

MINUTES OF CIVIL SERVICE BOARD  
CITY OF SACRAMENTO  
REGULAR MEETING                      JANUARY 4, 1977

The regular meeting of the Civil Service Board was called to order by President Jimmie Yee at 1:30 p.m. in the Personnel Department Conference Room, 801 Ninth Street.

Present: Oreitha Eggleston-Hausey, Alba Kuchman, Wilfred Street, Ronald Wright, Jimmie Yee.

Absent: None.

MINUTES OF REGULAR MEETING HELD DECEMBER 21, 1976: Approved as submitted.

REPORTS OF DIRECTOR OF PERSONNEL

a. The proposed new classification of Maintenance Worker (Mobile) was first considered by the Board on December 21, 1976. The City Council, at its meeting of December 28, 1976, approved the concept of creating the mobile work force.

The salary for the proposed new class was still at issue on December 21 between Stationary Engineers, Local 39, and the City. Upon subsequent discussion with Local 39, it was agreed that (1) the salary level be recommended to be set at the same level as for Maintenance Man Truck Driver; (2) the class title of Maintenance Worker (Mobile) not be used; and (3) the class of Maintenance Man Truck Driver be used and the job specification be amended to incorporate the functions to have been performed by the Maintenance Worker (Mobile) class.

Upon completion, the amended job specification for Maintenance Man Truck Driver will be submitted for Board approval.

b. Information concerning Council consideration of the Personnel Administration Charter amendment will be provided at a later meeting.

c. As the Civil Service Board nominee was anticipated at the City Council meeting of January 4, 1977, the election of officers was postponed to the next regular meeting.

NEW EXAMINATION TO BE ANNOUNCED

#1525 Supervising Dispatcher-Clerk (Promotional)

Background information concerning the creation of another Supervising Dispatcher-Clerk position in the Police Department was presented by Personnel Management Administrator William Woska. Genevieve Richer had appealed the Personnel Department staff's decision to deny her request for reallocation of her position of Senior Typist-Clerk to Supervising Dispatcher-Clerk. The Civil Service Board, on March 9, 1976, upheld the staff decision. The matter was then considered through the grievance procedure, the culmination of which was the reallocation of the Senior Typist-Clerk position to that of Supervising Dispatcher-Clerk.

Examination #1525 for Supervising Dispatcher-Clerk was announced to fill this additional Supervising Dispatcher-Clerk position. Genevieve Richer, pursuant to

1/4/77

-2-

Rule 4.7(d), "Status of Employee Whose Position is Reallocated to a Higher Class", will be eligible to compete in the examination process.

Mr. Street moved to approve the Announcement #1525 as presented. Mrs. Hausey seconded the motion which carried by unanimous vote.

ELIGIBLE REGISTERS ESTABLISHED

<u>Exam.</u>	<u>Class Title</u>	<u>Effective</u>	<u>Expiration</u>
#1479	Building Inspector II (Promotional)	12/27/76	12/26/77
#1481	Fire Captain (Promotional)	1/1/77	12/31/77
#1490	Draftsman	12/27/76	12/26/77

REQUEST FOR VOLUNTARY DEMOTION AS A RESULT OF SPECIAL TRANSFER PROGRAM

Mr. Hutchinson requested voluntary demotion as a result of the special transfer program following the consolidation of the Waste Removal/Street Cleaning functions.

It was moved by Mr. Street, seconded by Mr. Wright, and carried by four-to-one vote (Mrs. Kuchman dissenting) to approve the voluntary demotion, as follows:

James J. Hutchinson, Maintenance Man Truck Driver to Traffic Control Maintenance Man I, with permanent status, "y-rated" at \$1071 per month (Step "E" of the salary range for Maintenance Man Truck Driver).

REQUEST FOR LEAVE OF ABSENCE

Manjeet K. Grewal, Librarian I

Ms. Grewal requested an educational leave of absence for the period from February 1, 1977, through August 31, 1977. Her request had the approval of the City-County Librarian and the City Manager. Staff recommendation was to approve the leave of absence request.

It was moved by Mr. Wright, seconded by Mrs. Kuchman, and carried by unanimous vote to approve the requested leave of absence.

REQUEST FOR HEARING TO APPEAL DISCIPLINARY ACTION (TERMINATION)

Bernis D. Ferguson, Police Officer

Officer Ferguson, by letter dated December 13, 1976, was dismissed from his position as Police Officer. Attorney David Simmons, on behalf of Officer Ferguson, appealed the dismissal by his petition dated December 20, 1976.

Motion was made by Mr. Wright, seconded by Mrs. Kuchman, and carried by unanimous vote to grant the request for hearing. The hearing date before an Administrative Law Judge was set for 9:00 a.m. Monday, February 7, 1977, upon mutual agreement between Attorneys David Simmons and Terence Brown.

AUTHORITY FOR SECRETARY OF THE CIVIL SERVICE BOARD TO ACT AS ITS AGENT TO GRANT REQUESTS FOR HEARING AND TO SET HEARING DATE WITH STATE OFFICE OF ADMINISTRATIVE HEARINGS

As discussed at a previous meeting, to expedite requests for hearing to appeal disciplinary matters, Mr. Wright moved to authorize the Secretary of the Civil Service Board, as its agent, to grant such requests for hearing and to set hearing

dates with the State Office of Administrative Hearings. Mrs. Kuchman seconded the motion which carried by unanimous vote.

The requests for hearing granted by the Secretary as the agent for the Civil Service Board are to be reported to the Civil Service Board at the next scheduled meeting. This procedure had the approval of Deputy City Attorney Elizabeth Silver.

Mr. Wright moved that relevant letters concerning a disciplinary action not be submitted to the Board until the Hearing Officer's decision is to be considered by the Board; however, such letters must be submitted if the Board is requested to hear the matter or if there is any dispute. Mrs. Kuchman seconded the motion, which carried by the following vote:

Ayes: Kuchman, Wright, Yee.

Noes: Hausey, Street.

#### AMENDMENT TO CIVIL SERVICE BOARD RULES AND REGULATIONS

Proposed Amendment to Rule 13.3, "Transfer to a Different Class", and Addition of Rule 13.3.5, "Reduction in Force Program" - first reading

The proposed amendment and addition were submitted on December 21, 1976, and the first reading was held at this meeting.

If the proposed Rules 13.3 and 13.3.5 are adopted by the Board, transfers to positions with slightly higher maximum salary ranges would be possible. Mrs. Kuchman requested (1) a clear definition of the word "transfer"; (2) information whether there are to be restrictions (i.e., is a transfer allowable only to a position with an identical salary range); and (3) information whether there are to be flexibilities to move slightly upwards or slightly downwards.

Mr. Leo Cervantes, Maintenance Man Truck Driver, expressed concern regarding the voluntary demotion of employees who were transferring under the special transfer program following the consolidation of the Waste Removal and Street Cleaning functions. Mr. Cervantes was especially interested in the possibility of special transferees being allowed to move to classes with slightly higher salary ranges. He also alleged that older employees were discriminated against in the special transfer process.

Mrs. Verna Banks, Senior Personnel Analyst in charge of the special transfer program, reviewed in detail the procedure of the transfer process. She reported that of the 71 positions affected by the Waste Removal/Street Cleaning consolidation, approximately eight positions remain to be transferred.

Mrs. Hausey requested that a statistical report be prepared of all employees transferred under the special transfer program to attempt to determine whether, in fact, there had been discrimination toward older employees.

Personnel Department staff was requested by the Board to also prepare a list of all employees who were voluntarily demoted and "y-rated" as a result of the special transfer program following consolidation of the Waste Removal/Street Cleaning functions. The specific purpose of this list is to identify those employees who have already transferred through the special transfer program and

therefore no longer in the reduction-in-force program. The Civil Service Board discussed the possibility of these employees being allowed to apply for positions in slightly higher salary ranges if the proposed Rules 13.3 and 13.3.5 are adopted by the Civil Service Board.

COMMUNICATION RECEIVED FROM SACRAMENTO POLICE OFFICERS ASSOCIATION TO CHANGE FROM 50% WRITTEN AND 50% ORAL FOR THE POLICE SERGEANT PROMOTIONAL EXAMINATION #1493 TO 60% WRITTEN/40% ORAL

Attorney David Simmons, on behalf of SPOA, requested that the 50% written and 50% oral weight for the current promotional Police Sergeant examination be changed to 60% written and 40% oral. Attorney Simmons indicated that it was the unanimous consensus of the applicants for Police Sergeant that a 60%/40% would minimize the possibility of an applicant with a high written score to be placed low on the eligible list if a low oral interview score were received. Attorney Simmons requested the Board to change the rating weight to alleviate the concern of the Police Sergeant applicants. He indicated that, should the Board consider the change to 60% written/40% oral, a waiver of Rule 7.4(d) "Rating of Tests", would be signed by each of the parties who took the Police Sergeant promotional examination.

Personnel Management Administrator William Woska reviewed the Assessment Center Method and indicated that, should the City decide to use this method for future examinations for Police Sergeant, the Assessment Center must be weighted 100% to be feasible.

Mr. Danielson reported that, if it is decided not to use the Assessment Center Method, then, the weight for the next Police Lieutenant promotional examination would be changed to 60% written and 40% oral.

After a lengthy discussion, the Board took no action. The promotional Police Sergeant examination, therefore, shall proceed as published in Announcement #1493.

AUTHORITY FOR SECRETARY OF THE CIVIL SERVICE BOARD TO ACT AS ITS AGENT TO GRANT REQUESTS FOR LEAVE OF ABSENCE

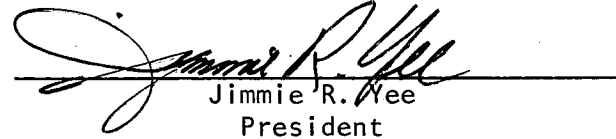
It was requested by the Board that the City Attorney's office prepare an amendment to Rule 15.2 to allow the Secretary of the Civil Service Board (Director of Personnel) to grant requests for leave of absence where all the necessary approvals had been obtained. Deputy City Attorney Elizabeth Silver was requested to review generally the entire Rule 15.

SCHEDULING OF CIVIL SERVICE BOARD MEETINGS AT VARIOUS CITY FACILITIES

Board members expressed interest in scheduling the third meeting of a month at a City facility away from the usual meeting place. Mr. Danielson indicated that he would look into the matter and report back to the Civil Service Board.

The meeting adjourned at 4:30 p.m.

  
William F. Danielson  
Secretary

  
Jimmie R. Yee  
President

CITY OF SACRAMENTO  
CIVIL SERVICE BOARD

HEARING  
BEFORE AN ADMINISTRATIVE LAW JUDGE OF THE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS

The hearing concerning the appeal of Glen Fugitt, Bookmobile Driver-Clerk, City-County Library System, was held on Wednesday, January 12, 1977, before Phillip H. Hanley, Administrative Law Judge, in the Personnel Department Conference Room, 801 Ninth Street.

There were no exhibits introduced by the appellant.

The following exhibits were introduced by the City:

- |           |   |
|-----------|---|
| Exhibit 1 | Statement of Issue--Entered as Evidence   |
| Exhibit 2 | Stipulation of Facts--Entered as Evidence   |
| Exhibit 3 | Disciplinary Letter (Termination Letter)<br>Request for Hearing--both letters entered as Evidence |
| Exhibit 4 | City's Opening Statement  |
| Exhibit 5 | Disciplinary Letter (Reprimand)--Entered as Evidence  |

Mr. Glen Fugitt, Bookmobile Driver-Clerk, testified on his own behalf.

Witnesses who appeared on behalf of the City were:

Galen Whitney, Owner of Stone Lake Property

Harold D. Martelle, City-County Librarian

The recommended decision and the order adopting the decision are attached.

*Hearing:*  
9:00 a.m. - 10:40

The City of Sacramento Civil Service Board has adopted  
as its decision the recommended decision of Philip J. Hanley,  
Administrative Law Judge, in the matter of the appeal of Glen  
Fugitt, Bookmobile Driver-Clerk, City-County Library System.

DATED: January 18, 1977

CITY OF SACRAMENTO  
CIVIL SERVICE BOARD

*Ronald H. Wright*  
Ronald H. Wright  
President

BEFORE THE CIVIL SERVICE BOARD  
CITY OF SACRAMENTO  
STATE OF CALIFORNIA

In the Matter of the Appeal of )

GLENN FUGITT, )  
Bookmobile Driver-Clerk, )  
Sacramento City-County )  
Library System )

CSB NO. H-77-1

N-9113

PROPOSED DECISION

This matter came on for hearing before Philip J. Hanley, an Administrative Law Judge of the Office of Administrative Hearings, January 12, 1977 in Sacramento, California.

Appellant Glenn Fugitt was present and was represented by Phillip M. Cunningham, Business Representative, Stationary Engineers, Local 39.

Respondent Harold D. Martelle, City-County Librarian, was present and was represented by Larry L. Dow, Employee Relations Representative, City of Sacramento.

Evidence was received and the matter was submitted. After consideration, the Administrative Law Judge proposes:

FINDINGS OF FACT

I

Respondent Harold D. Martelle is Sacramento City-County Librarian and the appointing power of appellant Glenn W. Fugitt.

II

The disciplinary order of dismissal by Martelle and Fugitt's appeal therefrom complied with regulations of the

Civil Service Board.

III

Appellant Fugitt was employed from July 1, 1968 to December 10, 1976 as a Bookmobile driver-clerk. On November 22, and 23, 1976 Fugitt drove a new route in place of a vacationing driver. The assignment was in the Florin, Freeport, Hood and Franklin area.

On November 22, Fugitt noticed the open, flat area bordering the Hood-Franklin road. Fugitt had purchased a .22 caliber revolver some months previously but had not fired it. He determined to test the revolver on November 23 if time permitted. Drivers were allowed 30 minutes to go from Hood to Franklin. The estimate included extra time at Hood if a patron delayed departure by checking out books at the last minute. Actual driving time is about 15 minutes.

The Hood-Franklin road is a narrow, two lane road and has very little shoulder area. Fugitt drove east on the road and stopped within about 200 yards of the entrance to Stone Lake Recreational-Wildlife Preserve. The Preserve is to the south of the Hood-Franklin road.

Fugitt looked over the area to the north. There were no cattle or other stock within vision and there were no other animals or buildings to be seen. Sitting in the van, Fugitt fired nine rounds across the Hood-Franklin road. His successive targets were a tin can, a crab apple in a tree (but at a lower elevation than Fugitt) and a fence post.

Sound of the firing was heard by Galen Whitney, owner of the Stone Lake Preserve, who was working on his house some 200-300 yards to the south, and in the opposite direction, from where Fugitt was firing. Whitney drove to the scene in his pickup, talked briefly with Fugitt and later reported the incident to authorities.

IV

Whitney has resided in the Stone Lake area for 30 years. He testified some shooting or hunting is allowed in the area. Weapons are restricted to shotguns which have a limited range. Whitney said use of rim fire weapons is dangerous and that single rounds, such as .22 caliber or larger slugs, can injure or kill



animals or humans up to distances of a mile. There have been numerous incidents of damage to property and wounding or killing of animals, including Whitney's dog, by careless or reckless individuals. Whitney went to where Fugitt was firing because he knew of the potential danger and the prohibition against such shooting.

#### V

Fugitt was questioned by Martelle when he returned the Bookmobile to the Library's warehouse. Fugitt had taken the revolver home before returning to the Library's lot. Martelle suspended Fugitt and later dismissed him effective December 10.

#### VI

Fugitt is retired from the Air Force. He is familiar with handguns. He noted how open the land was near the Hood-Franklin road and thought he would fire his new gun. Fugitt checked the area into which he was going to shoot. There were no signs prohibiting use of guns. Fugitt knew, however, that he should not have the gun in the Bookmobile. He placed the gun in the van where it could neither be seen nor taken by a library patron.

#### VII

It is found that the firing by Fugitt did not endanger animal or human life or property. It is found that Fugitt reasonably determined that firing the weapon would not be a danger.

#### VIII

Fugitt received an official reprimand from Martelle on January 19, 1976. Fugitt had used a Library Vehicle to drive to a thrift store where he shopped for clothing. He has no other formal disciplinary record and has been a satisfactory employee.

There is no evidence that the disciplinary action herein was for any other reason than the November 23, 1976 occurrence.

### DETERMINATION OF ISSUES

#### I

Evidence establishes violations of Rule 17.2(q)

(unauthorized use of City property); Rule 17.2(t) (conduct related to employment which causes discredit to the public service); and Rule 17.2(d), (inexcusable neglect of duty), all being Rules of the Civil Service Board, which violations thereby constitute cause for discipline.

## II

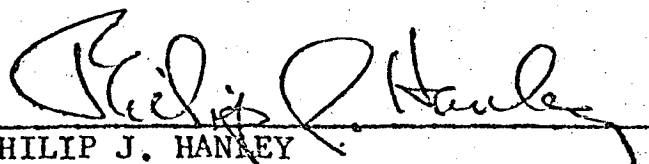
Although evidence establishes cause for discipline, dismissal is excessive discipline when all evidence is weighed. Appellant improperly used City property, brought discredit on public service and did neglect duty, but his actions manifest only poor judgment. There is no element of dishonesty, immorality, recklessness or aggravation found. His prior disciplinary record is minimal and his years of satisfactory service should be considered as a mitigating element in fixing the discipline to be imposed.

## ORDER

The appeal of Glenn Fugitt is granted to the extent that the order of dismissal, effective December 10, 1976, is modified to a suspension from duty without pay, and with attendant loss of vacation and sick leave credits, effective December 10, 1976 and continuing thereafter for six working weeks.

The foregoing constitutes my proposed decision in this matter. I recommend its adoption as the decision of the Civil Service Board of the City of Sacramento.

Dated: January 13, 1977



PHILIP J. HANLEY  
Administrative Law Judge  
Office of Administrative Hearings