

CIVIL SERVICE COMMISSION
REGULAR MONTHLY MEETING
Monday, July, 2017

The regular monthly meeting of the City Civil Service Commission was held on Monday, July 17, 2017 at 1340 Poydras Street, Suite 964. Ms. Doddie Smith, Personnel Administrator of the Management Services Division, called the roll. Present were Chairperson Michelle Craig, Vice Chairperson Ronald McClain and Commissioners Stephen Caputo and Joseph Clark representing a quorum. Chairperson Craig convened the meeting at 10:06 a.m. The Commission then proceeded by sounding its docket. At 10:44 a.m., on motion of Commissioner McClain and second of Commissioner Clark, the Commission voted unanimously to go into executive session.

At 11:14 a.m. the Commission completed its executive session and proceeded with the business portion of the meeting.

Item #1 was the minutes from the June 19, 2017 meeting. Commissioner Caputo moved to approve the minutes. Commissioner Clark seconded the motion and it was approved unanimously.

Item #2 was a report on delegation of authority to the Sewerage and Water Board (S&WB). Brendan Greene, Executive Counsel for the Civil Service Commission, reported that delegation had been ongoing for over a year and at the Commission's last meeting he noted the need to identify metrics to determine if it has been successful. He noted that staff had expressed frustration with the delegation process and S&WB had as well. He suggested that staff and S&WB need to meet and discuss what delegation looks like going forward and bring that to the Commission at its September meeting. He suggested a joint presentation with respect to delegation. Commissioner Craig noted that she would like it to be clear that the Commission would like S&WB to attend the Commission's meetings and let the Commission know if there is a problem they can address. Personnel Director Hudson asked for clarification on what a joint presentation would entail. Commissioner McClain clarified that it meant that both sides would attend. He stated the Commission should be ready to be assertive about whether or not delegation is working because there is too much at stake in terms of the work that needs to be done. Commissioner Craig further clarified that the presentation should be joint rather than adversarial. The Commission needs a thoughtful presentation of the issues and plans to fix

those issues. If they cannot be fixed there needs to be an honest conversation about whether or not this works.

Nicholas Felton, representing the New Orleans Firefighters Association, stated that during the legislative process this was a heated topic and at the end of the day they insisted on people coming to the table and coming up with solutions. He questioned if anything would be proposed at the next Commission meeting or if it was just a discussion. Commissioner Craig noted that it would be a solution oriented discussion. Commissioner McClain stated that the key is determining without much debate or ambiguity whether or not delegation is working and if it is not working maybe we try something else. At the end of the day, we need people employed. He further noted that Mr. Greene had been working with S&WB and the Commission's staff throughout. There have been a number of conversations that have resolved some issues, but there are still some things that need to be resolved.

Item #3(a) under Classification and Compensation Matters was a request from the administration to change the Emergency Pay Rule IV, Sections 9 and 11. Robert Hagmann, Personnel Administrator of the Classification and Compensation Division, stated that under the current rule some employees are excused from work during an emergency and receive emergency pay leave and those who are required to work receive a 50% premium. The administration is requesting that the premium continue for employees assigned to emergency work even if offices remain open as directed by the Emergency Operations Center (EOC). Presently, there is a mechanism for overtime even if City Hall is open if there is a declaration of emergency and people are assigned to emergency work. Staff reviewed the policies of other jurisdictions and other internal pay policies and proposed a compromise. Employees assigned to perform emergency related disaster relief activities outside the scope of their current classification and who are required to work outside of the location(s) to which they are normally assigned receive 5% above their normal rate of pay when there is a declared emergency during which city offices remain open for business. He noted that the administration was concerned that 5% was not enough. He noted that during a recent tornado event, roughly 1475 people were activated. That number varied during the course of the event. He noted that employees from Parks and Parkways, Sanitation and the Recreation Department who worked the event tended to be lower paid employees, so the administration was concerned that 5% was not enough. Commissioner McClain clarified that

these were employees who were required to be at work during an emergency event like everyone else but were assigned to a location other than their normal work location performing event related work. Mr. Haggmann suggested that a policy be written to allow for liberal interpretation of the location requirement of the rule. Mr. Haggmann clarified that the administration had proposed a 50% increase and staff was proposing a 5% increase. Mr. Haggmann noted that a Laborer earning \$11 an hour would receive a 55 cent per hour increase, but that a \$35 employee would earn \$1.75 extra per hour. He noted that the reason the existing rule pays a 50% premium to essential employees is that other non-essential employees are being paid for the whole day while on leave. The 50% premium makes that equitable. The Commission's current rules also allow for exempt employees to earn overtime during emergencies. Commissioner Caputo clarified that it would be 5% over the overtime rate. Mr. Haggmann agreed. He gave the example of an employee earning \$10 who would earn \$15 per hour with overtime and an additional 75 cents for emergency pay.

Aaron Miller, Director of Homeland Security, stated that the administration thought that the 5% was low. They wanted to recognize employees who step up when performing work they do not normally perform. He noted that the administration's recommendation was 50%, but noted they would be willing to meet somewhere in the middle. He noted that currently, if there is a declared emergency and City Hall remains open there is not the ability for individuals to receive emergency pay. There is the ability to receive overtime for exempt employees in very specific situations. He noted that other than those in public safety and operational support, the City relied on employees to volunteer to perform that work. He stated he wanted to incentivize that. He gave the example of Recreation Department employees working in shelters doing work that is not part of their normal job duties. Mr. Miller suggested changing the location requirement to work in a defined disaster area.

Director Hudson noted that this was the first time staff had received feedback on the proposal.

Mr. Miller noted that there was the potential to see more declared disasters during which City Hall remains open.

Director Hudson noted that Mr. Miller had had issues with getting feedback from others on his end.

Mr. Hagmann noted that this has major fiscal impact and that FEMA is getting tighter with their money. He further noted that FEMA had initially denied assistance for the tornado event.

Katie Dignon from the Project Delivery Unit, noted that because there is not currently a rule in place if something was to happen, the City could not issue payment.

Commissioners Craig and McClain urged Mr. Miller and the Civil Service staff to get together on this item. Commissioner McClain offered to hold a special Commission meeting if necessary.

Mr. Felton stated he was concerned about how this rule affects the Fire Department. He asked to be included in the meeting. Commissioner McClain stated that the existing parties were in the best position to make the decision. Mr. Miller offered to speak with Mr. Felton and Donovan Livaccari, who represents the Police Association of New Orleans.

Item #3(b) was a request from the EMS Division of the Health Department for title changes for the classifications of Emergency Medical Technician, Intermediate and Emergency Medical Technician, Basic. Mr. Hagmann stated that these title changes were based on a recommendation from the National Registry of Emergency Medical Technicians. There has been a change in the training requirement for the positions and related title changes. EMT Intermediate becomes EMT Advanced and EMT Basic becomes simply EMT. Staff and EMS both agree on these changes. Commissioner McClain moved to approve the request. Commissioner Clark seconded the motion and it was approved unanimously.

Item #3(c) was a request from the S&WB to create a new classification of Paralegal. Mr. Hagmann noted that the creation of this classification resulted as part of a job study requested by S&WB. The position would be at pay grade 67 with an entrance rate of \$36,119. This position will require a paralegal certificate. Commissioner McClain moved to approve the request. Commissioner Caputo seconded the motion and it was approved unanimously.

Item #3(d) was a request from the S&WB for a waiver to exceed overtime thresholds in accordance with Rule IV, Section 9.7. Mr. Hagmann stated

that a letter had been received on June 1st requesting the exemption for individuals who were projected to exceed the overtime limits. The letter explained that the majority of people on the list serve in critical public safety positions that require twenty-four hour a day staffing to ensure continuous operations. Mr. Greene stated that S&WB responded to his questions regarding classifications with large amounts of overtime and had indicated that they would be hiring individuals off of the registers for many of these positions. S&WB was also attempting to allocate additional vacancies in their mid-year budget process. S&WB also stated that they would change the assignment of some positions to address overtime. Mr. Greene noted that the real concern for the Commission was whether the department is trying to circumvent the pay plan by assigning people overtime. Commissioner McClain also noted a concern with how overtime is awarded to individuals.

Mr. Greene recommended the continued monitoring of overtime use via the quarterly earnings reports provided by S&WB and monthly vacancy reports. Mr. Greene stated that staff can also monitor the requisitions submitted by S&WB. Commissioner Caputo expressed concern over approving the overtime usage waiver without a cap. Mr. Hagmann noted that compared to previous years, S&WB had reduced its use of overtime. The Commission then discussed what an appropriate cap amount should be. Commissioner Craig noted that her concern was that everyone work together to determine how positions get filled so that so much overtime is not needed. Commissioner Caputo motioned to approve the request for a waiver to except overtime thresholds in Rule IV, without going beyond 900 hours. Commissioner McClain seconded the motion and it was approved unanimously.

Item #3(e) was a request from the Police Association of New Orleans (PANO) to change the designation of an injury that occurred while working for the Office of Police Secondary Employment (OPSE) on a paid detail from worker's compensation to injury on duty for Police Officer Johnathan Smith. Eric Hessler, representing the Police Association of New Orleans, withdrew the request.

Item #3(f) was a request from PANO to address the issues of creating a pay classification for detectives. Director Hudson reminded the Commission that this matter was part of a larger request from PANO. The Commission had addressed the other issues and this item was to remain on the agenda

until the classification study was complete. Michael Glasser, representing PANO stated that he had met with the Police Administration who had come up with a plan they were largely in favor of with a few caveats. Director Hudson reported that staff had received the proposal the week before and believed it had been provided to SSA, the compensation study consultant. Commissioner McClain asked for a timeframe for approval. Director Hudson stated that it was her understanding that the administration wanted SSA to review the proposal. Eric Melancon, Deputy Chief of Staff for NOPD, stated that the initiative is designed to focus on retention. He stated he was working with SSA to determine if the detective series would be accomplished through special assignment pay or a position that would be created. He stated he was working with the labor groups, Civil Service staff and SSA. He noted that part of the Administration's position is that they need to be able to fund the plan.

Mr. Hessler stated this needs to move forward as quickly as possible because NOPD is losing people every day and losing the ability to recruit every day.

Mr. Melancon stated that NOPD would like to move forward prior to the finalization of the overall classification and compensation study. Mr. Hessler and Mr. Melancon requested that the matter be considered at a special meeting. Commissioner Craig strongly urged that the parties come together prior to the scheduled monthly meetings so that special meetings do not need to be called.

Item #3(g) was the introduction of an amendment to Rule VII, Section 2, Interruption of Working Test Period to accommodate restrictions on an employee's activities due to a documented medical condition. Director Hudson reminded the Commission that this proposal came about as result of a June agenda item in which a Firefighter I could not complete their probationary period due to a medical condition. As a result, the department had asked for an interruption of the working test period. The Commission had agreed to give the department a provisional appointment in the interim. Director Hudson noted the proposed change was an addition to Rule VII, Section 2 and introduced the change for the record. When a working test period, for employees who are probationary with no other permanent status, is interrupted for more than twelve weeks due to the employee's inability to perform the essential functions(s) of a position as a result of a medical condition, injury, or light duty assignment shall be completed upon the employee's return to duty. The

employee's inability to perform the essential functions of a position must be certified by a physician. In such cases, the appointing authority shall request a temporary appointment in keeping with Rule VI, Section 5.3 as an interim measure until the employee is able to resume their regular duties and serve the remaining portion of the probationary period. Director Hudson noted that the proposed change would be sent out to the departments for feedback.

Nick Felton asked for a chance to review the language of the proposal.

Item #4(a) under Recruitment and Selection Matters were examination announcements #9681 to #9694. Commissioner McClain moved to approve the announcements. Commissioner Clark seconded the motion and it was approved unanimously.

Item #4(b) under Recruitment and Selection Matters was a request for approval of the Fire Deputy Chief and Fire Division Chief Job Announcement. Director Hudson reported that Fire Superintendent Timothy McConnell had approved the announcement. Shelly Stolp noted that he had made some minor changes to the kind of work that were acceptable to staff. Mr. Felton stated that he would like to review the announcement since it has been since 1998 that the last Deputy Chief test was given. Director Hudson stated that the posting of the announcement is to get qualified people on the register. Mr. Felton stated he was concerned that some employees would be disenfranchised depending on how the announcement is written. Amy Trepagnier, Deputy Personnel Director, stated that the announcement has been written in a way that allows everyone who has permanent status as a Fire District Chief to sit for testing. Applicants must have three years of experience to be promoted from the list. Commissioner McClain moved to approve the announcement. Commissioner Clark seconded the motion and it was approved unanimously.

Item #5 was the ratification of Public Integrity Bureau (PIB) 60 day extension requests. Chairperson Craig called for public comment. Julian Parker, a retired judge, stated that he was representing his son Officer Jonathan Parker. Officer Parker had suffered an injury while trying to effect an arrest in October of 2016. He has been under doctor's treatment ever since then. Workers Compensation had failed to approve an MRI until last Monday, eight months after the injury. In the meantime Officer Parker had applied with NOPD to be promoted to K-9 Officer. Part of the test for the position was a physical agility test. Someone from within the

department filed a complaint against him saying that he is not injured because he took and passed the physical agility test for K-9 Officer. He took the test in the presence of ranking NOPD officers and Paramedics and overcame the injury. He cannot move forward with the promotion to K-9 while he has a frivolous complaint pending against him for applying for the position of K-9 Officer. Nothing has been done in connection with the investigation. He stated he is against the extension for Officer Parker.

Mr. Greene stated that the request for extension had come before him on June 22nd. Lt. Matthews who was conducting the investigation represented that the nature of the allegation, the video evidence and the time away from work as a result of the injury has impeded completing the investigation within the original 60 days.

Commissioner McClain stated he has a problem with granting an extension when it is impeding someone's ability to be promoted. It is not about the merits of the case. The investigation needs to be done earlier.

Elizabeth Robins, representing the City Attorney's Office, asked that the Commission listen to the hearing examiner who heard this evidence and made detailed notes. Specifically, that there was some video evidence and other information and there was a concern that part of the reason the Officer could not complete the investigation is that the member was out and unavailable for him to do that.

Mr. Greene stated that one of the factors was that the investigator was newly promoted and had additional duties as a Lieutenant. He stated that the accusation was that the injury itself was fictitious. The investigator wants to make sure that the investigation is complete and thorough because the Officer faces serious discipline as a result of the allegation. There may be video evidence that needs to be reviewed.

Mr. Parker stated that the video is available on YouTube and that Officer Parker admits he took the test. As far as Officer Parker not being available that is just not true.

Commissioner Craig asked if the video referenced was on YouTube. The Shontee Smothers, representing PIB, stated that she could not speak to that. She stated that the investigator is not located in PIB. He is an outside district investigator and so he would have a lot more duties. Officer Parker

had the opportunity to address these issues at the extension hearing with the investigating officer sitting there.

Ms. Robins stated that it is a problem in general because a person was given notice to attend that hearing and counter the investigator's request, but they don't and instead go before the Commission where there are limited notes and the hearing officer usually isn't there. Had the person exercised their right at that hearing and then come before the Commission that is one thing, but it makes it difficult when they don't. Commissioner Craig stated that Officer Parker has every right to come before the Commission even if he did not appear at the extension hearing. Officer Parker stated he was unable to check his departmental email while he was out, so he did not know about the extension hearing. Discussion regarding the deadlines for completion followed.

Mr. Parker stated that this is not a complicated investigation and it is keeping him from being promoted. PIB has not contacted him for an interview. Nothing has been done. Ms. Smothers stated that since it was an investigator in the district, PIB could not provide specifics on the investigative steps that have been taken. She noted that an extension can only be requested within the first 30 days of an investigation. The investigator assumes that they will be granted an additional 60 days, so now they have 120 days to complete the investigation. She noted there was no longer blanket approval of the extensions and that Mr. Greene has done an excellent job of requiring the investigators make an agreement with the reasons the extension is needed.

Director Hudson suggested granting an extension that was less than 60 days as a compromise. Commissioner Craig noted that it was problematic that an interview had not yet occurred. Ms. Robins noted that the investigation had only been ongoing since 2017. She stated that she would not recommend the 30 days because Mr. Greene makes the determination at the extension hearing as to how much additional time is needed to complete the investigation. Commissioner McClain asked Mr. Greene if the fact that Officer Parker was up for a promotion affected his decision. He replied that it was a factor and an item of discussion, but he felt that the nature of the investigation and the nature of the evidence provided by the investigator also factored into his decision to approve the 60 day extension. Ms. Robins stated that if the Commission denies the extension and the 60 days have already passed, then discipline cannot be issued. Commissioner Caputo

asked what has been accomplished in the first 59 days of the investigation. Mr. Greene responded that he asked at that time, but did not have in his notes what had been done. He only noted what remained to be done. He stated that he believed at the time that the investigating officer had articulated a justification for extension. Ms. Robins asked that if the Commission denied the 60 day extension that they would at least approve a 20 day extension.

Commissioner McClain questioned why Officer Parker would be allowed by NOPD to take a physical agility test if he was out with an injury. Commissioner Clark moved to deny the request for Officer Parker's extension. Commissioner Caputo seconded the motion and it was approved unanimously.

Commissioner McClain moved to approve the other PIB extensions. Commissioner Clark seconded the motion and it was approved unanimously.

Item #6 (a) under communications was a report on ADP ongoing issues. Roy Guercio, Comptroller, reported that the paycheck and human resource action history from AHRS had been successfully uploaded into ADP.

Item #6(b) was a report on Civil Service Budget and Staffing. Director Hudson reported that the department had not received funding for the buildout of additional space. Rebecca Atkinson, representing the Chief Administrative Office, reported that in May as she was onboarding she was told that the request had been submitted to the CAO. She later determined it had not been submitted and so she submitted it in June. There is not an allocation for it in the budget at this time. If some funding becomes available, the CAO would be open to allocating it. Commissioner McClain stated that the previous person in Ms. Atkinson's position had reported that the request had been made and had been responded to favorably. Ms. Atkinson replied that when she reached out to confirm this after the May meeting she was told that the request had not been received. Ms. Hudson stated that in her dealings with Property Management it was her understanding that the CAO's office was aware of it. Ms. Atkinson clarified that the scope of work had been received and reviewed, but that the budgeted amount of \$37,000 had not been submitted. There was some confusion around whose budget it would come from. At this time the CAO's office does not have the resources to allocate to this. Commissioner McClain noted that the Commission was concerned about staff working on

top of each other particularly since the previous person, Ms. Norton, had indicated on more than one occasion that this was moving forward.

Commissioner McClain asked if new space for the City was imminent and if Civil Service was involved in those plans. Ms. Atkinson responded that was a longer term plan. Commissioner McClain noted his concern with the change in direction. It is unfortunate because the Civil Service department has a critical role in keeping these operations running. We have had a time with getting space and getting what we've needed.

Director Hudson reported that the Recruitment Division had just lost an Analyst. She reported that additional employees could not be hired due to the space issue. Commissioner McClain stated that the Commission believes strongly that there is a need for additional space.

Item #6(c) was a report by SSA on the comprehensive classification and salary study. Christel Slaughter, representing SSA, stated that SSA had done a lot of work with classification and pay systems of municipalities, neighboring jurisdictions, parishes, law enforcement agencies and the State Civil Service system. She reported that over 2,200 Job Analysis Questionnaires (JAQs) had been completed out of 4,500 possible and that this is enough data to complete the study. SSA is working on analyzing the data and is working the Civil Service staff and the administration on completing a list of benchmark jobs. Commissioner McClain asked if there was a delay in the completion date of October. Ms. Slaughter responded that there had not been a delay in the date. She stated that SSA wants to make sure that they are recommending solutions that solve problems. She reported meeting with NOPD and its labor groups and with the Fire Union. Time with the Fire Chief had been requested. Meetings with SEIU are also anticipated. The next step is meeting with department heads. Commissioner Craig asked if additional JAQs had been received since the last meeting. Clay Kittrell with SSA reported that they felt they had received enough JAQs at this point to move forward with departmental discussions. Ms. Slaughter stated that approximately 30% of jobs will be benchmarked and that SSA was beginning market matches for those jobs. SSA will bring the Commission a draft report in September and will also look at different scenarios for implementation. Mr. Kittrell noted some concern with addressing NOPD's proposal outside of the larger context. Ms. Slaughter stated SSA will keep the Commission's staff posted.

Nick Felton stated that firefighters have been patiently waiting for two years while watching other departments get pay raises and merit pay. This is about fairness. We have provided data and cooperated but we are not seeing any results. Firefighters still start at \$10.34 per hour as Recruits. Fire should be added to the Police pay raises. You have to earn \$62,000 per year to live comfortably in this city. Health insurance and pension costs have gone up. We have retention and recruitment problems. We have seen an exodus for better paying jobs. Firefighters are leaving in huge numbers. There is a responsibility for the Civil Service Commission to make sure Firefighters are treated fairly and equitably. Commissioners Craig and McClain stated that they had asked SSA to prioritize firefighters as Mr. Felton had requested. Mr. Felton stated that Fire was being asked to wait until the whole study is complete in October, but that a special meeting would be held before then to give increases to Police. Commissioner McClain suggested that the Fire union should come together with the Administration to work something out like Police had done. A joint request makes it much easier for the Commission to move. Mr. Felton noted that the Appointing Authority, Timothy McConnell, had stated publically that he believed firefighters were overpaid. Commissioner McClain responded that Chief McConnell had not said that before the Commission. Mr. Felton noted that sometimes difficult decisions must be made by the Commission. Commissioner McClain stated that the Commission needs the administration to weigh in. Mr. Felton stated that this administration will balk at giving fire employees a penny and it will come to the Commission and the Council.

Clifton Moore, representing the New Orleans Firefighters Association, stated that joint approval is not a prerequisite for the Commission to make a decision. It has been nine years since the firefighters have received a pay increase. We will not have the support of the Chief even after the compensation study is released.


Ms. Slaughter stated that if you are matching apples to apples it doesn't matter if the administration or fire union feels passionately. It is about the data. As an antidote, it is concerning that we are losing people to Jefferson Parish. SSA is data driven, but antidotes give us clues where to look.

Mr. Felton asked if the Fire Department could be frontloaded and get this information out ASAP since the budget process has already begun.

Item #6(d) was a report on the Civil Service Commission Election. Director Hudson stated that Clifton Moore Jr. had received 195 votes, Robert Hagmann had received 185 votes and David Watkins had received 166 votes. The three names had been sent to the City Council for them to make a selection. The vacancy occurs on August 17th.

Commissioner Craig thanked Commissioner Clark for his service as the employee representative and read a Council proclamation thanking him for his service.

There being no additional business to consider, Commissioner McClain moved for adjournment at 1:38 p.m. The motion was seconded by Commissioner Caputo and approved unanimously.



Commissioner



Commissioner



Commissioner