



AGENDA

EPHRATA CIVIL SERVICE COMMISSION

Monday, July 17, 2017 at 8:45 a.m.

Ephrata City Hall, 121 Alder Street SW
Ephrata, WA 98823
(509) 754-4601 Ext 120

Civil Service Members: Debbie Lowe
 Alan Key
 Jeff Mackey

1. Call Meeting to Order at 8:45 a.m.
2. Additions/Deletions to the Agenda
3. Approve Minutes of the June 19, 2017 meeting
4. Correspondence: None at this time
5. Current Business:
 - a. Promotional Testing Request
 - b. Follow up on "Fitness for Duty"
 - c. Review Civil Service Rules X - XIII



CIVIL SERVICE MINUTES

June 19, 2017

Civil Service Commission of the City of Ephrata, Grant County Washington met in regular session on June 19, 2017. The meeting was called to order at 8:50 a.m. by Commissioner Mackey.

Members Present: Commission Members Alan Key and Jeff Mackey

Staff Present: Police Chief Mike Warren and City Clerk/Chief Examiner Leslie Trachsler.

Additions/Deletion to Agenda: None

Approve Minutes: Motion to approve minutes of the May 15, 2017 meeting as written. (m/s Key/Mackey) Motion carried.

Correspondence: None. Commissioner Mackey advised that he left employment with Washington Trust Bank.

Review Civil Service Rules VI – IX: Commission discussion ensued on the review of Civil Service Rules VI – IX.

Discussion on Rule VI Section 5, Revocation of Lists, regarding the testing process and at what point inadequate results would be obtained. No change was recommended.

Discussion on Rule VII Section 8, Provisional Appointment, regarding what a provisional appointment is. This appointment is temporary in nature and is meant to provide adequate staffing in the absence of an eligibility list until one can be established. No change was recommended.

Discussion on Maintenance of Standards, Rule IX Section 4, in particular the requirement for annual physical fitness examination. Commissioner Mackey asked if we conduct an annual fitness examination to which he was informed that we do not. Further discussion ensued regarding the legality of enforcing this section of the rules. Commission directed Chief Examiner to obtain clarification from legal counsel as to legality of conducting physical fitness testing annually.

Commissioner Key advised that on Rule VII Section 2, Lateral Entry Appointments regarding Police Department that WAC139-07-101, Conditions of employment does not state and/or. It states "...and a polygraph or other truth verification assessment...".

Motion to modify this section by taking **psychological and/or polygraph** out and modify to read: "The appointing authority shall request a background, psychological and polygraph test prior to the selection of a lateral entry applicant." (m/s Key/Mackey)
Motion carried.

There being no further business meeting adjourned at 9:14 am.

The next Civil Service Commission meeting is scheduled for July 17, 2017.

Jeff Mackey, Commissioner

ATTEST:

Leslie Trachsler, City Clerk/Chief Examiner



Ephrata Police Department

121 Alder Street S.W. • Ephrata, WA 98823 • Tel:(509) 754-2491 • Fax: (509) 754-1294

Michael R. Warren
CHIEF of POLICE

Promotional Testing Announcement

The Ephrata Police Department will be conducting a sergeant's promotional examination on August 9, 2017.

Requirements

To be eligible to participate you must have been an officer two years after probation, be in good standing, and have an Associate's Degree or higher.

Notification of Intent to participate must be received via e-mail or memo to Captain Koch no later than 5PM August 1, 2017.

The testing process will consist of the following items;

- 1) Presentation—Applicant will have an hour to prepare a presentation. The subject will be given at the time of testing. Presentation will then be given to an evaluation panel and will not be longer than 20 minutes.
- 2) Role Play—Participant will assume the role of a sergeant and will be handling a Personnel issue.
- 3) Interview Panel

Recommended study material

- 1) Ephrata Police Department Policy Manual.
 - 2) City of Ephrata's Policy Manual
- Note: Participation in this process is voluntary. No overtime will be authorized.

Chief Mike Warren

Ephrata Police Department

CITY OF EPHRATA
RULES OF THE EPHRATA POLICE & FIRE
CIVIL SERVICE COMMISSION

RULE X. DISCIPLINARY ACTION

Section 1. Tenure of Employment. No full time permanent employee of the classified service, in a position covered by these civil service rules and regulations, who shall have been permanently appointed into the civil service under provisions of Ephrata Municipal Code Chapter 2.23 or 2.25 and these rules and regulations, shall be suspended, terminated, or reduced in rank except as provided for in this Section X.

Section 2. Suspension. A department head may suspend a subordinate, with or without pay, for a period not to exceed thirty (30) days for cause. Any deprivation by a department head of any vacation or other paid leave, compensatory time-off, or other privilege involving pay or compensation either directly or indirectly, to which an employee is otherwise entitled under law and these rules shall be deemed to be a suspension without pay and shall be subject to this section.

Section 3. Discipline – Cause -- Illustrated. The following are declared to illustrate adequate causes for discipline; discipline may be made for any other cause:

- A. Incompetency, inefficiency, or inattention to or dereliction of duty.
- B. Violation of law, of official rules or regulations, or orders, or failure to obey any lawful or reasonable direction when such failure or violation amounts to insubordination or serious breach of discipline.
- C. Discourteous treatment of the public or a fellow employee, or any other act of omission or commission tending to injure the public service; or any other willful failure on the part of the employee to properly conduct himself or herself; or any willful violation of the provisions of these rules and regulations.
- D. Acceptance for individual personal use of a fee or gift of any kind in the course of work other than that accorded the public generally.
- E. Mental or physical unfitness for the position which the employee holds.
- F. Drunkenness or use of intoxicating liquors, narcotics, or any other controlled substance or liquor or habit-forming drug, liquid or preparation to such extent that the use thereof interferes with the efficiency or mental or physical fitness of the employee or which precludes the employee from properly performing the function and duties of any position under these rules or regulations, or any person who violates the City's policy on drugs and drug testing for classified service personnel.

- G. Drinking intoxicating liquors or using any debilitating drugs, whether controlled substance or legend drugs or otherwise, while on duty.
- H. Conviction of any offense that would render the officer unable to legally possess a firearm or any crime of domestic violence.
- I. Misuse of public funds or property.
- J. Dishonesty, false or fraudulent statements or conduct by an applicant, examinee, eligible, or employee; falsifying reports or records.
- K. Conviction of a felony, or a misdemeanor involving moral turpitude or illegal drug use.
- L. Intemperance, immoral conduct, prejudicial conduct, or disgraceful conduct.
- M. Willful or intentional violation of any lawful and reasonable regulation, order or direction made or given by a superior officer.
- N. Promotion of dissatisfaction among members of the department.
- O. Manhandling, mishandling or inhumane treatment of a civilian or person under arrest.
- P. Failure to promptly report upon expiration of a leave of absence.
- Q. Any other cause, act or failure to act, which under law or these rules, or in the judgment of the Civil Service Commission, is sufficient to show the offender to be an unsuitable and unfit person to be employed in the public service.

Section 4. Procedure for Termination, Suspension or Reduction in Rank. Disciplinary action shall only be initiated against an employee covered by these rules and regulations by the appointing authority and only upon written accusation of the appointing authority, the Police Chief, the Fire Chief or any citizen or taxpayer. A written statement of such accusation in general terms shall be served upon the employee and a duplicate filed with the Civil Service Commission. Such notice shall inform the employee of their right to seek an investigation and the time period within which that request must be made.

Section 5. Demand for Investigation. Any full-time, permanent employee in a position covered by these rules and regulations so terminated, suspended or reduced in rank may file a written demand for an investigation in the manner delineated in Rule XI of these rules and regulations.

RULE XI. HEARINGS AND APPEALS

Section 1. Appeals. Any permanent employee in a position covered by these rules and regulations

subject to these Civil Service rules who is terminated, suspended or reduced in rank may appeal such action to the Commission. An employee taking an appeal on any matter under the jurisdiction of the labor contract shall have waived the right to take the same issue through the grievance procedure of the Civil Service Commission.

Section 2. Appeals – Time – Form. A notice of appeal shall be filed at the Commission offices within ten (10) days of the action that is the subject of the appeal. The notice of appeal shall be in writing and include the mailing address and street address where service of process and other papers may be made upon the appellant. The notice of appeal shall also contain a brief description of the facts giving rise to the appeal and a concise statement of the reason for the appeal.

Section 3. Appeals – Initial Review. The Secretary/Chief Examiner shall review all appeals to determine whether the employee has timely filed an appeal and whether the action appealed is a final action. Upon a determination that the appeal is not timely, the Secretary/Chief Examiner shall issue a written order of dismissal with prejudice, setting forth the basis of the dismissal. In the case of an action that is not final, the appeal shall be stayed until such action becomes final. Such orders may be appealed to the Commission.

Section 4. Appeals – Notice of Hearing. Upon receipt of a notice of appeal, the Commission staff shall forward a copy of the notice to other affected parties. As soon as possible thereafter, but in any event within ten (10) days, a scheduling/pre-hearing conference before the Commission shall be set, with each party to be afforded no fewer than ten (10) days' notice of such hearing. Subsequent hearings on the same appeal shall have at least one week's notice unless waived by the parties. All parties may agree to waive the notice provisions and time limits provided for by this section.

Section 5. Service of Process – Papers. The Commission staff shall cause to be served all orders, notices, and other papers issued by the Commission, together with any other papers that the Commission is required by these rules to serve. Every other paper shall be served by the party filing the notice, document or paper. All such notices, documents or papers shall be served upon all counsel of record at the time of such filing and upon parties not represented by counsel. Service shall be by personal service, by registered or certified mail, or by regular mail with written affidavit of the person who mailed the papers. The Commission may authorize service by electronic mail in its discretion. Service shall be complete upon personal service or upon properly stamped and addressed deposit in the mail system.

Papers required to be filed with the Commission shall be deemed filed upon actual receipt of the papers by the Commission staff at the Commission office. All papers except the original appeal notice shall be served with the original and three copies. Briefs and memoranda must be filed with the Commission at least three (3) days prior to any hearing involving matters discussed in such brief or memoranda.

An appellant or petitioner is responsible for notifying the Commission in writing of any change in mailing or street address and telephone number. Failure to so notify the Commission shall constitute a waiver of service and notice under these rules.

Section 6. Discovery. Parties to a proceeding are required to provide to each other reasonable

access to and discovery of all relevant information concerning the matter before the Commission. Any questions concerning relevancy or access shall be resolved by order of the Commission.

Section 7. Subpoenas. Every subpoena shall identify the Commission and the title of the proceedings, if any, and shall command the person to whom it is directed to attend, at a specified time and place, and give testimony or produce designated books, documents, or things under that person's control. Upon application of any party or his/her representative, the Secretary shall issue to such party subpoenas requiring the attendance and testimony of witnesses or the production of evidence in such proceeding. The party requesting the subpoena is responsible for having the subpoena properly served. Requests for subpoenas shall be submitted to the Commission offices at least three (3) days prior to the hearing.

The person serving the subpoena shall make proof of service by filing the subpoena at the Commission office and, if such service has not been acknowledged by the witness, the person serving the subpoena shall make an affidavit of service. The Commission may quash or modify a subpoena upon a motion promptly made by a party or by the person to whom the subpoena is directed.

Section 8. Burden of Proof. At any hearing on appeal from a demotion, suspension or termination, the disciplinary authority shall have the burden of showing by a preponderance of the evidence that its action was for cause. At any other hearing, the petitioner or appellant shall have the burden of proof by a preponderance of the evidence.

Section 9. Evidence. Subject to other provisions of these rules, all competent and relevant evidence shall be admissible. In passing upon the admissibility of evidence, the Commission shall give consideration to, but shall not be bound to follow, the rules of evidence (ER) governing civil proceedings in the superior courts of the State of Washington.

A witness in any hearing may be examined orally, under oath or affirmation and shall be subject to cross-examination by opposing parties and the Commission.

When objection is made to the admissibility of evidence, such evidence may be received subject to a later ruling. The Commission may exclude inadmissible evidence and may order cumulative evidence discontinued in its discretion, either with or without objection. A party objecting to the introduction or exclusion of evidence shall state the grounds of such objection at the time such evidence is offered or excluded. No such objection shall be deemed waived by further participation in the hearing.

At any hearing before the Commission when documentary exhibits are to be offered into evidence, copies shall be furnished to the opposing party, to each Commission member and to the Secretary/Chief Examiner.

Parties are encouraged to stipulate to the admissibility of documentary exhibits. Accordingly, parties will make request of other parties for such stipulation no later than three (3) days in advance of the hearing. The party to whom the request is made shall respond no later than one (1) day prior to the hearing.

An employee has the right to appear before the Commission with or without counsel and to be heard in the employee's defense.

Section 10. Rules of Procedure – Hearing. The chairperson shall determine the proper order of the hearing. As a general rule, the hearing shall proceed as follows:

(1) The appointing authority and the appealing party shall each be offered the opportunity to make an oral opening statement, setting out briefly a statement of the facts, disputes and issues in the case. Either party may waive opening statement.

(2) After opening statements, the appointing authority shall introduce all evidence in his or her case.

(3) After the close of the appointing authority's case, the appealing party may then introduce all evidence in his or her case.

(4) Rebuttal evidence from the appointing authority will be received after the close of the appealing party's case.

(5) Upon completion of rebuttal testimony and evidence, each party shall be given an opportunity to make a closing statement to the Commission setting forth that party's view of the evidence and its relation to the issues before the Commission.

(6) After completion of closing statements, the Commission shall deliberate and render a decision.

Section 11. Deliberation. The Commission may deliberate in closed (executive) session when taking a disciplinary or other quasi-judicial case under advisement. Deliberations by the commission shall otherwise be subject to Chapter 42.30 RCW. No person other than the Secretary/Chief Examiner and legal counsel to the Commission shall be present during deliberation. No person shall attempt to convey any information or opinion to the Commission concerning any matter on appeal, other than in open hearing.

Section 12. Decision and Scope of Review. In any appeal, the Commission shall issue a decision, including findings of fact, conclusions of law, and an order, to each party or counsel of record for each party. The Commission's review and investigation shall be confined to the determination of the question of whether such termination, suspension or reduction in rank was or was not made for political or religious reasons and was or was not made in good faith for cause.

Section 13. Remedies. The Commission may issue such remedial orders as deemed appropriate.

Section 14. Reconsideration. A party may move for reconsideration by the Commission only on the basis of fraud, mistake, or misconception of facts. Such petition shall be filed within fifteen (15) calendar days of the date of issuance of the Commission's decision and shall be accompanied by a transcript of the hearing which shall be furnished by the petitioner at his/her sole cost and expense. The petition shall contain all of the petitioner's arguments for reconsideration, and copies of the petition shall be served by certified mail, return receipt requested, upon all parties to the hearing.

Upon receipt of the petition and transcript, the Commission shall upon ten (10) days' notice to the petitioner, and to all parties to the appeal hold a regular or special meeting at which the Commission shall consider the petition and written arguments of all parties submitting the same to the Commission, and shall determine whether to reconsider its decision. If the Commission determines not to reconsider its decision, its decision not to reconsider shall be deemed its final decision for purposes of judicial review. If the Commission decides to reconsider its decision, it shall, at the meeting at which such decision is made or within ten (10) business days thereof, enter Findings of Fact and Conclusions, and its final decision, which for purposes of judicial review shall be deemed to be the final decision of the Commission.

Section 15. Waiver. Upon stipulation of all parties to a proceeding, and upon a showing that the purposes of the rules and ordinances of the City would be better served, the Commission may waive the requirements of any of these rules.

Section 16. Appealing Commission's Decision. The petitioner may appeal from the Commission's decision or order to the Grant County Superior Court. Such appeal shall be taken by personally serving the Commission, within ten (10) days after the entry of the Commission's judgment or order, with a written notice of appeal, stating the grounds thereof, and demanding that a certified transcript of the record and all papers and exhibits on file in the office of the Commission affecting or relating to such judgment or order be filed by the Commission with such court. Transcription and certification of a record or proceedings shall be arranged by the Civil Service Examiner-Secretary. The appealing party shall pay all costs of preparing the transcript at the time the notice of appeal is filed. The Commission shall, within thirty (30) days after the filing of such notice and the payment of costs, make, certify and file such transcript with the court. The Grant County Superior Court shall proceed to hear and determine such appeal in a summary manner; provided, however, that such hearing shall be confined to the determination of whether the judgment or order made by the Commission was or was not made in good faith for cause, and no appeal to such court shall be taken except upon such ground or grounds. On appeal or review and in the reviewing court's discretion, costs of transcription may be recovered by the petitioner if the petitioner is the prevailing party on review.

Section 17. Basis of Appeal Hearing. The court hearing on such appeals shall be confined to the determination of whether the judgment made by the Commission was or was not in good faith and for cause and no appeal to such court shall be taken except upon such grounds.

RULE XII. DEFINITIONS

Section 1. Definitions. As used in these rules and regulations, the following mentioned terms shall have the following described meanings:

- A. Ad Interim Appointment: A temporary appointment to fill a temporary or permanent vacancy in a supervisory position during the time it takes a regular supervisory employee to return from an extended absence or to certify an eligibility list and make a regular appointment.
- B. Appointing Authority: The Mayor.

- C. Cause: Any action or inaction which the Civil Service Commission determines appropriate justification for disciplinary action, including termination, suspension or reduction in rank within the classified service. Cause shall mean good, sufficient or just cause as determined by the Commission; exercised by the appointing authority in good faith and without discrimination on the basis of religion, politics or other protected classification; and, in consideration of the total context of a disciplinary action, including procedural fairness and consideration of an employee's work record.
- D. Certification: Process of the Secretary/Chief Examiner relaying to the appointing authority, upon requisition, the names of the individuals ranked highest on the eligibility list.
- E. Class/classification: Class/classification means a group of positions sufficiently similar with respect to duties and responsibilities so that the same title may reasonably be used for each, the same qualifications may be required, and the same salary range may be applied with equity.
- F. Classified Service: Classified service means all positions in the City police service and fire service which are filled by full time, fully commissioned police officers or firefighters, and which are subject to the provisions of these regulations as defined by Chapters 2.23 and 2.25 of the Ephrata Municipal Code, excluding the chiefs of the fire and police departments.
- G. Continuous Testing. Continuous testing means a method of recruiting for an entry or lateral-entry level civil service position in which the duration of the recruitment is open-ended and applications are accepted at any time. Continuous testing does not include promotional examinations. During a continuous testing period, examinations are scheduled as needed.
- H. Demotion. Demotion means a reduction in class.
- I. Disciplinary Action: The termination, suspension or reduction in rank of any employee within the *classified service, for cause*.
- J. Eligibility List: The ranked list of eligible applicants who are eligible for appointment to a position within a class in the classified service.
- K. Lateral Entry: Appointment by the appointing authority of experienced personnel who meet at least the minimum requirements for the position as well as additional requirements as stipulated in the class description for the position.
- L. Lay-off: Lay-off means the separation from a regular position due to lack of

funds, lack of work, or abolishment of the position.

- M. Permanent Employee: An employee who has completed the probationary period for the class of their present position.
- N. Probation: Probation means the period of trial service during which an employee works in a position prior to attaining regular status in such position, during which the employee is subject to rejection by the appointing authority with neither a hearing before the Commission nor the right to appeal.
- O. Promotion: The movement of an employee from a position in one class to another class imposing increased duties and responsibilities, requiring greater pay and qualifications and providing a higher maximum rate of pay.
- P. Provisional Appointment: A temporary appointment to fill a non-supervisory position in the absence of an eligibility list where the appointee will serve until a list can be certified and a regular appointment made.
- Q. Reduction in Rank: The movement of an employee from one class to another class having a lower maximum rate of pay.
- R. Temporary Appointment: A temporary appointment to fill a non-supervisory position for a specific period to cover an extended absence of a regular employee.
- S. Termination: The involuntary cessation of employment with the City for cause.
- T. Transfer: The movement of an employee from one position to another in the same or different class having essentially the same salary range, involving the performance of similar duties, and requiring substantially the same basic qualifications.
- U. Suspension: A temporary removal from duty with or without pay of an employee for disciplinary purposes or for the purpose of investigation of accusations brought against an employee.
- V. Veterans' Credit: Veterans' credit means preference in examinations based on military service, as provided and defined by laws of the State of Washington.
- W. Resignation: A written notice by an employee for separation from a class or from the City service.

RULE XIII LAY-OFFS AND REDUCTIONS IN FORCE

Section 1. Lay-offs and Reductions in Force. Whenever the appointing authority contemplates a reduction of staff because of shortage of funds, lack of work, or reorganization, notice thereof shall be sent by the appointing authority to the Secretary/Chief Examiner. When it is determined which positions are to be abandoned, the appointing authority, after review of the affected employees' qualifications, shall determine who will be retained. Any complaint by a permanent employee that a layoff was made in bad faith shall be investigated by the Civil Service Commission. Permanent employees laid off shall have their names placed on the eligible list of the class to which their position was allocated in accordance with these rules and regulations.

Approved and Adopted by the Ephrata Civil Service Commission this 20th day of March, 2017.

Commissioner Alan Key

Commissioner Debbie Lowe

Commissioner Jeff Mackey