

**STATE OF NEVADA
PERSONNEL COMMISSION**

Held in Carson City at the Gaming Control Board, 1919 College Parkway; and via video conference in Las Vegas at the Grant Sawyer State Building, 555 East Washington Avenue, Room 2450

**MEETING MINUTES
Friday, March 10, 2017**

COMMISSIONERS PRESENT

IN CARSON CITY: Ms. Katherine Fox, Chairperson

COMMISSIONERS PRESENT

IN LAS VEGAS: Mr. David Sanchez, Commissioner
Mr. Andreas Spurlock, Commissioner
Mr. Gary Mauger, Commissioner

COMMISSIONER NOT PRESENT:

Mr. David Read

STAFF PRESENT IN CARSON CITY:

Mr. Peter Long, Administrator, Division of Human Resource Management (DHRM)
Ms. Shelley Blotter, Deputy Administrator, DHRM
Ms. Cassie Moir, Deputy Administrator, DHRM
Ms. Dawn Buoncristiani, Deputy Attorney General, Office of the Attorney General
Ms. Carrie Hughes, Personnel Analyst, DHRM
Ms. Carrie Lee, Executive Assistant, DHRM

STAFF PRESENT IN

LAS VEGAS: Ms. Heather Dapice, Supervisory Personnel Analyst, DHRM

I. CALL TO ORDER; WELCOME; ROLL CALL; ANNOUNCEMENTS

Chairperson Fox: Opened the meeting at approximately 9:00 a.m. She welcomed everyone, took roll and indicated Commissioner David Read would not be in attendance. She introduced Dawn Buoncristiani as the new Deputy Attorney General to the Commission. A quorum was established.

II. PUBLIC COMMENT

Chairperson Fox: Advised that no vote or action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken. She asked if there were any public comments.

Denise Bonomo: Introduced herself as having been a State employee for over six years. She hoped that the Commission had the documentation which she had provided in advance and wanted to impress upon the matter at hand. She stated based on the amount and type of experience that she and others possessed, she and others had been deemed not qualified for certain accounting positions within the State due to a six credit beginning accounting requirement. She further stated she personally had over 30 years' experience and qualified for much higher level positions that oversee the position that the State deemed she and others did not qualify for. She also stated she spoke for everyone that this issue needed attention and indicated the State would lose some very exceptionally qualified professionals who would be an asset as public servants to the State of Nevada, and truly believed the citizens of Nevada deserve the best qualified professionals in those positions. She proposed a solution that in lieu of six beginning credits in accounting, that an option be added in the qualifications section to qualify in "X" amount of years' experience to be determined by the Commission. She thanked the Commission for their time and asked if there were questions.

Commissioner Mauger: Stated he just got the information that morning but was curious when Ms. Bonomo said she had 30 years of management; was that all with the State of Nevada? **Denise Bonomo:** Answered she had six years with the State of Nevada and over 25 years in the private sector.

Commissioner Sanchez: Noted that Ms. Bonomo made her comments clear regarding what she would like. He directed his statement to Mr. Long. The Commissioners just received this. It was not in the packet and comes as a surprise to the Commissioners at this point. He requested in the future if Mr. Long could provide information regarding these matters well in advance so the Commission could at least prepare themselves. **Peter Long:** Agreed, and added this information was received after DHRM provided the Commissioner briefings and acted upon the advice of the DAG to provide this information at the meeting. He continued that the Commissioners could, based on the public comment, determine whether the Commission did or did not want to agendaize this item for the future, at which point the Commission would then be provided the full packet. **Commissioner Sanchez:** Asked was the Commission going to be seeing a number of recruitment concerns and appeals from staff from this point regarding matters like this? **Peter Long:** Responded it was hard to say. DHRM advised Ms. Bonomo to approach this through public comment as this is not an appeal that is recognized in NRS or NAC as far as minimum qualifications. Ms. Bonomo is not contesting that she did not meet the minimum qualifications for Accounting Technician I and she confirmed she does not have the accounting credits. It was his understanding Ms. Bonomo was asking that DHRM review the supervisory level of that position and to make a determination that it either did or did not require accounting credits, or to revise the Accounting Technician I to have an equivalency for the accounting credits. He pointed out when specs are developed, DHRM used Subject Matter Experts to develop the spec, and those class specifications are approved by the Commission; they have been vetted very deeply. He concluded to come back at this point and ask that they be revised is unusual and indicated he had not seen it before.

Commissioner Sanchez: Asked when was the last time this series had been studied? **Peter Long:** Answered he did not know, perhaps, about 10 years or so.

Commissioner Spurlock: Noted the incumbent had been here six years. He asked how long had this requirement been in the job description for the Accounting Tech I? Had it been all of this employee's six years or longer? **Peter Long:** Answered to the best of his recollection it had been a requirement since at least 1999. He would also point out in the packet that the Commission received, in looking at Ms. Bonomo's application, she indicated she had a degree in accounting, which would be a bit unusual to have a degree in accounting without some entry level accounting credits. **Denise Bonomo:** Stated she attended Taylor Business Institute, a business school.

Commissioner Spurlock: Stated he was not really sure he needed more information that might be forthcoming in another meeting. He indicated a neutral stance would be that more information is always better than less information. He understood the gist of the situation and could offer that opinion if needed. He wanted to see what the other Commissioners thought about what the Commission should be doing today versus putting it on an agenda for another time.

Chairperson Fox: Noted as this came forward in public comment the Commission could make a request of Human Resources to agendaize the item for June for the Commission to hear more regarding this, or, for the Division of Human Resource Management to potentially evaluate what was stated in public comment and update us in June. She did not disagree with what Commissioner Spurlock was saying. She thought a couple more questions would probably provide the answer for her, in her opinion from a classification background, and she did see distinct differences between Accounting Assistant job duties and Accounting Technician job duties. She stated the Commission had a couple of choices to consider but they should be done as a request to Human Resources.

Denise Bonomo: Confirmed the matter is in public comment to make the Commission aware of what is going on and possibly direct the Department as to what the Commission wanted them to do.

Commissioner Sanchez: Clarified that his understanding is that Ms. Bonomo's accounting diploma is from a career school and therefore she does not have the required accounting credits. He understood her concern, but his concern is that the Commission had not studied this particular series for quite a while.

Heather Dapice: Introduced herself and noted the specs were reviewed and approved by the Personnel Commission in March of 2016.

Commissioner Spurlock: Stated the specs were last looked at in March of 2016, but as far as the Commission knew, they were going to leave it up to others to decide if it goes on the agenda in the summer. He observed that even though the specs were reviewed recently was it only for minor revisions like wording changes? He indicated he would be curious to know how long the six unit requirement had been in place and how long had this employee known that she needed six units of relevant accounting in order to qualify? He further indicated it also looked like it was a natural progression to go from the high level of one series to the next series. He continued, how long had this requirement been in there, during this employee's six years of working for the State? He stated he did not want answers today if the Commission was going to put it off until the summer, because it did not make any sense to debate it right now. He advised that would be the kind of homework he'd be looking for from Ms. Dapice. He understood the Commission may have approved revisions in March of 2016 and was curious about that core requirement and how long it had been in there. He continued if it is not an actionable item, he did not know what else to do, other than to decide to put it on the agenda, or does the Commission make a motion to put it on the agenda?

Chairperson Fox: Stated that a motion could not be made. **Peter Long:** Asked if a determination is made to place the matter on the agenda that it be placed there so the Commission had the authority to make a recommendation or a determined action. He stated the review that was conducted in 2016 was not a full occupational study review, but there were significant changes made which reduced the number of accounting credits required at the II and III levels. He further stated at the entry level the six credits had been there since at least 1999 and should come as no surprise for someone within the State.

Commissioner Spurlock: Stated he wanted to be clear what the Commission was doing, not that the individual employee did not have legitimate concerns, but if the Commission put anything on the agenda for the next meeting, it would be a request to revisit the class spec like the Commission normally would during

the regular updating that staff does. He stated that it was his understanding that if the Commission was going to put this on an agenda, it would be to have staff look at the class spec and make a recommendation; it was not really an employee appeal from her qualification standpoint which had already been addressed.

Commissioner Sanchez: Stated he had a concern since the Commission cannot take any action on this public comment, he would like to refer to the DAG to see how the Commission could make a recommendation at this point to agendize this item for a future meeting. **Dawn Buoncrisiani:** Noted the Commission can just request that it be placed on the agenda. **Chairperson Fox:** Asked what would we title it? She indicated that was a little bit of her confusion. Would it be review of Accounting Assistant [sic Technician] Class Spec and Update from Division of Human Resources? **Commissioner Spurlock:** Stated he was not sure why it wouldn't fall under the category of any other standard revisions, whether regular maintenance or not, that staff presented at every meeting. **Chairperson Fox:** Added it isn't necessarily revisions, and she was hearing from Human Resources that they worked with Subject Matter Experts. She continued that although it wasn't part of an occupational study, the minimum qualifications were reviewed in 2016. She stated that was why she was struggling with the title of the agenda item. The Commission wants to be very careful how the Commission steps into this.

Commissioner Sanchez: Noted he was concerned about not only this position but the entire series and maybe the Commission ought to take a look at the Accounting series to see if there were any other issues that might come before the Commission. **Peter Long:** Observed first, if the Commission directed us or was considering directing the Division of Human Resource Management to do an occupational study, we no longer have that authority per the Governor's Office; that was why DHRM currently does the Class Specification Maintenance Reviews and not full-blown occupational studies which involved looking at all positions out there, collecting position description questionnaires and then aligning them with other positions. Secondly, he observed if it is the desire of the Commission that DHRM look at the spec and see if the mqs [minimum qualifications] are appropriate, he would only suggest that DHRM may not be able to complete that review by June as there are other things in the hopper right now. He indicated DHRM would certainly give this priority, but he couldn't promise or guarantee that it would be done by June.

Commissioner Spurlock: Agreed with Chairperson Fox and added he agreed one way and disagreed in another way. It's still a revision, just a revision that required a lot more work and a lot more thinking that went into it. He continued that Mr. Long is also correct in that, even though his Department may not be authorized to do the kind of study that has been brought up, it would still be nice to know – because ultimately, those minimum qualifications should reflect what works for the State and what doesn't. He asked what does the State demand of its workforce and is it getting it with the current minimum qualifications? He clarified the Commission was not talking about classic comp but talking about recruitment and so on. He asked were those qualifications bringing in the caliber of people needed? What are the eligibility lists looking like? Do you still have a healthy number of applicants? Are you satisfied with those? Is it extremely tough? Is it too narrow of a description? He didn't want answers right now but to answer Mr. Long, this may take longer than just three months. He would defer to the Department to determine when or if this should ever get back on the agenda based on that. He stated there was a lot that went into it. He continued even if it is not the full-blown occupational study that is no longer authorized, Mr. Long might have a lot of other homework that would still take more than just a couple of months.

Chairperson Fox: Stated he made some very salient points. She would recommend to the Division of Human Resource Management, based upon the information provided to the Commission today, as well as the questions heard from the Commissioners, that the Commission refer this item back to the Division of Human Resource Management to determine the next best step and when potentially it could be an agenda item, at least informationally, if not for possible action. She stated that would give DHRM a lot of flexibility

in terms of their expert role in classification. **Peter Long:** Stated DHRM would absolutely follow that recommendation and volunteered to look at the class specifications. He went on to note that if DHRM was able to get any necessary revisions completed and agendized that would certainly happen by June, or at the June meeting, DHRM could comment on any progress and if they saw the necessity of revising the class specifications for the following meeting.

There was no additional public comment.

III. APPROVAL OF MINUTES OF PREVIOUS MEETING - Action Item

A. Held December 9, 2016

MOTION: Moved to approve the minutes of the December 9, 2016 meeting.
BY: Chairperson Fox
SECOND: Commissioner Spurlock
VOTE: Motion passed. Mr. Sanchez abstained due to being absent from the December 9, 2016, meeting.

IV. DISCUSSION AND APPROVAL OF ADDITION OR REMOVAL OF CLASSES OR POSITIONS APPROVED FOR PRE-EMPLOYMENT SCREENING FOR CONTROLLED SUBSTANCES AND REVISIONS TO CLASS SPECIFICATIONS - Action Item

A. The Department of Public Safety requests the removal/addition of the following classes/positions from the list for pre-employment screening for controlled substances:

1. Classes and positions requested for removal from the list of pre-employment screening for controlled substances:

2.210 Administrative Assistant IV, PCN: 4702-322
2.212 Administrative Assistant II, PCN: 4733-32
7.143 Accountant Technician I, PCN: 4733-30
7.902 IT Manager III, PCN: 4733-35
7.921 IT Professional IV, PCN: 4733-115
7.925 IT Professional III, PCN: 4733-46
7.926 IT Professional II, PCN: 4733-301
7.928 IT Technician VI, PCN: 4733-230, 4733-235, 4733-240
7.931 IT Technician V, PCN: 4733-220
7.940 IT Technician III, PCN: 4733-314, 4733-353
11.134 Fingerprint/Records Examiner II, PCN: 4709-32, 4709-60

2. Classes and positions requested for addition to the list approved for pre-employment screening for controlled substances:

2.210 Administrative Assistant IV, PCN: 4709-8031, 4709-8038, 4709-8039, 4709-8040, 4709-8041, 4709-8042, 4709-8043
2.212 Administrative Assistant II, PCN: 4702-32, 4709-8044, 4709-8045, 4709-8046, 4709-8048
7.143 Account Technician I, PCN: 4702-30

- 7.649 Program Officer I, PCN: 4702-322, 4709-8030, 4709-8036, 4709-8037
- 7.921 IT Professional IV, PCN: 4709-8032
- 7.925 IT Professional III, PCN: 4709-8033

Carrie Hughes: Introduced herself as a Personnel Analyst for the Division of Human Resource Management. She explained NRS 284.4066 provided for the pre-employment screening for controlled substances of candidates for positions affecting public safety prior to hire. The statute required an appointing authority to identify the specific positions that affect public safety, subject to the approval of the Personnel Commission. Additionally, federal courts have indicated that pre-employment drug screening by public entities may constitute a search within the meaning of the Fourth Amendment, and if so must be justified by special need that outweighed a reasonable expectation of privacy.

Department of Public Safety requested the removal of the requirement for pre-employment drug screening from the positions listed in Agenda Item IV.A.1. DHRM recommends the removal of these positions as these positions have either been moved to another class and had been approved in the current class, are being requested in the current class in Agenda Item IV.A.2 as they had been moved to another budget account, or the position has been eliminated at the Department of Public Safety.

Department of Public Safety has also requested to add the requirement for pre-employment drug screening to the positions listed in Agenda Item IV.A.2. DHRM recommends approval of these positions. The Administrative Assistant, Accountant Technician and Program Officer positions have access to personally identifiable information and criminal history, and some of the positions additionally have access to victim information. She continued, the IT Professional positions assessed local and State agencies' computer connections to evaluate their ability to ensure proper security for access to personally identifiable information, criminal history and victim information. They also physically accessed the secured facilities where this information is kept. Additionally, Department of Public Safety positions in these classes have previously been approved for pre-employment drug screening by the Commission.

Chairperson Fox: Asked if there were questions. There were none.

- MOTION: Moved to approve the addition and removal of classes or positions approved for pre-employment screening for controlled substances for the Department of Public Safety as identified in IV.A.1 and IV.A.2 with their PCN numbers.
- BY: Chairperson Fox
- SECOND: Commissioner Sanchez
- VOTE: Motion passed unanimously.

V. DISCUSSION AND APPROVAL OR DENIAL OF INDIVIDUAL CLASSIFICATION APPEALS - Action Item

- A. Erik Reed, Right-Of-Way Agent 2, Department of Transportation (NDOT)
- B. James Reynolds, Compliance/Audit Investigator 3, Department of Employment, Training and Rehabilitation

Chairperson Fox: Noted that while there were two appeals to be heard on the agenda, Mr. James Reynolds asked that his be held until the next meeting of the Personnel Commission. Therefore, only Mr. Erik Reed's appeal would be heard at this meeting of the Personnel Commission. She asked Mr. Reed to introduce himself and explain his position.

Erik Reed: Introduced himself and thanked everyone for the time and opportunity to appeal this decision. He explained there were a few points he would like to make in regard to some of the information the Commission had been provided. He asked that the Commission turn its attention to the letter from Ruth Borelli in the appeal packet dated March 10, 2017. He went on to say the reasoning stated in this letter for the denial of reclassification was that there had to be significant change. He would argue that, with recent changes in the Division, he had been assigned Right-of-Way Agent 3 projects.

He noted NAC 284.126 states that significant change could be based upon a gradual accumulation of duties and would argue he had gradually accumulated duties that are reflected in the Right-of-Way Agent 3 class specification. He further noted when he observed what other Agent 3s were doing within the Division, he sees that his work was exactly the same.

The next point Mr. Reed discussed was that NDOT's recommendation was based on a comparison of the nature and complexity of work assignments, decision making authority, consequences of error, and knowledge, skills and abilities and based upon this their belief is the position was appropriately classified as a Right-of-Way Agent 2. He pointed out that none of those characteristics were mentioned in the class concepts; the distinguishing duties are project management and lead worker responsibilities. He stated those are what differentiate the Right-of-Way Agent 2 from the Right-of-Way Agent 3 according to the class concepts. He argues that he is performing the Agent 3 class concept as a whole.

Erik Reed quoted in substance Peter Long's letter, dated September 7, 2016, which addressed the initial appeal letter where Mr. Reed indicated the major difference between an Agent 2 and an Agent 3 is that they:

"...frequently and regularly serve as project managers with responsibility for project status reporting, coordination of activities with other disciplines and divisions, project timelines and consultant contract administration." You further state that since you spend the preponderance of your time performing on project management duties you are working outside the scope of your current class and therefore meet the definition of significant change according to NAC."

Mr. Long's letter continued: "Project Management, is not the defining characteristic..." Mr. Reed agreed, but indicated that it seemed to be the major difference between the Agent 2 and Agent 3 class specifications.

Mr. Reed stated there was also the difference of lead worker. There was a lead worker duty called out in the Agent 3 class specification where it was not called out in the Agent 2. Through a conversation he had with Mr. Rob Easton, Mr. Easton explained what a lead Agent or what a lead worker was and how Mr. Easton envisioned the lead worker functioning. From his understanding of what Mr. Easton described, the lead worker is like the team captain and he or she is assigned duties or monitors projects that have been assigned to other agents.

Mr. Reed explained to Mr. Easton that this sort of set up is not in place where he worked. He was assigned a project, is the lead Agent and doesn't have any other Agents who are monitoring his activities or giving him guidance on these projects. He understood Mr. Easton met with his supervisor at the time, Mr. Dave Moreno, and had the same conversation with Mr. Moreno. Mr. Moreno told Mr. Reed that he indicated to Mr. Easton that this is not how this Division is run; it would put significant burden on the only Agent 3 in the office if this person had to oversee and act as the lead worker for all Agents. Mr. Reed knew that there are two distinguishing factors, project manager and lead worker, and it was his observation that the lead worker was not being adhered to as it was described to him by Mr. Easton.

Erik Reed added he was here today because he had eight years of right-of-way experience with the Department and met the minimum qualifications for an Agent 2 and an Agent 3. He felt his duties were in line with the duties that were assigned to other Agent 3s within the Department and didn't see a clear delineation between Agent 3 assignments and Agent 2 assignments.

Chairperson Fox: Asked if there were any questions from the Commissioners.

Commissioner Mauger: Noted it was kind of a disadvantage but Mr. Reed did not file an eloquent brief so the Commission could get his side of the story. He further stated he was going off the State's position but did have some questions regarding what duties Mr. Reed considered were assigned to him because there was a letter from David Moreno regarding his training other Agents. Mr. Moreno's letter stated, "I directed him to stop immediately." Commissioner Mauger asked was there something Mr. Reed was assigned to do or did he do it on his own? If Mr. Reed did that on his own, would he have done other duties that he would think were assigned, but were done on his own or maybe to impress?

Erik Reed: Responded that email was to give the Commission a little background story. When the NPD-19 process was first started, that seemed to be the duty that was identified as the Agent 3 duty that he should not be doing. So, he was told to cease training all employees by his supervisor, Mr. Moreno. He was instructed on occasion to provide "training" where he had knowledge of a process, whereas his supervisor did not have knowledge of that process where Mr. Reed could be of assistance to other Agents to guide them so they could carry out a duty that they were assigned.

He continued, through his time in the Department, there had been Agents who had come and gone. Normally the unit is staffed with five employees. There had been times when it was just down to two and then get an influx of new people. These new folks are looking for guidance on the process and Mr. Reed happened to be able to, on occasion, guide them along on right-of-way processes. Not taking full responsibility for training them, but he provided "guidance training" on processes that he was familiar with to the new individuals. When the NPD-19 was at its early stages, he was told to stop training, that that was not a duty of an Agent 2. So he took that direction and stopped training.

Commissioner Mauger: Asked if the duties you said you were assigned, are some of them, or could some of them be, part of what you perceived actually as being assigned versus what the State does? In other words, did you take it upon your own volition to go ahead and do it and then turn around and say, well I was assigned that? **Erik Reed:** Answered no, it came to light that certain Agents were not aware of what certain processes were. His supervisor said please help this person with that assignment, since you have experience. These assignments are complex with lots of steps. You have to do them in a certain order and certain forms have to be filled out. Certain policies and statutes have to be adhered to, to perform these. He further answered he had knowledge because he had experience, so he was asked to help guide the person without that experience along. He did not take it upon himself to set out to train people. He was asked to assist Agents with processes that he was familiar with and they weren't.

Commissioner Mauger: Clarified with Mr. Reed that he had been asked, but he had not been permanently assigned these training duties; "We've got this individual who needs a little training in an area you're familiar with. Did you take that to mean that was an assignment or something you'd say, you know, like me, if I had knowledge of it, I'd say, here's how you do it, but I wouldn't expect to be, use that to say I was assigned and now I'm doing additional duties, things of that nature." He indicated he did not have the packet and was winging it off the State's presentation. He further indicated he does have an issue with what Mr. Reed may consider additional duties versus helping out here and there and was trying to get an idea of where Mr. Reed was at. He stated, "I'm not ready to make a decision because I'm not familiar with your side. I probably would've appreciated it if you would've given us a packet, such as the State's given us, to let us make that vetted judgment on which way we want to go. I thought I heard

Madam Chair say that we could be looking at agendizing this for the next meeting, am I correct in the assumption?" **Chairperson Fox:** Clarified she was referring to the classification appeal of James Reynolds, who has asked to be heard in June. **Commissioner Mauger:** Asserted he just found it tough to make a qualified decision regarding this issue because he didn't have both sides.

Commissioner Sanchez: Stated, "Mr. Reed, you certainly have not been able to present a convincing argument on paper that we normally get as a packet from appellants so I share Commissioner Mauger's concern about not being able to see this beforehand and having to rely on the work that we have received from the Department. I do want to refer to two things you mentioned. One, by the way, is an undated letter from Borelli." He related that he believed the letter communicated to both you and your supervisor, Dave Moreno, that you are not authorized to work out of class and that any of the Agent 3 duties you were assigned should be removed. Is that what happened to you? **Erik Reed:** Stated, "I was told to stop training and those were the only duties that were removed from me."

Commissioner Sanchez: Stated, "In the letter you referenced from Mr. Long, dated September 7, 2016, Mr. Long says in order to be classified at the ROW Agent 3, incumbents must meet the class concept as a whole, not in part. Positions may perform one or two high level duties; however, this does not provide the basis for reclassification to the higher level." He asked for comment from Mr. Reed. **Erik Reed:** Asked, "How do you define the lead worker, because according to the definition of Mr. Rob Easton, the lead worker is not being adhered to? I don't think it even applies to what an Agent 3 does with the Department of Transportation. According to Mr. Easton's definition, there may be different definitions, I don't know. The other significant distinction between the 2 and the 3 is a project manager. I am definitely project managing my assignments, so as a whole, I meet the concept as a whole. I'm performing all duties and I'm proficient in three of the five right-of-way disciplines and I'm able to make independent decisions in those disciplines, and I have. I have been assigned property management duties, acquisition duties and utility duties and have experience in all three disciplines."

Commissioner Sanchez: Stated, "Mr. Reed, you stand before the Commission here making your argument. I just have to ask a question that is on the mind of this Commission, why did you not go through the effort to provide us with your own appellant packet?" **Erik Reed:** Explained, "I felt that I could just briefly summarize the responses that were put together and just touch upon a few key points. I figured it would be brief and short and I thought I would make my points verbally and no further information would be needed. Basically, all the information is here...my job is just to give you my opinion of what has been written."

Commissioner Mauger: Asked if Mr. Reed had been able to see the State's reply regarding his issue, the packet that was their reply regarding your appeal? "Some of the stuff in here, I haven't heard you say. I'm talking about there's a packet that the State submitted regarding the State's position...What I referred to earlier on, that the State submitted as their reply to your appeal. Have you read that?" **Erik Reed:** Confirmed that he read it. **Commissioner Mauger:** Stated, "I would've believed that you would've had a packet ready to rock and roll here answering this, because that packet is pretty thick." He indicated that he was in quandary and needed more information to make a decision. **Erik Reed:** Stated, "That's what I was going to attempt to do today and I apologize for not being more clear and prepared." **Commissioner Mauger:** Stated, "You just probably, in hindsight, you needed to just give us a packet, such as the State gave us, so we could look on both sides and make a professional decision." **Erik Reed:** Stated, "I'm willing to take that advice and prepare a packet and meet again." **Commissioner Mauger:** Commented that may be some time down the road. **Erik Reed:** Noted it's been a year so far.

Commissioner Spurlock: Stated, "I have a question for Mr. Long or his staff. I never like to read into things too much. It should be explicit and a lot of times it can't be. If you look at the class concepts in the

job descriptions under Tab 6, if you look at the Right-of-Way Agent paragraph relative to the 2. This is always a dilemma when you write into class specs, you to try to come up with an absolute scope cut off to go from one level to another. An example might be, you're a manager if you manage less than 1,000 employees and you're a senior manager if you manage more than 1,000 employees. Those are always problematic for personnel departments. Things change, business cycles change and you've got to keep revisiting those. So I can understand not having it, really it's almost desirable not to have that kind of explicit stuff in the class specs."

"So I'm looking at Right-of-Way Agent 3, and again, it's not to criticize to say—they do it for their own reasons—but, to have the Right-of-Way Agent 3, it says you have to do three of the following right-of-way disciplines. I assume that means ongoing, active, all the time, every project type thing, most likely as opposed to just, I touched that once or I learned that once, as opposed to the Right-of-Way Agent 2, it talks about two of those things. The Right-of-Way Agent 3 has the additional language of, "“incumbents at this level frequently and regularly serve as project managers with responsibility for project status, reporting, coordination of activities with the disciplines and divisions, project timelines and consultant contract administration.”"

"Now again, I don't want to read too much into this, but do you Mr. Long, put you on the spot, or your staff, I would think the kind of projects associated with the most advanced journey level would be things in the State's bailiwick, would be things like Project NEON; high level coordination of that. Or, the Interstate 11 Corridor, but maybe not like individual road widenings and such...again, like I said, with the scope of employees cut off, a similar example, I don't think you should be listing individual projects in the class spec. Mr. Long knows how fast that would be outdated. Mr. Long, wouldn't you say that was kind of the intent of the highest journey level, Right-of-Way Agent 3 would be to have that kind of a scope of work?"

Peter Long: Stated, "Commissioner Spurlock, you hit the nail on the head. If you need any specific examples of comparisons between projects that a Right-of-Way Agent 3 would be responsible for in the size and scope, versus a 2, we have representatives from NDOT here that could provide that to you." He further stated as far as the three areas, you know, that would also be where they are routinely responsible for at least three of the areas and not, as you noted, touch an area occasionally beyond the typical two areas that a 2 would be responsible for.

Chairperson Fox: Commented that she had heard the Commissioners ask about the Appellant's packet and that she would read into the record a letter sent by Peter Long, in September: "You may appeal this decision to the Personnel Commission within 30 days after receiving this letter by notifying the Division of Human Resource Management...Regulations also require that your appeal should be sent to me and contain a rationale for your disagreement with this determination." It was her opinion that the Appellant was notified in writing about the importance of putting together the rationale for the appeal. **Peter Long:** Stated, "In addition to that, Mr. Reed did provide a letter to you with an explanation but there is a letter sent out to each appellant as to the process and that they have the right to provide packets and how many they should provide and when they should be submitted...it appears that Mr. Reed did not avail himself to that opportunity."

Chairperson Fox: Asked for representatives of the Department of Transportation to come forward to speak regarding the Appellant's appeal of the classification decision.

Rob Easton: Introduced himself as Personnel Officer II with the Nevada Department of Transportation. He indicated that he wanted to make a couple of points before starting the prepared presentation. He noted the class specifications are written for various positions throughout the State; they're meant to be descriptive but not prescriptive. There's not as much detail in the class concepts that you might see, let's

say for example, in work performance standards. So, in the case of Right-of-Way Agent, NDOT has four disciplines. Mr. Reed is assigned to the Utilities Division. There are some specific job functions that they perform in the Utilities Section that are more clearly described in his work performance standards. We did not provide examples of those, but that would again help to clarify expectations in terms of what his job duties are versus maybe, possibly Right-of-Way Agent 3. Again, those are subject to change and they can be modified over time. "I don't know if necessarily we could capture that in the class concepts as well as we could in the work performance standards. I just wanted to bring up that point."

Mr. Easton introduced Ruth Borelli, Chief of the Right-of-Way Division and Jessica Biggin, Assistant Chief of Right-of-Way. He noted Ms. Biggin is also in the chain of command of Erik Reed and she is familiar with the Utilities Division and she will be the Subject Matter Expert today. He prepared this class specification when it was originally created and then created the advanced journey level. He agreed with the Commissioners that it is difficult, sometimes, to distinguish between levels, so the advanced journey level is not commonly used. He noted that he remembers when the advanced journey level was created, one of the concerns was that it should not result in creating grade creep, which means we didn't want everybody to end up as an advanced journey level Right-of-Way Agent and how can we distinguish between the two so that we don't have everybody eventually at that level? We tried to make it pretty clear what the distinguishing characteristics are. We're going to cover that a little bit more today and you may not see a lot of that language in the actual class concepts; they're more apparent in the work performance standards. Jessica and Ruth will be clarifying those differences.

Mr. Easton indicated NDOT does have a delegated agreement with the Division of Human Resource Management to perform classification functions. It is a requirement that we refer to NAC 284 and determine whether or not significant change has occurred. He further indicated he conducted the initial review of Mr. Reed's NPD-19, as well as a desk audit with Jessica Biggin, as a Subject Matter Expert. Once we reviewed that with Mr. Reed and got his input and he answered our questions, we determined from the desk audit that the duties were correctly assigned to the Right-of-Way Agent 2 class concepts and that we did not believe significant change had occurred.

Mr. Easton stated, "I'm just going to bring up the definition of significant change under NAC 284.126, just so it's clear what our requirements are before we can reclassify a position to another level in the series. Basically, we determined that no significant change occurred because there was no significant change in duties and responsibilities assigned to his position. We felt that his current duties were not outside the scope of the class as described by the class specification and they are part of the scope of responsibility of his position as a Right-of-Way Agent in the Utilities Section. We believe that the preponderance of duties and responsibilities are allocated to the correct class."

"Next, if you would go to Exhibit 3 in your handout, this is the NPD-19 that was submitted by Mr. Reed. If you go to Question No. 5, and Question No. 5 is really the most critical of all of the information that I look at, when we open that up and we look at it, we look for what duty statements have an asterisk next to them. If you note in the top section of the question, it says that any new duties should be asterisked."

Mr. Easton continued that we focused on what Mr. Reed believed were new and higher level duties. That was our charge, to determine whether or not Duty No. 2 and Duty No. 4 represented significant change. One of the things we also looked at is the percentage of time. If you add those two up, they do not equal 50%, so we've always gone by the 50% or more requirement to determine whether or not significant change has occurred. I believe earlier in Mr. Reed's statement he said from time to time he assists other Right-of-Way Agent 1s possibly, or 2s that are new, gives them direction or guidance if they don't have the information, but it doesn't sound like it's an ongoing process. It wouldn't encompass 50% or more of his time.

Again, looking at those two duties, we determined that there wasn't significant change and that these two duties were not considered higher level. We did not believe that the way he had defined those duties were correct. We don't believe that he's really doing project management as we would describe it at the 3 level and that he's not doing contract preparation.

Jessica Biggin, Assistant Chief of Right-of-Way, is our Subject Matter Expert. She is going to drill down a little bit deeper and talk about why she believes that he's not doing either of those two duties and what the difference would be between a Right-of-Way Agent 2 and a 3 in the Utilities Section.

Jessica Biggin: Introduced herself as Assistant Chief Right-of-Way Agent. She explained in Mr. Reed's NPD-19 he claims that he's performing a new duty as Job Element No. 2, Project Management at 30%. Mr. Reed states that he is responsible for coordinating a series of activities for the purpose of ensuring utility conflicts are addressed, agreements are executed on time, adjustments are completed and reimbursement, invoices and billings are accompanied with supporting documentation and are processed in a timely manner. Although Mr. Reed defines this as project management duties, Right-of-Way considers this as utility coordination duties, which all Right-of-Way Agents participate in these activities. This is not just specific to Right-of-Way Agent 3s.

Project management responsibilities for a Right-of-Way Agent 3 in Utilities include overseeing complex utility projects. They manage the operational aspects of ongoing utility projects. They ensure relocation coordination, design and construction from planning through project close-out. They prepare project cost estimates, track and augment agreement budgets and close-out agreements through right-of-way control. They also manage performance of consultants and/or the Right-of-Way Agent team. They lead all distribution and utility project planning and strategic activities. Right-of-Way Agent 3s perform these duties and Mr. Reed is not performing these duties.

Ms. Biggin continued Mr. Reed also claims in his NPD-19 that he is performing a new duty shown as Job Element No. 4, Contract Preparation at 15%. Mr. Reed states he creates a scope of work, roles and responsibilities for the Right-of-Way Agent Utilities, follows administrative services for request for proposal, the RFP procedures to contract for subsurface utility engineering and work. The Right-of-Way Division contends that Mr. Reed is not completing contracts; rather he is preparing service agreements for subsurface utility engineering.

Right-of-Way Agents create service agreements; the service agreement is a template. This is not a distinguishing characteristic between an Agent 2 and an Agent 3. Agents do not create a scope of work, however, a standard template is used. The Agent roles and responsibilities for Utilities is defined in the Right-of-Way Agent Manual and is required knowledge for all Right-of-Way Agents. The RFP Process is not the same as contract preparation. Right-of-Way is unsure where Mr. Reed is getting a 15% change in duties since according to our records, Mr. Reed's last service agreement was done three years ago. Also, this is not a higher level function and all Right-of-Way Agent 2s prepare service agreements for subsurface utility engineering.

Ruth Borelli: Introduced herself as Chief Right-of-Way Agent. She explained that NDOT believes Mr. Reed's duties are consistent with other Right-of-Way Agent 2s. She has worked with Right-of-Way for over 17 years in all aspects of the Right-of-Way Division, including Utilities; she was a Utility Agent. When she became aware of Mr. Reed's assertion that he was performing Agent 3 work as a 2, she contacted his direct supervisor, Mr. Moreno, and asked him to investigate these claims. After reviewing Mr. Reed's assignments, Mr. Moreno assured her that Mr. Reed was not working out of class. Please see Exhibits 3 and 4, specifically the email from Mr. Moreno to me stating that he is working within class. That email stated Ruth and I have been discussing through emails Erik Reed and his Agent 2 duties. I mentioned to Ruth that in my opinion, Mr. Reed is performing Agent 2 duties. Mr. Reed was directed not

to perform any Agent 3 work. It has been confirmed that Mr. Reed is not performing Agent 3 work. It has been determined by both Mr. Reed's direct supervisor and the Utility Assistant Chief that Mr. Reed does not work independently and does not have the proficiency in three of the five disciplines to do Agent 3 work. In the three of the five disciplines, it's not necessarily how often they're performing but the proficiency they have in those areas to perform independently.

Commissioner Mauger: Asked Mr. Easton if he had sat down with Mr. Reed to discuss his findings?

Rob Easton: Related that he had spoken to Mr. Reed multiple times over the course of the last 12 months. Mr. Reed had asked him questions and called him because he wasn't familiar with the process. We communicated, but not probably to the extent that you're asking, no. **Ruth Borelli:** Indicated both Jessica Biggin and she, but specifically Jessica Biggin, has gone through this at length with Mr. Reed, explaining the differences between Agent 2s and Agent 3s.

Rob Easton: Concluded that after we had determined that there was no significant change in duties, as part of our delegated agreement, he did submit a letter to Mr. Reed explaining our position. Mr. Reed then appealed to the Division of Human Resource Management. As was cited earlier, a letter was sent to Mr. Reed after his position had been reviewed a second time by Mr. Long and they again believed that no significant change had occurred and denied the appeal. Which brings us here today. Based on the information that NDOT is presenting to you, we believe that Mr. Reed's NPD-19 should be denied. We respectfully request that the Commission deny his appeal based on the fact that no significant changes occurred and that his duties and normal responsibility are similar to other Right-of-Way Agent 2s in the Utility Section, which are both in the North and the South by the way. We believe that he's currently performing at the journey level and he's performing Right-of-Way Agent 2 duties. If the Commission had any additional questions, he was happy to answer those. If not, thank you very much for your time.

Commissioner Spurlock: Thanked the Department for putting together the presentation; he noted how helpful it was and how he wished more departments would do this. He added there's obviously a reason for why you feel the way you do. There's a reason why you have 1s, there's a reason why you have 2s and there's a reason why you have 3s. He noted that he doesn't know how many Right-of-Way Agent 2s and 3s the State has. It's a management decision to really design the work and decide how many 2s and 3s are needed. "You heard my question thrown out to Mr. Long earlier about regardless of specificity in the class concepts about doing a number of functions, like doing three of these five regularly versus two of these five regularly. Would you agree or tend to disagree with how I generally summed it up by what the intent I thought was of the 'advanced journey level work' of the three? Any major projects that the State has going on, such as again, lacking any better information, the ones I know are Project NEON, Highway 11 Corridor and so on?"

Ruth Borelli: Confirmed you are absolutely correct on the level of complexity. On less complex projects, you often will have one, maybe two relocations. Often they're permitted facilities which is a different process, much more simple process than unpermitted utilities with reimbursement rights. We have to put together agreements for those. Agent 2s often do have less complex projects with reimbursable utility relocations. For example, Project NEON is a good example of a complex project. There are 1,000 utility impacts on Project NEON that are being tracked. In addition, the Agent 3 that is running that project is giving direction and assisting the consultant through the process and has oversight over that project. That's a major, major project that we have going on. Boulder City Bypass is also significant. Coordination that was ongoing, not only because the utilities in those areas had prior rights, which required relocation agreements to be put together but also the costs tracked. It also had required complex coordination between our legal team and the utility companies as they negotiated acquisition of properties there. So it was a very complex project, although the number of impacts weren't to the level of NEON, it still was significant.

Ms. Borelli continued, as far as to the different areas of discipline, it's not necessarily that they're doing this ongoing. It's that they've achieved a level of proficiency that should that be assigned to them, that they could work independently on those areas. Several of our Agent 3s have expertise in appraisal. If we wanted to have them do what's called a Waiver Valuation, a Waiver Determination, they could do that because they have that background and they have that expertise. They're not doing that every day but they have the background and expertise to be assigned that work and pretty much left to be run with it. Same with property management; they may not be doing property management ongoing, but they know what to do when they're assigned property management.

Commissioner Mauger: Asked if Mr. Reed was aware of the summary the Department put out regarding his appeal and assumed Mr. Reed was basing his appeal on the findings of the summary. And, if he was, then it would've been helpful to the Commission to know specifically what he was appealing in the summary. Commissioner Mauger asked if he had seen it. **Erik Reed:** Stated, "I have not seen that; it's not in my classification appeal packet that I have in front of me today."

Commissioner Mauger: Asked if Mr. Reed based his appeal on the findings of his Department and what specifically was he addressing that would help the Commission? **Erik Reed:** Answered he learned today how the Department defines project management for the first time. If he would've had an opportunity to see how project management was defined by the Department, he would've spoken to that and compared his work to their definition of project management, citing examples. **Commissioner Mauger:** Asked for any comments he had. **Erik Reed:** Observed that it seems that the distinguishing factor is complexity and his argument has always been that complexity is not defined in the class specification, as a distinguishing factor between the two. He added that he has inherited other Right-of-Way Agent 3 files, projects, when they have gone on to work for other agencies. He is currently working on files that were assigned previously to Agent 3s and he had also been assigned to the Centennial Bowl Interchange which is the second busiest interchange in the State of Nevada with complex utility relocations and has significant consequence of error if he doesn't perform his job.

Commissioner Mauger: Stated he understood but the point he was making is that these outline the Department's position regarding your appeal. He added that would probably be the best place for you to go to help us distinguish what you feel you do versus what the Department feels you do.

Ruth Borelli: Addressed the reassignment of projects to Mr. Reed. It is not unusual for Agent 3s to do project coordination and have assignments that contain project coordination. Right-of-Way Agent 3 Utilities often have a heavy work load and that includes work that could easily be assigned to a 2. Not all our projects are complex.

MOTION: Motion to deny the appeal of Mr. Erik Reed.
BY: Commissioner Sanchez
SECOND: Commissioner Spurlock
VOTE: Motion passed unanimously.

Commissioner Mauger: Added, Mr. Reed, if you feel strongly about what your duties are or what your duties are not, then to me, just be a little bit more prepared and know what the position of the Department is versus what yours is and help us better define that, if that's what you choose. From his perspective, he was unable to determine and distinguish that.

Chairperson Fox: Acknowledged a five-minute break was requested. The meeting reconvened at 10:35 a.m.

VI. DISCUSSION AND APPROVAL OR DENIAL OF CLASS SPECIFICATION MAINTENANCE REVIEW - Action Item

- A. Medical, Health & Related Services
 - 1. Subgroup: Health Related Services
 - a. 10.240 Quality Assurance Specialist Series
 - 2. Subgroup: Allied Therapies
 - a. 10.615 Speech Pathologist Series
- B. Social Service & Rehabilitation
 - 1. Subgroup: Employment Security Claims, Examination & Placement
 - a. 12.133 DETR Business Process Analyst Series

Heather Dapice: Introduced herself as a Supervisory Personnel Analyst with the Division of Human Resource Management Classification Unit. She presented for the Commission's approval the recommendation for changes to the class specification for the Quality Assurance Specialist and the Speech Pathologist Series. These are Items VI-A-1 and 2 on the agenda. As part of the biannual class specification maintenance review process, it is recommended that minor revisions be made to refresh language to maintain consistency with formatting and structure. These changes are identified in red in the handouts provided in the packet. We respectfully ask the Personnel Commission to approve these recommendations, effective this date.

Chairperson Fox: Asked if there were questions. There were none.

MOTION: Approval of Item VI-A, Medical Health & Related Services, Subgroup Health Related Services, to include Quality Assurance Specialist Series and Subgroup Allied Therapies, Speech Pathologist Series.
BY: Chairperson Fox
SECOND: Commissioner Sanchez
VOTE: Motion passed unanimously.

Heather Dapice: Continued, with regard to Item VI-B-1 on the agenda, DETR Business Process Analyst, the position in this series has been classified to the Business Process Analyst series. As such, the series will no longer be utilized by the Department. It is therefore recommended that the DETR Business Process Analyst Series be abolished. We respectfully ask that the Commission approve this recommendation effective this date.

Chairperson Fox: Asked if there were questions. There were none.

MOTION: Approval of Item VI-B-1, Social Service & Rehabilitation, Subgroup Employment Security Claims, Examination & Placement, to include the DETR Business Process Analyst Series.
BY: Commissioner Mauger
SECOND: Commissioner Sanchez
VOTE: Motion passed unanimously.

VII. REPORT OF UNCONTESTED CLASSIFICATION CHANGES

- A. The following items were posted for at least 20 working days. No written objections were received by the Administrator before the end of the posting period; therefore the changes automatically went into effect.

- Posting: #06-17
 - 10.247 Health/Human Services Professional Trainee
- Posting: #07-17
 - 12.374 Family Services Specialist III
 - 12.376 Family Services Specialist II
 - 12.379 Family Services Specialist I
- Posting: #08-17
 - 7.801 Museum Director III
 - 7.809 Museum Director II
 - 7.810 Museum Director I
- Posting: #09-17
 - 7.139 Supervising Auditor II
 - 7.145 Supervising Auditor I
 - 7.148 Auditor III
 - 7.154 Auditor II
 - 7.164 Auditor I
- Posting: #10-17
 - 11.401 Chief Insurance Examiner
- Posting: #11-17
 - 11.239 Military Security Officer V
 - 11.240 Military Security Officer IV
 - 11.241 Military Security Officer III
 - 11.242 Military Security Officer II
 - 11.243 Military Security Officer I
- Posting: #12-17
 - 6.301 Manager II, Right-of-Way Survey Services-PLS
 - 7.302 Manager I, Right-of-Way Survey Services

Chairperson Fox: Stated that no action was required on the part of the Commission.

VIII. DISCUSSION AND ANNOUNCEMENT OF DATES FOR UPCOMING MEETINGS

Chairperson Fox: Noted that the next meeting is certain for June 23, 2017, and the following meeting would be September 29, 2017.

IX. COMMISSIONER COMMENTS

Chairperson Fox: Noted our new DAG has suggested that this be an agenda item, which she supported, so that each of you has the opportunity to request something from the Division or provide some comments that may be important that you want placed in the record. Or to even acknowledge, let's say, the retirement of somebody from State service. We want to make certain that we take the time to do that. She asked if there were comments or questions. There were none. She noted, as much as the Division can possibly do this, at the completion of the Legislature, to provide a report, or even a verbal executive summary, about changes to NRS which impact the State, specifically the Division. Or, the pay of employees. **Peter Long:** Stated, we'd be happy to do that.

X. PUBLIC COMMENT

Chairperson Fox: Advised no vote or action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken. She asked if there were any public comments.

Peter Long: Brought to the Commission's attention that he had the opportunity to see Commissioner Spurlock's daughter testify on a bill. He went on to say that after being over there multiple times he wished he had the polish and expertise that she had. She did a fantastic job.

Commissioner Spurlock: Thanked Mr. Long and wanted to let everyone know the reason why was his daughter saved her stepfather's life three years ago. She was 15 and had received CPR training at A-Tech, was alone with him in a house painting a wall when he collapsed; it was very severe. She got on the phone, told the dispatcher she knew CPR and started right away. The paramedics arrived and told her that she was pretty much the cause for him still being alive today and that he wouldn't have survived otherwise. Commissioner Spurlock related that his high school friend is president of the American Heart Association in Northern Nevada and knew about that situation, so she asked Sabrina to come testify, as the bill supports expanding CPR and defibrillator training in the public schools. Not a real hard requirement, but just a strong recommendation that they expand the training. He noted that he thought it will pass.

Chairperson Fox: Stated, that's very wonderful to hear. You must be very proud of her, Andy.

Commissioner Spurlock: Replied, very much so; thank you.

Chairperson Fox: Wished all the Commissioners and staff a beautiful weekend.

XI. ADJOURNMENT

Chairperson Fox: Adjourned the meeting.