

MINUTES OF CIVIL SERVICE BOARD
CITY OF SACRAMENTO
REGULAR MEETING OCTOBER 17, 1978

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, 801 Ninth Street.

Present: Luis Campos, Juanita Damerell, Wilfred Street, Ronald Wright.
Absent: Donna Giles.

MINUTES OF OCTOBER 3, 1978, MEETING:

Approved as submitted.

REPORTS OF DIRECTOR OF PERSONNEL

- a. The Director of Personnel, as agent of the Board, granted Mary I. Tillman, Supervising Clerk, Utility Billing Division, a three-month extension to her current medical leave of absence which will expire on October 20, 1978.
- b. Requests for Hearing Granted by Director of Personnel as Agent of the Board
- (1) Steve J. Brachais, Park Maintenance Worker I 10/19/78 hearing date.
(2) Jesse Oscar Anguiano, Maintenance Worker I 10/25/78 hearing date.
- c. Personnel Director William F. Danielson indicated that the October 11 report on "Review of Personnel Sections of the City Charter: Personnel Selection" addressed to the Personnel and Public Employees Committee of the City Council had also been mailed to the Board. Mr. Danielson indicated that the Committee will review the discussion papers which have been submitted and will move to their decision making meetings during January and February 1979, looking to the September 1979 election.
- d. Re: Pending Hearing Before Administrative Law Judge Concerning the Appeal of Johnie Nelson, Industrial Painter

Mr. Danielson reported that the Retirement Hearing Commission had upheld the recommended decision of the Administrative Law Judge to deny the industrial disability retirement application of Mr. Nelson. Attorney Melvyn CoBen, representing Johnie Nelson, had previously indicated that he would pursue this appeal only if the industrial disability retirement application were denied. In response to the Personnel Department's inquiry as to whether to set a hearing date with the Administrative Law Judge, Attorney CoBen indicated that he would request that this matter be kept on the pending item as he intended to bring a Writ of Mandate on the Retirement Hearing Commission's denial of Mr. Nelson's appeal.

ELIGIBLE REGISTER ESTABLISHED

<u>Exam.</u>	<u>Classification</u>	<u>Effective</u>	<u>Expiration</u>
#1285-F	Senior Typist-Clerk (Promotional)	10/3/78	10/2/79

EXAMINATION ANNOUNCED

#1627 Electrical Construction Inspector II

MOTION: Mrs. Damerell moved to approve the above examination announcement.

SECOND: Mr. Street.

CARRIED: Unanimous vote.

VOLUNTARY DEMOTION APPROVED

Paul Yoshioka, Property Assistant II to Stores Clerk

By letter of May 10, 1978, Paul Yoshioka requested to be voluntarily demoted from Property Assistant II, Police Department, to Stores Clerk, Water and Sewer Division, Engineering Department. The transfer had the approval of the Police Chief and City Engineer.

MOTION: Mr. Street moved to grant the voluntary demotion from Property Assistant II to Stores Clerk, with permanent status, at Step E of the salary range of the latter classification.

SECOND: Mr. Campos.

CARRIED: Unanimous vote.

AMENDMENT TO CLASSIFICATION PLAN

Proposed Revision of Machinist Foreman Class Specification - first reading

Associate Personnel Analyst Julie Mayesh reported that two vacancies are anticipated in early 1979. The proposed revisions would up-date the current specification as to content and format.

In accordance with Board's procedure, this item was held over to the next regular meeting for second reading.

AMENDMENT TO CIVIL SERVICE BOARD RULES AND REGULATIONS

a. Addition of Rule 17.17 - Time for Seeking Judicial Review

This rule pertains to the statute of limitations for appealing disciplinary proceedings. Deputy City Attorney David Benjamin, in answer to the Board's questions raised at its October 3 meeting, reported that the governing body of the City (City Council) must pass a resolution to make Section 1094.6 of the Code of Civil Procedure applicable to the City. The Civil Service Board makes decisions on appeals from disciplinary action. For these reasons, the resolution before the City Council specifies "A Resolution Providing a Statute of Limitations for Seeking Judicial Review from Civil Service Board Decisions."

MOTION: Mrs. Damerell moved to adopt the proposed Rule 17.17.

SECOND: Mr. Street.

CARRIED: Unanimous vote.

Rule 17.17 (renumbered 12.17) shall read as follows:

Time for Seeking Judicial Review. Any judicial action taken by the appellant in any manner to set aside, annul, or vacate any decision of the Board pursuant to this rule relating to the suspension, demotion, or dismissal of an employee shall be filed within the time limits prescribed in Code of Civil Procedure §1094.6, and notice of such time limit shall be given to the appellant.

b. Final Hearing to Consider the Following Proposed Rule Changes:

Rule 6 Certification and Appointments - 9th draft
 Rule 7 Probationary Period - 6th draft
 Additional definitions
 Renumbering of Civil Service Rules to correspond with the new Rules 3, 4, and 5 and the proposed Rules 6 and 7.

Mrs. Damerell inquired how the Bakke decision affected the selective certification rule (Rule 6.6). Mr. Danielson informed the Board that the City of Sacramento had temporarily suspended the use of selective certification, on the advice of the City Attorney, pending further decisions to be rendered by the State and U. S. Supreme Courts.

It was Mr. Danielson's recommendation that the rule remain as is pending further legal developments regarding the use of selective certification.

MOTION: Mr. Street moved to adopt the ninth draft of Rule 6, Certification and Appointments, as amended.

SECOND: Mrs. Damerell.

CARRIED: Unanimous vote.

MOTION: Mr. Street moved to adopt the sixth draft of Rule 7, Probationary Period, as submitted.

SECOND: Mr. Campos.

CARRIED: Unanimous vote.

MOTION: Mr. Street moved to adopt only those additional definitions which are applicable to the new Rules 3 through 7.

SECOND: Mr. Campos.

CARRIED: Unanimous vote.

MOTION: Mrs. Damerell moved to approve the renumbering of the rules to correspond with the newly adopted Rules 3 through 7.

SECOND: Mr. Campos.

CARRIED: Unanimous vote.


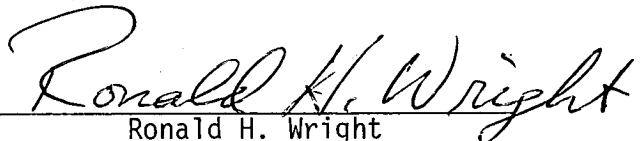
The new Rules 6 and 7 and the renumbering of the Rules and Regulations to correspond with the newly adopted Rule 3 through 7 are attached and made a part of these minutes.

c. Hearing on Any Other Proposed Rule Changes and Adoption of Such Proposed Rules

- (1) Board members requested that, when the layoff and recall rules are ready, a copy be mailed to the Board and to the employee groups at least a week before the meeting at which such rule is to be considered.

- (2) Board members requested that the definition of "comparable" classes be submitted for Board consideration at the next regular meeting.

The meeting adjourned at 3:00 p.m.

	
William F. Danielson Secretary	Ronald H. Wright President

Attachments:

- Rule 6, Certification and Appointments
- Rule 7, Probationary Period
- Additional definitions
- Renumbering of Rules

RULE 6
CERTIFICATION AND APPOINTMENTS

Section 1. Certification.

- 6.1 Filling of Vacancies. All vacancies in the classified service shall be filled from eligibles certified by the Director of Personnel/Secretary to the Board.
- 6.2 Certification in Absence of Eligible List. When an eligible list does not exist for the class in which requisition is made, the Director of Personnel/Secretary to the Board may certify from comparable eligible lists which provide eligibles possessing the necessary qualifications to perform the duties of the position. In the absence of comparable eligible lists, temporary appointments of qualified persons may be made until such time as an eligible list is established.
- 6.3 Order of Certification. Names shall be certified by the Director of Personnel/Secretary to the Board to the appointing authority consistent with the provisions of Rule 5.3. With the exception of layoff and reinstatement lists, if an appointing authority has fewer than three available persons from which to make his selection, he may make a selection from those eligibles certified or elect to wait until a new eligible list is established.
- 6.4 Eligibles' Non-Interest in Certification.
- (a) Inactive Status. Eligibles may, in writing, declare themselves inactive for certification purposes for a period not longer than one (1) year.
 - (b) Waiver. Eligibles, except those from a layoff list, may waive certification upon giving written notification to the Director of Personnel/Secretary to the Board. Eligibles shall be entitled to three waivers, each of which shall count as a certification.
- 6.5 Certification for Temporary Positions. Certification to temporary positions shall be made from established eligible lists consistent with the requirements of the position.
- 6.6 Selective Certification. If a vacancy exists in a position which represents a specialization within a class, the appointing authority may

request a selective certification of eligibles having the specialized qualifications required if such request is made prior to certification. If the Director of Personnel/Secretary to the Board, after investigation, determines that the facts and reasons justify such selective certification, the highest ranking eligibles who possess the special qualifications shall be certified. Notwithstanding any other provision of these rules, selective certification may be initiated by the Director/Secretary to increase employment of women, handicapped, and minority personnel at all levels. For purposes of this rule, minority personnel shall include Blacks, Asians, persons of Mexican descent, and other non-whites. Such selective certification may be initiated when the Director/Secretary determines that minority, female, or handicapped personnel are, in proportion to their total population within the City of Sacramento, under-represented either within City employment as a whole or in an occupational area of employment.

6.7 Transition From Temporary to Permanent Appointment.

- (a) Upon recommendation of the Director of Personnel/Secretary to the Board, any employee who completes six months of continuous full-time service in a temporary position shall be eligible for appointment to a permanent position in the classified service. Probationary status shall be granted without further examination.
- (b) Such appointment may be made to (1) the same class in which the six-month period was served, (2) to a comparable class in the classified service, or (3) to a lower class.

Section 2. Appointments.

6.8 Types of Appointments. The following types of appointments shall apply to the classified service.

- (a) Permanent. Appointments to positions subject to a probationary period.
- (b) Temporary. Appointments to positions not included under 6.8(a) which may be assigned as follows:
 - (1) Extra-Board. A position requiring the employee to report to work daily but assigned to duty only when the incumbent in the permanent position is not on duty.

- (2) Limited Term. A position stipulated to be of a certain duration, made necessary by seasonal workloads, special projects, or other reason. These positions shall be limited to six (6) months.
- (3) Military Service Replacement. A permanent position filled on an interim basis replacing an employee called into the military service.
- (4) Part Time. A position where the work schedule calls for less than the normal eight hours per day, either on an intermittent or regular basis.
- (5) Relief. A position subject to call which replaces a permanent position when the incumbent in the permanent position is not on duty.

6.9 Medical Standards - General. Prior to appointment at entrance level or reinstatement, every person shall be examined by the City Physician, who shall submit, on forms provided by the Director of Personnel/ Secretary to the Board, a medical report certifying the medical fitness of said person for the type of work to be performed. Except as otherwise provided in this section, the decision of the City Physician as to medical fitness of any applicant for any entrance level position or reinstatement shall be final. Within thirty (30) days of notice of rejection for City employment for medical reasons, an applicant may appeal such decision by presenting to the Department of Personnel the written opinion of another physician which contradicts the findings and conclusions of the City Physician. The cost of this second medical report shall be borne entirely by the applicant.

Upon receipt of a timely appeal in proper form, the Department of Personnel shall refer the matter to a third physician mutually agreed upon by the applicant and the Department of Personnel. The decision of the third physician shall be final and binding. The cost of the third medical examination shall be borne by the City of Sacramento.

The Director/Secretary may, upon recommendation of any of the above-mentioned physicians, grant a reasonable period in which to clear up, cure, or remove any condition which is temporary and curable in nature.

6.10 Appointment of Permanent Employee to Limited Term Position. When necessary the appointing authority may, with the approval of the Director of Personnel/Secretary to the Board and the employee having permanent status, appoint the employee to a limited-term position in another class.

Upon termination of the position, the employee shall return without loss of status or seniority to the position where permanent status is held.

RULE 7
PROBATIONARY PERIOD

- 7.1 Objective of Probationary Period. The probationary period shall be regarded as part of the examination process. It shall be utilized for closely observing the employee's work, for securing the most effective adjustment of a new employee, and for releasing any probationer whose performance does not meet the required standards of the job.
- 7.2 Appointments Subject to Probationary Period. Persons appointed from eligible lists, excepting those qualifying under Rule 5.3(a) and (b) who have previously completed a probationary period, and persons transitioned into the classified service under the provisions of Rule 6.7 shall be subject to a probationary period.
- 7.3 Duration of Probationary Period. A probationary period shall be six months unless otherwise approved by the Civil Service Board. Those persons affected by Rule 5.3(a) who have not completed the probationary period when laid off shall be required to serve the remaining time when appointed to a permanent position.
- 7.4 Probationary Periods in Excess of Six Months. The following classifications are subject to a probationary period of twelve months:
- Firefighter
Police Officer
- 7.5 Probationary Reports. Periodic reports shall be completed during the probationary period on affected employees. The probationary report shall be reviewed with the employee to provide information as to progress and acceptability for the position. Any employee who completes the probationary period shall be granted permanent status in the class.
- 7.6 Release of Probationer. An employee may be released, without right of appeal, during the probationary period. Written notice stating the reason for release shall be furnished the probationer.
- 7.7 Release Following Promotion. An employee released during the probationary period following promotion shall be reinstated to the class from which promoted, unless the reasons for release would be cause for dismissal from the City service.

7.8 Completion of Probationary Period in Higher Temporary or Exempt Class.

An employee who, while serving a probationary period, is temporarily appointed to a higher class in the classified service or who is appointed to a higher exempt class shall be entitled to add the time served in such higher class to the probationary period. If the probationary period is completed while the employee is serving in the higher class, permanent status shall be acquired in the class where the probationary period was started.

7.9 Forfeiture of Status. No person in the classified service shall acquire permanent status in more than one class. Any person who holds permanent status in one class and accepts an appointment to a position in another class shall, upon the completion of the probationary period, acquire permanent status in the other class.

ADDITIONAL DEFINITIONS

Candidate: A person whose application has been accepted.

Class Specification: An official statement or guideline of the general duties, responsibilities and qualification requirements of positions included in a particular class. It usually consists of the following parts: (1) a title, (2) a definition, (3) a statement of distinguishing characteristics, (4) examples of duties, and (5) qualification requirements.

Eligible: A person who has passed all components within the examination process and is entitled to certification for employment.

Eligible List: A list of persons who have passed all components within the examination process and are entitled to certification for employment. There are the following types of eligible lists:

Layoff List: A list of persons who were laid off because of lack of work, or reduction in force, or failure to obtain certifiable position on an open or promotional eligible list following position reallocation to a higher class.

Reallocation List: A list of persons who have been reallocated to a lower class consistent with the provisions of Rule 3.6(a)(1).

Reinstatement List: A list of persons who have completed a leave of absence and have requested to return to work.

Reemployment List: A list of persons who resigned in good standing, with permanent status, who have requested reemployment.

Promotional List: A list of persons holding permanent status who have successfully completed all components within a promotional examination.

Open List: A list of persons qualifying for certification as a result of having successfully completed all components within an open examination.

Status: The standing of an employee's present appointment. There are the following types of status:

Permanent: The status of an employee who has been lawfully retained in a position in the classified service after completion of the probationary period.

Probationary: The status of an employee who has been certified and appointed to a position in the classified service but who has not completed the probationary period.

Exempt: The status of an employee who has been appointed to a position (either permanent or temporary) in a class not included in the classified service.

Temporary: The status of an employee who has been appointed to fill a position on a temporary basis.

Y-Rate: A pay rate which exceeds the maximum step of the salary range for the employee's class.

RENUMBERING

CIVIL SERVICE BOARD RULES AND REGULATIONS

<u>Current Rule</u>	<u>Proposed Rule</u>
CSB Rule 1 - "Authority and Purpose"	CSB Rule 1 - "Authority and Purpose"
CSB Rule 2 - "Definitions"	Addendum
CSB Rule 3 - "Organization and Duties"	CSB Rule 2 - "Organization and Duties"
CSB Rule 4 - "Position Classification"	CSB Rule 3 - "Position Classification"
CSB Rule 5 - "Compensation") CSB Rule 4 - "Announcements, Applicants, and Examinations"
CSB Rule 6 - "Examination Announcements, Applicants, and Applications"	
CSB Rule 7 - "Examinations"	
CSB Rule 8 - "Promotional Examinations"	
CSB Rule 9 - "Eligible Lists"	
CSB Rule 10 - "Reinstatement Lists") CSB Rule 5 - "Eligible Lists"
CSB Rule 11 - "Certification and Filling of Vacancies"	CSB Rule 6 - "Certification and Appointments"
CSB Rule 12 - "Probationary Period"	CSB Rule 7 - "Probationary Period"
CSB Rule 13 - "Transfers"	CSB Rule 8 - "Transfers"
CSB Rule 14 - "Separation From Service"	CSB Rule 9 - "Separation From Service"
CSB Rule 15 - "Leave Without Pay and Reinstatement"	CSB Rule 10 - "Leave Without Pay and Reinstatement"
CSB Rule 16 - "Reduction in Force"	CSB Rule 11 - "Reduction in Force"
CSB Rule 17 - "Disciplinary Actions, Appeals and Hearing Procedures"	CSB Rule 12 - "Disciplinary Actions, Appeals and Hearing Procedures"
CSB Rule 18 - "Restrictions Upon Officers and Employees"	CSB Rule 13 - "Restrictions Upon Officers and Employees"
CSB Rule 19 - "Reports and Records"	CSB Rule 14 - "Reports and Records"

- | | |
|-------------------------------------------------------------------|-------------------------------------------------------------------|
| CSB Rule 20 - "Attendance and Attendance Records" | - Previously repealed. |
| CSB Rule 21 - "Miscellaneous" | CSB Rule 15 - "Miscellaneous" |
| CSB Rule 22 - "Vacation Administration" | CSB Rule 16 - "Vacation Administration" |
| CSB Rule 23 - "Sick or Special Leave" | CSB Rule 17 - "Sick or Special Leave" |
| CSB Rule 24 - "Employees and Eligibles Entering Military Service" | CSB Rule 18 - "Employees and Eligibles Entering Military Service" |
| CSB Rule 25 - "Employee Grievance Policy" | CSB Rule 19 - "Employee Grievance Policy" |

CITY OF SACRAMENTO
CIVIL SERVICE BOARD

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

OCTOBER 19, 1979

The hearing concerning the appeal of Steve J. Brachais, Park Maintenance Worker I, Recreation and Parks, was held on Thursday, October 19, 1979, before Phillip J. 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 Pleadings: (1) Notice of Hearing; (2) Letter notifying Mr. Brachais that his request for hearing had been granted; (3) Appeal Letter; (4) Disciplinary Letter; (5) Intent Letter.

Exhibit 2 Stipulation of Facts letter.

No Witnesses appeared on behalf of the appellant.

Witnesses who appeared on behalf of the City were:

Johnie Bramble, Assistant Parks Supt.

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

BEFORE THE CIVIL SERVICE BOARD
CITY OF SACRAMENTO
STATE OF CALIFORNIA

In the Matter of the Appeal)
of:)
)
STEVE J. BRACHAIS)
Park Maintenance Worker 1)

CSB NO. HO-78-11

OAH No. N-12116

PROPOSED DECISION

The matter came on for hearing before Philip J. Hanley, an Administrative Law Judge of the Office of Administrative Hearings, on October 19, 1978 in Sacramento, California.

Appellant Steve J. Brachais appeared in his own behalf.

Daniel Bonebrake, employee relations representative of the City of Sacramento, represented the respondent Director of Recreation and Parks.

Evidence was received, by way of stipulation and testimony of witnesses, and the matter was submitted. The Administrative Law Judge certifies this decision and recommends its adoption.

FINDINGS OF FACT

I

Appellant Steve J. Brachais was employed for about four years as a Park Maintenance Worker I, City of Sacramento until July 31, 1978. He was dismissed from employment effective at the close of business that day.

II

The parties entered into a signed stipulation (Exhibit 2) that all factual charges contained in the Notice of Disciplinary Action of July 25, 1978 were true. The disciplinary action was termination on July 31, 1978.

Pursuant to such stipulation, the 18 charges contained in the termination notice are found to be true, and by this reference are incorporated herein as if set forth in full.

Having agreed the charges were true, the parties further stipulated the sole issue to be decided was whether the City of

Sacramento was justified in terminating appellant Brachais.

III

Appellant Brachais testified that he was assigned a foreman over his prediction the relationship would be unsatisfactory. Appellant testified he was drinking heavily in the first half of 1978 and that alcoholism contributed to his problems.

Appellant is 25 years of age and was referred to an alcoholism education program following a drunk driving arrest.

Appellant feels his superiors should not have arranged the undesirable working arrangement and should consider that his unsatisfactory attendance resulted largely from his drinking.

Appellant did not ask for a transfer from the unwelcome work station.

IV

The stipulation of the parties establishes that appellant had been absent almost 300 hours on leave without pay status, was frequently late for work, consistently failed to inform superiors of absences, and failed to obey, or deliberately ignored, reasonable orders or directives of superiors.

Appellant's conduct was not limited to 1978 but began in 1976. His value to the Department diminished over the years and his "disintegration" was complete in 1978, according to testimony of the assistant Director, Recreation and Parks. Appellant showed no interest in his job, or retaining employment.

V

The City of Sacramento, acting through the Director of Recreation and Parks, was justified in terminating appellant from his employment.

The stipulation and testimony establish appellant was an employee who could not be relied upon and who was uninterested in his job. His superiors could not have considered his work dissatisfaction or his drinking. He did not seek help on either problem.

DETERMINATION OF ISSUES

Evidence establishes cause for termination of employment pursuant to Civil Service Board Rule 17.2(d), Inexcusable Neglect of Duty, 17.2(j), Inexcusable Absence Without Leave, and 17.2(o), Willful Disobedience of a Lawful Order or Direction.

PROPOSED ORDER

The appeal of Steve J. Brachais from termination of Park Maintenance Worker I is denied.

Dated: _____

November 2, 1978



PHILIP J. HANLEY
Administrative Law Judge
Office of Administrative Hearings



CITY OF SACRAMENTO

DEPARTMENT OF PERSONNEL

801 NINTH STREET, ROOM 201
SACRAMENTO, CALIF. 95814
TELEPHONE (916) 449-5270

WILLIAM F. DANIELSON
DIRECTOR OF PERSONNEL

November 21, 1978

Mr. Philip J. Hanley
Administrative Law Judge
Office of Administrative Hearings
Department of General Services
915 Capitol Mall, Room 106
Sacramento, CA 95814

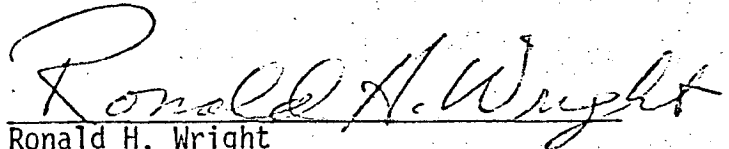
Dear Mr. Hanley:

Re: Appeal of Steve J. Brachais, Park Maintenance Worker I
Your File: N-12116

The City of Sacramento Civil Service Board considered your recommended decision in the above matter at its meeting of November 21, 1978. It was the order of the Civil Service Board that your recommendation be adopted as its decision in the matter of the appeal of Steve J. Brachais, Park Maintenance Worker I.

Very truly yours,

CITY OF SACRAMENTO
CIVIL SERVICE BOARD


Ronald H. Wright
President

cc: Office of Administrative Hearings
Attention: Calendar Clerk
Don A. Fausset, Assistant Personnel Director/Employee Relations
Solon Wisham, Jr., Director of Recreation and Parks
Steve J. Brachais

bcc: D. W. Heins, Employee Services Adm.

MINUTES OF CIVIL SERVICE BOARD
CITY OF SACRAMENTO
SPECIAL MEETING OCTOBER 24, 1978

The special 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, 801 Ninth Street, Room 103.

Present: Luis Campos, Juanita Damerell, Wilfred Street, Ronald Wright.
Absent: Donna Giles.

Hearing to Appeal Position Allocations as a Result of the Utility Billing Division Clerical Classification Study

Barry Philbin	- Senior Account Clerk
Jean P. Rios	- Senior Typist-Clerk
Charlene S. Hiura	- Senior Clerk
Carole L. Laurenty	- Senior Clerk
Linda Caesar	- Intermediate Clerk
James R. Craig	- Intermediate Clerk
Leslie Currie	- Intermediate Clerk
Susan Hanks	- Intermediate Clerk
Francis Juarez	- Intermediate Clerk
Julia C. Vidales	- Intermediate Clerk
Sandra K. Wiley	- Intermediate Clerk
Juanita F. Williams	- Intermediate Clerk
Beverly McAmis	- Junior Clerk

Mr. William Woska, Personnel Management Administrator and Acting Secretary, read a letter dated October 23, 1978, from Mr. William Danielson, Director of Personnel, to the Civil Service Board. Mr. Danielson requested that the Board defer consideration of these appeals as he had just learned on October 23, 1978, that the Utility Billing Division Reorganization Study is near completion and that decisions would be made concerning its implementation by the end of this year. The implementation of the Utility Billing Division reorganization recommendations may affect the duties and responsibilities of the positions for which appeals are being made at this time.

Mr. Wesley Keyson, Business Representative of Stationary Engineers Local 39 representing the appellants, indicated that, upon his consultation with the City Attorney, he learned that the appeal could be stayed only if the appellants agree to do so. Mr. Keyson indicated that all of the appellants wished to pursue their appeals.

Ms. Susan Davidson, Associate Personnel Analyst, represented the City; Mr. Wesley Keyson, Business Representative of Stationary Engineers Local 39, represented the thirteen appellants.

Ms. Davidson presented background information concerning the classification study and discussed the responsibility of the Utility Billing Division. The request for an audit was made by the Director of Finance. After the duties and responsibilities of the incumbents as listed in the job description forms were analyzed, twelve of the fifteen affected positions were reallocated to different classifications, effective October 12, 1978. The incumbents were notified, and thirteen appeals were received within the 30-day appeal period.

Each of the appeal letters and Ms. Davidson's responses were provided Board members for their information. Job description forms completed by each of the appellants were also provided.

Ms. Davidson discussed the Junior-level reallocation, explaining that the incumbent, upon successful completion of requirements, would be reallocated to the Intermediate level. She discussed the Intermediate Clerk positions, the two Senior Clerk positions, the Senior Typist-Clerk positions, and the Senior Account Clerk position. She explained the basis for their reallocations and/or retention of their classes. Ms. Davidson also indicated that the issue to be determined by the Board is whether the positions in question are appropriately classified based on allocating factors within the job specification.

Mr. Keyson indicated his surprise concerning the reorganization study. In his attempt to determine whether the implementation of this reorganization study would provide favorable results for the employees, he found that there was no assurance of such results nor that the study would be, in fact, implemented. Mr. Keyson, therefore, requested the Board to review the case as the positions exist currently.

Mr. Keyson provided the Board members the following exhibits:

Memorandum from Susan Davidson to Verna Banks, dated July 20, 1978, on the subject, "Utility Billing Clerical Classification Study"

Copy of Junior Clerk/Intermediate Clerk specification.

Memorandum to one of the Intermediate Clerks from Ms. Davidson providing basis for her decision.

Memorandum from Verna Banks to William Woska, dated August 14, 1978, on the subject, "New Classes--Offset Equipment Operator, Senior Offset Equipment Operator"

Testimonies were given by Ms. Susan Hanks, Intermediate Clerk, relating to the various complaints received by the Utility Billing Division and Ms. Jean Rios, Senior Typist-Clerk, relating to the compensation received by like classes in other jurisdictions. Mr. Barry Philbin, Senior Account Clerk, described his duties and responsibilities. Ms. Juanita Williams, Intermediate Clerk, also spoke concerning the reason for her appeal.

Jimmie Cruz, Intermediate Clerk, was not able to participate in the appeal process because of his being hospitalized.

MOTION: Mrs. Damerell moved that any action taken by the Board with respect to the Intermediate Clerk class would apply to Mr. Cruz on the basis that he was medically not able to appeal at this time.

SECOND: Mr. Campos.

CARRIED: Unanimous vote.

Mr. Frank Mugartegui, Assistant Finance Director, indicated that the micro-fiche currently in use by the Utility Billing Division would be replaced by computer terminals if the Utility Billing Reorganization Study is implemented. He expected that this would be completed as of the end of March 1979 and that the duties and responsibilities of the affected employees may also change.


Mr. Keyson requested that (1) a new study be expeditiously conducted and to develop appropriate classifications; (2) employees be returned to the classifications held prior to the study; and (3) the Board set as a general guideline a classification higher than Intermediate Clerk to be considered for comparison.

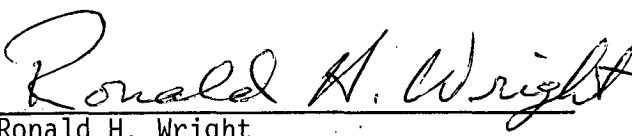
MOTION: Mrs. Damerell moved to grant the appeals and direct the staff to develop appropriate class specifications more specific to the Utility Billing Division, with titles similar to "Customer Service Representative", which would reflect the duties performed in the Utility Billing Division. The study is to begin immediately. Staff is to report back no later than the second meeting in December with a progress report or final report.

SECOND: Mr. Campos.

CARRIED: Unanimous vote.

The meeting adjourned at 5:00 p.m.


William J. Moska
Acting Secretary


Ronald H. Wright
President

CITY OF SACRAMENTO
CIVIL SERVICE BOARD

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

October 25, 1979

The hearing concerning the appeal of Jesse Oscar Anguiano, Maintenance Worker I (Limited-Term), Waste Removal, was held on Wednesday, October 25, 1978, before Rudolph H. Michaels, 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 Disciplinary Letter
- Exhibit 2 Appeal Letter
- Exhibit 3 Set of three - Letter notifying Mr. Anguiano that his request for hearing had been granted; Notice of Hearing; Service by Mail form.
- Exhibit 4 Statement of Issues
- Exhibit 5 Investigation report signed by W. Wells, Acting Supervisor.
- Exhibit 6 Job card and form which noted located of crews for day in question.
- Exhibit 7 Photographs re type of equipment used by City personnel in Mr. Anguiano's capacity.

Witnesses who appeared on behalf of the appellant were:

Mrs. Jesse Oscar Anguiano, Wife of Appellant

Witnesses who appeared on behalf of the City were:

Walter Wells, City Employee
Eva Coronado, Citizen
Richard Myers, City Employee
Reggie Young, City Employee
Linda Tretheway, City Employee

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

RECEIVED

NOV 1 1978

PERSONNEL DEPT.

BEFORE THE CIVIL SERVICE BOARD
CITY OF SACRAMENTO
STATE OF CALIFORNIA

In the Matter of the Appeal of)
)
JESSE OSCAR ANGUIANO)
Maintenance Worker I)
(Limited Term))
)
Appellant.)

CSB NO. HO-78-12
N-12261

PROPOSED DECISION

This matter came on regularly for hearing before Rudolf H. Michaels, an Administrative Law Judge of the Office of Administrative Hearings, on October 25, 1978, in Sacramento, California.

The respondent appointing authority was represented by Larry L. Dow, Employee Relations Representative.

The appellant was present without being otherwise represented.

Evidence was received, the hearing was closed and the matter was submitted.

The Administrative Law Judge certifies this Decision, recommends its adoption and makes the following

FINDINGS OF FACTS

I

Respondent Reginald Young is the Superintendent of the Division of Waste Removal of the City of Sacramento and as such appellant's appointing authority.

II

At all times material herein, appellant was employed as a Maintenance Worker I (Limited Term), Division of Waste Removal, City of Sacramento.

III

The Notice of Disciplinary action on file herein and the appeal therefrom comply with the regulations of the Civil Service Board of the City of Sacramento.

IV

On April 4, 1978, appellant was employed as a Maintenance Worker I (Limited Term) in the Waste Removal Division of the City of Sacramento. His term was expected to expire on December 31, 1978.

V

On September 20, 1978, while on his assignment as a Maintenance Worker I, in the vicinity of 38th Street and 17th Avenue, appellant, while seated in the driver's seat of a city-owned truck which at the time was stopped, called out to a young woman who was crossing the street in front of him and, when she stopped and turned toward him, asked her if she wanted to make love later that evening.

VI

At the time of the events described in Finding V, appellant was outside his assigned work area and, contrary to normal procedure, was using a "Packer" type vehicle alone, instead of an open bed hand loading vehicle.

VII

Shortly after the incident described in Finding V, appellant, while still using the "Packer" type truck, and while still outside his assigned work area, was talking to a young woman while the truck was stopped on the wrong side of the street, with the engine running and the compacting blade power unit engaged so that the pull of a lever located at the rear of the truck would cause it to operate. At that time, three young children were on and near the rear platform of the truck, one of them actually standing on the platform itself.

VIII

When approached by his supervisor who was investigating a complaint lodged as the result of the events described in Finding V, and at the time he was stopped as described in Finding VII, appellant, in the presence of the young woman mentioned, used a great amount of profanity and displayed a hostile attitude toward his supervisor.

IX

Appellant knew that, when assigned to work alone, a Packer truck is not an appropriate vehicle to use. He decided on his own to take that type instead of the open bed truck because he considered it easier to work, because he was alone. Appellant states that he was in the wrong area by mistake, denies that he said anything about sex to the young woman mentioned in Finding V, and makes light of the fact that young children were climbing

around and playing on the Packer truck while the engine was running. Appellant also contends that his supervisor was out to "get him" and that everyone would be better off if this supervisor acted more humanely.

X

Appellant had been employed as a Limited Term Maintenance Worker I on three previous occasions. On two of these, he had caused problems with his performance and with his relationships to fellow workers and supervisors. The reason he was assigned to work alone on September 20, 1978, was that no one else wanted to work on the same crew with him.

XI

Disciplinary action of termination effective September 25, 1978, did not constitute an abuse of discretion by the appointing authority but was, under the circumstances of this case, reasonable and appropriate.

DETERMINATION OF ISSUES

I

Appellant's conduct constitutes cause for disciplinary action under the facts contained in the Findings listed below and the Section of the Civil Service Rules summarized and shown opposite each Finding:

<u>Description</u>	<u>Finding(s)</u>	<u>Section</u>
Inexcusable neglect of duty	V, VI, VII	17.2(d)
Discourteous treatment of member of the public while on duty	V, VIII	17.2(m)
Conduct which impairs, disrupts and causes discredit to the public service	V, VII, VIII	17.2(t)

II

The facts contained in Findings IX through XI were considered in the formulation of the Proposed Order.

III

The disciplinary action of termination ought to be affirmed and the appeal ought to be denied.

PROPOSED ORDER

1. The disciplinary action taken by the respondent Superintendent of the Division of Waste Removal, terminating appellant's employment as a Maintenance Worker I (Limited Term) is affirmed.

2. The appeal of Jesse Oscar Anguiano from disciplinary action of termination of his employment as a Maintenance Worker I (Limited Term) on September 25, 1978, is denied.

Dated: October 31, 1978

Rudolf H. Michaels
RUDOLF H. MICHAELS
Administrative Law Judge
Office of Administrative Hearings



CITY OF SACRAMENTO

DEPARTMENT OF PERSONNEL

801 NINTH STREET, ROOM 201
SACRAMENTO, CALIF. 95814
TELEPHONE (916) 449-5270

WILLIAM F. DANIELSON
DIRECTOR OF PERSONNEL

November 7, 1978

Mr. Rudolf H. Michaels
Administrative Law Judge
Office of Administrative Hearings
Department of General Services
915 Capitol Mall, Room 106
Sacramento, California 95814

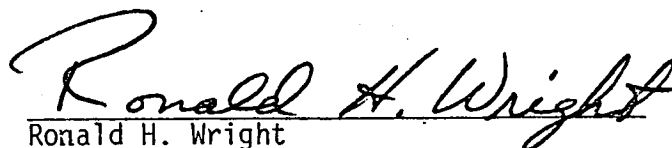
Dear Mr. Michaels:

Re: Appeal of Jesse Oscar Anguiano, Maintenance Worker I (Limited-Term)
Your File: N-12261

The City of Sacramento Civil Service Board considered your recommended decision in the above matter at its meeting of November 7, 1978. It was the order of the Civil Service Board that your recommendation be adopted as its decision in the matter of the appeal of Jesse Oscar Anguiano, Maintenance Worker I (Limited-Term).

Very truly yours,

CITY OF SACRAMENTO
CIVIL SERVICE BOARD


Ronald H. Wright
President

cc: Office of Administrative Hearings
Attention: Calendar Clerk
Don A. Fausset, Assistant Personnel Director/Employee Relations
Reginald Young, Refuse Collection Superintendent
Ronald Parker, City Engineer
Jesse Oscar Anguiano

bcc: D.W. Heins, Employee Services Adm.