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Lyndhurst, Ohio
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The Civil Service Commission of The City of Lyndhurst met in Regular Session on Thursday, July 9, 2015, at 8:30 a.m, in the Conference Room of the Lyndhurst Municipal Center, 5301 Mayfield Road.

Members Present: Commissioners: R Schmidlin, Chairman
S Franks, R Sweeney

Others Present: P Murphy, Director of Law
C J White, Secretary
R Porrello, Chief of Police
Exec Lt. P Rhode, Police Department
M Carroll, Chief of Fire
Detective Scipione, Police Department

It was moved by Mr. Schmidlin, seconded by Ms. Sweeney that the reading of the minutes of the Regular Meeting held June 11, 2015, copies of which were mailed to all members, be dispensed with and said minutes stand approved as circulated.

The question was put to a voice vote and passed unanimously.

Motion carried.

Approve announcements of the Sergeant's and Lieutenant's exam in the Police Department to be held in August.

The Commission members reviewed both announcements for the upcoming promotional tests. It was noted that the dates and times of each assessment center were not on the announcement. The Secretary stated she is waiting on the testing company for that information, and should hear back soon.

It was moved by Mr. Schmidlin, seconded by Mr. Franks that the announcements for the Sergeant's and Lieutenant's test in the Police Department be approved, pending the addition of the dates and times for the Sergeant's and Lieutenant's assessment centers.

The question was put to a voice vote and passed unanimously.

Motion carried.

Extend Eligibility List for Original Appointment in the Police Department. Expires September 11, 2015.

In answer to Mr. Schmidlin's question, Chief Porrello stated he is recommending that the current list be extended for one year.

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It was moved by Mr. Schmidlin, seconded by Mr. Franks that the Eligibility List for Original Appointment in the Police Department be extended for one year, expiring September 11, 2016.

The question was put to a voice vote and passed unanimously.

Motion carried.

Correspondence from Detective Scipione

The following letter was received from Detective Mike Scipione, and read by Mr. Schmidlin:

Date: June 30, 2015

To: Chairman Raymond Schmidlin, Civil Service Commission

From: Detective Michael Scipione, Lyndhurst Police Department

Re: Police Department Promotional Examinations

I am respectfully requesting my original date of employment on June 1, 2000 be used by the Civil Service Commission to calculate my seniority points for the upcoming and future Lyndhurst Police Department promotional exams. The request is being made pursuant to Rule VIII, Section 7 of the Lyndhurst Municipal Code which states the following "Credit given for seniority shall be for completion of full years only with a full year being not less than 365 days from the date of original appointment to the date of filing an application for promotion".

Please be aware that in 2010 I incurred a medically related involuntary break in service that lasted less than one year. My return to full employment with the Police Department was outlined in an agreement that the City required.

My agreement with the Police Department, made on January 10, 2011 required me to start and be compensated as a new employee as dictated by the pertinent sections of the applicable bargaining contract. I was also prohibited from participating in the promotional process until January 2014.

Except for that three year prohibition, nothing else in that agreement addresses or otherwise limits my rights in regard to the promotional process. As such I believe that when calculating my seniority points for the upcoming and future promotional exams, I should receive them on the basis of my original date of employment, June 1, 2000.

I am thinking that one of the reasons why the Civil Service Commission credits time in service as a Lyndhurst police officer is to place the more experienced officers into

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position to finish higher on the eligibility list. If so it would seem that the seniority referred to in its rules would encompass all accumulated service time regardless of a short break.

Conversely the "seniority" referred to in the labor agreement relates to preference in relation to certain benefits (vacation and other time off requests) or procedures (order of layoffs, recalls). Understandably, the agreed-upon consideration in the labor contract is to reward length of unbroken service instead of total service.

Based on the foregoing I believe that my request is well reasoned. In order to further the interest of the Commission in obtaining the best candidates possible my request should be granted. Thank you for your time and consideration.

Respectfully Submitted,

~ ~

Michael Scipione

In response to Detective Scipione's request, Mr. Murphy presented a memo to the Members of the Civil Service Commission, which was read by Mr. Schmidlin:

"By memo to Mr. Schmidlin dated June 30, 2015, Detective Michael Scipione has requested his seniority with the City for purposes of promotion be calculated from his original date of employment (June 1, 2000), instead of his date of re-employment (January 12, 2011). I have previously rendered an opinion that this request is not within the power of the Civil Service Commission to grant, and I reiterate that opinion.

Attached to this memo is a memo prepared by me and addressed to Lieutenant Traci, dated March 19, 2013. The law has not changed since that time (copy of statute also attached), and it remains my opinion the Civil Service Commission does not have the power to grant Detective Scipione's request.

If you have any questions I will be happy to discuss this matter with you.

c: Mayor Cicero
Chief Porrello"

Mr. Murphy stated that the mayor and police chief both lobbied in favor of Detective Scipione's request, unfortunately, state law states that when a person holding an office or position under the classified service in a fire department or a police department comes back after resignation, seniority cannot be based on original appointment date. He further stated that state law supersedes the city's codified ordinances and/or civil service laws.

Detective Scipione stated that it is his opinion that the word seniority, is more geared towards experience; the word seniority is in the rules, but asked if it applies to the same portion of the ORC. He further explained that he was awarded his longevity, and with his experience, feels that the points added in the promotional test should reflect his original date of hire. He

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further stated that the wording in the CBA, states the seniority is the most recent date of employment, but the Civil Service rules states the original date of employment.

Mr. Murphy explained that both the CBA and the Civil Service rules are superseded by the Ohio Revised Code.

Adopt Resolution Number 2015-01

A Resolution amending Rule X, Section 1, of the Rules of the Civil Service Commission as they appear in Chapter 171 of the Codified Ordinances of the City of Lyndhurst.

It was moved by Mr. Schmidlin, seconded by Ms. Sweeney that this item be removed from table.

The question was put to a voice vote and passed unanimously.

Motion carried.

It was moved by Mr. Schmidlin, seconded by Mr. Franks that Resolution Number 2015-01 be adopted.

The question was put to a voice vote and passed unanimously.

Motion carried,
Resolution No. 2015-01 is adopted.

Extend Eligibility List for Original Appointment in the Fire Department. Expires August 8, 2015.

Chief Carroll recommended that the current list be extended for at least four months, and no longer than six months, due to the fact that there are candidates on the list who still need to be processed for the current opening in the Fire Department.

It was moved by Mr. Schmidlin, seconded by Mr. Franks that the current eligibility list for original appointment, established August 8, 2013, be extended for six months, to expire February 8, 2016.

The question was put to a voice vote and passed unanimously.

Motion carried.

Certify names from the Original Appointment List in the Fire Department

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In lieu of certifying names from the Original Appointment List at this meeting, Mr. Schmidlin recommended that certifications take place at a special meeting be held on July 24, 2015 at 8:30 a.m.

It was moved by Mr. Schmidlin, seconded by Ms. Sweeney that this item be tabled, pending further research regarding the candidates on the original appointment list in the fire department.

The question was put to a voice vote and passed unanimously.

Motion carried.

It was moved by Mr. Schmidlin, seconded by Ms. Sweeney that the meeting be adjourned.

The question was put to a voice vote and passed unanimously.

Motion carried, meeting
adjourned at 8:55 a.m.

Ray Schmidlin, Chairman

Approved: _____

Attest: _____