

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

December 16, 2010

A special meeting of the Personnel Commission was held in the Personnel Commission Office. 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 5:36 p.m. Ms. Early led the pledge of allegiance.

Ms. Early: We are pleased to see Dr. Delgado here in the audience and I understand he is here tonight to administer the Oath for my reappointment and that's where we are in the agenda for tonight, thank you. We have a new addition to tonight's meeting agenda; I understand that Commission staff have had trouble with acoustics when we meet in this room so, they've added the mic as an addition to tonight's meeting so those of you who come forward to comment will be asked to speak into the microphone. Thank you.

Dr. Delgado, Superintendent: Its my pleasure to administer the Oath of Office to Mrs. Rhonda Early, and if you'll raise your right hand Rhonda and repeat after me, Do you Rhonda Early solemnly swear that you support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that you will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that you take this obligation freely, without any mental reservation or purpose of evasion; and that you will faithfully discharge the duties upon which you are about to enter?

Ms. Early: I do.

Dr. Delgado, Superintendent: Congratulations.

Ms. Early: Thank you.

Ms. Early: At this time we will have Mr. Danny Tillman who will come and administer the Oath to Bryan Astrachan, thank you, good to see you.

Mr. Tillman, Board President: Good to see you. Do you Bryan Astrachan solemnly swear that you will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that you will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that you take this obligation freely, without any mental reservation or purpose of evasion; and that you will faithfully discharge the duties upon which you are about to enter.

Mr. Astrachan: I do.

Mr. Tillman, Board President: Congratulations.

II. APPROVAL OF AGENDA

Ms. Early: We now need to approve tonight's agenda.

Mr. Salazar: I move that we approve the agenda.

Mr. Barabani: I will second that.

Ms. Early: We have a motion and a second for approval of tonight's agenda. All in favor signify with a voting sign of aye.

Mr. Barabani: Aye.

Ms. Early: Aye.

III. APPROVAL OF MINUTES

Ms. Early: Approval of Minutes from Commission Meeting of November 9, 2010.

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

Ms. Early: I have a correction on page three under Approval of Minutes where it says *Mr. Salazar*; insert *move* after it says *I'll* it should be *I'll move that*. Its page one Item three. Any other corrections? I will second the motion to approve with the corrections. All in favor?

Mr. Barabani: Aye.

Ms. Early: Aye.

Ms. Early: Minutes approved with corrections.

IV. PUBLIC COMMENTS

Ms. Early: We are now on the agenda item where we invite the public to have comments, and we will ask you to state your name and please speak into the microphone.

Mr. Tillman, Board President: Thank you, Board Chair Early and Commission, I have been on the board for 15 years and actually, this is my first time coming to a Personnel Commission meeting, and I was very happy to get the invitation for the swearing in and I had the excitement and hopes that this is going to be the start of a better relationship between the board and Commission, because when the board and the Commission don't operate and function smoothly, it doesn't hurt the individual board members on either board, but it affects the people who work for our district and it really affects the adversity of people who are looking to obtain a full time work with benefits. That's my primary concern because in the end when we do that, it allows the employees to serve our

students so I hope that this is a start and us turning the page on a better future relationship between the district and the School Board and the Personnel Commission because we are all in the same district, and that is my thought and hopes. I thank everyone for coming out tonight and I appreciate you for allowing me to have this time. Thank you.

Ms. Early: Thank you.

Charlie LaChance, CSEA Labor Representative: My name is Charlie LaChance, I am the CSEA Labor Rep and welcome Mr. Tillman thank you for being here we are glad that you are here, we are very happy, and same with Dr. Delgado, I know he had to leave already, but I think that's the first time I've seen him here at a Commission meeting and that is a step in the right direction and so I think that that's great. I wanted to complement our Interim, or I don't know, what your title is Bryan?

Bryan Astrachan: Provisional.

Charlie LaChance, CSEA Labor Representative: Provisional, I saw a list of how many applicants we have and how many people are being interviewed and I think that's fantastic, we were asked what our priorities were, our priorities were food services and safety and our instructional assistance for our special needs students and those three things are on top of the list and I thank you for moving towards that. I like to speak on one item on the agenda, and I would ask, I don't know what the protocol is if you could pull it from the agenda or how it works, but D, where it says *move that the Commission appoint Commissioner Gino Barabani as a hearing officer and investigator pursuant to Ed Code with the full powers listed in the Education Code regarding the following matters whether or not the position of Associate Superintendent was created and filled by the district in accordance and then go on to whether or not the out-of-class and "interim", provisional, and substitute" appointment for classified staff to Human Resources duties are appropriate.* And although those things may need to be investigated, I think it's in the best interest of all of us, if Commissioner Barabani recluses himself from that, and we hire an independent Hearing Officer to do that work. You're a public officer on the board and I think it would be in everyone's best interest that it not be one of our Commissioner's as the Hearing Officer to do that investigation and so I would ask that the board when you discuss that or if you do that in closed session or if you do that public ally but that if you do that as a CSEA labor representative and as our leadership and Steve Holt is here Vice President can echo that we just think that its in everyone best interest if we have an independent hearing officer do that work. So if you have any question for me or if you have anything you would like to say, that's appropriate but I would encourage you to do that.

Rhonda Early: Thank you.

Gary Underwood: I am Gary Underwood just a community member, first of all I want to wish you all a merry Christmas also congratulate Rhonda on your re-appointment. I am really excited and very pleased that Mr. Tillman has attended this meeting I think its important that occasionally board members attend the Personnel Commission meeting, I

think some often times some of the difficulty that has occurred though out the years have been very traditional and predictable communications difficulty, I would like to complement Bryan Astrachan on the job openings for your direction he has been moving. I understand there will always been natural tension between the district and personnel commission, I also believe that tension is helpful, first of all commission's responsibility is the district is doing the right thing but what we find ourselves today is that it's gone way out of hand, that tension has got very unproductive has stop the system entirely for we see today is the sunshine coming to the clouds and I really appreciate it. I also like you to pull D I don't think Gino, I don't want to Gino Barabani, I would like to pull that I think its inappropriate for a commissioner to be an investigator. I think it should be an independent body, will charge review and intercede, it will be inappropriate for you to be an investigator or auditor, like wise although it may be interest in you the particular position I think on the scale of 1-10 its not on the highest priority and I would like to also say in my estimation the highest priority for the commission and district right now is to get people in board and hired we know we have 250 vacancy's out there with benefits, we know we have safety issues because we can hire people and I would complete the challenges, thank you very much.

Early: Thank you.

Steve Holt, CSEA Vice President: I like to echo some of the sentiments of Mr. Tillman, I hope better communication with district, I would like to congratulate Rhonda Early for her appointment I would also like to thank Bryan for all the hard work he has been doing, I am please to see the list of people that are applying for positions and I hope we can get some of the differences aside. I also would like to whether labor rep has stipulated on pulling Item D conquer with that thank you.

Ms. Early: Thank you.

Liz Madera, Classified Employee: I just have a question; basically do we have a Human Resource classified representative today? So, no human resource classified representative? I am just wondering this is a body for hr classified I am disappointed that we haven't had a body of human resource classified so that's my statement and congratulations I want to echo that same statement.

Ms. Early: Thank you.

Gladys Byrd, Asst. Director Human Resources Classified: Everyone said some really nice things, my issue is different, and I have a copy for Nerci to share with the commissioners. As you are ware, I applied for the position of Personnel Commission Director which was open for recruitment fro May, 2010 (exact date unknown as it was not notated on the job flyer) through June 4, 2010. I formally protested the recruitment. My protest was denied by Mrs. Early. I public ally appealed the denial; however, withdrew my appeal upon being frustrated upon being frustrated after haring Mr. Barabani's excuses for the denial; which appeared to be, in my opinion, almost verbatim of words written in correspondence given to the Personnel Commission by Patrick

Maher. In closed session it was determined that the recruitment be re-opened to correct discrepancies noted.

On August 3, 2010, an action item on the agenda was to move that the commission rescind the ratification of the eligibility list for Personnel Commission Director, due to incomplete compliance with all the rules that pertain to recruitment announcements. The new recruitment bulletin indicated that those that previously applied for the position were not able to reapply. Personnel Commission rules 4.11 (K) states: Competitors in any non-continuous examination shall not be permitted to retake a single part examination or any part of a multi-part examination within the immediate ninety (90-day period following:

Anyone applying for the position, after a 90-day period, should not have been denied the right to reapply. Recruitment was re-opened on September 13, 2010 and closed on October 1, 2010. Furthermore, the job flyer states appointment into this class is designated senior management and position in any director capacity in the district considered senior management. It is my opinion that the recruitment conducted September 13, 2010 through October 1, 2010 is also out of compliance with the Personnel Commission rules.

Since the minimum requirements for the first and second recruitments do not match I believe anyone who applied for the first recruitment should have been allowed to reapply for the second and not be excluded. Past practice has dictated that anyone who wished to reapply would have their application reviewed and screened for the minimum qualifications. The 90 day rule may have been cited and the application rejected if the applicant had tested for the same classification within 90 days.

Specifically, the job flyer stated in the first recruitment that “a master’s degree in public administration, human resources administration, business or a related field may be substituted for one of the four required years of experience and also satisfy the education requirement”. However the second recruitment does not contain a substitution of a degree in a related field making the minimum requirements for this position different. Once again the recruitment is not in compliance with all the rules that pertain to a recruitment announcement. Minimum requirement on job flyers should be the same requirements as on the Personnel Commission approved job specification.

Where in any commission rules does it state that someone may not reapply if it had been over 90 days since the last recruitment? The job flyer states first that I may not reapply if I had applied in May, it does not state that I may not reapply if it has been less than 90 since I last tested. Any one should be allowed to reapply given that applicants may have merely have had their application rejected for a technical error on the application such as inadvertently leaving off information which would allow them to meet the minimum requirements thus not allowing them to reach the testing process. The testing is the crucial point for an applicant who reapplies within the 90 day time frame not the application process.

In June, 2010, I also requested to listen to the tape of my interview, and to review my oral examination score. To date, I have not received or reviewed my oral examination scores, as given by each of the three panel members, nor have I received the results of my test scores. I am still requesting that I receive my documents.

Lastly, I submit a public records request for copies of any and all email correspondence between Mr. Maher directly to the commission chair. I am once again requesting, as a public records request, any and all correspondence between any Personnel Commission member, Personnel Commission staff, Marianne Tonjes, or Codesp staff that pertains to either recruitment for the position of Personnel Commission Director. I also requesting copies of all personal emails involving any personnel commission member or personnel commission matter that include Mr. Maher as part of the e-mail as to I do not believe I received all information as requested previously. It is my expectation that the Personnel Commission follow District procedures in obtaining the requested information, by going through Mr. Islam's division (Business Services). I expect a response within 10 days as provided for under the public records act. Thank you.

Ms. Early: Thank you.

Tom Hernandez: Classified Employee: My name is Tom Hernandez for almost 20 years I would like to thank Mr. Tillman for opening with that remark. I would also like to comment on item D. We have been on a scale for months over appointing someone oversee staff as provisional as for long term as for subs I would like to see if Mr. Barabani is going to be excused as Charlie said as per closed session, he needs to be excused, I would like to see this item continue because unfortunately in the school district we have so many subs coming in what as a classified employee even though we have the vice president chapter union here, I was hoping the president was here but he is not, which I have shared my concerns with him, also is the fact that with employees that are coming in that are provisional they have no bias for no rules, no regulations, we are constantly me as an employee we are constantly numerous employees are constantly getting told by the limited term employees by our subs just numerous things that are happening where I work at.. The other thing I would like to bring to the board is the fact is we can look into term because what is happening is they are bringing this employees and sub or either long term or more than governing merit system says they are allowed to work for.,

Ms. Early: Thank you,

Alex Raya, School Police Officer: First of all I just want to say on Bryan he is doing a really good job, he is really helpful and communicating with him, he is really taken care of things and working great. We are hiring officers and dispatchers to get our staff back on track. We are 44 % under staff. I think I want to echo on section D we do think it should be an independent investigator to assure that everything is equal and there is no bias on any investigations I think as an association we will support CSEA and other personnel we want to echo that same opinion.

Patrick Maher: There is constant misconfusion on this what the commission rules are, it doesn't matter who appointed the commissioner, once they are appointed they are a total independent legally independent, they supposed to be objected they are not suppose to be carrying out the specific wishes of any organization no matter who appointed them, that is what the law requires that is what they are. Every commission up there supposes to be totally independent and objected on what they do. So just because the idea CSEA appointed Mr. Barabani or governing board appointed Mr. Salazar or whatever that is somehow they are automatically presumed to be biased or on objected or unqualified to carry the duties of a commissioner is factually wrong. That should not be continued with this idea there might be reason to object to it, but the fact of the matter is the commissioners are by law independent and objective and that is the position, all they do is they appoint somebody once they are appointed they are independent commissioner there is no such thing as a neutral commissioner that one person being a neutral commissioner they are all neutral commissioners. Individually they may not act that way but from a legal stand point that is the way they are. The code is very specific the commission shall serve as a hearing officer or may appoint another person to serve as a hearing officer so its perfectly appropriate for a commissioner if you are trying to say that if there is a based upon this point if an employee comes before commission lets say discipline by the district and the commission suppose to hear it, Mr. Salazar must vote to support the district, Mr. Barabani must vote to overturn that this action that is totally ridiculous and that is not what civil service or merit is all about. You should be looking at the principal of the merit is the principal of the merit and nothing else and that is what guides by law and by statue and I think it has to be clarified just because it is qualified unqualified its factual wrong of how the system operates.

Ms. Early: Thank you

Steve Holt, CSEA Vice President: Well I am not sure which meeting I am in I never heard any of the labor organizations or the police officers state anything about our commissioners being unbiased, we feel that an independent person is better for the commissioners to get involved correctly with line item D. We have every confidence on the people that we appoint. I am biased, we feel that an independent person is better and its better for the commissioners to get involved directly and Item D, we have every confidence on the people we appoint I am sure the district backs their appointee, we back our appointee. We have confidence their decisions and independent thinking and I think that is rather insulting to say that the labor organization doe not understand the merit system which I have been to the Merit Academy and I do understand commissioners have that role to sit as a hearing officer we just feel the best interest of the relationship of the district try to establish something to move forward, at this time that it is better for us not to go that direct route. It is the strictly opinion from this labor organization from CSEA and I do find that highly insulting saying that we do not understand the merit system because I am very verse with that and I do understand the commissioners roles and I do have that right to sit as a hearing officer but that is strictly an opinion and I think its serves the best interest in a relationship with the district to build and move forward that we start somewhere and that is strictly an opinion and I do find that insulting Mr. Maher.

Ms. Early: thank you

Charlie LaChance CSEA Labor Representative: I just want to make clear that if there is a misunderstanding that we do understand that the commissioners have a right to sit as a hearing officer, we do know that, it is very clear, there is no misconception at all, we understand that Gino has the right to do that and as Steve said it is an opinion that we have in this particular instance, it is not in our best interest. And it could be a different instance and we are compelled indeed obligated to give our opinion on that and to try to advocate to all the board members whether is Gino or Michael or Rhonda in some point that we would feel its on our best interest to have an independent hearing officer and we stand by that we absolutely know he can do it. We are not suggesting Gino that you don't know what you are doing or that you would be biased but perception is 90% reality right? And, there is sometimes perceptions that if a certain person is a hearing officer that it may not be as clean or as clear and again we can to control what people think, I understand that, but the simple situation like this that we can request for independent hearing officer. I apologize if it has offended you Gino, I hope that it hasn't because it was not intended that way it's our opinion that we think in this particularly instance it will be in everybody's interest CSEA and the district to have an independent officer so we do not believe that you do not have the right so I understand on the ed code, everything you said Pat I agree with but we do have an opinion and we can suggest and that is what we are doing. So we are hoping that you still consider that Gino knowing that you are competent, we know you are, and some point we would as commissioners to send a hearing officer, maybe a disciplinary case or something who knows, but at this case we advocate that you do not do that on this instance.

Ms. Early: Thank you

Patrick Maher: Thank you, just to clarify I was not objecting to the opinions of anyone who feels that something should be handled or how it should be handled. I was objecting to was a conference reference that you have to have someone independent which means that who ever is doing that is not independent and that is the difference I comes up all the time, the reference is the neutral commissioner that's used quite frequently and we use at the meetings. Neutral commissioners there is the neutral commissioners that we suppose to have 3 neutral commissioners and that is the point we are trying to make that we understand you have 3 independent commissioners if you feel that someone different handles something that is different handles something that is different from someone that says independent because you say you need someone independent and that is the point I am trying to make, whatever opinions,. Whatever opinion, whatever issues you have that's fine I don't have any problem with that. I have a problem with the misconception and the misconstrued of what the real roles of commissioners are not just here but been common not just here but through out the state.

Charlie LaChance, CSEA Labor Representative: The hearing officers are often called independent hearing officers and that is why we chose that.

Patrick Maher: I can understand from that point. Thank you.

Ms. Early: Thank you, any more comments? Moving forward to action items

V. ACTION ITEMS

Mr. Barabani: We are down to the appointments of commission Chair Person and Commission Vice-Chair Person I would like to nominate Gino Barabani to serve as Commission chair in this upcoming year. Do you accept the nomination Commissioner Barabani?

Mr. Barabani: Well I was going to appoint you as a chair person, you have done a fantastic job we are in a difficult time and I hate to change leadership at this time so I like to move that Rhonda Early be chair person.

Ms. Early: I am going to decline.

Mr. Barabani: Are you?

Ms. Early: Yes.

Mr. Barabani: Then I will accept.

Ms. Early: I move that Commissioner Barabani be appointed as Chairperson for the 2011 term. All in favor signify with a voting sign of aye.

Mr. Barabani: Aye.

Mr. Salazar: Aye.

Ms. Early: Aye. At this time I would like to turn the meeting over to our new chair person.

Mr. Barabani: Oh I get the gable and everything.

Ms. Early: Yes. Thank you.

Mr. Barabani: Is this how you hold it? Alright we move on to item a subsection 2- now I would like to ask if Ms. Early would accept the vice chair?

Ms. Early: I will.

Mr. Barabani: Thank you. I would like to call for vote.

Mr. Salazar: Aye.

Mr. Barabani: Aye.

Ms. Early: Aye.

Mr. Barabani: Action Item B, the Commission will receive a report ok I do not have to read this, we received a letter did all the commissioners receive the letter that they are not coming due to conflict? .

Charlie LaChance CSEA Representative: Do you know what conflict of interest it is or was it somewhere else?

Gino Barabani: No, the conflict is with us, they are declaring the conflict on the manner we are asking to speak about.

Gino Barabani: Item C the commission will receive the following recruitment bulletins (items will not be read individually). I like to make a motion do we want to go one by one or accepted as a group? Bryan do you have anything to say on this?

Mr. Astrachan: The Commission has been provided with items that were produced by our staff thanks to Alexis in the back there, that was kind enough to put this together for us and it shows the number of applicants that we received and the break down electronically through Edjoin or foot traffic people were actually hand delivering applications.

Mr. Barabani: Would you like to read them individually or they stand out?

Mr. Astrachan: I think they stand out.

Mr. Baabani: I make a motion to receive the following recruitment bulletin accept.

Ms. Early: I second.

Mr. Barabani: Any discussion? Call for vote. I vote aye.

Ms. Early: Aye.

Mr. Salazar: Aye.

Mr. Barabani: Aye. Thank you.

Mr. Barabani: Action Item D moved that the commission appoint Commissioner Gino Barabani as a hearing officer and investigator pursuant to Education Code Section 45311 and 45312 with the full powers listed in the Education Code regarding the following matters and authority to request all necessary legal assistance in enforcing the authority granted to him on the following matters:

Whether or not the position of Associate Superintendent was created and filled by the district in accord with the rules of the Commission and the statues of the merit system

whether or not the position was filled with certification of the personnel director under Education Code section 45310, and to make a recommendation on whether or not the commission should hold a public hearing pursuant to Education Code section 45310 to consider ordering that no salary warrant be further issued.

Whether or not the out-of-class and “interim,” provisional, and “substitute appointments for classified staff appoint to Human Resources duties and responsibilities are appointed in accord with the Rules of the Commission and the statues of the merit system and whether or not the appointments or assignments were made with a certification of the personnel director under Education section 45310, and to make a recommendation on whether or not the commission should hold a public hearing pursuant to Education Code section 45310 to consider ordering that no salary warrant be further issued.

Mr. Barabani: I will make a motion on that to accept it and get it open up for discussion. Do I have a second?

Ms. Early: I will second.

Mr. Barabani: Obviously, there was some discussion on this so, any one, open for discussion.

Ms. Early: Was this item listed, was this item listed from our request for legal opinion in the correspondence.

Mr. Barabani: Yes, it was and one of the things when we tried to hired an independent contractor or legal opinion, they gave a letter of conflict., if we tried to hire someone who is independent on this it is my understanding we had to go through the process and get approved by the board. I hear everything you guys said out here, I took an oath to support the merit system and you say it is not insulting but it is insulting that you think I would do something wrong if I am pointed to this.

Charlie LaChance, CSEA Labor Representative: It’s not what I said Gino, at all.

Mr. Barabani: Well this did not start out as a simple which is independent body got to look at the practices and things like that. It’s a merit responsibility to insure that decisions are med with the law, the rules and regulations. I hear everything everybody says here, just because things were done in the past, unfortunately ignorance and good intentions and no good excuse for acting against the law. But I made a note when one of you spoke, I seen a lot of you coming, I seen the Chief come up, I have seen the groups come up, I never once have heard a group speak out against the practices that we are seeing here, we have people that are in positions that haven’t gone tested to the merit system and we are continuing t allow that.

Charlie LaChance CSEA Labor Representative: We are not asking you to allow that we are asking to get a different hearing officer that is all Gino; I agree with you every step of the way. I believe we need a different hearing officer, not because we can’t trust you. The perception is 90% reality.

Mr. Barabani: And, I realize that in reality, ultimately, I am not making any decisions, basically what I am asked to do is to go out ask for information that information will become transparent, I tried to keep everything as transparent as we can I have been on this panel and the people will see the facts, it's a very simple thing. If person A is on the position, they going through the merit process is there is any problem saying this is what I did, I followed the rules I got the position fairly and as the merit system said, its not up to me to make a decision, the facts will be laid out there transparent for everyone to see ,

Charlie LeChance, CSEA Labor Representative: If that is so then why it is difficult to have another hearing officer do it?

Mr. Barabani: None what's so ever, first we are going have to get it approved across the board and spending more money, the attorneys refused to do it that the district provided us for, this was just an avenue that was quicker then anything else, there is allot of prohibited practices that are going on, you know it you spoke, you spoke out against it.

Charlie LaChance, CSEA Labor Representative: I still speak against it, all I am asking for a different hearing officer

Mr. Barabani: This is actions they should have never occurred.

Mr. Underwood: Can I make a public comment?

Mr. Barabani: I have no problem with that.

Mr. Underwood: Well, I would agree the insertion that there are personal policies not being followed but I also suggest that one of the reasons not being followed was is to shut down hiring and the district was forced to feed and cloth for the district. For the practical basis you can say it's against the law and so forth and so on but you still have to feed these children.

Mr. Barabani: How did the personnel commission since you brought it up, shut down hiring?

Mr. Underwood: How did they do that?

Mr. Barabani: Yes, I am curious, I have been here in every meeting for the last two years and I never recall shutting down hiring, I tried, we tried to hire a director, we got nothing but problems when we tried to do that, we have been given excuse after excuse why we can not to that, not by us we have been brought to court not by us by the district but now you are saying we are shutting down employment, for the first time we have a person here doing the work and he has done the work faster than I have seen it done before. Right and that person was stopped, they tried not to hire that person.

Mr. Underwood: Let me finish my comment, obviously it's an emotional issue for you.

Mr. Barabani: Its always an emotional issue for me when you talk about feeding children and stuff I understand there is 400 positions that people out there need work, this are good positions and we need the best qualified people for this positions, not some position, you know what is getting at we have practice at making positions.

Mr. Underwood: The problem that I see with regard to appointing you, or Rhonda or Michael as the fighter and facts is that those facts will be presented to the commission, the commission is an independent adjudicating body once those they are to be reviewed, its seems problematic to me that one of the commissioners would then become in this case the auditor inspector, it puts you in a difficult situation, its much better for you as a commissioner to receive the independent report that you did not gather that was gather by someone appointed to you so you can hear the facts. You don't bring into this situation into your gathering other kinds of information you may or may not know, but clearly we have our biases, but your hearing panel, your juvivating panel its not appropriate and you will find in every level of government where commissions do not do investigations themselves, they appoint individual investigators gathers or the facts to bring that information forward to the commission that is just a common practice we are not asking you to do anything else other that is not done as a matter of practice and sound good business practice, so that's all for me it has nothing to do with fact that you are biased or that you were appointed with CSEA, if it was Michael that want's to do that I have a problem with that also, and I would voice the same concerns it's inappropriate for Michael to be a gather of facts because he is the person that will be hearing and juvivating the information that comes forward to him.

Mr. Barabani: And your issue is that we can conduct hearings and we can look into facts.

Mr. Underwood: Absolutely you should be able to gather that information

Mr. Barabani: And that is what I am planning on doing.

Mr. Underwood: Right, but my problem is it not be you specifically or Rhonda or Micheal, you are the hearers of that information brought forward to you.

Mr. Barabani: When we tried hiring someone independently we were given districts attorney we were told we were to use them. They said this and that, money thing was said nothing was done for a long period of time so finally they said we are not going to do it, and they issued a letter of conflict, that is my understanding. We can't get them to do it, so now you expect me to wait more time.

Mr. Underwood: I would suggest you ask again in a different way or find other avenues.

Mr. Barabani: In the mean time the people are in the jobs illegally or maybe they should not be there. Do we allow them to continue?

Mr. Underwood: It's still part of your list it's not going to go away.

Mr. Barabani: Its being going to be on for quite some time.

Underwood: I understand

Cindy Andrade for CSEA new appointee for vice 3rd Vice President: I take it personally when I work classified I work for nutrition services. What I see everyday is the manpower coming in when the contract states that it is illegal to contract out, I rather see people that are working as maybe lower position to 3 hours that can transfer to 5 hour position, person can control someone within nutrition service or someone coming from outside and applying for position legally, not coming being hired from district to come in illegally, I have been with district with 21 years and I am tired, I am tired of seeing our classified being stepped on our commissioners who cant do their jobs, they should be able to do their jobs but then they get stopped. Its not the commissions who is not doing the job is the district so I don't understand what you are telling the commissioners.

Mr. Underwood: First of all I will say this although I agree of the provisional the union is well aware of this, this problem will resolve itself as we hire people in the positions, will go away if we begin to hire people in those positions, CSEA recognizes that.

Cindy Adrade for CSEA: Well we recognize that but we need to do it the right way. We need to the commissioners to test b

Mr. Underwood: The problem will resolve itself within a year or so, we have been sick for how many years?

Steve Holt, CSEA Vice President: I like to state for the record CSEA is aware of the problems and Mr. Underwood said quite eloquently we all have same goals to get people hired, to get things going, but we all want to do it in a legitimate way. The problem is how do we go about doing that? I apologize I get a little angry, by the comments earlier, I do take offense by CSEA we do have confidents on our commissioners we would of not appoint commissioners if we did not have faith, with Gino I tell you CSEA has most confidence in our appointee we do feel though that there is a process if you go through it does look better, legally it looks better if we do it a certain way, it's not what you intent is wrong, we just feel there is another avenue, I do believe that problem and that existed on this district longer before I was here. I have been here for 16 years and it continues to go on we never in my opinion have had hiring process done correctly the merit system its never function the way it should be but how do we go about putting the pieces back together? My personal fear for Steve Holt that I feel that in the future, I know we have to do something but I don't want to see years and years of litigation, I don't want to retire and see still arguing of what's going to happen, I don't know how we are going, but I agree that something has to be done, but we are calling an independent officer you hear the facts, you are going to back the commission and CSEA does back the commission we just feel there is a more appropriate way of doing it, its like I said strictly an opinion, we are not trying to force on doing anything you guys are decision makers you guys have to come with a decision and a conclusion. For the record we are looking for this to be fixed

and I hope you would investigate to some of the things that are going on. We just are asking that it be done with a certain way or certain criteria. Thank you.

Charlie LaChance, CSEA Labor Representative: Gino you talked about the district would not hire? You can hear me right?

Ms. Early: No, the problem is whether is not we can hear you in the room, the problem comes when the recorder does not hear you.

Charlie LaChance, CSEA Labor Representative: They would not pay the investigation, can we maybe amend your motion or make a motion for the district to pay for an independent hearing officer and if they refuse we can go back on you doing that. I just think that there is away. Everything that you are investigating is appropriate and right and, righteousness but not in any venture are we saying that we don't trust you and maybe we don't trust the process, but we want to be as clean as possible so there is no one casting aspirations on anyone, so we don't have to redo that and maybe that's where it's coming from so I hope that you agree to consider moving forward and not what you written.

Mr. Barabani: Part of the thing when you want something like this we are hoping we could of used attorneys to do it, but that was not going to happen, but part of the problem is I think we are getting stuck on two subjects here, we are getting stuck on me whether it's possibly independent or not I'm not looking for anything other than maybe position a the paper work exist the process was done. Why continue hire an investigator for that, the other problem is we are speaking about is accountability. I tried to make everything here transparent and open to the public that is why our agendas are over an inch thick. No one seems to be holding the other side accountable, they continue filling positions they are wasting resources, money the laws and rules and regulations but nobody objects to that, I don't hear that in groups that come out all I hear is a we are worried that you might not be the right person that might be independent we don't even know that it's sounds like somebody is afraid if someone is looking into something. We don't even know if there is anything wrong right now.

Mr. Underwood: No one is said tonight that we did not want this look into, no has said this is not a problem Gino, the question its always been its the commission should hear it, you should not be data gathers that CSEA said and I said, its nothing to do with you in fact we said that Rhonda or Michael no you should be an independent gathers for the commission you should be the person doing that all, it has nothing to do with you, personally.

Ms. Early: Well, you know sometimes when we can see the big picture doing stuff for us, right now we have someone doing work for us and the district refuses to pay them. I mean every time we try to hire someone independent it's another stalling game; by the way this is a simple procedure as far as I am concern, it either is or it isn't. So, are there anymore comments?

Ms. Early: It seems that we all agree that the investigation should take place and I am an agreement with most of you that it should be someone other than the three of us to do that investigation, we have requested that to happen and we were unsuccessful so you say that we are not data gatherers however, if we are requesting that someone else investigates and we get no results then we are willing to go ahead and do the investigation ourselves. So, I agree and I understand I am willing to go back out there and put a request in but I am not willing to come back here and re discuss this over and over again, because we do not have infinite time and we do not have infinite information, so my recommendation is that we request one more time, if we are unsuccessful by our next meeting as it is written and we move forward with the action item.

Mr. Barabani: So your motion is to reauthorize this item after we make another attempt to hire an independent administrator.

Ms. Early: My motion is to reauthorize this next meeting if we have not been successful then we can make a decision at the next meeting and we will be moving forward.

Mr. Barabani: Item does have been amended and Ms. Early you have a motion on that?

Ms. Early: Aye.

Mr. Barabani: I need a second on that, and I will second that lets take a vote.

Ms. Early: Aye.

Mr. Salazar: Can we have a discussion or is this the time to discuss the vote? Or am I too late.

Mr. Barabani: Since we voted already, I don't know if that's ok?

Mr. Salazar: I just have a simple question. If I understand the motion I just want to understand the motion to reauthorize item D but between now and the next commission meeting is that the Chair that is going to ask the governing board or the school district to look into having an independent paid independent person to do that.

Mr. Barabani: Yes I will ask.

Mr. Salazar: I just want to make sure that is where we are going.

Mr. Barabani: We have one vote yes, another vote from Ms Early yes. Mr. Salazar?

Mr. Salazar: I will abstain.

Mr. Barabani: Abstain, O.K. motion passes.

Mr. Barabani: Move on to item E it is moved that the commission employ Kristine Kwong, Musick, Peeler & Garrett LLP as counsel to the commission pursuant to Education Code Section 45313 due to the legal counsel to the governing board. 1. Failing to respond to a July 15, 2010 written request for legal assistance in the form of a legal opinion. 2. A declaring a conflict in a request to investigate Commissioner's Salazar's charges of violation of the Brown act by the other commissioners.

Ms. Early: I so move.

Mr. Barabani: I will second.

Mr. Salazar: I have a question in the first sentence does it read exactly it is moved that , I don't understand the working it is moved, the employee she is not an employee as counsel to the commission pursuant to ed code due to the legal.

Mr. Barabani: Due to the legal counsel for governing board they fail to respond.

Mr. Salazar: Ok I just didn't quite understand, thank you very much.

Mr. Underwood: Public comment on this?

Mr. Barabani: I have no problem.

Mr. Underwood: I didn't have a chance to read the letter, however I read the letter and my concern is Mr. Salazar, we are going to spend unnecessary money I think Mr. Barabani addressed the issue and Rhonda addressed the issue happened maybe your impression of brown act occurred, it appeared to me that maybe that your letter your grounds are not based on facts, I am just concern that once again we are going spending precious money. I am asking Mr. Salazar will withdraw the letter and charge of brown act.

Mr. Salazar: Can I make a comment on that, Gary I agree with you we spend allot of money and in my humble opinion for my action item be if we move this process along I will be happy to withdraw that letter.

Mr. Underwood: So you will withdraw the letter and charges?

Charlie LeChance: You withdraw completely?

Mr. Salazar: Let me state this very clear Charlie let me state this very clear, I will withdraw the letter completely, and we can close this whole investigator matter on this issue. Is that clear?

Mr. Barabani: I am not the only one affected by that.

Ms. Early: We have a motion on the table.

Mr. Barabani: Do we have a second. Ok let's vote on it.

Ms. Early: So we are voting on I am voting in favor.

Mr. Underwood: What are you voting in favor of? He is withdrawing the letter.

Ms. Early: I didn't accept his withdrawal. That letter went to people outside of this room in fact it went all the way to the State Superintendent it has already had some effect. Gino I vote we continue to.

Mr. Barabani: Item F. It is moved that the commission request legal assistance pursuant to 45313 to advise it in appeal of Abe Flory NB 3185 and if there is a failure or refusal to declare a conflict, a comprehensive legal opinion as to why there is no conflict between the commission and the governing board on this ate. 2. a comprehensive written report submitted to the commission within 15 business days on the current status of the payment of all outstanding legal fees invoiced by Chidester and Associates all actions taken by counsel to render payment, a comprehensive explanation of the reasons that all money invoiced has not been paid, and a comprehensive explanation of all reasons that counsel has persistently failed to assist the commission in resolving this matter given that more than 10 distinct requests for such assistance have been made to counsel in the Abe Flory Appeal NB 3185. I make the motion that we accept this.

Ms. Early: I second.

Mr. Barabani: Any discussion? Call for the vote, I vote aye.

Ms. Early: Aye.

Mr. Salazar: I will abstain.

Mr. Barabani: Motion passes 1 abstention.

Mr. Barabani: Item G it is moved that the commission notify Norman Brand that it may not have sufficient funds in its budget to pay part or all his pending or all of his ending invoices in the Abe Flory appeal NB 3185. I move that we accept action item G.

Ms. Early: I second.

Mr. Barabani: Any discussion? Call for the vote.

Ms. Early: Aye.

Mr. Barabani: Aye.

Mr. Salazar: Nay.

Mr. Barabani: Motion passes

Mr. Barabani: Action Item H it is moved that the commission request detailed, unredacted, and complete invoices since Feb 1, 2010 to present from Gresham Savage Tilden & Nolan fro 1. All invoices submitted to the district on any and all matters pertaining to the commission. 2. An explanation as to why Gresham Savage Tilden & Nolan failed to provide such invoices to the commission for review and approval at they time they were submitted to the district.

I make a motion to accept.

Ms. Early: I second.

Mr. Barabani: Call any discussion?

Mr. Salazar: Why are we doing this?

Mr. Barabani: Because we are being charged the money is being taken out of our budget and we do not know why, and we did not approve anything, so if they are going to charge they should give us the invoices and let us know why good business practice is.

Mr. Underwood: Can I make a suggestion and that is all agenda which read is that you give an explanation why that makes perfectly sense that your budget was affected by this legal fees and that's all.

Mr. Barabani: We think, we do not even know that, but we have not received any invoices from this people even though they claim to charge us.

Mr. Underwood: It's real easy to have Bryan to get the information from Mr. Islam. That is not a difficult task; it doesn't require anything other than the direction from the provisional direction.

Nerci Garcia, Secretary III: The only invoices we have been charged for is the Norman Brandt, we have not received any bills or invoices or statements from Gresham Savage and Tilden, so we haven't got billed at all from them.

Ms. Early: Did we get any invoices from Chidester?

Nerci Garcia, Secretary III: Yes we did.

Ms. Early: Were they paid?

Nerci Garcia, Secretary III: I don't know.

Ms. Early: Did we get any invoices from Kristine Kwong?

Nerci Garcia, Secretary III: Those have been paid.

Ms. Early: Thank you.

Mr. Maher: This is nothing going to public records request the request records from the attorneys, are spending money on behalf of or involved on the activities of the commission, how much they are charging the district or how much are they charging the commission to provide services everyone keeps talking about how expensive is for attorneys and they are asking for information about how expensive is for attorneys and how they are being paid for, that is a very simple public record expense, so since the other client of attorneys, so I don't understand why its so confusing as to rational I believe the agendas have a complete rational for each item as attached to that, we may not agree on agenda package but the package.....

Mr. Salazar: We just heard that they are no invoices.

Nerci Garcia, Secretary III: There are no invoices.

Mr. Salazar: So there is nothing to investigate.

Mr. Maher: There invoices that came to the district to some place there is invoices.

Mr. Salazar: We have not been billed, we are the Personnel Commission office, and we have not been billed.

Mr. Maher: There invoices some place in the district for money we don't know They are not coming out of our budget.

Mr. Maher: You're entitled to the information.

Mr. Salazar: But this is not coming out of our budget. Is this a concern of our budget? If it's a concern of our budget? If it's a concern of our budge and no money is coming out our budget then hey, I am just trying to figure out why we are gong to request any invoices that have no affect in our budget.

Ms. Early: I read some correspondence, in fact I think it had your name on it where you were concern about the amount of money that this particular firm was billing because of my request and since I don't know how much they were billing I think that if they were billing the district it doesn't matter if it's coming out of the commission office if it was concern to you that I was personally running the legal fees on behalf of the commission I want to know what those fees are, it doesn't matter to me if it was coming out of commission office because I live in this community and I to have a concern about the growing legal expenditures of the district, so if I have been associated with running up bills I want to know where those bills are. It does not matter if they are coming out of the commission budget the fact that is coming out of district budget and we have employees that are being faced with furlough days and we have classes that are being increasing in number because of financial situation I too have a concern about seeing this that are

being associated with the commission, especially if I feel like I am spending allot of time making request that are not being honored, one of which was the investigation, so if you are billing me to reply the letter simply to tell me I am not going to honor your request but you bill the district \$500.00 to write a letter to tell me that I have a concern so that is why I am support of this so it didn't matter if it was coming out of the commission budget, the fact that is coming out of the district budget it is a concern to you other wise you would not have written that letter so I don't know, you have access to that information, but I have not seeing it.

Mr. Salazar: If I have a concern of how the governing board spends the money then I think I would go to the board or the board meeting and ask them how they spend the money. My concern as the commission staff as a commissioner how our money or how our budget is being used. And, if they are taking money out of our budget and we can't use that for other things then use it for other places. The district wants to spend their money in my humble opinion that is their business and if they have a concern then I will go to the governing board then I will say hey what are you doing here? I am concern with the commission's budget not the governing board budget.

Ms. Early: And that is where we differ because its not their money, that money is generated by the attendance of students within this community so its not their money that money belongs to the public and it should be utilized to serve the student which are enrolled with the district so as a community member I to share your concern.

Mr. Underwood: As a community member you have every right to go to the board. But as a commissioner your duties are limited and scope. And this is not an investigative party on the district on their budget.

Mr. Barabani: We are not asking that. We are just asking for the records.

Mr. Underwood: You have every right to know what your budget is but what you are spending on your legal fees but to assume the responsibility of the district legal fees with regards of whether or not they ought to respond to you that is out of your scope and responsibilities.

Charlie LaChance, CSEA Labor Representative: But I Gary it says in here all pertaining to the Commission, the Commission needs to know what monies come out of their budget about the commission. That is what they are asking for all invoices to the district pertaining to the commission, they should have that because it comes out of their budget, if they are taking legal fees out of their budget then they can't pay their staff.

Mr. Underwood: They haven't received any other invoices, staff just said it. Staff just went through the budget.

Mr. Salazar: Staff just said it. That is the reality

Charlie LaChance, CSEA Labor Representative: I think you have every right to see where you are spending your money on.

Mr. Underwood: Well of course you do. You don't have an over side responsibility for the district.

Charlie LaChance, CSEA Labor Representative: That is not what is asking.

Mr. Barabani: let's just vote on it. Call for a vote.

Early: Aye.

Mr. Salazar: Nay.

Mr. Barabani: Item I-.its is moved that the commission ratify the approval of the eligibility list for Personnel commission director, job code 0115.

Mr. Barabani: I make a motion.

Ms. Early: I second.

Mr. Underwood: Who's on the list, how many people are on the list.

Mr. Barabani: We have candidates.

Mr. Underwood: I am just curious how many people are on the eligibility list. I don't think you can release the names.

Mr. Barabani: No, we have 3 we can choose up to three groups. We have sufficient candidates either one or more to fill all those three groups.

Based on information you received from Ms. Byrd will this change in any way since she was essential charged that she was mistreated and not quite in the system and maybe should of, does it change in any material way for you based on information she brought forward or are you going to look into that. Too see if her allegations have any merit?

Mr. Barabani: I have not had an opportunity to read that, it was brought and represented at the last meeting. I can not speak to that.

Ms. Byrd, Asst. Classified Human Resource: Excusme, no it was not presented, it was presented before and today I do not know if I am on the list I do not know if I am not on the list, I do not know if I am not on the list, where I am wranked on the list and if I am as the district employee, I received preference

Mr. Barabani: Yea, I believe that all the information was provided when you first approach that.

Ms. Byrd, Asst. Classified Human Resource: All that information was not provided, that was just a discussion that you and I had and I told you that I had not received my test results.

Mr. Salazar: May I make a suggestion, this is a serious letter here, I think that the good news today is that we have somebody in that director's position whether is interim, whatever we are calling Bryan Astrachan, the people out here has said that he has been doing a good job he ask Bryan to look into this and get us some answers, the commission, some answers to this and report back to us, I don't know if I am dropping under the bus or what Brian but there is allot of stuff that can be covered here and certainly things that he can look into as the interim or provisional director, so before ratifying any approval list of eligibility list or going forward with this because I think we agree that we want to get that right and we want to get the right person , I think that we need to clear this portion with Ms. Byrd and once and for all. Before ratifying with this list, we want to get that right I think we need to clear this item with Ms. Byrd, report to come back from Bryan who is in that position, and we didn't have that before carefully consider this. I think we should take the time

Ms. Byrd, Asst. Classified Human Resources: It is not a matter if I am on the list or not because I would not want that job I do not want that job. If you open the recruitment you open it correctly, and that's my point. I still do not feel it was done correctly.

Ms. Early: I can remember when you raised concerns the first time recruitment was held and at that time, I read over your concerns, I provided you with correspondence that you requested and also made arrangements for you to meet with Codesp. Maryann told me that she met with you to address your questions; I never heard the meeting was unsatisfactory.

Ms. Byrd, Asst. Classified Human Resources: Yes you did. I told you, excusme.

Ms. Early: No I did not, and I have before Chair, I am speaking to you Chair and so this is the first time that I am seeing or hearing this because Codesp told me that they met with you to address your concern, and I would think that if that meeting was not informative, did not provide useful information or satisfactory I would think that I would have received something in writing similar to this right after that meeting took place. This is the first time I am seeing this and I think we are raised a concern with prior meetings with information that it would be presented to them in a timely manner so that we can reviewed it prior to us coming to this meeting so this correspondence that we are receiving is dated today I am just seeing it for the first time.

Gladys Byrd, Asst. Classified Director: O.K as a member of the public, that correspondence is not coming from the district is coming from a member from the public and as a member of the public I did stand up to you guys over at the district office and I told you that Maryann provided the tape you ask and I told you at the time that I did not

receive the test results, and I also told you that I did not receive the individual ranking of the three panel members probably need to check back in detail minutes, no it wasn't in writing but it was voiced in public.

Patrick Maher: I am a candidate for that examination, I am on the list and I have legal standing on that list so therefore I have invested interest as to what happens or not happens on the list, I waited patiently, I did not object last time when it was re-open even though Ms. Byrd withdrew her appeal, after she withdrew her appeal she forfeits all rights to raise any matters she raised before as an objection at this time in terms of this examination because it is a continuation of the examination so having withdrawing her appeal should no longer have withstanding of raise an issue, to the latest the certification after all this period of time, because now for the first time she raises new issues, she did not raise the issue when the examination was posted, she did not raise the issue when the examination closed, she did not raise the issue when it was given, she did not raise issue afterwards, she did not raise issue in October, she did not raise an issue in November, she waited until the night that the commission certified the list to bring forward for the first time new complaints about an examination or about the bulletin itself and about the process itself to try to stop it, she waited to the last possible minute to try to stop the process. It manufactures me as an individual and I object to it. If she was so upset about what has happening before, she should have raised those objections earlier. She supposed to file a formal written appeal with the Personnel Director first, she did not do that, she came tonight at a public meeting and threw the letter at the commission and now saying because I threw the letter at the last minute go ahead and stop everything deny me of my rights as an applicant of the merit system because she did not want to follow the procedures and the rules and the regulations and the times and everything else and I think it fundamentally unfair and I think that the list that has in fact being approved or certified I think the commission should go ahead with it, they can review the appeal later on, you can always take action to deal with it afterwards, but I know Mr. Salazar thinks this is serious because he has been adominately opposed to me from day one, he has never given me a chance on anything of the process, I have followed formal complaint before so he wants to push ahead to stop the examination any way possible as a way for me not to go forward, but I have a right to expect to be heard, I did nothing wrong, I didn't do anything wrong I have been accused of doing things wrong but I did nothing wrong and I have been standing and I don't think there is any reason legally or otherwise for this commission not to go ahead with this action tonight.

Ms. Gladys Byrd, Asst. Human Resources: And once again, Mr. Maher did get his test score, and he does know where he ranks on the eligibility list, he has mention, and I have asked for my self to know what my test was I am speaking for other people that could of have applied.

Mr. Underwood: Is there a matter of protocol Gino? What is the protocol here Gino? I thought the eligibility list was kept secret or confidential and people who are on the list do not know how they rank or is that my mistake.

Mr. Barabani: They do know when they are called in and their ranking, because sooner or later you have to call them for interviews.

Mr. Underwood: Mr. Maher's comments that he is on the eligibility list and he has standing are that?

Mr. Barabani: He has been notified that he passed.

Ms. Byrd, Asst. Human Resources: Bryan could you please explained to us what would be the process of creating an eligibility list because you know it has been said that the district has been doing everything wrong, so what would be your process?

Ms. Early: I just need to remind you those of you who are rendering comments during this meeting can you please accommodate us by using the mike other wise that portion does not get captured on the minutes because its not picking up, so that was a request we made at the beginning of the meeting Im asking you to honor the request of the commission staff.

Mr. Astrachan: Let me first say Gladys is that I feel where you are coming from I was not here and I was not present prior to your complaints, I just want you to know I value your service for the district and I can understand where you are coming from as a matter of fact of protocol this particular situation right now is sealed with the ranking so I am not directed to give information about that until I am directed by the Chair which case Gino, when you are ready for me to do so I will provided you with the seal envelope. As I was directed, so Gladys I cant at this point give you anything other than that because it is literally on a sealed envelope so its not being handled normally in customary way as we would handle other positions because it was handled by Codesp so it's a little bit different.

Ms. Byrd, Asst Human Resources: O.K. Thank you.

Mr. Barabani: So I have a motion and I have a second on action Item I. call for a vote.

Ms. Early: Aye.

Mr. Barabani: Aye.

Mr. Salazar: I abstain.

Mr. Barabani: Item J it is moved the commission notify the governing board that its action hiring Bryan Astrachan as "substitute management" is not in conformance with the action of the commission, the Rules of the Commission, and the Education Code statues of the merit system and directing it to take corrective action to hire him specifically as a provisional Personnel Commission Director. 2. Request legal assistance to compel the district to comply with Education Code status on the employment of provisional and limited term employees and to take the necessary steps to have the County

Superintendent prevent the issuance of any pay warrants to such employees who do not have a certification of the Personnel Commission Director that their assignments are in compliance with the Rules of the commission and the merit system statues in the Education Code.

Ms. Early: I so move.

Mr. Barabani: I will second.

Mr. Underwood: Can you have a public comment?

Mr. Barabani: Discussion?

Mr. Salazar: What exactly are we saying in J1? Are we saying that we do not Bryan to do his job? I don't understand, I am sorry.

Ms. Early: The board report list Bryan as a substitute management position hat is not what we approve and we are asking for them to list him properly.

Mr. Salazar: So he can still do his job?

Ms. Early: Correct.

Mr. Salazar: It's a title thing.

Ms. Early: Yes.

Mr. Salazar: O.K. I just wanted to make sure.

Mr. Barabani: Call for a vote.

Ms. Early: Aye.

Mr. Barabani: Aye.

Mr. Underwood: I have a comment. So are you voting for number 1 and now you are voting for number two? How does it work?

Mr. Barabani: No, I voted for motion, I read the whole thing call for motion. I paused, I waited, I am sorry.

Mr. Underwood: Can I make a public comment?

Mr. Barabani: On item J. First time I ran into this I never have problem for people to do public comments but now that we voted on it and everything, I do not have any problems.

Mr. Underwood: Just out of curiosity, what is the genesis of J2 who of the Commission propose on the agenda? Is this Mr. Maher?

Mr. Barabani: This has to do with, I can't comment.

Mr. Underwood. My problem is not that this is not merit, my problems is that there are people out there who are working for the district who thought that the hiring process was sound and well and who are performing their duties in amorable way so essentially, what you are doing is telling them, Oh I am sorry, you are not getting paid, Merry Christmas, like we said before many of this problems of the district substandard or abnormal or non standard hiring practice will go away as the commission goes through and does the recruiting bulleting and starts hiring people individually but this is going to be a gradual process where this provisional employees, out of class employees are going to be replaced in a appropriate and proper way and now what you done is essentially decided you are not going to pay this people, its incredible, I am just ceased to be amazed of some of the things you are doing to the people.

Liz Madera, Classified Employee: You know for many years I have been watching the out of class pay go on and on in fact I was moving my office and I found old personal reports and I was looking through them and found there is one manager who has been working out of class for 3 years and like three different positions, so to think that now everything is going to magically change now we are starting to move forward its not, now that we are starting to move forward, is not its going to change, its not be different. It's has to end, its not it's going to take a different form. So we have to do whatever we can to end this situation.

Mr. Underwood: So it's better to put them out of the streets,

Liz Madera, Classified Employee: No let's not pay them extra money, let's not pay extra money

Steve Holt, CSEA Vice President: I understand the concerns that now is the holidays, I don't be hardless with people this is being going on going for yours, we have people who have been exceed employees in the merit system we had allot of things going on and some times we do have to take action on that, they are being reduced legal issues with vacation, classified employees negatively affected. Who do not belong and properly screened for that. Abolished, reduced. Negatively affected, allot of positions classified can be. Take that

Mr. Barabani: We are going to move to action Item VI. Commissioner's remarks,

Mr. Salazar: What about Item J. Are we done with that?

Mr. Barabani: Well it is allot of public comment we already voted on.

Mr. Salazar: So, it's ok it's already done? Because I did not vote.

Mr. Barabani: You abstain.

Mr. Salazar: I didn't vote.

Charlie LaChance, CSEA Labor Representative: I thought you abstain.

Mr. Salazar: I did not vote, but that is alright.

Charlie LaChance, CSEA Labor Representative: Did you vote?

Mr. Barabani: I heard abstain, that is what I got down, and I got yes, yes and abstain.

Mr. Salazar: Abstain on item I, I did not vote.

Mr. Barabani: Action Item J, I will call for a vote, for a vote again, I do not know if that is the correct procedure but I will, I vote yes.

Mr. Salazar: Nay.

Ms. Early: Aye.

VI. COMMISSIONER'S REMARKS

Mr. Salazar: Thanks for the opportunity to make my remarks, you have heard all of stuff tonight. I am great full for the people that came out tonight. Well what they are doing who they work for, I am proud to see that this applications are up, there is 600+. Applications received as of 12/16/2010. I am happy to see that, it looks like the process is starting to move along. That is obviously a good thing. For every one step you take forward, unfortunately it seems like we try to do some sabatash, I look at this things we voted on tonight and I just all I want at the end of the day is for us to be moving forward, I know that everyone does not agree with me and I am not perfect and I do not proclaim to be, but I am just trying to do the right thing for the people that are looking for work in our district. I am with the rest of you, we want the best people, we want the most qualified people, we want the right people, we do not want the wrong people, but I will agree with Gary and that is that we really do, its going to be a process to think that we are going to take and just lacking everything that is ever being wrong from day one I think it is realistic but I think that at least we appear to be moving in the right direction, I hope we continue to be on the right direction, and I just want to welcome Rhonda back to the commission. Thanks.

Ms. Early: Thank you. I truly believe that we are going on the right direction to mend and heal within this district. I believe that just like giving birth to something different pains, and I think we are going through them now it is very important that we keep the lines of communications open, I appreciate the comments that you share with us this evening. I took notes and believe me your concerns are not falling on death ears. But

realize some of the suggestion for making, we already did that and we are unsuccessful, so when you are coming recommending that we participate in circular behavior at some point we have to make the decision that is not being productive, we tried that over and over again and it did not get us anywhere. It appears that some of the decisions were aggressive, they were, it's only because what we did in the past it's not effective. And so we hope that we are moving in the direction that will be best for the district. I appreciate the opportunity to serve again as your commissioner and this will be our last meeting for this year so I am hoping that 2011 will be a year of success for the district and when I say for the district I mean commission and governing board collectively, hope everyone has joyous holidays.

Mr. Barabani: Thank you very much for that. As my comments I heard everything you guys had to say. Mike said that he would like everything moving in the right direction I am 100% agreement with that. I like to see that moving in the right direction. The problem is we had prohibited personnel practices, those are actions that should have never occurred, never occurred and trying to justifying now it is even worse. Everything that was wrong in the past I understand that, I am not even there, I just to being done wrong to stop now. You're talking about in the past, my God is still happening now, that is the problem, the merit system, this is a merit system the people they came here expected to be treated fairly and this job, you heard me say belongs to the tax payer, they don't belong to the school district, they don't belong to the merit system, they belong to the tax payers, and we sit here to make sure that the people that are hired and share that the people that are hired in these classified positions, and its called classified because the positions have been classified to the type of work and the people that get that work should have merit. The practice of making appointees and appointments in the government job just to aquire some kind of political advantage or try to get favors it's the spoil system that is what the merit system is against and that is what we are here for and once again that is all I have to say.

VII. CLOSED SESSION

Action Item VII. Closed Session, when we are going to have Conference with legal counsel, Kristine E. Kwong, Musick, Peeler & Garret LLP Existing litigation (Section 54956.9a): San Bernardino City Unified School District: Dr. Arturo Delgado v Personnel Commission of the San Bernardino City Unified School District Case No: CIVDS 916709. Pursuant to Government Code Section 54957 to discuss: Public Employee Appointment title: Personnel Commission Director.

I do not believe we will be going to have anything to discuss when we come out of closed session. I will adjourn the meeting

VIII. ADJOURNMENT

Meeting was adjournment at 7:29 p.m.