

MINUTES OF CIVIL SERVICE BOARD  
CITY OF SACRAMENTO  
SPECIAL MEETING      SEPTEMBER 27, 1972

The Civil Service Board met in special session at 1:00 p.m. in the Personnel Department Conference Room, with President Joseph Yew presiding.

Present: Members Reynoso, Street, Woods, Yew.

Absent: Member Alexander.

The purpose of this special meeting was (1) to hear Russell Chinn's appeal from rejection for the Senior Accountant examination and (2) to hear the appeal of Fire Captain Vern McCarthy from disciplinary action taken by the Fire Chief.

HEARING TO APPEAL REJECTION FOR SENIOR ACCOUNTANT EXAMINATION

Russell Chinn, Accountant

President Yew informed the members present that the proceedings would be recorded on tape.

Those in attendance were Russell Chinn; Robert Latchaw of Sacramento City Employees' Association; W. F. Danielson, Director of Personnel; Bruce F. Austin, Personnel Selection Supervisor; Ronald Bosworth, Accounting Officer; and Al Fawcett, Administrative Trainee.

The letter of appeal from Russell Chinn dated September 12, 1972, was read by Acting Secretary Dunbar Heins. Mr. Chinn's contention was that although he did not possess a degree from a four-year college, he had completed a comparable accounting curriculum and therefore should be allowed to take the Senior Accountant examination.

Robert Latchaw, after being sworn in, testified on behalf of Mr. Chinn. There was no disagreement on the fact that Mr. Chinn did not meet the educational requirement as set forth in the class specification and in the examination announcement for Senior Accountant. However, Mr. Latchaw argued the fact that another applicant without the minimum educational requirement had been permitted to take the examination. Mr. Latchaw further contended that the requirement set by the City for Senior Accountant was too stringent. He then presented to the Board a copy of the memorandum to the City Council from the City Manager and Personnel Officer dated August 16, 1971, in response to the "Sacramento Plan for Equal Employment Opportunity in the Public Sector" which was submitted by the Citizens Committee of Sacramento Area Economic Opportunity Council, marked "Appellant Exhibit #1". Mr. Latchaw made reference to Recommendation III wherein it was recommended that the City of Sacramento remove all unnecessary educational requirements and unnecessary job experience requirements from existing civil service minimum qualifications.

Russell Chinn was sworn in and his testimony was then heard. It was Mr. Chinn's contention that his educational background was equivalent to a four-year college degree and that Ray Barton, a limited-term Senior Accountant in the Controller's office, had been allowed to take the examination even though Mr. Barton did not meet the educational requirement.

Bruce F. Austin, Personnel Selection Supervisor, was sworn in. Mr. Austin reviewed the requirements set forth in the recently revised job specification for Senior Accountant and discussed the reasons for the rejection of Mr. Chinn's application. An applicant must have graduated from an accredited four-year college or university with major course work in accounting (45 to 60 units). Mr. Chinn was credited with a total of 30 units: 21 units, professional accounting; 3 units, Data Processing; 3 units, income tax practices; and 3 units, business law.

Personnel Director William Danielson was sworn in. Mr. Danielson explained that the reason for permitting Ray Barton, a provisional Senior Accountant, to take the Senior Accountant examination is that it is a standard policy of the City as well as of other agencies to admit provisional appointees to a given position to take the examination for that position. At the time of Mr. Barton's appointment as a limited-term Senior Accountant, the City was preparing to convert from a single-entry bookkeeping system to a double-entry accounting system, and it was found that none of the City employees in the accountant field met the standards to fill this key position. Under this urgent situation, two limited-term Accountants (both of whom were former Emergency Employment Act employees) and a Senior Accountant (Ray Barton) were hired on a temporary basis, subject to an examination at a future date. It was for this reason that Mr. Barton was permitted to take the Senior Accountant examination. The written portion of the examination had been held on September 23. Mr. Barton failed the written test and, therefore, he no longer is a candidate.

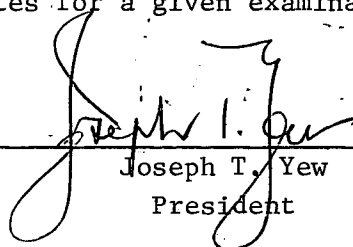
The Board then adjourned into closed session to consider the testimonies given.

The meeting was reconvened. The Board's decision and comments included the following:

1. The Board denied Mr. Chinn's appeal to be admitted to the Senior Accountant examination on the basis that Mr. Chinn did not meet the minimum qualifications for Senior Accountant.
2. The Board was critical of the staff's acceptance of Ray Barton's application. It was stated that the Board would have been inclined to set aside the Senior Accountant examination if Mr. Barton had passed it.
3. If/any other successful candidate whose application has been accepted for Senior Accountant who does not meet the minimum education and experience requirements, his name should be withheld from certification.
4. The Board expressed concern over the situation whereby the requirements for Senior Accountant resulted in the exclusion of the candidacy of City employees.
5. The staff was advised to apply the minimum qualification standards contained in the class specifications as closely and as uniformly as possible to the application of all candidates for a given examination.



Dunbar W. Heins  
Acting Secretary



Joseph T. Yew  
President

HEARING TO APPEAL DISCIPLINARY ACTION

Vern McCarthy, Fire Captain

President Yew informed those present that the hearing would be recorded.

The letter of reprimand dated August 29, 1972, was read by the Secretary. Fire Captain McCarthy was charged with insubordination upon his refusal to obey a direct order from an authorized Fire Department officer to have a man from Engine Company 9 accompany a Deputy Fire Marshal for night inspection of certain business establishments on the night of July 28, 1972.

Mr. Woods expressed his regrets that a public hearing of this kind must be held. He requested that, if at all possible, this matter be resolved between the Fire administration and Captain McCarthy. Both Fire Chief Wilson and Local 522 representative Robert Kern informed the Board that this was not possible. The hearing was then resumed.

Those in attendance, among others, were: Fire Captain Vern McCarthy; Robert Kern of Local 522 representing Captain McCarthy; Wayne Harbolt, President of Local 522; Fire Chief Wilson; Battalion Fire Chief Frank Johnson; and Dennis Loheit, Deputy Fire Marshal.

Captain Vern McCarthy and Robert Kern were both sworn in and their testimonies were heard. At approximately 9:00 a.m., July 28, 1972, an order was relayed by Acting Battalion Chief Frank Johnson to Captain McCarthy to have an Engine Co. 9 man accompany a Deputy Fire Marshal on a night inspection of business establishments in Engine 9 district. Captain McCarthy informed Acting Battalion Chief Johnson that he was apprehensive and did not wish to send one of his men, in uniform, on a night inspection because he felt there was potential hazard in such activity in his district. At 10:00 a.m., a second order was relayed by Acting Battalion Chief Johnson stating that this was a direct order from Fire Marshal Powell; Captain McCarthy did not comply. At about 1:00 p.m. the night inspection order was cancelled.

Robert Kern informed the Board that Step 1 of the grievance procedure had been initiated by Captain McCarthy; however, Step 2 had not been completed by the Fire Department. Mr. Kern then presented the following exhibits to the Board:

Firefighter Local 522 <u>Exhibit</u>	<u>Description</u>
#1	Section 17, Safety and Sanitation, Memorandum of Understanding.
#2	Section 14-11, Sacramento Fire Department Rules and Regulations.
#3	Section 19-42, Sacramento Fire Department Rules and Regulations.
#4	Section 17.6, Notice of Adverse Personnel Action, Memorandum of Understanding.
#5	Sacramento Fire Department Manual of Operations.
#6	Section 5-9, Sacramento Fire Department Rules and Regulations.

Firefighter  
Local 522  
Exhibit

Description

- #7 Section 6-7, Sacramento Fire Department Rules and Regulations.  
#8 Section 17-7, Sacramento Fire Department Rules and Regulations.

Fire Marshal William Powell was sworn in. Fire Marshal Powell reviewed the administrative procedure concerning night inspections. Day inspections, which are routinely conducted, would not serve the purpose of reporting on conditions of business establishments at night. Fire Marshal Powell reviewed the occurrences which took place prior to the letter of reprimand. Captain McCarthy had been requested to submit his reason for non-compliance on Form F-68, on the basis of which Step 2 of the grievance procedure would be completed by the Fire administration. Not having received the F-68 form from Captain McCarthy, Step 2 was not completed by the Fire administration.

Fire Chief Winston Wilson was sworn in and his testimony was heard. Chief Wilson was first made aware of the situation when he received a telephone call from Attorney Melvyn CoBen on the morning of July 28. Chief Wilson personally contacted Captain McCarthy about a week later to discuss the matter and to direct Captain McCarthy to submit his written statement (Form F-68) concerning the reasons for his non-compliance. Chief Wilson then discussed previous night inspection discoveries where exit doors had been padlocked, covered by decorations, or blocked by tables; therefore, inspections during peak hours at night are deemed necessary to assure safety to those on the premises.


Captain Frank Johnson, the then Acting Battalion Chief, was sworn in. The Board questioned him concerning his statement he had submitted on Form F-68. A concern of the Board was that the oral conversation between Captain Johnson and Captain McCarthy about the specific reasons for Captain McCarthy's refusal to obey the order had not been reported to the Fire administration on Captain Johnson's F-68 form.

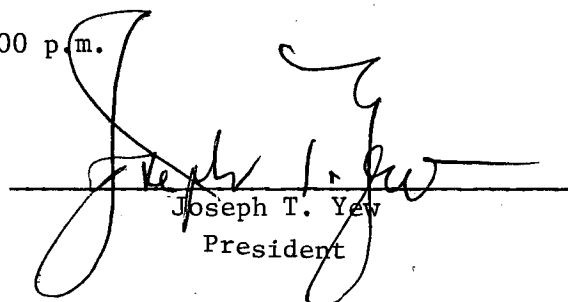
It was again requested that the Fire administration and Local 522 representatives confer to attempt to resolve this matter. Local 522 representatives and the Fire administration representatives then caucused. Simultaneously, the Board met in closed session to consider the testimonies heard.

The meeting was reconvened. The Board was informed that a mutual agreement between Local 522 and the Fire administration could not be reached. The Board, therefore, rendered its decision, as follows:

1. The Board granted Captain McCarthy's appeal.
2. The letter of reprimand dated August 29, 1972, is to be removed from Captain McCarthy's personnel file.

The special meeting was adjourned at 5:00 p.m.

  
William F. Danielson  
Secretary

  
Joseph T. Yew  
President