

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

Held March 23, 2016

2:00 p.m.

Members Present: James Potter, Chairman, Marty Krebs

Excused: Dr. Dennis Lekan

Also present: Police Chief Spaetzel, Fire Chief Lyons, Firefighter Steven Kaye, Firefighter Sam Gmetro, Fire Lieutenant Kevin Somerville, Law Director Ebert joined the meeting at 2:45 p.m.

Chairman Potter called the fourth meeting of the Civil Service Commission in the year 2016 to order at 2:00 p.m.

Motion by Potter, second by Krebs, to approve the minutes of March 16, 2016 as prepared and distributed.

Roll Call Vote: Yeas – Potter, Krebs

Motion carried. 2-0

Review of recent changes to promotional testing procedure for the position of Fire Lieutenant

Steven M. Kaye, President, Bay Village Fire Fighters Local 1144, addressed the Commission and expressed appreciation for calling the meeting together in response to his letter dated March 21, 2016 to Mr. James Potter, Chairman. Firefighter Kaye's letter is attached to the minutes of this meeting as if fully incorporated herein.

Firefighter Kaye asks that the new rule established by the Civil Service Commission at their meeting held March 7, 2016 regarding promotion and eligibility be postponed and the former rules be applied to the current test, due to the late change in the eligibility rule as it relates to the upcoming promotional exam for the position of Lieutenant. Firefighter Kaye stated that he sees no harm in allowing someone with less than three years of service being allowed to take the test and becoming eligible for promotion during the two-year life of the eligibility list. He noted that the firefighters being hired recently have previous experience in other fire departments, whether that experience be full time, part time or volunteer. Mr. Kaye stated that if they are allowed to take the test they are still only eligible for a shortened time period, and will not receive the same seniority points as the candidates with a minimum of three years' service time. Given the opportunity to study the books on tactics, fire department leadership, customer service and building construction to prepare for the test and gain a more intimate knowledge of policies and procedures of the Fire Department, is a very important opportunity for the newer men. By opening the

candidate pool a chance is given for the real cream to rise to the top. Mr. Kaye noted that Jason Goodwin, who has inquired about the eligibility, has six years on another department, has incredible leadership skills, and has the drive to further his career and become more educated. In a couple of weeks he will be going to Fire Instructor School, and excluding men like this is detrimental to the process and the department.

Mrs. Krebs asked if the men that were excluded relied on an opportunity to take this examination and spent time and money in preparation. Mr. Kaye said that some of the men have, and he knows particularly that Jason Goodwin has purchased study materials. The book list has been out since October and it was perceived that there would be a test at some point.

Mr. Potter stated that he realizes this decision to change the rule regarding eligibility of candidates came at the late hour of test preparation. He noted that the decision was not made without some deliberation. Both chiefs were present at the time, and there was discussion as to what the chiefs wanted to see in their senior officers. One of the questions was whether the two years of probation time applied to the three years' time of service. The Fire Chief stated that he would like to have a candidate with as many years as possible be eligible for promotion. Both the Fire Chief and Police Chief agreed that the extra time (3 years or more) would be helpful for a senior officer.

Fire Chief Lyons stated that the Civil Service Commission did a broad and comprehensive rewriting of the Civil Service Commission rules last year. Although neither Chief caught it at the time, they both feel that the rules specific to promotions are ambiguous as to eligibility for promotional examinations. Chief Lyons spoke with former Fire Chief Jackson who relayed that during his tenure that rule was interpreted in different ways. There were tests where those with fewer than three years' service time were not permitted to take the test, and there were tests where those with fewer than three years were permitted to take the test.

Chief Lyons is in favor of the necessity of having three years' service time before being permitted to test for promotion. It was pointed out to Chief Lyons at the end of last week when he spoke with a few of the officers that this was challenging for them to accept due to the proximity of the forthcoming exam. Firefighter Kaye is very much in favor of interpreting the rules so that anyone can take the exam so long as the applicant will have three years' time during the duration of the list. Another option was asking the Commission to consider holding in abeyance this update to the rule until after this particular examination cycle. Chief Lyons stated that he would not oppose that because of the fact that some of the men have already been studying. The third option the Fire Chief proposed was possibly allowing the rule to stand but also allowing candidates who aren't eligible for promotion to still take the examination merely as practice, with the understanding that they wouldn't be put on a promotional list.

Firefighter Kaye stated that he likes the option of postponing the enactment of the changed rule until after the scheduled examination takes place, especially given the short time frame. He also does not think the third option for future tests would be unfavorable. The process of test preparation is not an easy task but is beneficial for everyone in the department.

Mr. Potter noted that federal and state rule changes have a waiting period prior to implementation.

The Civil Service Commission in this case has made a decision with only about thirty days of advance notice of a change of precedence. Mr. Potter stated that he is in favor of three years' time and grade prior to promotion. Commissioner Lekan has favored three years' service time before being allowed to take the examination. Mr. Potter stated that he feels that adopting this new rule in March with a test scheduled in April is short notice.

Commissioner Krebs stated that because there has been ambiguity and people have relied upon the fact that they would be allowed to take the examination, the option of holding back on implementing the new rule for this time only, and allowing the people that would have three years at the date of promotion to take the examination. Commissioner Krebs stated that she does not know if she would propose allowing anyone in the future to take the examination although it would be fabulous experience for everyone. But, for this time only, because of the reliance the officers have had, she would agree to postpone the implementation of the new rule. Mrs. Krebs would agree that a person who would be eligible, in relation to three years' time served, on the date of promotion will be permitted to take the examination.

Mr. Potter stated that he is of the opinion that everyone should be able to take the examination. But, only those that have been here three years at the time of the test would be eligible to be on the eligibility list if they go through the assessment procedure and are ruled to be the top candidates. Fire Chief Lyons stated that he would support that for a future test, but given to the short period of time between the change and this scheduled examination, it would not be his recommendation for this test.

Motion by Krebs, second by Potter, that those firefighters who will have achieved three years' service time during the life of the eligibility list and at the time of appointment to take the Fire Lieutenant Promotional Examination, for this examination only.

Mr. Potter called for further discussion. Mr. Potter stated that he believes the reason he would favor this motion by Mrs. Krebs is because changing the rules with adequate notice would be concurrent with what other governmental agencies do in allowing a certain period of time for the rule to take effect.

Roll Call Vote:
Yeas – Potter, Krebs
Nays – None.
Motion passed 2-0.

Mr. Potter asked that a notation be made in the Civil Service Rules and Regulations that the effective date of the change of the rule be June 16, 2016. The rule applies to both Fire and Police Departments promotions.

The Secretary asked if the test date of April 20, 2016 would stand since it is less than thirty days from date. Mrs. Krebs suggested moving the deadline for application to Friday, March 25, 2016, the written test to May, and the oral assessment portion to June.

Chief Lyons stated that he would like to see the process move as quickly as possible, but he can appreciate the candidates having the full thirty days of preparation.

Mr. Potter asked Firefighter Kaye what the impact would be to add another 15 or 20 days for the application and testing process. Firefighter Kaye stated that he believed more individuals would apply given the fact that there is more study time.

Mr. Potter asked Fire Chief Lyons if the additional time would affect the overlap on the staff due to the pending retirement. Fire Chief Lyons stated that they would deal with that situation as best as possible.

Motion by Potter, second by Krebs, to reschedule the Fire Department Lieutenant Promotional Examination an additional two weeks, and the deadline for the application to be March 28, 2016.

Roll Call Vote:

Yeas – Potter, Krebs

Nays – None.

Motion passed 2-0.

Miscellaneous –
Fire Department Personnel Evaluations

Firefighter Kaye addressed the commission regarding Fire Department personnel evaluations as applied to scoring (Rule XII, Section 8.) He stated that the men in the department were unaware of the rule change that was made last May until the announcement of the test that came out last week. The Firefighters contract states that the scoring is based on 50% written examination and 50% oral examination. Evaluation points are not listed in the contract. The firefighters were not made aware of any change in the Civil Service Rules. The evaluations have been in place for two years. In 2014, the evaluations were done for that year, completed in December. For the year 2015, evaluations have not been completed. This puts undue stress upon the officers that are now grading them because they know that those performance evaluations are going to be directly related during the open application and promotional examination. The firefighters were not aware that those evaluations were going to be used for criteria for points on the examination. They do not necessarily oppose using those evaluations in future tests, but given the current situation that evaluations for last year have not been finished and we are now past the quarter of the new year, they are requesting that the new scoring system not be applied for this April/May examination.

Mr. Potter asked that the Law Director be brought into the meeting to advise the Civil Service Commission of what their obligations are to advise the Fire Department of the change of rules.

Law Director Ebert joined the meeting at 2:45 p.m. Mr. Potter apprised Mr. Ebert of the discussion that was taking place regarding the change of the Civil Service Rules and Regulations this past May that affected the weight to be applied to the final score of promotional examinations based on evaluations. The rule was change in concert with discussions that were held with the Police and Fire Chiefs. The question now is whether the employees, including the bargaining group, were notified of the changes that were made and the impact it might have on the scoring for

advancement. The Rule in question is Rule XII, Section 8 of the City of Bay Village Civil Service Rules and Regulations.

Mr. Ebert stated that the revised rules were posted. Mr. Potter asked Law Director Ebert if there is a difference between the Civil Service Rules and Regulations and the union bargaining group contract, which takes precedence. Law Director Ebert stated that the contract takes precedence but he has to review the contract.

Mr. Ebert will report back to the Civil Service Commission after his review of the contract.

Firefighter Sam Gmetro stated that one of the concerns also is that the rule was changed after the evaluations were started and there wasn't an opportunity at the end of 2014 for the firefighters who were evaluated to dispute certain scores that they received. Before this was part of the system, the numbers that were being used were established. That was the first year. The second year evaluations are being done now.

Mr. Potter stated that he feels we posted the rules and whether or not they were read or compared with the union contract is not the responsibility of the Civil Service Commission. Mr. Gmetro stated that even though they were posted, it was decided that they were going to be part of the promotional process, and the firefighters who were evaluated were not able to go back in time to those evaluations to dispute some of their scores. For example, there is a firefighter who got low scores for his use of sick time even though he had been given a comp time bonus for sick time that year. He did not think the evaluations were being used for anything at that time so he did not dispute it. Now, that evaluation number is permanently marked. Mr. Ebert stated that he should have taken action at that time, but, he will review and get back to the Commission.

There being no further business to discuss, the meeting adjourned at 2:53 p.m.

James R. Potter, Chairman

Joan Kemper, Secretary