

CIVIL SERVICE COMMISSION  
REGULAR MONTHLY MEETING  
MONDAY, FEBRUARY 15, 2016

#1

The regular monthly meeting of the City Civil Service Commission was held on Monday, February 15, 2016 at 1340 Poydras Street, Suite 964. Ms. Erica Burkhalter of the Management Services Division called the roll. Present were Commission Chairperson Michelle D. Craig, Commissioners Cordelia D. Tullous, and Joseph S. Clark representing a quorum. Vice-Chairperson McClain was absent. Chairperson Craig convened the meeting at 10:09 a.m. The Commission then proceeded by sounding the Commission's docket. At 11:10 a.m., on the motion of Chairperson Craig, seconded by Commissioner Clark, the Commission voted unanimously to go into executive session to discuss matters taken under advisement and pending litigation. Commissioner Tania Tetlow arrived during the executive session and attended the remainder of the meeting. At 11:30 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 January 11, 2016 meeting. Chairperson Craig moved approval of the minutes. Commissioner Tetlow seconded the motion and the minutes were approved unanimously.

Item #2 was a request from the administration for approval of Article V, Section 2 of the Cooperative Endeavor Agreement (CEA) to consolidate the NOFD, NOPD, and EMS 9-1-1 Communications Services under the Orleans Parish Communications District (OPCD). This section of the CEA concerns the payout of terminal leave for employees. Mr. Eric Melancon, an Innovation Manager with the Service and Innovation Team, represented the administration on this matter. He noted that the request was for the Commission to interpret their Rules to allow the payment of terminal leave to an entity (OPCD), rather than directly compensating the employee. In this way, the City can offer employees the option of either: 1) receiving the payout of their leave upon termination in accordance with the Rules, or 2) bringing their current leave balance with them, for which the City would compensate OPCD by remitting the value of this terminal leave.

Mr. Robert Hagmann, Personnel Administrator, presented staff's response to this request. He noted that the Commission's Rules do not allow for the payment of terminal leave to anyone except for the employee who earned that leave. Mr. Hagmann explained that the Commission must make an exception to their Rules to allow the administration's request.

Commissioner Tetlow moved that an exception to the Commission's Rules be granted and employees be given a choice as to what to do with their leave balance. This motion was seconded by Chairperson Craig, who then asked for public comment.

Commenting on this matter first was the President of the New Orleans Firefighters Association (Local #632), Nicholas Felton. Mr. Felton noted that the dollar figure owed to employees will fluctuate from year to year as employees accrue leave and as their salaries change. He stated his concern that this fluctuation had not been taken into consideration and that the City may later renege on this agreement. Comments of a similar vein were made by Mr. Clifton Moore, also representing the New Orleans Firefighters Association (Local #632), and Police Association of New Orleans (PANO) attorney, Mr. Eric Hessler. All of these speakers expressed concern that employees would not know enough about the consequences of their choice. Mr. Felton pointed out that a new CEA must be entered each year and that details of the agreement, including the amount of leave that an employee may have, or be owed, are subject to change. He also related that employees are very apprehensive about the proposed consolidation and their removal from Civil Service. Commissioner Tetlow asked if the speakers truly wanted the Commission to vote down the proposal and not allow employees the choice of either receiving payment for their leave balance or taking their leave balance with them to OPCD. Mr. Felton replied that, if the matter could be delayed for another month, additional assurances could be written into the CEA, or changes to state law could be enacted.

Following public comment, a vote on Commissioner Tetlow's earlier motion was held. Chairperson Craig and Commissioners Tullous and Tetlow voted in favor of the motion. Commissioner Clark voted against the motion. The motion carried on a three to one vote, granting the exception to Civil Service Rules sought by the administration. At this point, 11:49 a.m., Commissioner Tullous left the meeting.

Item #3 on the agenda was Classification and Compensation Matters. Item #3 (a) was a request from Ms. Susan Hutson, the Independent Police Monitor, for retroactive compensation for the Community Police Mediation Program Manager position. Ms. Hutson presented first. At the last Commission meeting, she was told to return to the next meeting if she was not satisfied after working out the details of this employee's back pay request with staff. Ms. Hutson noted that the person hired for this position, Ms. Allison McCrary, was promoted to this position on February 8, 2016 and that the purpose of her request was to award her

additional back pay, beyond what was previously authorized, based on the Extraordinary Qualifications Pay Section of the Rules.

Mr. Hagmann presented staff's position on this matter. He noted that the section in the Rules in question allows for pay above the minimum beginning with the employee's appointment. As noted, Ms. McCrary's appointment was February 8, 2016. Thus, additional compensation prior to her appointment is not authorized by the Rules, as written. He noted that Ms. McCrary accepted her original appointment to Mediation Coordinator in 2014 at about \$47,000. She has subsequently received a temporary pay increase to \$55,000 on July 1, 2015 and accompanying back pay, until her appointment to the Community/Police Mediation Program Manager and, with this promotion, will receive nearly \$70,000 in annual pay.

Ms. Hutson replied that there was almost \$21,000 in grant money that would have to be returned to the non-profit from which it was received if it could not be paid in salary to Ms. McCrary. Mr. Hagmann noted that the money that would be returned would not go to waste and added that the \$70,000 salary that has been approved is about \$20,000 more than that a Deputy Fire Chief's base salary. Personnel Director Lisa Hudson noted that City departments get grant funds regularly and that is not a factor in maintaining a fair and equitable, uniform pay plan, as is required of Civil Service.

Ms. Hutson alleged that Ms. McCrary had been inappropriately paid since she was hired in 2014. Director Hudson replied, noting that the salary originally earned was based on salary survey information and vetted publicly both at a Commission meeting and before the City Council. Both entities approved the establishment of the classification and the pay level for that class. Director Hudson added that the pay for the position to which Ms. McCrary was recently promoted was also based on salary survey data. She also noted that former Deputy Independent Police Monitor, Simone Levine, was involved in each step of the process of establishing the salary for this position. She added that Ms. Levine provided staff with information about comparable positions in other jurisdictions. Director Hudson offered to review Ms. Hutson's documentation supporting a greater salary, as the information from staff's research could not support the pay requested.

Ms. Hutson retorted that this was incorrect. She stated that there is a comparable position in Kansas City on which she based the salary request for this job. Ms. Hutson added that she and Ms. Levine met with Civil Service staff last year and did not agree with staff's assessment of salaries of comparable positions. Ms.

Hutson stated that Civil Service staff was not the expert in this matter – that she was. She averred that her office has always disagreed with staff's recommendations of pay for this job.

Ms. Hutson then asserted that staff did not deal with Ms. Levine on this matter because she was out on maternity leave. Director Hudson stated the staff actually did deal with Ms. Levine, adding that staff spoke with her, and with the people in Kansas City, and that Ms. Levine was very involved in staff's work on this project. Ms. Hutson stated that she disagreed. Mr. Hagmann then provided the date of the phone call to Kansas City, the contact person with whom staff and Ms. Levine spoke, and a brief synopsis of the conversation.

At this point, Ms. Hutson invited Deputy Independent Police Monitor Ursula Price, to speak. Ms. Price indicated that they have additional data from other cities to support the salary currently earned by Ms. McCrary. She added that the Commission has already approved the \$70,000 pay rate that she began earning on February 8, 2016. Ms. Price then stated that all that remains is to consider the date at which the salary should start. Director Hudson noted that the Rule in question states that the pay shall start "upon appointment;" thus, the February 8, 2016 start date. She added that to grant an exception to this Rule would set precedent.

Commissioner Tetlow expressed concern that delays caused by understaffing could affect the start date for pay increase requests, such as this one. She noted that employees should not have to bear the burden of inappropriately low salaries because staff is overworked. Commissioner Tetlow suggested that perhaps the date of the request should be a consideration in such back pay matters. Mr. Hagmann noted that there were multiple requests regarding this position and that the position has had evolving duties and responsibilities. He added that the Commission's action at its last meeting had granted considerable back pay for this position, as was allowed by the Rules in that case.

Commissioner Tetlow asked the opinion of the Commission's attorney, Mr. Brendan Greene. Mr. Greene noted the Rule for which an exception was requested, that regarding Extraordinary Qualifications Pay, was thoughtfully crafted and was re-considered in numerous discussions at meetings late in 2015. He added that he agreed with staff that granting such an exception would be a "slippery slope" and could negatively affect the transparency of Commission operations in setting salaries. Ms. Price stated that the use of the Rule cited was the recommendation of staff and that their office does not care by what method the target salary for Ms. McCrary would be reached. Commissioner Clark opined that



he felt strongly that the staff's recommendation should be supported and that the Rules should not be overridden in this case.

Chairperson Craig stated that this was a tough decision for the Commission and expressed sympathy for the employee whose pay may have been negatively affected by delays. Commissioner Tetlow added that she agreed with Commission's counsel that this Rule cannot be read retroactively. Ms. Hutson observed that she saw little difference between this request for retroactive pay and the request granted by the Commission for this same employee last month. Commissioner Clark stated that the difference lies in the Commission's responsibility to follow Civil Service Rules. He added that he saw no reason to make an exception to the Rules in this case. Commissioner Clark then moved to deny the request. The motion was seconded by Commissioner Tetlow. Chairperson Craig abstained in this vote. The motion, therefore, passed as the two votes in favor represents a majority of those cast.

Item #3 (b) was the creation of a new Firearms Examiner series for the Police Department. Mr. Hagmann outlined staff's recommendation for a new job series paralleling the DNA Analyst series. The proposal was to create four job classes: 1. Forensic Firearms Examiner at about \$60,000 per year; 2. Senior Forensic Firearms Examiner at about \$65,000; 3. Lead Forensic Firearms Examiner at about \$70,000; and 4. Forensic Firearms Examiner Supervisor at about \$78,000 per year. Mr. Hagmann noted that these positions would require a certification that is in high demand. He noted that this could help NOPD civilianize this function. Commissioner Tetlow moved approval. Chairperson Craig seconded the motion and it was approved unanimously.

Item #3 (c) was the creation of a new Police Fiscal Budget Administrator job classification for the Police Department. Mr. Hagmann again outlined staff's recommendation. He noted that the position would serve as NOPD's chief fiscal officer and would oversee all budgeting, purchasing, and grant managing functions. The salary level for this position was set at \$63,960 per year. Commissioner Clark moved approval. Commissioner Tetlow seconded the motion and it was approved unanimously.

Item #3 (d) was the creation of a new HRIS Coordinator job classification for the Finance Department. Mr. Hagmann outlined staff's recommendation for a new class at Pay Grade 84, minimum salary of \$55,102. He noted that the main function of this position is to provide technical and administrative support for the City's automated timekeeping, payroll, and human resource systems. Mr. Roy

Guercio, Comptroller, indicated that the Finance Department was in agreement with staff's recommendation. Chairperson Craig moved approval. Commissioner Clark seconded the 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. Ms. Alexandra Norton, Director of Service and Innovation, informed Commissioners that the administration recommended that they hear the comments, but was requesting a deferral on this matter because Superintendent McConnell was not present for this discussion. Director Hudson informed the Commission that staff had distributed their recommended job specifications and had received feedback from the administration, but not from the Fire Union.

Commissioner Tetlow asked if the Union representatives would care to present the information that they had prepared, knowing that the matter would be deferred for a month. Mr. Felton indicated that they would. He then noted that there are four areas in the administration's proposed job specifications about which the Union has concerns. These areas are: 1. manning emergency shelters; 2. performing fire prevention inspections; 3. canvassing neighborhoods to request that they be allowed to install smoke detectors; and 4. testing hydrants.

Regarding the first of these, manning emergency shelters, Mr. Felton stated that this duty takes Firefighters away from their mission of fighting fires. Speaking on this point was Fire Captain David Nick, supervisor of Engine 16. He noted that his company was ordered to staff a shelter opened by the City during a freeze at about 3:00 a.m. on January 7, 2014. He noted that there were 17 citizens receiving service and about 20 volunteers and City employees, including his company, assisting these 17 people. About an hour and a half into this duty, a three-alarm fire engulfed a dwelling near the shelter. Captain Nick noted that the other company in their shared house, Ladder 8, responded to the roll. However, there was an issue as they arrived prior to an Engine Company, as Engine 16 was confined to the shelter and could not respond. Ladder Companies, it may be noted, are responsible for forcible entry, controlling utilities, and rescue operations, but do *not* carry water and are incapable of pumping water on a fire, which requires an Engine Company's apparatus (firetruck). Captain Nick and those on his company were chastised for not responding to this fire during their next tour of duty.

Mr. Felton noted that the Union supported those groups who provide service to the public during emergencies, such as the Red Cross. He then pointed out that these

organizations may be better equipped to perform these duties – freeing Firefighters to fight fires. Commissioner Tetlow asked him if the Union objected to having responsibilities during city-wide evacuations listed in the job specification. Mr. Felton responded that they would, as this addition to the job specification could tie NOFD employees down and would allow for a less flexible response. Director Hudson asked Mr. Felton if he could agree with the language suggested by staff and asked Mr. Hagmann to read the pertinent language. He read staff's attempt at a compromise statement for the job specification: "Receives training in, and responds to, emergencies to provide assistance." Mr. Hagmann noted that staff holds that staffing shelters was peripheral and not a distinguishing characteristic or essential function to be included in the job specification. Mr. Felton opined that this statement was better, but imprecise and not needed. Director Hudson noted that staff did not support including specific language regarding working in a shelter because this duty was not a reason that the job of Firefighter was created, was not distinguishing work for Firefighters, and could be done by nearly anyone.

Mr. Hagmann added that, by including too many duties not specific to firefighting, the 207 (k) exemption to the Fair Labor Standards Act (FLSA), allowing the City not to pay Firefighters overtime until they have worked 212 hours over a 28-day period, could be in jeopardy. Mr. Felton also noted that Firefighters in NOFD are currently overly stretched. He stated that too many companies are operating with only three members, when the safety standard for is to operate with at least four.

Also speaking on this matter was Fire Captain Thomas Meagher. Captain Meagher suggested that it would be counterproductive to limit Firefighters with overly specific language in the official job specification. He noted that, following Hurricane Katrina, 15 Firefighters used their personal boats and made over 15,000 boat rescues in eight days following the storm.

Chairperson Craig stated that it would be prudent for the administration to continue to work on this matter. She noted that the focus of the duties listed on the Firefighter job description should be on fighting fires. Chairperson Craig continued, noting that tying the hands of Firefighters by requiring duties too far removed from firefighting would be problematic.

Next, discussion turned to the second of Mr. Felton's objections to the proposed Firefighter job specifications, conducting fire prevention inspections. Mr. Moore addressed this, noting that there is a separate classification of employees, Fire Inspectors, whose job it is to conduct inspections. He suggested that requiring Firefighters to do the job of these employees could violate Civil Service Rules, the

Union Contract, and FLSA. Mr. Moore added that these duties do not require the skills of a Firefighter, but involve a separate skill set.

The third point of contention regarding the proposed job specification was canvassing neighborhoods to solicit installation of smoke detectors. After some initial confusion, it became clear that Firefighters do not object to installing smoke detectors for those who call ahead and schedule this work. However, proactively seeking out houses which do not have these devices and offering this service is considered objectionable. Chairperson Craig asked if this work was not closer to fire suppression work. Mr. Moore stated that it was not and compared it to Police Officers installing burglar alarms. Commissioner Tetlow asked if the Union's concern was with tort liability. Mr. Felton suggested that there could be liability issues with a fire in a building with an NOFD-installed smoke detector. Commissioner Tetlow replied that this concern should be supported by citing specific case law.

The final issue on this matter discussed was the testing of fire hydrants. Mr. Felton stated that this is another added responsibility that takes away from firefighting. However, he held out hope that there may be some language that they could find acceptable. Mr. Felton noted that each hydrant is inspected twice each year. Chairperson Craig noted the Commission's appreciation for the comments that were heard on this matter and suggested that parties continue negotiations on this item.

As discussion on this item ended, Mr. Felton asked if there was an update on their request to have Mr. Greene speak to NOFD administration regarding filling District Chief vacancies. Mr. Greene replied that he had spoken with Superintendent McConnell who acknowledged the vacancies and stated that they would be filled using the current promotional register. Ms. Norton added that NOFD had submitted four personnel requisitions (P-1's) for these promotions.

Item #3 (f) was a request from Mr. Carlos Metoyer for retroactive pay for the position of Airport Services Manager for the Aviation Board. Director Hudson noted that the department asked that this matter be deferred.

Item #3 (g) was a request from the Office of Workforce Development for exceptions to Civil Service Rules to hire temporary employees for Mardi Gras cleanup. Mr. Hagmann noted that the administration was requesting a retroactive, one-time exception to its Rules regarding seasonal and temporary employment. He added that the City had hired 150 temporary labors outside of the normal protocols.



He noted that the exceptions would be to Rule V – Examinations, Rule VI – Vacancies, Certification and Appointment, and Rule X – Records. Chairperson Craig asked if staff objected. Director Hudson replied that staff was approached too late to allow for staffing of Mardi Gras clean up in any other way. Therefore, they acquiesced, more than approved of the handling of this matter. Commissioner Tetlow moved approval. Chairperson Craig seconded that motion and it was approved unanimously.

Item #4 on the agenda was Recruitment and Selection Matters. Item #4 (a) was examination announcements. Announcements 9270 through 9272 were presented to the Commission. Commissioner Tetlow's motion for approval was seconded by Chairperson Craig 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 Clark moved that all of the recommendations of the hearing officer for 60-day extensions be approved. This motion was seconded by Chairperson Craig and approved unanimously.

Item #6 on the agenda was Communications. Item #6 (c) was a report on the comprehensive classification and compensation study which was addressed out-of-order because Commissioner Tetlow had stated that she had to leave shortly. Director Hudson noted that all parties agreed on the draft Request for Proposals and it was due to be released on February 16, 2016. She noted that the draft Request for Proposals would allow for the study of some unclassified, as well as classified, positions. Proposal submissions would be required by March 14, 2016. The evaluation of bids would be March 16, 2016 and the selection of the vendor would be announced March 18, 2016. Director Hudson noted that, as a draft, the details of this proposal are subject to change. She also informed the Commission that once the vendor for this contract has been chosen, staff would then stop working on pay plan issues, except for Police Consent Decree matters.

Director Hudson noted that the RFP does not include Sewerage and Water Board (S&WB) classes. Ms. Norton responded that she had contacted S&WB representatives. She stated that they have their own, more extensive, pay plan and benefits study that is in the RFP development stage as well. Ms. Norton indicated that she would discuss with the S&WB the possibility that the RFP could be worded so that they could join with the Civil Service classification and compensation study. Director Hudson noted that the Commission would need to

be involved with any Sewerage & Water Board study of pay and benefits so that a uniform Pay Plan could be maintained.

Mr. Felton commented on this agenda item. He asked if the consultant that wins the RFP would be using the data on Firefighter pay that the Union had gathered and presented to the Commission. Chairperson Craig and Commissioner Tetlow ensured him that they would make sure that the vendor would have that information.

Item #6 (a) was a report on ADP ongoing issues. Mr. Hagmann informed the Commission that there continue to be problems. He noted that last week ADP had incorrectly entered the pay step for two Grounds Patrol Officers. Mr. Hagmann stated that staff and Finance Department employees worked together to correct what could have been a very expensive mistake. He added that there have been problems with employee's service dates, which affects one's longevity pay, but that they have worked with the Payroll Division of Finance to get this corrected.

Chairperson Craig asked if ADP was notified of such errors. She suggested that the ADP contract should contain financial penalties for repeated errors. Mr. Hagmann replied that they were notified. He added that he hoped to get corrections made and training conducted to prevent future problems by either increased staff for the new HRIS Coordinator position approved earlier in the meeting, or through additional Classification and Compensation staffing. Mr. Guercio added that the City has received several rebates from ADP when a pre-set error rate is exceeded. In response to a question from Commissioner Clark about the size of these rebates, Mr. Guercio stated that he had seen a recent rebate from ADP for about \$1,500.

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. The administration responded by approving a request for a Personnel Administrator, Assistant position to oversee NEOGOV matters. However, a request for two employees to perform pay audits was denied. The administration responded that if errors are found, Finance Department's payroll division should be informed. Director Hudson noted that the requested positions would serve to find the errors initially. She added that the rate at which errors in payroll are found by happenstance, through the daily work of the Classification and Compensation Division, indicates a larger potential issue. Director Hudson suggested that a meeting with the administration may serve to clarify the need for these audit positions. Ms. Norton indicated a willingness to

meet and stated that a need to work with Finance on training issues should also be discussed. Commissioner Tetlow asked if a Commissioner should be included in such a meeting. Director Hudson welcomed that idea.

Director Hudson then added that staff is still recruiting for a Personnel Administrator for the Test Development & Validation Division and that efforts to hire a Psychometrician were thwarted when a potential employee turned down a position offer. Finally, she noted that, should the staffing requests be granted, there would be a serious office space issue.

With no other communications to consider, on motion of Chairperson Craig and seconded by Commissioner Tetlow, the Commission voted unanimously to adjourn the meeting at 1:13 p.m.



Cordelia D. Tullous, Commissioner



Tania Tetlow, Commissioner