

CIVIL SERVICE COMMISSION
REGULAR MONTHLY MEETING
MONDAY, SEPTEMBER 21, 2015

#1

The regular monthly meeting of the City Civil Service Commission was held on Monday, September 21, 2015 at 1340 Poydras Street, Suite 964. Ms. Doddie Smith, Personnel Administrator of Management Services, called the roll. Present were Commission Chairperson, Michelle D. Craig, and Commissioners Cordelia D. Tullous, Joseph S. Clark, Ronald P. McClain, and Tania Tetlow, representing a quorum. The Chairperson convened the meeting at 10:00 a.m. The Commission then proceeded by sounding the Commission's docket. At 11:53 a.m., on motion of Commissioner McClain, seconded by Commissioner Tetlow, the Commission voted unanimously to go into recess to discuss matters taken under advisement and pending litigation. At 12:21 p.m., the Commission completed its recess and proceeded with the business portion of the meeting.

The first item on the agenda was the minutes from four Commission meetings: the July 20, 2015 regular meeting, and the special meetings of July 30, 2015, August 3, 2015, and August 13, 2015. Commissioner McClain moved approval of the minutes. Commissioner Tetlow seconded the motion and the minutes were approved unanimously.

Item #2 was the election of a Commission Chairperson and Vice Chairperson. Commissioner McClain nominated Chairperson Michelle Clark to remain in that position. This motion was seconded by Commissioner Clark and approved unanimously. Chairperson Clark nominated Commissioner Ronald McClain to serve as Vice Chairperson. This motion was seconded by Commissioner Tullous and also approved unanimously.

Item #3 was a request from the Police Association of New Orleans (PANO) for the development of a Police Captain's examination to promote Police Lieutenants to the classified position of Police Captain. Personnel Director Lisa Hudson informed the Commission that this item was on the agenda of the last regular Commission meeting. It was not acted on then because the Commission had requested the opinion of NOPD Superintendent Michael Harrison. Director Hudson noted that staff had received correspondence from Superintendent Harrison indicating that he did not support this request. In his letter, Superintendent Harrison wrote that he felt that there were sufficient numbers in upper management positions at NOPD.

Addressing this issue were Captain Michael Glasser, President of PANO and Mr. Eric Hessler, PANO attorney. Capt. Glasser noted that: 1) there has not been a Police Captain test for eleven years, 2) there have not been promotions to this class in seven years, and 3) the number of Captains has fallen by thirty, from thirty-nine to nine, in the last five years. He next pointed out that the Police Commander special-rate-of-pay has been used to fill NOPD's need for upper-level management caused by the lack of Captains. Capt. Glasser stated that, unlike Police Sergeant, Lieutenant, or Captain, there are no tenure, education, or other merit-based requirements for Commanders.

Capt. Glasser reviewed the job specification for the class of Police Captain and pointed out that current Captains do not perform these duties; rather, they are done by those Lieutenants receiving the Commander special-rate-of-pay. Next, he critiqued the letter from Superintendent Harrison which outlined the NOPD's opposition to the request for a Captain's test. Capt. Glasser noted that, to the extent that NOPD is growing, it would need additional leadership.

Vice-Chairperson McClain asked if the Superintendent would be required to use a Captain's list to make promotions. Capt. Glasser's response was that he would. He noted that, in order to fill the positions with the responsibilities described in the official Police Captain job specification, a promotion would be required. Assistant Superintendent Stephanie Landry voiced a different opinion. She stated that the Superintendent would not be compelled to use a Captain's register. Asst. Superintendent Landry echoed the Superintendent's position that middle management (Sergeants and Lieutenants) is NOPD's most critical leadership need and that upper management needs are being filled with Commanders and Assistant Superintendents.

Director Hudson added that the use of those receiving the special-rate-of-pay for performing Commander responsibilities, in place of those filling classifications defined in the pay plan, is problematic. Vice-Chairperson McClain noted that the Commander issue was not before the Commission. Mr. Hessler reminded the Commission that, the Superintendent stated in his letter that he did not need Captains because he had enough senior leadership through the use of Commanders. Therefore, the Commander issue was germane to the discussion. Vice-Chairperson McClain noted that the Commander issue was discussed and settled prior to his tenure as a Commissioner. Mr. Hessler responded that, when the Commander positions were approved, it was with the caveat that the issue would be revisited.

Chairperson Craig opined that 11 years between tests is too long. She added that she has consistently supported more frequent testing. Director Hudson noted that, if Commanders are doing the work formerly done by Captains, staff should investigate how the Commander positions are filled. Vice-Chairperson McClain stated that, if a request to investigate the Commander positions were made, it could be dealt with at that time. Mr. Hessler responded by making that request.

In response to questioning from Vice-Chairperson McClain, Assistant Superintendent Landry stated that the emphasis on promotional opportunities for Sergeants and Lieutenants was consistent with the Police Consent Decree. Vice-Chairperson McClain then asked Director Hudson if staff would be able to conduct both a Police Captain and a Police Sergeant exam. She replied that she would need to request additional psychometricians to be able to do this.

Commenting on this matter were the head of the Black Organization of Police (BOP), Captain Simon Hargrove and Fraternal Order of Police (FOP) attorney, Mr. Donovan Livaccari. Captain Hargrove supported the PANO request and further pointed out that competitive testing would allow employees a measure of control over their own careers. He stated that his membership favors the production of a new Captain exam. Mr. Livaccari also supported PANO's request. He added that he shared Director Hudson's concern regarding the use of Lieutenants receiving Commanders pay to fill Captain positions, which he saw as a circumvention of the Civil Service system. Mr. Livaccari also pointed out that, while there is an emphasis on middle management among those overseeing the consent decree, the document itself merely states that there should be promotional opportunities every two years. It does not single out the Sergeant and Lieutenant positions.

Chairperson Craig asked if there were motions on this item. Vice-Chairperson McClain asked Director Hudson for staff's position. Director Hudson stated that, if the Commission voted to conduct a Captain's test, staff would do so, while also working to complete a Sergeant test. At this point, Vice-Chairperson McClain moved to request that staff conduct a Captain's test. The motion was seconded by Commissioner Clark. The motion carried with Chairperson Craig, Vice-Chairperson McClain, Commissioners Clark and Tullous voting in favor and Commissioner Tetlow voting against it.

Item #4 was an update on the status of a complaint regarding Firefighters working out of their classification. Speaking on this matter was Ms. Sharonda Williams,

City Attorney, and President of the New Orleans Firefighters Association (Local #632), Nicholas Felton. Ms. Williams stated that the City has provided the Union with requested spreadsheets showing how they arrived at their calculations and that they have agreed to a letter settlement, rather than a settlement agreement. Mr. Felton indicated that parties have reached agreement on all of these matters with the possible exception of payment for District Chiefs required to work as Deputy Chiefs. Director Hudson stated that staff also had requested to have the spreadsheets and calculations explained and that Mr. Aaron Delong, representing the Administration, had offered to set up a meeting with ITI employees for this purpose. Mr. Felton requested to be part of this meeting as well. Ms. Williams agreed. Chairperson Craig asked that this meeting be held in the next week so that this item could be considered complete by the time of the Commission's next meeting.

While this addresses proper compensation for back pay issues, the question about those working out-of-class going forward remains. Director Hudson noted that staff has worked with Mr. Roy Guercio, Comptroller, on this matter. Mr. Guercio stated that the new pay codes created to deal with this issue are working. NOFD Superintendent Timothy McConnell also spoke on the matter. He stated that it would be impractical for NOFD to write a letter indicating which Firefighter was working in the place of which Fire Captain on a one-for-one basis. Rather, Superintendent McConnell requested that NOFD be allowed to work from a list of people pre-approved by Civil Service to work in the higher class. He added that the choice of who would be given this work would need to be done on a fair basis. Mr. Robert Hagmann, Personnel Administrator, indicated that staff would be able to work with the Superintendent on this issue. Chairperson Craig closed the discussion on the matter by reminding the parties that this issue is expected to be finished by the next Commission meeting.

Item #5 was a request from the Firefighter's Association for the introduction of a Firefighter salary survey and information from the City Administration on a Firefighter pay study. Mr. Felton gave a detailed and involved presentation regarding the duties of New Orleans Firefighters and how their pay compares with others. Two groups of jurisdictions were used as comparison: 1) a group of jurisdictions within Louisiana, and 2) a group of southern cities used for comparison purposes in a recent police pay study. Mr. Felton pointed out that Firefighters are paid well below southern average and that they do a wide array of varied tasks. One of those tasks is smoke detector installation, which Mr. Felton indicated can be dangerous.

Following Mr. Felton's presentation, Mr. Delong presented a salary survey that the City had conducted at the behest of the City Council. The results of this survey showed no issue with the pay for Firefighters. Mr. Delong also pointed out that there are other needs for City funds, such as the purchase or maintenance of fire apparatus (firetrucks). Superintendent McConnell also spoke, noting that the City has a \$142 million judgment owed to Firefighters that it must consider. At this point, Mr. Delong took issue with part of Mr. Felton's presentation. He stated that he felt that Mr. Felton had insinuated that the neighborhoods that Firefighters must enter for smoke detector installation were dangerous. Mr. Felton objected, saying that he made no such statement. Superintendent McConnell outlined the importance of smoke detectors and noted that the program aims to reach every residence in the city.

In response, Mr. Felton stated that Firefighters have no issue with installing smoke detectors. Rather, their issue is that the program would require Firefighters to approach the homes of people who had not first requested a smoke detector. Then, Mr. Felton critiqued the City's salary survey because of the addition of a number of jurisdictions that he felt were "cherry-picked" to yield results favorable to the City. Finally, he noted that requiring those working in fire suppression to perform mostly fire prevention duties could present an issue. Mr. Felton stated that as there is a Fair Labor Standard Act (FLSA) provision that allows the City to pay Firefighters overtime only on hours worked in excess of 212 hours in a 28-day period. Mr. Felton contends that this provision does not apply to fire prevention officers.

At this point, Vice-Chairman McClain pointed out that the item on the Commission's agenda was to introduce pay studies from both the Fire Union and the City. Director Hudson stated that it was phrased that way on the agenda to allow time for staff to formulate a response, as the pay studies were just recently received. Commissioner Tullous asked Mr. Delong about the methods used to produce the salary survey presented by the City. He stated that he would provide that information.

As other related fire topics were being discussed, and at Mr. Delong's request, it was decided to next address Item #7 (e). This item was a request from the Fire Department to amend the current job specifications for Fire Recruit and Firefighter I to include fire prevention and major emergency response activities. Director Hudson informed the Commission that staff had just recently received and begun review of the Fire Department's proposal. Mr. Felton also requested the opportunity to see NOFD's proposal. He reiterated his concerns regarding the

assignment of fire prevention and fire inspection duties and its effect on the FLSA overtime schedule that applies to Firefighters. Chairperson Craig asked for supporting information on this point. Commissioner Tetlow also asked for information regarding the proportion of time spent fighting fires. Mr. Felton indicated that he would provide information to the Commissioners. Vice-Chairperson McClain suggested that these two items – the salary survey information and the review of job specifications – be considered next meeting, in sequence.

Item #6 was proposed amendments to the Civil Service Rules. Item #6 (a) was a proposal to change Rule III, Section 4, regarding temporary work in a higher classification. Ms. Shelly Stolp, Personnel Administrator, provided staff's comments. She noted that, in working with the administration, staff had suggested language that did not specifically mention Firefighters but still disallowed receiving two premium pays simultaneously (one for working a dual assignment and one for temporary work in a higher class). Commissioner Tetlow asked if all parties were now in agreement regarding the proposed language. Both Ms. Stolp and Mr. Delong indicated that they were. With that, Commissioner Tetlow moved approval of the proposed Rule change. Vice-Chairperson McClain seconded the motion and it was approved unanimously.

Item #6 (b) was a proposed amendment to Rule IV, Section 2.4, related to pay for extraordinary or superior qualifications, experience, or credentials. Ms. Stolp outlined the proposals. She noted that there are two proposed changes to this section of the Rules. The proposed section "h" would prevent people from quitting work one day and being hired back the next day at a higher rate by use of this section of the Rules. This proposal would require that the former employee be separated from the service for at least three months before they can take advantage of this higher pay rate. Mr. Delong indicated that the Administration was in support of this proposal.

The second proposed change to this section would require that those with qualifications which would allow them to be placed in a higher classification, be placed in that higher class, rather than using this part of the Rules to effect pay. Ms. Stolp provided the Commission with examples regarding this proposal. She explained staff's position that the proposed change was needed to ensure fairness in pay. Mr. Delong provided the administration's position. He argued that there were already in place enough checks to prevent abuse of pay.

Commissioner Tetlow asked if departments would easily be able to take advantage of the higher pay associated with a higher class in the series. Ms. Stolp explained that staff would not have an issue with this, except in cases in which one class may be FLSA-exempt, while another class in the series would be non-exempt. Mr. Delong pointed out that, at times, the registers involved would not be open to applications. This would make it impossible to take advantage of a higher class in a series. In response to questions from Vice-Chairperson McClain, Director Hudson explained that staff's control regarding this type of pay is limited because such control is dependent on an after-the-fact audit.

Commissioner Tetlow stated that she felt that more time was needed to fully understand this issue. Consideration was given to passing only the portion of the proposal with which there was wide-spread agreement (Section "h"). However, since the Council would have to also approve the Rule changes passed, it seemed more prudent to send all changes to this Rule to that body as a package. Therefore, this matter will be addressed again at the next Commission meeting.

Item #7 on the agenda was Classification and Compensation matters. Item #7 (a) was the introduction of recommendations for pay amendments to the Management Development series from staff. Presenting this proposal was Personnel Administrator Robert Hagmann. Mr. Hagmann explained that there were a number of reasons for these recommendations.

- First, changes to the Fair Labor Standards Act (FLSA) will affect the salary test for overtime-exempt work. Higher pay will be required to meet this test. An additional proposed change to FLSA would require an overtime-exempt position to consist of at least 50% exempt-level duties. The proposals introduced would remove the exempt status from two classes: Management Development Specialist I and II.
- Second, staff has received a large number of job study requests from employees who feel that their work is undervalued. Mr. Hagmann pointed out that it has been more than eight years since the pay for these professional classes has been address. Therefore, the number of job study requests is to be expected.
- Third, part of the proposal would create specific classifications to perform Human Relations duties.
- Fourth, the changes would restore internal equity to the pay plan.
- Finally, the proposal is designed to mitigate pay compression caused by increases in lower level classes. This, Mr. Hagmann said, is consistent with good compensation practices.

Mr. Hagmann completed the presentation by noting that the pay plan changes were to be introduced only, that staff would seek feedback from appointing authorities, and a proposal to be voted on would be presented at the next Commission meeting.

Item #7 (b) was a request from NOPD for a special rate of pay for bilingual skills. Mr. Hagmann presented this item. He noted that, pursuant to consent decree requirements, NOPD has requested additional pay for officers who are proficient in a foreign language. This proposal would provide these translators an additional \$1.50 per hour for that time when using that ability. Vice-Chairperson McClain moved approval of the request. Commissioner Tetlow seconded the motion and it passed unanimously.

Item #7 (c) was a request from NOPD to grant educational incentive pay to Mr. Viktor Vodak. Mr. Vodak holds a Master's Degree from Oxford University in England. The United States Department of Education does not accredit universities outside of the United States, thus, this degree does not meet the stated requirements for educational incentive pay. Commissioner Tetlow moved approval of the request. Vice-Chairperson McClain seconded the motion and it passed unanimously.

Item #7 (d) was a request from Aviation to grant retroactive temporary pay for Ms. Carmen Robinson. Mr. Hagmann explained that Ms. Robinson is filling a position that became vacant due to a retirement. At Aviation's request, staff recommended a 10% increase for Ms. Robinson from September 8, 2013 until the position is filled. Commissioner Tetlow moved approval of the request. Vice-Chairperson McClain seconded the motion and it passed unanimously.

Item #7 (e) was addressed earlier in the meeting. Item #7 (f) was a request from EMS for three unclassified management positions: Director, Deputy Director, and Secretary. This item was deferred that the City's request.

Item #7 (g) was a request from ITI for the creation of the position of citywide GIS Director. Director Hudson asked that this matter be deferred because staff had only received the information regarding this request late on the Thursday prior to the meeting. Mr. Lamar Gardere, Chief Information Officer, was invited to speak on this request. After his presentation, Commissioner Tetlow informed Mr. Gardere that, if staff agreed with this request, he would not need to be back next month. However, if there were areas of disagreement, he should expect to be back next month to address those specific areas.

Item #7 (h) was a request to continue temporary unclassified positions in Capital Projects and the Public Works Department. Mr. Hagmann informed the Commission that these positions were approved on a temporary basis in 2013 and that approval has expired. He stated that the work for these employees has changed, as work shifted away from Hurricane Katrina-related repairs. In response to a question from Commissioner Tetlow, Mr. Hagmann said that staff would be ready with a recommendation on this matter in January 2016. Commissioner Tetlow moved that these positions remain in the unclassified service until the January 2016 Commission meeting. This motion was seconded by Vice-Chairperson McClain and it passed unanimously.

Item #7 (i) was a request from the Finance Department regarding retroactive pay for Ms. Allison Lee. Addressing this request were Mr. Hagmann, Ms. Stolp, Director Hudson, Ms. Lee, her attorney, Mr. Gino Gates, and the Director of the Finance Department, Mr. Norman Foster. Mr. Hagmann gave background, relating Ms. Lee's current classification and duties. He stated that the Management Development series class changes introduced earlier in the meeting would better address this job study request. Ms. Lee detailed the responsibilities of the Finance Department and provided written documentation.

Mr. Foster noted that the Finance Department once had an allocation to a higher class, as it was considered a large department. After Katrina, the department has fewer employees and, staff had informed Mr. Foster, that it is no longer considered a large department. Therefore, staff's assessment was that the Finance Department was no longer eligible for that allocation. Mr. Hagmann granted that Mr. Foster's characterization was accurate. He then continued, pointing out that the class formerly allocated, Management Services Administrator (MSA), was meant to compensate one who headed a large department executing budget and human resources functions through subordinate supervisors with a significant span of control. Mr. Hagmann added that Ms. Lee has only one subordinate and that Finance is now down to 107 employees (before Katrina it had over 400 employees). Mr. Hagmann gave staff's position that size and scope of responsibilities should matter in classification allocations.

Director Hudson read the job specification for Ms. Lee's current position and gave the opinion that it describes Ms. Lee's duties and responsibilities. Commissioner Tetlow asked if the only part of the Management Services Administrator position that Ms. Lee does not currently perform relates to the size and scope of the department. Director Hudson replied that, in the large departments with an MSA allocation, those people are also involved in the operations of the department.

Commissioner Tetlow then asked Mr. Foster if Ms. Lee was involved in the operations of the Finance Department. He replied that she was. Director Hudson informed the Commission that classification allocations are made based on objective criteria and that their decision in the case could set a precedent for other similarly situated employees. Vice-Chairperson McClain stated that they could only concern themselves with the case in front of them and noted that Ms. Lee had waited two years for an answer to her request.

Vice-Chairperson McClain read the agenda item and made a motion that Ms. Lee receive retroactive pay as requested on the Commission's agenda. Commissioner Tetlow seconded that motion and it passed unanimously. Ms. Lee then pointed out that, without the higher classification allocation going forward, she would need to reappear before the Commission each month to be properly compensated. At this point, Commissioner Tetlow moved to grant Ms. Lee the promotion that she was seeking. This motion was seconded by Vice-Chairperson McClain and approved unanimously.

Item #8 on the agenda was Recruitment and Selection Matters. Item #8 (a) was examination announcements. Announcements 9160 through 9209 were presented to the Commission. Commissioner Tetlow's motion for approval was seconded by Vice-Chairperson McClain and approved unanimously.

Item #9 on the agenda was the Ratification of Public Integrity Bureau (PIB) 60 Day Extension Requests. Speaking on this item was Mr. Hessler, on behalf of Officer Hillary Smith. He stated that the PIB investigators had requested more time because they stated that they had more pressing duties. Mr. Hessler provided his contention that those investigators should have had enough time to complete their investigation. Commissioner Tetlow moved that the recommendations of the hearing officer for 60-day extensions be approved, with the exception of Officer Smith's case. This motion was seconded by Vice-Chairperson McClain and approved unanimously.

Item #10 on the agenda was Communications. Item #10 (a) was a report on ADP ongoing issues. Speaking were Mr. Hagmann, Ms. Stolp, Mr. Guercio, and Mr. Felton. Mr. Hagmann noted a large number of accomplishments in working to ensure that the ADP system calculates pay properly. Civil Service staff and Mr. Guercio's staff have: 1) revised ADP forms, 2) programed the correct payment for police referral pay, 3) programed Fire Department dual-rate pay, 4) entered hiring rates approved by the Commission, 5) determined how to calculate cumulative

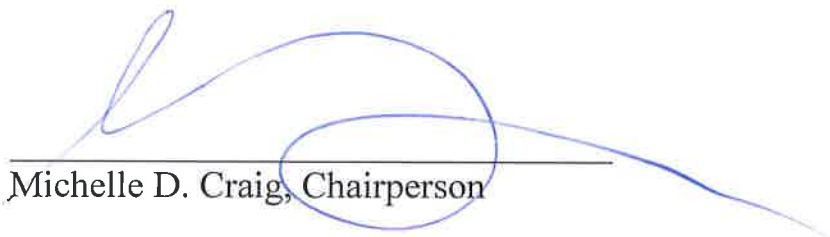
service time for those being reinstated 6) entered codes for limited-term appointments, and 7) worked to ensure proper accounting for parental leave.

Anticipating Mr. Felton's concern, Mr. Guercio reported that the calculation that is over-withholding for the fire pension deduction is being corrected. He stated that the tests of the programing to correct this error look good. His section is currently running a test on the entire payroll and, if that test looks good, the fix will be put into production. Mr. Felton asked about adjustments to the checks of Firefighters whose pay had been over-withheld to date. Mr. Guercio replied that back pay adjustments are being made while the more permanent fix is being tested. He said that corrections have been made through early summer and all past back pay adjustments will be made once the permanent fix is complete.

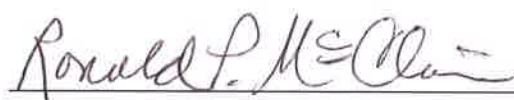
Ms. Stolp asked about the conversion of historic personnel data. Currently, when researching personnel or pay questions, staff must check both ADP and the previous system. Mr. Guercio stated that ADP and IT are in discussions on this matter and that ADP will be requesting Ms. Stolp's approval of their work.

Item #10 (b) was a report on the NEOGOV conversion. Addressing this item was Ms. Amy Trepagnier, Personnel Director, Assistant. She noted that staff was able to move Police Recruit over to this new applicant tracking system. She continued, stating that NEOGOV offers more tools for tracking and processing applications. One such tool is the ability for applicants to schedule their own test date from those dates available.

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 2:59 p.m.



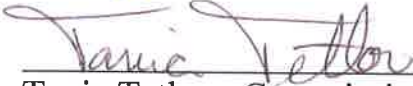
Michelle D. Craig, Chairperson




Ronald P. McClain, Vice-Chairperson



Joseph S. Clark, Commissioner



Tania Tetlow, Commissioner



Cordelia D. Tullous, Commissioner