

CIVIL SERVICE COMMISSION
REGULAR MONTHLY MEETING
MONDAY, NOVEMBER 18, 2013

The regular monthly meeting of the City Civil Service Commission was held on Monday, November 18, 2013 at 1340 Poydras Street, Suite 900. Present were Chairman Kevin W. Wildes, S.J., Commissioners Joseph S. Clark, Michelle D. Craig and Edward P. Cohn. The Chairman convened the meeting at 10:07 a.m. and began by administering the oath to the new commissioner, Rabbi Edward P. Cohn, Loyola University's representative. The Commission then proceeded by sounding the Commission's docket. At 10:52 a.m., on motion of Chairman Wildes and seconded by Commissioner Clark, the Commission voted unanimously to go into executive session to discuss matters taken under advisement and pending litigation. At 11:38 a.m. the Commission completed its executive session and proceeded with the business portion of the meeting.

The first item on the agenda was the minutes of the October 21, 2013 meeting. The minutes were approved unanimously on motion of Commissioner Clark and seconded by Commissioner Craig.

Item #2 on the agenda was a request from the Law Department to address the Commission regarding the proposed temporary appointments of two hearing officers. Director Hudson explained to the Commission that the Civil Service Department lost its hearing examiner, Mr. Jay Ginsburg, who accepted a position with the New Orleans Police Department to oversee the consent decree process. As a result of Mr. Ginsburg's resignation, Director Hudson offered a transient appointment to Mr. Victor Papai and a small contract to Mr. James Mullaly to handle cases where there may be areas of conflict with Mr. Papai. After sending notice to the Law Department informing them of these appointments and that Civil Service would proceed with some of its hearings, Ms. Sharonda Williams, City Attorney, submitted a letter to the Commission, detailing a number of concerns of the Law Department. Ms. Williams addressed the Commission expressing concerns that these appointments may be a conflict of interest as well as a violation of the State's ethics rules for public servants. She also expressed that the Commission's rules require a competitive selection procurement process that was not followed in this case. She also asked that the Commission get an ethics opinion with regard to the appointment of Mr. Papai and Mr. Mullaly. Mr. Eddie

that he also sent a letter addressing each point made in the Law Department's letter. He stated that there may be certain cases where there will be conflict and that is the purpose for hiring two hearing officers. Mr. Raymond Burkhart, representative of the Fraternal Order of Police (FOP), and Mr. Eric Hessler, representative of the Police Association of New Orleans (PANO), spoke in favor of the temporary appointments of Mr. Papai and Mr. Mullaly. Mr. Gilbert Buras, Commission's counsel, informed the Commission that he was advised to seek the opinion of a practitioner who has expertise in this area. He stated that he has the name of a practitioner and advised the Commission to seek the professional opinion of that practitioner regarding any conflicts of interest and to follow his advice. Chairman Wildes moved to seek the professional opinion of a practitioner as suggested by counsel and to go through the normal process of putting out a request for proposal (RFP).

Item #3 on the agenda was Classification and Compensation matters. Item #3(a) was a review of the Office of Inspector General's unclassified School Construction Fraud positions. This item was deferred to the next Commission meeting at the request of Civil Service staff.

Item #3(b) was the emergency overtime pay rule change proposals. This item was deferred to the next Commission meeting at the request of Civil Service staff.

Item #3(c) was a request from PANO to investigate violations of Civil Service rules relative to the establishment of rates of pay for the Office of Police Secondary Employment. This item was deferred to the next Commission meeting due to pending litigation.

Item #3(d) was the establishment of payroll codes for payment through the City's payroll system for police detail work. This item was deferred to the next Commission meeting due to pending litigation. Mr. Raymond Burkhart requested that the Commission give the reason for the deferment and asked staff for its position on the matter. Mr. Gilbert Buras, Commission counsel, advised that the matter is in litigation and will not be discussed. On motion of Commissioner Craig and seconded by Commissioner Clark, the Commissioner voted unanimously to defer items 3(a) through 3(d) to the next Commission meeting.

Item #4 on the agenda was Recruitment and Selection matters. Item #4(a) was Examination Announcements #8884 through #8887. On motion of Chairman Wildes and seconded by Commissioner Craig, the announcements were approved unanimously.

Item #4(b) was a request from the administration to “Ban the Box” and remove any questions regarding felony convictions from the Civil Service Personal History Form and introduction of the CAO Ban the Box policy memorandum. Mr. Charles West, representing the City, explained that the proposed policy aims to reduce barriers that may prevent qualified workers with criminal records from attaining quality jobs with the City of New Orleans. He explained that the City’s Personal History Form has a question that asks applicants if they have ever been convicted of any offenses other than minor traffic violations. He stated that the proposed policy would remove this question and insure that all selected candidates who receive a conditional offer of employment would have a criminal history check. He explained that this would qualify applicants for employment based on the merits of their skills and experience while also taking into account any pertinent criminal history.

Ms. Amy Trepagnier, Personnel Administrator of Recruitment and Selection, addressed the Commission on this matter. She expressed that staff would like to make sure that the proper system is in place on the back end so the City is not exposed to any potential liability. She also informed the Commission that staff has some concerns regarding the CAO policy that has been proposed and how it would affect the Sewerage and Water Board since they are not required to follow CAO policy. Ms. Trepagnier noted that there should be training in place for city hiring managers to be sure that they are in compliance with the policy. She also noted that staff would like to get feedback from city departments and the Sewerage & Water Board regarding how they think the ban the box and the new procedures would affect their departments. Staff asked that the Commission seek a legal opinion on banning the box from the Personal History Form. Staff also suggested working on the policy with the Chief Administrative Office (CAO) to set up procedures to address some of its concerns. Mr. Burkhart expressed some concern with banning the box and asked for the opportunity to work on the policy with Civil Service and CAO. Mr. Norris Henderson and Mr. Leonard Veal both spoke in support of the ban the box. Chairman Wildes suggested that staff and CAO work together on the policy and bring it back to the Commission. Chairman Wildes then moved to defer the matter to the next Commission meeting. On second of Commissioner Clark, the matter was deferred unanimously.

Item #4(c) on the agenda was the extension of the Police Lieutenant register in accordance with Rule V, Section 5.3. Director Hudson informed the Commission that the current Police Lieutenant’s register was established in May 2009 and that there are currently twenty-three candidates who are eligible for promotion and four others who will be eligible for promotion upon proof of completion of a bachelor’s degree. Ms. Stephanie Landry, Deputy Chief of Management Services Bureau,

informed the Commission that the Police Superintendent, Mr. Ronal Serpas, requested that the list not be extended. Mr. Raymond Burkhart and Mr. Eric Hessler both spoke in support of extending the register. On motion of Commissioner Clark and seconded by Commissioner Craig, the Commission voted unanimously to extend the Police Lieutenant's register through May 2014.

Item #5(a) on the agenda was the proposed amendment to Rule IX related to disciplinary action and letters of reprimand. Director Hudson informed the Commission that items 5(a) and 5(b) are related. Mr. Richard Carter addressed the Commission informing them that the proposed change to Rule II, Section 4.1 is to add the words, "or letters of reprimand as defined in Rule IX." Mr. Carter stated that the proposed change for letters of reprimand is to add a section "g" to Rule IX, Section 1.1 to read, "letters of reprimand, if included in any publicly accessible personnel record and which may be used to support future discipline." Ms. Elizabeth Robins, attorney for the City's Law Department, stated that the Law Department did not object to including that letters of reprimand be appealable but that they are not in agreement with the distinction, "if it is used in a future disciplinary action." Mr. Carter and Director Hudson stated that staff would be agreeable to remove the qualifier, "if included in any publicly accessible personnel record and which may be used to support future discipline," from the amendment. Mr. Burkhart spoke in favor of listing letters of reprimand as a disciplinary action because it is a permanent part of a Police Officer's file. Chairman Wildes moved to defer the matter to the next meeting. The motion was seconded by Commissioner Cohn and approved unanimously.

Item #5(b) on the agenda was the proposed amendment to Rule II, Section 4.1 on appeals. This item was addressed with item #5(a) and was deferred to the next Commission meeting.

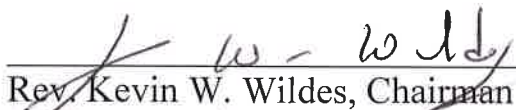
Item #6 was the ratification of Public Integrity Bureau (PIB) 60- day extension requests. The Hearing Officer's recommendations on these requests were approved unanimously on motion of Commissioner Cohn and seconded by Commissioner Clark.

Item #7 on the agenda was Communications. Item #7(a) was a status update on request from the Police Association of New Orleans (PANO) regarding Integrity Control Officers within the Police Department. Director Hudson informed the Commission that staff is working on its report and should be ready to submit it at the December Commission meeting.

Item #7(b) was an update on the status of establishing a Citywide Compensatory Time Policy. Director Hudson informed the Commission that staff is planning to meet with the unions on the matter but had not yet had a chance to meet with them. Mr. Burkhart asked that the matter be deferred until the next meeting so that the union can meet with staff. Mr. Hessler agreed with Mr. Burkhart.

Director Hudson informed the Commission that she had received a request to return to item #4(b) regarding ban the box. Ms. Alexandra Norton, a Service and Innovation Manager, addressed the Commission informing them that the administration had addressed staff's concerns. She informed them that the need for widespread training in all departments would be minimized because the review and determination of what felonies constitute job related felonies would be centralized and would be conducted by the Chief Administrative Office. She also informed them that the criminal investigation would not put any additional burden on the Police Department because it would be conducted by the State Police Association. Ms. Norton requested a conditional approval to remove the box from the application while the administration continues to work with staff on the implementation policy. Mr. Charles West again asked for approval with an effective date of January 1, 2014, which would allow time for the administration to address any minor issues. Chairman Wildes stated that the Commission would not vote on the matter until they see a policy in place and requested that the groups work together on a policy and submit the policy to the Commission.

Director Hudson noted that there were no other communications to consider. On motion of Commissioner Clark and seconded by Commissioner Cohn, the meeting was adjourned at 12:45 p.m.


Rev. Kevin W. Wildes, Chairman



Joseph S. Clark, Commissioner


Michelle D. Craig, Commissioner


Rabbi Edward Paul Cohn, Commissioner