prior to the vote. At the meeting of September 23, 2004, Commissioners Soto and LaGrange, through their attorney, Barbara Woodward, declined to meet with the Council in executive session. On September 30, 2004, the City Council met in executive session to discuss the legal issues on removing the members from the Commission and in open session, passed resolutions calling for the removal of David Soto and Henrietta LaGrange. The resolutions set out the reasons, or cause, for removal and provided the individuals an opportunity to ask for a public hearing and a process to set the hearing. Attorney Barbara Woodward subsequently asked for more time and on October 14, 2004, the Council set November 4, 2004 as the date for public hearings on the proposed removals.

POLICY ANALYSIS

The primary mission of the Municipal Civil Service Commission is to perform duties relating to personnel administration, including holding hearings on classified civil service employee appeals regarding a disciplinary demotion, a suspension, or a removal and to report in writing to the City Manager its findings and recommendations. The process set out in the Charter contemplates a means for an employee to have an impartial third party hear the employee's appeal of a disciplinary action, have the body render its findings and forward these to the City Manager for a final decision based on the facts and applicable policies. The Commission is entrusted with providing an orderly, almost judicial, forum for an

employee to be heard and city staff to present their side. A Commissioner's duties are to hear witnesses, allow a complete presentation of facts, reflect or deliberate about the facts, and provide prompt and efficient decisions. The City Council has lost confidence in these Commissioner's abilities to perform these basic functions and discharge their official duties, and this ordinance would find cause and remove both commissioners from the Municipal Civil Service Commission.

FISCAL IMPACT

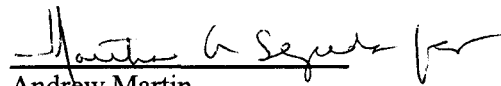
There are no additional resources allocated with this ordinance.

COORDINATION

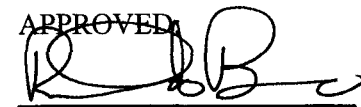
The ordinance was coordinated with Human Resources Department, the City Attorney's Office, and the City Council.

SUPPLEMENTAL COMMENTS

Currently, the Municipal Civil Service Commission's caseload has been postponed indefinitely.



Andrew Martin
City Attorney

APPROVED


Rolando Bono
Interim City Manager



CITY OF SAN ANTONIO
EDWARD D. GARZA
MAYOR

August 5, 2004

Mr. David Soto
Municipal Civil Service Commission Member
930 W. Kings Hwy
San Antonio, Texas 78201

Dear Sirs and Madam:

As indicated in our letter of June 30, 2004, the work of the Municipal Civil Service Commission is very important to our employee workforce. This Commission is expected to be impartial and fair in its hearing of cases and the evidence presented. Our concerns center on reliable sources of information that the Commission's apparent inability to remain impartial, the inappropriate questioning and the raising of issues on behalf of one party or another.

We anticipate receiving a report on the Commission's performance and conduct, in the next several weeks, through a presentation provided to the Governance Committee by the Human Resources Department and City Attorney's Office. Thereafter, the City Council will make a determination regarding its next course of action, if any.

Sincerely,

A handwritten signature in black ink, appearing to read 'EDG'.

EDWARD D. GARZA
Mayor



CITY OF SAN ANTONIO
EDWARD D. GARZA
MAYOR

August 5, 2004

Ms. Henrietta F. LaGrange
Municipal Civil Service Commission Member
3309 San Pedro
San Antonio, Texas 78212

Dear Sirs and Madam:

As indicated in our letter of June 30, 2004, the work of the Municipal Civil Service Commission is very important to our employee workforce. This Commission is expected to be impartial and fair in its hearing of cases and the evidence presented. Our concerns center on reliable sources of information that the Commission's apparent inability to remain impartial, the inappropriate questioning and the raising of issues on behalf of one party or another.

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Sincerely

A handwritten signature in black ink, appearing to read 'E. D. Garza', written over the word 'Sincerely'.

EDWARD D. GARZA
Mayor



CITY OF SAN ANTONIO

EDWARD D. GARZA
MAYOR

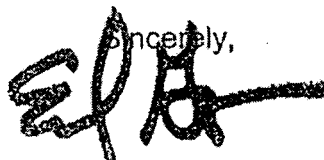
August 5, 2004

Mr. Isidro Cardenas
Municipal Civil Service Commission Member
3566 Mystic Grove
San Antonio, Texas 78247

Dear Sirs and Madam:

As indicated in our letter of June 30, 2004, the work of the Municipal Civil Service Commission is very important to our employee workforce. This Commission is expected to be impartial and fair in its hearing of cases and the evidence presented. Our concerns center on reliable sources of information that the Commission's apparent inability to remain impartial, the inappropriate questioning and the raising of issues on behalf of one party or another.

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Sincerely,


EDWARD D. GARZA
Mayor