



Mayor Jared M. Kraham

Office of the Civil Service Commission

Kent Drake-Deese, Personnel & Safety Director

Catherine Furner, Commissioner

Eileen Fitzgerald, Commissioner

Richard A. Bucci, Commissioner

CIVIL SERVICE COMMISSION MEETING MINUTES Personnel/Civil Service Office, 38 Hawley Street, Binghamton 3pm Wednesday, November 15, 2023

- I. Call to Order: 3:08 pm
- II. Present: Catherine Furner, Eileen Fitzgerald, Kent Drake-Deese, Jaime Allen, Jean Westcott and Lesley Cornwall, Pat McGinnis and Jesscia Allen, Chris Schleider, Lori Clift and Wayne Buerkle, Richard Bucci at 3:18 pm
- III. Approve the minutes from the October 18, 2023 meeting.
Motion: Furner
2nd: Fitzgerald
All in favor (2-0)
- IV. New Business:
 - a. New position for Binghamton Housing Authority: **Paralegal/Legal Assistant**, presented by Jean Westcott and Lesley Cornwall
Jean explained they are overwhelmed with the eviction process and Lesley has been handling as much as possible, trying to work with tenants that are behind on payments to avoid eviction. They spoke to other Housing Authorities in NYS and found that many of them have a dedicated person for this process.
Motion to approve: Furner
2nd: Fitzgerald
All in favor (2-0)

Job description update for **Recreation Leader-Senior Citizens**, presented by Pat McGinnis.
Pat explained the job description changes needed to reflect current needs
Motion to approve: Fitzgerald
2nd: Furner
All in favor (2-0)
 - b. New position for Code Enforcement, **Code Supervisor/Vacant Properties Officer**, presented by Chris Schleider
Chris explained the need for his new position, which is 2 positions merged together that will be in the Building and Code department.
Motion to approve: Furner
2nd: Fitzgerald
All in favor (2-0)

- c. New position for IT department, **Senior Digital Technician**, presented by Lori Clift
Lori explained the additional duties and responsibilities that are being added the current Digital Technician position resulting in this new title.
Motion to approve: Furner
2nd: Fitzgerald
All in favor (3-0)

- d. Job description updates for IT department, presented by Lori Clift
Assistant Information Technology Manager - Motion to approve: Furner, 2nd: Fitzgerald
Digital Technician - Motion to approve: Furner, 2nd: Fitzgerald
Hardware-Software Technician - Motion to approve: Furner, 2nd: Fitzgerald
Information Technology Manager - Motion to approve: Furner, 2nd: Fitzgerald
Information Technology Specialist – Public Safety (Police) - Motion to approve: Furner, 2nd: Fitzgerald
Website and Social Media Coordinator - Motion to approve: Furner, 2nd: Fitzgerald
All in favor (3-0)

- e. Job description update: Street Maintainer
Motion to approve: Furner
2nd: Fitzgerald
all in favor (3-0)

- f. Desk Audit Job Description updates:
Account Clerk II - Motion to approve: Furner, 2nd: Fitzgerald
Principal Clerk - Motion to approve: Furner, 2nd: Fitzgerald
Senior Payroll Clerk - Motion to approve: Furner, 2nd: Fitzgerald
Stores Clerk - Motion to approve: Furner, 2nd: Fitzgerald
Stationary Engineer - Motion to approve: Furner, 2nd: Fitzgerald
Zoning Officer - Motion to approve: Furner, 2nd: Fitzgerald
all in favor (3-0)

V. Other Business:

- a. 2024 Calendar Discussion
Calendar set

VI. Adjournment:

Next Meeting: December 13, 2023
Motion: Furner
Second: Fitzgerald
All in favor (3-0)
Adj: 3:34 pm

~~EXECUTIVE ASSISTANT TO THE DEPUTY MAYOR~~

DISTINGUISHING FEATURES OF THE CLASS:

The ~~Executive Assistant Deputy Mayor~~ provides professional support to the Mayor in all matters relating to the function of the City. Specifically, ~~the Executive Assistant Deputy Mayor~~ interfaces on a daily basis with all Department Heads, employees, and City Council, with regard to daily operations and special projects and issues.

The ~~Executive Assistant Deputy Mayor~~ represents the Mayor and the City of Binghamton in various capacities, including the Council of Government, and other Governmental and private agencies, and at official functions. Constituent concerns are also addressed on behalf of the Mayor.

The ~~Executive Assistant Deputy Mayor~~ -conducts special research and projects of a complex nature is necessary for the function of a City. All such projects are documented and reports are prepared for dissemination to related constituencies when appropriate.

TYPICAL WORK ACTIVITIES:

Examples of major projects include but are not limited to the following:

- Organizational Structuring
- Budgetary Issues
- Cost Cutting Methodologies
- Health Insurance Restructuring
- Capital Improvements Program
- Organizing for Total Quality Management
- Administrative Policies and Procedures
- Taxing Issues
- Sales Tax Issues
- Various Personnel Matters
- Library Issues
- Tripartite Issues

The ~~Executive Assistant- Deputy Mayor~~ serves as the **Deputy Commissioner of Public Safety**. As such, Public Safety issues are addressed with the Police and Fire Departments. Direction is provided during catastrophic events in the absence of the Mayor.

The Executive Assistant serves as the **Chairman of the Traffic Board**. As such traffic issues are addressed city wide, and changes are regularly made to the Traffic Code.

~~The Executive Assistant participates in all negotiations with the Collective Bargaining Units.~~

~~The Executive Assistant serves on the Board of Directors and on the Loan Committee of the Binghamton Local Development Corporation.~~

October 27, 1995

FIREFIGHTER

DISTINGUISHING FEATURES OF THE CLASS: This is a position concerned with fire fighting and fire prevention work. The work is of a hazardous nature involving fire fighting, lifesaving and salvage activities. The work is performed under the supervision of a Fire Lieutenant or higher ranking officer who provides guidance and direction in fighting fires as well as in maintaining fire station facilities and fire fighting apparatus and equipment. Does related work as required.

TYPICAL WORK ACTIVITIES: Responds to fire alarms and emergency calls with a fire company; Lays and connects hose lines, turns water on and off; Drives and operates firefighting equipment; Holds fire hose and directs the stream to achieve maximum extinguishing effect; Puts up and climbs ladders, enters and removes persons and property from burning buildings when necessary; Makes openings in burning buildings for ventilation and entrance, and installs and operates specialized equipment such as smoke ejectors; Performs salvage operations at scenes of fires, such as cleaning away debris and covering furniture and other objects with tarpaulins; Learns and practices in the use of various fire fighting methods and equipment; Performs a variety of building maintenance and custodial duties at a fire station; Provides emergency medical treatment to injured persons; Inspects dwellings and commercial buildings for fire hazards in accordance with established procedures; May be detailed to special fire watch duty at public gatherings; Participates in a Fire-Medic Program, at least at the EMT-D level; ~~May~~ **Shall** be required to successfully participate in a paramedic program; May be required to participate in a hazardous material response program.

FULL PERFORMANCE KNOWLEDGES, SKILLS, ABILITIES & PERSONAL

CHARACTERISTICS: Good knowledge of modern fire fighting and fire prevention principles, practices and equipment; working knowledge of first aid methods; ability to get along well with others; mechanical skill; mental alertness; conscientiousness and dependability; ability to operate a ~~personal~~ computer and utilize common office software programs including word processing, spreadsheet, and database at an acceptable rate of accuracy and speed; physical condition as necessary to perform the essential functions of the position.

MINIMUM QUALIFICATIONS: Graduation from high school or possession of a high school equivalency diploma.

TRAINING REQUIREMENTS: Must be a New York State Certified Emergency Medical Technician or must become one within one year of appointment. Additionally, must become a New York State certified EMT-Paramedic within five years of hire. Employees are required to maintain paramedic certification for the duration of their employment. Must also perform all Emergency Medical Services as required by the Bureau of Fire.

SPECIAL REQUIREMENTS FOR ACCEPTANCE OF APPLICATIONS:

- (a) Not less than 18 years of age;
- (b) Candidates must be ~~well proportioned~~ **in acceptable physical condition** and their weight and height must be within the range of accepted standards as determined by Medical Examiner;
- (c) ~~Eligibility for Possess and maintain a~~ New York State ~~Operator's~~ **Driver's** License.

Amended: February 6, 2001
Revised: March 20, 2003
Revised: January 13, 2006
Revised: February 26, 2009
Revised: 3/27/09
Revised: November 14, 2012

II. Legal Basis

As mentioned, Civil Service Law and Rules provide the basis upon which a municipal civil service agency can make a disqualification decision. The legal framework for disqualification is provided in Civil Service Law, §50, subdivision 4. In addition, the Text of each local civil service agency's Rules contains a provision on Disqualification. In the coming pages, §50(4) of the Civil Service Law, its subsections, as well as the Disqualification Rule as outlined in this Department's *Model Municipal Civil Service Rules* at https://www.cs.state.ny.us/msd/msdonline/pdf/manuals_guides/model_municipal_civil_service_rules_03_07.pdf (password required), will be outlined and discussed.

§50(4) of Civil Service Law

Under the provisions of §50(4), a municipal civil service agency may refuse to examine any applicant, or after examination may refuse to certify a successful candidate as eligible for appointment provided the applicant:

- (a) is found to lack any of the established requirements for admission to the examination or for appointment to the position for which he applies; or
- (b) is found to have a disability which renders him or her unfit to perform in a reasonable manner the duties of the position in which he or she seeks employment, or which may reasonably be expected to render him or her

unfit to continue to perform in a reasonable manner the duties of such position; or

(d) has been guilty of a crime; or

(e) has been dismissed from a permanent position in the public service upon stated written charges of incompetency or misconduct, after an opportunity to answer such charges in writing, or who has resigned from, or whose service has otherwise been terminated in, a permanent or temporary position in the public service, where it is found after appropriate investigation or inquiry that such resignation or termination resulted from his incompetency or misconduct, provided, that in cases of dismissal, resignation, or termination after written charges of incompetency, the examination or certification in question be for a position that requires the performance of a duty or duties which are the same as or similar to the duty or duties of the position from which the applicant has been dismissed, resigned or terminated on account of incompetency; or

(f) has intentionally made a false statement of any material fact in his application, or

(g) has practiced, or attempted to practice, any deception or fraud in his application, or in his examination, or in securing his or her eligibility or appointment; or

(h) who has been dismissed from private employments because of habitually poor performance.

(a) Disqualification based on the failure to satisfy the established requirements

Meeting the minimum qualifications constitutes the first screen in the appointment process, so it is important that the established minimum qualifications be clear. In most cases, applicants are disqualified under §50(4)(a) of Civil Service Law because they do not meet some particular requirement for admission to the exam or for appointment to the position. This would include candidates who do not demonstrate they possess the required education, experience, residency, age or other special requirement. This provision is extremely broad and disqualification may be based on the established minimum qualifications or any bona fide requirement for appointment, which could include statutory or regulatory requirements for appointment.

Municipal civil service agencies have great authority not only in establishing minimum qualifications but, most significantly, in interpreting them. "Wide discretion is afforded to civil service commissions in determining the fitness of candidates. The exercise of that discretion is to be sustained unless it has clearly been abused. It is a function of the Civil Service Commission to fix a fair and reasonable standard by which may be tested the qualifications of

In making this determination, the licensing officer or employer is required to consider eight factors (see Correction Law, §753). One factor is the public policy of the State "to encourage the licensure and employment of persons previously convicted of one or more criminal offenses" (§753[1][a] of Correction Law). All eight factors, however, must be considered.⁷ Consideration must be given to a certificate of relief from disabilities or a certificate of good conduct issued to the applicant, which creates a presumption of rehabilitation in regard to the offenses covered by these certificates (§753[2] of Correction Law).⁸

(f) Disqualification based on False Statement of Material Fact or

(g) Practicing Fraud or Deception in the Application for Securing Employment

Candidates may be disqualified for making false statements or practicing any fraud or deception in their application, examination or in securing eligibility for appointment. Material facts are facts which if omitted or falsified are sufficient to constitute a basis for disqualification.⁹

"Municipal civil service commission was authorized in relying on applicant's lie as to whether he had been convicted of an 'offense' to declare applicant ineligible to be appointed city fire fighter. Municipal civil service commission could rely upon applicant's 'No' answer to question asking whether he had ever been dismissed from

⁷ Gallo v. State of New York, et al., ___AD 3d___ (3rd Dept., 2007)

⁸ Op Atty Gen [Inf] 81-7, 82-73; Op Atty Gen [Inf] 84-37

⁹ Castner v. Griffith 166 Misc. 2nd 578 (1995), Reversed 226 AD 2nd 1095 (4th Dept 1996)

employment as grounds for removing applicant's name from list of candidates eligible for appointment as city fire fighter, although applicant claimed that question was overbroad in that it called for information concerning any type of termination, where applicant's dismissal from employment had been on basis of misconduct."¹⁰

"The Municipal Civil Service Commission has the power and duty to rescind a certification for applicant's misstatement of material fact on which Commission relied in determining that applicant was eligible to take the examination, regardless of whether the misstatement was made with fraudulent intent or by mistake."¹¹

The courts found that a "Civil service commission did not abuse its discretion in finding that employee lacked requisite character for position with city where employee submitted false and misleading answers to questionnaires relating to his conviction record; commission could find that employee's responses were intended to conceal true nature of criminal record."¹²

"Disqualification of police officer for 'fraud of a substantial nature' in his application for employment was justified, where officer did not reveal either fact of his military service or his use of an alias in the military; moreover, amendment to application, falsely indicating that applicant was employed in a civilian job while he is actually in the military, went beyond mere concealment."¹³

¹⁰ Griffin v. Carey, 547 F. Supp 449 (1982)

¹¹ Shraeder v. Kern 287 NY 13 (1941), reargument denied 287 NY 760

¹² Smith v. City of New York 228 AD 2d 381(1Dept. 1996), leave to appeal denied 89 NY 2d 806

¹³ Angelopoulos v. New York Civil Service Commission 176 AD 2d 161(1 Dept. 1991) , appeal denied 79 NY 2d 751

Deception and fraud requires intent, and an innocent mistake would not satisfy these criteria. The background questionnaire can be considered by the civil service agency as supplemental application for employment which should include an attestation statement, signed by the candidate, indicating intentionally making a false statement in the application or for practicing fraud or deception in the application will result in disqualification.

Disqualification based on (e) Termination from a Public Service or

(h) Dismissal from Private Employments

Civil Service Law, §50(4), provides that municipal civil service agencies may consider prior dismissals, terminations or resignations when making a disqualification decision.

When the dismissals, terminations or resignations occurred in the public sector, the statute uses the singular term “position.” Therefore, one prior dismissal, termination or resignation, accompanied by the appropriate documentation, would support a municipal civil service agency’s disqualification decision. Conversely, a failed probationary period, which is based on unsatisfactory performance, is insufficient to satisfy these criteria. Some “appropriate investigation” must be conducted to verify such dismissal, termination or resignation resulted from the employee's misconduct or

incompetency, a Civil Service Law §75 proceeding, or an alternate contractual disciplinary procedure.

When disqualifying an applicant or eligible on the basis of dismissal from private employment, one private sector termination is not sufficient grounds for disqualification as the statute cites “private employments” in the plural.

Municipal Civil Service Rules

Municipal Civil Service Rules have the force and effect of law. Since Rules can vary between jurisdictions, the Municipal Civil Service Rules must be consulted for any specific provisions regarding disqualification. The Municipal Civil Service Rule on Disqualification is applied in conjunction with §50(4) of the Civil Service Law and allows the municipal civil service agency to more precisely define its authority and actions to carry out this provision.

Model Rule IX - Disqualification provides:

1. **Notification of Disqualification**

An applicant who is disqualified for an examination or appointment shall be notified of the reasons for such disqualification and afforded an opportunity to submit facts in opposition to such disqualification.



BUREAU OF POLICE

Jared Kraham, Mayor

Joseph T. Zikuski, Chief of Police

December 7, 2023

New York State Civil Service Commission
RE: Binghamton Municipal Civil Service Eligible List

Dear Sir/Madam,

This letter is in regards to the Binghamton Municipal Civil Service Eligible List for Police Officer Test #60-505. There are two names on the list that we would like removed, Jonathon Guzman ranked #4 and Khiry Brown ranked #59.

Jonathan Guzman was a Police Officer Candidate for Binghamton Police for the 2022 hiring process. During his background check it became clear that Mr. Guzman had not been honest on much of his personal history statement. His background also revealed that he was not rehireable at one of his work references for being violent in the workplace and another of his work references he was a failure to adapt and released. None of the instances were disclosed in his personal history statement. He was hired conditionally prior to his background check being completed due to time restraints and after approximately 30 days Mr. Guzman was terminated.

Khiry Brown was a Police Officer Candidate for Binghamton Police for the 2023 hiring process. Mr. Brown's background check revealed multiple instances where Mr. Brown was either a person of interest, witness or victim of felony level crimes. Many of those crimes were drug or gang related and involving weapons. None of those instances were disclosed on his personal history statement. Ultimately, Mr. Brown was not hired for those reasons.

To reiterate, we would like Jonathon Guzman ranked #4 and Khiry Brown ranked #59 removed from the current Binghamton Municipal Civil Service Eligible List.

Thank you for consideration.


Joseph T. Zikuski
Chief of Police