

**SPECIAL MEETING
SOLON CIVIL SERVICE COMMISSION
July 20, 2016 – 4:30 p.m.**

ROLL CALL: Commission Members Caplan, Huml, Kennedy, Law Director Lobe and Secretary Perry

Law Director Lobe requested the Commission enter into an Executive Session citing ORC 121.22G1 which pertains to discipline of a public employee and ORC 121.22G3 which allows for a conference with the City's attorney. He is expecting that action will be taken immediately following.

Chairman Huml moved to enter into an Executive Session at 4:31 p.m. to discuss the discipline of a public employee with the City's Law Director. Vice Chairman Caplan seconded the motion.

Roll Call: Aye: Caplan, Huml, Kennedy
 Nay: None The Motion Carried

Chairman Huml moved to resume the Special Meeting at 5:13 p.m. Commission Member Kennedy seconded the motion.

Roll Call: Aye: Caplan, Huml, Kennedy
 Nay: None The Motion Carried

Attorney Carlin entered the meeting following the Executive Session relative to Appeal 2016-1.

For purposes of record, Law Director Lobe noted a letter was received by the Commission via certified mail from Attorney Mark Biggerman, 29325 Chagrin Boulevard, Suite 305, Pepper Pike, OH 44122 and addressed to the Civil Service Commission, City of Solon, 34200 Bainbridge Road, Solon, OH 44139. The Certified Mail number for the record is 7016 0750 0001 2076 3623. A photocopy was handed to the Clerk as **Commission Exhibit 1** for the record.

Using USPS.Com Tracking, which is allowable by the Courts to obtain the official date of the notice, Law Director Lobe handed to the Clerk **Commission Exhibit 2** for the record, a copy of the Product & Tracking Information stating the delivery date of July 6, 2016 at 10:06 a.m. That is the official date to be used for the start of the clock for the all procedural matters.

Law Director Lobe said pursuant to Rules and Regulations Section 12.12 and the Procedural Order, the Commission may appoint a Hearing Officer to hear an appeal. It is a discretionary matter. For purposes of this appeal he recommends Howard D. Silver and has introduced his resume as **Commission Exhibit 3**. It is a two page document. He is an attorney located at 500 City Park Avenue, Columbus, OH 43215, (614) 221-2718 hsilver@columbus.rr.com. Law Director Lobe stated for the record he does not know Mr. Silver and the first time he spoke with him was in reference to becoming the Hearing Officer. He purposefully sought a Hearing Officer outside of the City of Solon to remain neutral. Law Director Lobe asked the Commission if they had ever heard of, spoken to or had a previous relationship with Mr. Silver. Chairman Huml said he has not heard of Mr. Silver and that after reviewing the resume of Mr. Silver he feels comfortable with this selection. Vice Chairman Caplan said she has never heard of Mr. Silver until presented with his resume by Law Director Lobe. He appears very qualified to handle the role of Hearing Officer. Commission Member Kennedy said she has never met nor had she been previously aware of Mr. Silver prior to this meeting. She commended Law Director Lobe stating Mr.

Silver's educational background appears exceptional as well as his experience within this arena.

For purposes of this meeting, Law Director Lobe prepared a Procedural Order, a two page document, which will be signed by the Commission if approved on the 20th day of July 2016. As a courtesy to the Appellant's attorney who was present at the meeting, he read into the record, "This Matter was formally received for appeal on the 6th day of July 2016, and upon motion this Commission hereby adopts the following Procedural Order to govern the proceedings in the above captioned matter." Page 2, Section I **Designation of Hearing Officer.** The City of Solon Municipal Civil Service Commission hereby designates Howard D. Silver Esq. of Columbus to serve as Hearing Officer in this case and to do all things and matters as necessary to carry out the function of the Commission for the hearing of this case.

Page 2, Section II **Date and Time of Pre-Trial and Hearing.** Pre-trial matters and issues may at the option of the Hearing Officer be discussed and settled at a conference to take place between the Hearing Officer designated to this case and the parties. Such conference may be conducted in person or via telephone at a date and time established by the Hearing Officer. If the conference is conducted in person, the Hearing Officer will establish the date and time of the conference with the location being at Solon City Hall.

The Hearing of this matter shall be August 4, 2016 at 10:00 am to be held at Solon City Hall which is within thirty (30) days of the Notice of Appeal. The Hearing may be continued by the parties if an express waiver of time and a specific waiver of the Solon Civil Service Commission Rules and Regulations and specifically Rule 11.02 (c) is formally filed on the Record of Proceedings for this case.

Page 2, Section III **Hearing Procedure.** The hearing officer shall conduct the hearing in accordance with the City of Solon Municipal Civil Service Rule XII. The Hearing Officer shall have the authority to rule on issues relative to the appeal in the same manner as if the Commission were conducting the hearing, and issue procedural orders to address matters relative to the hearing.

Law Director Lobe said this was drafted because Mr. Silver is an out of town Hearing Officer and if time permits he will need to hold a pre-trial conference with both Mr. Biggerman and Mr. Carlin because in matters of this nature there are legal issues that will need to be handled very similar to being in a Court of Law. It was drafted in the optional and discretionary, not the mandatory. Law Director Lobe asked for the Commission to take a vote on the approval and execution of the Procedural Order, the two page document requiring the Commission's signatures on both pages of the document.

Chairman Huml said this matter has not been discussed outside of this meeting with the Commission Members. He is very much in favor of having a Hearing Officer assigned to this Appeal and moved to adopt the Procedural Order as presented by Law Director Lobe with Howard D. Silver as the Hearing Officer. Commission Member Kennedy seconded the motion. Discussion: Vice Chairman Caplan said she has had an opportunity to review all the matters presented to the Commission and supports the Procedural Order. Commission Member Kennedy said everything follows exactly to the letter of the Law with regards to the 2015 Rules and Regulations.

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| Roll Call: | Aye: | Caplan, Huml, Kennedy |
| | Nay: | None The Motion Carried |

Law Director Lobe said the Hearing Officer will conduct the hearing in a judicial fashion. He must abide by the Rules of Chapter 12. There are rules of evidence and even potential hearsay which he will rule on. He expects a very extensive case because there will be issues brought forward and the Appellant is being represented by Counsel. He thinks that an experienced administrative law officer and attorney will be helpful. The Commission will not lose full jurisdiction in this matter which is set forth in the Rules and Regulations. The Hearing Officer will report back to the Commission in what he expects will be a Findings of Fact and Conclusions of Law. Thereafter the Commission has the right to adopt, modify or affirm it. The Commission can even take more evidence if they feel it is not proper. Ultimately the Commission will be making the final decision.

The Commission signed both pages of the document and Law Director Lobe asked that two originals be placed in the file. Law Director Lobe noted the signatures have been effectuated on both original documents and have been placed in the file.

Attorney Carlin exited the meeting at 5:24 p.m. stating he would be in contact with Law Director Lobe relative to the Appeal.

With regards to the Hearing, Law Director Lobe said it will be transcribed by a Court Reporter. He has scheduled Hoffmaster Court Reporting from downtown. He has utilized their services for the past 30 years and a Court Reporter will be present on August 4 and on all dates as this matter is continued so there is a complete record of the proceedings.

Chairman Huml moved to authorize the hiring of a Court Reporter for all activities that take place relative to Case No. 2016-1 so the Commission has access to all information to make an informed final decision. Commission Member Kennedy seconded the motion.

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| Roll Call: | Aye: | Caplan, Huml, Kennedy |
| | Nay: | None |
| | | The Motion Carried |

Now that the Commission has adopted the Procedural Order for Case 2016-1, Law Director Lobe said the matter will be turned over to Mr. Silver for action consistent with the Order. But the notice of this matter must be given out under the jurisdiction of the Commission. The notice will be served to: the File, Mr. Silver, Mr. Carlin and Mr. Biggerman at the address listed on the notice, and to Mr. Esposito and Mr. Nevada who have been representing the City with matters relating to the Service Department. The notices to the parties are to be sent by regular mail, certified mail, e-mail and with personal service to the attorneys for the Appellant.

Chairman Huml expressed his appreciation to Law Director Lobe for his expertise. He said if there was anything needed of the Commission, they would make themselves available to him. Law Director Lobe exited the meeting.

FUTURE MEETING DATES

The following dates were selected by the Commission:

Tuesday, August 9, 2016 at 4:30 p.m. (Regular Meeting)

Tuesday, August 30, 2016 at 4:30 p.m. (Regular Meeting)

Tuesday, September 13, 2016 at 6:15 p.m. at Grantwood (Corrections Officer Examination)

Thursday, September 15, 2016 at 4:30 p.m. (Work Session)

Tuesday, September 27, 2016 at 4:30 p.m. (Regular Meeting)

With regards to the Corrections Examination being given on September 13, 2016, the Secretary asked for the Commission to determine the passing percentage. Chairman Huml moved to assign a 70% passing percentage for the Full Time Corrections Officer examination. Commission Member Kennedy seconded the motion.

Roll Call: Aye: Caplan, Huml, Kennedy
 Nay: None The Motion Carried

With regards to the Work Session of September 15, it was suggested that the members read through the Rules and Regulations and highlight any sections that raise questions or concerns. The Secretary will provide to the Commission a list of items of concern that have previously been raised for review.

ADJOURNMENT

There being no further business to discuss, Vice Chairman Caplan moved to adjourn the meeting at 5:35 p.m. Commission Member Kennedy seconded the motion.

Roll Call: Aye: Caplan, Huml, Kennedy
 Nay: None The Motion Carried
