

CIVIL SERVICE COMMISSION
REGULAR MONTHLY MEETING
Monday, August 27, 2018

The regular monthly meeting of the City Civil Service Commission was held on Monday, August 27, 2018 at 1300 Perdido Street, City Council Chambers. Ms. Doddie Smith, Personnel Administrator of the Management Services Division, called the roll. Present were Chairperson Michelle Craig, Vice Chairperson Ronald McClain, Commissioner Clifton Moore, Jr., and Commissioner Stephen Caputo. Chairperson Craig convened the meeting at 10:12 a.m. At 12:12 p.m. on motion of Commissioner Caputo and second of Commissioner McClain, the Commission voted unanimously to go into executive session.

At 12:43 p.m. the Commission completed its executive session and proceeded with the business portion of the meeting.

Item #1 was the minutes from the June 18, 2018 meeting. Commissioner McClain moved to approve the minutes. Commissioner Moore 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 Commission, stated that the last time staff had received a vacancy report from S&WB in March it included 575 vacancies. At its July 24, 2018 presentation to the Council S&WB's former Human Resources Director stated S&WB had 494 vacancies including 204 positions for which S&WB had reduced the funding. At an August 8th meeting of S&WB's Finance Administration subcommittee S&WB indicated a net gain of 40 people in July. Mr. Greene noted that they had set a target of 179 vacancies by August 31st. Mr. Greene noted that it is difficult to zero in on the vacancies and whether or not there are active registers for those vacancies because it is somewhat of a moving target. S&WB is trying to get a handle on what they are doing with the positions moving forward. He stated that the staff, the Commission and he were committed to working with the incoming Executive Director with respect to staffing challenges. He further stated that the Commission may want to explore winding down delegation with input from S&WB and seek input from Civil Service staff as to whether it makes sense or not to reboot delegation with a smaller appointing authority. Commissioner McClain stated that he agreed with Mr. Greene that this is the time to start winding delegation down.

He stated that the attempt to expedite the hiring of workers may not have worked notwithstanding the serious transitions at S&WB. It appears that based on what we have heard it did not result in faster hires or more people being hired. Mr. Greene agreed with Commissioner McClain's assessment.

Item #3(a) under Classification and Compensation Matters was a request from the Sewerage and Water Board for an exception to Rule III, Section 4.1 relative to a temporary pay increase for Ms. Jasmine Lawrence. Robert Hagmann, Personnel Administrator over the Classification and Compensation Division, stated that Ms. Lawrence, an Office Assistant II, had temporarily performed the work of a Management Development Analyst who had left S&WB. He noted that S&WB is seeking an exception to the rule because an active eligible list is in existence. Mr. Hagmann stated that staff was agreeable to a 5% increase from December 1, 2017 to April 19, 2018. Commissioner McClain moved for approval of the request. Commissioner Caputo seconded the motion and it was approved unanimously.

Item #3(b) was a request from the Police Department to amend the Detective, Academy trainer and Public Information Bureau special rates of pay to remove eligibility during special events. Robert Hagmann noted that currently, employees in these assignments receive a 10% premium for all time worked. Due to budgetary impact, NOPD has asked that the special rate of pay be removed during special events when they are assigned different responsibilities. He noted that currently, these employees do receive the pay during special events. Eric Melancon, Deputy Chief of Staff for NOPD, stated that it would affect about 300 employees. Commissioner McClain asked if it would result in the employees receiving less pay. Mr. Melancon responded affirmatively and noted that it would equalize the pay of those performing similar duties such as working parade routes during Mardi Gras. He noted that it is similar to Field Training Officers who receive a special rate of pay, but only when they are assigned a Recruit. NOPD would like to reinterpret the rule or redraft the special rate of pay if required to compensate these officers only when the special rate of pay duties are being performed, not when they are performing a special assignment. Commissioner McClain asked if input has been sought from the representatives of these employees. Mr. Melancon responded not at this time. He noted NOPD only wanted to apply the change moving forward. Mr. Hagmann noted that staff was waiting on Finance to determine what the capabilities of ADP would be. Commissioner Moore noted his concern that this would lessen the incentive for employees to take these special assignments.

Eric Hessler, representing the Police Association of New Orleans, stated that while he understood the budgetary issues, the rule should say when assigned *additional* duties as opposed to *other* duties because when homicide detectives are assigned to two or three weeks of Mardi Gras duties, their homicide investigations are not suspended. They are still expected to contact victims and witnesses and do their job as a detective. Commissioner McClain asked how a detective who took calls regarding a homicide on the parade route would be compensated. Mr. Melancon responded that it would be detective time if they cleared it with their Sergeant and logged it. Mr. Hessler expressed a concern that employees who ride motorcycles or horses only during special events do not receive the additional hazardous duty pay normally tied to those assignments.

Commissioner Moore then asked how leave time is calculated for employees in these special assignments. Mr. Melancon responded that the special rate of pay is included in leave unless it is extended leave. When it is extended leave they are moved out of their assignment to the Administrative Duties Division and the special rate of pay is removed.

Donovan Livaccari, representing the Fraternal Order of Police, stated that he echoes Mr. Hessler's comments and noted that there are some days where Officers work their regular jobs for a portion of the day and then work on the parade route for the remainder of the day. He stated that the comparison to the Field Training Officer is not the same because a Field Training Officer generally knows if he will have a Recruit assigned to him. It is not something that generally changes mid-shift. He questioned that if an Officer took leave that he would make more money than if he worked. He noted his concern with the incentive being changed.

Commissioner McClain asked if officers have the option to take on special event duties or not. Mr. Melancon responded that it is a requirement. He noted that Officers earn overtime during special events so their overall compensation actually increases during that time. He then clarified that if this policy was enacted Officers would receive less money than the current application of the rule. Director Hudson stated that staff would need more time to understand how this would work in ADP. Commissioner McClain moved for deferral with the proviso that NOPD engage the other stakeholders, particularly the unions. Commissioner Caputo noted his reservations about

enacting the change stating that it was a slippery slope. Commissioner Moore seconded the motion for deferral and it was approved unanimously.

Item #3(c) was a request from the Police Department for retroactive application of Rule IV, Section 8.3 relative to Lt. Christian Hart and Senior Police Officer Rhonda Hamann. Mr. Hagmann stated that Lt. Hart and Officer Hamann were reinstated in December of 2014 prior to the effective date of the cumulative longevity rule which was effective August 1, 2015. The rule was amended at that time to allow for a cumulative service date for longevity and leave purposes to be calculated based on non-consecutive service with the city. He noted that PANO's previous request for retroactive application had been denied by the Commission, but also noted that the Police Superintendent now supports the exception for these officers. Mr. Hagmann stated that at the last regular meeting, the Commission had asked that their attorney provide a legal opinion regarding this matter. Eric Melancon stated that NOPD believed that the rule as written can be applied prospectively. He stated that his request is not retroactive, it is going forward. Director Hudson clarified that the retroactive application refers to the fact that the rule did not exist when those employees were hired. You would have to go back and apply a rule that did not exist at that time. She stated she believed that was the question put to the Commission's attorney.

Commissioner McClain asked if Lt. Hart and Officer Hamann made their decisions to come back before this rule was in place. Mr. Hessler responded that there were other reasons for them wanting to come back. He noted that they were aware that he was attempting to introduce the rule change. Commissioner McClain stated that they made their decision to come back without regard to whether cumulative leave would be on the table for them. Mr. Hessler responded that the rule was being written for the exact same scenario they were being considered for. They earned this rate. Commissioner McClain stated that the rule was not in place at the time they came back. The rule was meant as an incentive for Officers to come back to the Police Department.

Brendan Greene stated he believes that the application of the rule, even prospectively, violates Article 7 section 14 of the Louisiana Constitution which prohibits gratuitous donations of public funds. The rule was designed as a recruitment tool to encourage former employees to return to the classified service. If it is applied to employees who were already on board prior to its

implementation in July of 2015, it defeats the public purpose of the rule. Mr. Hessler argued that their return provided a benefit to the public.

Mr. Hagmann also noted that applying this rule retroactively would set a precedent for other city employees. He stated that it may open the door for retroactive application of other rules that affect compensation. Commissioner McClain moved for deferral. The motion was seconded by Commissioner Moore and approved unanimously.

Item #3(d) was a request from the Project Delivery Unit to retitle two unclassified positions to Historic Preservation Specialist and Disaster Relief Archeologist. Robert Hagmann stated that at the request of the Mayor's Office, staff was recommending the retitling of two unclassified positions the Commission approved in 2017 for FEMA disaster recovery projects. Cost Control Specialist was being retitled to Disaster Relief Archeologist and Project Controls Manager was being retitled to Historic Preservation Specialist. Both positions would remain at their existing compensation levels. The positions are being repurposed to ensure that historical integrity is protected in the community. Mr. Hagmann stated that staff supports the request. Commissioner McClain moved to approve the request. The motion was seconded by Commissioner Caputo and approved unanimously.

Item #3(e) was a request from the Police Association of New Orleans (PANO) to reclassify the worker compensation status of Police Officer Ester Cauthron to Injured on Duty. Robert Hagmann stated that the information regarding Officer Cauthron's injury was not received in Civil Service within the 30 days required in the Rules. PANO is requesting an exception to the rule to reclassify Officer Cauthron's injury from worker compensation status to Injured on Duty. Eric Hessler and Bryan Bartholomew, NOPD's Human Resources Director, both spoke in support of the request. Commissioner McClain moved to approve the request. The motion was seconded by Commissioner Caputo and approved unanimously.

Item #3(f) was a request from Attorney IV James Thompson to discuss the development of the S&WB Deputy Special Counsel position, the closing of the current eligible list and various communications. Commissioner Craig stated that the Commission had received an organizational chart of Sewerage and Water Board's Legal Division that shows two Deputy Special Counsel positions. She asked if Mr. Thompson if he was referencing a third position that does not appear on the organizational chart or the in house vacant position. Mr. Thompson responded that he supposed it was the position that

was not on the chart. Commissioner Craig stated that if the position he is referencing is not on the chart and no longer exists, then it is a moot issue that the Commission cannot do anything about. Director Hudson stated that the Commission had received information that day that the division had been reorganized and the position no longer exists. Mr. Thompson stated that in November of 2017 he was told by the City Attorney, who is the legal advisor to S&WB, and the retiring Special Council at S&WB that they needed the work to be done once the Special Council retired. Mr. Thompson stated that the City Attorney told him that they would promote him or create a new position to Deputy Special Council to get the work done. Mr. Thompson then referred the Commission to a job study questionnaire signed by the City Attorney proposing an additional Deputy Special Council position which he said was for him. He stated that there was no approval of that new allocation. Director Hudson stated that an additional Deputy Special Council was approved by the Civil Service Department, but she did not believe it had been budgeted. Shelly Stolp, Personnel Director over the Recruitment and Selection Division, noted that a requisition for the third Deputy Special Council position had never been received. Commissioner McCain told Mr. Thompson that it appears that his situation has been caught up in transition and that whoever made that representation is no longer with the S&WB or if they are, they have changed focus areas. Now it appears that the Special Counsel has stated that the position does not exist and it is not budgeted. Mr. Thompson stated that he wanted to focus on the retroactive compensation issue because he had been working in that classification since November. Commissioner Craig noted that the facts in that matter were in dispute. She noted that Mr. Thompson's information indicated that he acted as a Deputy Special Council and supervised an Attorney, but that is in dispute. Commissioner Craig stated that in Ms. Grinstead, the current Special Council's letter, she stated that this was not the case. Mr. Thompson replied that Ms. Grinstead indicated that all attorneys performed additional duties as result of the retirement of the Special Counsel. He stated that she may not be familiar with all of the duties he had been performing over the last ten months. Mr. Thompson indicated that he had been performing different duties than the other employees performing additional work. Many of the duties that were performed by the Deputy Special Counsel were assigned to him upon that person's retirement. Commissioner Craig then asked Mr. Thompson if he had been supervising an attorney or not. Mr. Thompson responded that the answer to that question was a catch-22 because in order to sign time sheets this request would have to have been approved. When questioned by Commissioner Craig, Mr. Thompson stated that he did supervise other Attorney IVs in the office.

Director Hudson recommended that because there is a dispute between the employee and employer regarding if Mr. Thompson worked out of his job class that staff could go back and find documentation to support Mr. Thompson's request. Mr. Thompson disputed that there is a dispute between the employee and employer, just the current individual in the Special Counsel position, Ms. Grinstead. He stated that Mr. Greene could confirm that. He noted that at the time in question, Ms. Grinstead was not in a position to approve or disprove this. He stated Ms. Grinstead agrees that she can't comment on this. Commissioner Caputo asked how do we know this work was performed. Mr. Thompson responded that he would ask that they consult with the Commission's Executive Counsel who is intimately familiar with the details of it. Commissioner Craig stated that there should be someone else besides the Commission's Executive Counsel who knows that Mr. Thompson did that work. She then asked who that would be. Mr. Thompson responded that it would be the City Attorney and Jade Brown-Russell. Commissioner McClain noted that in Ms. Brown-Russell's letter she deferred to the Special Counsel. Mr. Thompson again stated that the Commission's Executive Counsel had intimate knowledge of the duties he was asked to perform. He stated that he would agree that Ms. Grinstead does not have enough information. Commissioner Craig clarified that Ms. Grinstead is not saying that she does not have enough information; she is saying that Mr. Thompson did not perform those duties to the extent that he should receive retroactive pay. Mr. Thompson replied that during that time Ms. Grinstead was not in the position to make those decisions. Commissioner McClain stated that in her letter, Ms. Grinstead indicated a number of considerations that resulted in her position. Commissioner Craig stated that Ms. Grinstead is opposing the temporary pay.

Mr. Thompson stated that he had applied for the position in April. At that time, by staff's calculation he had 119 months of the 120 months of experience required. He stated that the Personnel Director now agrees that he meets the qualifications for the job. Director Hudson stated that it was her understanding that the announcement closed prior to Mr. Thompson becoming eligible for the promotion. It is not currently open. The only way Mr. Thompson can be placed on the list is if the department requests the list to be reopened. There is currently an eligible list with a number of people on it. The department can ask that it be reopened. We reached out to the department and they have not responded. Commissioner Craig stated that the path forward seems to be to talk to Ms. Grinstead and find out what she wants to do. Director Hudson asked Mr. Thompson if he could provide documentation that he supervised

staff. Mr. Thompson then referenced a letter from the City Attorney. Director Hudson said that the letter requested temporary pay, but staff would need the documentation that he did the work such as documentation to show whether he supervised other employees, conducted performance evaluations, signed off on time cards, or scheduled work. Mr. Thomson stated he would not be able to find documentation on performance reviews or time cards because he could not do so until he was put into that position. Commissioner McClain asked Mr. Thompson if he is saying he would have trouble finding it because it does not exist. Mr. Thompson said yes. Commissioner McClain stated to Mr. Thompson that the Personnel Director advised that you can find a memo directing staff's duties. Director Hudson stated that if Mr. Thompson can submit that documentation, staff can take a look at it and make a decision based on that. The approval would be based on the documentation and how qualified he was at the time.

Item #3(g) was a request from Marketing Development Coordinator Michelle Thomson, and employee with NORDC, to apply Rule IV, Section 2.7 (d) relative to Extraordinary or Superior Qualifications, Experience, Credentials Pay. Robert Hagmann stated that Ms. Thomson is asking for retroactive application of the rule based on the hire of Jeremy Smith at 25% above the minimum with qualifications that were the same as Ms. Thomson. Staff concurs with her request. Mr. Hagmann stated that NORDC did not oppose the request, but they did note budgetary concerns with the request. Michelle Thomson then asked for the Commission's approval of her request for retroactive application of the rule. Commissioner McClain moved approval the motion was seconded by Commissioner Moore and approved unanimously.

Item #4(a) under Recruitment and Selection Matters was the approval of examination announcements 9925-9944, 9946-9964, and 9966-9976. Commissioner McClain moved to approve the examination announcements. The motion was seconded by Commissioner Caputo and approved unanimously.

Item #4(b) was a request from the Police Association of New Orleans (PANO) for an examination for the classified position of Major. Eric Hessler stated that this request was originally made in 2011 when there was an open classified position. It is seven years later and the position is still open. He stated that paragraph 305 the Consent Decree requires a test every two years. Director Hudson stated that she did not believe NOPD was looking to fill

Police Major. She stated that staff believes that Police Commander has subsumed the role of Police Major and Captain so there is no need for a test. Eric Melancon stated that the current budget does not support an additional Major vacancy and there is no operational need for one. The current command structure is sufficient. There is no need for a Majors test. Mr. Melancon asked what role the open Major position filled. Mr. Hessler responded that it was Chief of Staff to the Superintendent. Mr. Melancon responded that that role is currently being performed by a contractor and Mr. Melancon's unclassified Deputy Chief of Staff position. The contracted position serves as a primary advisor on the Consent Decree. Mr. Hessler noted that it is highly unusual to fill the classified position with a contracted employee. Commissioners McClain and Craig noted their concern with the contracted positions. Director Hudson stated that staff prefers to see positions filled with classified employees, but we don't have control over that. She also stated that staff's position on the Major's test is that there is no need to create a test if the department does not have any vacancies. Mr. Melancon clarified that every contract is approved by Civil Service. Director Hudson stated she does not believe staff saw that contract. Melancon noted that if the Chief of Staff position were brought in house it should be an unclassified position because it is a position of confidence and it would be incongruent for the Deputy Chief of Staff to be unclassified with a classified Chief of Staff. Director Hudson stated that she would disagree with that because the position was classified for many years. When staff reviews contracts it looks at if an employee is being displaced and if so, is it for political reasons and if those two prongs are met we do not have the ability to deny it. She said she takes issue with the implication that staff okayed that position to be contracted. Mr. Hagmann stated that the contract was specific that the position would provide advisory services with respect to the Consent Decree. It was not going to take on the former role of a classified position. Melancon stated that the Major position was allocated with a two year probationary status which was the precursor to the special rate of pay for Commanders. The allocation of Major was done so with a broad amount of discretion for the Superintendent. To have a Majors test without the necessary force compliment to effectuate that proper span of control is not responsible. Mr. Hessler noted that there is no Civil Service Rule allowing for a two year probationary period. Director Hudson stated that staff granted provisional appointments until a test could be created. It was not to grant unfettered discretion. Mr. Hessler stated that NOPD says they don't need a test and it is because Commanders are doing the work of the Captains and Majors. Director Hudson stated that there is no need for an examination because they are not using the classification. Commissioner McClain

motioned to deny the request with the proviso that there should be discussions in the future on looking at whether or not it is appropriate. The motion was seconded by Commissioner Caputo and approved unanimously. Commissioner Craig stated that going forward there will be serious scrutiny on contractors working jobs that should go to the classified service.

Item #5 was the ratification of Public Integrity Bureau (PIB) 60 day extension requests. Commissioner McClain called for public comment. Officer Joshua Tattershall objected to his extension and stated that there was ample amount of time for an investigation. A representative for PIB was not present. Commissioner McClain moved to approve the extensions with the exception of Officer Tattershall's extension. Commissioner Caputo seconded the motion and it was approved unanimously.

Item #6(a) under Communications was a report on SSA Classification and Compensation Study Implementation. Director Hudson reported that staff had worked with the administration to establish an implementation schedule for the pay plan adopted by the Commission and Council. The first phase for employees in pay grade 50 and below was implemented in May. Mr. Hagmann then went through the dates for each phase, with the implementation for all phases to be complete by the end of 2018.

Item #6(b) was a report on a request for a Disparity Study. Director Hudson stated that Councilmember Moreno's office had followed up regarding the status of a Pay Disparity Study requested by the Landrieu Administration during the SSA study. While initial scoping had begun during the initial study, nothing had been done by the administration to secure the funding and the Commission did not have the funds to secure the study independently. Director Hudson offered to follow up with the administration to secure some funding, but noted that the cost was not known at this time. Civil Service was not the lead on the previous study. Julie Schwam Harris, a volunteer who supports a coalition in favor of equitable compensation for all workers especially women, thanked the Commission for placing this item on the agenda. She noted that Louisiana is at the bottom of what women earn in comparison to men. It is 70 cents on the dollar and 48 cents for African American women. Public workers make a little bit more than private workers because there is more pay transparency in public work. It is 82-84 cents on the dollar even in the public sector. She stated that the statistical analysis is a good beginning, but there is also serious discrimination based on job segregation. She gave an example of two types of city inspectors, one female

dominated and one male dominated where there was disparate pay. She stated that the analysis should be based on the jobs themselves. It is a much more involved study. She stated that she wanted to make sure that it is in the Commission view as you plan for the future. She stated that she was eager to be a resource. Commissioner McClain stated that the Commission would advocate for more money for the study. Ms. Jemel Otis, with SEIU, stated that this pay study is important to the residents of New Orleans. Benjamin Zucker, the Co-director of Step up Louisiana, stated that the city can be a leader in pay equity and do what we can to close the gender pay gap. Janice Long, a former civil service worker, stated that when raises are given men are considered over women and in in-step increases men are considered over women. Director Hudson stated that the next step is to secure funding and put out an RFP for an independent analysis on pay. She offered to reach out to CAO regarding funding. She stated she would also reach out to SSA to get an idea of what it would cost. Mr. Zucker stated that he had spoken to SSA and the statistical study would be \$50k, but a study that looks at job segregation would be more.

Item #6(c) was a report on ADP ongoing issues. Robert Hagmann stated that staff is working with Finance regarding the pay plan implementation. The testing of phase two had begun and every couple of weeks there would be a new phase. He noted that it is a lot of work due to how the system operates.

Item #6(d) was a report on Civil Service budget and staffing. Director Hudson stated that staff is working on the budget request and presentation. She noted that the budget is a standstill budget from last year. She noted that she would send her proposal to the Commissioners before the budget meeting. Commissioners Craig and McClain offered their support to the process. Commissioners McClain thanked Mayor Cantrell on the record for moving on the request for additional space. Director Hudson noted that as a result, two new employees were hired. Director Hudson also reported that the department had lost an Analyst and a Senior Psychometrician.

Item #6(e) was a report on departmental vacancies. Amy Trepagnier, Deputy Director, stated that staff had asked all departments to provide a list of their current classified vacancies and had received that information from all departments with the exception of S&WB. She reported that out of 4500 positions, there are currently 366 bona fide vacancies which have been budgeted, allocated and requisitioned. NOPD had the most vacancies with 115 including 77 at Police Recruit. There were 37 vacancies at Human Services. She noted that some vacancies can be attributed to turnover while

others are attributable to agencies bringing facilities back online such as NORDC and the Library. Commissioner McClain asked what is being done to fill the large number of vacancies at the Youth Study Center. Ms. Trepagnier responded that staff had been meeting with the Mayor's staff person and the leadership at the Youth Study Center. Their positions are open to applications on a continuous basis and there are always large eligible lists. Shelly Stolp and her staff have been attending job fairs at the Youth Study Center. Ms. Trepagnier then provided data on the vacancies in specific job classifications as well by department. She observed that the city's vacancy rate was close to the national average. She noted that of the 340 non-minimum skill positions, 79% were currently open to applications and 92% had active eligible lists. She stated that 426 people had been hired in 2018 through the end of June including seasonal employees for NORDC, Laborers, Police Recruits, Office Assistant Trainees and Recreation Center Assistants. Regarding time to hire data, the average time from application to eligible list was 14 days. This timeframe includes application review and any required testing. The average time from referral from Civil Service to the department to hire date was 37 days. This timeframe includes interviews, background checks, drug testing, and medical testing if required. With an organization of over 4000 employees, you will have vacancies at any given time. Ms. Trepagnier noted that staff was working with IT to get hiring data readily available on the Civil Service website.

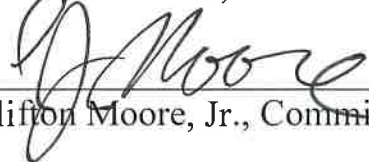
There being no additional business to consider, Commissioner Moore moved for adjournment at 3:17 p.m. The motion was seconded by Commissioner McClain and approved unanimously.



Michelle Craig, Chairperson



Ronald McClain, Vice Chairperson



Clifton Moore, Jr., Commissioner