

CIVIL SERVICE BOARD MEETING MINUTES



DATE: May 3, 2010
5:00 PM – 6:15 PM

BOARD: Doug Coulter, Chairperson
Hugh Logan, Vice Chairperson
James "Mickey" Dunlap, Board Member
Debra Allen, Board Member
Maiqual "Mike" Talbot, Board Member

STAFF: Terri L. Cassidy, Human Resources Director/Secretary to the Board
Christine Fox, HR Analyst
Leoni Mulvihill, Assistant City Attorney (Acting City Attorney)

1. FLAG SALUTE

The Pledge of Allegiance was led by Board Member Allen.

2. ROLL CALL

All Board Members were present.

3. APPROVAL OF THE APRIL 12, 2010 CSB SPECIAL MEETING MINUTES

A Motion was made by Board Member Allen to approve the April 12, 2010 Civil Service Board special meeting Minutes. Vice Chairperson Logan seconded the Motion. The Motion passed 5 ayes, 0 no.

4. MONTHLY REPORT FROM THE SECRETARY

Ms. Cassidy explained to the Board:

The Charter Update Commission is in its final stages and that the draft report is going to the Charter Update Commission the following day. The report is approximately 162 pages long and is available at the Office of the City Clerk. The Commission meeting will be at 2 pm, and the purpose of the meeting is for the Commission to consider adopting the report to go to the City Council.

There was an update to the Police Captain exam process that was previously approved by the Board. A change occurred because Human Resources was able to fund, and with approval of the City Manager, the use of Donnoe & Associates to assist with the Captain's test. This is an appropriate change because this is the company that was used for the Sergeant and Lieutenant exam processes and it is

important for the Captain candidates to have the same experience as the others. This whole promotional series was able to be completed in a short period of time.

The Ackerman Trust Scholarship Program has opened and is available to High School students who reside in the City of Newport Beach or children of City of Newport Beach employees. This year there will be 10 lucky scholarship recipients and we will share the final selection with the Board.

5. REQUEST APPROVAL OF RECOMMENDED QUALIFICATIONS APPRAISAL BOARD PANELISTS FOR POLICE CHIEF RECRUITMENT

Ms. Cassidy informed the Board that the memo provided in the packet, from the City Manager and herself, references the rules that require two Chiefs and the City Manager's designee to join the Civil Service Board appointees on the Qualifications Appraisal Board for Police Chief selection. It is their recommendation that the Board approve Jan Perkins as the City Manager's designee, Chief Sanchez of Santa Barbara and Chief Pederson of Culver City. She explained that no candidates who were involved in the process were from either of the cities and they thought it best that we have no Chiefs from Orange County in the event an Orange County candidate was an applicant for the position. The memo included the excerpt from the Rules & Regulations regarding the selection of the Police Chief. Interviews would be held all day this Wednesday (May 5).

A Motion was made by Vice Chairperson Logan to approve the Qualifications Appraisal Board panelists for the Police Chief Recruitment. Board Member Allen seconded the Motion. The Motion passed 5 ayes, 0 no.

6. REQUEST TO CHANGE DATE FOR EMPLOYEE DISCIPLINARY APPEAL HEARING

Ms. Cassidy explained to the board that the former employee has requested an extension of time due to obtaining new legal counsel. The request is for the Board to schedule the appeal either June 29, 30 or July 1. The Board's request for outside counsel has been approved by the City Council and any of those dates are acceptable to Mr. Freedman, City Attorney's Office and the Appellant's attorney. They are anticipating an all day hearing of one day's duration.

Board Member Allen stated that she will not be in town during the hearing.

The Board agreed to hold the hearing on June 29, 2010.

Chairperson Coulter stated that if there is a problem, then the next date (June 30) is acceptable as well and confirmed the start time will be 9:00 a.m.

Chairperson Coulter asked if the hearing would be open or closed, and Ms. Cassidy stated that at the request of the appellant it would be a closed hearing.

7. FIRE DEPARTMENT STATUS REPORT

Deputy Fire Chief Mais delivered to the Board the Fire Department's status report:

Points of Interest

- The department responded to a garage fire last weekend on Cliff Drive at midnight and everyone self-evacuated before they arrived. There was \$75,000 in damage to the structure and contents.
- There was a retirement celebration at the Back Bay Café for 6 members of the Fire Department who retired in the last few of months. It was good to see the retirees and discuss some of their history as they are coming up on their 100th year as a Fire Department next year.
- Firefighters & Lifeguards will be participating in the Relay for Life Team events for American Cancer Society that included a BBQ for the No Talent Show on May 5 & 6, waiters at Ruby's restaurant on May 13 and the Relay on May 15 and 16. It has been a tradition for Firefighters to wear their turnouts for the 24-hour relay.
- Lifeguard Battalion Chief Jim Turner, and his wife Nadine, were honored at CDM High School for their many years of PTA volunteer work. They received the Golden Oaks Service Award, which is the most prestigious PTA Award in California. The Department is very proud of Jim for his efforts both as a Lifeguard Battalion Chief and in the community.

Recruitment Update

- Human Resources received 1,501 applications for the entry-level Firefighter recruitment. The first 500 of those who qualified will take the written exam on Saturday, May 8.

8. REQUEST APPROVAL OF UPDATED JOB SPECIFICATION FOR DEPUTY FIRE CHIEF

Ms. Cassidy: "Before Chief Parker comments on this item, I would like to, by way of background, provide some comments to the Board and members of the audience regarding classification updates. As you discussed through the Charter update process, the City Manager serves as the Chief Personnel Officer for the City of Newport Beach. It is the responsibility of the City Manager to approve recommendations for changes in our classification plan. In addition to it being part of the Civil Service Ordinance and Employee Policy Manual, it is also included in the Employer/Employee Relations Resolution (EERR) that the City has the exclusive right to determine the mission of its departments and to determine the content of job classifications.

City Manager Kiff, who is in Northern California, asked me to convey to the Board that it is his position that the City Manager has the responsibility of bringing forth the job classifications and he has been included in discussions regarding revisions prior to them appearing on the agenda. He sends his regrets that he won't be here to answer any questions you might have and has delegated the responsibility of the items on the agenda tonight to Chief Parker and to me to answer your questions on his behalf. If you require any authority, I do have that as well as Ms. Mulvihill as your attorney for this evening."

Chief Parker: "Good evening Chairman Coulter and Board Members. I speak to you this evening on really the three items, 8, 9 & 10, on the agenda as they are tied together somewhat. We are here to request the approval of the updated, modernized job specifications for the positions of Deputy Fire Chief and Division Chief. Additionally, we ask you to approve the promotional recruitment for Division Chief rank.

We are faced with two critical openings that are going to occur in the Fire Department within the next 2½ months. Coincidentally, both of them are sitting here. We are losing our Deputy Fire Chief and our Fire Marshal to service retirement, and so this leaves us with, of our 1 and 2 top candidates of our Chief Officer ranks, openings that are critical to the operation of the Fire Department. One being the Fire Prevention Fire Marshal and one is the number two person in the Department, the Deputy Chief of Operations. So these specifications we present to you look back and are really designed to be modernized and updated to reflect the current workplace. These were last revised over six years ago in January of 2004. The Deputy Fire Chief is a basic update to verbiage and clarification of qualifications. The Division Chief is updated to combine two previous specifications, one for Fire Marshal and one for Division Chief of Training and Education, into one Division Chief specification that applies to both assignments. The benefit of this is really to provide flexibility for the Fire Chief for succession planning which is really critical to us right now with these retirements. We need to have continuity in the positions so we can carry on effectively and to work with the Department in our executive command staff that these positions reside. These modifications increase the promotional opportunities for all our internal candidates. The promotional recruitment that I ask for you to approve tonight is to be internal because it allows all our current Chief Officers to qualify, compete and potentially be selected for these positions when they come open, and all of these people I can tell you are interested, prepared and very motivated for the opportunity.

In preparation of these specifications, I worked very closely with Human Resources, Terri Cassidy and her staff, and I say these specifications meet the industry standards and are consistent with recent updates within the City such as the Police Captain specification that you did at your last meeting. In addition to this, we've also had this reviewed by our Fire Management team, which covers all of our Chief

Officers, and the Board of Directors agreed to the changes. So, with that, if you have any questions, that is the end of my presentation.”

Ms. Cassidy: “One item I would like to add, in our staff review we also compared our specifications with other fire departments to make sure we are meeting industry standards not only internally but in the rare event that we might have to look to the outside if we do not have three qualified individuals from within. We want to make sure that we are doing the best we can to match the industry around Orange County and beyond because these Chief Officers, as you know, work very closely together; often times on strike teams and other responsibilities. So with that, we have the entire Recruitment and Selection staff this evening if you have questions.”

Vice Chairperson Logan: “Has this been checked for conformance with existing labor law and existing agreements with various associations?”

Ms. Cassidy: “Yes, and I believe the Chief mentioned, and you received a letter this evening, that appropriate procedures have been met in terms of consulting with the Fire Management Association and in accordance with the EERR, Employee Policy Manual and your Ordinance. There is nothing specific in the MOU with Fire Management that requires us to meet any other procedures, it defers to the EERR.”

Vice Chairperson Logan: “And this document has been reviewed by yourself and Dave Kiff and both of you support it?”

Ms. Cassidy: “Yes, we do.”

Chairperson Coulter: “Are there any other comments?”

Battalion Chief Ralph Restadius: “As Battalion Chief/FMA VP, I am here to give you a little background on the letter that was given to you. Way back when Steve Lewis was Chief, we were approached by HR and these changes were proposed. We met with HR, and took them back to the association membership and then changes were made. We came up with an agreement where a majority of our group voted and it passed. So, for that reason, we are supporting the changes that you have in front of you.”

Board Member Allen: “One question, I think it is obvious, but just so I understand, your letter then refers to the FMA approval of 8, 9 & 10, all three?”

Battalion Chief Ralph Restadius: “It would be 8 & 9, because that is for the Deputy Chief and Division Chief positions.”

Board Member Allen: “Compliments to you Terri, we got feedback from people about their department.”

Division Chief Paul Matheis: “Good evening ladies and gentlemen, members of Newport Beach Civil Service Board. My purpose here tonight is to ask that you set a hearing for item #9 on the agenda, because I am opposing it. I believe that a proper review of the issues associated with this proposal is necessary for complete understanding of how this could impact the organization.

It is true that the Fire Management Association has supported the proposal. FMA includes six people, two of which are retiring, that leaves four, myself in one of the positions. So in the remaining opportunities of two positions there will be three people competing for them. That is a change in the current situation, where qualified personnel from the FFA could test for that position; a greater, larger group from within the City Fire Department could be competing.

Furthermore, in addition to limiting the competitiveness, the proposal will pay the same money for less authority and responsibility for the Training Division Chief job, which seems a little bit out of step for the current economic times. Currently, the Training Division Chief supervises a manager the Lifeguard Battalion Chief; because this direct supervision will be in conflict with this proposal before you, it leaves the open question, what is the long range plan for this position? As a Fire Manager, I’m not aware of that, and I think that would be important for me to be able to support the organization in the best possible way.

Proper classification is another issue. This proposal is not a reclassification; it is just a change in specifications. Currently, the Battalion Chiefs, through the level of Deputy Chief, are all included under one common class. However, in the Employee Policy Manual page 42, 9.2: The City Manager shall reclassify positions upon determination that there has been a material change in the normal duties performed by, or expected of, the employee occupying the position. Specifically, on page 2, item 1, paragraph 2, in the Fire Management MOU: Any change would require meet and confer. It would be my belief at this point that the only thing that has taken place is meet and consult. So, that would be a change or at least not adherence to the rule. The meet and confer and the meet and consult are both stipulated in the Employee Policy Manual, section 2, items N & P and it states in the Fire Management MOU, on page 3, item F that if a material change does happen that the agreement has to be in writing or it is not binding.

Civil Service issue, Ordinance No. 866: these items do not appear to be properly classified given what the ordinance speaks to, a group of positions, sufficiently similar in duties, responsibilities, authority, and minimum qualifications to permit combining them under common title. In Fire Management, currently, we have a Deputy Chief who supervises the Battalion Chiefs and is paid significantly more and that would suggest that perhaps those should be reclassified. I’ll stop there and answer any questions.”

Board Member Allen: “Paul, that is a lot of information, and I know that you are a person who doesn’t take these things lightly, so I am very concerned about what you addressed. Did you talk to, or have an opportunity to talk to, either HR or the City Manager about those issues that you just raised, and what is your take on the response?”

Division Chief Paul Matheis: “I spoke with Dave Kiff about it, and the last time I spoke with him he tabled it in January. Then it popped up again recently, which may be related to something else that I could go into if you are interested in that.”

Board Member Allen: “There is always something else, isn’t there. Okay, I’m just troubled by a lot of information that wasn’t fully addressed in our staff report and I don’t want to take it lightly, on the other hand, I understand that there is some kind of need for a quick decision.”

Ms. Cassidy: “Mr. Chairman, if I might respond to Ms. Allen’s comments. This originally was to appear before you when Steve Lewis was the Fire Chief. At that point in time there was a great deal of discussion about the future of the Fire Department and, as Chief Parker mentioned, succession planning and the opportunity for fair and open and competitive examinations. To be quite candid with you, as you know from our year long discussions about the Police Department, that we have done not a terrific job of succession planning and perhaps, in the past, not a great job regarding promotional examinations. Without going into the history of some of the appointments prior to Chief Parker being our interim Fire Chief, some of the examination processes were a little bit outside of the scope of our practices and industry standards.

So, when Chief Parker came to the City, one of the items that was waiting for him was a continuation of the review of the job specs and the higher-level positions in the Fire Department, knowing that several individuals were going to retire. So, we had that continuing discussion and, as you see in the letter signed by Dave Mais and Ralph Restadius, met our obligations under the “Meet and Confer” process. I beg to differ with Chief Matheis, that these were met in the sense that the recognized association, having met their duty of fair representation, had a discussion with their members, took a majority vote and made the recommendation back to myself and the Chief. They were in agreement based on our discussions for the future changes of the Fire Department, for qualified individuals and succession planning, with the goal being that we would promote from within in the future, all the way up to the Fire Chief, all they way up to the Police Chief. That is our mission, that is our goal, but in order to do that it was important to make sure that our job specs are up-to-date and that they reflect the duties that the former Fire Chief and the current Interim Chief feel will carry the department into the future.

A great deal of work was expended, a great deal of conversation had occurred, a great deal of research was undertaken. The City Manager, Fire Chief and I do

support this recommendation and although I do understand where Chief Matheis feels that there are certain changes that he may not agree with, it is in the interest of the future of the Fire Department. Classification being not personal, but to take the individuals out and make sure that we have a structure that is sound, that is defensible, that we have exam processes that comply with your ordinance, the charter and best, sound practices in personnel.

So, if there are conversations that need to occur subsequently, we are happy to do it, but this job specification was significantly changed so that we do need to bring it to the City Council for their approval. That, and the time frames regarding retirements, are the reasons it is on tonight's agenda for your approval with the recruitment. In the event that we do classifications to suit every individual in the City, and we have hundreds of classifications, it is going to really be difficult. We have proposed, and the City Manager is recommending, a City-wide classification study be placed in the budget because the City of Newport Beach has never done such a comprehensive study, and like the Charter, 50 years later it's time to take a look at our internal and external comparisons, classification-wise, throughout the City. Sometimes things arise, like the retirement of the individuals sitting in our audience, and we have to do the best we can with all of those factors and, most importantly, comply with our Charter and our ordinance. So, we feel it is the case, and we would still ask your approval on items 8, 9 & 10."

Board Member Dunlap: "Mr. Chairman, it appears then that time is of the essence in this because were it not, I would like to have a little more time to exam Chief Matheis' objections. But I do understand that this is in need for something very timely, so while I am going to support the change, I do appreciate you bringing the information to us."

Board Member Allen: "Well, maybe I missed something, I understand that time is of the essence. I'm just making the same comments that Mickey just raised, time is of the essence, but is there a reason why this absolutely must be decided tonight, as opposed to our next meeting, to give us a chance to look at some of those concerns that were raised and very authoritatively documented. I am just uncomfortable saying well gee, we're in a hurry so we gotta go on. Does it have to be tonight and if so, why?"

Ms. Cassidy: "It doesn't have to be tonight, but I will tell you that whether we approve it as recommended and have the discussion before or after with Chief Matheis, this is not an individual issue. He explained to you that his scope, or some of the wording changes, diminishes his authority. This does not recommend any changes in salary or discussions that occurred within the Fire Department. The reporting relationship of the Lifeguard Battalion Chief, or other individuals within his authority presently, could change if those individual jobs were eliminated or laid off. This isn't a diminishment in any other way other than we are updating and changing the way that Fire Command staff is being structured.

If it is postponed until the next meeting then there is a possibility that we would have to make acting appointments, move people up, because the retirement dates are set, as far as I know, by the gentlemen sitting in the audience. Chief Parker sort of came into this, and it was a few months later than it would have been previously, but the recommendations before you are no different in the language changes that were proposed and discussed while Chief Lewis was here. So no, it is not fatal; it just means the Fire Department is going to have to rely on “acting” individuals. It is very stressful for people who are preparing for a promotion to wait another four weeks, it might have to occur during the summer when vacations are planned, but, if you feel that you wish more information, it is doable. I would respectfully request if you decide to approve these specs that you ask any questions you would like. The City Attorney can assist, and Mr. Kiff can also assist, in providing you with written documentation that we have in fact met all of our obligations and that the Fire Management Association is speaking on behalf of the majority of the association.

I would be happy to meet with Mr. Matheis at any point in time; he communicated directly to the City Manager, but did not communicate his concerns this week to me or to the Chief. So, I would have been happy to sit down if I knew more specifics prior to tonight, but this is really five months in the making, and time is of the essence if we want the majority of candidates who are ready and prepared for this exam to be able to do so.”

Vice Chairperson Logan: “As I understand the process, when Mr. Matheis’ questions were brought to Dave Kiff, the result was that the subject was tabled. Then it was untabled by what action? Did people meet again and resolve those issues or was a decision rendered in the terms of an opinion by Mr. Kiff?”

Ms. Cassidy: “Chief Lewis retired, there was a time in between Chief Lewis and Chief Parker and there have been other issues that have arisen and it required certain internal actions in the Fire Department. The opportunity for Chief Parker to meet with his staff, the opportunity to take a look at the specs and revisit some of the language and to do our research in HR, those factors all came into play.

Mr. Kiff, who now has a few additional months time in grade as City Manager, has been involved in all of the organizational review of the Fire Department and has been brought up to speed. He has been looking carefully at your comments in the Charter Update Commission items making sure we adhere, and are careful in making our recommendations for changes in classifications. Many classification changes are being made and not all are Civil Service positions, but they will be coming forward to the City Council soon. So, this is not unique to the Fire Department, it’s just that in the Fire Department, like the Police Department, when people reach a certain age, retirements come and we have to address those promotional processes. That’s where it came together as a perfect storm.”

Vice Chairperson Logan: “What would Chief Matheis’ recourse be if there was a positive vote but he still disagreed? Does he have any?”

Ms. Cassidy: “With the recommendation of the Fire Management Association?”

Vice Chairperson Logan: “No, I’m saying if he still maintains his position and we move to vote to approve this, what remedies does he have, having stated his opinion, does he have any?”

Ms. Cassidy: “I’ll defer to our City Attorney, I mean, certainly he can discuss it with anyone within the City structure.”

Ms. Mulvihill: “I’ll try, I agree with the statements by Director Cassidy, which was what you have before you is a revision to the classification that very clearly is within the purview of the City Manager and very clearly subject to approval of City Council. You have the FMA, the authorized employee representative, stating that they actually agree with this, they concur with this change going forward. What you have with Chief Matheis is a difference in that opinion, so if we proceed with the recommendation, this will follow its natural course subject to the rules and the procedures set out as far as review. Chief Matheis, just as anybody else, could always claim that the City’s actions were arbitrary and capricious, that’s no different with anything else that we do, but the rules do not provide an opportunity for Chief Matheis to grieve this action, so to speak, it simply isn’t subject to the grievance procedure. This decision is a change to the classification plan, so he might have remedies available to him, but it wouldn’t be under the grievance procedures that you have before you.”

Vice Chairperson Logan: “So, he basically doesn’t have a remedy except to claim it is arbitrary and capricious.”

Ms. Mulvihill: “Yes, his remedy would really be at law; that the City has done something arbitrarily or capriciously.”

Chairperson Coulter: “When did this come up, that Chief Matheis didn’t agree, is this just something locally, in the last day or so, or has this been ongoing?”

Ms. Cassidy: “No, Chief Matheis expressed his disagreement when we were revising the job specification the first time in January, prior to January.”

Board Member Allen: “I’m still troubled, I think you said Terri that we haven’t changed the specs for six or eight years and I don’t have, and this is not faulting anyone, but I don’t have anything in front of me that even addresses Chief Matheis’ comments, and it’s not because it is Chief Matheis, I got the sense that you all were hearing that this was a personal grudge or personal disagreement perhaps. What I heard from his testimony, if it was correct, was that there was some concern about

whether these changes are in the best interest of the City based on other documents that he referenced. I didn't get a sense that he was complaining that my job is being changed, if that was the complaint, I think that is an entirely different process that you need, we need, to do some other time, but what I heard was some of these changes have not been as well thought out perhaps as he felt, with his experience, they should be.

I'm also troubled by the fact that the Fire Management Association seems satisfied with them and I rather suspect that if we did continue this for one meeting and you had a chance to address some of these issues that were brought up, I am relatively confident that I'm probably going to agree that you were correct, but I can't quite get there right now because I just don't feel like we have enough information."

Chairperson Coulter: "Did Dave Kiff approve this?"

Ms. Cassidy: "Yes, he did."

Chairperson Coulter: "Why don't we do this, number 8 is asking for approval of the specification for Deputy Fire Chief, and there doesn't seem to be any objections to number 8, if none, we would appreciate a motion."

A motion was made by Board Member Dunlap to approve the updated job specification for Deputy Fire Chief. The Motion was seconded by Board Member Allen. It passed 4 ayes, 0 no. Vice Chairperson Logan abstained.

9. REQUEST APPROVAL OF UPDATED JOB SPECIFICATION FOR FIRE DIVISION CHIEF

Chairperson Coulter: "Continue discussion."

A motion was made by Board Member Allen to continue this item to the next meeting. The Motion was seconded by Board Member Talbot.

Board Member Dunlap: "I have some comments on that, we've got a situation where we have the City Manager requesting something that is under his purview, we have the Fire Chief recommending it, we have the association recommending it, and with all respect to my friend Chief Matheis, I think it is important that we go ahead with this so that we don't have acting positions when the two people involved retire."

Vice Chairperson Logan: "I am troubled. First of all, I agree that Dave Kiff has the authority to make these decisions, and certainly Ms. Cassidy has done excellent staff work in preparing the documents, doing the research to make sure that the documents are correct and that they don't interfere with other things, so I praise you for that; the thing that makes me nervous is I'm not convinced that Chief Matheis had a chance to really go over his objections with the City Manager at a recent point

in time and that troubles me. It is within the City Manager's purview, FMA has supported the thing and so, in view of that, I can't vote against the thing because I can't vote against the City Manager when it is something that is clearly within his purview, but I'm not comfortable with this as it is going down and that's the same on this item as the previous one."

Chief Parker: "For a bit of clarification, I just want to emphasize that though we say time is of the essence, you can tell by the testimony this evening that this has been discussed for a number of months. When I arrived, and realized, on March 15, that getting an assessment of the organization, I find that two of the top members of the Command Staff were retiring, I was going, well what is the plan? There is none. So, I have to share that if this is delayed there is an adverse effect to the organization in the Fire Department, the management thereof, it will have an adverse effect if we have to leave the positions open or fill them with "acting" personnel.

I have worked really strongly in my short time here to discuss this with everyone, and again I want emphasize even HR, the FMA and had an exchange with Chief Matheis when he voiced his initial concerns on this several weeks ago. I addressed them back to him and never heard another word back until this evening, or until I got word from the executive board of the FMA that one of their members had a differing opinion on it. So, I just want to emphasize that this has been reviewed for several weeks, has been analyzed and everyone has had a chance to give their input and did so."

Vice Chairperson Logan: "Chief, does this personally affect anyone beside Chief Matheis?"

Chief Parker: "I don't believe it affects, to be honest with you, even Chief Matheis. It doesn't affect anyone, in fact one of the things in my presentation I said was that this creates a true succession plan because, as Ms. Cassidy said, the goal is to have, even though we are going to do a recruitment fairly soon for a Fire Chief, the next Fire Chief come from within. This creates an opportunity for the next Chief to assign people between the two positions, of either Fire Marshal or Division Chief of Training and Education. So that it actually enhances in some ways Chief Matheis' position, because if after the Division Chief test is established, if he is interested in broadening his career background and applying for the Fire Marshal, he is available to do so, so I don't see it, with all respect, I don't see it affecting him one way or the other; his job description does not change, there's no pay, and his job stays the same. I don't understand his position on it. It doesn't affect anyone else, and I don't think this adversely affects Chief Matheis."

Board Member Allen: "Can you be more specific with regard to exactly what impact you see with my motion, which is to continue it one month? I am the person who made that motion and if we continue it for one month, what exactly, what positions

will become vacant that would have to be filled by “acting” personnel, and you know quantify it if you could for me?”

Chief Parker: “Ms. Cassidy may be able to help me with the timeline, but if we push it back, by the time the testing for the promotional exam for Division Chief is completed and we have a list, and I get a chance to do the Chief’s interview after that, the Fire Marshal is retiring June 30, and the Deputy Fire Chief of Operations is retiring approximately a week later, so we will have some period of time. I can’t tell you exactly. Depending on the exact timeline of the testing procedure and how long it takes to get through this, we will just have open positions that nobody will be there to fill. So that will rely on either myself to do two key major positions or scramble somehow to put someone in on a part-time basis in an “acting” position. Then, if you do an “acting” position, it causes a trickle down so you’re moving someone else to fill the underlying position of the Officer and yet another to fill the underlying position of that Officer if I’m not confusing you. So we could have two/both positions open and unfilled for x period of time, unknown at this time. It could be two weeks; it could be a month, somewhere in there.”

Chairperson Coulter brought back Board Member Allen’s motion for vote. Motion failed 2 ayes, 2 noes. Chairperson Coulter asked Vice Chairperson Logan if he had any comment; Vice Chairperson Logan abstained. Chairperson Coulter confirmed that if faced with a tie vote, the motion fails.

Division Chief Paul Matheis: “I think were really talking about one position. The Chief has made it clear, and as you see here there is no test or provision for a test for a Deputy Fire Chief. The Chief has made it clear he’s going to fill that with an “acting” position while he is here. So, we’re really talking about one position and that position is the Fire Marshal position and in a review, or the last time we spoke in a Command Staff meeting, only one member raised their hand for that position for Fire Marshal, so I think that information is important going forward.”

Chief Parker: “I’ve been updating Command Staff, since I’ve got here, with the state of the department, some of the issues going on, amongst that being the impending openings of positions. In those statements, I’ve said that there are various different ways we could go, we were going to move to update the specs, as I understood that they needed to be done, and that we were going to have promotional exams, as required by City rules and regulations. That was merely a straw vote as to who might be interested, just a random comment, this is what I might do, who would be interested in being Fire Marshal and one hand went up, that is true, but it was merely a briefing. Since then, I have been told there are others that are definitely interested now that the plans have crystallized and become closer, there is more than one interested.

The reason that the Deputy Fire Chief is not being tested is that we have a sequence and already have discussed with HR that we have to do a Fire Captain

exam next. The only promotional list we have in existence for the Fire Department, for promotional purposes, is our Fire Engineer. We have no Captain, we have no Battalion Chief, we have no Division Chief, etc. So from nothing else than logistics alone, and the busy schedule of HR, they are working very hard to get these in sequence, which would be Division Chief first, then Fire Captain, then do Fire Battalion Chief and then in line, when time allows, do the Deputy Fire Chief. So, there is a plan to do it, and the goal is to have a promotional list for each rank by the time my interim status is done for succession planning purposes, so that new Fire Chief has the opportunity to evaluate and move as quickly as possible in filling whatever other openings there may be.”

Ms. Cassidy: “I would like to add to Chief Parker’s comments. Chief Parker is a recognized, experienced expert in the field. While he is here, the opportunity to do the entire promotional series, similar to the way we did it in the Police Department and the experience for those candidates to go through a rigorous, competitive, state-of-the-art process is really important to the Fire Department. So, that is why when he came on board we had 10 vacancies or so at the Firefighter level and that’s why we’ve done Firefighter first. But as Chief Parker just mentioned, there has to be a logical sequence in order to do the exam process and it would be ideal from an HR standpoint to have the Chief and I work with outside experts to put together that whole series, while his time here is very short and Chief Parker will be leaving sometime in the fall, and Mr. Kiff has already started thinking about the recruitment for Fire Chief. So that is another reason for expediting these things, which as another option if you did need more time or had specific information, you could plan a special meeting to approve this item if you so choose.”

Board Member Allen: “I would have no problem with a special meeting, I don’t want to have any more meetings than necessary, I do work full-time, but I can make myself available.”

Chairperson Coulter: “It is a 2 to 2 vote, if Mr. Logan maintains to abstain from that, the motion fails and we move on. So, I don’t want to be pushing you Mr. Logan, you don’t have to say anything.”

Vice Chairperson Logan: “I’m satisfied, let me ask you this Mr. Chairman what would we learn from a special meeting in the interim?”

Chairperson Coulter: “I wish I could answer that but from what has been said, I don’t see that we would learn, I don’t know what we would learn and maybe that’s a better way of putting it. I think they have been very thorough, it’s unfortunate, I feel bad for Chief Matheis, but at the same time, I think it’s been thorough, especially if the City Manager has met and after advice from the folks involved.

Board Member Dunlap: “If we have had a motion fail, then we need a new one.”

A motion was made by Board Member Dunlap to approve the updated job specification for Fire Division Chief. The Motion was seconded by Chairperson Coulter.

Vice Chairperson Logan: "Let me ask this, if we had a special meeting would that alleviate your (Allen) problems with this?"

Board Member Allen: "I think so, because what I would want, and I would hope we could do a special meeting, would be to have Chief Matheis' comments, which appear to be written, communicated to someone, whether it be a meeting or just a written statement, or not, whatever he is comfortable with, and have someone with some authority just answer those questions or assure me and us that all of those things either were considered and, in his discretion, Mr. Kiff determined were not appropriate or were not of concern. I'm just troubled that this issue was raised back last January and somehow fell through the cracks, it wouldn't be right."

Ms. Cassidy: "It didn't fall through the cracks, Ms. Allen, Board Members. Chief Lewis had some discussion regarding the matter when it was first recommended with Chief Matheis, as did I, but he disagrees with the conclusion which is changing the duties and changing the requirements. He objected to it then, he objects to it now. We're happy to meet with him, Mr. Kiff, Chief Parker and I. The requirements of the meet and confer process require us to get the approval of the FMA; if they did not endorse it, this would not be before you. They are the exclusive representative of the majority, or all of the Command Staff, and although they are a small group, they are a mighty group. You are not necessarily going to get 100% consensus in any matter involving a group of individuals, so we had the discussion, Chief Parker has had the discussion with the entire Command Staff, explained the reasons, is reviewing things, explained the reasons, met with Chief Matheis, I've met with Chief Matheis, Dave Kiff previously had met with Chief Matheis and might have agreed to meet with him if he were available in the last couple of days, but he's out of town.

The recommendations before you are not, even if we meet with him again, going to change substantially. Chief Parker is recommending we make a job specification that looks different from the current one, with different requirements, the same way we have done away with the requirement to be able to transcribe in the secretarial classification, or added additional requirements, things change over time. The purpose of the rules regarding classification are to make sure that we are appropriate with the industry standard and the City Manager has made that recommendation and delegated that expertise to the Fire Chief. So, whether we meet with Chief Matheis before or after, if he has concerns about the scope, responsibilities and the duties, there is no pay issue involved in this particular change. The requirements of who competes in the future doesn't effect who is currently in the classification.

The same way we bring to you a different examination process every time we review a promotional exam, it is because different Chiefs, different standards, things that we revisit. That is no different in the classification arena, so if Chief Matheis has specific objections that he feels will affect him then that is an internal individual discussion which we are happy to have, have had. It is not something that fell through the cracks, it has been done on a number of occasions, but the classification plan must move forward to address the needs of the department, now and in the future. That is why it is on this agenda, individuals are welcome, the Chief has an open door policy, I have an open door policy; I have met with the representatives, I would meet with any individual, whether they are represented by an exclusive organization or not, if they have concerns. That invitation is open if there is something we can do to allay the fears, but I will tell you that this is an organization of 6, the Police Association is an association of 100, if our goal is to have everybody agree with everything we bring forward, it isn't going to happen, so in whatever manner you would like the information, I would request, if we postpone this from tonight's agenda, that Chief Matheis put his questions, his comments, in writing and submit them to me and to the Chief. We would be happy to have a meeting whether this goes forward or not, but my guess is on June 7, you will see very similar to what you see tonight, including the recommendation for the exam process. It's not to disenfranchise, it's to just move it forward."

Vice Chairperson Logan: "Chief Parker, if we were to delay this vote approximately two weeks, how would that affect your situation, with respect to acting positions, could you avoid acting positions, based on that? Your face says no not really."

Chief Parker: "I honestly can't tell you what the timeline would be with that delay, to have a promotional exam, have a list certified, do an internal Chief's review and select someone. I would guess that we would not have somebody ready to fill before these gentlemen leave. Part of the reason time is of the essence is we have years of valuable expertise here that I'm trying to get some type of overlap, even if it is one week that a successor, if selected, can have to catch up especially for the Fire Marshal position with such major ongoing programs, development programs in the City, would have such an impact the expertise would be lost and that is one of the reasons. Again, I apologize, I don't have the exact timeline, but I would suspect that even a two week delay would put me into having one of the positions, the Fire Marshall position, being left open for a couple of weeks at least."

Board Member Dunlap: "Mr. Chairman what troubles me is that we have a recommendation, a request from the City Manager, from the head of HR, Executive Officer to the Fire Department, the Chief and a letter from those that represent the Fire Association to get this done, so that the Fire Department doesn't have to put "acting" people in positions at the time. I have great respect for Chief Matheis, I consider him to be a friend, but I think in this case, we need to go ahead with the recommendations and the request from the people who lead the organization, City-wide, HR-wide and Fire Department-wide."

Chairperson Coulter: “I happen to support that as well, and the only troubling thing I have is that seems that at the last minute, Chief Matheis, with all do respect, has brought this up, and if you had 100 people, as Ms. Cassidy mentioned, and you had one person this would never happen, we’ve been going on and on and on, I feel that since the City Manager has approved it, Chief Matheis has met with Mr. Kiff and with the other people involved, I see no benefit other than, I don’t see how Mr. Matheis meeting with Mr. Kiff, how anything is going to change based on what has been said here. So I would like to, if there are no other comments, call for a vote on Mr. Dunlap’s motion.”

Motion passed 3 ayes, 2 noes.

10. REQUEST APPROVAL TO OPEN THE PROMOTIONAL RECRUITMENT FOR FIRE DIVISION CHIEF

A motion was made by Board Member Dunlap to approve opening the Fire Division Chief recruitment. The Motion was seconded by Board Member Allen. It passed 5 ayes, 0 no.

11. POLICE DEPARTMENT STATUS REPORT

Captain Gazsi delivered to the Board the Police Department’s status report:

Recruitment Update

- The Station Officer recruitment is on the agenda for approval.
- Written exam for Crime Scene Investigator was held on February 27, 2010. Oral interviews were held March 24, 25, 27 & 28. The eligibility list is on the agenda for approval.

Points of Interest

- Beau Rains is anticipated to graduate from the Orange County Sheriff’s Academy on May 19. Recruit Officer Hufford began the Police Academy on March 22, along with Ricardo Adame and both are doing well at this time.
- Officer Greg Ford retired on April 10, Officer Moon is scheduled to retire in the spring and Sergeant Byington is scheduled to retire in May.
- The department hosted a Relay for Life fundraiser at Ruby’s restaurant; over \$1400 was raised for the charity.
- OC Marathon occurred on May 2, went well with coordination between the Police Department, General Services and other City departments.

Backgrounds in Progress

- 1 – Lateral Police Officer
- 4 – Recruit Police Officers
- 1 – Police Dispatcher

12. REQUEST APPROVAL TO OPEN THE PROMOTIONAL RECRUITMENT FOR STATION OFFICER

A motion was made by Board Member Talbot to approve opening the Station Officer recruitment. The Motion was seconded by Vice Chairperson Logan. It passed 5 ayes, 0 no.

13. REQUEST APPROVAL OF CRIME SCENE INVESTIGATOR ELIGIBILITY LIST

A motion was made by Board Member Dunlap to approve the eligibility list for Crime Scene Investigator. The Motion was seconded by Vice Chairperson Logan. It passed 5 ayes, 0 no.

14. BOARD MEMBER COMMENTS

Board Member Dunlap: "I want to thank Chief Matheis for bringing his concerns to us. Thank you Paul for coming."

Vice Chairperson Logan: We would appreciate when there is dissent, and I think the point was made this is not 1 in a 100 but this was 1 in 6 where two people were leaving so it effectively becomes 1 in 4, 25 % so I do consider that significant, it would have been much more comfortable if we had had a chance to consider this for a meeting rather than being faced with going against the City Manager and yourself, who we hold in high esteem as an HR professional. I think that would have been better if it could be arranged. Again, we thank Chief Matheis for coming forward and appreciate his candor."

Ms. Cassidy: "Thank you Mr. Logan, and we would also like to bring everything to you harmoniously, but I also want to thank Chief Mais and Chief Restadius, because as the FMA leadership they have a very difficult job and have remained professional as has Chief Matheis, but sometimes we have to bring these problems to you and that is why you are here."

Board Member Allen: "I would like to elaborate on what Hugh said. If there is significant dissent that is known about, you don't have to put names on it, but perhaps it would be helpful to, at least, outline them in a staff report so that we can see. We heard the thought process that had gone on, the procedures that went on in the course of this discussion, but we didn't really have a chance to match those against the comments by Chief Matheis, and again, I have a tremendous amount of respect for the ability of the Chief and Dave Kiff, but I was simply uncomfortable with not having my arms around the issue, so perhaps if we have that in the future we could have a brief staff report that outlined anticipated concerns or things that have been raised and this is how we dealt with them, we have a little more information going in."

Ms. Cassidy: "I appreciate that and we will certainly try to do that in the future. The letter that is before you from the FMA just came this evening, and now that your request is on the record, Ms. Allen, I agree that would be helpful in the future."

15. ITEMS FOR FUTURE AGENDAS

None

16. PUBLIC COMMENTS

None

17. ADJOURNMENT

The Civil Service Board meeting adjourned at 6:15 PM

Terri L. Cassidy, J.D.
Human Resources Director
Secretary to the Board