



**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, MAY 11, 2017 – 10:00 P.M.
ROOM 350, PERSONNEL BUILDING
700 EAST TEMPLE STREET
LOS ANGELES, CALIFORNIA 90012**

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Website Address: <http://www.lacity.org>

Present:

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

General Manager Wendy G. Macy
Deputy City Attorney Jennifer Handzlik
Commission Executive Director
Bruce E. Whidden

1. **CALL TO ORDER**

Meeting was called to order by the Commission President at 10:14 a.m.

2. **APPROVAL OF MINUTES**

The Board unanimously approved the minutes of:

- a) The regular meeting of Thursday, April 13, 2017 on a motion by Commissioner Esparza, seconded by Commissioner Fugate;
- b) The regular meeting of Thursday, April 27, 2017 on a motion by Commissioner Esparza, seconded by Commissioner Fugate.

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

The Board unanimously approved routine and nonappearance matters under Unfinished Business, page 4, item 7 and New Business, pages 4 through 9, items 8 and 9, on a motion by Commissioner McClelland, seconded by Esparza.

4. **GENERAL MANAGER'S REPORT**

The General Manager reported on the Personnel Department's appearance before the Council Budget and Finance Committee. As with most Departments in the City, the Personnel Department will experience a significant reduction in funding for the next fiscal year which will negatively impact the Department's ability to provide timely services to its clients, the other City Departments. Some of the hardest hit sections are the Examining Division, which has been doing an outstanding job eliminating the exam backlog which impacted the City from hiring and promoting employees, will face a significant reduction in funds that will greatly impact the Department's abilities to provide exams. Cut was more than \$600,000 in the Contractual Services Account as well as a loss of \$275,000 from the as-needed salary account that pays proctors and others who make the actual exams happen on test day. The Department's planned pilot program to provide applicants with testing anytime, anywhere exam, perhaps even including testing from home is severely impacted as is the Corner Stone Learning Management System that the Department uses to do succession planning, employee development and training. Finally the Department's Public Safety Recruitment dollars have been cut back.

The Department will continue to lobby the Council Members to restore some of these funds, but the Department is not optimistic of success.

5. **PUBLIC COMMENTS ON MATTERS WITHIN BOARD'S JURISDICTION**

There was no request for public comment.

6. APPEALS UNDER CHARTER SECTION 1016

- a. **Mary BAYLES**, Gardener Caretaker, Department of Recreation and Parks. Discharge effective September 19, 2016.

Report and recommendations of the Board’s Hearing Examiner Linda Klibanow following the conduct of a hearing held on March 8, 2017 into the subject appeal of Ms. Bayles.

The Hearing Examiner recommends that the Board:

- A. FIND that the *Skelly* due process requirements were met.
- 1) SUSTAIN the cause of action of frequent and unexcused tardiness;
 - 2) SUSTAIN the cause of action of failure to follow established procedure for notification of inability to report for work;
 - 3) SUSTAIN the cause of action of falsifying City records such as time reports, mileage reports, expense report or other work related documents.
- B. FIND that the Discharge effective September 19, 2016 was appropriate and is SUSTAINED.

File No. 54520

COMMISSION ACTION:

Discussion:

The Executive Director reported, in answer to the Commission President’s question, that the Appellant appeared in the Commission Office with the letter sent to her containing the Hearing Examiner’s Report and the notice of appearance on May 11 asking that the matter be remanded back to the Hearing Examiner to permit her to present her side of the story. She was advised that she would need to appear before the Board on May 11 to request remand and offer good reason why she missed her scheduled hearing on March 8, 2017. The Board agreed that the matter would be heard in the Appellant’s absence and that she be notified of her options to petition the Board to reconsider its actions.

The Department Representative expressed the Department’s agreement with the Hearing Examiner and asked that the Board adopt the report and its findings and recommendations.

Commissioner Esparza asked the Department why the Appellant was given so many “notices to correct” over many years rather than to offer progressive discipline for her extremely poor attendance. The Department said that it agreed with the Hearing Examiner that the Appellant has been very poorly supervised over the majority of her career with the City and that steps have been taken to improve supervision Department wide. Commissioner Esparza also asked if there was anything from *Skelly* or anywhere in the record that might indicate that the Appellant suffered from a medical condition that resulted in her extensive absenteeism. The Record did not show any such information, according to the Department Representative.

Commissioner McClelland also noted for the record that the Hearing Examiner’s report was extremely well reasoned and organized, offering exactly what the Board wanted in a Board Report. Unanimously the Board asked that the Hearing Examiner be informed.

6. **APPEALS UNDER CHARTER SECTION 1016. (Continued)**
 - a. **Mary BAYLES**, Gardener Caretaker, Department of Recreation and Parks,
(Continued).

Commission Action:

In a series of motions by Commissioner Esparza, seconded by Commissioner Fugate, the Board voted unanimously to:

FIND that the Skelly due process requirements were met.

SUSTAIN the cause of action of frequent and unexcused tardiness;

SUSTAIN the cause of action of failure to follow established procedure for notification of inability to report for work;

SUSTAIN the cause of action of falsifying City records such as time reports, mileage reports, expense report or other work related documents.

FIND that the Discharge effective September 19, 2016 was appropriate and is SUSTAINED.

Appearances:

Harold Fujita, Personnel Director, Department of Recreation and Parks

Javlin Wells, Human Resources Division, Department of Recreation and Parks

The Appellant did not attend the meeting of the Board.

6. **APPEALS UNDER CHARTER SECTION 1016, (Continued)**

- b. **Thomasina TUCKER**, Custodian, Department of General Services. Discharge effective August 26, 2016.

Report and recommendations of the Board’s Hearing Examiner David Beauvais following the conduct of a hearing held on January 4, 2017 into the subject appeal of Ms. Tucker.

The Hearing Examiner recommends that the Board:

- A. FIND that the *Skelly* due process requirements were met.

- 1) NOT SUSTAIN the cause of action of falsely claiming sick or allowed pay, falsifying reasons for absence;

- B. FIND that the Discharge effective August 26, 2016 was NOT appropriate and is NOT SUSTAINED.

File No. 54490

COMMISSION ACTION: Continued from March 9, 2017 and April 13, 2017

Discussion on March 9, 2017 and April 13, 2017

After a full discussion of the issues surrounding the case and hearing oral argument from the parties, the Board, by majority vote, elected to:

- FIND that the *Skelly* due process requirements were met.
- and
- SUSTAIN the modified cause of action to conform to proof presented in the record of “falsely claiming sick or allowed pay.” The Board noted that it did not sustain the allegation of “falsifying reasons for absence.”

The matter was continued without instruction or vote. The matter returned to the Board on April 13 to correct this oversight.

On April 13, 2017, the Board considered the issues raised by the Appellant’s Representative, Department of General Services and the Board’s Counsel as to the Board’s proposed action to refer the matter to a member of the Board acting as a hearing examiner to prepare a supplemental report, based upon the evidentiary record from the prior hearing, for consideration by the Board as authorized by the City Administrative Code sections 19.26 through 19.39. The matter was so moved and the item continued, with a filing schedule sent to the parties with the supplemental report to submit briefs in support or taking exception to the supplemental report.

Discussion on May 11, 2017

After reviewing the process by which the supplemental report was produced under City Administrative Code 19.37.

The Department stated that it has reviewed the supplemental report finding it comprehensive, well-reasoned and clear. In response to the request by the Board, the parties did meet to discuss possible settlement options, however, at the end the parties were not able to agree. The Department asked the Board to adopt the supplemental report findings and recommendations and sustain the discharge.

The Appellant’s Representative reminded the Board that the Appellant is a 14-year employee. She said that it was their position that the Board should reject the supplemental report with all the due process problems it creates and adopt the original Hearing Examiner’s Report.

6. **APPEALS UNDER CHARTER SECTION 1016, (Continued)**
b. **Thomasina TUCKER**, Custodian, Department of General Services, (Continued)

The Appellant's due process rights are being violated by these actions. The Appellant was *Skellyed* on the entire charge and by removing the falsification charge, the section of the charge which on several occasions on the record, the Department stated that it had relied upon to arrive at the penalty of discharge, the rights have been violated.

Members of the Board again explained that the Appellant was *Skellyed* on the entire charge falsely claiming sick or allowed pay and falsifying reasons for absence. By removing the falsifying charge, the Appellant is not harmed but actually benefits from the removal.

The Board focused on the Appellant's failure to provide required documentation as prescribed in the Supervisors Attendance Counseling Report (SCAR) which, while she refused to sign, nonetheless set requirement for the Appellant to follow. She did not see a doctor, as required; she did not submit the inadequate note she received from the County clinic on the first day of her return as required. The fact that the SACR states that if the Appellant did not submit documentation from a medical professional that she saw a doctor or nurse practitioner she would receive an AW on her attendance report, does not preclude the Department from pursuing discipline on the entirety of her infractions. The Board found that the Appellant failed to comply by the terms of the SACR. That and other things in the record lead the Board to conclude that the Appellant did falsely claim sick or allowed pay and in so doing must face the penalty, which under the guidelines is discharge.

Commission Action:

In a series of motions by Commissioner McClelland, seconded by Commissioner Fugate, the Board voted to adopt the findings and conclusions, as amended, in the Supplemental Report. Motion approved on a vote of three "yeas" (Fugate, McClelland, Weiss) to two "nay" votes (Esparza, Perez).

In a final motion, the Board adopted a motion by Commissioner McClelland, seconded by Commissioner Fugate, to SUSTAIN the penalty of Discharge imposed on the Appellant. Motion was approved on a vote of four "yeas" (Fugate, McClelland, Perez, Weiss) to one "nay" vote (Esparza).

Appearances:

Daniel Yoshimura, Director, Liaison Services Bureau, Personnel Department
Tiffany Crain Altamirano, Appellant's Representative
Thomasina Tucker, Appellant

7. UNFINISHED CLASSIFICATION ACTIONS

The General Manager recommends that, following the 10-day notice given on April 27, 2017, the Board of Civil Service Commissioners:

- 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

8. ADMINISTRATIVE ACTIONS

The General Manager recommends that:

- a. Pursuant to Civil Service Rule 4.2, the Board shall make the significant changes in the following bulletins promulgated on the date noted a matter of record:

April 21, 2017

Interdepartmental Promotional and Open Competitive

CONSTRUCTION INSPECTOR

Interdepartmental Promotional

DIRECTOR OF SYSTEMS

GENERAL SERVICES MANAGER

Open Competitive

ELECTRIC STATION OPERATOR

April 28, 2017

Interdepartmental Promotional and Open Competitive

CUSTODIAN SUPERVISOR

ELECTRICAL ENGINEERING DRAFTING TECHNICIAN

PLUMBING INSPECTOR

Interdepartmental Promotional

POWER ENGINEERING MANAGER

SENIOR COMMERCIAL FIELD REPRESENTATIVE

SENIOR ELECTRICAL ENGINEERING DRAFTING TECHNICIAN

UTILITY EXECUTIVE SECRETARY

8. **ADMINISTRATIVE ACTIONS**

- b. Make a matter of record the General Manager's action in approving the use of the following Special Examining Assistants:
- 1) **EQUIPMENT REPAIR SUPERVISOR**
Kris GOOLSBY, Equipment Superintendent, General Services Department and John SMITH, Fleet Services Manager, Department of Water & Power.
 - 2) **FIRE INSPECTOR**
Charles BOSWELL, Diana IGAWA, Bryan NASSOUR and Dimitrius LYNCH, Fire Captains I, Dwayne LAURENT and Nat LAURO, Fire Captains II, Lance McCLOSKEY, Fire Battalion Chief, Los Angeles City Fire Department.
 - 3) **INSTRUMENT MECHANIC SUPERVISOR**
Vijendra JOSEPH, Airport Maintenance Superintendent, Department of Airports, Joe COPELAND, Sr. Electrical Mechanic Supervisor, Department of Water & Power, Efrain GONZALEZ, Sanitation Wastewater Manager II, Department of Public Works, Bureau of Sanitation.
 - 4) **LIBRARIAN**
Ruth SEID and Erika THIBAUT, Principal Librarians, Library Department.
 - 5) **MANAGING WATER UTILITY ENGINEER**
Albert GASTELUM and Steven COLE, Managing Water Utility Engineers, Department of Water & Power.
 - 6) **PLUMBING INSPECTOR**
Kim ARTHUR, Chief Inspector, Mark CASEY and Shawn HARGIS, Principal Inspectors, Department of Building and Safety.
 - 7) **PROCUREMENT SUPERVISOR**
Tricia CAREY, Chief Management Analyst, Harbor Department and Troy LEE, Supply Services Manager I, General Services Department.
 - 8) **PUBLIC RELATIONS SPECIALIST**
Peter PERSIC, Development and Marketing Director, Library Department and Stephanie SPICER, Principal Public Relations Representative, Department of Water & Power.
 - 9) **SENIOR WASTEWATER TREATMENT OPERATOR**
David GUMAER, Shift Superintendent Wastewater Treatment II and Daniel PIERCE, Sanitation Wastewater Manager I, Department of Public Works, Bureau of Sanitation.
 - 10) **SOLID RESOURCES SUPERINTENDENT**
Robert POTTER and Lloyd GAINES, Solid Resources Manager II, Department of Public Works, Bureau of Sanitation.
 - 11) **STREET TREE SUPERINTENDENT**
Ronald LORENZEN, Assistant Director Bureau of Street Services, Department of Public Works, Bureau of Street Services and Brad BASSET, Electrical Service Manager, Department of Water & Power.
 - 12) **TRAFFIC PAINTER AND SIGN POSTER**
William NAVARRO, Traffic Marking and Sign Superintendent II, Department of Transportation.

File No. 54692

8. ADMINISTRATIVE ACTIONS, (Continued)

c. Approve the use of interview boards consisting of representatives from inside the City service in the open and interdepartmental promotional examination for AUTO PAINTER.
File No. 54693

d. Approve the use of interview boards consisting of representatives from inside the City in the interdepartmental promotional examination for CHIEF CLERK.
File No. 54694

e. Approve the use of interview boards consisting of representatives from both inside and outside City service in the interdepartmental promotional examination for PRINCIPAL DETENTION OFFICER.
File No. 54695

f. Approve the use of interview boards consisting of representatives from inside and outside the City service in the interdepartmental promotional examination for PUBLIC INFORMATION DIRECTOR.
File No. 54696

g. Make the following APPEAL a matter of record:

Ontoine LEWIS, Street Services Supervisor I, Department of Public Works, Bureau of Street Services. Form 77 filed with Records on May 3, 2017.

Cause of Action: 1) Failure to carry out supervisory responsibilities adequately;
2) Failure to carry out supervisory responsibilities to ensure a safe work environment.

Discipline: Suspension effective May 1, 2017 to May 26, 2017, inclusive (20-working Days).

In accordance with Charter Section 1016, the Appellant filed an appeal with the Office of the Commission on May 1, 2017.

File No. 54697

h. Make the following NOTICE a matter of record.

Suspension

AQUEDUCT & RESERVOIR KEEPER, Department of Water & Power. Form 77 filed with Records on April 20, 2017.

Cause of Action: 1) Reporting for duty unfit for work due to use of drugs or alcohol;
2) Operating City vehicles or other equipment while under the influence of alcohol or drugs which could impair operation capability.

Discipline: Suspension effective April 17, 2017 to May 11, 2017, inclusive (20-working days).

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

h. Make the following NOTICE a matter of record, (Continued)

CONSTRUCTION INSPECTOR, Harbor Department. Form 77 filed with Records on April 12, 2017.

Cause of Action: 1) Falsifying City Records by forging his supervisor's signature on Harbor Department Store Order forms to take, without authorization, City property for his personal use, including, but not limited to: windshield washer fluid, motor oil, oil filters, anti-freeze (coolant), shackles and drop cloths;
2) Taking, without authorization, City property from the Harbor Department Warehouse for his personal use;
3) Violating Department rules to furnish creosote lumber to a City contractor for use in the construction of a Port project;
4) Using City property, the Crusher Site, without authorization to dump construction waste material from his personal residence;
5) Violating Department rules by giving his Department issued key to the Crusher site to non-authorized individuals for the purpose of dumping construction waste material from his personal residence.

Discipline: Suspension effective April 17, 2017 to August 25, 2017 (45-working days) to be served as agreed.

ELECTRIC DISTRIBUTION MECHANIC, Department of Water & Power. Form 77 filed with Records on April 24, 2017.

Cause of Action: Reporting for duty unfit for work due to use of drugs or alcohol;

Discipline: Suspension effective April 3, 2017 to April 28, 2017, inclusive (20-working days).

ELECTRICAL MECHANICAL SUPERVISOR, Department of Water & Power. Form 77 filed with Records on April 20, 2017.

Cause of Action: 1) Unwelcome touching, rubbing or any type of physical contact and/or conduct toward other employees which is sexually suggestive;
2) Failure to take appropriate action to correct and eliminate sexual harassment from the workplace;
3) Failure to foster a discrimination free workplace by one's own individual actions or conduct.

Discipline: Suspension effective April 17, 2017 to May 19, 2017, inclusive (25-working days).

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

h. Make the following NOTICE a matter of record, (Continued)

SENIOR ADMINISTRATIVE CLERK, Department of Public Works, Bureau of Engineering. Form 77 filed with Records on April 19, 2017.

Cause of Action: 1) Fraud, dishonesty, theft or falsification of records by falsifying time reports, mileage reports, expense accounts or similar work oriented documents, falsely claiming sick or allowed pay, falsifying reasons for absence;
2) Unexcused, excessive or patterned absenteeism including frequent or unexcused tardiness;
3) Job performance below standard by violation of Department/Bureau rules.

Discipline: Suspension effective April 19, 2017 to May 4, 2017, inclusive (10-working days).

Discharge

SENIOR ADMINISTRATIVE CLERK, Department of Public Works, Bureau of Sanitation. Form 77 filed with Records on April 12, 2017.

Cause of Action: 1) Unexcused, excessive or patterned absenteeism;
2) Failure to follow established procedure for notification of inability to report to work;
3) Absence without valid leave.

Discipline: Discharge effective April 7, 2017.

COMMISSION ACTION: MADE A MATTER OF RECORD

9. **CLASSIFICATION ACTIONS**

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

1. Allocate the following new position in the Harbor Department, as indicated:

<u>CSC No.</u>	<u>No. of Positions</u>	<u>Class Title and Code</u>
2698	1	Communications Information Representative, 1461

2. Allocate the following new positions in the Department of City Planning, as indicated:

<u>CSC No.</u>	<u>No. of Positions</u>	<u>Class Title and Code</u>
2699	2	Planning Assistant, 7939

3. Allocate the following new positions in the Los Angeles Fire and Police Pensions, as indicated:

<u>CSC No.</u>	<u>No. of Positions</u>	<u>Class Title and Code</u>
2700	1	Management Analyst, 9184
2701	1	Benefits Specialist, 1203
2702	1	Senior Administrative Clerk, 1368

9. **CLASSIFICATION ACTIONS, (Continued):**

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

4. Allocate the following new position in the Department of Recreation and Parks, as indicated:

<u>CSC No.</u>	<u>No. of Positions</u>	<u>Class Title and Code</u>
2704	1	Senior Management Analyst, 9171

5. Allocate the following new positions in the Power System, of the Department of Water & Power, as indicated:

<u>DWP No.</u>	<u>No. of Positions</u>	<u>DDR No.</u>	<u>Class Title and Code</u>
4936	5	95-37932	Structural Steel Fabricator, 3793

6. Allocate the following new positions in the Joint System, of the Department of Water & Power, as indicated:

<u>DWP No.</u>	<u>No. of Positions</u>	<u>DDR No.</u>	<u>Class Title and Code</u>
4921	2	95-12031	Benefits Specialist, 1203
4924	1	93-13641	Senior Administrative Clerk, 1368
4925	1	93-91251	Management Analyst, 9184
4927	5	93-17109	Management Analyst, 9184
4928	1	95-78541	Laboratory Technician, 7854
4929	1	91-11111	Principal Clerk Utility, 1202
4930	1	95-72463	Civil Engineering Associate, 7246
4931	1	95-15110	Utility Accountant, 1511
4932	1	95-75543	Mechanical Engineering Associate, 7554
4933	1	94-11030	Systems Programmer, 1455
4934	2	91-17020	Management Analyst, 9184
4935	1	94-79002	Operations & Statistical Research Analyst, 1779

7. Allocate the following new position in the Bureau of Engineering, as indicated:

<u>CSC No.</u>	<u>No. of Positions</u>	<u>Class Title and Code</u>
2697	1	Senior Civil Engineer, 9485 File No. 54698

COMMISSION ACTION: RECOMMENDATIONS APPROVED

10. **ADJOURNMENT**

The meeting was adjourned by the Commission President at 11:31 p.m.

JONATHAN M. WEISS,
President

BRUCE E. WHIDDEN,
Commission Executive Director