

CIVIL SERVICE COMMISSION  
SPECIAL MEETING  
Tuesday, August 21, 2018

A special meeting of the City Civil Service Commission was held on Tuesday, August 21, 2018 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 Clifford Moore, Jr. representing a quorum. Chairperson Craig convened the meeting at 1:04 p.m. and proceeded with the business portion of the meeting. Commissioner Tania Tetlow joined the meeting at 1:10 p.m.

James Thompson, an Attorney IV at Sewerage and Water Board, stated that he had submitted a request to ask that an item be added to the Commission's agenda for this meeting. Commissioner Craig requested that Mr. Thompson bring his request to the August 27<sup>th</sup> business meeting. Mr. Thompson agreed. Commissioner Moore motioned to add the item to the August 27<sup>th</sup> meeting agenda. Commissioner Caputo seconded the motion and it was approved unanimously.

Item #1 was a report on 2018 audit of the unclassified Police Commander position pursuant to Rule III, Section 7.1(c).

Robert Hagmann, Personnel Administrator over the Classification and Compensation Division, stated that at its April 10, 2017 Special Meeting, the Commission created 16 unclassified Police Commander positions. At that time, the Commission ordered staff to complete an audit in a year to determine if the positions met the criteria of Rule III, Section 7.1. Mr. Hagmann stated that the purpose of staff's report is to provide information relative to the appropriateness of the Commander position for the unclassified service. Mr. Hagmann stated that Rule III, Section 7.1 requires that in order for the Commission to create an unclassified position, the position must be sensitive in nature and have considerable discretion and policy making authority which is not subject to further review or modification and that its duties would not be appropriate to be performed by a position in the classified service. Mr. Hagmann stated that the methodology for staff's report included a comparison of the job descriptions, questionnaires, example policies, and job specifications. Staff conducted interviews with the 16 Commanders and reviewed the selection process used for the June 29<sup>th</sup> appointments to Police

Commander and found no change from the recommendation it provided at the April 2017 meeting. Mr. Hagmann noted that the 2018 audit findings indicate that no additional policy making has been assigned, policy making authority continues to be subject to two further levels of review, and the duties of Commander are appropriate to the classified service. Additionally, the current selection process for Commander lacks the objectivity and uniformity required of a fair and transparent appointment process. Mr. Hagmann stated that staff is recommending the creation of the new classification of Police Commander in the classified service. The position would be at pay grade 90 with a hiring rate of \$80,987. The qualifications would be permanent status as a Lieutenant or higher, two years of experience as a Lieutenant or higher and a Bachelor's Degree. A job simulation exam would be required.

Commissioner McClain asked how many unclassified positions there were city-wide. Mr. Hagmann responded that there were approximately 650 including the courts. Commissioner McClain asked Mr. Hagmann to go over the methodology for staff's audit again. Mr. Hagmann did so and added that the intent was to determine if it met the criteria of the rule. He reminded the Commission that when it approved the position it was with the mandate that additional policy making responsibilities be assigned. In staff's investigation, that did not occur partly due to the nature of the position and partly because of the nature of the rule. Nothing has changed from staff's initial findings. Commissioner McClain stated that the methodology included interviews with the 16 commanders and asked what else it had included. Mr. Hagmann responded that staff had reviewed job questionnaires and selection methodology, and had analyzed all content related to the appointment process and the duties and responsibilities. Commissioner McClain asked if that was the same methodology used in audits of the other unclassified positions. Mr. Hagmann responded affirmatively. He noted that the constitution is plain. The departments get three unclassified positions, and that positions in the Mayor's office and Law Department are unclassified. The same methodology is used for positions that are authorized by the Commission above and beyond what is authorized by the constitution. Commissioner McClain then asked how many positions the Commission had approved beyond those in the constitution. Mr. Hagmann estimated the number to be approximately 200 with the bulk of those being temporary FEMA positions and Police Consent Decree positions. Commissioner McClain again asked about the methodology. Mr. Hagmann stated that whenever staff conducts an audit it is looking at whether the position is consistent with the Commission's rules. Commissioner McClain asked how many audits staff had conducted besides

Police Commander. Mr. Hagmann stated that staff is currently auditing the Police Monitor positions. Fifteen are in the process of being completed. Commissioner McClain asked if the audit requirements of Rule III Section 7.1 (c) were in play for all unclassified positions. Personnel Director Lisa Hudson responded that it depends. She noted that she did not have enough staff to perform them regularly and that staff has done other audits of unclassified positions, just not on a regular basis. She noted that in this particular case, staff was asked to do so by the Commission. Commissioner McClain asked if a similar methodology had been used in other audits. Director Hudson responded that it had. Individuals were asked to complete questionnaires and meet with staff regarding what they do. Commissioner McClain stated that he was concerned that staff's findings noted that there was no change from the recommendation it previously made. He asked if staff was noting that it had the same recommendations it had prior to the audit. Director Hudson replied affirmatively. Commissioner McClain stated that he wanted to ensure consistency and equal treatment in terms of unclassified positions. Director Hudson stated that staff normally asks for questionnaires to be completed and conducts interviews. That is the process. She continued that she was unclear how it mattered when the Commission asked staff to perform the audit. Commissioner Moore then noted that the rule does not define what a regular basis means. Commissioner McClain stated that he wanted to make sure that staff uses the same methodology for all unclassified audits. Director Hudson asked Commissioner McClain if there was an issue with the methodology. She noted that staff was currently auditing Traffic Court. Amy Trepagnier, Deputy Director, noted that staff had also sent out questionnaires to all of the Commission created unclassified positions prior to the end of the previous administration. There was a very poor response rate. Commissioner McClain asked if that would be considered an audit. Ms. Trepagnier replied that it was an attempt to audit those positions, but that staff did not get a lot of cooperation from the appointing authorities in providing that information. She also noted that recently, staff had tried to audit a Commission created unclassified position at Sewerage and Water Board. S&WB was not responsive with providing that information. Director Hudson added that when staff is able to collect the information we present it to the Commission for review. Staff normally collects questionnaires, conducts interviews and compares job descriptions. Eric Melancon, Deputy Chief of Staff for NOPD, noted that his department had been fully cooperative with the audit. Director Hudson agreed.

Commissioner Craig asked if staff had found any considerable discretion in policy making authority. Director Hudson responded that it wasn't there initially and staff did not see any change in that. Commissioner Caputo asked how staff investigated that particular portion of the rule. Mr. Hagmann responded that comes through the verbal interviews and questionnaires. Ms. Trepagnier stated that staff also asked for sample policies. She noted that the samples and an analysis of them are included in the audit report. Director Hudson noted that the samples did not meet the test of the rule because the individuals were not approving the policies on their own. They were going up the chain of command for others to review and make the decision on if they were going to accept them. Commissioner Tetlow asked how anyone other than the Mayor meets that test. Mr. Hagmann responded that the Assistant Superintendents are expected to act as the second in command and fill in for the Superintendent. They are subject to the Superintendent's approval, but in his absence they can act in his capacity. The positions in question are managers. They are equivalent to Fire District or Deputy Chiefs. The work is important and critical, but still within the domain of the classified service. Commissioner Tetlow stated that she did not understand the test as described by staff. She asked if staff's interpretation was that the rule requires discretion that is literally unsupervised by anyone else. Mr. Hagmann responded that the Commander positions do not provide work under the mandate of the Mayor, they provide work under the mandate of the Department. The few unclassified positions that exist do so for a particular purpose like the FEMA positions. Commissioner Tetlow asked that, of the Commission approved positions, would any of them meet the test provided by staff. She stated she was trying to figure out if it was such a slippery slope test that nothing would ever pass it. Director Hudson stated that in most cases where staff agreed to the creation of a non-temporary unclassified position, it was because the position reported directly to the Director of the Department. She noted that when you reach down below the second level, you are talking about administrators and division managers, not really policy makers over the whole department. It is one section or division of a department. Staff does not see that as being a substitute for the director at that level. She stated that when the Commission had created the positions, she had asked for feedback on if the staff had gotten something wrong with its interpretation of the rule and that she wanted some guidance as to how the Commission had interpreted that rule. Staff could have then applied the rule to that interpretation. She recalled that she had asked at the end of the April 2017 meeting what staff had gotten wrong in terms of interpreting the rule because that is how staff is going to interpret it again. She stated that she did not receive that guidance.

Commissioner Tetlow responded that what she had spoken to Director Hudson about individually is that the rule is not about second tier and that the rule about discretion cannot mean that someone has absolute authority to do whatever they want. Director Hudson asked Commissioner Tetlow what she thought it meant when the rule says considerable discretion and policy-making authority which is not subject to further review or modification. Commissioner Tetlow replied that there is a difference between having tasks that are micromanaged verses having a lot of free reign in which you can make decisions and within that, the bigger issues are kicked up the chain of command. Commissioner Moore stated that as the rule reads it is pretty specific in what it says. It says not subject to further review or modification. It is up to the Commission to interpret that. Commissioner McClain stated it would be practically impossible for any policy to be implemented that couldn't be changed or modified or tweaked subsequent to implementation because it may not work. The interpretation that a policy could never be subject to further review is just not practical. He stated that his interpretation is that this is prior to implementation of policy. Any department could come up with a policy and the Mayor could decide that it needs to be changed. Director Hudson then asked Commissioner McClain how he would interpret that particular part of the rule. He responded prior to implementation. Commissioner Moore stated that it is staff's responsibility to interpret the rule. Commissioner McClain stated that they do so during the audit. Mr. Hagmann stated that the rule is not meant to be a brick wall, but you have to apply a reasonable person standard about what that standard is supposed to be. Here, the problem is that you are digging too deep. The Commission has previously approved positions but typically they can speak for the director of the department. That is why the Commission approved additional Deputy Superintendents, because these people acted as bona fide second in command. Commissioner Craig clarified that the same audit methodology has been used for other positions while she has been on the Commission.

Michael Harrison, Police Superintendent, then stated that the continued success of the Police Department hinges on effective leadership being in place. The unclassified Commander position that was approved by the Commission has helped to institutionalize the reforms that have been put in place over the last several years. The department needs a responsive management structure capable of implementing policies that make the department more effective and build public trust. The Commander position has been instrumental to the progress the department has made over the last several years, first as a special rate of pay and now as an unclassified position.

Superintendent Harrison then listed several departmental accomplishments. He went on to state that moving away from the unclassified Commander positions would be catastrophic for the department. He noted that NOPD had submitted a written response contesting staff's audit conclusions.

Deputy Chief Christopher Goodly stated that while he served as the Commander of the 5<sup>th</sup> District, he was given a wide range of latitude to develop policy making authority and develop deployment strategies and scheduling. He stated he ran an Amber Patrol pilot program in his district with the full autonomy and full latitude given to him by the Superintendent at that time, Chief Ronal Serpas. He stated he structured the program and ran it as he saw fit. When asked by Commissioner Craig if he could hire and fire people he stated he could suspend the program and take people on and off of it, but that he did not have the ability to hire and fire Officers at that time. He stated he had issues unique to his district for which he could create operational planning such as second lines and Super Sunday. He provided an example of a deployment strategy in which he had asked for permission for the entire district to attend an Officer's funeral. Commissioner McClain asked how many of those policy initiatives did he have to ask for permission. Chief Goodly responded that he had the latitude to create policy and then have it reviewed at any stage. He noted that as the Commander of the Academy, he had SOPs, a Police Recruit Manual, and a Safety Manual created and implemented prior to review by the Superintendent. He stated this year he had created peer evaluations for Police Recruits to evaluate each other without a review by the chain of command, a training calendar adjustment form that was only subject to the review of the Academy Director, and an Instructor Checklist and a Training Video approval from. Commissioner Moore asked Chief Goodly if it was possible that those same programs or initiatives could have been instituted at the rank of Captain. Commander Goodly responded that he was not certain. Commissioner Moore stated that it appeared that the requirements for the two positions are the same. He noted that he did not see how a change in title makes it easier for the Chief to grant discretion.

Commissioner Caputo asked if there are any unclassified positions where there is not further review of policy at all. Director Hudson responded that there are Deputy Superintendents in the Police Department who the Commanders report to who have that level of discretion. They have more approval over policies than the Commanders. Superintendent Harrison stated that everything in the department is subject to his review. The only person subject to no review is the Mayor.

Mr. Hagmann stated that staff looked at reporting relationships and you are diving deeper down in the levels. It goes to what policy is as opposed to regular business making decisions. Director Hudson stated that what staff looked at was the creation of policies that affect how the entire department operates overall or policies that only affect the people under them in their division. What staff saw in its review were policies that affected the division and not the department. She noted that we are talking about levels of responsibilities and how those responsibilities impact the operations of the department. Commissioner Caputo stated that if you are the Commander of the 8<sup>th</sup> district you are going to be making policies that affect that district, not policies that affect the entire Police Department. Commissioner Tetlow asked why the examples given by Chief Goodly wouldn't count. Director Hudson responded that a policy about how videos are created does not affect how the entire department operates. It affects the operations under your particular division. Commissioner Tetlow asked if the policy discretion has to be for the whole department. Director Hudson responded that it did, and noted that when staff looks at creating an unclassified position we look at the impact of that position on the policies of that whole department. When the constitution was created limiting unclassified positions to the director deputy director and secretary it was limiting so that we were not creating lots of unclassified. The idea is for most of the people who operate in the departments to be in the merit system unless there is some important exception. She stated that she thinks what is happening is that we are making a lot of those exceptions and the rule was created to limit that. She stated that she believes that there had been lawsuits that said that you have to look at how the positions effect the operations of the department. I think that is why the rule was written this way. A lot of managers in city government write policies that affect how their division operates. We are talking about high level positions that impact how the department operates. Commissioner McClain stated that distinction is not clear in the rule. The rule has to anticipate some unclassified positions. Director Hudson stated that there is a classified Assistant Chief Administrative Officer who creates citywide policy. She further noted that the Commission sets precedent with its decisions. If you are saying that creating policy as a divisional manager is enough to be unclassified, then how do you tell other divisional managers that they too cannot be unclassified. Commissioner McClain stated that he did not think that is the decision before the Commission.

Nicholas Gernon, Commander of the 8<sup>th</sup> Police District, provided examples of policies he had created for his district such as issuing a summons for prostitution, in lieu of arrest that was adopted by the entire police department. Commissioner McClain asked if it was reviewed by the Superintendent. Commander Gernon responded it came from the Superintendent's Office when it went out to the entire department. He also described a directive regarding the body worn camera policy relative to undercover officers. It was followed and then reviewed by the Superintendent. He gave another example of sex trafficking operations held with homeland security where he did not tell the deputy chiefs how that happens until after it is done. He stated that he represents the Superintendent and department to the community to pin point problems. He described a program in his district aimed at reducing homelessness that did not receive oversight from the deputy chiefs.

Eric Melancon, Deputy Chief of Staff for NOPD, stated that NOPD disagrees with the conclusions provided by the Civil Service staff. He feels that the positions are not appropriate for the classified service because today's modern policing requires innovation, on the ground policy making authority and considerable discretion. Just because the information in the job descriptions for Commander and Captain are the same it does not mean that it has to be in the classified service. NOPD feels that the job duties of district and division leaders are appropriate for the unclassified service, not the classified service. NOPD has been able to see considerable improvements. That requires Commanders to act at a level that requires discretion in policy making that is not subject to further review. The Commander and Deputy Chief indicated that they are creating policy that is not subject to further review. To set a standard of not subject to further review forever and ever is to set a standard so high that not even the Superintendent could reach it. It appears that staff's definition of policy is the four corners of a document that is created in writing. Commanders develop plans on a regular basis.

Mr. Melancon further stated that the selection process was open and fair and based on current promotional policies and procedures. The department stands by that robust process. He stated that the staff's proposal of a classified Commander position lacks flexibility in holding people accountable for if policies are not being affected properly. Commissioner McClain asked if this is all about giving Commanders at will status so that the Chief can remove people based on issues he deems are important without going through a civil service process. Mr. Melancon responded that it is about effectuating the right kind of policy making for the department. NOPD has a lot of needs that other



departments don't have like size, the gravity of the work, and the autonomy that Commanders need to have in the districts and divisions they serve. The policy making authority of Commanders has to be in line with the overall objectives of the administration and Superintendent. Under the past model it was unresponsive. Superintendent Harrison can hold them more accountable as an unclassified employee. Commissioner Craig stated that you do not want to get into a slippery slope that suggests that we can't hold classified employees accountable. Commissioner Moore noted that there are many checks that appointing authorities can use like the one year review period and rule of three. He stated that he thought that Director Hudson was dead on when she said that the rule is as strict as it is because it was meant to limit the amount unclassified employees. There are reasons for the rights afforded to classified employees as a result of the evolution of Civil Service. Just because someone is in the classified service does not mean that they cannot support the Superintendent's policies. He stated that he is not ready to give up a person's protections when they are asked to implement policy that may be bad. Commissioner McClain clarified that the Commanders would have a right to be returned to their former classified positions if removed. Commissioner Moore stated that there was a financial issue because those positions pay significantly more than their classified positions. Commissioner Moore noted that departments seem to be coming to the Commission with more and more unclassified positions. If we keep approving them we are not upholding the structure of Civil Service. Commissioner Caputo asked if it could be said that the future of managing people is no longer left to the classified positions and maybe we are better off having more unclassified positions as we move forward. Commissioner Moore replied that the classified system has merit and necessity. He asked where are we going to draw that line. Commissioner Tetlow stated that the Commission's role cannot be that we are to protect the classified system from the spoils system to the exclusion of good and effective government. We have to balance it. She asked do we think good government is having career employees who are to some extent protected from accountability or whether we think government is better protected by having managers, elected officials and the people they appoint having more flexibility to turn the ship of an agency and then the public holds them accountable. We have suffered horrific consequences at NOPD where it was difficult to turn the ship in the past. Commissioner Moore stated that the issue is whether or not a classified employee can perform the duties of a Commander. Commissioner Tetlow stated that the issue is whether or not you can hold them accountable. Commissioner Moore stated you have to have a Civil Service Department that is appropriately staffed to take care of

the appeals process, suspensions and terminations. Commissioner Craig stated that she did not want that to be the theme. Director Hudson clarified that she thought what it meant was that you can get rid of a person in a hurry without going through a bureaucratic process. Commissioner McClain stated that he thinks that the criteria is not that a classified staff could perform the duties; it turns on the appropriateness of should they perform the duties not could they. He stated that what he is hearing from NOPD is that it is not appropriate or they should not occupy that position. Part of it is about being at will and the ability to remove those positions without going through the same process to remove a classified person.

Michael Glasser, representing the Police Association of New Orleans, stated that he believed staff's report to be pretty unequivocal. He stated that he was surprised that the verbiage of Rule III is suddenly a problem. The difference between unit, division, bureau policy, and department policy is what is at stake. Every manager at NOPD from Sergeant to Bureau Chief can set unit policy as long as it does not supersede departmental regulations or rules. No one doubts that Commanders sets unit policy in their district. He noted that he did so when he was a district Commander and when he ran Homeland Security as a Captain. The question is do Commanders have the ability to set policy beyond their influence. We can't have it two ways; Superintendent Harrison gave examples of policy making authority, Chief Goodly said he has policy making authority, Commander Gernon said that he has policy making authority, but then the Chief said that no one has real policy making authority not even him due to the Mayor. The Superintendent sets policy constantly via the Operations Manual. Policy is set in the individual units, but Nick Gernon in the 8<sup>th</sup> District cannot set policy for Commander Ganthier in the 1<sup>st</sup> District. Bureau Chiefs can't do that. That is why Deputy Chiefs are unclassified. He stated he has not heard any evidence as to why classified employees should not do the work of Commanders. Mr. Glasser provided data to show response times and crime statistics are up since the creation of Commander in 2011. Commissioner Tetlow asked if he had an argument as to why that was not due to manpower shortages. Mr. Glasser responded that the point of having command staff is to work within the parameters you have. He noted that the Superintendent stated that the department has been successful due to Commanders, but Mr. Glasser stated that he is saying that the department has not been successful over the last 7.5 years. The downside is that the selection process is not robust. How do we know we are getting the best people? The concept that the only way people can be removed is if they are unclassified is untrue. Commanding was not invented in 2011. There is no evidence that

Captains and Majors should not do that work. What is policy making authority and how is it distinctly different from how we've been doing it for the last forty years.

Donovan Livaccari, representing the Fraternal Order of Police, stated that he agrees that the question of whether or not the position is appropriate for the classified service has not been answered. The Louisiana Supreme Court said that the civil service system of employment could easily be reduced to a mockery if the courts do not protect civil servants and these legislative rights. The fundamental purpose running through Civil Service laws is that positions shall be filled by competitive examination. Appointments without examinations are the exception and not the rule. We have gone from historically having five unclassified positions to tripling that number. There is no other department with the exception of Law with near the number of unclassified. Eric Melancon stated that the ratio of classified to unclassified is approximately 2.5%. Mr. Livaccari stated that we keep on adding unclassified positions and we are getting away from the fundamental principles of the civil service system.

Raymond Burkhart Jr., a Police Major, provided a copy of an abstract of a May 2018 federal study regarding what he stated was the rejuvenation of civil service to what it should be. He offered an objection to not having a hearing yet as ordered by the 4<sup>th</sup> Circuit Court of Appeals. He offered a real estate report that gave policing and crime in New Orleans an F grade. He also provided crime statistics. He noted a case in the US Supreme Court, *Elrod v Burns*, which makes clear what policy making is. It is broad and organizational. There are parameters on policy making which are overall organizational function. It is definitive.

Keith Joseph, a Police Lieutenant representing the Black Organization of Police, stated that he did not think the promotional process for Commander was fair. He stated that he does not think the position meets the criteria for an unclassified position. Lieutenant Joseph further stated that there are Lieutenants and Commanders who feel that there should be a Captain's test but they feel that they cannot come to the Commission and say that because they fear demotion so he has to speak for them. He stated that regarding Commander Gernon's camera policy, he did not see anything different than what had been done previously. All Captains make decisions that still have to go through the Chief. We are not doing anything different here. Commissioner Moore asked if he thought he had a fair opportunity to compete

for Commander. Lieutenant Joseph responded that he did not because they handpicked people, it was not based on qualifications.

Louis Dabdoub, a former Police Captain and current Commander over the Reserves Division stated that based on his years of experience in the system he is in favor of having a civil service Captain and Major position in place. He stated he does not propose to tell the Superintendent how to run his department. He noted that he is a personal supporter of the Superintendent. Current Commanders do a fantastic job and if there was a Captains test each one would be at the top of the list. The Superintendent makes good ethical decisions today, but we don't know what is yet to come. He told a story regarding political pressure in the hiring process in the 1980's that lead to the hiring of officers who were later arrested. He stated that the entire reason behind civil service positions is that we have folks in place who are not influenced by political decisions. We have Superintendents and Deputy Chiefs whose job it is to be responsive to the community and their political desires, within the guidelines of the law. When we increase the punitive damages to leaders below that level who face humiliation, demotions, and pay cuts based on whether or not they keep the political leadership in place happy or not we set ourselves up for failure. We will start marching down that same path if we allow politics to take control. When men and women have the authority and rank of Captain and Major there is a process for discipline and transfer. We cannot make the decision based on the current Chief because he will not be here forever because he has a political job. The citizens of this community entrusted the Commission to make the oversight decisions because that is how we decided to set up our government. When we start degrading it, who is to say that two Superintendents from now won't say that it worked well with Commander let's do it for Lieutenant then Sergeant, then we have a sheriff's office completely influenced by politics. The position of Major sits in the Chief's office in an administrative position. They are long term employees who act as an impartial advisor to tell them what has worked and what has not worked in the past. It helps manage the continuity of the department and helps with wasting time and effort going down paths that have been tried in the past.

Eric Hessler, representing the Police Association of New Orleans, stated that the position is not a Commander, it is a Captain. They have been doing the same exact thing forever. They haven't told you why they can't do it anymore. They like it better when they don't have to worry about if things were done for political reasons. This is a classified position. It is appropriate to continue

in that path. I have not heard any other reason than the ability to move people at will. That is not the criteria. The criteria is the policy making and everything else that is listed in the rules.

Superintendent Harrison stated that when a Captain is lacking in capacity and will, doesn't commit violations that require demotion, but doesn't do it as well as someone else could, moving those Captains causes budget issues because the current Captain does not go away. Superintendent Harrison stated that he needs timely decisions to be able to manage just like in corporate America. He stated that he is held accountable instantly for a process that may take months or years. The organizations you have heard from make decisions based on the overall good for individuals. His decisions have to be for the overall good of the organization. NOPD has become a national model for technology, innovation, reform, and crime reduction. It would be catastrophic to undue the successes we have had.

Commissioner Moore told Superintendent Harrison that civil service provides a blueprint for the structure of a lot of departments within city government. That structure has to work whether you are there or not. Who fills that vacuum when you leave? Superintendent Harrison replied that the structure had been locked in place by Council action.

Commissioner McClain then asked what the Commission was being asked to do. Brendan Greene, Executive Counsel for the Commission, stated that the audit required in the rules has been performed and that it had included a determination of whether the position meets the requirement of the Rule. Commissioner McClain stated that he was concerned about long term employees, who become Commanders, but those fears were allayed by the understanding that applicants can go back to Captain or Lieutenant and that candidates cannot come from the outside, they go through the Civil Service process to become a Captain or Lieutenant. He stated that he understands the rationale for having some discretion as a CEO or Director to sort of appoint your command staff. It makes sense to have a Commander be appointed by the Superintendent. The question is if the Commanders should be classified or unclassified based on what he had heard from the Superintendent and Deputy Chief of Staff and comments from various stakeholders and staff's report. He believes it is appropriate to continue the 16 Commanders in the unclassified service. Has a level of comfort in that the rules require a regular audit. He then moved that it is appropriate to continue the unclassified 16 commander positions. Commissioner Caputo seconded the motion and added

that the promotability is clear and transparent and that the men and women who meet that criteria have a chance to get in front of those interviewing with their best foot forward and know that they have a future.

Commissioner Moore noted his disagreement and said he does not think that the tradeoff merits the sacrifice of the structure of civil service. He asked where do we stop, will it be Lieutenants next. There is some concession in the classified service that will still accommodate what you are trying to do.

Commissioner McClain clarified, when asked by Mr. Burkhart that his motion was that the Commission approve the continuation of the 16 unclassified Commander positions. Based upon the second of Commissioner Caputo, Commissioners Craig, McClain, Caputo and Tetlow voted in favor of the motion. Commissioner Moore voted against the motion. The motion passed.

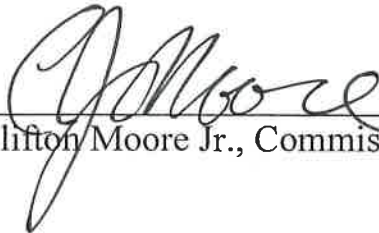
There being no additional business to consider, Commissioner McClain moved for adjournment at 3:31 p.m. The motion was seconded by Commissioner Tetlow and approved unanimously.



Michelle Craig, Chairperson



Ronald McClain, Commissioner



Clifton Moore Jr., Commissioner