

CIVIL SERVICE COMMISSION  
REGULAR MONTHLY MEETING  
Monday, January 28, 2019

The regular monthly meeting of the City Civil Service Commission was held on Monday, January 28, 2019 at 1300 Perdido Street, 1<sup>st</sup> floor City Council Chambers. Ms. Doddie Smith, Personnel Administrator of the Management Services Division, called the roll. Present were Chairperson Michelle Craig, Commissioner Clifton Moore, Jr., Commissioner Stephen Caputo and Commissioner Brittney Richardson. Chairperson Craig convened the meeting at 10:13 a.m. At 11:33 a.m. on motion of Commissioner Caputo and the second of Commissioner Richardson, the Commission voted unanimously to go into executive session.

At 11:51 a.m. the Commission completed its executive session and proceeded with the business portion of the meeting.

Item #1 was the minutes from the December 17, 2018 meeting. Commissioner Caputo moved to approve the minutes. Commissioner Moore seconded the motion and it was approved unanimously.

Item #2 was the election of the Vice Chairman. Commissioner Caputo motioned to nominate Commissioner Moore as Vice Chairman. The motion was seconded by Commissioner Craig and approved unanimously.

Item #3 was a report on delegation of authority to the Sewerage and Water Board (S&WB). Brendan Greene, Executive Counsel for the Commission, reported that on January 22<sup>nd</sup> he had sent some proposed metrics aimed at measuring the success of delegation to the S&WB. He noted that while S&WB is not in agreement with the consequences of failing to meet these metrics, the two parties are moving closer to an agreement on the metrics themselves. He noted that regular access to reports with respect to data regarding appointments, promotions, earnings and vacancies is one of the biggest items. S&WB is finalizing a new HRIS system which will allow Civil Service staff to access smart lists which should address the reporting issues. The key to this is setting up refresher training. This system was supposed to be set up in December of 2016. This access will allow for a robust auditing role which is part of the legality of the delegation. Mr. Greene stated that he

Mr. Greene noted that it had been agreed upon that with the reports, Civil Service would be able to review personnel transactions to determine if they are in keeping with the delegation manual. We are still working through the impact of that, for example, mandatory training. We are going to try to measure efficiencies and effectiveness by measuring how quickly it takes to process an application and how long it takes to hire someone. Commissioner Moore asked how long after the metrics are established and agreed upon would it take to determine if S&WB is able to meet them and if they are in compliance with delegation. Mr. Greene responded that he is waiting for feedback from S&WB. He hopes to have a document we are comfortable with at the February meeting that would include a quarterly report schedule, impacts or results of failing to meet some of the metrics and a general window of time for the Commission to say they have had enough time to determine if this is effective or not. Commissioner Moore stated that it probably would not be a bad idea for S&WB to be here at some point for those quarterly reviews. Mr. Greene stated that he would extend that invitation to S&WB on the Commission's behalf.

Item #4 was a report on overtime earnings relative to Rule IV, Section 9.7 (a) and a request from the Sewerage and Water Board for an exception to the Rule. Mr. Greene stated that he had sent questions to S&WB regarding the usage of overtime for employees who are on pace to exceed 750 hours of overtime. S&WB had provided responses and there were only 3 or 4 classifications which they were continuing to analyze. It appears the response is complete. There are explanations included. To the extent staff can look into this overtime usage it has, with the exception of the handful that S&WB is still looking into. Commissioner Craig asked if Mr. Greene was comfortable that he would receive an update regarding those positions. Mr. Greene stated that it was absolutely the representation that came with this production. He noted that no timeline had been provided. Commissioner Caputo asked Mr. Greene if he was good with the responses. Mr. Greene replied that there were limitations on the degree into which an audit could be conducted on the responses. He stated that the responses were thoughtful in regard to some of the unique demands on these employees. It is similar to the information we get from other appointing authorities. Commissioner Moore asked how directly was S&WB's inability to staff certain positions tied to the need to request this exception to the Rule. Mr. Greene responded that there were only a few classifications noted in the response that indicated the concern in respect to the availability of personnel. That is something S&WB and Civil Service staff can work on together to address those concerns. Commissioner

Moore motioned to accept S&WB's request for an exception to the Rule. Commissioner Richardson seconded the motion. Commissioners Craig, Moore and Richardson voted in favor of the motion. Commissioner Caputo abstained from the vote. The motion carried.

Item #5 was a petition from PANO to repeal the "Great Place to Work Initiative" Rules. Eric Hessler, representing the Police Association of New Orleans, stated in August of 2014 then Mayor Mitch Landrieu proposed the "Great Place to Work Initiative" which included amendments to promotional processes. At that time, all of the labor organizations were greatly opposed to it because there was concern it would end the Civil Service system as we knew it which requires competitive exams and promotions in Article X section 7 of the Louisiana Constitution. The position taken by the labor organizations back then has come home to roost. You can see that by the Achord decision and the Police Lieutenant's decision and in future decisions by this board because this process is being applied in an unconstitutional manner. The evidence in the police case is abundantly clear. Mr. Hessler stated that then Chief Michael Harrison, stated that he did not consider the test scores. That is clearly unconstitutional. It is not fair, competitive or merit based as required by Article X section 7 of the Louisiana Constitution. We have two rulings in two different departments that have found that to be the case. One Deputy Chief even called it a system of horse-trading and promotions were based on who you know. This allows political patronage to seep into the system. The Commission's report says that the system of promotions has to be constitutional in the Police Department due to the para militaristic structure of the department. For a person to follow the orders of their superiors, they must feel confident in the selection process that forged the chain of command. It hurts morale and confidence in leadership. The system is broken beyond repair. It is the Commission's responsibility to address this and repeal the "Great Place to Work Initiative" whole or in part. If in part, particularly the parts that apply to the promotional system in the police and fire departments.

Commissioner Craig asked Mr. Hessler if he wants to repeal the whole thing. Mr. Hessler replied that it would be the safest thing because the city has not shown any real commitment to doing it the way they promised to do it in 2014. It was not what they told the Commission they were going to do. Commissioner Caputo asked Mr. Hessler if it was his belief that the current administration is going to do the same thing. Mr. Hessler responded that he believes that they have so far, in particular with the Sergeants promotions. The factors they are using are not weighted or explained and there has been

no change. He stated he does not believe that it can be done in a way that follows the Constitution. They do not have specific criteria. Commissioner Craig stated that the Commission knew going into this that there may be a situation where the Commission may have to tweak the rules. It is clear that there may be some tweaking that may need to be done. Instead of getting rid of the entire thing, why not help with the criteria that should be added. Mr. Hessler responded that it can be done, but not under this scheme. None of the eight factors considered by NOPD were merit based. If you are a leader you should certainly know things other than the score and length of service, but as applied by this department it is clearly unconstitutional. He stated he did not know if it could be any other way as passed. It should be scrapped and repealed, especially in regard to the Police Department's promotional system. We knew when we objected that the city was not going to use those constitutional guidelines in its application. We have found that to be true in many instances. It is affecting morale and will eventually cause the department to lose confidence in its leaders. The Civil Service staff has raised these same concerns in the past.

Commissioner Richardson asked Mr. Hessler if there had been a discussion regarding which parts of the Rule are working and not working. Mr. Hessler responded that he had reached out to the City Attorney's Office, but had not received a response. Commissioner Richardson noted that those discussions would be the starting point. Commissioner Richardson then left the meeting citing a family emergency.

Commissioner Caputo stated that there may be room in the future to modify the "Great Place to Work Initiative" but at this point he was not ready to abandon the whole thing all together. He encouraged Mr. Hessler to meet with the city and then come back with some ideas on how to make it better maybe with a hybrid approach. Commissioner Moore stated that he is convinced that in its present form the Great Place to Work Initiative is problematic to say the least. It has already cost the Commission lots of time because of its shortfalls in particular in regard to due process and constitutionality. He stated he has particular and significant problems with certain aspects of this but he would agree with Commissioner Caputo in part that before any changes are made he would like to direct staff to investigate, evaluate and explore changes in particular in regard to the promotional process. There are other aspects that need addressing. He stated he is concerned about the vacuum a complete repeal would leave as far as processes go. Commissioner Craig stated that she agreed that an investigation makes

sense. Mr. Hessler stated that he would welcome that. He noted that while it has been suggested that he meet with the city, the labor groups had met with the city for months and months prior to the implementation of the "Great Place to Work" and that every idea and promise that was made was violated. The position of the city is almost immaterial because it is incumbent upon the Commission to make sure that this is constitutional and that these officers have due process. Mr. Hessler recommended going back to the previous rule of three system while the investigation was ongoing because that system was constitutional.

Aaron Mischler, representing the Fire Union, stated that the City Attorney's representative stated that there are numerous combinations of criteria that can be used when selecting someone from a register. He asked what kind of continuity that offers someone embarking on a career path. He gave the example of an appointing authority telling you what he is looking for, you follow that path for ten years and then the appointing authority leaves and the next person comes in with a different idea. He noted that the Fire Chief uses the "Great Place to Work" with both promotions and hiring. In the past three years 86 Fire Recruits have been hired. Over 20% of those hand-picked Recruits are gone. That level of turnover is unheard of in the Fire Department. Something has to be done. Commissioner Craig noted that the Commission understood the concerns before them.

Donovan Livaccari, representing the Fraternal Order of Police, stated that he had been involved in discussions prior to the implementation of the "Great Place to Work" and that then CAO, Andy Kopplin, stated that he did not understand the union's focus on this process being fair. Somehow the notion of fairness as it related to personnel matters was foreign to him. The Police and Fire Departments have taken advantage and applied the Rules in whatever way suited them at the time. In the discussions leading up to the "Great Place to Work", the city noted time and time again that it was not really the Police or Fire Departments where there is a problem since they have a robust promotional process. It was the smaller departments in City Hall who were having problems reaching people on lists. When you have a list of 100 people it really stands out when you choose number 80 something and number one is still sitting on the list. We just want to do what the constitution says and have a process that is transparent, objective and fair. He urged the Commission to consider revising the rules as they apply to promotions and hiring. He noted he had recently met with Civil Service staff and the City Attorney's Office relative to other promotional protests. He noted that there is a fundamental

disagreement. Commissioner Moore motioned to direct staff to investigate and explore adjusting, changing, or editing the "Great Place to Work" so that we don't run into the problems that have tied down this Commission before. Commissioner Caputo seconded the motion and it was approved unanimously.

Item #6 (a) under Classification and Compensation Matters was a request from the Library to create a new classification of Library Programming Coordinator. Robert Hagmann, Personnel Administrator over the Classification and Compensation Division stated that staff was recommending the creation of this new classification as a result of a job study. The position would oversee and enhance various programs that the Library provides. It would be slotted at pay grade 84 with a base pay of \$60,859. He noted there was a similar position at Recreation. Commissioner Moore motioned to approve the request. Commissioner Caputo seconded the motion and it was approved by all Commissioners.

Item #6(b) was a request from the Police Department to transfer a functional unit within the Police Department to the Mayor's Office. Mr. Hagmann noted that NOPD is seeking to transfer for members of its grants staff to the Mayor's Office of Criminal Justice Coordination. Mr. Hagmann noted that he did not believe that it would change the responsibilities of these positions. Eric Melancon, Deputy Chief of Staff for NOPD, stated that the duties of these positions have extended beyond just those of NOPD grants. They now service the courts and the District Attorney's Office. This move would remove any concern regarding NOPD influencing grant distribution. Amanda Simpkins, from the Office of Criminal Justice Coordination, stated that the staff serves as the support staff for the New Orleans Criminal Justice Council which makes decisions regarding the allocation of grant funds. The grants staff is the monitoring and compliance piece. Commissioner Caputo motioned to approve the transfer. The motion was seconded by Commissioner Moore and approved unanimously.

Item #6(c) was a Police Department request to appeal Civil Service staff's recommendation relative to the Police Department's unclassified Compliance and Audit positions. This item was deferred.

Item #6(d) was a request from Personnel Administrators Doddie Smith and Shelly Stolp to retroactively apply Rule IV, Section 2.7(d) for Extraordinary Qualifications pay relative to the position of Police Human Resource

Administrator. Ms. Doddie Smith, Personnel Administrator, stated that the matter was continued from the December 2018 meeting. She noted that at the December meeting a concern regarding compression was discussed. She noted that since 2016, approximately 141 hires above the minimum had been approved. Each time a hiring above the minimum has been approved it causes compression and up to this point that has never been a factor in approving or denying a hiring above the minimum. The rule also does not mention compression as a means for denying requests. Previously, the budget has never been a factor. The budget cannot be considered because there is no way to foresee this type of request. The only legitimate concern is if the positions of Police Personnel Administrator and Personnel Administrator are in the same job classification. She directed the Commission to its definition of class in the Rules and also provided an external definition of class. She also noted the Equal Pay Act which requires that men and women in the same workplace be given equal pay for equal work. The jobs need not be identical, but substantially equal. Job content, not job titles determines if jobs are equal. Ms. Smith then noted that while the male employee she is basing her request on had 20 years of questionable human resources experience, she has 28.5 years of definite human resources experience.

Robert Hagmann noted that he is in the same classification, so if relief is granted it would apply to him too. He noted that compression is not a consideration of the Rule however it affects the Director's oversight over the department. You would be putting the Personnel Administrator at the same level of Deputy Personnel Director which would create another inequity unless you would bring up the related classification. Regarding the budget, if there is retroactive pay, there may need to be some tweaking about our present allocation. This has happened with other departments and they have had to find a way to fund it. The equal pay for equal work issues are true. He cited a case in which the Commission granted an increase to building inspectors because the work they performed was substantially similar to that of fire inspectors who received an increase.

Shelly Stolp, Personnel Administrator, stated that the Rule does not speak to compression problems. The Commission has never been asked about compression. The Rule does not call for a budget recommendation. The issue here is if it is the same kind of work. Making it at the same pay grade made it so. She noted that she has 20 years of experience and often has to advise the Police Department's Human Resources Director. Commissioner Moore stated that to consider compression at this point at the detriment to staff would

be unfair. He stated that budget is not his purview. Commissioner Craig asked if the pending pay disparity study would address this issue. Director Hudson stated that she did not believe it would be addressed by the study. Ms. Smith noted that their claim is not really based on sex; it is based on the Rule and the job class. Commissioner Caputo asked about the budgetary impact. Mr. Hagmann stated that it would include five employees with the three Personnel Administrators and the addition of the Personnel Director and Deputy Director in order to maintain equity. Ms. Smith noted that her request was only for Ms. Stolp and herself with the potential for Mr. Hagmann to be included, not five people. Director Hudson stated she would disagree with that because of the internal equity, the other person would make a request, so you cannot promise that it is only two people. Commissioner Craig noted that this issue could be addressed by a rule change and suggested taking the matter under advisement while the rule change was considered. Commissioner Caputo asked if the back pay would be for 26 months. Mr. Hagmann replied that it would be back to July of 2016. Ms. Stolp stated that she would be willing to amend her request to forego the back pay. Commissioner Caputo motioned to approve the request minus the back pay. Commissioner Moore seconded the motion. Ms. Smith stated she had an issue because the Rule states retroactive and because she won't be with the city for very long. Commissioner Caputo clarified that the motion included Mr. Hagmann. Mr. Hagmann cautioned the Commission about the ripple effect in the pay plan. The motion was then approved unanimously.

Item #6(e) a request to appeal the omission of salary increases for the Financial Systems Administrator in the 2009 and 2016 pay plan amendments. Mr. Hagmann stated that Mr. Roeling Burns is asking for an adjustment based on the 2009 pay plan revision. He explained that at that time, the pay for Assistant Comptroller was moved to four grades higher than the other bureau chiefs; later in that year the employees petitioned the Commission to restore the equity and the Commission approved those adjustments. Mr. Hagmann added that recently, Marilyn Richardson had asked for a similar adjustment. The Commission found that since her request was made seven years later her request was made too late to make an adjustment. Mr. Hagmann noted that Mr. Burns is similarly situated.

Roeling Burns, Financial Systems Administrator, stated that his position was always equal to the deputy bureau chiefs until 2009. He does not understand why he was not included. He tried to contact Director Hudson and he went to see Assistant Chief Administrative Officer Courtney Bagneris. He noted that



shortly thereafter the Landrieu administration came on board and declared a 62 million dollar deficit and furloughed employees. Director Hudson stated that in 2009 there were other appeals for example, from the Purchasing Administrator who came to the Commission and her appeal was granted. Mr. Burns responded that he was not aware of that. He did not know what course to take because he did not want to be labeled a disgruntled employee. Director Hudson noted that there were several classifications left out of that change because the changes were based on market rates, so Mr. Burns was not alone in those equity concerns. Mr. Hagmann stated that Mr. Burns' ask is to adjust his pay back to 2009. Commissioner Moore asked what the rationale for excluding Mr. Burns was. Mr. Hagmann noted that the Commission at the time recognized staff's rationale but made exceptions on an individual basis. Director Hudson stated that the classifications that were adjusted were financial in nature and required that type of experience and education. Commissioner Caputo asked for a cost estimate. Mr. Hagmann noted that it would be an undertaking because this would be a retro pay plan change. He stated that he is not sure that the change could be accomplished without going to the City Council. Commissioner Moore suggested deferring the item until the Commission could confer with counsel and get more information. Mr. Greene agreed that it would be a retroactive modification of the pay plan which would require the approval of the legislative body. Mr. Greene offered to provide the Commission with an opinion on that issue. Commissioner Craig stated that the Commission would defer the item until the February meeting.

Item #7(a) under Recruitment and Selection Matters was the approval of examination announcements 10035 to 10055. Commissioner Caputo moved to approve the examination announcements. The motion was seconded by Commissioner Moore and approved unanimously.

Item #7(b) was the approval of the extension of provisional appointments in accordance with Rule VI, Section 5.3(a). Director Hudson noted that there were 140 employees serving in provisional appointments. 19 of those are in positions that do not require a regular examination. She asked for the Commission's approval while staff worked toward conducting examinations. Commissioner Moore moved to approve the extension. The motion was seconded by Commissioner Caputo and approved unanimously.

Item #8 (a) under Rule Amendments was amendments to Rule XI relative to Performance Evaluations. Director Hudson stated that comments had been solicited from departmental Human Resources Managers, but staff had not

received any comments. She noted that the changes included updating terminology to be consistent with online forms, chronologically ordering goal setting and the appeals process, clarifying the requirements of supervisors, clarifying the appeals process and updating the number of rating categories in conjunction with Rule XII. She noted that there were no substantive changes. Commissioner Craig motioned to approve the amendments. The motion was seconded by Commissioner Caputo and approved by all Commissioners.

Item #8 (b) was an amendment to Rule IV relative to prescriptive periods for back pay claims. Director Hudson stated that any claim for back pay brought by an employee in the classified service based on the application of the pay plan or the rules regarding classification and compensation must be submitted to the Personnel Director in writing no later than three years from the date that the employee knew or should have known about the facts giving rise to the claim. The award of back pay shall not extend beyond the three years immediately preceding the written submission to the Personnel Director. Director Hudson noted that this change is to be consistent with the State law regarding retroactive claims. Commissioner Moore moved for approval. Commissioner Caputo seconded the motion and it was approved unanimously.

Item #8 (c) was an amendment to Rule IV, Section 7 relative to Hiring above the Minimum. This item was deferred.

Item #9 was the ratification of Public Integrity Bureau (PIB) 60 Day Extension Requests. Commissioner Craig called for public comment. There being none, Commissioner Caputo motioned to approve the request. Commissioner Moore seconded the motion and it was approved unanimously.

Item #10 (a) under Communications was a report on the status of the Pay Disparity Study. Director Hudson noted that staff is in the process of routing contracts for the two entities, SSA and Dr. Martha Burke, who will perform the work related to this study.

Item #10 (b) was a report on ADP ongoing issues. Mr. Hagmann noted that there was a programming issue with lower pay grade positions who carried over their merit pay from a lower class due to compression. However, they should not have. Staff would be proposing a pay policy to address the issue.

Item #10 (c) was a report on the Civil Service Budget and Staffing. Director Hudson reported that she was working on adding cubicles for the Recruitment staff and removing the 1960 era desks in that division.

Item #10 (d) was a report on the city-wide audit of unclassified positions. Director Hudson provided the Commission with a proposal of how staff would be proceeding with the audit.

Commissioner Moore moved for adjournment at 1:25 p.m. The motion was seconded by Commissioner Caputo and approved unanimously.



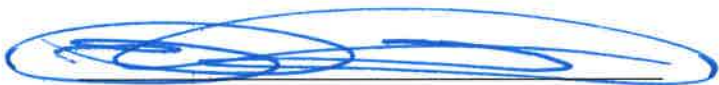
Michelle Craig, Chairperson



Clifton Moore, Jr., Commissioner



Brittney Richardson, Commissioner



Stephen Caputo, Commissioner