

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

**May 27, 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 5:31 P.M. and Steve Holt from CSEA led the pledge of allegiance.

**II. APPROVAL OF THE MINUTES**

Mr. Bohn: The first order of business is the approval of the minutes. From the minutes attached the first one would be April 22, 2009.

Ms. Early: Commissioner Bohn, I move to approve the April 22<sup>nd</sup> minutes.

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

Mr. Barabani: I'll second.

Mr. Bohn: All of those in favor say aye.

Ms. Early: Aye.

Mr. Barabani: Aye.

Mr. Bohn: Aye. So moved. Thank you. Moving to the May 4, 2009 minutes and that would be the extra meeting that we had. Do I have a motion to approve those?

Ms. Early: Commissioner Bohn, I move to approve the minutes from May 4, 2009.

Mr. Barabani: I'll second.

Mr. Bohn: Thank you. A motion and a second. All of those in favor say aye.

Ms. Early: Aye.

Mr. Barabani: Aye.

Mr. Bohn: Aye. So moved. The third set of minutes is the May 28, 2008 minutes. Those have not been approved as of yet and have been worked on to try to get them in order. Do we have an interest in approval?

Ms. Early: Commissioner Bohn, at our May 28, 2008 meeting, there were a couple of things that took place in the meeting that weren't reflected in the minutes and as a result of that meeting I was called actually to have a special meeting with the Union because they had some concerns that were brought up in that meeting. I didn't see them reflected in the minutes so I don't know how to proceed.

Mr. Jossierand: With the Chair's permission, I'd be happy to meet with the Commissioner in that if there were omissions in the minutes we can certainly resolve that to everybody's satisfaction. If it happened ex parte to the meeting that's something that we can't include, under Robert's Rules of Order, from my understanding of it in the minutes but I'd be happy to meet with the Commissioner to resolve whatever questions anybody may have. So that would be what I suggest to resolve it, if that's okay?

Ms. Early: Okay.

Mr. Bohn: So, we'll table those.

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

Mr. Bohn: Approval of the agenda. If you've looked at the agenda are there any changes?

Mr. Jossierand: Staff, Mr. Chairperson, staff recommends that we pull action items six C, which are chapters one and two; and G and H, which are considerations of two revisions to job descriptions. Staff will bring those back when they're more mature.

Mr. Bohn: Hearing no objections we're going to pull those. Is there anything else to the agenda that you wanted to add or change?

Mr. Jossierand: No sir.

Mr. Bohn: Agenda will stay as it is and we'll move on to matters brought by the public. This is a time when somebody in the public or school may come forward and discuss concerns that they may have.

### **IV. MATTERS BROUGHT BY THE PUBLIC**

Karen Hoch: Good evening Commissioners. My name is Karen Hoch I am Director of Classified Human Resources. The District would like to request that the Assistant Affirmative Action Officer, the Public Safety Dispatcher and the School Police Officer be Dual Certification rather than Open and Promotional. This request is made because of the expertise required in performing these duties and recruitment.

Mr. Jossierand: The District was kind enough to advise staff before the meeting and staff did what was necessary and staff supports the District's request to make these three jobs Dual Certification. If that pleases the Commission and so that will be a modification to action item six E; Assistant Affirmative Action Officer will then be Dual Cert from the recommendation of staff

and on the second page of the agenda numbers 14 and 15, Public Safety Dispatcher and School Police Officer, would then be Dual Certification.

Mr. Bohn: Are there any other matters brought by the public?

Tom Hernandez, CSEA: Good Afternoon, my name is Tom Hernandez, CSEA Chief Job Steward. I'd like to present to the Commissioner's an item that I'd like to see addressed which would be under the Limited Term employees. It's been brought to my attention that in certain instances that there is Limited Term employees throughout the District being initiated now through certain departments. I did some searching over the weekend and one of the terms that I found from the Personnel Commission Rules, it's a term used through the ED Code, and it designates employees under the term Limited Term employee, their employment should not exceed periods of more than six months. With that, there are some issues going on down at the place where I work at and basically what they are allowing, these Limited Term employees, which we as a Chapter look at these Limited Term employees being as subs. Under our contract agreement, subs are not subject to our contract agreement; so in other words, when the District is using these particular individuals throughout the District, there are no guidelines. What it's doing to us as a Chapter is it's binding any kind of motion we try to do with the District; it's binding because they are not covered under our agreement; they are not recognized by the District; all they are is just subs. Also, as the Commission and School Board are well aware as far as the budget goes, we are freezing positions while the District is using the subs out of class and past the six month date of hire; they are keeping these positions open. I don't want to single out any employee or department, but if the Commission wants to meet on any type of issues it will be confidential. We have this going on throughout the District. We have some that have been employed for over five or six years as Limited Term. The reason why I bring this up is because now that the summer months are coming up, we do have nine and ten month classified permanent employees who would like to see these Limited Term positions being offered to them because as you know, when their service is up for nine to ten months, these Limited Term employees are put in there throughout the District and that does not give our bargaining unit members a chance to work for those three months. My last request, if possible, could there actually be a method between us or between us and the District if there is a certain method that we could monitor these positions being filled; making sure that they adhere to the six month provision time limit that a certain employee is put through; date of hire, maybe the employment date. I would like to thank you for hearing me thank you very much and have a good day.

Mr. Josseland: With the Chairperson's permission, what you have talked about is not an uncommon problem in Districts in the state of California. I would encourage CSEA to take advantage of the open door policy of Commission staff. I also thank you for your wisdom and maturity in not mentioning people specifically because they are innocent; it is those of us in positions of power that may or may not be innocent. I would be happy to meet with you on that to help resolve these questions. The process that we are going into tonight may be of benefit to you in that the Commission has the power and the authority to investigate matters under the Commission's authority and the Commission once they determine to investigate something, they have significant powers; subpoena powers as an example. I believe it is the Union's and management's position that we can resolve all difficulties like these in fair and equitable matters to all concerned. That is the Commission's staff commitment and we are hopeful to resolve these

difficulties to your satisfaction; it's best to meet with Commission staff, however to give the specifics, I would encourage you to do it in public because of what we talked about. I would encourage you to meet with us and the District for that matter to give us specifics. I believe that, based on my conversations with the District, all of us want to resolve these difficulties satisfactorily. Thank you for bringing this up.

Tom Hernandez, CSEA: Thank you.

Mr. Barabani: I do have a question for Mr. Hernandez.

Tom Hernandez: Oh I am sorry.

Mr. Barabani: You were saying the same person, is this the same person in the same position or are they moved from one position to the next?

Tom Hernandez, CSEA: No sir. CSEA does not want to be the bad cop so to speak. We like to take the best interest of all classified employees that apply for the District and we would like to see, even if they are in a Limited Term position; I have spoken to many of these people/persons that are basically in these positions and they would like to be hired permanent. As you know Mr. Barabani, being permanent, you are given medical benefits, you are given vacation, all the perks so to speak. Like Mr. Jossierand said, CSEA likes to be fair and equitable. I thank Mr. Jossierand for allowing me to address this one on one, but Gino, it's just to try to give everyone a fair opportunity. There is more than just one person.

Mr. Barabani: It's not one person moving from different positions? Do you have one person working for three months as a custodian then you see them again working in a cafeteria? Are you saying that an individual is exceeding six months in a position?

Tom Hernandez: Yes Sir.

Steve Holt, CSEA: They are rotating positions; we have one individual at a site that has been in the District for about 12 years as a Limited Term employee. They have kept him at the site and they rotate the position number. They have subbed at the same site with different position numbers. This person schedules regular vacations; we have had meetings with the District about it, yet they continue to utilize this individual. The problem for the Union, of course, is that we don't collect dues and can't represent those people; they are not a part of our bargaining pool. So, when issues do occur, it's hard to regulate things like that, obviously. You can't be an at will employee; you're dismissed for any reason, so it's hard for them to come forward with any workplace problems. This has been ongoing issue. As Mr. Hernandez has mentioned, this summer we do have a lot of employees, including the site I work at, where they are not going to be employed. They have been told by the District. I am going to follow up, I am hoping that it is an oversight, where we have a Limited Term employee who's been there for well longer than six months, who is going to work through the summer, this permanent classified employee is now going to be without a job for the summer; no work and no income and is desperately trying to work as much overtime as they possibly can before June 10<sup>th</sup>, when graduation comes. It is events like this that are going on throughout the District, where in a merit system, we would like

to see our classified people retain those positions and the Limited Term employees that are only supposed to be there for a certain amount of time. I believe with my discussions with Mr. Jossierand, it is my understanding of the situation is that those positions are only supposed to be open for a certain amount of time and we are supposed to send a request in for Personnel to fill those vacancies. I don't know what's going on with that process. If it's at the site level and they are not communicating with HR; or how it's working but these Limited Term employees are only supposed to be there for so long and it has been going on for years and years. We are in the process of collecting names and evidence to that fact; we are more than willing to bring to your staff when we get that information. We just wanted the Commission to be aware that it is an ongoing problem and we are trying to address that right now and with all of the anticipated budget cuts and problems in the District; declining enrollment. I know that I have just informed our crews working at nights that used to have six to eight members on each crew total of six to eight crews and now combined, there are eight workers; we are downsizing so much in this District and the people that are getting reduced can't find jobs and can't work and if we have subs coming in that are exceeding limits; it's not just subs, there is a problem with Rec Aides too. Which again, aren't part of our bargaining Union members; they have desks, they are working as secretaries, taking our classified work. So it's an ongoing problem and it's just things we have addressed with the District but we can't tell if they are subbing part-time, if they are working as Rec Aides and we have found situations where they are just rotating the numbers; there are all kinds of issues that have been going on with this right now. We would like to address that we are investigating that right now and we will bring it up to your staff's attention. We just request that the Commission takes a look at that and as you said, use the powers that are at your discretion to make sure that the hiring process is fair and that there's not any shady business going on.

Mr. Jossierand: With the Chairperson's permission, this is not an uncommon issue in California. The benefit of my experience is that it is important for Commission staff or the District, whatever course the Union chooses to take; to notify us when they believe something like that is going on. Commission staff's protocol then would be to come to the Commission, ask for permission to investigate, once the Commission gives the permission to investigate, we would subpoena records from the District and present the facts to the Commission at a public hearing. I don't think anybody would want us to actually have to get to that point, but it is very important to deal with specifics, rather than, and I'm not saying you are, but in my past experience, I've fought generalities or assertions, but in a District, that's not this one, and who had a situation where there was a Limited Term or Provisional employee working for 12 years that's an egregious violation and there are numerous ways to resolve that. It has happened, I don't know whether it has happened here or not, but Commission staff would be happy, if that's the direction of the Commission, to investigate those matters and report back in detail.

Steve Holt, CSEA: So the Commission knows too that you have our assurance that until we have those specificities, that we are to approach you once we have the facts and the information listed for you.

Mr. Bohn: I would hope when you do get from Mr. Jossierand, that you come with some definite information about how many people we're talking about. If it happens to fall in a couple of particular areas; if there is a problem, and it sounds like there is problem, then we need to have

specifics in the meeting; so we would have to bring those to open meeting and we would solve the problem here; that would be the best possibility.

Steve Holt, CSEA: Yes sir, we will do that.

Mr. Barabani: Thank you for bringing that to our attention. It's my opinion that it doesn't do the District or the employees any good for circumventing the Merit System.

Ms. Early: Mr. Josseland, are you able to get a list of Limited Term employees and Provisional employees along with the different practices?

Mr. Josseland: Madame Commissioner, the answer is yes. The authority of the Commission to subpoena documents, to ask for documents in a collaborative fashion all of those hours are there. You can obtain, as the Commission, any of our records under the purview of your authority that you so desire. I would suggest that I have talked with District officials about this matter on a couple of occasions and I was pleasantly surprised that our District wants to clean this up; they're aware that there maybe some problems and that there is a commitment from senior management that it has been given to me to clear it up. That being said, I think what would benefit the Commission is to recognize that the District is a complex large organization that things can be hidden in, that games can be played outside and away from the District's office and it will take a commitment on the part of the Commission and part of the District leadership to clean this up. It's regrettable that the pressure to clean these types of problems up have happened when we have severe economic times and that the stakes are higher. The answer to the Commissioner's question is yes, we could ask them to produce that and we can spend staff time to follow it up, absolutely. This also comes under the purview of the bigger picture, that we'll kind of talk about tonight and that is what are Commission functions and what aren't Commission functions. We are all kind of walking on eggshells, both the District, the Union and Commission staff trying to resolve issues of turf and this is one of those questions in that it is Commission staff's belief, that Limited Term, Provisional or in some vernacular, substitute employees, are the purview of the Commission staff to appoint those people to those positions. Recognizing that it's a fairly complex large organization, the business of children needs to be accomplished so the Commission has to have an appropriate staff to do that. It's not unheard of, however, that the District staff performs some of those functions and perhaps the Commission at some point in the future would decide to allow the Commission and the District to continue as they are now taking care of substitute Limited Term/Provisional employees. That's not staff's recommendation; it's my obligation to let you know what I think the Commission duties are on assets that we need. However, the Commission can do anything they want; this is an item that you can decide. Since there are physically difficult times that we face, as a staff member and as an administrator in an education institution, I would recommend that we be collaborative and that we work carefully to resolve these difficulties. I heard two issues come up from my labor friends; one, is possible abuse in certain isolated instances; temporary employees not being afforded their rights under the Education Code, that's a Commission purview. What I also heard was a labor relations issue that summer work, who gets it? That's clearly a labor relations issue with a couple of minor exceptions, if the labor relations issue is being avoided, and I am not saying it is in this District, I just don't know. By filling summer work with temporary employees, and that those then temporary employees exceed their limits under the Ed Code,

Provisional/Limited Term, that's certainly a provision of the Commission. So, that would certainly be under our authority and our responsibility to resolve. I'm mindful of the fact though, that on the second issue, if it's summer work and there is abuse of Limited Term/Provisional employees to affect avoiding negotiating that matter, the Commission needs to be very careful, from my perspective, in that we don't want to interfere with labor relations and the District, and I just want to put that on the record that our interest would be to not interfere with labor relations, I would propose, that our interest is to enforce the laws of the State of California and Commission Rules. If we find out that there are violations, the consequences are not the responsibility of the Commission; we have to do what we have to do and it sounds like there is a desire to work on that and Commission staff is certainly ready to embrace it. Does that answer your question ma'am?

Mrs. Early: Yes.

Carl Richards: My name is Carl Richards and I work in the Warehouse. Addressing the issue of Limited Term subs, I think it's incumbent that both the Union and the District work together and that at least the association points out which jobs are really determined to be permanent and it would probably limit some of the interaction between the two; you can't handcuff this District because they have a Limited Term area that they utilize a Limited Term person however, if you point out to them that this Limited Term job has been ongoing and they would research it, they meaning the association and the District, then they could come to a minimum agreement as to yes, this might be a permanent job; but no one has ever touched that subject regarding hey and they just let it slide and this is a Limited Term instead of saying, this should be a permanent job, there's no research done for that; why not look to see if that is a permanent job and then approach the District that way, but you cannot handcuff this District and I understand they have the right to at least be able to be flexible to have them return jobs, but no one has ever pointed out that that's a permanent job. We have to look at this to see if that's a permanent job and go to the managers in that area also and collaboratively work together or else it's not going to work; everyone will point the finger at each other, thank you.

Mr. Jossierand: With the Commission's permission. Mr. Richards, and I know you don't need to hear it from me, but you are absolutely correct; in that the task should be if there is a position that is Limited Term in a department it can only last for six months, so if it appears that every other six months that's a discretionary issue for the Commission whether there is a violation or not, but if it is a new number every six months, and it's the same person or even a different person, but it's in the same department, it is a violation, clear and simple; you are absolutely right and I appreciate your comments.

Mr. Bohn: Are there any other matters brought by the public? If not, we will move on to the report of the Executive Director of Classified Personnel and Personnel Commission.

#### **V. EXECUTIVE DIRECTOR'S REPORT**

Mr. Jossierand: In interest of time I will waive my report tonight Mr. Chairperson and suggest we move on to the agenda.

Mr. Bohn: We will move on to section six action items A-The adoption of the 2009/2010 Personnel Commission Budget.

## VI. ACTION ITEMS

### A. Adoption of FY 2009/2010 Personnel Commission Budget

Mr. Josseland: Thank you Mr. Chairperson. It is incumbent upon us to have a public hearing in a few minutes, but I wanted to take an opportunity to go over the budget briefly so the witnesses and the public tonight can have a sense of what we are talking about and the Commission can have a sense. Just to review the process, the Commission must adopt a budget by the end of May. That budget then goes for review for comment from the Board of Education and then ultimately it goes to the Superintendent of Schools in San Bernardino County to adopt the budget or not adopt the budget. For example, if you adopt the budget that is presented to you by staff tonight, then the Board, during the month of June, will have an opportunity through their staff to make a recommendation to the County Superintendent. If the County Superintendent receives recommendation from the Board that they support the budget, the County Superintendent is then obliged, from our reading of the law, to sign and approve the budget. If the Board or their duly appointed representatives choose to recommend that our budget be opposed, there are a couple of things that can happen, but the law is very clear on what is specifically supposed to happen. The County Superintendent of Schools would be notified of the Board's opposition to the budget and that the County Superintendent of Schools would then have a choice; he or she could adopt our budget as presented from you or could choose to hold a public hearing. During that public hearing, the County Superintendent would announce that his intent is to reject their budget and freeze it at the past years. What would happen if that public hearing took place is that the Commission Executive Director would go most likely to represent the Commission and defend the budget as presented. The Superintendent of Schools for San Bernardino City Unified would most likely, as is practice, go to represent San Bernardino City Unified and would state their case and opposition to the budget. Commission staff, when we constructed the budget is mindful of two things. First, is that we are in transition; there are sensitive issues related to transition but Commission staff has an obligation to be upfront and state the facts as Commission staff sees them and that is reflected in the budget tonight. The second issue is that we do face the most difficult economic circumstances that we have faced in public education in most of our lifetimes. So Commission staff wanted to put on the record that I think all of us are willing to work collaboratively to resolve any perceptions or difficulties and communicate openly and honestly with all parties to gain concurrence. It is not the position of Commission staff to offend anybody; it is not the position of Commission staff to start trouble; it's just the facts and that's what we are trying to present tonight. There is a document that San Bernardino County Schools has adopted that is in front of you, it's unique in the state in that it asks for information that most other counties don't ask for. So Commission staff, recognizing that there are some differences, filled it out as best as we could. In column two, I'll go through this in detail; it was somewhat unclear to the Commission staff what the intent of the County was so Commission staff saw two possible interpretations and we chose one interpretation and that's why there is an asterisk and that we are trying to clarify in column two some key items. So in column one, you may recall last May the Commission adopted a budget that essentially totaled \$279, 602; that included on the top side of the budget the salary and benefits for the Director and the Secretary III as full-time Personnel Commission staff members; it also had overhead of about \$38,000 for operating expenses like



copiers, papers and pens. Column one is the adopted budget at the beginning of the Fiscal year. Column two is column one with some additions. The Commission is aware that we have transitioned some positions to the Commission staff and that we made a modification with the hiring of an Executive Director to the Commission's budget and these in sense are annualized costs that are added to the base line Commission's budget. So, if you ask me under oath, on page three, the adopted budget on the bottom line is \$279, 602. Additionally, money that was added to the Commission's budget this year are approximately \$600,000 total when you add the four positions, the half of the Executive Director to the existing \$279, 602. Under Oath it would be Commission's staff position that that is in fact an approximate of the current Commission budget. It would be Commission's staff perspective that if the County Superintendent of Schools chose to freeze the Commission's budget at its previous level, it would be this approximate \$600,000 figure. That would reflect the approved positions from last year of the Director, Secretary III, the Executive Director would be added half of it, and the Senior Analyst, the two Specialists and the Bilingual Clerk II would be additions to the Commission budget. So, there may be some disagreements between the business office in San Bernardino City Unified and Commission staff; we just didn't have time to readdress all of our differences, but I wanted to make clear that what Column two was taken by Commission staff to mean, was that money was added to us on an annualized basis this year and that would reflect the new base Commission budget. Column three is extensively the addition taken is up to the projected thirteen positions that would be the addition of the Analyst, the Specialists and the Technicians.; and then it would also increase our overhead cost to reflect NEOGOV, to reflect the automation we are trying to move to in order to increase efficiency and would total up on page three in Column three of \$1,287,098.80. It's probably important to recognize that on the first page under the 2000 Classified salaries, in Column three, that represents all thirteen positions that Commission staff have asked for and that the District has been noticed of on numerous occasions and that the Commission has been noticed of; that's just salaries in an a cumulative sense. Under the 3000, Employee Benefits, it's always surprising to members of the public how much it costs in addition to salary for employees and that's retirement, health and welfare benefits, all the taxes the employer has to pay so it is important to recognize that that total is a fairly significant number. In the bottom part of our budget, the 4000, 5000 and 6000 series, those are operating overhead costs. There may be a question at some point that we haven't gone into great detail in the various columns; the thirteen positions are reflected, the employee benefits for those thirteen positions are reflected in gross numbers, the overhead costs are reflected in gross numbers; how this works, as an expert in Commission budgets, as an aside, it appears that the San Bernardino County recognizes me as an expert as they've utilized my services to resolve questions between Commission's budgets at their request in the past. They seemed to be very pleased in what we were able to do for them. So, what is normally the case is that you have the top part of the budget which are salaries and benefits, that's a gross number; then the bottom part of the budget is overhead and that's a gross number. Those are totally within your discretion under public laws that are appropriate, contracting laws and that sort of things. You can move those numbers around as you see fit. So, once we arrive at a final budget it would be incumbent upon Commission staff to come back with greater detail and specificity on how those numbers would be broken down. It is the intent of Commission staff to not break those down at this time recognizing that we are in difficult economic times and to maintain as much agility as possible to accomplish the specific guidance given to the Executive Director by the Commission and keep the flexibility of the Commission in place. In summation, in column one, we have last year's

initially approved budget; in column two, we have what Commission staff believes at this time under oath to be the existing Commission budget and we believe we can defend that although there may be questions at some point; in column three, we have the projected Commission budget that we would like to see and recognizing that, Commission staff would recommend that the Commission indicate that we are willing and able and recognize the economic difficulties that the District faces. We can try to work as collaboratively as possible but we have an objective on the Commission staff to comply with Commission guidance and that is to obtain all Commission functions and provide appropriate staffing and resources to perform those functions in a satisfactory matter for the good people of this community. What I would recommend now is that we move on to the public hearing which as we all know, has to have a start time that we record and end time. That is where interested parties can make comments. The law requires my office to notify the Superintendent of the public hearing and we did comply with that.

**B. Public Hearing Concerning FY 2009/2010 Personnel Commission Budget**

Mr. Bohn: In the public hearing there will be any public input concerning the Commission budget before the Commission goes any further into discussion. Do we have any input?

Mr. Jossierand: The record will show that the public hearing started at 6:15 P.M. or 1815.

Public hearing started at 6:15 P.M.

Carl Richards: In these economic hard times it appears that downsizing the classified people, downsizing the hours, downsizing the jobs, outsourcing everything and yet we are looming Personnel Commission's staff. I don't understand what is it that staffing right now at this time need to have because clearly classified is being asked to sacrifice and clearly they have done that. Yet, Personnel Commissioner's want to move up and upsize everything when we don't know what is going to happen, we have not determined the budget, we haven't determined anything. Clearly, this budget here shows that you expect to I guess, apparently have a larger staff and I don't know where but that is not happening. People have been asked to even retire and are given incentives to cut back. I just can't see how this can be; this is justified with this type of budget and this type of staff when we have numbers that are smaller before you upgraded the staff in the present. So, I am not understanding what is going on here.

Mr. Bohn: If you look at our staff here you think about a year ago we had one support staff a secretary and now we have three more and we have authorization to expand the program and handle this. It's not that we are duplicating what the District is doing, the District in some cases are giving up staff. These folks right here came from the District they did not come from outside or brand new positions. Positions were transferred from one department in the District to another. That's where a number of these positions are coming from. In the past, the District would maintain certainly a strong department because they have a strong area that is part of the whole employee hiring process and so on. It is a redistribution of staff and monies. There is some additional money to add some positions that we have not had in the District. The employee organization wishes that we had some so we can do a little better job of looking into job classifications and handling some of the concerns that CSEA has had in the past. That kind of thing is going on so it's not just we have this over here and we're going to go to a whole new segment that doesn't have any relationship with this.

Carl Richards: Okay I'm sorry maybe you're not understanding my question. I'll make it very clear. With Classified being downsized the size of your staff is going to be larger. Who will you really be overseeing because you're downsizing classified? You are supposed to be our Commissioners and yet you are getting larger and we're getting smaller. So, again I am not understanding how that works.

Mr. Jossierand: With Mr. Commissioner's permission. The duties that have to be performed, to police, to recruit and to enforce all the laws, all of the duties that the Commission historically has supposed to have done those duties continue. So, the Commission has taken the position that we're not trying to dictate to the District to transfer people. It's really Board's decision on whether they want to support our budget or not but I think what I'm hearing is, maybe I'm wrong but you can correct me, you seem to be asserting that there aren't any or many classified employees anymore. I don't think that's true. An experienced gentleman like you and like myself we know that there are bad times in public education and we know that there are good times. It'd be great if they were all just the same but we're hopeful that in the near future that there will be good times. We're still recruiting. There seems to be some talk about relaxing the freeze at the start of the fiscal year. As you noted people retired, people move on but there are still lots of kids that need to be educated. So, it's incumbent upon Commission staff that we've made the decision, as I understand it, to take the Commission's duties back and to perform them to the best of our abilities. So, it's incumbent upon us to ask for the resources to do that. Whether it's existing staff, which probably it is and it has been in the past, or some other decision and that's up to the Board. It's incumbent upon the Commission to ask for the appropriate staff to perform our functions. There are lots of classified employees still, there are lots of things to do and there have to be people to do them correctly. Does that make any sense too? Does that help?

Carl Richards: No. In that you state that you want a staff to quote unquote, for the upcoming, it appears that the size of classified may be moving up. You're moving on something that for me I can't see that's happening or why it's happening. I just expressed my dismay in why you would want to move up and there's really no good clear decision as to what classified or this District is going to do. You don't need to explain anymore I understand.

Mr. Jossierand: I just respectfully disagree though I appreciate your input.

Steve Holt: That was a very well explained position by the Commission. I'd just like to say that I support and I am very pleased on where the Commission was and where the Commission is at this point and where they are going and that those duties are returning back to the Commission. I say for the record that I support staffing increase and as those duties come back to the Commission you are going to need personnel to carry out those functions. I think a lot of people forget that it's not just the Unions that are there for the classified people but the Commission is here and the Merit System and classified service too. Let it be known that we are one of the biggest school Districts in California so I disagree with small numbers in the school sites. For the record, I support the Commission and I am very pleased that you guys are growing and that you're coming into your own.

Mr. Bohn: Thank you.

Tom Hernandez: I also would like to say I do agree with Mr. Josserand that we are going through tough economic times but it will improve. As our first Vice said, we do appreciate everything that the Commission has done or has been doing; stepping forward and we as a Union appreciate that you do use our classified employees, our bargain Union employees, to fill these positions. We are given, as the Commission; when the openings do come you do allow fair and equitable testing to everyone. Thank you very much Commission.

Mr. Bohn: Thank you.

Robert Peña Lozano: My name is Robert Peña Lozano, Sr. and I am a custodian at the Nutrition Center. I also approve of the way and the direction that the Commission is going. I believe we are headed in the right direction in the fair direction for all classified personnel and we do appreciate what you do for us. Thank you very much.

Mr. Bohn: Thank you very much. Are there any other individuals who would like to speak?

Ms. Early: I would just respond to the concerns of Mr. Richards. I can appreciate your concerns however this increase in budget is a reflection of the Commission's efforts to expand our functions. Currently we do not have the staff in place to successfully implement the functions that we are trying to acquire. So, this increase in budget actually just reflects our efforts to acquire these functions that we are attempting to take over. I appreciate those that stood in support of this increase.

Mr. Barabani: I agree with what you said. Mr. Richardson....

Carl Richards: Richards.

Mr. Barabani: Richards. Sorry. I should know better shouldn't I, Carl? I'm most concerned about where our tax dollars go.

Carl Richards: That's what I'm concerned about.

Mr. Barabani: I appreciated that. I think I will be one of those people keeping an eye on that too. I'm glad you brought it up to us too.

Mr. Bohn: Hearing all input it would be in order now that we would need a motion to approve the budget as presented.

Mr. Josserand: With the Chair's permission. I recommend that we close the public hearing at 6:27 P.M. or 1827.

Mr. Bohn: Am I correct at this point is it Item B?

Mr. Josserand: Yes Sir. It's action item six B, the approval of the budget, if that's the pleasure of the Commission.

Mr. Bohn: Do I have a motion?

Ms. Early: Mr. Bohn I move that we approve the budget as presented.

Mr. Barabani: I'll second that motion.

Mr. Bohn: I have a motion to approve the proposed budget for the 2009-2010 school year as presented to us? I have a motion and a second. All of those in favor say aye.

Mr. Barabani: Aye.

Ms. Early: Aye.

Mr. Bohn: Aye. So approved; this budget will be presented according to the procedures that were outlined here a few minutes ago. Thank you. Moving to item D, consider exempting the position of Superintendent's Assistant in accordance with Education Code Section 45272.

**D. Consider exempting the position of Superintendent's Assistant in accordance with Education Code Section 45272.**

Mr. Josserrand: With the Commission's approval I'll read the portion of 45272 Subparagraph B:

Upon the request of a majority of the members of the governing board of a District, the Commission may exempt one or more executive secretarial positions from the requirements of this section. Exemptions authorized under this subdivision shall be limited to executive secretarial positions reporting directly to members of the governing board, the District Superintendent, or not more than four principal deputies of the District Superintendent, or all of these positions.

Any person employed in an exempt executive secretarial position shall continue to be afforded all of the rights, benefits, and burdens of any other classified employee serving in the regular service of the District, except he or she shall not attain permanent status in an executive secretarial position. Positions of executive secretary shall be filled from an unranked list of eligible employees who have been found to be qualified for the positions as specified by the District Superintendent and determined by the personnel Commission. Any person whose services in an executive secretarial position are discontinued for a cause other than a cause for disciplinary action specified in this code or in a rule of the Commission shall have the right to return to a position in a classification he or she previously occupied or, if that classification no longer exists, in a similar classification, as determined by the Commission.

Specifically, in lay person's terms from my vantage point this is a recognition by the legislature and the governance of California. That certain positions in a school District require capabilities and personality traits that probably aren't easily tested. This particular position in historical record had some difficulty being filled some number of year ago. There were some awkwardness and I think some people were hurt and they were certainly innocent. So when there was a

decision by the incumbent of this position to retire, Commission staff reminded the senior leadership of the District, as the technical experts, that this provision was allowed. The Superintendent and the Board took careful consideration of the pros and cons for this situation and made a request to the Commission. It is Commission's staffs recommendation that we approve it and that this is not an uncommon request in many Districts. Specifically as an example, should one of the assistant Superintendent's executive assistants be chosen to be the Superintendent's executive assistant they will essentially serve at the pleasure of the Superintendent, who as an aside we know he is running for higher office. We don't know how long he or she will be here in the District. Let's say that for some reason he chooses to leave his executive assistant that he would choose off of this process, if you approve it tonight, would then have the option to stay at his and that executive assistant's discretion. Let's say that one of them decides that they don't want to continue then that person would revert to their previous classification. No harm no foul. It just recognizes that the skills set for the senior staff assistant for the Superintendent and/or the school board it needs to be probably with some discretion and the legislature and the governor decided to agree with that. So, Commission staff recommends that you approve it. Are there any questions? This would specifically be for the Superintendent's assistant position.

Mr. Bohn: Do I have a motion to approve this exempting this position, the Superintendent's Assistant?

Ms. Early: I move to have this item re-agendized to our next meeting so we can get more information.

Mr. Barabani: I'll second that.

Mr. Bohn: It's been moved and seconded to re-agendize this item at the next meeting. All those in favor say aye.

Ms. Early: Aye.

Mr. Barabani: Aye.

Mr. Bohn: Opposed? Nay. Moving on to item E, Consider approval of the following recruitments (items will not be read individually). There are sixteen positions listed in order to approve the list.

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

Mr. Josseland: If I could remind you that number one, Assistant Affirmative Action Officer has been changed as a recommendation for Dual Cert and that number fourteen and fifteen have been changed to Dual Cert; for the total of one through eighteen.

Mr. Bohn: With those corrections do I have a motion?

Ms. Early: I move to approve the recruitments as listed on the agenda with the Dual Certification requirement for item number one, item number fifteen and item number sixteen.

Mr. Josserand: Excuse me, Madame Commissioner it's fourteen and fifteen.

Ms. Early: Item number one, item number fourteen and item number fifteen.

Mr. Josserand: Yes ma'am.

Mr. Bohn: Do I have a second?

Mr. Barabani: I'll second that motion.

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

Mr. Barabani: Aye.

Ms. Early: Aye.

Mr. Bohn: Aye. Oppose? Approved. Item F, it's to consider approval of the following eligibility lists (items will not be read individually). There are four positions listed. Do we have a motion to approve those?

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

Ms. Early: Mr. Bohn, I move to approve the eligibility lists as listed on the agenda.

Mr. Bohn: Thank you very much.

Mr. Barabani: I'll second.

Mr. Bohn: Motion and we have a second. All of those in favor say aye.

Ms. Early: Aye.

Mr. Barabani: Aye.

Mr. Bohn: Aye. Oppose? No. So, approved. Moving down to item I, to consider whether the Commission would like to investigate a matter presented by CSEA.

**I. To consider whether the Commission would like to investigate a matter presented by CSEA**

Mr. Josserand: Mr. Chairperson and Commissioners, we are in receipt of a letter on April 30, 2009. Which specifically asks, it's a request from CSEA's leadership, to specifically ask to investigate a situation that's outlined in the correspondence placement for you. It would be the intention of Commission staff to ask the Commission whether you would like us to investigate the matter or not. Once, let's say that you do direct staff to investigate this matter, it would be incumbent upon staff to use the powers of the Commission to ask for and/or subpoena records as necessary to present the facts to the Commission. It would then be incumbent upon the

Commission to notice the interested parties that there would be a public hearing, normally a Commission meeting to be scheduled at some point in the future. Where in the Commission staff would report the facts to the Commission and interested parties would have an opportunity to make comments. The Commission could then most likely act on recommendations that are presented by Commission staff or give directions that the Commission may see fit. It's not inappropriate for the Commission to investigate matters. In this specific case, as I kind of translate the insertion, is that there's a retiree that may be working for the District who may be, it's okay in a certain circumstance for retirees to work for the District as temporary employees, so there may or may not be an assertion that there is some sort of violation there. If these duties are somehow being performed by a retiree at the expense of classified work being performed by classified employees there could certainly be traction for the Commission to investigate. There could be an assertion that this position was not properly classified and if these facts as they have been related are true and correct, that there is an attempt overtly or covertly to avoid merit principles to classified position, recruit for the position, give the public an opportunity to apply for the position and then fill the position. Those are kind of a brief synopsis of the issues at play here. Essentially, this is the second pillar of the Commission's authority and that is to enforce the laws of the state of California and Commission Rules. The power to investigate is the principal mechanism by which the Commission performs that peer of duties once they've published Rules and the law.

Mr. Bohn: It would be in order for us to either approve this or not; to investigate this matter or to not investigate this matter.

Mr. Barabani: I'd like to make a motion that we investigate this matter.

Mr. Bohn: We have a motion to investigate this matter. Do I have a second?

Ms. Early: I'll second.

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

Ms. Early: Aye.

Mr. Barabani: Aye.

Mr. Bohn: Aye. We'll move to item seven, Commissioner's remarks.

## **VII. COMMISSIONER'S REMARKS**

Mr. Bohn: Do any of the Commissioner's have any particular remarks?

No remarks.

Mr. Bohn: Hearing none the Commission will move to closed session as provided by law. Personnel Commission will meet in closed session for the consideration of the following employee performance evaluations and legal counsel with anticipated litigation, initiation of litigation. We do not expect to come out with any motions of any kind. Don't see a need for you



to stick around any further this evening unless you just got a good book. We do appreciate you coming and we hope to see you again. We really do appreciate the input because without the input we're not going to learn anything we're certainly in that stage of all of us learning about how this whole thing works and how we make a working Commission here in the District. Thank you again for coming.

**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 adjourned at 7:00 P.M.