



Upper Pottsgrove Township Civil Service Commission

MINUTES

August 25, 2009

CALL TO ORDER:

The meeting of the Upper Pottsgrove Township Civil Service Commission was hereby brought to order at 7:10 PM by Commissioner Brandel. This public meeting has been duly advertised in the Pottstown Mercury on August 24, 2009 in accordance with the Sunshine Act. All members of the Commission including Alternates were notified by US Postal Service. Commissioners also received email reminders.

PLEDGE of ALLEGIANCE/MOMENT of SILENCE:

ROLL CALL:

COMMISSIONERS:

BRANDEL ✓ DUNCAN ✓ LEISTER ✓

ALTERNATES:

NOVACK □

Also in attendance: Chief Moffett, Alternate Candidates: Don Nice & Michele Jeter

APPROVAL OF MINUTES of PREVIOUS MEETING: January 16, 2008:

Approved by: Brandel

Seconded by: Duncan

All in Favor: All Opposed: None

Motion: PASSES

UNFINISHED BUSINESS: NONE

HEARINGS: NONE

ANNOUNCEMENTS:

- Alternate Vitacco tendered his resignation effective December 28, 2008.

UNFINISHED BUSINESS:



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While the basic conversion of our Rules & Regulations to a Windows-based platform was completed some 2 years ago, they still do not have an Appendix and the inclusion of various Model Letters referred to in various references. These letters have been customized (rather than just samples) on the Secretary's computer and are properly used when appropriate. At some point they should, and will be incorporated into the main body of our Regulations as a reference resource. When the Police Department's Secretary was cut back to part time hours and eventually terminated her employment, her support and assistance to this project was likewise eliminated. Secty Leister will attempt to resume this effort as time permits. Maybe the Township will allocate funds in the budget next year to address additional clerical assistance to this end.

HEARINGS: NONE

NEW BUSINESS:

Communications

1: EMAILS RECEIVED

Dated: August 3, 2009 to Reginald Leister, Secty UPT CSC;
cc: H. Brandel, G. Duncan, J. Layne & E. Taylor
(NOT an Executive Session Communication)

Reg:

"I apologize for the delay, but I have now had the opportunity to review the content of your draft Application for Police Officer in Upper Pottsgrove Township. I note that the Township is most likely going to authorize the Civil Service Commission to move forward with creating a new Eligibility List. From my review of the document, I do not have any objections to its content and I feel that you have done a good job in putting together a comprehensive version of an Application for new hires. Please let me know if you have any other questions or concerns with respect to the document itself."

(Continued)

"In an unrelated matter but still pertaining to civil service, I understand that there is a desire to amend our Rules to limit the time that a



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furloughed officer can be recalled. I believe this is appropriate and should be discussed by the Commission and a recommendation made to the Board of Commissioners. I am copying Jack Layne with this email so that he is aware of what will likely be transpiring in the near future.”

Thanks.

Chuck Garner
Garner & Bauer
610-970-4961

Dated: July 29, 2009 to: All CSC Members; CC: Chief Moffett

Mr. Leister,

As a result of current and anticipated Police Officer staff reductions due to one Officer being placed on active military status and the possibility of another Officer accepting a job offer from another municipality, the purpose of this memorandum is to request that the Civil Service Commission begin the process of developing an Eligibility List for the selection of Police Officers for the Township for 2009 and 2010 to insure that adequate staffing is provided for the Township over a 24 hour period.

Thank you.

Jack Layne

Township Manager

2: POLICE APPLICATIONS

50 copies of the NEW UPDATED version have been run and are stored in the black CSC filing cabinet.

3: Applications for ALTERNATES:



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Donald Nice: Originally submitted an application to the Twp a few years ago. At the time we had no openings. When I advertised again for Alternates following Mr. Vitacco’s resignation (12/08) he resubmitted his application. He has 10 years Civil Service experience from his previous residence (Police Civil Service in a Borough—similar to First Class Twp Rules). He serves on our Planning Commission and Emergency Management Team.

Michele Jeter: Has no previous Civil Service experience but when I advertised for Alternates she applied and emailed me for additional background information. . . . and STILL was interested !

(DISCUSSION)

Both are eligible for the position by virtue of being (verified) registered voters of our Twp. We can populate our Alternates up to three (3) due to the changes to the First Class Twp Code: PL 373, #54, enacted on 6/12/2002. It is in the best interests of the Township and this Commission that we recommend to the Board that we add BOTH new Alternates now. *We have an obligation to the Township and the Board to be at full capacity at all times.*

ACTION: I, Secty Leister, formally recommend to this Commission that we adopt the state-approved maximum number of Alternates for First Class Townships from Two (2) to Three (3), per PL 373 #54, enacted 6/22/2002.

Motion Made by: Leister

Seconded by: Duncan

All in favor: AYE ✓ Opposed: _____

Motion: PASSES

I, Secty Leister, make a motion to formally accept the Application of **Donald Nice** as an Alternate to this Civil Service Commission and desire to



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recommend his appointment as an Alternate to the Upper Pottsgrove Twp Board of Commissioners at their next General Meeting.

Motion Made by: Leister

Seconded by: Brandel

All in favor: AYE ✓ Opposed: _____

Motion: PASSES

I, Secty Leister, make a motion to formally accept the Application of **Michele Jeter** as an Alternate to this Civil Service Commission and desire to recommend her appointment as an Alternate to the Upper Pottsgrove Twp Board of Commissioners at their next General Meeting

Motion Made by: Leister

Seconded by: Duncan

All in favor: AYE ✓ Opposed: _____

Motion: PASSES

(Secty Leister to Alternates)

“Congratulations. Copies of our Rules and Regulations and other training material/s will be mailed to you following your Appointment by the Board of Commissioners & the taking of your official oath of office. Since we will be commencing a List of Eligibles very shortly, which is the process of qualifying the best potential new officer hires, you will be getting involved and acquainted in the various procedures very soon. Also, it is very possible that your services as acting Commissioners will be called upon as well. So I will try to arrange training sessions here as time permits and there are excellent annual day long training seminars that you can attend that the Township pays for. They usually take place in February or March. Please contact me following your taking of the Oath of Office.” (give Twp Biz Card & record contact information)

4. RULES & REGULATIONS AMENDMENTS:

RE: § 5.2 Furlough List to Fill Appointments and § 6.2 Furloughs



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Background Discussion: Rules presently create an “open-ended” situation that “potentially” allows a furloughed officer to be recalled several years later and the only criteria is that after 30 days the CSC certify that he is “physically fit.” However, he/she must also meet the MPOETC standards of certification. But then he might also be required to return to the police academy if had been out of police work for more than 2 years and could no longer be Act 120 certifiable. Several issues could compromise, or at the very least complicate our current situation. Our COP, Twp Solicitor and I are in agreement that there needs to be some remedies considered and implemented via amendments. (Leister)

However, our Rule **6.2(b)** already states: **“In the event that the appointing authority decides to increase the Police Department, the furloughed officers shall be reinstated in order of their seniority in service in the Police Department, provided that any such furloughed officer accepts in writing reinstatement within thirty (30) days of receiving notice of the opening.”**

The implication here is that **IF** a furloughed officer can not/does not present him/herself within 30 days of notice to return to work; or is unfit for duty (physically, MPOETC-wise; etc) the problem of an “open-ended” rule is “self-healing.” He is then no longer eligible for recall under the furlough. In other words he has then voluntarily resigned. Perhaps we should add that language for added emphasis to clarify any ambiguity.

Four items come to mind for further consideration:

- A. No where in the PA Municipal Codes is there a time limit placed on Furlough Lists. I wonder why they have never addressed this matter already. Clearly this is not something new.
- B. IF we do consider a time limit on a Furlough List may I suggest that we keep the furloughed officer well within the 2 year MPOETC window to remain Act 120 certifiable (still subject to the requirement of § 5.2,a --- passing a physical exam) in the event that he/she leaves law enforcement in the interim. CAUTION: IF the furloughed officer has left law enforcement, extending the time out to 24 months may trigger MPOETC issues and make it too late to simply recertify. In which case maybe we should consider 18~22 months? Again the time element is an empirical decision and ONLY avoids having to eliminate eligible



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officers vs. having to start a new Eligibility List sooner if a need arises (and perhaps that might be a “good thing.”).

- C. If we do establish a time limit, we would have to create a “tracking system” for possible multiple furloughed officers if they were (potentially) furloughed at various times. IF we are to amend our rules, we should do it right once and try to cover all eventualities. The Rules already call for a “Furlough List” (by name) like an “Eligibility List (see § 5.2). Do we want to create a more complicated system? Countless times we have been counseled to keep language and rule making, as simple as possible as every additional word opens up a new interpretation or challenge from a labor attorney.
- D. Using a Furlough List (with a reasonable set term) allows us to respond quickly to the Appointing Authority’s (i.e. BOC) need to (back) fill furloughed openings in the Police Department’s ranks that were voided earlier. If we fail to consider this issue, we then face having to create a new Eligibility List which could take 6-8 months to complete, not to mention the undue costs involved. This is possibly a moot point. After how many years did we 1st furlough an officer? It was only after the former Twp Mgr over-hired police officers to fill another Township’s needs before any Memorandum of Understanding (or Contract) was executed that our Twp was facing burdensome budget issues that necessitated a furlough. Otherwise we probably would not be having this discussion. So much water over the dam.
- E. Lastly, I (Secty Leister) have been engaged in discussions with Chief Moffett over several months to benefit from his years of experience and see other sides of this issue. I think that by “closing the door” and setting a fixed term to Furloughs, we solve the biggest problem & the Township’s solicitor feels the same. The Chief has also presented a list of other thoughts he would like to see considered that I can understand the rationale behind. But they approach the same matrix concept that Chief Ross attempted to implement previously and CS counsel quickly recommended against.. The Chief can explain these various items if he wishes, but if we focus upon the fact that a furloughed officer has already been tested for psychological stability and all the other “marks” ONCE by CS and has been on the job, etc., criminal convictions aside, he will have to ONLY pass a new physical which follows MPOETC guidelines & includes a drug screen -- that OK’s him to return to a job that he has already been certified for. I can’t see how we can do it all over again without processing the furloughee like



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a new officer candidate—in which case we should just shorten the time element on the Furlough List and run with creating new Eligibility Lists. Essentially, CS cannot get involved in management prerogative on a recall—he/she is not a rehire. MPOETC already establishes the certification issues—correct? And that is outside CSC jurisdiction. I think to subject the returning furloughed officer to several additional criteria will meet with a labor action—and what do we do with regard to a returning officer who was called to active military duty? How does Civil Service certify him (or her?—if, in fact it is even a CS issue). And thinking out loud, what happens to a military-deployed who has been out of law enforcement for more than 2 years as far as MPOETC's Act 120 certifications is concerned—which may be outside the immediate discussion. (Parenthetically-- I contacted Beverly Young at MPOETC to get some background on this point since we do have a military deployed officer and shared the email with Chief Moffett so he was aware of the MPOETC procedures for recertification.) But I make the point that CS cannot address ALL contingencies of what a Furloughed Officer and where we must draw the line on certifying him/her for their fitness of recall.

All commission members agreed that for now we would keep things as they are, i.e. §5.2 & §6.2, except as officially amended tonight.

F. Secty Leister recommended that we clarify §6.2(b) with ADDED LANGUAGE as follows:

(reading)

§6.2(b): In the event that the appointing authority decides to increase the Police Department, the furloughed officers shall be reinstated in order of their seniority in service in the Police Department, provided that any such furloughed officer accepts in writing reinstatement within thirty (30) days of receiving notice of the opening. Failure of the furloughed officer/s to respond to said written notice of opening shall constitute voluntary resignation.

DISCUSSION: NONE

**Motion Made by: Leister
Seconded by: Duncan**



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All in favor: AYE ✓ Opposed: _____

Motion: PASSES

(reading-creating new language to § 6.2)

NEW⇒ §6.2 (d):

Furlough Lists shall remain in effect for 20 months from the furloughed officer's date of release. If at the expiration of that time he/she has not been reinstated their furlough rights will terminate.

DISCUSSION: NONE

Motion Made by: Leister

Seconded by: Brandel

All in favor: AYE ✓ Opposed: _____

Motion: PASSES

★ (Commissioners must sign Amended RESOLUTION in TRIPLICATE)

ANY OTHER NEW BUSINESS:

Secretary's Misc Reports:

- The Township has authorized the **Creation of an Eligibility List** (per earlier letter from the Twp Mgr). This involves advertising in various contemporaneous publications, one of which must be a local newspaper from our community (Mercury); we will also use the Reading Eagle over a 3 week period. Plus post at the various Police Academies; including universities which have the MPOETC-training program; the Chiefs of Police Assn website in Harrisburg and various other affiliated resources. Before the publication can take place I have to secure a test site clearance for the Middle School (the red tape is very time consuming) and then there are usually 30 day intervals between subsequent steps (verification of veterans preference; physical agility, oral boards, background investigations, medical & psychological) and final certification of the List of Three).
 - ▶ **Cmsr Duncan** interjected that the process costs about \$5,000, **Secty Leister** concurred.

- I have contacted **Background Brokers-Jake & Michele Lovera** (after some investigation—they had moved) and they will be able to perform our due



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diligence work when needed. We will have to send them a current list of required criteria when we get to that stage of the process.

- I have **not** contacted **Dr. Fraunces** yet (for our psychologicals), but he is still in business and he will conduct the standard MMPI for us as our appointed psychologist.
- **Chief Schurr** has indicated that he will be unable to participate on the **Oral Board**. Chief Flanders asked if we had any alternate persons in mind and I asked him to recommend a candidate and have him send me a Bio. As soon as I have the Oral Board and other items lined up I will schedule another brief meeting to officially approve them.
- I met with **Dr Ziegler**, principal at the Pottsgrove Middle School on August 20th and discussed the “School District Facilities Use Forms” and issues of waiving the 6-8 month advance notice for use of the cafeteria (after March 15th) and the fee (~\$165). The District’s Business Mgr. Dave Bender wants to charge us for the janitor’s salary to open up for a Saturday (4 hours OT). I argued that we never paid a fee before AND an UPT Police Officer was on site at all times. He then countered—that maybe Ofcr Wolf could open up for us since he has keys to all the doors! I don’t feel we should have to pay OT for something we should get for free unless that is our only bargaining chip. That would come out of the Chief’s budget as the CSC doesn’t have a dime budgeted for this year. They threw in \$50 for training seminars and I said we wouldn’t need that this year so it was cut.
- When we DO schedule the TESTING at the Middle School (a Saturday morning) I will need 3 CS personnel to assist me. One to handle check-ins and 2 to help with proctoring the test. And we would need to have a police officer there for security during the 4 hour time period either way. That may end up being an “automatic” with Ofcr Wolf.
- **Timeline Considerations:** IF I were able to start the ads by Sept 15th, it would be a month for deadlines for submitting Applications. Now we are into October 15~~~figure a minimum of 2 weeks to evaluate and check for completeness depending upon the response~~~then letters go out to notify the Applicants when the Written Test will be administered—we are up to approx December 1st~~~it takes 30 days for test results to come back~~~ we are at Jan 1st; Letters go out to schedule the Physical Agility which is an outside event in the middle of winter (early Feb) on a wind-swept hilltop at the Middle School track and parking lot (who knows what the weather will be like). IF we are able to conduct the Physical Agility tests, it takes 2 weeks to send out the letters AND schedule the Oral Exams (mid Feb) ~~ another 10 days for the Oral Board to submit their



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scores and 2 weeks for CSC to meet and submit top three candidates for Background Investigations. Finally by May 1st we should have an Eligibility List. The ONLY way to shorten this process would be to conduct both the Written AND Physical Agility Tests consecutively on the same day. However, since the PA test is Pass/Fail it would negate the outcome of the Written Test and the \$40 Application Fee we charge doesn't give them much bang for their buck. Of course we could conduct the PA Test FIRST, in December when the weather is potentially better and then conduct the written in January. But then we are also in a time of year when inclement weather might prevent Applicants from attending the Test Session (or in time).

DISCUSSION:

Need to consider what the cost vs. School District accommodations of using our police officer (Wolf) for the POST (written test). It is going to cost MORE for Wolf's OT vs. the School District's Janitor's OT for 4 hours (+/-). I will continue to negotiate for free accommodations as in the past—but using Officer Wolf will be our Plan B. However, we would need an officer on site anyway so perhaps we think this should not be a concern. We also discussed the problem of getting into colder weather for conducting the Physical Agility. It was agreed (by all Commission members present) that we will (if necessary) conduct the Physical Agility tests FIRST to avail of the warmer weather and if the candidates fail—we will refund HALF (1/2) of their Application Fee (\$20). The rationale is that they will not go on to the Written tests and incur any further costs on behalf of the process and refunding half of the Application Fee is fair.

Also, Chief Moffett suggested that we await starting the Eligibility List process (due to the costs) AND that if one of his officers does take another job, our furloughed officer will in all likelihood return. If this scenario does not play out (we do not lose an officer) we should hold off on starting an Eligibility List at this time. Either way, IF we must start and it gets to late October early November, we can still run the Physical Agility tests outside and everything else will not be weather dependent. Everyone on the Commission was in agreement. We will wait to hear from the Chief/Twp Mgr.

Any other new business to discuss?

NONE

Public Comment/Questions:

Mr. Nice asked Chief Moffett about the status of one of our



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Police Officers who was being redeployed and what the township does as far as his salary and benefits were concerned.

Date for Next Meeting:

To be scheduled on an “AS NEEDED BASIS” depending upon whether or not we must start an Eligibility List—prepare for Applications, etc.

MOTION TO ADJOURN:

Made by: Leister
Seconded by: Brandel
All in favor: AYE Opposed: _____
Motion Passes! 8:42 PM

Respectfully submitted,

Reginald Leister
Secretary
Upper Pottsgrove Township
Civil Service Commission