

**CITY OF LAKE STEVENS SPECIAL CIVIL SERVICE MEETING AGENDA**  
City Hall Annex  
1812 Main Street, Lake Stevens  
Wednesday, January 6, 2010

CALL TO ORDER: 6:00 P.M.

**ACTION ITEMS:**

- A. Election of Civil Service Commission Chairperson for 2010.
- B. Election of Civil Service Commission Vice-Chairperson for 2010.
- C. Approve minutes of October 21, 2009 meeting.
- D. Approve Lateral - Experienced Police Officer Eligibility List Dated January 6, 2010.
- E. Approval of Police Support Officer Eligibility List Dated January 6, 2010.
- F. Approve Draft Changes to Rule-19, "Hearings" of the Rules and Regulations of the Lake Stevens Civil Service Commission per City Attorney's recommendations.

**DISCUSSION ITEMS:**

**INFORMATION ITEMS:**

- A. Special meeting notice

**ADJOURNMENT:**

**CITY OF LAKE STEVENS  
CIVIL SERVICE MEETING MINUTES**

Wednesday, October 21, 2009

City Hall Annex Conference Room, 1812 Main Street, Lake Stevens, WA

CALL TO ORDER: 6:07 p.m. by Tom Adams, Chairman

COMMISSIONERS PRESENT: Tom Adams  
Hal Hupp  
Cheryl Plumb

COMMISSIONERS ABSENT: None

STAFF MEMBERS PRESENT: Chief Examiner, Steven Edin  
Police Chief, Randy Celori

OTHERS: Council Member Mark Somers

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**Approval of Civil Service Commission Meeting Minutes dated March 19, 2009**

**MOTION** by Commissioner Hupp, seconded by Commissioner Plumb to approve the Civil Service Commission meeting minutes dated March 19, 2009. **MOTION** passed unanimously.

**Approval of Civil Service Commission Meeting Minutes dated September 30, 2009**

**MOTION** by Commissioner Hupp, seconded by Commissioner Plumb to approve the Civil Service Commission meeting minutes dated September 30, 2009. **MOTION** passed unanimously.

**Approval of Lateral (Experienced) Police Officer Eligibility List Dated October 21, 2009**

Chief Examiner Edin reported that the Police Department conducted another Lateral (Experienced) Police Officer Oral Board on October 8, 2009. Five candidates were invited to attend with four showing up and passing with a minimum score of 70%. Chief Celori reported that one candidate was from the Tulalip Police Department, one from an Oregon police agency, one from a Florida police agency, and one from the Snohomish County Sheriff's Office.

**MOTION** by Commissioner Hupp, seconded by Commissioner Plumb to approve the Lateral (Experienced) Police Officer's Eligibility List dated October 21, 2009. **MOTION** passed unanimously.

**Review of Rule-19 "Hearings" of the Rules and Regulations of the Lake Stevens Civil Service Commission**

Chief Examiner Edin reported that a copy of Rule-19, "Hearings" has been sent to the City Attorney's office for review. Mr. Edin went on to report that the City Attorney's recommendations will be available for review by the Commissioners at the next meeting.

**Next Lateral (Experienced) Police Officer Oral**

Chief Celori reported that the Police Department will conduct another Lateral (Experienced) Police Officer Oral Board towards the end of November.

**MOTION** by Commissioner Hupp, seconded by Commissioner Plumb to adjourn the October 21, 2009 Lake Stevens Civil Service Commission meeting at 6:22 P.M. **MOTION** passed unanimously.

Respectfully Submitted:

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Steven R. Edin  
Civil Service Secretary/Chief Examiner

Approved By:

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Thomas D. Adams  
Chairperson

## 19. HEARINGS

### **19.01 Hearings--Demands for Investigation--Appeals.**

- a. Any regular employee who is demoted, suspended, or terminated, may file a written demand for investigation with the Commission.
- b. Any employee who is alleged to be probationary by the disciplining department may only appeal to the Commission issues regarding probationary status and whether the procedures for discharge of probationers, as found in these rules were properly followed. (Commission revised on January 14, 2009)
- c. An employee, or department, who is adversely affected by an alleged violation of Civil Service Rules or City of Lake Stevens Ordinances or policies, may appeal such violation to the Commission.

### **19.02 Appeals--Time--Form.**

A notice of appeal shall be filed at the Commission office within ten (10) days of the action that is the subject of the appeal. The notice of appeal shall be in writing and include the mailing address and street address where service of process and other papers may be made upon the appellant. The notice of appeal shall also contain a brief description of the facts giving rise to the appeal, and a concise statement of the reason for the appeal. Failure to file a notice of appeal in accordance with these rules, within 10 days, terminates the right of appeal. (Commission revised on January 14, 2009)

### **19.03 Exhaustion of Administrative Remedies.**

- a. The Secretary may direct the employee to exhaust available administrative procedures regarding a disciplinary matter, before scheduling the matter for hearing before the Commission. See Rule 18. (Commission revised on January 14, 2009)
- b. If the employee exhausts the available administrative procedures and continues to believe that good cause has not been shown, the employee may within ten (10) days after the final step of the procedure, request the Secretary to return the appeal to the Commission for hearing. (Commission revised on January 14, 2009)

### **19.04 Authority of Secretary and Chief Examiner/Staff.**

- a. The Secretary and Chief Examiner to the Commission shall have the authority to make orders of preliminary matters, including motions for discovery and to compel discovery, continuance, protective orders, and other similar matters. Such orders may be appealed to the Commission. The Secretary and Chief Examiner may also conduct pre-hearing settlement conferences in order to encourage resolution of contested matters, issue subpoenas, and note depositions. (Commission revised on July 27, 1992)
- b. The Commission may authorize the Commission staff to investigate any reports or appeals relating to the enforcement or application of the Civil Service or those rules which do not involve a disciplinary proceeding. The staff shall report the results of the investigation to the Commission in an open meeting. On the basis of such report, the Commission shall either dismiss the report or appeal as being without basis, or set the matter for a full hearing.

- c. As an aid to investigations authorized by the Commission, the Secretary and Chief Examiner may subpoena any documents that would be discoverable for purposes of hearing preparation and may take depositions by tape recorder or otherwise of any person who may have relevant knowledge. Depositions so taken shall be kept as part of the records of the Commission. (Commission revised on January 14, 2009)

### **19.05 Appeals—Initial Review.**

The Secretary and Chief Examiner shall review all appeals to determine whether the employee has timely filed an appeal and whether the action appealed is a final action. Upon determination that the filing is not timely, the Secretary and Chief Examiner shall issue a written order of dismissal with prejudice, setting forth the basis of the dismissal. In the case of an action that is not final, the filing shall be stayed until such action becomes final. Such orders may be appealed to the Commission. (Commission revised on January 14, 2009)

### **19.06 Appeals—Notice of Hearing.**

Upon receipt of a notice of appeal, the Commission staff shall forward a copy to other affected parties. As soon as possible thereafter, but in any event within ten (10) days, a scheduling/pre-hearing conference before the Commission shall be set, with each party to be afforded not less than ~~ten~~ twenty (10) days notice of such hearing. Subsequent hearings on the same appeals shall have at least one week's notice unless waived by the parties. All parties may agree to waive the notice provisions and time limits provided by this Section. (Commission revised on January 14, 2009)

### **19.07 Appeals—Withdrawal Authority of Department.**

The exercise of jurisdiction by the Commission over a matter does not preclude the party from withdrawing, modifying, or otherwise compromising the matter prior to the matter going to hearing. Upon resolution of a matter prior to hearing, any party may request the dismissal of the matter. A stipulation signed by both parties should be submitted to the Commission prior to such dismissal.

### **19.08 Service of Process—Papers.**

- a. The Commission staff shall cause to be served all orders, notices, and other papers issued by the Commission, together with any other papers that the Commission is required by these rules to serve. Every other paper shall be served by the party filing the notice, document, or paper.
- b. All notices, documents, or papers served by either the Commission or a party shall be served upon all counsel of record at the time of such filing and upon parties not represented by counsel. Service of papers shall be by personal service, by registered or certified mail, or by regular mail with written acknowledgment of such mailing attached to the papers so served. Written acknowledgment shall be by affidavit of the person who mailed the papers, or by certificate of any attorney or Secretary and Chief Examiner.
- c. Service upon parties shall be regarded as complete when personal service has been accomplished; or by mail (U.S. or inter-city), upon properly stamped and addressed deposit in the mail system. (Commission revised on January 14, 2009)
- d. Papers required to be filed with the Commission shall be deemed filed upon actual receipt of the papers by the Commission staff at the Commission office. All papers except an original appeal notice shall be served with the original and three copies. Briefs and

- memoranda must be filed with the Commission at least three (3) days prior to any hearing involving matters discussed in such brief or memoranda. Documentary evidence is not required to be filed, but, rather, provided at the hearing. (Commission revised on January 14, 2009)
- e. An appellant or petitioner is responsible for notifying the Commission in writing of any change in mailing or street address and telephone number. Failure to so notify the Commission shall constitute a waiver of service and notice under these rules. (Commission revised on January 14, 2009)

### **19.09 Discovery.**

- a. Parties to a proceeding are required to provide each other reasonable access to and discovery of all relevant information concerning the matter before the Commission. Any questions concerning relevancy or access shall be resolved by order of the Secretary.
- b. Upon the failure of any party to comply with an order of the Secretary compelling discovery, the Secretary shall schedule the matter before the Commission for review and determination of appropriate sanctions.

### **19.10 Subpoenas.**

- a. Every subpoena shall identify the Commission and the title of the proceedings, if any, and shall command the person to whom it is directed to attend, at a specified time and place, and give testimony or produce designated books, documents, or things under that person's control.
- b. Upon application of any party or his/her representative, the Secretary shall issue to such party subpoenas requiring the attendance and testimony of witnesses or the production of evidence in such proceeding. The party requesting the subpoena is responsible for having the subpoena properly served. Requests for subpoenas shall be submitted to the Commission offices at least three (3) days prior to the hearing.
- c. Service of subpoena shall be made by serving a copy of the subpoena on the person named therein.
- d. The person serving the subpoena shall make proof of service by filing the subpoena at the Commission office; and if such service has not been acknowledged by the witness, the person serving subpoena shall make an affidavit of service. Failure to file proof of service does not affect the validity of service.
- e. Upon a motion promptly made by a party or by the person to whom the subpoena is directed, and upon notice to the party on whose behalf the subpoena was issued, the Commission may:
- (1) Quash or modify the subpoena if it is unreasonable or requires evidence not relevant to any matter in issue, or
  - (2) Condition denial of a motion to quash or modify upon just and reasonable conditions.

### **19.11 Burden of Proof.**

At any hearing on appeal from a demotion, suspension, or termination, the disciplinary authority shall have the burden of showing by a preponderance of the evidence that its action was for cause. At any other hearing, the petitioner or appellant shall have the burden of proof by a preponderance of the evidence. (Commission revised on January 14, 2009; July 27, 1992)

### **19.12 Evidence.**

- a. Subject to other provisions of these rules, all competent and relevant evidence shall be admissible. In passing upon the admissibility of evidence, the Commission shall give consideration to, but shall not be bound to follow, the rules of evidence governing civil proceedings in the superior courts of the State of Washington.
- b. A witnesses in any hearing may be examined orally, under oath or affirmation, and shall be subject to cross-examination by opposing parties and the Commission.
- c. When objection is made to the admissibility of evidence, such evidence may be received subject to a later ruling. The Commission may exclude inadmissible evidence and may order cumulative evidence discontinued in its discretion, either with or without objection. A party objecting to the introduction or exclusion of evidence shall state the grounds of such objection at the time such evidence is offered or excluded. No such objection shall be deemed waived by further participation in the hearing.
- d. At any hearing before the Commission when documentary exhibits are to be offered into evidence, copies shall be furnished to the opposing party, to each Commission member, and to the Secretary-Chief Examiner.
- e. Parties are encouraged to stipulate to the admissibility of documentary exhibits. To further this end, parties will make request of other parties for such stipulation no later than three (3) days in advance of the hearing, barring unusual circumstances. The party of whom the request is made shall respond no later than one (1) day prior to the hearing.
- f. An employee has the right to appear before the Commission with or without counsel and to be heard in the employee's defense. (Commission added on January 14, 2009)

### **19.13 Deliberation.**

The Commission may deliberate in closed (executive) session when taking a disciplinary or other quasi-judicial case under advisement. Deliberations by the Commission shall otherwise be subject to Chapter 42.30 RCW. No person other than the Secretary-Chief Examiner and legal counsel to the Commission shall be present during closed deliberation. No person shall attempt to convey any information or opinion to the Commission concerning any matter on appeal, other than in open hearing. (Commission revised on January 14, 2009)

### **19.14 Decision.**

In any appeal, the Commission shall issue a decision, including findings of fact, conclusions of law, and an order, to each party or counsel of record for each party or counsel of record for each party, as soon as practicable considering the complexities and ramifications to all parties involved. (Commission revised on January 14, 2009)

### **19.15 Remedies.**

The Commission may issue such remedial orders as deemed appropriate.

### **19.16 Reconsideration.**

A party may move for reconsideration by the Commission only on the basis of fraud, mistake, or misconception of facts. Such motion must be filed with the Commission within ten (10) days of the decision of the Commission. Such motion for reconsideration shall be decided on affidavits, absent special showing that testimony is necessary.

### **19.17 Waiver.**

Upon stipulation of all parties to a proceeding, and upon a showing that the purposes of the rules or Ordinances of the City of Lake Stevens would be better served, the Commission may waive the requirements of any of these rules.