

## Regular Civil Service Board Meeting

Quorum present

Present: Board members: Chairman Marv Rosen, Carolyn Worthington, Alan Coxie, Lynn Moffa, and Virginia Robinson.  
Council Woman Gwen Wisler, Patsy Brison, Board attorney; Kelley Dickens, HR Director; Kelly Whitlock, Assistant HR Director; Derrick Swing, Human Resources Manager; Martha McGlohon, Deputy City Attorney; Jennifer Johnson, HR Technician; Scott Burnette, Asheville Fire Chief; Robin Currin, City Attorney; Mike Knisely, Asheville Fire Dept.

Absent: None.

### **Welcome and Call to Order**

Marv Rosen called the meeting to order and asked if everyone had a chance to review the minutes.

#### **I. Approval of Minutes**

The preferred format of minutes was discussed. Lynn Moffa expressed that some minutes appeared to be summary and other parts verbatim. Patsy Brison stated they didn't have to be changed to be approved unless someone wished to correct something. Alan Coxie stated that he was uncomfortable with the current format and expressed concern they were not as accurate as he preferred. Patsy Brison recommended the City Council format for the Civil Service meetings and cited NC law for minutes. This provides highlighted titles with summary underneath. Marv Rosen agreed that it would be easier to work with by topic. Kelley Dickens stated that would be fine and the new employee when hired could work with Maggie Burleson, City Clerk.

Board members preferred summary minutes versus verbatim for regular meetings with attention to actions and broad coverage of discussion; while making sure an employee knows they can have their own court reporter for grievances.

Historically the minutes were summary reports.

It was decided to keep the recordings to refer back to if more detail needed if someone requested them. If a question arises from a portion of the minutes, this section could be done verbatim from the tape.

It was suggested perhaps a better technology could be found to retain recordings. Derrick explained the need for two recorders since one had failed during a meeting and there wasn't a back up at that time.

A court reporter can be used by either the City or Employee during a grievance for a transcript. This has been done in the past as stated by Martha McGlohon.

Alan Coxie stated he would need to add a disclaimer of their concerns to approve the minutes as they are.

Chairman Marv Rosen asks that the minutes move toward the City Council format and that the Board approve the minutes at hand and if there are any more comments for the 11/7/13 minutes. He asks for a motion to approve the 11/7/13 minutes.

**A. Approval of November 2013 Meeting Minutes**

- Alan Coxie made a motion to approve the 11/7/13 Civil Service Board meeting minutes as adopted.
- Carolyn Worthington seconded the motion.
- **Action taken: The motion is passed unanimously and the Approval of November 2013 Meeting Minutes accepted as they are.**

Chairman Rosen asks for a motion to approve the 1/15/14 Civil Service Board minutes.

**B. Approval of January 2014 Meeting Minutes**

- Alan Coxie made a motion to approve the 1/15/14 Civil Service Board minutes as long as it is documented as a summary not a verbatim document. He also commented for the record that he felt something was missing from his comments in the 1/15/14 minutes being the basis for his requesting this one be a summary.
- Lynn Moffa seconds the motion.
- **Action taken: The motion is passed unanimously and the Approval of January 2014 Meeting Minutes are approved with the note that they are a summary and not verbatim.**

Chairman Rosen asks for a motion to approve the 2/6/14 Civil Service Board Special Meeting minutes.

**C. Approval of February 2014 Meeting Minutes**

- Lynn Moffa makes a motion documenting it as a summary transcript.
- Alan Coxie seconds the motion.
- **Action taken: The motion is passed unanimously and the Approval of February 2014 Meeting Minutes are approved with the note that they are a summary and not verbatim.**

Chairman Rosen asks for a motion to approve the 3/6/14 Civil Service Board minutes.

**D. Approval of March 2014 Meeting Minutes**

- Alan Coxie makes a motion that we approve the 3/6/14 minutes with a notation that these are a summary.
- Carolyn Worthington seconds the motion.
- Lynn Moffa abstains from voting stating that she was not present.

- **Action taken: The motion is passed unanimously and the Approval of February 2014 Meeting Minutes are approved with the note that they are a summary and not verbatim.**

Chairman Rosen states that he appreciates having the April minutes done and in front of them.

Chairman Rosen asks that the Board go back and consider 12/13/2013 minutes of the grievance approximately 123 pages. Asks for comments.

- Alan Coxie comments that there is a significant break in what appears to have been the recorder stopping and asks how the summary notes were made if the recorder malfunctioned.
- Kelley Dickens states that several people using their computers and taking notations during that entire meeting.

**E. Approval of December 2013 Grievance Hearing Minutes**

- Alan Coxie makes a motion to approve these minutes in part summary statements.
- Lynn Moffa seconds the motion.
- **Action taken: The motion is passed unanimously and the Approval of December 2013 Grievance Hearing Minutes are approved with the note that they are a summary and not verbatim.**

Chairman Rosen asks Derrick to put the April Civil Service minutes on the agenda for the next meeting.

**II. AFD Promotional Criteria Advisory Committee (PCAC) Recommendations**

Chairman Rosen greets Chief Scott Burnette of the Asheville Fire and Rescue Department and asks him to present his material for consideration. Chief Burnette directs the Board’s attention to the notebook put together for them with agenda items. This notebook contains 2014 Lieutenant and Battalion Chief hiring process informational handouts.

These will be attached to this document. Changes recommended by the Criteria Advisory Committee are made in red.

**Recommendations on the Lieutenant’s process:**

- He and the PCAC aren’t asking for any changes to the Lieutenant’s process.
- Each has eight components with the weights noted.
- He uses the 5% option that the Chief has during a hiring process as a tie breaker only. It otherwise has 0 points assigned.
- Gray listing is eliminated due to Board’s recent recommendation.

- NC license class B is different from a Commercial driver's license and a regular class B is what the Fire Department requires.
- The submission deadline is ten days from when the announcement is sent out. The goal is to send out the week of May 4<sup>th</sup>.
- He would like to set a standard date in the future for the process.
- Out of Class experience portion was removed as actual service time because everyone didn't have the same number of opportunities.
- Point total changed to score more accurately so the max is 500 for someone with more service and is pro-rated as it goes down making it easier for employees to understand.
- There is not a category for a doctorate because of limited means to attain it and could be added in the future if necessary. None in the Fire Department have a doctorate and it was a model copied from the Office of the State Fire Marshall in 2006. Alan Coxie suggested adding it in the future.
- Chief Burnette states only certifications that are related to Emergency Services can be allowed in the certifications category. Eliminating confusion on what counts toward certifications requirements.
- Under the model of this process all certifications count the same whatever the credit hours are to attain them. He explained that this was accounted for on the personal development page. Carolyn Worthington suggested adding that the max you could earn is 100 points to each page.
- The PCAC recommended that Fire Service experience be counted at any point in an employee's career. The five year limit has been deleted.
- Rounding points has never been an issue.

Chief Burnette asked if the Board would like to keep the motions separate for Battalion Chief and Lieutenant. Chairman Rosen preferred keeping them separate and summarized the changes before calling for a motion.

**A. Motion to approve the changes for Lieutenant – Promotional Process Minimum Requirements and Process Structure**

- Chairman Marv Rosen asked if there is a motion to accept the changes Chief Burnette has presented for promotional processes in the Fire Department.
- Alan Coxie asked if the structure was basically the same that they had looked at before and he was just making the improvements. Chief Burnette answered that this was correct. The improvements make it easier to score and the candidates know where they stand.
- Alan Coxie makes a motion that the Board adopts the Asheville Fire Department's 2014-2015 Lieutenant promotional process with the changes as listed in the red out sections as recommended by Chief Burnette and committee.
- Lynn Moffa seconds the motion.

- **Action taken: Motion to approve the changes for Lieutenant – Promotional Process Minimum Requirements and Process Structure passes unanimously.**

**Recommendations on the Battalion Chief promotional process.**

- Chief Burnette explained that the changes are also in the notebook and they are in red.
- There are ten components and he is recommending going to nine components have the weights a little bit different for some of them.
- Structured interviews are to remain 10% of the process.
- 360 degree feedback was removed in all of our processes.
- Candidates have a six week assignment functioning as a battalion chief with a Chief Officer evaluating their ability to interact with firefighters and manage emergency incidents. It would be an extremely structured with objectives being met and they know how they are being evaluated and rated. All candidates would have the same evaluator that is a senior officer. Up to three candidates can be evaluated at one time.
- Chief Burnette makes the final rating of the candidate.
- The Fire Department is working on improving the performance evaluation process.
- The reason for removing the 360 degree feedback is because they appeared to be a popularity contest and felt it had no value in selecting our future leaders.
- The reason for removing the inbox exercise is that we would rather see those points for actual performance on the job and felt it had very little value in selecting candidates.

Chairman Marv Rosen asks if there is a motion to approve the changes that Chief Burnette has presented.

**B. Motion to approve the changes for Battalion Chief– Promotional Process Minimum Requirements and Process Structure**

- Carolyn Worthington makes a motion to accept the Chief’s promotional process changes for Battalion Chief for the year 2014.
- Lynn Moffa seconds the motion.
- **Action taken: Motion to approve the changes for Battalion Chief – Promotional Process Minimum Requirements and Process Structure passes unanimously.**

**Chairman Rosen calls for a short break.**

**Chairman Rosen calls the meeting back to order.**

Memo is attached.

### **III. Other Business**

#### **A. Civil Service Board Chair discussion**

- Chairman Rosen states that anyone interested in a one year term for the Chair position of the Civil Service Board. Chairman Rosen's term expires on June 25<sup>th</sup> or until a successor is appointed. City Council must appoint a Chair annually. Anyone interested should e-mail Maggie Burleson, City Clerk, by Noon on May 16, 2014. It will be on the 6/24/14 City Council agenda.

#### **B. Grievance Hearing Schedule discussion**

- A discussion was held to determine the best available dates for an upcoming grievance, work session and meeting. A comment was made to consider two days together in case the grievance didn't end with one meeting. Derrick will inform of availability and the dates set for the meetings and grievance
- Kelley Dickens stated that we need to schedule the grievance first if possible.
- Patsy Brison stated that the grievant made the request on 4/25/14. She also read the Civil Service timeline rules and that the grievant's attorney would need to be included.
- Martha commented that outside council was retained by the City for the Grievance.
- Schedules were provided and dates established to send to the grievant and legal parties involved for all to consider.

Lynn Moffa had to leave for a short period for an emergency during this discussion and returned later.

#### **C. Discussion of Chief Anderson's appearance with the Board.**

- A discussion was held on whether the Board could discuss the APD promotional process concerning the Police Chief having a final interview with candidates and that he has discretion to promote or not. Promotional Policy 1073 is cited.
- Civil Service Rules attached.
- Martha McGlohon, Deputy City Attorney, presented Civil Service Law and Rules explaining why the Board could not discuss this item because it was not on the Agenda.
  - Not on the Agenda and has an objection to a discussion.
  - She was made aware of this possible discussion or action only this afternoon.
  - Chairman Rosen's comments to Chief Anderson on the April, 2014 minutes were that no action was being considered at that time.
  - The item is considered new and needs to be on the agenda; not a continuance to be consistent with the Civil Service Rules.
  - There may be a question of the Board exceeding their authority.
- Patsy Brison, Attorney for the Board, presented Civil Service Law and Rules explaining why in her opinion the Board is allowed to discuss it. Also, they would like to ask the Chief more questions about his interview being the last part of the

promotional process and having the authority to decide not to promote from his interview findings.

- Ms. Brison cited rules for procedure, e-mails received and timeline discussion citing that the City didn't observe the seven day rule for the agenda. Martha McGlohon disputes this and cites Civil Service rules.
- She believes the promotional processes can be considered.
- Ms. Brison pointed out that the Board had operated for years without objection, referring to Section 35 of the Civil Service Law.
- Mr. Coxie stated that he was under the impression that Chief Anderson would be present to answer additional questions per his e-mail. Derrick Swing responded that this could not be found in the minutes or in the recording.

Points during the discussion:

- Chairman Rosen stated the process is not an issue for him, just the interview process. He would like no promotions in APD to take place until after their next meeting and thinks the rule is unfair.
- Alan Coxie would like Chief Anderson to be at the meeting to answer questions. Mr. Coxie did not know two years ago that the Chief had the right based on the interview to not promote a candidate. He stated he would like assurances that the City would not conduct promotional processes until they could ask questions of Chief Anderson.
- Kelley stated that there had been no grievances in the last two years.
- Kelley stated she doesn't know when the Chief might be available.
- Martha McGlohon stated that Policy 1073 was approved and can't be brought back, amended or modified. She cited section 34 of the Civil Service Rules.
- Chairman Rosen would like to look for a compromise and his preference is to have Chief Anderson present to participate in the discussion and to hear our concerns because he thinks the City and the Civil Service Board are working toward the same goal which is a transparent process of choosing the best employees for promotion. He would like assurance that the City would not promote any APD employees from the existing list for a one month period. He has not heard any interest from the Board on amending the selecting and testing process. The concern is the Chief's interview and how it can affect promotions.
- Kelley stated that she can't speak to what is coming up at the police department or to the Chief's availability since she doesn't have that promotional list with her.
- Kelley Dickens stated that she didn't think the City is in the position to agree to hold off on promotions as that has been done in the past and has created problems.
- Alan Coxie commented that he didn't know that the results weren't publicly posted. A certain amount of transparency is needed for the process to work. He also commented that just saying that we approved it is not enough.
- Alan Coxie stated that he thought the Civil Service Rules gave them the right to review and amend policy approved by the Civil Service Board.

A discussion took place debating the meaning of rules and criteria.

- Martha McGlohon disputed this statement and that she doesn't think that the Civil Service Board has the authority to do what the Board is proposing.
- Chairman Rosen stated to his knowledge no substantive rules have ever been made by the Civil Service Board and there has always been the Board's involvement in making decisions about promotional processes. He is concerned about the fairness of the Asheville Fire Department's practices compared to the Asheville Police Department.
- Carolyn Worthington suggested perhaps a rule could be made to ask the department head to come in and discuss it with us.
- Kelley Dickens commented that perhaps some of the questions that the Board has could be cleared up when they attend the work session.
- Alan Coxie stated that he put the item on the agenda and he thinks it was done properly.
- Lynn Moffa stated she didn't see anything in the rules that would keep them from considering this. She also stated that she thinks the newer members should be brought up to speed what happened in the past.
- Alan Coxie explained that when the process with the interview for the Chief was approved, he wasn't aware that the promotion list wasn't posted.
- Chairman Rosen stated that he thought a meeting between the Board, Human Resources and the City Manager would help how each saw their role in the process. He added that he believes that the Board has the power to change things as in this process but will not push the issue to have the discussion today.

Chairman Rosen stated that unless someone else would like to make a motion that he didn't intend to and there is a lot of work and scheduling to do. He would like to move forward and do what is best for the employees and it is important that the employees feel that they are being treated fairly.

The reasons for the meetings were discussed and identified several dates to consider for the special meeting, work session and grievance and will communicate the dates by e-mail.

**Chairman Rosen asks if there is a motion to adjourn?**

- Alan Coxie makes a motion to adjourn.
- Lynn Moffa seconds the motion.
- Meeting is adjourned.