

CIVIL SERVICE COMMISSION SPECIAL MEETING

November 25, 2013 at 2:00 p.m.

City Hall, 45 Lyon Terrace, Wheeler A and B, Bridgeport, CT 06604

MINUTES

Commissioner Eleanor Guedes called the November 25, 2013 special meeting of the Civil Service Commission to order at 2:10 p.m. Present were Commissioners Rodgers, Plummer and McBride. Personnel Director David Dunn, Clerk to the Commission Deborah Brelsford, and City Attorney John Mitola were also in attendance. It is noted for the Record that Commissioner Correa was not present.

1. Fire Grievance – TABLED

Mr. Dunn informed the Commission that a request from Mr. Robert Whitbread, President Local 834, was received and had been tabled in the past for the following grievance to be heard:

- Griev 2013-19 Light duty during storm Nemo

Mr. Lawrence Osborne, Director, Labor Relations, asked the Commission for a continuance to December, as he was relatively new to the fire grievances in item 1 and item 2 of the agenda. Mr. Whitbread was in agreement.

2. Fire Grievances - TABLED

The Commission has received a request from Mr. Robert Whitbread, President Local 834, for the following grievances to be heard:

- Griev 2013-1 Joel Christy Article 5 Discipline
- Griev 2013-2 Lee Taylor car use
- Griev 2013-13 J. Hall docked pay
- Griev 2013-14 R. Rivera docked pay
- Griev 2013-3 Isias Rodriguez transfer

On a motion made by Commissioner McBride and seconded by Commissioner Rodgers the Commission unanimously tabled all the fire grievances in item #1 and item #2 to December.

3. Thomas White Appeal – COMMISSION NOT TO HEAR APPEAL

The Commission received a request for an appeal for termination from employment from Attorney Thomas Bucci regarding his client, Thomas White. Commissioner Guedes asked Attorney Bucci if his client would like a private or public session and Attorney Bucci said that a public session was fine. Mr. Dunn said that Attorney Mitola gave the Commission his legal opinion in a letter dated November 25, 2013 (today). City Attorney Mitola said he just gave a copy of the letter of opinion to Attorney Bucci a few minutes prior to the meeting. City Attorney Mitola informed the Commission that they did not have the jurisdiction to hear this case. He added that perhaps Mr. White was relying on Section 213 and 223 of the Charter. He referred to Hennessy and the Perotta case, as well as Zeller and Lombardi cases. Attorney Mitola further stated that there is a federal court case pending now for Mr. White.

The federal court is where litigation takes place to determine if Mr. White was let go as a punishment or discipline. Attorney Mitola restated that the Commission does not have the jurisdiction to hear this case because the Charter does not allow for it. Attorney Mitola added that Mr. White's retirement has no affect on the Commission.

Attorney Bucci said that the federal court case is separate. He added that 1st amendment claims of retaliatory behavior in terminating Mr. White and that a fiscal layoff is what is being contested. He said that a fiscal layoff was the pretense. Attorney Bucci stated that the City Clerk hired somebody (Mr. Boyer) to do the duties Mr. White performed for the Council. Attorney Bucci argued that the Commission had to determine if there was a fiscal layoff and also determine if Mr. White's termination was for just cause.

Attorney Bucci informed the Commission that he was the Mayor of Bridgeport at the time of Hennessey. He said he represented Lombardi, the losing side of the case. Attorney Bucci said he was seeking for his client reinstatement and monetary damages due to lost wages and attorney fees.

Attorney John Bohannon represented the City. He stated that the law of Connecticut is crystal clear. He further stated that the Commission has no jurisdiction over this type of appeal. Attorney Bohannon explained that the Hennessey case was resolved the way he expects this case to be resolved. Attorney Bohannon added that he has not seen any evidence that this was retaliatory. Mr. White petitioned to have the job made as a Civil Service position. Attorney Bohannon said that the work being done by Mr. Boyer is different and that Mr. White did not have the responsibilities that Mr. Boyer has and that the work Mr. White did pales in comparison. Attorney Bohannon said the pay scale for the 2 positions is about roughly the same and that Mr. Boyer earns slightly less. Mr. Boyer could have had a position in the Department of Aging. Attorney Bohannon said that relief would be in the federal district court.

Attorneys Bucci and Bohannon continued to debate. Attorney Mitola stated that Attorneys Bucci and Bohannon would argue the merits in a case now pending in federal court. Mr. Dunn told the Commission that Attorney Bucci is the advocate for Mr. White, Attorney Bohannon is the advocate for the City and that Attorney Mitola is neutral. Attorney Mitola again stated that the federal court is the proper form to litigate this matter. Attorney Mitola said that he could see the Commission being flooded with this type of appeal. Attorney Bucci stated that the floodgate argument is not proper.

Commissioner Guedes asked the Commissioners if there were any questions. Commissioner Plummer asked if there was an allegation of politics and Attorney Bucci said he did not know if it was politics. Attorney Bohannon added that Mr. Boyer had been laid off prior to Mr. White's layoff. Attorney Mitola stated that 20 members of the City Council voted to eliminate this position. Commissioner McBride inquired if the entire budget had been sent to Council when this happened. Attorney Mitola said the budget is a process. Attorney Bohannon said that 1 position was eliminated and 1 was added during the budget process. Commissioner Plummer stated that 3 attorneys spoke and that Attorney Mitola said the Commission does not have jurisdiction. Attorney Bohannon stated that jurisdiction does not lay here and that Attorney Mitola hit it on the head when he said the Commission does not have jurisdiction.

Mr. Dunn stated that Mr. Boyer was previously laid off from the senior center. He bid when the job was created and posted. He was a LIUNA union member and the job opening was in LIUNA. Mr. White was not eligible to bid for this job during the 10 day bidding period. Mr. Boyer had rights to that bid.

Commissioner Plummer asked if the retirement matter was moot here. Attorney Mitola said that retirement is an affirmative act by Mr. White that he no longer wants the position. Attorney Bucci said that evidence would have to be heard on it. Maybe it was for financial reasons. Attorney Bucci said that it could be considered constructive retirement. Mr. Dunn added that after unemployment ran out he needed something. Attorney Bohannon stated that if federal court says retaliation was involved then the City of Bridgeport will stand liable. Attorney Bucci insisted that his client did no wrong and was terminated. Attorney Bucci said that 1 layoff could not fund the budgetary gap of millions. He said that saying it was a termination for financial reasons was to circumvent. Attorney Bohannon said that the positions had very different responsibilities. He added that it was a jurisdictional concern at the outset.

Commissioner Guedes said the Commission had to determine whether or not it is the Commission's purview to hear the case. Commissioners Rodgers, Plummer and McBride each voted not to hear the appeal of Mr. Thomas White. The vote was unanimous not to hear the case.

At 3:02 p.m. the Commission took a brief recess and at 3:07 p.m. the Commission was back in public session.

4. Sgt. Mark Belinkie Appeal – GRANTED

The Commission has received a request from Thomas Bucci, *Esq.*, on behalf of his client, Sgt. Mark Belinkie, who was disqualified by Personnel Director David Dunn, from sitting for the Police Lieutenant Examination #2324. Attorney Bucci said that his client, Sgt. Mark Belinkie applied to take the Police Lieutenant exam and was disqualified yet allowed to take the test. Attorney pointed out that the Table of Organization has 21 lieutenants. He explained that the Council never voted to change the number from 21 to 22. An additional position would be considered an overfill and overfills are unlawful and should not occur. Attorney Bucci cited New Haven as an example of stacking and this is a violation of the principles of Civil Service and the merit system. The retirement of Matthew Cuminoto created the vacancy and Christine Burns was disciplined and her position became vacant. Sgt. Belinkie appealed and said the original decision by the Personnel Director was correct. Attorney Bucci added that there is no dispute on this.

Mr. Dunn explained that the eligibility date is 120 days after Matthew Cuminoto's retirement. He added that Sgt. Belinkie is the least junior Sergeant in the City. Mr. Dunn said that the #22 Lieutenant position was created before the Civil Service Commission. The Council was in the middle of budget deliberation. The budget is still at 21. Civil Service never intended to stack. In the middle of a budget year it is always risky to create a new job. Mr. Dunn said everyone is on the same side. Commissioner Guedes polled the Commission to see if Sgt. Belinkie's appeal should be granted. Commissioner Rodgers, Plummer and McBride

respectively voted to grant the appeal. The vote was unanimous to grant Sgt. Belinkie's appeal.

5. Personnel Director's Report – NO ACTION TAKEN

- Provisional Hiring Process discussion, per October Commission meeting
It was decided that since this was a topic that Commissioner Correa wished to pursue further the discussion would take place when she was present at a meeting.
- Police Lieutenant Promotional Exam #2324 Update
Mr. Dunn explained that the written exam was on November 16th. Thirty-six (36) of the thirty-seven (37) showed up and took the test. The 1 Sergeant that did not show will not get his money back. Several Sergeants commented that the refundable registration fee did cut down on people registering for the exam and not taking it. The consultant will score the written exam and also the results of the oral exam which were held on Monday, November 18th at the Fire Headquarters on the 4th floor. There were 2 cameras in each room to videotape the candidate. A Civil Service facilitator was in each exam room. The exam company recorded the questions on an ipad and also made a countdown visible to the candidates so they had an idea of the time they had to answer each question. The exam company provided 2 staff members during the oral exam. The candidates were generally pleased and commented that the test was fair. The union made a positive comment at the November 19th meeting of the Board of Police Commissioners.

It is noted for the record that Commissioner Plummer left the meeting at 3:25 p.m.

Mr. Dunn explained that the assessment of the oral examination would be done on December 2, 3 and 4. Appeals would take place in February.

- Police #2306 3rd Academy Class – January 2014 – Update
Mr. Dunn explained that Civil Service has a goal of having a class ready in January. The Chief wanted at least 17 to 22 candidates and by the end of the fiscal year 30 or more candidates in total. Mr. Dunn stated that Lisa Kollman and Deborah Brelsford were anxious about meeting a January 6 class start date. Civil Service is finding that the bottom third of the list is more challenging than the top and middle of the list. Perhaps there is a way to test certified police officers. It may be hard to prevent somebody else's bad apples.

On a motion made by Commissioner McBride and seconded by Commissioner Rodgers the November 25, 2013 special meeting of the Civil Service Commission was adjourned at 3:35 p.m.