



**CIVIL SERVICE COMMISSION
MINUTES OF MAY 06, 2021**

The public hearing of the Westlake Civil Service Commission was called to order by Chairman Kucler at 8:00 a.m.

Members Present: Dennis Kucler, Claudia Dillinger, Timothy Sullivan
Also Present: Assistant Law Director Robin Leasure, Clerk of Commissions Nicolette Sackman; there were numerous members of the police and fire forces in the audience.

Review draft rule change to Rule IX: Section 5 Promotion of Police Officer and Fire Officer

RULE IX. APPOINTMENT.

Section 5. PROMOTION OF POLICE OFFICER AND FIRE FIGHTER.

*Vacancies in the position above the rank of firefighter or police officer shall be filled on competitive examination only. The certification of eligibles ~~shall be the person achieving the highest passing grade~~ **shall be the names and passing grades of the three (3) persons ranking highest. The Mayor shall then appoint one (1) of such persons.** No person serving in the rank of firefighter in the Fire Department or police officer in the Police Department shall be eligible to take the promotional examination for Lieutenant in the Fire Department or Sergeant in the Police Department unless he has completed his probationary period as established for his position within his respective department and has at least three (3) years of full time experience in the rank of fire fighter or police officer with a minimum of two (2) of the three (3) years of experience in the respective Westlake Fire or Police Departments. No person shall be eligible to take a promotional examination for the positions higher in rank than Lieutenant in the Fire Department or Sergeant in the Police Department unless the person shall have served at least twelve (12) months in the Westlake Fire or Police Departments in that rank from which the promotion is to be made. In those cases where less than three (3) are eligible and willing to take such examination, the twelve (12) month rule may be waived. Where an eligible list exists and a vacancy occurs which may be filled from such list, the vacancy shall be filled within forty-five (45) days from the date of such vacancy. Whenever a vacancy occurs in the Police or Fire Departments and no promotional eligible list exists for such rank, the Commission shall make every reasonable effort within one hundred twenty (120) days of such vacancy to hold a competitive promotional examination [except in the case of paragraph 5.1 herein]. Upon certification; the vacancy shall be filled within forty-five (45) days.*

Chairman Kucler explained a request was received to change the rule from the promotion of the top candidate on the eligibility list for a promotion, to the option to promote one of the top three candidates. He explain the current testing procedure can include a written exam followed by an assessment center, which is conducted by a testing company and an eligibility list is established. The commission is considering the request made by the mayor and has prepared draft language for consideration and discussion.

Mayor Clough thanked the commission for their consideration and explained the reason for the request is to give the appointing authority the ability to select one of the top three candidates on eligibility list for a supervisor position. The testing process is good but may not be the best as the testing company's assessors may not always know the environment of the city and how the city differs from other cities. When there is an entry level exam the top ten candidates are certified so the best candidate can be selected for hire based on their qualifications. The top candidate may not always be the best person for the position and there should be some ability to select from the top three candidates for promotional examinations. There have been qualified candidates but the top ranking individual on the eligibility list may not always be the best person for the position. He stated that this request could apply to all promotional exams or just for the positions of chief. Mayor Clough advised that often the rankings may only be separated by a point or less and he would like the ability to choose from the top three candidates. He noted that when hiring for director positions in the city, individuals from a wide area, such as out of state, are considered so the city can find the best person for the job based on the needs and environment of the city. Chairman Kucler asked if the mayor was open to amend the request so it pertained to only the positions of fire and police chief, which Mayor Clough stated having a choice for the appointment of the chief's positions is desirable to select the best individual. It was noted the chief is almost part of the mayor's staff.

Fire Chief Hughes disagreed and felt there is a civil service commission for a reason to uphold the testing process, rather than a decision made by one individual. He explained his testing process and experiences during his career. The intent of civil service is to test candidates that are employees to establish an eligibility list. The testing company establishes a list of eligible candidates and does not select the candidate. There have been times when the top candidate removed themselves from the list for consideration of promotion. The testing process is how the eligibility list is determined and without it how would tie breakers happen and would promotions be based on personality or some other factor. It is not known who the future chief or mayor will be and it is unknown if the right thing will be done in the future. What if a new mayor didn't like the individual the previous mayor promoted, what would happen? What is in place is in the best interest of the city. Chairman Kucler and Chief Hughes discussed that the chief works with the clerk when scheduling an exam to review books that related to Westlake and to review Westlake's process so assessment center exercises and written exams relate to Westlake. The testing process has changed since 1994 when there was an issue. Candidates that have ranked top have worked out to be great individuals in the positions. It was questioned if the process was fair in the chief's opinion, which Chief Hughes felt that it was as there are procedures in place to ensure that none of the candidates are familiar any of the potential assessors. Throughout the testing process, candidates learn to prepare so they can do the best that they can.

Westlake Fire Fighter Paul Carroll (union president) stated that civil service was designed to keep politics out of the process. The Chiefs' Associations assessments are based on safety needs, not politics and they are qualified to provide assessments as their numerous years of experience matter when asking questions of candidates. Candidates taking exams work hard to get promoted and the exam process should be competitive. At times one candidate has beat out another by a fraction of a percent and the next time they just try harder. A candidate can place first after a written exam and then drop in the rankings after the assessment center, so the assessment center is a valuable part of the process. Based on the over 100 years of combined experience the assessors have, they are able to pick the best candidate and create assessment center exercises. Chairman Kucler questioned if the use of seniority extra credit was a problem as the extra credit can change the order of the rankings. Fire Fighter Carroll stated the system is not perfect but all the candidates know it is applied. He also noted that seniority is applied as someone who has worked for the city longer may know more about the city and the policies.

Westlake Police Officer Anne Smith (union steward) expressed concern for the proposed rule change. If the top candidate were not selected there are concerns that moral will be impacted. Also one would question why another candidate was selected as there has been no explanation as to the criteria the mayor would use to determine how one of the top three will be selected. There should be faith in the assessment center process as the assessors have experience in the positions they are testing and having one person with the final say is not the best option. The police department has faith in the current process. She noted there is a probationary period so if an individual that was promoted didn't work out, they can be demoted out of the position. At times when tests are administered for higher ranking positions, there may only be three candidates that take the exam. If any one of the three can be selected doesn't that make the testing process moot? This would also diminish the motivation of individuals taking exams as if there is no specific reason for the selection why try so hard at the assessment. The police union is opposed to the change. Chairman Kucler questioned if Ms. Smith has heard any feedback from surrounding communities where one of the top three candidates are selected. Ms. Smith stated that she has heard that one community has had a lot of issues with ineffective supervisors.

Mr. JD Wienderberg, Sperry's Forge Trail, stated he is a resident and a firefighter in a neighboring community and he has worked for six different of departments over the length of his career. He stated a promotion should not be made based on who knows who and a testing process should be used to promote. The community where he is employed only does a written exam and Westlake has a better process by incorporating an assessment center as well. Having a third party perform the assessments is beneficial as it would not be determined by who knows who. He feels Westlake has a qualified department with good leadership that he would not want to see changed. He stated that the assessors from the chiefs' associations are the best to make determinations and score individuals as they have been in those jobs and know what it is like to make the difficult choices the job demands and what an individual has to endure in the position based on real life experience. Chairman Kucler questioned if the top candidate was moved down in rank due to seniority points if that was a problem. Mr. Wienderberg stated that it wasn't and individuals know to work harder. He felt the best way to obtain the rankings is from both a written exam and assessment center.

Westlake Police Detective Joshua Riley stated he has worked for multiple police departments and has 24 years of service. When one of the top three candidates is selected it turns the selection process into a personality test. It is possible if the top candidate is not selected there may not be respect for the selected candidate by the department. He questioned why have a written exam and assessment center if the top candidate isn't going to be selected. He also noted there is a probationary period so if someone is promoted and is not right for the position, they can be demoted. Chairman Kucler questioned if the process was fair, which Detective Riley stated a lot of work goes into preparing for the exam and it is fair. He wasn't in favor of one of the top three being selected verses the top candidate.

Westlake Fire Captain Clayton Kovats questioned why a change is being considered as he was not aware that there was a management issue. The reason there is civil service is so there is a fair and unbiased competitive exam process. He did question if there could be potential legal issues if the top candidate was not selected. He stated that he personally had been out ranked on an eligibility list by less than 1% as the other candidate did better. He learned from that. At an assessment center, the assessors do not know who any of the candidates are and it is anonymous. The assessment center is an important step in the process and many candidates prepare for years for future promotions. It was explained that the commission received a request from Mayor Clough to consider changing the rule, which is a reasonable request and this is the process for amending a rule. The commission looks at

what is best for the city, drafts an amendment and goes through the public process. At this time a decision has not been made.

Westlake Fire Lieutenant Steve Schneid noted that the position of law director is no longer an appointed position as city council voted for it to be an elected position rather than a political appointment. This is the same and politics should not factor into the selection process for a promotion.

Chairman Kucler explained the commission can vote to approve the rule change as presented, consider amending the rule change to pertain to chief only if wanted, or schedule a meeting to vote so members have time to think about the discussion. Due to schedules, a meeting cannot be scheduled until after May 24th. The general consensus was to discuss and vote today.

Motion: Mr. Kucler moved, seconded by Mr. Sullivan to accept the draft rule change as presented.

The commission discussed the proposed rule change. Mr. Sullivan stated he has respect for both the fire and police departments and the services they provide. The mayor should be allowed to give his input for the hiring for the position of police or fire chief and it is normal in business for the general manager to have input on hiring. He suggested amending the draft rule change to pertain to only the positions of chief and not all the promotional exams. It was noted that several years ago there was a code amendment that pertained to the position of chief only where one of the top two candidates could be selected, but that did not pass at that time. Mr. Sullivan favored the mayor's input on the selection of managerial positions.

Ms. Dillinger stated that she did not support the rule change as based on the input received at the hearing there does not seem to be a flaw in the system promoting the most qualified candidate using the written exams and assessment center. There is a probationary period in place if a candidate is not able to perform the duties of the job. It is unknown if a future mayor would play favorites if able to select from the top three candidates. When there is an assessment center, the testing company can look at criteria specific to the city and conducting both a written exam and assessment center are important to find the right person. Mr. Sullivan noted without the input of a general manager there can be issues as departments can choose their own and put up walls. All have to be able to work together and stand on equal ground.

Chairman Kucler thought the testing process is fair and different criteria is used for different level positions such as how the scores are weighted for the written portion and the assessment center. For the position of chief only an assessment center is used. He noted the seniority can change the final ranking, which did not appear to be an issue since that is defined well before the exam is administered and all are notified of the process. The police and fire departments are almost independent from the other city departments based on what they do. The intent of civil service is to be independent of politics in the hiring process. It is possible that other communities noted may have issues when a candidate is selected from one of multiple candidates.

It was discussed to amend the rules to only apply to the position of chief.

Roll Call: Ayes: None; Nays: Kucler, Sullivan, Dillinger; motion failed

Motion: Mr. Sullivan moved, seconded by Mr. Kucler to amend the language to:

Vacancies in the position above the rank of firefighter or patrol officer shall be filled on competitive examination only. The certification of eligibles for promotional positions other than police chief and fire chief shall be the person achieving the highest passing grade. The certification of eligibles for the positions of police chief or fire chief shall be the names and passing grades of the two (2) persons ranking highest. The Mayor shall then appoint one of such persons as chief. No person serving in the rank of firefighter in the Fire Department or patrol officer in the Police Department shall be eligible to take the promotional examination for Lieutenant in the Fire Department or Sergeant in the Police Department unless he shall have served at least three (3) years in the rank of firefighter or patrol officer, respectively. No person shall be eligible to take a promotional examination for the positions higher in rank than Lieutenant in the Fire Department or Sergeant in the Police Department unless the person shall have served at least twelve (12) months in that rank from which the promotion is to be made. In those cases where less than three are eligible and willing to take such examination, the twelve (12) month rule may be waived. Where an eligible list exists and a vacancy occurs which may be filled from such list, the vacancy shall be filled within forty-five (45) days from the date of such vacancy. Whenever a vacancy occurs in the Police or Fire Departments and no promotional eligible list exists for such rank, the Commission shall within one hundred twenty (120) days of such vacancy hold a competitive promotional examination [except in the case of paragraph 5.1 herein]. Upon certification; the vacancy shall be filled within forty-five (45) days.

Roll Call: Ayes: Sullivan; Nays: Kucler, Dillinger; motion failed

Adjournment

Meeting was adjourned at 9:22 am

Chairman Dennis Kucler

Nicolette A. Sackman, MMC
Clerk of Commissions

Approved: _____