

CIVIL SERVICE COMMISSION
REGULAR MONTHLY MEETING
MONDAY, JANUARY 11, 2016

#1

The regular monthly meeting of the City Civil Service Commission was held on Monday, January 11, 2016 at 1340 Poydras Street, Suite 964. Ms. Doddie Smith, Personnel Administrator of Management Services, called the roll. Present were Commission Chairperson Michelle D. Craig, Vice-Chairperson Ronald P. McClain, and Commissioner Tania Tetlow, representing a quorum. Commissioner Joseph S. Clark joined the meeting at 10:21 a.m. Commissioner Cordelia D. Tullous was absent. Chairperson Craig convened the meeting at 10:07 a.m. The Commission then proceeded by sounding the Commission's docket. At 10:27 a.m., on the motion of Vice-Chairperson McClain, seconded by Chairperson Craig, the Commission voted unanimously to go into executive session to discuss matters taken under advisement and pending litigation. At 11:08 a.m. the Commission completed its executive session and proceeded with the business portion of the meeting.

The first item on the agenda was the minutes from the December 21, 2015 regular meeting. Commissioner Tetlow moved adoption of the minutes. Vice-Chairperson McClain seconded the motion and the minutes were adopted unanimously.

Before the Commission began with the second item on its agenda, there was a request from Ms. Susan Hutson, the Independent Police Monitor, to address Item #3 (a) out of order. This item was a request for retroactive compensation for the Community Police Mediation Program Manager position. Ms. Hutson presented first. She noted that this position was created based on a Department of Justice grant which supported a salary of \$68,000 for the job. However, when the position was approved the accompanying salary was set at about \$47,000. The person hired for this position, Ms. Allison McCreary, began work in June 2014 at that lower salary. The position remains funded by a grant, although the current grant is funded by Baptist Community Ministries. Ms. Hutson described the program as a model for the country. She noted that she has been working with Civil Service staff on this issue.

Personnel Administrators Robert Hagmann and Shelly Stolp provided staff's response. Mr. Hagmann began by noting that the position held by Ms. McCreary was properly vetted and was approved by the Commission in an open meeting at the salary of \$47,000. He stated that staff arrived at this salary level by looking at

the duties and responsibilities and considering the need for a fair and equitable pay plan for all employees. Mr. Hagmann noted that there are a number of other grant-funded positions, all of which are compensated based on duties and responsibilities and not simply the requirements of the grant. He noted that the Office of the Independent Police Monitor (OIPM) had asked staff to expand the role of the position. That request was met by creating an additional classification. Chairperson Craig asked for staff's current position with this request. Mr. Hagmann replied that staff was willing to support a salary of \$55,000 beginning July 1, 2015 using Rule IV, Section 2.2, the Temporary Pay Increase Rule. Ms. Hutson allowed that they would consider this, as an interim step, but that she feels the employee would remain undercompensated.

Commissioner Tetlow then asked about both the salary dollar figure and that start date cited in staff's proposal. Ms. Stolp replied that the Rule on Hiring Above the Minimum requires both for the position to be publicly announced, and for an attempt to be made to find people with similar qualifications who would accept the job at the minimum salary. This has not yet been done in this case. In response to questioning from Vice-Chairperson McClain, Ms. Stolp explained that this Rule would not require the appointing authority to hire someone other than Ms. McCreary, but that it only affects the authorization of premium pay. Personnel Director Lisa Hudson explained that the date in staff's offer, July 1, 2015, was the date that the Council approved the creation of the job class to be used. She then added that the employee is not yet in that class.

Vice-Chairperson McClain suggested that Ms. Hutson consider the compromise offer presented by staff, and then return to the Commission with an additional request once the new classification has been publicly announced. Ms. Hutson indicated that this was acceptable, but noted that there is a March deadline in the grant that funds this position. Therefore, she requested that this item be on next month's agenda. Ms. Stolp stated that the application period for this position has closed and that the work needed to prepare the register could be completed in time for this deadline. Mr. Hagmann added that the effective date of the register created is the date to which a retroactive increase based on the Hiring Above the Minimum Rule can be granted. Vice-Chairperson McClain moved that the employee receive the \$55,000 salary retroactively to July 1, 2015, allowing that Ms. Hutson may return to make an additional request on this employee's behalf in the future. The motion was seconded by Commissioner Tetlow and approved unanimously.

The discussion then returned to Item #2, a request from the administration to review the Cooperative Endeavor Agreement (CEA) to consolidate the NOFD,

NOPD, and EMS 9-1-1 communications services under the Orleans Parish Communications District (OPCD). Chairperson Craig began the discussion by asking the Commission's attorney, Mr. Brendan Greene, to outline the Commission's purview in this matter. Mr. Greene noted that this matter had arisen at the December 21, 2015 meeting and that Ms. Elizabeth Robbins from the City Attorney's Office had referenced a 2003 Louisiana Supreme Court Case dealing with the privatization of city facilities that was instructive in this matter. He added that, although the Orleans Parish Communications District is a political subdivision of the State and not a private firm, the case is still applicable. Mr. Greene continued, noting that the Supreme Court outlined a two pronged analysis available to the Commission:

- first, to determine if classified employees are impacted by the consolidation;
- second, if classified employees are impacted, to ensure that the agreement is being entered into for reasons of efficiency and economy, and not for politically-motivated or discriminatory reasons.

All agree that classified employees will be impacted. Thus, the second prong is most important. Mr. Greene noted that, if the Commission finds that the reasons for the CEA are not politically motivated, they, in following the guidance from this case, should approve the CEA. He then explained additional guidance from this case regarding the analysis of the second prong - determining if the agreement is being entered into for reasons of efficiency and economy, and not for politically-motivated reasons. Mr. Greene stated that the Commission may *not* consider:

- whether a service should or could be done by those in the classified service;
- whether the contract is in the best interest of the City; or
- whether fiscal constraints justify privatization.

Mr. Greene noted that the Commission must hear the administration's case for privatization, but, if it is a question of degree of efficiency or economy, this cannot lead to the Commission's denial of this request. Vice-Chairperson McClain asked if there is guidance regarding what would constitute politically-motivated or discriminatory reasons. Mr. Greene responded that, while there is nothing in the context of privatization, disciplinary cases may provide an analogy.

Providing the City's presentation were Deputy Mayor / Chief Administrative Officer Andrew Kopplin, Deputy Mayor Jerry Sneed, formerly over public safety, now in charge of the City's 9-1-1 consolidation efforts, and Mr. Eric Melancon, an Innovation Manager with the Service and Innovation Team. Mr. Kopplin began. He stated that OPCD had contracted with Kimball Consultants to determine how to consolidate these functions and improve the response to 9-1-1 calls. Mr. Melancon

presented next. He noted that, since the last Commission meeting, they had worked with Civil Service staff to determine if this consolidation could be accomplished within the classified service. Mr. Melancon stated that he appreciated staff's assistance; however, in this effort an unresolvable concern had arisen. This concern was that maintaining the consolidated service within the classified service could mean that all of the employees, over 100, would be eligible for the pay and benefits reserved for Fire Alarm Operators, as defined by state law. He stated that this could add between \$900,000 and \$1,000,000 to the cost of this project. Mr. Melancon opined that consolidating under OPCD would be more economical, would provide the majority of employees better salaries, and would allow for the appeal of disciplinary actions to a subcommittee of the OPCD board made of both city employee and non-city employee members. He continued, adding that the administration was requesting that the Commission allow employees the option of either having their leave balance paid out, or having it brought over as available leave to be used in their employment at OPCD.

Mr. Hagmann provided staff's response. He noted that this proposal would remove all Police, Fire, and EMS call-takers and dispatchers from the classified service. This would make them "at-will" employees. Mr. Hagmann noted that the three largest privatization requests to come before the Commission recently were: 1. the SMG case, which led to the Supreme Court Case cited, 2. the Audubon Park privatization, and 3. the privatization of waste water treatment at the Sewerage and Water Board. None of those cases resulted in layoffs. Mr. Hagmann noted that, in the last two of these examples, employees were given the option of whether to stay in the classified service, or to join the private company. He continued, noting that it would be hard to prove the good faith intentions of the administration in this case. Mr. Hagmann maintained the projected cost savings by consolidating under OPCD may not be realized. He stated that these saving are to be achieved by not paying those who dispatch fire units in accordance with an applicable state law. Yet, OPCD may find that it must also comply with this law, thus wiping out any savings. Mr. Hagmann noted that the cost estimate that staff received Friday afternoon did not contain employee wage information.

At this point in Mr. Hagmann's presentation Vice-Chairperson McClain asked him if he thought that the cost savings information presented by the administration was inaccurate or a pretext for something else. Mr. Hagmann replied that he thought that this information was tenuous. He noted that there could be costs of litigation that are not being contemplated. Chairperson Craig asked if this information would relate back to the Commission's charge to determine if the motivation for this CEA was political. Mr. Hagmann replied that, if this action is not going to

save the City money, that the remaining motivation for the CEA could well be political.

Commissioner Tetlow asked if the information regarding privatization may be irrelevant, given that this case involves a CEA between two governmental agencies. Mr. Greene responded that another case involving a CEA between two governmental agencies to provide building security gave rise to a relevant Fourth Circuit Court ruling. This ruling held that, while the matter was not technically a privatization, the Court would treat it as if it were for matters affecting classified employees. Commissioner Tetlow then clarified that, as both are governmental agencies, issues involving the profit motive of a private firm, such as "pay to play" issues are irrelevant. She then added that the Commission had the responsibility to consider the administration's motive in entering this agreement.

Mr. Hagmann then continued with his presentation. He noted that there is disagreement regarding the terminal leave of employees as they end City employment and become employees of the OPCD. The administration held that employees could have the option to either be paid for their leave or to bring their leave balances to their new job with OPCD. Whereas, staff's opinion was that employees must be paid their leave upon leaving. Mr. Hagmann continued, noting that the Commission would need to provide the staff with guidance regarding the layoff of affected employees.

Mr. Melancon responded. On the terminal leave issue, he stated that it was the opinion of the City Attorney's Office that the Rules only require that the leave be paid, leaving open the option for the City to make the payment to the OPCD on the employee's behalf. He suggested that the Commission could request that this be written into the CEA. Director Hudson pointed out that the Annual Leave Rule requires that annual leave be paid to the employee upon separation and that the Sick Leave Rule, likewise, requires payment to the employee upon separation. The Terminal Leave Rule cited by Mr. Melancon only provides the payout formula. Mr. Melancon stated that payment to the employee could be an option. However, he opined that this payout would be detrimental to employees. Director Hudson suggested that the Commission get a legal opinion on the matter. Ms. Robbins then spoke, reiterating the position outlined by Mr. Melancon. She noted that the administration was asking that the Commission interpret their Rule to allow employees the option to either receive a payout of leave balances or to receive a leave balance at their new employer, OPCD. Vice-Chairperson McClain asked what harm would arise from the option presented by the administration, acknowledging that this would mean that they would be granting leave on a one-

for-one basis, rather than the one-for-five formula outlined in the Terminal Leave Rule. Director Hudson noted that state law prevents government employees from receiving something of value as a gift.

Commissioner Tetlow asked about the relevance of the difference of opinion regarding terminal leave. Director Hudson noted that the leave payout issue could change the calculations on which the City has relied to determine that the CEA consolidation is economical and efficient. Mr. Melancon responded, stating that the total cost of the employees' leave is about one million dollars. Vice-Chairperson McClain opined that it appears that the administration had considered this cost. Mr. Melancon noted that the consolidation of this function is part of the efficiency of City government, whether it is cost efficient or not. He added that it was his position that the City will have to pay terminal leave in any case.

At this point, the Commission heard from interested parties commenting on this item. Personnel Administrator Doddie Smith announced that comments would be limited to three minutes for each person who had completed a comment card. A number of those completing cards donated their time to other commenters. In all, 19 commenters completing cards indicating that they were in opposition to the proposal, one indicated that information was sought, and Ms. Robbins completed a card to speak in favor of the proposal. During the discussion of this agenda item, at 12:11 p.m., Chairperson Craig left the meeting.

The first speaker was Fraternal Order of Police (FOP) attorney Mr. Claude A. Schlesinger. He described this consolidation proposal as a "slippery slope." Mr. Schlesinger noted that the next proposal could be a consolidation of the Police and Fire Departments into a Department of Public Safety then taking all of these employees out of the classified service. He added that the disciplinary appeal process included in the CEA would lead this privatization to be a political process, as it would deal with personnel matters.

The next speaker was Police Association of New Orleans (PANO) attorney, Mr. Eric Hessler. He noted that PANO represents approximately 25 of the classified employees who would be affected by the proposed CEA. Mr. Hessler stated that these employees' major concern is the loss of Civil Service protection. He pointed out that, while there are many details that are not yet available with the consolidation plan, one certainty in the plan is that employees will lose their Civil Service protection. Mr. Hessler opined that consolidation within the Civil Service system was a possibility, but that decision-makers in City Hall would not allow it. He supported this by pointing out the many attacks that the administration has

made on the Civil Service system and the Civil Service Department. Mr. Hessler pointed to the underfunding and “strangling” of the Civil Service Department as evidence that the underlying motive for the consolidation was a political agenda to diminish the classified service. He added that employees would like a more efficient 9-1-1 system, and would support consolidation within City government, if that is what was needed to bring about such efficiency. However, Mr. Hessler opined that he saw no reason that losing Civil Service protections was needed to reach that end. He noted that without these protections, employees may be asked to work on political campaigns to maintain their jobs.

The next speaker was Mr. Louis Robein, an attorney representing the New Orleans Firefighters Association (Local #632). He noted that his union has a Collective Bargaining Agreement (CBA) which covers employees who would be affected by this proposal. Mr. Robein began by stating that this proposal was not privatization, but politicization. He added that the special longevity increases, available only to members of the Fire Department, are part of the Civil Service Rules. Mr. Robein held that the approval of the CEA needed by the legislative branch of government, the City Council, was evidence that it was part of a political process. He added that Commission’s action approving the CEA would “de-classify” these employees.

Mr. Robein brought up other legal cases. One was from New Iberia in which City police were moving to the Iberia Parish Sheriff’s Department. The other involved 9-1-1 operators in East Baton Rouge Parish. These employees moved from the City Fire Department to the Parish 9-1-1 District, but they retained their Civil Service status. Mr. Robein told the Commissioners that it was their responsibility to protect the Civil Service status of these employees. He noted that the fact that terminal leave is a concern points out that these employees are being fired. Mr. Robein stated that they have rights before the Commission. He added that this process will result in the employees becoming “at-will” employees. Mr. Robein suggested that employees could be given the option to keep Civil Service status and longevity pay. Finally, he noted that this move will result in employees losing their millage pay, which he valued at \$2,000 to \$5,000 per person, and put at risk their state supplemental pay of \$500 per month. He ended his presentation with a plea to the Commissioners to retain their jurisdiction in this matter.

Next, Ms. Robbins spoke on behalf of the City, addressing points made by the previous speakers. She pointed out that cost effectiveness, whether the work could be done within Civil Service, and the elimination of employees’ Civil Service protections, should not be considerations in the decision to approve the CEA

before the Commission. Ms. Robbins argued that the fact that these employees will work for a State-chartered agency, or that the Council must approve the agreement, does not mean that there is a political motive behind the proposal.

The next commenter was the President of the New Orleans Firefighters Association (Local #632), Nicholas Felton. Mr. Felton stated that the most important consideration for this matter is the Civil Service protections of affected employees. He informed the Commission that it was their charge to protect the rights of the classified employees and not to defend the actions of the administration. Mr. Felton opined that this issue was about the \$900,000 that could be saved and suggested that he could lobby the State Legislature to find the funding needed to keep the employees in the classified service. He described the motivation for this request as political greed. Mr. Felton declared that Civil Servants are counting on the Commission to provide them with protections, not to balance the administration's checkbook.

The next speaker was Ms. Maria Darensbourg. She asked if OPCD was a City entity or if it was a private entity. Commissioner Tetlow responded that OPCD was a Parish entity, not a City entity. Mr. Greene added that OPCD is a political subdivision of the State, as is the City. He also noted that, absent enabling legislation, employees of ancillary public agencies are not City employees. Mr. Greene stated that the Sewerage and Water Board (S&WB) is a political subdivision of the State, but that a state law requires their employees to come under New Orleans Civil Service. Director Hudson noted that there will be a layoff of employees as they leave City employment and move to OPCD. Mr. Melancon stated that OPCD would offer a position to everyone currently working at the 9-1-1 center.

FOP Attorney, Mr. Donovan Livaccari, spoke next. He voiced his concern regarding the erosion of Civil Service protection. At this point he donated the rest of his time to Mr. Felton. Mr. Felton stated that since independent agencies, such as the S&WB, could come under Civil Service, he would introduce legislation to bring all of OPCD under Civil Service and asked for time for this to take place. He pointed out that this affects people's lives. Mr. Felton noted that Local #632 is supportive of efficiency. Then, he added that the driving factor for this proposed CEA is eliminating the City's obligation to employee benefits such as longevity pay, leading him to opine that the budget should not be balanced on the backs of hard-working union members.

Commissioner Tetlow asked if the Commissioners were being asked to ignore the Supreme Court case cited earlier. At Vice-Chairperson McClain's urging, Mr. Greene provided additional information. He noted that the Commission's voting to disapprove the CEA would not prevent it from happening. Rather, only a lawsuit filed by the Commission asserting that the administration is entering into the agreement as a pretext for political or discriminatory reasons could keep the CEA from becoming effective. At this point, Mr. Robein suggested, because there is a case in controversy, the Commission could file a petition for declaratory judgment from the court. Then the court could enjoin the proposal in whole, or in part. Commissioner Tetlow opined that the Commission would not have a basis for a lawsuit. Mr. Robein responded, noting that the State Constitution allows that political discrimination is not only making a classified employee work on a campaign; it also includes simply making a political decision. He added that the matter before the Commission was a political decision motivated by the diminution of Civil Service protections for employees, and the loss of rights to millage, state supplemental pay, and longevity pay.

The next speaker was Ms. Pamela Jordon. Ms. Jordon noted that she is in the DROP (Deferred Retirement Option Plan) and asked how she would be affected. Mr. Melancon replied that OPCD is in the same retirement system which currently covers Ms. Jordon. Her next question was what would happen when she is laid off. Director Hudson explained the Civil Service layoff process. Deputy Mayor Sneed reiterated that all of the employees in the 9-1-1 center would be offered a job.

Mr. Hessler was donated additional time to speak. He began his presentation with an assertion that employees at the meeting were emotional because they do not trust the administration. Mr. Hessler pointed out that being offered a job would not prevent OPCD from, shortly afterward, terminating one's employment. He averred that employee's distrust has arisen from their experiences in dealings with the administration. Yet, he continued, employees have endured poor treatment because they have faith that their rights will be protected by the Commission. Mr. Hessler noted that the Commission is supposed to protect employees from pressures of political patronage. He then pointed out that the members of the OPCD include Mr. Kopplin, the heads of the Police and Fire Departments, and other political appointees. Mr. Hessler concluded by sharing his fear for the employees in this predicament.

Next Mr. Felton spoke. He noted that the effectiveness of Civil Service staff, NOPD, NOFD and the 9-1-1 center has deteriorated because of budget and staffing

cuts. Mr. Felton added that more employees will be hired in the 9-1-1 center because OPCD will be paying a lower rate. He pointed out what he viewed as a double-standard regarding meeting nationally-recognized recommendations. Mr. Felton noted that the inability to meet the national standard for the 9-1-1 center has provided the impetus to remove these employees from the classified service – yet, the NOFD regularly disregards the national safety standard that would require fire companies to operate with a minimum of four persons. Commissioner Tetlow expressed concern that Mr. Felton was dismissive of the issue of not meeting national 9-1-1 standards. He assured her that this was not his intention.

Mr. Robein added that the 9-1-1 standards could be met without taking employees out of the classified service. Vice-Chairperson McClain reiterated the administration's argument that retaining classified employees would be much more costly. He then asked for the City to respond to Mr. Robein's suggestion that consolation could occur within the classified service. Mr. Melancon noted that the primary purpose for the OPCD is to run the 9-1-1 operations, thus, this is the best entity into which the service should be consolidated. Director Hudson directed Mr. Melancon back to the issue of whether these services could be performed by classified employees. She noted that, in earlier meetings, it appeared possible, but for the state-mandated pay and benefits received by Fire Alarm Operators. Mr. Melancon conceded this point.

At this point Vice-Chairperson asked for closing statements. Mr. Hessler began. He focused comments on the second prong of the guidance from the Supreme Court case. Mr. Hessler noted that there will be an initial savings by laying-off all of these employees. However, he pointed out the City will still be paying their salaries through the CEA. Mr. Hessler opined that the only reason for the CEA is "the political aspiration of killing Civil Service". He added that, because the motivation is political, the CEA fails the second prong of the test outlined by the Supreme Court. Vice-Chairperson McClain asked if there was specific evidence of a "spoils system." Mr. Hessler replied that a "spoils system" will only arise once the Civil Service system has been weakened to the point to allow it.

Next, Mr. Robein spoke. He suggested that all that would be needed is to allow the employees to maintain their Civil Service protections, as was done for employees of Audubon Park. He stated that this was the Commission's duty. In responding to questioning from Vice-Chairperson McClain, Mr. Robein stated that the Commission's role was to decide what is to be done with the Civil Service protections of these employees. Vice-Chairperson McClain stated that he did not think that this is the Commission's role. Commissioner Tetlow asked if there was

legal authority to impose Civil Service on a Parish Agency (OPCD). Mr. Robein answered that the CEA creates a “joint employer” situation. He noted that OPCD is not a private entity and the employees would be in the same health care and pension plans as City employees. Mr. Felton then repeated the call for the Commission to seek a declaratory judgment.

At this point, Commissioner Tetlow asked if a vote on the matter was needed, given the limits imposed by the Supreme Court Case. Vice-Chairperson McClain asked Ms. Robbins to respond first. Ms. Robbins noted that the case requires that the Commission review the CEA. She added that the City was asking the Commission for a vote. She then continued, stating that, even if the Commission were to disapprove the CEA, that action would not prevent it from becoming operative. Ms. Robbins also noted that the OPCD would vote on the CEA on January 12, 2016.

Vice-Chairperson McClain then asked for the opinion of the Commission’s attorney, Mr. Greene. He stated that Ms. Robbins assessment was correct. Commissioner Tetlow asked the purpose for the vote, given that it would have no effect on the implementation of the CEA. Mr. Greene replied that the Supreme Court’s directive was to ensure a public hearing of the issues. Ms. Robbins added that this would give the City a chance to respond to the reasons that the Commission provides in disapproving the request.

Next, Mr. Melancon made a closing statement for the administration. He reiterated that all employees would be given a job at OPCD. He further noted that, to address concerns about the removal of Civil Service protections, OPCD is creating a human resources policy to allow for the appeal of disciplinary actions. Mr. Melancon also stated that salaries would be increased. This claim was met with derision from 9-1-1 employees and others in attendance. With each salary that Mr. Melancon gave, the reply was that this figure is still lower than that currently earned. Vice-Chairperson McClain asked Mr. Melancon if anyone would get a reduction in pay. Mr. Melancon answered “no.” Mr. Felton characterized that response as untruthful. Vice-Chairperson McClain asked why employees would state that they are not getting an increase in pay, when Mr. Melancon was claiming that they would. Deputy Mayor Sneed responded. He stated that nobody is losing money and that he was not political. Mr. Melancon added that no one would be laid off immediately, that employees would be offered a position and given a chance to review the human resources policies of OPCD.

In response to this last point, Director Hudson inquired whether current employees would be expected to resign from the City to accept work at OPCD, or whether the layoff process would be invoked. She pointed out that there could be an advantage to the employee to be laid off. After the layoff process, former employees are placed on preferred reemployment registers and given preference in filling openings. Those who sever employment by resignation are not. Director Hudson also noted that current vacancies in the classified service could also be filled by those laid off from the 9-1-1 center.

Commissioner Tetlow asked if the City would consider going through the layoff process first. Mr. Kopplin responded by asking if the Commission would consider placing these former employees on preferred reemployment registers without them first being laid off – that is, upon their resignation. Commissioner Tetlow pointed out that there is a difference between a voluntary resignation and layoff. Mr. Kopplin indicated that he understood that, but was asking if the Commission could make some sort of exception in this case. Director Hudson added that a resignation and accepting a job with a new employer, in the face of an option of unemployment, is not a voluntary resignation.

Ms. Robbins stated that employees would first be allowed to review the OPCD human resources procedures. Then they would then be given a choice of whether to:

1. resign and begin working with OPCD;
2. stay within the classified service; or,
3. be laid off.

Director Hudson noted that, the choice that the employees would be asked to make, could not be an informed one. If the layoff process does not occur first, employees would not know of any vacancies in the classified service which may be available to them. Then, Ms. Stolp clarified, noting that, unlike what Ms. Robbins stated or what was done in the past, employees do not truly have the option to stay in their current classified positions in this proposed privatization. Mr. Melancon acquiesced to using the layoff process. Deputy Mayor Sneed stated that they wanted what was best for the employees and that there would be additional positions as opportunities, such as Training Specialist, after this privatization.

At this point, Vice-Chairperson McClain recognized that time to comment had been donated to Mr. Terry Hampton, a representative of the fire union (Local #632). Mr. Hampton noted that, after months of meetings, he remains unconvinced that employees would be able to retain their pay, as has been claimed. He noted that the method by which employees would be allowed to retain their

pay, as presented by the administration, involves slotting them into Tele-communicator 2 or Tele-communicator 3 positions. This plan requires employees to, within one year, be certified in two areas (such as, EMS and Fire) to retain the Tele-communicator 2 position, or all three areas (EMS, Fire and Police) to retain the Tele-communicator 3 job. Mr. Hampton noted that, as at-will employees, those who do not pass the training involved for these higher positions, could lose their jobs and have no recourse.

Mr. Hampton added that, even at the Tele-communicator 3 level, dispatchers would not make as much pay as they are receiving now. He offered that many of the employees in attendance could show their checks to prove that Mr. Melancon's claims are not true. Vice-Chairperson McClain suggested that there is a difference of opinion on this point. Mr. Felton noted that the employee's paystub does not reflect an opinion and offered to back down on this point if proven incorrect. Mr. Felton then added that NOFD Dispatchers would not be getting state-mandated leave accruals, longevity, state supplemental pay, or the millage allotment that they currently receive.

At the conclusion of this discussion, Commissioner Tetlow moved approval of the CEA. Vice-Chairperson McClain seconded the motion and called for the vote. Commissioner Tetlow and Vice-Chairperson McClain voted in favor. Commissioner Clark abstained. He noted that, as the employee representative, he felt that there were too many issues in controversy that have not been clarified. Commissioner Clark added that there should be no rush to action with these issues in controversy. There was discussion as to the effect of a vote that is two in favor and one abstention. Director Hudson read from the Commission's procedures and noted that the findings of the majority of those present carries. Thus, the motion to approve the CEA was passed. Mr. Melancon asked that the Commission also approve the administration's request to allow employees to have the option to either have their leave paid out, or have their leave balances follow them to OPCD. Vice-Chairperson McClain stated that the CEA has been approved and if there are other, more specific, requests, they could be made at the next meeting.

Item #3 on the agenda was Classification and Compensation matters. Having dealt with Item #3 (a) earlier, the next issue was Item #3 (b), a request from NORDC to create a NORDC Public Outreach and Communications Director classification. Mr. Hagmann outlined staff's recommendation for a new class at Pay Grade 84, minimum pay of \$55,102. He noted that the person NORDC is considering for this position would qualify to receive a special, hiring above the minimum, rate of pay of \$70,643. Mr. Hagmann also outlined the responsibilities of the position and the

proposed minimum qualifications. Speaking on this matter and representing NORDC was Ms. Mary Jo Webster, who relayed the department's concurrence with staff's recommendation. Commissioner Tetlow moved approval. Vice-Chairperson McClain seconded that motion and it was approved unanimously.

Item #3 (c) was a request from Mr. Carlos Metoyer for retroactive pay for the position of Airport Services Manager for the Aviation Board. Mr. Hagmann stated that staff was requesting deferral as they continue to work with the Aviation Board on determining special assignments for Mr. Metoyer that would result in higher pay. He anticipated that this matter would be complete by the next meeting. Mr. Metoyer noted that he had no problem with the delay and that interested parties held a meeting on this matter on Friday, January 8, 2016.

Item #3 (d) was a request to continue temporary unclassified positions in the Capital Projects and Public Works Departments. Mr. Hagmann noted that staff recommended the continuation of these unclassified positions until July 2016. He stated that staff had met with representatives from Capital Projects on this matter and that they concurred with this recommendation. Commissioner Tetlow made a motion to approve the extension of the temporary unclassified positions in Capital Projects and Public Works until July 2016. Commissioner Clark seconded that motion and it was approved unanimously.

Item #3 (e) was a request from the Fire Department to amend the current job specifications for the Fire Recruit and Firefighter I classifications to include fire prevention and major emergency response activities. Director Hudson noted that, at the last meeting, staff was waiting for information from the Fire Union. Absent receipt of that information, staff submitted their own recommendation to all parties recently. However, Director Hudson added that parties likely have not had enough time to respond to staff's recommendation. Ms. Alexandra Norton, Director of Service and Innovation, informed Commissioners that the administration was amenable to deferral, but requested a "hard deadline" for next month's meeting. Additionally, Mr. Felton provided hard copy of their position on this matter at the meeting.

Item #4 on the agenda was Recruitment and Selection Matters. Item #4 (a) was the extension of provisional appointments in accordance with Rule VI, Section 5.3. Director Hudson noted that provisional appointments must be approved by the Commission when lasting more than one year. She provided the Commission with a list of the 393 employees in provisional appointments. Director Hudson noted that 75 of these employees are in classes for which the Civil Service Department

does not regularly test. However, the rest of these employees remain in provisional appointments primarily because there is not enough staff to test them. Director Hudson added that, in some cases, employees remain provisional because the Rules now require that three people appear on a register for there to be a probationary appointment. Ms. Stolp noted that this development, which occurred with the passage of the “Great Place to Work” Rule changes, affects an employee’s ability to obtain permanent Civil Service status. Vice-Chairperson McClain asked if a Rule change could be sought to remedy this situation. Director Hudson explained:

- that this was also a Constitutional issue;
- that, prior to the Rule changes, staff was allowed to follow the State Statutes, which allowed for probationary appointments with fewer than three on a register; and
- that, to change the Rules back could weaken the Commission’s case in legal proceedings challenging the “Great Place to Work” Rules.

Vice-Chairperson asked why staff had not pursued a Rule change in this matter. Commissioner Tetlow replied that she thought that Director Hudson had outlined those reasons. Vice-Chairperson McClain then stated that he did not think that the reasons presented were correct. Commissioner Tetlow then requested that the Commission’s attorney, Mr. Greene, look into this matter. Ms. Norton added that this situation was an unintended consequence of having Rules with the exact language that appears in the Constitution and that the administration would be happy to work with staff on recommending other Rule changes.

Deputy Fire Chief Gary Savelle noted that he had been serving in a provisional appointment for five years. Mr. Hampton noted that there is an active Fire District Chief list and that there are four vacancies that have not been filled from this list. He added that employees have been asked to work out-of-class as Fire District Chiefs for nine months, so far. (Note that, while working out-of-class, these four employees are not in provisional appointments which are not allowed under the Rules if an active register exists.) Mr. Hampton asked if there was anything that could be done to force the Superintendent of Fire’s hand in this matter. Commissioner Tetlow then requested that Mr. Greene check with the Superintendent on this matter.

Mr. Hagmann noted that the money for testing to decrease the number of provisional appointments has not been provided. Mr. Felton opined that there was a “method to the madness” behind the administration’s cutting of staff’s budget, which prevents testing, which in turn leads to provisional appointments, which

allows for wide discretion on the part of the appointing authority. Vice-Chairperson McClain replied that the Commission is in discussions with the administration regarding additional staff members. After these comments were heard, Commissioner Tetlow moved approval of the extension of provisional appointments. Vice-Chairperson McClain seconded that motion and it was approved unanimously.

At this point, the discussion moved to testing issues more generally. Mr. Felton asked when the oral phase of the Fire Captain test would be given. Mr. Richard Carter, Personnel Administrator, replied that this will be scheduled for February 27, 2016. Mr. Felton then asked about the recent Fire Recruit testing. Ms. Stolp replied that, because the Rules now require everyone on the list to be considered equally (that is, the "Rule of Three" no longer exists and there is effectively no ranking by test score), all 391 people who passed the multiple-choice test must now be given the agility test. She noted that previously staff tested no more than 30 applicants on this test on any given day.

Item #4 (b) was examination announcements. Announcements 9264 through 9269 were presented to the Commission. Commissioner Tetlow's motion for approval was seconded by Commissioner Clark and approved unanimously.

Item #5 on the agenda was the Ratification of Public Integrity Bureau (PIB) 60 Day Extension Requests. There were no speakers requesting to comment on this agenda item. Commissioner Tetlow moved that all of the recommendations of the hearing officer for 60-day extensions be approved. This motion was seconded by Commissioner Clark and approved unanimously.

Item #6 on the agenda was Communications. Item #6 (a) was a report on ADP ongoing issues. Mr. Hagmann informed the Commission that staff was able to work with members of the Finance Department to enact 1,150 pay increases for NOPD personnel. Also, that they are working with ADP on pay plan changes for the departments of Human Services, Property Management, and the Historic Districts and Landmark Commission. He added that there continue to be a number of problems with this payroll system. When converting personnel files of a Mosquito Control Board employee, incorrect dates became part of that employee's record. Additionally, ADP personnel entered an incorrect Social Security number for a Parks and Parkways employee. Mr. Hagmann added that staff was working through a number of logistical problems. For example, he is receiving 150 emails per week relative to ADP notifications. Mr. Hagmann added that staff has completed the NOFD longevity programing and has additional future projects.

Item #6 (b) was a report on Civil Service staffing issues. Director Hudson stated that she had prepared a request to the administration outlining a number of crucial staff positions that need to be filled and had copied the Commissioners on this request. The administration had not yet responded to the request. Director Hudson added that staff had interviewed a possible new Psychometrician. She continued, noting that there was a need to advertise for additional hearing examiners. Director Hudson also let the Commissioners know that she intends to promote Mr. Sam Stoute to the Personnel Administrator, Assistant position in the Classification and Compensation Division.

Item #6 (c) was a report on the comprehensive classification and compensation study. Director Hudson noted that, with time off for the holidays and the 9-1-1 consolidation there was not time to work on this project, but that the administration had agreed to work on this in time to present something next month. Mr. Felton asked that the Commission move forward with the Firefighter portion of the proposed new pay plan. Vice-Chairperson McClain noted that this would be included in the larger pay study. Mr. Felton countered that the RFP process would take time and that the work for the pay proposal for Firefighters is complete and ready to be acted on. Vice-Chairperson McClain ensured that the information provided by the union was available to staff and could be included in the broader pay study.

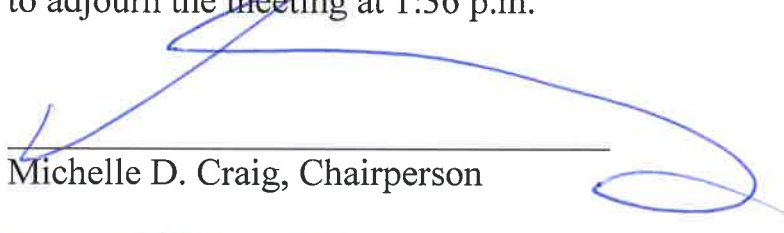
Ms. Carletta Graves, a Management Development Specialist II for the City Council, asked if the analyst-series classification and pay proposals, which staff had presented near the end of 2015, were also to be included in the broader pay study. Director Hudson informed her that the pay study would cover all classified positions. Ms. Graves then asked if Councilmembers Head and Williams had written in their letter that they would like the analyst-series positions to be omitted from the pay study. Commissioner Tetlow stated that the letter from the Councilmembers was to ask that the pay for classes be considered as a whole and not approved in a piecemeal fashion. Ms. Graves asked if that letter from the Councilmembers would hinder this process. She was informed that it would not.

Vice-Chairperson McClain noted that the work had been done for the Firefighter-series pay adjustments and expressed a desire to act on these expeditiously. He then added that he recognized that these pay changes were not being considered immediately because to do so would mean taking these classes out of the broader study. Commissioner Tetlow then asked if it made sense to consider pay increases if the administration asserts that there was not enough money to pay for such an

increase. Director Hudson responded that the Commission has a Constitutional mandate to maintain a uniform pay plan, and whether the City can afford fair and equitable pay is not the Commission's primary charge in the matter. She added that, as long as the Commission has approved an appropriate compensation plan and has submitted this to the appropriate budgetary agency – the City Council – they will meet this mandate. Commissioner Tetlow voiced her concern that adding the Fire Department-related Pay Plan amendments could worsen staff's workload and that it would be unnecessary if there were no money for the increases. Director Hudson noted that the work on fire pay is already complete; thus, it is not an additional burden.

Mr. Felton then attempted to address the Commissioner's point regarding the City's finances. He stated that funding additional pay for Firefighters would be a challenge that he would readily accept, if the Commission were to approve Pay Plan amendments based on the information that already had been gathered. Mr. Felton added that the Council has told him that, until the Commission acts, they will not act. Vice-Chairperson McClain offered that, although there is a plan for a broader Pay Plan, this would not preclude Mr. Felton from attempting to get this matter returned to the Commission's agenda.

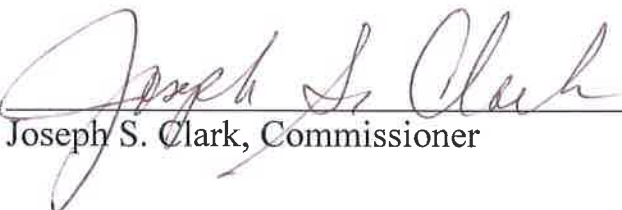
With no other communications to consider, on motion of Commissioner Tetlow and seconded by Vice-Chairperson McClain, the Commission voted unanimously to adjourn the meeting at 1:36 p.m.



Michelle D. Craig, Chairperson



Tania Tetlow, Commissioner



Joseph S. Clark, Commissioner