



CITY OF BAINBRIDGE ISLAND

Civil Service Commission – Frequently Asked Questions UPDATED October 11, 2011

Why do cities have Civil Service Commissions?

State law requires civil service systems for local governments in order to curb political favoritism and remove the coercive pressures that once caused public employees to contribute money and time to partisan political candidates. Civil service helps assure that full-time law enforcement officers are recruited through open competition, hired and promoted on the basis of merit, and are demoted, suspended, removed from office, or discharged only for cause.

A local civil service commission must be appointed to administer the city's civil service system. The civil service commission's duties include:

- Making rules for operation of the civil service system.
- Developing and giving tests to job applicants.
- Conducting investigations.
- Hearing disciplinary appeals.

What is the role of a Secretary-Chief Examiner for a Civil Service Commission?

The state law says that a secretary and chief examiner shall be appointed as a result of competitive examination, which examination may be either original and open to all properly qualified citizens of the city, town, or municipality, or promotional and limited to persons already in the service of the police department or of the police department and other departments of the city, town, or municipality, as the commission may decide. The secretary and chief examiner may be subject to suspension, reduction, or discharge in the same manner and subject to the same limitations as are provided in the case of members of the police department. Cities may create local code and rules where roles and processes differ as long as they substantially carry out the intent of state law.

The secretary/chief examiner keeps the commission's records and preserves its reports; he or she supervises and keeps records of all examinations and performs other duties as requested by the commission.

Why did the Commissioners meet with city staff?

The Secretary-Chief Examiner (S/CE) expressed concerns about resources. She was required, under her contract, to function as an independent contractor providing her own workspace and equipment. She apparently recognized that this created administrative problems and risks to

public records. The S/CE asked the City Manager for two things of concern; first, office space, computers, and resources in City Hall, and second, for access to outside legal counsel. The City Manager met with the Commissioners, as her supervisors, to express concerns about the legal issues of treating a contractor like a city employee, and the budgetary and process issues associated with requesting outside attorneys. No decisions were made and the City Manager did not advocate for a particular solution. The Commissioners met with the City Attorney to seek legal advice.

Did these meetings violate the Open Public Meetings Act?

The City Attorney has issued an opinion on this issue which notes that the Open Public Meetings Act (OPMA) creates two categories of covered meetings: “regular” and “special.” Regular meetings are those held according to a schedule adopted by rule. The regular meetings of the Civil Service Commission are held in City Hall at 3 p.m. on the second Friday of each month. Any meeting that is not a regular meeting is a “special” meeting. Under RCW 42.30.080, “a special meeting may be called at any time by the presiding officer” as long as notice requirements are met.

The allegations here assume that “public” notice was required for the commission to have a legal meeting, but that fundamental assumption is legally incorrect. Under the OPMA, only two groups must be given notice of special meetings: (1) the other members of the commission and (2) any news organization with a written request for notice on file with the commission.

In this case, the other commissioners were aware of the meeting and waived formal notice by their attendance. There is no other evidence that the OPMA was violated.

Regardless, a better practice for purposes of public transparency would have been for the Commission to publicly notice these meetings and discuss public matters or adjourn to Executive Session to discuss legal or personnel matters.

The City Council has additional requirements for providing notice of its meetings beyond those required for citizen commissions.

What happened to the city’s Secretary-Chief Examiner?

The Commissioners voted to terminate a contractor who was performing the functions of a Secretary-Chief Examiner and to transfer the work to an existing city employee.

How do other cities carry out Civil Service Commission and Secretary-Chief Examiner functions?

Other cities have similar processes for selecting independent commissioners, and most often they are citizen volunteers. Of the 15 other cities in Washington contacted, no other city used a contractor to perform the work of Secretary-Chief Examiner. Instead, these cities use staff within their human resources functions to provide administrative support for the work of their Civil Service Commissions.

What is the city doing now about the function of Secretary-Chief Examiner?

At the request of the Civil Service Chair, the city has appointed a temporary Secretary-Chief Examiner to assist with administrative functions; as always, the Commissioners will make all substantive decisions. The city, with reduced staffing, has a number of employees who perform multiple functions. There are two city employees with human resources training and some knowledge of civil service that currently provide all other human resource services for the city. One of these employees also functions as the city's budget manager and is unavailable as the city is engaged in annual budget deliberations. Therefore, the other employee, who also provides executive support, was provided on a temporary basis.

How will the city resolve the various allegations and complaints of the former contractor?

Complaints were addressed both to the Ethics Board and to the City Council concerning two commissioners. The Commissioners have disputed a number of the allegations in those complaints.

On September 19, the Ethics Board issued a preliminary determination that the facts stated in the complaint, if true, could potentially constitute a violation of the Code of Ethics such that further proceedings are warranted. Since the only information available to the Ethics Board was the complaint, the next step is to offer the Commissioners an opportunity to respond to the complaint, and such response will be considered by the Ethics Board for a final determination. If the Ethics Board finds a violation under City Ethics code, sanctions can include Admonition, Reprimand, or Censure. The Ethics Board cannot remove officials from office.

The second complaint was made under a state law provision for the removal of officials from office. The Council voted on September 21 to create a process for reviewing a request for the removal of two commissioners in response to the second complaint. The process includes using the city's Hearing Examiner to take testimony, evaluate the facts against applicable laws or rules, and make a determination. That determination would then come to the Council for final disposition.

Two Commissioners resigned from the Commission and then retracted their resignations. Can they do that?

Yes, until accepted by the city council, an appointed city official may retract his or her resignation. Although a 1981 state law makes the resignation of an elected official take effect immediately, for appointed officials it left in place the traditional rule that a resignation may be rescinded until such time as it is accepted by the appointing body, in this case, the city council.