

**SAN BERNARDINO CITY UNIFIED SCHOOL DISTRICT  
PERSONNEL COMMISSION  
MEETING MINUTES**

**July 22, 2009**

A meeting of the Personnel Commission was held in the Community Room at the Board of Education Building. Present were Mr. George Bohn, Chairperson; Ms. Rhonda Early, Vice-Chairperson; Gino Barabani, Member; and Mr. Jeff Josserand, Executive Director.

**I. CALL TO ORDER**

Mr. Bohn, Chairperson, called the meeting to order at 5:30 P.M. Gino Barabani led the pledge of allegiance.

**II. APPROVAL OF MINUTES**

Mr. Bohn: First order of business is to approve minutes of the Personnel Commission meeting for June 9th and Personnel Commission special meeting on May 27th. Are there any corrections or additions that need to be made? Let's start with the June 9<sup>th</sup> minutes. There is, I think on page two, a typo down on the bottom half of number four A; it says, "Mr. Bohn: it's *an* order to consider a motion" and I think it should be it's *in* order to consider a motion for exempting the position. I don't see anything else; would you like to approve the minutes?

Mr. Barabani: I will motion to approve the minutes.

Mr. Bohn: Do I have a second?

Ms. Early: I second.

Mr. Bohn: I have a motion and a second to approve the June 9<sup>th</sup> minutes. All of those in favor say aye.

Ms. Early: Aye.

Mr. Barabani: Aye.

Mr. Bohn: Aye. So moved. We will move to the May 27th. Does anybody have any corrections to this?

Mr. Barabani: I don't have a correction but the manner in which it was made, for instance, on the part where it says "approval of minutes Mr. Barabani: I second minutes of April and then it says to be approved all agreed and approved," I believe it should be on separate line. This is not my statements. The document has patterns of that throughout not only under myself under yours also. On page six says "I second the motion all agreed and approve to motion," it's not a statement per say, it's not what we said.

Mr. Bohn: Just the way it's said?

Mr. Barabani: Yeah it just needs a return.

Mr. Jossierand: Would it be the interest of the Commission for you to approve those with the guidance that staff fixes them or would you like us to fix it and then bring them back to you at the next meeting for consideration?

Mr. Barabani: Let's fix them and bring them back for consideration.

Mr. Jossierand: Yes sir.

Mr. Bohn: You want them to bring them back fixed before we approve them?

Mr. Barabani: Yes I would like that.

Mr. Bohn: We accept minutes for May 27, 2009 signed until next meeting so that they can be corrected.

Ms. Early: One thing while we are doing our corrections, under page five under public hearing concerning the Commission budget, Mr. Richards' concerns have been omitted from the public section, it's got my response to his concerns but his item is not actually featured in.

Mr. Jossierand: If I am understanding correctly you would like those to be added in?

Ms. Early: Yes.

Mr. Jossierand: Yes ma'am.

Mr. Bohn: I understand there is a request to pull the minutes for the May 28th meeting.

Mr. Jossierand: Yes, Mr. Chairperson.

Mr. Bohn: All right, we will pull those minutes unless there is an objection. I am going to ask the Executive Director to move his report to the next item so that we can hear the report before we approve the agenda. There were some questions that have been asked; maybe he can fill us in a bit until we get to the agenda.

**V. REPORT BY THE EXECUTIVE DIRECTOR OF CLASSIFIED PERSONNEL AND THE PERSONNEL COMMISSION**

Mr. Jossierand: Thank you. The Commission is aware that we are having difficulties in establishing the budget for the Personnel Commission. Staff believes in two overriding principles related to the Personnel Commission budget; that the Commission is committed to performing its proper duties and requires the funding to accomplish those duties. The Commission staff is mindful of the current budget problems facing the state of California. The second issue, principle, that we hold primary in all this is that the Commission is committed to work collaboratively with all parties to resolve differences in an environment of professionalism

and mutual respect. In keeping with those principles, Commission staff recommends we table action items A, E, and F. Staff also recommends if the Commission will consider tabling item B in that insufficiencies in Commission staff, as it is now, may not allow timely completion of the listed recruitments. In an effort to avoid misunderstanding and place expectations, perhaps errantly in people's mind that cannot reasonably be met. Perhaps, we should not approve those recruitments but staff will do the best they can in either case.

The Commission staff requests one more opportunity to resolve the existing disagreements in budget questions with the Administration. Staff believes that every reasonable opportunity must be provided to reconcile difficulties at the lowest possible level within a reasonable timeframe. To that end staff believes that it is best to demonstrate for all reasonable people, see clear evidence of cooperation in the spirit of team work on the part of the Commission. We are hopeful that our efforts are reciprocated by all concerned and that the Commission be consulted when appropriate and that a proper reasonable level of funding be provided to the Commission. Should staff be unsuccessful during this requested allotted time frame? It is the judgment of staff that more aggressive action should be considered and maybe warranted by the Commission during the September meeting. Time to reconcile these difficulties; challenges that the August regular meeting be cancelled and the next meeting would be the regularly scheduled September meeting. It is hopeful that the signs that we have seen from senior administrators have provided a further opportunity that if we take a pause may result in a satisfactory resolution of perhaps, some of the existing challenges we face. I think the current budget crisis facing the state of California and the difficulties that our Administration faces in reacting to that; that providing some time and some breathing space for them to try to meet the Commission's interest may pay dividends. Should it not pay dividends, I believe that the Commission will have clearly established that they've made every effort to resolve those difficulties at the lowest possible level. That concludes my report Mr. Chairperson and Commissioners.

Mr. Bohn: Thank you. It would be my recommendation that we pull items A, E, and F and then we can have some discussion on item B before we do that and pull those three items for them to possibly reappear on our next regular scheduled meeting. Does anyone have any objections to that?

Ms. Early: I do not.

Mr. Bohn: Gino, do you object to that?

Mr. Barabani: I do not either.

Mr. Bohn: Then we will pull items A, E, and F. I would like to say about Item F, those are approving chapters three through eighteen; that seems to be, to me anyway, a lot of wording and paperwork to study and come up with a speed dialing. I would like to see them brought forward in groups of two, three and four wherever it might be. The entities can come up with, I would think that in those chapters three through eighteen, that there are some of those chapters that may be easily completed and done and other ones might take a little more negotiations and some what to get done. I would think if the three groups went down and listed them in order of what was most important and what was least important it would all come up and I think probably end up

with some commonality and we get by those and then move on and give us some more time to work on the ones that have a little more difficult time.

Ms. Early: I agree with you Commissioner Bohn. Also, we've requested that we be provided a strike through version of those Rules so we can easily identify the changes.

Mr. Bohn: Staff understands that?

Mr. Josserand: Yes and no; the Rules that are proposed and the draft model Rules for San Bernardino City Unified, substantively the ones before you, came to you in its initial form for a first read. The rules that are before you tonight, should you have decided to consider them were unchanged from the first reading. So, ostensibly if the guidance was to provide a strike version of the Rules as they went through the process, that's been accomplished because there were no changes in chapters three through twenty-two minus chapter nineteen. Does that make sense?

Ms. Early: It makes sense.

Mr. Josserand: So what I would encourage is, perhaps, some study with the individual Commissioners to address your concerns and staff will try to come up with some sort of matrix to compare the existing status quo; on what we're operating under now and what the proposed Rules would require and to clearly delineate where the shifts are. Would that meet the Commissioners' interest?

Ms. Early: To come up with the rationale for the recommended changes that it would take.

Mr. Josserand: Yes ma'am, Commission staff understands.

Mr. Bohn: Okay. We can expect to see, starting the next meeting, approve three chapters to come forward, they don't have to be in order but chapters have had some rigid between the three in case they are involved with it.

### **III. APPROVAL OF AGENDA**

Mr. Bohn: We are at the approval of agenda now. Do I have motion to approve the agenda?

Ms. Early: I move to approve the agenda with the recommended changes.

Mr. Bohn: Do I have a second?

Mr. Barabani: I second the agenda.

Mr. Bohn: I have second to approve the agenda. All of those in favor say aye.

Ms. Early: Aye.

Mr. Barabani: Aye.

Mr. Bohn: Aye. So moved. We will move on then to the matters brought by the public.

#### **V. MATTERS BROUGHT BY PUBLIC**

Ken Holt, CSEA: Good evening, Ken Holt Chapter 183 CSEA President. I have two concerns tonight, one of which we have been dealing with almost a year. I want to ask the Commission to do an investigation on the Store Keeper position at Nutrition Services. They abandoned the position and promoted the person to manager, leaving it vacant while separating the duties of the Store Keeper and half to the manager and half to the Lead Delivery Driver. It was promised by Mr. Mel Albiso to fill that vacancy almost a year ago; here we stand with nothing being done about it, no movement at all. I think a year is more than being patient on an issue like that to be taken care of. I would like to ask the Commission to investigate that.

Second issue that came to CSEA's attention is that the Classified Human Resources Director position has been filled with a certificated manager. It's CSEA's belief that this is an illegal practice, that it cannot be filled by a certificated manager. I would like to ask the Commission to look into that as well. Since, it has cancelled problem solving, nothing personal against that person individually it's the position that we are looking at. We believe it's a classified position and it belongs to a classified manager and I would hope that you guys can investigate that as well. Thank you.

Mr. Bohn: Are there any other speakers?

Tom Hernandez, CSEA: Good evening, Mr. Commissioners. I just like to thank you very much.

Mr. Bohn: Can you give your name please?

Tom Hernandez, CSEA: I'm sorry my name is Tom Hernandez, CSEA Chief Job Steward. I'd like to thank each and every one of you for looking into the issue I have brought a couple of months ago on Limited Term employees that were employed, at the time, by the District. I did bring that attention to the Commissioners about a month ago or two months and I decided to come up here and thank you for resolving that issue for me. I emailed Mr. Josserand with thanking each and every one of you. I don't know if he has a copy of that but again just thank you very much for straightening that out for our chapter and our classified employees. Thank you.

Mr. Bohn: Addressing accounts concerned, what is an appropriate direction to go on this?

Mr. Josserand: Staff in reference to the CSEA's stated issues, it would be staff's recommendation to agendaize the matter for consideration by the Commission on whether they want to investigate or not. Just to give some brief sense to the Commission, where you may or may not have traction; on the first issue related to the Store Keeper there are of course labor relations questions that are best left through the negotiating process and that is not our concern. There are issues, however, let's say in this particular case there is an assertion that classified duties have been shifted from the bargaining unit to management. I think it's fair to say that could be resolved in negotiations or that could be the purview of the Commission; in that let's say for example, the Commission modified some duties of a manager, created the classification

and that person is not working within their classification that in staff's judgment you would have traction to resolve. What staff would normally do in a case like this, is preliminarily investigate informally, agendize it for direction from the Commission to conduct an investigation or an inquiry and hearing in that is the power of subpoena, the power to take witness, the power to seek legal counsel from the District's counsel expert advise and those sorts of things and to determine whether there is anything that the Commission has traction on and should act on. I've had an informal discussion with the labor leaders and there may, in fact, be traction for the Commission to consider here.

In reference to the second issue, is that the law is very specific, from staff's perspective, related to who's supposed to perform what duties. That question, I believe, is inside the purview of the Commission. I believe the question that may be asked here is that there is an existing classified position that is vacant that classified position that is vacant is specifically cited in existing Commission Rules as having certain powers to act, currently that position is vacant. There are times where there are temporary solutions to staffing issues; there are times in this budget crisis that there may be a need for temporary staffing solutions. Clearly staff would argue that the Commission must be consulted on these matters and must approve those decisions in that certificated duties from staff's perspective are certificated duties, classified duties are classified duties, the law defines one is not the other and the other is not the one. I suppose that what may be the question here is whether the position of the Director of Classified Personnel should be recruited for, an eligibility list should be created, and someone should be properly hired that meets the minimum education and with more experience requirements. Now the law is very clear that certificated person cannot apply but they must compete whether it's Promotional, whether it's Open Promotional competitive, whatever the Commission would choose to recruit it for. I say that there is sufficient question whether the District can appoint for any length of time without the Commission's approval. So, what staff would do is preliminarily look into it, seek legal guidance, agendize it, give a brief report to the Commission on whether they want to investigate or not and proceed. Does that answer the Commission's question?

Mr. Bohn: Is there something that can be accomplished by this next meeting?

Mr. Josserand: Yes Mr. Chairperson. Staff essentially will be on autopilot to do that without the correction from the Commission to agendize it for you to consider an investigation based on the request; unless it looks so frivolous or let the Commission staff then endorse it but of course any Commissioner can place it on the agenda as well, so I don't mean the Commission staff can prevent it from being considered. It's just any time that there is a request for investigation, Commission staff will almost go on autopilot; consider it bringing it to the Commission and properly prepare background information for the Commissioners and make a reasonable determination.

Mr. Bohn: That is speaking of item two. Item one can't have a longer term thing or is that?

Mr. Josserand: I believe in both cases Commission staff will do a preliminary investigation that was informal make a brief report to the Commission and then place it on the agenda to receive direction from the Commission and staff's beliefs has an unfair authority to investigate anything within the purview of your responsibilities and staff would ask a question and look at the portion

that is presented and ask for the investigation to see if you have potential grounds for that. Preliminary at this point based on what I have heard, you may in fact have grounds to take action or not take action as you see fit.

Mr. Bohn: It sounds like within a time frame we will be getting...

Mr. Josserrand: With the Chairperson's consent, does that sound reasonable to the requesting party?

Mr. Barabani: So Mr. Josserrand, it's my understanding we're going to get an informal time to spare and while you're doing that I'd like to make a request is that we'll start with the Store Keeper job. What are the duties and if we can define duties in the work plan and if there was a reason for them to have been expanded and why?

Mr. Bohn: We are going to try to get input from the public.

## **VI. ACTION ITEMS:**

### **B. Consider approval of the following recruitments (items will not be read individually).**

Mr. Bohn: So we will move on to action items; A was pulled, B was to be considered. Item B is to consider the approval of the following recruitments; there are six we will not read those. We have heard the information from staff that there really is not enough staff to complete these recruitments in a reasonable length of time. It appears that we view them with the knowledge that they are not going to get done in a reasonable length of time but we would like to have them because of our staffing and do the best we can or that we not approve at this particular time. Is that basically what you said?

Mr. Josserrand: Absolutely and much more efficiently, Mr. Chairperson, if I can compliment you on that.

Mr. Bohn: I used too many words. Do the Commissioners' have any questions?

Lillian Vo: My name is Lilly and I applied for the position of Mandated Cost Specialist. I was just wondering what's the status?

Mr. Bohn: What position did you apply for?

Lillian Vo: Mandated Cost Specialist.

Mr. Josserrand: That is not on the agenda Mr. Chairperson.

Mr. Bohn: That is not on the agenda. Could you after the meeting leave a note with the staff person and he'll take a look at that and see what we can find?

Lillian Vo: Okay, Thank you.

Mr. Bohn: Thank you. It looks that we have to approve them with knowing that we are not going to be able to do it in a normal length of time or not approve it.

Mr. Barabani: Can you tell me what you mean on normal length of time?

Mr. Josseland: Staff and staff's intent by doing what we've done related to this item was to fully make public the fact that this may not be done in a timely matter. That some of the recruitment burden that any agency has is dependent on the number of people that apply for positions. Some of that is not in Commission's staffs' control, so the prediction that you ask for from staff's perspective needs to be somewhat flexible. Staff has no real problem with the Commission approving these recruitments for tonight but staff wanted to communicate due to the staffing deficiencies that we've clearly delineated to all concerned that there may be 90 day timeframe. We don't think that is necessarily reasonable. If you look at the Ed Code, the Ed Code recognizes the need to post a recruitment, the need to screen, the need to test, the need to test again, the need to have appeal at times, and the recruitment should take place within 90 days. It is staffs' believe that some of the recruitments cannot be accomplished effectively and legally within the 90 days. That places a burden on the employer and may impact students or the public adversely. So it is staff's intent to highlight that somewhat flexible standard that if we can accomplish it in 90 days and increasingly it's very clear that we don't believe we can but that may lead us to and maybe a way to try and meet everybody's interest, if the Commission wants to approve these recruitments with the proviso that staff detasks to meet collaboratively with the senior administrator that we work with to try to triage or prioritize the existing recruitments to work collaboratively with the employer within the existing staff. That, I would think, is in keeping with the good faith gestures that we are trying to make tonight. So I think that is where staff is at. I don't know if I answered your question, Sir or not?

Mr. Bohn: So we get done with it we probably can work with the senior staff to pick out which items we need to move forward the quickest on and if we can't get to the last item appropriately we can move forward and get most of it done.

Mr. Josseland: Yes, Mr. Chairperson. Particularly its condition staffs' concern that if we have mandated legally, mandated positions like those associated with special needs children; Commission staff is mindful of this group having a protected status and our hope is to always meet the interest of the employer to meet the legal mandates of the District. So that may require us to focus the limited staffing that we have towards those most important recruitments.

Ms. Ortega: Good Evening, Yolanda Ortega, Assistant Superintendent of Human Resources Classified and Employee Relations.

Mr. Bohn: Senior staff that we are talking about, there is no question about it.

Ms. Ortega: I have been listening to the conversation on these particular positions and although we feel all of them are important I would like to request that the Personnel Commissioners consider approving the SDC the Special Day Class that's number two at least consider for me on that one; number four Instructional Tutor Learning Handicapped/Physically Handicapped. Those



are support services vitally necessary for our special needs students. If anything we would strongly recommended that you at least consider those positions, if you would?

Mr. Jossierand: I think we just had the prioritization that we described and interestingly enough we arrived at the same conclusion independently and together.

Mr. Bohn: We appreciate that input and I would make a motion that we approve the following recruitments with emphasis on the ones that have just been presented to us.

Mr. Barabani: And that would be number two, four and five right?

Mrs. Early: I second that.

Mr. Bohn: I have a second. We have a motion and a second. all of those in favor say aye.

Ms. Early: Aye.

Mr. Barabani: Aye

Mr. Bohn: Aye. Opposed? Pass.

**C. Consider approval of the following eligibility list (items will not be read individually).**

Mr. Bohn: The next is Item C, consider approval of the following eligibility lists for these two items; being order that it's being before and to move forward on these two items.

Ms. Early: I move to approve the eligibility lists as submitted on the agenda.

Mr. Bohn: I have a motion to approve the eligibility list C. Do I have a second?

Mr. Barabani: I'll second that.

Mr. Bohn: I have a second. All of those in favor say aye.

Mr. Barabani: Aye.

Ms. Early: Aye.

Mr. Bohn: Aye. Opposed? So moved.

**D. Consider approval of the establishment of the following classification: Nutrition Services Custodian/Utility Technician.**

Mr. Bohn: Item D, consider the establishment of the following classification: Nutrition Services Custodian/Utility Technician.

Ms. Early: I so move.

Mr. Bohn: I have a motion. Do I have a second?

Mr. Barabani: I'll second that.

Mr. Bohn: I have a second. All of those in favor say aye.

Ms. Early: Aye.

Mr. Barabani: Aye.

Mr. Bohn: Aye. Opposed? So moved.

Mr. Jossierand: With the permission of the Chair, I would like to congratulate both the Administration and CSEA for resolving that longstanding issue. I think that's wonderful for all of you.

**G. Second Reading and Adoption of Changes to Commission Rules, Chapters 1 and 2.**

Mr. Bohn: Item F was pulled and we've come to item G, the second reading and adoption of changes to the Commission Rules. There has been a lot of input and work on this and I think we're reaching a point where we need to move forward on this. Item E was pulled and F was pulled so we're talking about Item G. This is the second reading for Commission Rules for chapters one and two. I also move that we approve chapters one and two of the Commission Rules.

Ms. Early: I second.

Mr. Bohn: I have a second. I have a motion and a second to approve chapters one and two. All of those in favor say aye.

Mr. Barabani: Aye.

Ms. Early: Aye.

Mr. Bohn: Aye. Opposed? So moved.

**VII. COMMISSIONER'S REMARKS**

Mr. Bohn: It has come to the Commissioner's remarks time. Does anybody wish to speak? If we don't have anything further to talk about this evening; so, we will move on to the closed session. Personnel Commission will meet in closed session to consider the following public employee performance evaluation: Director of Personnel Commission and conference with legal counsel anticipating litigation. We thank you all for coming. We don't expect to have anything coming back out from closed session this evening that would require a vote. Go home and enjoy hopefully some cooler weather but it feels really nice in here I kind of want to stay over. It's pretty hot out there. Thank you.

**VIII. CLOSED SESSION**

As provided by law, the Personnel Commission will meet in Closed Session for consideration of the following:

A. Public Employee Performance Evaluation: Director of Personnel Commission, Government Code Section 54957.

B. Conference with legal counsel, anticipated litigation, initiation of litigation pursuant to (Government Code Section 54956.9(c), one possible case.

**IX. ACTION REPORTED FROM CLOSED SESSION**

Personnel Commission moved into closed session with no action to report.

**X. ADJOURNMENT**

Meeting was adjourned at 6:10 P.M.