

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

**August 4, 2011**

A meeting of the Personnel Commission was held in the Personnel Commission Office. Present were Mr. Gino Barabani, Chairperson; Ms. Rhonda Early, Vice Chairperson. Absent was Mr. Michael Salazar, Member.

**I. CALL TO ORDER**

Mr. Barabani called the meeting to order at 5:55 p.m. Mr. Barabani led the pledge of allegiance.

**II. APPROVAL OF AGENDA**

Mr. Barabani: Next item is item II, Approval of the Agenda. I have a minor correction on Action Item IV, under A the motion 1 *where it says it is moved that* underneath the numbers 2 and 3 should be *a* and *b*, same motion with sub motions. That is all I have for corrections, Rhonda?

Ms. Early: I have a comment, at our last meeting at our last scheduled meeting the meeting was cancelled at the request of Commissioner Salazar in your absence, so we didn't have a scheduled meeting. Now I am seeing his absence, have we heard from him?

Nersidalia Garcia, Secretary III: Haven't heard.

Ms. Early: And I want to ask you do you want to, I know that two commissioners constitute a quorum, we did cancel the last commission meeting because three of us were not in attendance so I just want to see if you want to go forward with tonight's agenda.

Mr. Barabani: I called this as an emergency meeting for the purpose that we do have to make some determination on the legal aspects because of the letter that we received, that was everyone should have received; all the commissioners I know received stating that we might not have the legal representation due to the interpretation of someone who is not even an attorney, do you feel comfortable with that?

Ms. Early: Not a problem.

Mr. Barabani: Alright.

Ms. Early: I just; do we have a way to contact Mr. Salazar to see if he is on his way Ms. Garcia.

Nersidalia Garcia, Secretary III: I can call him but

Mr. Barabani: Ok let's do that.

Ms. Early: Also I just want to add sometimes I get held up. I would hope that the two of you would move forward in my absence in case I am not here, I am just mindful of everyone's time and in an effort to make it to the meeting, so I second your motion for approval of tonight's agenda with the noted corrections.

Mr. Barabani: Alright.

Nersidalia Garcia, Secretary III: He is unable to make it -- not enough notice

Mr. Barabani: Ok.

Nersidalia Garcia, Secretary III: Too short of a notice and he has other things to do.

Mr. Barabani: Ok, thank you Nersi. Rhonda second, the agenda was going to vote on it she stated with minor corrections and I stated a and b, ok? Vote on that? Aye.

Ms. Early: Aye.

### **III. PUBLIC COMMENTS**

Mr. Barabani: Part III, Public Comments, *comments from the public on any agenda item may only be made at this time. Public comment during the commission's discussion of any agenda item will not be permitted. Public comments on anything other than an agenda item may not be made during this special meeting. Public comment, excuse me, is invited and encouraged by the commission on all matters before the commission and under the subject matter jurisdiction of the commission. However, decorum is needed for the commission to conduct its business in an organized and timely fashion. No member of the public may speak during the meeting until recognized by the chair or called upon by the chair. To be recognized, please raise your hand or approach the podium and wait until recognized. Thank you for your cooperation.* And I will also add to that theoretically don't have a podium in here, Nersi has two tape recorders up here the closer you get to them the better communication the better we can hear and easier you are going to make Nersi's job when she has to do the minutes, isn't that right Nersi?

Nersidalia Garcia, Secretary III: [Yes]

Mr. Barabani: Anything to help her because they are long and tedious as it is right now. Thank you. Action Item IV, first item on our agenda, Action Item A, *the commission will seek legal assistance in regards to the Order of the Court concerning the Rules.* I am sorry,

Liz Madera, Classified Employee: I am sorry, public comments

Mr. Barabani: I understand I made a complete mistake here

Liz Madera, Classified Employee: I did have just a comment or two

Mr. Barabani: Yes we will go back to public comments.

Liz Madera, Classified Employee: Would that be the time now?

Mr. Barabani: Yes.

Liz Madera, Classified Employee: Ok you recognize me?

Mr. Barabani: I thought I was moving too fast.

Liz Madera, Classified Employee: No problem it is just a couple of quick comments, no problem at all. Ok Liz Madera, Classified. Just two quick comments I have I was just wondering if there is anyone here officially from HR-Classified tonight?

Mr. Barabani: If anyone would like to respond

Liz Madera, Classified Employee: Apparently not and then second I was looking at this letter July 27<sup>th</sup> it is in the packet it starts on looks like page

Mr. Barabani: Right down the pages where it say 1 of 6.

Liz Madera, Classified Employee: Yeah, yeah, yeah 1 of 8, it is July 27<sup>th</sup> it will be from the lawyer firm, from Yolanda Ortega. I do not see that it was cc'd to our new Interim Superintendent so I was just curious as to why, I know you can't answer that I am just making that as a comment that it wasn't cc's or bcc'd at not here on the actual letter, so those are my two comments, thank you.

#### **IV. ACTIONS ITEMS**

Mr. Barabani: Anyone else that would like to come forward? No one is coming forward we will now move to Action Item IV, item A, *the commission will seek legal assistance in regards to the Order of the Court concerning the Rules. A proposed motion is, and I will read this motion, it is moved that the commission seek a legal opinion as to whether or not "the lawsuit" in case CIVDS 916708 "ended on April 22, 2011 upon the court's filing or its Writ of Mandamus."* Subsection a, *whether or not on-going compliance with the Judgment and Writ of Mandamus by the commission in development of Rules consistent with the Writ of Mandamus constitutes "defense of Respondents Case"*. Subsection b, *a request of legal assistance to represent the commission on any continuing process that involves adoption of Rules in compliance with the Judgment and Writ of Mandamus and any other future action that involves compliance with the Judgment and Writ of Mandamus or with the adoption of any Rules that are subject to the items and conditions of the Judgment and Writ of Mandamus. Do I have a second?*

Ms. Early: I second.

Mr. Barabani: A second, opened up for discussion, Ms. Early if you have anything?

Ms. Early: I have reviewed the correspondence that we have received tonight and I am in agreement with the motion.

Mr. Barabani: Ok take a vote on the motion, I will vote Aye.

Ms. Early: Aye.

Mr. Barabani: Aye, thank you. Action Item IV item B, *the commission will seek legal assistance in regards to the authority of the district to claim redacted information on billing invoices must be disclosed in order for payments for services to be rendered. I move first one that the commission seek a legal opinion as to the authority of the district to independently determine if redacted information invoices for counsel employed by the commission is privileged or not. Do I have a second?*

Ms. Early: I second.

Mr. Barabani: Open for discussion.

Ms. Early: None.

Mr. Barabani: Called for the vote.

Ms. Early: Aye.

Mr. Barabani: Aye. Number 2, it is moved that the commission seek a comprehensive legal opinion on the legal standard for determining what information is privileged for the purposed of an invoice for legal services rendered by counsel employed by the commission and the extent of the legal authority of the district to apply such a standard without providing specific legal authority and explanation for each claim that redacted information is not privileged. Do I have a second?

Ms. Early: I second.

Mr. Barabani: Open for discussion.

Ms. Early: None.

Mr. Barabani: Call for the vote.

Ms. Early: Aye.

Mr. Barabani: Aye. Item 3, *it is moved that the commission seek a comprehensive legal opinion as to whether or not invoices submitted by Kristine Kwong that were denied payment due to redacted information was in compliance with the Billing Guidelines Governing Payment of Invoices from Conflict Counsel, page 3, paragraph 4, a) (3) and if so, to obtain a detailed explanation of how each of those denied were not in conformance*

*with the Billing Guidelines and what specific information must be disclosed and the legal basis for demanding disclosure.*

Ms. Early: I second.

Mr. Barabani: I have a second, open for any discussion?

Ms. Early: None

Mr. Barabani: Call for the vote.

Ms. Early: Aye.

Mr. Barabani: Aye. We will now move to item C, *it is moved that the commission request pursuant to the Public Records Act and the authority of the commission pursuant to Education Code section 45311 all REAFS and all invoices submitted to the district for all legal services rendered to the governing board and the district between March 1, 2010 and August 10, 2010 by the firms of Manning and Marder, Gresham and Savage, and Atkinson, Andelson, Loya, Rudd and Romo.* Do I have a second?

Ms. Early: I second.

Mr. Barabani: Discussion?

Ms. Early: None.

Mr. Barabani: Call for the vote.

Ms. Early: Aye.

Mr. Barabani: Aye. Action Item D, *it is moved that the commission request pursuant to the Public Records Act and the authority of the commission pursuant to Education Code section 45311 a copy of all pay warrants, time sheets, and payroll records for all payments made to Bryan Astrachan, including the budget source used to pay all of such funds for the period of November 1, 2010 through July 31, 2011.*

Ms. Early: I second.

Mr. Barabani: I have a second. Any discussion?

Ms. Early: None.

Mr. Barabani: Call for the vote.

Ms. Early: Aye.

Mr. Barabani: Aye. Action Item E, *the commission will authorize expenditures of funds from its budget or membership in professional organizations. Number 1, it is moved that the commission authorize payment of annual dues for FY 2011-2012 to CODESP in the amount of \$1795.00.* Do I have a second?

Ms. Early: For this item can we reagendaize that to the next meeting?

Mr. Barabani: Yes I don't have a problem with that.

Ms. Early: Thank you.

Mr. Barabani: Item 2, *it is moved that the commission authorize payment of annual dues FY 2011-2012 to CSPCA in the amount of \$1118.00.*

Ms. Early: I second.

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

Ms. Early: Aye.

Mr. Barabani: Aye. Item 3, *it is moved that the commission authorize payment of annual dues FY 2011-2012 to PCASC in the amount of \$40.00.*

Ms. Early: I second.

Mr. Barabani: Call for the vote.

Ms. Early: Aye.

Mr. Barabani: My fault back up, any discussion?

Ms. Early: None.

Mr. Barabani: Call for the vote.

Ms. Early: Aye.

Mr. Barabani: Aye. Item F, *the commission will discuss and take action in an effort to open line of communication and to resolve conflicts with the district by authorizing the Chair to meet with the newly appointed interim Superintendent. It is moved that the commission appoint and authorize the commission chair to meet with the Interim Superintendent to discuss conflicts, seek suggestions for resolution, and to open up channels of communication.*

Ms. Early: I second.

Mr. Barabani: Any discussion?

Ms. Early: None.

Mr. Barabani: Call for the vote.

Ms. Early: Aye.

Mr. Barabani: Aye. Item G, *the commission will make a decision and take action to refer the continued issuance of pay warrants to Bryan Astrachan in violation of the order of commission to cease all further pay warrants effective February 24, 2011 to the Grand Jury and to the District Attorney: 1. It is moved that the commission request the District Attorney to investigate potential criminal actions by the governing board, district administrators and by Bryan Astrachan for issuing and accepting pay warrants after the commission ordered that no further pay warrants be issued to Bryan Astrachan due to finding following a public hearing that his appointment was in accord with the provisions of Education Code section 45310. Do I have a second?*

Ms. Early: I second.

Mr. Barabani: Any discussion?

Ms. Early: None.

Mr. Barabani: Call for the vote.

Ms. Early: Aye.

Mr. Barabani: Aye. Action Item G item 2, *it is moved that the commission request the Grand Jury to investigate the issuance of pay warrants by the governing board and by district administrators to Bryan Astrachan and the acceptance of pay warrants by Bryan Astrachan following an order by the commission that no further pay warrants be issued to Bryan Astrachan as a substitute manager. Do I have a second?*

Ms. Early: Second.

Mr. Barabani: Any discussion?

Ms. Early: None.

Mr. Barabani: Call for the vote.

Ms. Early: Aye.

Mr. Barabani: Aye. *Item H, the commission will review minutes and consider taking action to adopt minutes.* Proposed, so we will start if everyone is in accord with the January 13, 2011.

Nersidalia Garcia, Secretary III: I have some questions about the minutes, you have down February 10 and you don't have them in the packet.

Mr. Barabani: Alright.

Nersidalia Garcia, Secretary III: And then on the 4<sup>th</sup> one it says March 11, 2011

Mr. Barabani: Hold on, February 10 not in the packet

Nersidalia Garcia, Secretary III: [Yes]

Mr. Barabani: Ok

Nersidalia Garcia, Secretary III: And then the 4<sup>th</sup> one it says *March 11, 2011* and the minutes it is *March 11, 2010* in the packet it is *March 11, 2010*.

Mr. Barabani: Nersi do you know that these are actually the ones from 2010?

Nersidalia Garcia, Secretary III: Yeah they are.

Mr. Barabani: They are?

Nersidalia Garcia, Secretary III: They are.

Mr. Barabani: Then I actually grabbed the wrong file

Nersidalia Garcia, Secretary III: You got the wrong file. And then on the 5<sup>th</sup> one you have *March 23* which is fine but then you also; in the packet it is *March 30<sup>th</sup>* but you didn't place it on the agenda, *March 30, 2011* minutes.

Mr. Barabani: *March 23, 2011* those are ok?

Nersidalia Garcia, Secretary III: Those are ok in the packet. You also placed *March 30, 2011* in the packet but it is not in the agenda.

Mr. Barabani: Ok we will ignore those. I am not sure if that would be a Brown violation or not, moving forward but it is not on the agenda. Let's start with January 13, 2011, any corrections?

Ms. Early: I move to approve the minutes dated March 13 with the following corrections: page 1 I think it is the 7<sup>th</sup> paragraph where it says *inaudible*, strike *inaudible* and place *agenda*, so *supporting documents from tonight's agenda*; same page last line strike



*approved* and replace it with *pulled*, so to have that *pulled from tonight's agenda*; page 18 four lines up from the bottom strike *on* and replace it with *in, will not participate in that*;

Mr. Barabani: Is that page 18 also page 1 of 44, I'm sorry?

Ms. Early: It is page 18, 1 of 44.

Mr. Barabani: Which line was that again, I'm sorry?

Ms. Early: 4<sup>th</sup> line from the bottom, strike *on* and replace it with *in*.

Mr. Barabani: Ok. Oh I have some corrections too. Back to the first page, Approval of the Agenda one two three fourth down *Mr. Barabani that would be* there are some dots that would be *fine* it would be *fine* that's the word *fine*. It is hard to understand what this is; then one two three paragraphs down *Mr. Barabani* again on the third line it says *since last month this is an attempt to make sure it gets* and then right there is a semicolon, it says the items, it's *to the items* it appeared to me is what I said; page 7 which it is 1 of 33, third paragraph where it says *Mr. Barabani*, third sentence down it says *commission, let me look at action item*

Ms. Early: I'm Sorry I'm not, what paragraph?

Mr. Barabani: Third one from the bottom where it says *Mr. Barabani*, page 1 of 33 number 7, *look at*; then page 10, page 1 of 36, one two three four five, it is the big paragraph it is the one that starts with *Mr. Barabani: up to 26, o.k.* let's go down one two three four last line *when they printed out the agenda; what happened is that this item that we talked about; what happened was when we had the agenda last time all items when they were printed out on the agenda were impacted*, should be -ed that is all. Next page, page 11, page 1 of 37, on one two three fourth line down *Mr. Barabani* where it says *Could you Nersi*, I am sorry I corrected myself on that twice, leave that alone; then on 15, page 15 page 1 of 41, what we have here on this page is an example and was brought up last time but we didn't get it, see where it says the Action Items see where it is highlighted I don't know if we want to do this or not those are motions taken off of the agenda and placed in there and I read those when I read them in that is why they are easier to find they are bold.

Nersidalia Garcia, Secretary III: So you want them in bold now?

Mr. Barabani: Because during the meeting last time whoever it was debating it wasn't the time to debate whether it was there. I think I am going to ask Ms. Early now, and I was going to ask the other; do you it is easier to find stuff, the motions if it's bolded like that?

Ms. Early: I like it.

Mr. Barabani: Ok, I think maybe the motion parts should be in bold. Now you can't take what is on the agenda because they are changed so you have to go by what is recorded, so thank you. I think that is it on them. Yes, no more red marks, so the motion was it is moved that the commission approve the minutes with the corrections for January 13, 2011. Do I have a second?

Ms. Early: I second? No I made the motion.

Mr. Barabani: You made the motion, I will second. Call for the vote.

Ms. Early: Aye.

Mr. Barabani: Aye. We will go to January 26. Ms. Early any corrections?

Ms. Early: Well I think that in order to approve these minutes, were you present? I think you were absent at this meeting, so we might need to put these back on the agenda when Commissioner Salazar is here for approval.

Mr. Barabani: Your motion is to place the January 26, 2011 minutes reagendaize them when Mr. Salazar is here. Do I have a second?

Ms. Early: I second.

Mr. Barabani: Second. Vote yes.

Ms. Early: Aye.

Mr. Barabani: Aye. Ok the February 10th are in the packet wrong file so that leaves us the 23<sup>rd</sup>.

Ms. Early: Please restate that.

Mr. Barabani: On the February 10<sup>th</sup> I hardly placed these in the end, they are not in the packet so we couldn't do it, and March 11<sup>th</sup> these are the real March 11, 2010 instead of 2011 is not the mistyping I grabbed the wrong file. The only one that we have left is March 23, 2011 that are in there.

Ms. Early: Commissioner Barabani I do not have March 23<sup>rd</sup> in my packet in my packet I received March 30<sup>th</sup>.

Mr. Barabani: It would be page 1 of 89.

Ms. Early: I don't have 1 of 89 I have my next packet of minutes start at page 1 of 99 it is the minutes from March 30<sup>th</sup> that are not placed on the agenda.

Mr. Barabani: Ok oh you got them. Now have you had an opportunity?

Ms. Early: No I don't, I don't, I did not review these I didn't even realize they were in my packet I stapled them to something else.

Mr. Barabani: We will reagendaize them, we have a motion to reagendaize the March 23, 2011 packet. Let me write that down before I forget, that is a motion, do I have a second?

Ms. Early: I second.

Mr. Barabani: Call for the vote, yes.

Ms. Early: Aye.

Mr. Barabani: And the March 30<sup>th</sup> I so kindly placed in here but it is not on the agenda so I'm sure that is not a Brown violation I don't want to have to go through it again, all we have to do is redact it do it again but why bother. The commission will adjourn the meeting.

Ms. Early: Wait excuse me, we have three sets of minutes that we are going to reagendaize

Mr. Barabani: Yes we will go through them, let me put my glasses back on, Nersi make sure we will go through this again, it is moved, we have the February 10<sup>th</sup> because they weren't in the packet, we have March 11 they were in the packet but the 2010, then we are going to place the reagendaize the March 23<sup>rd</sup> an opportunity to give you an opportunity to look them over, then we also have the January 26<sup>th</sup> placed back on the agenda because I can't vote on them I wasn't here, and the 30<sup>th</sup> are in the packet but they are not agendaized, so basically we have one two three four. Which one do you have? Oh the 30<sup>th</sup> that is not really going to be reagendaized, matter of fact maybe we can pull those off and save the printing on it. I'd like to adjourn the meeting.

Ms. Early: So we have a motion to reagendaize, I second the motion.

Mr. Barabani: Yeah, we voted on all, I put yes, yes, but if; Nersi let's go through them to make sure to reagendaize. On the January 26<sup>th</sup>, let me start from the beginning, it is moved that the commission approve the minutes for January 13<sup>th</sup>, yes, and yes; please place the packet back on the agenda the January 26<sup>th</sup>, yes, yes. It is moved that the commission, there wasn't anything to do on that February 10<sup>th</sup> because they weren't in the packet; and then its nothing to do on the March 11<sup>th</sup> because they were the wrong ones and then we voted to do the reagendaizing on the March 23<sup>rd</sup> but I will make that motion again just in case we didn't, the motion is to reagendaize the March 23, 2011 minutes, do I have a second?

Ms. Early: Second.

Mr. Barabani: Call for the vote.

Ms. Early: Aye.

Mr. Barabani: Aye. Ok the 30<sup>th</sup> they are not on the thing so we don't have to worry about it.

Ms. Early: So we will place on the agenda the March 30<sup>th</sup> minutes for approval at the next commission meeting?

Mr. Barabani: Yeah we will have the March 30<sup>th</sup>, we will have the March 23<sup>rd</sup>, make I get them all, we will have the March 11 of 2011 this time, February 10<sup>th</sup>, and the January 26<sup>th</sup>. We got one done. We call for adjournment at 6:32 p.m.

**V. ADJOURNMENT**

Meeting was adjourned the meeting at 6:32 p.m.