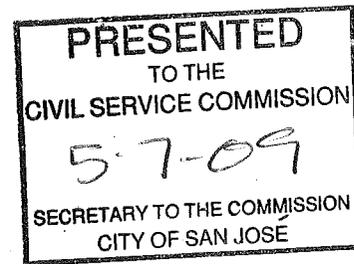




CITY OF SAN JOSE, CALIFORNIA

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CIVIL SERVICE COMMISSION

Bill Brill, Chair
Jon Fitch, Vice Chair
Dave Busse
Peter Soulé
Emily Côté

Minutes of the Commission Regular Meeting April 2, 2009

The Civil Service Commission of the City of San José convened in regular session on April 2, 2009, in the City Council Chambers of San José City Hall at 4:00 p.m.

ROLL CALL

Present: Commissioners Busse, Côté, Fitch, Soulé and Brill
Absent: None

ORDERS OF THE DAY

By motion unanimously adopted, the Orders of the Day were approved.

CONSENT CALENDAR

By motion unanimously adopted, the Consent Calendar was approved.

1. Information Only

a. Hiring Summary – Memorandum from Human Resources dated, March 23, 2009, listing complaints about hiring issues and a summary of hiring activity for the period June 29, 2008, through March 21, 2009, was filed.

2. Operating Engineers Local Union No. #3 Business Representative Prudence Slaathaug's request to appeal the dismissal of Ratha Pen, Parking and Traffic Control Officer was filed.

Senior Deputy City Attorney Brian Hopper argued that the appeal was filed two days after the filing deadline. Discussion ensued. Upon motion Commissioner Côté, seconded by Commissioner Soulé, and unanimously passed, the Commission denied the request.

3. The following minutes were approved:
 - a. February 23, 2009 (Special meeting)
 - b. February 23, 2009 (Closed Session – Confidential)
 - c. February 25, 2009 (Closed Session – Confidential)
 - d. February 26, 2009 (Closed Session – Confidential)
 - e. March 5, 2009

END OF CONSENT CALENDAR

4. The following hearings were scheduled:
 - a. The scheduling of the appeal of suspension of Roman Dizon, Animal Services Officer (3252) was deferred to May 7, 2009. Written time waiver filed.
 - b. The scheduling of the appeal of dismissal of Farid Shahrivar, Associate Engineer (3814) was deferred to May 7, 2009. Written time waiver filed.
 - c. The scheduling of the appeal of Police Officer discipline, Case No. 09-21 was deferred to May 7, 2009. Written time waiver filed.
 - d. The appeal of dismissal of Susan Amaro, Recreation Program Specialist (6122) was scheduled for June 15, 2009, and June 18, 2009, at 6:30 p.m. Written time waiver was filed.

Office of the City Attorney Intern Monica Davis, appearing on behalf of the City, and AFSCME Business Agent Eric Larsen, and the appellant, were present. Hearing Officer Côté advised that both parties participate in a prehearing conference with her one week prior to the hearing date, be prepared to discuss issues, witnesses and have already exchanged documents.

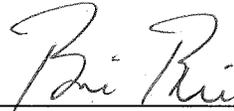
5. Quarterly verbal report of the Employee Oversight Committee (EOC) was deferred to April 2, 2009.

Human Resources Employment Division Manager Sarah Nunes provided an overview of the EOC. Ms. Nunes stated that discussion was held on the City's budget, the seniority process, and notices sent to impacted employees. Ms. Nunes stated that the Department of Human Resources has continued to hold resume writing and interviewing workshops for impacted employees.

ORAL PETITIONS

There were none.

ADJOURN at 4:22 p.m. to 6:30 p.m. to hear the appeal of dismissal of Robert Harris, Heavy Equipment Operator (3343) (Nishigaya/Cravens)



BILL BRILL, CHAIR

ATTEST:
CIVIL SERVICE COMMISSION
LEE PRICE, MMC, SECRETARY



Michelle Radcliffe, Deputy Secretary

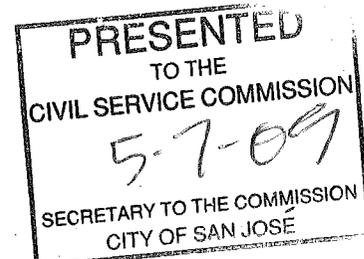


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CIVIL SERVICE COMMISSION Minutes of the Commission April 2, 2009

The Civil Service Commission of the City of San José convened on April 2, 2009, in Room W242, San José City Hall, at 6:41 p.m.

PRESENT: Commissioner Brill, Busse, Fitch, Soulé and Côté
ABSENT: None

Presiding Officer Côté stated this meeting had been called to order to hear the appeal of dismissal of Robert Harris, Heavy Equipment Operator. It was determined that the appellant, the appellant's representative, Lawrence Cravens, Deputy City Attorney Daisy Nishigaya, representing the respondent, City of San José, and Jim Ortbal, representing the Department of Transportation, were present and all parties were ready to proceed.

Ms. Nishigaya noted for the record that the subpoenas requested by Appellant's representative requesting the disciplinary files of two other employees who had Driving Under the Influence (DUI) charges on their driving record were not relevant to the current proceedings as those disciplinary proceedings occurred prior to a change in law. Mr. Harris' DUI was charged under the new state law. Based on that offer of proof, the request to subpoena disciplinary records or other City employees previously disciplined as a result of DUI was denied by Presiding Officer Côté for lack of relevance.

Opening statements were made by Ms. Nishigaya and Mr. Cravens.

Testimony was heard from Department of Transportation Deputy Director Kevin O'Connor.

The parties stipulated that Mr. Harris will not have a valid California Driver's License from September 3, 2008 through September 2, 2009.

On cross-examination, Mr. O'Connor indicated he communicated by e-mail about the matter. Mr. Cravens made a pre-hearing demand to view the e-mails.

Ms. Nishigaya noted for the record that the e-mails referenced by Mr. O'Connor consisted of eight pages which had been previously viewed in camera by Presiding Officer Côté and ruled to be non-responsive to the subpoena issued and/or attorney-client privilege. Mr. Cravens

objected stating that he had not reviewed the e-mails. Presiding Officer Côté overruled and noted Mr. Cravens objection for the record.

Testimony was heard from Department of Transportation Assistant Director Jim Ortbal.

The parties stipulated that all exhibits were admissible.

At 8:28 p.m., the Commission recessed and reconvened at 8:42 p.m. with Commissioners Brill, Busse, Fitch, Soulé, and Côté present.

Testimony was heard from Office of Employee Relations Deputy Director Gina Donnelly.

City's Exhibits No. #A through #B, #B1 through #B10, and #C through #D were entered into evidence.

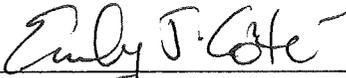
Testimony was heard from Department of Transportation Maintenance Supervisor Joe Pomeroy and Appellant Robert Harris.

Appellant's Exhibits No. # 1 through 5 were entered into evidence.

Closing arguments were made by Ms. Nishigaya and Mr. Cravens.

Upon notice of submission, the Commission entered into Closed Session at 9:57 p.m. to deliberate. The Commission reconvened at 10:19 p.m. with Commissioners Brill, Busse, Fitch, Soulé, and Côté present.

The Commission thanked both parties for their presentations and suggested that the Department of Transportation update its policy manual to reflect the new law regarding Class A Licenses and driving under the influence. The Commission also suggested that the Department of Transportation review its policy manual to clarify any potential ambiguity regarding offenses. The Commission voted unanimously to sustain Charge No. #1 in full and to uphold the discipline of termination.



EMILY J. CÔTÉ, PRESIDING OFFICER

ATTEST:

CIVIL SERVICE COMMISSION
LEE PRICE, SECRETARY



Michelle Radcliffe, Deputy Secretary