

CIVIL SERVICE COMMISSION SPECIAL MEETING

Tuesday, March 6, 2012, 3:00 p.m.

**Fire Headquarters, 30 Congress Street, 2nd Floor,
Fire Commission Room, Bridgeport, CT 06604**

Noted for the record, due to a special election being held in the Wheeler Rooms A and B and Common Council Chambers, that was not previously reserved with City Clerk's office, the Civil Service Commission relocated its special meeting.

The meeting was called to order by Commissioner Guedes at 3:00 p.m. Present were Commissioners Plummer, Rodgers, McBride, Personnel Director David Dunn, Clerk to the Commission Deborah Brelsford, and City Attorney John Mitola.

Mr. Dunn said the first item is to request an executive session. He explained that the City Attorney wanted to discuss possible litigation. On a motion made by Commissioner Rodgers and seconded by Commissioner Plummer the Commission entered Executive Session at 3:03 p.m.

The Commission returned to public session at 3:30 p.m. Present were Commissioners Plummer, Rodgers, McBride, Personnel Director David Dunn, Clerk to the Commission Deborah Brelsford, City Attorney John Mitola and members on behalf of the Fire department requesting today's meeting.

Mr. Dunn stated that several Lieutenants sent a written request on February 28, 2012 to state their case about eligibility for the Fire Captain exam. The Commission granted this request and timing is of some importance. Mr. Dunn continued that Fire Chief Brian Rooney also has asked to address the Commission. He was unable to attend last week's meeting and he would like to be heard regarding the matter.

Mr. Dunn asked to first hear from the Lieutenants who signed the letter requesting the special meeting. As spokesperson, Lieutenant Ron Rolfe approached the Commission. He passed out a timeline and documents from when they were promoted to Lieutenant.

Lieutenant Rolfe stated the reason he is before the Commission is due to the decision made last week on February 28th regarding the eligibility date of test. The Commission's decision to change the date of eligibility originally set by Personnel Director David Dunn made 16 of them ineligible to take the test. He requested that their time be back dated from the time they were promoted to Lieutenant. He continued to explain that the process took from April 13 to August 8 when they were promoted; approximately 1 ½ years to get promoted to Lieutenant.

Lieutenant Rolfe said that at last week's meeting a lot of stress has been put on the City Charter. He added that violations to the City Charter were made numerous times when his group was promoted. He referenced the timeline said that the opening was created by Craig Kelly when he retired September 7, 2004 and page 11 of the Charter states that a test should be given within 120 days; however, an exam was announced

December 18, 2006, and the application process went from 30 days from that date. He further stated that they were given the test on April 13th and that Section 211 says the grades need to be back and announced within 90 days; however, they received their results on September 28.

Lieutenant Rolfe further explained that on February 29 the Lieutenants came before the Commission and the Director at the time was Mr. Jacobs. There were multiple spots and the Chief had asked that they be promoted from the list that had been generated. Mr. Jacobs mentioned there were legal issues. Appeals were not done but 15 were filled with provisional rank on February 29th when the transfer came out. They were promoted on March 2nd. Appeals came back from Dr. Outtz on May 8. On May 13th the list was certified at meeting.

According to the Charter they should have been promoted within 30 days of the promotion list being certified. Director Jacobs did not promote them until August 10, 2008. From May 13th it took the better part of 90 days or more to get promoted. They want time back to when they were provisional. There are 16 of them (not 15).

Mr. Dunn asked if anybody else wanted to be heard from the group but nobody did. Mr. Dunn restated Lieutenant Rolfe's point. He said that the request was to grant retroactive seniority to March 2, 2008. Lieutenant Rolfe added that they were promoted to Lieutenant prior to a lawsuit that changed the list. It was on August 8th that the Chief's order went out. The date of their probationary appointment was August 10. That list was put out with a change in weights that Director Jacobs had made an effort to put through. Lieutenant Rolfe did not have the date but Mr. Jacobs changed the weights back at a later date.

Mr. Dunn asked if they were requesting 5 months back seniority. Lieutenant Rolfe said yes.

Lieutenant Rolfe said they had not been harmed by this decision at that time. This is why they are bringing this to Commission now. By becoming ineligible now, this has harmed them. Timeframe was dragged out on threats, on a hypothetical lawsuit that never happened, instead of promoting them according to the Charter, when they should have been promoted.

Commissioner Guedes asked Lieutenant Rolfe if their argument is that they want back time and City Attorney Mitola said his problem with the argument is that Lieutenant Rolfe signed a settlement agreement. Lieutenant Rolfe replied that he had not and he asked to see the signature. City Attorney John Mitola looked for his signature and confirmed it was not on the agreement. Lieutenant Rolfe commented that he was not a party to any lawsuit.

Commissioner Guedes asked what members of the group did sign the settlement agreement. Lieutenant Rolfe stated that Director Jacobs did something illegal and that the test was valid. Then there was an effort to change the weights and dragged this on

and pushed the members that signed the paper and other members into a lawsuit against themselves. He continued to say that he knows Mr. Jacobs is not here anymore but that his actions are still carrying throughout the City and causing a little bit of havoc.

Attorney Mitola said he understands the argument and would look into it. Attorney Mitola said that if the City, going back to 2007, had violated the Charter because it did not give a timely exam, then the remedy for affected employees would be to go to court to get mandamus action. He further pointed out that the fact that the settlement agreement is also another problem.

Mr. Dunn asked Lieutenant Rolfe if he knew who did not sign the agreement. Lieutenant Rolfe replied that the junior 5 of the 16 Lieutenants had to sign off on the agreement. Attorney Mitola added that the union also signed the agreement and that the argument can be made that the union represents the interest of the members.

There was a discussion about who did or did not sign the agreement. Lieutenant Rolfe provided Attorney Mitola with a list of names.

Lieutenant Rolfe stated that this group of Lieutenants had not been harmed by the City not following the Charter until the vote taken on February 28, 2012.

Mr. Dunn asked Attorney Mitola if he wanted to research it and Commissioner Guedes asked if he could have the information for the regular monthly meeting for the next week, March 13th.

Lieutenant Rolfe said the Charter states that 30 days post approval promotions should be made May 13, 2008. The promotions were made August 10. The Charter states 30 days from May 13 date so by June 13 they should have been promoted to Lieutenant.

Lieutenant Ellis said when he called the Civil Service office he spoke with Lisa (Kollman) and she had told him the list was certified on May 13, 2008. The letter in the packet said it was going to be done. June 13, 2008 was the maximum date.

Attorney Mitola said he did not remember and would look into the timeline with respect to the disparate impact claim. Attorney Mitola said he was trying to recall if the list was certified and then discovered disparate impact and Attorney Mitola needs to look into it.

Lieutenant Rolfe said disparate impact states if the test is valid and portrays the job it is being tested for that it can be overlooked and the promotion taken. They had been given 13 reading articles. ISTA is world-wide accredited. The articles were department specific and national world-wide accredited. The oral examination that was for 2 days consisted of a fire scenario, car accident, and employee issues. Director Jacobs wrote that the test was valid. It was absolutely valid and encompassed their job to an ERG (exhaust gas recirculation) which sits in front of every fire truck in the City. To hold the test up for months and months and months for something he had written was valid that

Dr. Outtz wrote was a valid test and to hold the promotion up is part of what has put them at the point they are at now.

Attorney Mitola commented that Ralph (Jacobs) said at the time that the test was a valid examination but he encountered the 4/5 Rule which is pre Ricci and had to do the analysis.

Bishop Plummer left the meeting at 3:50 p.m. Mr. Dunn explained that he was notified that he had an emergency he had to attend to, however, that since there was still a quorum the meeting would continue.

Commissioner Guedes said that since this was a multi-faceted issue and Attorney Mitola had to look into major points that need clarification on that she would entertain a motion to table the decision to next Tuesday's meeting at 2:00 p.m. (March 13th regular Civil Service Commission monthly meeting).

Mr. Dunn stated that he just noticed that Attorney Bucci was present. Attorney Bucci reminded the Commission the entire hiring process and promotion dates was part of court litigation and not only a settlement agreement. He stated that he didn't think the Commission could not alter court judgment approved by federal court and that it was not only a settlement agreement.

Commissioner Guedes added that the Commission understands and that it would not be comfortable until Attorney Mitola provided the Commissioners with a thorough review and he would be prepared to air this by next Tuesday.

On a motion made by Commissioner Rodgers and seconded by Commissioner McBride the Commission unanimously tabled the matter to March 13, 2012.

On a motion made by Commissioner Rodgers and seconded by Commissioner McBride an item would be placed on the March 13, 2012 Agenda for possible reconsideration of their February 28, 2012 decision.

Commissioner Guedes stated for clarity that today's decision was tabled to Tuesday, March 13 and that reconsideration of the Commission's action taken on February 28, 2012 would be on the Agenda for March 13.

Mr. Robert Whitbread, President, Union Local 834, stated that the union has repeatedly filed mandamuses because of lack of action on the part of the City to follow the Charter and that they have a mandamus they will be discussing on March 12 at court. Commissioner Guedes noted the point.

Mr. Dunn stated that Fire Chief Brian Rooney asked to be heard by the Commission regarding the special meeting on the 28th.

Chief Rooney stated that he was working at the Emergency Operations Center all day on February 28 and was unable to attend the special meeting about eligibility dates. He had heard what the meeting was about and the concerns regarding eligibility dates and who was eligible and who was not. He added that he can fully understand why the Firefighters are concerned and that he had to wait 17 years to take the Lieutenant promotional exam. He understands the frustration and concern and it is a very touchy subject.

Chief Rooney said he was very concerned that some Fire Officers stood up and said that he manipulated the list purposely and delayed promotions. Chief Rooney said that was wrong and incorrect, and that he in no way, shape, or form manipulated the Captain promotion list. He added that the statement made about him by the Firefighter, is against Department Rules and Regulations, to publicly criticize a superior officer in that manner. Chief Rooney asked the Commissioners to give no value to that Firefighter's comment and continue to support him. Commissioner Guedes stated that any statement made in that fashion would have been considered hearsay.

Mr. Whitbread said as a point of order that the Chief's item could not be put on the agenda. Mr. Whitbread said this meeting was a special meeting asked for by other people. And that a different item cannot be put on the agenda. Commissioner Guedes said as a point of order that it does happen and that it has happened in the past.

Mr. Dunn said he felt somewhat remised to not have spoken up at the meeting on the 28th in response to the comments made; that he intended to but there were interruptions and distractions. Mr. Dunn further noted, regarding the remarks made by Lieutenants Shevlin and Reyes about Civil Service and Chief Rooney, that Chief Rooney had nothing to do with any of this and that none of their comments were true. Mr. Dunn noted what they said may have been their opinions, concerns, or thoughts but none of that happened in this matter. Mr. Dunn again stated that he should have said something publicly last week, and he apologized to Chief Rooney that he did not.

Commissioner Guedes added that at the meeting on February 28 there was a lot of information and it was somewhat chaotic and she hoped everyone understood that the Commission is trying to bring clarity to the matter and want to make sure this is remedied for everyone involved. She added that she hoped to have it resolved at the next meeting.

Kenny Domschine approached the Commissioners and stated that he has been a Lieutenant for 14 years and would like to point out that he had a similar appeal from 1998, regarding his seniority date and Civil Service denied him his appeal. He said he has documents from that time, and he had not been able to take the last Captain test because he missed the date by 30 days and he has been a Lieutenant for 14 years. This is the first Captain test he is able to take. He added that there have probably been a half dozen guys over the last 15 years who have appealed seniority dates and everyone of them has been turned down by Civil Service.

Commissioner Guedes asked Lieutenant Domschine to contact Mr. Dunn, give him the documents he has and Mr. Dunn would forward the documentation to Attorney Mitola.

Mr. Dunn said he expected the full Commission on March 13th at 2:00 p.m. in Wheeler A and B. He added that he might try to move the meeting to the Common Council Chambers and Commissioner Guedes asked not to add any more items to the agenda and that the Fire Captain eligibility date would be addressed toward the beginning of the hearings for the Agenda.

On a motion made by Commissioner Rodgers and seconded by Commissioner McBride the special meeting of the Civil Service Commission was adjourned at 4:10 p.m.