

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

May 26, 2010

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

I. CALL TO ORDER

Ms. Early called the meeting to order at 5:41 P.M. Mr. Salazar led the pledge of allegiance.

II. APPROVAL OF AGENDA

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

Mr. Barabani: I make a motion to approve the agenda.

Mr. Salazar: I second.

Ms. Early: It's been moved and seconded to approve the agenda all in favor signify with the voting sign of aye.

Mr. Barabani: Aye.

Mr. Salazar: Aye.

Ms. Early: Aye

III. APPROVAL OF MINUTES

Ms. Early: First agenda item is Approval of Minutes. We are looking at the Personnel Commission meeting minutes for May 13, 2010.

Mr. Barabani: I make a motion to accept the minutes.

Mr. Salazar: I second.

Ms. Early: There's been a motion to approve the minutes for May 13, 2010 and seconded all in favor signify with the voting sign of aye.

Mr. Salazar: Aye.

Mr. Barabani: Aye.

Ms. Early: Aye. Minutes approved.

Ms. Early: We are looking to accept minutes for April 7, 2010.

Mr. Barabani: I make a motion to accept the minutes for April 7, 2010

Mr. Salazar: I second.

Ms. Early: There's been a motion to accept minutes for April 7, 2010 and seconded all in favor signify with the voting sign of aye.

Mr. Salazar: Aye.

Mr. Barabani: Aye.

Ms. Early: Aye. Minutes approved.

Ms. Early: We are looking to accept minutes for April 20, 2010 and seconded all in favor signify with the voting sign of aye.

Mr. Salazar: Aye.

Mr. Barabani: Aye.

Ms. Early: Aye. Minutes for April 20, 2010 are approved.

Ms. Early: We are looking to accept minutes for April 28, 2010.

Mr. Salazar: I make a motion to approve minutes for April 28, 2010.

Ms. Early: I second.

Mr. Barabani: Opposed.

Ms. Early: There's been a motion to accept minutes for April 28, 2010 and seconded all in favor signify with the voting sign of aye.

Mr. Salazar: Aye.

Mr. Barabani: Opposed.

Ms. Early: Aye. Minutes approved.

Ms. Early: We are looking to accept minutes for November 19, 2009.

Mr. Barabani: I make a motion to approve minutes for November 19, 2009.

Ms. Early: I second.

Mr. Salazar: Abstain.

Ms. Early: There's been a motion to accept minutes for November 19, 2009 and seconded all in favor signify with the voting sign of aye.

Mr. Barabani: Aye.

Mr. Salazar: Abstain.

Ms. Early: Aye. Minutes approved.

Ms. Early: We are looking to accept minutes for November 30, 2009.

Mr. Barabani: I make a motion to approve minutes for November 30, 2009.

Mr. Salazar: I second.

Ms. Early: There's been a motion to accept minutes for November 30, 2009 and seconded all in favor signify with the voting sign of aye.

Mr. Barabani: Aye.

Mr. Salazar: Aye.

Ms. Early: Aye. Minutes approved.

IV. PUBLIC COMMENTS

Ms. Early: Next agenda item is Public Comments on Agenda Items.

Ken Holt, President CSEA: I just wanted to extend an invitation to the Commission to come speak at our next Chapter meeting, which is June 9, 2010. If you can not make it, the next one is on September 8, 2010. We'd love to have you come and speak to our membership on the direction of the Commission. Thank you.

Mr. Barabani: Did you want for us to meet with you? I'd love to go but as an individual if we all go, we need an agenda to post it.

Ken Holt, President CSEA: I would appreciate it. They can meet all the Commissioners because a lot of the classified employees don't know who you guys all are, the opportunity is so they can meet you guys and ask questions. What you guys do and the purpose of you being at the meeting. There are a lot of misconceptions out there. What a Commission is and what you guys do, I think it will be helpful, especially in this time. I appreciate it. Thank you.

Ms. Early: What is the time and location?

Ken Holt, CSEA President: It is 5:00 p.m. at Jones Elementary right across the street in the MOU room in the cafeteria. It's the same time all the meetings this year.

Ms. Early: Any more comments?

V. ACTION ITEMS

Ms. Early: Next agenda is Action Item A. Move that the Commission employ Kristine Kwong, Attorney at Law for Musick, Peeler & Garrett LLP a counsel to the Commission pursuant to Education Code Section 45313 due to legal counsel to the Governing Board failing to respond to requests or refusing requests for legal opinions and legal assistance for more than 15 working days and/or a refusal to provide legal services requested by the Commission.

Ms. Early: I so move.

Mr. Barabani: I will second the Action Item A.

Ms. Early: We have a motion, is there any discussion? All in favor signify with a voting sign of aye.

Mr. Barabani: Aye.

Mr. Salazar: I abstain to Action Item A.

Ms. Early: We have one abstention, motion carries.

Ms. Early: Action Item B. Move that the Commission inform the District that the Commission is not supporting the action of the Governing Board in refusing to employ Mr. Maher as the provisional Personnel Commission Director, is directing the Governing Board to employ him forthwith, and to request legal assistance in enforcing the Commission's decision in this matter.

Ms. Early: I so move.

Mr. Barabani: I will second Action Item B.

Ms. Early: Any discussion? All in favor of motion signify with a voting sign of aye.

Mr. Barabani: Aye.

Mr. Salazar: Nay.

Ms. Early: Motion carries.

Ms. Early: Action Item C. Move that the Commission seek legal representation in compelling the District to recognize the authority of the Commission to appoint its staff

and judicial determination as to whether or not the District has used its employing authority in a manner to nullify the authority of the Commission to appoint its staff.

Ms. Early: I so move.

Mr. Barabani: I will second Action Item C.

Ms. Early: We have a motion and a second. Any discussion?

Ms. Early: All in favor of the motion signify with a voting sign of aye.

Ms. Early: Aye.

Mr. Barabani: Aye.

Mr. Salazar: Nay.

Ms. Early: Motion carries.

Ms. Early: Action item D. Move that the Commission again notify the County Superintendent that it is unable to comply with a timely budget preparation for 2010-2011 due to the District not permitting the Commission to exercise its statutory authority to appoint a provisional Personnel Commission Director to prepare a budget and to coordinate the budgeting process.

Ms. Early: I so move.

Mr. Barabani: I will second Action Item D.

Ms. Early: We have a motion and a second. Any discussion?

Mr. Salazar: Promise I would not talk too much tonight. In this area I just feel that this is an opportunity for us to take care of our own housekeeping items and not involve the County Superintendent at this time; I know it is a lot of work, but it's my opinion, thank you.

Ms. Early: Thank you Mr. Salazar. Is there any other comments on this item? All in favor of motion signify with a voting sign of aye.

Mr. Barabani: Aye.

Ms. Early: Aye

Mr. Salazar: Nay.

Ms. Early: Motion carries.

Ms. Early: Action item E. Move that the Commission request that the County Superintendent direct the District to expend funds for the subscription of NEOGOV to be paid out of the 2009-2010 budget.

Ms. Early: I so move.

Mr. Barabani: I will second Action Item E.

Ms. Early: I have a motion and second. Any discussion?

Mr. Salazar: Again, I feel as same as Action Item D. I would like to take care of that, in house versus getting party involved. Thank you.

Ms. Early: This action was on our last Personnel Commission Agenda meeting, Do you have any recommendations of how we will take care of it in house? In addition to work that has been already done in house.

Mr. Salazar: Yeah, I am not sure, thank you for asking. I don't really have a solid answer to that question, I feel like right now we are just in a place where there is an admistrative pull down. I would like to think that and don't know that for certain. If there is somebody in administration that needs to be taken care of, it seems like maybe there is and I, or chief proster something along those lines, I feel like we are really close of getting this done. But it seems that there is some administrative hold. What I would like to do is suggest that we find out exactly where the hold up is and then proceed from there. I know some of you note some things that come across if there is a hold up and I am not sure if its Mohammed's desk or somebody else's desk , if we can find out from where and we can proceed from there, that will be my suggestion and recognition.

Mr. Barabani: The only comment I got is the Personnel Commission has its own budget and submitted to the County of Superintendent for approval and we tried to make a purchase with that so we can have it more efficient with the software, I thought we addressed and made a concern with the Board, and obviously more things keep coming up.

Ms. Early: We have a motion. All in favor of motion signify with a voting sign of aye.

Mr. Barabani: Aye.

Ms. Early: Aye.

Mr. Salazar: Nay.

Ms. Early: Motion carries.

Ms. Early: Action Item G. Move that the Commission conduct a hearing as recommended by the County Superintendent regarding the District's employment of classified employees without following the personnel rules as provided for under Education Code Section 45311 and 45312.

Ms. Early: I so move.

Mr. Barabani: I will second that.

Ms. Early: Any discussion?

Mr. Salazar: Would you go back just a second. What action is that now?

Ms. Early: Item G. Any discussion? We have a motion and a second in favor of action item G. All in favor signify with a voting sign of aye.

Mr. Barabani: Aye.

Ms. Early: Aye.

Mr. Salazar: I will abstain.

Ms. Early: Motion carries.

Ms. Early: Action Item F. Move that the Commission inform the District that it will not certify that James Cunningham has been appointed in accord with Education Code section 45310 due to the fact that the Commission is prohibited from conferring with Jeff Josseland on this matter, that the Personnel Commission Director must conduct an independent analysis of the recruitment and selection process because the District is asking the Commission to act instead of the Personnel Commission Director who cannot perform those duties to the actions of the District and to notify the County Superintendent that Mr. Cunningham has not been certified in accord with Education Code Section 45310 and therefore a pay warrant may not be issued.

Ms. Early: So we are on Action Item F. I so move.

Mr. Barabani: I will second action Item F.

Ms. Early: We have a motion and a second in favor of Action Item F. Any discussion?

Mr. Salazar: Forgive me on this but there is a lot of correspondence that falls around (inaudible). I am really unaware of this issue here.

Ms. Early: We received an e-mail specifically regarding this position asking for the Commission to approve and sign off on employment on this specific individual and this is one of the requests we received. In addition to this, my understanding is that a stack of

similar provisions like this were brought over to the Commission office which we have not seen and personally I want to see all of those positions filled. Because I know that behind every single one of those folders that's sitting on that desk there is a person attached to the folder and to every person there is a family attached to those folders. So I want to see everyone filled, however, there is a procedure in place to insure that everything is done ethically and I share your concern is that you shared with us not at last meeting but the one before, you said you were very interested that everything we did was consistent and so my concern is even though I don't know this individual, I only know him by his position, my concern is that when we sign off on this one, what happens to the others? They are all important to me; therefore, I can not single out one over the other. Any other discussion on this item?

Mr. Salazar: What was the position?

Mr. Barabani: Food Service Director. It says there, James Cunningham has a Food Service Director.

Mr. Salazar: O.K. I remember this one. I apologize. No further comment.

Ms. Early: Any other discussion? We have a motion and a second. All in favor signify with a voting sign of aye.

Mr. Barabani: Aye.

Ms. Early: Aye.

Mr. Salazar: Aye.

Ms. Early: Motion carries.

VI. COMMISSIONER'S REMARKS

Ms. Early: Next Agenda Item is Commissioner's Remarks.

Mr. Salazar: I have no remarks.

Mr. Barabani: The only remark that I think I would like to make is that a couple of individuals that work for the District are kind of confused about what a merit system does and I thought that maybe we could put it on record. I look at it as the merit system is the focal point; the point of entry for an employee who happens to come to the District for employment. Ultimately we are looking for the best candidate; not someone merely able to do the job. Probably the next most important thing, if not the most important thing, we want to make sure it is open to all eligible candidates. So the posts aren't really that strict for this particular individual. The other thing I think the merit system does is its transparent; it can be challenged just incase someone has a problem with the way the hiring processes work. I think in the process it would be arbitrary to be secretive and shouldn't go unchallenged. I think that the public needs to become more aware of that

because I get a lot of questions. Once again, I asked the Board; I cannot see why anybody would be opposed to that kind of system.

Ms. Early: Thank you Commissioner Barabani. I believe what you said in the merit system same rules apply to me applies to you or Commissioner Salazar.

Mr. Barabani: Correct, thank you.

VII: CLOSED SESSION

Ms. Early: We are now down to Item VII; Closed Session conference with legal counsel Kristine E. Kwong, Musick, Peeler & Grant LLP, existing litigation, Section 54956.9(a), San Bernardino City Unified School District; Dr. Arturo Delgado v Personnel Commission of the San Bernardino City Unified School District Case No: CIVDS 916709. Anticipated litigation (Section 54956.9b): 1 case: Anticipated litigation regarding authority to Appoint Personnel Commission Director. Pursuant to Government Code Section 54957 to discuss Public Employment Appointment Title; Personnel Commission Director.

Ms. Early: At this time we will now adjourn for Closed Session.

Ms. Early: There is no report from Closed Session.

VIII. ADJOURNMENT

Meeting was adjourned at 6:04 p.m.