



# CITY OF LOS ANGELES BOARD OF CIVIL SERVICE COMMISSIONERS

## MINUTES

COMMISSIONERS

JONATHAN M. WEISS  
President

JEANNE A. FUGATE  
Vice President

GABRIEL J. ESPARZA  
NANCY P. MCCLELLAND  
RAUL PEREZ  
Commissioners

REGULAR MEETING  
THURSDAY, APRIL 27, 2017  
CLOSED SESSION – 9:30 A.M.  
OPEN SESSION – 10:15 A.M. (SPECIAL TIME)  
ROOM 350, PERSONNEL BUILDING  
700 EAST TEMPLE STREET  
LOS ANGELES, CALIFORNIA 90012

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Present:

President Jonathan M. Weiss  
Vice President Jeanne A. Fugate  
Commissioner Gabriel J. Esparza  
Commissioner Nancy P. McClelland  
Commissioner Raul Perez

Assistant General Manager William P. Weeks  
Deputy City Attorney Jennifer Handzlik  
Commission Executive Director  
Bruce E. Whidden

1. **CLOSED SESSION**

The Commission to meet in Closed Session pursuant to Government Code Section 54956.9(b)(1) to confer with legal counsel regarding the Board's practice under ruling by the California Court of Appeals, Second Appellate District, in *Zuniga v. Los Angeles County Civil Service Commission, et al.*, 137 Cal.App.4<sup>th</sup> 1255, 1259 (2006) to close administrative appeals when an appellant retires from City Service related to Item 8 on the public agenda. No votes will be taken in this session.

Closed session of the Commission was called to order at 9:40 a.m.

Closed session was adjourned at 10:35 a.m.

2. **OPEN SESSION**

Meeting was called to order by Commission President Jonathan Weiss at 10:38 a.m.

3. **PRESENTATION – “Employee of the Quarter”**

Assistant General Manager William Weeks, along with Chief of the Selection Division Tina Lee Rodriguez presented the Personnel Department “Employee of the Quarter” Award for the First Quarter of 2017 to Jessica Didway, Personnel Research Analyst II in the Selection Division.

4. ~~**APPROVAL OF MINUTES** Item removed from agenda at meeting.~~

~~Minutes of the regular meeting of Thursday, April 13, 2017, submitted for approval.~~

5. **COMMISSION ACTION ON ROUTINE AND OTHER MATTERS**

The Board unanimously approved routine and nonappearance matters under Unfinished Business, page 3, item 9, and New Business, pages 4 through 9, items 10 and 11, on a motion by Commissioner Esparza, seconded by Commissioner Fugate.

6. **GENERAL MANAGER’S REPORT**

Assistant General Manager William P. Weeks reported that the General Manager and all the other Assistant General Managers were appearing before the Council Budget and Finance Committee to discuss the Personnel Department budget for fiscal year 2017/2018.

7. **PUBLIC COMMENTS ON MATTERS WITHIN BOARD’S JURISDICTION**

There were no requests for public comment.

8. **ADMINISTRATIVE CLOSURE - APPEAL UNDER CHARTER SECTION 1016 TO BE MADE A MATTER OF RECORD**

**Gil PETERSON**, Librarian II, Library Department, Discharge effective July 9, 2016.

**DISCUSSION**

On July 9, 2016, Gil Peterson was personally served with a General Form 77 by representatives of the Library Department detailing the Department action of imposing the penalty of discharge for “Violation of Department rules;” “Requiring excessive supervision or instruction in performance of duties after completion of training for the position;” “Failure to perform work assignments adequately or promptly;” and “Making inappropriate statements to the public, supervisors or co-workers.”

An Appeal was filed on July 12, 2016 in the office of the Civil Service Commission. Following the regular course of events, a hearing examiner was selected and a hearing date set. On December 7, 2016 a representative from the Los Angeles City Employees Retirement System (LACERS) confirmed that the Appellant had filed for and been granted Deferred Vested Member status effective October 15, 2016.

The California Court of Appeals, Second Appellate District, in *Zuniga v. Los Angeles County Civil Service Commission, et al.*, 137 Cal.App.4<sup>th</sup> 1255, 1259 (2006) stated as follows:

“A civil service commission created by charter has only the special and limited jurisdiction expressly authorized by the charter . . .”

(*Zuniga, supra, citing Hunter v. Los Angeles County Civil Service Com.* (2002) 102 Cal.App.4<sup>th</sup> 191, 194 [124 Cal.Rptr.2d 924].)

As the Appellant is no longer a City employee but a retiree, the Civil Service Commission no longer has jurisdiction to act on his Appeal from Discharge.

**RECOMMENDATION:**

Adopt staff recommendation that the Board no longer holds jurisdiction over the Appeal from Discharge of Gil PETERSON and that the Appeal be Administratively Closed and made a Matter of Record.

File No. 54446

COMMISSION ACTION: Continued from January 9, 2017 and February 9, 2017.

***Discussion of April 27, 2017:***

The Commission President noted that the matter had previously been before the Commission and had been extensively briefed by the parties.

The City Attorney representing the Library Department stated that it was their position that the Commission had acted correctly in moving to closed the appeal of Gil Peterson. Case law from the Second District, controlling in Los Angeles, clearly states in the case of *Zuniga v. Los Angeles County Civil Service Commission* that the Board’s jurisdiction ended when a moving party in an appeal took the voluntary step of removing themselves from employment by accepting retirement, therefore no longer being a Civil Service employee.

The Parties continued to discuss the provisions of *Zuniga* as it applies to the City of Los Angeles and the decision of other Appellate Districts across the state.

8. **ADMINISTRATIVE CLOSURE - APPEAL UNDER CHARTER SECTION 1016 TO BE MADE A MATTER OF RECORD, (Continued)**

**Gil PETERSON**, Librarian II, Library Department, (Continue).

The Representative of the Coalition of City Unions stated that it was patently unfair to unilaterally end the appeal process of an employee when they enter into retirement after they have properly filed an appeal. Retirement does not strip an employee of rights and the Charter guarantees certain rights to Civil Service Employees. It terms them as persons and persons they remain even after they retire.

Members of the Board acknowledged that, going forward, it might be possible to craft a fairer process, but that in no way was it to be assumed that the actions of this and previous Boards to close appeals under the provisions of the *Zuniga* decision was incorrect.

Deputy City Attorney Jorge Otano reminded the Board that the City retirement systems all have an irrevocability clause in their retirement contracts that would limit any remedy of this Board for a discharged employee who successfully argues the reversal of their discharge. They cannot recover their job.

***Commission Action:***

Commissioner McClelland moved, with a second by Commissioner Perez, to continue the matter to a future agenda to allow the staff time to evaluate and draft possible amendments to the Civil Service Rules to address the issue of Appeals pending when an Appellant voluntarily retires from City service.

**Appearances:**

Paula Dayes, Deputy City Attorney  
Phyllis Henderson, Deputy City Attorney  
Jorge Otano, Deputy City Attorney  
Ellen Greenstone, Coalition of City Unions  
Gil Peterson, Appellant

9. **RESIGNATIONS, SETTLEMENTS AND WITHDRAWALS UNDER CHARTER SECTION 1016 TO BE MADE A MATTER OF RECORD**

**a. Elbert E. PHILLIPS**, Traffic Painter and Sign Poster, Department of Transportation. Suspension effective January 25, 2016 through March 11, 2016, inclusive (20-Working Days) to be served as agreed.

Settlement agreement whereby the Department agreed to reduce the length of the suspension imposed from twenty (20) working days to ten working days; The Appellant agreed to withdraw his appeal pending before the Civil Service Commission; The parties agreed to other terms and conditions. The signed documents were received by the Commission on April 5, 2017.

File No.54295

**b. Willie S. TAM**, Senior Civil Engineering Drafting Technician, Department of Water & Power. Suspension effective October 17, 2016 to November 25, 2016, inclusive (20-working days).

Settlement agreement whereby the Appellant agreed to recognize and acknowledge that he is to be held accountable for any and all actions that fail to conform to City and DWP policies; the Appellant agreed that any further violations will be grounds for further disciplinary action up to and including discharge; the Appellant acknowledged his DWP personnel file will contain documentation that will reflect the current charges and suspension; the Department agreed to reduce the imposed suspension from 30-working days to 25-working days; the Appellant agreed to withdraw his appeal from suspension currently pending before the Civil Service Commission; the parties agreed to other terms and conditions. The signed documentation of the settlement and the Appellant's withdrawal of appeal were received in the Commission Office on April 10, 2017.

File No.53534

**c. Sandra M. MIRANDA**, Custodian Supervisor, Department of Water & Power. Suspension effective January 23, 2017 to April 13, 2017, inclusive (20-working days) to be served as agreed.

On April 18, 2017 the Appellant filed a signed Withdrawal of Appeal form in the Commission Office.

File No.54607

COMMISSION ACTION: MADE A MATTER OF RECORD

10. ADMINISTRATIVE ACTIONS

- a. Make a matter of record the General Manager's action in approving the use of the following Special Examining Assistants:
- 1) AIR CONDITIONING MECHANIC  
Kevin DAVIS, Air Conditioning Mechanic Supervisor, Department of General Services, and Rodney JESSAMY, Air Conditioning Mechanic Supervisor, Department of Airports.
  - 2) CLAIMS AGENT  
Eskel SOLOMON, Assistant City Attorney, Office of the City Attorney.
  - 3) CUSTODIAN SUPERVISOR  
Eric RUSSELL, Chief Custodian Supervisor I, Department of Public Works, Bureau of Sanitation, Angelo HOWARD, Chief Custodian Supervisor II, General Services Department and Carlos GOMEZ, Construction and Maintenance Superintendent, Department of Water & Power.
  - 4) DATA PROCESSING TECHNICIAN  
Dennis BALUYOT and Jennifer HARVEY, Senior Data Processing Technicians, Department of Water & Power.
  - 5) EQUIPMENT OPERATOR  
Matthew WOOD, Tree Surgeon Supervisor I, Department of Public Works, Bureau of Street Services and Edward RODGERS, Water Utility Supervisor, Department of Water & Power.
  - 6) FLEET SERVICES  
Richard FUJIMURA, Fleet Services Manager and Thomas ANDERBERY, General Services Manager, Department of Water & Power.
  - 7) GENERAL SERVICES MANAGER  
Thomas ANDERBERY, General Services Manager and Robert P. GONZALEZ, Electrical Services Manager, Department of Water & Power.
  - 8) GEOGRAPHIC INFORMATION SYSTEMS SUPERVISOR  
Fae TSUKAMOTO, Geographic Information Systems Supervisor II, City Planning Department and Charles Gregory VAN DER GRIFF, Senior Civil Engineer, Department of Public Works, Bureau of Engineering.
  - 9) PROCUREMENT SUPERVISOR  
Connie ESPINOZA, Supply Services Manager I, General Services Department and Tricia CAREY, Chief Management Analyst, Harbor Department.
  - 10) RECREATION FACILITY DIRECTOR  
Jennifer ROCKWELL and Louise MERRITT, Senior Recreation Director I's, Department of Recreation of Parks.
  - 11) REFUSE COLLECTION SUPERVISOR  
James E. MOORE, Solid Resources Superintendent and Daniel McKAY, Solid Resources Manager I, Department of Public Works, Bureau of Sanitation.
  - 12) SAFETY ENGINEER  
Kathy MERKOVSKY, Risk Manager III, Harbor Department, Bradley WALKER, Safety Administrator, Department of Water & Power and Kim TRAN, Solid Resources Manager I, Department of Public Works, Bureau of Sanitation.

10. **ADMINISTRATIVE ACTIONS, (Continued)**

- a. Make a matter of record the General Manager's action in approving the use of the following Special Examining Assistants, (Continued):

13) **SECURITY OFFICER**

Anthony MEUWISSEN, Principal Security Officer and Arnold ESQUEDA, Director of Security Services, Department of Water & Power, Andrea MERCIER and Sean HECTOR, Principal Security Officers, Los Angeles Police Department, Lee Ann DEBERRY and Rae Ann ROWLEY, Principal Security Officers, Department of Airports and Anthony WILLIAMS, Senior Security Officer, Harbor Department.

14) **SENIOR CITY PLANNER**

Shana BONSTIN, Principal City Planner, City Planning Department.

15) **SENIOR COMMERCIAL FIELD REPRESENTATIVE**

Michelle MOORE and Tim SPINN, Utility Services Managers, Department of Water & Power.

16) **SENIOR ELECTRICAL ENGINEERING DRAFTING TECHNICIAN**

Russell WOLL, Electrical Engineering Associate III and Horacio MORAN, Principal Electrical Engineering Drafting Technician, Department of Water & Power.

17) **SENIOR PARKING ATTENDANT**

Henry MATUTE, Parking Services Supervisor, Jose FLORES, Parking Manager I, General Services Department.

18) **SENIOR TAX AUDITOR**

Kathleen HO, Chief Tax Compliance Officer I and Ki LEE, Principal Tax Auditor, Office of Finance.

19) **STEAM PLANT MAINTENANCE SUPERVISOR**

Kevin BRYDON and Donald TREINEN, Electrical Services Managers, Department of Water & Power.

20) **TREE SURGEON SUPERVISOR**

Juan HOOPER, Street Tree Superintendent, Department of Water & Power and Kelly LEWIS, Street Tree Superintendent, Department of Public Works, Bureau of Street Services.

File No. 54676

- b. The General Manager recommends the Board make a matter of record in approving the use of the following raters for the evaluation of Training and Experience Questionnaires for:

**VIDEO PRODUCTION COORDINATOR**

Mark PINE, Observatory Director I, Department of Recreation and Parks.

File No. 54677

- c. Approve the use of interview boards consisting of representatives from inside and outside City service in the interdepartmental promotional examination for **CLAIMS AGENT**.

File No. 54678

- d. Approve the use of interview boards consisting of representatives from both inside City service and outside City service in the interdepartmental promotional and open competitive examination for **ELEVATOR MECHANIC**.

File No. 54679

10. **ADMINISTRATIVE ACTIONS, (Continued)**

- e. Approve the use of interview boards consisting of representatives from inside the City service in the interdepartmental promotional examination for **MANAGEMENT ANALYST**.

File No. 54680

- f. Approve the use of interview boards consisting of representatives from inside the City service in the open and interdepartmental promotional examination for **SENIOR HOUSING INVESTIGATOR**.

File No. 54681

- g. Approve the use of interview boards consisting of representatives from inside the City in the interdepartmental promotional examination for **SENIOR COMMUNICATIONS ELECTRICIAN**.

File No. 54682

- h. Approve the change of the test of fitness method in the interdepartmental promotional examination for **SENIOR COMMERCIAL FIELD REPRESENTATIVE**. The examination will be comprised of a qualifying written multiple-choice test and an interview weighted at (100%).

File No. 54683

- i. Make the following APPEALS a matter of record:

**Suspension**

**Shontel ABRAMS**, Refuse Collection Truck Operator II, Department of Public Works, Bureau of Sanitation. Form 77 filed with Records on April 11, 2017.

Cause of Action: Causing or contributing to an accident by operating City equipment in an unsafe manner.

Discipline: Suspension effective April 10, 2017 to April 21, 2017, inclusive (10-working Days).

In accordance with Charter Section 1016, the Appellant filed an appeal with the Office of the Commission on April 7, 2017.

File No. 54684

**Irene BROWN**, Administrative Clerk, Library Department. Form 77 filed with Records on March 30, 2017.

Cause of Action: 1) Frequent and unexcused tardiness;  
2) Unexcused, excessive or patterned absenteeism.

Discipline: Suspension effective April 17, 2017 to May 5, 2017, inclusive (15-working Days).

In accordance with Charter Section 1016, the Appellant filed an appeal with the Office of the Commission on March 31, 2017.

File No. 54685



10. **ADMINISTRATIVE ACTIONS, (Continued)**

i. Make the following APPEALS a matter of record, (Continued):

**Federico CERPA**, Mechanical Helper, Department of Airports. Form 77 filed with Records on April 5, 2017.

Cause of Action: Violation of Department Administrative Manual, Section 5.050 (B)(1) and (G)(4) a violation of department rules as well as providing false information in connection with completing the application process to obtain a Steam Engineer Unlimited HP License.

Discipline: Suspension effective April 4, 2017 to April 14, 2017, inclusive (seven-working Days), served as agreed.

In accordance with Charter Section 1016, the Appellant filed an appeal with the Office of the Commission on April 4, 2017.

File No. 54686

Discharge

**Alisha EMERSON**, Police Service Representative II, Los Angeles Police Department. Form 77 filed with Records on April 6, 2017.

Cause of Action: 1) On or about February 28, 2016, the employee, while on duty, sent non-business related VESTA messages to co-workers;  
2) On or about February 28, 2016, the employee, while on duty, unnecessarily caused herself to be away from her primary duty assignment;  
3) On or about February 28, 2016, the employee, while on duty, unnecessarily caused fear in other employees in the workplace.

Discipline: Discharge effective March 31, 2017.

In accordance with Charter Section 1016, the Appellant filed an appeal with the Office of the Commission on April 3, 2017.

File No. 54687

**George ASHIKIAN**, Gardener Caretaker, Department of Recreation and Parks. Form 77 filed with Records on April 3, 2017.

Cause of Action: 1) Demonstrating insensitivity to others by making derogatory comments, epithets, jokes, teasing, remarks or slurs or making suggestive gestures or displaying images or written material that derogatorily depicts or demean people;  
2) Violation of safety rules or practices that endanger the employee or others and/or damages City property or equipment.

Discipline: Discharge effective March 31, 2017.

In accordance with Charter Section 1016, the Appellant filed an appeal with the Office of the Commission on April 4, 2017.

File No. 54688

10. **ADMINISTRATIVE ACTIONS, (Continued)**

j. Make the following NOTICE a matter of record.

Suspension

**CUSTODIAN**, Department of General Services. Form 77 filed with Records on April 11, 2017.

Cause of Action: Unexcused and excessive absenteeism (second offense).

Discipline: Suspension effective April 12, 2017 to April 20, 2017, inclusive (7-working days).

**PARK MAINTENANCE SUPERVISOR**, Department of Recreation and Parks. Form 77 filed with Records on March 31, 2017.

Cause of Action: 1) Making inappropriate statements to the public, supervisors or co-workers;  
 2) Failure to carry out supervisory responsibilities adequately or appropriately;  
 3) Reporting for duty under the influence of drugs;  
 4) Operating City vehicle while under the influence of drugs.

Discipline: Suspension effective April 3, 2017 to May 5, 2017 (20-working days) to be served as agreed.

COMMISSION ACTION: MADE A MATTER OF RECORD

11. **CLASSIFICATION ACTIONS**

a. The General Manager recommends that the Board approve the following Classification actions.

1. Allocate the following new position in the Los Angeles Fire and Police Pensions Department, as indicated:

<u>CSC No.</u>	<u>No. of Positions</u>	<u>Class Title and Code</u>
2680	1	Management Analyst, 9184

2. Allocate the following new positions in the Los Angeles World Airports, as indicated:

<u>CSC No.</u>	<u>No. of Positions</u>	<u>Class Title and Code</u>
2684	1	Airport Maintenance Supervisor, 3336
2685	1	Airport Maintenance Supervisor, 3336
2686	1	Equipment Operator, 3525
2687	1	Motor Sweeper Operator, 3585

CONTINUED...

11. **CLASSIFICATION ACTIONS, (Continued)**

a. The General Manager recommends that the Board approve the following Classification actions, (Continued).

3. Allocate the following new positions in the Department of Public Works, Bureau of Engineering, as indicated:

<u>CSC No.</u>	<u>No. of Positions</u>	<u>Class Title and Code</u>
2688	1	Civil Engineer, 7237
2689	1	Civil Engineer, 7237
2690	1	Civil Engineering Associate, 7246
2691	1	Civil Engineering Associate, 7246
2692	1	Civil Engineering Associate, 7246
2693	1	Civil Engineering Associate, 7246
2694	1	Civil Engineering Associate, 7246
2695	1	Civil Engineering Associate, 7246
2696	1	Building Electrical Engineer, 7543

File No. 54689

b. The General Manager recommends that the Board of Civil Service Commissioners exempt the following positions in the Economic and Workforce Development Department (EWDD) in accordance with Charter Section 1001(d)(4), based on the position being grant-funded for a term not to exceed two years.

<u>CSC No.</u>	<u>No. of Positions</u>	<u>Class Title and Code</u>
2681	1	Assistant Chief Grants Administrator, 1577
2682	1	Project Coordinator, 1537
2683	1	Senior Project Coordinator, 1538

File No. 54690

c. The General Manager recommends that the Board of Civil Service Commissioners give a 10-day notice of intention to:

- 1) Adopt the new class of Utility Microbiologist, Code 7858; and
- 2) Approve the new class specification for Utility Microbiologist, Code 7858.
- 3) Designate all entry level positions as temporary training positions in accordance with Section 5.30 of the Rules of the Board of Civil Service Commissioners for a maximum duration of three years.

File No. 54691

**COMMISSION ACTION: RECOMMENDATIONS APPROVED**

12. **ADJOURNMENT**

The meeting was adjourned by the Commission President at 11:38 a.m.

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JONATHAN M. WEISS,  
President

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BRUCE E. WHIDDEN,  
Commission Executive Director