A Meeting of the Civil Service Commission (Act 78) was held Thursday, January 19, 2012, at Troy City Hall, 500 W. Big Beaver Road in the Lower Level Conference Room. Chairman/President McGinnis called the meeting to order at 7:30 AM.

A. ROLL CALL:

PRESENT: Chairman/President Donald E. McGinnis, Jr.
Commissioner David Cannon
Commissioner John Steele

ALSO PRESENT: Lori Grigg Bluhm, City Attorney
M. Aileen Bittner, City Clerk
William Nelson, Fire Chief
Gerard Scherlinck, Police Captain
George Zielinski, Police Sergeant
Jeanette Menig, Human Resources Specialist
Catherine Farrell, Attorney for TPOA

B. APPROVAL OF MINUTES:

1. Approval of Minutes of Thursday, December 8, 2011

Resolution #CSC-2012-01-001
Moved by Cannon
Seconded by Steele

RESOLVED, That the Troy Civil Service Commission (Act 78) hereby **APPROVES** the Minutes of the Thursday, December 8, 2011 meeting as presented.

Yes: All-3
No: None

MOTION CARRIED

C. PETITIONS AND COMMUNICATIONS: None

D. REPORTS:

At the last meeting, the Act 78 Civil Service Commission discussed a hearing request that was sent by Attorney Catherine Farrell on behalf of the Troy Police Officers Association and Officer Todd Michael. This correspondence was noted and filed, based on the lack of jurisdiction. Subsequently, Attorney Farrell sent a letter renewing the request for a hearing, arguing that the Act 78 Civil Service Commission was vested with jurisdiction. She was given the opportunity to address the Commission concerning her request. She noted that this was the first opportunity to bring this matter to a full panel, after the recent appointment of Commissioner Steele. Attorney Farrell argued that the Act 78 Civil Service Commission was vested with jurisdiction, since Officer Michael was constructively discharged. Chairman

McGinnis reviewed Article X Appeal Hearings Section 1, Rule C of the Act 78 Rules, which states "Employees may appeal disciplinary actions resulting in discharge, suspension or demotion to the Civil Service Commission." It was undisputed that Officer Michael has not been discharged, suspended, or demoted. However, Attorney Farrell encouraged the Commission to extend this provision to allow for an appeal when an employee is constructively discharged. The City, through Captain Scherlinck, dispute that there has been a discharge or a constructive discharge. In order to have jurisdiction, there would first need to be a factual determination that Officer Michael was constructively discharged. The Commission members all expressed their belief that this decision would be beyond the scope of the Act 78 Civil Service Commission jurisdiction. Commissioner Cannon inquired about whether there was a way to obtain jurisdiction if both parties consented, but there was consensus that even if the parties consented, there could be subsequent jurisdictional challenges. The Commission members all expressed empathy for Officer Michael's position, and a willingness to impartially decide an appeal if presented with a Court order finding that Officer Michael was discharged (actual or constructive), suspended or demoted. Attorney Farrell argued that Officer Michael was being denied due process, and being forced to file a lawsuit in Circuit Court. The Commission again reiterated that if a Circuit Court determined that there was a discharge, then the Commission would provide the requested hearing. The Commission also agreed to make an official record of its decision through a resolution.

Resolution to Direct the City Clerk to Send a Letter to Catherine Farrell Regarding Denial of Request for Hearing

Resolution #CSC-2012-01-002
Moved by McGinnis
Seconded by Cannon

RESOLVED, That the Troy Civil Service Commission (Act 78) hereby **DENIES** the appeal hearing request filed on behalf Officer Todd Michael based on the lack of jurisdiction and **DIRECTS** the City Clerk to send a letter to Catherine Farrell, Counsel for the Troy Police Officers' Association, indicating the request for hearing is denied without prejudice.

BE IT FURTHER RESOLVED, That the Civil Service Commission will **HOLD** the requested appeal hearing concerning Officer Todd Michaels **UPON THE RECEIPT OF** a Court Order declaring that Officer Michael has been discharged, suspended or demoted, or an order that otherwise provides the Commission with the authority to hear the case.

Yes: All-3
No: None

MOTION CARRIED

1. Letter to Civil Service Commission from Catherine Farrell, Counsel for the Troy Police Officers' Association, Regarding Request for Appeal Hearing of Grievance Involving Officer Todd Michael

Noted and Filed

E. OLD BUSINESS: None

F. NEW BUSINESS:

Fire Chief Nelson was present to answer any questions. After the initial motion was made, he asked if the Commission could waive Article VI, Section 2, requiring psychological testing for the Fire Staff Technician position, especially since this position is only open to existing volunteer fire fighters. The Commission was not able to waive the Rule for this position, but expressed a willingness to review Article VI at a subsequent meeting if requested.

1. Approval of Eligible List for Fire Staff Technician

Resolution #CSC-2012-01-003
Moved by McGinnis
Seconded by Cannon

RESOLVED, That the Civil Service Commission (Act 78) hereby **APPROVES** the eligible list for Fire Staff Technician as **PRESENTED**.

Yes: All-3
No: None

MOTION CARRIED

PUBLIC COMMENT:

Ms. Farrell reiterated the position of the TPOA on the matter of the appeal hearing involving Officer Todd Michael. Chairman McGinnis reiterated that the Commission will hear the matter should the Court decide the Commission has jurisdiction.

G. ADJOURNMENT:

The Civil Service Commission (Act 78) meeting **ADJOURNED** at 8:15 AM.

Donald E. McGinnis, Jr., Chairman

Aileen Bittner, City Clerk