

MINUTES OF CIVIL SERVICE BOARD
CITY OF SACRAMENTO
SPECIAL MEETING DECEMBER 30, 1975

The special meeting of the Civil Service Board was called to order by President Wilfred Street at 1:35 p.m. in the Personnel Department Conference Room, 801 Ninth Street.

Present: Alba Kuchman, Wilfred Street, Jimmie Yee
Absent: Ronald Wright

HEARING TO APPEAL LETTER OF REPRIMAND (continuation from December 16, 1975)
Paul M. Hronec, Maintenance Man I

Testimony was given by Juan Jiminez, Maintenance Man I, and Johnnie Bramble, Assistant Park Superintendent; on behalf of the City of Sacramento. Testimony was given by Paul M. Hronec, Maintenance Man I, on behalf of himself.

Closing statements were made by Employee Relations Representative Larry Dow and Paul M. Hronec, Maintenance Man I.

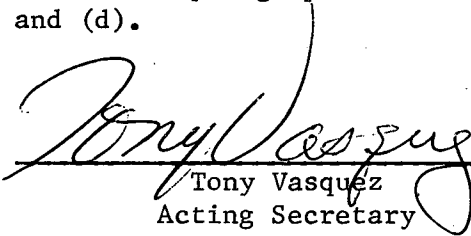
The following exhibits were marked for identification and submitted as evidence during the hearing:

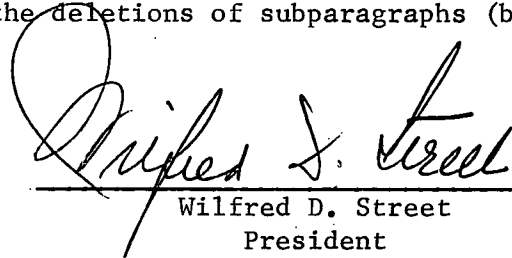
<u>CITY EXHIBITS</u>	<u>DESCRIPTION</u>
#3	City of Sacramento specification sheets for the positions of Maintenance Man II and Maintenance Man III.
#4	City of Sacramento specification sheets for the positions of Park Foreman I and Park Foreman II.
#5	Special Evaluation Report on Paul M. Hronec, Maintenance Man I, dated September 15, 1975.
#6	Special Evaluation Report on Paul M. Hronec, Maintenance Man I, dated October 24, 1975.
#7	Photograph taken by Paul M. Hronec, Maintenance Man I, of his leadman, Mr. Swam, walking with his wife and daughter on the K Street Mall.
#8	Paul M. Hronec's, Maintenance Man I, parking ticket from the Downtown Plaza Parking Structure dated July 22, 1975, at 6:00 a.m.

The Board met in executive session. (2:07 p.m.)

The meeting reconvened at 2:45 p.m. It was the unanimous decision of the Board, in executive session, that the letter of reprimand remain in Paul M. Hronec's personnel file with the following changes:

(1) delete subparagraphs (b), (c), and (d) of the first paragraph, and (2) rewrite the second paragraph to correspond with the deletions of subparagraphs (b), (c), and (d).


 Tony Vasquez
 Acting Secretary


 Wilfred D. Street
 President

Attachment: Findings and Conclusions of Paul M. Hronec hearing.

Following the Paul M. Hronec hearing, the meeting resumed at 2:50 p.m. to consider the remaining items on the agenda, as follows:

CONTINUANCE OF HEARING TO APPEAL DISCIPLINARY ACTION (REPRIMAND LETTER)
 Lillian Kness, Relief Telephone Operator

At the request of Deputy City Attorney Savage and Attorney George Williams, who now represents Mrs. Kness, the hearing for Mrs. Kness which was scheduled for this date was continued until such time as a mutually agreeable hearing date is recommended to the Board.

AMENDMENT TO CIVIL SERVICE BOARD RULES AND REGULATIONS

Adoption of Revision of Rule 17 (Tenth and Final Reading)


After a short discussion, upon the request of Wayne Harbolt, President of Local 522, the Board modified the order in which the kinds of disciplinary action are listed in Section 17.3.

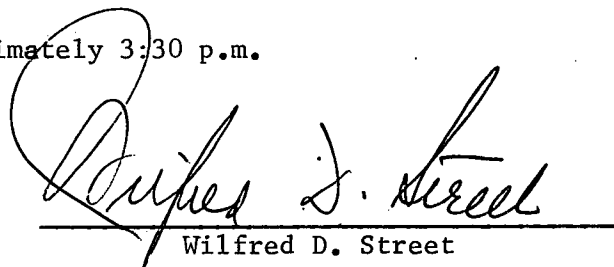
Mr. Yee moved that the December 5, 1975 draft of Rule 17, as amended in Section 17.3 at this meeting, be approved. The motion was seconded by Mrs. Kuchman and carried by the following vote:

Ayes: Street, Yee, Kuchman.
 Noes: None.
 Absent: Wright.

A copy of Rule 17, as adopted, is attached and made a part of these minutes.

The meeting was adjourned at approximately 3:30 p.m.


 William F. Danielson
 Secretary


 Wilfred D. Street
 President

CIVIL SERVICE BOARD
CITY OF SACRAMENTO

In the Matter of the)
Appeal of:) Findings and Conclusions
Paul Hronec)

In the matter of the appeal of Paul Hronec which began on December 16, 1975 and was concluded on December 30, 1975, the following members of the Board present were: Wilfred D. Street, Chairman, Alba Kuchman and Jimmie R. Yee. Paul Hronec was represented by himself. The City was represented by Larry L. Dow, Employee Relations Representative.

The hearing concluded on December 30, 1975 and the matter was submitted to the Board for decision. On December 30, 1975 the Board met in executive session to consider the matter. The Board announced its decision in public session on December 30, 1975.

The Board found that the evidence indicated Mr. Hronec had violated Civil Service Board Rule 17.5 Section (d) inexcusable neglect of duty, however Civil Service Board Rule 17.5 Sections (c) inefficiency and (o) discourteous treatment of the public or other employees were not sustained.

From the foregoing the Board concludes:

1) That the letter of reprimand shall remain in Paul Hronec's official personnel file; 2) that sections (b), (c) and (d) of the letter of reprimand were to be removed from the letter of reprimand

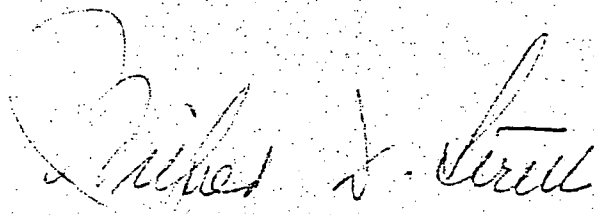
Findings and Conclusions

Paul Hronec

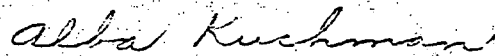
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and paragraph two should be rewritten to correspond to section
(a) only.

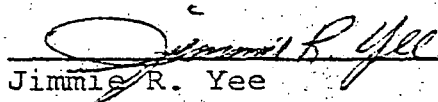
Dated: January 20, 1976



Wilfred D. Street, Chairman



Alba Kuchman



Jimmie R. Yee

conviction with or without a jury, and a conviction after a demurrer in the case mentioned in Section 1010 of the California Penal Code. Notwithstanding any further proceedings in the case or any appeal or appellate decision, a conviction shall be deemed to be complete upon the first date the trial court or jury finds the employee involved committed the offense.)

- (m) Discourteous treatment of any member of the public where, at the time of the incident, such member of the public could reasonably believe that the employee is acting within the scope of the employee's employment with the City of Sacramento.
- (n) Discourteous treatment of any other employee in a situation where an employment relationship exists at the time of the incident.
- (o) Willful disobedience of a lawful rule, order or direction.
- (p) Negligence or intentional misconduct which causes damage to City or public property.
- (q) Unauthorized possession or use of City or public property.
- (r) Three garnishments for separate debts; provided, however, that the initiation of bankruptcy proceedings shall not constitute cause for disciplinary action.
- (s) Violation of any of the provisions of the City Charter of the City of Sacramento relating to conduct of City employees.
- (t) Any conduct rationally related to employment which impairs, disrupts or causes discredit to the employee's employment or the public service.

17.3 Definition of "Disciplinary Action". The term "disciplinary action" as used in Rule 17 shall mean and include:

- (a) letter of reprimand;
- (b) suspension;
- (c) withholding in-grade salary increase;
- (d) in-grade salary reduction;
- (e) demotion; or
- (f) dismissal,

when any such action is taken toward an employee for misconduct pursuant to Section 17.2 of this rule.

17.4 Presumption of Delivery. Any written notice shall be conclusively presumed to be delivered to the employee on the date the written notice is personally served on the employee. In the event that any notice is sent to an employee by certified mail, return receipt requested, the notice shall be conclusively

presumed to be delivered to the employee on the date the receipt was signed. In the event the certified mail is refused, or in the event the employee is absent without leave, and no person at the address to which the certified mail is sent signs for the certified mail, then it shall be presumed that the notice was delivered as of the date the postal service returns the certified mail to the return address.

17.5 Notice of Disciplinary Action. Whenever a disciplinary action is taken against an employee, the employee shall be notified in writing of the disciplinary action taken against him. Such written notification shall include:

- (a) A statement of the disciplinary action taken against the employee;
- (b) A statement of the facts upon which the disciplinary action is based which shall set forth clearly and with such particularity the charges against the employee so that the employee can understand the charges against him;
- (c) A statement indicating the cause for the disciplinary action pursuant to Rule 17.2;
- (d) A statement which generally describes any actions taken against the employee in the past; and
- (e) A statement advising the employee that the written notice is to be placed in his official personnel file and that he has the right to appeal to the Civil Service Board pursuant to Rule 17.

The written notice of disciplinary action shall be considered to be sufficient notice to the employee if the aforementioned information is contained therein. The written notice of disciplinary action may be either personally served or mailed to the employee by certified mail, return receipt requested, addressed to the last address which such employee has furnished to the appointing authority.

Section 2. Appeals.

17.6 Time for Appeal. Any employee against whom disciplinary action is taken shall have the right to appeal from such disciplinary action; provided, however, that the employee must deliver a written notice of appeal to the Secretary of the Board within ten (10) working days of the date that the written notice of disciplinary action was presumed delivered to the employee, the date the employee signed the receipt for the certified letter, or the date the notice was personally served upon the employee. The notice of appeal shall be presumed to be delivered on the date the Secretary of the Board receives it regardless of the date it was transmitted. In the event the employee fails to deliver a notice of appeal to the Secretary of the Board within said ten working day period, the disciplinary action shall become final, and the employee shall have no further right to appeal.

17.7 Notice of Appeal, Contents. The written notice of appeal filed with the Secretary of the Board shall not be required to be in any particular format;

however, it shall contain at least the following information:

- (a) The name and address of the employee;
- (b) The date of the disciplinary action and a statement to the effect that the employee appeals from the disciplinary action; and
- (c) The notice of appeal shall be dated and signed by the employee or by his representative.

17.8 Setting Hearing Date. When the Secretary of the Board receives a notice of appeal which complies with the requirements of Rule 17.7, the Secretary shall place the matter of the appeal on the next agenda for the regular meeting of the Board. The Board will consider the matter, and, if the Board grants a hearing, the hearing date will be set as soon as practicable.

Section 3. Discovery.

17.9 Permissible Discovery. Pursuant to the procedure set forth in Rule 17.10, any party may obtain the following information:

- (a) Those statements made in the notice of disciplinary action which are admitted by the employee and those statements in the notice of disciplinary action which are denied by the employee. Any facts known to the employee which are not set forth in the notice of disciplinary action which are material to the employee's appeal.
- (b) The name and address of each witness whom the responding party intends to call to testify at the hearing. (As used herein, "responding party" shall mean the person of whom the information is requested.)
- (c) Copies of any of the following in possession of or reasonably obtainable by the responding party or his representative:
 - (1) Copies of statements by any person whom the responding party intends to call as a witness.
 - (2) All writings ("writings" as used herein shall have the the meaning defined in Evidence Code Section 250 which states:

"Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof.),

including, but not limited to, reports of mental, physical and blood examinations which the responding party intends to introduce into evidence.

- (3) Any other writing which is relevant to the appeal and which would be admissible in evidence; provided, however, that if the responding party determines that the information is confidential, only a description of the item need be given to the requesting party. In the event that said determination of confidentiality is contested by requesting party, the item shall be delivered to the Board which shall determine whether it shall be delivered to the requesting party, and if any conditions shall be imposed on the use of such information or item.

Nothing in this rule shall authorize obtaining, inspecting or copying any writing or thing which is privileged from disclosure by law or is otherwise made confidential or protected as the attorney's work product.

17.10 Procedure for Discovery.

- (a) Personal service. At any time after the Board sets a hearing date for an appeal, but in no event later than the fifth working day before the date set for such hearing, any party may serve a written request of the responding party for any or all of the information set forth in Rule 17.9. Such request shall be in writing and shall be personally served on the responding party.
- (b) Service by mail. At any time after the Board sets a hearing date for an appeal, but in no event later than the eighth working day before the date set for such hearing, any party may serve a written request of the responding party for any or all of the information set forth in Rule 17.9. Such request shall be in writing and shall be served by first-class mail.
- (c) Response. Within three (3) working days of receiving the request mentioned in (a) and (b) above, the responding party shall comply with the request as fully as possible. Such response shall be served upon the requesting party by first-class mail.
- (d) Request to be Deemed Continuing Request. The responding party shall deem the request to be a continuing request and shall respond to such request from time to time so as to fully respond to such continuing request by furnishing from time to time to the requesting party the information requested. The responding party shall furnish such information to the requesting party as soon as practicable after the responding party receives such information.
- (e) Negative Response. In the event the responding party does not have any item of the information requested, the responding party shall give a written negative response as to that particular item within the time specified for response and shall respond fully as to the information which the responding party does possess. In such event, the responding party shall comply with (d) above after such negative response.
- (f) Disputes. Any dispute between parties regarding discovery shall be resolved by the Board.

(g) Penalties for Failure to Comply. The Board shall impose penalties for failure to comply with Rule 17.9 and 17.10. These penalties shall be based upon the seriousness of the failure to comply, the good or bad faith of the noncomplying party, and the extent to which the noncompliance results in surprise to the requesting party and handicaps the requesting party in preparing his case. The following penalties may be imposed:

- (1) Exclusion of evidence;
- (2) Continuing the hearing at any stage; or
- (3) In the case of a willful or repeated violation, the Board may determine the issue against the noncomplying party.

Section 4. Hearing Procedure.

17.11 Statement of Issues. At the commencement of a hearing, the parties shall submit to the Board a statement of the issues. In the event the parties are unable to agree upon the issues before the hearing, each party shall submit to the Board a separate statement of the issues. The Board may rule upon any disputed issues, and the ruling of the Board shall be final. To the extent that the Board does not rule on the issues, the parties shall not be bound by their respective statements.

17.12 Opening Statement. Each party shall be afforded an opportunity to make an opening statement prior to presentation of evidence. Such statement shall be no longer than ten minutes in length.

17.13 Evidence.

- (a) Oral evidence shall be taken only on oath or affirmation.
- (b) Each party shall have these rights: to call and examine witnesses; to introduce exhibits; to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; however, when the appointing authority proceeds to prove the facts set forth in the notice provided for by Rule 17.5, cross-examination shall be limited to the matters raised by the direct and redirect examination; to impeach any witness regardless of which party first called him to testify; and to rebut the evidence against him. If the party making the appeal does not testify on his own behalf, he may be called and examined as if under cross-examination.
- (c) The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing

or explaining other evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. The rule of privilege shall be effective to the extent that they are otherwise required by statute to be recognized at the hearing, and irrelevant and unduly repetitious evidence shall be excluded.

(d) The hearing shall be conducted in the English language. The proponent of any testimony to be offered by a witness who does not proficiently speak the English language shall provide, and pay for, an interpreter, approved by the Board as proficient in the English language and the language in which the witness will testify, to serve as interpreter during the hearing.

17.14 Closing Statement. Each party shall be afforded an opportunity to make a closing statement and a rebuttal statement after the presentation of evidence. Such closing statement will be no longer than fifteen minutes, and such rebuttal statement shall be no longer than five minutes. This rule may be waived to afford longer periods for such statements where a hearing involves a long and complex presentation.

17.15 Findings and Conclusions. After the hearing, the Board shall promptly determine the matter before it and shall either affirm, modify or reject the disciplinary action. The findings and conclusions of the Board shall be final and shall be sent to the official from whose order the appeal was taken. A copy of the findings and conclusions shall be sent to the appellant as soon as practicable after its adoption.

No disciplinary action shall be deemed to be final until either:

(a) the time for appeal runs and no appeal is filed; or

(b) the Board announces its decision upon an appeal.

17.16 Waiver of Rules of Procedure by Board. The Board may make such orders to modify the procedure set forth herein as it may deem necessary to promote the ends of justice; however, the Board shall not waive the time limit set forth in Rule 17.6.