

CIVIL SERVICE COMMISSION
REGULAR MONTHLY MEETING
MONDAY, APRIL 20, 2015

#1

The regular monthly meeting of the City Civil Service Commission was held on Monday, April 20, 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 10:05 a.m. The Commission then proceeded by sounding the Commission's docket. At 11:03 a.m., on motion of Commission Chairman Craig, the Commission voted unanimously to go into recess to discuss matters taken under advisement and pending litigation. At 11:44 a.m., the Commission completed its recess and proceeded with the business portion of the meeting.

The first item on the agenda was the minutes of the March 16, 2015 Commission meeting. The minutes were approved unanimously on motion of Commissioner McClain and seconded by Commissioner Clark.

Item #2 on the agenda was the 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. Upon direction from the Commission, Personnel Director Lisa Hudson held two meetings with representatives of the Law Department, NOFD Administration, and the City Administration. They were held on 4/9/2015 and 4/17/2015. At these meetings, staff was given a report from NOFD Administration that showed the filled positions versus the needed positions on a daily basis. This report did not show the budgeted vacancies, a consideration listed in the Rule. Director Hudson asked that the Commission defer this matter, since the budget vacancy information was not made available.

Representing the administration on this matter was Deputy Mayor Andrew Kopplin and Ms. Sharonda Williams, City Attorney. Representing the Firefighters Association was its President, Captain Nicholas Felton. Mr. Kopplin stated that the Commission's action to approve dual rates going forward is fine, but that the back pay for work done is a budget issue. He provided the budget numbers for the last four years. This showed that NOFD had a deficit in each of those years. Commissioner McClain asked if the deficit was in Personnel. Mr. Kopplin replied

that it was not; that the stated deficit includes other things, such as the pension system.

Commissioner McClain stated that it appears that there are no vacancies from the budget numbers distributed at the meeting. Director Hudson reminded the Commission that staff's original report showed a number of vacancies in the payroll system. She further noted that it should make a difference that the work was done and not appropriately compensated. Commissioner Tetlow opined that the purpose of the Rule is to make sure that there is a legitimate vacancy to be filled.

Capt. Felton took issue with the contention that there were no vacancies. He questioned how are there employees in provisional positions, requested by NOFD, working in a higher capacity, and approved by the Commission, without vacancies for those positions. Further, he pointed out that, with no vacancies, there should not be people continuing to work out of class every day. Capt. Felton noted that there have been no recruits hired since 2010 and that NOFD is losing, on average, 30 people a year. He stated that five years of not replacing people should result in vacancies. Capt. Felton added that he was kept in the dark on the discussions and that he would like to see the evidence. He added that the dollars and cents are not part of the Commission's concern. Rather, that the overall budget is the purview of the City Council. Capt. Felton also noted that the Firefighters have been asking about this issue since November 2013. He opined that money out of firefighter's pockets is being used to balance the budget.

Ms. Williams stated that she would be willing to meet with Capt. Felton. Mr. Kopplin noted that there are broader budget issues. He told Capt. Felton the Firefighters have, for the last several years, asked for more funding and more positions that the Council did not fund.

Director Hudson noted that, at her meeting with the administration the previous Friday (4/17/15), she was told that she would be receiving a report of the budgeted vacancies – thus, her request to defer the matter. Mr. Kopplin said that the administration was agreeable to the proposed deferral of the matter. Chairman Craig asked that all parties meet at the same time and that the Commission be informed of the outcome of the meeting. A motion to defer the matter was made Commissioner Tetlow, seconded by Commissioner Tullous, and approved by unanimously.

Item #3 on the agenda was the status of back pay related to Hurricane Katrina as requested by Mr. Robert Gebrian. In 2010, the Commission had cited Rule IV, Section 2.2 in its order that overtime-exempt employees working in post-Katrina New Orleans be granted special assignment pay. Mr. Gebrian noted that he, Ms. Hudson, and City Attorney Sharonda Williams had met three days prior (4/17/15). Ms. Williams noted that she had written two lengthy letters to the Commission regarding the administration's position on the matter. She then stated that, to the extent that the administration's support on the matter in 2010 was construed as a request for special assignment pay, they were now revoking that request.

Mr. Gebrian then spoke, asking how one could have reached the conclusion that the 2010 action was based on an administration request. Commissioner Tetlow opined that the way in which the Commission's 2010 votes came about is less important than whether they would now consider reversing those votes.

Mr. Gebrian noted that Deputy Mayor Greg St. Etienne ordered his staff to provide an estimate of the expense and contact FEMA on the steps to follow. FEMA replied that they should set up two accounts (active and inactive employees), run the payroll, and then submit information for reimbursement. Commissioner Tetlow noted that it seemed unlikely that FEMA would reimburse the City for this expense. She reminded the audience of the information presented at the March 2015 Commission meeting that FEMA had tried to "claw back" special assignment pay given to police and fire employees. Mr. Gebrian replied that the window of opportunity for this pay was open until August, 2010. He continued, likening the situation to reneging on a promise to the employees for this pay. He also stated that he had tried to receive tangible evidence that FEMA tried to have the City return the money that it paid emergency workers, but did not receive this documentation.

Also speaking on the matter was Asst. Chief Administrative Officer Courtney Bagneris. Ms. Bagneris noted that, in contrast to statements made at the March 2015 Commission meeting, she was indeed authorized to speak for the Administration at the 2010 Commission meetings. She noted that she was authorized as an administration representative by two Deputy Mayors – Mr. Kopplin and Mr. St. Etienne. Further, Ms. Bagneris stated that, as a 26-year employee, she had never diverted from a request from her supervisors and she was offended by these aspersions. Ms. Bagneris stated that she repeated the administration's position as outlined by Deputy Mayor St. Etienne.

Commissioner McClain thanked Mr. Kopplin for acknowledging that Ms. Bagneris was speaking for the administration in 2010. Commissioner Tetlow stated that the pay was always meant to be conditioned on FEMA approval. She then moved to revoke previous actions of the Commission. Commissioner McClain seconded the motion and it passed unanimously.

The next item on the agenda was #4 regarding the creation of an unclassified legal counsel position for the Civil Service Department. Chairman Craig began by stating that they have reviewed the legal counsel situation with other boards and commissions and they have determined that they would like the Commission's legal counsel to be a staff member. Commissioner McClain noted the need for consistent counsel to report to the Commission with no delays during the re-contracting process and moved for approval. Commissioner Tetlow seconded that motion.

Discussion of the agenda item continued and Director Hudson gave staff's position that the Commission's attorney could be filled with a classified position. She noted that the salary of classified attorneys is comparable to that of unclassified attorneys. Further, Director Hudson pointed out that, as an unclassified employee, the proposed attorney would not be subject to the Commission's Rules, including the Rule regarding impermissible political activity.

Commissioner McClain cited advice from the Commission's current (contractually-paid) counsel that use of an unclassified position is preferred. Robert Hagmann, Personnel Administrator, informed the Commission that an unclassified attorney would fall under ordinances not under their control and that it would be a very unusual arrangement. Commissioner Tetlow noted her concern that a classified attorney may have a diluted loyalty. She also noted that a classified attorney's appeal of a disciplinary action would be to the Commission, which could present an issue. Mr. Hagmann cited the State of Louisiana's Department of Civil Service and their use of classified attorneys as an example of best practices for this position.

Chairman Craig agreed that unfettered ability to conduct political activity was a concern for this position. To address this, she suggested amending the job description to remove the ability to conduct political activity from this position. Commissioner Clark suggested that the motion be amended. Commissioner McClain requested an opinion from Commission Attorney, Gilbert Buras. Mr. Buras suggested that the language in the State Constitution that applies to Commissioners be used as the model for this position, in regard to political

activity. Commissioner McClain then modified his motion to include this language. Commissioner Clark seconded the modified motion and it was passed unanimously.

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 for PANO was their attorney, Mr. Eric Hessler. Mr. Hessler noted NOPD's need for manpower, efforts to hire back former officers, and the fact that some former officers have expressed reticence given that their break in service would affect their longevity and leave accrual rates. He also stated that Mr. Donovan Livaccari, attorney for the Fraternal Order of Police (FOP), pointed out that this proposed change may better belong as a new part "c" of Rule VI, Section 4.8, as Section 4.9 deals with laid-off employees. Director Hudson requested that the proposal be allowed to lay over for a month so that staff could receive comments on the proposal.

Speakers on this request were Shelly Stolp, Personnel Administrator, Ms. Alexandra Norton, Director of Innovation, and Mr. Livaccari of FOP. Ms. Stolp noted that it would be advantageous for other departments to bring back former employees. She suggested that the change be written to also affect other non-police employees. Ms. Norton stated that both the administration and Police Superintendent Harrison support the proposal. Mr. Livaccari added that FOP supports the concept but that specific language changes are needed. He pointed out that having no break in service could, inadvertently, allow for a former employee to be given credit for the interval while they are not working for the City. Rather, the credit should pick up again from the point the employee left service. He also stated that FOP supports applying this Rule to all City employees. While Commissioner McClain noted special circumstances with NOPD's manpower shortage, Commissioner Clark encouraged the broader application of the proposal to all employees. A motion to defer this matter until the next meeting was made by Commissioner McClain, seconded by Chairman Craig, and approved unanimously. Chairman Craig strongly urged that all needed meetings take place, all issues be considered, and that the matter be ready for a vote at the next meeting.

Item #5 (b) was a proposal to change Rule III, Section 4, regarding temporary work in a higher classification. A change to this section of the Rules was requested by the Commission and proposed by staff. This section of the Rules was

referred to in the issue regarding Firefighters working out of class discussed under Agenda Item #2. Ms. Stolp explained the proposal to the Commission. The proposal removes language restricting temporary pay to non-exempt (overtime eligible) employees, and restrictive language regarding the need for the work to be in a budgeted vacancy. Director Hudson and Ms. Stolp reviewed the normal processes for changing Civil Service Rules, that the proposed change be introduced publicly, discussed and debated during an intervening month, and voted on at the next meeting. Director Hudson requested that no vote on this matter be taken at the April meeting.

Ms. Norton commented on this item. She noted that Rule III, Section 4.1 (b) requires that the employee be working in the higher class for five full working days before being eligible for additional pay. However, whether those initial five days are to be paid at the higher rate was unclear. Director Hudson and Ms. Stolp explained that employees are paid for the work performed in the higher classification at the higher rate retroactively once five days of such work has passed. Mr. Hagmann noted that the procedures to be considered later in the meeting clarified this point. Ms. Norton requested to be part of further discussions on this proposed change prior to the next meeting. Commissioner Tetlow inquired as to whether the five day requirement was a standard interval. It was made clear that this time period could be a matter of discussion prior to the proposal's reconsideration.

Item #6 on the agenda was Classification and Compensation matters. Item #6 (a) was a request from the Police Department for three unclassified Internal Auditor positions for the Compliance Bureau. Speaking on this matter were Mr. Hagmann and Jay Ginsberg, NOPD Deputy Superintendent of the Compliance Bureau. Mr. Hagmann noted that staff recommended unclassified positions. He qualified, however, that these positions do not meet the requirements in the Rules for unclassified positions. Therefore, staff requested that the Commission grant an exception to their Rules as a temporary measure, with a sunset date of March 17, 2017. Five other unclassified positions previously approved would have that same sunset date. Staff will review for final recommendation at that time. Commissioner Clark inquired as to what would occur on the sunset date proposed. Mr. Hagmann replied that staff would make a recommendation to the Commission in February 2017 regarding whether these positions should remain unclassified or revert to the classified service.

Mr. Ginsberg noted that – because of the impending retirement of Police Captain Heather Kouts, he would need to request four of these positions, not three. As this

was a material change to the published agenda, a unanimous vote to take up the matter was required. The motion to change the agenda was made by Commissioner McClain, seconded by Commissioner Tetlow and approved unanimously. Once the agenda was amended, Director Hudson asked for clarification regarding the fourth position requested. Mr. Ginsberg explained that, presently, there are no auditors, but that the fourth unclassified position was needed to replace the classified position occupied by Captain Kouts. Speaking on this matter, Mr. Livaccari voiced FOP's opposition to the widespread proliferation of unclassified positions and noted that he agreed with staff's assessment that these positions do not meet the criteria for unclassified positions as outlined in the Rules.

On motion by Commissioner McClain, seconded by Commissioner Clark, the unclassified positions were approved unanimously. After this vote, Commissioner Tetlow noted the importance of the consent decree and asked if there were improvements that could be made to the process of dealing with such a request. Mr. Ginsberg initially stated that he did not know how the process could be expedited, but then went on to suggest that the requested information, such as job study surveys, be prepared in advance. Chairman Craig suggested that Mr. Ginsberg may be requested to report back to the Commission regarding consent decree compliance on a reoccurring basis.

Item #6 (b) was the re-titling the Special Investigator and Senior Special Investigator classes to be used for NOPD Public Integrity Bureau (PIB) intake positions and a recommendation for a hiring rate above the minimum for those with superior qualifications. Speaking on this matter were Mr. Hagmann and Ms. Arlinda Westbrook, Deputy Superintendent of PIB. Ms. Westbrook stated that this request was in response to the wishes of the judge overseeing the police consent decree. She also noted that civilians are more comfortable talking to civilians. Commissioner McClain moved for approval. Commissioner Tetlow seconded the motion and it was approved unanimously.

Item #6 (c) was the creation of a new classification of Community Police Mediation Program Manager for the Independent Police Monitor's Office. Director Hudson told the Commission that more information was needed on this matter and that meetings to discuss it were planned. She asked that it be deferred.

Item #6 (d) was the creation of a new juvenile detention job series for the New Orleans Youth Study Center. Ms. Stolp informed the Commission that, at the request of the Human Services Department, the two separate functions of: 1) ensuring the custody of juvenile offenders, and 2) counseling them, would be

combined into one job series, to more accurately reflect their current work. In addition, she relayed Human Services' request for hiring rates for these positions to address recruitment and retention difficulties that they face. Further, Ms. Stolp gave the staff's recommendation from the job study that Human Services make use of the shift differential rule as an additional step to address their turnover issue. This rule allows for higher pay for those working a less desirable shift. Commissioner Tetlow moved for approval of the new classifications. Commissioner McClain seconded the motion, and it was approved unanimously.

Item #6 (e) was the creation of a new NORDC Pool Maintenance Technician classification. Ms. Stolp described the duties and responsibilities of the position as determined by the staff's job study conducted at the request of NORDC. A motion to approve the new class was made by Commissioner Tetlow, seconded by Chairman Craig, and approved unanimously.

Item #6 (f) was a request for the creation of a new emergency management promotional series from the Homeland Security section of the Chief Administrative Office. Speaking on the matter was Robert Hagmann, Personnel Administrator. Mr. Hagmann noted that there exists a retention issue and a need for promotional opportunities. He stated that staff's recommendation resulted from working with Deputy Mayor Jerry Sneed, who heads this unit. A motion to approve the request was made by Commissioner Tetlow, seconded by Commissioner McClain, and approved unanimously.

Item #7 on the agenda was Recruitment and Selection Matters. Item #7 (a) was examination announcements # 9068 through #9077. On motion of Commissioner Clark and seconded by Commissioner Tullous, the announcements were approved unanimously.

Item #7 (b) was a request from the Police Department to amend the Police Recruit announcement to remove the automatic disqualifier regarding refusal to submit to a polygraph or Computer Voice Stress Analysis (CVSA) test. Presenting this matter was Ms. Amy Trepagnier, the Personnel Administrator for Recruitment & Selection. She noted that concerns have been raised that the current language may violate one's right against self-incrimination. She also pointed out that it was listed as a disqualifier upon application. Mr. Livaccari spoke on the matter. He was ensured that the CVSA requirement remained a part of the background check portion of the selection process. On motion of Commissioner Tetlow and seconded by Chairman Craig, the amendment was 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 McClain and seconded by Chairman Craig, 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. Roy Guercio, Comptroller with the Finance Department. Ms. Stolp mentioned that, in response to her concerns and those of the budget unit, functionality of the position control system that was removed, has been returned. This change was effective Friday, 4/17/15. Director Hudson and 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. Next, Ms. Stolp described a new issue with transferring employees between departments associated with an ADP upgrade. This issue is still being addressed. Mr. Guercio noted that all of Shelly's issues are logged and addressed.

Item #9 (b) was a report on the policy and form development related to the Great Place to Work Initiative. Director Hudson stated that, for several months, staff has been working with consultants from EMH, a company hired by the administration, to develop and codify new policies and forms to work in conjunction with the Rule changes. This work product was presented to the Commissioners. Director Hudson pointed out that it covers procedures for requisitions, certifications, job studies, requests for temporary special assignment pay, pay for temporary work in a higher classification, pay above the minimum, and extraordinary qualifications pay. She added that it also contains a Frequently Asked Questions (FAQs) section and a proposal for a work order system. Director Hudson continued that staff's plan is to widely disseminate this information to human resource officers and others through meetings, the department's website, and the City employee website known as the "Neutral Ground". Chairman Craig asked if there was a timeline for the roll out of this information. She was informed that much of the information is already available and has been provided to interested parties as needed.

At this point Commissioner McClain directed the discussion back to ADP issues. He noted that he had received a letter regarding issues with Fire Department payroll deductions. Mr. Terry Hampton, Secretary of Local #632, the Firefighters Union, described the concern. He explained that pension deductions are erroneously being taken out for unscheduled overtime worked by Firefighters, thereby lowering Firefighters' paychecks. While the scheduled overtime worked by Firefighters should count towards their pension and a deduction should be taken

for these hours, no deduction should be taken for unscheduled overtime worked by these employees. He noted that this was a small problem, but it is continuing and is not small now. He stated that CAO and Administration are all aware of the problem. Mr. Guercio acknowledged that this is an issue. He stated that he has been working to rectify the problem and that he discussed it earlier with Fire District Chief Steven Schmitt. Chairman Craig stressed the importance of dealing with the problem because of the growing fiscal impact.

Returning to Item # 9 (b), Ms. Norton noted that a proposed work order system would take some time to implement. She also offered to have the EMH consultants to present to the Commission at the next meeting. Chairman Craig requested that some milestone due dates be provided to help keep everyone on track.

Item #9 (c) was a report on the 2014 service ratings and merit pay. Addressing this matter was Richard Carter, Personnel Administrator. Mr. Carter explained that the City is currently in transition between the current service ratings and the goal-based performance appraisal system that will be replacing that system. He noted that service ratings have been received from all departments, that 1,400 have been scanned-in, and that those from the Police, Fire, and Sewerage and Water Board Departments will more than double that number once they are processed.

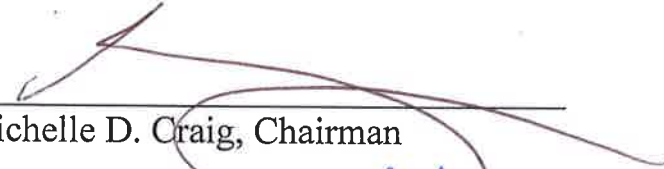
Regarding the merit increases, Mr. Carter stated that the first step in the process was to ensure that all employees are in the proper pay grade and step - a process described in the ADP issue discussion. Once that is complete, all employees with a Competent or higher service rating and one year of service, including provisional employees, will be eligible for a 1.25% (one step increase). Mr. Carter noted that the new performance appraisal rule would allow for employees who should have received a rating, but did not, to be considered eligible for the increase and that this approach would be used with this year's merit increases as well. He ended this presentation by informing the Commission that, absent their questions or objections, he would be sending departments a list of those employees who staff feels are eligible for the merit increase. Then, he would receive departments' changes and use this information to process the merit increases.

Next, Director Hudson informed the Commission that there were speakers requesting to be heard under Communications, Mark and Kim Ford. Ms. Ford requested to receive notices of the agenda. She was told that this request, once made in writing, would be honored. Next, Ms. Ford stated her objection to the language that appears on Civil Service applications that only the ten most recent

years of experience are considered in ratings of training and experience. She followed that objection with a complaint that her husband was found to not meet the qualifications for a position and that those qualifications were not listed on the official announcement. Director Hudson asked for a chance to investigate the matter. Commissioner McClain expressed his appreciation with Ms. Fords' concerns and noted that she would be able to communicate directly with the Personnel Director.

Director Hudson noted a need to attend to some new business. She requested that the agenda be amended to allow the Commission to consider three exceptions to Rule IV, Section 2.2 requested by the Library. Commissioner Clark made a motion to amend the agenda to take up these matters, which was seconded by Commissioner Tetlow. To be added to the agenda, an item must be approved by a unanimous vote. However, Chairman Craig and Commissioner McClain abstained from this vote, so the motion to add the item did not carry.

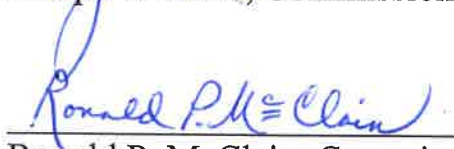
With no other communications to consider, on motion of Commissioner Tetlow and seconded by Commissioner McClain, the Commission voted unanimously to adjourn the meeting at 2:02 p.m.




Michelle D. Craig, Chairman




Joseph S. Clark, Commissioner



Ronald P. McClain, Commissioner



Tania Tetlow, Commissioner



Cordelia D. Tullous, Commissioner