

MINUTES OF CIVIL SERVICE BOARD
CITY OF SACRAMENTO
SPECIAL MEETING FEBRUARY 8, 1972

The special Civil Service Board meeting was called to order by President Joseph Yew at 1:30 p.m. in the City Hall Council Chamber.

Present: Members Alexander, Reynoso, Street, Yew.
Absent: Member Woods.

HEARING DATE TO APPEAL DISCIPLINARY ACTION

Robert L. Freeman, Patrolman

As requested at the meeting of February 1, 1972, a meeting was held between Rodney Klein, Attorney for Robert Freeman, and Labor Relations Counsel John Liebert to further discuss this disciplinary action. It was their request that a hearing date be set at least two weeks from this date. Thereupon, it was moved, seconded, and unanimously carried to set the hearing for 1:30 p.m., Tuesday, February 29, in the Council Chamber.

REQUEST FOR HEARING TO APPEAL DISCIPLINARY ACTION

Stanley Catlett, Fire Captain
Raul Lara, Firefighter
Richard L. Mayberry, Firefighter
Frederick Shoenman, Fire Captain
Robert Yoas, Fire Engineer

Inasmuch as the requests for hearing were submitted on behalf of the above-listed men by Attorney Melvyn J. CoBen, it was requested by Labor Relations Counsel John Liebert that each employee involved submit his written request to appeal in accordance with Civil Service Rules.

It was moved by Mr. Street, seconded by Mr. Alexander, and carried by unanimous vote to consider the hearing date for the above-named persons at the Board meeting scheduled for February 15, at which time the Board requested the names of the exact persons who wished to appeal, be made available to them.

HEARING TO APPEAL DISCIPLINARY ACTION

Robert C. Bryant, Firefighter

By letter dated December 9, 1971, from Fire Chief Wilson, Mr. Bryant was suspended, without pay, from his position as Firefighter for ten scheduled shifts commencing December 11, 1971. This action was taken based upon Bryant Brothers, composed of Elvin J. Bryant and appellant Robert C. Bryant, submitting to the City Council a bid for the sale of 29 motorcycles to the Police Department. The bid was unknowingly accepted by the City Council.

It was the contention of the City that this action was in violation of Sections 105 and 177 of the City Charter, of Civil Service Rule 18.1, and of the Fire Department Headquarter's Bulletin No. 7, all of which were quoted in the disciplinary letter.

Mr. Bryant's request to appeal suspension was received by the Personnel Department on December 13, 1971. It was noted that Mr. Bryant had withdrawn his bid to furnish the 29 motorcycles to the Police Department. Subsequently, Dissolution of Partnership was executed by Mr. Bryant on January 17, 1972.

Labor Relations Counsel John Liebert reported to the members of the Board that in a hearing of this kind, two attorneys would be furnished, i. e., an attorney for the Board and an attorney for the City of Sacramento. He went on to state that the issues of this case had not been discussed by him with Thomas Haas, Deputy City Attorney, who was designated by the City Attorney's office to advise the Board on legal matters.

Mr. Haas advised the Board, through his letter of February 4 and by his appearance before the Board, that the Civil Service Board had no jurisdiction to determine the constitutionality of the Charter Sections which would be one of the issues to be brought forth by the appellant's attorney.

Melvyn J. CoBen, Attorney for Mr. Bryant, appeared before the Board. A pre-hearing brief dated February 8, 1972, was distributed to the Board members by Mr. CoBen just prior to the hearing. Mr. CoBen's contention was that Mr. Bryant did not intentionally violate Charter Section 177; that the punishment was excessive for the charge; that the Board should determine the constitutionality of Sections 105 and 177; and that the City's application of Section 177 is discriminatory. Mr. CoBen also requested that the Board review the procedure taken in this case whereby Mr. Bryant was suspended prior to a hearing to determine whether or not such action should be taken. Mr. CoBen urged the Board to reject the disciplinary action and requested reimbursement to Mr. Bryant for all wages and other benefits lost.

Robert C. Bryant was then called before the Board and duly sworn in. He was questioned by Mr. CoBen, by Mr. Liebert, and by the Board. Mr. Bryant stated that he was vaguely aware of the Charter sections referred to and of the department bulletin; however, his contention was that he knows of others who own businesses of their own and that he was actually working for himself and not on the side and, therefore, was not in violation of these rules. At the same time, he did not seek advice as to the legality of being a copartner of a business while being a Firefighter. Mr. Bryant stated further that he owns the property on which the firm of Bryant Brothers is located as well as the four-unit apartment on the property. He stated that the Bryant Brothers partnership was formed in 1965 and that he has been a partner of the firm for six of the nine years he has been a Firefighter.

Fire Chief Wilson was then questioned by both counsels and by the Board. He stated that he assumed that violations were in existence, and in one instance he became aware of a Firefighter being employed at a supermarket. This employee was warned twice, and on the second occasion the Firefighter was requested to obtain a written statement indicating his outside employment, which he did. However, no action was taken by the Fire Chief. Thereupon, in order to put the employees on notice and to enforce Charter Section 105, Chief Wilson issued a Department Bulletin dated April 7, 1971, ordering his men to obey this law. A copy of this bulletin was presented to the Board. He also presented to the Board a copy of the message from Kirk Stubbs, the then President of Local 522, which made reference to his "moonlighting." Since

the issuance of the bulletin, the first actual violation of the Charter Section and of the departmental order was in the case of Mr. Bryant.

President Yew asked if there were any further questions, and there being none, it was moved by Mr. Street, seconded by Mr. Reynoso, and unanimously carried to adjourn into closed session at 3:30 p.m.

The meeting was reconvened at 4:15 p.m. The Civil Service Board's decision was to uphold the decision of the Fire Chief to take disciplinary action by suspension of Mr. Bryant from his duties as Firefighter; however, the period of suspension was reduced from ten working shifts to five working shifts. The motion was made by Mr. Reynoso and seconded by Mr. Alexander. The vote was as follows:

Ayes: Members Alexander, Reynoso, Yew.

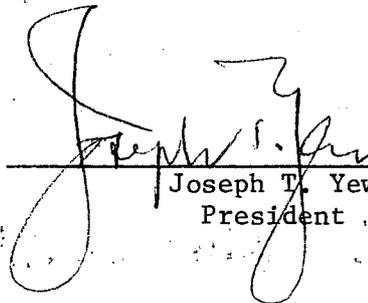
Noes: Member Street. (Mr. Street was in favor of the full suspension.)

Absent: Member Woods.

The meeting was adjourned at 4:25 p.m.



Earl R. Simons
Acting Secretary



Joseph T. Yew
President