

MINUTES OF CIVIL SERVICE BOARD
CITY OF SACRAMENTO
SPECIAL MEETING OCTOBER 28, 1970

The Civil Service Board met in special session in the Council Chambers, City Hall, 915 I Street, at 6:00 p.m., to hear the appeal regarding disciplinary actions in regard to Fire Department personnel.

Present: Members Aguilar, Alexander, LaForgia, Street, Woods

Absent: None.

Attorney Philip Bowe, of Davis, Cowell & Bowe, represented the appellants; Deputy City Attorney, John Liebert, was the advocate for the City; City Attorney James Jackson was the advisor to the Civil Service Board; the Secretary for the Board was William F. Danielson, Personnel Director.

The Chairman requested that Mr. Jackson read his letter of October 28, 1970 in which he questioned whether Mr. James Alexander of the Board should be seated at the hearing. Mr. Jackson summarized his opinion by saying in effect since Mr. Alexander was the Chairman of the Central Labor Council and that body voted to grant a strike sanction to Local #522, he felt that it would be inappropriate for Mr. Alexander to be seated at this hearing. This letter was entered as evidence and appears as City's Exhibit #1.

Mr. Bowe made a rebuttal to Mr. Jackson's opinion after which the Board Chairman moved to go into Executive Session.

It was the decision of the Board during their Executive Session that Mr. Alexander be seated for the hearing.

<u>City Exhibits</u>	<u>Description</u>
#1	Attorney James Jackson's letter of October 28, 1970.
#2	Letter dated October 7, 1970 from R. L. Rathfon, City Manager, to the Members of the Sacramento Fire Department.
#3	Two newspapers clippings from the Sacramento Bee and Sacramento Union of October 14 and 15, 1970.
#4	Certified copy of the opinion rendered by the Superior Court of Sacramento, in an action entitled the City of Sacramento vs. International Association of Fire Fighters Local #522. Order granting preliminary injunction.
#5	Copy of Restraining Order dated September 30, 1970 issued by Superior Court, County of Sacramento
#6	Copy of Rules and Regulations governing the Fire Department.
#7	Government Employees Relations Report published by the Bureau of National Affairs, dated October 12, 1970 #370.
#8	Letter to R. L. Rathfon, City Manager from Winston O. Wilson, Fire Chief, dated October 22, 1970. Subject: Recommendation to modify discipline penalties to Fire Department employees.
#9	Copy of an opinion of the Sacramento Superior Court, an action entitled Sacramento Fire Fighters Local #522 vs. City of Sacramento.
#10	Copies of disposition slips from Western Union with appropriate declaration.

Appellant's Exhibits

Description

- #1 Declaration of Kirk Stubbs, dated October 13, 1970.
- #2 Declaration of Roland C. Davis, dated October 7, 1970.
- #3 Declaration of Kenneth D. Larson, dated October 7, 1970.
- #4 Telegram to firefighters dated October 12 and 13, 1970.
- #5 Letter to firefighters from City Manager dated October 14, 1970.
- #6 Telegram from Roland C. Davis to City Manager dated October 13, 1970.
- #7 Copy of judge's decision Firefighters vs. City of Sacramento.

The secretary was requested to read the disciplinary letters sent to the firemen involved, these were as follows: October 23, 1970 letter sent to the 18 probationary firemen from Winston O. Wilson, Fire Chief; October 26, 1970 letter sent to firefighters, fire engineers and fire captains, from Winston O. Wilson, Fire Chief. The Secretary was also requested to read into the record the letter of appeal from attorney Roland C. Davis, representing the Firefighters Local #522, dated October 19, 1970. This letter was addressed to the Civil Service Board.

Witnesses called to testify were:

Kirk Stubbs, Fire Captain - Kenneth Larson
Robert Kerns, Firefighter - Philip Bowe, Attorney

The question was raised by Attorney Liebert as to what portion of the 400 employees Mr. Bowe was representing. It was decided after lengthy discussion and consultation between the attorneys that Mr. Bowe would present the Board with written verification as to precisely which employees are being represented by him.

Mr. Liebert requested the Board to rule that they consider the appeal of the 18 probationary employees only to the extent that they exert rights under Charter section 47 - Discrimination. Mr. Aguilar made the motion that the appellants be granted a hearing on all basis provided by law. The motion was seconded by Mr. Alexander for the purposes of discussion. After discussion a vote was taken

on the motion:

Aguilar	-	Aye
Alexander		Aye
LaForgia		Aye
Street		Aye
Woods		No

the motion was carried.

Mr. Liebert lodged an objection. Mr. Aguilar moved that the objection be taken under submission; the motion was seconded by Mr. Woods. The vote was as follows:

Aguilar	Aye
Alexander	Aye
LaForgia	Aye
Street	Aye
Woods	Aye

Attorney Bowe attempted to present other witnesses whom he felt could testify to the confusion in the manner in which they were told to report back to work. Mr. Aguilar made the motion that the Board take no specific action that these people contend they have special appeals or problems regarding the manner in which they were notified to report back to work. The motion was also amended to include the people on vacation. The motion was seconded by Mr. LaForgia.

The vote was as follows:	Aguilar	Aye
	Alexander	No
	LaForgia	Aye
	Street	No
	Woods	No

It was stipulated by Attorney Bowe that in the event the ruling of the Board was unfavorable to the appellants as a whole, he reserved the right to come back to the Board and present the case of those individuals who felt they had a special case or problem. Mr. Liebert agreed to this but only to the extent that Mr. Kerns testimony be deleted from the record. This was agreed to by Mr. Bowe.

Mr. Liebert presented his closing statement in which he stated that the disciplinary action taken by the City was justified in that the men refused a direct order by refusing to return to work, which constituted insubordination. He stated Mr. Bowe's approach was a relitigation of the issues tried in the Sacramento Superior Court.

Mr. Bowe responded in his closing statement by saying that the disciplinary action was punitive and unreasonable since the City did not bargain in good faith.

Both attorneys indicated that they wished to reserve the right to submit briefs to the Board within three days. This was agreed to by the Board.

Mr. Aguilar moved that the meeting be adjourned, this motion was seconded by Mr. Woods.

The Civil Service Board submitted its decision on the appeal of the fire fighters in writing, dated November 25, 1970, copy of which is attached.

William F. Deuelon
SECRETARY

Robert D. Street
PRESIDENT



CITY OF SACRAMENTO

CIVIL SERVICE BOARD DEPARTMENT OF PERSONNEL

819 TENTH ST. SACRAMENTO, CALIF. 95814

TELEPHONE (916) 449-5726

WILLIAM F. DANIELSON
PERSONNEL OFFICER

CIVIL SERVICE BOARD FINDING AND DECISION ON THE APPEAL OF DISCIPLINARY ACTIONS TAKEN AGAINST FIRE FIGHTER EMPLOYEES WHO WENT OUT ON STRIKE

The Civil Service Board finds that the appellant fire fighters who went on strike were guilty of (1) wilful disobedience, (2) inexcusable neglect of duty, (3) insubordination, and (4) being absent without leave.

The Civil Service Board by unanimous decision denies the appeal of the probationary Fire Fighter employees.

However, by unanimous decision, we feel that the other penalties imposed were too severe. Therefore we modify the department's action to provide that the employees with permanent status who were reduced in pay one salary step for six months effective October 15, 1970, be so reduced in pay for a period of two and a half months.

Wilfred D. Street, President

Marion J. Woods, Vice President

(Member Alexander declined to sign)
James F. Alexander

Apolinar J. Aguilar

Frank LaForgia

Date: November 25, 1970