

MINUTES OF MEETING
AVON CIVIL SERVICE COMMISSION
Held Wednesday, May 13, 2020

AVON CITY HALL

CALL TO ORDER

The meeting was called to order at 10:00 A.M. by Peter Kratt, Chairman of the Civil Service Commission.

ROLL CALL

Present: Chairman Peter Kratt and Commissioner, Tony Sarraino and Alan Wojciechowski.

In attendance: Asst Fire Chief Emling, Police Captain Larry Fischbach, Safety Director Duane Streator, Law Director John Gasior and Recording Secretary, Rose Seighman.

ADDITIONS/DELETIONS TO AGENDA:

Mr. Wojciechowski made a motion to accept the agenda as published. Mr. Sarraino seconded and the motion passed 3-0.

APPROVE MINUTES OF MEETING OF 3/4/2020:

Mr. Sarraino made a motion to accept the minutes from the March 4th meeting. Mr. Wojciechowski seconded and the motion passed 3-0.

OLD BUSINESS:

Mr. Gasior briefly went over the two (2) Emergency Orders that the three (3) Commissioners voted to approve via email before this meeting. One Order was to change the regularly scheduled meeting from April 29th, 2020, to May 13, 2020, due to the coronavirus pandemic and Governor DeWine's Stay at Home order. The second order was to suspend any testing within the Competitive Class of the Classified Civil Service until further notice, again, due to the coronavirus pandemic and Governor DeWine's Stay at Home order.

DISCUSSION ITEMS:

First Reading of Rule IV Section 12 "Provisional Appointment" Section – to be repealed

Mr. Kratt said he spent a lot of time looking this over and wanted Mr. Gasior to explain the reasoning for repealing this section. Mr. Gasior stated that it was very simple: there are two separate sections of our Rules that list the same wording regarding the "Provisional Appointment", we are taking one section out due to it being redundant. The duplicate language is located in Rule VII Section 6 and Rule IV Section 12. Mr. Kratt then asked what this rule on the Provisional appointment actually does. Mr. Gasior explained that it comes into play when you don't have an active eligibility list but there is an open

position. The City would hire a person under this rule. We rarely use this Rule and it's probably been about 15-20 years since the last time we did use it. Mr. Kratt said this rule does not mean that a person provisionally appointed that does not take a competitive test within a certain period of time, they are in the position without any ability to remove them. Mr. Gasior explained that it DOES mean that. He reiterated he can't remember the last time we used this Rule. It used to happen before we broke down the Unclassified Civil Service categories. We now use a resume review for clerical and unskilled labor. We used to use this rule to appoint clerical help and they would become permanent because there were not tests being given. This was back in the 1980's. But once we adopted the Unskilled Labor Class and put Unskilled Labor and Clerical together, using the resume and evaluation by Department Head, it pretty much eliminated this rule.

The only reason it became somewhat of an issue right now is because of COVID-19. As one of our Emergency Orders stated, because of COVID-19 we may not be able to give a test within the 60 days of a vacancy occurring. (When Sgt. Olds retired back on March 31st there was a vacancy in the Sergeant's rank within the Police Department.) We cannot get a testing company to come out and give an exam with the social distancing rules, limits on gatherings of not more than 10, etc. So, we have a vacancy, we do not have an active Eligibility List, so we were looking into the Provisional Appointment Rule and that's when we noticed it was duplicated. Mr. Gasior believes Chief Bosley does not think we need to hire using the Provisional Appointment. He will wait until we are able to test again. Captain Fischbach explained that since COVID-19, they completely rescheduled the Police Department and they are doing without the Sergeant at this time.

Mr. Kratt asked if there were any questions, there were none.

ACTION ITEMS:

Certify Promotional Fire Eligibility Lists

Mr. Kratt asked for an update on the promotional tests. Mrs. Seighman indicated that three promotional exams were administered in the Fire Department. The eligibility lists before them are for the Assistant Chief, Captain and Lieutenant.

Mr. Kratt asked if there were any problems with the exams, any appeals, etc. Captain Swope approached the podium and explained that although it won't change the Commission certifying the lists today, that the things that were previously discussed regarding the challenge period was misconstrued and nobody was able to challenge. He believes this is something we definitely need to look into for the future. There was a miscommunication that he thought they had clarified in the meetings and with the notes but in the end, it wasn't followed as far as a post grading challenge period. It could have something to do with the testing company because the city had the test but they sent it back because of whatever procedures were in place and then they couldn't get the test back so they couldn't actually look at the questions, all they could do was compare the answer sheets. So, this situation happened again and he guesses they need to be more clear in the future and rewrite the rules to say what it should rather than just clarifying it in meeting notes. That was the main problem that he saw. Plus, there was a misconception that they could write down questions during the test that they believed were questionable and they thought it would be limitless to however many questions they thought were questionable, but the testing company limited them to 5. In the future, they will need to clarify all these issues. With this test, because there were 2 parts of the test

(written and Assessment), there was more to go by than just the written test. The scores were broadened a little bit rather than it just being a question or two off. In the same sense, he said, there were two people that were very close on the written score and if there was a question they were going to challenge, it could have made a difference, but they couldn't do that. Mr. Kratt asked if those questions have been resolved to your satisfaction? Captain Swope answered that the City, at some point had to give the test back and then he heard from Mr. Gasior, Rose & Safety Director that we can't get the test back to see the questions. The rules were clear, the notes were not clear or he isn't sure where the confusion was, but the firefighters accepted the fact that this happened again. But they will have to clarify it better in the future. It is a little bit demoralizing, but in the same sense, was there going to be big change? There are three fire candidates that took the exam here today, so obviously there is some concern. He's not sure where the confusion lies. If you look at the notes, it's pretty clear, but Mr. Streater didn't have the notes, he has the Rules. The Rules are clear in his mind, but the notes were clear in their minds. And you have a time period you have to do it in. All of them were happy with our tests, but you have the other 3 candidates that tested below them and they aren't here, so they accepted it as well. Captain Swope indicated that the Commission went a little further than it did before as far as the examination notice, but we need to define it better on that notice. It didn't include everything it needed so that the process is seamless and that is what he would hope for the future. Mr. Kratt asked if there were any questions – there were none.

1. Assistant Chief

Mr. Wojciechowski made a motion to certify the Eligibility List for Assistant Chief. Mr. Sarraino seconded and the motion passed 3-0.

1. Captain

Mr. Sarraino made a motion to certify the Eligibility List for Captain. Mr. Wojciechowski seconded and the motion passed 3-0.

1. Lieutenant

Mr. Wojciechowski made a motion to certify the Eligibility List for Lieutenant. Mr. Sarraino seconded and the motion passed 3-0.

Certify Labor & Clerical Eligibility Lists

Mrs. Seighman stated there was 1 person added to the Clerical List and 2 were taken off and on the Labor list there were 6 added and 15 were taken off.

1. Labor

Mr. Wojciechowski made a motion to approve Eligibility List for Labor. Mr. Sarraino seconded and the motion passed 3-0.

2. Clerical

Mr. Sarraino made a motion to approve Eligibility List for Clerical. Mr. Sarraino seconded and the motion passed 3-0.

CHAIRMAN'S COMMENTS:

Mr. Kratt stated that in the 29 years he has served on the Commission, this is the first time everyone has to have masks on, it is truly a new age with COVID and he assumes the City is dealing with it well. He confirmed with Rose that she filed the annual Civil Service Commission Report, which she said was correct. He then brought up the review of the Civil Service Rules and asked Mr. Gasior where we are on that. Mr. Gasior said we have met once with the new Safety Director, Mr. Streater. The result of that original meeting was the update of the rule that was read today (Provisional Appointment). He knows we will need to focus more on the post and pre grade inspection of exams. He doesn't see the same problem Capt Swope sees. He believes we made things pretty clear if questions were "fishy" - that they should bring those to the Administration's attention prior to grading. Post grading, our Rules state that we review the answer key and that's it. We are walking a fine line with testing companies who don't want to share their tests, for proprietary reasons. You can conceive of a situation where enough firefighters asked the right questions to be challenged, they can challenge the whole test. He doesn't think that will ever work. There won't ever be a rule where we would permit that to happen. He believes we already have rules that are fair. He isn't sure what else we can do. Some rule changes would require testing companies to cooperate. He doesn't see them doing it. They won't share that information. We will continue to work on it and he welcomes any rule changes that someone wants to present. We will present it, debate it, discuss it and consider it. But as of right now, we have a good rule. Mr. Kratt asked if Mr. Gasior talked with Berea or Westlake regarding their rules. Mr. Gasior said what is really under review is a methodology that involved National Testing Network (NTN). They have a testing system that really is outside of our rules. If we adopt their policy, there won't be pre or post grade examinations. You will take the test and that is it. Mr. Kratt asked if Chief Bosley still wants NTN. Capt Fischbach said yes he does. Mr. Gasior stated that he saw a portion of the NTN testing when we used them for our police promotional exam (Sergeant). They have a lot of pluses, but it is not a challengeable test and our rules do have that provision. If we go the NTN route, we will need to deal with those rules that apply to post grade challenges. What happens is the challenge to the substance of the question itself. Classic example is that Avon doesn't have a 60-story high-rise apartment. Questions regarding that scenario aren't applicable for the Avon Fire Department. We said to bring those types of challenges to us before the test gets graded and let us contact the testing company. That's the whole point behind marking down the questionable questions during the exam, on the index card the candidates were given during the written exam. I know the testing company limited it to writing down 5 questions, Mr. Gasior can't imagine there would be more than 5 questions anyhow. But if 10 different firefighters write down 5 different questions, we'd have to face 50 question challenges and we'd have to address it. No challenges came to us prior to grading. Captain Swope responded that if you don't know the answer to those questions yet, and 10 people wrote down 5 questions, he'd have to think 90% of those questions are going to be resolved once they know the answer and they'll say "oh, that's the answer" and they won't challenge it. Mr. Gasior said that this issue is relevance of the question and does it measure merit & fitness, not if the question is a tricky question or is it out of this book or that book. Is it relevant to merit and fitness for the Avon Fire Department? Captain Swope said that is correct as far as the pre-grading examination goes, he agrees. Mr. Gasior was saying if the testing company put together a test that had 50 challenges to it for that reason, he would recommend the entire test be thrown out. His feeling is with the pre-grade challenges, we are dealing with a very small number of questions or even question (singular). The City wants to be able to take that question out. Captain Swope said we aren't disputing the pre-grading. Mr. Gasior said as soon as the candidates are done with the test, if they encountered any questions that they feel shouldn't

be in there, they should be on the phone to the Chief or Asst Chief, letting them know. Then it can be brought to the Commission and grading can be halted. But if there are tests where 10 or 50 questions are challenged, then we have a problem. The only time he can remember is when we used the company Professional Personnel Company (or some similar name), in 2015 and several challenges were brought forth. Capt. Swope said those were post grade challenges. Mr. Gasior said they went through 15 – 20 questions and maybe 1 or 2 were thrown out. We don't want to go back to that. What he'd rather do is if we have a bad test, we live with the results and we don't hire that testing company again. Swope said that you can say that, but if you were the one being passed up for the promotion it would be different. Mr. Gasior said that testing is testing. Nurses take exams, doctors take exams, CPAs take exams. There are no challenges, you study for it, you live with it. You accept the competency of the testing authority. When you are dealing with Ohio Fire Chief's Association and they've been giving tests all over the state for how long, you are challenging their competency and ability to write a test. Swope said that we saw this exact thing with that other testing company, they were a bad company. Gasior said we never hired them again and we addressed it. There is an avenue to address that. We've maintained this administrative approach, pre grading. You can say why are some of these questions on this test and you bring it to our attention Monday after the exam, you bring it to our attention right away. We will address it. Once you get past that point, we assume all questions are valid and now it's just a matter of did you get it right, did the machine mis-grade it? Look at the answer key and compare it to yours.

Mr. Kratt said that this is obviously a topic still under discussion. He asked if there were any other questions. There were none.

Mr. Kratt then asked Mr. Streator to introduce himself. Mr. Streator did that and explained that he represents the administration on the Civil Service Commission. He had the opportunity to sit with the candidates from this last exam and reviewed their answer sheets with the answer key. He is looking forward to working toward a solution that is as equitable as possible for both employees and administration. From a logistics standpoint, there has to be a balance. Every question we bring back to the Commission, asking if this question is valid or not, it makes it difficult because he's not sure the Commission or himself are experts in testing. A lot has to come down to communication with the testing company and doing our homework beforehand to review it. He is happy to be here and to work with the Commission to review the rules and make certain the Civil Service processes are maintained. Mr. Kratt welcomed him to our city.

Firefighter Fischer approached the microphone and asked once the list has been certified, does that mean there are no other portions of this process. He heard there might be a PRADCO test. Can he get clarification on this? Streator said that per Civil Service Rules, now that the list has been certified, then the administration is given the top 3 names from each list to be considered. As for the exact procedure moving forward, the Mayor and Mr. Streator are discussing that. The official answer is that the Rule of 3 is in place. Lt Bruehler approached the podium and asked if Pradco is going to be the tool the administration uses for every promotional going forward, once the list is certified, to choose their candidates? Mr. Streator said they haven't made the determination on the exact process. We are working with Pradco looking at how many people we might want to have assessed through Pradco. Once the administration gets the top 3 names from each classification, they will be contacting each candidate and determine the next step.

Lt Bruehler stated- as of right now - there is no determination when the Pradco test might be given. Mr. Streator said that is correct, we won't know when that might happen. Lt. Bruehler asked if it depends on retirements and said he doesn't want to put Assistant Chief Emling on the spot. Mr. Streator said that is

correct, and there is not a current open position. From a logistical standpoint, it is his opinion to have a smooth transition as possible and make everything line up. He will have more in depth conversations with the candidates soon.

GENERAL COMMENTS:

None.

NEXT MEETING DATE:

The next meeting will take place Wednesday, June 3rd at 10:00am.

**** NOTE **** Mr. Kratt called Mrs. Seighman after the meeting to share that one of the commission members is NOT able to make a meeting on June 3rd. She consulted with Mr. Gasior and it was decided to make the next meeting on Wednesday, June 10th at 10:00am.

ADJOURN:

Following a unanimous vote, today's meeting was adjourned at 10:40 A.M.

PASSED: _____ **SIGNED BY:** _____

Peter Kratt, Chairman

ATTEST: _____

Rose Seighman, Recording Secretary

C: John Gasior
Chief Bosley
Chief Root
Rose Seighman