

**NORTH RIDGEVILLE CIVIL SERVICE COMMISSION
MINUTES OF THE
SPECIAL MEETING – MONDAY, SEPTEMBER 23, 2024**

CALL TO ORDER

The meeting was called to order at 5:06 PM.

ROLL CALL:

Present were Vice-Chairman Sam Spann and Chairman Donald Schiffbauer. Also present were Law Director Brian Moriarty, Assistant Law Director Toni Morgan and Deputy Clerk of Council Tina Wieber.

Secretary Amie Espinosa-Gonzalez was excused.

Moved by Schiffbauer and seconded by Spann to add Executive Session to the agenda following the approval of minutes and prior to the reports.

A voice vote was taken and the motion carried.

Yes – 2 No – 0

APPROVAL OF MINUTES

Special Meeting Minutes of September 9, 2024

Chairman Schiffbauer asked if the Commission had any questions or comments regarding the special meeting minutes of September 9, 2024.

None were given.

Moved by Schiffbauer and seconded by Spann to approve the special meeting minutes of September 9, 2024.

A voice vote was taken and the motion carried.

Yes – 2 No – 0

EXECUTIVE SESSION

Moved by Schiffbauer and seconded by Spann to go into executive session to consider the appointment, discipline, dismissal, promotion, demotion or compensation of a public health or official, or the investigation of charges or complaints against a public employee, official licensee or regulated individual unless the employee, official licensee or regulated individual requests a public hearing by Division G1 of ORC Section 121.22.

A voice vote was taken and the motion carried.

Yes – 2 No – 0

Adjourned into Executive Session at 5:10 p.m.

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Reconvened into the Special Civil Service Commission meeting at 5:17 p.m.

REPORTS

Retirement letter from Firefighter Andrew Castle dated September 13, 2024.

Chairman Schiffbauer stated that the Commission had received a retirement letter from Firefighter Andrew Castle dated September 13, 2024, and congratulated him.

UNFINISHED BUSINESS

There was none.

NEW BUSINESS:

Certification of payroll by Civil Service Commission (Per Rule I, Section 3).

Chairman Schiffbauer stated that due to the retirement of Firefighter Castle, the Commission would need to certify the payroll by the Commission pursuant to Rule I, Section 3, and the Commission had received a copy of that list. He asked if there were any questions.

None were given.

Moved by Schiffbauer and seconded by Spann to certify the Civil Service payroll list.

A voice vote was taken and the motion carried.

Yes – 2 No – 0

Amend Rule VII, Section 6, Disqualification of Eligibles, adding language.

Chairman Schiffbauer stated that Rule VII, Section 6, currently read, “If at any time after the creation of an eligible list, the Commission has reason to believe that any person whose name appears on any list is disqualified for appointment because of false statements made in his application, physical disability, or for other comparable reasons, such person shall be notified and given an opportunity to be heard. If such person shall fail to appear for hearing, or upon being heard, fail to satisfy the Commission, his name shall be removed from such eligible list”. He then read the suggested paragraph to be added, “In making the determination of eligibility to take a promotional examination under Rule V, Sect. 2(b) or to remain on the promotional eligibility list under this rule, the Commission shall compare the candidates' disciplinary files to existing disqualifiers. Disqualifiers contained in the entrance examination packages for either Police or Fire, in ORC 124.25, in this rule, or substantially similar disqualifiers, and including pending criminal charges or disciplinary actions, and disciplinary actions in the previous two-year period may be considered by the Civil Service Commission to determine if a candidate is eligible to take a promotional examination or to remain

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on the promotional eligibility list. The Commission shall make such determination as soon as possible after candidates are identified and prior to testing or promotion”.

Moved by Schiffbauer and seconded by Spann to amend Rule VII, Section 6, regarding the Disqualification of Eligibles and adding language.

A voice vote was taken and the motion carried.

Yes – 2 No – 0

Rule VII, Section 6, Hearing.

Chairman Schiffbauer asked if Officer Neff and his representative would come forward if they wanted to speak.

Adam Chalupka stated that he was an attorney for the OPBA union and was representing Detective Neff. He asked for clarification if the hearing was proceeding under the newly amended rule or the old rule.

Chairman Schiffbauer stated under the current rule.

Mr. Chalupka asked if that was the one that he just passed.

Chairman Schiffbauer stated that was correct.

Mr. Chalupka stated that for the matter of the record they objected procedurally to that. He stated that in this country, the United States Constitution and he believed the Ohio Constitution in part, did not permit ex post facto laws, meaning it would be unfair as a matter of due process to Officer Neff to consider a brand new rule looking prospectively, going retroactive. He stated that the new rule could apply to the next list, but to use it against him on the current list, because of presumably the pending criminal charges which was embarrassing in its own right, for himself, was a violation of due process. He stated that another objection that they wanted on the record was arguably whether or not the Commission was empowered under the City's charter and the ORC to make such a rule outside of what the ORC already stated. He stated that he was aware that there was currently pending litigation to that effect against the City of North Ridgeville. He stated that with the objections on the record, they did want to address it substantively and for clarification, this was for his pending misdemeanor charges in Avon Lake Municipal Court.

Chairman Schiffbauer stated that it was in regard to the incident that was brought to the Commission's attention regarding the incident in Avon Lake.

Mr. Chalupka stated that the event allegedly did occur on August 23rd, 2024, and that it was now a month later. He explained that Mr. Neff had been arraigned and had been charged with a few misdemeanors but had yet to be convicted. He mentioned that his first pretrial wasn't even until next week and that in the United States of America and the State of Ohio, individuals were innocent until proven guilty. He added that it should be noted that Mr. Neff wouldn't be making a statement since there was a pending criminal action involving the events of that night, but that they wanted to address some of the steps Mr. Neff had taken as a result of those criminal charges to better his life with the hopes that that would

weigh on the Commission's decision as to whether or not to remove him from the current list. He stated that he wasn't representing him in that case, but he did understand and believe it to be a pretty alcohol induced event. He discussed that ever since that night, Mr. Neff had been doing intensive inpatient alcohol and drug treatment and attended three sessions a week for three hours at a time. He said that he also got regularly tested for drugs and alcohol every week and currently for the last four weeks he had not tested positive. He stated that he attended weekly AA meetings and had a sponsor. He mentioned that he was even on a shot of Vivitrol to prohibit him from drinking at all and that if he did take a drink, he would become violently ill. He mentioned that he had been volunteering at the Journey Church in Avon and had been participating in the Joshua Tree Behavioral Counseling Center also through the church. He added that he was taking many steps as an officer who had worked for the City primarily at his current position as the Chief Detective in the Detective Bureau. He discussed that other than a few car accidents early in his career, he had an unblemished disciplinary record for 17 years and for four years before that in the State of Texas as a trooper. He stated that regarding what happened on that unfortunate night in August at his home, he was embarrassed and remorseful. He stated that if it weren't for the pending criminal charges, he would allow him to speak more to those effects, but that would not be legally advisable at this time on his part. He commented that coupling his work performance for off duty conduct, his work performance should speak for itself. He added that the steps that he had taken ever since that August 23rd evening to make sure that something like that didn't happen again off duty should weigh heavily in the Commission's consideration. He remarked that absent their objections, they had to the rule change, they thought that even in light of the rule change, that all the positives for Officer Neff outweighed the negatives of that one individual unfortunate event that occurred in his life. He asked that they consider him and rule that he maintained to be eligible on the current list. He mentioned that he spoke to him beforehand and believed there might be one vacancy and was fuzzy on whether they were required to fill the vacancy for Sergeant immediately upon it or if the appointing authority had time to fill that vacancy, but his understanding was that that vacancy was unfilled and without getting into all the process or anything else that's going on about how the appointment was made, he didn't know how long it had been unfilled. He added that he thought in the near future before the list expired, there may be four more vacancies that were coming up and they asked that this one misjudgment or blemish of an otherwise distinguished career with the City of North Ridgeville not be taken against him to prohibit him from furthering his career and having a productive and useful career as potentially a Sergeant and beyond at the North Ridgeville Police Department.

Chairman Schiffbauer asked if there was anyone else in the audience who wanted to speak on the matter.

Jennifer Neff stated that she was the wife of Officer Neff and that they had been married for 10 years. She discussed that they had a blended family of five children, ages 16 through 30 and that the week that the situation happened at their home, her daughter had miscarried their first grandchild and had two surgeries with the second surgery leading her to code, arrest and be put on a ventilator and that they were in and out of the hospital the entire week, ending that week with a positive note that her daughter survived and that she was going to be able to be discharged from the hospital on the same weekend. She stated that her stepdaughter Aspen was going off to NYU, which was a great thing, and they were very excited for her, but for all 20 million other reasons, they were not allowed to be part of that moment with her stepdaughter. She indicated that for them, she would just say it was a bad night and something that wasn't a normal night in their household. She said that she just wished that somebody would consider that and understand that he was a good man, an excellent police officer and that he loved what he did. She added that she couldn't see that that was going to define him as a person.

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Assistant Law Director Morgan stated that one of the things she wanted to clear up regarding the rule that was adopted that evening was that most of the information in that rule was simply a gathering together of information that had been in place for quite some time. She mentioned that the applications for police and fire contained quite a lengthy list of the sort of crimes and actions that the City would consider inappropriate for a police officer and a firefighter as well, and that those had been around for many years. She added that ORC 124.25 likewise contained more disqualifiers and that Rule 7, Section 6 itself contained some of those disqualifiers. She stated that for the most part, that information had been around and known to the Commission for many years. She commented that she wanted to add that it was not applying retrospectively but was just a gathering together of the information and that it was applied as to whether or not they believed that the person who was accused, who was at the hearing in front them, was eligible for leaving the name on or removing the name from the eligibility list. She discussed that she wanted to point out that no one was denying the facts that were contained in the report from Avon Lake, which was in front of them. She commented that she was sorry for the issues that they had been having, but his wife didn't say it didn't happen and his representative was not saying that it didn't happen. She remarked that they were not taking the person's job from them and that they did recognize that he was a good person who had a good history with the City, but what they were saying was that because of that incident and the Commission had the facts that the charges were domestic violence, aggravated menacing and resisting arrest, that for purposes of promotion to another level for being a leader among his fellow officers, that the name should be removed and that at this point in time it was not appropriate for that person to be put into a leadership position. She asked if the Commission had any questions for her or Law Director Moriarty.

None were given.

Move by Schiffbauer and seconded by Spann to go into deliberation.

A voice vote was taken and the motion carried.

Yes – 2 No – 0

Adjourned into deliberations at 5:33 p.m.

Reconvened into the Special Civil Service Commission meeting at 5:45 p.m.

Chairman Schiffbauer stated that he appreciated Officer Neff's willingness to share the recovery journey that he had started and that it was commendable. He remarked that as someone who worked closely with the recovery community, he knew that it took a great deal of courage and a great deal of work and effort, and the fact that that journey was started so quickly was commendable on his part. He explained that the other thing they had to consider as the Civil Service Commission, was the leadership role that the list his name was on, currently represented and it was for that reason that pursuant to Civil Service Commission Rule 7, Section 6, the Commission finds that they did have reason to believe, based on information they received, that Aaron Neff's name should be withdrawn from the promotional eligibility list.

A voice vote was taken and the motion carried.

Yes – 2 No – 0

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Chairman Schiffbauer commented that while Officer Neff's name would come off that list, based on the comments that his representative provided, he thought it would be very surprising if they didn't see him at another promotional exam and his name on the list in the future. He added that in fact, he would expect it, but at this time, that was the decision of the Commission.

AUDIENCE COMMENT:

Moved by Schiffbauer and seconded by Spann to add to the agenda the public comment and have it as a standing agenda item.

A voice vote was taken and the motion carried.

Yes – 2 No – 0

Chairman Schiffbauer invited members of the audience who wished to make public comment to come forward and do so.

Holly Swank stated that she was there to question the fact that the Commission would even consider changing anything during a promotional period. She mentioned the rule of three and wondered why they were being reactive rather than proactive. She asked why they were changing things as stuff came up. She asked that if the officer were acquitted of the charges, then what would happen and if he would be told sorry about his luck, he lost on this list and he wouldn't get put on a next list until two years from now when promotions came back up. She asked what happened to innocent until proven guilty. She commented that the rule of three that this Commission passed was currently in the hands of a judge and asked if they had been updated on that lawsuit because they didn't seem aware that the lawsuit Chief Freeman filed had subsequently won regarding his suspension. She asked why they didn't keep abreast of the pending lawsuits, and they needed to ask themselves those questions. She stated that she would because they were named as a party in the lawsuits, and it was them on the line.

Greg Petek stated that he was the Captain with the North Ridgeville Police Department and was there to show his disapproval with the passing of the amendment to the rules. He discussed that his concern, being an administrator with the Police Department, was trying to right the ship and to keep morale up and move the department forward in the right direction. He stated that it undercut that journey in that mission. He stated that they were losing officers that were retiring and that there would probably four promotions coming up within the life of that list. He mentioned that his concern was that they were going to keep rewriting rules and adding rules to make it fit whatever agenda or whatever the purpose was. He said that the problem was what was next and if it's pending criminal charges, which was not listed in Civil Service Commission rules, was it going to be that if they didn't live in the City of North Ridgeville or because they didn't have blonde hair or blue eyes and asked where it would end. He mentioned that it made his job difficult. He commented that whatever the decision was, the appointing authority to promote, that decision was up to them, and he respected that, but the problem was that if they started removing people off a list and not allowing them due process, they opened themselves up to liability and that was his concern.

Shellie Kearsy stated that she was there to talk about the rules. She mentioned that she was there on December 18th, when Kevin Corcoran and four council members went along with the rule of three, which were Bruce Abens, George Awig, Council President Jacob Jacobs and Frank Toth. She stated that

under that rule of three they have allowed one person to make the decisions about who would get promoted and who didn't. She remarked that they couldn't say that the Mayor did not have favorites and didn't play politics with people or that he didn't hold grudges against police officers for what their families may say about him or may not say about him or if they supported him or didn't support him. She stated that the rule of three should have been thrown out and that there were only three entities in the two counties that actually used the rule of three. She stated that they didn't have the right to ruin somebody's career just because they didn't like them. She said that they needed to look at training and leadership skills and time of service. She mentioned that they needed to look at what those officers were doing every single day and that if they didn't have the training that those officers had, and be able to make a decision in five seconds flat, which a lot of times was what the officers had to do, or firefighters having to go into a building, they had to make that decision and they have to make it right then. She stated that Kevin Corcoran did not have that training at all and didn't deserve the right to make those decisions.

Callie Zingale stated that she did call after that Commission meeting when they voted on the rule of three and looked up the city charters and the contracts for every city in Cuyahoga County and Lorain County and called everyone that had the rule of three. She stated that Assistant Law Director Morgan had stated that that was how most places did it, but she found four departments and called all of them. She discussed that one of them only used the rule of three, which was Rocky River, to promote the Chief of Police. She added that not one of those was the mayor himself, the appointing authority but was people with an understanding of how the department worked and there was a committee involved. She stated that the Mayor refused to have a committee and that Council asked him for a committee and he said no. She mentioned that the union asked him for a committee, and he said, well, we can have a committee, but he was going to want to be the one that decided. She asked how they trusted that. She stated that she had seen that rule had torn the department and nobody seemed to care. She stated that they were now pitting members against each other and using negotiations to do it to get that rule that they told the Commission would not be a legal problem, but right now was in court. She commented that they were not telling the Commission both sides of the coin and they kept letting them do it. She added that they were going to keep losing officers and were going to continue to struggle to get officers and that there was a reason that Avon and Westlake had 100 people taking their test and we had 30 and were struggling to find people. She stated that she just really hoped that they would think about the new rule because it was just as hasty as when they did the rule of three. She stated that she hoped that they were listening, and she hoped that they were you taking everything everybody had to say into consideration, because they had heard from members of the department, legal representation, members of the community, and family and received information from one of their officers. She asked what else they needed.

Chairman Schiffbauer stated that while they were deliberating on that, he wanted to make note that there was a written statement provided by Charles Calliccoat and wanted that entered into the record. He asked if there were any additional comments under public comment section.

None were given.

Chairman Schiffbauer stated that the next Civil Service Commission regular meeting is scheduled for 5:00 PM on Monday, October 28th, 2024.

ADJOURNMENT:

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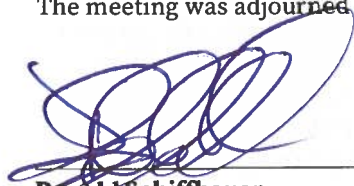
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Moved by Schiffbauer and seconded by Spann to adjourn the meeting.

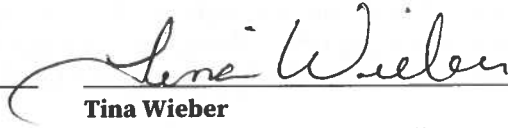
A voice vote was taken and the motion carried.

Yes – 2 No – 0

The meeting was adjourned at 6:00 PM.



Donald Schiffbauer
Chairman



Tina Wieber
Deputy Clerk of Council, Recording Secretary

Monday, October 28, 2024

Date Approved