

Minutes of a Meeting of
City of Bay Village Civil Service Commission

Held July 15, 2014

2:33 p.m.

Members Present: James Potter, Marty Krebs, Dr. Dennis Lekan

Also Present: Police Chief Spaetzel
Fire Chief Lyons arrived at 2:42 p.m.

Chairman Potter called the ninth meeting of the Civil Service Commission in the year 2014 to order at 2:33 p.m.

Motion by Lekan, second by Krebs, to approve the minutes of the Civil Service Commission meeting held June 4, 2014.

Roll Call Vote: Yeas – Potter, Krebs, Lekan. Nays – None. Motion passed 3-0.

Police Officer Entry Level Examination

Mr. Potter stated that Chief Spaetzel has requested, with Mayor Sutherland's permission, the Civil Service Commission discuss the possibility of holding an entry level police officer examination. Chief Spaetzel stated that he has four openings in the department, three of which he has been permitted to fill. Patrolman Andrew Duffy, who was recently hired, has submitted his letter of resignation to go back to Mayfield Village. Patrolman Duffy's last day is July 19, 2014.

Mr. Potter and Chief Spaetzel discussed why so many applicants of the existing eligibility list have been deemed unqualified to fill the current openings. Chief Spaetzel distributed a spreadsheet of information to the Civil Service Commission of a listing of each candidate and where they exist on the current interviewing process. Some of the candidates have waived off of the eligibility list, either by their choice or by the Police Department's request, due to past behavior, past criminal activity, or any number of other things. Chief Spaetzel noted that he has been involved in the hiring process for Bay Village for the past eighteen years. This is the furthest they have reached into an eligibility list (Number 41). He noted that they have interviewed good candidates who decided to stay in their current positions, or were hired prior to the offer of Bay Village.

Mr. Potter noted that the company I/O Solutions was used for the test that established the current eligibility list. The test resulted in a high number of passing candidates. Other testing agencies, including Cooperative Personnel Services, have given more stringent examinations. Chief Spaetzel commented that some of the high ranking candidates on the eligibility list are lower in rank on other communities' eligibility lists. Mr. Potter noted that the Civil Service Commission

is permitted by the Civil Service Rules to conduct a new test prior to the expiration of the existing eligibility list. (Rule VIII, Section 2).

Chief Spaetzel stated that he is interviewing four people and has authorization to hire three. In the best case scenario he will have two to hire. As it stands today, if job offers are given to two candidates, he will still be one candidate short and does not see anyone on the current list that he would consider.

Motion by Krebs, second by Potter, to start the process of scheduling an Entry Level Police Officer's Examination. Dr. Lekan asked how quickly another eligibility list can be established. Mrs. Krebs estimated that it would take approximately three months' time. Dr. Lekan asked if any of the deputy police officers filling in would be interested in a full time job. Dr. Lekan was informed that the deputies would have to go through the Civil Service testing process to qualify for full time employment.

In regard to the motion to start the process of scheduling an Entry Level Police Officer Examination, the Chairman called for a roll call vote:

Vote resulted: Yeas – Potter, Krebs, Lekan
Nays – None.

Motion passed 3-0.

Chief Spaetzel is in the process of reviewing a sample test from CPS Services in California. Other testing agencies will be contacted for review of their tests and proposals.

Review of Civil Service Rules and Regulations
Pages 16 through 21

Mr. Potter asked the Secretary if she has begun retyping the Civil Service Rules and Regulations incorporating the changes suggested by the Commission to date. (Rule 8). The rules have been retyped, noting the changes with an asterisk and marking whether the change is minor or significant.

In further reviewing Rule VIII- Eligibility Lists, (Pages 16 and 17) Section 4. (a) "Failure to respond to notice of certification within the time limited in such notice." Mr. Potter asked if seven days' notice is sufficient time for the applicant to respond. Chief Spaetzel stated that he normally calls the applicant to see if they are still interested in the position. If no longer interested, the applicant is asked to waive off of the eligibility list. There will be no change in Rule VIII, Section 4 (a).

There were no further changes on Pages 16 and 17, Rule VII.

Chairman Potter advised that Mayor Sutherland has appointed the Service Director as the Safety Director in addition to his position as Service Director. The Mayor formerly held the position as Safety Director. The Mayor is still the appointing authority for Civil Service positions.

Rule IX Certification – Page 18

Dr. Lekan stated that Paragraph three, “In all physical examination, the Commission reserves the right to designate the examining, licensed physician whose report shall be final” should read “In all physical examination, the Commission **shall** designate the examining, licensed physician whose report shall be final.”

Chief Lyons and Chief Spaetzel stated that currently the Finance Department contracts through outside agencies for the required medical examination.

Lengthy discussion followed. Dr. Lekan stated that he would prefer the Civil Service Commission to choose the examining physician. It serves the role of the Civil Service Commission to be the impartial insurer of total fairness in the process, rather than a city employee. The more that the Civil Service Commission can fill their role of total neutrality, apolitical, the better. Ms. Krebs stated that if the Police Chief and Fire Chief see a conflict in recommending an examining agency, as Fire Chief Lyons has stated, the city should see the same conflict.

Motion by Lekan, second by Krebs, that Rule IX, Certification, Section 1. Medical Tests, be rewritten to say that “In all physical examination, the Commission **shall** designate the examining, licensed physician whose report shall be final.”

Mrs. Krebs stated that the Finance Department should contact the Civil Service Commission when someone needs to be scheduled for an examination, and inform the Civil Service Commission who they are using and why they are using that source. The Civil Service Commission will decide if the selection is appropriate or if there is someone else they want to be used for the examination.

Fire Chief Lyons stated that typically by the time they reach the point where they need a physical examination, a conditional offer of employment has been made. At this point they are typically dealing with a relatively tight timetable. Most candidates have turned in their two weeks’ notice to their previous employer at this point in time. He asked that the Commission clear this with the Finance Department before getting to that point. The Civil Service Secretary will so inform the Finance Department of the change of the rules.

Roll Call Vote: Yeas – Potter, Krebs, Lekan
Nays – None

Motion carried 3-0.

Rule IX, Certification, Section 2, Notice of Vacancy as amended October 4, 2002

The last sentence of this section, “When less than ten names are certified to an appointing authority, appointment from said list shall not be mandatory” *was referred to Commissioner Krebs for new language.*

Section 3. Certification of Eligibles

Mr. Potter asked about the sentence that reads: “No person shall be certified from an eligibility list more than three times to the same or similar position, except at the request of an appointing authority; provided, however, that no such person shall be certified when to do so operates to prejudice the rights of other eligibles ranking higher on the eligibility list than such person.”

Chief Spaetzel stated that if multiple persons are being hired from the same eligibility list and someone is bypassed and a person below that person on the list is hired, the higher ranking person is still on the list and at the next hire considered again. After three considerations, the candidate most probably becomes someone that the department is not interested in hiring. Chief Lyons agreed, stating that sometimes there are instances on the Fire Department side where they may pass somebody up and hire somebody below that person, not necessarily because the candidate is not a good candidate, but maybe because he does not have all the training required. He noted that at this time he has a list that is a year old, and there are a couple candidates that are closer to the top. They were good test takers but did not have paramedic or firefighter certification. It is very expensive to send them once they are on the job for the training; it is preferred that they get their certifications before being appointed. During that time period, three other candidates were hired off the list. If this definition were followed strictly, he would not be able to return to those at the top and they may have gotten that paramedic certification in the meantime.

Chief Spaetzel noted that the language “except at the request of the appointing authority” provides an option.

The word “prejudice” in the sentence is a legal term and will remain.

Dr. Lekan asked about the use of “appointing officer” and “appointing authority” interchangeably throughout the rules. The “appointing officer” generally refers to the Chiefs of the Departments. The “appointing authority” refers to the Mayor.

Section 4. Notice of Certification

Chief Spaetzel and Chief Lyons stated that they contact the eligible candidates by telephone. If there is no response, they will send a certified letter.

The appointing officer does make immediate report to the Commission when the certified candidates appear for an interview and whether they decline or waive certification.

Section 5. Waiver of Certification

The paragraph currently reads: “Any eligible candidate may waive certification, either before being certified or within six days after being certified, except that an eligible candidate may not waive certification more than two times and the reasons for such waiver of certification must be approved by the Commission.”

Mrs. Krebs stated that language should be added that would indicate that the person is going to be removed from the eligibility list even though they submitted a waiver, if the waiver is not withdrawn within 6 months.

Ms. Krebs questioned the words “either before being certified.”

Chief Spaetzel questioned the words “within six days after being certified.” *This section was referred to Ms. Krebs for new language.*

Section 6. Authority.

“No request for certification of eligible candidates and no notice of appointment, whether of a permanent or temporary appointment, shall be recognized by the Commission unless made by and over the signature of the lawful appointing authority.”

The Commission asked the Secretary to send the appointing authority a notification of the requirements of this section.

Rule X – Appointments

Section 7. Regular Appointments. “Regular appointments shall be made in the manner provided in Article VI of the Charter; provided, however, that an appointment made as a result of certification from a list designated by the Commission as the most nearly appropriate list shall be deemed to be a regular appointment to the position for which such certification is made.” *This section was referred to Ms. Krebs for new language.*

Ms. Krebs read the next paragraph of Section 7:

“Regular appointments shall be either original or promotional. An original appointment shall be any appointment made from an eligibility list created as a result of an open competitive or non-competitive test. An appointment shall be deemed to be promotional when made from any promotional eligibility list and involving an advancement in rank or increase in salary, or both.” Chief Spaetzel stated that by the collective bargaining agreement police officers, for pay purposes, are probationary, Levels 1, 2, and 3.

Chief Spaetzel noted that Detective Jay Elish, who recently finished first in the promotional examination for Police Sergeant, turned down the position. Officer Mark Palmer, the second highest candidate, was promoted to the position of Sergeant.

The last sentence in Section 7 was read by Ms. Krebs:

“Original appointment to the uniformed force of Police and Fire Divisions shall be in the lowest grades in each service.” This section will be left as it is.

The collective bargaining unit agreement allows for a person hired from another community’s department to join the force at a higher grade with permission from the appointing authority.

Section 9. Minimum Age

Mr. Potter read the current rule:

“No person shall be eligible to receive an original appointment as police officer in the Police Division unless he has reached the age of twenty-one. No person shall be eligible to receive an original appointment as firefighter in the Fire Division unless he has reached the age of eighteen. (3/83).” The language as it exists shall stay.

Section 9. Provisional Appointment.

Mr. Potter read the current rule:

“If, in the opinion of the appointing authority, there are urgent reasons for filling a position and there are no eligible candidates on an eligibility list established as a result of an examination for the position, the appointing officer may appoint provisionally a qualified person to fill the vacancy until an appropriate eligibility list is established and an appointment made therefrom.”

Ms. Krebs asked why the recent vacancy of Records Clerk in the Police Department was not handled by a provisional appointment. Chief Spaetzel stated that it had to do with finding someone already working for the city that would take the position. The Secretary noted situations in the past when provisional employees did not pass the Civil Service examination and had to be released from employment.

The rule continues:

“No provisional appointment shall be continued for more than thirty days after an appropriate eligibility list has been established for the class of position, and in no event more than 120 days from the date of appointment, without the express approval of the Commission for an extension.”

Discussion followed.

Motion by Krebs, second by Lekan, to change “thirty days” to “ninety days” in the second paragraph of the rule for Provisional Appointment.

Roll Call Vote: Yeas – Potter, Krebs, Lekan
Nays – None.

Motion passed 3-0.

Section 9. Emergency Appointment.

Dr. Lekan read the following rule:

“Whenever an emergency exists which requires the immediate services of one or more persons, and it is not possible to secure such persons from appropriate eligibility lists, the appointing authority may appoint a person or persons without regard to the provisions of these rules governing appointments. In no case, however, shall the same person be appointed for more than thirty working days during any twelve-month period.”

Discussion followed. Mrs. Krebs asked what the procedure would be in the event of a disaster in the city where outside experts might have to be brought in to service. Fire Chief Lyons stated that the only disaster he could envision would be one where a number of lives would be affected. Further discussion followed. The Chiefs questioned whether the number of thirty working days would be sufficient.

Motion by Lekan, second by Krebs, to change the words “thirty working days” to “ninety working days” in the first paragraph of Section 9, Emergency Appointment.

Roll Call Vote: Yeas – Potter, Krebs, Lekan
Nays – None.

Motion passed 3-0.

Dr. Lekan read the second paragraph of Section 9 as follows:

“Each emergency appointment shall be reported in writing to the Commission by the appointing authority immediately upon making the appointment. The Commission reserves the right to inquire into the nature of the emergency on the basis of which the appointment is made.”

The language shall stay as written.

Section 10. Temporary Appointment.

Mrs. Krebs read the first paragraph as follows:

“If an employee is needed for a temporary period, the appointing authority shall first request certification of persons from an appropriate eligibility list, who have indicated a willingness to accept temporary employment. If less than three such eligible persons are available for a vacancy, the appointing authority may appoint any qualified person.”

Discussion followed. Chief Lyons related an incident from the City of Rocky River where a candidate on the eligibility list was hired to replace an injured firefighter temporarily.

Motion by Krebs, second by Potter to add the words “from the eligibility list” at the end of the last sentence of Paragraph 1 of Section 10 Temporary Appointment. Ms. Krebs explained that if an

appointment is needed for a position for which there is not an appropriate eligibility list, the appointment could be made as a provisional appointment.

Roll Call Vote: Yeas – Potter, Krebs, Lekan
Nays – None.

Motion passed 3-0.

Mrs. Krebs read the next paragraph as follows:

“The acceptance or refusal of temporary appointment shall not affect an eligible candidate’s standing on an eligibility list or his eligibility for regular appointment.”

The language shall stay as it exists.

Mrs. Krebs read the next paragraph as follows:

“The duration of temporary appointments shall be limited to need and shall in no event continue for more than 120 days in any twelve-month period. Successive temporary appointments shall not be made, nor shall an employee receive successive temporary appointments to the same position.”

The language shall stay as it exists.

Mr. Potter advised that the next meeting of the Civil Service Commission will open with Mrs. Krebs reporting on the three assignments she has been given to create new language for Rule IX, Certification, Section 2, Notice of Vacancy as amended October 4, 2002, Section 5, Waiver of Certification, and Rule X – Appointments.

This will be followed by continuing the review of the Rules and Regulations of the Civil Service Commission beginning with Section 11. Probationary Period on Page 21. Rule XI, Promotions and Rule XII, Promotions, Fire and Police Divisions will follow.

Ms. Krebs asked about the status of the investigation by the Law Director regarding the inclusion of Bay Village School Board employees under the classification of Civil Service. Mr. Potter stated that he spoke with Law Director Ebert and he has advised that Ordinance No. 90-75 of Bay Village City Council passed July 9, 1990 determined it to be in the best interest of the City of Bay Village’s Civil Service Commission to serve only the City and not the Board of Education. The same situation exists in surrounding communities.

There being no further business to discuss the meeting adjourned at 3:54 p.m.

James R. Potter, Chairman

Joan T. Kemper, Secretary