

**NORTH RIDGEVILLE CIVIL SERVICE COMMISSION
MINUTES OF
REGULAR MEETING DECEMBER 15, 2015**

To Order: The meeting was called to order at 6:30 P.M.

Roll Call: Present were Members Dan Zezena, Vice Chairman Russ Friedrich and Chairman James Yost.
Also present was Law Director Andrew Crites, Assistant Clerk of Council Tara Peet, Firefighter Gary Chase and Recording Secretary, Deputy Clerk Donna Tjotjos.

Minutes:

Chairman Yost asked if the members had a chance to look over the minutes.

Moved by Friedrich and seconded by Zezena to accept the minutes dated November 17, 2015.

MOTION CARRIED

Reports:

Chairman Yost noted the following items:

Correspondence received via email from Andrey Pankov, IPMA-HR regarding two questions on the exam that were written and presented in error along with a refund of \$116 from the exam fees.

Copy of correspondence submitted to candidate Andrew Biji removing his name from the Patrolman's certified eligibility list and providing him with an appeal date of December 15, 2015.

Correspondence received from State Personnel Board of Review Academy regarding a one-day academy being held March 10, 2016.

Calendar of events – Revised

2016 Meeting Dates

Unfinished Business:

New Business:

Chairman Yost noted the update to the certified and eligibility list for Patrolman.

Deputy Clerk requested a motion to certify the updated list.

Moved by Yost and seconded by Friedrich to certify the updated list.
MOTION CARRIED

Chairman Yost noted the Waiver of Rules stating that the members made a change during the last meeting with two members present and he believed that the Rules and Regs called for all three. He asked if the members had to rescind this past motion.

Law Director Crites explained that he had evaluated that today and actually saw the previous minutes on which he realized during the last meeting that all the members of the commission that were present established a quorum and voted unanimously to the waiver of rules. Pursuant to our rules, that is all that needed to be done. He believes the Commission was misinformed before that unanimity was required and it is not. If you look at our City Charter there are several provisions which specifically states, for instance to apply the emergency clause to a piece of legislation, it will say a super majority of all members of Council and so to require unanimity of a Board or Commission, it has to be specifically provided for in the Rule or Ordinance. That is not the case. Our rule simply states that the rules may be waived by the unanimous vote of the Commission. When you have a quorum with two people there, that is the Commission. It is a moot point, the rule has been waived.

Chairman Yost moved the meeting onto the protest / challenges received from the Lieutenant Promotional exam. He addressed the Law Director and asked for assistance.

Law Director Crites stated that he believes he has a proposal as to how to handle that. Although they are a matter of record because the four examinees from the Fire Department have properly followed the rules and put their appeals in writing. He believes that the Commission should for the record, at least identify each examinee who has appealed and what questions they have appealed first. Then I would suggest a motion to adjourn into Executive Session because under the Ohio Revised Code, section 121.22, it specifically details outline reason for which the public body could adjourn into Executive Session is to review application examination for appointment and or promotion in the Civil Service and so, he advised to have the Clerk read the name of the examinee and this examinee has challenged question number and then adjourn into Executive Session and discuss the same, review what the testing agency has said, review what the testing agency has said and all of which remains confidential. He advised that the Commission could not vote on the matter in Executive Session and all of which remains confidential. He advised that the Commission could not vote on the matter in Executive Session. The Commission would come out of Executive Session and address each examinees questions or series of questions and decide whether to give credit or not; meaning agree with the appeal or not to agree with the appeal on the record with a formal vote. He asked if that made sense. He stated that once there, it would just be a motion from one of the Commission members to adjourn into

Executive Session to evaluate the appeals to the Fire Department Promotional exam questions.

Moved by Friedrich and seconded by Zezena to adjourn into Executive Session to review the exam protest / challenges received
MOTION CARRIED

Member Zezena asked if each one had to be read or can the Commission do it all in one shot, such as each person is mentioned and then the Commission go into Executive Session or is it all done together.

Law Director Crites stated that the Commission could do it all together, but he advised to note it in the record that the Commission is adjourning to Executive Session to address the examination questions appealed by Firefighter Rogers with the respective question numbers and then the next Firefighter with their respective questions. The Commission doesn't have to lay out the actual basis of the appeal with their respective questions. The Commission doesn't have to lay out the actual basis of the appeal. He would still like to note for the record which Firefighter or examinee was appealing and the questions that they had appealed.

Clerk Tjotjos read into the record the appeals provided by candidate Rogers.

Law Director Crites interrupted and clarified that the base of the appeals do not matter because the details of these questions have already been properly filed in writing with the Commission and therefore do not need to be read into the record. The questions from the candidates can be noted.

Clerk Tjotjos read candidate Rogers provided protest on questions 11, 31, 66, 67, 76, 82, 113, and 123. Candidate Chase provided protest on questions 39, 95, 113, 115, and 121. Candidate Stearns provided protest on questions 113 and 115. Candidate Conte provided protest on questions 21, 82, 95, 96, 105, 122, and 123.

Law Director Crites stated that the vote for Executive Session was made and past. He explained to Firefighter Chase that the Commission will now need to go into Executive Session to deliberate. The Clerks will still remain and the only thing that can be recorded is why the Commission went into Executive Session and who was there.

Adjourned into Executive Session at 4:10 P.M. to discuss and review challenges received along with responses from the agency IPMA; with Members Friedrich, Zezena, and Yost present along with Law Director Crites, Assistant Clerk of Council Peet and Recording Secretary, Deputy Clerk Tjotjos.

The Civil Service Commission meeting reconvened at 4:25 P.M.

Chairman Yost stated that each candidate will be handled separately and Daniel Rogers protest was first.

Moved by Zezena and seconded by Friedrich to approve candidate Roger's protest of question number 113 and the rest to be denied.

MOTION CARRIED

Moved by Zezena and seconded by Friedrich to approve candidate Chase's protest of question number 113 and 115 and all others denied

MOTION CARRIED

Moved by Zezena and seconded by Friedrich to approve candidate Stearns' protest of question number 113 and 115 which was all that provided by him.

MOTION CARRIED

Moved by Zezena and seconded by Friedrich to approve candidate Conte's protest of question number 122 and the rest to be denied.

MOTION CARRIED

Law Director Crites asked when the assessments would be taken place or have they started yet.

Firefighter Chase stated no.

Law Director Crites stated that has to happen after this. He then asked how many will go to the Assessment.

Firefighter Chase stated it depends on how many pass the written exam.

Law Director Crites stated for clarification that those who pass move on to the Assessment. He asked if there a chance that could happen before the next Civil Service meeting.

Firefighter Chase stated that he didn't know who all passed or what the scores are.

Law Director Crites stated that the exams will have to be regraded based upon the additional credit.

Firefighter Chase asked if the regrading would include just those that were accepted and asked if that would apply to everyone.

Law Director Crites stated no. According to the rule and according to the law, each examinee would have to file a written protest and if no one else protests. He stated that he would take another look at that again as he made a good point as to whether or not credit has to be given to all the candidates. He asked what the Commission has done in the past.

Deputy Clerk Tjotjos explained that the Commission has removed the questions in the past.

Law Director Crites addressed Firefighter Chase and asked if that was what he recalled to be done in the past.

Firefighter Chase stated that he didn't recall.

Law Director Crites who will all move on to the assessments

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Member Zezena stated that he would suggest that they be removed. The testing agency is saying that it is a bad question then he agrees that it should be removed.

Law Director Crites stated that it may have to be looked at because some of them gave different answers. For instance question 113 and without going into specifics because this should be discussed in Executive Session and he would have to work with Donna, but you can't do it across the board because for instance it may be that a certain question was determined that one answer was correct, but it was later determined that two answers were correct and in that case, the Commission would have to decide whether credit would be given for either one of those answers. If that is the case, each exam would have to be reviewed and credit would have to be given and that would probably have to be addressed at the next meeting. He stated that he would work with Donna to go through that.

Member Zezena stated that he would even feel uncomfortable if someone did put this down and didn't challenge it, as it isn't fair to them.

Law Director Crites stated that a good point has been made and at least for the record, the record should reflect that there has been discussion as to it remains to be determined how the successful appeals will be applied to the rest of the examinees out of fairness and as a matter of law. That is something that has to be evaluated.

Member Zezena asked even if the question was wrong. He stated that the Commission is saying that the question is downright wrong, which this question 113 is.

Law Director Crites asked if he was referring to chucking the whole question and added that it is in the power of the Commission to do so. He stated 113 is a problem. 115 is a problem. Credit has been granted for 113 in three different appeals and 115 twice in two different appeals and question 122 once. So there are only three questions to look and then come back here at the next meeting and put forth after that is evaluated to see how other examinees....he asked how many candidates took the exam.

Deputy Clerk responded 10.

Law Director Crites stated that the Commission will have to address how to apply this either to yank the question in total or even to do something as an alternative such as on question blank; the Commission will accept either C or D as the answer. He stated that they can't determine that now because the Commission doesn't have enough knowledge.

Member Zezena asked if they would need a motion to do that.

Law Director Crites suggested that it just be scheduled for old business at the next meeting.

Member Zezena asked when it comes up then what happens. He asked what the Commission would be looking for.

Law Director Crites stated that it would be simply to evaluate the question. For instance on question, blank, the Commission could move to strike the question from the examination because it was impossible to have a good answer and it is thrown out or the Commission could say on question, blank that they move to accept answer B or C and then that will change grades.

Assistant Tara Peet stated that the regrading can't happen now because the Commission doesn't know how they are going to apply those questions.

Member Zezena asked what questions were they again.

Law Director stated that there is only three. They would be 113, 115 and 122 and the

simple evaluation is if the Commission wants to strike the question in total or accept multiple answers.

Member Zezena stated that it should be reviewed prior to coming in.

Law Director Crites stated that a special meeting could be called, but with the holidays coming.

Firefighter Chase asked if that would change the one they have given him credit for.

Law Director Crites stated that those motions have been made and carried. The only question is will it also shake down to other people.

Member Yost stated that others may get lucky.

Firefighter Chase stated as long as it is fair for everyone that is all he wants to see.

Member Zezena stated that if it is a bad question, then no one should be judged on it.

Assistant Clerk of Council Peet clarified that the tests will not be regraded until the next Commission meeting when a determination will be made.

Law Director Crites stated that they can't be regraded.

Deputy Clerk addressed the Chairman and noted for the record that the assessments will need to be pushed again to the end of January beginning of February based on the next Commission meeting being January 19.

Member Zezena asked if they could do the assessments before the grading.

Deputy Clerk stated that the grading has to be done before the assessments and so, now, the assessments that were tentatively scheduled for the fourth of January will not be able to take place until after January 19.

Member Zezena stated that this has to be right because people's livelihoods are on the line and they need to be right. He stated he is willing to come in that second week.

Law Director Crites asked if he was referring to calling a special meeting.

Member Zezena stated if they have to. He asked if the regular meeting could be moved up.

Chairman Yost asked if it could be the 12th or the 5th.

Member Zezena stated the 12th.

Law Director Crites stated that he hates to do this, but he believes that the Commission might be able to handle this right now in about five minutes. He stated that it will save the Commission from having to schedule a special meeting. This really is a simple process. Pursuant to the recommendations of the testing agency, there is clear direction that has been given in both the Ohio Law as well as common sense which gives great deference to these testing agencies. The testing agency for questions 113, 115 and 122 had made a direction. On one of those questions, they say has two correct answers and on two, they say that there are no correct answers. So, if the Commission wants, they could do this by motion right now. It could be moved to strike two and accept two answers on the other and be done with it.

Deputy Clerk asked for clarification on which questions were to be struck.

Law Director Crites stated 115 should be struck, 113 accept answers C and D and 122 struck. The motion would be to move to accept both C and D for which credit shall be given on question 113, and to strike in total from the examination process questions 115 and 122 pursuant to the recommendations of the testing agency.

It was moved by Friedrich and seconded by Zezena to accept both C and D for which credit shall be given on question 113, and to strike in total from the examination process questions 115 and 122 pursuant to the recommendations of the testing agency.

MOTION CARRIED

Deputy Clerk asked if the exams can now be regraded.

Law Director Crites stated yes, they can now be regraded. So they will get the grades soon and the assessments can begin on the scheduled date in January.

Chairman Yost stated that there is no other business on the agenda. He announced that Russ Friedrich will not be in attendance for the meeting in January.

Adjournment:

Moved by Friedrich and seconded by Zezena to adjourn the meeting.

MOTION CARRIED

The meeting was adjourned at 4:40 P.M.

**NORTH RIDGEVILLE CIVIL SERVICE COMMISSION
REGULAR MEETING - DECEMBER 15, 2015**

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James P. Gost
Chairman

China T. G. G.
Recording Secretary

Jan 19 2016
Date Approved