

CIVIL SERVICE COMMISSION  
REGULAR MONTHLY MEETING  
MONDAY, JUNE 15, 2015

#1

The regular monthly meeting of the City Civil Service Commission was held on Monday, June 15, 2015 at 1340 Poydras Street, Suite 964. Ms. Doddie Smith, Personnel Administrator of Management Services, called the roll. Present were Commission Chairman, Michelle D. Craig, and Commissioners Cordelia D. Tullous, Joseph S. Clark, and Ronald P. McClain. Commissioner Tania Tetlow was absent. The Chairman convened the meeting at 10:11 a.m. The Commission then proceeded by sounding the Commission's docket. At 10:49 a.m., on motion of Commission Chairman Craig, seconded by Commissioner Clark, the Commission voted unanimously to go into recess to discuss matters taken under advisement and pending litigation. At 11:08 a.m., the Commission completed its recess and proceeded with the business portion of the meeting.

The first item on the agenda was the minutes of the May 18, 2015 Commission meeting. The minutes were approved unanimously on motion of Commissioner McClain, seconded by Commissioner Clark.

Item #2 was the Civil Service staff report on New Orleans Fire Department (NOFD) employees working out-of-class and a proposed amendment to Rule III, Section 5 related to dual assignments. Presenting for staff on this matter were Personnel Director Lisa Hudson and Personnel Administrators, Mr. Robert Hagmann and Ms. Shelly Stolp. Representing the Administration were Ms. Sharonda Williams, City Attorney and Deputy Mayors Andrew Kopplin and Emily Arata. Representing the New Orleans Firefighters Association (Local #632) were its President, Fire Captain Nicholas Felton, and Treasurer, Mr. Terry Hampton.

Director Hudson informed the Commission that staff had met twice with Administration and Fire Union representatives regarding this issue, on 5/26/2015 and 6/3/2015. Agreement on proposed changes to the dual rate rule, the most positive development from these meetings, was considered first. This agreement addressed proper pay for future instances of Firefighters working in a higher classification, while back pay for this work was dealt with later in the meeting. Mr. Hagmann explained that appropriate pay in the future would require both Rule and pay plan changes because of the capabilities of the current payroll system, ADP. The pay plan change proposed was titled "Fire Special Dual Assignment Pay."

Commissioner McClain asked if all parties were in agreement on this matter. Mr. Hagmann responded that there was buy-in from all parties for most issues. An exception that he noted was that the Union requested that the pay be effective after four hours of working out-of-class, while the Administration had asked for 12 hours. The compromise offered by staff was to allow for this pay only after 12 hours of higher level work, or with a designation as the "primary" replacement. Commissioner McClain asked how it would be decided if one was the "primary" replacement. Mr. Hagmann stated that it would be up to the department to develop a policy for this designation. He gave an example of having to lead the company's response to a fire in the final hour or two of an otherwise uneventful shift.

Mr. Hampton stated that, to be considered the "primary" Operator or Captain, one would have to work six hours or more; working in that capacity for less than six hours would not allow you to be considered "primary." Captain Felton expressed reservations about leaving the decision on this matter up to an internal policy. He asked to be included in discussions on such a policy. Chairman Craig requested a deadline for the development of this policy, so that it does not cause delays. The proposed Rule change and Special Rates of Pay were approved unanimously on motion of Commissioner McClain, seconded by Chairman Craig.

With agreement on the dual rate rule to address pay for working out-of-class in the future, the issue of back pay for this work was discussed next. Mr. Hagmann reported that the Administration was willing to provide back pay to the date of the initial correspondence from the Union on the issue, 11/29/2013. In contrast, the Union had requested that the back pay begin three years prior to that date (11/29/2010), the prescriptive period.

Director Hudson suggested that the Commission hear from both sides. Ms. Williams stated that, while the City still maintains that the Rule does not provide for retroactive pay and requires there to be a budgeted vacancy, they would agree to make back payments as described by Mr. Hagmann earlier. Captain Felton expressed displeasure with the ability of the City to use technicalities, such as having to prove the existence of budgeted vacancies to avoid, what he views as, a fiscal obligation to Firefighters.

Commissioner McClain pointed out that there was an offer of money to Firefighters from the City and asked Captain Felton if this would be acceptable. Captain Felton complained about a lack of respect and Firefighters being asked to work outside of their class, such as being asked to clean up after the homeless and to move parade barricades. Deputy Mayor Arata responded. She noted that many

City departments were recently involved in cleaning up the homeless encampment under the bridge and that the Firefighters who worked there were appropriately responding to a hazardous materials incident. Commissioner McClain returned the focus of the meeting to the back-pay issue, informing parties that a resolution was at hand. Captain Felton offered his reluctant agreement with the back-pay beginning on the date suggested by the Administration.

Commissioner McClain moved that the Commission approve the recommendation from the Administration for back pay for Firefighters working out-of-class retroactive to 11/29/2013, using Rule III. Ms. Williams noted that this was acceptable, as long as the Fire Union and their attorney, Mr. Louis Robein, would agree to formal documentation that this action ends the Union's claims for back pay. With this caveat, Commissioner Tullous seconded Commissioner McClain's motion and it was approved unanimously. Chairman Craig asked for a timeline on the documentation required by the City. Ms. Williams responded that they could get a draft of the agreement to Captain Felton and Mr. Robein by the end of the week.

Item #3 was a request for six additional unclassified Deputy Director positions in the Sewerage and Water Board. Director Hudson informed the Commission that staff had asked for additional information and the Sewerage and Water Board had requested that this matter be deferred.

Item #4 was a request from the Police Association of New Orleans (PANO) to address the general working conditions, pay, and promotions related to civilian crime scene technicians. Addressing this issue was Mr. Eric Hessler, Police Association of New Orleans (PANO) attorney. Mr. Hessler told the Commission that the Scientific Criminal Investigations Division suffers from lack of personnel. He stated that, at times, there is only one crime scene technician for the entire city. Further, Mr. Hessler noted that these employees have not received a raise in over eight years and are woefully underpaid. Also, he informed the Commission that the condition of the vehicles available for this unit to get to crime scenes is poor, consisting of either old vehicles, or marked units inappropriate for civilian use. An additional issue noted was the length of time between promotions for the employees in this unit.

Commissioner McClain asked Mr. Hessler: 1) if he had discussed these issues with Police Administration; and 2) specifically what he was asking of the Commission. First, Mr. Hessler noted that he had spoken with Commander Darryl Albert, who had addressed some issues. Secondly, Mr. Hessler stated that he felt that the lack

of promotions and pay concerns were Commission issues. Commissioner McClain asked staff about these issues. Director Hudson stated that promotions for these employees are, in large part, up to their department. At Ms. Stolp's suggestion, Mr. Hessler said that he would look into getting requisitions submitted for promotions. Director Hudson also suggested that the case regarding salaries for these positions be made by presenting relevant market data. Assistant Police Superintendent Stephanie Landry described progress made in this area. She stated that efforts are being made to civilianize the unit and that she received a request from Commander Albert to make promotions in the last week.

Item #5 on the agenda was a request by PANO to address the Commission on the reinstatement of Officer Tony Morris in accordance with Rule VI, Section 4.8 (a). Mr. Hessler requested that this item be deferred and added that it may become moot depending on a proposed Rule change to be discussed later in the meeting.

Item #6 was a request by the Administration to authorize EMS and Fire employees to administer Police Recruit agility tests. Director Hudson noted that there was a meeting on 6/10/2015 with the Administration regarding this issue. She stated that, as a result, the proposal before the Commission has changed in two ways. First, it now only includes EMS employees, not Fire. Second, if approved, employees participating would receive a five percent increase in pay while performing these duties, using Rule IV, Section 2.2.

Commissioner McClain asked if Judge Susie Morgan, who is overseeing the NOPD Consent Decree, might have an issue. Mr. Aaron Delong, speaking for the Administration, noted that, while there have not been specific discussions of this issue, Judge Morgan had been generally supportive of their efforts and that this change would allow for speedier testing of applicants. Director Hudson explained that an exception to Rule IV, Section 2.2 was being requested for two reasons. First, administering physical agility tests to Police Recruit candidates is not part of the normal duties of EMS employees. Secondly, this Rule is not generally used to affect pay on an hourly basis. She stated that this solution would be in place on a temporary basis. Further, Director Hudson stated that staff may return to the Commission with a more permanent solution, perhaps opening this type of work to other employees, in about a year. Commissioner McClain moved approval. This motion was seconded by Commissioner Clark and approved unanimously.

Item #7 was proposed amendments to the Civil Service Rules. Item #7 (a) was a request from PANO to amend Rule VI, Section 4.9 and Rule XII, Section 6.6 related to the reinstatement of longevity and leave benefits for reemployed law



enforcement officers. Presenting was Mr. Hagmann, who noted that the City's payroll system, ADP, could present practical concerns for implementation of agreed upon changes. He also noted that PANO had asked that this emolument be made available for employees reinstated in the last year; that is, since June 2014. Director Hudson noted that an attorney's opinion may be needed to approve the retroactive application of a Rule not yet in existence. She also suggested that, until it was clear that this benefit could be calculated in ADP, it may be premature for the Commission to pass this Rule change. Mr. Hessler expressed his support of the Rule changes proposed by staff, but accepted that the proposal would need to be deferred until it is practical in ADP. Thus, this proposal was deferred.

Items #7 (b), #7 (c), and #7 (d) were addressed together. Item #7 (b) was a proposal to change Rule III, Section 4, regarding temporary work in a higher classification. Item #7 (c) was a proposed amendment to Rule IV, Section 2.2, related to Special Assignment Pay. Item #7 (d) was a proposal to change Rule X, Section 1.3 related to Personnel, Payroll and Attendance Records. Director Hudson noted that staff had received a response from the Administration on these proposals earlier that day and did not have time to react to their submissions on the suggested amendments to the Rules. Mr. Aaron Delong, representing the Administration on this issue, acknowledged Ms. Hudson's concerns and stated that staff and the Administration continue to work together on these issues. These Rule change proposals were, therefore, deferred.

Item #8 on the agenda was Classification and Compensation matters. Item #8 (a) was the creation of a new classification of Community Police Mediation Program Manager for the Independent Police Monitor's Office. Addressing this item was Mr. Hagmann from staff and Ms. Simone Levin, Deputy Police Monitor. Ms. Levin noted that the Office of the Inspector General and the Independent Police Monitor were both in agreement with staff's proposal. This classification was approved unanimously on the motion of Commissioner McClain, which was seconded by Commissioner Clark.

Item #8 (b) was a request to establish an EMS Communications job series. As no one from EMS was present to address the issue, it was deferred.

Item #8 (c) was a request by Ms. Cherie Guggenheim to address the Commission related to retroactive pay for working out-of-class as an NOPD Awards Coordinator from April 2013 to April 2014. Ms. Guggenheim and Mr. Hessler presented their request. In response, Mr. Sean Lindsay, an attorney from the Law Department, represented NOPD's interests. Staff's stance was outlined by Mr.

Hagmann. Mr. Hagmann noted that staff has yet to receive a response from NOPD to a request for information on the matter. He stated that this information is needed to determine which section of the Rules is applicable. Mr. Hagmann noted that the NOPD has acknowledged that additional duties were performed and they recommend a 15% increase in pay for this period.

Mr. Lindsay stated that, because Ms. Guggenheim did not meet the qualifications for the position and did not conduct an Awards Ceremony during that time, NOPD Administration would not support more than a 15% increase. Mr. Hessler countered that Awards Ceremonies take place when NOPD orders them to take place and that shortcoming should not be held against Ms. Guggenheim. Responding to a question from Commissioner McClain, Ms. Guggenheim described her work while filling the position in detail. Director Hudson offered to determine if Ms. Guggenheim should receive more than the 15% proposed by examining her qualifications, as compared to those required for the position. Mr. Hessler agreed to continue to meet with staff on this matter.

Item #8 (d) was a request by the Fraternal Order of Police (FOP) to reclassify injuries sustained by Officer Athena Monteleone and Officer Jenna-Leigh Geiger from "*Workers Compensation*" to "*Injured on Duty*," in accordance with Rule VIII, Section 2.9 (a). The officers' interests in these matters were represented by Mr. Donovan Livaccari, FOP attorney. In response to questioning from Commissioner McClain, Mr. Livaccari explained that if an officer's injury is classified as "*Workers Compensation*," only a percentage of officer's salary is covered by the City's workers compensation insurance and the remainder comes from the officer's sick leave balance. Whereas, if that injury is classified as "*Injured on Duty*," the officer is fully compensated without having to deplete his or her sick leave balance.

Mr. Livaccari elucidated the errors that lead to the misclassification of each officer's injury. In Officer Geiger's case, she was responding to an emergency call for service when she was injured. However, the rookie Sergeant completing the paperwork did not realize the importance of its proper completion and erred in this task. In Officer Monteleone's case, the injury was reported immediately, but because the paperwork was not completed within a 30-day limit, her injury was not classified as "*Injured on Duty*." Assistant Superintendent Landry relayed NOPD's support for the request to change the classification of these injuries. Ms. Stolp indicated that staff also supported the request. On the motion of Commissioner McClain, seconded by Commissioner Clark, the Commission voted unanimously to reclassify these officers' injuries.

Item #8 (e) was a request by Homeland Security to establish a new classification of Emergency Management GIS Coordinator. Addressing this item for staff was Mr. Hagmann. Representing Homeland Security was Assistant Chief Administrative Officer Courtney Bagneris. As all parties were in agreement on the creation of this classification, it was approved unanimously on the motion of Commissioner McClain, seconded by Commissioner Clark.

Item #9 on the agenda was Recruitment and Selection Matters. Item #9 (a) was examination announcements. Director Hudson explained that there were no announcements to approve, as the change to a new applicant tracking system, NEOGOV, required that new announcements be delayed.

Item #9 (b) was a proposed extension of the Fire District Chief register in accordance with Rule VI, Section 5.3 (a). Director Hudson informed the Commission that staff had received a letter to support this extension from the Fire Chief's Association. Further, that staff had not heard back from a request that Fire Administration weigh-in on the matter. Captain Felton indicated the Fire Union's support of the extension of the register. On motion of Commissioner McClain and seconded by Commissioner Clark, the extension of this register for one year was approved unanimously.

Item #9 (c) was a request by Ms. Kim Ford to address the Commission regarding Civil Service job announcements. Ms. Ford had asked to address the Commission to register a complaint about language that appears on Civil Service job announcements stating that only experience gained in the past ten years will be counted. She noted that the aftermath of Katrina has affected the work experience of many people in the most recent ten years. Ms. Ford offered details from a discussion that she had with Director Hudson. Director Hudson informed the Commission that this information mischaracterized that discussion.

Addressing this complaint was Ms. Amy Trepagnier, Personnel Administrator. Ms. Trepagnier noted that staff's policy is to count experience gained more than ten years ago to allow an applicant to qualify for a job. She continued stating that, with the recent Great Place to Work Initiative Rule changes, appointing authorities are allowed to hire anyone who is on a register. Thus, those with experience gained more than ten years ago can get on a register, be considered, and be hired. Ms. Trepagnier also informed the Commission that research has shown that more recent experience is a more valid predictor of job performance.

Ms. Trepagnier acknowledged that the language currently on job announcements does not reflect staff's practice. She stated that a more clear explanation of that practice will be made available to applicants in the future. Ms. Ford said that she felt that people were being eliminated from consideration because of the current policy. Ms. Trepagnier ensured her that this was not the case. Commissioner McClain asked Ms. Ford if she had an example of the policy having that effect. None was provided, but Ms. Ford continued stating that an individual reader of the policy may not understand all of the nuances. Ms. Trepagnier and Chairman Craig agreed and both stated that a clarifying statement is needed. Commissioner McClain told Ms. Ford that her advocacy on this issue resulted in change.

Item #10 on the agenda was the Ratification of Public Integrity Bureau (PIB) 60 Day Extension Requests. Speaking on this item was Officer Travis Brooks. Officer Brooks stated that the PIB investigators addressing the complaint against him should have had enough time to complete their investigation. He continued noting that, because he is on the Police Sergeant's register, a potential promotion may be denied him if the investigation into the complaint against him is not completed expeditiously. Commissioner McClain moved that the recommendations of the hearing officer for 60-day extensions be approved, with the exception of Officer Brooks' case. This motion was seconded by Chairman Craig and approved unanimously.

Item #11 on the agenda was Communications. Item #11 (a) was a report on ADP ongoing issues. Speaking were Ms. Stolp, Director Hudson, Mr. Hampton, and Mr. Roy Guercio, Comptroller. Ms. Stolp noted that position control in ADP continues to be an issue. She added another issue will be the new concept of Cumulative Service Time, introduced as part of the Rule change discussed earlier in the meeting in conjunction with Item #7 (a). Mr. Guercio stated that ADP has been informed of the potential need to calculate of this time and that it seems to be "doable." He said that a new date field will be added to ADP and used to calculate longevity pay and bonus leave accrual. Mr. Guercio also noted that the merit pay recently implemented went well. Ms. Stolp clarified this, adding that if other changes to an employee's pay happened to coincide with merit pay, it created an increase in paperwork. Additionally, Mr. Guercio indicated that ADP has agreed to allow the City to customize two of the most problematic forms that they require.

Mr. Terry Hampton asked Mr. Guercio two questions. First, he asked if ADP would be able to handle the working out-of-class issue that Firefighters face. Mr. Guercio replied that he gave ADP the instructions on that matter about two weeks ago and that he was told that this change could take six to eight weeks. Mr.



Hampton's second question was an inquiry into the status of an earlier issue in which a pension deduction is incorrectly being taken from Firefighters for unscheduled overtime hours. Mr. Guercio responded that this is an ongoing issue and that Firefighters are still being refunded for this excessive deduction. He added that ADP stated that they should be able to fix this issue in the next month.

Director Hudson then asked about getting the 2014 data needed by staff to calculate the hours that Firefighters worked in a higher class. These data are needed to address the issue that was considered earlier in the meeting under Item #2. Director Hudson noted the many months that passed before usable data were available for staff to create their working out-of-class report covering earlier years.

Item #11 (b) was a report on the NEOGOV conversion. Ms. Trepagnier noted that this applicant tracking software will allow staff to accept online applications for all positions. She added that data conversion needed for this new software is on-going.

Mr. Hampton reminded those in attendance that there is an NOFD employee who is working out-of-class as a Deputy Fire Chief and has been doing so for a year. Director Hudson encouraged him to have the employee put his complaint in writing so that it may be addressed. Mr. Hampton replied that employees were reluctant to make such a complaint because they fear retaliation. Director Hudson noted that the Commission could direct staff to investigate the matter. Chairman Craig then directed staff to do so.

With no other communications to consider, on motion of Commissioner McClain, seconded by Commissioner Clark, the Commission voted unanimously to adjourn the meeting at 12:49 p.m.



Michelle D. Craig, Chairman



Joseph S. Clark, Commissioner



Ronald P. McClain, Commissioner