



CITY OF LOS ANGELES BOARD OF CIVIL SERVICE COMMISSIONERS

MINUTES

COMMISSIONERS

JEANNE A. FUGATE
President

RAUL PEREZ
Vice President

ERICA L. JACQUEZ
NANCY P. MCCLELLAND
TODD SARGENT
Commissioners

REGULAR MEETING

THURSDAY, OCTOBER 25, 2018 – 10:00 A.M.
ROOM 350, PERSONNEL BUILDING
700 EAST TEMPLE STREET
LOS ANGELES, CALIFORNIA 90012

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Present: Deputy City Attorney Jennifer Gregg
President Jeanne A. Fugate General Manager Wendy Macy
Commissioner Erica L. Jacquez Commission Executive Director
Commissioner Nancy P. McClelland Bruce Whidden
Commissioner Todd Sargent Absent: Vice President Raul Perez

1. **CALL TO ORDER**

The meeting was called to order by Commission President Jeanne Fugate at 10:08 a.m.

2. **PRESENTATION – “Retirement of Carol Jones”**

The Commission President, General Manager Wendy Macy and Administrative Division Chief Michael De La Rosa presented a Civil Service Commission Resolution to Accounting Records Supervisor II Carol Jones, who is retiring after more than 20 years of service to the People of Los Angeles.

3. **APPROVAL OF MINUTES**

- a) The Board unanimously approved the minutes of the regular meeting of Thursday, September 13, 2018 on a motion by Commissioner Jacquez, seconded by Sargent.
- b) The minutes of the regular meeting of Thursday, September 27, 2018 were continued until all three of the eligible members are present to vote.
- c) On a vote of three to zero, with Commissioner Fugate abstaining, the minutes of the regular meeting of Thursday, October 11, 2018 were approved on a motion by Commissioner Jacquez, seconded by Commissioner Sargent.

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

There were no requests for public comment. Late in the meeting, a request to address the Board was submitted, however, the members declined to reopen public comment.

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

The Board unanimously approved routine and non-appearance matters under New Business, pages four through nine, items 9 and 10, on a motion by Commissioner McClelland, seconded by Commissioner Sargent.

6. **GENERAL MANAGER'S REPORT**

The General Manager gave an update of some of the optional benefits offered by the City to employees including the Deferred Compensation program, one of the most successful savings initiatives anywhere in the country, currently administering nearly six-billion dollars in assets to help retired employees.

Another recent initiative from the Benefits Division was a joint wellness weekend at Griffith Park with employees from Los Angeles County.

A Healthy Cooking seminar and demonstration was offered to employees to help emphasize that healthy cooking and eating can be easy and delicious.

7. APPEALS UNDER CHARTER SECTION 1016

- a. **Anthony P. LEE**, Gardener Caretaker, Department of Recreation and Parks. Discharge effective February 20, 2018.

Report and recommendations of the Board’s Hearing Examiner Steven Sauer following the conduct of a hearing held on June 27, 2018 into the subject appeal of Mr. Lee.

The Hearing Examiner recommends that the Board:

- A. FIND that the *Skelly* due process requirements were NOT met
- 1) SUSTAIN the cause of action of gross excessive unexcused absenteeism;
- B. FIND that, in light of the Department’s failure to properly manage and investigate the ongoing absence of the Appellant, that discharge would be an ABUSE OF DISCRETION. A penalty is clearly warranted based on the Appellant’s actions, or in-actions, therefore the Department is urged to substitute a penalty less than discharge up to and including a “time served” suspension, returning the Appellant to his employment.
- C. MAKE A DETERMINATION to adopt the findings and conclusions in the Hearing Examiner’s report as its own.

File No. 54982

COMMISSION ACTION:

Discussion:

After reviewing the relevant facts of the case, Commission President Fugate asked the Department to explain how the situation revolving within this case could happen where an employee is permitted to remain on the books, even if not drawing a paycheck, and it takes the Department from three to five years before steps are taken to discharge the absent employee.

The Department Representative attempted to explain, within the information in the case record, that the Department agreed that it took them far too long to address this employee. That several factors combined caused this employee to be lost within the system. However, the Appellant bears some responsibility because, much as he professes to only want to get back to work, he took no steps between 2014 and 2017 to reach out to the Department and address whatever it was that was keeping him from returning to work.

The Department also added that a comprehensive *Skelly* meeting was held at a time convenient to the Appellant at which time he was represented by his union. The charges were fully explained at that time and he was provided two weeks to provide medical documentation to cover his periods of absence. No documentation was submitted by the Appellant until the Civil Service Hearing, and even that left more than a year of absence unaccounted for. The Department feels strongly that the *Skelly* provisions were met.

The Appellant explained that he attempted to work with the Department of Recreation and Parks as well as the Workers’ Comp Division of the Personnel Department to get back to work, but various people were telling him to just stay home or did not call him back. He thought his attorney was communicating with both the Department and the Workers’ Comp staff to facilitate his return to work.

7. **APPEALS UNDER CHARTER SECTION 1016, (Continued)**
a. **Anthony P. LEE**, Gardener Caretaker, Department of Recreation and Parks, (Continued)

Commissioner McClelland questioned why the Appellant allowed the situation to continue, if he really wanted to “just get back to work.” It is not reasonable to believe that over the course of several years, the Appellant did not question why he was not being contacted by the City. Why did he wait until the *Skelly* meeting in 2017 to produce medical documents that could have saved his job? Further, when the Department asked for additional information to cover another year of absences he failed to produce any documents.

The Appellant responded that he thought that Work Comp staff and his attorney were communicating with the Department of Recreation and Parks.

Commission Action:

In a series of motions by Commissioner Sargent, seconded by Commissioner McClelland, the Board voted unanimously to:

FIND that the Skelly due process requirements were met

SUSTAIN the cause of action of gross excessive unexcused absenteeism;

FIND that the Discharge effective February 20, 2018 was appropriate and is SUSTAINED.

After attempting to modify the Hearing Examiner’s report to reflect the Board’s comments and actions, the Commission determined that for the clarity of the record, it should produce a report with its own findings and conclusions. The Commission president appointed Commissioner Sargent to work with the Board’s Counsel to create such a document to be forwarded to the parties in advance of the case being rescheduled to return to the Board. At the return appearance, the parties will be permitted to submit briefs in support of or taking exception to the Board findings report which will be considered prior to the Board voting to accept the findings report.

The matter was continued on a motion by Commissioner Jacques, seconded by Commissioner McClelland, to a future agenda when both the Board’s Findings Report and a transcript of this appearance will be provided to the parties. Motion passed unanimously.

Appearances:

Harold Fujita, Department of Recreation and Parks
Javlin Wells, Department of Recreation and Parks
Anthony Paul Lee, Appellant

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

- b. **Suren SAHAKYAN**, Accountant, Department of Airports. Discharge effective December 5, 2017.

Report and recommendations of the Board's Hearing Examiner Christina Page following the conduct of hearings held on May 1, 2018, May 2, 2018 and May 22, 2018 into the subject appeal of Mr. Sahakyan.

The Hearing Examiner recommends that the Board:

- A. FIND that the *Skelly* due process provisions were met with regard to all charges except to allegations that (1) Appellant engaged in off-duty misconduct in conflict with job duties; 2) after receiving the Copier NTCD, Appellant continued to use the copier machine for improper purposes; FIND that the Appellant is entitled to back pay award from December 5, 2017 until the Board files its decision;
- 1) SUSTAIN the cause of action of engaging in off-duty misconduct in conflict with his job duties;
 - 2) SUSTAIN the cause of action of violating Departmental rules relating to disclosure of outside employment;
 - 3) NOT SUSTAIN the cause of action of continued failure to perform work assignments;
 - 4) NOT SUSTAIN the cause of action of failing to provide information, including notice of his arrest;
 - 5) SUSTAIN the cause of action of falsifying City records;
 - 6) NOT SUSTAIN the cause of action of falsely claiming sick pay;
 - 7) NOT SUSTAIN the cause of action of continued use of City equipment without authorization.
- B. FIND that the Discharge effective December 5, 2017 was appropriate and is SUSTAINED.
- C. MAKE A DETERMINATION to adopt the findings and conclusions in the Hearing Examiner's report as its own.

File No. 54914

COMMISSION ACTION:***Discussion:***

The Appellant's Representative was ill and unable to attend the meeting of the Board.

Prior to continuing the item, the Board members expressed their desire for its Counsel to produce a Bench Report to aid them in hearing this case. Specifically, the Report, to be heard in a closed session at which time the members may ask questions of their counsel as to the specifics of the *Skelly* provisions to be met by the City.

The matter was continued to a meeting in January 2019 on a motion by Commissioner Jacquez, seconded by Commissioner McClelland. Motion carried unanimously with an instruction that all parties receive a copy of the transcript of this discussion.

7. APPEALS UNDER CHARTER SECTION 1016, (Continued)

c. **Erika WILBURN**, Traffic Officer, Department of Transportation, Suspension effective February 12, 2018 to March 12, 2018, inclusive (20-working days).

Report and recommendations of the Board’s Hearing Examiner David Beauvais following the conduct of a hearing held on May 16, 2018 into the subject appeal of Ms. Wilburn.

The Hearing Examiner recommends that the Board:

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

1) SUSTAIN the cause of action of failure to cooperate with or using abusive language toward other employees;

2) SUSTAIN the cause of action of using threats to harm another employee.

B. FIND that the Suspension effective February 12, 2018 to March 12, 2018, inclusive (20-working days), was appropriate and is SUSTAINED.

C. MAKE A DETERMINATION to adopt the findings and conclusions in the Hearing Examiner’s report as its own.

File No. 54952

COMMISSION ACTION: Continued from September 13, 2018

After a full discussion into this case the Board voted to:

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

SUSTAIN the cause of action of failure to cooperate with or using abusive language toward other employees;

SUSTAIN the cause of action of using threats to harm another employee.

A motion to sustain the penalty was made but received no second. The Board then voted to continue the matter for 30-days to permit the Department time to consider a lesser penalty.

Discussion, October 25, 2018:

The Department confirmed that the Appointing Authority had considered the Board’s discussion from September 13 and agreed to reduce the imposed penalty of 20-working days to a suspension of 15-working days.

The Appellant’s Representative restated his objection to the Appellant receiving a suspension. He asserted that it was inconsistent with other similar cases of a workplace confrontation where the parties were only given a written notice to correct deficiency and some were sent to workplace violence training. He asked that the matter be continued until the Board could review the transcript of the hearing to see that the penalty imposed while within the range of discipline was inconsistent and excessive when compared with other similar cases.

The Appellant addressed the Board to express her belief that the process of her Appeal was not fair and that the Department was treating her differently than other employees.

7. **APPEALS UNDER CHARTER SECTION 1016, (Continued)**
c. **Erika WILBURN**, Traffic Officer, Department of Transportation, (Continued)

The Board’s Counsel and the Executive Director reminded the Board that it is not its usual practice to review transcripts but rather to rely on the Board’s Hearing Officer who directly heard all the evidence and testimony and could make evaluations as to value and credibility of information presented.

Commissioner McClland explained to the Appellant that the Board was limited to the record before it and could not consider or comment on other cases of similar occurrences.

Commission Action:

In two motions by Commissioner McClelland, seconded by Commissioner Sargent, the Board voted unanimously to:

FIND that the adjusted Suspension of 15-working days was appropriate and is SUSTAINED.

ADOPT the findings and conclusions in the Hearing Examiner’s report as the Board’s own.

Appearances:

Oliver Quirante, Personnel Department for the Department of Transportation
Steven Presberg, Personnel Department for the Department of Transportation
David De La Torre, Appellant’s Representative
Erika Wilburn, Appellant

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:

October 5, 2018

Interdepartmental Promotional

PLUMBER SUPERVISOR
PRINCIPAL CLERK UTILITY

Open Competitive

ASBESTOS WORKER
GARDENER CARETAKER

October 12, 2018

Interdepartmental Promotional and Open Competitive

CUSTOMER SERVICE SPECIALIST

Interdepartmental Promotional

DIRECTOR OF PRINTING SERVICES
PRINCIPAL DETENTION OFFICER
SENIOR SAFETY ENGINEER PRESSURE VESSELS

October 19, 2018

Interdepartmental Promotional and Open Competitive

BUILDING INSPECTOR
STREET SERVICES SUPERINTENDENT
STRUCTURAL ENGINEER
UNDERGROUND DISTRIBUTION CONSTRUCTION MECHANIC

Interdepartmental Promotional

FISCAL SYSTEMS SPECIALIST

- b. Make a matter of record the General Manager's recommendation to approve the use of the following Special Examining Assistants:

1) APPLICATIONS PROGRAMMER

Bill AGUILAR, Information System Manager I, Information Technology Agency and
Xiomara CASTILLO, Information System Manager, Department of Water & Power.

2) ELECTRICAL CRAFT HELPER

Vincent CRUCES, Signal System Supervisor I, Department of Transportation, Jeffrey
DUNKLE, Street Lighting Electrician Supervisor I, Department of Public Works,
Bureau of Street Lighting and Michael TRAWEEK, Electric Distribution Mechanic
Supervisor, Department of Water & Power.

3) FISCAL SYSTEMS SPECIALIST

Eleanor CHANG, Department Chief Accountant IV, Department of Recreation and
Parks and Daniel QUACH, Financial Management Specialist IV, Office of the City
Controller.

4) HARBOR ENGINEER

Kurt AREND, Harbor Engineer II, David WALSH, Chief Harbor Engineer and Shahram
SHAHRESTANI, Chief Harbor Engineer, Harbor Department.

9. ADMINISTRATIVE ACTIONS, (Continued)

b. Make a matter of record the General Manager's recommendation to approve the use of the following Special Examining Assistants, (Continued):

5) LANDSCAPE ARCHITECT

Jane ADRIAN, Landscape Architect II, Department of Public Works, Bureau of Engineering.

6) MATERIALS TESTING TECHNICIAN

Nancy WIGNER, Waterworks Engineer, Department of Water & Power and Ray SOLOMON, Director of Materials Testing Services, Department of General Services.

7) PAYROLL SUPERVISOR

Ian MONTEILH, Senior Management Analyst I, Department of Public Works, Bureau of Contract Administration, Tiffany LIAW, Departmental Chief Accountant, Office of Finance and Marcia RUIZ, Management Analyst, Office of the City Clerk.

8) PERSONNEL ANALYST

Maria ASLAN, Senior Personnel Analyst II, Los Angeles Fire Department, Sean CUMBIE, Senior Personnel Analyst I and Steve RIVERA, Senior Personnel Analyst II, Personnel Department.

9) PLUMBER SUPERVISOR

Daniel CAMPBELL, Airport Maintenance Superintendent, Department of Airports.

10) PRINCIPAL CIVIL ENGINEERING DRAFTING TECHNICIAN

Hortensia ALONSO, Senior Civil Engineer, Department of Public Works, Bureau of Engineering and Daryl RAASCH, Senior Civil Engineer, Harbor Department.

11) PRINCIPAL SECURITY OFFICER

Wallace HOLCOLM, Chief Security Officer, Los Angeles Police Department, Arnold ESQUEDA, Director of Security Services, Department of Water & Power and Peter TRANCE, Airport Police Lieutenant, Department of Airports.

12) SENIOR LABOR RELATIONS SPECIALIST

Dana BROWN, Senior Labor Relations Specialist III, Carolyn COOPER, Senior Labor Relations Specialist I, Office of the City Administrative Officer and Megan HACKNEY, Assistant Director, Department of Public Works, Bureau of Street Services.

13) STREET SERVICES SUPERINTENDENT

Chi Ming GONG, Street Services General Superintendent II and Sherman TORRES, Street Services General Superintendent I, Department of Public Works, Bureau of Street Services.
File No. 55178

c. Make a matter of record the General Manager's action in approving the use of the following raters for the evaluation of Training and Experience Questionnaires for the following 2018 examination:

1) ANIMAL CONTROL OFFICER

John CESSNA and Jose GONZALEZ, Senior Animal Control Officer, Department of Animal Services.
File No. 55179

2) POLICE CAPTAIN

Jeffrey BERT and Blake CHOW, Police Commanders, Los Angeles Police Department. Justin Eisenberg and Kris Pitcher, Deputy Chiefs, Los Angeles Police Department.
File No. 55180

8. ADMINISTRATIVE ACTIONS, (Continued)

- d. Approve the use of interview boards consisting of representatives from inside and outside the City service in the open competitive and interdepartmental promotional examination for **Housing Planning Economic Analyst**.

File No. 55181

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

File No. 55182

- f. Approve the use of interview boards consisting of representatives from inside and outside the City service in the Departmental promotional examination for **Police Captain**.

File No. 55183

- g. Approve the use of interview boards consisting of representatives from inside and outside of the City service in the interdepartmental promotional examination for **Survey Supervisor**.

File No. 55184

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

Suspension

Varduhi SIMONYAN, Management Assistant, Housing + Community Development Department. Suspension effective October 15, 2018 to December 14, 2018, inclusive, (45-working days). Form 77 filed with Records, October __, 2018.

Cause of Action: 1) Using official position or office for personal gain or advantage;
2) Engaging in any activity that constitutes a conflict of interest;
3) Misusing or failing to use, delegated authority in the performance of duties;
4) Failure to perform work assignments adequately or promptly.

Discipline: Suspension effective October 15, 2018 to December 14, 2018, inclusive, (45-working days).

In accordance with Charter Section 1016, the Appellant filed an appeal in person with the Office of the Commission on October 12, 2018.

File No. 55185

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

Suspensions

REFUSE COLLECTION TRUCK OPERATOR II, Department of Public Works, Bureau of Sanitation. Form 77 filed with Records, October 4, 2018.

Cause of Action: 1) Engaging in a confrontation with the public.

Discipline: Suspension effective October 1, 2018 to November 2, 2018, inclusive, (15 working days) to be served as agreed.

COMMISSION ACTION: MADE A MATTER OF RECORD

9. **CLASSIFICATION ACTIONS**

The General Manager recommends that the Board approve the following Classification actions:

1. Allocate the following new position in the **Department of Public Works, Board of Public Works**, as indicated:

<u>CSC No.</u>	<u>No. of Positions</u>	<u>Class Title and Code</u>
3072	1	Street Tree Superintendent, 3160

2. 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>
5362	1	91-16001	Graphics Designer, 1670
5363	5	95-15210	Senior Utility Accountant, 1521
5364	1	95-15390	Management Assistant, 1539
5366	1	91-17133	Photographer, 1793
5368	1	94-17022	Safety Engineer, 1727
5369	1	95-75542	Mechanical Engineering Associate, 7554

3. 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>
5353	8	95-75252	Electrical Engineering Associate, 7525
5367	1	94-12115	Principal Clerk Utility, 1202

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

<u>DWP No.</u>	<u>No. of Positions</u>	<u>DDR No.</u>	<u>Class Title and Code</u>
5365	1	93-35144	Heavy Duty Truck Operator, 3584

5. Allocate the following new position in the **Library Department**, as indicated:

<u>CSC No.</u>	<u>No. of Positions</u>	<u>Class Title and Code</u>
3055	1	Programmer Analyst, 1431

6. Allocate the following new positions for the **Department of Public Works, Bureau of Street Services**, as indicated:

<u>CSC No.</u>	<u>No. of Positions</u>	<u>Class Title and Code</u>
3062	1	Secretary, 1116
3063	1	Executive Administrative Assistant, 1117

7. Allocate the following new position for **Los Angeles Fire and Police Pensions**, as indicated:

<u>CSC No.</u>	<u>No. of Positions</u>	<u>Class Title and Code</u>
3061	1	Senior Accountant, 1523

8. Allocate the following new position for the **Office of Finance**, as indicated:

<u>CSC No.</u>	<u>No. of Positions</u>	<u>Class Title and Code</u>
3068	1	Systems Programmer, 1455

9. Allocate the following new position in the **Los Angeles Police Department**, as indicated:

<u>CSC No.</u>	<u>No. of Positions</u>	<u>Class Title and Code</u>
3067	1	Principal Clerk Police, 1152

Continued...

9. **CLASSIFICATION ACTIONS (Continued)**

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

10. Reallocate the following position in the **Department of Animal Services** as indicate:

<u>CSC No.</u>	<u>No. of Positions</u>	<u>From:</u> <u>Class Title and Code</u>	<u>To:</u> <u>Class Title and Code</u>
3065	1	Sr. Administrative Clerk, 1368	Principal Clerk, 1201 File No. 55186

COMMISSION ACTION: RECOMMENDATIONS APPROVED

10. **ADJOURNMENT**

The Meeting was adjourned by the Commission President at 11:23 a.m.

JEANNE FUGATE,
President

BRUCE E. WHIDDEN,
Commission Executive Director