

Civil Service Commission Minutes

On February 8, 2023, the Civil Service Commission of the City of Amarillo met at 8:30 am at City Hall, 601 S Buchanan, Amarillo, TX, 79101, in the City Council Chambers for a Regular Meeting.

	Present	No. Meetings Held Since Appointment	No. of Meetings Attended
Lawrence Walker, Chairman	Yes	63	62
Lilia Escajeda, Vice Chair	Yes	5	4
Bill Harris	Yes	4	4

Also, in attendance were the following:

Mitchell Normand, HR Director
Erin Palacio, HR Manager
Bryan McWilliams, City Attorney
Leslie Schmidt, Sr. Asst. City Attorney
Brandon Ester, HR Generalist
Ricky Rivera, Solid Waste Superintendent
Edward Martinez

Call to order. Lawrence Walker established a quorum and called the regularly scheduled meeting of the Civil Service commission to order at 8:31am.

ITEM 1: Lawrence Walker opened with the public address- no comments from the public on agenda items.

ITEM 2: Lawrence Walker considered approval of the Minutes for the meeting held on January 11, 2023. Motion made by Lilia Escajeda to approve. Seconded by Bill Harris. All in favor, motion passed.

ITEM 3: Lawrence Walker presented the approval of the list of new employees, step increases, transfers, promotions, demotions, bypasses, temporary assignments, and disciplinary actions.

Motion made by Lilia Escajeda to approve. Seconded by Bill Harris. All in favor, motion passed.

ITEM 4: Conduct a disciplinary appeal hearing for Mr. Edward Martinez, per his notice of appeal of his termination in a letter received on January 4, 2023.

Lawrence Walker asked Mr. Martinez to step to the podium, asked for him to state his name and address and asked if he had any witnesses. Mr. Martinez responded by saying that he has not witnesses, just himself.

Mr. Walker asked Sr. Assistant Attorney, Leslie Schmidt, if the State has any witness. Ms. Schmidt responded by stating that at this time the State does not. She also remarked that depending on what Mr. Martinez will be going into, the State could possibly call witnesses at that time.

Lawrence Walker swore in Mr. Martinez.

Leslie Schmidt opened for the State, stating that on December 13, 2022, Mr. Martinez drove his city vehicle onto a city park at Memorial Park. Stating that Mr. Martinez did not have the authority to drive onto the park, he is not a parks employee and his duties do not require him to drive onto the park. The City of Amarillo was made aware of this incident because a citizen filed a complaint stating that Mr. Martinez drove onto the field of the park and did "donuts" on the grass in a city vehicle. Ms. Schmidt stated that in the complaint, the citizen stated that Mr. Martinez approached her and asked if she wanted

to see something cool prior to driving onto the grass. According to the complaint, once Mr. Martinez had finished doing donuts on the grass, he returned to the citizen and asked, wasn't that cool?

Ms. Schmidt asked to admit the complaint into evidence and was marked City of Amarillo exhibit 1.

Mr. Walker received the document into evidence.

Ms. Schmidt stated that a parks employee also witnessed the incident and approached the citizen once Mr. Martinez left. The citizen gave the parks employee their name and number and asked if someone would contact them. Parks and Recreation took the statement and pictures of the damage done in the park.

Ms. Schmidt showed the pictures of the damage done to the commission. Ms. Schmidt pointed out to the commission that this is not normal damage from driving on grass. There were deep ruts that will need to be repaired. Ms. Schmidt stated that Allen Carter who is the Assistant Director of Public Works retrieved the pictures and complaint from Parks and Recreation and retraced the marks in the grass and confirmed what the citizen witnessed. Ms. Schmidt also stated that Teresa Duke, the Parks employee also provided a statement to the same effect, that Mr. Martinez was doing donuts.

Ms. Schmidt stated that Reeder Landscaping provided an estimate to repair the damage to the park. The amount came out to \$935 that the City will have to pay for the damages.

Ms. Schmidt asked to admit exhibit 2, the pictures of the damage and exhibit 3, the estimate from Reeder Landscaping into evidence.

Ms. Schmidt stated that the amount of the damages, in the Texas Penal Code section 28.03 would be considered a Class A misdemeanor charge. She also announced that due to this proceeding being a public meeting, it is being recorded and that if the District Attorney wanted access, he would have the recordings and all exhibits that are part of this hearing. Ms. Schmidt stated that she informed Mr. Martinez that anything he does say during this hearing can be used against him at a later time.

Ms. Schmidt stated that Mr. Martinez received a contemplated notice of termination and notice of indefinite suspension by supervisor Ricky Rivera. She stated that Mr. Martinez initially denied the incident or even being at the park. Mr. Rivera informed Mr. Martinez that there are pictures and witnesses, then Mr. Martinez changed his story.

Mr. Martinez told Mr. Rivera that he was at the park and really just needed to use the restroom. Ms. Schmidt stated that no medical condition for Mr. Martinez was reported to his department or Human Resources. She stated that Mr. Martinez did return to the service center, while pointing out several other locations that Mr. Martinez could have stopped to use the restroom. She also pointed out that where the restroom was located, he could have parked and walked to the restroom instead of driving up onto the grass and doing donuts.

Ms. Schmidt asked the commission to uphold Mr. Martinez's termination.

Mr. Lawrence asked what time of the day this incident was. Ms. Schmidt stated that she did not have the exact time but that it was in the afternoon.

Mr. Lawrence then informed Mr. Martinez that it was his turn to speak.

Mr. Martinez stated that he could see the damage done and that he does have a medical condition. He stated that he got "stuck" by the park due to classes being let out and was having a medical issue. He stated that he did make the wrong decision but was suffering from medical issue and lack of sleep.

Mr. Martinez stated that he stopped and asked a lady if the bathroom was open and she started yelling at him. Mr. Martinez also stated that when he saw the park attendant he got nervous and did step on the gas a little too much. Mr. Martinez stated that when he got back to the service center, he turned his truck in and heard people talking about how someone was doing donuts in the park. He stated that he was embarrassed and stayed quiet and didn't say anything. He stated that he offered to repair the damage himself.

Leslie Schmidt cross examined Mr. Martinez, asking him if he denied to his supervisor that he damaged the park property. Mr. Martinez stated that he did not admit to it in the beginning because there were things he didn't want to admit to. Mr. Martinez then answered yes that he did deny damaging the park property initially.

Ms. Schmidt also questioned Mr. Martinez on his choice to return to the service center which was several miles away from the park as opposed to stopping at multiple other locations to use the restroom. Mr. Martinez stated that he didn't want the "drama" from the lady and her dog and the man, and just decided that it was time to go so he went back to the service center.

Ms. Schmidt questioned Mr. Martinez about having ever been charged with a criminal offense. Mr. Martinez initially stated no, then stated that maybe when he was younger. Ms. Schmidt offered Mr. Martinez's criminal background record showing felonies, class A, class B and class C offenses into evidence.

Ms. Schmidt made a closing statement to the commission, asking the commission to uphold Mr. Martinez's termination.

Mr. Martinez gave a closing statement asking to keep his job with the City.

At 9:20am, City Attorney Bryan McWilliams read the commission into executive session.

At 9:56am, commission returned into session, Lawrence Walker stated that before making a decision, the commission would like to hear from the supervisor of Mr. Martinez.

Lawrence Walker swore in Ricky Rivera, Solid Waste Superintendent. Lawrence Walker asked Mr. Rivera if there had been any other disciplinary action against Mr. Martinez. Mr. Rivera informed the commission that to his knowledge he does not recall any other disciplinary actions, but he is not Mr. Martinez's direct supervisor. Mr. Rivera stated that Rocky Terry is the day-to-day supervisor.

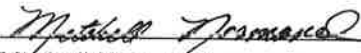
Mr. Walker asked who took the written statement from the Parks employee. Leslie Schmidt stated that she took the statement and provided the written statement to the commission.

At 10:00am, City Attorney Bryan McWilliams announced that Civil Service Commission will resume its executive session.

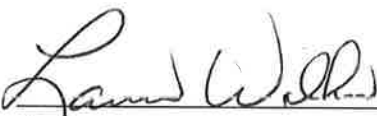
At 10:06am, City Attorney Bryan McWilliams announced that Civil Service Commission has completed its executive session.

Lawrence Walker asked if there is a motion on item 4 of the agenda. Bill Harris made a motion to affirm the termination. Seconded by Lilia Escajeda. All in favor, motion passed.

There were no other items or discussions. Lawrence Walker moved to adjourn at 10:07am.



Mitchell Normand, Civil Service Director



Lawrence Walker, Chairman