

CIVIL SERVICE COMMISSION
REGULAR MONTHLY MEETING
Monday, February 20, 2017

The regular monthly meeting of the City Civil Service Commission was held on Monday, February 20, 2017 at 1340 Poydras Street, Suite 964. Ms. Doddie Smith, Personnel Administrator of the Management Services Division, called the roll. Present were Chairperson Michelle D. Craig, Vice-Chairperson Ronald P. McClain, and Commissioner Stephen Caputo representing a quorum. Chairperson Craig convened the meeting at 9:16 a.m. and administered the Oath of Office to Mr. Stephen Caputo, Loyola University's representative. At 9:42 a.m. Commissioner Tania Tetlow joined the meeting. The Commission (Selection Review Committee) then discussed the ten responses that were submitted in response to the RFQ for Hearing Examiners. At 10:10 a.m., the Commission took a break and then went into the Commission's Docket at 10:21 a.m. At 11:11 a.m. the Commission resumed the evaluation process for Hearing Examiner proposals. Director Hudson announced the rankings of the proposals. At 11:13 a.m. on motion of Commissioner Tetlow and second of Commissioner McClain, the Commission voted unanimously to go into executive session.

At 11:50 a.m. the Commission completed its executive session and proceeded with the business portion of the meeting.

Item #1 was the minutes from the January 9, 2017 meeting. Commissioner Tetlow moved to approve the minutes. Commissioner McClain seconded the motion and it was approved unanimously.

Personnel Director Lisa Hudson reported that NOPD had requested that item #7a request from the Police Department to create 16 Unclassified Police Commander positions be considered out of order. Commissioner McClain moved to amend the agenda to take up the item. The motion was seconded by Commissioner Tetlow and approved by all Commissioners.

Police Superintendent Michael Harrison addressed the Commission. He stated that the request for the allocation of 16 unclassified Commander positions was one of the most critical requests he had made before the Commission. He stated he knows that unclassified positions should be the exception, rather than the rule but that the future of the department hinges on effective leadership. The proposal is the only way to institutionalize the

many reforms made over the past seven years. These positions would replace the current Commander assignments and would have authority over sixteen divisions within NOPD. Superintendent Harrison stated that shortly after Superintendent Serpas was appointed in 2010, he identified the need for new leadership capable of instituting reforms. A Department of Justice report at that time had also noted key failings in leadership that had resulted in unconstitutional policing. Superintendent Harrison further stated that to meet this request, the Commission had created the assignment of Commander available to Lieutenants or higher. This assignment has been instrumental to the department's progress over the last several years. He went on to describe some of the ways he felt Commanders had brought lasting reform and change to the department.

Superintendent Harrison then stated that there remain drawbacks with the assignment due to how it was created, including issues with proper command and control of subordinates. In some cases, individuals have refused to follow orders from lower ranked individuals in Commander assignments. There have also been legal challenges which make the future of this assignment uncertain. These roles are too important for ambiguity to exist. The request for 16 unclassified employees puts the department closer in line with other city departments with unclassified employees. The department has a current ratio of 233 classified employees for every unclassified manager. Most departments have ratios closer to 30 or 40 to 1. This request would put the department's ratio at 64 to 1.

Superintendent Harrison continued by saying that this position would replace the current Commander assignment, but the authorities given to the position would be expanded. This new rank would oversee Majors and below and have wide autonomy and authority, empower Commanders to draft key operational policies, hire personnel, manage divisional budgets, implement reform projects and participate in policy making efforts. These positions are not appropriate for permanent classified employees because Commanders must be able to effectively represent the department and the Superintendent. They must accurately articulate objectives to outside stakeholders without supervision and authorize the day to day actions required to implement daily projects. He went on to say that it is important that they are directly accountable to the Superintendent and non-performing personnel can quickly be replaced. The positions require considerable discretion and policy making authority. This change will empower them to more actively participate in drafting internal policies. These senior leaders

are not just policy makers within the department; they have also been taking on roles with national prominence. They provide policy advice to elected officials at local, state and federal levels. The department will always cooperate with any Civil Service audits.

Robert Hagmann, representing the Classification and Compensation Division, stated it is an unprecedented request. This request would increase the number of unclassified employees from 17 to 33, 11 times that of what is mandated by the Constitution. He stated that staff's research into the Commander assignment has not yet been completed. He further commented that there is no other department who would have as many unclassified employees as Police would have. Fire only has five. Some departments only have one.

Commissioner Tetlow asked how many of NOPD's 17 unclassified positions were temporary Consent Decree related positions that would go away. Mr. Hagmann responded there were approximately eleven. Eric Melancon, NOPD's Deputy Chief of Staff, noted there were six or seven of these positions.

Mr. Hagmann went on to state that staff's analysis is based on the application of the Rules. The Commission can grant additional unclassified positions if they meet the criteria of the rules. The Rules require that first, the Commission undertakes a thorough review and analysis of the duties and responsibilities to determine if the duties are not appropriate and should not be performed by a classified employee. He stated staff believes that the duties and responsibilities of the Police Commander are appropriate for the classified service. Based on the job description submitted by NOPD, the work is very comparable to the classified position of Police Captain. The position is appropriate to remain in the classified service. Mr. Hagmann stated that the Superintendent says the position is not appropriate for the classified service because he needs accountability and the ability to swiftly replace leaders who are not performing. The classified system allows people to be swiftly removed.

Mr. Hagmann further stated that the Great Place to Work Rules are now part of the new flexibilities in promotions. Employees can also be transferred to different assignments. Police employees are required to complete a one year probationary period. Employees can always be removed instantly for cause as long as it is in keeping with the employee's due process rights.

Unclassified status could subject them to political pressures as it related to the performance of their work. The classified Recruitment Director was recently created by the Commission to handle the background investigation process after the Consent Decree Monitor reported that an appointee was allowing subpar candidates to pass the investigation in order to boost the number of Police Recruit applications.

Commissioner McClain asked if Mr. Hagmann was aware of what happened to that employee. Mr. Hagmann responded that the employee had been moved to a position within the Chief Administrative Office. Mr. Hagmann stated that the issue is that the person was put under such political pressure to perform that he had to do what it takes. Mr. Hagmann stated that due process rights are important because employees may not be able to say no even if they are told to do the wrong thing.

Commissioner McClain asked if a person appointed to an unclassified position were removed, would they be out the door. Superintendent Harrison stated they would go back to their Civil Service rank. Director Hudson stated that the Chief would have to allow that person to go on leave to the unclassified in order for them to retain their Civil Service rank.

Commissioner Craig stated that we don't want to negate the fact that the model has both classified and unclassified employees or suggest that the current model is wholly successful due to unclassified employees. Superintendent Harrison stated that the reason it is successful is accountability and the ability to remove employees if performance is not there.

Commissioner McClain sought confirmation that if it is determined that a person in a unclassified appointment is not a good fit that the person is not out the door. Director Hudson reiterated that the Chief would have to allow that person to go on leave to the unclassified then they could go back to their classified position. She said it is entirely up to the Chief. Commissioner Tetlow clarified that this would be decided on the front end when the person is appointed, not on the back end at the time of removal. Director Hudson stated that this is assuming that the person was chosen from the classified service. In the unclassified service anyone can be appointed. It would be at the Chief's discretion to fill those positions with people outside of the Police Department.

Robert Hagman stated the second criteria of the Commission's rules on unclassified appointments is that the position must have considerable discretion in policy making authority which is not subject to further review or modification. NOPD's argument is that these employees participate in policy making committees, state and local forums, and implement key initiatives as assigned by the Deputy Chief. When staff reviewed the job descriptions provided by Commanders they stated they assisted and participated in policy making. No one in the role of Commander has the final authority for actual policy decisions. It goes up the chain of command. This is a third level position. The Chief reports to the Mayor, the Deputy Chiefs report to the Chief and the Commanders report to the Deputy Chiefs. This change would reach down to the level of most city managers.

Commissioner McClain asked have we not gone three deep before. Mr. Hagmann responded that there have been some Consent Decree related exceptions. He further stated that the first exempt level manager in the structure would now be unclassified. This is such a precedent setter it requires further investigation and review. There is a need to look at best practices.

Superintendent Harrison stated that no one Commander acts alone, so there is always a chain of command. They are given instructions to research best practices and create policy and bring that back to us. It is important to have a clear command and control. That is why it is important that this is a Commander position and not a Commander assignment.

Commissioner McClain asked Chief Harrison to give an example of policy that is not subject to further review. Chief Harrison stated that prior to his becoming chief, State Representative Austin Badon and he co-wrote state legislation on prostitution flag down because of a problem he was having in the seventh district. He did that without oversight from the Superintendent and that is now State law. Commissioner McClain asked if there would there be similar situations where the Commanders would have the discretion to have that level of policy making. Chief Harrison responded that if there are issues within the district or division that require modification to a law or policy they have the discretion to research that and bring back the best practices and what needs to be done.

Commissioner Tetlow asked wouldn't the requirement to make policy not subject to approval swallow the rule whole. She stated she would imagine

most people's bosses could still veto things. Mr. Hagmann responded that would be possible, but the whole idea of the protection of the Constitution was to make sure you did not go down three levels deep.

Director Hudson noted that the research into the Commander assignment has not been completed. One of the potential recommendations is to create a Police Commander position in the classified service.

Michael Glasser, representing the Police Association of New Orleans, stated that the creation of this position began in 2011 when Superintendent Serpas asked to have a Colonel position created which Commander morphed from. At that time, he gave the definition for Colonel as highly responsible administrative and professional police work in directing, coordinating, and control of one or more major divisions of the Police Department; and related duties as required. He stated that the definition of Police Major approved by the Commission years ago is highly responsible administrative and professional police work in directing, coordinating, and control of one or more major divisions of the Police Department; and related work as required. They are identical. He further stated that the job of a Colonel that morphed into a Commander and is identical to what Major was already doing. When Chief Serpas requested the position, he wanted it to be classified, but at will. Therein lies the root of this issue, the at-will concept for a classified position.

Mr. Glasser stated that former Commissioner Jerry Davis wrote an email in 2011 on that issue. Mr. Glasser read from that email. The email said that Mr. Davis strongly urged rejection of this request. NOPD is far too small to justify a seven level command structure. Most statewide agencies are headed by a single Colonel. Mr. Glasser inserted that at that time there were 1600 officers. We now have 1160. He continued reading Mr. Davis' email. Limiting candidates to a two minute interview process is no screening process at all. The degree of discretion is inconsistent with merit principals. The authority to select, appoint, remove and assign employees at will should be granted only to specific highly specialized positions with clearly defined professional qualifications. Mr. Davis' email went on to state that the authority to select from multiple lower ranks and allowing subordinates attitudes to be weighed in judging incumbents for retention is guaranteed to result in lower morale, cliquish mentality, and a continued breakdown in performance. Civil Service rules provide rules provide for a simple, basic process to remove employees who lack the ability or will to perform up to

expectations. The Superintendent has authority under the service rating rule to declare that certain actions or inaction constitutes unsatisfactory performance and requires correction.

Mr. Glasser stated that the ability for the Chief to remove people who are unsatisfactory currently exists, whether or not he chooses to do it is something else. He has that ability in the classified service. The bottom line is this, no one is arguing that Commanders don't command. The real question is that he did not hear one shred of evidence that says why Captains and Majors can't. The idea that only these Commanders can deal with the public, only these Commanders can address national situations, is ridiculous. Mr. Glasser stated he regularly addressed the press and police executives during his time as Commander of the 7th district. The Consent Decree has given us a ridged set of parameters to work under. The idea that Commanders can make policy, function autonomously and can make strategic and tactical plans without oversight is ridiculous. That's why the Compliance Bureau and Compliance Bureau Chief were created. He further stated that even the Superintendent himself cannot change NOPD policy without approval from the Federal Judge. He stated he would agree with the Superintendent that we have made some strides with respect to citizen satisfaction, but a lot of that has to do with the Consent Decree and how it mandates we interact with the public. There are two aspects to success, one is procedural and the other is operational and operationally it does not work.

Commissioner McClain asked Mr. Glasser if he believed that the Superintendent should have the discretion to hire his own team. Mr. Glasser responded that the Superintendent has the discretion to hire his own management team. He has five positions that he can appoint now at the senior manager level as Deputy Superintendents.

Mr. Glasser went on to state that the Consent Decree says that the City agrees to hold promotional exams every two years. We have not done that. We have not had those promotional opportunities. We want to create unclassified positions, but we don't want to follow what the Consent Decree says. It says we should hold promotional tests constitutionally which is imbedded in this merit based system. He further stated that procedurally we are successful, but operationally we are not. We went up in murders last year. Commissioner McClain responded that there are a lot of other factors involved in that.

Mr. Glasser stated that the Commander position did nothing to prevent the issue in sex crimes. He said the Superintendent says he needs Commanders, but he has never said why Captains and Majors can't do the work. He has not heard one piece of evidence that says why classified Captains and Majors can't do what they are defined to do.

Chief Harrison stated that under the model Mr. Glasser is advocating for walked us into a Consent Decree that he is now trying to walk us out of. He stated that there was a culture of unconstitutional policing that the leadership did nothing about. Many current Captains are good, but that model had a Department that was not managed well. Commissioner McClain asked Chief Harrison if he was suggesting that his discretion with Commanders had led to the current reforms. Chief Harrison responded that it is because we are able to select people who we can hold accountable to perform at a high level, to be endearing to the citizens and repair broken relationships. Commissioner McClain asked why it would be a problem for those positions to be Captains. Chief Harrison stated it is because in that model even when a person can be removed from the assignment, they still possess the rank of Captain. It is almost impossible to remove them from the rank of Captain. It results in too many Captains in that rank.

Mr. Glasser stated that the position of Commander has not changed the Department; the Consent Decree is what changed the department.

Eric Hessler, representing the Police Association of New Orleans, noted that he had filed a memorandum in opposition and wanted to argue that memorandum.

Donovan Livaccari, Fraternal Order Police, stated he supports everything Captain Glasser said. He said the Superintendent put it best when he said that unclassified positions are the exception to the rule. There is no evidence that these positions are unsuitable for the classified service. They have been performed in the classified service for the past 100 years. He agrees with the Superintendent that the current Commanders have been successful in their work, but there is no logical connection between their success and the existence of this Commander position. They would have been just as successful had they been Captains instead of Commanders. The leadership of the department is important when it comes to the success of the people underneath them. He went on to say that this would double the number of unclassified positions in the Police Department. This Commission exists for

the purpose of protecting the classified service. It is this Commission's obligation to promote positions within the classified service. These positions do not meet this Commission's own rules on what qualifies as an unclassified position.

Commissioner McClain asked Mr. Livaccari if he would agree that we are in exceptional times due to the Consent Decree and murder rate. Mr. Livaccari responded that he would not agree with that. We are under exceptional pressures due to manpower constraints. He stated he does not know that it justifies the creation of these unclassified positions. One of the most telling things about this is that no Commanders are here. If they were here they would probably be telling you that they would rather take the test for Captain and move on in their career path. They are not here because employees can't speak up against the administration on these kinds of things.

Commissioner Caputo asked Mr. Livaccari if he was suggesting that doing things the same way we've always done it is the best approach or if another method is worth trying. Mr. Livaccari stated that he is suggesting that the framework we have now has been developed over years based on the mistakes we have made in public service and that that framework has morphed into the rules we have now. We have corrected the mistakes we have already made through the rules of the Commission. There are changes that can be made and there are tools already available to remove people from classified positions that aren't performing up to standard. All classified employees serve a one year working test period during which they can be removed without cause. If someone is not competent to fill the position they are likely to demonstrate that within a year. Even after that year is up, the tools still remain to remove someone from that position. He went on to state that the rules require that the positions be unfit for the classified service and history shows us that they are not unfit for the classified service.

Eric Hessler stated that all three Police groups agree that this is the wrong thing to do. We have seen for the longest time a direct assault on Civil Service protections for classified employees. The Commission has granted the removal of those protections from numerous classified employees. These employees are classified right now. You haven't heard a reason other than we are asking that they be unclassified. There are Civil Service Rules and regulations that have the effect of law. They are not suggestions. The letter the department sent to the Commission is the best evidence that these

positions don't fit as unclassified employees. The rules of Civil Service say there are three things that need to be found if you are going to change a position and make it unclassified. A) that they are not appropriate for, nor should they be performed by, a classified employee, B) the position is of a sensitive nature having considerable discretion and policy making authority not subject to further review or modification and C) the position is subject to regular review and audit by Civil Service to determine the continuing appropriateness of the unclassified service. Number two of the department's letter says that positions are sensitive command leadership positions with considerable discretion and policy making authority. Commanders are provided with near autonomous control of their divisions. The letter says Commanders participate on policy making committees. They do not have the final policy making decision. The rule says that they have to have that. The Constitution and state law and case law says that determinations of classified or unclassified must be done in strict congruency with the law. Mr. Hessler said it is an Opelouses case cited in his legal brief. There is no reason Captains and Majors should not be working in the positions of Commander. The job descriptions are identical.

Commissioner McClain stated that he thought that this was a situation that Mr. Hessler's group and others were contesting as we speak. Mr. Hessler responded affirmatively. He said this is an end around of the investigation and the legal case going on. They are not following the Consent Decree when it comes to giving Captains and Major tests and no one says anything. These persons have no ability to be promoted any further than where they are. You have taken out promotional opportunities for hundreds of men and women. Director Hudson clarified that under the merit system employees could compete for two additional levels of promotion. There has been no discussion of how one is selected to become a Commander.

Mr. Hessler stated that Civil Service Rules and the Constitution require competitive testing for promotion when practical. It has been shown to be practical with Majors and Captains who have historically held these positions. Nothing has changed other than that they want to remove Civil Service protections from these people so that political patronage can be introduced. That is dangerous at such a high level. Commissioner McClain stated that the Commission has the ability to audit positions, so that may address some of Mr. Hessler's concerns.

Keith Joseph, president of the Black Organization of Police, stated we oppose this amendment at this time. Some of the Commanders are in a position where they are commanding the district, but the Captains do the exact same thing. There is nothing that the Captains and Majors did that the Commanders aren't doing at this time. They have the same authority with respect to policy making as Captains and Majors. This takes out a lot of promotional opportunities. Morale is down as a result because the position is handpicked by the Chief or his staff. We previously had the opportunity to take a test to progress. At least three of the Commanders said that they would like to take a Captains test to move forward. At this time it won't happen.

Chief Harrison stated that we promoted a large number of Sergeants, Lieutenants, Commanders and Deputy Chiefs. Because we now have the ability to promote and put on exams like the Sergeant's exam later this year, there is upward mobility now that has not existed in the last five years.

Coleman Ridley, representing the Business Council of New Orleans, stated that the Business Council supported NOPD's request and that the Chief has comprehensively addressed the issue. Commissioner McClain asked why the business council is supporting this request. Mr. Ridley stated that we have worked closely with NOPD and police mission focused organizations and I think the results speak for themselves. We have full trust in what the NOPD has done today.

Commissioner Tetlow asked if the Department of Justice and Federal Judge had weighed in on this issue. Chief Harrison responded that they had not specifically, but we meet with them every week.

Commissioner McClain asked what would happen to the current incumbents in the Commander special assignment if this Commission approves the request for unclassified positions. Chief Harrison responded that it would become a position and those who are performing at a high level would be put into those positions.

Simon Hargrove, representing the Black Organization of Police, stated that this is not about the performance of the current Commanders or about the Superintendent. This is about today and the future of NOPD. He asked why can't the role be filled by Captains and Majors. He questioned if the department asking for unclassified positions now because they are likely to

lose the pending court challenge to the Commander special rate of pay. The department should be creating an environment where many have a fair opportunity by their merit and the selection process to be part of the command staff.

Clifton Moore, representing the New Orleans Firefighters Association, stated that one of the Commissioners mentioned history and why we wouldn't be willing to try something new. This is not new, the ability of the Superintendent to hand pick employees is what necessitated the advent of the classified service. It has been tried. He stated he is concerned that the Chief's use of accountability is a euphemism for adaptability meaning bring undue political pressure.

Commissioner Craig stated that we all want more accountability. Mr. Moore responded that it potentially brings undue political influence and pressure.

Commissioner McClain asked if you were a coach, wouldn't you want your team to compete. Raymond Burkhart, representing the Police Association of New Orleans, stated let these Lieutenants compete. This is an end around of the current litigation. This Commission approved a captain's exam. Commissioner McClain asked wouldn't the coach want to hold the people accountable. Mr. Burkhart responded that he can. Once these people are vetted by written exam, the Superintendent chooses from the list. Every Captain is evaluated after the probationary period on a yearly basis. These people who are appointed serve at the will of the administration. You have middle management controlling the Police Department. No one can tell you the criteria for Commander. Why don't we have a test and the Superintendent can pick the team.

Eric Melancon reiterated that classified employees would be put on leave to the unclassified. He said we are looking at the current classified staff to qualify for these positions. Command and control and a clear chain of command is what is currently lacking. The Commission has the discretion to create these unclassified positions.

Commissioner McClain asked why having a Captain's exam wouldn't satisfy the need. Chief Harrison stated we have found that sometimes people who score well on tests don't perform well and can't sustain the level of performance they need to sustain. This is about high performance and accountability. Commissioner McClain further questioned if there are

extenuating circumstances that exist that make it important to approve the request. Chief Harrison responded that it is important because Captains think they don't have to follow the orders of Lieutenants who are in Commander assignments.

Commissioner Caputo confirmed that after the testing process there is an interview process and then a selection and probationary period. Chief Harrison agreed. Director Hudson then asked if NOPD had a testing process for Commander. Chief Harrison responded no.

Director Hudson stated that the Commission had asked staff to perform a study of the Commander position. Robert Hagmann and his team have spoken to the Commanders directly. Our next step is to talk to the Deputy Chiefs. We were then going to speak to the current Captains and Major and research best practices. Chief Harrison commented that NOPD is rewriting what best practices are and that other departments are looking at NOPD for best practices.

Raymond Burkhardt noted that there is a constitutional challenge to the Commander assignment pending in civil district court that is coming up soon. There is a hearing in April.

Commissioner McClain stated that the Commission is strongly committed to the classified civil service system, but we can't look at that in a vacuum.

Item #2 was a request from the administration for the Civil Service Commission to conduct a wage disparity study with includes all positions in City Government. Alexandra Norton, representing the Chief Administrative Office, stated they had sent a letter requesting that a study of wage disparity between male and female workers in the city workforce be included in the pay study being undertaken in conjunction with Civil Service staff.

Item #3 was a report on delegation of authority to the Sewerage and Water Board (S&WB). This matter was deferred until later in the meeting.

Item #4 was a request from Attorney Eric Hessler to amend Rule II, Section 4.21 to allow for granting of attorney fees for the filing of frivolous, malicious and/or obvious dilatory motions. Eric Hessler, speaking on behalf of PANO, stated that in light of recent litigation and historically, he was asking the Commission to consider giving themselves the power to grant

attorney's fees if either party engages in intentionally dilatory acts or malicious filings or motions. It would streamline the process and make it more efficient.

Brenden Greene, the Commission's attorney, stated that at the last meeting the Commission adopted rules in respect to contempt and contained within those rules if there is an obvious attempt to frustrate the Commission, an appeal, or process before a Hearing Examiner, the Personnel Director or the Commission, there is a remedy envisioned within that rule that would allow someone to come before the Commission and ask them to find a party in contempt. He stated you want to deter conduct for actions that delay certain actions, but you don't want to encourage people to keep filing cross motions. The Commission has the authority to penalize someone pursuant to the Constitution. It can go as far as to levy a fine or misdemeanor. There is an array of remedies available to the Commission now in response to something like that.

Elizabeth Robbins, representing the Law Department, stated she wanted to speak against the proposed rule. She stated that there is already a contempt rule with very high standards. The ability to claim that filings are dilatory is chilling. The rule as written is appropriate. It should not be lowered to say if it is obviously dilatory because of a request for a rehearing.

Commissioner Tetlow stated that the nature of the litigation in front of this body is almost nothing, if not repeat players.

Mr. Hessler stated it does not happen often. It is not a huge problem. This is a simple and clear process to make it known that these types of action will not be tolerated.

Commissioner McClain move to deny the request based on the fact that we have the contempt rule in place that addresses the issue. Commissioner Tetlow seconded the motion and it carried unanimously.

Item #5 was a request from Attorneys Raymond Burkhart, Jr. and Eric Hessler to petition the Commission to conduct an investigation of the Police Background Investigation Process and Police Commander Job Study. Director Hudson noted that this is part two of this issue because there was in an issue with waiting for the Consent Decree Monitors to complete their

report on the police background investigation process. That report has been published.

Mr. Hessler stated that regarding a request for investigation into former Deputy Chief Jonathan Wisbey, the allegations that have been founded by the Department of Justice and Monitors to have occurred. A clear reading of the report indicates that Mr. Wisbey was, in fact, the final person who would sign off on the background investigations. In many cases there were risk indicators, sometimes significant, identified by investigations that were either downplayed or overlooked by others in the review chain. He stated that downplayed, to him, suggested untruthfulness. Commissioner McClain stated that Mr. Wisbey is no longer in that position. Mr. Hessler responded that he understands but he is still an employee of the city subject to the rules and regulations of Civil Service. It is still within the Commission's jurisdiction. Commissioner McClain responded that we believe that the Public Integrity Bureau and others have looked into this and come to some conclusions already.

Brendan Greene stated that the underlying request is for the Commission to conduct an investigation. He stated that he is not sure what investigation the Commission would undertake that would yield any results different than what the Federal Consent Decree Monitor has found. NOPD has created a new Recruitment Director in the classified service who will be responsible for undertaking these duties. One of the concerns voiced was they want to understand what went wrong and what's been done to fix it. He stated he thought those things have been articulated.

Elizabeth Robins, stated that regarding the investigation into the Police Commander Job Study, she had had asked Commander Paul Noel, who was present during the meeting in question regarding the job studies if he could speak to what was or wasn't said by Mr. Wisbey. Director Hudson stated that the Commission decided to let that matter play out during the hearings over the Commander process based on the investigation that the Hearing Examiner is supposed to conduct related to the question of whether the special assignment pay is constitutional or not. The Hearing Examiner is supposed to question them on the record.

Commander McClain moved to deny the request for an investigation of the Police Background Investigation Process based on the fact it had been investigated and there may be some other issues that come up during those

contradictory hearings. Commissioner Tetlow seconded the motion and it was approved by all.

Item #6 was a request from the Aviation Board for two additional Deputy Director positions and consolidation of all Unclassified Deputy Director positions under class code U6050. Robert Hagmann stated that this is a request for two additional unclassified positions for the Airport. Based upon staff's review we are recommending approval of the Airport's request. These positions report directly to the Executive Director and are responsible for the strategic planning and management of their respective organizational units and will be called to act in the capacity of the Director in his or her absence. The first position is over business and financial management and oversees the policies and strategies for improving the Airport's financial position, as well as, ensuring the accuracy of accounting data. The second position is over maintenance and logistics. The other piece is a class code consolidation for housekeeping. These are policy making positions.

Commissioner McClain moved approval of the additional Deputy Director positions and consolidation of all Unclassified Deputy Director positions under class code U6050. Commissioner Tetlow seconded the motion and the motion carried unanimously.

Alexandra Norton noted that the unclassified Secretary of Aviation would have a working title change to Director of Communications. She thanked staff for a quick and thorough review of these positions.

Item #8 was a request to amend Rule IV, Section 2.5 relative to Merit Pay and to add new Rule IV, Section 14 relative to Pay Increase Upon Promotion. Robert Hagmann stated that at the request of the Administration this rule change would allow employees to keep merit pay earned in their present classification should a hiring rate be subsequently applied to their classification. The second rule change codifies in the rule the present business practice of guaranteeing that an employee receives at least a 5% increase upon promotion. The final item is a revised definition of base rate. This change codifies the present business practice of what forms of compensation are included in base rate. Right now longevity pay is not part of base pay. This codifies it.

Alexandra Norton thanked staff for reviewing the changes and special counsel for drafting this rule.

Commissioner Tetlow moved approval. Commissioner McClain seconded the motion and the motion carried unanimously.

Item #9 was consideration of emergency amendment to Rule VIII, Section 4.1 (I) relative to Civil Leave use by employees affected by a disaster. Robert Hagmann stated that under Rule 2 Section 2.3, the Chairperson following extreme weather and declaration of emergency on February 7th adopted a Rule at the request of the administration on February 10th to be effective on February 7th. The Rule amends the Civil Leave Rule to authorize employees affected by a disaster to use Civil Leave of up to twenty days over one year.

Commissioner McClain moved approval. Commissioner Tetlow seconded the motion and the motion carried unanimously.

Item #10(a) under Classification and Compensation Matters was a request from the Fraternal Order of Police to reclassify an injury from Worker's Compensation to Injured on Duty in accordance with Rule VIII, Section 2.10(a). Director Hudson reported that NOPD is okay with the reclassification to Injured on Duty. Ted Alpaugh III, representing the Fraternal Order of Police, stated he wanted to make sure the reclassification is retroactive to the date the employee was injured in March of 2016. Since the NOPD agrees with the reclassification, there was no Commission action required.

Item #10(b) under Classification and Compensation Matters was a request from former Finance Operations Manager, Marilyn Richardson, for uniform pay within the Finance Department. Beverly Gariepy, Deputy Director of Finance, stated she believed this will be addressed as part of the compensation study. Director Hudson stated that Ms. Richardson is now retired and the issue came up around 2008. Ms. Richardson is asking for pay back to that date. Robert Hagmann stated that in 2006, the job class of Revenue Collection Supervisor and Finance Operations Manager were one pay grade apart. The relationship continued until an appeal to the Commission for an equity adjustment was made and granted. Ms. Richardson is asking for equity between classifications to be restored retroactively. Robert Hagmann stated that the competitive pay study would address this if she wasn't retired.

Commissioner McClain asked Brendan Greene if the upcoming compensation study would reference this issue. Mr. Green responded that retroactivity is a very slippery slope. It is going to be very difficult to identify the individuals affected.

Ms. Richardson stated that she should be compensated from 2009 until the time she retired because within the Department of Revenue she has been a Revenue Collection Supervisor and was later promoted to Finance Operations Manager. When the job study was done for the other employees below her, they were upgraded to where she was and she was not looked at all. The people above her were also given pay increases. She stated she was not aware that these positions were given an upgrade, but when she became aware she was too busy to request to be compensated.

J Arthur Smith III, Mr. Richardson's attorney, stated that when Ms. Richardson was hired as Finance Operations Manager she was two grades higher than Revenue Collection Supervisor. When the pay plan was changed in April 2009, the Department of Finance recommended that that equity be maintained. In 2009, the Commission approved a request for the Revenue Collection Supervisor to be raised to the comptroller level. Ms. Richardson is asking for similar treatment.

Director Hudson stated that the pay plan changed so her salary increased, but the issue is that the Revenue Collector Supervisor was increased to be equivalent to Ms. Richardson's position.

Mr. Smith noted that they had less responsibilities and stated that there is no justifiable reason for the disparity in treatment.

Commissioner Craig asked if this request was filed after her retirement. Ms. Richardson stated it was filed before she retired.

Mr. Hagmann stated that in 2006 there was an approximately \$1,000 difference. In 2008 there was a hiring rate for Finance Operations Manager, and then the 2009 pay plan equates them the same. He stated this was due in part to the restructuring of Finance at that time and that the Revenue Collection Supervisor supervises auditors. He stated that the real issue is that the Commission later made equity adjustments, but stopped at the higher level.

Director Hudson added that when the Purchasing Administrator and Administrator Assistant came to the Commission and made an appeal for an equity adjustment in 2009, Ms. Richardson failed to come before the Commission at that time.

Commissioner Tetlow motioned to take the matter under advisement. The motion was seconded by Commissioner McClain and approved by all. Commissioner Craig stated that the Commission would review the request and issue a decision.

Item #10(c) under Classification and Compensation Matters was a request for retroactive Extraordinary Qualifications Pay for Information Technology Manager, Jerome Pinkston. Robert Hagmann stated that Mr. Pinkston had been hired as an IT Manager in July of 2009 prior to the implementation of the Extraordinary Qualifications Rule. The Rule is only effective at the time of appointment or if someone else is appointed with equivalent qualifications. The Library is asking for an exception to allow for Mr. Pinkston's comparable qualifications to be substituted for the same or equivalent qualifications. Mr. Hagmann stated that IT Managers are very specialized so it makes these comparisons very difficult. Staff agrees with the request.

Charles Brown, Director of New Orleans Public Library, stated that the Library's IT Department operates completely independently from the City's IT Department. Mr. Pinkston's role is as comprehensive as the City's IT Director's role with some exceptions. The Library operates over 600 public access computer systems, its own Wi-Fi, its own voice over internet phone system, and inventory control system. Mr. Pinkston is considerably less well compensated than people in classifications lower than his. In 2009 when he was hired, there was no hiring above the minimum. He possessed these qualifications at the time of hire.

Director Hudson stated that staff was looking at an employee who was recently hired in May 2016 to trigger the equivalent qualifications portion of the rule.

Mr. Hagmann cautioned that the Commission would be setting precedent. He stated that from a compensation point of view it opens the door regarding the type of experience.

Mr. Brown stated that this is a highly specialized position. He had looked at salaries at other comparable libraries as part of this process.

Mr. Hagmann noted that most of the people in IT job classes are hired above the minimum. It has almost become a de-facto hiring rate for the IT series. Director Hudson stated that it is the idea of comparable experience versus exact experience. Mr. Hagmann stated there is some risk there.

Shelly Stolp, of the Recruitment and Selection Division stated multiple specialized subheadings for job classifications cause this issue due to the experience unique to that class and subheading.

Brendan Greene stated that the reason you are doing these things is to understand where you are in the market. The classification and compensation study will review these types of issues.

Commissioner Tetlow moved approval of the request retroactive to May 2016. The motion was seconded by Commissioner McClain and approved by all.

Item #10(d) under Classification and Compensation Matters was a Library request for retroactive Temporary Pay for working in a higher classification for Ms. Kate Martin. Robert Hagmann stated that the Rule states that temporary pay should not extend beyond three months. In this case, it will go a little beyond three months. The Library is asking for an exception.

Commissioner McClain motioned to approve the request. It was seconded by Commissioner Tetlow and approved by all.

Item #10(e) under Classification and Compensation Matters was a request from Irma Nuar, a Senior Auditor with the Sewerage and Water Board for four months leave of absence without pay in accordance with Rule VIII, Section 5.2. Robert Hagmann stated that based on a physician's request the Director Hudson had approved the request. Director Hudson noted that Sewerage and Water Board had some concern. Ms. Nuar stated she had a physician's notes stating she could not attend work. Director Hudson stated that Sewerage and Water Board administration stated it would create a manpower issue, but Ms. Nuar's direct supervisor approved the request.

Commissioner McClain asked what would happen if Ms. Nuar couldn't return after four months. Brendan Greene stated that she could be terminated under Rule IX.

Commissioner Tetlow moved approval given that the leave is almost over and that SWB is not commenting. Commissioner McClain seconded the motion and it was approved by all.

Item #3 was a report on delegation of authority to the Sewerage and Water Board (S&WB). Cedric Grant, Executive Director of Sewerage and Water Board, reported that staff had participated in training in July and August and the S&WB had seen some backlog relief shortly thereafter. In January transitions in staffing lead to additional training. Mr. Grant stated that everyone had agreed that five half days of training was adequate. Director Hudson objected and stated she did not think that was enough time.

Commissioner McClain stated that in general things are going well. Both sides agree that the backlog is smaller than it used to be. We need to come to an agreement on how long is adequate for training.

Commissioner Craig stated that we want to be clear that in the beginning training was six weeks and then we went down to five half days due to exigent circumstances. Director Hudson noted that the five half days were just on one aspect of the training, minimum qualifications. She further stated that our challenge is that we have trained folks and they have left, so we have not had a chance to audit their work to see if the training is effective. Initially the training was six week. We gave S&WB an agenda and schedule for six weeks. Then there was a staffing issue at S&WB so we agreed to reduce it to three weeks half days. That was not ideal. She stated she can't say if it was adequate or not because due to the turnover we have not been able to observe anyone doing the work.

Nolan Lambert, Executive Counsel for S&WB, stated that we met about training. One of our employees was being read to during the training and Brendan Greene witnessed it. Mr. Greene responded that this one aspect of the training, minimum qualifications. The delegation manual was read to employees during the training and there was assistance in navigating the Neogov website and then there was real time analysis of applications to an entry level S&WB position. There was value to the training. It was a practical exercise. The higher up on positions you go, the more complex

that screening and analysis becomes. On a basic level, this training gave the individuals the tools they need to navigate Neogov and look at the applications. Staff wants the opportunity to measure the effectiveness of these things. The only way to do so is to watch them do so.

Director Hudson suggested that if the Commission wants us to do five half days staff would do so. Commissioner McClain responded that the Commission wants you to be clear on how much time training will take.

Commissioner Craig suggested getting to the middle ground of three weeks, assess it and see if it works.

Commissioner McClain asked Director Hudson if she could get the other three components in three weeks

Amy Trepagnier, Deputy Director, noted that this is working training where the work is actually being performed as part of this training. This is an opportunity to push the work out while training.

Commissioner Caputo asked if there are four modules is it unreasonable to do a module a week. Ms. Trepagnier responded that some of it is also dependent on the actual work that needs to be performed at that time. Commissioner McClain asked if that is related to reducing the backlog. Ms. Trepagnier responded that it allows them to create eligible lists and certify them in order to appoint them.

Shelly Stolp noted that only one person has followed the entire training module from beginning to end. Since then we have had to piecemeal training and training some people on some pieces.

Commissioner Caputo suggested four week half days.

Brendan Greene stated that it is important for S&WB and the Commission to identify what the key issues and problems are and find out if there is a way for the Commission to address them.

Item #11(a) under Recruitment and Selection Matters were announcements #9478 to #9533. Commissioner Tetlow moved to approve the announcements. Commissioner McClain seconded the motion and it was approved unanimously.

Item #12 was ratification of Public Integrity Bureau (PIB) 60 day extension requests. Chairperson Craig called for public comment. There being none, Commissioner McClain moved to approve the extensions. Commissioner Tetlow seconded the motion and it was approved unanimously.

Item #13 (a) under communications was a report on ADP ongoing issues. Director Hudson had nothing to report.

Item #10(b) was a report on Civil Service Budget and Staffing. Director Hudson reported that there had been some movement on staff's request for office space. Commissioner McClain stated that Cedric Grant said he could assist with staff's request for space.

Item #10 (c) was a report on the comprehensive classification and salary study. Alexandra Norton reported that the contract should be signed shortly. She stated she had looked at the questionnaire and the next step is to convene our advisory group.

There being no additional business to consider, Commissioner Tetlow moved for adjournment at 2:54 p.m. The motion was seconded by Commissioner McClain and approved unanimously.



Ronald McClain, Vice Chairperson



Tania Tetlow, Commissioner



Stephen Caputo, Commissioner