

Morristown Civil Service Review
submitted by MTAS, 12/06

Introduction

Morristown city officials requested that The University of Tennessee’s Municipal Technical Advisory Service examine the Morristown Civil Service system and make recommendations for improvements, especially as those relate to the efficiency and effectiveness of the program.

In order to do so Pat Hardy, the MTAS consultant assigned to the study, utilized the following methodologies:

- A review of all Morristown Civil Service procedures and supporting documents.
- An examination of the Civil Service procedures used in other communities.
- Interviews with Councilmember Melvin Tucker, City Manager Jim Crumley, Human Resources Director Brian Janish, Fire Chief Bill Honycutt, Chief of Police Roger Overholt, one group of Police Department employees, two groups of Fire Department employees, and two members of the Civil Service Board.
- A review of the research concerning Civil Service, including its history and research related to reform or improvement efforts (this is included as an attachment to this report).
- An analysis of the Morristown Civil Service program for police conducted by MTAS Police Consultant Rex Barton, and an analysis of the program for the fire department conducted by MTAS Fire Consultant Gary West.

Civil Service Background

Only 9 cities in Tennessee with populations above 10,000 have civil service systems (that’s about 15% of cities in this population group). These systems are not standardized, and they vary from city to city in terms of their procedures and regulations. They also vary in terms of the groups of employees to whom they apply. Here are the cities, their populations, and the employees to whom civil service regulations apply:

<u>City</u>	<u>Population</u>	<u>Employees Under Civil Service</u>
Greeneville	15,274	Police and Fire
Dyersburg	17,452	Police
Morristown	25,402	Police and Fire
Columbia	33,055	Most except department heads
Johnson City	56,194	Police and Fire

Jackson	59,643	Police and Fire
Knoxville	173,890	Most except department heads
Nashville	545,915	Most, with some exceptions
Memphis	680,768	Most, with some exceptions

It should be noted that only 3 of these cities operate under something equivalent to a “Council-Manager” form of government. This is important because “form of government” has a relationship to civil service in terms of reform effort. More discussion on this relationship is provided in a paper attached to this *Report* entitled, “Civil Service: Some Pros, Cons and Suggestions for Reform.” That paper is meant to supplement this *Report* by providing a brief historical overview of civil service, a discussion of civil service pros and cons, empirical research related to civil service, and points of reference regarding reform efforts. It is highly recommended that the paper be read in order to more fully understand the experiences of other jurisdictions and the observations of other experts regarding civil service and how it can be improved.

Morristown Civil Service

The Morristown Civil Service regulations were adopted by Chapter 370 of the Private Acts of the Tennessee Legislature in 1955. The regulations were further amended by the Private Acts of 1994. Because these regulations were adopted by Private Act they can only be altered by Private Act.

In terms of its purpose, the “practical application” of the Civil Service program in Morristown is meant as follows:

... to give assurance that all citizens who desire to do so may have equal opportunity to compete for positions in the classified services and to establish conditions therein which will serve to attract employees of recognized character and ability, and to increase the efficiency of the departments affected.

General Comment Regarding Morristown Civil Service

In general, the Morristown Civil Service program appears to be too rigid, with too little emphasis on accountability and performance. For example, civil service employees are granted “tenure” and cannot be removed from service except for certain “causes.” None of the causes are related to job performance. In fact, the inability of an employee to perform their job is not cause for dismissal or demotion. Granted, such an inability will work against their promotion, but even then not entirely.

In addition, the system has an inability to reward extraordinary performance. Instead it sends a message to all employees that workload, accountability, performance, and “going the extra mile” will not be rewarded (except in small ways).

Many of the recommendations listed below work to address these problems. They work to provide more flexibility, more input into the process by those who best know and shape each department's daily operations (as well as the future), and they work to provide incentives so that the best employees will work hard and can be rewarded for their behavior.

Recommendations For Both Police and Fire

1. Issue: There is inadequate staffing support for the Civil Service Board.

Discussion: Brian Janish currently provides some support for the activities of the Board, but this support is limited.

Recommendations:

- A staff person should be assigned to support all activities of the Civil Service Board. This support should include all clerical, notifications, minutes, maintenance of rosters, scheduling, communications, etc.

2. Issue: Civil Service Board members serve non-staggered terms.

Discussion: This leaves the potential to turn the entire Board over at the same time, thus eliminating consistency and continuity. In fact this has happened in the recent past.

Recommendations:

- Stagger the terms of office of the Civil Service Board.

3. Issue: Communications between the Civil Service Board and City Council are limited.

Discussion: A significant portion of the City's budget and personnel are under civil service, and it would be beneficial if both the City Council and Civil Service Boards maintain an on-going dialog so that both develop a common direction.

Recommendations:

- Schedule an annual workshop between the two boards where issues, concerns, suggestions can be discussed.

4. Issue: There is not enough flexibility in the hiring and promotion process.

Discussion: Under current rules the Morristown City Council must select for appointment or promotion from among the top three candidates on the roster.

Recommendations:

- The selection should be made from the top 5 candidates on the roster. This allows more flexibility for choosing the person who best fits the needs of the department and/or the person who should be rewarded for extraordinary accomplishments. This flexibility could bring into the system a much needed focus on performance and accountability.

5. Issue: Entry-level tests are only given once each year and the testing process is quite long, usually taking many months to build a roster.

Discussion: Given the length of the hiring process, a candidate could potentially be waiting for a position for up to 1 ½ years. In some cases this may mean that those who are not employed elsewhere are the only candidates available, or it may mean that good candidates have taken positions elsewhere.

Recommendations:

- Improve coordination of the testing process so that it lasts no longer than 2-3 weeks.

6. Issue: The City Council makes hiring and promotion appointments.

Discussion: The City Administrator is vested with authority by virtue of the city charter with the following: “Appointing, promoting, demoting, transferring, suspending, and removing all department heads and employees.” He or she should also be responsible for hiring and promotional decisions within the fire and police departments. As is the case with other departments these decisions should be made based on the recommendation of the respective Chiefs. After all, they are the ones who must supervise employees and shape their contributions to the department.

Recommendations:

- Make the City Administrator, rather than the City Council, the appointing authority.

7. Issue: Section 6 of the *Civil Service Act* provides employees with “tenure.” Such “tenure” allows them to remain in their positions largely irrespective of job performance.

Discussion: The *Act* states that no employee shall be removed or discharged, suspended, demoted in rank, or deprived of vacation or other privileges for any reason other than:

Dishonesty, intemperance, immoral conduct, insubordination, or any other act of omission or commission tending to injure the public service, or any other willful failure on the part of the employee to conduct himself properly; or any willful

violations of the provisions of this Act or the rules and regulations to adopted hereunder.

Conviction of a felony, or a misdemeanor involving moral turpitude, or a misdemeanor reflecting upon ability to perform public service or one for which a jail sentence is or may be imposed.

Any other act or failure to act which, in the judgement of the Board, is sufficient to show the offender to be an unsuitable and unfit person to be employed in the Classified Service.

On the other hand, Section 4-201 of the *Morristown City Code* states that, the “Tenure of employees.. shall be subject to the satisfactory performance of work”, and Section 4-211 again states, “The tenure of every employee shall be conditioned on the satisfactory performance of duties.”

It should be noted that during the interviews nearly all personnel acknowledged that conduct/performance is not adequately represented in the civil service criteria. Most would welcome the application of a good evaluation process.

Recommendations:

- Award promotional points for performance in the “Record of Conduct” category and strengthen this category by increasing its influence from 10% to 15%.
- Develop the City’s capacity to conduct quality, annual evaluations so that these can be adequately tied to this category. Supervisors should be trained in the proper application of evaluations.

8. Issue: There is too little input into the hiring and promotion process by the Chief of Police and the Fire Chief.

Discussion: Under current rules the Chiefs of the respective departments have only a 10% influence on the hiring process and a 2.5% influence on promotion within their departments. Yet they are the persons responsible for the delivery of departmental services and for the supervision of employees. They are also the most knowledgeable professional in the city regarding the operations of each department. They know more about the needs of the department, the capabilities of the candidates for promotion, and the capacities/skills needed to move the department forward. Yet their influence is only 2.5% while the influence of the Civil Service Board is 10%.

Recommendations:

- Change the weight of the Chief’s recommendation to 25% of the total for hiring

and 20% for promotions. For promotions, encourage the Chiefs to include leadership and managerial capabilities in their assessments. Reduce the weight of the Civil Service Board to 5% for promotions.

9. Issue: Education has only a 10% affect on an entry-level candidate’s score.

Discussion: This influence appears to be slightly too little. Encouragement of an educated workforce can only improve each department’s capacity to deliver quality services.

Recommendations:

- Change the weight of the entry-level education component to mirror that of promotional candidates at 15%.

10. Issue: “Seniority” and “Job Experience” are essentially the same.

Discussion: Each of these counts 10% toward promotions. Thus the overall effect of experience/seniority is 20% (it should be noted that in the Fire Department “experience” in only counted from time served in the candidate’s current position, not as overall experience in the Department). In addition, “Record of Conduct” assumes tenure within the department and thus is an additional contributor toward what can overall be termed “experience.”

Recommendations:

- Combine the Job Experience and Seniority categories and make their effect 15%. Increase the effect of Record of Conduct to 15%.

11. Issue: Promotional points which are gained through the year are not considered once a roster has been developed.

Discussion: Given that a promotional roster may be considered for up to one year, additional points may be gained in any number of categories and yet the roster is not updated to reflect this. It may be that only the written portion of the process should remain static, unless a candidate has not garnered any additional points in other categories.

Recommendations:

- Prior to filling a position update the roster to reflect additional points earned by candidates. Keep the written results static.

12. Issue: There is no time limit within which appeals or complaints can be made.

Discussion: Section 4 (e) of the Civil Service Act establishes the Civil Service Board's responsibility to hear appeals or complaints, but does not provide a time frame within which such appeals should be made. Leaving this open allows an aggrieved employee to make complaints long after an alleged incident.

Recommendations:

- Limit the time frame within which appeals or complaints can be made to 60 days.

13. Issue: Civil Service attaches an additional level of unnecessary bureaucracy to the hiring and promotion process. It also reduces the capacity of the city's management to shape the team needed to move the city forward in the police and fire departments.

Discussion: The attached paper entitled, "Civil Service: Some Pros, Cons and Suggestions for Reform" provides discussion regarding the lack of rationale for civil service under a Council/Manager form of government such as that in Morristown.

In addition, the *Commission for Accreditation of Law Enforcement Agencies (CALEA)* establishes criteria for job related standards for hiring and promotion within police departments. These standards are designed to eliminate the potential for political patronage or "spoils" and require departments to establish hiring and promotional policies that are based on essential functions of the job, and that have a professional selection and promotion process. Adherence to these "nationally recognized standards" (which are in place in the Morristown Police Department) eliminates the need for civil service.

Recommendations:

- Consider establishing a time frame for elimination of civil service. The time frame should ensure that quality *Personnel Policies and Procedures* are in place which provide detail concerning the hiring, promotion, and disciplinary processes of the City. In addition, the presence of a professional Personnel Department should be well established within the City's management structure. The Department would insure that professional recruitment, hiring, promotion, and disciplinary procedures as well as standards are in place and are utilized for all positions.

The change to a non-civil service workforce should probably be phased-in, by first eliminating upper-level positions from civil service.

Recommendations For Police

1. Issue: Current civil service regulations apply to "All full time law enforcement

officers certified as such by the Peace Officers Standards and Training Commission”, and this includes management personnel.

Discussion: Civil service should not apply to management-level staff. The management “team” should be chosen on their ability to lead and manage, not on criteria such as seniority, test results, or physical agility. In addition, the Chief of Police should be held accountable for the management team he or she forms, including their success and failures.

Recommendations:

- The Chief of Police should make appointments to the Assistant Chief of Police and Captain positions.
- As an alternative, the Chief of Police could make these appointments subject to the approval of the Civil Service Board and/or the City Council.
- As an additional alternative the Chief of Police could make the appointment of the Assistant Chief of Police position only.

2. Issue: Prior experience does not count in any way toward entry-level candidacy. There is no consideration for lateral entry into the department from another department.

Discussion: Although criteria for experience could be considered by the Chief or Civil Service Board as a part of their oral examination, there are no specific points award for prior experience, even if an applicant is a certified police officer. In addition, no opportunity is provided for lateral entry.

Recommendations:

- Award at least 25 points, and possibly 50 (the same as an Associates Degree), if an entry-level applicant is a certified police officer.
- Lateral entry from another department should be possible.

3. Issue: 50 promotional points are awarded for a high school diploma (or equivalent).

Discussion: A high school diploma (or equivalent) is already required by the State of Tennessee for officer certification. This being the case, awarding a 50 points for this diploma renders the criteria pointless since all officers have already met the criteria.

Recommendations:

- Award promotional education points as follows (or something similar):
 - 100 points - Masters Degree
 - 67 points - Bachelors Degree
 - 33 points - Associates Degree

4. Issue: The physical agility test appears to be gender-biased.

Discussion: Very few female candidates are able to pass the physical agility test, and this eliminates many quality applicants from consideration. In fact, only 8% of the current uniformed workforce is female.

During interviews with police personnel it became apparent that the physical agility test for promotions is also in need of improvement. Questions arose concerning the test's job-related validity as well as its gender bias.

Recommendations:

- The physical agility test should be pass or fail. Elimination of points for the test would allow those points to be assigned elsewhere.
- Assign a task force within the department to reconstruct the physical agility test for entry-level as well as promotions. The test must be reconstructed to eliminate gender bias and to make the test more job-related.

5. Issue: A candidate for promotion may have received 5 disciplinary notes in their personnel file within the past year and yet can still receive 25 points toward promotion in the "Record of Conduct" category. No points are awarded on the positive side, for commendations or other positive recognitions.

Discussion: 5 disciplinary notes is quite a large number over the course of 1 year. In fact, this many disciplinary notes should warrant additional and more stringent management action. In any event we should not reward such an employee when considering them for promotion. It does not send a good message when we award positive points after having taken disciplinary action against someone every couple of months.

On the other side, no points are awarded for commendations, other positive recognitions, or positive evaluation results.

Recommendation:

- Change the "Record of Conduct" point system to mirror that of the Fire Department (see page 16 of the Orange Book).
- Award points for commendations which are placed in an employees file by key

management within a defined period of time (one year for example).

- As discussed above include evaluation results as a part of the “Record of Conduct” criteria.

6. Issue: You must serve in an immediately prior rank before being eligible for promotion to an additional rank.

Discussion: Due to this requirement, top performers or those who are ambitious cannot skip a rank and be placed where their skills may be best utilized, even if they are able to outperform other candidates on promotional criteria. In addition, the Chief may have identified a long-term future for the department which requires a certain skill set.

Recommendations:

- Allow candidates, with approval of the Chief, to skip one rank in order to be promoted (note: this mirrors the Fire Department for all ranks above Lieutenant).

Recommendations For Fire

1. Issue: Current civil service regulations apply to “... battalion chief and assistant or deputy chief”, and these are management-level personnel.

Discussion: Civil service should not apply to management-level staff. The management “team” should be chosen on their ability to lead and manage, not on criteria such as seniority, test results, or physical agility. In addition, the Fire Chief should be held accountable for the management team he or she forms, including their success and failures.

Recommendations:

- The Fire Chief should make appointments to the Battalion Chief and Assistant or Deputy Chief positions.
- As an alternative, the Fire Chief could make these appointments subject to the approval of the Civil Service Board and/or the City Council.
- As an additional alternative the Fire Chief could make the appointment of the Assistant or Deputy Chief position only.

2. Issue: The physical agility test is so easy that virtually every candidate obtains the maximum number of points, and those points are 20% of the entry-level total and 10% for promotion.

Discussion: Because each candidate receives the maximum number of points the test is not “sensitive” enough to distinguish between levels of performance. It therefore does not have any influence on entry-level ratings (because all scores are enough to receive the maximum number of points).

Recommendations:

- Eliminate the scoring of the physical agility test and make it a “pass or fail” only criteria. These 20% and 10% points can then be used elsewhere.
- Re-design the physical agility test so that it is not gender-biased and yet is demanding enough to detect differences in job-related performance (one suggestion made during a meeting with fire personnel was to add additional agility stations and to reduce the required times for achievement of the test). Assigning a task force within the department to reconstruct the physical agility test would be an excellent option.

3. Issue: Under the Record of Conduct category for promotions no points are awarded on the positive side (for commendations, positive evaluations, etc.), only on the negative side (for lack of disciplinary actions).

Discussion: This is a point in the scoring system where the positive side of the “record of conduct” equation can be emphasized.

Recommendation:

- Award points for commendations which are placed in an employees file by key management within a defined period of time (one year for example).
- As discussed above include evaluation results as a part of the “Record of Conduct” criteria.

4. Issue: Prior experience does not count in any way toward entry-level candidacy. There is no consideration for lateral entry into the department from another department.

Discussion: Although criteria for experience could be considered by the Chief or Civil Service Board as a part of their oral examination, there is no specific points award for prior experience, even if an applicant has served as a full time member of another fire department or has attended the Fire Academy. In addition no opportunity is provided for lateral entry.

Recommendations:

- Award at least 25 points, and possibly 50 (the same as an Associates Degree), if an entry-level applicant has served as a full time firefighter in another department or has attended the Fire Academy.
- Lateral entry from another department should be possible.

Comparison of Points Distributions Based on The Above Recommendations

Entry Level:

Current Distribution		Recommended Distribution	
Fitness Test	20%	Fitness Test	Pass/Fail
Written Test	45%	Written Test	45%
CS Board Exam	10%	CS Board Exam	10%
Chief Exam	10%	Chief Exam	25%
Education	10%	Education	15%
Military	5%	Military	5%

Promotions:

Current Distribution		Recommended Distribution	
Education	15%	Education	15%
Job Experience	10%	Job Exp./Seniority	15%
Seniority	10%		
Record of Conduct	10%	Record of Conduct	15%
Written Test	20%	Written Test	20%
CS Board Exam	10%	CS Board Exam	5%
Fitness Test	10%	Fitness Test	Pass/Fail
Training	12.5%	Training	10%
Chief Exam	2.5%	Chief Exam	20%

Other Considerations

- During interviews with rank and file members it was mentioned that civil service rules are occasionally changed without such changes appearing in writing, and that this was a “big problem.” If this is the case, it should be remedied, but this study did not find enough examples indicating it was a “big problem.”
- During discussions with members of the Police Department it was pointed out that promotional tests are not focused on specific ranks and are not “Tennessee focused”. The *Standard Company* was one firm suggested that may have tests which meet these criteria.

- A suggestion was made regarding the position of Police Detective. Specifically, it was noted that the position should be an assignment rather than a promotion.