

PERSONNEL COMMISSION MEETING
SAN BERNARDINO CITY UNIFIED SCHOOL DISTRICT
BOARD OF EDUCATION COMMUNITY ROOM

MINUTES

April 11, 2012

5:30 P.M.

I. CALL TO ORDER

- A. The meeting was called to order at 5:36 p.m. by Commissioner Barabani.
- B. Roll-Call
 - 1. Commissioner Gino Barabani, Chair
 - 2. Commissioner Rhonda Early, Vice-Chair
 - 3. Commissioner Michael Salazar, Member
 - 4. Patrick Maher, Personnel Commission Director
 - 5. Nersidalia Garcia, Secretary III
- C. Pledge of Allegiance

II. APPROVAL OF AGENDA

Moved	<u>Ms. Early</u>	Seconded	<u>Mr. Barabani</u>
Vote: Barabani	<u>Aye</u>	Early	<u>Aye</u>
		Salazar	<u>Aye</u>

III. PUBLIC COMMENTS

- NOTE:**
- Comments from the public on any item that is not on the agenda but is under the subject matter jurisdiction of the commission may only be made at this time.
 - Comments from the public on any agenda item may only be made at this time.
 - Public comment during the commission's discussion of an agenda item will not be permitted.

Dr. Vollkommer Good evening Commissioners, Harold Vollkommer from the Human Resources office. I just wanted to make a couple of comments in relation to several of the Action Items. First of all Action IV. A, in anticipation of you approving the eligibility list, we just want to say thank you, I appreciate Mr. Maher's efforts to get this done. We are in a position where we are taking a number of abolishment's in the Custodian I position forward, but what this will do is allow us, if that all goes through and moves as we think it will, this will allow us to begin to replace those substitute custodians that we have had and draw our substitutes from the eligibility list the way it's supposed to be done. So we are glad to see that. So thank you, we've been in anticipation of that.

In relation to Action Item IV. D, I believe that several of you are aware of the letters that have gone back and forth between

director Maher and the Superintendent so I will not comment on that we will leave that to, I think, for our legal to do.

You also, and I apologize, but you also just received; and I think Pat is that true did you get a fax from Leal and Trejo?

Mr. Maher

Yes, I did.

Dr. Vollkommer

You received a facsimile, and I apologize for that being there late, but we just got it ourselves from him in relation to some concerns about the Action Item IV. C and Ms. Kwong's rule in this activity related to an alleged violation of the Brown Act so, I'll let that speak on itself, but I just wanted to make sure that; did you make copies of that?

Mr. Maher

Yes everyone got a copy.

Dr. Vollkommer

Thank you very much. So, I wanted to make sure that you got that and I certainly haven't had chance to read it, but I did want to call you to your attention that our legal counsel has provided you with his opinion on that.

Moving on to Action Item IV. D, and I will take D1, Mr. Maher and I did have a chance to work through the job specs on the Secretary III position so we are comfortable with that and we are ready to move forward on that, we think there are some good improvements in relation to that job specifications.

That same faxed letter from Mr. Trejo did speak to the idea of melding the Secretary III and Bilingual Secretary III classifications into one classification so, I'll again, simply call that to your attention and will let the letter speak for itself.

But I did want to share a kind of pragmatic approach to how this, what impact this might have in terms of the districts operations. First of all, before I say that, let me say I am totally in support of Mr. Maher's attempts to be efficient with testing and not have to test once for Bilingual Secretary III and again for Secretary III. The district is totally in support of testing them once and then doing a selective certification process in terms of those who may, I don't know if this is the appropriate term, but skip down to get to the people that have that bilingual skill that still meet the qualifications of the position. So from the testing stand point, we see that it makes good sense and that it saves valuable resources. On the other end of that, we are in the process right now of creating bumping lists based on abolishment's and reductions and here is a kind of reality that we'll be faced with if we combine them into one list and that is, if you just use seniority in terms of bumping and who eventually gets laid off, then there is a possibility, rather than do that separately for bilingual and non-bilingual candidates, then there is a possibility that at a school like Muscoy Elementary where 50 or 60 % of the students are English Learners; in our district 34% of the students are English Learners, a higher percentage of our parents of students are Spanish speaking; Spanish speaking are obviously predominately Second Language. So if you go

to a school like that, where there is an indefinite need for having a Bilingual Secretary and maybe not a III, but whatever situation we may be in if we are going to combine these classifications then you may be in the position where you are bumping out a Bilingual Secretary, putting a non-Bilingual Secretary in there and really not able to serve the clientele at that school. That is the reality that we are going to be faced with in terms of the other end of this in terms of the impact of this position so again, I'll share that as just kind of a pragmatic approach to saying that the testing end of it makes perfect sense, but it does create some problems on the back end in terms of placing the right people; Tim Collins said in his book, "it be great getting the right people in the right seats on the right bus." We do have schools that have obvious and definite need for bilingual personnel, some are not as much, we recognize that so, I wanted to share that with you just as a point of the reality that we're actually living with at this very moment.

And then finally, I wanted to comment on Action Item IV. F and I wanted to go into the back up documentation and just number one, recognize that we know that we have some positions that are out of class that have been there longer than 90 days. We recognize that, Mr. Maher and I have had, I guess it borders on many discussions about that now, and we recognize that the intent is to not have to do that in the future. Once we get our eligibility lists done; and I'm on page, by the way, 37 of 50, I apologize I didn't identify that. Once we get those eligibility lists and can draw from those eligibility lists we don't see in the future having the need to work people out of class longer than the time that's going to establish. So we look at it, and took us a while to get here as you know, because of the difficulties between the district and PC, we did not hire for quite some time and yet have needs to fulfill in relation to getting work done and so, we would ask you to consider that when you have this discussion that we're not trying to skirt any issues, we're not trying to hide any issues, we're simply saying as soon as we can get an eligibility list and move forward, we're happy to take these people out of the out class positions. And I'll certainly be available for any; it is not, by the way, it is not the intention of the district, once we get an eligibility list and are hiring full throttle, to have out of classification positions that go longer than what's prescribed. That is all the comments that I have, thank you very much.

Mr. Barabani

Dr. Vollkommer?

Dr. Vollkommer

Yes?

Mr. Barabani

Back on Item D on the Secretary and the Bilingual Secretary.

Dr. Vollkommer

Yes.

Mr. Barabani

I basically thought about the same issue you did and when you have a position like that and you have it and need to fulfill the position so you can support the community, how does the

district; guidelines, I mean, how do you guys determine that? Is there percentage based points, I'm just curious how would you ultimately determine what position would need the special skills certification?

Dr. Vollkommer To this point we've left it to the principal who is most familiar with the clientele that they serve on a daily basis, to make the determination whether or not that you bilingual personnel in the office or wherever it might be. They are the ones that can, I think, best assess whose walking in the door, what language needs do they have, how can we best serve them and therefore, we need people with this particular skill and ability.

Mr. Barabani Now was the Secretary III, was that originally chosen just because they are Secretary III's, is it arbitrary or I'm just wondering is there a lot of people working in these; there's a lot of employees that work in the office staff and could not one of the other ones also be certified?

Dr. Vollkommer That's certainly possible and I would love to give you an exact answer, but the answer is it depends because it really depends on what the person is coming in asking about. For example, I'm speaking really more broadly than the Secretary III because I know it's Mr. Maher's intent to combine some of these or any of the classifications that have both bilingual and non-bilingual; Clerk I, Bilingual Clerk I, etcetera. So when you get into the different classifications, it really depends on what the area that the parent is asking about. For instance, if they are asking about attendance, the Attendance Verifier has to have that skill level as I think I've shared before, we were talking about a different subject is that a Clerk I may be the first person that the public comes in to contact with every day at a school or even have a Clerk I that's in a back office doing mostly paperwork and really never interfaces with the public at all.

So the answer to your question is it depends, if that Clerk I never interfaces with the public it probably doesn't need to be bilingual unless maybe they're serving a background role. The person at the front counter that's a Clerk I may absolutely need to have bilingual skills to appropriately serve the people that are walking in the door and asking questions so, it'll depend a little bit.

A high school is a great example, you've got the attendance area that may be nowhere near the activities office and so that person you know; and whereas in an elementary office, you may have back up, that's a little bit easier because they're right next to each other. At a high school campus, they may not be anywhere near each other so you may have to apply the rule; employee here, as well as here, as well as here because there's really not an effective way to even cross over and get a bilingual support across job descriptions, I hope that helps.

Mr. Barabani Yeah, I thought it was like you would have individuals in the

area and you pay them a stipend and they would interpret even if; let's say the attendance clerk couldn't or let's say you can't fill that position, you can't find somebody to fill that position with the skills necessary at that time, but somebody else in that office has that skill and you pay that person a stipend and they would be the interpreter and of course that does bring up the question of pulling them away from their duties for that short period of time.

Mr. Vollkommer Correct, and it also speaks to the difference between general interpretation and expertise in actually fulfilling the need. I'll give you an example, in our office, most people would not think that a Human Resources office would necessarily need a Bilingual Secretary III because most of the people that we're going to deal with are people with credentialing issues and such. I feel that with all the parent complaints from the schools that, these principals I supervise so, there are a significant number of those who are the parents calling and speaking in a second language so, I have to have someone in the office that can help that parent rather than not be able to help them or have to pass them around or take someone away from their duties.

So, it is a legitimate need in our district with again, 34% of our students classified as English Learners and a higher percentage; I don't know exactly what the percentage is of our parents, but we have that have been reclassified as English Learners anymore or students that are born and raised in this country, but whose parents still may not speak English, we still have to be able to serve those parents.

Mr. Barabani I just thought it would be more efficient if you were paying someone a stipend in that office and that the whole idea interpreter thing doesn't work to well.

Dr. Vollkommer It can, but I don't think it's an absolute; I don't think if having one person; what if that person is absent that day, for example, then what do you do? Hopefully we could get a bilingual substitute, but that's not always possible either.

I did have one other questions though about the class specs on page 30-50 and it's the one, two, three, four, five, sixth paragraph down, it talks about the additions and deletions to the job specs and as I mentioned, Mr. Maher and I went through those together, for instance, "by adding some positions in this classification require the ability to speak, read, or write a second language," I didn't see that on the; we didn't talk about that and I didn't see it on the actual job specs that are listed here or did I just miss it? I'm sorry if I did.

Mr. Maher It's under the section on the class specs, Distinguishing Characteristics, "some positions in this classification may require fluency in reading or writing a second language."

Dr. Vollkommer And that's not a change? That's been there, is that correct, or are we adding that?

Mr. Maher I'm sorry, that wasn't on there, but I added that in terms of dealing with the merging of the two positions so, that really wasn't added.

Dr. Vollkommer Ok, I just wanted to check my own sanity on that one. Ok, thank you very much.

Mr. Barabani Anyone else?

Alex Raya,
SBPOA
President

Good evening, I'm Alex Raya, I'm the SBPOA President. I am here tonight in regards to a couple of things, primarily on page 36 of 50 in regards to the Provisional School Police Officer; it says he was "unable to pass the POST basic test for reading and writing." A couple of things that I have with this, the officer who was in the position have nailed the criteria, as far as when it comes to the police officer having the training. He went through full background, all the psychological, polygraph, its already completed; the field training program with us.

He has been on his own for almost a year now, meaning that he hasn't been partnered with a Field Training Officer anymore. The part of this that concerns us, as far as on the POA side and for this individual, is to kind of help see if you guys would consider looking at him again. POST doesn't require that he take a written test for pre-service or lateral applicants, it's not a mandated thing. He was a pre-service applicant or he is pre-service and that's why he was brought into our department. He's already been through a full basic academy, graduated, did all his testing there; did the written test to get into the academy.

Some of us have bad days because of tests, just because he wasn't able to pass this one written test, it's probably the same written test he did in the academy; it should be the exact same test to get into the academy so, he's already passed that. He's gotten his BASIC and he now has, as long as he's been working with us, for probably about a year, year and a half, to really pull him down after he's already gotten his BASIC POST certificate; it's what you get after you complete a year on the job that the state will give you. That POST certificate means you've been certified to be on your own, that you will do the job, and is no longer a new trainee.

We're asking that you guys consider that or consider looking at doing something in regards to the cost, the savings, we've already spent tons of money, the district has, as far as his training, the time it's taken to get through FTO, and being out in the field. Besides that, this officer has worked in that position, he's actually a really well qualified officer, I wouldn't be standing here if I didn't. He really deserves this position. I think that if the Commission would consider giving him or taking a second look at finding some kind of requirements to get him in there or giving him another chance. Like I've said, he's already taken this written test, he had to do that to get

into the academy.

This officer is a benefit to our department, he's a benefit to the district, and one thing with getting him pushed through now is, if he were to get hired in a permanent position, we won't have the lag time of going through field training again; he's already been through it. Anytime we hire a new officer, they're going to go through anywhere from six months to a year of field training, depending on the process to even get qualified and signed off by a Field Training Officer to be on your own. So, he's already been there, he's done it, he's proven he's qualified. He's done an outstanding job for our department. I wouldn't be standing here and serving for the community and this district.

In regards to the page 37 of the Environmental Safety Officer, number four. It says 'we have pled,' as a POA; we have come to the Commission, rather, the school board.

Mr. Barabani

What page was that?

Alex Raya,
SBPOA
President

37 of 50 sir. 'We have come to the Commission or we have gone to the school board saying that we want our positions'; our goal is to occupy all the positions that we have vacant. Daniel is already there, he's qualified, and he's on his own. We do want our; as an association, yes, we did come and ask and want the officers working out of class to be moved back into position to bump up our numbers. Right now we are working with about, with these two out of class; we're probably working with about 14 officers running the shifts. We're spotted for 20; we're coming up on three vacancies, with a retirement coming up this month. With him, he'll bump us back up to 15 then we'll start getting our numbers closer to that 20 which in turn, lowers our officer safety, helps out with calls for service.

So we do stand with this, trying to him move back. We don't think that the other officer is in this slot is because he's out of class, there's room there for him to come back still, Daniel isn't holding up a spot for it or anything in that nature. The spot that Daniel is in, the officer that is in the provisional is a vacant position at this point. So, if you guys can consider what I am asking, it doesn't require, POST doesn't require it, you can waive the written and actually, the physical agility for pre-service and lateral. With that, thank you for your time.

Joe Paulino,
Interim School
and Safety
Director

Joe Paulino, currently Interim Chief of Police, School Police. I'd like to just address the Daniel issue, if I can take a few minutes of your time. If you look at the process that we have to put these individuals through to become police officers in the district, it meets the requirement that POST puts forth and if you look at 9070 of the POST administrative manual, it dictates how we do this. If you look at the process that this young man has been through, it meets all the thresholds that POST is requiring.

I echo what the President of the POA says in regards to

Daniel having completed the full FTO program which is anywhere from 16 weeks to 22 weeks, it's a 22 week program we put them through. He's gone through a full background check which is required by government code. We've put him through the entire process to become police officer. By the way, that particular exam that's given to all these individuals coming in to the department, it's an exam that you have to pass to be able to proceed into the police academy. Of course, I don't know what the threshold is as far as the numbers are set as far as a minimum of 70.

This young man has demonstrated his ability through graduating the police academy as well as having completed the full POST FTO program which our department has certified to put police officers through. He's also worked in districts with police officers, he's met the time in regards to the time period that you need to be able to be awarded a POST certificate, and he's met that time limit. Of course the controversy over whether he's gone thorough probation or not however, we believe that POST directly says the time period in regards to probation that he's done. By the way, the department dictates whether that person meets that threshold or not, it's not done by this body, it's done by the department and we do it for those that are reserve police officers as well as full police officers in our department.

In regards to an item to be speak about in regards to the Environmental Safety Officer, we do concur that we need every boot in the ground when it comes to the safety in the district so we want all of these positions filled so come next school year, we can put police officers at all of our campuses as well as new campuses coming on board. Thank you for your time this evening, thank you very much.

Mr. Barabani Is there anyone else that would like to make a public comment? I thank everyone for their comments, we'll move on to second IV, Action Items.

IV. ACTION ITEMS

A. The commission will consider ratifying the eligibility list for Custodian I. A proposed motion is:

It is moved that the commission ratify the eligibility list for Custodian I, Exam 12-002.

Moved	<u>Mr. Barabani</u>	Seconded	<u>Ms. Early</u>
Vote: Barabani	<u>Aye</u>	Early	<u>Aye</u>
		Salazar	<u>Aye</u>

B. The commission will consider authorizing the Personnel Commission to act as an investigator/hearing officer. A proposed motion is:

It is moved that the commission authorizes the Personnel Commission Director, pursuant to Education Code sections 45311 and 45312 to act as a hearing officer/investigator, to issue subpoenas, to enforce compliance with

the subpoenas, and to compel testimony under oath to determine if appointments to the following positions were made in accord with the examination procedures of Article 6, commencing with section 45240 of the Education Code, and the Rules and Regulations of the Commission:

1. Assistant Warehouse Manager (Nutrition Services)
2. Nutrition Computer Analyst
3. Custodian I

Moved	<u>Mr. Barabani</u>	Seconded	<u>Ms. Early</u>
Vote: Barabani	<u>Aye</u>	<u>Early</u>	<u>Aye</u> <u>Salazar</u> <u>Nay</u>

Mr. Barabani We received a letter April 3rd about this matter, 2012, says here, "The purpose of this letter is," this is from Yolanda M. Ortega, it says, "The purpose of this letter is to inform you that, pursuant to direction from the Office of the Superintendent, the employees directed by Mr. Maher to meet with him have been instructed not to do so. The reasons, generally, will be set forth below. The employees will not meet with Mr. Maher until such time they are instructed to do so be this Office or the Board of Governors."

It starts out with saying that the letter is going to inform us; I'm not going to read the whole letter, it goes through the whole process and I see shades of what we've gone through in the past. I saw our Commissioner being attacked for being biased. I've heard that tone being used towards people here on the panel. All we were looking to do is to look into these matters, nothing has been determined at this stage, that's why this motion is on here and I don't think sending this letter was appropriate at that time because nothing has been discussed other than we've asked Mr. Maher to place this on the agenda, it's not a violation of the Brown Act to do that and gather up any information so we could discuss this when the time came. In return, we just got a, this is a bad letter. I do not know why we have to be attacked for doing what our job is under the merit system. So, I assume that both the Commissioners got a copy of this letter? Anyone else? Call for the vote.

Ms. Early Aye.

Mr. Barabani Aye

Mr. Salazar Nay.

- C. The Commission will receive a status report from Kristine Kwong, Esq. as to the status of her investigation into allegations of violation of the Brown Act against commissioners and take actions in accord with the report as necessary to bring the matter to a speedy conclusion. A proposed motion is:

It is moved that Kristine Kwong be designated an investigator/hearing officer pursuant to Education Code sections 45311 and 45312 and be authorized to issue subpoenas, compel testimony under oath, and seek court enforcement of subpoenas.

Moved	<u>Mr. Barabani</u>	Seconded	<u>Ms. Early</u>
Vote: Barabani	<u>Aye</u>	<u>Early</u>	<u>Aye</u> <u>Salazar</u> <u>Nay</u>

Mr. Barabani In this matter, this letter came in at 15:54.

Mr. Maher Whatever the time stamp says. It came in late this afternoon around 4:00.

Mr. Barabani In the past we've tried to say look, if you've got something to say, and I try to listen to everything that goes on here and I do appreciate everyone that comes up here to speak from the public because it's informative, but I received this letter from Leal and Trejo and because we put an item on the agenda, that the districts not comfortable with, I get this letter at 4:00 that we got to read here at the last minute. I don't know if the other Commissioners had time and he's asserting that the governing board never granted the authority to the commission to do this, to engage in this service.

Back on February 7, 2012, I had to go back and look; the governing board approved that for legal services in regards to this matter. Investigations of legal matters, Neufeld was the counsel that we went to first and the district declared conflict when we asked for assistance in investigating this allegation. You'll find this in the minutes of the PC meeting of December 16th which clearly shows the commission authorized Kwong to investigate the charges and violation of Brown Act. So, I find it there's an attorney Trejo; this is unfairly and unjustly attacking the Personnel Commissioner again in this matter, it's another attack, two today. I come to work, I come here to do my job and I have to deal with two of these and he acknowledges various matters here; Trejo might disagree, everybody disagrees on some things sooner or later about the action yet, you shouldn't be wrong on your facts or the history of what happened and that's exactly what he's implying in this letter when you go through it. As I showed you, he's wrong, we did approve it. So once again, the counsel for the district is trying to resort to the old tactic of last minute objections to the agenda item so we don't have enough time to timely review this matter.

I think this letter should be rejected; it's untimely as well as inaccurate, if not grossly inaccurate. I'd appreciate it if you spent a little more time trying to find out some facts and providing some legal analysis or opinions that we could stand on rather than trying to mislead or distort what's on the record. In this case, we've all went through it, we know what's on the record so the minute you read something and it says this wasn't done, and you remember doing it, you know this letter is distorted. That's my comments on that. Anyone else?

Ms. Early I have no comments regarding the letter, I have not had a chance to read this; I just was handed this just a few minutes ago.

Mr. Salazar I just have a couple of comments. I've not had an opportunity to read this letter either and also I don't think Kristine is here so it doesn't look like we're going to get the status report anyway. So my suggestion would be if you want to continue to review this matter, that we table this issue.

Ms. Early We currently have a motion before us.

Mr. Barabani We do have a letter from Kristine in the packet I wanted to make sure; it's on 29 of 50, even though she's not here today. It states that she wasn't getting any cooperation or response and this motion is basically trying to deal with that. So, I don't see why we can't move forward with this because we have her letter, we have her statement which she's been trying to do. This agenda item is trying to enforce what we've asked her to do.

Mr. Salazar Again, to reemphasize, I've had no time, as Ms. Early stated a minute ago, to review the letter from the district's attorney.

Mr. Barabani Yes, I realize that. I did review it at 4:00.

Mr. Salazar Can I finish or would you like to speak over me?

Mr. Barabani Go ahead.

Mr. Salazar Thank you. Again, without reviewing what the district's attorney said, and I know we have a vote that's out there right now, but my comments are that I think we have a part of the story and we need to drill down and figure out what the other half is and then process that. So, those are my comments, I'm done.

Mr. Barabani This has been on the agenda. The agenda was sent out Friday. Mr. Maher is very good at making sure the agenda gets out in a timely fashion, but once again, at 3:54, at the very last minute, we get this letter. A mere coincidence? There's an opportunity for you to get this letter out Monday, Tuesday, Wednesday morning; 15:54 is the tag on this thing, which is almost 4:00. And like I've said, we seen this before, last minute the district's attorneys will come in at the last minute and bring these items up. I'm kind of curious if they treat the governing board that way.

Mr. Salazar The policies of the governing board are not our issue here.

Mr. Barabani No.

Mr. Salazar The Personnel Commission is the issue here and if you want to just disregard that, if that's what you're saying then fine, let's vote.

Mr. Barabani We can do that too. My issue is they constantly wait until the last minute. Not just this matter, but many matters to try to prevent us from moving forward and doing our job. They did this when we were trying to ratify lists and it just gets tiring after a while. It's not a coincidence that you want until 4:00 not when you had four days. I'm sure the district is paying them pretty good money; they could have worked over the weekend and sent this out Monday. So, we have a motion on the table. Call for the vote.

Mr. Salazar Nay.

Ms. Early Aye.

Mr. Barabani Aye.

D. The commission will consider revising the classification specification for Secretary III and consolidating the Bilingual Secretary III with Secretary III. Proposed motions are:

1. It is moved that the commission approved the revision to the classification specification for Secretary III as submitted.

Moved	<u>Mr. Barabani</u>	Seconded	<u>Ms. Early</u>		
Vote: Barabani	<u>Aye.</u>	<u>Early</u>	<u>Aye.</u>	<u>Salazar</u>	<u>Nay</u>

Mr. Barabani Pat, do you have anything you want to say on that one?

Mr. Maher I think the only thing that I wanted to point out was the section that added the bilingual requirements, I think, have formed with the objections raised by Mr. Trejo in his letter that its complex using bilingual skills and English or designated language. I think the wording covers that if people more comfortable with how he used the current language and the bilingual you can use that word you can use the amended to substitute it with that specific language, but I think the way it is currently written, I think it adequately covers that as that situation.

Mr. Barabani The job description for Bilingual Secretary III states that it requires a person to perform, "highly responsible and complex secretarial and clerical work using bilingual skills in English and a designated language".

Mr. Salazar What are you reading?

Mr. Barabani On page 11.

Mr. Salazar Which letter?

Mr. Barabani Page four, Mr. Leal and Trejo.

Mr. Salazar Ok so now we're going to go ahead and take in account Mr. Leal's letter?

Mr. Barabani No. I read it, I took into account.

Mr. Salazar But we didn't read it before, but now we can?

Mr. Barabani Ok well, you don't have to.

Mr. Salazar Let's look at person of consistency here.

Mr. Barabani I'm consistent, I read it.

Mr. Salazar What page please?

Mr. Barabani Five. One, two, three, four, it's the one with the signature on it.

Ms. Early So we currently have a motion before us?

Mr. Barabani Yes we do.

Ms. Early If there's no further discussion, I call for the vote.

Mr. Barabani I vote yes.

Mr. Salazar I'm going to vote nay. I would like to see the revisions. I would prefer that the motion be restated per the advice of Pat Maher over there and the letter.

Mr. Maher Well it wasn't my advice.

Mr. Salazar There were a couple of things that you mentioned that were in here that we could restate the language so, that's what I'm referring to.

Mr. Maher I wasn't really advising, I was just making a comment if you felt comfortable we could do it, but I thought it was adequately covered.

Mr. Salazar I'm comfortable with what you were comfortable with so, I'll vote nay on this one.

2. It is moved that the commission reclassify all current employees with a permanent classification of Bilingual Secretary III to Secretary III without loss of seniority as a Bilingual Secretary III effective April 12, 2012.

Moved	Mr. Barabani		Seconded	Ms. Early
Vote: Barabani	Aye	Early	Aye	Salazar Aye

Mr. Barabani I do have a question on that. Is there a change in the pay scale or anything?

Mr. Maher No the pay is the same. The bilingual credit is given by means of a stipend.

Mr. Barabani In the contract?

Mr. Maher I believe it says it in the contract, but it's given by means of a stipend; they're respect of the classification. Secretary III not bilingual could get a stipend for being bilingual without being reclassified to a Bilingual Secretary.

Mr. Barabani Call for the vote.

Ms. Early Aye.

Mr. Barabani Aye.

Mr. Salazar Aye.

3. It is moved that the commission delete the classification of Bilingual Secretary III effective April 12, 2012.

Moved	Mr. Barabani		Seconded	Ms. Early
Vote: Barabani	Aye	Early	Aye	Salazar Nay

- E. The commission will discuss the practice of the District of assigning classified staff a title of "Superintendent" appended to a level as a means of attempting to remove the position from the jurisdiction of the classified service. A proposed motion is:

It is moved that the commission notify the State Superintendent of Instruction that Mel Albiso and John Peukert appear to have been granted titles with "superintendent" appended in apparent violation of Education Code section 35030.

Moved	<u>Mr. Barabani</u>	Seconded	<u>Ms. Early</u>
Vote: Barabani	<u>Aye</u>	Early	<u>Aye</u>
		Salazar	<u>Abstain</u>

F. The commission will discuss the District's failure to comply with time limits for appointments to vacant positions for lengthy periods and the unwillingness of the District to work with the personnel director on a case by case basis to terminate such assignments. A proposed motion is:

It is moved that the commission notify the governing board that the District is operating in total disregard of the time limits placed on provisional appointments by Education Code section 45287, demand that the governing board immediately comply with the statutory time limits and to work with the personnel director to minimize the negative impact that compliance with the law on District operations.

Moved	<u>Mr. Barabani</u>	Seconded	<u>Ms. Early</u>
Vote: Barabani	<u>Aye</u>	Early	<u>Aye</u>
		Salazar	<u>Nay</u>

- Mr. Salazar I think that this particular agenda item in looking back into the action item supplemental notes what we've heard from the public this evening. I'm just not comfortable that there are, I guess what I'm saying is that I would love to see this particular item broken down into specific areas because I think we have a number of things that are in here that are just clumped together and if you vote for one, you vote for all. So I think that there's a couple of different issues that are at hand with agenda item IV. F. and I know we have a vote on the table, but I would like to see that particular action item dissected a little better so that we can vote on that on individual pieces of that, rather than in one complex vote so, that's my comment.
- Mr. Barabani This action item has to deal with provisional appointees. I had to refresh my memory, I looked at 45287 deals with the 90-day calendar, 126 working days in one fiscal year, I won't read the whole thing. Mr. Maher, how do you see that? It looks to me like it's a one for all pile.
- Mr. Maher You've got to apply it to all provisional appointments if you're going to enforce 45287. The problem what we've had is that I've tried to work with the district and even under weird exceptions, I can't get the district to one single provisional appointment to be terminated at any level, no matter what the circumstances. There's no response back in terms of us trying to work with them and I think that this is an ongoing problem, I think that it has to be partly resolved if we can't get the cooperation to come back in return at any level, in any position, in any circumstances. We've got not one so, I don't think you have any choice but to move forward if we're finding certain situations. It's not a matter of saying they agree in some cases and don't agree in some cases, it's a matter of

saying we're not going to do a single one and I don't know how to proceed with that kind of abstinence.

With Dr. Vollkommer, he and I discussed this and I know that there are other situations, other people involved in this process, I know that there are other indicators in terms of that, there are other situations that are present, but I can't see that every single one of the very few instances where I've tried to bring under the provisions of 45287 to some level of compliance. There's no sense of continuing on a case by case basis because it will be zero compliance no matter what so your only choice is to go ahead. This doesn't do anything except for this time, notify the governing board of the problem, make sure the board as board members have an awareness of it to be able to sit down and work through a process. Doesn't mean you have to terminate them all, it says to work out a process to minimize the negative impact that this has so it doesn't really force the application other than notifying the governing board and ask them to have their staff meet with myself and the Personnel Analyst to try and work out how we can still implement this process over time.

Mr. Barabani "When no eligibility list exists for a position in the classified service, an employee may receive provisional appointments which may accumulate to a total of 90 working days. A 90-calendar-day interval shall then elapse during which the person will be ineligible to serve in any full-time provisional capacity." It seems pretty cut and dry to me.

Mr. Maher The statutes are pretty clear. There are certain offenses here that are difficult, but I'm even finding provisional that were in classification long before the dispute over the jurisdiction of the exams. When exams were being completed in multiple cases by Classified HR these positions were still not being filled and people were being placed into them in provisional or out of class assignments and those positions were not being filled even when Classified HR was doing all of the testing. So these are not a matter of just because of what's happened in the past six months or a year or two years, it's going back to three and four and five years in some cases, where the district did not move to fill it when they were in fact, running the examinations.

Mr. Barabani I did hear it from the audience out there; this kind of goes back to the difficulty between the Personnel Commission and the district. I put a big question mark there because I'd like to correct that, I believe it was more of the difficulty the district was giving the Personnel Commission in trying to fill them underneath this law. We also had; well I think this is part where we lifted those when we had an individual in them. Ok, any other discussion? Call for the vote.

Ms. Early Aye.

Mr. Barabani Aye.

Mr. Salazar Nay.

G. It is moved that the commission approve the minutes of January 11, 2012 as submitted.

Moved	<u>Mr. Barabani</u>	Seconded	<u>Ms. Early</u>
Vote: Barabani	<u>Aye</u>	<u>Early</u>	<u>Aye</u>
		<u>Salazar</u>	<u>Aye</u>

Mr. Barabani Open for discussion and corrections, I have a couple. On page three and 41 of 50 of the whole packet, "Mr. Barabani, Harold Vollkommer, Mr. Barabani; yes, because the way I see it is that I would like to see the High School Diploma then, I also know the federal government," it's got the word "it" and it doesn't need that; "can come down and slam the hammer on the district."

Page 11, which is page 49 of 50 of the whole packet, where it says, "Mr. Barabani, only comment I have is Item B on high school diploma, we have seen," and then it says, "it appears that we all agree on this if it takes something as," I don't know, "trying to get away from the EOC," could we revisit that and see if we could make some type of understanding of what was really said there?

Nersidalia Garcia, Secretary III That's what you said.

Mr. Barabani What's that word?

Nersidalia Garcia, Secretary III "Grameosis," that what you said. I didn't understand what it was.

Mr. Barabani I said that?

Mr. Maher No, it's grandiose. Grandiose is probably what you were saying.

Mr. Barabani Oh, grandiose.

Ms. Early Grandiose as "trying to get?"

Mr. Barabani Yeah.

Mr. Maher And that probably should be EEOC.

Mr. Barabani Yes. I probably said that quickly. Any other corrections?

Ms. Early None for me.

Mr. Barabani Mr. Salazar?

Mr. Salazar None.

Mr. Barabani Ok, call for the vote.

Ms. Early Aye.

Mr. Barabani Aye.

Mr. Salazar Aye.

V. COMMISSIONERS/DIRECTOR COMMENTS

No comments were made.

VI. ADJOURNMENT

The commission adjourned the meeting at 6:39 p.m..