

Jefferson County Deputy Sheriffs Civil Service Commission

Steve Cox, President
Will Liston, Vice President
Jean Vezzosi, Commissioner



Jacki Shadle, County Clerk
Bessie Nelson, Administrative Support

REGULAR MONTHLY MEETING

Jefferson County Courthouse Meeting Room

MINUTES

Monday, March 7, 2022

4:00 PM

1. Attendees:

Steve Cox
Will Liston
Jean Vezzosi
Jacki Shadle
Bessie Nelson

Steve Groh
Thomas Hansen, Sheriff
Robert Sell representing JCDSA
Joseph Forman
Matt Armel

2. Call To Order

Time: 4:01 pm

3. Approval of Minutes

February 2, 2022

Motion to approve: Will Liston

2nd: Jean Vezzosi

Approved unanimously

4. Public Meeting

- a. Working meeting. We went through the entire Rules and Regulations as approved on February 2, 2022.
- b. Highlights of major changes:
 - i. Correct Section 4.06 (ii) to reflect 3 years instead of 2 years from the date the applicant completed the written exam
 - ii. Removed Section 4.06 (iv) all JCDS CSC to extend validity of list beyond 2 years
 - iii. Added (v) to Section 4.08 (e) Written Examination to reflect a minimum passing score of 60%.
 - iv. Removed Section 4.08 Examinations (f) Oral Examination
 - v. Removed Section 4.09 Computation of scores (ii) Oral examination and (v) certified law enforcement additional 5 points
 - vi. Updated Section 4.09 Computation of scores to reflect the removal of oral examination and certified law enforcement
 - vii. Added Section 4.13 Reinstatement
- c. See attached Memorandum of Record regarding legal advise.

5. Approve Rules and Regulations as amended

Motion to approve: Jean Vezzosi

2nd: Will Liston

Approved unanimously

6. Upcoming Testing Date

Saturday, March 12, 2022 @ Ranson Civic Center

Address: 100 East Washington Street, PO Box 208, Charles Town WV 25414

Phone: 304.728.3340 Email: JCDS CSC@jeffersoncountywv.org Web Site: www.jeffersoncountywv.org

Location change to Sam Michael Community Center – emails sent

7. Webpage

Update on fillable document from IT – Bessie to contact IT

8. Administrative update

- a. Status update: Emailed existing candidates – application & advised of testing date
- b. Budget Requests
 - i. County Commission cut \$10K from professional services

9. Old Business

Promotion Process

10. Adjournment

Time: 7:20 pm

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Memorandum of Record

March 12, 2022

On Wednesday, February 2, 2022 a public meeting was called by the Jefferson County Deputy Sheriffs Civil Service Commission (JCDSCSC). The meeting was held in the meeting room located at the Jefferson County Courthouse at 100 East Washington St., Charles Town, WV. The purpose of this meeting was to accept written and verbal comments from members of the community, including Jefferson County Officials, on the recently adopted JCDSCSC Rules and Regulations. See the agenda for a complete list of attendees.

Prosecuting Attorney Mr. Matthew Harvey and Deputy Prosecuting Attorney Mr. Steve Groh were present. Mr. Harvey announced that he was there to represent Sheriff Hansen, who was also present. Both Mr. Harvey and Mr. Groh, along with Sheriff Hansen, spoke regarding the JCDSCSC Rules and Regulations that had been adopted on December 22, 2021.

Their primary concerns were:

- 1) The oral interview processes in its entirety.
- 2) How the final scores would be calculated using both the written and oral interview results.
- 3) That awarding additional points for certified officers was not permitted in the WV Code.
- 4) That WV government agencies, both state and local, are guided by the Dillon Rule. The Dillon Mr. Harvey submitted a letter to JCDSCSC dated February 1, 2022 (attached for reference) outlining these concerns.

Dillon's Rule is the principal that local government only exercises:

- 1) powers expressly granted by the state:
- 2) powers necessarily and fairly implied from the grant of power:
- 3) powers crucial to the existence of local government.

Therefore, their combined opinions (Mr. Harvey and Mr. Groh) were that the JCDSCSC could only include in their Rules and Regulations items that were spelled out in the WV Code. Sheriff Hansen concurred with their opinions.

As a result of the legal opinion of Mr. Harvey and Mr. Groh, as well as input from several Jefferson County Deputies and citizens, the JCDSCSC unanimously agreed that a second meeting was needed to publicly discuss all sections of the JCDSCSC Rules and Regulations and make amendments if needed.

After a public announcement, a second meeting was held in the County Commission conference room at the Charles Town Library on Monday, March 7, 2022 at 4:00 pm. Mr. Groh attended representing the County Prosecutors office along with Sheriff Hansen (see agenda for the complete list) and three Jefferson County Deputies.

A group discussion of each section of the JCDSCSC Rules and Regulations was held utilizing Robert's Rules as guidance.

As a result:

- 1) The requirement to conduct oral interviews as part of JCDSCSC procedures were deleted.
- 2) Sections utilizing the oral interview scores were deleted.
- 3) Sections awarding five (5) point for certified officers were deleted.
- 4) Sections outlining how the final scores would be calculated using the five (5) points for a certified officer were deleted.

Establishing a passing score on the entry level deputies test was discussed. JCDSCSC members pointed out that the WV Code did not specify a number that would be recognized as a passing score. During our previous public meeting and also in this session, Sheriff Hansen and Mr. Groh had referenced the Dillon Rule. However, Sheriff Hansen and Mr. Groh recommended that we establish a passing score in our Rules and Regulations even though it is not specified in WV Code. Mr. Groh cited WV Civil Service Code 7-14-9, that upon implementation of the Deputies Civil Service System, the code allowed a minimum test score of 60 as passing. Mr. Groh's position using that section as guidance would allow the JCDSCSC to adopt the minimum score of 60 as a passing grade. Sheriff Hansen concurred. Commissioner Vezzosi made a motion that the passing grade be set at 70. Commissioner Liston request Commissioner Vezzosi amend his motion to reflect a passing grade be set at 60. This was seconded and unanimously approved to be included in the Rules and Regulations. Mr. Groh and Sheriff Hansen both concurred by voice affirmation. Please note this motion to add a passing grade of 60 was not needed to incorporate into the JCDSCSC Rules and Regulations as these were voted on and approved later in the meeting as proposed changes were incorporated and amended as such.

The meeting was concluded with all three Commissioners voting to accept the proposed changes to the JCDSCSC Rules and Regulations.



OFFICE of THE PROSECUTING ATTORNEY

MATTHEW L. HARVEY
Prosecuting Attorney of
Jefferson County, West Virginia

120 South George Street • P.O. Box 729 • Charles Town, West Virginia 25414 • Phone: (304) 728-3243
Criminal Fax: (304) 728-3293 • Civil Fax: (304) 728-3353 • paoffice@jeffersoncountywv.org • www.icpawv.org

February 1, 2022

Jefferson County Deputy Sheriff's
Civil Service Commission
via email only

Commissioners,

One of the statutory duties of the office of the prosecuting attorney is to represent the elected officials of their respective county. As such, I write today on behalf of Sheriff Tom Hansen regarding some concerns with the JCDSCSC's recently enacted bylaws.

Let me first start by expressing our appreciation for the willingness to serve on such an important commission and the hard work in developing rules and regulations. Jefferson County deserves the best officers and that is what all parties are working together to ensure.

In that vein, the new rules and regulations include some conditions precedent to appointment to the position of deputy sheriff that are not consistent with the requirements of the West Virginia Code. Requirements not permitted by the Code could expose the Sheriff, and by extension the County Commission, to a legal action from an aggrieved applicant. Aside from the financial impact of such litigation on the taxpayer, litigation could disrupt the Sheriff's ability to provide law enforcement coverage for our citizens. Further, deputies hired under such testing standards not allowed by Code would face a risk of discharge or at the very least the burden to re-test to retain their position. Such costs and uncertainty for the Sheriff and his deputies is the exact opposite of the intent for the legislator establishing uniform, objective competitive testing under a civil service commission.

Specifically, the issue arises from the recently adopted "Oral examination" requirement under section 4.08(f) of the Rules and Regulations the Civil Service Commission adopted and filed with the County Clerk on 1-12-22. The legislature mandated competitive testing for the hiring of Sheriff's Deputies under West Virginia Code §7-14-1 *et seq.*

"The state civil service commission¹ shall prepare and prescribe, from time to time, the competitive examination to be given by the civil service commission of each such county. All competitive examinations shall be open to all applicants who have fulfilled the preliminary requirements specified in other sections of this article." *W. Va. Code* § 7-14-9 (emphasis added.)

Critically, the statute includes the nondiscretionary words of "shall" and "prescribe" as opposed to "may." A plain reading of the statute places the sole responsibility of devising the entire uniform state-wide competitive exam with the West Virginia Division of Personnel. While the Code places the duty to administer the standard state-wide test upon the local civil service commission, the Code does not allow local changes or additions to the state-wide competitive exam. Clearly, the local oral examination requirement under section 4.08(f), together with points combined with the written scores under section 4.09(a)(ii) & (iii) has the effect of expanding the local competitive examination beyond the required state-wide test prepared and scored by the Division of Personnel. Statutes regulating appointments under civil service are mandatory and must be strictly complied with and construed. *Spradling v. Hutchinson*, 162 W. Va. 768, 253 S.E.2d 371, (1979).

Another concern is that the inclusion of the oral examination, and scoring of the local 200 point examination as opposed to the required 100 point written examination, improperly dilutes the five point veteran preference and veteran with disability preference (absent from bylaws) in a way that defeats the purpose of the statute. Additionally, I could not find a code that provides a scoring increase for a prior certified officer as set forth under section 4.09(v) and such an additional point also serves to dilute value of the uniform competitive examination score and the value of the veteran bonus required by the Code.

The Sheriff requests the civil service commission administer the competitive exam prescribed by the West Virginia Division of Personnel only. Specifically, we request you re-adopt your local civil service rules to remove 4.08(f), together with points combined with the written scores under section 4.09(a)(ii), (iii) & (v) The ensures the code is adhered to and does not unnecessarily expose his office and county commission to legal action.

Thank you for your prompt attention to this matter.

Sincerely,



Matthew L. Harvey

Jefferson County
Jacqueline C Shadle, Clerk
Instrument 202200005953
04/20/2022 @ 02:09:07 PM
CIVIL SERVICE COMMISSION
Book 1 @ Page 106
Pages Recorded 6

CC: Sheriff Tom Hansen

¹ The legislature merged the state civil service commission into the West Virginia Division of Personnel. See *W. Va. Code* § 29-6-9