



City of Gahanna

Meeting Minutes

Civil Service Commission

200 South Hamilton Road
Gahanna, Ohio 43230

Paul L. Bittner, Chair
Stephen A. Patterson, Vice Chair
Paul Leithart
Beryl Piccolantonio
Mark Foster

Kimberly Banning, Clerk of Council

Tuesday, July 19, 2016

6:30 PM

City Hall Committee Rooms

This meeting was rescheduled from 7/7/2016

A. CALL TO ORDER AND ROLL CALL

Bittner called the meeting to order at 6:30 p.m.

Additional Attendees present:

Chief Murphy
Abby Cochran
Mark Thomas
Kimberly Banning

Present 5 - Paul Leithart, Stephen A. Patterson, Beryl Piccolantonio, Mark Foster, and Paul L. Bittner

B. ADDITIONS OR CORRECTIONS TO THE AGENDA

None.

C. HEARING OF VISITORS

None.

D. APPEAL/GRIEVANCE HEARINGS: None.

E. UNFINISHED BUSINESS

1. Rules & Regulations - Amend & Recommend to Council for Adoption

Process of hiring chief and deputy chief as discussed and continued from last meeting on June 21 - Bittner had minutes from last meeting distributed to all for references to previous discussion since it had

been quite substantial. Bittner recognized Cochran and Banning for working on putting the changes together with summary memo of revisions. Bittner first asked if there was any news as to what the Charter Commission was planning to propose as relating to classified/unclassified of the status of the Chief. Banning stated she didn't think it had been discussed but was uncertain due to being out of office for medical reasons. Banning stated that she will go back and look to be certain. Bittner asked Cochran to go over the memo and what was done so that it could then be discussed. Cochran stated that all were emailed a redline version of the entire document and a clean version of Rule 4 & 6 since entire document can be confusing. There are a few changes in other sections, but due to these areas being the predominant areas changed, these were the sections highlighted with reference materials provided. Cochran stated that they tried to incorporate changes into the process which had been discussed in last meeting. The content of Rule 4 has not changed much, but Ewald had thought that the organization of the rule needed to have some items moved around which explains changes seen there. Only real change since last discussion of changes was an update to the military language located in 4.13. That language was copied to match the language of Rule 13 & 14 which also have military language for when recruiting dispatchers and police officers which make it more clear as to what is necessary to get that credit. Looking at Rule 6, it had previously been called the review board for the police chief/deputy chief, so now has been change in title to encompass the entire process. Some of the goals while going through this were to allow input from the community of selection of the chief and deputy chief, give HR oversight of the process, maintain an appropriate level of transparency and objectivity, and to allow police leadership to make the hiring decision. Language was kept regarding what would happen if it was considered an internal posting, but will not be requesting that our upcoming process be an internal process because at this time it is felt that it is best to be an open examination. Section 6.02 talks about the application information packet which is a new section which was felt to be important to communicate to the candidates up front and documented all steps of the process before beginning so as to prevent any changes mid-stream. This section also talks about having the hiring standards, the procedures that would be used to conduct a post-offer background check, and that a post-offer background check would not be needed if it is an internal candidate who is already an employee. The other item which would be specified in the packet is how many applicants from the eligibility list would move forward to the interview process. This number would only be an initial starting number, if no viable candidate is found from this initial number, then would go back to the eligibility list to pull additional candidates. The

interview process would be a 2-part interview. The first part would be with the community input panel and the second part would be with the final interview board. The community input panel would basically replace what we had before as the review board. The way in which this would work and the members which would be on the panel have been changed slightly. The purpose of this panel would be to provide the department head with insight into hiring a chief or deputy chief, create interview questions, interview the candidates, and provide feedback to department head within a standardized written format with an additional (optional) follow-up meeting for the department head to meet with those on the panel. Those who would be on the panel are: a city resident who is registered to vote and selected by the Mayor, 2 representatives appointed by Council - 1 who is a city resident registered to vote & 1 community stakeholder. This stakeholder is a new addition and can be someone who is not a Gahanna resident, but may be a business owner/leader, school representative, or someone from the ministerial association. Essentially for this role, we're looking for someone who can give insight to what matters to Gahanna despite not necessarily being a resident. By adding this stakeholder, the City Attorney will no longer have someone on the panel. Lastly, on the panel as had been before would be 2 people from the bargaining unit. Cochran would also serve on the panel as "ex-officio" and facilitator of the panel. Language was added that if you are on the panel, you cannot be an employee or an official of the City. The panel has to have a quorum to meet and the HR director must be present for the meetings to take place. The City Attorney would be the legal advisor and then there is also language regarding what would happen if someone did not make a selection, which would cause the other appointing authority to appoint someone onto the panel. Section 6.05 talks about the interview process and Section 6.06 talks about the final interview panel. Section 6.06 was thought to be important due to previously the department head not being able to interview the candidates when making a selection and we want the department to actually be involved in the process. The final interview panel would be comprised of the Director of Public Safety, the Chief of Police, and Director of HR. If the panel is hiring for a Chief of Police, it would also include the Mayor or a designee. The interviews would be structured and the questions predetermined with rankings coming out of that panel to be given to the Director of Public Safety. All of this would allow the department head to have conversations with the input panel as well as the final interview panel.

Question regarding background checks was raised by Leithart, wanting clarification as to if applies to internal application only or also to those applying externally. Cochran stated that if it is an external candidate a background check would be conducted, but would not for

an internal candidate. Leithart then asked if these background checks would include polygraph testing which Cochran stated would not be covered within the background checks. Cochran went on to state that a polygraph would not likely be required for either type of candidate in addition to a general background check.

Patterson had a question as to why a “community stakeholder” as proposed in Rule 6.04 is not a clearer term. Cochran stated that this was discussed and had been kept within the rule as somewhat open knowing that it may need to be changed; however, this is also why language was added to the report provided stating the intent of the term. This intent portion is listed in the memo sent and is listed in the third bullet down, within the second bullet point of the subsection. Patterson asked if they had considered putting the language from the memo which states the intent of the term “stakeholder” in the rule directly. Cochran stated that this is to allow for flexibility as to how the term may be perceived or intended in the future. Piccolantonio (woman) then asked if this “stakeholder” needs to be a registered voter or not to qualify for placement on the panel. Cochran stated that this individual does not need to be a registered voter and no discussion transpired on this point when drafting the rule. Patterson asked if the “stakeholder” needed to be a registered voter anywhere to qualify to which many commission members joined in questioning due to other panel members listed in the rule specifically being required to be registered voters. The point was raised that the stakeholder does not, per the current language, need to be a registered voter anywhere or even be a citizen capable of voting. Bittner stated that he understood the intent behind the “stakeholder” language and the purpose behind the role.

Foster asked why they didn't define the number of applicants to be considered for eligibility within Rule 6.03. Cochran responded that this is the current practice for other positions, that the specifics as to how many people will move forward are listed within the applicant packet. Cochran again stated that just because some are designated as moving forward, the others won't be removed from the eligible list, but simply will use a batch as a starting group and move down whole eligible list until find a candidate or the list is exhausted, causing the process to be started all over again. Foster asked why have the community input panel and the final interview panel as separate panels. Cochran stated that different types of questions would arise depending on the management of the various positions rather than those coming from a community stand-point. To combine both panels into one group can dramatically change the dynamics.

Bittner asked, as it relates to Rule 6.02, if internal background checks are conducted for any other positions. Cochran responded yes, background checks are done for other positions. Bittner further asked

if an internal candidate is being promoted, would a background check be conducted; Cochran confirmed it would. Bittner then sought clarification as to why if background checks are done in such instances for other positions, why would they not be conducted for these roles. Piccolantonio added a question as to what was the extent of the background checks which are conducted for an applicant who is not a police officer. Cochran stated that a person coming in would have a criminal background check completed, depending upon what position they hold, a credit check and drug screen would also be included, and references are also checked. Not all of this would be reviewed for an internal candidate, typically such candidates only have a background check and a credit check conducted. Piccolantonio asked if the background check just described for a new hire is the same if the applicant is a new hire to the police force. Cochran explained that police officers have a much more extensive background process including a psychological evaluation, physical evaluation, polygraph test, home/neighbor/employer visits are conducted, and references are checked. Bittner asked why it wouldn't be the same type of background check conducted for internal versus external candidates. Piccolantonio wanted to know how long this difference in background checks for incoming officers versus current officers being promoted to a higher rank has been in practice and the reason for the difference. Cochran said this process had been written from an HR standpoint and that from what she has heard, it's not a common practice among police departments to do background checks again when having someone who has been on the force. Bittner asked if there is a general reporting duty as police officer in case there is a problem outside of work. Leithart asked if a current police officer had a criminal charge in another county and decided not to disclose the charge if it would be found due to no additional background checks being conducted. Ewald wanted to point out that this is a post-offer background check, so it would still be run in the first phase of the process. Bittner also pointed out that this post-offer background check allows for the chosen candidate to make it all the way through application process and pass all other qualifications first so as not to have a cost of all applicants background check done initially. Bittner stated that since we are doing post-offer background checks anyway, one should be conducted even if being prompted internally so as to prevent a missed undisclosed charge later drawing attention after someone is put into a role, especially if becoming Chief of Police. He said that to not do this and have something come out after the fact would look bad for the City. Additionally, if something is found in a post-offer background check which was not disclosed, there is a problem regardless due to the lack of disclosure. Foster asked if there would be an option, when an offer has been made, to hold the other

candidates in case needed if post-offer background check results are received with negative findings. Cochran stated that by virtue of adding language saying Rule 4 applies, that the eligibility list will remain for a year despite it not being the practice in the past. Thomas said they run background check of criminal history every 5 years on all police officers. Piccolantonio asked if there is anything in the police officers' contract that addresses the issue of a second background check for promotion. Cochran said that hasn't been addressed. Piccolantonio said if something were to come up, and there would be a non-disclosure disciplinary issue, is there anything in the contract to address such an instance. Cochran said this was discussed in terms of how the language should look. It was discussed that maybe the language should be made more specific while still doing a post-offer background check for an internal candidate but specify the things which would not be included within this background check. Bittner believes internal candidates should at least have a criminal background check before being promoted. Ewald stated that he was fine with this. Leithart asked what about credit problems which may have occurred since being hired initially which would now be missed in the abbreviated background check for internal hires. Cochran asked if Ewald would make the changes live in the document so that they would be available to be looked at for the next meeting. Ewald said he could. Rule 6.02 will be changed to have any applicants go through an updated background check post-offer.

Patterson asked if a change was being made to the minimum number of applications that come forward from the eligibility list as is discussed in Rule 6.03. Foster wanted to clarify if this proposed minimum number is to be put in the application packet for the applicant to see. Bittner said need some minimum of number of applications to be chosen per grouping being reviewed in case none are liked in the initial top grouping so you don't just start taking people one-by-one after that and appear unfair. Cochran stated that a grouping of 6 would be optimal and Bittner agreed stating that that should require at least a grouping of 4, unless there are not enough people who qualify to make the eligible list. Cochran stated that internal processes already specify only 2 candidates so this language would need to specify this larger minimum grouping would apply to an open application. It was agreed that a minimum of 4 specified for an open application process. Patterson asked if the board and panel meet at one time with the candidate to which Cochran said yes. Bittner suggested that in Rule 6.04, in the second paragraph to take out the FOP representative and substitute in police officer bargaining unit representative and police supervisory bargaining unit representative because what is really being looked for is an employee representative. Cochran stated that this intent is correct. Bittner

stated that the local people would be reached out to rather than the FOP and Cochran agreed. Bittner also suggested lifting the language out of 4 and 5 in the list where it describes police officer bargaining unit and police supervisory bargaining unit to add those as adjectives to representatives instead of FOP to prevent a misunderstanding. Bittner likes the idea of a community stakeholder, but thinks the language of what is being sought for this role should be tightened up. Leithart asked if the language from the memo could be used and just add something to the fact that "examples can include, but are not limited to" Cochran said she is fine with that addition in Rule 6.04 because doesn't make any limitations on what was intended. Bittner stated that under the memo the panel would not be treated as a public body but wanted to be assured that City Attorney Ewald was good with that. Ewald said he was and confirmed that this would provide public input with someone having law enforcement experience at the top while having no open notices needed because would be essentially an interview. Bittner also wanted confirmation that HR would coach those on the panel as to what not to do. Cochran stated that she would do so as well as ensuring proper documentation from the process is maintained. This is why they laid out the requirement of standard written feedback and an opportunity to talk face-to-face. Bittner asked how the panel would deliberate. Ewald stated that the panel would have no deliberation because would turn in their recommendation to the Safety Director without even needing to agree because each member makes a recommendation. Cochran said the panel is meant to cover the diversity of the City and so will likely have differing recommendations, but that those pros and cons listed in each recommendation will provide beneficial information to those who actually do the hiring. Bittner asked what happens to the panel recommendations. Cochran said that these would stay in the employment file and would be subject to the City's record retention policy for employment materials which is consistent with current practice on interview notes. Bittner said that these would therefore be in a file which could be accessed by the community and Cochran replied in the affirmative. Foster said since clearing up the intent of Rule 6.05, he wanted to know what feedback the panel is providing because currently seems a little vague. Cochran said each person is able to provide feedback and that it could be part of the facilitation process to the panel since she does not have such a standardized form yet. This feedback will be given to the hiring manager despite not likely making a specific selection of a candidate. This written feedback will be based off of the panel's interview questions. Bittner said there will be a subjectivity component. Foster asked if there was a ranking done by the panel and Cochran stated that this is conducted by the final interview panel. Cochran said recently the school district

hired the Superintendent which has been positively discussed that the community got to have input which was what was trying to be accomplished here. Bittner said if community members are providing input and they feel it is meaningful, and there is not a response to that input, then that tends to become a matter of public debate. Foster said that is a part that is missing from the proposal, that there is no real knowledge of what the recommendation was from the review board or if/how final interview panel would acknowledge the recommendation. Foster feels that this recommendation component is different from the current involvement of a review board and therefore could feel like a façade of getting input from the community. Cochran said even the final interview panel will make the hiring decision which would ultimately be by the Safety Director. The Safety Director should be looking at all aspects of recommendations from the separate panels when making the final decision whereas previously he wasn't involved in the process, but not ranking the candidates. Foster asked if there would be a final ranking and Cochran stated that the only ranking will be done in the panels, leaving the final decision open regardless of the rankings. Ewald said you'd have eligibility list based on ranking and all other info will go in packet to be used to make an informed hiring decision. Foster asked if there was a need to have Safety Director since the group is discussing it because it seems more useful for all this feedback to make a decision rather than one person with all the power. Ewald said you cannot hire that way due to the Charter which states that the department head must make the final decision. Unless this clause in the Charter is changed, nothing can be done to circumvent the department head from having the final decision. Piccolantonio asked who is making hiring decisions in other departments. Cochran stated it would be the department head/hiring manager. Piccolantonio then asked if there is currently any input in any of these other departments in such decisions. Cochran said to some degree there is, but the director makes the final decision. Foster asked if there is an opportunity for the final panel to make a selection together and have the Safety Director provide some feedback as to why they are not selecting the recommended candidate if such a situation was to occur. Ewald stated that it may not be wise to put that discretion in writing, but that is his personal preference. Ewald said that there was a concern that there may be an absence of law enforcement whereas with this proposed hiring process, that is not a concern. Foster said he is just concerned that the input panel recommendation, and so on, give feedback to the department head who could ultimately hire whomever they chose while disregarding the various recommendations without having any accountability as to why such recommendations were ignored. Bittner said the accountability comes in through the political process. Foster

countered that all of the recommendations accumulated through the application process would be given directly to the department head; therefore, seems that this ability to make a hiring decision which doesn't follow the recommendations from the panels would be hidden. Bittner stated that it would be subject to public disclosure so would not be hidden which would allow for accountability. Ewald confirmed that the decision and recommendations would be subject to public disclosure. Bittner stated that the Mayor would have to answer to the public for a decision by his subordinate that would be contrary to the input of everybody else.

Bittner walked through work flow of application process as submitted by Cochran. While walking through the application process, it was addressed that the input panels' recommendations should be provided to the final interview/review board in addition to just being given to the Safety Director without the final panel seeing them. Bittner said he believes there is accountability and subjective components because the Safety Director can choose from the ranking list compiled from the final interview panel while also having the input panel

recommendations, all of which will be public documents. Bittner went on to say recap that through the Safety Director is accountable to the Mayor and potential public outcry when making a decision. Paul said need to change Rule 6.05 to add that the recommendations of the community input panel will be given to both the final interview panel and the Safety Director. Thomas asked if the ability to choose from a ranking list is the same process as that for choosing police officers. Chief said they do the rankings as a group. Bittner said ultimately they have input from the community, the supervisor's input from police command, HR input, and making sure that the Safety Director is not just handed a basket. Ewald asked about the minimum and max number to submit as candidates found in Rule 6.03. Bittner stated that he believed the minimum had been established as 4 unless there were less applicants for an external/open application process. Foster asked how the final interview panel would rank the candidates, whether they rank as a group or individually. Cochran stated that the group would come up with a set of rankings which Bittner clarified is made by each member of the panel (except the Safety Director) doing their own ranking and have all rankings tabulated to get one combined rank of candidates. Ewald brought up the ranking process in Rule 6.06 and Foster said it isn't clear how if the ranking is done by the total panel or by each panel member. Foster said if wanting each panel member to do a ranking the rule should state "the panel members," while if the group were to do the ranking the rule should state "the panel." All members agreed that the ranking should be done by the panel members which would then be tabulated to get a set of rankings representative of the whole panel. Bittner asked for a motion to make

changes discussed to Rules 6, 6.02, 6.03, 6.04, 6.05, 6.06 all blue line changes. Motion tabled until able to see the changes printed.

Bittner asked if there were any changes to Rule 4. Cochran again stated that since the last meeting, Ewald had re-arranged items to have a better flow. Additionally, Cochran stated that Ewald had changed the definition of "military credit" so as to be the same as what was in Rules 13 & 14 which lists radio dispatcher and police officer. Foster asked why the "convicted of a felony within the last 10 years" statement had been removed. Cochran stated that this was in response to no longer asking the "convicted of a felony" question on the application because can't legally ask on the application anymore but can be asked prior to a job offer. Bittner pointed out that this inability to ask for felony convictions in an application rule only applies to public employers in Ohio. Piccolantonio said this rule was intended to prevent felons from being excluded at the outset of an application process. Cochran reiterated that felons could still be excluded later in an application process if it can be tied as to why that would be a problem for the available job position. Cochran also pointed out that before deciding to approve the rule changes, there are additional formatting changes which were also made. Bittner asked for motion to approve all other changes excluding Rule 6.

A motion was made by Leithart, seconded by Patterson, to accept the proposed rules as presented, with the exception of Rule 6. The motion carried by an unanimous vote.

Cochran said a comment was made that deputy chief's process was compromised last year and she hadn't been given any evidence that the process was compromised even if the process was not successful in hiring a candidate. Cochran stated that her objective is to review the rules and regulations to ensure that there is nothing which could compromise the process for the future. Bittner said this group would be outside of the jurisdiction to do anything about that issue other than fixing the rules moving forward or hearing an appeal. He said no matter what, there is always a risk that something will go on, but if there is some objective evidence which comes out that there is some misconduct in the process it is incumbent upon those who become aware of that to let it be known to the City's leadership for review or investigation. Patterson said he thinks this process will help. Bittner said from his view, you don't want somebody in the position of leadership within the organization who is without input from the people who are going to be working with that person as a supervisor but the community having a clear enough voice, if ignored, you have to rely on the political process to remedy that situation. Cochran said she wanted to address the comments and said the manner in which the last process was handled was unacceptable. Cochran went on to say

she just wants to move forward and have a better process since nothing can be done about the previous process and a candidate had not been selected from the process anyway.

After Chairman Bittner spoke as to any official reports he had for the evening (See Section H(b)) Ewald returned with the printed changes to Rule 6 which had been temporarily tabled from earlier. Rule 6.02 had the last line taken out and Ewald added "It will also include hiring standards and procedures used to conduct the post-offer background check for candidates." Rule 6.03, Ewald had Commission review the newly worded rule if accepting all changes as discussed earlier. The first sentence of the rule had the following added "minimum of 4 applicants must be submitted to be interviewed by the community input panel and the final interview panel in an open examination process." Bittner said he would add a clause at the end of the new sentence stating "...unless a fewer number of applicants are otherwise qualified." Cochran stated that Bittner had also mentioned subsequent groupings, so asked if they would be the same size and if this should be added. This change was added to the second sentence of the rule, now reading as follows: "If those applicants are not found to be suitable, the Human Resources Department will assign the next grouping of like size if available to participate in the interview." Rule 6.04(a)3 examples were found to be pretty clear as newly drafted. Bittner said you could add "or school representative" to the list of examples to Rule 6.04(a)3. The second paragraph of Rule 6.04(a) had "supervisory bargaining unit" removed by Ewald. Rule 6.05, Added to the last sentence to say "final interview panel will be given the information feedback from the community input panel prior to conducting interviews." Rule 6.06, last paragraph, had the following added: "members of the panel will each provide the Department Head with a ranking of the applicants interviewed." Bittner asked for motion to adopt Rule 6 which includes the changes seen in the red-line version and the changes just discussed with the City Attorney made to that draft.

2015-0417

Civil Service Commission Rules & Regulations

A motion was made by Leithart, seconded by Patterson, that the Rules of Procedure be Approved as Amended. The motion carried:

Yes: 5 - Leithart, Patterson, Piccolantonio, Foster and Bittner

F. NEW BUSINESS: None.

G. CORRESPONDENCE AND ACTIONS

None.

H. OFFICIAL REPORTS**a. Director of Human Resources**

Cochran stated that her memo can count as her official report for this meeting. Bittner thanked Cochran for working hard on the process and acknowledged it isn't easy to do because it is essentially like writing code. Cochran would like to see a memo when making changes like those addressed today so that years from now someone can see why these changes were made.

b. Chairman

Bittner asked if there was any news from the Charter Commission which would affect anything from this meeting. Banning stated there was not. Bittner stated that he doesn't think it is within their jurisdiction. Bittner stated that the hierarchy is as follows: Mayor, Safety Director serving at the pleasure of the Mayor, Police Chief serving in position of classified employee. There is a direct appointment from the executive branch and then there is the command here. Bittner stated that he likes this structure more than having it go too deep into the ranks of the unclassified because you could have a loss of continuity if there was a change in the elected official. Thomas agreed that he likes this structure and listed off a number of cities which do have the Police Chief serving at the pleasure of elected officials which he found in his research to prepare the this meeting.

I. POLL COMMISSION FOR COMMENT

None.

J. ADJOURNMENT

by Bittner at 8:30 p.m.