

MINUTES OF CIVIL SERVICE BOARD
CITY OF SACRAMENTO
REGULAR MEETING JUNE 19, 1979

The regular meeting of the Civil Service Board was called to order by Vice-President Luis J. Campos at 1:30 p.m. in the Conference Room, Personnel Department, City of Sacramento, California.

Board Members Present: Luis J. Campos, Vice-President
 Joseph Russell
 Vivian C. Nance
 Jonathan E. Mayhew

Board Member Absent: Wilfred D. Street, President

MINUTES OF MEETING OF JUNE 5, 1979:

Motion was made to approve the minutes as read.

Motion: Mrs. Nance
Second: Mr. Russell

Motion was approved by unanimous vote.

REPORTS OF DIRECTOR OF PERSONNEL:

The Director of Personnel, Donna L. Giles, reported that medical leaves of absence have been granted to the following City employees:

1. Doris J. Cronin, Dispatcher (5/9/1979 - 9/9/1979)
2. Van Jones, Sanitation Worker I (6/4/1979 - 12/4/1979)

ELIGIBLE REGISTERS ESTABLISHED:

<u>Exam.</u>	<u>Classification</u>	<u>Effective Date</u>	<u>Certification Date</u>	<u>Expiration Date</u>
#1634	Associate Planner	5/18/1979	6/4/1979	5/17/1980
#1549	Street Cleaning Foreman (Promotional)	6/7/1979	6/22/1979	6/6/1980

EXAMINATIONS ANNOUNCED:

- #1657 Carpenter Foreman (Promotional)
- #1669 Equipment Mechanic I
- #1671 Construction Inspector II (Promotional)
- #1684 Senior Dispatcher (Police)
- #1664 Park Maintenance Worker II (Promotional)

Motion was made to approve the announcements.

Motion: Mr. Mayhew
Second: Mr. Russell

Motion was approved by unanimous vote.

REQUEST FOR VOLUNTARY DEMOTION:

The Board reviewed the request of Mr. William Holden for voluntary demotion from Traffic Signal Technician to Fire Alarm Technician.

Motion was made to approve the request for voluntary demotion.

Motion: Mr. Russell
Second: Mrs. Nance

Motion was approved by unanimous vote.

RECOMMENDED DECISION OF ADMINISTRATIVE LAW JUDGE:

The Board reviewed the decision of the Administrative Law Judge on the following cases:

- a. Ben Bruno, Police Lieutenant
- b. R. Cordell Ford, Police Officer
- c. Robert L. Freeman, Police Officer

Stephen Nocita, Deputy City Attorney, and Mr. David Simmons a representative of the Police Officers' Association addressed the Board regarding this matter. After some discussion, motion was made to approve the recommended decisions of the Administrative Law Judge.

Motion: Mr. Russell
Second: Mr. Mayhew

Motion was approved by unanimous vote.

AMENDMENT TO CLASSIFICATION PLAN:

Proposed New Classification - Vocational Rehabilitation Coordinator

Donna Giles, Director of Personnel, requested approval of this new classification for both the first and second reading because of the urgency need to establish the rehabilitation function within the City of Sacramento immediately. Services are now being contracted out at a very high costs.

Motion was made to approve the class specification for Vocational Rehabilitation Coordinator.

Motion: Mr. Mayhew
Second: Mr. Russell

Motion was approved by unanimous vote.

HEARING RE USE OF SELECTIVE CERTIFICATION (CIVIL SERVICE RULE 6.6-1)
TO FILL FIREFIGHTER VACANCIES:

Mr. William J. Woska, Personnel Management Administrator, reviewed the memorandum to the members of the Civil Service Board regarding selective certification, and provided background information on the City's progress since its first adoption of a selective certification rule in 1971.

Mr. Woska informed the Board of the recent Supreme Court decision, and on the City Attorney's advice to amend rule 6.6 to conform to this decision, and discussion of the rule that was adopted.

Mr. Woska requested that the Personnel Department be directed to use selective certification in the class of firefighter because of compelling governmental interest. Mr. Woska discussed a staff report submitted to the Board on the background of selective certification, the formation of the rule, the means used by the City of Sacramento to increase the use of minorities and females in firefighter positions, and the use of firefighter positions in community inter-action.

Mr. Woska requested that the Civil Service Board find that there is a compelling governmental interest in invoking the use of selective certification, and that selective certification is the least intrusive means of achieving this governmental interest, and that the Board order staff to immediately selectively certify minorities and women under provisions of Civil Service Board rule 6.6-1 for eight firefighter vacancies which exist at the present time.

There was further discussion on this issue and the following members of the audience addressed the Board in favor of using selective certification rule 6.6-1:

Plez Fisher	NAACP
Nancy Reardon	Attorney-at-Law
Gary Little	Human Rights Commission
Robert Ruiz	Local Chapter/G.I. Forum

It was moved that the Board finds a compelling governmental interest in invoking the use of the selective certification procedure for the classification of firefighter, and that the Board finds that the use of this selective certification process is the least intrusive means of achieving the governmental interest, which we find to exist.

Motion: Mr. Russell
Second: Mrs. Nance

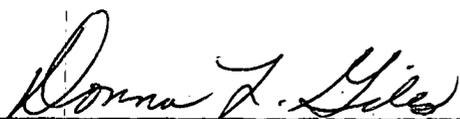
Motion was approved by a unanimous vote.

It was moved that the Board order that selective certification of minority groups and women on an alternating ratio take place until our identified goals are met.

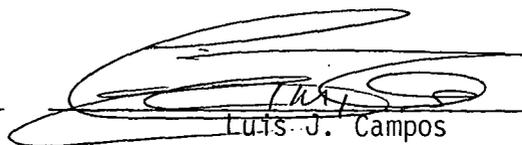
Motion: Mr. Mayhew
Second: Mrs. Nance

Motion was approved by a unanimous vote.

Meeting was adjourned by Vice-President Campos at 2:45 p.m.



Donna L. Giles
Secretary



Luis J. Campos
Vice-President

*extra
CSB minute
book with
CSB decision*

BEFORE THE
CIVIL SERVICE BOARD
CITY OF SACRAMENTO
STATE OF CALIFORNIA

In the Matter of the Appeal)	
of)	
)	CSB NO. HO-79-9
R. CORDELL FORD)	
Police Officer)	OAH NO. N-13181

PROPOSED DECISION

The above-entitled matter came on for hearing before Robert R. Coffman, an Administrative Law Judge of the Office of Administrative Hearings, on May 24, 1979 in Sacramento, California.

Stephen Nocita, Deputy City Attorney, represented the respondent.

The Appellant appeared in person and was represented by David P. Simmons, his attorney.

Evidence was received, the hearing was closed and the matter was submitted. The Administrative Law Judge certifies this decision and recommends its adoption.

FINDINGS OF FACT

I

Appellant R. Cordell Ford at all times material was a police officer, Department of Police, City of Sacramento.

II

On or about February 16, 1979, Appellant was served with an Order of Disciplinary Action, such action being a suspension without pay for the period of one calendar day, effective Wednesday, February 21, 1979. Appellant filed a timely appeal from such suspension.

III

At approximately 12:20 a.m. on November 27, 1978, Appellant and his partner were assigned to investigate a report of a smashed window at a store at 4901 Franklin Boulevard. Upon arrival they found a hole approximately six feet by eight feet had been broken in a plateglass window at the front of the store, the Appliance Exchange.

Appellant requested the radio dispatcher to attempt to contact the owner of the store through the emergency telephone number for the store listed with the police department. Appellant was informed by the dispatcher that there was no response from the listed number. Appellant then told the dispatcher to request the City Corporation Yard to board up the window and secure the building. The dispatcher did so, but was informed that the Corporation Yard would not respond to such a call involving private property.

Appellant asked the dispatcher what should be done next. The dispatcher stated that the policy in such case was for the officers to go back on patrol duty. Appellant and his partner then left the scene and resumed regular patrol duty in their vehicle. They had no pending call to which to respond.

Neither Appellant nor his partner entered the building, nor filed a written report on the incident with the department during this shift.

At approximately 1:15 a.m. two other officers observed the broken window, called for their supervisor and entered the building through the broken window. The name of the owner was discovered from documents in the building, the owner was eventually contacted and arrived at the scene at approximately 2:30 a.m. A crime report was prepared indicating two portable T.V. sets, valued at approximately \$100, had been stolen.

The store contained numerous appliances including T.V. sets, stereos and refrigerators.

IV

Appellant did not enter the building primarily because he felt, based on his observation of the area and his experience, that the suspects were not inside the store.

Appellant left the store and resumed regular patrol duty in reliance on the dispatcher's statement that the new policy was to go back on patrol in such situations. He felt that it was his responsibility to follow the directions of the dispatcher.

V

The dispatcher, who is not a police officer, was in error in stating the above policy in such situations, in that there was no such policy.

VI

Respondent was the senior officer assigned to the patrol unit and was responsible for the decision to leave the store unattended.

VII

Appellant's failure to secure the store or protect store property, and leaving the scene unattended, under the circumstances herein, constituted poor judgment.

Evidence established that under standard police procedure there were several alternatives open to Appellant, including contacting a supervisor, that should have been followed.

The seriousness of Appellant's conduct was mitigated by his reliance on the misleading advice of the dispatcher. This factor was considered in reviewing the discipline imposed by the appointing authority. Under the circumstances herein a letter of reprimand would be appropriate discipline. However, the suspension of one day was not unreasonable as a matter of law.

DETERMINATION OF ISSUES

Cause was established for discipline under the rules of the Civil Service Board.

ORDER

The appeal is denied. The suspension is affirmed.

Dated: _____

5-30-79



ROBERT R. COFFMAN
Administrative Law Judge
Office of Administrative Hearings

*after
CSB minute
book with
CSB decision*

CIVIL SERVICE BOARD
CITY OF SACRAMENTO
STATE OF CALIFORNIA

In the Matter of the Appeal)	
of)	
)	CSB NO. HO-79-2
ROBERT L. FREEMAN)	
Police Officer)	N-12654

PROPOSED DECISION

The above-entitled matter came on for hearing before Robert R. Coffman, an Administrative Law Judge of the Office of Administrative Hearings, on May 22, 1979, in Sacramento, California.

David P. Simmons, Attorney at Law, represented Appellant Robert L. Freeman.

Stephen B. Nocita, Deputy City Attorney, represented the Appointing Authority, John P. Kearns, Chief of Police.

Evidence was received, the hearing was closed and the matter was submitted. The Administrative Law Judge certifies this decision and recommends its adoption.

FINDINGS OF FACT

I

At all times material herein Appellant Robert L. Freeman was a Patrolman, Department of Police, City of Sacramento. Appellant's appointing power was John P. Kearns, Chief of Police.

II

On or about November 17, 1978 Appellant was served with an Order of Disciplinary Action, such action being suspension without pay for 3 calendar days, effective November 21, 1978. Appellant filed a timely appeal from such suspension.

III

On October 3, 1978, Appellant was under subpoena to appear at a preliminary hearing in Municipal Court at 1245 hours. Around noon of October 3, 1978, Appellant called Deputy District Attorney Caskey and asked to be excused from court as he had worked all night and attended classes all morning. Deputy

District Attorney Caskey agreed to this and Appellant was excused from attending the proceeding. Appellant's partner, Officer Scott, did appear in court and had his subpoena signed by Deputy District Attorney Caskey, showing he was present from 1330 to 1430 hours.

Officer Scott filled out his overtime request slip, attached the original signed subpoena to his overtime slip, and placed it in the Field Operations overtime basket.

Appellant took Officer Scott's overtime slip and the original signed subpoena from the basket. He xeroxed a copy of the subpoena and attached an overtime slip for 4 hours minimum to it showing on his overtime slip that he was in court from 1245 to 1400 hours.

On October 7, 1978, Appellant called Sergeant Stella and told him to change his payroll card as Appellant had mistakenly put in for 4 hours overtime and that it should only reflect a request for 2 hours overtime.

Sometime after October 7 Appellant contacted the Court Liaison Officer to obtain a telephone overtime report slip, the proper document to verify telephone overtime. The Liaison Officer advised Appellant he was not eligible for any overtime for the October 3, 1978 telephone call to the Deputy District Attorney.

IV

Police Department regulations permit overtime for certain court appearances, cancellation of appearances, and for specified telephone calls to the Court or the District Attorney.

In misdemeanor cases the subpoenaed officer is required to telephone the Court Liaison Officer and ask if the case is going to trial. The officer is entitled to 2 hours telephone overtime in such case.

No such requirement exists for felony cases.

Overtime is not allowed when the officer makes a telephone call to cancel a court appearance.

A request for telephone overtime or subpoena cancellation overtime must be accompanied by a form signed by the Court Liaison Officer or District Attorney.

V

Appellant did not receive any reimbursement for the overtime claim. He followed a practice he had employed in the past in xeroxing another officer's subpoena.

It was not established that Appellant acted dishonestly or intended to defraud the City.

However, Appellant did file an inaccurate overtime request, failed to follow lawful rules, orders and regulations regarding overtime requests.

DETERMINATION OF ISSUES

I

Cause was not established for discipline under Section 17.2(f) (Dishonesty) of the regulations of the Civil Service Board.

II

Cause was established for discipline under Section 17.2(o) (Willful Disobedience of Lawful Rule) of the regulations of the Civil Service Board.

ORDER

The disciplinary action suspending Appellant for a period of 3 days is modified as follows:

Appellant is hereby reprimanded. This Decision shall constitute a letter of reprimand within the meaning of Section 12.3(a) of the Board's Rules.

Dated: 5-31-79



ROBERT R. COFFMAN
Administrative Law Judge
Office of Administrative Hearings

Extra

*Place in
Minute book
w/ letter from
CSB adopting
this decision*

BEFORE THE CIVIL SERVICE BOARD
CITY OF SACRAMENTO
STATE OF CALIFORNIA

In the Matter of the Appeal of)	CSB NO. HO-79-6
LT. BEN BRUNO)	
Police Lieutenant)	OAH NO. N-12797

PROPOSED DECISION

The above-entitled matter came on for hearing before Robert R. Coffman, an Administrative Law Judge of the Office of Administrative Hearings, on May 31, 1979 in Sacramento, California.

Appellant Bruno was represented by David P. Simmons, Attorney at Law.

Stephen Nocita, Deputy City Attorney, represented the respondent.

Evidence was received, the hearing was closed and the matter was submitted. The Administrative Law Judge certifies this decision and recommends its adoption.

FINDINGS OF FACT

I

At all times material herein Appellant Lt. Ben Bruno was a police officer employed by the Department of Police, City of Sacramento. Appellant's appointing authority is John P. Kearns, Chief of Police.

II

On or about January 8, 1979 Appellant was served with an order of disciplinary action, such action being a letter of reprimand. Appellant filed a timely appeal.

III

On December 1, 1978, upon reporting to work at the Sacramento Police Department, Appellant placed his off-duty service revolver in his locker. He placed the trigger guard on a fixed clothing hook in the locker, so that the revolver was hanging by the trigger guard with the hook between the trigger and the trigger guard.

Appellant then changed clothes and pushed his clothing

to close the locker. While the locker was closing the revolver accidentally discharged.

The bullet went through the locker shelf, hit the top of the locker and bounced back.

Appellant reported the accidental discharge to his supervisor. No one other than Appellant appeared to have heard the weapon discharge.

IV

Appellant placed his revolver on a hook in a manner similar to that described herein for approximately 14 years without prior incident.

Appellant now places his revolver on the locker shelf. Appellant's locker is typically filled to capacity with papers, briefcases, clothing and other items. Appellant placed his revolver on the hook because he felt it was safe to do so, and to prevent the revolver from accidentally being knocked to the ground and discharging.

V

The Appellant's revolver could not be fired without the trigger being pulled or pushed by force.

Appellant's revolver was examined shortly after the incident by the Police Department Armorer and found to be functioning properly.

VI

Storing a weapon in the manner described herein is an unsafe practice in that it negates the protective purpose of the trigger guard by allowing the hook to press the trigger if force is applied to the revolver.

VII

In June 1978 Chief Kearns notified the members of the Sacramento Police Department, by videotape bulletin, of their responsibilities for the safe handling of all weapons, with particular emphasis on the consequences of accidental discharges.

DETERMINATION OF ISSUES

I

Cause was not established for discipline under Sections 12.2(d) (Inexcusable Neglect of Duty), 12.2(c) (Inefficiency), 12.2 (t) (Impairs or Discredits Ones Employment), of the Civil Service Rules.

II

It was not established that Appellant violated Section 32.23 of the Police Department's Rules, relating to condition of firearms.

III

Cause was established for discipline under Section 12.2(p) of the Civil Service Rules.

Section 12.2(p) (Negligence) is found to be an included offense within Section 12.2(d), inexcusable neglect of duty, under the circumstances herein.

It is determined that Appellant is guilty of negligence rather than inexcusable neglect of duty.

PROPOSED ORDER

The appeal is granted in part. The reprimand of January 8, 1979 shall be for a violation of Section 12.2(p) (Negligence), and not for inexcusable neglect of duty (Section 12.2(d)).

Dated: _____

6-7-79



ROBERT R. COFFMAN
Administrative Law Judge
Office of Administrative Hearings

RECEIVED

JAN 17 1979

PERSONNEL DEPT.

1 DAVID P. SIMMONS
2 Lawyer
3 117 J Street, Suite 203
4 Sacramento, CA 95814
5 Telephone: 444-9710
6
7
8 Attorney for Appellant

8 CIVIL SERVICE BOARD
9 CITY OF SACRAMENTO

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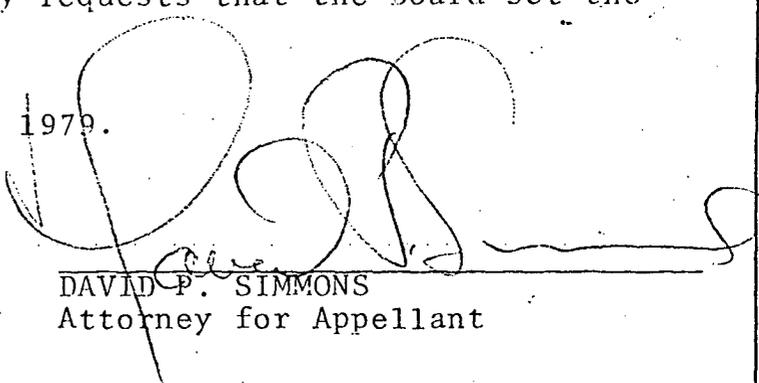
In the Matter of the)
Appeal of)
LT. BEN BRUNO)

APPEAL

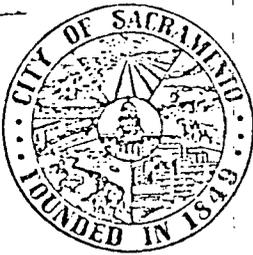
Lt. BEN BRUNO hereby appeals his reprimand to the Civil Service Board of the City of Sacramento.

Lt. BEN BRUNO hereby requests that the Board set the matter for hearing.

DATED: January 15, 1979.



DAVID P. SIMMONS
Attorney for Appellant



CITY OF SACRAMENTO

FINAL LETTER RECEIVED
DATE 1-10-79
EMPLOYEE [Signature]
SUPERVISOR [Signature]

DEPARTMENT OF POLICE
HALL OF JUSTICE
813 - 6TH STREET
SACRAMENTO, CALIFORNIA 95814
TELEPHONE (916) 449-5121

JOHN P. KEARNS
CHIEF OF POLICE

January 8, 1979

RECEIVED

JAN 17 1979

PERSONNEL DEPT.

Lt. Ben Bruno
Office of Operations
Sacramento Police Department
813 Sixth Street
Sacramento, California 95814

Dear Lt. Bruno:

You are hereby reprimanded. This action is based on the following facts and Rule 12 of the Civil Service Rules and Regulations.

On December 1, 1978, at 1542 hours you placed your off-duty service revolver in your locker. You hung the gun up by placing a fixed clothing hook within the locker through the trigger guard. When you closed the door of your locker, the clothing within the locker pushed against the gun causing it to accidentally discharge.

The revolver was checked by the Department Armorer. He found that the firing pin did not go through the firing pin hole. The single action trigger pull was 2½ pounds. The specification for Smith and Wesson is 3 pounds.

Your actions in this regard were in violation of the Sacramento Police Department's Rules and Regulations, as follows:

32.23 CONDITION OF FIREARMS. As often as necessary, every officer shall examine and clean his firearms and shall keep it in good serviceable condition. When carrying a handgun, it shall be carried in a holster.

The aforementioned conduct on your part constitutes cause for disciplinary action pursuant to Rule 12.2 of the Rules and Regulations of the Civil Service Board, specifically subsection:

12.2(d) Inexcusable Neglect of Duty.

I have reviewed the facts of this case and feel this action is justified, not in the sense of reprisal but to impress upon you the necessity for correcting

Lt. Ben Bruno

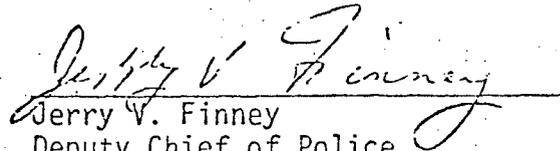
-2-

January 5, 1979

this behavior. It is further necessary to warn you that any recurrence of this conduct will result in more severe action being taken.

A copy of this letter will be placed in your official personnel file. Pursuant to Rule 12.6 of the Rules and Regulations of the Civil Service Board, you have the right to appeal this disciplinary action to the Civil Service Board within ten (10) days of the date of this letter. You may, if you wish, respond to me within thirty (30) days and I will consider your reply. Your reply, if any, will be placed in your official personnel file.

Very truly yours,


Jerry V. Finney
Deputy Chief of Police
Office of Operations

APPROVED:


JOHN P. KEARNS
CHIEF OF POLICE

JRW:cr

MINUTES OF THE CIVIL SERVICE BOARD
CITY OF SACRAMENTO
REGULAR MEETING . . . JULY 3, 1979

The regular meeting of the Civil Service Board was called to order by President Wilfred D. Street at 1:30 p.m. in the Conference Room, Personnel Department, City of Sacramento, California

Board Members Present: Wilfred D. Street, President
Luis J. Campos, Vice-President
Vivian C. Nance
Joseph L. Russell
Jonathan E. Mayhew

MINUTES OF MEETING OF JUNE 19, 1979:

Motion was made to approve the minutes as read:

Motion: Mrs. Nance
Second: Mr. Russell

Motion was approved by the following roll call vote:

Ayes: Mr. Campos, Mr. Mayhew, Mrs. Nance, Mr. Russell
Abstaining: Mr. Street

REPORTS OF THE DIRECTOR OF PERSONNEL:

The Director of Personnel, Donna L. Giles, reported that leaves of absence have been granted to the following City employees:

1. Educational: Douglas Michael Busch, Police Sergeant (7/1/1979 - 6/30/1980)
2. Maternity: Gloria Jean Taylor, Community Service Representative
(7/14/1979 - 1/6/1980)

Mr. Street requested that the record show that letters from Mr. Wayne Harbolt, President of I.A.F.F. Local 522 dated June 26, 1979, addressed to Civil Service Board were received. There was some discussion on this correspondence.

ELIGIBLE LIST ESTABLISHED:

<u>Exam</u>	<u>Classification</u>	<u>Effective Date</u>	<u>Certification Date</u>	<u>Expiration Date</u>
#1635	Engineering Aide I	6/14/1979	6/29/1979	6/13/1979 ⁸⁵

AMENDMENT OF EXAMINATION PROCEDURE:

#1666 Personnel Technician

Verna Banks addressed the Board requesting an amendment to the examination plan for this class. After discussion a motion was made to approve the

revision of examination #1666 for Personnel Technician, which, under the examination process, will include a pass/fail written and a job-related oral interview, weighted 100%.

Motion: Mr. Mayhew
Second: Mr. Campos

Motion was approved by unanimous vote.

Board members were assured that all candidates would be notified sufficiently in advance of this change.

EXAMINATIONS TO BE ANNOUNCED:

#1673 Senior Legal Stenographer

Motion: Mrs. Nance
Second: Mr. Mayhew

Motion was approved by unanimous vote.

#1676 Accountant

Motion: Mr. Mayhew
Second: Mr. Russell

Motion was approved by unanimous vote.

#1668 Tree Trimmer Foreman I (Promotional)

Motion: Mr. Mayhew
Second: Mr. Russell

Motion was approved by unanimous vote.

#1679 Senior Account Clerk

Motion: Mr. Russell
Second: Mrs. Nance

Motion was approved by unanimous vote.

#1683 Senior Stenographer-Clerk

Motion: Mr. Russell
Second: Mrs. Nance

Motion was approved by unanimous vote.

ADOPTION OF FINDINGS OF FACT ON SELECTIVE CERTIFICATION:

Mr. David Benjamin, Deputy City Attorney, addressed the Board, and referred

to a Findings of Fact on Selective Certification which were designed to justify the Board's decision on this issue at the previous meeting, which was discussed by the Board.

Motion was made to adopt the Finding of Fact on Selective Certification as submitted relative to certification of minorities, with an additional amendment to revise the Findings of Fact No. 10 to read: "At present, although minorities comprise 31% of the the City's career workforce, minorities do not comprise 31% of the Fire Departments workforce", and Civil Service Board determines that such a goal would be desirable.

Motion: Mr. Campos
Second: Mr. Russell

Motion was approved by the following roll call vote:

Ayes: Mr. Campos, Mr. Russell, Mrs. Nance
Abstain: Mr. Street, Mr. Mayhew

An additional Finding of Fact will be submitted relative to certification of women in the near future.

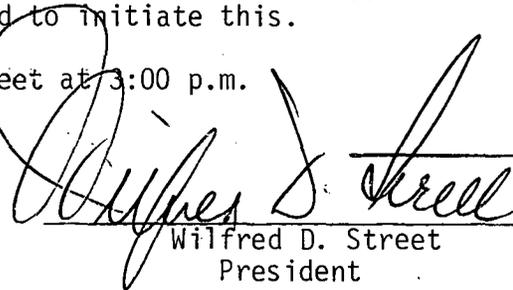
OTHER BUSINESS:

President Street addressed the Board and requested an additional third meeting be scheduled when possible, and suggested that these extra meetings be held at different departments within the City, that the agenda items be kept to minimum, and the main purpose of the meeting be devoted to orientation with the departments. The Board approved the suggestion, and the Director of Personnel was requested to initiate this.

Meeting was adjourned by President Street at 3:00 p.m.



Donna L. Giles
Secretary



Wilfred D. Street
President