

CIVIL SERVICE COMMISSION
REGULAR MONTHLY MEETING
Monday, October 29, 2018

The regular monthly meeting of the City Civil Service Commission was held on Monday, October 29, 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 Brittney Richardson. Chairperson Craig convened the meeting at 10:16 a.m. Chairperson Craig then administered the oath of office to Brittney Richardson. At 11:36 a.m. on motion of Commissioner Caputo and second of Commissioner McClain, the Commission voted unanimously to go into executive session.

At 11:56 a.m. the Commission completed its executive session and proceeded with the business portion of the meeting.

Item #1 was the minutes from the August 21st, August 27th and October 1st meetings. Commissioner Moore moved to approve the minutes from August 21st. Commissioner McClain seconded the motion and it was approved unanimously. Commissioner McClain moved to approve the minutes from August 27st. Commissioner Craig seconded the motion and it was approved unanimously. Commissioner McClain moved to approve the minutes from October 1st. Commissioner Moore seconded the motion and it was approved unanimously.

Item #2 was the Election of the Chairman and Vice Chairman. Commissioner McClain motioned to elect Michelle Craig as Chairman. Commissioner Moore seconded the motion and it was approved unanimously. Commissioner Craig nominated Ronald McClain as Vice Chairman. Commissioner Moore seconded the motion and it was approved unanimously.

Item #3 was the selection of the primary and secondary evaluator for Personnel Director and Executive Counsel. Commissioner McClain nominated Commissioner Moore to serve as the primary evaluator. The motion was seconded by Commissioner Craig and approved by all Commissioners. Commissioner Craig then nominated the entire

Commission to serve as the secondary evaluator. The motion was seconded by Commissioner McClain and approved unanimously.

Item #4 was a report on delegation of authority to the Sewerage and Water Board (S&WB). Brendan Greene, Executive Counsel for the Commission, stated that in March, S&WB indicated that it had 575 vacancies. 90% of those vacancies had open or active registers. Mr. Greene stated that during a July 24, 2018 presentation to the City Council, S&WB's former Human Resources Director stated S&WB had 494. On October 14th, David Callahan, S&WB acting Senior Executive, indicated that S&WB was going through the vacancy number of 345 to assess the true personnel demands on S&WB. Mr. Greene noted that Civil Service staff has been regularly meeting with S&WB executive staff and is willing to continue delegation based on a collaborative approach with some revising of what it means to be a successful delegation program. The average time between application and placement on an eligible list was 29 days for delegated classifications and 22 days for non-delegated classifications. It is a tough metric because it depends on if the applicant turns in all of the required paperwork or if he or she reports to the testing date. Commissioner McClain stated that he had voted for delegation in order to ensure that it did not take people 4 or 5 months to be hired once they are eligible for the job. Mr. Greene stated that Civil Service and S&WB could drill down on the data to determine the cause for the delay. Commissioner Craig stated that she was hearing that the takeaway is that staff needs to work with S&WB to determine what the goals are for delegation if it is to be continued. Mr. Greene stated that maybe it is in the form of a quarterly report to the Commission or as regularly as the Commission wants. Commissioner Craig reported that she had met with the new leadership at S&WB and looked forward to working with them.

Item #5(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 temporary work in a higher classification for Mr. Eric Labat. Robert Hagmann, Personnel Administrator over the Classification and Compensation Division, stated that the Operations Division is one of the four major divisions of S&WB. This division handles drainage, sewerage, pumping, power generation and purification. There have been a number of key retirements in this division. Eric Labat is a Power Dispatcher IV with 35 years of experience. He is needed in order to maintain stability and provide a way forward in the future. Mr. Hagmann stated that staff is asking for an exception to the Rules in order to offer a premium rate to get this

employee to stay. His salary would increase from approximately \$86,000 to \$141,000. Mr. Hagmann stated that Mr. Labat will work with S&WB to get a successor. He noted that the position does require an engineering license and wastewater certification, but Mr. Labat does know the operation. The staff is recommending a two year plan to get a new person and train them up. Commissioner McClain asked if there was anyone on the outside that could do that work. Mr. Hagmann responded that S&WB is between a rock and a hard place due to two key retirements. They are down three deep. Commissioner Moore asked if the engineering license was a state requirement. Mr. Hagman responded that in other jurisdictions it is required. He noted that S&WB is committing to provide a succession plan. Commissioner McClain moved for approval of the request. Commissioner Moore seconded the motion and it was approved unanimously.

Item #5(b) was a request from the Police Department for an unclassified Director of Communications. Robert Hagmann stated that the position would supervise Public Relations Analysts and Specialists who function as information officers and plan special events. He stated that NOPD is contending that the position is not appropriate for the classified service because it handles issues that are sensitive in nature and has considerable discretion when dealing with the press. Staff believes that there is a need for the position, but that it is appropriate for the classified service. This position would increase the number of unclassified employees at NOPD to 25 which is eight times what the constitution allows for. Mr. Hagmann noted that it is a role that was handled by classified employees in the past, typically by a ranking officer. Similar roles are performed by classified employees in the French Market, Recreation and the Library. The Mayor's Office allows departments to have a representative, but the information gets funneled through the Mayor's Office. There is a detailed policy. Mr. Hagmann further noted that the position will be supervising classified employees. Commissioner Craig asked if other city departments had unclassified communications positions. Mr. Hagmann responded that there is no other unclassified position that performs the role that this position does. Director Hudson clarified that Aviation and S&WB have unclassified positions, but that they did not rely on the Mayor's Office as a centralized communications office. Beau Tidwell, the Mayor's Director of Communications, who previously served as the Director of Communications for NOPD in an unclassified position through the Mayor's Office, stated that when he worked at NOPD there were practical issues dealing with employee overtime and timecards due to his not being an actual employee of NOPD.

Mr. Tidwell further stated that he believed that the position is not appropriate for the classified service because it has a lot of authority over policy making decisions because every day you are responding to media inquiries and speaking on behalf of the Chief of Police and to some degree on behalf of the Mayor. Commissioner McClain then asked why the position could not be performed by a classified employee. Mr. Tidwell replied that a classified employee is by definition not a part of the current administration, but is a part of the ongoing structure of the city. He noted that the previous role of classified employees was as the Public Information Officer (PIO), not the Director of Communications. The PIO was charged with putting out press releases and answering media queries on the scene. The Communications Director is a much larger role and represents the Chief of Police and to some degree the Mayor, on public safety matters before the public and on an intergovernmental level. Commissioner McClain asked why it has to be unclassified. Mr. Tidwell responded because an unclassified in that role is directly answerable to the Chief of Police. A classified employee is not necessarily going to be able to do that. Commissioner McClain stated that it was his understanding that what distinguishes unclassified positions is that they have independence relative to policy making, meaning that they should not be answerable directly to the Superintendent as it relates to policy making. Mr. Tidwell stated that he disagreed with that interpretation somewhat. Eric Melancon, Deputy Chief of Staff at NOPD, stated that the policy making involved is the daily management of press policy. Commissioner McClain stated that one concern is that the Commission has approved a number of unclassified positions for NOPD. The Commission wants unclassified positions to be the exception. Mr. Melancon replied that is why NOPD is requesting that the Compliance Bureau of nine employees be converted into classified positions. Commissioner McClain asked if in the last several years the work had been performed by an unclassified employee in the Mayor's Office assigned to the Police Department which created some difficulty in exercising supervisory responsibilities. Mr. Melancon agreed. Mr. Tidwell stated that the Mayor's Office of Communications is in support of the unclassified position.

Mr. Hagmann stated that staff is offering a classified position which would deal with the timecard aspect of the issue. He stated that this position is a key operational position but it is not making policy. That is still dictated by the Mayor's Office. Mr. Hagmann noted that the issue had previously been before the Commission in 2012. The policy role belongs in the Mayor's

Office, not the department. Keeping the position in the classified service ensures a fair and competitive selection process. Mr. Melancon stated that this position is part of an effort to civilianize administrative positions within NOPD. It is important that this position has the ability to push out the message in a communications style that is congruent with the Superintendent who is the Mayor's appointee. That person is a spokesperson for the Superintendent whose independent policy making authority flows through them in that regard. He stated that he did not feel it is appropriate for the classified service. The current Director handles many issues that are sensitive in nature and are an arm of the policy making authority that the Superintendent exercises. Mr. Melancon stated that the Sewerage and Water Board has an unclassified communications director. Commissioner McClain asked who performed the work prior to the Mayor's Office sending a person to the Police Department. Mr. Melancon replied that it was performed by a Commander or Lieutenant, but they were responsible for the day to day functions, not the strategic communications piece that came about as a result of the Consent Decree. Commissioner McClain asked why wouldn't a classified employee be able to make communications that are congruent with the Superintendent. Mr. Melancon responded that they could, but in the event they cannot, the accountability measure for that person would effectively render the department's ability to communicate strategically with the public inert. The system of having an unclassified person on loan to NOPD has been working. The reality is that it is a political position and that is why it is not appropriate for the classified service. He stated they are trying to make sure that the vision of the Superintendent and the Mayor are effectively communicated. That vision is an integral part of policy making. Commissioner Moore noted that uniformed spokespersons gain a certain public trust. If that person disagrees, that makes communications a problem. The high number of unclassified at NOPD is not something the Commission wants to see continue. The strategic part of communications is something that needs to be considered. Commissioner Richardson then asked for concrete examples of political things the person needs to conduct in that position. Mr. Melancon provided examples of recent press conferences coordinated by Andy Cunningham, the current Communications Director. Those press conferences could have been derailed if there was incongruence between Andy and the Chief regarding what is important that week. Commissioner Richardson asked how we make sure that everything is in line with the message of the Superintendent if the person is unclassified. Mr. Melancon responded that you give them that free reign until it is no longer working as that agent of policy for the Superintendent. The accountability is

there through an unclassified appointment. They can be reprimanded or terminated. Mr. Cunningham stated that the position being unclassified has worked and has made a difference in the department. It needs to have that independence. He noted he makes decisions on behalf of the Superintendent. Mr. Hagmann stated that you have to look at the essential functions of the job. The nature of public relations work is that you are supporting those you are providing the public relations for. If you do not fulfill your strategic role, the department takes the appropriate disciplinary action. This is an operations position. It is not analogous to the Deputy Superintendent.

Donovan Livaccari, representing the Fraternal Order of Police, stated that this position has typically been classified, has always reported directly to the Chief, and has always been tasked with putting out the Chief's message. The job is appropriate for the classified service. Both a classified and unclassified employee would be subject to discipline if they went off the rails with the Chief's message. Mr. Livaccari also noted an overall philosophical problem with additional unclassified employees. Commissioner McClain stated that he was convinced that if someone goes off the rails they can be reigned back in whether they are classified or unclassified. He stated he was challenged with supporting another unclassified position at NOPD. He noted that Mr. Hagmann did a good job with indicating the challenges with moving the position to the unclassified service. Mr. Melancon then stated that the Commission approved a similar position at S&WB. Commissioner Moore motioned to deny the request to create the unclassified position. Commissioner McClain seconded the motion. Commissioner Moore and McClain voted in favor of the motion to deny the request. Commissioners Craig and Richardson voted in opposition to the motion. The motion failed and the Commission did not authorize the creation of the unclassified position. Mr. Melancon then asked if the item could be postponed to the next Commission meeting. Commissioner Craig requested that at the later meeting that new information is included that would be helpful in making the decision.

Item #5(c) was a request from the City Council for an unclassified Executive Counsel. Robert Hagmann stated that the City Charter allows the City Council to employ Special Counsel through professional services contracts. In this case, the Council wants to reign in those contracts and bring Counsel in house to build institutional knowledge. This position reports to the seven elected Councilmembers. The position creates legal policy for the people it

represents. A lot of discretion is needed due to dealing with and representing the elected officials. Mr. Hagmann noted that staff supports the Council's request. David Gavlinski, Council Chief of Staff, stated that the position will perform legal research and provide legal opinions and advice as well as serve as privileged legal counsel for the City Council. Moving the position from a contract to in-house fosters institutional knowledge, saves taxpayer money and provides continued privileged access to the Councilmembers. The Chief of Staff would supervise the position. Commissioner McClain moved to approve the request. The motion was seconded by Commissioner Moore and approved unanimously.

Item #5(d) was a request from the Fire Union to review Fire pay relative to the SSA Consultant Study. Robert Hagmann reported that Fire's 10% pay increase occurred on October 14, 2018. Mr. Hagmann then noted Fire's concerns with what was happening with fire pay relative to police pay. He presented a slide that showed a widening gap between police and fire pay over the past 20 years. He noted that fire pay currently lags police pay by 40%. This is true in most jurisdictions. He noted that nationally, the median pay for firefighters is \$49,000 per year. He then provided pay data for surrounding jurisdictions. He stated that staff would be taking its findings to the administration and other key stakeholders. Staff is recommending an additional 5% increase to be implemented over a two year period starting in 2019. Staff will be working with the administration to determine the cost. Mr. Hagmann further noted that the pay gap between police and fire is due in part to the new demands on police officers and partly on the market. Commissioner Moore noted that although the gap between police and fire pay is universal, the amount of the gap in New Orleans is an outlier. Aaron Mischler, representing the Fire Union, stated that the pay gap is an issue with recruiting and retention. Of the 86 people hired in the last three years, more than 20% have already resigned. They are leaving for better opportunities in neighboring jurisdictions or throughout the country. He also noted that the call volume and duties of firemen have increased. Director Hudson noted that the Fire Superintendent is aware of the proposal and seemed supportive. Commissioner McClain stated that he would like to indicate his support for the recommendation. Director Hudson said she would like to meet with the Chief Administrative Officer further before putting a proposal before the Commission for a vote.

Item #5(e) was a request by the Parks and Parkways Human Resources Manager to appeal his denial for Hiring above the minimum application under Rule IV, Section 2.7(d). Robert Hagmann stated that staff had received a "me too" request from Erdwin Fuentes, a Personnel Division Chief, regarding a hiring above the minimum pay awarded by the Library in March of 2016. Mr. Fuentes is requesting that his salary be adjusted back to that date based on his possession of equivalent qualifications to those possessed by the Library employee, Veleaka Jordan, who received the extraordinary qualifications pay. Staff does not support the request because staff does not find Mr. Fuentes' qualifications of a Bachelor's degree and thirteen years of human resources experience to be equivalent to an MBA and twelve years of human resources experience. Staff does not find that an extra year of experience is equivalent to a Master's degree. Director Hudson stated that staff would have used the experience to equate to the Master's degree if there was enough of it. Mr. Fuentes stated that he feels that he has met and surpassed the criteria in the rule. He stated he believes that his one year of additional experience holds as much weight as Ms. Jordan's online Master's degree. He stated that his years of experience in city government equipped him better for the job than Ms. Jordan's experience in the private sector. He stated that possessing a Master's degree would not give him an advantage to do his job better. Mr. Hagmann cautioned that if Mr. Fuentes was awarded the extraordinary qualifications pay he would make more than the higher level Management Services Administrator who essentially functions as the Deputy Director of Parks and Parkways. Mr. Fuentes stated that he did not think it is fair that Ms. Jordan has since accepted a lower position by virtue of a voluntary demotion and was allowed to retain the base pay of a Personnel Division Chief. He noted the support of his Director, Ms. Ann MacDonald. Commissioner Richardson asked Mr. Fuentes if he had taken any professional development courses or additional training or gained additional credentials. He responded that he had done presentations and orientations and had taken the required Civil Service courses. Commissioner McClain stated that Mr. Fuentes makes a good case but it is hard to overcome staff's contention as it relates to the MBA compared to the BA and twelve years compared to 13 years. Commissioner Moore motioned to take the matter under advisement. He stated that the Commission may need a little more information. Commissioner McClain seconded the motion and it was approved unanimously. Commissioner McClain stated that the Commission will continue to look at it. There is no indication we will decide one way or the other but we will still look at it.

Item #5(f) was a request from the department of Property Management for reconsideration of Extraordinary Qualifications for a Real Estate Administrator candidate. Robert Hagmann stated that Property Management is seeking to hire Jennifer Kreschmann as a Real Estate Administrator using hiring above the minimum. Staff has determined that it did not meet the requirements of the extraordinary qualifications rule because Ms. Kreschmann's qualifications are equivalent to those of another applicant on the register. This applicant, Mr. Bob Finkelstein, also noted he would take the job at the minimum pay. Mr. Hagman stated that Property Management responded that Ms. Kreschmann had given a great interview, but they failed to interview Mr. Finkelstein until after their request had been denied. Staff does not support Property Management's request. Martha Griset, interim Director of Property Management, indicated that she did not interview Mr. Finkelstein initially because he had been fired from the Law Department and sued in state and federal court and had lost. He was not someone the department wanted to hire, but the department was told by Civil Service that he was as qualified as Ms. Kreschmann and was willing to take the position at the minimum and that she shouldn't hold the fact that he sued the city against him. She stated that the department interviewed seven candidates. Mr. Finkelstein has no legal real estate experience, no experience with excel spreadsheets, no title abstracting experience and was not truthful during the interview. Ms. Griset stated that you can say that both he and Ms. Kreschmann are both attorneys but his qualifications are not the same. Commissioner Richardson asked if Mr. Finkelstein was interviewed. Stephanie Landry, the unclassified Secretary for Property Management, confirmed that he was interviewed. Director Hudson asked if Mr. Finekelstien had been interviewed after the request for extraordinary qualifications pay had been denied. Ms. Landry confirmed that he had been interviewed after the request for extraordinary qualifications pay had been rejected. Director Hudson clarified that Mr. Finkelstein's lawsuit was in regard to being terminated from an unclassified appointment at the end of an administration. Mr. Hagmann stated that the issue is that the decision was made to give Ms. Kreschmann extraordinary qualifications pay without even giving the other individual a chance. He asked what if the other person had had a great interview. Ms. Griset stated that they first interviewed the top three candidates based on their resumes. They did not interview Mr. Finkelstein because they did not believe he was as qualified as the other candidates. They later tried to correct that. Director Hudson stated that they rejected him as a candidate and the information they submitted to staff to review said that he and Ms. Kreschmann did not have similar qualifications.

Staff went back to look at it and Mr. Finkelstein did have similar qualifications and we asked questions about that. We rejected it at that point and then they made the case that it was Ms. Kreschmann's interview that put her over the top, so we asked well then did you interview Mr. Finkelstein and we were told no. Based on that, staff rejected it again. Then they came back and said we will interview him. Ms. Griset then stated that one candidate had legal experience related to real estate and the other had legal experience and realtor experience. Amy Trepagnier, Deputy Personnel Director, stated that the issue is that the person they did not interview appeared to be the one applicant who possessed similar qualifications to the person who was offered extraordinary qualifications pay. Commissioner Craig stated that there were two people on the list who possessed a Juris Doctorate and because there was more than one person who possessed that, according to staff, then it made that qualification not extraordinary. The staff uses what is in front of them. She asked what do we have as evidence that that one person is extraordinary. Commissioner McClain stated that if the person did have relevant legal real estate experience that would be extraordinary over someone with just a JD. Ms. Trepagnier stated that is correct, but they did not have that evidence to compare the two at that time. Commissioner Richardson asked Ms. Griset how she found out about the legal litigation that was part of her decision. Ms. Griset responded that she googles everyone. She also looked at the resume and the pieces did not fit together right. She stated she tried to correct it for Civil Service to make it work. Director Hudson stated that for staff it is procedural. They used the interview as a reason she stood out among the other candidates but failed to interview the candidate who had similar qualifications. Commissioner McClain stated that it seems like it turned on the fact that the department said that the extraordinary qualifications were revealed during the interview and the staff is saying there is someone else with similar credentials who was not interviewed. Ms. Trepagnier added that the person was not afforded the opportunity to expand on his extraordinary qualifications. Commissioner McClain asked if there is a fix to that. Commissioner Richardson stated that when we go back for the interview we open ourselves up to claims of discrimination or claims from Mr. Finkelstein that he was not properly vetted. It is important that we follow our process because of those reasons. Commissioner Craig motioned to take the matter under advisement stating she would like to have some conversations with the Commission's Counsel. Commissioner McClain seconded the motion at it was approved unanimously.

Item #5(g) was a request from Aviation to retroactively apply the Extraordinary Qualifications pay rule for Mr. Harold Dede, Airport Services Manager. Mr. Hagmann stated that in this case, there were ministerial errors at the Airport. The Airport placed Mr. Dede at step 1, but later staff found out that Aviation intended to hire him above the minimum. Mr. Dede also checked the box that said he is willing to take the job at the minimum. Mr. Hagmann stated that staff supports the request to approve the retroactive application of the extraordinary qualifications rule. Commissioner McClain motioned to approve the request. Commissioner Moore seconded the motion and it was approved unanimously.

Item #5(h) was a request to restore Ms. Neljuana Mallery's consecutive service date along with longevity pay and leave accrual benefits relative to Rule XII, Section 8.6. Mr. Hagmann stated that Ms. Mallery was laid off due to the 911 consolidation. She was rehired in the Mayor's Office as part of the crime camera unit. She is requesting the restoration of her consecutive service date which would affect longevity pay and annual and sick leave accrual. The issue is that the Rule does not allow for that. It requires that the person be hired off of the preferred reemployment list and the person was rehired off of a regular employment list. The Commission would have to grant an exception to its rules. Commissioner McClain asked how many similar situations there are. Mr. Hagmann responded that there could be a few more cases in the future, but there is a two year limitation. Ross Bourgeois, Administrator for the RTCC, stated that Ms. Mallery was a Fire Alarm Dispatcher. That position was effectively abolished with the 911 consolidation. The spirit of the rule doesn't allow for another position. She was able to find employment with city government. She is asking for her consecutive service date to be restored. Commissioner Moore motioned to approve the request. Commissioner McClain seconded the motion and it was approved unanimously.

Item #5(i) was a request for the approval of additional pay plan adjustments relative to re-establishing equity with the Management Development Analyst Series and the establishment of new related job classifications. Mr. Hagmann stated that in March the Commission approved additional adjustments to analyst series. At that time, staff noted more changes would need to take place to maintain pay equity. Staff is now recommending changes to the Revenue Field Agent series, Police Secondary Employment series, Disaster Recovery Assistant series, Health Project and Planning series, Aviation series, and the Technical Specialist and Administrator

series. Staff is also proposing two additional classes to maintain equity, Budget Consultant for the Chief Administrative Office and Personnel Consultant primarily for Civil Service. At \$52,390, this position is meant to be a highly specialized, non-supervisory position. Commissioner McClain motioned to approve the request. Commissioner Moore seconded the motion and it was approved unanimously.

Item #5(j) was a request from the Police Department for an exception to the Injured on Duty Rule to allow the approval of an Injured on Duty Request over the 30 day threshold. This item was deferred.

Item #5(k) was a report on overtime earnings relative to Rule IV, Section 9.7(a). Mr. Hagmann stated that the review was in progress. Staff is waiting for responses to the letters it sent out to the departments.

Item #6(a) under Recruitment and Selection Matters was the approval of examination announcements 9866, 9965, and 9977-10008. Commissioner McClain moved to approve the examination announcements. The motion was seconded by Commissioner Moore and approved unanimously.

Items #7 (a-c) Rule amendments were deferred.

Item # (8) was the ratification of Public Integrity Bureau (PIB) 60 Day Extension Requests. Commissioner Craig called for public comment. There being none, Commissioner Craig motioned to approve the request. Commissioner McClain seconded the motion at it was approved unanimously.


Item #9 (a) under Communications was a report on the status of the Pay Disparity Study. Director Hudson report that staff had a meeting with the Chief Administrative Officer and he supports moving forward with the study. She stated she believes he is agreeable to fund it. Staff is looking at amending the SSA contract to handle the work. Staff will be having follow up meetings with Courtney Bagneris in CAO and Stephane Hennings in Service and Innovation.

Item #9 (b) a report on ADP ongoing issues was deferred.

Item #9 (c) was a report on the Civil Service Budget and Staffing. Director Hudson reported that the department's budget hearing would be held on

November 12th. She noted she had provided the Commissioners with a copy of staff's budget presentation. Commissioner McClain stated that the Commission wants to be supportive of staff's request. Staff has done a good job of putting the budget together.


Commissioner Moore moved for adjournment at 2:16 p.m. The motion was seconded by Commissioner McClain and approved unanimously.




Michelle Craig, Chairperson



Ronald McClain, Vice Chairperson



Clifton Moore, Jr., Commissioner



Brittney Richardson, Commissioner