

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

September 8, 2010

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

I. CALL TO ORDER

Ms. Early called the meeting to order at 5:39 P.M. Mr. Salazar led the pledge of allegiance.

II. APPROVAL OF AGENDA

Ms. Early: Thank you. Next item is approval of tonight's agenda.

Mr. Barabani: Madame Chair, I have a small correction. On the item VII on Closed Session, I was informed that Kristine Kwong would not be.

Ms. Early: So, under Closed Session, we'll strike conference with legal counsel, Kristine Kwong. Anything else, any other changes?

Mr. Barabani: Nothing at all, no.

Ms. Early: Do we have a motion to approve tonight's agenda?

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

Ms. Early: We have a motion to approve tonight's agenda with one correction. Do we have a second?

Mr. Salazar: I'll second.

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

Mr. Barabani: Aye.

Ms. Early: Aye.

III. APPROVAL OF MINUTES

Ms. Early: Now we had several sets of minutes that haven't been approved. Are they being agendized for the following meeting or; I see none listed here?

Mr. Barabani: Madame, I ask because it was such a short period between the last meeting and this one I thought we should; we did have two or three, but the previous meeting; I'd like 30 days to give everyone a chance to look them over.

Ms. Early: So, that will be placed on our next meeting's agenda for approval.

Mr. Barabani: Yes.

IV. PUBLIC COMMENTS ON AGENDA ITEMS

Ms. Early: We are now at the section in our agenda for public comments.

Gary Underwood, Retired Classified Manager: Good evening members of the Commission. My name is Gary Underwood and I reside at 29261 Lake View Lane in Highland, California. By way of explanation, I attended your last meeting and I wanted you to know that the reason I didn't stay for the entire meeting, not that it's important to you, is that as a courtesy some of the topics I brought up; I am a Vice President of one of the major home owners associations and my meeting was occurring the same time as your meeting and so I have recused myself to come here, made my public statements and left because I did want to stay and talk and listen to the entire meeting. I wanted to thank you for your service, I do appreciate that. I know that these are troubling times for everyone; I wanted you to know that I have met with Dr. Delgado to discuss some of his perceptions regarding the ongoing difficulties between the district and the Personnel Commission. I also spoke to Gino on the telephone and tried to gather some information and I would like to meet with Michael and I would also like to meet with Rhonda privately to discuss ongoing issues and make some suggestions on possible resolutions. As you know, one of my suggestions was non-binding mediation, but I have appeared before the Board of Education and because of the confluence of difficulties and misunderstandings and lapses in communication, I've suggested to Mr. Tillman that perhaps one of the ways to begin this process is to meet with your Commission President and have some informal discussions and perhaps we can find a way to work our way through some of these difficulties. I know that there's; in talking with the various people involved in these issues, it appears to me like major breakdowns in communication. Some of it perhaps, could be because of your director and misunderstandings with the director and yourself and also conversations between your directors and other people. I guess having been new to the system, I was unaware that it's the district that hires your Commission director, not you. And so having known several of your directors, I guess one of my questions is why were they hired based on some of the behaviors that I have personally witnessed? And if the things that I've witnessed, it must have clearly spilled over into some of the behaviors and performance in information given to the Commission directly and also to the district. So having said that, I will also tell you that in the case of one of your director's, I received a call from a very high ranking member of another educational organization in the state asking me why the district was hiring one of your previous directors because of the problems they had had with this individual. Problems of, how should I say it, veracity and inaccuracy of their work. I just think that one of the ways we can begin to solve this problem is through genuine communication between responsible parties. I would hope that the other Commissioners, Gino and Michael, that you would feel and support my suggestions and encourage your Commission President to meet with Mr. Tillman; I haven't approached Mr. Tillman yet with this suggestion because I think it starts here, perhaps we can find a way to begin to unravel these

problems; that is where I stand as far as (inaudible). I want to thank your staff, I've requested the rules of the Commission and also, the new rules that were being proposed that caused the nature of the suit; I wanted to review those and get an idea of what the problem was because it confounds me and it probably confounds you too. Thank you very much.

Mr. Barabani: One of the things that I would like to correct; when you spoke about hiring a director in regards to the last director we had in the district, I was mentioning that he was; people call them two hatters (inaudible) the district hired him and it has always been the intention of the Personnel Commission that we are able to hire the Personnel Commission Director. As to your proposition to meet with someone from the board, I commend you and if it can happen, I want you to know that we've tried, the President has tried, maybe I can suggest, not taking anything away from our President, our Chair, sorry, we have our district representative Mr. Salazar, maybe you and him could try to meet with the district.

Gary Underwood, Retired Classified Manager: It is my opinion that the legal costs alone in this battle are an embarrassment to the district and to the governing board. There is certainly a political motivation here for the board to want to solve this problem and I find it hard to believe that the member of the board, in this case Mr. Tillman or a representative, would not want to move forward to try to resolve these problems in a way that does not cost the district more money; its, how I described it for him, just flying out the door; we have funds dedicated to our students and staff to genuinely important educational needs and to our workforce, and the legal costs alone are staggering. I think that if those legal costs became well known in the community, I think they would be outraged by it. Likewise, the Commission has the responsibility to engage in an active and constructive dialogue and I think that it's important for us to try to find a way. People with good will always can find a way to find a solution, this is not going to be easy because I think that the misunderstandings and the distrust runs deep because of certain behaviors and certain experiences that you've had, but I do think that some of those misunderstandings and some of that distrust rightfully belongs to all parties and also rightfully belongs to probably some of your past directors.

Mr. Barabani: I didn't want to imply that Mr. Tillman did not want to meet with us, as far as I know, he has not met with us, we did contact him, a letter was sent to him from us, we haven't gotten anything back from him personally, but I don't know that he doesn't want to meet with us, I just know that he hasn't and to me, there isn't even a reason why other than want.

Gary Underwood, Retired Classified Manager: Well, one of the reasons could be that they have been advised against it by legal counsel; this could last for years, this legal wrangling it just doesn't make sense; it's not healthy, it's not healthy for anybody because you're volunteers, they're volunteers, you all have the same, I believe you all have the same goals and that is to have a healthy workforce, people who are hired and fair equitable manner and we don't have nepotism here and people who are well qualified are aligned in a way and brought before in a timely manner; we have a couple hundred

positions open right now and the safety of the school district is certainly an issue here with lack of police officers, lack of campus security officers, lack of dispatchers and that's what I'm most familiar with and having to suffer through this for three years; I find myself in retirement thinking well, being described as Don Quixote standing in front of the windmill; I don't have an agenda here, I don't want to be on the Commission, I don't want to work in the school district anymore, I'm happy in retirement, I just want to see this problem solved so that the good people in the district and the community can get what they deserve and that is fair and equal employment.

Mr. Barabani: Mike, I did not bring your name up arbitrarily, I thought maybe that they might feel a little more comfortable since you are the district's representation.

Gary Underwood, Retired Classified Manager: I plan to approach, based on your own discussions and meeting with Ms. Early, I plan to, based on those discussions, I plan to approach Mr. Tillman directly, I do not plan to go through Dr. Delgado or anyone else in the district, I am not obligated to, I don't work in the district, I don't have any obligation to do that. I think it's important for you to decide amongst yourselves how you want to proceed, if that is something that interests you.

Mr. Barabani: I appreciate you coming here and like I told you on the phone, I like it presented in an open forum so, I want everybody here to understand.

Gary Underwood, Retired Classified Manager: I don't have a secret agenda here, I don't have any ill will towards the Commission or your director, I just find this situation spiraling downward and I think it can be resolved with good will and with some initiative. Clearly, you don't like coming to these meetings and having to work through the legal issues you would rather be working through some of the more mundane personnel issues, approving people and lists and things like that. Thank you.

Ms. Early: Thank you Mr. Underwood for your effort. I have not met with you however, we have extended the invitation to meet with the Board President on numerous occasions both in writing and verbally and have invited him to multiple Commission meetings, so far, none of that has materialized.

Gary Underwood, Retired Classified Manager: I'm sure you have and I appreciate that, but I think that there's a political, there's more of a political, we can bring more of a political pressure to the board to respond more directly to you, and that is what I am suggesting, possibly through my discussions if that's something that you would like to do, I could bring more political pressure to the board, specifically Mr. Tillman, to meet with you privately and I would be happy to sit in on those discussions to be a neutral party.

Patrick Maher: My name is Patrick Maher, I think there's been a public record made that needs to be straightened out somewhat. I know that Mr. Underwood is sincere, I believe that he is doing what he thinks is best for the district and the community, I don't question his motivations or anything else at all in fact, I admire the fact that he's willing to after

he's retired, to take on this type of an effort to improve it. There are some things on the record that he said that I don't think he has all of the information on that should be corrected. First of all, the last two directors that were hired were hired; the entire recruitment process gate keeping, decision, testing everything else was done 100% by Human Resources, by the district itself. The Commission had nothing to say about it, no involvement with it at all, they had 100% control of that selection process. Therefore, the outcome of that, whatever they came out in the way was entirely within their realm and their control so, the Commission in terms of making the hiring decision; even if you made the final hiring decision, you had to hire from among those candidates presented to you by the district. The recruitment process in both cases were seriously flawed, they did not follow the rules, they did not follow proper recruitment, they pre-selected people, I believe they pre-selected people they wanted to be considered and made sure those people got forward and those that were competitive, they screened out. That was the process they gave you and as was mentioned, when Mr. Jossierand was brought in, it was a dual position, 50% with the district, 50% with the Commission, the district had 50% of the hiring say so over that person, we have a split position of that. The district alone created and approved the contract for Mr. Jossierand's hiring. The district was 100% responsible for that final decision, not the Commission, the Commission had some input I understand, but did not have the final ultimate decision. So those kind of things are again, belong back; as to (inaudible) my history and my reputation, I can tell you from this idea that we can have some secret unidentified high ranking person that we don't know anything about to cast dispersions against a former classified employee goes against the very fundamental aspects of the merit system. The fact that somebody that is not associated with the district in any way, shape or form didn't like somebody on a personal level, that can be used as a basis to somehow (inaudible) the characters of those who have come in here and have done work, I think is contrary to the fundamental purpose of the merit system and that kind of information has got to be kept out of the selection process. It is an ongoing part of the process that I've seen happen here at this district which I believe is part of the way that this district operates outside of the Commission itself in that the extent they can get away with it; only the Commission can make that standard. It was the district that initiated a lawsuit against the Commission, not the other way around. All of those fees, all of those costs are 100% under the domain of the district and nothing else. It was the district that decided to take one of the attorneys that was billing \$180 an hour and hire for the Commission another attorney being billed at \$360 dollars, doubling the cost of the legal assistance of the Commission was a decision made entirely by the governing board without any input from the Commission. So as these costs become astronomical, and the board is worried politically so on and so forth about what these costs are, the first place that they have to look at is themselves, they are the ones that are 100% controlling the legal costs and the amount of legal costs by the actions that they take or the actions that they don't take. So, that is where the real responsibility lies, there is nothing that this Commission can do about that because we are responding either to their legal action or, the Commission is responding to their legal actions, in response to that, we are asked to defend itself or trying to do its job and the district refuses to allow the Commission to do its job and exercise its authority so the Commission has no choice but to seek legal assistance and make headway because meeting, discussion and everything else doesn't matter to many of the administrator's

within the district itself. They are out to destroy the merit system, they want to see it gone, they've said as much, it has been reported that they've said as much and that is what the real motivation is, is to destroy the merit system because once you have directors that came in and started making you a real merit system, a true merit system that was independent from the district, by your authority, the district did not like that anymore because they lost the control so they are after controlling the merit system or getting rid of it. That is what the real motivation is so, I know as much as you at work, how much you would like to meet, how much you would like to resolve this and get on with being a merit system and so on and so forth, but the district is controlling the entire agenda at this time. The only way you can give in is to capitulate and say I don't care about the merit system, I don't care about the law, I don't care about the rules, whatever the district wants us to do, we will do it. Then and only then will you get along with the current administration. Thank you.

Charlie LaChance, Labor Representative for CSEA: Good evening. My name is Charlie LaChance, I am the Labor Rep for Chapter 183 here in San Bernardino City Unified and they've asked me to carry their message tonight because tonight is their chapter meeting. The first request is we would ask the Commissioner's in the future if you cannot have your Commission meetings on the second Wednesday of every month because that is the same night as our chapter meetings and we do have important business to take care of at our chapter meetings and all of our leadership must be at the chapter meetings; there are several employees who have requested that I be released from that chapter meeting to come over here and request from the board in the future if you could do that. The second Wednesday of every month is when our chapter meetings are so we would like you to think about that so we can attend the meetings and talk about our issues and whether we support or don't support what's going on.

Mr. Barabani: Charlie, I'll take responsibility for that; it was a mistake.

Charlie LaChance, Labor Representative for CSEA: So in the future can we maybe count on that not happening again?

Mr. Salazar: Well actually, Charlie at the last meeting that we had, the majority vote was to schedule regular meetings the second and fourth Wednesday's of the month, but that is on a temporary basis, I know this doesn't help you out much, but for September through November.

Charlie LaChance, Labor Representative for CSEA: Well maybe the board can, in their wisdom, since they realize it conflicts with the very group of people that they represent, you can make a motion tonight somewhere or, at the next meeting, to change that because it really is important that the people you represent be able to attend the meetings that you have. So, I would like you to consider that.

Mr. Salazar: I am just giving you the information.

Charlie LaChance, Labor Representative for CSEA: Yes, thank you. The second issue, as I said, I am carrying the water tonight, I would like to ask any one of you from the board, my understanding was and in looking at the minutes from three meetings ago, the power was given to the board Chair to sign off on some retirees to be able to sub. I learned, and I have statements from two of those employees, that were told, and I quote from the district, "You can no longer sub until further notice because the union said you cannot because of something to do with the Commission." So, I need to find out from the district, I have the individual's name that have said this, but I think that the membership has little trust with anyone right now, they are trying to work, many of those that have been laid off and reduced in months and hours and can't work because of the litigation that is going on and the district's inability to pay the person that you as Commissioner's have selected. For them to be told that they can sub, they filled out the paperwork, and now their saying we are going to pull you because the union said, really tells me that someone from the district is either very poorly misinformed or trying to divide and conquer between the union, the Personnel Commission and the district. I just wanted to know what your position was on whether these individuals should be subbing or not. You've made the motion that you can sign off on them and as far as I was concerned, they could.

Ms. Early: That is an agenda item.

Charlie LaChance, Labor Representative for CSEA: Oh it is? I'm sorry, I apologize. Just to let you know that the membership that we have tonight that should be here speaking about this issue, the ones that affects, I have their names, they needed to be at the chapter meeting because they needed to voice how they approach this, but they also wanted to be here and again, that's why I'd like for you to reconsider having your meetings on the first, the second Wednesday of the month. So, given those two issues, I would like to at this time just to appreciate all that you do, I know this has been a tremendously stressful time for everyone, I cannot imagine the fire that you're under. You hear it from us, you hear it from the district, you have to deal with this attorney and that attorney and there's no consistency and continuity; the classified employees and their leadership wanted me to let you know that they absolutely support the Commission, they want the Commission to stay, they think it is a vital and essential part of this district and they'll do everything they can to ensure that the Commission stays and is able to function with the payroll and the tools that it needs. Thank you.

Charles Viramontes: Good evening Commissioner's, my name is Charles Viramontes. I am here to speak as a former employee of the district; I just wanted to shed some light on a couple of things here tonight. First, I just want to echo what Mr. Underwood's statements, I agree with discussions is a way forward, that is just kind of my own personal feelings on that. There was some discussion tonight about previous directors; I was not an employee of the district when the dual hat director was in place. I was here when the director previous to that was hired and I feel compelled to speak tonight because I was here and I was involved somewhat in that recruitment. At that time, the district was running recruitments; does it belong with Commission? I believe, yes, but for whatever reason when I came to this district, this was how it was setup, the

Commission was in agreement with it at that time, these were the rules in place. So, with that said, I was a part of that recruitment and I can say that that recruitment was run in accordance with the merit system rules that were in place at this district at that time. I just wanted to go on record because I was here and just feel compelled to; I had a hand in that and we did a good job with that. The end result of that, there were some issues with that particular director, I left prior to that occurring or being resolved, I know it's still in process, but the initial appointment, I was here when that happened. That being said, that was where it was at that time. Where do I think it belongs? I believe testing belongs exclusively with the Commission and however, that is not what it was back then. I just wanted to go on record with that. Thank you.

Ms. Early: Any other public comments?

V. ACTION ITEMS

Ms. Early: Next agenda item V Action Items. V (A), move that the Commission adopt the attached *Distribution of Agenda* procedure as an official procedure of the Commission and direct all staff to strictly adhere to the procedure. I so move.

Alexis Jenks, Human Resources Training Specialist (PC): Rhonda? I have a comment, if I can make a comment about that?

Ms. Early: Sure.

Alexis Jenks, Human Resources Training Specialist (PC): Alexis Jenks, Personnel Commission. I feel that this agenda item kind of needs to be clarified. I have not been in attendance at the meetings lately, but I have been keeping up with what's going on and I feel that with this Action Item there needs to be a little explanation. First of all, the email that was sent to Commissioner Barabani, I believe on the 20th of August, I did state to him that I did not feel comfortable with sending this particular person an agenda, a detailed agenda, I believe that this is the reason why we have this procedure now because it was a little unclear as to what should happen. With the agenda backup, I have to disagree with that because I have never stated to any Commissioner that we were instructed by the district to disregard any directives in our department. So, I have to say that because it is clearly stated here and it came across as if the district had told us to do something and we chose to do otherwise. It was my personal feelings, I do not feel comfortable and I have stated in an email that due to existing conflict between the district and the Commission; that was the reason why I did not feel comfortable with sending this particular person an agenda. It was relayed to me via a telephone conversation that we were to email this particular person a copy and I do know that at the July 6th meeting it was on record that this particular person was instrumental and has been instrumental in preparing our PC agendas so, I kind of don't understand why Commission staff has to send a copy through the mail to this person when it's been on record that he has been instrumental in doing the agendas. That was just kind of a concern. I understand the directive and staff has no problem following the directive, but I just have to set the record that we were not told by the district to not send this person an agenda; it was my personal feeling, I did not want to do it. I guess that that's it; I hope that that clarifies, but I just

kind of don't want to support this backup agenda item because I don't feel that that's accurate.

Ms. Early: I'm sorry, when we are saying the backup agenda item; I was just given my packet so I'm looking through it now.

Alexis Jenks, Human Resources Training Specialist (PC): It's for Action Item (A), the very first backup. There is a detailed statement; I don't know who wrote this statement, but there is a detailed statement and it kind of makes reference to a letter that staff received from district officials on the 13th, but my reasoning is it had nothing to do with any directives given by a district official.

Ms. Early: Thank you, I have it in front of me.

Mr. Barabani: Yes, when I spoke to you about that I told you to please send to the individual and to any other public member because this document is an open document, it's posted, it's for the public, if they would like to request it, the email doesn't cost us anything, go ahead and send it to them. You treat that individual like you would anybody in the public (inaudible).

Alexis Jenks, Human Resources Training Specialist (PC): Absolutely, absolutely. Another concern that I have, number one with what you're saying, in this backup it says, and I'm paraphrasing, it's saying that we were given directives to provide certain documents without success; I know for a fact that during the time I was asked to work out of class, this is when this particular situation happened, I do know that this particular person was sent an agenda item, I cannot say that it was sent in any kind of special way, it was put in the mail basket just like all of the rest of them and unfortunately, we are not responsible for timelines set by the U.S. Postal service; when the agenda was sent out to us, we sent out the mailers and it went out as anyone else. I have to clear that up. I just don't like the fact that it is printed and it makes it appear to be something that it wasn't. I am just not totally comfortable with that.

Mr. Barabani: This wasn't meant to be pointed at any particular person or any event other than what it states on that one page. It's like if anybody wants it, in the past I have even had CSEA representatives and the President ask me, we are not getting the agenda, and I brought that up to; let's see if we can get it out. I know you don't have responsibility; even email is reliable, but its not 100%; the only thing we can ask is to consider that.

Alexis Jenks, Human Resources Training Specialist (PC): Yes, that is understood. I also kind of have a concern too because the term "the California Public Records Act" that's used quite frequently in many of the discussions, my concern, or where it is not clear to me is that the term "a member of the public" and the "person appointed by the Commission as the Interim Personnel" is kind of used interchangeably. I, and I cannot speak for other staff members, I have never received a request from this person, I have only received it via Commissioners so, I just need to make sure, or to verify that these

requests for these records, are they supposed to be coming into our office or are we getting the requests through you and then we are supposed to send them out that way? That was a little confusing. If a person was appointed by the Commission to be the Interim, I don't feel that; I don't know if we are supposed to send him something, I would assume that he would have had it already if he has been appointed. I am confused.

Mr. Barabani: Well again, for example, on the agenda, you stated that the individual participated in writing and things like that; the agenda the reason I asked to send it out, I went through this in the last one page by page, I've used internet sources, I spoke with individuals and I also wrote a lot. The person; the final copy is the copy that I produced and it needs to go out. I have never spoken to Rhonda about this, Mr. Salazar. That's why whenever anyone sends it in; I wanted them to send it in their own writing instead of me doing it so that it wouldn't be any problems so that's why. When I sent it out at the last minute, that is what was produced. So, like your referring to; well that person might have did it, that's not factual, what you got from me was what was produced at the very last minute.

Alexis Jenks, Human Resources Training Specialist (PC): Yes, I just stated that I had heard it stated at a meeting, it was on record that this person had been instrumental prior to in preparing agendas. It was my assumption that this person will continue or has continued to be instrumental in writing agendas. So, I just needed that clarified.

Mr. Barabani: Well, there has been some issues and the thing is, things are coming in from different avenues. When they get here, they are compiled by one individual, I guess that is the only way to do it, and then it is sent to you guys. That probably is the copy, there is no copy out there floating, it comes and it's just forwarded. No, if that's what you're implying, no, it got changed, that's why I asked it to be sent out because that's the copy.

Alexis Jenks, Human Resources Training Specialist (PC): Ok, staff has recognized the agenda item for the procedures.

Charlie LaChance, Labor Representative for CSEA: If I might comment just to put our classified member at ease because they are classified employees. If they are asked to send out an agenda from a Commission, they've been asked to do that, that's a directive they do that. They cannot be disciplined for that because you're responsible for however that got together. So, when they are asked to do something, and Alexis when you are asked to do something and you think it's improper, you are not going to get in trouble for that, they are. So, if you are asked to do it, you are protected and I will be there to protect you. Second thing is, I know that I have called and asked Nersi to send me an agenda, I've asked Gino to send me an agenda, I may have asked Rhonda at one point in time, I may ask you another time because maybe I didn't get it so, under the Public Information Act, it doesn't have to be a formal written request, you can just call up and say I need a copy of the agenda. If it is information that isn't readily available that isn't already being prepared then oftentimes that formal letter is the only way to get it, but I just want to make sure that the employees of the Commission know that it is not their worry or their

problem how the agenda gets there. If they are asked to send it out and they do it, they've followed your directive so that they are protected.

Mr. Barabani: I'd like to say Charlie that their input is; I like to hear it too.

Charlie LaChance, Labor Representative for CSEA: Oh yes, me too, but I just want to make sure that they're protected.

Mr. Barabani: I want to know and I am sure that the other two Commissioner's (inaudible).

Charlie LaChance, Labor Representative for CSEA: But what I was hearing from Alexis is there was concern and I want her to know that she is protected. Not just her, but all of the employees.

Mr. Barabani: Hopefully the only time that I would ask, if it's been on public; I asked today to have some things copied and delivered to an individual and I knew those things were already discussed, they were in an agenda on public record and you guys did that; they have a right, the public, under the Brown Act to request these items.

Ms. Early: So the purpose of this particular Action Item was to put in writing a procedure or to adopt a distribution agenda just to clear up confusion that may have existed and even asked input from Commission staff if there was a standard distribution list that had been utilized in the past, we've reduced that to writing to put you at ease. So, the purpose of this item was to clear up any kind of confusion that there may be and to put you at ease. So right now, we're on Action Item V (A) and I think we have a motion before us for approval.

Mr. Barabani: I will second that motion.

Ms. Early: We have a motion and a second to adopt the *Distribution of Agenda* procedure as an official procedure of the Commission and to direct all staff to strictly adhere to the procedure. Any other discussion on this item? All in favor of the motion before us signify with a voting sign of aye.

Mr. Barabani: Aye.

Ms. Early: Aye.

Mr. Salazar: Aye.

Ms. Early: Motion carries. Action Item V (B), move that the Commission request the following legal assistance to obtain a legal opinion of (a) whether or not the Commission's action at the August 3rd personnel meeting concerning Items IV (G) authorizing the district to hire as limited term or provisional employees retired classified employees and employees on a rehire list due to layoff legally authorizes the district to

hire such employees under the conditions specified by the Commission. I can read them all together if you want to, there are three of them. (b) if the signature of the Commission Chair as the authorizing authority for the Commission is legally sufficient for the district to hire such employees and (c), if either action is not legally permissible, to obtain a course of action that is legal for the Commission to authorize the hiring of these employees. I move that we request legal assistance on the three items stated on the agenda.

Mr. Barabani: I will second that motion.

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

Charlie LaChance, Labor Representative for CSEA: Charlie LaChance, yes, I think that this is absolutely essential for the very reason I came up earlier, I am sorry, I didn't know that it was on the agenda. At this point, there is either some very misinformed employees in the district or an overt action to try to discredit the Commission and the union so, I would really like to see this passed so that if it is legal, we can do it and if it's not, then it's not and let's move on to try and get some relief for the district whose hurting badly; I mean they are not even in triage anymore they are in the trauma unit, this district and the students. So, I would like to see you pass that if you can.

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. Any opposition? Any abstentions?

Mr. Salazar: I have a question. I am sorry, I'll oppose, nay.

Ms. Early: Motion carries. Next agenda item V(B)(2), obtain a legal opinion on whether or not the position of Assistant Superintendent performing the duties of Employee Relations/Human Resources-Classified is legally a classified position under California Education Code Sections 44065, 45104, 45103, and 45265 and therefore subject to all provisions of the merit system for selection, recruitment, and appointment, with such opinion to be based on a factual analysis of the percentage of time a person in that position spends on duties requiring a credential under the Education Code.

Mr. Barabani: We need to make a motion on this?

Ms. Early: We need to.

Mr. Barabani: I make a motion that we adopt this item B (2).

Ms. Early: Item B (2) you're asking for a legal opinion, I'll second that. Any discussion? All in favor of the motion signify with a voting sign of aye.

Gary Underwood, Retired Classified Manager: Madame, Madame, I'm sorry, is it alright if I speak?

Ms. Early: Yes.

Gary Underwood, Retired Classified Manager: I just wanted to mention that the previous director, I'm sorry, Employee Relations/Human Resources was Joe Woodford, he was a classified employee, not certificated. However, he was not an Assistant Superintendent so, I think that's important to know. I did have a question and that is although Joe was a classified and not certificated and he occupied that position, I'm just curious what difference does that make for you essentially, is this a clarification? I am just curious as to why this is on the agenda.

Mr. Barabani: Yes, it's a clarification of whether the position comes under the merit system.

Gary Underwood, Retired Classified Manager: Ok. So the previous position was a classified position.

Ms. Early: Thank you. We have a motion before us and a second. All of those in favor signify with a voting sign of aye.

Mr. Barabani: Aye.

Ms. Early: Aye. Motion carries. Next agenda item V (C), move that the Commission formally notify each member of the governing board that the standard wording of the governing board agenda that all personnel "are in accordance with...the rules regulations of the Personnel Commission..." is factually inaccurate and in fact many of the actions the board is approving violate the rules and regulations of the Personnel Commission and/or the merit system statutes of the Education Code.

Mr. Barabani: I would like to make a motion for item (C) that we adopt it.

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

Mr. Barabani: Aye.

Ms. Early: Aye. Any opposition?

Mr. Salazar: I'll abstain.

Ms. Early: One abstention; motion carries. Next Action Item V (D), the appointee of the governing board will publically name the person that they intend to appoint for the joint appointee to the Commission for a three year term commencing December 1, 2010 with the required public comment at a regular meeting to be held on October 13, 2010.

Mr. Salazar: Madame Chair, I would like to appoint Jess Vizcaino, Jr. and if I may, a little bit about Jess's background. He is currently a Senior Congressional Representative to Congressman Joe Baca, 43rd District. He is a former high school teacher in Civics and History and in 1985; Mr. Vizcaino served a three year stint in the United States Army as a paratrooper with the 82nd Airborne Division. Mr. Vizcaino is active in his community and there's a full list of things that he does, but he's well accomplished in the community; he's earned his associate degree in fire science from Crafton Hills College and his bachelor of arts in communication from Cal State San Bernardino; completed all of his graduate coursework for the MPA program, and his degree is pending. In 2008, Mr. Vizcaino was elected to the San Bernardino Community College Board of Trustees; Mr. Vizcaino lives in the district and has for the past twenty years and is married and a lifelong resident of the city. He had his wife have two children who attend San Bernardino City Unified School District schools and I think that he would be a fine addition to the Commission so, that would be my nomination for appointee.

Charlie LaChance, Labor Representative for CSEA: Sir, a point of clarification if I may? Is he currently on the board of trustees?

Mr. Salazar: I believe he is for San Bernardino Community College District.

Charlie LaChance, Labor Representative for CSEA: I would like you to look into that to see if he is on a board of trustees if he can also be on a Commission. I don't know if he can.

Mr. Salazar: I would be happy to do that. That is a good point.

Ms. Early: Any other comments? Seeing none.

VI. COMMISSIONER'S REMARKS

Ms. Early: We are now on Action Item VI, Commissioner's Remarks.

Mr. Salazar: I have none, thank you.

VII. CLOSED SESSION

Ms. Early: Moving on to the next agenda item, Closed Session, pursuant to Government Code Section 5497 to discuss: Public Employee Appointment Title: Personnel Commission Director (Provisional) Personnel Commission Director. We will now adjourn into Closed Session.

VIII. ADJOURNMENT

Meeting was adjourned at 6:32 P.M.

