

CIVIL SERVICE COMMISSION
REGULAR MONTHLY MEETING
Wednesday, September 29, 2021

The regular monthly meeting of the City Civil Service Commission was held on Wednesday, September 29, 2021 via Zoom pursuant to Louisiana Open Meetings Law, specifically, La. R. S. 42:17.1. Ms. Doddie Smith, Personnel Administrator of the Management Services Division, called the roll. Present were Chairperson Brittney Richardson, Commissioner John Korn, and Commissioner Mark Surprenant. Commissioner Richardson convened the meeting at 10:04 a.m. The Commission then proceeded with the docket. Vice-Chairperson Clifton Moore Jr., joined the meeting at 10:17 a.m. At 11:07 a.m. on the motion of Commissioner Richardson and the second of Commissioner Moore, the Commission voted unanimously to go into executive session. At 11:41 a.m. the Commission completed its executive session and proceeded with the business portion of the meeting.

Item #1 was the minutes from July 19, 2021 and July 28, 2021 meetings. Commissioner Surprenant motioned to approve the minutes from July 19, 2021. The motion was seconded by Commissioner Moore and approved unanimously. Commissioner Korn motioned to approve the minutes from July 28, 2021. The motion was seconded by Commissioner Moore and approved unanimously.

Item #2 was the ratification of Public Integrity Bureau (PIB) Extension Requests. Commissioner Richardson called for public comment. Eric Hessler, representing the Police Association of New Orleans, objected to the extension for Wayne Jacque and Julie Jacobs. Commissioner Richardson asked if he had gone before a hearing examiner on this matter. Mr. Hessler responded he had only been retained the day prior, so he had not. He explained that these officers were being investigated for failing to secure another officer's drug test. Mr. Hessler stated he knows the drug test was taken because he was representing the officer who faced discipline as a result of that test. He does not understand why it would take 120 days to determine if a drug test was taken. Mr. Hessler stated Sergeant Jacobs is on a promotional list for Lieutenant and is in jeopardy of not being considered for promotion because she is under investigation. Additionally, Sgt. Jacque wants to leave in good standing. Commissioner Surprenant asked if the Jacobs and Jacque extensions could be taken under advisement in order to determine the reasons for the extension provided by NOPD. Dante Bidwell, representing NOPD, stated this investigation is not being held against Sergeant Jacobs in considering her for

promotion. Commissioner Korn moved for approval of the 30 and 60-day extension requests as recommended by the hearing examiner with the exception of #0458 Wayne Jacque and Julie Jacobs which was taken under advisement. The motion was seconded by Commissioner Surprenant and approved unanimously.

Commissioner Korn motioned to take up items #3, #4 and #5. These items required at least two thirds vote of the Commission to be considered pursuant to La. R.S. 42:17.1. Commissioner Surprenant seconded the motion, and it was approved unanimously.

Item #3a under Rule Amendments was an introduction of an amendment to Rule XI section 1.5(a) and 1.5(e) to allow for an overlap period for goal setting and performance ratings. Personnel Director Amy Trepagnier stated that early this year staff held focus groups to work on making the evaluations more user friendly and increase the participation rate. One of the suggestions from that group was to have an overlapping period of goal setting and performance rating in order to allow supervisors to have one meeting with their employees to perform both tasks. Director Trepagnier stated the rule change will lie over until the next meeting and invited anyone with feedback on the proposed amendments to submit that information via the departmental email address.

Item #3b was the introduction of proposed Rule II, section 9.2 Waiver or Reduction of Costs. Christina Carroll, Executive Counsel for the Civil Service Commission, stated the proposed rule provides guidance to employees who are requesting In Forma Pauperis status. It includes information required from employees and authorizes the Commission to act between meetings on these motions with the appointing authority's approval so that there is not a delay in getting the information to the 4th Circuit. Ms. Carroll stated the rule change will lie over until the next meeting. Director Trepagnier invited anyone with feedback on the proposed rule to submit that information via the departmental email address.

Item #4a under Classification and Compensation Matters was the introduction of Pay Plan adjustments relative to a proposed new city minimum wage of \$15 per hour. Director Trepagnier stated the City Council had requested that staff draft a Pay Plan that provides for a \$15 minimum wage. Robert Hagmann, Personnel Administrator over the Classification and Compensation Division, provided information on the methodology employed by staff. First, all classifications under \$15 an hour were raised to \$15. He noted we are on a step plan so it will actually be \$15.10 an hour. When you bring up the bottom of your pay plan you also need to adjust other positions to account for differences in responsibility. Approximately

200 classification were impacted. This is roughly 25% of the pay plan. There are still going to be concerns about individuals who lose ground compared to other classifications so that could be a concern over time. Notable impacted classes include Equipment Operators, Recreation positions, Juvenile Detention Officers, and Fire Recruits. This plan will impact classifications at Sewerage and Water Board as well. This will assist with the recruitment and retention of lower-level positions. This is an introduction. The administration is requesting a parallel approval process. The administration plans to request approval at the November business meeting. After the Commission's approval it would go to the Council for ratification. Mr. Hagmann noted the lower end of the pay plan would see a larger percentage adjustment and it would be worked up the pay plan until it is phased out. Staff also recommended several consolidations of job classifications. Director Trepagnier noted there were a few different options on the table for Fire pay. Staff is introducing what she believes to be the preferred option which factors in millage pay, but not state supplemental pay into the minimum rate. Mr. Hagmann noted that most fire personnel would see a 15% increase. Recruit will see a greater increase because it is at the lower end of the pay plan. This should be really helpful in recruitment and retention.

Mr. Hagmann then read several comment cards in favor of the proposed pay plan. Commentors included Councilmember Helena Moreno, Councilmember Kristen Palmer, Councilmember Cyndi Nguyen, a library employee and several firefighters. Aaron Mischler, representing the Fire Union, thanked the Commission, Civil Service staff, the Council and his union colleagues. He asked the Commission to approve the proposal today and get it to the Council for approval.

Jonathan Wisbey, representing the administration, thanked staff for their collaboration on this project. There is a part of this that requires the certification that the funds are available. The tricky part is that you are entering into a future year budget. While everyone here anticipates that the funding will be available, there still is not a proposed budget yet for 2022. There is no reason this cannot be speedily passed in a line that is concurrent with the budget process so that it goes into effect on January 1st. The parallel processes need to be done together instead of one before the other. Director Trepagnier noted that the Hiring Rate Rule requires the CAO to certify the availability of funds.

Commissioner Moore noted all parties had provided input and had worked long and hard to make sure that input was considered. What staff has proposed fits all the requirements. There is no reason for the Commission not to handle the business before it today. Commissioner Korn asked if there was anything against approving

the proposal now subject to the availability of funds starting next year. Then it is approved and if the funds are available it happens. Commissioner Richardson agreed with Commissioner Korn and suggested that the Commission could approve the pay plan subject to the certification of the availability of funds by the Chief Administrative Officer. Commissioner Moore stated he was concerned that if the Commission did not approve this today it may contribute to a potential hiccup down the line. Commissioner Richardson noted that the final approval will need to come from the City Council and that the Council is in favor of the proposal. The Council can work with the City in terms of the 2022 budget roll out.

Commissioner Korn motioned to approve the pay plan starting in 2022 based on the availability of funds. Commissioner Surprenant seconded the motion, and it was approved unanimously.

Item #4b was a request for hiring rates for the classifications of Police Captain and Police Major. Robert Hagmann stated staff is recommending hiring rates of \$90,567 and \$95,181 to assist in recruitment and retention for these positions. Staff is also recommending the removal of the 10% assignment based special rates of pay. With the upgrade of these classifications, the assignments are subsumed into the new rates of pay. Director Trepagnier noted that this hiring rate maintains the rate of pay currently received by these classifications which allowed the incumbents to maintain the rates of pay they received before the positions were remanded back from the unclassified service. The market for these positions has now caught up to those rates which enables us to recommend that the rates be placed into the Pay Plan.

Police Superintendent Shawn Ferguson requested that the eight district Captains be awarded an additional 10% special rate of pay due to the number of hours they work. Director Trepagnier stated that staff does not support the request. First, the market matches are based on the core function of district Captains. Secondly, the history of pulling out district Captain and compensating it at a higher rate of pay is what got us into the Orazio litigation in the first place. Staff is very reluctant to go down that path again by bifurcating the duties of district Captains and paying them a different rate of pay from other Captains. That was the first step in the Orazio litigation. The recommended rate is what NOPD gave to the unclassified Commanders who worked in the district as well as the other unclassified Commanders.

Commissioner Surprenant stated he was very concerned about the potential to create a potential situation where we have another Orazio on our hands. Superintendent Ferguson responded that he believes that was an entirely different position that was created and superseded the position of Captain. Prior to Commander being created,

district Captains were compensated through that special rate of pay because of the special duties that came with their assignments. Ms. Carroll reminded the Commissioners that the original Orazio case was a challenge to a special rate of pay given to what was then called the Commander position. Commissioner Richardson suggested that NOPD have a conversation with staff to determine if the concerns could be addressed in a different way under the rules. Commissioner Surprenant then motioned to approve the proposed hiring rates for Police Captain and Major and eliminate the special rates of pay for these positions. Commissioner Korn seconded the motion and it was approved unanimously.

Item #4c was a request for a hiring rate for the classification of Police Human Resource Administrator. Robert Hagmann stated it is becoming increasingly difficult to recruit and retain specialized positions. It is difficult to recruit from the labor pool when there are specialized skills required. The previous recruitment did not produce a sufficient applicant pool; therefore staff is requesting an increase in the hiring rate from \$81,999 to \$92,845. Director Trepagnier noted that staff may be requesting future increases for positions that have been tied to the Police Human Resources position in the past. This includes Personnel Administrators in Civil Service and a Human Resources position at the Airport. Commissioner Surprenant commended staff for reviewing this and demonstrating the flexibility that is built into the Civil Service system. He noted that staff is doing what it can to make sure the city moves forward with hiring and retaining excellent individuals. Dante Bidwell, representing NOPD, thanked staff and stated that having this higher rate of pay will benefit NOPD. Commissioner Surprenant motioned to approve the hiring rate. Commissioner Korn seconded the motion, and it was approved unanimously.

Item #4d was a request for a hiring rate for the classification of Crime Laboratory Director. Robert Hagmann noted staff was requesting an increase in the hiring rate from \$86,176 to \$100,030. It has been difficult to attract someone from another municipality. The applicant pool is very small. Director Trepagnier stated the position has been posted for quite some time with no success. It is a very important position. We will need to recruit from another jurisdiction, so it will take this salary to get someone with this expertise. Commissioner Korn asked about the qualifications for the position. Mr. Hagmann noted that the qualifications follow Federal Crime Lab directives. Commissioner Korn motioned to approve the hiring rate. Commissioner Surprenant seconded the motion, and it was approved unanimously.

Item #4e was a request from NOFD for the advancement of sick leave under Rule VIII, Section 2.12(b) for Fire Recruit Ross Flowers. Robert Hagmann stated Fire

Recruit Flowers was injured in training. The Fire Department is requesting the potential advancement of sixty days of sick leave for his recovery. This rule operates in a similar way to Police Injured on Duty pay, except that it requires the Commission's ratification of the Personnel Director's approval. Director Trepagnier noted staff is supportive of Fire's request and believes it is in keeping with the rule. Commissioner Surprenant asked if the request was similar to prior similar situations we have had. Director Trepagnier responded it does not happen often but when it has, staff has approved similar requests. Commissioner Korn motioned to ratify staff's approval of the advanced sick leave. Commissioner Surprenant seconded the request, and it was approved unanimously.

Item #4f was a request for back pay for Fleet Services Manager Charlie Tenner. Eric Hessler, representing Charlie Tenner, stated Mr. Tenner was assigned to NOPD Fleet Maintenance. In April of 2018 the Fleet Manager left that position and Mr. Tenner was tapped to work as the Fleet Manager. He did that work from April of 2018 to present. In June of 2019 he was promoted to Fleet Manager. He was compensated for part of that time, but not all of it. Mr. Hessler noted that NOPD is supportive of Mr. Tenner's request for backpay. Mr. Hagmann stated that while Mr. Tenner performed the work, there was an eligible list at that time. Rule III section 4 which authorizes temporary pay for working in a higher classification, prohibits the pay when there is an eligible list. There was also an issue with the requisition being held in budget. In general, if there is an eligible list, departments need to use it instead of asking for temporary pay. In fairness to Mr. Tenner, staff is recommending some back pay since he did perform the work. The promotional is a 27.5% increase. Staff is recommending a 17.5% increase from July 2018 to April 2019. This would be an exception to the rule. Mr. Hessler requested that Mr. Tenner be paid in full. Director Trepagnier stated that staff's practice is that if a person does not meet all of the qualifications, they do not receive the full increase. In this case, Mr. Tenner did not meet the qualifications and there was an eligible list of people who did meet them. Commissioner Korn motioned to approve the backpay at the amount proposed by the staff. Commissioner Surprenant seconded the motion, and it was approved unanimously.

Item #4g was a request from Sewerage and Water Board employee Fred Tharp to evaluate Rule IV 11.1(c) relative to how it is applied to exempt employees during declared emergencies. Mr. Tharp stated he is particularly concerned with emergencies that last less than a week. The pay that was generated was not predictable. The rule is clear, if you work you get 1.5 times your regular rate. He noted he had drafted three scenarios that resulted in employees receiving less than they expected. He asked the Commission to opine on scenario one- if a person works for five hours and then an emergency is initiated for seven hours, how should an


employee be paid for that time. Scenario two- employee works the entire week and is called in to work on the weekend, how should the employee be paid. Scenario 3- how should an employee be paid for declared emergency work when it happens during a holiday. Mr. Hagmann stated the rule limits the emergency pay premium to time and a half of the normal weekly salary for exempt employees. Mr. Tharp is asking that exempt employees be treated the same as non-exempt employees, but it is not the same. Regarding holidays, exempt employees are expected to substitute another day for the holiday within a 30-day period if it falls during an emergency. Employees are subject to the maximum allowed by the rule. Exempt and non-exempt employees are treated differently by these rules. Commissioner Surprenant asked if there is ambiguity in the rule. Mr. Hagman responded that there is if you don't read the rule in its entirety. Normal rate of pay for an exempt employee is defined as weekly salary. There are two buckets of compensation, your salary and the emergency pay which has a cap to it.

Commissioner Surprenant asked if this issue has come up before and if the way staff is interpreting the rules is identical to previous situations. William Goforth, an attorney in the Law Department, stated he has looked at the rules and it is his opinion that the rules are clear and are not ambiguous. Director Trepagnier stated that staff had spoken with Sewerage and Water Board regarding their application of the rule and from what staff can tell, it is consistent with staff's interpretation. Commissioner Surprenant motioned to deny the request by Mr. Tharp. He commended Mr. Tharp on his presentation of the issue. Commissioner Korn seconded the motion, and it was approved unanimously.

Item #5a under Recruitment and Selection Matters was a request from NOPD for an exception to Rule VI Section 5.3(a) to allow for additional time to make appointments from the eligible list for Police Captain. Director Trepagnier stated the rule requires provisional appointments to cease in fifteen working days following the certification of an eligible list. This rule was written prior to the Great Place to Work amendments when departments basically used our eligible lists from top down, so there was not a very involved selection process on the back end like there is now. Additionally, because this is a high-level position high ranking officers will need to conduct the interviews, therefore NOPD is requesting 30 working days to make probationary appointments and remove the provisional appointments. Staff is fine with the exception to the rules. Commissioner Surprenant motioned to approve NOPD's request for additional time. Commissioner Korn seconded the motion, and it was approved unanimously.

Item #5b was the approval of examination announcements 10475-10501. Commissioner Surprenant motioned to approve the announcements. Commissioner Korn seconded the motion, and it was approved unanimously.

Commissioner Surprenant moved for adjournment at 1:31 p.m. The motion was seconded by Commissioner Korn and approved unanimously.




Brittney Richardson (Dec 18, 2021 21:15 CST)

Brittney Richardson, Chairperson



CJ MOORE (Jan 4, 2022 15:33 CST)

Clifton Moore Jr., Vice-Chairperson



J. H. Korn (Dec 16, 2021 13:06 CST)

John Korn, Commissioner



Mark C. Surprenant (Dec 15, 2021 15:08 CST)

Mark Surprenant, Commissioner