

**San Bernardino City Unified School District  
Personnel Commission  
Special Meeting  
Meeting Minutes**

**March 24, 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. Gino Barabani, Vice Chairperson; Mr. 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**

Ms. Early: Next agenda item is approval of Personnel Commission Meeting Minutes for March 11, 2010.

Mr. Salazar: I have little changes to minutes on bottom of page 2, if I may there is strike *amount* greater, insert *California government* and then strike *so there is a* and then insert *the purpose of the*. Strike *person* that is the only change I see.

Ms. Early: Page 3, middle section of page where it says advise to Sherry Gordon set up *at* meeting, *at* should be *a*, properly notice so that the public can put an *r* for *render* comments.

Ms. Early: On page 4, under Matters Brought by the public 4 lines down where it says appointed by the majority vote of the commission change *as* to *a* public meeting.

Mr. Barabani: I would like to make a motion to accept the minutes as corrected.

Mr. Salazar: I second.

Ms. Early: It is being moved and seconded to accept the minutes for March 11, 2010 as corrected, all in favor signify with a voting sign of 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 approval of Agenda.

Mr. Salazar: I moved to approve the agenda.

Mr. Barabani: I will second.

Kristine Kwong, Attorney at Law: There is a typo under action item V. and it is on the second line before Personnel Commission Director it should be Provisional Personnel Commission Director and that is it.

Ms. Early: Thank you

Mr. Salazar: I move to approve the agenda with said changes.

Ms. Early: I would like to add one item, there is nothing on agenda for Matters Brought by the Public, I am not sure if any one would like to speak. Can we add Matters Brought by the Public? Right before item number V.

Kristine Kwong, Attorney at Law: Yes, the member of the public would like to speak.

Mr. Salazar: I would like to move that we approve the agenda with corrections.

Mr. Barabani: I will second the motion.

Ms. Early: It has been properly moved and seconded to approve the agenda with corrections all in favor signify with the voting sign of Aye.

Mr. Barabani: Aye.

Mr. Salazar: Aye.

Ms. Early: Aye. Agenda approved with corrections.

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

Ms. Early: We are now at the item matters brought by the public. If you would like to speak, this is your time.

Mr. Patrick Maher: Good evening, for those who do not know me, my name is Patrick Maher for considering for another additional time to appoint me for Provisional Personnel Commission Director. I just want to make sure it is clear on record that I am ready, qualified, and willing to commence work since November whenever I am told to report to work and start working. Thank you.

Mr. Barabani: Thank you.

Mr. Salazar: Thank you.

Ms. Early: Thank you

Ms. Early: Seeing no one else at the mike. We'll move on to Actions Items.

#### **V. ACTION ITEMS**

Ms. Early: We have actually 3 items listed under item A; we might want to discuss them separately. Under Item 1 Move that the Commission revise the classification specification of Executive Director of Classified Personnel. Number 2, Provisional Personnel Commission Director, including classification title revision as submitted and amended. And the 3<sup>rd</sup> item is Approval appointment of Pat Maher as Provisional Personnel Commission Director.

Ms. Early: You both have had a chance to review the revised classification specification, is that correct?

Mr. Barabani: That is correct madam chair.

Ms. Early: Is there any discussion on the revisions?

Andrea Deland, H.R. Classified Human Resources: Hello, my name is Andrea Deland from Human Resources Classified, on behalf of the district I respectfully ask to hand out this letter from Ms. Yolanda Ortega in regards to Action number V. I also have copies if any body from the public would like copies.

Ms. Early: Ms. Kwong, Have you had a chance to review the hand out?

Kristine Kwong, Attorney at Law: Yes, I reviewed the letter by Yolanda Ortega, I believe that she is confused as to the action item for tonight, according to the letter she is under the impression that the Personnel Commission is creating an entirely brand new position that has not previously existed. The action item tonight is not the creation of a brand new position, the action item is to provisionally fill a current vacant and open position and that is the difference. The personnel rules are in conformance with Education Code that you can fill the open vacant position on provisional basis. That is the action item; the amendment on the job description is not intent to try to create a brand new position. That is my response to the letter.

Ms. Early: Thank you.

Mr. Barabani: Madam Chair, I also have an issue because in the past I stated I don't think we should any longer accept anything at the last minute, it was brought in and it was not placed on the agenda and it did not give time for the public to review this. I believe that we could put this on the agenda for the next session.

Ms. Early: I do not understand what we would put in the agenda for the next session because her memo is actually in response to action item for today. Ms. Kwong has given her comments we are not creating another position, we are revising position description that already exists.

Mr. Barabani: I hear that and agree, once again I have an issue when these things are handed at the last minute. We were already in the action item whether it is brought in as far as I am concerned they are matters brought in the public, we are passed that.

Ms. Early: I can remember you requested at a previous meeting for items in writing to be presented prior to the meeting. My fellow commissioners have requested that you send request that are in writing in a timely manner so that we have an opportunity to review them prior to coming to this meeting. So right now, under our action items we are under revision of classification specification for the Executive Director of Classified Personnel, the Provisional Personnel Commission Director including classification title revision as submitted and amended, approval of the appointed of Pat Maher as Provisional Personnel Commission Director.

Any comments?

Mr. Barabani: I make a motion, since there are no further comments that we move onto this action items.

Mr. Salazar: Madam Chair, we did not have a discussion on this one at a time, is that the plan?

Ms. Early: We can.

Mr. Salazar: Because I would have felt much more comfortable talking them one at a time instead of approving all of the above.

Ms. Early: The first job description will be the Executive Director Classified Personnel and the Personnel Commission that is the first attachment to the agenda packet.

Mr. Salazar: I am a little bit confused in that my understanding is that we have an Executive Director Personnel Commission until a later date and so there is somebody in that place right now who is on a leave of absence. Is that right?

Ms. Early: Yes. He is on extended sick leave.

Mr. Salazar: O.K. so are we trying to appoint somebody on an interim basis to do what he is already?

Ms. Early: Not in this position, our appointment will be for the next position that is in your packet, the one that is currently vacant. We are not trying to appoint any one to the position that he is currently occupying, it's the next position that is in your packet.

Mr. Salazar: So, Item one is?

Ms. Early: Item one is Executive Director of Classified Personnel and Personnel Commission, item 2 is Personnel Commission Director,

Mr. Salazar: So the first thing we want to do is to determine whether or not we want to make changes to this job description?

Ms. Early: Correct.

Mr. Salazar: And this is one, two, three pages?

Ms. Early: Yes,

Mr. Salazar: And Personnel Commission Director, that's another?

Ms. Early: That is another position. Personnel Commission Director Position is currently vacant.

Mr. Salazar: So, my question is where did we come up with these changes, to the Executive Director of Classified Personnel, and the strike outs and the change in language?

Ms. Early: This position was a position that was created, actually that was a combination of two positions that was created when Jeff Josserand was hired, when the Personnel Commission began to take over the testing and recruitment for the district.

Mr. Salazar: So the strike out, this is the language of the job and duties Jeff has been doing?

Ms. Early: Correct.

Mr. Salazar: So, he has been working for as the Executive Director for before I got there. Has he been working as Executive Director with the new duties or with the old duties?

Ms. Early: With the duties that are stated on the handout that you got.

Mr. Salazar: And now we are approving those duties?

Ms. Early: There have been some challenges with him performing these duties as written. So, he was working half for the Commission and he was also following instruction that were given by Human Resource Classified. We were told several months ago, by Mr. Josserand that changes have been made and that the Commission would be paying 100% of his salary and the duties that he will be performing will be more aligned with what you see on the Personnel Commission Director handout. My understanding is we started paying 100% of his salary from the Commission budget but, it was never changed on paper. And that ended up being a source of confusion. Since our agenda item is to bring in an Interim Provisional Personnel Commission Director we want to clearly state in writing what it is expected of our appointee or our new person that we are bringing in.

Mr. Salazar: So Madam Chair, excuse my ignorance, the question that I have is that we had an Executive Director that has been; I don't know what he has been doing actually because this is not approved. I mean that is the purpose of this being on the agenda item for us to approve these duties and also he must be out rained under the old duties then? Again, excuse my ignorance because I don't understand how somebody can be witness when it's not true.

Ms. Early: These changes are coming before us today. This was not a change item before tonight. We are voting on changes today. And you being present on some of our prior meetings where he explained some of the challenges that he was having trying to fulfill some of the functions that are in writing on this position description that we have before us.

Mr. Salazar: So, if I understand this correctly the old duties are old in this document. The only changes that we propose are those that are stricken and which we don't want them there any more and those that are underline are additions?

Ms. Early: Correct.

Mr. Salazar: O.K. I need some time to look at this.

Mr. Barabani: I have a question that since we have a few changes here and my colleague gives me motion to break it down into sections, which is a good idea we also have a Personnel Commission Director. Do you or do we see this approved as a whole package? Or, should we look at this as an individual item individually and move on to the other one, by moving the other two items and moving this and approving and getting our interim? Table this because they are two different positions? Do we see any issues with that?

Ms. Early: Some of the items that have been placed under Personnel Commission Director will be reflected on the Executive Director of Classified Personnel. The Personnel Commission Director reports directly to the Commission, the Executive Director of Classified will be no longer be under the Personnel Commission. Personnel Commission Director reports to the Commission, those are the changes that you see before you this evening. I don't have a problem with the changes or the revisions that have been put before us this evening. I think that it clears up some of the areas that have caused confusion in the past and I am willing to go ahead and recommend that we approve the changes this evening. I compared both positions and I think that the position of Personnel Commission Director accurately states what we need from our Director.

Mr. Barabani: The next subject matter including classification title revision as submitted and amended, approval appointment of Pat Maher as Personnel Commission Director, Mr. Jossierand still holds this position for a while, correct?

Ms. Early: Correct

Mr. Barabani: And we are looking basically today for approval on the Personnel Commission Director?

Ms. Early: Well the item is, we are looking to revise the classification specification as submitted and later on we are looking to approve appointment for Pat Maher, so right now we are on the approval for classifications specifications.

Ms. Early: I move that we go ahead and move forward with the approval of the revisions to both positions as submitted this evening.

Mr. Salazar: Madam Chair, with all though respect, I thought we agreed we were going to go one at a time?

Ms. Early: Well, we have kind of been discussing both of them.

Mr. Salazar; we should go one at a time.

Ms. Early: O.K., I move that we approve the revisions to Executive Director of Classified Personnel and Personnel Commission. Do we have second?

Mr. Barabani: Give me one second.

Ms. Early: O.K

Mr. Barabani: That will be action item number one which Executive Director of Classified Personnel I will second.

Ms. Early: We that has been seconded that we accept the revisions of classifications specifications for the Executive Director of Classified Personnel and the Personnel Commission. All in favor signify with voting sign of Aye.

Mr. Barabani: Aye

Ms. Early: Aye, any opposed?

Mr. Salazar: Nay.

Ms. Early: Motion carries.

Ms. Early: Next action item, this will be the revision for the classification specification for the Personnel Commission Director.

Ms. Early: Has everyone had a chance to review the revisions?

Mr. Barabani: A couple of more moments please.

Mr. Barabani: I make motion that we approve the Personnel Commission Director position as revised classification.

Ms. Early: I second

Ms. Early: It's has been moved and seconded that we approve the revision to the classification specification for the Personnel Commission Director. All in favor signify with the voting sign of Aye.

Mr. Barabani: Aye.

Ms. Early: Aye

Ms. Early: Any opposed?

Mr. Salazar: Nay.

Ms. Early: Motion carries.

Ms. Early: Next action item approval of appointment of Pat Maher as the Provisional Personnel Commission Director.

Mr. Barabani: Madam Chair, I had the opportunity to review Mr. Maher's resume and packet and he seems to have experience and the necessary education, and vast experience. I would like to make a motion to approval appointment of Pat Maher as a Provisional Personnel Commission Director.

Mr. Salazar: Are we open for discussion here or did I miss my opportunity?

Ken Holt, CSEA Chapter President: Wait, it has to be seconded before discussion.

Ms. Early: I second.

Mr. Salazar: It's open opportunity for discussion? Thank you. Do we have any other candidates?

Ms. Early: This was actually voted on at a previous meeting back in November two Commissioners approved him coming on several months ago, that is why his name came up. At that meeting if you refer to the November minutes it was approved that he would come in if we ever needed his service Mr. Josseland had alerted us that he had reached an impasse in being able to function in his capacity. It was voted then that he come in to help facilitate Personnel Commission functions and that is why his name is before us this evening.



Mr. Salazar: My question is that I know that I was here the last time, and I have not been to, too many meetings but, as I recall and I was not here for the November meetings, as part of the Commission, but as I recall we have yet to approve the November minutes.

Ms. Early: The minutes have not being approved, but it was voted on at that the meeting and I believe you were in the audience when that discussion took place.

Mr. Salazar: Don't we have to again, I don't know what we do or don't have to do, I am relatively new here but don't we have to approve those minutes?

Ms. Early: We do have to approve the minutes but I think the hold up is you were not seated so you can't vote to approve those minutes and Commissioner Barabani has asked for them to be placed at the next months meeting as an agenda item, but the vote at that meeting still stands, there was a motion made, it was seconded and motion did carried.

Mr. Salazar: So, we have what amounts to an appointment by the Executive Director with approval of the Commission? Is that what we have here? We did not have open posting for this Executive Director or this Director.

Ms. Early: This is an Interim; this is someone that will fill in while we are advertising and recruiting until we fill on a permanent basis.

Mr. Salazar: Until when?

Ms. Early: Until we can fill the position permanently.

Mr. Salazar: Which means, we live that open ended.

Mr. Barabani: That will be up to us. It's my understanding we are planning on filling the position, there is no doubt on that, it's my understanding. See, we are kind of here doing the dance and we need someone to help us here to some extend on the daily activities; the district has jobs that need to be filled. We are bringing someone here intern to help provide those services as we can't do those on a daily basis then that is what provisional is we are bringing this person in to help with those duties.

Kristine Kwong, Attorney at Law: Please allow me to clarify, and I agree with you, a Provisional person does not require an open recruitment and the reason why is because it's on a provisional basis and once the person is appointed on a provisional basis it does not mean that they are employed on a permanent basis, its only temporary. But, while they are working on a provisional basis the person will be actively recruiting and testing for the same job position of Personnel Director and a selection will be made on permanent Personnel Director, and then such the Commission can act and appoint somebody right away to come in and perform those duties and after that for the next 90 days they can go ahead and recruitment for the commissioner person keeps the boat flowing and keeps commission office running until then.

Mr. Salazar: So, when is the earliest that we can go out and start this recruitment process for the successor for Mr. Josserand.

Kristine Kwong, Attorney at Law: Well as soon as you appoint the Provisional Personnel Director, immediately, so as long as the person is on the payroll that person can go ahead and start the recruitment for the position that he is holding now, which is the Personnel Director.

Mr. Salazar: But we can't replace Mr. Josserand until?

Kristine Kwong, Attorney at Law: Right, Mr. Josserand is the Executive Director and currently you have a vacancy that is the Personnel Director. And this agenda item is to approve a provisional appointment for Personnel Director and under the Education Code, the provisional appointment does not require recruitment because it's an emergency appointment. Its almost like the paramedic that goes out to the first call, they are only temporary, they keep things stable until they take patient over to facility and then they are done so, they are the first one on call. So a provisional appointment is that person and once they are appointed then they will start a recruitment to find a permanent replacement in the provisional role that exist.

Mr. Salazar: So let me see if I understand this, we have an Executive Director who is out on medical leave?

Kristine Kwong, Attorney at Law: That is correct.

Mr. Salazar: And, we have a right now as we seat here, we have a vacant position for Personnel Director was a separate job.

Kristine Kwong, Attorney at Law: Correct.

Mr. Salazar: And we can't, our ultimate goal is to?

Kristine Kwong, Attorney at Law: Your ultimate goal is to keep your personnel activities moving until a permanent person is seating in the chair as a Personnel Director.

Mr. Salazar: I see that as our immediate goal.

Kristine Kwong, Attorney at Law: That is the ultimate goal.

Mr. Salazar: Well, when it's all said and done at the end of the day, in 6 months from now or whenever Mr. Josserand, he's last day is here?

Kristine Kwong, Attorney at law: Expired.

Mr. Salazar: Then, when we have somebody to step into that position?

Kristine Kwong, Attorney at Law: You don't have to.

Mr. Salazar: But, whether we want to? Or are we sort of saying, well we are going to eliminate that position?

Kristine Kwong, Attorney at Law: That position can stay vacant, see right now Mr. Jossierand was actually performing two job functions, he was performing the job functions of Executive Director and Personnel Director and that is why, if you look at the current job description for Executive Director you will see personnel functions in there, but to have a Personnel Director and the Personnel Director did not have personnel duties in the current job description. So, to have a Personnel Director, the first thing you do is revise the job description, so that all function in the Personnel Director traditionally will conduct are accurately reflected in the job description and the duties that a traditional Executive Director will do are currently reflected in the job description. But, because Mr. Jossierand was to pass your current job description is a blending of the two. So it's a mixture and so tonight's revision is to make both of them very clear as to what an Executive Director does and what a Personnel Director does. So, that is why you see these two provisions in front of you. Now that they are revised you can now make a provisional appointment for a Personnel Director and once the person is appointed they can keep your ship flowing and can immediately start the testing and recruitment process for permanent replacement and they have 90 days to do that. The provisional appointment does not go beyond 90 days.

Mr. Barabani: Right, and it is my understanding so to clear this, we have two positions as you said the Executive Director, and Personnel Commission. Exactly will bring somebody this time is not vacated, we are bringing the other person in to Personnel Commission which we know it's a vacant position offering on a provisional temporary basis that's due to basically the work of the district currently this moving we have jobs that need to be filled, right and then what you are asking invertible questions I guess are we appealing this issues down the road? Who is going to fill them, how are we going to recruit for them and things like that?

Kristine Kwong, Attorney at Law: So, for example if you don't make an appointment tonight for a Provisional Personnel Director then tomorrow there will not be any one in the office to do personnel functions. Because if you don't have a provisional then you have to start a formal recruitment process and that takes time. Pending such that means there will be no one to certify the eligibility list, there will be no testing, there will be no improvement, and you will basically be in a state of a comma. So this is why you want a provisional person on board for 90 days to keep the oil and the engine running until you can find a permanent replacement. There soul purpose is to keep the ship running but only on a temporary basis. They are not supposed to be permanent.

Mr. Salazar: O.K. I think I understand what you are saying, I am trying.

Ms. Early: Do you have any other discussion on this item? If not, it's been moved and seconded. That we approve the appointment of Pat Maher as our Provisional Personnel Commission Director, all in favor signify with a voting sign Aye.

Mr. Barabani: Aye.

Ms. Early: Aye.

Ms. Early: Any opposed?

Mr. Salazar: Nay.

Ms. Early: Motion carries.

#### **VI. COMMISSIONER'S REMARKS**

Ms. Early: Next agenda item commissioner's remarks. Do either of you have any remarks?

Mr. Barabani: I would like to publicly say it has been a tough process; it has been an emergency situation that came to us. We are doing the best we can to move this process along and I hope we are doing a good job.

Mr. Salazar: I have no additional comments. Thank you.

#### **VII. CLOSED SESSION**

Ms. Early: Next agenda item as provided by law the Personnel Commission will meet in Closed Session for consideration of the following: Conference with legal counsel, Kristine E. Kwong, Hinshaw & Culbertson LLP, anticipated litigation, initiation of litigation Pursuant of Government code Section 54956.9(c), and two possible cases. Anticipated litigation regarding San Bernardino City Unified School District Personnel Commission court case, duties and authority, and anticipated litigation regarding appointment of Personnel Commission Director.

Ms. Early: I do not think we will have a report out of the close session. Am I correct?

Kristine Kwong, Attorney at Law: That is right. I just want to clarify that there is a typo, needs to be Provisional Commission Director.

Ms. Early: Correction, Provisional Personnel Commission Director, let the minutes reflect the correction. We don't anticipate any report coming out of this closed session.

Ken Holt, CSEA Chapter President: I just want to make a comment before you guys go into closed session. I want to thank you guys for filling provisional position; it is not about the person because I can care less who it is. It's about providing services for the students and that's why we have jobs, and that is why we work for the district. I want to commend you guys on making those tough decisions to move forward we have being

deadlock for so long it is close to 250 vacancies, hum the workload that puts it on other employees it's tremendous out there now, so I want to thank you guys, publicly thank you I am glad we can move a little bit forward and get some hiring started in the process started and I hope the commission continues with this and I just want to say that I am pleased and thank you guys for making that tough decision tonight.

Ms. Early: Thank you.

**VIII. ADJOURNMENT**

Ms. Early: Meeting adjourned into closed session at 6:51 p.m.