

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

March 11, 2010

A meeting of the Personnel Commission was held in the Community Room at the Board of Education Building. Present were Rhonda Early, Chairperson; Mr. Barabani, Vice Chairperson; Mike Salazar, Member.

I. CALL TO ORDER

Ms. Early called the meeting to order at 6:05 P.M. Mr. Barabani led the pledge of allegiance.

II. APPROVAL OF MINUTES

Mr. Barabani: On those minutes nothing to do with our staff can everybody hear me? I like to waive another 30 days on the November minutes, I still have not corrected some of them, and I have not read them all completely.

Charlie LaChance, CSEA: What?

Mr. Barabani: Yea.

Charlie LaChance, CSEA: We could not hear you, so?

Mr. Barabani: Ok let me try again, I don't want to get too loud, I would like another 30 days to read through all the minutes so I can make some corrections from my part. I started doing it. It's being so complicated that I actually have to hear the recording to make some changes.

Ms. Early: Mr. Salazar have you had an opportunity to review the December 16th minutes?

Mr. Salazar: Yes I have.

Ms. Early: I have reviewed all three sets of minutes. Commissioner Salazar was not present during the November meetings. So, he is unable to approve those. Do you want to re-agendize December 16th minutes? Or, Commissioner Salazar do you want to move to approve the December 16, 2009 minutes? Do you have a preference?

Mr. Salazar: No, I have no preference on how it is done as long as it is o.k. with the chair, let's approve it.

Ms. Early: Mr. Barabani, would you like to motion?

Mr. Barabani: I have a motion to approve December 16th minutes? I think so that's the one, let me double check.

Mr. Barabani: Yes that is the one.

Ms. Early: I have one correction actually two corrections on that set on page 4 the sentence right before where it says report by the Executive Director, where it says 'raised', that should be 'agendized', at the next Commission meeting.

Mr. Barabani: Yes, I need a second.

Mr. Salazar: I second with the changes.

Ms. Early: It has been moved and seconded to approve the minutes of December 16, 2009 with corrections; all those in favor say Aye.

Mr. Barabani: Aye.

Mr. Salazar: Aye.

Ms. Early: Aye. The minutes are approved with corrections.

III. APPROVAL OF AGENDA

Ms. Early: Next agenda item is approval of Agenda.

Mr. Barabani: I would like to make a change in the agenda that we go in closed session for short time at this time no more than five minutes, it is to with a personnel matter, I am not sure if we can discuss this matter here?

Mr. Salazar: Yes, we have a sensitive issue to cover and I would second I would like to have five minutes in closed session. Add that to the agenda.

Ms. Early: I think I know the matter that you are referring to, and I would recommend that we set a special call meeting to address that special matter, unless it's going to have an influence on the following items on the agenda. I would like to recommend that we set up a special call meeting to address this matter.

Mr. Barabani: Is this because of the concern of the 48 hour rule?

Ms. Early: Because it has not been placed on our agenda.

Mr. Salazar: If I may, there is California Government code section code 54956.5 the purpose of the section is for emergency situation. And there are several definitions of emergency situations, but one definition is an emergency which shall be defined by as a work stop inter perpulantary activity or activity that severely impairs public health and safety both in join the members of legislative body. Now even though personally is harm

by, I think that we want to talk about it in closed session however; I would stand the work stop each part of that crazy analogy as a reason for us to maybe put that in the agenda more immediately than taking the time to go into a special meeting so we it appears to me that we might be able to take that agenda as that.

Ms. Early: So I heard two recommendations, one was to go into closed session, and one was to maybe modify our agenda as presented here.

Mr. Salazar: What would I suggest prior to agendizing is I would go along with Mr. Barabani and second his motion that we go into closed session for a few minutes then we can determine, come back out here and determine how we want to actually agendize that protocol of that special meeting, I mean its worth five minutes of the Commission's time, that we can make a decision on that, I won't go against that. I am not opposed to go into a special meeting, but we might be able to go ahead and capitalize this evening.

Mr. Barabani: This is so complicated to distinguish, we are trying to hold a public hearing here, we are also dealing with a matter of personnel, which we can't discuss in public, somewhere or try to determine, what is the best course of action? I know this is greatly new for you guys of this business that is out here? You think this will cause a problem than the 48 hour thing, even though I made a motion?

Ms. Early: I think that it would be appropriate for us to send a letter asking for legal advice to Sherry Gordon, set up a meeting, properly notice so that the public can render comments on the issues of their concern.

Mr. Barabani: I am willing to recall my motion based on what you just said.

Ms. Early: I will put that in motion form and we will get back on agenda, I move that we send a letter to Ms. Gordon requesting legal counsel and that set up a special call meeting to address the issues and concerns.

Mr. Barabani: I will second that.

Ms. Early: We have motion that has been made and seconded all in favor signify with the voting sign of Aye.

Mr. Barabani: Aye.

Mr. Salazar: Aye.

Ms. Early: Aye. Motion carried

Ms. Early: Next, agenda item is approval of agenda.

Ms. Early: I recommend that we omit item 4 from tonight's agenda.

IV. REPORT BY THE EXECUTIVE DIRECTOR OF CLASSIFIED PERSONNEL AND THE PERSONNEL COMMISSION:

Mr. Barabani: I will second that.

Ms. Early: I move that we approve the agenda with deletion of item 4.

Mr. Barabani: I vote yes.

Ms. Early: All in favor say Aye.

Mr. Barabani: Aye.

Mr. Salazar: Aye.

Ms. Early: Aye, any opposed? Motion carried.

V. MATTERS BROUGHT BY THE PUBLIC

Ms. Early: Next agenda item, matters brought by the public.

Ken Holt, CSEA Chapter President: I have a concern with Jeff's leaving I want to state according to Ed Code. The Ed Code states that willful violation of Ed Code section regarding Merit System is a crime, the Director for the Commission can only be appointed by the majority vote of the Commission a public meeting. The district has no local authority to appoint a PC Director. Anyone performing the duties of PC Director with out being appointed by the Commission is in violation of Ed Code and may be committing a crime. Hum, I would also like to state that anything signed from a person that was not appointed by the Commission be known void and should be re-looked at. Because there was a bulk mark made by the Commission to appoint Interim Director and that did not transpire and I don't know why the District thinks they have the authority just to appoint somebody. Hum, it's not the person, it's the process, and I don't think Employee Relations has that authority to do that, thank you.

Ms. Early: Thank you.

Charlie LaChance, CSEA Labor Representative: Good evening, I just like to take the time to thank all of you for your public service, I know that this is volunteer for all you and you are all here to do the right thing and it's a very difficult time for everyone so our classified members and our classified executive board and member leaders appreciate your time all three of you, we do appreciate it. And what Ken was talking about is what I just want to piggyback on, we know that there are merit problems with the Executive Board and the District and the districts decision to file a restraining order against the Commission as well as CSEA. That is currently in court, but now we have an opportunity where it is my understanding unless someone from the district is here to say otherwise, that the district appointed an Interim Director that is a violation of Ed Code, and it is breaking the law and I think that legally, the Commission is charged to challenge that, and I know that you have legal counsel and I am happy that you made that decision, and

again it's not the person, it's the issue and it's the process. Merit Systems were designed in the State of California to prevent corruption and nepotism and favoritism, in the school district it was designed that way so that we have not just the School Board but Commission to test and to rate the potential employees. I think when the District steps in the place where they are legally not suppose to be that it's of a concern to everyone, and again its unfortunate that good people get involved in bad decisions so it's not the people it's the decision and the method. I am happy to hear that you made a decision to get a letter from legal counsel to move forward, CSEA would certainly do the same thing, cause violation of the Ed Code is a misdemeanor, and because of the temporary restraining order I am not quite sure where that's going to fall in, and its unfortunate because we do have a wonderful staff of the Commission, we have Commissioners who are committed to doing the right thing. I understand that you are involved in the past or going to merit training and we are committed to the same thing, to make San Bernardino one of those starship districts and not one that we read on the headlines where several of our school is failing and we have to take unnecessary actions. So, it is a misdemeanor, the District is in violation of the Ed Code and any of that work as Ken said has been done by someone who is not being voted by the Commissioner should be that Director is illegal. So, we probably need to have those overturn which is unfortunate, because we need hire folks, we really do. District is at a pinch so hopefully we get this resolved quickly and we encourage the Board in your close session and discuss this and try to work however you need to legally or otherwise with the district appropriate fit work something with the District cause they do the right thing, this is not the right thing, thank you.

Ms. Early: Thank you.

Corina Borsuk, Classified Employee: I have very brief question.

Audience: Can't hear you?

Corina Borsuk: Can you hear me now, I will just speak loudly, my name is Corina Borsuk, I am here to ask about some positions that were open for recruitments several months ago from Personnel Commission, I know recruitment closed as far as I know nothing has been done about those positions, can you tell me what the status is or where things are in that process?

Mr. Barabani: Which positions?

Corina Borsuk: There was an accounting clerk position and several other ones. I think there were about 5 or 6. I don't remember exactly I just know that they were open for recruitment application were accepted; recruitment closed and then as far as I know no one applied has heard anything.

Mr. Barabani: About what?

Corina Borsuk: About anything, they don't know if they met the minimum qualifications, and if there is going to be a test.

Mr. Barabani: Can you give approximate date when you believe?

Corina Borsuk: At least two or three months ago, I don't remember exactly, it's been that long that I don't remember.

Mr. Barabani: Were you one of the applicants?

Corina Borsuk: No, my sister was one of the applicants; she could not be here tonight so she asked me to bring this up on her behalf. Thank you very much.

Ms. Early: At our previous Commission meetings, we were informed by our Personnel Commission Director that his access to verification had been turned off and because he could not verify information he was unable to sign some documents, we will report back to you on that.

Corina Borsuk: Thank you

Ken Holt, CSEA Chapter President: I forgot to ask one thing, you guys did make the decision to bring an Interim Director right? A specific person the gentleman is sitting on the back of the room. I was curious to when you guys are actually going to seek a Interim Director? Or, what is your plan? Because I do have an interest to start filling vacancies jobs so we are not deadlock in the district so I kind would like to know what the field is if we are going to do that or not?
Thank you.

Ms. Early: That appointment was approved in November of 2009; we are working on that. Thank you for your concern, any other matters?

Steve Holt, CSEA First Vice President: I have a concern at Maintenance & Operations looking at some other areas, I want to bring it to the attention of the Commission that my understanding is for substitutes provisional employees that they suppose to be taken off the eligibility list and Maintenance & Operations and I think I have names, have been hiring people who have been retired or other places subbing in positions in lead positions and to my knowledge they are not on any eligibility list that is required in the Merit System. I ask the commission to look into that, if you could.

Ms. Early: Would you supply us with the information?

Steve Holt: I can supply you with any, one particular area that I am really interested in.

Ms. Early: O.K. Thank you.

Steve Holt: Thank you.

VI. ACTION ITEMS

Ms. Early: Commission Remarks.

Mr. Barabani: I would skip action items....laughing.

Ms. Early: Ok, thank you. Action Item, we currently have no action items that we would be discussing for this evening.

VII. COMMISSIONER'S REMARKS

Ms. Early: Commission remarks. No remarks.

We will now move into closed session as provided by law, the Personnel Commission will meet in Closed Session for consideration of the following: Conference with legal counsel, Kristine E. Kwon, Hinshaw & Culbertson LLP, anticipated litigation, initiation of litigation Pursuant to Government Code Section 54956.9(c), two possible cases. Anticipated litigation regarding San Bernardino City Unified School District Personnel Commission court case, duties and authority, and funding for the Personnel Commission. Status report on current litigation case no. CIDS916708.

VIII. CLOSED SESSION

Ms. Early: I am not sure if we would be reporting any action item out of our closed session we will adjourn into close session.

Adjourn to close session at 6:28 p.m.

IX. ACTION REPORT FROM CLOSED SESSION:

Ms. Early: There is no report from closed session.

X. ADJOURNMENT

Meeting was adjourned at 7:16 p.m.