

MINUTES OF CIVIL SERVICE BOARD  
CITY OF SACRAMENTO  
REGULAR MEETING                      OCTOBER 18, 1977

The regular meeting of the Civil Service Board was called to order by President Ronald Wright at 1:30 p.m. in the Personnel Department Conference Room.

Present: Alba Kuchman, Wilfred Street, Ronald Wright, Jimmie Yee.  
Absent: Donna Giles.

REPORTS OF DIRECTOR OF PERSONNEL

- a. Leave of Absence Extension Granted  
Albert K. Pape, Industrial Painter Foreman

Pursuant to Civil Service Board Rule 15.2(e), Albert K. Pape was granted an extension to his current medical leave of absence by the Director of Personnel as agent of the Civil Service Board. The extension is from September 25 through December 31, 1977.

- b. Request for Hearing to Appeal Termination Denied (continued from 10/4/77)  
James Ellison  
Arthretta Hill  
Marcos Lopez  
Carl Smith  
Otis Webb  
Refuse Collectors (probationary status)

This item was discussed at the Board meeting of October 4, 1977; however, because letters pertaining to this item had not been provided Board members for the October 4 meeting, further discussion was held over to this meeting. The request for hearing earlier had been denied by the Employee Relations Division of the Personnel Department.

Deputy City Attorney Elizabeth Silver's legal opinion dated October 7, 1977, concerning whether terminated probationary Refuse Collectors have a right to reinstatement as extra-board Refuse Collectors was received. Attorney Silver's opinion indicated that the appointment of an extra-board Refuse Collector to the position of probationary Refuse Collector is not a promotion and, thus, Civil Service Rule 12.5, "Release following Promotion", is not applicable. Rule 12.5 reads as follows:

"Any employee released during the probationary period following promotion shall be reinstated to the position from which he was promoted unless the reasons for his release would be cause for dismissal from the City service."

It was pointed out by Mr. Wesley Keyson of Local 39, Stationary Engineers, speaking on behalf of Mr. Phillip Cunningham, that at the October 4 Civil Service Board meeting Mr. Cunningham, representing the five appellants, had dropped the request for hearing. He, instead, requested that his clients be reinstated as extra-board Refuse Collectors.

Mr. Keyson read a prepared statement setting forth their rebuttal of the legal opinion.

MOTION: Mrs. Kuchman moved that the Civil Service Board sustain the denial of the request of Local 39 by the Employee Relations Division of the Personnel Department in this matter.

SECOND: Mr. Street.

CARRIED: Ayes: Kuchman, Street, Yee.  
Noes: Wright, because he thought the motion was superfluous.  
Absent: Giles.

#### STAFF REPORT RE EDUCATIONAL AND AGE REQUIREMENTS FOR FIREFIGHTER

Mr. William Woska, Personnel Management Administrator, submitted his memorandum of October 13, 1977, on the subject, "Firefighter Announcement Notice." The staff recommendation was to reduce the current age requirement for Firefighter from 21 to 18 and to eliminate the maximum age of 35 to no maximum. He reported that the federal Age Discrimination Act of 1975 prohibits discrimination on the basis of age (any age) in any program receiving federal financial assistance. Federal funding is received by the City Fire Department.

It was staff's further recommendation to replace the current twelfth-grade educational requirement with "ability to read, write, and understand the English language at a level necessary for efficient job performance." Mr. Woska reported that, in the case of League of United Latin-American Citizens vs. City of Santa Ana, the court ruled that the high school education requirement for Firefighter was not justifiable. Mr. Woska indicated that, because of the court's ruling, staff could not support the requirement of Fire Science courses for the entry-level class of Firefighter. He further indicated that a validated written test would determine qualified applicants.

A draft copy of the Firefighter examination announcement; memorandum from Deputy City Attorney Elizabeth Silver on the subject of academic standards and minimum age for Firefighter; and a survey report concerning education and age standards for Firefighter in the cities of Fresno, Anaheim, Santa Ana, Long Beach, Oakland, and San Jose were provided the Board.

The current eligible list for Firefighter will expire on February 27, 1978, and the Civil Service Board was requested to act as quickly as possible.

Mr. Wayne Harbolt, President of Fire Fighters Union Local 522, requested that the Board withhold action on this matter until the City and Local 522 could meet and confer on issues relating to the Firefighter specification changes. Mr. Harbolt indicated that specification changes would affect the working conditions of firefighters and, therefore, should be a meet-and-confer matter. Mr. Harbolt raised his concerns in the lowering of the age requirement for Firefighter as well as the modifying of the educational requirement. He reported that there are currently two cases pending before the State of California Supreme Court: in one case, the lower court had held that this matter is a meet-and-confer subject; the Court of Appeals had held that it was not. In the other case, the lower court had held that it was not a meet-and-confer subject; the appellate court had held that it was.

Mr. Woska responded by reporting the following court decisions:

American Federation of State, County and Municipal Employees Local 119 vs. County of Los Angeles

The County of Los Angeles had refused to negotiate with the union regarding job specifications on the grounds that it was not specifically included within the items to be negotiated and that it was a matter under the jurisdiction of the Civil Service Commission by provision of the Charter. The union petitioned for a Writ of Mandate directing the County to negotiate on the job classification matter. This was denied by the trial court. The Court of Appeals, in June 1975, affirmed this decision.

United Professional Fire Fighters of Contra Costa County, IAFF Local 1230, vs. County of Contra Costa

The issue was whether the Contra Costa County Civil Service Commission is required to meet and confer before adopting the firefighter job specification and examination procedures. County of Contra Costa contended that Government Code Section 3500 indicates that negotiation is not required on civil service commission issues and that meet-and-confer would not be consistent with the principles of impartial merit system standards and procedures and, therefore, the Firefighter class specification was not a meet-and-confer item.

The court ruled, in April 1977, that the Civil Service Commission need not meet and confer on issues of alteration of job specifications, announcements, recruitment, and testing procedures in the examination for Firefighter.

IAFF, Local 798, vs. City and County of San Francisco

The City and County of San Francisco agreed in the Memorandum of Understanding with Local 798 to provide for arbitration of grievances concerning terms and conditions of employment. An issue was subsequently raised as to the City and County's authority to submit to arbitration matters within the Charter of the City and County of San Francisco. The court ruled that they may not delegate to an arbitrator Charter-vested authority.

Taylor vs. Crane

The question was whether a Charter provision giving the City Manager the power to appoint and discipline all city employees could be modified by a Memorandum of Understanding. The court ruled that Charter provisions may not be negotiated.

Mr. Woska reported that the City of Sacramento's City Charter, under Section 52a, provides that the Civil Service Board is vested with the responsibility to adopt and to maintain the classification plan. Because of the courts' decisions and because of the provisions under the City Charter Section 52a, Mr. Woska indicated that it was staff's opinion that, until the issue is resolved by the California Supreme Court, the City must abide by the Charter provision.

The Board members expressed great concern that an examination announcement with proposed revised requirements for Firefighter was being presented for consideration prior to the class specification being amended.

Mr. Wright expressed his dissatisfaction that the requested report on the desirable educational requirement at the entry-level Firefighter class had not been received; that the Board was now being requested to consider and act on the elimination of the high school education requirement for Firefighter. The Board members indicated that the staff report should have reported the Fire Fighters Union's position; the management's position; and the basis on which the staff's recommendation is made. With such a report, the Board then could have acted at this meeting.

MOTION: Mr. Street moved to set a special hearing on November 8, 1977, at 12:30 p.m. to discuss the education and age requirement for Firefighter as well as the Firefighter examination announcement.

SECOND: Mrs. Kuchman.

CARRIED: Ayes: Kuchman, Street, Wright, Yee.  
Noes: None.  
Absent: Giles.

The material to be considered at the November 8, 1977, Civil Service Board meeting is to include the following information:

#### Firefighter Education and Age Standards

Revised Firefighter job specification reflecting the age and educational requirement.

Firefighter examination announcement.

Desirable educational requirement, specifically Fire Science courses, for the entry-level Firefighter class.

Report re relevant court decisions and what the Civil Service Board can do in light of the decisions.

#### Police Officer Education and Age Standards

The Board is being requested to modify the Firefighter educational requirement to conform with court decisions and the age requirement to comply with regulations for federal funding. If the educational requirement for Police Officer (60 units of college work) is other than what the courts have upheld, how is the City complying with the regulations?

Rationale of the educational requirement of 60 units of college work for Police Officer and from where this requirement is derived; presentation of the differences and similarities between the Police Officer and Firefighter classifications.

EXAMINATION TO BE ANNOUNCED

#1566 Firefighter

MOTION: Mrs. Kuchman moved to remove announcement #1566 for Firefighter from this agenda and to schedule it for the November 8, 1977, special meeting.

SECOND: Mr. Street.

CARRIED: Ayes: Kuchman, Street, Wright, Yee  
Noes: None  
Absent: Giles

EXAMINATIONS ANNOUNCED

#1570 Computer Operator Supervisor

#1571 Data Control Clerk

#1572 Computer Operator

Ms. Susan Davidson, Associate Personnel Analyst, explained that, although the Data Processing Manager had requested the classification of Senior Computer Operator, it was agreed that supervisory duties would be specifically included in the Computer Operator Supervisor specification. If the Senior Computer Operator classification were to be used, the supervisory responsibility would have to be indicated as "may" supervise. Ms. Davidson indicated that it was, therefore, decided that it was not necessary to include the class of Senior Computer Operator.

MOTION: Mr. Yee moved to approve the examination announcements as presented.

SECOND: Mr. Street.

CARRIED: Ayes: Street, Wright, Yee  
Noes: Kuchman  
Absent: Giles

AMENDMENT TO CIVIL SERVICE BOARD RULE 13, "TRANSFERS"Proposed Addition of Rule 13.6, "Special Transfer Program"

Voluntary demotions had been previously approved by the Civil Service Board via the Special Transfer Program as a result of the proposed consolidation of the Waste Removal and Street Cleaning functions. At the September 27, 1977, election, the electorate disapproved the mandatory containerization of yard and garden refuse. The consolidation of the Waste Removal and Street Cleaning functions, therefore, will not take effect. This reversal makes necessary that an avenue be provided to allow the employees who transferred and/or voluntarily demoted under the Special Transfer Program to return to their former classifications if they desire to do so.

The City Attorney's opinion of October 5, 1977, indicated that (1) the Civil Service Board, as a board of limited jurisdiction, may not rescind its prior action in approving a voluntary demotion or transfer, and (2) the present rules provide the mechanism for restoring those employees who transferred within a class pursuant to Civil Service Rule 13.2, transferred to a different class with the same salary range pursuant to Civil Service Rule 13.3, or resigned. The present rules do not provide a mechanism for restoring to their former positions those employees who were voluntarily demoted.

Proposed Rule 13.6 was recommended as a vehicle to allow the voluntarily demoted employees to move back to their former classifications if they so desired. The proposed Rule 13.6 reads as follows:

"Special transfer program. Notwithstanding any other provision of these rules, any employee who was voluntarily demoted as a result of the Waste Removal/Street Cleaning consolidation proposal may, upon written petition by the employee to the Board by October 28, 1977, be transferred to a position in the classification where he formerly held status. Time served in the class from which the employee was transferred shall be counted in determining the salary step upon transfer.

"This rule (13.6) shall be automatically repealed on December 30, 1977."

MOTION: Mr. Street moved to adopt Rule 13.6 and to direct the Personnel Department to implement the rule for those employees who are affected.

SECONDED: Mr. Yee.

CARRIED: Ayes: Kuchman, Street, Wright, Yee  
Noes: None  
Absent: Giles

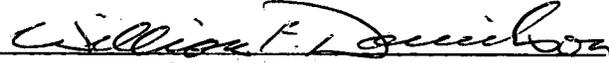
A progress report concerning the transfers is to be furnished the Civil Service Board at its regular meeting of November 15, 1977, at which time the Civil Service Board will consider actions required by the Board.

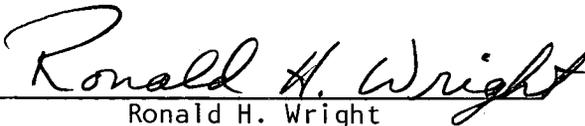
#### RANDOM SELECTION

#1567 Administrative Trainee

Mr. Yee assisted Senior Personnel Analyst Tony Vasquez and Associate Personnel Analyst Julie Mayesh in the random selection procedure for Administrative Trainee. Out of 384 applicants meeting the desirable qualifications, 71 numbers were randomly selected to participate in the next phase of the examination. Twenty-nine applicants are currently employed by the City and will be excluded from the random selection procedure and automatically invited to the next phase of the examination.

The meeting adjourned at 3:30 p.m.

  
William F. Danielson  
Secretary

  
Ronald H. Wright  
President