

EDMONDS CIVIL SERVICE COMMISSION
MINUTES
CIVIL SERVICE COMMISSION MEETING

Specially Called Meeting

January 8, 2014

Commissioners present: David Bracilano, Chair
H. Scott McEwen
Michael Shimer

Others present: Police Chief Al Compaan
Assistant Chief of Police Jim Lawless
Secretary & Chief Examiner Mary Ann Hardie
Sergeant Ken Ploeger
Sergeant Josh McClure

CALL TO ORDER

Chair Bracilano called the meeting to order @ 7:00 pm.

MINUTES

Commissioner H. Scott McEwen made a motion to approve from the August 7, 2013 meeting [Chair David Bracilano was not in attendance at the meeting and therefore abstained from voting]. Commissioner Michael Shimer seconded the motion. The motion carried. Chair Bracilano made a motion to approve the November 6, 2013 meeting minutes and Commissioner Shimer seconded the motion. The motion carried.

CORRESPONDENCE

Memo from Sergeant Ken Ploeger regarding the minimum education requirement of the Assistant Chief of Police position

Sergeant Ploeger explained to the Commission that he would like to take upcoming Assistant Chief of Police (ACOP) test, but that he did not currently meet educational requirement for the position. Additionally, he stated that he was aware that there was a previous request before the Commission in the past for a change or exception to the ACOP education requirement, but that this request is different.

Sergeant Ploeger further explained that he did not finish his Bachelors (BA) degree [at Washington State University (WSU in Pullman, WA) because of the entry level Police Officer job opportunity here at the City [at that time]. Recently, however, he thought it would be good to complete this. Sergeant Ploeger stated that he went back to Everett Community College (EvCC) find out what he needed complete his Associate of Arts (AA) degree and he was informed that he would need to take more classes at the community college than the university [WSU] to complete his AA degree than to obtain a BA degree (as some of the AA courses had taken had "expired" since he attended community college 20 some years ago) and he would not be able to receive credit for them toward the AA degree. In anticipation of completing this process, Sergeant Ploeger further stated that he submitted transcripts for evaluation to WSU to complete his BA.

There was further discussion that followed with the Commission during which time they queried Sergeant Ploeger as to: 1) when he had begun to look into this matter, 2) what the field of study for the major or degree(s) are/were; 3) how many credits were needed for Sergeant Ploeger to obtain his AA and/or BA degree(s) and; 4) whether or not Sergeant Ploeger could obtain and AA degree with the WSU courses he had taken.

Following that discussion and query, Chair Bracilano stated that he was not getting a sense of exigency for the exception that Sergeant Ploeger was requesting [of the Commission]. Chair Bracilano further explained that, any exception made by the Commission needed to be one with firm rationale since it would set a precedent and that this was important given the future potential impact(s). In his opinion, it would be [a] different [situation] if, unbeknownst to individual [Sergeant Ploeger], the individuals' credits didn't count [toward the degree]. This situation is a little different in that it is unclear as to how many credits Sergeant Ploeger still needs to obtain the AA degree and/or BA degree.

Commissioner McEwen stated that he likes to stick with rules that are written and "entertain" thoughts of exceptions, but that you have to be careful with those. If the requirement of the ACOP position is AA degree in Law Enforcement and you are short of credits and he [Sergeant Ploeger] doesn't know how many he is short (or how many credits have expired), this is also an issue.

Commissioner Shimer stated that one thing that he could consider is how many credits Sergeant Ploeger needs for the AA degree (from a WSU transfer) and that would be a factor, but there are an awful lot of "ifs" and that there has to be a "stopping and starting" point. Additionally if one continues to overstep them [the rules], they [the rules] become somewhat meaningless. Commissioner Shimer stated that the 2 years of criminal justice schooling [that Sergeant Ploeger had obtained] would seem to make up for it [the absence of the AA or degree that Sergeant Ploeger is request an exception for].

Commissioner McEwen pointed out that the Commission [and Sergeant Ploeger] did not know how many credits short of the educational requirement [under the ACOP job description] Sergeant Ploeger was in order to obtain an AA.

Chair Bracilano stated that, should Sergeant Ploeger be successful in being selected as the ACOP from the testing process he was concerned as to what the results would be should the test be challenged [if the Commission did make this exception]. Commissioner Bracilano further stated that he did could not explain why the "intent" [of the exception] would be satisfied in this situation. In the past, other employees (who may not have come forward but may have come close to doing so) did not achieve the minimum qualifications for the educational requirement of the position. Commission Bracilano stated that there was no substitution for a minimum qualification of a position unless there was specific language [in the Civil Service Rules] allowing for a substitution [which there was not], therefore, he was leaning toward a denial of the request.

There was further discussion that followed by the Commission about the merit of the request.

Commissioner McEwen stated that there are too many "unknowns" [including how many credits were needed for Sergeant Ploeger to obtain the AA degree and/or BA degree] to arbitrarily grant an exception in this situation and that he was ready to proceed with a motion. Chair Bracilano stated that he could not articulate a rationale for this exception if this was challenged and unless there was other language in the Civil Service Rules that existed that gave a sense of intent [which there is not], that this exception could not be granted as this is a minimum qualification for the position.

Chair Bracilano further stated that, although he appreciated the honesty and straightforwardness of Sergeant Ploeger's request, he moved to make a motion to deny the request for the exception of the minimum education requirement for the ACOP testing process. Commissioner McEwen stated that he shared the same concerns/thoughts as Chair Bracilano and seconded the motion. Commissioner Shimer opposed the motion. Sergeant Ploeger's request for an exception to the minimum education requirements for the ACOP testing process was denied. There were two votes in favor of denial and one opposed. The motion carried.

Memo of request from Sergeant Josh McClure regarding the completion of his probationary period and the language in the Civil Service rules and the Edmonds City Code.

Chair Bracilnao invited Sergeant Josh McClure to explain his request to the Commission. Sergeant McClure stated that he was promoted to Sergeant in July of 2013 and that in September of 2013, a personnel decision was made that allowed for the reinstatement of a Sergeant who had been demoted. [When this occurred, Josh] became the "extra" [non-specifically budgeted for position of] Sergeant. During this period there was some question as to what would happen to his rank [as it was unclear as to whether or not he would complete his Sergeant probationary period if he was demoted to his previous position of Corporal].

Sergeant McClure further stated that it appeared that there is a conflict with the language [regarding the length of the probationary period] in the Civil Service Rules [which reflects a 12 month probationary period] and the Edmonds' City Code [which reflects a 6 month probationary period]. Additionally, Sergeant McClure stated that Chief Compaan had mentioned this disparity to him in a discussion. Sergeant McClure stated that he would like to be considered as having completed his Sergeant probationary period and that he hoped for a reinstatement of the language in the Civil Service Rules to reflect a 6 month probationary period (as it appears there may be another opening for a Sergeant position that he could possibly be placed in with the upcoming ACOP testing process).

Police Chief Al Compaan further explained that Sergeant McClure had covered the positional duties for another Sergeant who was out [on extended leave], so he was kept in the Sergeant position [instead of being demoted]. Chief Compaan stated that he had received confirmation that this Sergeant position is budgeted for and that he had encouraged Sergeant McClure to come forward with the request. Sergeant McClure pointed out that he had also served as an Acting Sergeant for almost a year (11.5 months) previously while he was a Corporal as well.

Chair Bracilano stated that he did not understand why there is a conflict and what the collective bargaining agreement language states is the completion of a probationary period. Chief Compaan stated that the Civil Service Rules are consistent with collective bargaining agreement language [a 12 month probationary period or the Sergeant position] and that it appears that the Edmonds' City Code needed to be updated. Secretary & Chief Examiner Mary Ann Hardie stated that the City Attorney had reviewed the Edmonds' City Code and that the legal opinion was that the City Code prevailed over the Civil Service Rules.

Chair Bracilano stated that while the City Code and Civil Service rules may conflict, it is not the place of the Commission to make decisions contrary to the language in the collective bargaining agreement. Chair Bracilano further stated that, regardless of the facts, this does not weigh in on the decision he would make as he is not in the position to update [or make changes to the] City Code and that, while the Code language needs to be rectified, this may not help Sgt. McClure with his request.

Commissioner Shimer made a motion to deny Sergeant McClure's request to update the Civil Service Rules to reflect a 6 month probationary period instead of a 12 months probationary period. Chair Bracilano seconded the motion. The motion carried.

Sergeant McClure inquired [as a point of clarification] as to whether or not the Commission would consider his time served as an Acting Sergeant toward the completion of his Sergeant probationary period. Chair Bracilano stated that, if there were express terms in the Civil Service Rules/collective bargaining agreement that allowed credit for this, he would be eligible to apply the Acting out of Class Sergeant work toward the completion of his Sergeant probationary period. As there is no language in the collective bargaining agreement at the City of Edmonds for this provision, this cannot be considered. Chair Bracilano thanked Sergeant McClure on behalf of the Commission for bringing forward his request. Sergeant McClure thanked the Commission for considering his request.

POLICE BUSINESS

Review and approval of the Entry Level Police Officer Eligibility List

Assistant Chief of Police Jim Lawless stated that Samuel Gagner was hired on 1/16/14 as a Probationary Police Officer and therefore was removed from the eligibility list. Another candidate on the list, Michael Szilagy, voluntarily withdrew. Commissioner McEwen made a motion to approve the Police Officer Eligibility List. Commissioner Shimer seconded the motion. The motion carried.

The Commission went into Executive Session and off the record at 7:52 pm to discuss the future Assistant Chief of Police promotional testing process. The Commission went back on the record at 8:09 pm.

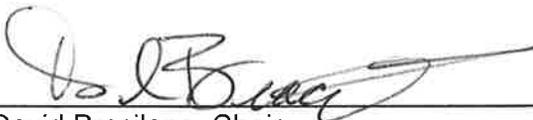
Chair Bracilano stated that at the February 2014 meeting, the Commission looked forward to further details about the selection process for ACOP position.

NEW BUSINESS

None.

OTHER

The meeting adjourned at 8:09 pm.



David Bracilano, Chair 2-5-14
Date



Mary Ann Hardie, Secretary and Chief Examiner 2-5-14
Date