

Civil Service Commission Chairman Tom Majeski response to 3/6/15 minutes:
Addition to Mr. Kicher's responses:

3) "Assistants" should not be Classified. Mr. Kicher further outlined the reasons for this request.

We want to make sure that the spelling is as a "Noun" – a proper title, and not just doing assistance of any sort.

Judy Shrefler asked "How many part-time employees in Fire are "Full-time" elsewhere?" Mr. Kicher responded that he did not know that number, but would venture to believe that most part-timers in WH are also part-timers elsewhere. It is not our responsibility to track any employee's employment with other entities. Can she embellish as to why she asked this question? He spoke of reasons why many cities prefer part-time employees to full-time employees. It is strictly a matter of cost. Most cities find that they can employ two and a half part-timers for the price of one full-time employee.

Sandra Taddeo asked about the advantages of bringing someone in from unclassified to classified status.

1. They become tested for employment.
2. Credentialing is checked.
3. Interviews are conducted.
4. It gives the employee a board or commission of last resort in matters of discipline or whistle blowing.
5. Classified employees are unable to actively campaign for politicians.

Mr. Kicher pointed out that the unclassified employee has no right of appeal. Under CS, they have a right of appeal. CS performs two functions: 1) to do the screening, which is turned over to the Chiefs and Mayor by way of a list which they can hire from, and 2) act as a "sounding board" for any grievance prior to an actual union grievance being filed.

Vice Chairman Jim Walsh asked if there was ever an occasion where a part-timer attempting to be a full-timer was not passed by the CS review.

No. But that does mean that they are all hired to be full-time. Just because they are part-time does not guarantee full time. It is dependent on their age, their employment status with other employers and other personal factors to consider. They are also on an Eligibility List and it up to the Appointing Authority to make choices from the list.

Mr. Kicher indicated that they had not had that situation. As of last summer, however, Mayor has CS reviewing even the part-time applications as a screening mechanism. We have been working under an "ad hoc" procedure.

Judy Shrefler asked if part-time Police and Fire were made Classified employees, would that open up the opportunity for them to unionize.

All public employees can unionize. There is no difference between unclassified or classified as far as being able to unionize. I think that most people don't understand the difference between classified, unclassified and collective bargaining as applied in the State. For example, WH Full time Firefighters belong to the International Association of Firefighters Union. The IAFF PROHIBITS any participation in their union by part-time

employees. For example, part-time firefighters in Willowick are Classified employees; however, they are not Unionized. Example, Mentor PT firefighters have a collective bargaining agreement with the City of Mentor and they do not belong to any national or international union. The full time Service Dept. members in WH are unclassified, yet they belong to a national union organization. The same is true with WH Dispatchers. So, classified and unclassified have nothing to do with belonging to a labor organization. Mr. Kicher said he did not know the answer to that. We can direct that to the Law Director.

Judy Shrefler asked if CS is already working with Police and Fire Chiefs to screen candidates now, what is the advantage to making them Classified.

We are doing it on a temporary basis because the Mayor saw inconsistencies in hiring practices and therefore decided to use a tool that was already available and approved by the State to carry out the screening processes until it could be changed in the Charter.

Mr. Kicher stated that CS would make their input more timely, when they come into the part-time service and not have to review them as they come from part time to full time. Also, it offers to the part-time employee, a grievance procedure process.

Chairman Andy Gardner asked about other communities using Civil Service Classified for part-time employees.

Willowick, Mentor and Eastlake just to name a few around us. Civil Service is the vehicle that the State prefers being used. Our Charter is granted through the auspices of the State of Ohio and we should be using the recommended solution for the job.

Mr. Kicher stated that to his knowledge, there are no other communities that he looked at throughout the State of Ohio. There is nothing in the ORC that prevents it. Some communities have Police and Fire Chiefs under Classified, but we do not.

Chairman Andy Gardner asked about any extra costs associated with testing, etc.

We normally do not test until there is a potential opening in the department. This does not waste City resources for giving a test only to create a list that may never be used. The Civil Service Commission is streamlining hiring practices for testing procedures. Example: The City used to spend thousands of dollars to give its own agility test for police candidates. We now use a regional testing center that the candidate actually pays for him/herself. Also, you must justify the testing towards the potential for problems after the employee is hired. For example, the Civil Service Commission recommends that all Police officers have a psychological examination before employment because they carry firearms in our community. We think that the psychological testing is well worth the price before we put a Police Officer on the street. Example: Civil Service believes every successful applicant must pass a BCI (Bureau of Criminal Investigation) Background check. Why? Because you cannot be a Little League Coach or a Boy Scout or Girl Scout leader in the City without passing this background check. Why would we not have the Police and Firefighters in our City be required to have the same check?

We have been working with both the Police and Fire Departments to make the Department Heads a full part of the procedure. We are one of a few CS Commissions that are so inclusive. For example, all Police and Fire candidates are interviewed.

Although we screen the questions, all questions asked at the testing have actually been drawn from a pool of questions submitted by the Department Heads. CS makes sure that all candidates are asked questions out of the same pool and given the same opportunities to respond.

Mr. Kicher said he would not see it as a financial issue. There is a real advantage to offer Classified to part-timers. I would recommend that we recruit at least once every 2 years for the PD and FD and offer that exam. The cost of the testing and scoring is picked up by the applicant in the fee charged to take the test. Cost is \$25. CSC is not an expense since they are volunteers. A list is only good for 2 years. Perhaps once the list is expired, we should give another test.

Jennifer Greer said she believes it will involve more cost than just the testing. I believe that will be another question for the Law Director. Classified employees will have Union implications. I think we are going to review this more into the summer when we look at Article IX.

What costs are you implying? We only test when we need to fill a position. The candidate pays the cost to cover the test, as Mr. Kicher stated. If there is a test given and then interviews are conducted, you will have the expense of the Chiefs and Mayor's time to interview the candidates. That is all we can expect; we are not sure what you are implying.

"Classified employees WILL NOT have Union implications." Obviously, you attended a Civil Service meeting and brought up that point. We specifically asked you for the regulation that you referred to that makes classified employees automatically unionized. We eagerly await your answer because, to the best of our knowledge, this does not exist in Ohio regulation or Ohio Revised Code. You, again, have been misinformed. You are mistaking classification for collective bargaining. All employees in the State of Ohio, whether classified or unclassified, can be covered by collective bargaining. Chairman Andy Gardner agreed that we will be discussing it at a later date.

Mr. Kicher said he was focusing on the costs associated with testing, but had not considered anything that may be associated with unionization.

Chairman Andy Gardner then asked if CS had discussed it with either Chief Harmon or Chief Collins to get their input and how they felt about giving up some of their control with regard to hiring.

The Police Chief in WH has never hired any one. The Fire Chief in WH has never hired any one. CS has never hired any one in WH. The Appointing Authority, the Mayor, does the hiring. He has asked for CS to oversee the procedures, credentialing and hiring process of even part-time safety forces to be added to avoid inconsistencies. No Authority has ever been or will be taken away from the Police or Fire Chief. Procedures that we use are, in most cases, procedures that the Department Heads have used or should have used in the past.

Civil Service handles complaints and inquiries from the public, the candidates, the Department Heads, the Unions, and any employee that needs answers to questions or has job-related concerns. Unlike Council, we work in a confidential manner, just as Medical Doctors and nurses are now covered by the Privacy Act. We have been consistently asked by your CRC if there have ever been problems. Civil Service views these as confidential inconsistencies in hiring practices or work-related discrepancies.

The State of Ohio recognizes CS Commissions as part “whistle blower protection”. Therefore, we can give you specific examples of inconsistencies in WH; however, it would have to be done with the consent of the Appointing Authority in Executive Session and your membership would also have to pledge confidentiality in these matters. Some involve personnel who are still employed by the City and possible litigation and legal issues that need to be confidential. As CS investigates all of these complaints (some anonymous), in all cases so far, we have not found any malicious intent; however, corrective action must be taken immediately to avoid future issues.

You, as the people of WH, must understand that the Appointing Authority has come to the same conclusions. Therefore, he saw the need to use an approved method to adjust to these situations on a temporary basis. We hope that you see the value of making them permanent.

For example, in medicine, whenever you go to the doctor, you expect to receive definitive, acceptable care. This is called “standard of care” or “standard practice.” In municipal employment regulations, the standard of care or standard practice is to institute CS procedures that reflect State of OH regulations.

Mr. Kicher stated that CS did have an opportunity to speak with Chief Collins, but not Chief Harmon, but they both know their position on CS responsibilities. Chief Collins may have the opinion that part-timers should remain in the unclassified position, but I would argue that this should help him in his job, rather than hinder him. In my experience with interviewing and hiring applicants, the more people you have looking at credentials and reviewing people, the more thorough a search will be conducted. Mr. Kicher stated that he has over 40 years of teaching at Case Western Reserve, with a massive amount of interviewing and the ones that he had the most problems with are those which were not reviewed by a larger group of individuals.

Public Portion:

Councilwoman Nancy Fellows, 2812 Fowler Drive, Willoughby Hills, OH 44094 Commends work of CS members, including Tom Kicher, Tom Majeski and Carolyn Patton.

Had the following comments regarding Civil Service/Classified & Unclassified:

- a) “Part time vs. Full time – Full time personnel normally qualify for benefits, but part-time employees do not. When you look at a full-time person versus a part-time person, you will incur more costs. Part-timers are capped because it costs the business additional money.”
- b) “It has not been historically the policy for Council to be involved in the hiring of individuals under an Administrator. We do have some provisions that we work in collaboration with the Mayor for Administrative Heads, but we do not get involved in hiring the people who are below those administrators in terms of their clerks, executive assistants, Patrolmen, etc.”
And Council still won't!
- c) “In terms of being part-time and unclassified, when you become classified, Judy to your point, it is a mandate, you will be part of the Union, and you will

pay Union dues and your privileges will be in a contract. So they don't have a choice on that, particularly with Police and Fire, and Service Dept. as well."

Unfortunately, the Councilwoman has not done her homework again. She is misleading the public with this statement. There is no mandate that unclassified or classified employees be union. There is a collective bargaining law in the State of OH. At the present time, to show the folly of Councilwoman Fellows' statement, her own Service Dept. in her own City is unionized, even though they are unclassified employees. Perhaps, Councilwoman Fellows will do herself and her constituents a service by studying OH regulation and Ohio Revised Code before she makes public statements that have no basis in fact. Further, I am upset that CRC, in their quest to do the right thing by preparing Charter amendments, is given false information by an elected City Official who obviously does not understand how her own City works.

- d) "Certainly, you should have the Chiefs weigh in on their thoughts and provisions on this as well, not just CS individuals. And no offense, but with all of the experience that Chief Collins has, I am sure that he does not feel he needs anyone to help him hire people. Actually, I think he would think that that is taking away from his responsibilities, rather than helping him."

The Chiefs already have full input into the CS procedures. It is up to CS to make sure that the procedures are followed. Just as CRC swore an oath to fulfill their job responsibilities, the CSC has also sworn like oath and we fully intend in fulfilling our job responsibilities. If parties or individuals feel that they are above regulation, procedures and the Appointing Authority, they have full opportunity to voice their concerns at CS meetings. We have never not included input from Department Heads or the Appointing Authority within reason.

My respect and the Commission's respect for Chief Collins has never waivered. I personally feel he is one of the best Police Chiefs that WH has had. Education is not a gauge of success. It is how you apply your education that brings credence to the situation at hand. In the past, we received a request from then Council President Dave Reichelt who was asked to prepare legislation by Police Chief Collins regarding a mandatory retirement age of 60 years old for all Police and Firefighters. After receiving a series of phone calls from possibly affected parties, CS investigated and reviewed all facts. It was determined that:

- a) The triggering reason for this entire legislation request was the fact that a full-time Patrolman was being singled out as being "too old for the job." Civil Service, upon consulting with the SERB Board (State Employment Relations Board), was forewarned that said employee would have possible grounds for a lawsuit under both State and Federal guidelines for age discrimination.
- b) This employee has been an exemplary employee by his Personnel File and (at the Police Chief's request and bypassing Civil Service regulations) already passed a physical that no other member of the Police Department was required to take.

- c) The Chief stated that his 60-year-old mandatory retirement age was based on the fact that the cities of Cleveland Heights and Shaker Heights have these in place. This was found to be true.
 - d) However, upon contacting the Assistant Chief of the Cleveland Heights Fire Department, we were told that the reason was that safety forces in that city were normally not hired past the age of 30 and, therefore, eligible for full retirement benefits by the age of 60 and all were in the same pension plan.
 - e) The Chief had not even considered the fact that certain members of our Fire Department are actually covered under Social Security and cannot retire until a minimum of age 62. Therefore, besides being dependent on unemployment benefits, many would then have to be dependent on Welfare until age 62.
- e) "To Mr. Kicher's point about Unclassified not having the right of appeal, they have a right to appeal like anyone else that is employed. They go to their boss. If they are classified, they go to the Union. If they are not in the union, and unclassified, they go to their boss. So their right of appeal is in that process."

Let's just say that the person that you are appealing your case to has just hired a pole dancer, even though the City does not even have a pole at the Fire Station. What would be the next step in the process??? Council? If so, how could you then appeal to the Council when members of Council themselves do not understand what classified, unclassified, collective bargaining, whistleblower, age discrimination even mean. The best place for these people to appeal for confidential, fair, sensitive issues, may be the impartial, non political Civil Service Commission, as the State of Ohio recommends.

- f) "To Jim's point about a candidate not having a portion of a test and then would not be considered for the position. That is going on right now. We have an individual who does not qualify because of CS testing, and so a new position is being created. You also have another individual who is very important to this process and that is the Mayor. He is the Safety Director. It is very important that Bob be involved in this as well."

Councilwoman Fellows is misinformed about any individual who would not qualify because of Civil Service testing. She again failed to get accurate information as to the procedure from Civil Service. She assumes that the individual does not qualify because of Civil Service testing, but this is not true. Obviously, Councilwoman Fellows does not realize that Civil Service was bypassed intentionally by parties or a party that wanted to create a new full-time position in the Police Department. Had Councilwoman Fellows brought it to Civil Service, she would have been told that we follow the provisions of the WH Charter and Civil Service regulations regarding all new positions or reclassifications of any position proposed in the full-time safety forces. Civil Service's opinion is mandated by Charter that all full-time positions in the Police and Fire Department, other than the Police Chief and his direct Assistant, are Classified and fall under testing and provisions in Civil Service

regulations. Therefore, official CS meeting minutes reflect that the proposed position in the Police Department be classified.

With regard to the Mayor's involvement, the Mayor is the only individual in this process so far who has asked Civil Service for an opinion. He obviously "has done his homework."

- g) "Jennifer, to your point, not only the Law Director should be involved in this, but the Finance Director should be involved in this as well".
For expenses are you implying?