

5/4/76

MINUTES OF CIVIL SERVICE BOARD
CITY OF SACRAMENTO
REGULAR MEETING - MAY 4, 1976

The regular meeting of the Civil Service Board convened at 1:35 p.m. in the Personnel Department Conference Room, 801 Ninth Street.

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

At the outset, it was moved, seconded and carried that the Board meet in executive session regarding the Local 39 vs. City of Sacramento litigation matter.

The open session was called to order by President Jimmie Yee at 2:00 p.m.

MINUTES: 4/6/76 REGULAR MEETING; 4/6/76 JOE LEWIS HUNTER HEARING CONTINUATION;
4/13/76 SPECIAL MEETING; 4/20/76 REGULAR MEETING

The minutes of the regular meeting and hearing of April 6, 1976 and the special meeting held April 13, 1976 were approved as submitted, with Mr. Street abstaining. The minutes of the regular meeting held April 20, 1976 were approved as submitted by unanimous vote.

REPORTS OF DIRECTOR OF PERSONNEL

- a. League of United Latin American Citizens (LULAC) vs. City of Santa Ana: Necessity to Amend Police Officer Examination Announcement #1321-F

A summary written report dated April 26, 1976 of the LULAC vs. Santa Ana class action suit, filed on behalf of Mexican-Americans who had applied for police officer or firefighter positions with the City of Santa Ana, was provided Board members by Deputy City Attorney Elizabeth Hassard. The suit alleged discrimination in the police officer and firefighter examination process, specifically the use of the Fire Aptitude, Form 45 test. The Court found that this test, based on testimony of expert witness, is not valid; that the plaintiffs were entitled to a preferential hiring order and back pay, among other things.

Deputy City Attorney Hassard's summary report discussed the Form 45 test and the Court's reasons for holding that the use of the test was discriminatory.

Mr. Danielson indicated that the written test in question had been developed by a consortium of 26 cities, of which Sacramento was a participant, and that the City of Sacramento was to have used such a test for the current police officer examination. Mr. Danielson and Deputy City Attorney Hassard explained that, should the City proceed with the written examination in question, the City of Sacramento would be in jeopardy of a law suit also. Although the City of Santa Ana will appeal the case, it was not known when the appeal would be instituted.

Mr. Danielson indicated that the City would prefer to administer a written test, but the Personnel Department knows of no other validated written test which is available at this time. Because of the Court's ruling, the Board was requested to grant permission to pass over the written test for the current Police Officer Examination #1321-F and to proceed to the interview process.

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Attorney David Simmons, counsel for Sacramento Police Officers Association, requested that the Board defer action until SPOA had the opportunity to review the class suit document.

Mr. Street moved to continue the testing procedure for Police Officer in its normal fashion. The motion failed due to lack of a second.

Mrs. Kuchman moved that the matter of the Police Officer examination be tabled until the next regular meeting. Mr. Wright seconded the motion, which carried by the following vote:

Ayes: Kuchman, Wright, Yee.

Noes: Street.

Absent: Hausey.

b. Letter dated April 30, 1976, from Attorney Melvyn CoBen, counsel for Joe Lewis Hunter whose hearing was held on April 6, 1976, indicated objections to the Findings and Conclusions as submitted by Deputy City Attorney Leliand Savage. Inasmuch as Attorney CoBen had not indicated specific objections, and it appeared that there was misunderstanding on his part as to the possibility of modifying the Findings and Conclusions after having been submitted to the Board, Attorney Elizabeth Hassard was requested to contact Attorney CoBen to inform him of the Board's procedure, should there be objection to the Findings and Conclusions.

c. Board members were reminded of the executive session to review the Findings and Conclusions of the Thomas N. Bristow hearing at 4:00 p.m., Thursday, May 6, 1976, in the office of former Board member Marion Woods located at 744 P Street, Room 1743.

d. Mr. Danielson reported that in November 1975, the Board restricted certification from the Police Lieutenant promotional list #1412 as a result of a challenge by the Sacramento Police Officers Association. He indicated that there is currently a vacancy to be filled and another vacancy anticipated to occur at the end of May. Mr. Danielson indicated that, at the next meeting, this matter would be calendared for discussion and that the Board would be requested to remove the restriction imposed by the Board.

REQUEST FOR LEAVE OF ABSENCE

Andrew L. Crayton, Refuse Collector

Mr. Crayton's request for a one-year leave of absence from May 7, 1976 through May 6, 1977 to care for his aged father in Louisiana was approved by unanimous vote. The request had prior approval of the department head and of the City Manager.

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LOCAL 522 REQUEST FOR AMENDMENT TO RULE 19.5, "DESTRUCTION OF RECORDS", TO INCLUDE LANGUAGE TO PURGE FROM EMPLOYEE FILES RECORDS OF DISCIPLINARY ACTION AFTER A GIVEN PERIOD OF TIME (2/3, 2/18, 3/2, 3/16, 4/6, 4/20/76)

Mr. Street, citing the current Rule 19.5 that certain matters could be purged with the approval of the City Council and with written approval of the City Attorney, moved that all records in firefighters' Personnel Department files relating to the firefighters' strike in 1970 be removed in accordance with said Rule 19.5. Mr. Street indicated that he had discussed this matter with Fire Chief Powell and with the City Attorney, who in turn discussed the issue with the City Manager; that the Fire Chief and the City Attorney both concurred with the removal from the firefighters' personnel files records of the 1970 strike.

Mrs. Kuchman seconded the motion, which carried by unanimous vote.

Discussion was held concerning the possibility of the language on purging be included within the meet-and-confer process. Mr. Danielson related that under the Meyers-Milias-Brown Act, wages, hours and other terms and conditions of employment are considered to be subjects for bargaining; that language of purging would not be considered to be within the bargaining area.

Mr. Danielson informed the Board that there was no objection to the action taken to the deletion of 1970 strike records from firefighters' personnel files; however, he supported the retention of disciplinary action records.

City Engineer Ronald Parker, Fire Chief William Powell, and Captain Michael O'Kane on behalf of the Police Department were in attendance. Solon Wisham, Director of Recreation and Parks, was not able to be present; however, he had telephoned his message that he was in support of the retention of disciplinary action records.

Mr. Street moved to deny the request of Local 522 to purge from employees' files records of disciplinary action after a given period of time. Mrs. Kuchman seconded the motion, which failed by tie vote, as follows:

Ayes: Street, Yee.
Noes: Kuchman, Wright.
Absent: Hausey.

Mr. Wright moved that the matter be continued to the next meeting with the stipulation that this be discussed when all Board members are present. The motion was seconded by Mr. Street and carried by unanimous vote.

ELIGIBLE REGISTERS ESTABLISHED

<u>Exam.</u>	<u>Class Title</u>	<u>Effective</u>	<u>Expiration</u>
#1317-D	Stationary Engineer	4/20/76	4/19/77
#1448	Equipment Specification Writer	4/13/76	4/12/77
#1449	Custodial Foreman I (Promotional)	4/14/76	4/13/77

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PROPOSED CIVIL SERVICE RULE CHANGES TO ESTABLISH LAYOFF AND REINSTATEMENT POLICY - second reading

Mr. Street moved to table this item until the next meeting due to the pending Local 39 vs. City of Sacramento litigation. The motion was seconded by Mr. Wright and carried by unanimous vote.

Mr. Yee acknowledged receipt of a letter dated May 4, 1976 from the Human Rights Commission of the City and County of Sacramento. The letter indicated support of the proposed affirmative action layoff and reinstatement rule changes.

CHANGE IN PREVAILING CONSTRUCTION HOURLY RATE.

<u>Classification</u>	<u>Current Hourly Rate</u>	<u>New Hr. Rate Effective 5/4/76</u>
Stagehand I	\$ 6.60	\$ 7.35
Stagehand II	6.85	7.70

In accordance with the International Alliance of Theatrical Stage Employees, Local 50; contract rates, Mr. Wright moved to approve the above-listed new hourly rates. Mr. Street seconded the motion, which carried by the following vote:

Ayes: Street, Wright, Yee.
Abstained: Kuchman.
Absent: Hausey.

REQUEST FOR HEARING TO APPEAL DISCIPLINARY ACTION (continued from 4/20/76)
Renny J. Nelson, Parking Meter Checker

Mrs. Renny Nelson, by letter received by the Personnel Department on May 3, 1976, withdrew her appeal before the Board and, therefore, this item was taken off calendar.

REQUEST FOR REINSTATEMENT FOLLOWING RESIGNATION
Kathy Wyatt, former Intermediate Typist-Clerk, Crocker Art Gallery

Ms. Wyatt, by letter dated April 5, 1976, requested to be reinstated to her former classification of Intermediate Typist-Clerk after having resigned on August 21, 1975. Her employment had commenced with the City on January 19, 1974 as a Junior Typist-Clerk.

It was the recommendation of staff that the Junior Typist-Clerk Examination Announcement #1434 be amended so that, hereafter, applications may be accepted on a continuous basis; that Ms. Wyatt be invited to take the test; and, if she qualifies, that her name be placed on the Junior Typist-Clerk eligible list.

Mr. Street moved to amend the Junior Typist-Clerk Examination Announcement #1434 to indicate "continuous testing". Mrs. Kuchman seconded the motion.

Mr. Wright moved to amend the motion to request Mr. William Woska to prepare a list of classifications for which continuous testing would be feasible. Mr. Wright's motion to amend Mr. Street's motion failed due to lack of a second.

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Mr. Street's motion carried by the following vote:

Ayes: Kuchman, Street, Yee.
 Noes: Wright.
 Absent: Hausey.

Ms. Wyatt was requested to contact the Personnel Management Division staff to make arrangement to submit her application to take the Junior Typist-Clerk examination.

The Board requested Mr. Danielson to prepare, for discussion at the next regular meeting, a list of classifications for which continuous testing would be feasible.

AMENDMENT TO CIVIL SERVICE BOARD RULES AND REGULATION

Repeal of Rule 20, "Attendance and Attendance Records" - second reading

The Civil Service Board considered, at first reading, the repeal of 20.1, "Hours of Work", at its meeting of April 20; however, the Board requested that the entire Rule 20 be reviewed and renumbered. Mr. Danielson reported that, upon doing so, it was found that the entire Rule 20 was unnecessary, and he therefore recommended deletion in toto.

Motion was made by Mr. Street, seconded by Mrs. Kuchman, and carried by unanimous vote to repeal the entire Rule 20.

CIVIL SERVICE RULE CHANGES REQUIRED BY ENACTMENT OF CHARTER AMENDMENT ON EMPLOYEE DEVELOPMENT PROGRAMS (MEASURE E) APPROVED BY ELECTORATE IN NOVEMBER 1975 - second reading

Mr. Phillip Cunningham, Business Representative of Stationary Engineers Local 39, requested that the Board consider (1) inclusion of a provision for appeal rights for those employees who may have been overlooked for transition or who may feel that he/she qualifies for transition but was not; (2) waiver of probationary period for employees transitioned into the career service; and (3) use of seniority and/or random selection in the filling of vacancies by transition rather than by certifying the entire list of all persons qualifying for the vacancy, together with the names of the top three on the eligible list.

Discussion was held concerning Mr. Cunningham's requests and Mr. Danielson's responses. Mr. Wright then moved to adopt the proposed rule changes to implement Measure E, with the stipulation that the Board be informed of the number of persons qualifying for transition and the number of names to be certified from the eligible list each time a transition is contemplated; that this information be provided the Board in sufficient time to adopt an amendment to the rule if the Board chooses to do so. This motion failed due to lack of a second.

Mr. Street moved that the proposed rules on implementation of the Employee Development Programs (Measure E) be adopted as presented, with a written report every thirty days as to where the transitioned employee had been employed and the method used in the selection. After discussion, Mr. Street withdrew his motion.

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Mrs. Kuchman indicated that she would prefer to table the matter until the Board could agree on the method for the transition process.

Mr. Street moved to adopt the Civil Service Rule changes as presented. Mr. Wright seconded the motion, which carried by the following vote:


Ayes: Street, Wright, Yee.
Abstained: Kuchman.
Absent: Hausey.

REQUEST FOR DEFINITION AND INTERPRETATION OF CITY CHARTER SECTION 183, "VACATIONS", AND CIVIL SERVICE BOARD RULE 22, "VACATION ADMINISTRATION". (7/1, 8/5, 9/16, 10/29, 12/2/75; 2/3, Joint Council Committee on Budget and Finance and CSB Meeting of 4/1; and 4/20/76)

At the request of Attorney David Simmons, this matter was deferred to the next meeting.

The meeting was adjourned at 5:15 p.m.


William F. Danielson
Secretary


Jimmie R. Yee
President

Attachment:
Transition rule

Added
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Transition. The movement of an employee from temporary status, or from a limited-term or seasonal position, to probationary status in a regular position in the classified service pursuant to Charter Section 48 and Rule 11.13.

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11.1 Types of Appointment. All vacancies in the classified service shall be filled by transfer, transition, reinstatement, reemployment, demotion, or from eligibles certified by the Director of Personnel from an appropriate eligible list if available. In the absence of persons eligible for appointment in these ways, temporary or provisional appointments may be permitted in accordance with these rules.

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11.2 Request for Certification. Whenever a vacancy is to be filled other than by transfer, transition or demotion, the appointing power shall make a written request, on the proper form, for certification of the names of the persons eligible for reemployment or reinstatement or appointment to the class of position for which the vacancy exists. No certification of any kind shall be made to fill any vacant position without the approval of the City Manager.

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11.7 Appointments in Absence of Eligible Lists:

(a) When no reemployment, reinstatement or eligible lists exist for a position under the class for which requisition has been made by the appointing power, and when no reemployment, reinstatement or eligible lists exist for other classes of similar nature and duties, appointments may be made directly by the appointing authority on a temporary or provisional basis, such appointments to remain in force only until such time as reemployment, reinstatement or eligible list is provided for such classification and a regular appointment can be made to fill the position. Time spent under temporary appointment shall not be credited to the probationary period.

(b) Except as provided by Rule 11.13, no credit shall be allowed in the giving of any examination or the establishment of any employment or promotional list for services rendered under temporary appointment.

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11.13 Transition of Employees.

(a) Any employee who shall have completed six months of continuous full-time service in temporary status, or in a limited-term or seasonal position, shall be eligible for appointment to a regular position in the classified service with probationary status without examination upon recommendation by the Director of Personnel.

(b) Such appointment may be made to (1) the same class in which the six-month period was served, (2) to the equivalent class in the classified service to the S.M.P. (special manpower program) class under City Code Section 2.91-1 in which the six-month period was served, (3) to a lower class, or (4) to a class specifically designated by the Civil Service Board as eligible for transition from a trainee position.

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12.1 Appointments Subject to Probationary Period. Except as otherwise provided by this section, all appointments from open or promotional eligible lists and all appointments made pursuant to Rule 11.13 to positions in the classified service shall be for a probationary period of six (6) months, during which the department head shall observe and appraise the conduct, performance, attitude, adaptability and job knowledge of each employee and determine whether the employee is fully qualified for permanent status.

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Appointments to the classification of Police Officer and Firefighter shall be for a probationary period of twelve (12) months.

No employee who has attained permanent status in a class and who has been appointed from a reinstatement list or reemployment list to the same or comparable class in which he held permanent status shall be required to serve a probationary period; such employee shall have permanent status in the class to which he is appointed. Any employee who previously held probationary status in a class and is appointed from a reinstatement list or reemployment list shall be required to serve the balance of the probationary period in the class to which he is appointed.

*See
Employment Development
Program file*