

CIVIL SERVICE COMMISSION
REGULAR MONTHLY MEETING
MONDAY, MAY 18, 2015

#1

The regular monthly meeting of the City Civil Service Commission was held on Monday, May 18, 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, Ronald P. McClain and Tania Tetlow. The Chairman convened the meeting at 10:08 a.m. The Commission then proceeded by sounding the Commission's docket. Once this was complete, at 10:39 a.m., the Commission proceeded with the business portion of the meeting.

The first item on the agenda was the minutes of the April 20, 2015 Commission meeting. The minutes were approved unanimously on motion of Commissioner Tetlow and seconded by Commissioner Tullous.

Item #2 on the agenda was a request from the Administration to grant a ten percent pay increase to commissioned police personnel. Deputy Mayor Emily Arata and Daniel Cazenave, NOPD Chief of Staff, represented the administration on this matter. Deputy Mayor Arata informed the Commission that the City has received \$14.6 million more revenue than budgeted this year. With those funds, the administration proposes a pair of five percent increases for commissioned police personnel. The first of these is scheduled for 7/1/2015, followed by an additional five percent to begin 1/1/2016. Mr. Robert Hagmann, Personnel Administrator, presenting for staff, noted that the effective date for the first of these increases would need to be 6/28/2015 and that for the second increase would be 12/27/2015. He added that this proposal would require changes to both the pay plan and to the special pay given to those in Commander positions. Mr. Hagmann relayed staff's support of the pay proposal.

Speaking in favor of the proposal was Mr. Donovan Livaccari, Fraternal Order of Police (FOP) attorney, Mr. Eric Hessler, Police Association of New Orleans (PANO) attorney, Police Captain Simon Hargrove, representing the Black Organization of Police (BOP), and Fire Captain Nicholas Felton, of the New Orleans Firefighters Association. Captain Felton added that the pay of Firefighters is far below others in the state and that NOFD is becoming the training ground for other fire departments when people leave.

Chairman Craig asked if this pay increase would then make those receiving it ineligible for a merit pay increase next year, as the Merit Pay Rule excludes those for whom pay increases are addressed under local law. Deputy Mayor Arata replied that it would. A motion to approve these pay increases was made by Commissioner McClain, seconded by Commissioner Tetlow and approved unanimously.

Ms. Alexandra Norton, Director of Innovation, asked that discussion on Item #3 be delayed until Mr. Roy Guercio, Comptroller, could attend and be part of the discussion. Therefore, discussion moved to Item #4, a report from management consultant EMH Strategy on policy and form development related to the Great Place to Work Initiative. Ms. Norton was joined by Mr. Jeremy Honeywell, a management consultant from EMH Strategy. Mr. Honeywell noted that his company has worked with Civil Service staff for a number of months in mapping the processes and developing the tools and templates needed for implementation of these changes to the Rules. Personnel Director Lisa Hudson added that the consultants were very helpful and that she would like to post the forms developed on the web so that department personnel officers may access them.

Item #5 on the agenda was proposed amendments to the Civil Service Rules. Item #5 (a) was a request from the Police Association of New Orleans (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 stated that staff has met with FOP and PANO to work to achieve a consensus with all stakeholders. It is expected that a second draft of the proposal will be released shortly. Considerations include working with ITI on ADP implementation to ensure that it can be done in the payroll system. Commissioner Tetlow asked about the phrase in the proposal "cumulative service time." It was suggested that an official definition of the term may be needed.

Item #5 (b) was a proposal to change Rule III, Section 4, regarding temporary work in a higher classification. Director Hudson noted that staff has submitted a draft proposed rule change. In addition, staff received two draft changes from the administration and a draft change from the Firefighters Association. Captain Felton noted that the Commission had requested information from him regarding how working out-of-class is handled in other places. He presented a proposal which would change the Rule to track those procedures followed by other jurisdictions throughout the state. Those cities are subject to Louisiana Revised Statute 33:1969. He noted that, whether the vacancy being filled is budgeted, is not an issue with this proposal. Captain Felton further explained that people are

disciplined if they fail to perform the duties of the higher class when serving in that capacity.

Commissioner Tetlow noted that the proposal does not mention the number of hours of work in a higher class that would be required prior to receipt of the higher pay of that position. Captain Felton replied that it could be one, two, or more hours; that Jefferson Parish requires the pay when one hour is worked in the higher classification. Commissioner Tetlow remarked that the private sector would generally not allow such a policy. Captain Felton's rejoinder was to point out that NOFD is not a private sector entity but a paramilitary organization dealing with "life or death" situations. Commissioner Tullous and Chairman Craig requested to see related policies from other jurisdictions. Commissioner McClain asked if the Fire Union was asking for retroactive pay, noting that a solution to the working out-of-class issue going forward seems closer. Captain Felton replied that, while they also wanted to correct the situation going forward, the Fire Union has come before the Commission asking about this pay situation since October 2013 and that they would continue to seek redress for work done in the past. He opined that fair compensation for work completed is paramount.

Ms. Norton asked that a comparison with State Civil Service be considered. She counseled the Commission to take time in deciding this issue. Shelly Stolp, Personnel Administrator, replied that she spoke to members of State Civil Service Commission staff earlier in the day. She noted that a consultant is working to rewrite the State's procedures. Ms. Stolp continued explaining that currently State Civil Service Rules allow appointing authorities to provide higher compensation immediately upon assignment of higher duties. Further, after 30 days of working in a higher classification, those Rules *require* the appointing authority to provide appropriate higher pay. Also, those working out-of-class longer than 30 days have the right to appeal this to the Commission and that there is a three year prescriptive period for retroactive pay.

In noting the number of issues that could arise, Ms. Stolp agreed that the appropriate amount of time should be taken in changing this rule. Chairman Craig asked how much time may be needed. Ms. Stolp responded by noting that changes to this rule would result in additional changes to the procedures outlined by EMH earlier in the meeting. Therefore, the work should be completed quickly so that the correct procedures and forms can be provided to departments only once and with minimal delay. Ms. Stolp continued noting that the State does not differentiate between exempt and non-exempt employees. She also pointed out that changes to this Rule should be congruent with those changes to the Special Assignment Rule

being considered. Ms. Norton suggested that a meeting with herself and others with the people at State Civil Service could be helpful. She noted that she had a different understanding of State procedures from her time as an employee there and from discussions with a current compensation manager for the State. Captain Felton requested that he be included in the meetings with State Civil Service on this matter. He also expressed his desire that the process be moved along quickly. Captain Felton noted that some delays can be traced back to the understaffing of the Civil Service Department.

Also speaking on this matter was Deputy Fire Chief Gary Savelle, representing the Fire Chiefs' Association. He indicated their support of staff's recommendation that the Rule also include overtime exempt employees. He noted that all District and Deputy Chiefs on the Fire Department are exempt employees. Chief Savelle informed the Commission that District Chief David Castle has been working in the higher classification of Deputy Fire Chief for the last 11 months without additional compensation. Ms. Norton then stated that Fire Superintendent Timothy McConnell supports promotions. She noted that promotional exams do not happen often enough. Ms. Norton then suggested that, if District Chief Castle were not promoted, one reason could be that Civil Service Staff has spent those 11 months looking into whether he meets the qualifications for the Deputy Chief position. Commissioner McClain asked if it were in Superintendents McConnell's power to ensure that Chief Castle is properly compensated. Ms. Norton replied that, if Superintendent McConnell has entrusted this person with these duties for this long, he would want to see him properly compensated.

Additional comments on the matter were offered by Mr. Hessler of PANO. He stated that he supported the proposal offered by the Fire Union. Mr. Hessler continued, pointing out that NOPD has a shortage of Police Lieutenants, even though there is a list available from which promotions may be made. As a result, there are Sergeants performing the duties of Lieutenants and not being paid for this work. Mr. Livaccari, representing FOP, echoed Mr. Hessler and Felton's comments, noting that employees are required to work out-of-class on a regular basis. He suggested that employees need a way to be able to make it known that they are being asked to work out-of-class. Further, he opined that the rule must be designed to prevent abuse, such as being required to do the work of a higher class for multiple months. Captain Hargrove commented, supporting the statements made by the other employee representatives and suggesting that the change be made so that these complaints can be handled simply and quickly.

At this point in the meeting, Mr. Roy Guercio arrived and the discussion returned to Item #3 on the agenda, Civil Service staff's report on New Orleans Fire Department (NOFD) employees working out-of-class. The New Orleans Firefighters Association had requested that the situation be investigated. Staff's report, released in March, outlined incidents in which Firefighters and Fire Apparatus Operators were required to work shifts in the higher classes of either Fire Apparatus Operator or Fire Captain. That report relied on the payroll system to indicate the number of budgeted vacancies filled by those in lower classifications. The administration had challenged this data. Director Hudson noted that a meeting with the administration was held the previous Friday (5/15/2015). However, a report of the administration's account of the number of budgeted vacancies was not provided at that meeting. In response to questioning from Commissioner McClain, Director Hudson informed the Commission that the vacancy information in staff's report was based on numbers approved by both the Budget Office of the Chief Administrative Office and by Civil Service.

Director Hudson noted other topics discussed at the 5/15/2015 meeting with the administration. These were proposed changes to Rule III, Section 4 (Temporary Work in a Higher Classification), and to Rule III, Section 5 (Dual Assignment). Changes to the Dual Assignment Rule are intended to address this issue going forward. Commissioner McClain asked for clarification of this Rule. Director Hudson responded that currently this Rule would allow those working temporarily in a higher class to complete a second timecard for that secondary classification, and thus receive appropriate pay. She continued informing Commissioners that use of two timecards in this way is not an option with the ADP payroll system.

Mr. Guercio noted that ADP has the capability to pay employees a higher rate, based on a percentage, for hours worked in a higher classification. Mr. Hagmann added that, while staff is trying to work with Finance Department employees to determine the proper percentage, there are a number of considerations that obfuscate the situation. Director Hudson noted that staff was not ready with a proposed Rule change that would allow for this proposed, different use of the dual assignment concept. Ms. Norton opined that the current Dual Assignment Rule would allow for the solution proposed and that the administration supported appropriate pay for Firefighters going forward. Mr. Hagmann pointed out that a proposal for a flat rate percentage increase for those working in a higher class would not be the same as what was intended by the Dual Assignment Rule. That Rule requires pay for each individual, as if that person were actually promoted to the higher class in which they are working – a different percentage increase depending on the individual's situation.

Commissioner McClain suggested that more meetings will be needed in order to provide the Commission with an option upon which they can act. He added that a single meeting on the last business day prior to the Commission's meeting would not be adequate. There was considerable disagreement about why these meetings occur so "last minute." Captain Felton noted that this confusion increases delay, which decreases the amount that the City pays Firefighters. He expressed frustration with the delays and characterized the administration's approach to this matter as a "stall tactic." Commissioner McClain indicated that a higher priority needs to be assigned these meetings because of the importance of pay issues. Commissioner Tetlow noted that there are two issues that require closure: 1) the correct pay for Firefighters going forward; and 2) the amount of back pay owed for previously working out-of-class. She indicated that there is a need to hear all of the arguments regarding back pay and be able to take action on that issue next month to avoid further delay. Chairman Craig and Commissioners McClain and Clark each made similar comments about the need for an actionable option to be presented to the Commission.

Item # 5 (c) was the introduction of an amendment to Rule IV, Section 2.2, related to Special Assignment Pay. Ms. Norton offered a change to this proposal on behalf of the Landrieu Administration. She stated that the reason for the Rule change proposal is to allow additional compensation for overtime-exempt employees who assume additional duties and responsibilities. She noted that staff's interpretation is that the special assignment must be of duties belonging to a higher classification than that of the employee. This interpretation is based on the Rule's requirement that the special assignment be "beyond the scope of current duties and responsibilities" (Rule IV, Section 2.2 (b)). Therefore, employees whose special assignment is of duties at or below that of the employee's classification have been denied the additional pay requested. Ms. Norton noted that the proposal would require the approval of the Personnel Director if greater than 5% or longer than one year.

Ms. Stolp emphasized the need for the Rules to be congruent. She noted that the Rule regarding Temporary Work in a Higher Classification (Rule III, Section 4) requires that there be a budgeted vacancy and that the work be done for a number of days before additional pay can be awarded. Whereas, this proposed Rule change would have neither of those requirements and would allow additional pay of up to 5% with no conditions. She also noted that, because it is dependent on the appointing authority making the request, it may be applied unfairly. Ms. Stolp noted that a request was not made by the appointing authority in the case of

District Chief Castle who has been working above his class for 11 months, as discussed earlier in the meeting. Commissioner McClain indicated that Ms. Stolp appears to be on the right track in seeking to ensure equity. There was much discussion regarding the need for Rule change proposals to be discussed and vetted, rather than revised and presented for the first time to the Commission at the meeting without the knowledge of other interested parties.

Item # 5 (d) was the introduction of an amendment to Rule X, Section 1.3 related to Personnel, Payroll and Attendance Records. Director Hudson provided background. She noted that the proposal was originally based on the staff's need to address the revocation of actions taken not in keeping with merit system principles. In some cases, the Great Place to Work Rule changes replaced the requirement for the Personnel Director's approval prior to personnel actions, with the ability to revoke actions that were taken improperly. Commissioner Tetlow noted that a separate version of proposed changes to this Rule was submitted by the administration. This version would require that the revocation of improper personnel actions be made by the Civil Service Commission. Ms. Norton explained a number of other proposed changes offered by the administration to this section of the Rules. Director Hudson stated that the administration's proposed changes to Section "A" were most problematic for staff. This section covers the responsibility of the Personnel Director to certify that a classified employee's pay is authorized and appropriate.

Item #6 on the agenda was Classification and Compensation matters. Item #6 (a) was the creation of a new classification of Community Police Mediation Program Manager for the Independent Police Monitor's Office. This item was deferred at the request of Simone Levin, Deputy Police Monitor.

Item #6 (b) was a request from the New Orleans Public Library (NOPL) for temporary pay increases. Addressing the matter for staff was Mr. Hagmann. The request was for retroactive increases for Sara Melton, Librarian II (10%), Don Bannister, Building Repair Supervisor (10%), and George Dansker, Librarian II (5%), each of whom took on additional responsibilities while filling in for someone in a higher classification who was unavailable. Representing the Library was Jason Johnson, the Library's personnel officer, who relayed the department's support for these temporary increases. Commissioner Clark, an employee of NOPL, recused himself from the matter. A motion to support staff's recommendation was made by Commissioner McClain, seconded by Commissioner Tetlow, and approved by all of the remaining commissioners.

Once this vote was taken, Mr. Terry Hampton, Secretary of Local #632, the Firefighters Union, took the opportunity to point out that the NOPL employees received retroactive pay for temporarily performing the duties of a higher classification, while similarly situated Fire Department employees have not. Ms. Norton spoke on this matter criticizing the length of time required to reach this solution. Commissioner Clark pointed out that the administration, which Ms. Norton represents, would have no criticism if the Civil Service Department were properly funded and staffed. Commissioner McClain noted that requests for additional staffing have been made and new employees are now on board. He continued by recognizing that the issue of Firefighters working out-of-class is an important and time-consuming one for staff. Commissioner McClain suggested that resolution is needed for determining the meanings of “working out-of-class” and “budgeted vacancy.” In discussions that followed, Commission Attorney Gilbert Buras, Director Hudson, and Ms. Stolp suggested that there may be a definition of a “budgeted vacancy” available in case law.

Item #6 (c) was a request from the Chief Administrative Office’s Department of Information Technology and Innovation (ITI) for a temporary pay increase for Mr. Theodore Nass, a former employee. A motion to support staff’s recommendation was made by Commissioner McClain, seconded by Commissioner Tetlow, and approved unanimously.

Item #7 on the agenda was Recruitment and Selection Matters. Item #7 (a) was examination announcements # 9078 through #9101. On motion of Commissioner Tetlow and seconded by Commissioner McClain, the announcements were approved unanimously.

Item #8 on the agenda was the Ratification of Public Integrity Bureau (PIB) 60 Day Extension Requests. There were no speakers on this item. On motion of Commissioner Tetlow and seconded by Commissioner McClain, the recommendations of the hearing officer were approved unanimously.

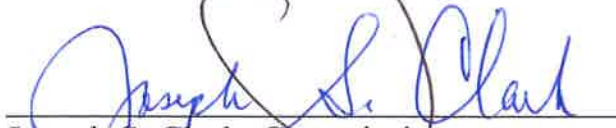
Item #9 on the agenda was Communications. Item #9 (a) was a report on ADP ongoing issues. Speaking were Ms. Stolp, Director Hudson, and Mr. Guercio. Ms. Stolp described a project to ensure that all of the pay grades of all classifications in the Pay Plan are correct and that employees are at the correct pay step. She commended the diligent work of Mr. Hagmann, Michael Brenes of ITI, and Mr. Guercio.

Ms. Stolp then noted these three issues: 1) there continue to be issues with ADP forms; 2) departments may have the ability to approve personnel forms on their own without Civil Service oversight; and 3) there are double-entries being made both in ADP and in the former payroll system, AHRS. Director Hudson relayed a situation in which a French Market employee was able to update approximately 1,500 positions throughout the classified system. Mr. Guercio explained that a functionality of ADP that was supposed to have been turned off was not. He indicated that this situation has been rectified. Responding to Chairman Craig, Mr. Guercio stated that the current ADP project was the correct payment of merit pay, which was being tested that day. There were some conflicts in the system for those employees also due to receive a longevity increase, but these conflicts appear to be something that can be dealt with relatively easily.

Director Hudson asked about an issue discussed in past meetings, people being paid without entering the official payroll system and being approved by Civil Service. Mr. Guercio responded that the administration was working on a policy regarding new hires.

At this point in the meeting, Ms. Reagan Wainwright, of the Mayor's Service and Innovation Office, addressed the Commission. She noted that it is their intention to roll out a new performance management system in 2018 and, until that time, merit pay would be available only to those receiving a rating of "Competent" or higher.

With no other communications to consider, on motion of Commissioner Tetlow, seconded by Commissioner McClain, the Commission voted unanimously to adjourn the meeting at 12:57 p.m.


Michelle D. Craig, Chairman
Joseph S. Clark, Commissioner
Ronald P. McClain, Commissioner

A handwritten signature in black ink, reading "Cordelia D. Tullous". The signature is written in a cursive, flowing style.

Cordelia D. Tullous, Commissioner