

MINUTES OF THE AMES CIVIL SERVICE COMMISSION

AMES, IOWA

AUGUST 24, 2017

The Ames Civil Service Commission met in regular session at 8:15 a.m. on August 24, 2017, in the Council Chambers of City Hall, 515 Clark Avenue, with Commission Members Mike Crum, Harold Pike, and Charlie Ricketts present. Also in attendance was Human Resources Director Kaila Boothroy.

APPROVAL OF MINUTES: Moved by Pike, seconded by Ricketts, to approve the minutes of the July 27, 2017, Civil Service Commission meeting as written.

Vote on Motion: 3-0. Motion declared carried unanimously.

CERTIFICATION OF ENTRY-LEVEL APPLICANTS: Moved by Crum, seconded by Pike, to certify the following individuals to the Ames City Council as entry-level applicants:

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| Civil Engineer I: | Abdelhafiz Ibrahim | 79 |
| | Michael Lauritsen | 73 |
| Firefighter: | Jerome Ward | 84 |
| | Lindsay Ball | 77 |
| | Ashley Culp | 77 |
| | Daniel Schmidt | *76 |
| | Ryan Fogt | 74 |
| | Christian Case | 73 |
| | Derek Bixler | 72 |
| | Jordan Leach | 71 |
| Human Resources I: | Sean Lunde | 71 |
| | Brett Godwin | 77 |
| | Jessica Gofforth | 76 |
| | Cathy Beck | 88 |
| Principal Clerk: | Connie Davis | 85 |
| | Emily Newton | 83 |
| | Kasey Romano | 82 |
| | Phil Dalager | 73 |
| | Jana Allfree | 72 |
| | Michael Daley | 76 |
| Recreation Manager: | Kristin Zimmerman | 72 |
| | Jacob Perkins | 71 |
| | Adam Hyer | 83 |
| Resource Recovery Plant Lead Operator: | | |

*Includes five veteran's preference points

Vote on Motion: 3-0. Motion declared carried unanimously.

REQUEST TO ABOLISH RECREATION MANAGER ENTRY-LEVEL CERTIFIED LIST:

Staff is requesting that the Civil Service Commission abolish the entry-level certified list for the Recreation Manager classification. Ms. Boothroy explained that three candidates were interviewed and had passing scores. Following the interview process, one candidate was hired, leaving two candidates on the list. Adopted Policies and Procedures provides for the Commission to abolish the list when it has diminished to three or fewer eligible candidates. Staff recommends that the list for this position be abolished so that a new recruitment for the Recreation Manager classification may begin.

Moved by Pike, seconded by Ricketts, to grant the request to abolish the Recreation Manager entry-level certified list.

Vote on Motion: 3-0. Motion declared carried unanimously.

PRESENTATION ON LEGISLATIVE CHANGES: Attorneys Hugh Cain and Brent Hinders of the Hopkins & Huebner Law Firm, Des Moines, Iowa, had been asked by City staff to present a summary of the law changes and how they will affect the Civil Service Commission's actions.

Hugh Cain reported that the changes in the civil service laws last spring were a part of a very large comprehensive re-write of public employee rights done by the State Legislature. He explained that there were two issues that made it more complicated: this legislation is new, therefore, there are no court cases that interpret the new language; and, the legislative description as to what the Legislature was doing is not accurate; the descriptions are wrong in a number of provisions.

Mr. Cain reviewed the following major changes to civil service laws: 1) Seniority; 2) Removal made easier; 3) Elimination of trial "de novo" on appeal to the district court; and, 4) Diminishment of employees made easier.

With regard to "Seniority," Mr. Cain stated that an employee's start date within a classification or grade is still based on that date. The legislature left that in the *Iowa Code*. Mr. Cain advised that the huge change in this category is that, now, unless it is provided in the collective bargaining agreement, and with the exception of police and fire, the City Council may eliminate seniority rights. He further advised that the City Council, if it so chooses, can re-establish seniority and not be required to re-establish original dates. When the Legislature introduced the bill, the legislative materials indicated that seniority is eliminated at the time the bill is passed. Mr. Cain said this is incorrect. He stressed that the City Council has to take action to eliminate seniority. As long as the City Council chooses not to eliminate seniority, the City will still deal with seniority as it has for the last 20-30 years.

Mr. Cain referred to the issue of collective bargaining agreements. When collective bargaining is meshed back in with public employment, under Chapter 20, it is no longer a mandatory requirement to bargain on seniority unless you are a firefighter or police officer.

Upon questioning by Chairman Crum, Mr. Hinders responded that if a City has an existing collective bargaining agreement that has been negotiated prior to this going into effect (which is July 1, 2017), that agreement continues no matter what the terms. However, once terms are renegotiated, these come into play in any new agreement.

In reference to the second change, "Removal," Mr. Hinders explained that it used to be that the removal hearing was for: neglect of duty; disobedience; misconduct; and/or failure to properly perform duties. These were fairly high standards, however, employers are now given more discretion. He further explained that, now, removal of an employee may be for: act or failure to act that is in contravention of law or city policy; or, the standard operating procedures or in judgment of a person holding appointing authority is sufficient to show an employee unsuitable or unfit for employment. This second item is a much broader standard. Mr. Hinders still warned that the City needs to be very specific as to the reasoning behind removal of an employee, or to be sure to document multiple reasons for the basis of removal.

Mr. Hinders reported that veterans can not be removed from employment other than by misconduct or incompetence, and a hearing still has to be held. He reviewed the history of veterans' preference points and how these points came about. In summary, if the City has someone who says that he/she is a veteran, the City needs to make certain that the discharge form (DD214) indicates that that person was honorably discharged. Mr. Hinders reiterated that if a veteran is being terminated, it is important to make certain there are findings of misconduct or incompetence. Mr. Hinders stated that, in the removal, the City has the burden of proof, and with a collective bargaining agreement where 30% (or more) are public safety employees, the City has to give additional procedures not inconsistent with this statute. He reviewed those job positions that are to be considered public safety employees.

Mr. Hinders stated that, in reference to "Appeal to District Court," it used to be a new trial "de novo" was held in the district court if an employee appealed his/her case. This has been changed; the district court is now an appellant court, whereby a judge receives the recorded audio or video tape to see if he/she agrees with the findings and conclusions of the Civil Service Commission. He stressed the importance of having a detailed record at the civil service hearing level, and making sure it is all "done right" at that time. Mr. Hinders advised that it would be of great value to have an audio/video recording of the hearing.

Mr. Cain reported that pertaining to "Diminishment," it used to be that if "public interest" required it, the City Council could in "good faith" diminish employees. He indicated that now: the new law allows the City Council to implement diminution without "public interest" or "good faith" requirements; if at least 30% of members of a union are public safety employees, then diminution is to be carried out in accordance with the collective bargaining agreement; there is no requirement that diminution be carried out pursuant to seniority (other than fire and police); and, there is no provision for "bumping" rights. Mr. Cain indicated that the State Legislature has made diminution a very simple process, and that he suspects there will numerous legal proceedings held regarding this matter.

Upon questioning from Commission Member Pike, Mr. Cain stated that the City Council does not have to do anything, unless it chooses to eliminate seniority rights for those covered under collective bargaining agreements. Seniority rights exist until the contract expires. Then, the City Council may eliminate seniority rights if it so chooses.

Mr. Hinders explained that if this statute remains in effect, the City would be smart in making certain decisions regarding whether or not the City is going to eliminate seniority rights. And, if it does, the

City needs to know how this will affect future collective bargaining agreements. He indicated that the City will need to begin “forecasting” this to those bargaining groups and be mindful that, if seniority is eliminated, preparations need to be made. Mr. Cain reiterated that the City doesn’t have to do anything at all pertaining to seniority.

COMMENTS: The next regularly scheduled Civil Service Commission meeting was set for September 28, 2017, at 8:15 a.m.

ADJOURNMENT: The meeting adjourned at 8:50 a.m.

Michael R. Crum, Chair

Jill Ripperger, Recording Secretary