

CIVIL SERVICE COMMISSION
REGULAR MONTHLY MEETING
Monday, January 25, 2021

The regular monthly meeting of the City Civil Service Commission was held on Monday, January 25, 2021 via Zoom pursuant to the Louisiana Open Meetings Law, specifically, La. R. S. 42:17.1. Ms. Doddie Smith, Personnel Administrator of the Management Services Division, called the roll. Present were Vice-Chairperson Clifton Moore Jr., Commissioner Brittney Richardson, Commissioner Mark Surprenant, and Commissioner John Korn. Vice-Chairperson Moore convened the meeting at 10:00 a.m. Commissioner Richardson then motioned to take item #10 on the agenda, the Oath of Office for the new Commissioner, out of order. Commissioner Korn seconded the motion and it was approved unanimously. Commissioner Korn then motioned to take up the item, under L.A. R.S. 42:17.1. The motion was seconded by Commissioner Surprenant and approved unanimously. Commissioner Moore administered the oath of office to Ruth White Davis. Commissioner Korn then motioned to take item #1, the election of the Chairperson of the Civil Service Commission in conjunction with Rule II, Section 1.6, out of order. Commissioner Surprenant seconded the motion and it was approved unanimously. Commissioner Moore then nominated Commissioner Richardson for Chairperson. Commissioner Surprenant seconded the motion and it was approved unanimously. The Commission then proceeded with the docket.

At 10:38 a.m. on the motion of Commissioner Moore and the second of Commissioner Richardson, Commissioners Richardson, Moore, Surprenant, and Korn voted to go into executive session. Commissioner Davis abstained. The motion carried.

At 11:08 a.m. the Commission completed its executive session and proceeded with the business portion of the meeting.

Item #2 was the minutes for December 18, 2020 and December 21, 2020. Commissioner Korn motioned to approve the minutes from December 18, 2020. The motion was seconded by Commissioner Surprenant. Commissioners Richardson, Moore, Surprenant, and Korn voted to approve the motion. Commissioner Davis abstained. The motion carried.

Commissioner Moore motioned to approve the minutes from December 21, 2020. The motion was seconded by Commissioner Korn. Commissioners Richardson, Moore, Surprenant, and Korn voted to approve the motion. Commissioner Davis abstained. The motion carried.

Item #3 was a request from the Department of Safety and Permits to transfer the Ground Transportation Bureau to the Department of Public Works in accordance with Rule III, Section 8 Transfer of a Functional Unit. Tammie Jackson, Director of Safety and Permits, stated that there is a great deal of overlap between the Ground Transportation Bureau (GTB) and the Department of Public Works especially in regard to festivals. Robert Hagmann, Personnel Administrator over the Classification and Compensation Division, read a comment card that included questions on how the GTB would be set up under Public Works in terms of the organizational chart and how the duties of the investigators would change, if there would be other operational changes, and the future road map for employees. A second speaker card noted that staff had been given little information so far and that staff is awaiting a response to their questions. The card also asked how reporting relationships would change within the organization. Both employees who filled out the cards indicated that they neither supported or opposed the item. Ms. Jackson stated that she would be answering all of those questions and indicated that the GTB is not being dissolved. She stated that no major changes are planned currently and indicated the move was being made primarily due to the overlap in functions with Public Works. This will make it easier to perform those duties. Ms. Jackson stated that Marcello Barbero, the Deputy Director of Public Works will oversee the GTB. Personnel Director Amy Trepagnier asked Ms. Jackson if the issue regarding the chartered functions of Safety and Permits and the Department of Public Works had been resolved. Ms. Jackson stated it was in process right now and it will be handled at the next City Council transportation meeting. Christina Carroll, Executive Counsel for the Commission, stated that the Commission could rule on the item if the request was in keeping with the Commission's Rules even if the Charter issue had not yet been resolved. Commissioner Surprenant motioned to approve the request as it meets the requirements of the Civil Service Rule. The motion was seconded by Commissioner Moore. Commissioners Richardson, Moore, Surprenant, and Korn voted to approve the motion. Commissioner Davis abstained. The motion carried.

Item #4 was a request from the Department of Safety and Permits to transfer the Building Inspectors from the Vieux Carré Commission and Historic

Districts Landmarks Commission to Safety and Permits in accordance with Rule III, Section 8 Transfer of a Functional Unit. Ms. Jackson stated that they had identified employees in those departments who were qualified for vacancies in Safety and Permits. Commissioner Moore motioned to approve the request. Commissioner Surprenant seconded the motion. Commissioners Richardson, Moore, Surprenant, and Korn voted to approve the motion. Commissioner Davis abstained. The motion carried.

Item #5 was a request from the Chief Administrative Office, EMS, and Property Management for an extension of the performance planning period required under Rule XI Performance Evaluations. Director Trepagnier stated she had received a request from the administration to include all departments in the extension request, but since the request had been received after the published deadline, the Commission would need to vote to add the item to the agenda. Commissioner Korn motioned to add the item to the agenda. The motion was seconded by Commissioner Moore. Commissioners Richardson, Moore, Surprenant, and Korn voted to approve the motion. Commissioner Davis abstained. The motion carried. Director Trepagnier then stated due to unforeseen circumstances like COVID-19, the administration was requesting an extension to February 7, 2021. She noted that goal setting was crucial to 2021 performance management. Commissioner Surprenant stated that in the future the administration should submit requests for extensions prior to the deadline proscribed in the Rules, not after the deadline had already passed. Christina Hamilton, representing the Chief Administrative Office, stated that the City would make requests in advance in the future. Commissioner Moore moved to accept the request as amended and Commissioner Korn seconded the motion. Commissioners Richardson, Moore, Surprenant, and Korn voted to approve the motion. Commissioner Davis abstained. The motion carried.

Item #6 (a) under Classification and Compensation Matters was a request from NOPD for an exception to Rule VIII Section 2.10 (c) relative to the receipt of initial report of injury for Police Officers injured on duty. Director Trepagnier noted that the Commission's Rules require that first report of injury reports be received by the Civil Service Department within 30 days of the date of injury. Deidre Howard, representing NOPD, stated that due to COVID-19 it is difficult for NOPD Human Resources to receive the first reports of injury in a timely manner from the districts. Commissioner Surprenant motioned to approve the request. Commissioner Korn seconded the motion. Commissioners Richardson, Moore, Surprenant, and Korn voted to approve the motion. Commissioner Davis abstained. The motion carried.

Item #7 (a) under Recruitment and Selection Matters was the approval of provisional appointments in accordance with Rule VI, 5.3(a). Director Trepagnier noted that each year in January staff requests an extension of all current provisional appointments so that all are extended in keeping with Rule VI 5.3 (a). There are currently 70 employees in provisional appointments. A provisional appointment occurs when there is not an active eligible list for a promotion or new hire. She then called the Commission's attention to the Police Captains on the provisional list and noted that staff needs to hold a test for the position. Staff had received \$45,000 for testing in the 2021 budget. That will buy one Police or Fire Test from a contractor. Staff had made a supplemental budget request in the 2021 budget in order to hold two fire promotional tests and two police promotional tests, but that request was not funded. That will result in tough choices regarding which tests will be held. The Lieutenant's list is three years old and NOPD wants a Lieutenants test as well. Robert Hagmann then read a comment card from Eric Hessler, representing the Police Association of New Orleans, in opposition to this item noting that the provisional Captains are due to the City's failure to give a Captain's test for seventeen years. The recent legal decision in this matter makes a test a priority. Failure to do so is an unconstitutional circumvention of the Louisiana Constitution and Civil Service laws. PANO recommends that the Lieutenant's list be extended instead of foregoing a Captains test. Director Trepagnier stated that staff would like to hold the Captain's test because it is not in favor of perpetual provisional appointments as they are a circumvention of the merit system. Commissioner Moore asked what the effect would be of not approving the provisional extensions for the Captains. Director Trepagnier responded that the individuals in those appointments would be returned to Lieutenants and there would be no one in those assignments which would create a hardship for NOPD. Commissioner Korn motioned to approve the provisional extensions. Commissioner Surprenant seconded the motion. Commissioners Richardson, Moore, Surprenant, and Korn voted to approve the motion. Commissioner Davis abstained. The motion carried.

Item #8 was a report on additional exemptions to employee furloughs under Rule XII Section 9. Director Trepagnier stated the administration has submitted an updated list of employees exempted from furloughs to include public safety employees. This includes both commissioned Police Officers and Firefighters but also their support staff. It is a little concerning in terms of equity concerns due to clerical or other support employees being required to take furloughs in one department but not another. She

noted that the administration had explained their inclusion in the exemptions as needing to support the commissioned employees or else you would be drawing from commissioned police and firefighters to perform that support work defeating the purpose of excepting the commissioned officers from the furlough.

Item #9 was the ratification of Public Integrity Bureau (PIB) Extension Requests. Commissioner Richardson called for public comment. There being none, Commissioner Surprenant moved for approval of the 30- and 60-day extension requests. The motion was seconded by Commissioner Moore and approved unanimously.

Commissioner Surprenant motioned to take up items #11 through 14. These items required at least a two thirds vote of the Commission to be considered pursuant to L.A. R.S. 42:17.1. Commissioner Korn seconded the motion to take up these items. Commissioners Richardson, Moore, Surprenant, and Korn voted to approve the motion. Commissioner Davis abstained. The motion carried.

Item #11 was a request from Commissioner Surprenant to establish a working committee to consider amendments to Rule III Section 7 regarding the creation of unclassified positions. Commissioner Surprenant stated that his motion is for the Commission to approve the establishment of a working committee to review the language contained in Rule III, Section 7.1 (b) which refers to "policy-making, which is not subject to further review or modification." He stated that given his experiences during the past 15 months as a Commissioner, he believes this language creates confusion and uncertainty in that a reasonable argument can be made that, with the exception of a few City government positions, policy-making authority, not subject to "further review or modification," only factually and legally rests with the Mayor and City Council. Moreover, as to the Sewerage & Water Board, all policy-making authority legally rests with the Board of Directors in that, from a well-recognized corporate law standpoint, it is the legal duty and responsibility of the Board to set and approve policy. He further noted that he considers it critical that we set up a working committee to review this matter at this time so that we and our community have clarity on this Rule moving forward. Commissioner Surprenant proposed the following as the composition of the committee: Commissioner Moore, Christina Carroll, Amy Trepagnier, Jonathan Wisbey, Elizabeth Robins, Nathalie Simon, Coleman Ridley, and himself as Chair of the Committee. The Committee will report

back to the Commission by April 2021. Commissioner Moore seconded the motion and it was approved unanimously.


Item #12(a) under Classification and Compensation Matters was the creation of the new classification of Road and Drainage Maintenance Superintendent. Robert Hagmann stated that this position is being created at the request of the Public Works Department. The position would be set at pay grade 85, it is exempt, and the base salary would be \$62,390. The position would serve as a key assistant for the chief engineer over streets maintenance. Commissioner Surprenant motioned to approve the position. Commissioner Richardson seconded the motion. Commissioners Richardson, Moore, Surprenant, and Korn voted to approve the motion. Commissioner Davis abstained. The motion carried.

Item #13(a) under Recruitment and Selection Matters was the approval of examination announcements 10327-10369. Commissioner Moore moved to approve the announcements. Commissioner Davis seconded the motion and it was approved unanimously.


Item #14 was a request from the Administration to amend Rule VIII Section 11 to reflect the elimination of the "non-essential employee" category. Christian Hamilton, representing the Chief Administrative Office, stated that the purpose of the requested change is to remove the designation of non-essential so that all employees would be considered to be reserve employees in case of emergency. She stated that the amended Rule would read that when the Mayor of New Orleans declares an official emergency and orders that only "essential" employees report to work and that all other employees remain away from work, such employees who remain away from work will be granted official emergency leave. Essential employees working under these circumstances may be eligible for special compensation as provided in Rule IV, Section 11. Ms. Hamilton noted that the City was also amending some Chief Administrative Officer policies relative to removing the non-essential designation so that all employees are considered to be either essential or reserve employees. Commissioner Moore stated that he would like to see a definition of essential. Ms. Hamilton noted that essential is defined in City policy. Christina Carroll noted the Commission does not rely on CAO policy to interpret its Rules. William Goforth, representing the Law Department, stated that there is an ongoing appeal regarding a petition to the Commission regarding emergency pay. To a certain extent the definition of essential employee is at issue in that case. It would not be proper to add or change any

definitions until that litigation has ended. Commissioner Moore stated that in that same vein it would not be appropriate to change any the Rule at this time. Mr. Goforth stated that changing the term does not have a substantive effect on how the Rule is currently written. Commissioner Moore stated the verbiage may matter after the ruling comes out. It does not seem to be urgent. Mr. Goforth stated that the City is changing its policies and so the point is to avoid confusion of the employees with their designation. Commissioner Surprenant noted that based on the proposed amendment and the CAO policies, there would still be inconsistencies in the terminology which may lead to confusion. The same language should be used. Commissioner Surprenant motioned to defer the item until a decision was received from the Fourth Circuit. Commissioner Davis seconded the motion and it was approved unanimously.

Commissioner Surprenant moved for adjournment at 12:19 p.m. The motion was seconded by Commissioner Moore and approved unanimously.


Brittney Richardson (Apr 12, 2021 15:44 CDT)

Brittney Richardson, Chairperson


CJ Moore (Apr 19, 2021 05:38 CDT)

Clifton Moore Jr., Vice-Chairperson


J H Korn (Apr 13, 2021 13:45 CDT)

John Korn, Commissioner


Mark C. Surprenant (Apr 9, 2021 15:16 CDT)

Mark Surprenant, Commissioner


Ruth Davis (Apr 12, 2021 12:03 CDT)

Ruth White Davis, Commissioner