

CIVIL SERVICE BOARD MEETING MINUTES



DATE: April 12, 2010
5:00 PM – 6:45 PM

BOARD: Doug Coulter, Chairperson
Hugh Logan, Vice Chairperson
James "Mickey" Dunlap, Board Member
Debra Allen, Board Member
Maiqual "Mike" Talbot, Board Member

STAFF: Terri L. Cassidy, Human Resources Director/Secretary to the Board
Jyll C. Ramirez, Administrative Assistant to the HR Director
Christine Fox, HR Analyst
Leoni Mulvihill, Assistant City Attorney (Acting City Attorney)

1. FLAG SALUTE

The Pledge of Allegiance was led by Board Member Allen.

2. ROLL CALL

All Board Members were present.

3. APPROVAL OF MARCH 1, 2010 CSB MEETING MINUTES

A Motion was made by Board Member Allen to approve the March 1, 2010 Civil Service Board meeting Minutes. Vice Chairperson Logan seconded the Motion. The Motion passed 5 ayes, 0 No.

4. APPROVAL OF MARCH 8, 2010 CSB MEETING MINUTES

A Motion was made by Board Member Allen to approve the March 8, 2010 Civil Service Board meeting Minutes. Board Member Dunlap seconded the Motion. The Motion passed 5 ayes, 0 No.

5. MONTHLY REPORT FROM THE SECRETARY

Ms. Cassidy explained to the Board:

HR staff provided a City-wide analysis of the late employee performance evaluations in their packet. Board Member Allen complimented Public Works on their significant improvement. Ms. Cassidy noted that Deputy Public Works Director Dave Webb has spearheaded the much improved effort of the Public Works Department.

Due to the 4th of July holiday, the July 2010 Civil Service Board meeting will be scheduled for July 12, 2010.

Executive Recruiter Eric Middleton expects to interview nine candidates at the end of April or beginning of May. Ms. Cassidy will provide the Board with dates and candidates by the end of the week, so that Chairperson Coulter and Board Member Dunlap may make scheduling arrangements for their participation in the process.

6. DISCUSSION /RECOMMENDATION REGARDING CIVIL SERVICE SYSTEM – CHARTER/ORDINANCE/RULES

Ms. Cassidy informed the Board that the matrix provided by Human Resources in the agenda packet depicts a comprehensive chart of Ordinance 866. The chart shows where language is duplicated and the different sources are housed, although more sources may exist. Staff's recommendation is that Ordinance 866 be sunsetted and that certain sections, duties and responsibilities of the Civil Service Board be incorporated into the City Charter. Ms. Cassidy continued to review and explain the matrix to Board Members.

Board Member Dunlap requested clarification on the recommendation. He asked if the Civil Service System rules in Ordinance 866 would become effective in the amended Charter language and the other operating rules would be a part of the new ordinance. In addition, he wanted to be assured of the core protections for the employees currently covered by the system.

Ms. Mulvihill confirmed Board Member Dunlap's interpretation and explained that the new ordinance would not need to be changed by vote of the people.

Board Member Dunlap expressed his support that the Board does not need to be involved in the Recruitment and Selection process, with the exception of approving and requesting extensions of eligibility lists as a protection for the City.

Ms. Cassidy informed Board Member Dunlap that there may be other options to achieve his goal of having an open, transparent eligibility list and examination process.

Board Member Allen would not mind if HR Director Cassidy approved the eligibility lists and just informed the Board at the subsequent meeting for transparency purposes.

Board Member Dunlap wants to be sure that the rules do not become a bargaining tool.

Ms. Cassidy explained that the Civil Service Rules could include language to protect civilian employees not covered by the Firefighters' Procedural Bill of Rights or Public Safety Officers' Procedural Bill of Rights. The Civil Service Board Rules and Regulations would have to be rewritten or revised after the adoption of the Charter amendment and if Ordinance 866 was sunsetted.

Vice Chairperson Logan is concerned about the protections of the civilian employees.

Chairperson Coulter wanted to know why not implement the replacement ordinance after the vote of the people.

City Manager Dave Kiff advised the Board, with Ms. Mulvihill's confirmation, that the City Council could adopt a resolution that is pending and only operative if the Charter amendment passes.

Board Member Allen requested feedback from the Association representatives.

There were no comments.

Ms. Cassidy asked Police Captain Tom Gazsi to explain to the Board how the Lexipol system functions, as an example of a large project revising rules.

Captain Tom Gazsi addressed the Board regarding the Police Department's Standard Operating Procedures manual and changing over to the Lexipol System. He explained that the SOP manual changes frequently due to updates in policies. Lexipol's manual system standardizes common case laws for law enforcement organizations, including programs that are specific to Newport Beach. In addition, they notify the agency when there is a case law change, update the manual, and provide training on the modifications; and therefore, the SOP manual is always current. Captain Gazsi continued to explain how the Police Department processes the Lexipol changes as they occur. Once the agency is notified of the change, it is necessary to report the update to the Police Associations. With the Lexipol system, on a weekly basis, there is a training tool that requires Police Department personnel to log in, read and take a quiz at the end of the segment. This provides staff with a greater depth of understand of the policies. He notified the Board that this platform went into effect on April 1, 2010, under the leadership of Chief Luman.

Ms. Cassidy pointed out to the Board that this is the type of system the City would benefit from, want to parallel and recommend to the Charter Update Commission. In addition, as a practitioner, she would like a document that not only strengthens and supports the Civil Service System, Rules and protections enjoyed by the employees covered by the system, but also a dynamic and usable platform as we go forward.

She referred to the changes that will be needed, due to new laws, on an ongoing basis, as well as training, for the Civil Service Board Rules and Regulations.

Board Member Allen asked for feedback from the Association representatives regarding the staff recommendation to the Charter Update Commission for an Assistant Chief position, which would not be represented by a bargaining unit or the Civil Service System. She also requested confirmation from Ms. Cassidy that the person chosen to occupy this position would be selected upon merit, not favoritism and clarification on whether the ideal candidate would be internal or external.

Captain Gazsi voiced his support for this position.

Police Officer Syvock notified the Board that he has not heard opposition and supports the creation of the Deputy Chief position.

Chief Luman shared his experience at the City of Long Beach, where all positions above Lieutenant are "at-will." He believes that this type of progression developed the higher-ranking Police personnel and prepared them for the Chief of Police position.

Ms. Cassidy confirmed Board Member Allen's statement that the person would be selected based upon merit.

City Manager Dave Kiff informed the Board that ideally, the candidate would be internal and the hope is to use this position as a tool for succession planning.

Ms. Cassidy explained that there is currently a Deputy Chief job class in the Fire Department, so the creation of an Assistant Chief would not disrupt the current Deputy position.

Fire Division Chief Paul Matheis asked Ms. Cassidy where the Assistant Fire Chief position fits in the departmental organization.

Ms. Cassidy explained they would be directly under the Fire Chief's position.

Chief Matheis informed the Board that, in Fire Agencies, a Deputy is always superior to an Assistant.

Board Member Allen expressed her concern regarding the rank of the positions in an emergency situation and did not want to cause confusion.

Chief Parker addressed the Board and clarified that statewide there is no hard, fast rule that one title outranks the other. In an emergency command situation, the rank of personnel becomes irrelevant and you go with the best person at the situation. There is no prevailing standard.

Chief Luman notified the Board from a law perspective, an Assistant is ranked higher. A Police Commander has one star, Deputy Chief has two stars, Assistant Chief has three stars, Police Chief has four stars and, in Los Angeles, the Sheriff has five stars.

Chairperson Coulter asked the Board for a Motion or recommendation.

Board Member Dunlap wanted to make a recommendation broken down into two parts.

Board Member Dunlap made a Motion to recommend to the Charter Update Commission to implement the changes set forth in the matrix provided by the HR Department, including a way to keep eligibility lists in an open, transparent forum and some minor changes in language to be discussed at a later time. The Motion was seconded by Board Member Allen. It passed 5 ayes, 0 No.

Board Member Dunlap made a Motion to make no recommendations regarding the creation of the non-represented Assistant Chief positions. He then withdrew his Motion after discussion.

Board Member Allen made a Motion to recommend to the Charter Update Commission that exempt Assistant Chief positions be created using the promotional process similar to the recruitment and selection of Chief of Police. The Motion was seconded by Board Member Dunlap. It passed with 4 ayes, 0 No and 1 Abstain (Coulter).

7. DISCUSSION AND SCHEDULING OF DATES FOR EMPLOYEE APPEAL HEARING

Chairperson Coulter recommended the hearing be Monday, May 17, 2010. He informed the Board that it needs to be 30 days out, giving enough time for the formal procedure and notification process.

Board Member Allen informed the Board that she had a scheduling conflict for May 17, and requested the hearing be Wednesday, May 19, 2010, 9:00 AM.

Board Member Dunlap stated for the record:

“With regard to this upcoming hearing, this by far is the most serious and important function of the Civil Service Board – a hearing to make final findings which balances the job and career of an employee versus the rights and duty of the City then fairly administer the appropriate discipline.

The Board has written procedural rules for conducting such hearings which must be strictly followed, but many of the methods for following those rules are not specifically written, such as the methodology for formalizing the hearing as either open or closed, witness swearing in, witness admonishments at the conclusion of testimony and, most of concern, the proper response to attorney objections or special requests.

No degree of past hearing experience can possibly cover all the complex questions of procedures in such important matters as a disciplinary appeal. Both the appellant and the City will have skilled legal representation and the Civil Service Board requires no less such representation.

Without exception, as a Civil Service Board member, every hearing that I have participated in was represented by its own independent counsel whose purpose was to ensure that all procedures and rulings were properly considered and acted upon, thus avoiding the possibility of a sustainable Superior Court challenge to the Board’s ultimate findings.

My concern is that the City Attorney’s Office is short-handed and I do not believe there is a person there with a background in counseling a Civil Service Board, who is not already conflicted with regard to this upcoming appeal and further, one who is sufficiently protected by the “Chinese wall” separating them from either the City position or that of the appellant.

I would like to formally request that the City provide the Board with experienced outside counsel, preferably someone with whom we have had previous experience.”

Ms. Mulvihill informed the Board that she will be their representative and preserve the integrity of the proceeding so that it is capable of withstanding challenge.

Board Member Dunlap assured Ms. Mulvihill he was not questioning her capabilities; however, he feels more comfortable with an outside counsel who is completely removed from the City and its employees.

Ms. Mulvihill told the Board that the City Attorney's Office, by Charter, represents the Civil Service Board, and that her office is prepared to offer the Board legal advice.

A Motion was made by Board Member Allen to request outside counsel for the employee appeal hearing. Board Member Talbot seconded the Motion. It passed 5 ayes, 0 no.

8. POLICE DEPARTMENT STATUS REPORT

Captain Gazsi delivered to the Board the Police Department's status:

Recruitment Update

- On February 20, 2010, testing was administered for Lateral and Recruit Police Officer. The eligibility lists are on the agenda for approval.
- Written tests for Animal control Officer and Crime Scene Investigator were held on February 27, 2010. Oral interviews were scheduled in March and will continue this month.
- Police Dispatcher written tests were held the end of February and oral interviews were held in March. Eligibility lists are on the agenda for approval.

Points of Interest

- Beau Rains, Robert Hufford and Ricardo Adame were hired as a Police Recruit Officers and have begun attending the Orange County Sheriff's Academy.
- Officer Moon is scheduled to retire April 2010.
- Sergeant Byington is scheduled to retire August 2010.

Backgrounds in Progress

- 1 – Lateral Police Officer
- 4 – Recruit Police Officers
- 1 – Police Dispatcher

9. REQUEST APPROVAL OF UPDATED POLICE CAPTAIN JOB SPECIFICATION AND TO OPEN THE POLICE CAPTAIN (PROMOTIONAL) RECRUITMENT

Chief Luman addressed the Board and welcomed them to the Police Department.

Chief Luman stated for the record:

"I am asking that you approve the updated job description and the opening of promotional recruitment for the position of Police Captain.

The eligibility lists for the ranks of Police Sergeant, Lieutenant and Captain expired at the end of 2009. We have subsequently tested for and currently have active Police Sergeant and Lieutenant lists. We are in need of a current and active Captain's list.

By way of background, the former Chief of Police, in November 2008, convened a Promotional Committee to review our promotional processes. The committee concluded its work with several recommendations, which were reviewed and many implemented in the Sergeant and Lieutenant exams given in December 2009. I intend to use that same, new process for this requested Police Captain promotional exam.

The Captain's job description was reviewed, and minor updates were made, to more accurately reflect the duties of the position and to insert the City's standard language for job descriptions. The minimum requirements for the position remain unchanged.

The exam will be coordinated by the Human Resources Director and Police Chief and will include an Assessment of Promotability (weighted at 25%), a Written Exam/Exercise (weighted at 25%) and an Oral Panel Interview (weighted at 50%).

The Assessment of Promotability format will be consistent with that used in the recent Sergeant and Lieutenant promotional examinations. The Oral Panel will consist of three law enforcement leaders from outside agencies with a Human Resources Department moderator.

Of the department's eight (8) Lieutenants, it appears that five (5) candidates would meet the minimum requirements for participation in the process.

The Human Resources Director and I respectfully request that the Board approve the updated job description and job flyer in order to open a promotional recruitment for the position of Police Captain."

A Motion was made by Board Member Dunlap to approve the updated job specification and open the promotional recruitment for Police Captain. Vice Chairperson Logan seconded the Motion. It passed 5 ayes. 0 no.

10. REQUEST APPROVAL OF ANIMAL CONTROL OFFICER ELIGIBILITY LIST

Chairperson Coulter made a Motion to combine items 10, 11, 12, 13, 14 and 15. The Motion was seconded by Vice Chairperson Logan. It passed 5 ayes, 0 no.

Board Member Allen made a Motion to approve the eligibility lists for Animal Control Officer, Police Dispatcher – Entry Level, Police Dispatcher – Lateral, Police Officer – Lateral, Police Recruit – Academy Trained and Police Recruit – Not Academy Trained. The Motion was seconded by Board Member Dunlap. It passed 5 ayes, 0 no.

11. REQUEST APPROVAL OF POLICE DISPATCHER ENTRY-LEVEL ELIGIBILITY LIST

See item 10.

12. REQUEST APPROVAL OF POLICE DISPATCHER (LATERAL) ELIGIBILITY LIST

See item 10.

13. REQUEST APPROVAL OF POLICE OFFICER (LATERAL) ELIGIBILITY LIST

See item 10.

14. REQUEST APPROVAL OF POLICE RECRUIT (ACADEMY TRAINED) ELIGIBILITY LIST

See item 10.

15. REQUEST APPROVAL OF POLICE RECRUIT (NOT ACADEMY TRAINED) ELIGIBILITY LIST

See item 10.

16. FIRE DEPARTMENT STATUS REPORT

Deputy Fire Chief Mais reported there was no damage to the City due to the earthquake a week ago.

Last month, the Fire Department held registration for the Junior Lifeguards program, in which 1,250 kids signed up, and tryouts for Seasonal Lifeguards, 28 candidates remain. The Junior Lifeguard program begins the last week of June and ends in August.

17. REQUEST APPROVAL TO OPEN FIREFIGHTER RECRUITMENT

A motion was made by Board Member Allen to approve opening the Firefighter recruitment. The Motion was seconded by Vice Chairperson Logan. It passed 5 ayes, 0 no.

18. BOARD MEMBER COMMENTS

Chairperson Coulter thanked the Police Department for hosting the meeting.

Board Member Allen thanked HR staff for compiling the information and creating the Charter Update matrix. Ms. Cassidy informed the Board that the Charter Update Commission will meet and receive the matrix for discussion April 20, at 2 PM, in the Friends Room, at the Central Library, if Council Chambers are still under construction.

19. ITEMS FOR FUTURE AGENDAS

None

20. PUBLIC COMMENTS

None

21. ADJOURNMENT

The Civil Service Board meeting adjourned at 6:45 PM

Terri L. Cassidy, J.D.
Human Resources Director
Secretary to the Board