

CIVIL SERVICE COMMISSION SPECIAL MEETING MINUTES

Thursday, January 15, 2015

12:00 p.m. – City-Service Building – Front Conference Room

Present: CSC Members: Chairman S. Korhn, N. Walker, L. Myers, And Clerk A. Scribner
Guests: T. Tobias, Police Chief, T. Schroeder, HR Mgr., Ptl. D. Richards, Ptl. C. Yocum,
Councilman J. Hancock, Councilman P. Lundberg, J. Leonard, City Administrator,
D. Williams, Law Director

CALL TO ORDER

The meeting was called to order at 12:00 pm in the front conference room at City Hall, 631 Perry Street by Chairman S. Korhn. Clerk Scribner reported that all Sunshine Law notices have been complied with.

1. **Approval of December 16, 2014 Civil Service Commission Meeting Minutes.**

Motion: The motion was made by N. Walker, seconded by L. Myers to approve the Civil Service Commission (CSC) meeting minutes of December 16, 2014. All members voted aye, the motion carried.

2. **Assistant City Engineer:** T. Schroeder noted that Assistant City Engineer Melinda Warner has submitted her resignation effective January 30, 2015 leaving an open position. The City would like to fill the position using the oral interview process and reviewed an evaluation sheet used in 2012 when M. Warner was hired. She stated the form worked well with the criteria weighted as shown. Interviews would be conducted the City Engineer, City Administrator and the HR Manager. Advertising for the position will be conducted in the Crescent News, Ohio Municipal League and Toledo Blade.

Motion: The motion was made by S. Korhn, seconded by N. Walker to fill the Assistant Engineer position using the oral interview process using the evaluation sheet (Exhibit A) and rankings previously established. Candidates will be interviewed by the City Engineer, City Administrator and HR Manager with each scoring independently and submitted to the Civil Service Clerk for grading and tabulation. The position will be advertised in the *Crescent News*, *Toledo Blade* and with the Ohio Municipal League in the customary fashion. All Veterans preference credits are available to those submitting timely appropriate paperwork. A passing score of 60% of the total score is required. The motion was seconded by L. Myers. All members voted aye, the motion carried.

3. **Classification Change:** T. Schroeder noted that reclassification of the Assistant City Engineer position is being sought to raise the classification from a "D" to a "C". The classification schedule was reviewed noting "assistants" are typically one level below their supervisors. The City Engineer is the second ranked position within the City organizational structure with the position requiring a professional engineering certificate as outlined in the job description. Chairman Korhn discussed with J. Leonard the meaning of the 25th, 50th and 75th percentiles listed on the classification schedule. J. Leonard noted that a long time ago there were studies which focused on minimum and maximum salaries for positions. At this time; the 50th percentile is the only measurement used as this is the level used to gauge whether the salary being offered must receive approval by City Council.

Motion: The motion was made by S. Korhn, seconded by N. Walker to reclassify the Assistant Engineer position up to Class C, from Class D. All members voted aye, the motion carried.

4. **Request for Reconsideration of December 16, 2014 Assistant Police Chief Exam Procedure/Interpretation of Section 6.05:** J. Leonard stated that Section 6.05 has been used for promotional reasons for the selection of the police and fire chiefs and assistant chiefs. He wishes to appeal the December 2014 decision by the Civil Service Commission which limited to internal candidates only being eligible to test for the assistant police chief position. J. Leonard again requested that the testing be opened up to external candidates as well. He stated he would like to see a competitive test that includes not only internal but external candidates as well.

Much discussion ensued with the following points summarizing the discussion:

- Chairman Korhn noted that many of the decisions made by the Civil Service Commission are required by State law.
- J. Leonard stated that the management positions require not only the ability to score high on written tests and assessment center testing; but these individuals all must cut to the edge of leadership positions and the City wants to ensure that the right individuals are placed in those leadership positions. The Charter Amendment (Section 6.05) gives the local Civil Service Commission discretion to open the testing to outside candidates who may prove to be better than the internal candidates. Opening the testing to the outside creates a larger pool of candidates from which to select.
- Chairman Korhn recalled that the Charter Section 6.05 was passed out of necessity when the rank and file in the Fire Division refused to participate in promotional testing for the Fire Chief and Assistant Chief positions. He stated Section 6.05 is totally contrary to what Civil Service is supposed to be; to eliminate the spoils system where you go out and appoint anyone you want. J. Leonard stated that the selection of who you want is done every day when the list of ten candidates is used for hiring. S. Korhn responded that the list of ten is derived from competitive tests; so the City is not selecting "whoever they want". And the Rule of 10 applies only to entry level positions, not promotional exams which under the Ohio Revised Code have a "Rule of 1". S. Korhn noted that under the Charter, the Chief

and Assistant Chief promotional testing allows for a list of up to 3 for these exams; however in this instance with only 3 internal candidates taking the promotional exam, the rule of one will be used. He noted that in the past for internal Fire Chief and Assistant Fire Chief tests, we have sometimes allowed a rule of three which is really contrary to traditional Civil Service promotional laws. However, this leeway is allowed under the City Charter on Fire and Police Chief and Assistant Chief exams.

- Chairman Korhn posed the question to J. Leonard if the Civil Service Commission has ever permitted outside candidates for promotional testing besides in the Fire Department? J. Leonard replied no. Chairman Korhn stated that promotional testing for the Police Department has never included external candidates and stated that the Civil Service Commission concluded at their December meeting that the testing should remain internal. Chairman Korhn noted that the Charter amendment was passed out of necessity due to the Fire Department's personnel lack of interest in promotional testing for the Fire Chief and Assistant Chief positions. It is unclear as to why the Police Department was also included but it was. He stated that it appears on the surface that there are three lieutenants interested in the promotional testing and reiterated that it is within the discretion of the Civil Service Commission to determine whether testing should remain internal or include external candidates.
- J. Leonard argued that the true spirit of hiring someone in the Assistant Police Chief's position and placing them in that position takes a certain amount of discretion. He continued that there are a lot of things that can't be measured by testing; noting leadership can't be judged. He restated that the Charter gives the Civil Service Commission the ability to not follow traditional Civil Service. Chairman Korhn responded that we spend thousands of dollars for oral assessment centers which hopefully assess leadership qualities as intended.
- L. Myers noted that there was no indication that there are problems with any of the three internal candidates and once the testing is opened up to external candidates; a precedent has been established. He restated that the Fire Department personnel have circumvented the system in the past but this has not been demonstrated within the Police Department. J. Leonard noted that manipulation of the system can go on anywhere; it's a travesty that some people will take the promotional tests and not put a lot of effort into it. He questioned if that was a good enough reason to throw it all open.
- N. Walker noted that he was promoted up through the ranks but understands both sides. He noted that outside candidates would have to show their qualifications and noted that though they may be highly ranked in a smaller community; it doesn't mean that they will be a good supervisor in a department of our size.
- Chairman Korhn noted that if the testing were opened to the outside; the rule of three would probably be more appropriate in that case. He noted that one recent promotional Assistant Fire Chief test was conducted internally with the City provided with three names.
- D. Williams shared his view of Charter Section 6.05; noting he was involved when it was originally passed. The Charter Commission did not allow him to write the wording but what truly matters is that the public voted on and passed the wording that is in place today even if the wording may not have been the same as the Charter Commission's intent. According

to D. Williams the Charter Commission felt that if you are going to open up testing for these positions to the outside; then it should be done all the time. He further stated that the real preliminary question is who determines whether the testing should remain internal or be opened to the outside. This is not clear in the local Civil Service rules or the City Charter according to D. Williams. Section 6.05 of the City Chart is under the section of the City Administrator. D. Williams stated that City Administration came to the Civil Service Commission asking that the promotional testing for the Assistant Police Chief also be opened to external candidates. The Civil Service Commission stated that they preferred that the vacancy be filled from within. D. Williams suggested that the City Administrator has the authority to decide whether the vacancy be filled by internal candidates or extended to external candidates as well. He continued stating there is a whole chapter in the Charter on the City Administrator's authority and Section 6.05 is included in that section. N. Walker agreed with Mr. Williams' view stating he too is unclear who initially determined whether the testing remained internal or was opened to the outside. While the Civil Service Commission administers the testing; Section 6.05 doesn't define who determines initially whether the testing remains internal or is opened up to external candidates. Chairman Korhn disagreed with D. Williams' interpretation stating that if the City Administrator really has that power; Section 6.05 would have to specifically state that. He continued stating the Civil Service Commission has always determined whether testing should be kept internal or opened to external candidates. The Charter amendment was only to specify what to do when you don't have internal candidates to fill these vacancies. Section 6.05 is not ambiguous by not reconfirming that the Civil Service Commission continues to determine the initial eligibility of candidates (ORC 124.44 and Local Rule 50.12). Furthermore the placement by someone of Section 6.05 in the Charter under the City Administrator's duties is irrelevant and not what the voters voted upon. J. Leonard stated that if the Commission truly feels strongly about promotion from within; they should weight the system to give advantages to those from within the system even when external candidates are allowed. Mr. Myers said that would be almost impossible to administer. D. Williams stated that traditionally there were efficiency points and seniority credits which give internal candidates an advantage. Chairman Korhn noted that efficiency credits have been eliminated from the scoring mechanism but the seniority credits remain and are added to a candidate's passing score. Norm Walker suggested that if the promoted individual does not meet expectations during their probationary period; they could be demoted with the individuals scoring second highest on the testing then promoted; or another exam given.

- Chairman Korhn pointed out that J. Leonard is arguing against Civil Service laws philosophically. J. Leonard stated that he has a problem with the mechanisms and techniques used to judge the candidate's abilities and would like a list certified of not one candidate even on an internal test. Chairman Korhn noted that the rule of one is required by State law. Although Section 6.05 of the Charter would allow up to three names certified even on an internal promotional Assistant Chief exam. J. Leonard exited the meeting at 1:00 p.m.
- D. Williams noted that there was once a promotional test conducted in the Police

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Department and the candidate with the highest score was disqualified by the Commission from the testing as he was on a last chance employment agreement due to disciplinary problems. Chairman Korhn noted that the City should have requested this individual be disqualified from testing in advance and not after completion of the testing.

- Chief Tobias stated that just because promotional testing within the Police Division has always been kept internal; it doesn't mean it's the right way to do it; given the Charter wording allows for the testing to be open to both inside and outside candidates. Chairman Korhn restated that for the Police Department; all promotional testing has remained internal and has never been extended to the outside. He stated that he was not inclined to change his position on having the Assistant Police Chief promotional testing remain for internal candidates only. N. Walker and L. Myers both agreed. It was noted that when the Fire Department promotional testing was extended to the outside; candidates selected have often used the position as a stepping stone to advance their careers. It was noted that it would take another vote of the electors to change the charter provision as it states now. D. Williams noted that there is a provision in the City Charter that Council can pass an ordinance that can clarify any ambiguities found in the Charter wording. Chairman Korhn stated Section 6.05 is not silently ambiguous as it never addresses at all any change as to Civil Service's longstanding status as being the entity who determines the qualifications of potential test applicants. All of this is too late to deal with the immediate opening but may be an avenue to explore in the future. Chief Tobias suggested that it be decided soon as this discussion will arise again when he retires.

There being no further business, the meeting adjourned at 1:05 pm.

MINUTES APPROVED:



S. Korhn, Chairman



Ann B. Scribner, Commission Clerk

THE ABOVE MINUTES REPRESENT OUR UNDERSTANDING OF THAT WHICH SHOULD BE RECORDED. IF CHANGES SHOULD BE MADE, PLEASE FORWARD PROMPTLY SO THAT AN ACCURATE RECORD CAN BE MAINTAINED FOR THE BENEFIT OF ALL.

Cc: Mayor Bob Armstrong, Jeff Leonard, David Williams, Tracey Schroeder, Council Members, Division Heads.