

**COMMONWEALTH OF MASSACHUSETTS**

CIVIL SERVICE COMMISSION  
One Ashburton Place, Room 503  
Boston, MA 02108  
(617) 979-1900

SEAN SHEEHAN,  
Appellant

v.

G2-19-178

CITY OF SOMERVILLE,  
Respondent

Appearance for Appellant:

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Appearance for Respondent:

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Commissioner:

Christopher C. Bowman

**DECISION**

On August 21, 2019, the Appellant, Sean Sheehan (Lt. Sheehan), pursuant to G.L. c. 31, § 2(b), filed an appeal with the Civil Service Commission (Commission), contesting the decision of the City of Somerville (City) to bypass him for promotion to the position of Captain in the City's Police Department (SPD). On November 18, 2019, I held a pre-hearing conference. Subsequent to the pre-hearing conference, the parties agreed to an Order of Dismissal effective July 1, 2020, to allow for the possibility that Lt. Sheehan would be promoted to another Captain's position in the interim. On June 11, 2020, I extended this abeyance to October 1, 2020. The parties subsequently notified me that the City would not be filling an additional Captain vacancy prior to the expiration of the current eligible list. On August 19, 2020, I held a

remote pre-hearing conference via Webex videoconference and a full hearing on September 23, 2020, in the same manner.<sup>1</sup> The full hearing was recorded and both parties received a copy of the recording.<sup>2</sup> On October 30, 2020, the parties submitted proposed decisions.

**FINDINGS OF FACT:**

The parties submitted nineteen (19) joint exhibits (1-19), and the Appellant submitted additional exhibits (20-42). Based on the documents submitted and the testimony of the following witnesses:

*For the City:*

- James Stanford, Deputy Chief of the SPD;
- David Fallon, Chief of the SPD.

*For the Appellant:*

- Sean Sheehan, Appellant;

and taking administrative notice of all matters filed in the case and pertinent statutes, regulations, case law and policies, and reasonable inferences from the evidence, I find the following:

1. Somerville, Massachusetts is a city located in Middlesex County, just two miles north of Boston, occupying slightly over 4 square miles with a population of approximately 80,000 people. (<https://www.somervillema.gov/about>)

*Civil Service Requisition and City's Review Process*

2. On September 16, 2017, Lt. Sheehan took and passed the exam for Police Captain.

(Stipulated Facts)

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<sup>1</sup> The Standard Adjudicatory Rules of Practice and Procedure, 801 CMR §§1.00, *et seq.*, apply to adjudications before the Commission with Chapter 31 or any Commission rules taking precedence.

<sup>2</sup> If there is a judicial appeal of this decision, the plaintiff in the judicial appeal would be obligated to supply the court with a transcript of this hearing to the extent that he/she wishes to challenge the decision as unsupported by the substantial evidence, arbitrary and capricious, or an abuse of discretion. If such an appeal is filed, this recording should be used to transcribe the hearing.

3. On February 15, 2018, the state's Human Resources Division (HRD) established an eligible list of candidates for Police Captain in Somerville. (Stipulated Fact)
4. After the first ranked candidate was promoted in a prior promotional hiring cycle, Lt. Sheehan moved into the first ranked position on the eligible list. (Stipulated Fact)
5. Lt. Sheehan signed a Certification dated March 18, 2019 for the position of Captain. (Stipulated Fact)
6. Five other candidates, including the selected candidate, who was ranked third, signed the Certification. (Exhibit 2)
7. The City initially wished to appoint two (2) permanent full-time Captains, but ultimately only appointed one (1). (Stipulated Fact)

*Lt. Sheehan's Employment Experience with the City*

8. Lt. Sheehan has been employed by the City's Police Department since October 1, 2001. (Exhibit 4; Testimony of Appellant)
9. Lt. Sheehan grew up in Somerville and attended Somerville Public Schools. He holds an associate's degree in criminal justice, a bachelor's degree in Accounting and a juris doctor. He is a member of the Massachusetts Bar. (Testimony of Appellant)
10. Lt. Sheehan was promoted to the rank of sergeant in 2010 and to the rank of lieutenant in 2013. (Exhibit 4; Testimony of Appellant)
11. For approximately four years, Lt. Sheehan has held the position of Patrol Division Commander and Patrol Supervisor. His duties in that position include the supervision of patrol officers and serving as the most senior officer on nights and weekends. (Exhibit 4; Testimony of Appellant)

12. During his tenure at the City's Police Department, Lt. Sheehan has held the following positions: Field Training Officer, Community Police Officer, Records Officer, Police Prosecutor, Patrol Supervisor, Community Policing and Planning Sergeant, Traffic Division Sergeant, Patrol Division Commander, Criminal Investigation Division Lieutenant, Special Operations Commander, Accreditation Manager and, as referenced above, Patrol Division Commander and Patrol Supervisor. (Exhibit 4; Testimony of Appellant)
13. As the Community Policing and Planning Sergeant, Sheehan was the Department Liaison to the Immigrant Police Dialogue Group. In this role Sheehan attended monthly meetings with the Human Rights Coalition and members of the immigrant community and facilitated communication between the Department and the immigrant community. (Exhibit 4; Testimony of Appellant)
14. As the Criminal Investigation Division Lieutenant, Lt. Sheehan supervised fifteen detectives and the Police Prosecutor. During his time in that role, Lt. Sheehan recommended the creation of a home surveillance camera log program whereby the Department would create a database of residential and business surveillance cameras to be accessed in the event of a crime. (Exhibits 4 and 20; Testimony of Appellant)
15. One member of the Police Department is assigned as Accreditation Manager to assist with the ongoing efforts of the Department to become certified from the Massachusetts Police Accreditation Commission. During his time serving as Accreditation Manager, Lt. Sheehan drafted policies in line with MPAC standards, held policy review meetings with Chief Fallon, the Deputy Chiefs, the four Captains, and the Union Presidents. Lt. Sheehan also implemented a computer program called Policy Tech to house the policies and track when officers received and read the policies. Sheehan communicated between two and four times

per week with Chief Fallon primarily by email regarding his work as Accreditation Manager.  
(Exhibit 4; Testimony of Appellant)

16. During his time serving as Accreditation Manager, Lt. Sheehan also: researched the topic of body cams, attended a MPAC conference, and obtained and reviewed policies from other police departments and from the Commission on Accreditation for Law Enforcement Agencies (“CALEA”). Ultimately, Lt. Sheehan drafted a body worn camera policy that was accepted by Chief Fallon. (Exhibits 36-42; Testimony of Appellant)

17. By the end of Lt. Sheehan’s tenure as Accreditation Manager, Lt. Sheehan had issued over 159 policies and achieved preliminary approval for certification from MPAC. After Lt. Sheehan vacated the Accreditation Manager position, the Department ultimately achieved certification and accreditation. (Exhibit 35; Testimony of Sheehan)

18. While in the Criminal Investigation Division, Lt. Sheehan sent out summaries of relevant cases to the Department. Later, as Accreditation Manager, Lt. Sheehan suggested to Chief Fallon that he begin sending out Training Bulletins about topics of interest to the Department. Lt. Sheehan subsequently drafted and distributed several Training Bulletins. (Exhibits 21, 24, 26, 27, 29; Testimony of Appellant)

19. During his tenure with the Department, Lt. Sheehan has reviewed the training program in place for Department supervisors. Lt. Sheehan found that the Department was not in compliance with a Massachusetts General Law that requires all newly promoted supervisors to be trained in cellblock suicide prevention and detection. Lt. Sheehan recommended to Chief Fallon that the Department implement a new training program and subsequently arranged for a suicide prevention training session for the Department. (Exhibits 22 and 32; Testimony of Appellant)

20. Lt. Sheehan is the Department representative to the Communications Interoperability Subcommittee. This committee is organized under Metro Boston Homeland Security and is tasked with assessing member police and fire departments' communications needs in the event of an emergency. (Testimony of Appellant)
21. Lt. Sheehan is one of three or four officers in the Department who is trained as a Drug Recognition Expert by the Municipal Police Training Council. (Exhibit 4; Testimony of Appellant)

*Selected Candidate's Background and Employment Experience with the City*

22. The selected candidate started in the Department as a patrol officer in 2001. During his tenure as a patrol officer, he trained new recruits as a Field Training Officer. (Exhibit 10)
23. The selected candidate has a bachelor's degree in criminal justice and a master's degree in criminal justice. (Exhibit 10)
24. Prior to joining the Police Department, the selected candidate was a criminal investigator for the Somerville Housing Police for four (4) years and a patrolman for the Boxborough Police Department for over one (1) year. (Exhibit 10)
25. From 2003 to 2007, the selected candidate served as a detective where he was assigned to the Family Services Unit, conducting investigations of sexual assaults, domestic violence, hate crimes and maintaining the sex offender registry. (Exhibit 10)
26. In 2011, the selected candidate was promoted to Sergeant-Detective, at which time he assumed the position of the Family Services Unit Supervisor. (Exhibit 10)
27. In 2015, the selected candidate was promoted to Lieutenant-Watch Commander, at which time he assumed the position of Division-Watch Commander. As the officer-in-charge, he was the highest ranking officer in the Last-Half Division. (Exhibit 10)

28. Neither candidate had disciplinary matters in their file. Lt. Sheehan had 4 commendations, and the selected candidate had 6 commendations in his files. (Exhibit 9; Exhibit 16)

#### *Candidate Interviews*

29. Lt. Sheehan and the selected candidate were interviewed for the Captain's position on May 7, 2019 by a panel consisting of Chief Fallon, Deputy Chief James Stanford, Deputy Chief Stephen Carrabino and Director of Personnel Candace Cooper. (Stipulated Facts)

30. The candidates for the Captain's position were asked the same set of interview questions. (Testimony of Fallon; Testimony of Stanford; Exhibits 6-9; 13-16)

31. The questions were developed collaboratively by the panel members. (Testimony of Fallon)

32. The interviews were recorded and the panelists took notes. (Testimony of Fallon; Testimony of Stanford; Exhibits 5 & 12)

33. In response to one of his questions during his interview, Lt. Sheehan made the comment, "we are a police department, we are miserable people." (Exhibit 5)

34. This was concerning to Chief Fallon because it seemed like "capitulation to a negative culture that we are working every day to tamp down." From a leadership position, it was concerning to Chief Fallon for a candidate for Police Captain to have that perspective. Chief Fallon has stressed that messaging is very important in the Police Department and specifically that "negativity is the new corruption" in policing. He has mentioned this in meetings and at roll-call. (Testimony of Fallon)

35. Also during the interview, Lt. Sheehan told the story of an officer who asked for advice about going into the Narcotics Bureau. Lt. Sheehan stated he would assist the officer with getting into the Narcotics Bureau, but also told him that he would never want to work in the

Narcotics Bureau because everybody lies to officers in that line of work. (Testimony of Fallon and Stanford; Exhibit 5)

36. Chief Fallon found this concerning because, to him, it was a poor message to an officer and sets up a bad dynamic between an officer and the community he or she is serving.

(Testimony of Fallon)

37. Chief Fallon felt that Lt. Sheehan, if promoted to Captain, should encourage officers to join the Narcotics division, but advise them to go in “with eyes wide open” and to listen to people in that community and try to get them services. (Testimony of Fallon)

38. Deputy Stanford felt that, if Lt. Sheehan had reservations about an officer’s fitness for the Narcotics Bureau, he should facilitate a meeting between a senior Narcotics officer and the interested officer to get a better sense of the responsibilities in that bureau. (Testimony of Stanford)

39. Deputy Stanford also concluded that Lt. Sheehan was categorizing a group of people as liars and that his comments were demeaning to that group of people who are part of the community. In addition, he felt that discouraging people from pursuing a career path in the Narcotics Bureau limits the people available for positions in the Narcotics Bureau. (Stanford Testimony)

40. Candidates, including Lt. Sheehan, were asked the question: “Describe a time when you were responsible for disciplining a colleague. How did you handle it? In retrospect, is there anything you would have done differently and if yes what and why?” (Exhibits 6, 13)

41. In response to this question, Lt. Sheehan described an incident in which he saw an officer disregard a Sergeant’s order. Lt. Sheehan did not intervene right away, and later apologized to the sergeant for not reacting right away to the officer’s insubordination. Lt. Sheehan also



spoke to the officer, who was perturbed by the follow-up. Lt. Sheehan stated that he spoke to the officer later in the shift and asked “are we cool?” (Exhibit 5)

42. Chief Fallon was concerned with this answer because his expectation is that a superior disciplining an officer should not be concerned about whether they are “cool” but, rather, be focused on enforcing the rules and establishing a strong chain of command. To Chief Fallon, Lt. Sheehan’s example demonstrated that he was more concerned with the effect the discipline had on his relationship with the officer, than with the sergeant who was disrespected. (Testimony of Chief Fallon)
43. Deputy Chief Stanford did give Lt. Sheehan credit for characterizing this incident as a learning experience. However, Deputy Chief Stanford was also troubled that Lt. Sheehan later went back and asked the officer if they were “cool.” Stanford saw this as looking for permission from a patrol officer to act as his supervisor. (Testimony of Stanford)
44. At the hearing, Lt. Sheehan stated he has never issued written discipline during his time as a Lieutenant. (Testimony of Lt. Sheehan)
45. The selected candidate was able to give two detailed examples of disciplining a colleague, which included investigation (in one case), reporting up as necessary, follow-through and consequences. To Chief Fallon, the selected candidate’s response demonstrated an ability to get involved and take proactive action. (Testimony of Chief Fallon)
46. To Chief Fallon, the selected candidate put a lot more work and thought into his disciplinary response, although Deputy Chief Stanford acknowledged that the incident that the selected candidate described was of a more serious nature. (Testimony of Stanford)

47. At the interview, candidates were asked, “Provide an example of when you set expectations and monitored performance of subordinates, what guidance and direction did you find most effective.” (Exhibit 6)
48. The candidates were also asked in their interview, “What new ideas do you have for the Department or City initiatives? How would you implement those ideas?” (Exhibit 12)
49. In response to this question, Lt. Sheehan offered the idea of gathering more data from parking and traffic to enhance investigatory abilities. (Exhibit 12)
50. Chief Fallon thought this was an interesting concept. However, when asked about implementation, Lt. Sheehan backed off the concept and said it would need to be dealt with by IT. (Testimony of Fallon)
51. Deputy Chief Stanford felt this idea was deaf to the community’s needs because it would have limited benefit and is in conflict with the directives from the City Council to *reduce* surveillance technology in the Police Department. (Testimony of Stanford)
52. While Deputy Chief Stanford did not expect candidates to know every action of the City Council, he expected a candidate preparing for an interview to familiarize themselves somewhat with the Council’s messaging. (Testimony of Stanford)
53. In response to the same question, the selected candidate had an idea about further promoting the mission statement and making it uniform. (Exhibit 12; Testimony of Fallon)
54. All candidates were asked for their views on body cameras, because they are a prevalent issue in the police department. The selected candidate expressed support for body cameras and talked about research he had done independently regarding the issue. Lt. Sheehan’s response was also supportive of body cameras. As referenced in prior findings, Lt. Sheehan

had developed a draft policy for body cameras during his time as accreditation manager.

(Testimony of Sheehan and Fallon)

55. The panel also was impressed with the selected candidate's question of the day, which spoke to his leadership, initiative and desire to improve the department. This was an email list that the selected candidate created for the officers who he supervised, in which there was a question quizzing the officers on policy or recent case law. Officers not under his command have asked to be added to the list, and the selected candidate has kept up the practice over the years. As referenced in previous findings, Lt. Sheehan has sent emails to police officers regarding court decisions and how those decisions could impact the Department. (Testimony of Sheehan and Fallon; Exhibit 12)

56. Overall, Chief Fallon felt that Lt. Sheehan was unprepared for the interview and displayed negativity that was concerning. (Testimony of Fallon)

57. Chief Fallon found that the selected candidate was more prepared for the interview and put more effort into presenting himself and his ideas at the interview. This included bringing a hard, bound copy of his resume and cover letter to the interview. Candidates were not required or asked to bring hard copies of anything to their interview. (Testimony of Fallon)

58. After the interviews were complete, the panel decided unanimously to recommend the selected candidate for promotion. This recommendation was relayed from the panel to the City's Mayor by Ms. Cooper. The Mayor accepted the recommendation of the interview panel. (Testimony of Fallon)

59. By letter dated June 24, 2019 from the Mayor, Lt. Sheehan was informed that the City was bypassing him for selection to the Captain's position and was instead promoting the selected candidate. (Stipulated Facts)

60. The bypass letter cited in specific detail the reasons for Lt. Sheehan's bypass. The letter outlined concerns about Lt. Sheehan's leadership capabilities based on specific answers Lt. Sheehan gave to questions posed to him by the interview panel. In particular, the letter cited Lt. Sheehan's example of a time when he set expectations and monitored the performance of a subordinate to be a "single instance[] of performance correction" and that they were "looking for a more expansive leadership perspective." The letter also stated that Lt. Sheehan's example of a time when there was a lag between a discipline-worthy incident and the discipline imposition to be "anemic" and that the Department needed a Captain "who can take immediate and thorough corrective action when he observes a violation of Departmental Policy and Procedure." The letter also stated that Lt. Sheehan displayed negativity and resignation in a statement he made about the Department and its officers and during a discussion of a subordinate officer's desire to work in the Narcotics Bureau. The letter also criticized Lt. Sheehan's advice to the subordinate officer for not properly supporting the officer's career aspirations. The letter acknowledged Lt. Sheehan's idea about data gathering from Traffic and Parking and his support of body worn cameras. Finally, the letter cited Lt. Sheehan's two-sided resume as indicative of a lack of preparation for the interview. (Exhibit 17)

61. The bypass letter also cited positive reasons related to the selection of the selected candidate including his strong performance during the interview and demonstration of leadership capabilities in the answers he gave to the panel's questions. In particular, the letter cited the selected candidate's example of a time when he set expectations and monitored performance to be more impactful than Lt. Sheehan's example. The letter also referenced the selected candidate's examples of instances where he disciplined colleagues to be superior to Lt.

Sheehan's example. In the letter, the selected candidate was recognized for his "Question of the Day" program as demonstrating "creativity, initiative and leadership." The letter also cited the selected candidate's discussion of "positive aspects of policing" and "beneficial changes we can make to grow into the 21st century."<sup>3</sup> The letter also credited the selected candidate with expanding on the subject of body worn cameras based on his own "self-directed research." Finally, the letter referenced that the selected candidate brought a folder to the interview with a resume and cover letter for each panel member as indicative of how seriously he took the process and his preparation. (Exhibits 12, 17)

62. The City chose to only fill one Captain's position because the interview panel felt that they only had one person who was ready to fill the role of a Captain. (Testimony of Fallon)

63. After his bypass, Lt. Sheehan had a conversation with Deputy Chief Carrabino, with whom he is friends, about areas he could work on to become a Captain in the future. (Testimony of Appellant)

### *Legal Standard*

The fundamental purpose of the civil service system is to guard against political considerations, favoritism, and bias in governmental hiring and promotion. The commission is charged with ensuring that the system operates on "[b]asic merit principles." Massachusetts Assn. of Minority Law Enforcement Officers v. Abban, 434 Mass.256, 259 (2001), citing Cambridge v. Civil Serv. Comm'n., 43 Mass.App.Ct. 300, 304. "Basic merit principles" means, among other things, "assuring fair treatment of all applicants and employees in all aspects of personnel administration" and protecting employees from "arbitrary and capricious actions." G.L. c. 31, § 1.

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<sup>3</sup> A review of the recording of the selected candidate's interview indicates that this referred to his suggestion of posting the Department's mission statement in the Department's lobby and on the Department's website. Ex. 12 at 42:40.

The question before the Civil Service Commission is “whether the Appointing Authority has sustained its burden of proving that there was reasonable justification for the action taken by the appointing authority.” Cambridge at 304. Reasonable justification means the Appointing Authority’s actions were based on adequate reasons supported by credible evidence, when weighed by an unprejudiced mind, guided by common sense and by correct rules of law. Selectmen of Wakefield v. Judge of First Dist. Ct. of E. Middlesex, 262 Mass. 477, 482 (1928). Commissioners of Civil Service v. Municipal Ct. of the City of Boston, 359 Mass. 214 (1971).

In answering this question, the Commission’s role, while important, is relatively narrow in scope: reviewing the legitimacy and reasonableness of the appointing authority’s actions and ensuring that the appointing authority conducted an “impartial and reasonably thorough review” of the applicant. City of Beverly v. Civil Service Comm’n, 78 Mass.App.Ct. 182, 189, 190-191 (2010) citing Falmouth v. Civil Serv. Comm’n, 447 Mass. 814, 824-826 (2006). The Commission owes “substantial deference” to the appointing authority’s exercise of judgment in determining whether there was “reasonable justification” shown. Beverly citing Cambridge at 305, and cases cited. “It is not for the Commission to assume the role of super appointing agency, and to revise those employment determinations with which the Commission may disagree.” Town of Burlington, 60 Mass. App. Ct. 914, 915 (2004).

#### *Analysis*

Lt. Sheehan was a good witness. He took his sworn testimony before the Commission seriously and provided honest, straightforward answers to the questions posed to him. The overwhelming evidence shows that Lt. Sheehan has made a meaningful contribution to the City and its police force. He has used his extensive experience and educational background, including his law degree, to improve various aspects of police department operations. His

testimony and the documentary evidence show that he played a (very) substantial role in the Department's successful efforts at obtaining certification and accreditation. As cited in the findings, he has, on his own initiative, contributed in various other ways to improve Department operations. In short, he is a credit to the Department and the City of Somerville.

The selected candidate has also made significant contributions to the City and its police force, applying his experience and educational background, which includes a bachelor's and master's degree in criminal justice. The selected candidate has served in various roles in the Department, including the important role of supervising the Department's Family Services Unit, which oversees investigations of sexual assaults, domestic violence allegations and alleged hate crimes. He has also taken initiatives to improve Department operations.

That turns to the issue of the interviews. Although it is not the Commission's role to rate the candidates' interview performance, I do need to determine whether the preponderance of the evidence supports the City's conclusion that Lt. Sheehan had a poor interview, which the City used as the basis for bypassing him for promotion.

I carefully listened to the witness testimony, including the testimony of Lt. Sheehan and two interview panelists (the Police Chief and Deputy Police Chief); and reviewed all exhibits, including the interview recordings of Lt. Sheehan and the selected candidate. The preponderance of the evidence supports the panel's conclusion that Lt. Sheehan did not have a good interview. Overall, it appeared that Lt. Sheehan had not prepared for the interview. Surprisingly, his answers did not appear to reflect sufficient forethought regarding why he would be the best candidate to serve in the important leadership role of Police Captain. Specifically, the Police Chief and Deputy Police Chief were sincerely taken aback by Lt. Sheehan's offhanded comment that he would discourage any member of the Department from joining the Narcotics

division because officers in that division must deal with unscrupulous individuals who make untruthful statements. That was a troubling answer from a candidate seeking to be Police Captain, a role in which the incumbent should be expected to encourage officers to consider taking on challenging assignments that are vital to the Department.

Lt. Sheehan made another inexplicable, offhanded comment during the interview, suggesting that police officers are “miserable people”. While it is clear that Lt. Sheehan has the highest regard for his colleagues, the Police Chief was understandably concerned with this response, given his (the Chief’s) ongoing efforts to bolster the image of the Police Department to the community.

Lt. Sheehan, who should have expected questions from the panelists regarding how he would handle disciplinary matters in the Department, primarily limited his response on this topic to one example in which he admittedly did not, at least initially, handle the matter well.

Overall, Lt. Sheehan, during the interview, appeared unable to share with the panelists how he could apply his significant education and experience in the important leadership role of Police Captain. In contrast, the selected candidate appears to have provided the interview panel with thoughtful, proactive responses and his overall performance showed that he had thought through what he wanted to communicate with the interview panel regarding his ability to assume the role of Police Captain.

I also did not find any evidence of any personal or political bias. The testimony of the Police Chief and the Deputy Police Chief showed that they were not predisposed to any candidate prior to the interview, but, rather, developed genuine concerns about Lt. Sheehan’s ability to serve as Police Captain at this time based on his responses during the important interview process. It was noteworthy that one of the interview panelists, who did not testify before the Commission,



personally met with Lt. Sheehan after the process was concluded to offer him guidance about how to improve his performance during future interviews. That is not indicative of a panel that was biased against Lt. Sheehan.

In those cases, as here, where there is no evidence of any personal or political bias, the Commission owes substantial deference to the City's exercise of judgment in bypassing a candidate for promotion, and this extends to the weight given to, and evaluation of, a candidate's interview performance. A candidate's poor performance during the interview process, especially to a senior level position in the department's command staff, is a relevant factor an appointing authority can use to judge an applicant. See Frost v. Town of Amesbury, 7 MCSR 137 (1994) (Commission upholds bypass where applicant's answers to situational questions were unsatisfactory); LaRoche v. Department of Correction, 13 MCSR 159 (2000) (Commission upholds bypass where applicant's answers to situational scenarios did not comply with department policies and procedures and failed to demonstrate an ability to lead); McMahon v. Town of Brookline, 20 MCSR 24 (2007) (poor interview performance can stand alone as the sole basis for bypass where there is no evidence of any inappropriate motivations on the part of the Appointing Authority.<sup>4</sup>

### *Conclusion*

For these reasons, the City's decision to bypass the Appellant for the promotion to Captain is affirmed and Lt. Sheehan's appeal under Docket No. G2-19-178 is *denied*.

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<sup>4</sup> I have not overlooked the Appellant's argument that the interview process did not follow the letter of the requirements negotiated as part of the collective bargaining agreement. Any allegations regarding a violation of the CBA should be pursued through the grievance process, not the Commission.

Civil Service Commission

/s/ Christopher Bowman

Christopher C. Bowman  
Chairman

By a vote of the Civil Service Commission (Bowman, Chairman; Camuso, Ittleman, Tivnan, and Stein, Commissioners) on November 19, 2020.

Either party may file a motion for reconsideration within ten days of the receipt of this Commission order or decision. Under the pertinent provisions of the Code of Mass. Regulations, 801 CMR 1.01(7)(l), the motion must identify a clerical or mechanical error in this order or decision or a significant factor the Agency or the Presiding Officer may have overlooked in deciding the case. A motion for reconsideration does not toll the statutorily prescribed thirty-day time limit for seeking judicial review of this Commission order or decision.

Under the provisions of G.L. c. 31, § 44, any party aggrieved by this Commission order or decision may initiate proceedings for judicial review under G.L. c. 30A, § 14 in the superior court within thirty (30) days after receipt of this order or decision. Commencement of such proceeding shall not, unless specifically ordered by the court, operate as a stay of this Commission order or decision. After initiating proceedings for judicial review in Superior Court, the plaintiff, or his / her attorney, is required to serve a copy of the summons and complaint upon the Boston office of the Attorney General of the Commonwealth, with a copy to the Civil Service Commission, in the time and in the manner prescribed by Mass. R. Civ. P. 4(d).

Notice:

Allison J. Zimmon, Esq. (for Appellant)  
Hannah Pappenheim, Esq. (for Respondent)