

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

MINUTES

July 11, 2012

5:30 P.M.

I. CALL TO ORDER

- A. The meeting was called to order at 5:30 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. Steve Williams, Ph.D., Personnel Analyst
 - 6. Nersidalia Garcia, Secretary III
- C. Pledge of Allegiance

II. APPROVAL OF AGENDA

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| 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.

**Steve Holt,
CSEA Vice
President**

Good evening commissioners, my name is Steve Holt, I am the 1st Vice President for CSEA Chapter 183. First I like to extend a thank you to the commission for extending the eligibility list for those jobs. It is a high priority for CSEA to get those positions filled and get rid of these illegal temp workers that have been working in the district and we believe that the more people we get hired the more it will work towards that goal and that end. Question for the commission there has been some concerns from CSEA over our legal matters that have been going back and forth with the county superior court and a lot of things that have been transpiring and I am kind of wondering where we are at with that status and if you can give us some type of update of where we are going. If you think things are improving or where the hold up

is between the district and the commission. Again CSEA would have a strong desire and interest to get things flowing for not only our members or our continuance but for the community at large, and I do thank the commission for extending the list they did that at the last commission meeting. I thank all of you to the commissioners for doing that.

Patrick Maher My name is Patrick Maher I just want to comment on the handout at about WOC I am not quite sure what that means. That is June 30th is on here it says Human Resources Director I requested PC to open recruitment on 10/26/2011 but, what it does not reflect is the district, after we spent time or after the commission rather spent time and spent money to develop and examination the district canceled that. Closed that position and continue fill it in violation of 42782. So this is not reflective here the district cancelled that position and the only reason it was not filled because it was ready to be open and recruited for until they put a hold on it and cancel it. Thank you.

Mr. Barabani Any other comments? All right we will move on to action items.

IV. ACTION ITEMS

- A. The commission will receive and discuss a report from the Personnel Commission Director on the status filling current vacancies from existing eligibility lists, termination of all temporary workers as of June 30, 2012, District compliance with Rules 6.3.5-6.3.7 and 6.28, why the District is failing to fill vacancies from existing eligibility lists, and a firm date from the District as to when all vacancies with existing eligibility lists will be filled.

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| 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 I would like to as the Director of the status of filling the vacancies from the existing eligibility list.

Mr. Flory Honorable chair members of the commission you have two handouts for supplement for action item IV (a). The first one is classification number of people comments and pending the commission approval and this are proposed to open which I will talk about in my comments. And it is pretty self-explanatory, what is been going on. As you are aware we have a new superintendent and Dr. Vollkommer has been unavailable due to him working closely with the new superintendent and he is pretty involved with a number of things. So this is the best information we are able to get as of today. Proposing under directors comments a solution to make this all work.

Mr. Barabani Number of vacancies and because of the layoffs we have no vacancies under custodian is that correct?

Mr. Flory That is correct.

Mr. Barabani Ok, then that goes with question number two the

determination of all temporary workers as of June 30th and has the district complied with those rules?

- Mr. Flory As far as I know, no. The district has a need to continue with those people until we supplied them with the list to solve the problems that we have been talking about. The misuse of manpower, the misuse of out of class, and the misuse of substitutes.
- Mr. Barabani Were they not terminated and rehired them after 90 days?
- Mr. Flory I think I believe they did that, I am not positive but I remember signing a number of actions indicating that.
- Mr. Barabani Custodians, due to the facts they have layoffs, are there any temporary workers in those positions?
- Mr. Flory As far as I know, no.
- Alexis Jenks, HR Specialist for PC The custodians that were laid off were hired in temporary positions, substitute position, we get them back hired. But they have not been any from the eligibility list for custodian one, as of yet.
- Mr. Barabani I am going to ask to fill in this vacancies from the district still fill some of the vacancies to fill the list that we generated do we know why?
- Mr. Flory As I understand once they get the new direction from Superintendent they will move ahead and fill specific jobs, I understand that they are going to change some jobs so they will be sending some information to us so we can fill some of the classified jobs.
- Mr. Barabani Then I am kind of still concerned about the people that are in the job as long as we the eligibility list they should be hired even if it is temporary 30 or 90 days so, I am assuming we still don't know all the temporary workers.
- Mr. Flory We don't because of Dr. Vollkommer's unavailability he has been completely unavailable, he has been tied up with the superintendent and interviews.
- Mr. Barabani Would HR have that information?
- Mr. Flory They are reluctant to release it without him reviewing them. So this is the best information we have as of today.
- Mr. Barabani What can we do to make sure the temporary workers are not denying the people on the list their rights?
- Mr. Flory Well, we have a solution for that, which I shall bring up in my comments unless you want me to bring it up now?
- Mr. Barabani No, let's hear it.
- Mr. Flory We are proposing and this is again a draft of the district, the commission, the union CSEA and others have a number of emergency problems which can be addressed on a special meeting of personnel commission as soon as possible.

Those problems are one, use and misuse of manpower and other outside employment agencies which, is you know it needs to stop. The use missed use and out of class has missed used and missed use the substitutes. So we developed an agenda for a special meeting and it will mainly consist of other things we will have ready for this as soon as you determine if there will be a special meeting and when. Approval of revised classification and some recruitment's for Superintendent Assistance which, as you know an emergency. The Assistant Nutritional Services Director, the Buyer, Electrician and, HVAC Mechanic, Employee Relations Director, School Police Safety Director, Senior Cafeteria Worker, and Transportation Director. And then on the next page we are bringing the Nutrition Service Custodian Utility Worker to you to ratify the eligibility list and Secretary III exam we will be bringing that to you to ratify that list. And we will be bringing to you on the item on the recertification on the Campus Security Officers which, will expedite the hiring there and then at that time bring a report from Dr. Steve Williams about your approved Environmental Compliance Safety Officer. It is my understanding on that issue that the district is planning on as I said the state of going on completely different direction. But you are giving clear direction that Dr. Williams work on that and he will have that ready for that agenda.

Mr. Barabani What happened, so why aren't we posting it on the 13th? Why? It had my initials on the last meeting, and I send you an email on that.

Mr. Flory We will like to have all these items considered on this special meeting that will solve problems, we believe plus it will give us a few additional things on it. And I like to thank the staff for staying late tonight working on this. Because some of the items were going to stay on flex at the end. The district is changing their minds on some things and we are trying to respond on that also.

Mr. Barabani So we are trying to move forward and get this on eligibility list and let's not agendize some stuff from discussion. Item C commission will reconsider approving the certification of as I recall did not we already do that?

Mr. Flory You certified and we are proposing to recertification. At that meeting Dr. Williams will be more than happy to respond to details it's not agendized here.

Mr. Barabani When was that list originally given? Was that back in October?

Alexis Jenks, HR Specialist for PC In March.

Mr. Barabani In 2011?

Alexis Jenks, HR Specialist for PC No of 2012.

Mr. Barabani So, its only four months old and we are going to go back and re do it?

Mr. Flory Yes, it will expedite and it will be explained when its agendized in a public forum we will explain the need for doing that.

Mr. Barabani I am assuming that they already hired from the list correct?

Mr. Flory I don't know if they have.

Mr. Barabani No one has been hired from this list?

Mr. Flory We are checking. We know the two individuals background on police officer.

Mr. Barabani Ok, that is a different list.

Mr. Flory Ok, yea, So they are in 5 vacancies, 10/24/12, interviews now on July 10th 2012.

Mr. Barabani And we hired no one since then?

Mr. Flory There are some problems that will discuss again when we agendize it. We have a thing for a productive solution.

Mr. Barabani When we approve this list did not we already set the ranking? Have people being notified?

Mr. Flory People have been notified of their ranking.

Mr. Barabani I am going to wait because it's not on the agenda. And then part of this do we have a firm date from the district as when all the vacancies exist on eligibility list?

Mr. Flory That date Dr. Vollkommer just walked in and I don't want to blind side him.

Mr. Barabani Can you get us the firm date and mail it to all the commissioners?

Mr. Flory Yes. As soon as he is available.

Mr. Barabani Let's move on to Item B then.

B. The commission will receive and discuss a report from the personnel commission director on the current status of all active recruitments, reason why the production of eligibility have not being completed, status of opening recruitments for Environmental Compliance and safety Officer, and an updated schedule presented to the commission on June 27, 2012 for projected recruitments.

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| 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>Abstain.</u> |

Mr. Barabani Let me hear about the current status of all the active recruitments and the reason why production and eligibility have not been filled.

Mr. Flory Honorable Chair members of the commission, that we were unable to get it on the agenda. That is why we are proposing this emergency/special meeting. That is on the agenda for

your approval.

Mr. Barabani When we had the meeting last month I was one of the persons that was concerned that it was too tight. I send you an email the following day to make sure you did all those things.

Mr. Flory Right.

Mr. Barabani What happened?

Mr. Flory We did not have any control over the agenda.

Mr. Barabani In what regard?

Mr. Flory We weren't permitted to add items so we proposed for a special meeting to put those items on.

Mr. Barabani Originally when I wrote to you on the 29th, you are going to, I asked to make sure that we have an eligibility list and things like that. Correct?

Mr. Flory We are on track with the matrix that you gave us to fill in.

Mr. Barabani On June 29th I asked you to make sure you place all the job descriptions that would be ready for July on the agenda. After 10 days of review period by the district and you knew because that is something they agreed to, right?

Mr. Flory That is right.

Mr. Barabani Then you said I controlled the agenda but on July 2nd you wrote me an email stating that you were going to cancel the meeting on July 11th.

Mr. Flory Honorable chair members of the commission, that was a proposed one to cancel the meeting I don't have the authority to cancel the meeting. Most of our staff and most of the district staff were unavailable the week of July 4th. It was impossible to get practically anything done that week so I thought it would be more prudent to go to that special meeting or another alternative is we over ruled and we wanted to have this meeting. We were handed this agenda and none of our input got on it.

Ms. Early Mr. Chair I want to ask what prevented input from our personnel commission director from getting on the agenda? What were the obstacles, Mr. Director?

Mr. Flory You are putting me in a difficult spot but we were handed an agenda in what is called in a PDF format and we were told not to make any changes on it that it was to go out as it is.

Mr. Barabani What date was that? Who told you that?

Mr. Flory The commission chair.

Mr. Barabani I did? What date was that?

Mr. Flory That was I believe Friday and probably around noon, one o'clock. The deadline for the agenda is Friday before the

Wednesday meeting.

Mr. Barabani

I wrote you back on July 2nd and you turned around and said there seems to be a problem, if we are not going to have a meeting. Right? Then you wrote me back with most of everyone gone, we need ten days for the district and union to review the job specs. Not enough time for our next week's meeting. With two and perhaps more lists being developed for later commissioner ratification it appears to be the right decision unless again I am missing something. Besides, commission and district staff are most likely gone the week before the meeting. Last week, last meeting I asked this looks like a tight meeting, you told me you were going 200 miles an hour and you were going to fill this, and now you are saying that I send the agenda. I am not denying it; I sent an agenda because no agenda was produced. I expect an agenda produced by Wednesday, which was a holiday so Tuesday would have been fine. It would have been ok to take one on Thursday, but an agenda was not produced so, I produced one to go with the regular scheduled meeting. I did state we could do something simple like put couple of simple minutes in it and then on the 5th you got an email for me. It's a regular meeting and the only reason you cancelled that was you stated an objective has not been completed that is the reason I made the agenda because you didn't fulfill the things and, you know, and I don't mind that, I understand, people get tied up. But to say that you could not make the agenda because I made it, I don't think it's a very factual statement.

Mr. Flory

Honorable Chair members of the commission if you recall the agenda before that the commission staff and I prepared an agenda we were told not to distribute that agenda in any shape or form and we once again were given an agenda by you.

Mr. Barabani

That is right, that is another issue. The reason there is issues about that and we can discuss it that is not on the agenda today we want to reagendaize that I will discuss that to and why we had to do that. You told me you were going to have an agenda with these jobs ready to go. Then next thing I know I get an email saying meeting is cancelled. We better cancel it. I wrote back saying there seems to be a problem, we are going to have this meeting. Right? I did not receive an agenda on Tuesday I didn't receive one July 4th. I received an email stating that you know you were trying to prepare one while fireworks were going off, I did not respond to that I had something else pressing. On the 5th I got this agenda, I understand if you did not make it, you did not make your scheduled you wanted to make. But I don't understand is that you could not make an agenda because I did not care. At no time did I send that agenda, I did not send one the 27th or the 28th and I carried one, two, three, four, and it is due Wednesday. I am not happy about this. And there were three e-mails on the fifth. I said are we going to have a

meeting. You said Mr. Barabani are we having a meeting on July 11th? If so what would you like on the agenda? I can't get an agenda by noon yesterday deadline did you know as we discussed. Then you ask me, "Are Pat or you going to be preparing the agenda for Friday posting"? I don't know where that came from. Most of the contacts from the district reviewed the job, and we made the agenda in Microsoft format the minutes have been emailed to you that is what you said on the email. This is July 5th, that's Thursday.

- Mr. Salazar Can I make a suggestion?
- Mr. Barabani Yes.
- Mr. Salazar My suggestion is that this matter be handled privately.
- Mr. Barabani He made a statement in public stating that...
- Mr. Salazar No, I understand, I have been sitting here, just, it's a suggestion I don't think that this is the form to carry that kind of situation with all due respect.
- Mr. Barabani Does anyone have any more input on this?
- Ms. Early I don't have any questions, but I am hearing that there were issues surrounding items being placed on the agenda for our June 27th meeting and, I would like to know what the issues were that kept our director from being able to place those items on our last meeting. So, if that means to be agendize for our next meeting. I would be more than willing to put that motion forward. You can put on to be addressed in the public form or closed session.
- Mr. Barabani So this is just a discussion. I think we can just agendize it.
- Ms. Early Ok.
- Mr. Barabani The other question is on this what is the status for the open recruitment for Environmental Compliance and Safety Officer?
- Mr. Flory The status is that number one, we have been informed by the district they are going to go completely different direction but, per your direction Steve has ready a testing procedure and announcement and everything else that you wanted which we agendized as for the special meeting. So the status is on track.
- Mr. Barabani So if we don't agendized it will it be posted on the 13th like we agreed?
- Mr. Flory I believe you need to approve that.
- Mr. Barabani Do we have?
- Ms. Early I am sorry, Mr. Chair you lost me. What is it that needs to be approved and what is the different direction?
- Mr. Barabani I don't know what that is.
- Mr. Flory Neither do I, but we have been told they are going in a

complete different direction. It may or may not be a police officer position and, they are going to handle it completely different. Again, and if you recall there is a new Superintendent, and the Assistant Superintendent is working closely with the new Superintendent, and there is a whole new direction going over this.

Mr. Barabani I understand this but I also heard this since January. Saying they are going to do and nothing is happening. We have a judge saying that this position has to be filled, its sitting in our laps. What we can do and proceed forward and testing what they do with the eligibility list what they do after that it's about 6 months.

Mr. Flory Per your specific direction, Dr. Williams has developed a selection procedure. We will have that announcement and ready to go once you approve it. I think it needs to be agendized and, we will have it agendized for the special meeting. Once you approve it, it fits right in with the matrix you gave us to fill in that the dates, times, places, types of tests, procedures and everything else. We are on track with that. If you would like us to go ahead and announce it we will go ahead and announce it.

Mr. Barabani That was supposed to be on the 13th correct? Originally from the last meeting. We supposed to it was Friday the 13th that it was supposed to announce it. I remember.

Mr. Flory Today is July 11th so if you are telling us that you are approving for that to be announced, we can announce it on the 13th and ready to go. You already approved the class specifications. There is a discrepancy between what you approved for class specification and the direction the district is going, and I can't get the specifics on the recruitment.

Mr. Barabani I am just trying to stay on track from what we approved last meeting.

Mr. Salazar If I may this for me to understand this. The revisions to the classification specs were moved upon, voted upon at the last meeting. The next step is for us to announce that? Is that correct? This is dated on the 13th.

Mr. Flory Right and in order to announce it we need to have the selection procedure developed and Dr. Williams has the information.

Mr. Salazar And we have not seen the selection procedure yet?

Mr. Flory No, we have not seen it.

Mr. Salazar: So we have not seen that? So the selection procedure is ready to go? Is it ready to go now? At this point? When would it be ready to go?

Steve Williams By Friday.

Mr. Salazar By Friday, so that would be ready to go by Friday? At that

point we could then proceed but; it sounds like we might be proceeding for more purposes, if the district is going in a different direction any way.

- Mr. Flory: Honorable chair members of the commission, that is essentially correct, yes.
- Mr. Salazar So if the district goes in a different direction then they will come back and, then they would basically start the process over and work on that.
- Mr. Flory That would be correct.
- Mr. Salazar Ok, thank you. Cause I don't see working towards something that is going to be moved in the first place and spending much more time on that.
- Mr. Barabani Well we spent six months on that. I keep hearing that about this mythical and it is mythical.
- Mr. Salazar Well then Mr. Chair we can go ahead and move forward and waste the time of the commission or perhaps not waste the time of the commission.
- Mr. Barabani But we don't know do we?
- Mr. Salazar Sounds like it is pretty clear that they are going to do a different direction, they told our director. So it sounds like for us to continue.
- Mr. Barabani Well, they stated that before it has been six months.
- Mr. Salazar Then by all means we should move on this.
- Ms. Early The district has had input to class specifications is that not correct? So they all ready had input to what was approved by the commission, is that not correct?
- Dr. Vollkommer No, it's not. I know I am out of order.
- Mr. Barabani Yes, go ahead you did make input to but go ahead.
- Dr. Vollkommer I don't mean to be out of order, but I don't want this information to be out there.
- Mr. Barabani I am not trying to have a free for all like we had in the past, go ahead Dr. Vollkommer.
- Dr. Vollkommer I apologize for been late today and not being able to be here last time. I did ask Gladys to make comments. She was probably more pleasant then I was. I did state in those comments through her that the district had not agreed to the changes to the duties. We have not agreed to that, the last meeting that Mr. Williams and I had and that is the only meeting that we had, is the most recent. We did not agreed with those duties, that was stated for the public record that we had not agreed with those duties and you approved it anyway. So I believe you approved a set of class specifications that we have not agreed to in terms of the duties. If I can clarify ok. And Mr. Barabani I respect and feel you're in patience on this

ok, we have an Interim Superintendent that wanted to go in a particular direction to this position. There was disagreement between the district and the personnel commission staff at the time. And I think that is very well laid out if you look back up to your agendas from the past meetings that are very well laid out. The district believes this; we don't believe this etc., etc. so I don't think there is any question about the point of disagreement ok, the new superintendent has been on board for a short amount of time. It has not been obviously everybody wants a piece of his time. I don't know if he is going to want to go in the same direction that our prior Interim Superintendent wanted to go for this position. I had a conversation with acting Chief Paulino, ok. We got his input on it. But, I have not had a chance to talk to Dr. Marsden in terms if that where he wants to go on that position.

Mr. Barabani Way back when we started filling positions. I am going back as far as January; it might be a little bit before that.

Dr. Vollkommer Ok.

Mr. Barabani One of the things we were trying to get the job, I don't even know, and then later on when we were trying to approve it, we found out later at the last minute reagentized it because there was a judges, basically he said that position has to be filled. So we hustled started to making the test and we started getting objections on that. We have judge saying it got to be filled. I am not hearing anything different here. Now were going to comply with that. We go give the test and I kind of like to do what the judge says. Just for historical things Mr. Maher is on the back this is the free for all we're going to open it up since you were there can you give me some inside on this, I know most of it.

Mr. Maher The basic issue first of all you had an illegal provisional working in that position direct violation of statutory time limits for year. When I went to the district and I asked them to remove that person from that illegal assignment, they refused to remove that person from that illegal assignment. So now the same person is continuing to work for illegal assignment and to my knowledge that person meets none of the minimum qualifications that are established in the existing classification specifications. None of them. Second thing is the information that we gained is that over time this position changed from an environmental compliance officer which the court requires to be filled to more of a safety officer. The district has not been willing to sit down and actually come up with something concrete they keep talking about it, they have nothing in writing, nothing in writing with the former attorney and inter superintendent said, well I want to go a different direction, and we never received anything in writing about that, never. Nothing is committed to writing we don't even know in what direction it ends. Then we get a new superintendent and they can't talk to him and you don't know what he might do and we don't know when he might get around doing in it. So you will

continue a process of keeping an illegally hired person provisioning in that position again for maybe another year or two based on the past of the district so this is a problem that you're facing in terms of complying with the statutory provisions of filling it in. No matter how the district goes it requires to have a Environmental Compliance Officer, they cannot have additional duties if they want to shift those duties out and put them into another position that can be done without disturbing this recruitment because you are recruiting for Environment Compliance Officer and then you can just reassign duties that you would anywhere else and you would not waste time and you would not affect anything else. If one day you ever get around doing anything, every different round if you decide to do anything different then at that time you can deal with it. Based on the history so far you may be two or three or four years down the road, if you have funds for it. The second time is the district made a desire to be called a police position, only the commission can designate it to be a police position. The district can request, they can recommend but only the commission can declare to be a police class. And I tell you by my experience in law enforcement and personnel there is no justification of any kinds to make that a sworn duty police position. There is no factual basis, no legal basis, and no factor basis no matter what they do. Unless they create an artificial position some kind that they can say that person becomes artificial but, at the present time everything is before you there is no legal basis for even considering this should be a police position with possible exception of making sure of one particular person might get that job.

Mr. Barabani

The person that is in that job illegally if I am going to make a call just so I can state it on public. We already discussed this because that person came up and was going to make input on this position. If I am wrong here and I specifically asked the director that we should not pay because I would consider it a conflict of interest because this person is holding this job now illegally to have any input. Remember that? And then again he came back the next meeting saying he did so, we proceeded on that. Mr. Vollkommer how do we fill this and still meet the judge's requirements? I mean how do we not fill this and still meet the judges requirements? How do we not since we specifically said we are going to have this thing? We have to move on, and we are going to do our part and we are going to give you an eligibility list and I guess it will be your ball part after that.

Dr. Vollkommer

First of all I will give you my opinion Mr. Barabani and say all of them; it's in our ball part anyway. If you take into account what Mr. Maher said, he essentially said that we delayed the process, so I don't think any judge is going to come back on the personnel commission and say you have not done your job particularly if you made attempts. I am not going to predict what a judge would do but, I would have to think that things are pressed with the district and now with the personnel

commission. I am not suggesting that as an excuse for delay either. I just want to make sure that is not we don't take that weak on what I said. When I can get a brand new superintendent come to the new district he has lots and lots on his plate. I am not saying this is not important but, there are many things that are important to him getting off to a good start. As I mentioned I have talked to acting Chief Paulino on this position of his believe is. I actually think and this is an assumption on my part so I want to qualify as such ok. I believe that after talking with Joe, I believe that the position would probably be more on line with what we currently are looking at as opposed to a police class. But I have to give the superintendent an opportunity to at least consider it.

Mr. Barabani We already passed it, we moved it along and, we are going to I'm just saying we are going to move it I send a thing to have this ready to go out on the 13th. Now I am hearing that no. Where does it say we are going to move down the road again? The commission stand point we voted we don't have to do anything else but fly the position.

Dr. Vollkommer Other than you approved it without the district agreeing that it is.

Mr. Barabani We would be a little happier. One thing I do know the district has a lot of attorneys and none of them have gone back to the judge and said, "hey, what is up with this?" We have not heard anything so we are just sitting down in our end. I don't know if you can call it mandate or we just go with what we have. This has gone for so long I don't even remember what the question is.

Dr. Vollkommer We did not request it.

Mr. Barabani It was in the packet I remember it was on the list of names and recently fulfill it. So I don't know.

Dr. Vollkommer I will go back and double check, but I don't believe that the request that the district made to the commission is not one of this positions.

Ms. Early Mr. Chair is that position currently being filled by a provisional employee?

Mr. Barabani I don't know why and who the person is it's just someone they just put in there. And as of right now if you ask me that question I don't even know if that person is in there. Do you know Mr. Flory who is in that position right now?

Mr. Flory The individual who has been there before is the same person.

Ms. Early Do you know how long he has been in that position?

Mr. Barabani I think Mr. Maher said well over a year.

Joseph Paulino,
Interim Chief of
Police Negative.

Mr. Barabani Huh? Negative? How long?

Joseph Paulino, Interim Chief of Police Is listed in here.

Ms. Early Over 90 days? Did we receive any alternative verbiage that was not implemented on the class specification from the district? Can you give us a time frame when we can get that input?

Dr. Vollkommer I have that on my agenda to talk to Dr. Marsden. We are away on Monday and Tuesday as a staff together that is one of the things I plan to speak to him about.

Mr. Barabani So we are agendizing it?

Ms. Early Yes, I need to make a motion. Mr. Chair I move that we receive an update on the opening recruitment for the Environmental Compliance Safety Officer at our next commission meeting.

Mr. Barabani I will second it. For sure we discussed it.

Mr. Flory Honorable chair members of the commission, if you concur that we have the special meeting we have that on that agenda. But we are not positive that the district would have input back to us by then.

Mr. Barabani We are not sure about that date either. Call for a vote.

Ms. Early Aye.

Mr. Barabani Aye.

Mr. Salazar I will abstain.

Item C. Mr. Barabani: I will move on to Item C the commission will receive and discuss the report from Kristine Kwong, Esq. concerning the investigation into alleged violations of the Brown Act by two of the commissioners levied by another commissioner.

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

Kristine Kwong, Attorney for Musick, Peeler & Garrett Good evening commissioners, you have charged me with investigating a complaint that was written by an attorney Richard Marca, that two of the commissioners had violated the Brown Act on October 14th regarding a meeting that took place in the parking lot after personnel commission meeting. So as part of that charge I interviewed as many people as I could that witnessed this event if it happened including the two commissioners and two additional witnesses that were there at that night. So I prepared the report and I have it here, I like to submitted to you for any discussion. So basically the just of the report my findings were that there was no violation of the Brown Act. The basic allegations of the complaint were that on the night of October 14th commission Salazar witnessed the meeting between commissioners Early and Barabani outside

of the parking lot. To discuss something with the jurisdiction and the personnel commission. And as part of the investigation what I found that no such meeting ever took place. Commission Barabani denies ever seeing commissioner Early out at the parking lot. Commissioner Early denies seeing commissioner Barabani out on the parking lot. These two denials are verified by two of the witness that I interviewed. I interviewed Steve Holt, and I also interviewed Pat Maher. Mr. Holt told me that he saw commissioner Early as she walked to her car and he did not see commissioner Barabani outside in the lot at that time. Mr. Maher when I interviewed him told me that he was out by the district offices with commissioner Barabani. He left the premises for a while and when he walked out to the parking lot he saw commissioner Barabani out in the parking lot and did not see commissioner Early at any point or time. Under the Brown Act and the Government Code when there is a quorum of a government body such as yourself you are not allowed to having discussion on anything that is within the jurisdiction of the personnel commission unless you followed the agenda rules which is you need post your agenda and have a dully notice meeting. In this case I made to two findings. Number one there was no meeting and as result number two there was no discussion with respect to personnel commission business. And therefore does not meet the definition of meeting as that is defined under the Brown Act.

Mr. Barabani Thank you.

Kristine Kwong,
attorney for
Musick, Peeler
and Garrett, LLP

Ok.

Mr. Barabani I would like to make a motion we received this report, I asked for some time to review it and then bring it back to the next meeting.

Ms. Early I second.

Mr. Barabani Open the motion for discussion. Any questions?

Mr. Salazar What is the purpose for that?

Mr. Barabani I want to read it thoroughly and look it over.

Mr. Salazar And?

Mr. Barabani Make sure everything is correct.

Mr. Salazar And I don't want to waste the commissions time we have a very important report on here and I understand you want to read it I do to but, basically we heard the legal conclusion and again I don't see any reason to wasting any more of this commissions time on this issue. You talk about issues that continue being dragged up; I mean there you go this is an issue that has been going on since October as well. One of

the other components is this is also cost money to have investigations. Now we have the conclusion. Should that just be end this issue and let's move on to more important issues matters that are affecting the district and the personnel commission? And tackle this bigger problems I much rather see that time spent with this on issues related to this proposed agenda that our director has given us. Rather than that there is nothing more to do on that issue it is a dead issue. Now if the purpose of that is to go ahead and read that and then go ahead and attack me then let's use this time right now and attack and get it over with. You know I just think that the issue is complete.

Mr. Barabani I don't even know where to start now on that about the impact. As I recall I am one of the parties that was attacked.

Mr. Salazar Ok, I am not going to debate on that.

Mr. Barabani Ok, hold on. I just listened to you and I did not interrupt. Now you are accusing the person who was attacked and asking them to attack you. I did not do anything.

Mr. Salazar I am not accusing you at all.

Mr. Barabani I have been attacked, I move this forward. That is all I got to say.

Mr. Salazar Good.

Mr. Barabani Any more discussions?

Ms. Early I concur with us agendizing as I have with other information that we have been handed at a commission meeting. I have not read this I just have been given and just received it and therefore; If there is any questions or clarifications we can talk about it at a later date.

Mr. Barabani Call for the vote.

Ms. Early Aye.

Mr. Barabani Aye.

Mr. Salazar Nay.

D. We will move on to approving the minutes. I went through the minutes and there is a lot, for such short minutes I have a lot of corrections. I like to make a motion that we reagendaize the minutes.

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

Ms. Early Is this not our second time that we submit for corrections? As part of our agenda package?

Mr. Barabani Yes it is. Call for the vote.

Mr. Salazar Aye.

Ms. Early Aye.

Mr. Barabani Aye.

Mr. Salazar Is that just for the first group?

Mr. Barabani I did say the minutes ok, if that is all right with you?

Mr. Salazar That is fine with me at this point.

V. COMMISSIONER'S/DIRECTOR'S COMMENTS

Mr. Barabani We now move to section V. start with commissioner's remarks

Nersidalia I have a comment; I have never received any corrections on the
Garcia, minutes. You never emailed me anything that you wanted
Secretary III something corrected. So if you can email me that or give me a
 copy of them I would take care of it.

Mr. Barabani What I would do ok, sorry we are out of order.

Nersidalia I could take what you have right now.
Garcia,
Secretary III

Mr. Barabani As soon as this is over take this and photocopy and it has the
 corrections. I need this right now.

Ms. Early I am sorry, I know we were on the middle of commissioners
 Salazar's remarks I have a number of corrections and I would just
 like to recommend that you review the tape because it looks like
 there is a number of words that have been interchanged for
 instance, I can leave you my markup copy to. Page 8 of 21, Mr.
 Myers response in the second the last sentence it says, "at 20
 years called multiple witnesses over 20 days", and that kind of
 stuff all through the minutes. Where I don't know what he said but
 I know he did not say that. So I would like to recommend that you
 review the tape compare it with the minutes that you are
 submitting so that we can get the just of what was said. It makes
 it difficult to pencil in the corrections when we are receiving the
 minutes four months after the meeting took place. I don't know
 what you said. Maybe if I had received it two weeks later next
 meeting I might of being able to remember what he said and
 made the corrections but now I just got to question, what did he
 say? And I got those periodically throughout the minutes. So
 that is my recommendation and I am sorry to interrupt you Mr.
 Salazar I know you were on the middle of your remarks, I just
 wanted to offer that as a recommendation, and I can leave you
 my marked up copy but several sections I have just have
 questions marks because I don't know what they said there.

Mr. Salazar I agree with you it's important to get the minutes correct whatever
 we need to do to get those corrections to Nerci. I would totally
 agree with that so she can move forward to correct that.

I briefly want to thank Mr. Flory for putting together a proposed
agenda for a special personnel commission meeting. I don't know
if next meeting is a special meeting or is a regular meeting. I'm
not sure which ones are the special or which ones are the regular

any more. Or if they are all regular.

Mr. Barabani

In December we had made 2 times a month. That is why I was kind of reluctant to not have another meeting.

Mr. Salazar

And that is why I raised that point because whether it is a special or an additional meeting I would like to see this proposed agenda and this items on that agenda ok, incorporating for the record I would like to see all this on the next agenda if we think we have enough time to tackle all this, or the agenda that follows. I would look for direction from the director in terms of whether we can cover all of this at the next meeting which would be in two weeks from now.

Mr. Flory

Honorable Chair members of the commission, in response to that specifically what we are saying are the sooner the better. This is essentially ready to go.

Mr. Salazar

For the record then my input to the next agenda is for Mr. Flory has prepared and I like to see that on the next agenda.

Mr. Flory

You are saying the 25th?

Mr. Salazar

I would like to see that on the agenda on the 25th. That concludes my remarks.

Mr. Barabani

I don't have any.

Ms. Early

And I will concur with commissioner Salazar, a little bit in the state of confusion right now because I did receive several emails stating that there was no reason to meet, then our director had nothing for the agenda with copying on those emails. So I am surprised that to hear that there was items to be placed on the agenda for today that did not get on. I concur with commissioner Salazar that this items are important and, I am looking forward to discussion on what happened at our last scheduled commissioners meeting where items weren't placed on the agenda and if they were some concerns surrounding those items that weren't place on the agenda because we do want our items properly agendized according to the Ed Code. So I appreciate seeing commission staff here and I appreciate your support and all the hard work that you do.

Mr. Flory

Honorable Chair members of the commission, you will be happy to know that in partial of response to addressing some problems with the minutes and some other obvious problems with this room, we have ordered a sound system, microphone, podium and that sound system will work directly with the cd burner so that we will have clear accurate recordings of the meeting and, that should help us make clear and accurate transcripts of the meetings. We also ordered flags so that we are doing in respect for the Country and the State by having normal size flags here since we will be meeting here in the future. The mission project is moving along. There are copies for each of you. These are just informational items again. As I have stated previously by coming up with a draft and again this is a draft of mission, goals, and accomplishments, everything at one time it was too much to bite off. So it is in reverse order, page 2, it is a recommended commission mission and our customers. Again this is a draft.

Then for your recollection presented on June 27th meeting was the results of outcomes performance of the commission. So we would like to get as much input as possible we got some good feedback at some point in time in our near future once we have everything to go and everyone is reviewed and everybody's comments we will bring this agenda to the commissioners for approval and this will give us an overall for the commissioner customers goals, objectives, results and measurement that treats programs evaluation. It is a very comprehensive way that modern organizations feel with what they are doing anything on track so everyone knows what page we are on and what we are doing.

I will radiate the need for a special meeting although; we agreed that Pat will be on the next meeting. I appreciate it if you think about maybe after you review the packet which is a surprise that maybe have it by next Wednesday or so. Thursday and Friday is a management retreat which will require for me to attend so Wednesday I will be available. We are and I am complimenting the staff on this head of our performance standards that have been given to us in writing and part of it was given an email and part of it was discuss I have some more comments and we can discuss that in closed session. We are back in California School Personnel Commission Association that is CSPCA which we were out for a while. Now we have them as a very valuable resource we need to compare to what we are doing to other organizations. And that concludes my comments. Thank you.

Ms. Early

If I may just a comment since we were talking about Brown Act violations earlier today. I replied to an email that stated there was no reason to meet today. That I received from our director and my reply was I already calendared the meeting for this week and I am prepared to meet as previously stated. And then I saw a response stating that Rhonda gave no reference to when she said she was going to meet. And I do not want to be accused of another Brown Act violation outside of these meetings. I want you to know that this schedule of meetings here was all agreed upon a public meeting by three seated commissioners. And I calendared each one of these dates. So when your reply, I see no reference to when its recorded on the commission meeting minutes that we would have a meeting today. So when I say I cleared my calendar I don't have a secret parking lot meeting to clear my calendar for today's meeting I cleared it during a public section meeting when we agenda all these meetings. So all of these meetings I am prepared to attend before we say or do we need to have a special call meeting? My question is or I guess is my confusion would be what the justification is for a special call meeting is when there was no need for us to meet today. I am prepared to meet on the 25th if we are meeting before the 25th I have to check my calendar because I only put on July 25th. So that would be my question and concern for justification for special call meeting. If this meeting was to be obsolete and not to happen today. So if we were going to have a special meeting when would we have it? For sure I am coming on the 25th if nothing

- prior happening that I haven't prepared for.
- Mr. Barabani If you are asking today is the 11th 19th and 20th I guess they are out because the managers are going to a retreat. You got 16th, 17th, 18th, and then we got the 23 and 24th. We can discuss this now or later we are not violating the Brown Act even if we do it in closed session because we are just speaking about the having the meeting, we are not voting on anything.
- Mr. Salazar Mr. Chair, my suggestion is that we just incorporated this on our meeting on July 25th I don't see any need unless the other commissioners do for a special meeting. I think we can cover this on our next regular meeting. That is why I asked what is regular and special and so on.
- Mr. Barabani Actually it would not be special it would be an emergency. And I don't have an issue with that the thing is once again I haven't reviewed this thing here, let's all look at it, but keep this draft here.
- Mr. Salazar That gives us time if we say let's look at the next regular meeting instead putting in time crunches.
- Mr. Barabani That is our goal, if we see something in there that is an emergency?
- Mr. Salazar I just don't know if I can do the 18th and I don't think any of us do know.
- Mr. Barabani All right, we are now going into closed session. The commission adjourned into closed session at 6:55 p.m.

VI. CLOSED SESSION

The commission adjourned into closed session at 6:55 P.M. for:

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

EXISTING LITIGATION (Section 54956.9a): California School Employees Association And Its San Bernardino City Chapter No. 183, v. San Bernardino City Unified School District; Governing Board Of The San Bernardino City Unified School District; Superintendent Arturo Delgado; Personnel Commission Of The San Bernardino City Unified School; And Does 1 To 10, Inclusive, Case No: CIVDS 1106215

Pursuant to Government Code Section 54957 to discuss:
PUBLIC EMPLOYEE PERFORMANCE EVALUATION
 Title: Personnel Commission Director

VII. ADJOURNMENT

The commission adjourned the meeting at 6:55 P.M. with no report.