



**Career Service Board Meeting #2240**  
**Minutes**  
**Thursday, May 15, 2014**  
**9:00 A.M.**  
**Webb Municipal Building**  
**201 W. Colfax, Fourth Floor, Room 4.G.2**

**Patti Klinge**  
**Colleen M. Rea (Chair) (Absent)**  
**Derrick Fuller**  
**Bob Nogueira (Co-Chair)**  
**Gina Casias**

**I. Opening:** *Meeting called to order at 9:04 am.*

- 1. Approval of the Agenda for the May 15, 2014 Board Meeting.**  
*The Board unanimously approved the Agenda for the May 15, 2014.*
- 2. Approval of the Minutes for the May 1, 2014 Board Meeting.**  
*The Board unanimously approved the May 1, 2014 meeting minutes.*

**II. Board Comments:** *None.*

**III. Public Comments:** *None.*

**IV. Public Hearings:**

1. Public Hearing Notice No. 483 – Prevailing Wage – Window Cleaners  
*Seth Duhon-Thornton with the Office of Human Resources reviewed the public hearing with the board. Mr. Duhon-Thornton explained this matter was brought before the board a month ago, but since then the Office of Human Resources received updated health and welfare fringe benefit information from the Service Employees International Union Local 105 on their contract with ISS. This contract is utilized to determine prevailing wage rates for Window Cleaners because it represents the largest market population in the Denver Metro area. This increase will affect fringe benefits only, as the base hourly rate will stay the same.*

*The Board unanimously approved Public Hearing Notice No. 483.*

2. Public Hearing Notice No 484 – Revision to the Career Service Rules to allow the Denver Sheriff to appoint his senior command staff as provided in the recently revised §2.6.4 of the City Charter.  
*Pete Garritt presented the notice to the board and provided the board with the §2.6.4 Charter Change as well as the Legal Opinion relating to this matter. Mr. Garritt reiterated in November of 2013 an amendment for City Charter §2.6.4 went to the voters including the Denver Sheriff Department allowing the Sheriff to make appointments of Division Chiefs and Majors without going through the Career Service requirements. Because the Charter was written so uniquely, OHR obtained a legal opinion from the City Attorney's Office stating what the Charter change meant and how OHR should adjust the rules to recognize the charter change. Mr. Garritt stated both Sheriff Gary Wilson and Assistant City Attorney, Karla Pierce were present for any*

questions. Mr. Garritt also stated Article 9 of the Charter states all City employees are in the Career Service system with a list attached of those position that are not considered Career Service employees. Typically when appointments are made outside of Career Service system the respective category is added to the list on non-Career Service employees, however that did not happen in this instance. In this case, these appointments are employees with Career Service status and just the appointment itself is not subject to the normal Career Service Rules as they relate to promotions.

Mr. Garritt reviewed the following amendments indicated in **bold, italic, and underlined** to the CS Rules:

Section 3-40 Referral

**E. Employees in positions in classifications in the Deputy Sheriff pay schedule who are appointed to Deputy Sheriff Major and Deputy Sheriff Division Chief positions after May 31, 2014.**

Section 5-40 Employee Status

**F. Senior Command Staff status.**

Section 5-42 How Status is Attained

**F. Senior Command Staff: Every employee in a position in a classification in the Deputy Sheriff pay schedule who is appointed to a position in the Deputy Sheriff Major or Deputy Sheriff Division Chief classifications after May 31, 2014 shall hold Senior Command Staff status for the duration of the appointment and shall not serve a probationary period. However, such employee shall retain career status attained in his or her former classification and be entitled to return to a position in that classification when the employee's Senior Command Staff status ends.**

Section 5-66 Employees in Senior Command Staff Status

**An employee in Senior Command Staff status retains the rights, privileges, and benefits the employee had by virtue of his or her status prior to the appointment, except that the employee:**

- A. May be returned to a position in his or her former classification at any time. Upon returning, the employee shall receive the same rate of pay he or she was receiving prior to his or her appointment to a position in the Deputy Sheriff Major or Deputy Sheriff Division Chief classifications (Senior Command Staff position), after taking into account the effect of any pay changes or classification changes to the employee's former position and classification that occurred during the period between the appointment and the return; and**
- B. May not grieve or appeal his or her removal from a Senior Command Staff position;**

**Employees who were appointed to Senior Command Staff positions prior to June 1, 2014 shall not be considered to have Senior Command Staff status.**

Section 5-72 Appointments of Employees Who Are in the Career Service

**H. Senior command staff appointment: An appointment of an employee in a position in a classification in the Deputy Sheriff pay schedule to a position in the Deputy Sheriff Major or Deputy Sheriff Division Chief classifications after May 31, 2014.**

Section 18-10 Definitions

C. Grievance:

6. The mediation process; **and**

**7. The removal of an employee from Senior Command Staff status (as defined in Rule 5 APPOINTMENTS AND STATUS).**

Section 19-10 Actions Subject to Appeal

c. Involuntary demotion with an attendant loss of pay. **However, the removal of an employee from Senior Command Staff status (as defined in Rule 5 APPOINTMENT AND STATUS) is not considered an involuntary demotion and is not appealable.**

*Board member Patti Klinge stated the language in Section 5-66 is confusing and not clear in terms of retaining current Career Service status. Therefore, the language what changed to the following listed in bold, italic, and underlined lettering;*

Employees who were appointed to Senior Command Staff positions prior to June 1, 2014 **shall retain career status attained in that position** and shall not be considered to have Senior Command Staff status.

*Additionally, Ms. Klinge had a question regarding poor performance from an employee with appointed status that would typically call for dismissal and whether the City is committing to saving their job. Karla Pierce answered an employee can absolutely be terminated for misconduct. Ms. Pierce stated employees with appointed status are not immune from discipline nor is the Sheriff limited to the remedy of bumping them back to their Career Service position. These employees are still subject to the rules and direct orders of their supervisors. Mr. Garritt chimed in that appointed employees cannot be dismissed at will. They can only be removed from the appointed position at will. Mr. Garritt states it would make sense to move the employee back to their Career Service status and then impose discipline. Mr. Garritt clarified the following:*

- 1. An appointed employee can be removed from a Command Staff position and that is not appealable.*
- 2. An employee with Career Service status that is dismissed can appeal the dismissal.*

*Mr. Garritt stated the concerns of the comments he received from employees stating they are concerned the Sheriff will have a unfettered discretion to appoint people and that could cause moral issues. Some comments also included the desire to continue to apply rules to these appointed positions including, minimum qualifications, appointment from certain ranks, etc.*

*Mr. Garritt requested an effective date of May 31, 2014 and also stated no appointments have been made from January 1, 2014 to date in this capacity.*

*Speaker Sheriff Gary Wilson addressed the board and thanked them for the opportunity to speak. Sheriff Wilson conveyed the following:*

- 1. The voters of Denver approved this authority within the Denver Sheriff's Department recognizing this is a very common scenario for law enforcement agencies.*
- 2. The Denver Sheriff's Department is the only sheriff's department that does not have this type of practice where executive staff is chosen by the head of the agency.*
- 3. Sheriff Wilson wanted to stress this is NOT an ego or power issue. Sheriff Wilson states the executive team with DSD is essential in executing the set mission, vision and strategic plan. He states the need for this flexibility in being able to make those assignments and the flexibility of removal is critical especially during the current cultural change with the department.*
- 4. Sheriff Wilson informed the board the Denver Sheriff's Department is the largest sheriff's department in the State of Colorado with over 900 employees. Sheriff Wilson explains the larger the staff the more complexity you will find in leadership. He stated the DSD conducted studies on leadership within the department and the results were very clear the leadership in the department needs improvement. Sheriff Wilson recognizes the promotional process can be very sensitive and create a lot of challenges in an organization. His intent is to move forward with the process ensuring all mechanisms of fairness and transparency are apparent*

so staff can understand and be aware of how to be successful in an appointment process and also very clear as to why a selection was made, what qualifications and what the expectations are for those individuals in an effort to give them preparation time to compete as well as possible throughout the process.

Board member Patti Klinge thanked Sheriff Wilson and appreciated his statements on fairness due to several comments that were received. Ms. Klinge inquired on the communication plan for this process in light of the concerns that were raised. Sheriff Wilson explained historically the promotional process within the DSD resulted in appeals following every promotional process. Since the department has increased transparency and communication, the department has had several promotional processes with zero appeals. Sheriff Wilson believes their track record of increased transparency and clear communication regarding qualifications and rules, conducting open sessions to answer questions, very early in the process assisted their communication effort with the department. This type of communication will be followed in this case as well.

Co-Chair Bob Nogueira inquired on the cultural change currently taking place in the DSD. Sheriff Wilson stated he is pressing very hard to ensure all officers have a clear understanding of the "why." He stated as public servants, the department's responsibility is helping other people. He stated the DSD is held to a higher standard. He stated his department has a lot of accountability and professionalism that goes with the nature of their work that has to be at the highest level and is highly stressed throughout the department. Execution of that philosophy has to be strongly bought in by the Sheriff's executive team who is going to also message that to the department.

The Board unanimously approved Public Hearing Notice No. 484 as amended.

**V. Approval to Post:** None.

**VI. Director's Briefing:**

1. Nicole Lucero-Holub presented the attachment below to the board.



Nicole Lucero Holub  
CSB Presentation.pdf

**VII. New Cases:**

**VIII. Pending Cases:**

1. Frank Kemp II v. Denver Sheriff's Department, Appeal No. 19-13  
The board **AFFIRMED** the Hearing Officer's decision, written order to follow.

**IX. Executive Session:**

Board went into executive session at 9:55 a.m. to discuss cases and staffing matters.  
Board re-convened Board meeting at 12:05 p.m.

**X. Adjournment:** Adjournment was at 12:05 p.m.