

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

**MINUTES**

October 29, 2012

5:30 P.M.

**I. CALL TO ORDER**

- A. The meeting was called to order at 5:37 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. Abram Flory, Personnel Commission Director
  - 5. ~~Nersidalia Garcia, Secretary III-absent~~
- C. Pledge of Allegiance

**II. APPROVAL OF AGENDA**

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

Mr. Barabani     Item II. Approval of the Agenda, I would like to make a motion to approve the agenda.

Ms. Early         I would like to have bullet number three (3) stricken from this agenda and future agendas under "Public Comments Open session Items". I think if we leave it on I don't see a reason why it needs to be underscored and bold font, so I would just like to have it off and if it becomes a challenge at the Commission Chair to ensure that public comments are public comments as opposed to a back and forth discussion.

Mr. Barabani     Ok.

Ms. Early         Also as part of the backup material on the first page it says that midway the page, it says that the district raised an objection to this action item that is on the agenda today at the meeting of October the 24<sup>th</sup>. I just want to note that the action item that is on the agenda today is different from the action item that was on the agenda last week. And it was not only the district but CSEA also raised opposition to the item that was agendized last week. So I just want it to make those comments.

Mr. Barabani     So different item and it was the district and CSEA who objected?

Ms. Early         Correct.

Mr. Barabani Thank you. Just clarifying for the record.

Mr. Salazar Let's see if I have this straight. You are asking that we delete bullet point three?

Ms. Early Under "public comments open session items", yes I don't think it's necessary.

Mr. Salazar Ok.

Mr. Flory Just as a point of order, yours is just a comment on the back up of the agenda item IV. A. that the district and CSEA had raised an objection to pass, that's just a comment right? It's not a change?

Ms. Early It was a comment that they raised an objection to the action item that was on last agenda. This action item is a different action item. So yes it's just a comment.

Mr. Salazar I agree with you and just a second additionally under action item IV. A second line there it says Chair to supervise there it says *press dir* and I get lost, it doesn't make sense.

Mr. Barabani Supervise the pertaining, just take that out. It means pertaining.

Mr. Salazar Supervise the what?

Mr. Barabani It's just the "chair to supervise pertinent to the authority of Ed Code Section."

Mr. Salazar Supervise?

Mr. Barabani Pertinent that should be a comma.

Mr. Salazar Pertinent and not pursuant?

Mr. Barabani No, I don't care about that.

Mr. Salazar Well I care, I want an accurate agenda, and so what should I strike?

Mr. Barabani You can say "the commission will discuss and direct staff over the authority of the commission chair to supervise" and then put a comma there, "pursuant to the authority of the Ed Code section 45264".

Mr. Salazar So you are saying strike the P-R-E-S space D-I-R?

Mr. Barabani Yes, and that what you said before is correct is this is the same thing.

Mr. Salazar So we are not going to use the word "*pertinent*", we are going to use the word "*pursuant*"? Ok.

Ms. Early Well I am not sure what that means there, because I was thinking that *pres* was *personnel commission director* and it was just a typo. So we are striking that and I am not clear on who we are supervising. So I was thinking that to supervise the Personnel Commission Director and then it was not spelled out pursuant to the authority of?

Mr. Barabani But it was, well ok, it's in the motion so I didn't, that is why I didn't care if it if it was in there or not. I saw that earlier.

Ms. Early Ok. All right.

Mr. Barabani Whatever you guys want to do it does not matter, you can put that in.

Ms. Early Ok, no problem.

Mr. Barabani It's fast typing.

Ms. Early So we are striking "press d-i-r" under action Item A. That's what you said?

Mr. Barabani Yes.

Ms. Early Ok.

Mr. Salazar So is the motion now to approve the agenda with the changes?

Ms. Early Yes.

Mr. Barabani We are going to get rid of bullet point number III as the first item. Second item was 1, 2, 3, 4, 5, Fifth paragraph down the district, CSEA first off this was a different item and the district and CSEA objected that.

Mr. Salazar I can't follow you Mr. Barabani, what are you talking about? Where are you?

Mr. Barabani Ok. I just wanted to make sure we got.

Mr. Salazar I got the first one.

Mr. Barabani Ok, let's go the second one on the third page, it is the district raised objection that is 1, 2, 3, 4, fifth paragraph down, Ms. Early stated that this is a different item this time and that the district and CSEA objected the other day. And

today was just a comment on that. That she made a comment.

Mr. Salazar Is there anything for us to change on page three?

Mr. Barabani No. But it's important we get that comment in there. I wanted to verify that's all.

Mr. Salazar I mean we can't add a comment on the permanent agenda.

Mr. Barabani No, but it will be on our next agenda. Then we will strike out "press dir" because it was a typo and the motion below it. Call for the vote.

Ms. Early Aye.

Mr. Salazar Aye.

Mr. Barabani Aye.

**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.

Mr. Barabani This is the time for public comments and open session on item III. No one else present for comments. Move to Action Item IV. A.

**IV. ACTION ITEMS**

A. The commission will discuss and direct staff over the authority of the commission Chair to supervise pursuant to the authority of Education Code section 45264 a proposed motion is:

It is moved that the commission appoint the Commission Chair as the day to day supervisor of the Personnel Commission Director and that the Personnel Commission Director complies with any directives or requests by the Commission Chair.

Moved Mr. Barabani Seconded Ms. Early

Vote: Barabani Aye Early Aye Salazar Nay

Mr. Barabani I make a motion.

Ms. Early I second.

Mr. Barabani Open for discussion.

Mr. Salazar Can I make my comments?

Mr. Barabani Sure.

Mr. Salazar Ok, I don't.

Mr. Barabani Ok, it should be recording.

Mr. Salazar Ok, with respect to Action Item IV A., which was moved by the commission chair and second by the Vice Chair, Ms. Early? This item we have seen somewhere in the past and, if I am not mistaken this authority was voted in some point of time previously. Number one, if that is the case and my recollection is correct then it is a redundant action item. Second, I cannot agree with this action item. We have a personnel commission director first of all, who is in charge with directing pc staff; our position as commissioners is to oversee the commission on and with no disrespect to you Mr. Flory, on more of an executive level. In other words a higher 30,000 foot view of the commission and the working of the commission. I don't see our function, any of the commissioner's functions since we all have and are gainfully employed with regular full time jobs. How any commissioner can effectively oversee the day to day operations of the Personnel Commission Director? Every time I come in to this office here there is quite a bit of activity going on and that is why we have Mr. Flory in that position to oversee and monitor the day to day operations of the personnel commission staff. So one, I don't think anybody here has the time to do it. Two, I don't think anybody here with all due respect to my fellow commissioners is qualified to do it. If that was the case we would probably want to, according to our own merit system fly the position and, have another layer of supervision for Mr. Flory employed actually by the district so somebody can watch him on a day to day basis. This doesn't make sense and something is just not right about it, as my grandmother use to say, "something seems a little fishy here". I can't put my fingers on it but let's again talk forget about talking in abstracts. The facts of the matter is one, nobody is qualified to do this here of the three personnel commissioners, myself included and two, none of us that I am aware of has the time to perform this function. So I will leave it at that and that will be the extent of my comments with respect to this issue.

Ms. Early I will comment. I do echo your concerns commissioner Salazar but, I am also concerned about the disjointed direction that we appeared to be moving into. I feel like I am spending too much time trying to make heads or tails on what is going on. I am getting an email, agenda, and then I am getting a hard copy agenda. I show up at a meeting where the doors in the office were locked and we were all standing outside calling security to let us in the

building. So there appears to be a lack of continuity in the direction that we are moving into. So for that reason I would like for the commissions chair and our commission director to kind of be more on the same page so that the information that we receive is not so confusing. Just a couple of meeting ago I asked the question, "Why we are receiving so much paperwork to approve if we are not moving forward in filling the positions?" So I am concerned about follow through things that are on the agenda and where we go from here. It doesn't appear to be a clear cut protocol for the direction in which we are traveling and, for that reason I ask to pull a similar item that was on the agenda last week for clarification. I didn't understand why it was on there but thankfully Dr. Vollkommer gave us some background to read and research and I appreciate that background. I am requesting and I think I requested it a prior meeting for similar background to be provided to us as a related to the positions that are associated with the Cafeteria Workers. If there is a legal requirement to pull education requirements we need to be able to review that verbiage for ourselves as opposed to just taken someone's word for it. So those are my comments and I would like very much for our Commission Chair and our Commission Director to work hand in hand to better serve the District. Those are my comments.

Mr. Salazar I made my comments to the extent that I would. I would agree I mean there needs to be cohesiveness among all of us and, I would also agree that we have not been cohesive group; and I don't think that this item helps that. The way I read this item is "it is permissive for the chair to dictate at will and when convenient to the Personnel Commission Director." And I say that because again in order for anybody to perform this function in my opinion they need to be on premises a minimum of 40 hours a week it is a full time job. This is a full time job, direct supervision of this office and the officers of this office and all that goes to understand that absent clause of what is going on with all the various agencies and entities that the director has worked with. You have the District, you have CSEA, you have potential hires coming in, and you have people that are working on the district there are so many different things that goes on in this office. In order for somebody to supervise Mr. Flory and staff is that they supervise him essentially they are supervising the staff as well; It's a full time job. I just respectfully don't think that the Commission Chair has that kind of time to commit to the effort and if it is going to get better between the Commission Chair and the Commission Director absolutely, I concur with you 100% there needs to be an effort to work together and that is for both parties, both sides, all sides.

Ms. Early I agree.

Mr. Salazar I have yet to witness that and I really do want that for the children of this district. Because ultimately they're the ones that are suffering and it's time to stop that.

Mr. Barabani Well this is an item that is somewhat similar and redundant to previous agenda to these items, as you said, and it's on here partly is clarification. I do like what you are saying about this stuff out to get moving get this jobs and positions filled and get aboard with the district. It is being going on for a long time. The district has interfered for the last three coming up on four

years and when they fired Mr. Flory originally we fought here, we had nobody sitting here. The chair had to sit here and take over and do the daily work. I wish I would of heard then the impressive speeches you made today about how we needed somebody but, you fought us filling those positions the whole time for three years. Then the district put somebody there illegally and you tried to help keep that.

Mr. Salazar Are we going to talk about this action item or?

Mr. Barabani That is what we are talking about. That is what you stated. Let me answer you, I did not interrupt you, so do not interrupt me. You were all over the place here, and so, I took notes so let's not forget. You said the person did not have time but this commission took the time to do what was right. Even though the district kept us from filling the position, even though they put somebody in the position illegally and even though they let Mr. Flory sit out for years on them knowing they had no right to dismiss him. So we were supervising, and not only that the law states that the commission supervises the staff. It says so right in the law.

Mr. Salazar Which law?

Mr. Barabani Well look it up. It is under the merit system, I am not here to teach you.

Mr. Salazar You are quoting the law.

Mr. Barabani I am not here to teach you.

Mr. Salazar You are quoting the law; you don't seem to have any...

Mr. Barabani Like I said you did not have any objection to once before and now today you are objecting.

Mr. Salazar Objecting to what?

Mr. Barabani To this thing here, to the supervision motion.

Mr. Salazar Oh yea, look at the vote on that, you'll find out if I objected. That is a part of public record.

Mr. Barabani But filling the position is not being top priority here not top priority at all. We are sitting here trying to produce lists where I asked for clarifications we are not receiving them and like I said the Chair has no problems and I don't like the fact that you stated there were problems by doing this. Those are my comments.

Mr. Flory My turn?

Mr. Barabani Sure. So you are speaking as the director?

Mr. Flory I am speaking as the director. I would have spoken under the other item had I been a member of the public. Honorable chair members of the

commission, according to Aries Spears, in certain communities you can say about anything you want without offending as long you include the statement, no disrespect. This is without a doubt, without question, without contest the lamest excuse for a Personnel Commission Meeting in the 100 Merit System Districts in California. No, in the Country! No strike that, in history. By actually paying you for this meeting it constitutes a gift of public funds. As I understand you have performed the same antic in a commission meeting in February 2011. You made the same statements at least weekly and your and Pat's emails and rants. It's all documented. First I like to say I have the upmost respect for the position of Chair of the Personnel Commission. Mr. Barabani that respect does not automatically transfer to you nor does it transfer to all your email writing, email impersonating, speech writing, ranting, ghost writer, Mr. Pat Maher. You are in essence declaring yourself as "El Duce", El Duce you have crossed the Rubicon with an army of two to become Caesar.

- Mr. Barabani I call myself what?
- Mr. Flory El Duce.
- Mr. Barabani I find that very, very offensive that you say that to me.
- Mr. Flory No disrespect.
- Mr. Barabani Oh yes it is. Because EL Duce was Italian and I am Italian.
- Mr. Flory No reference.
- Mr. Barabani No reference of all the people you could have brought up. Of all the people of history you bring up an Italian, a Dictator to me.
- Mr. Flory I am not done speaking sir.
- Mr. Barabani My mother lived under "El Duce"!
- Mr. Flory I am not done speaking.
- Mr. Barabani And she hated him. That is the second time you brought up my heritage. I find it offensive.
- Mr. Flory No disrespect.
- Mr. Barabani No I've taking it as disrespectful.
- Mr. Flory You have crossed the Rubicon with an army, all with an army of two to become Caesar.
- Mr. Barabani Another Italian, so now you are attacking me again with another Italian.
- Mr. Flory I'm Sorry that is a Roman.



Mr. Barabani An Italian.

Mr. Flory A Roman.

Mr. Barabani Yea.

Mr. Flory You've taken the conche shell and pronounced yourself to be Lord of the Flies. You're crowning yourself the Prince of Personnel, by this action and previous similar announcements you are stating that you solely are responsible for any and all actions you have accused me of committing and the poor performance evaluation you and Pat have made up.

Mr. Barabani I am going to stop this because you will not continue degrading me in front of the public. You have no right! You were called out once before for doing that to Dr. Delgado in public, you are an employee. You are not just a member of the public, you are an employee. You have no right. The Commission is your supervisor and you know it and you know it states so.

Mr. Flory Thank you sir. Honorable chair members of the commission, you just made my point for me. The commission is my supervisor not you.

Mr. Barabani And I am a member of this commission and you will not take the same derogatory actions you took towards the board and Dr. Delgado that the District chose to dismiss you for.

Mr. Flory May I continue?

Mr. Barabani No! Not if you are going to continue making statements that are offensive.

Mr. Salazar I would like to have him continue.

Mr. Barabani You want to hear some more offensive statements from him? He is attacking my heritage. He made three references and you want to hear this?

Mr. Salazar I would like to hear what else he has to say.

Mr. Barabani Ok.

Mr. Salazar I am just one third.

Mr. Flory By this in previous similar pronouncements you are stating that you are solely responsible for any and all actions you accused me of committing and the poor performance evaluation you and Pat have made up and you have given to the Personnel Commission Director. You are publicly stating that you are responsible for committing five specific acts of violation of the California Education Code by this action.

Mr. Barabani I am not stating anything. You are sitting here making accusations, there is nothing being stated. This pony dog show or whatever you want to call it.

Mr. Flory I am commenting on your agenda item and Pat's agenda item.

Mr. Barabani No, you are commenting on me personally. You just said so.

Mr. Flory Parts of this do not deal with you sir.

Mr. Barabani A lot of them do personally attack me you just said so.

Mr. Salazar Can we continue?

Mr. Flory Thank you. By this and previous similar proclamations you are taking full responsibility to violations of DFEH and EEOC in the higher end actions of the...

Mr. Barabani Once again, I am not taking responsibility; do not put words in my mouth. Wow! Did you orchestrate this? I mean did you purposely come here with intention of constantly accusing me?

Mr. Flory I am only speaking about your item on the agenda you and Pat wrote.

Mr. Barabani Yea, you started out with the agenda of February 11<sup>th</sup> last I knew you weren't even here when that was done.

Ms. Early So commission Barabani right now we have a motion on the floor. And so I am just not sure where we are on the agenda. Are we are on the portion of the agenda where the commissioners discuss the motion that is on the floor or what are we doing right now?

Mr. Barabani That is why I asked him why he was making a comment as the chair and he went on with a speech so this is an item that the Commissioners will discuss and not the Chair, I mean the Director.

Mr. Flory I just have one more minor comment.

Mr. Barabani No. Only the commission is going to discuss this. So we are still on discussion for Commissioners.

Mr. Salazar Can I hear the last comment?

Mr. Flory It's important. Let me just say if this item is approved I guess we will see you at 8 o'clock tomorrow morning. Use your keys to lock the door.

Mr. Barabani Once again you don't give me orders. Mr. Salazar do you have any comments?

Mr. Salazar No I think I made mine.

Mr. Barabani Yea, obviously. I noticed when he attacked me personally you didn't seem to care. I want to thank you for that, wow!

Mr. Salazar We are all adults here.

Mr. Barabani He even made reference to my heritage three times during his speech, and you wanted him to continue! So you are part of the problem not part of the solution.

Mr. Salazar Listen. You are the problem!

Mr. Barabani Nobody has ever....

Ms. Early Mr. Barabani.

Mr. Barabani Yes, sorry.

Ms. Early I call for the order today. We have a motion before us.

Mr. Salazar Very good.

Mr. Barabani Call for the vote.

Ms. Early Aye.

Mr. Barabani Aye.

Mr. Salazar Nay.

#### **VI. CLOSED SESSION**

The commission adjourned into closed session at 6:12 p.m. for:

Conference with legal counsel, Kristine E. Kwong, Musick, Peeler & Garrett LLP

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 DISCIPLINE

The commission reconvened into open session at 7:42 p.m. and reported on the following action taken in closed session: No action report was report it.

#### **VII. ADJOURNMENT**

The commission adjourned the meeting at 7:42 p.m.