

CIVIL SERVICE COMMISSION MEETING

March 18, 2014

Mary Doran, Chair, called the regular meeting to order at 9:30 a.m. All Commission members were present.

Agenda Item I.

Approval of Minutes:

Ms. Doran introduced the Minutes from the regular meeting of February 18, 2014, for approval. Hearing no changes or corrections to the minutes, Ms. Doran stated that the minutes are approved as submitted.

Agenda Item II.

Staff Activities:

Glenn Kibbey, Chief Examiner, stated that February had been a busy month for staff, with several job announcements issued, and a number of examinations administered.

The following statistics were reported for February, 2014:

Announcements issued	8	Classifications under review	1
Examinations	13	Classifications reviewed	2
Requisitions received	43	Classifications revised	1
Requisitions certified	42	Classifications New/Deleted	2/0
Requisitions pending	2	Title Changes	0
Requisitions cancelled	0	Surveys completed/cancelled/pending	1/1/10

Average days from departmental initiation to receipt of requisitions in Civil Service = 3.3

Average days from requisition receipt to certification = 0.6

Percentage of Requisitions Certified within 24 hours of receipt = 100%

The Chief Examiner reported changes to the promotional requirements for the classification of Equipment Operator. The report was concluded with no questions from Commission members.

Agenda Item III.

Claim/Complaint Regarding Administrative Determination by Chief Examiner

The Chief Examiner provided the background on the claim/complaint received from Police Corporal Zachary Dahle regarding the process and results of the Police Sergeant examination initially held in late 2011, to establish an eligible list to be effective on January 5, 2012. Mr. Kibbey stated that the examination involved three parts: a written test, a promotional evaluation, as well as an assessment process consisting of an oral board and a training and experience evaluation. He continued that preliminary scores/rankings to determine the order of invitation to the assessment process were developed by using the written exam and promotional evaluation on an 80%/20% split.

The Chief Examiner stated that Officer Dahle had a preliminary ranking in the top twelve and was invited to participate in the first assessment process, but had notified staff that he was unable to participate due to an off-work injury, and was withdrawing. Mr. Kibbey stated that he had made an administrative determination at the time that would keep Mr. Dahle active on the preliminary rankings to be invited to participate with the next group of twelve, should an additional assessment process be necessary during the life of the eligible list. It was reported that a second assessment process had been held in the fall of 2013, and that Mr. Dahle had participated. Mr. Kibbey reported that following the assessment process and notification of final rankings on the eligible list, Mr. Dahle had questions, and later filed a complaint regarding his ranking. Mr. Kibbey recommended that the Commission take testimony and determine whether the complaint should be upheld or denied.

Agenda Item III, continued:

Attorney Dennis Thompson, representing Corporal Dahle, addressed the Commission, and commented regarding the role of the Commission. Mr. Thompson stated his position that Corporal Dahle should have had his ranking linked to the first group of twelve invited to participate in the assessment process, as under no circumstances would he have ranked lower than twelve, and that he should not have been competing within the second group of twelve invited to participate. Mr. Thompson continued that Mr. Dahle knew that he wasn't going to be afforded a special assessment after being unable to participate, but he anticipated that he would be included with that group and be the twelfth eligible to be promoted once he had completed the assessment part of the exam. Mr. Thompson stated his understanding that there was a process, but that with any process there will be some holes where through no fault, the end result may not be just. Mr. Thompson stated that Mr. Dahle is a fourteen year veteran of the department who deserves to be recognized with the title of Police Sergeant, and that he is here to answer questions. Ms Doran asked if there were questions.

Zachary Dahle addressed the Commission, and was sworn-in by the Chief Examiner. Cheryl Beckett stated that she had questions for Mr. Dahle and for the Chief Examiner. She then apologized to Mr. Dahle and Mr. Thompson that this matter had been continued from the previous month due to absences of Commission members.

Ms. Beckett asked Mr. Dahle if, when he first participated in the examination for Sgt, he understood that the process was going to continue with additional exam components before final rankings were achieved. Mr. Dahle said that he understood that the process would continue with a training and experience evaluation and oral board. Ms. Beckett asked Mr. Dahle whether he understood that there might be some shifting of scores from his initial ranking due to those additional processes. Mr. Dahle said that there always is. Mr. Dahle continued that he had assumed that he had been dropped to the bottom of the list of 12, for purposes of invitation to future assessments, and would be assessed one of one because he was the only one left to be assessed from that group. Ms. Beckett asked what the basis was for that assumption, and whether there was any Civil Service Rule or other documentation he could reference. Mr. Dahle stated that he had none.

Ms. Beckett referenced the briefing provided by Mr. Thompson, and stated her belief that reference was to Civil Service Rule VI, Section II, where a new list has been established. Ms. Beckett asked Mr. Thompson whether that was the rule being referenced and formed the basis for his argument. Mr. Thompson stated that it was correct, and read from the rule book. Mr. Thompson stated that the rule creates a reasonable expectation that a candidate would continue to be ranked with the first group and that group should be exhausted before additional names were promoted.

Jim DeWalt stated his understanding that the other eleven candidates from the initial group had been promoted and that the assessment process had not been offered to Mr. Dahle as a make-up exam. Mr. Dahle stated that was correct, and that he had been informed if another assessment process was scheduled that he'd be able to compete. Mr. Thompson stated that eligibles were promoted from the second group, and should not have been prior to exhausting the first group. Mr. DeWalt stated his understanding that Mr. Thompson was suggesting that Mr. Dahle should have been offered an opportunity as a make-up to be included in the first group, rather than being included with the second group. Mr. Thompson stated that was correct. Mr. DeWalt then offered a personal apology for not being able to attend the meeting last month.

Ms. Beckett asked the Chief Examiner for clarification regarding Rule VI, Section 11, and Rule V, Section 3. Mr. Kibbey read the reference from the rule book aloud. Mr. Kibbey stated that there are a couple of issues to be clarified, and noted that staff tries to establish eligible lists that will be maintained continuously, on a just-in-time basis, so that a new list is available when the current list expires. He stated that eligible lists for Police and Fire classifications, and their rule of one certification processes, may result in eligible lists with one name left active for certification purposes, until that list expires. He continued that eligible lists for classifications represented by other bargaining units, where there is a rule of three for certification purposes, are handled differently. He stated that when eligible lists are nearing exhaustion with one or two names remaining, and another eligible list is ready to go into effect, the rule of three certification process results in the one or two names remaining on the current list being certified first, and the new eligible list is put into effect at that time to provide the necessary additional number of names required for the certification.

Agenda Item III, continued:

Craig Hult said that list expiration was mentioned a couple of times, and asked when a list expires. Mr. Kibbey responded that an eligible list is in effect for two years once it takes effect. He stated that in this case, the list for Police Sergeant was in effect from January 5, 2012, through January 4, 2014.

Phyllis Gabel asked the Chief Examiner to discuss when, and in particular, this two-part test, a final eligible list is produced, and how are all those who participate notified. Mr. Kibbey responded that this process had originally been created through labor and management negotiation, and that it wasn't a perfect process, or we wouldn't be here today. He continued that what results from the process when the candidates are tested and given an initial ranking based upon the written exam and promotional evaluation is an incomplete eligible list. Mr. Kibbey noted that then the top twelve to fifteen, twelve in this case, are invited to participate in the remaining portions of the exam. Mr. Kibbey stated that a final ranking is established for those who participate in the remaining portions of the exam, for certification purposes, but that the entire eligible list is not finalized as there remain a large number who haven't completed the entire exam process in order to be ranked. Mr. Kibbey stated that the remaining names are in limbo until such time as an additional assessment process is held, or the list expires. Mr. Kibbey stated that the goal, when determining the proper number of candidates to invite for further testing, is to have enough names on the final eligible list so as to not need an additional assessment center during the life of the list. He continued that, as twelve has been an adequate number for Sergeant in the past, it was considered to be so when this process was announced. Mr. Kibbey stated that this was the first time that a second assessment process has been needed, since such exam processes have been administered, beginning around the year 2000.

Ms. Gabel asked if, under normal circumstances and the second assessment process hadn't been needed, whether Mr. Dahle would have had to sit for a new exam. Chief Examiner Kibbey responded that those names remaining on the preliminary list would have expired at the end of the two-year life of the eligible list, and a new list would be put into effect at that time.

Ms. Beckett asked for clarification regarding "would have remained on the list until it expired", and asked if that was the January, 2014, date. Mr. Kibbey responded that was correct. Ms. Beckett asked if that list was Mr. Dahle. Mr. Kibbey responded that it included the fifty or so names that still remained on the preliminary list, and that Mr. Dahle was ranked at the top of that list. Ms. Doran stated her understanding that Mr. Dahle wasn't really ranked at number twelve, but actually number one of those remaining eligible to be invited for assessment. Ms. Gabel stated her understanding that the ranking only pertained to the first part of the test. Mr. Kibbey stated that was correct, and that when the second assessment was announced, Mr. Dahle had been ranked at number one for invitation purposes.

Mr. DeWalt, asked Corporal Dahle if it was his position that he should have been offered the assessment as part of the first twelve rather than the second group of twelve. Mr. Dahle stated that was correct.

Ms. Beckett asked, as a practical matter, what the result would be if the appeal was upheld. Mr. Kibbey responded with his belief that Mr. Dahle would be promoted to the position that was filled following the initial group of eleven. Mr. Thompson stated that is what they were praying for today, that Mr. Dahle would be retroactively promoted. Ms. Gabel asked the Chief Examiner whether it would be retroactive or the next available opening, so that everyone is on the same page. Mr. Thompson responded that there would be no complaints if it was the next available opening. Mr. Dahle clarified that the next available opening would be acceptable, but that he would want the seniority in class that he would have otherwise had for bidding purposes.

Mr. Kibbey noted that one difficulty to be resolved is that the eligible list Mr. Dahle was on actually expired on January 4, 2014. Mr. Thompson stated his belief that the Commission has the authority to appoint Mr. Dahle by extending the list for ninety days. Ms. Doran asked for a citation. Ms. Beckett stated that Rule IV, Section 14 (b) appears to be what Mr. Thompson was referring to. Mr. Thompson said that was what he was referring to. Mr. Thompson stated that they are asking for the Commission to exercise whatever authority the Commission has to make sure Mr. Dahle is promoted to Sergeant.

Agenda Item III, continued:

Ms. Doran stated her understanding that Mr. Dahle was never on the final list with the first group. Mr. Thompson stated that Mr. Dahle never needed to test as high as those in the second group to be considered. Mr. Hult asked whether it was Mr. Thompson's position that group one was fully established. Mr. Thompson asserted that group one was fully established. Mr. Hult asked if that was the understanding of the Chief Examiner. Mr. Kibbey responded that it is not correct, and that the preliminary rankings serve only to determine the order of invitation to participate in the assessment process.

Discussion continued between members of the Commission and Mr. Thompson, who submitted that the underlying rationale for the process, and the way it was set up, was to pay deference to the candidates that score highest, and to ensure that those are the ones to be promoted first before moving on to others.

Ms. Gabel asked what correspondence the candidates get, when initially ranked and after participating in the assessment process. Mr. Kibbey responded that following the initial process, candidates are notified that the ranking is preliminary, prior to the assessment process, for invitation purposes. He continued that once they complete the assessment process, they are notified of their final ranking for certification purposes, and that is the only list that can be certified for hiring.

Mr. Thompson referenced correspondence from Civil Service staff dated November 22, 2013, to Mr. Dahle notifying him that he was ranked number nine on the list of eligible applicants. Mr. Thompson stated that while the second part of the examination was delayed for Mr. Dahle, he should be given the promotion. Mr. Thompson stated that the case isn't about semantics; that Mr. Dahle did participate, was found to be fit, and there were people from group two promoted afterward.

Mr. Hult referenced the briefing materials provided by Mr. Kibbey, and asked if there would have been cause for pass over in the case of Mr. Dahle. Mr. Kibbey responded that he was not aware of any cause for pass over in this case. He continued in response to comments made, that this issue isn't about semantics, but was about an administrative decision that he made. He stated that when Mr. Dahle withdrew from the process, his choice at the time was to either consider him as having failed, and exclude him from any further part of the process, or give him an opportunity to participate with a later group, and that is what he did. Mr. Kibbey stated that with this examination containing a training and experience evaluation, and Mr. Dahle now having nearly two years of additional training and experience to be scored, it effectively separates him from the first group. He concluded that to include Mr. Dahle with the first group would be a testing error of great proportion.

Ms. Gabel asked, given that the exam process was originally negotiated between labor and management, what the ramifications would be of a decision by the Commission. Mr. Kibbey stated that there would be a number of potential ramifications that would need to be worked through with labor and management, and provided some examples.

Mr. Hult stated that the rules committee might need to look at the rules, as well.

Mike Piccolo, legal counsel for the Commission, provided information regarding property rights of those who would potentially be bumped as a result of a retroactive promotion, and other potential issues with regard to others who are not here. Mr. Dahle clarified what he was requesting of the Commission.

Mr. Hult inquired whether it would be appropriate to go into executive session. Ms. Doran called for an executive session for deliberations at 10:30 a.m., and returned at 10:54 a.m.

Ms. Doran asked if there was a motion. Mr. Hult moved to uphold the appeal and continue the original eligible list for Police Sgt. in accordance with Rule IV, Section 14 (b) of the 2008 Civil Service Rules, extending the life of the list for ninety days. Ms. Beckett seconded the motion. Ms. Doran asked for discussion, and hearing none, called for the vote. The motion failed by a margin of three to two.

Ms. Doran asked if there were any other motions. Hearing none, Ms. Doran asked Mr. Piccolo if another motion was needed. Mr. Piccolo advised that a motion was needed with at least three affirmative votes upholding or denying the appeal. Ms. Gabel stated that recognizing the complexity of this case, she would move to deny the appeal. The motion was seconded by Mr. DeWalt. Ms. Doran asked for discussion, and hearing none, called for the vote. The motion passed by a vote of three to two.

Agenda Item IV.

Classification Resolution:

The Chief Examiner reported that resolution provides for three classifications to be adopted. Mr. Kibbey reported that the Classification of Civil Service Office Coordinator had previously been deleted, but that he had determined that it was necessary to be used again. It was reported that the classification of Public Information Assistant is a new classification requested by the Communications Director. Mr. Kibbey reported that the classification of Parts Manager had previously been deleted, but had been determined to be needed again by the Fleet Services Director. It was reported that all three classifications have concurrence of management and the respective bargaining units, and recommended adoption. Ms. Gabel moved for adoption. Ms. Beckett seconded the motion, and it carried unanimously.

Agenda Item V.

Civil Service Annual Report for 2013:

The Chief Examiner introduced the annual report for 2013, and noted that it had been provided to the Commission members prior to the meeting for their review. Mr. Kibbey noted that the report includes new statistical information regarding goals for establishing eligible lists in a timely manner, asked if there were any questions, and requested that the report be accepted for publication. Mr. DeWalt moved to accept the report. Ms. Gabel seconded the motion. Mr. Hult stated that the report was very informative. Ms. Doran called for a vote, and the motion carried unanimously.

Agenda Item VI.

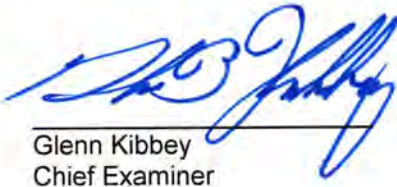
Other Business:

The Chief Examiner stated that he had provided information to the Commission to assist them with the upcoming recruitment for the classification of Chief Examiner, including the class specification, potential shortage recruiting options, a training and experience evaluation that had been used in a past examination, and examples of recruiting announcements.

Mr. Kibbey suggested that a subcommittee of no more than two members be appointed to work with staff on the examination device and process. Mr. Hult asked why no more than two commission members. The Chief Examiner replied that more than two would constitute a quorum of the Commission.

After considerable discussion among the Commission members, a subcommittee consisting of Ms. Doran and Ms. Gabel was appointed to work with staff on examination development and related issues. Mr. Kibbey also noted that it would be appropriate for the subcommittee to meet with the rest of the Commission in executive session to discuss a crediting plan for the examination device, as it is confidential in nature.

Hearing no other business to come before the Commission, Ms. Doran adjourned the meeting at 11:03 a.m.



Glenn Kibbey
Chief Examiner