



City of Santa Clara

Meeting Agenda

Civil Service Commission

Monday, September 11, 2023

7:00 PM

Hybrid Meeting
City Hall Council
Chambers/Virtual
1500 Warburton Avenue
Santa Clara, CA 95050

The City of Santa Clara is conducting the Civil Service Commission in a hybrid manner (in-person and a method for the public to participate remotely).

• Via Zoom:

<https://santaclaraca.zoom.us/j/86351228305?pwd=eFd5aDRVU0cyYUc0dFhaMjJiUWVSdz09>

Passcode: 761380

OR

Phone: 1 (669) 900-6833

CALL TO ORDER AND ROLL CALL

Pledge of Allegiance

CONSENT CALENDAR

- 1a. 23-1095 [Action to Approve the Civil Service Commission Meeting Minutes of August 14, 2023.](#)

Recommendation: Approve the Meeting Minutes of August 14, 2023.

- 1b. 23-1129 [Note and File the Current Status and Requisition Report Dated August 31, 2023](#)

Recommendation: Note and File the Current Status and Requisition Report Dated August 31, 2023

PUBLIC PRESENTATIONS

[This item is reserved for persons to address the body on any matter not on the agenda that is within the subject matter jurisdiction of the body. The law does not permit action on, or extended discussion of, any item not on the agenda except under special circumstances. The governing body, or staff, may briefly respond to statements made or questions posed, and appropriate body may request staff to report back at a subsequent meeting.]

GENERAL BUSINESS

- 2a. 23-1130 [Board of Review Hearing for Appeal of Public Employee Disciplinary Action of Pump Maintenance Technician \(677\)](#)
- 2b. 23-1122 [Closed Session - Pursuant to Government Code Section 54957\(b\)\(1\), a Closed Session of the Board of Review regarding PUBLIC EMPLOYEE DISCIPLINE / DISMISSAL / RELEASE for the Purpose of Deliberation](#)

STAFF REPORT**COMMISSIONERS REPORT****ADJOURNMENT****MEETING DISCLOSURES**

The time limit within which to commence any lawsuit or legal challenge to any quasi-adjudicative decision made by the City is governed by Section 1094.6 of the Code of Civil Procedure, unless a shorter limitation period is specified by any other provision. Under Section 1094.6, any lawsuit or legal challenge to any quasi-adjudicative decision made by the City must be filed no later than the 90th day following the date on which such decision becomes final. Any lawsuit or legal challenge, which is not filed within that 90-day period, will be barred. If a person wishes to challenge the nature of the above section in court, they may be limited to raising only those issues they or someone else raised at the meeting described in this notice, or in written correspondence delivered to the City of Santa Clara, at or prior to the meeting. In addition, judicial challenge may be limited or barred where the interested party has not sought and exhausted all available administrative remedies.

If a member of the public submits a speaker card for any agenda items, their name will appear in the Minutes. If no speaker card is submitted, the Minutes will reflect "Public Speaker."

In accordance with the requirements of Title II of the Americans with Disabilities Act of 1990 ("ADA"), the City of Santa Clara will not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs, or activities, and will ensure that all existing facilities will be made accessible to the maximum extent feasible. The City of Santa Clara will generally, upon request, provide appropriate aids and services leading to effective communication for qualified persons with disabilities including those with speech, hearing, or vision impairments so they can participate equally in the City's programs, services, and activities. The City of Santa Clara will make all reasonable modifications to policies and programs to ensure that people with disabilities have an equal opportunity to enjoy all of its programs, services, and activities.

Agendas and other written materials distributed during a public meeting that are public record will be made available by the City in an appropriate alternative format. Contact the City Clerk's Office at 1 408-615-2220 with your request for an alternative format copy of the agenda or other written materials.

Individuals who require an auxiliary aid or service for effective communication, or any other disability-related modification of policies or procedures, or other accommodation, in order to participate in a program, service, or activity of the City of Santa Clara, should contact the City's ADA Coordinator at 408-615-3000 as soon as possible but no later than 48 hours before the scheduled event.



City of Santa Clara

1500 Warburton Avenue
Santa Clara, CA 95050
santaclaraca.gov
@SantaClaraCity

Agenda Report

23-1095

Agenda Date: 9/11/2023

REPORT TO CIVIL SERVICE COMMISSION

SUBJECT

Action to Approve the Civil Service Commission Meeting Minutes of August 14, 2023.

RECOMMENDATION

Approve the Meeting Minutes of August 14, 2023.



City of Santa Clara

Meeting Minutes

Civil Service Commission

08/14/2023

7:00 PM

City Hall - Council Chambers/Virtual
1500 Warburton Avenue
Santa Clara, CA 95050

The City of Santa Clara is conducting the Civil Service Commission in a hybrid manner (in-person and a method for the public to participate remotely).

• Via Zoom:

o <https://santaclaraca.zoom.us/j/86351228305?pwd=eFd5aDRVU0cyYUc0dFhaMjJiUWVSdz09>

Webinar ID: 863 5122 8305

Passcode: 761380

OR

o Phone: 1(669) 900-6833

CALL TO ORDER AND ROLL CALL

Chair Felizardo called the meeting to order at 7:01 PM and lead the meeting with the Pledge of Allegiance.

Present 5 - Chair Franklin Felizardo, Vice Chair Tahir Naim , Commissioner Ron Billingsley, Commissioner Wesley Dudzinski, and Commissioner Arti Purohit

CONSENT CALENDAR

1a. [23-641](#) Action to Approve the Civil Service Commission Meeting Minutes of April 10, 2023.

A motion was made by Vice Chair Naim, seconded by Commissioner Dudzinski, to Approve the Civil Service Commission Meeting Minutes of April 10, 2023.

Aye: 3 - Chair Felizardo, Vice Chair Naim, and Commissioner Dudzinski

Abstained: 2 - Commissioner Billingsley, and Commissioner Purohit

- 1b. [23-755](#) Action to Approve the Civil Service Commission Meeting Minutes of May 8, 2023.

A motion was made by Commissioner Dudzinski, seconded by Vice Chair Naim, to Approve the Civil Service Commission Meeting Minutes of May 8, 2023.

Aye: 3 - Chair Felizardo, Vice Chair Naim, and Commissioner Dudzinski

Abstained: 2 - Commissioner Billingsley, and Commissioner Purohit

- 1c. [23-957](#) Note and File the Current Status and Requisition Report dated July 31, 2023

A motion was made by Commissioner Purohit, seconded by Commissioner Billingsley, to Note and File the Current Status and Requisition Report dated July 31, 2023

Aye: 5 - Chair Felizardo, Vice Chair Naim, Commissioner Billingsley, Commissioner Dudzinski, and Commissioner Purohit

PUBLIC PRESENTATIONS

None

GENERAL BUSINESS

2. [23-749](#) Action to Abolish the Eligible List for Senior Electric Utility Engineer (Job Code 730)

A motion was made by Vice Chair Naim, seconded by Commissioner Billingsley, to abolish the eligible list for Senior Electric Utility Engineer (Job Code 730)

Aye: 5 - Chair Felizardo, Vice Chair Naim, Commissioner Billingsley, Commissioner Dudzinski, and Commissioner Purohit

3. [23-969](#) Action to Abolish the Eligible List for Water & Sewer Maintenance Worker I (Job Code 914)

A motion was made by Commissioner Purohit, seconded by Vice Chair Naim, to abolish the eligible list for Water and Sewer Maintenance Worker I (Job Code 914)

Aye: 5 - Chair Felizardo, Vice Chair Naim, Commissioner Billingsley, Commissioner Dudzinski, and Commissioner Purohit

4. [23-944](#) Action to Adjust the Examination Weighting Plan for Assistant Planner (Job Code 232) on an Ongoing Basis

A motion was made by Commissioner Purohit, seconded by Commissioner Billingsley, to Adjust the Examination Weighting Plan for Assistant Planner (Job Code 232) on an Ongoing Basis

Aye: 5 - Chair Felizardo, Vice Chair Naim, Commissioner Billingsley, Commissioner Dudzinski, and Commissioner Purohit

5. [23-1008](#) Action to Adjust the Examination Weighting Plan for Street Sweeper Operator (Job Code 825) on an Ongoing Basis

A motion was made by Commissioner Billingsley, seconded by Commissioner Purohit, to Adjust the Examination Weighting Plan for Street Sweeper Operator (Job Code 825) on an Ongoing Basis

Aye: 5 - Chair Felizardo, Vice Chair Naim, Commissioner Billingsley, Commissioner Dudzinski, and Commissioner Purohit

6. [23-943](#) Election of Civil Service Commission Chair and Vice-Chair

A motion was made by Vice Chair Naim, seconded by Commissioner Billingsley, that Chair Felizardo continue to serve as Chair for the period of August 14, 2023 through June 30, 2024.

Aye: 4 - Vice Chair Naim, Commissioner Billingsley, Commissioner Dudzinski, and Commissioner Purohit

Abstained: 1 - Chair Felizardo

A motion was made by Chair Felizardo, seconded by Commissioner Purohit, that Vice Chair Naim continue to serve as Vice Chair for the period of August 14, 2023 through June 30, 2024.

Aye: 4 - Chair Felizardo, Commissioner Billingsley, Commissioner Dudzinski, and Commissioner Purohit

Abstained: 1 - Vice Chair Naim

7. [23-942](#) Action to Establish Civil Service Commission Meeting and Board of Review Dates for 2024

A motion was made by Vice Chair Naim, seconded by Commissioner Dudzinski, to establish the Civil Service Commission Meeting and Board of Review Dates for 2024, if the second Thursday of the month is generally open for 2024 dates at 7:00 PM then make the list for those second Thursday dates. If, the second Thursday isn't available then go with the proposed list that's with RTC with the caveat that on the holiday dates, the new meeting date should be the following Monday as opposed to the Thursday of that week.

Aye: 5 - Chair Felizardo, Vice Chair Naim, Commissioner Billingsley, Commissioner Dudzinski, and Commissioner Purohit

STAFF REPORT

8. [23-941](#) Informational Presentation and Overview of Relevant Provisions of Brown Act, Robert's Rules of Order, and Public Records Act
At 8:25 PM, Chair Felizardo left the Civil Service Commission meeting. Vice Chair Naim served as the Acting Chair for the duration of the Civil Service Commission meeting.
9. [23-949](#) Informational Presentation to the Civil Service Commission Regarding Board of Review Rules and Procedures

COMMISSIONERS REPORT

None

ADJOURNMENT

A motion was made Commissioner Purohit, seconded by Commissioner Billingsley, to adjourn the Civil Service Commission Meeting at 9:11 PM.

Aye: 4 - Vice Chair Naim, Commissioner Billingsley, Commissioner Dudzinski, and Commissioner Purohit

Absent: 1 - Chair Felizardo

MEETING DISCLOSURES

The time limit within which to commence any lawsuit or legal challenge to any quasi-adjudicative decision made by the City is governed by Section 1094.6 of the Code of Civil Procedure, unless a shorter limitation period is specified by any other provision. Under Section 1094.6, any lawsuit or legal challenge to any quasi-adjudicative decision made by the City must be filed no later than the 90th day following the date on which such decision becomes final. Any lawsuit or legal challenge, which is not filed within that 90-day period, will be barred. If a person wishes to challenge the nature of the above section in court, they may be limited to raising only those issues they or someone else raised at the meeting described in this notice, or in written correspondence delivered to the City of Santa Clara, at or prior to the meeting. In addition, judicial challenge may be limited or barred where the interested party has not sought and exhausted all available administrative remedies.

If a member of the public submits a speaker card for any agenda items, their name will appear in the Minutes. If no speaker card is submitted, the Minutes will reflect "Public Speaker."

In accordance with the requirements of Title II of the Americans with Disabilities Act of 1990 ("ADA"), the City of Santa Clara will not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs, or activities, and will ensure that all existing facilities will be made accessible to the maximum extent feasible. The City of Santa Clara will generally, upon request, provide appropriate aids and services leading to effective communication for qualified persons with disabilities including those with speech, hearing, or vision impairments so they can participate equally in the City's programs, services, and activities. The City of Santa Clara will make all reasonable modifications to policies and programs to ensure that people with disabilities have an equal opportunity to enjoy all of its programs, services, and activities.

Agendas and other written materials distributed during a public meeting that are public record will be made available by the City in an appropriate alternative format. Contact the City Clerk's Office at 1 408-615-2220 with your request for an alternative format copy of the agenda or other written materials.

Individuals who require an auxiliary aid or service for effective communication, or any other disability-related modification of policies or procedures, or other accommodation, in order to participate in a program, service, or activity of the City of Santa Clara, should contact the City's ADA Coordinator at 408-615-3000 as soon as possible but no later than 48 hours before the scheduled event.



Civil Service Commission

Brown Act, Robert's Rules, & Public Records Act

Agenda Item 23-941

**Presented by: Su Reuter, Chief
Assistant City Attorney**

August 14, 2023



The Brown Act

- State law, passed by the State Legislature in 1953
- Incorporated into the State Constitution in 2004
- Intended to:
 - Provide openness and transparency
 - Ensure that the public has meaningful access to its agencies
 - Provide the public with the means to provide their input



- Core tenet of the Brown Act:
“All ***meetings*** of the ***legislative body*** of a ***local agency*** shall be ***open and public***, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.” Gov’t. Code § 54953(a)
- Is Santa Clara a “local agency?” YES
- Is the Civil Service Commission a “legislative body?” YES



- What constitutes a meeting? (GC § 54952.2)
 - A majority of the Commission to be present
 - The Commissioners must be in the same location at the same time (teleconference included)
 - The purpose is “to hear, discuss, deliberate, or take action on any item”
 - The item being discussed or decided is within the subject matter jurisdiction of the legislative body



- Exceptions to the definition of “meeting”
 - Attending a conference
 - Attending a community meeting
 - Attending an open/noticed meeting of another local agency legislative body
 - Attending a social/ceremonial event
- DO NOT discuss Commission business
- Also, communications of less than a majority



- What is a “serial” meeting?
 - A series of communications of any kind (including any type of electronic means), either directly or through intermediaries, to discuss/deliberate/decide an issue within your jurisdiction
 - Daisy Chain (A to B, then B to C, then C to D, etc.)
 - Hub and Spoke (A to B, then C, then D, or intermediary contacts A, then B, then C, etc.)
 - Most common error: EMAIL (no “Reply All”)



- Teleconferencing – new laws
 - Traditional pre-pandemic teleconferencing
 - Notice and posting
 - **NEW** Just cause and emergency circumstances exceptions to notice and posting requirements (effective currently)



- AB 922 – Social media constraints
 - Went into effect January 1, 2021
 - No “discussions” on social media
 - Cannot respond in any way (including posting comment or using the “like” button) to a post by another commissioner relating to something within the subject matter jurisdiction of the CSC



- How can we make meetings “open and public?”
 - First, we provide notice via published agendas
 - Second, public can provide their input
 - Public comment allowed both generally ("Public Presentations" heading on the agenda) and specifically as to each item on the agenda
 - Third, no non-agendized discussions



- **Open vs. Closed Session**
 - Default is that everything is on open session
 - Certain issues may be discussed in closed session – employee discipline (deliberation) and the litigation exception
 - Confidentiality
- **Penalties/Enforcement**



Robert's Rules of Order

- City Code § 2.10.020 requires that City Council meetings be conducted pursuant to Robert's Rules of Order and Boards & Commissions follow this requirement as well
- The purpose of such rules is to promote orderly conduct, clarity, and protect the rights of the minority by facilitating discussion



- Establish Quorum with Roll Call
 - Quorum = minimum number to make decision (3)
 - 50% +1 of the entire membership of the body (3)
 - If only a quorum is present, the meeting may continue, but all motions must be unanimous to pass
 - Charter Section 1003, “The affirmative or negative vote of a majority of the entire membership of such board or commission shall be necessary for it to take action. ”



- Format for each agenda item:
 1. Chair reads the agenda item description
 2. Chair asks for staff report/presentation
 3. Commissioners can ask questions of staff
 4. Chair invites public comment on the item
 5. Chair invites a motion and second
 6. Chair asks Commissioners to discuss motion
 7. Vote is taken



Public Records Act

- Followed the Brown Act, same policy intent
- Enacted in 1968, modeled on FOIA
- Was incorporated into the Cal Const.
- Basic tenet: Public records shall be disclosed to the public, upon request, unless there is a legal basis not to do so (exemptions)
- As a legislative body of the City, the work of the CSC is subject to the PRA

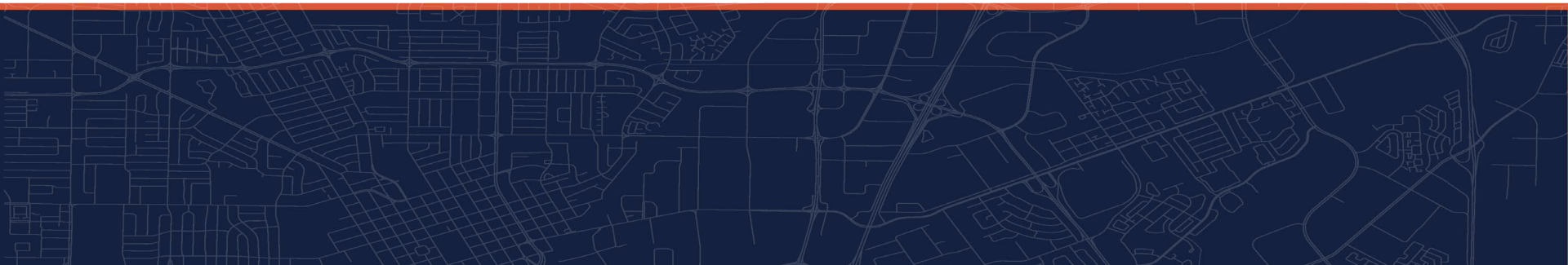


- What is a public record?
The PRA defines “public records” as “***any writing*** containing information relating to the ***conduct of the public’s business prepared, owned, used, or retained*** by any state or local agency regardless of physical form or characteristics.”
- Record retention requirements
- Penalties/Enforcement



City of Santa Clara

The Center of What's Possible





Civil Service Commission

Board of Review Rules & Procedures

23-949

**Alexander Abbe
Assistant City Attorney**

August 14, 2023



Overview

- Why are we here?
- What is a board of review hearing?
- What happens before, during, after the hearing?
- What are some rules of conduct for the hearing?
- How do you reach a decision?



Why Are We Here?

- Allegation of Employee Misconduct
- Civil Service Rules & Regs
 - § 6.4: Causes for employee discipline
 - § 6.6: Notice of discipline
 - § 7.3: Right to appeal to Board of Review (BOR)



What is a BOR Hearing?



- Arguments from each party
- Usu. represented by counsel
 - Dif. attys for dept. & BOR
- Opening & closing arguments
- Both sides present evidence & call witnesses
- BOR adjourns to deliberate & render opinion



Rules & Procedures for BOR Hearings

Approved by Civil Service Commission 8/11/03
Revision Approved 9/15/03

CITY OF SANTA CLARA

Rules and Procedures for the Conduct of Hearings and Boards of Review

PREAMBLE:

- A. The Civil Service Commission shall meet and act as a Board of Review when required under the provisions of Section 7 of the Civil Service Rules and Regulations.
- B. The purpose of these Rules and Procedures is to provide a fair and impartial hearing in which the facts are developed in an expeditious manner.
- C. To guide the Board in its conduct involving a termination, suspension, demotion or reduction in pay as defined therein, the following rules and procedures shall be adhered to:
 1. The hearing shall be: informal, open to the public, unless otherwise ordered by the Board or at the request of the person involved.



Before the hearing...

- Employee notified in writing
- Employee has 10 days to appeal
- CSC sets date(s) for the hearing
- Parties submit witness lists & written statements
- Employee may request that hearing be closed to the public





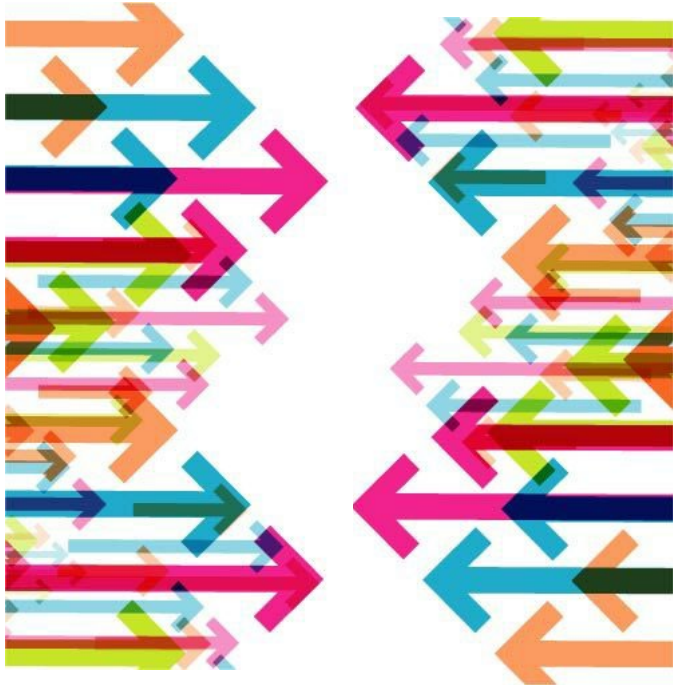
At the hearing...

- Procedural discussion
- Opening statements
- Present testimony (in person or by affidavit)
- Introduce exhibits
- Cross-examine witnesses
- Closing statements





Order of Proof



- Dept present evidence supporting the discipline
- Employee presents evidence in defense
- Parties may cross-examine witnesses after direct testimony
- Dept provides rebuttal
- Employee provides rebuttal



Conduct of the Hearing

- Make no assumptions about appropriateness of disciplinary action
- Be guided by the weight of the evidence presented; receive no evidence outside the hearing
- Ask additional questions of witnesses to understand the pertinent facts
- Must be disinterested, impartial arbiter
- Assist the Chair to ensure a fair & orderly hearing



Conduct of the Hearing

- Chair serves as presiding officer.
 - Opens & closes the hearing
 - Explains hearing procedures
 - Administers oaths





Conduct of the Hearing

- Chair serves as presiding officer.
 - Rules on *objections*



- Irrelevant
- Repetitious
- Already established
- Confusing

– Accepts evidence into the record¹¹



After the hearing...

- Board adjourns into closed session
- Board renders decision within 10 days
- Decision must be in writing
- Uphold, overturn, or *modify* department decision
- Decision is binding on the employee and the department





How do you Reach a Decision?



- Majority vote (3 / 5)
- Standard of Review is *de novo*
- *Burden of proof* is on the Department
- Make your decision on a *preponderance* of the evidence
- Ok to consider any prior disciplinary action

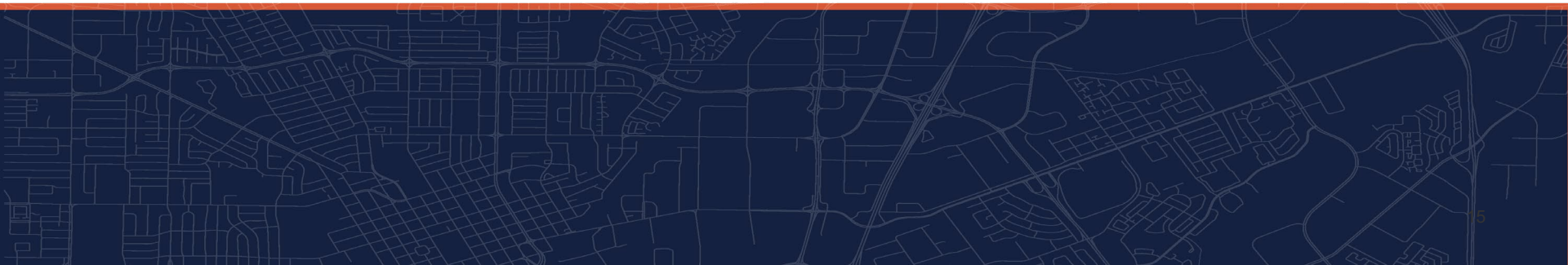


Questions



City of Santa Clara

The Center of What's Possible





City of Santa Clara

1500 Warburton Avenue
Santa Clara, CA 95050
santaclaraca.gov
@SantaClaraCity

Agenda Report

23-1129

Agenda Date: 9/11/2023

REPORT TO CIVIL SERVICE COMMISSION

SUBJECT

Note and File the Current Status and Requisition Report Dated August 31, 2023

RECOMMENDATION

Note and File the Current Status and Requisition Report Dated August 31, 2023

ATTACHMENT

1. Current Status and Requisition Report Dated August 31, 2023

Current Status and Requisition Report
Dated August 31, 2023

Requisition Number	Classification	Department	Number of Positions Approved to Fill
19472	Assistant/Associate Planner	Community Development	3
21301; 22405	Combination Inspector	Community Development	2
21349	Housing Inspector	Community Development	1
19457	Office Specialist II	Community Development	2
2319491	Permit Technician	Community Development	1
TBD	Account Clerk II	Electric Utility	1
TBD	Assistant Electric Utility Engineer	Electric Utility	1
TBD	Electrical Estimator	Electric Utility	1
TBD	Electric Utility Electrician	Electric Utility	3
TBD	Electric Utility Network Administrator	Electric Utility	2
22340	Electric Utility Programmer Analyst	Electric Utility	2
TBD	Electric Utility Engineer	Electric Utility	2
22445	Electric Water and Sewer Operator	Electric Utility	1
2319490	Engineering Aide	Electric Utility	2
TBD	Journey Lineworker/Apprentice	Electric Utility	2
TBD	Senior Electric System Operator	Electric Utility	1
23465	Senior Electric Utility Engineer	Electric Utility	3
2319491	Senior Engineering Aide	Electric Utility	1
2319498	Senior Resource Analyst	Electric Utility	2
2319504	Service Coordinator Inspector	Electric Utility	1
2319500	Utility Conservation/Efficiency Coordinator	Electric Utility	1
TBD	Accountant	Finance	1
TBD	Customer Service Representative	Finance	1
2319484	Office Assistant	Fire	1
2319483	Office Specialist II	Fire	1
23441	Permit Technician	Fire	1
2319482	Staff Aide I	Fire	1
TBD	Staff Analyst I	Fire	1
TBD	Librarian I/II	Library	2
TBD	Library Circulation Supervisor	Library	1
TBD	Grounds Maintenance Worker I	Parks & Recreation	1
TBD	Recreation Coordinator	Parks & Recreation	1
2319491	Office Specialist II	Parks & Recreation	2
TBD	Crime Analyst	Police	1
98-19-650C/35-14-689C	Community Service Officer I/II	Police	4
TBD	Jail Services Officer	Police	1
19079	Office Specialist III	Police	1
21347	Police Officer Recruit/Lateral	Police	5
19256/20275/21321	Police Records Specialist II	Police	4
TBD	Public Safety Dispatcher I/II	Police	4
TBD	Automotive Technician II	Public Works	1
2319474	Building Maintenance Worker	Public Works	1
2319491	Code Enforcement Technician	Public Works	1
2319474	Public Works Supervisor	Public Works	1
22441	Street Maintenance Worker I	Public Works	3
2319479	Street Sweeper Operator	Public Works	1
TBD	Assistant Engineer	Water and Sewer Utilities	1

Current Status and Requisition Report
Dated August 31, 2023

Requisition Number	Classification	Department	Number of Positions Approved to Fill
TBD	Associate Engineer	Water and Sewer Utilities	2
TBD	Equipment Operator	Water and Sewer Utilities	1
TBD	Pump Maintenance Technician	Water and Sewer Utilities	1
TBD	Sewer Inspection Technician	Water and Sewer Utilities	1
TBD	Utility Business System Specialist	Water and Sewer Utilities	1
TBD	Water & Sewer Maintenance Worker I	Water and Sewer Utilities	4
Total			88

*Report only includes classified positions, covered by the Civil Service Rules, excludes unclassified and as-needed recruitments.



City of Santa Clara

1500 Warburton Avenue
Santa Clara, CA 95050
santaclaraca.gov
@SantaClaraCity

Agenda Report

23-1130

Agenda Date: 9/11/2023

REPORT TO CIVIL SERVICE COMMISSION

SUBJECT

Board of Review Hearing for Appeal of Public Employee Disciplinary Action of Pump Maintenance Technician (677)



City of Santa Clara

1500 Warburton Avenue
Santa Clara, CA 95050
santaclaraca.gov
@SantaClaraCity

Agenda Report

23-1122

Agenda Date: 9/11/2023

REPORT TO CIVIL SERVICE COMMISSION

SUBJECT

Closed Session - Pursuant to Government Code Section 54957(b)(1), a Closed Session of the Board of Review regarding PUBLIC EMPLOYEE DISCIPLINE / DISMISSAL / RELEASE for the Purpose of Deliberation