



**PIERCE COUNTY CIVIL SERVICE COMMISSION  
MINUTES OF REGULAR MEETING  
Tuesday, March 10, 2009**

**AGENDA ITEM I: Call to Order**

A special meeting of the Pierce County Civil Service Commission (PCCSC) for Sheriff's Employees was called to order at 5:00 p.m. on Tuesday, March 10, 2009. The meeting was held in the Hess Building, Organizational Development and Training entrance, Conference Room D, 901 Tacoma Avenue South, Tacoma, Washington.

**COMMISSIONERS PRESENT:** Commissioner Richard Sokolowski, Chair; Commissioner Gail Merritt-Smith; Commissioner Michael Branchini

**STAFF PRESENT:** Sandy Pietz, Chief Examiner; Phil Prettyman, Deputy Prosecuting Attorney

**AGENDA ITEM II: Approval of Minutes – Special Meeting – February 24, 2009**

**It was moved by Commissioner Branchini and seconded by Commissioner Merritt-Smith to approve the minutes of the special meeting of February 24, 2009. The motion carried.**

**AGENDA ITEM III: Approval of Leave Without Pay**

Chair Sokolowski advised this agenda item is with respect to Tony Jensen and that the Commission had continued this issue from the February 24, 2009 meeting to this meeting in order for the County and the Guild to resolve any issues. He asked what is the status of the matter.

Joe Carrillo, Labor Relations Manager for the County, stated the County and Guild had met and found at a minimum more time is needed to work out differences, and at a maximum a policy change may be required. The County asks the Commission to allow that time by tabling this item until further discussions are held. He added that whatever the solution may be, it may have an affect county-wide, and if that is the case, it will involve more people in the discussion than just the Guild.

Leann Paluck, representing the Guild, stated her belief that this issue can be worked through with the parties and concurs with the County's request to continue the matter prior to the Commission making a decision.

Chair Sokolowski stated his concern regarding this employee's status, since the contract and the Civil Service Rules are clear that a leave of absence without pay over 30 days must be approved by the Commission. In response, Ms. Paluck noted that the employee is not concerned about the County's request to continue this matter as he is receiving the benefits that he is entitled to and his status is secure in that regard. She added that there is a threshold issue as to whether there is a request before the commission that needs to be looked into.

Mr. Carrillo stated that discussions included whether or not there was a request from the employee for leave of absence and that it was found that there has been no such request; there is an "HR designated" request. He stated the Guild's position is that historically the request for leave of absence has been made by the employee.

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In response to a question from Commissioner Branchini, Mr. Carrillo stated that the issue may or may not be resolved within 30-60 days but that it should be known whether the issue will be resolved or will go to arbitration.

Chair Sokolowski asked what is the impact if the Commission takes action. Ms. Paluck stated there is a significant impact on the employee. She advised that the contract requires a written request for leave without pay and there is currently not a request from the employee. Also, the Human Resources leave application does not indicate that it is a request for leave without pay, so it is basically an FMLA designated leave application. The contract also requires a request to be signed by the HR Director and the Sheriff and the form is not signed by the Sheriff. She stated the Guild's position is that there are at least two defects that wouldn't even bring it to the Commission for consideration. In response to a question from Chair Sokolowski, Ms. Paluck advised that the employee is not working due to recovery from an on-the-job injury.

Mr. Carrillo stated that the Guild has raised the argument that we are treating our employees who are injured on the job in a more disparate manner than those who are injured off the job. The County feels that is important enough to take a look at it.

Chair Sokolowski stated his concern about adherence to the Rules, which are effectively a force of law, and he is concerned that this is going on and on and the Commission has not made a decision.

**It was moved by Commissioner Merritt-Smith and seconded by Commissioner Branchini to continue this issue as requested by the County and the Guild. The motion carried.**

**AGENDA ITEM IV: Interpretation of Civil Service Rules - Definitions  
Seniority; Continuous Service**

Chair Sokolowski stated this agenda item is with respect to interpretation of the Rules of the definitions of continuous service and seniority, which was discussed at the February 24, 2009 meeting. He stated the Commission received public testimony at that meeting, and then held a special meeting for a work session on March 2, 2009. At the work session, the Commission received numerous written comments from employees regarding this issue. Chief Examiner Pietz provided the Commission with a memorandum that had not been attached to one of the employee's written comments submitted at the March 2, 2009 meeting.

Chair Sokolowski provided a summary of the Commission's discussion. He stated he compared the Rule as it currently is, revised and adopted in April 2007, and the Rule prior to that revision, and noted the previous Rule talked about all types of breaks in service related to leave of absence, whether it's paid or unpaid, whether those leaves would count or be deducted from continuous service, so that prior to April 2007 the Rule seemed to indicate that there had to be some type of leave involved to create this issue of whether this time was counted or not, which would indicate that it is continuous service. He stated this goes to the intent of the language prior to April 2007 and that there may have been an inadvertent change to the intent by the April 2007 revision. He added the Commission also looked at how the organization has used continuous service and referred to the County's Administrative Guidelines, which refer to continuous service as continuous and uninterrupted. The Commission also considered other areas that would be impacted by this decision, including layoff, time counted toward promotional exam credit, whether it's fair to include previous time for seniority to someone who has left county employment and returned. He stated he checked the definition of "continuous" which is "without cessation or interruption, unbroken, connected without intervening space." Chair Sokolowski stated that looking at the context as a whole, the normal customary usage of these terms needs to be considered. He added the Commission also considered industry practice, how continuous service is generally viewed in the employment arena and that it is uninterrupted service.

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Brock Logan, representing Local 3752-CD, Corrections and Detention, asked if the Commission considered the definition of reinstatement and would the reinstatement rule have any impact on break in service. Mr. Logan indicated that he had received three different interpretations of continuous service, and that it seemed that whether an employee had been reinstated under the reinstatement rule affects whether previous service counted in their continuous service.

Ms. Pietz stated that Civil Service has never added previous years of service to a reinstated employee's number of years of continuous service for civil service purposes such as seniority, and clarified that an employee reinstated within two years has never been given back their seniority and that they have started over from day one.

Mr. Logan asked the Commission for a ruling that states what the rule is.

There was considerable discussion of the rule that had been in effect at least since 1992 and the revised language of the rule in 2007. Commissioner Sokolowski stated he thought the new language was added to try and clarify non-paid time but that he didn't think the intent of the revision was to re-define "continuous service." He stated he based his review on the current language and the previous rule, what was changed; how continuous service has been used in other areas; the impacts of this decision in terms of layoffs, promotional exams etc.; some of the common usage and the industry practice in the area, and trying to avoid nonsensical or unintended results. He noted that there is not a clear past practice. He compared the rule prior to 2007 and after 2007, and stated that the pre-2007 rule dealt with employees who were on leave and still had an employee/employer relationship with the county, with the exception of layoff.

Commissioner Branchini stated that once the interpretation is made by the Commission, it is important that the implementation and application of how that's done does not treat people differently.

In response to a question from Mr. Carrillo, Chair Sokolowski stated the ruling the Commission makes on the definition of continuous service will be what it is as of today.

**Commissioner Branchini moved to approve the definition of continuous service as meaning uninterrupted paid employment in the Sheriff's Department, as outlined in Rule 3, Definitions. The motion was seconded by Commissioner Merritt-Smith and carried.**

Capt. Marvin Spencer, Corrections, asked for a clarification on the motion because his interpretation of it was that the Commission changed the definition of continuous service as it is currently written. Mr. Logan asked for clarification that it's not whether or not an employee is receiving pay but whether the employment relationship is maintained.

Commissioner Branchini stated his intent was just as it is defined in the section of definitions, and that it gives those elements where a break in continuous service can be deducted due to time loss due to unpaid leave of absences, unpaid disciplinary suspension, unpaid leave due to disability incurred in the line of duty exceeding six months, time in a non-pay status due to layoff, any non-paid time due to separation of employment.

Deputy Prosecutor Phil Prettyman stated for the record that the Commission did not change the definition of continuous service as it is written and that the Commission was asked to interpret the rule, not change it, so this action is an interpretation of that rule and not a change of the definition.

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Mr. Logan clarified the Commission's intent that if an employee voluntarily resigns in good standing and leaves employment with the County, and in 18 months is reinstated, the employee is starting over and that was a break in service that is not continuous service. Chair Sokolowski agreed that is his understanding.

Capt. Spencer asked if someone resigns and subsequently is rehired, their previous time is not counted toward continuous service. Commissioner Sokokowski stated that is correct. He clarified that the Commission is refining the rule.

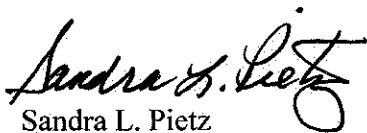
**NEXT MEETING:**

The next regular meeting of the Civil Service Commission is scheduled for April 14, 2009.

**ADJOURN:**

The meeting adjourned at 5:47 p.m.

Respectfully submitted:



Sandra L. Pietz  
Chief Examiner