



# CIVIL SERVICE COMMISSION

## **SPECIAL MEETING PROPOSAL TO RATIFY PRIOR ACTION IN THE FRANK GREENE MATTER FEBRUARY 9, 2015**

The Civil Service Commission of the City of Tucson met on February 9, 2015 at 9:15 a.m. for a Special Meeting. The meeting was held at City Hall, 255 W. Alameda, 1<sup>st</sup> Floor Conference Room in Tucson, AZ.

Present were Chair Marion Pickens, Commissioners Arnold Elias, Malcom Pavey and Max Parks. Commissioner David Flaughner was absent (unexcused). Staff present: Barry Corey, Legal Counsel; Tameron Collins, Interim HR Deputy Director; and Armida Saufley, Recording Secretary.

The only item on the agenda was as follows: The Civil Service Commission met for discussion and possible action on a proposal to Ratify Prior Action made at the Commission's November 24, 2014 meeting, to affirm instructions to its attorney to appeal the Superior Court's decision concerning the discipline of Frank Greene in case number C20142575 (Frank Greene v. The Civil Service Commission of the City of Tucson). A.R.S. § 38-431.05(B) permits a public body to ratify legal action taken in violation of the Arizona Open Meeting Law (A.R.S. Title 38, Chapter 3, Article 3.1). The Commission's position is that its legal action in deciding to appeal at the November 24, 2014 meeting complied fully with all aspects of the Arizona Open Meeting Law, and thus no violation occurred. However, the issue of a potential violation has been raised by Mr. Greene's attorneys in the appellate litigation, and to avoid the possibility that a court would decide that there had been a violation, the Commission also wishes to take the precaution of retroactively ratifying its decision. A detailed written description of the action proposed for ratification is available at the City of Tucson's Human Resources Department, 255 W. Alameda, 3<sup>rd</sup> Floor in Tucson, AZ.

Mr. Barry Corey, the Commission's Legal Counsel, explained that Mr. Greene's attorney, Mr. Michael Piccarretta, has filed a motion with the Court of Appeals to dismiss the Commission's appeal of the Superior Court's Order in the reinstatement of Mr. Greene. One of the reasons stated is that there is alleged invalidity of the Commission's actions on November 24, 2014, in which instructions were given to Legal Counsel in an executive session, and motions were made in Open Meeting affirming those instructions.

Mr. Piccarretta addressed and informed the Commission that he filed paperwork highlighting his objections to this ratification. Mr. Piccarretta filed a Request for Recusal and Objection to Quasi-Judicial Decision Making by two Commission Members Due to Appearance of or Actual Impropriety, and Motion to Reconsider and Opposition to Attempted Ratification of Unlawful Decision to Appeal Superior Court Judgment. Mr. Piccarretta emphasized that the matter between the City of Tucson and Mr. Greene has been resolved and the Commission is not a party in this matter – they have "no dog in this fight" nor does the Commission have a basis to file an appeal. Mr. Piccarretta indicated the Commission has a pattern of unlawful behavior and that, in his opinion, acted contrary to Arizona law and was spending the City's money moving forward the decision to appeal the Superior Court's Order regarding Mr. Greene. Mr. Piccarretta also entered into the Record a list of questions for the Commission to consider as part of their decision making.

Ms. Julianne Hughes was present and addressed the Commission clarifying that the money being spent is the cost of doing business for the City and should not be considered by the Commission. She concurred that the City is not a party in interest in Mr. Greene's appeal to the Court of Appeals.

Chairperson Marion Pickens addressed Mr. Piccarretta on the allegation and insinuation of the violation of the Executive Session Meeting indicating that the Civil Service Commission depends on their Legal Counsel for Legal Advice.

At 9:30 a.m., Chairperson Pickens made a motion to go into Executive Session pursuant to A.R.S. §38-431.03(A) for legal advice. The motion was seconded by Commissioner Elias, and the Commission went into Executive Session. The Commission resumed the open meeting at 10:27.

Commissioner Pavey made a motion to ratify the Commission's decision made on November 24, 2014, to affirm the instructions given to its attorney to appeal the decision of the Superior Court in Frank Greene vs. The Civil Service Commission of the City of Tucson. The purpose of this ratification action is to eliminate any confusion or concerns about the action taken and direction given to our legal counsel on November 24, 2014. Our decision on November 24, 2014, was, and remains, to direct Mr. Corey, as the Commission's legal counsel, to appeal the Superior Court's decision in Greene v. Civil Service Commission of the City of Tucson, case number C20142575. Commissioner Elias seconded the motion. Commissioner Parks and Commissioner Pavey were not in favor of ratifying the decision and voted against the motion; Commissioner Elias voted as present and Chairperson Pickens voted in favor. Therefore, the motion was defeated.

Having no further items for discussion, the meeting adjourned at 10:40 a.m.

<u>Marion R. Pickens</u>	04/20/15
Marion Pickens, Chair	Date
Civil Service Commission	