

MINUTES  
BASSETT UNIFIED SCHOOL DISTRICT  
PERSONNEL COMMISSION MEETING  
MAY 13, 2003  
5:00 P.M.

1. The meeting was called to order by Chairperson Vern Wallery at 5:07 p.m.

2. MEMBERS PRESENT:

Mrs. Vern Wallery, Chairperson  
Mrs. Frances Alvarado, Vice-Chairperson  
Mrs. Susan Hartley, Member

3. STAFF PRESENT:

T. R. Lin, Ph.D, Assistant Superintendent, Human Resources Development  
Patrick Maher, Personnel Analyst

4. OTHERS PRESENT:

See Guest Register

5. PRELIMINARY:

A. Flag Salute

6. APPROVAL OF AGENDA:

On the motion of Mrs. Alvarado, seconded by Mrs. Hartley, and unanimously carried, the Commission approved the agenda for the Special meeting of May 13, 2003, as submitted

7. REQUESTS TO SPEAK:

Refer to Item 8 of the minutes for all persons who spoke at the meeting.

8. PUBLIC HEARING ON COMMISSION BUDGET FOR 2003-2004

Mrs. Wallery stated that she wished to say:

The Commission is well aware of the budgetary crisis facing both the State and Bassett USD in particular. The Commission feels an obligation to work with the District as a whole to help the District meet any decrease in funds, especially as it avoids layoffs, and reduction in student learning.

1. It was the Superintendent who made the decision, without consulting with this Commission to terminate the 49% of the funding for the Assistant Superintendent HR (Personnel Director).
2. As of this time, the Superintendent has not submitted to the Commission any formal written outline of how he expects the Commission to fund the 49% salary of the Personnel Director.
3. As of this time, the Superintendent has not provided to the Commission any formal written budget reduction actions that indicates clearly how the Commission must balance its needs with the District's budget needs.
4. As of this time, the Superintendent has not provided to the Commission any formal written district-wide directive for across the board reductions in budget.
5. As of this time, the Superintendent has not provided to the Commission any formal written information that shows how other District office operations are being budgeted this year compared to last year so that the Commission can compare budgetary reductions against other District office operations.
6. As of this time, the Superintendent has not provided to the Commission any formal written request that asks the Commission to assume a proportionate share of District wide budgetary reductions.
7. As of this time, the Superintendent has not provided to the Commission any formal written information on how he expects the Commission to deal with the 3% COLA that impacted last year's budget.

Irma Quesada, President of CSEA Chapter 26, stated that in the last 5-6 years, the district had consultants that have come and gone and finally, had two wonderful people that CSEA has been able to work with who responds to calls and who are there when issues come up. It has been so hard over the past 5 years to work with consultants who are here today and gone tomorrow. Finally the District has an Assistant Superintendent who likes it here and is willing to work with all the problems created by not having an Assistant Superintendent or director of HRD. If there is any way possible for the Personnel Commissioners to pick up the half of Dr. Lin's salary it should. It is

important to progress, not regress. We have been in the backwoods for so long, everyone, CSEA, BTA, the families, the students, have all suffered. The district has two intelligent, well-educated people. CSEA was invited to sit on the panel to hire Dr. Lin, but was never consulted about the decision or asked how things were going at HRD. We are employees of this district and responsible for the hiring of Dr. Lin, so it's important to have input. Not one Board member, not the Superintendent, has ever asked how things are going in HRD. Taking away the 49% will cause the district to lose a very valuable person, going back to consultants, leaving everything in disarray. The Commissioner's should really try to consider every possible way to keep the people we have here. They know the people and they are doing great things in HRD and you need to find any possible way to keep Dr. Lin.

Robert Nero, Superintendent stated that he had concerns about the proposed budget increases of \$144,000. He didn't think a 40% increase fits well with what the district was trying to do. As he had said previously, the district is trying to find \$2 million. The Board has not acted on the proposed recommendations. He doubted seriously that the Board would cut to the extent that he was proposing. One proposal included class size reduction in the ninth grade (\$150,000). He didn't think it was prudent to cut the budget by that amount and then increase it \$144,000 as proposed by the Commission. The \$360,000 budget that the PC receives from the Board is adequate considering the size of the district, the difficulty statewide, and the governor's May revise will request additional dollars from the district. As he said in his letter, he would seriously consider not requesting additional dollars. He contacted the county in the afternoon because he received an email of a letter that was sent to the Personnel Director and the Commission on March 10. He spoke to Dr. Lin about it. In that letter it says that the Board of Education must have input into their concerns. This is not the setting for that because to do that, they would have to schedule a Board meeting because one Board member cannot act on behalf of the entire Board. Dr. Lin spoke with the same person he spoke with, and she first recommended that the Commission postpone this meeting. Dr. Lin asked if the Commission could not act on their proposed budget until the Board had an opportunity to share all concerns that they might have.

Mrs. Alvarado inquired as to the name of the person that Mr. Nero spoke to and her position.

Dr. Lin replied that the person was Marlene Dunn and a copy of her March 10 letter had been provided to each Commissioner.

Mr. Nero stated that the second paragraph of the letter did not say "may" but "must" and that is out of the Education Code. He didn't have that because it was not addressed to the Superintendent.

Mrs. Alvarado stated that the Commissioners had just now received the letter when she asked for the forms and the procedures, so the Commissioner's were not aware of that until that moment.

Mrs. Hartley said that she was looking at the annual budget. The Commission had always done it that way. It says that the "Personnel Commission shall forward a copy of its proposed budget to the governing board indicating the time, date, and place for the public hearing and shall invite board and district administration representatives to attend and present their views. The Personnel Commission shall fully consider the views of the governing board prior to adoption of the proposed budget. The Personnel Commission shall then forward its budget to the County Superintendent for action along with the "Notification of District Intent to Concur With or Reject the Proposed Fiscal Year 2003-2004 Personnel Commission Budget."

Mrs. Alvarado read the following: "The Personnel Commission must consider the views of the district governing board prior to adoption of the Personnel Commission budget."

Mrs. Hartley replied that this was a public hearing.

Mr. Nero stated that the Board cannot act individually.

Mrs. Hartley stated that the Board could come and present its views.

Mr. Nero stated that the concern was that the Board cannot individually express the Board view.

Mrs. Hartley responded that they knew that.

Mr. Nero stated that he shared with Dr. Lin that the Board members could only share an individual view, not the view of the Board. The only time they can share a view of the Board of Education is where a Board meeting has been declared and then they can come as a Board.

Mrs. Hartley asked Mr. Nero how he proposed that the Commission make up the 49% difference in the director's salary in the Commission's budget.

Mr. Nero responded that if the Commission wants Dr. Lin full time, then it would have to look at the budget as given to the Commission because of the economic times, and have to determine if it can fund the position full-time or not. He thought that the Commission would have to look at their expenditures and the dollars that the Commission has, and that the District was obligated

to give the same budget that it has this year, and determine if it can maintain the amount of staff that it has.

Mrs. Hartley asked how that went given the legal opinion received by the Commission that it was entitled to a full time director and that it is mandated.

Mr. Nero state that it was mandated, but that you can't pay \$360,000 for one individual. The Commission must look at the budget that it is given, which is the same as this year, and unless something changes, look at personnel levels and see if the Commission can fund Dr. Lin, Mr. Maher, and the other individuals that are there. The proposed budget has two other positions.

Mrs. Hartley said that a letter from their association to "not allow the districts to force you to disregard meeting your responsibilities mandated to them by the Education Code by cutting off the funding required to function." That's what he was doing. Staff, supplies, and all the operational funds were necessary to do the job. This is according to Education Code Section 4525c. "Neither the governing board or the superintendent nor anyone else can change the budget except for the personnel commission. Therefore, if any reductions are going to be made for the current year or next year, it is the Personnel Commission's responsibility to determine what reductions are made and what process will be followed to determine when and where these will take place. We have mandated what we have to do.

Mr. Nero stated that that section was saying that the district must give the Personnel Commission the same budget that was given this year. That was not a problem. But when the budget goes beyond that, there is a problem.

Mrs. Hartley stated that the Commission was supposed to have a full time director.

Mr. Nero stated that the Commission could have a full time director.

Mrs. Hartley responded, "What do we do. Cut out three clerks back there?"

Mr. Nero stated that was up to the Commission. It could reorganize. That was a budget setting that the Commission had to determine. He provided an example of various staffing reductions.

Mrs. Hartley asked what he had reduced in the District office.

Mr. Nero stated, that the only thing that could be done to bring about reductions at the District office was to eliminate it. The District had been without a business person for three years, without an HRD person. There was no facilities person. The District was barebones. There was not another

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district within a 100 mile radius with the students and staff this district has with a smaller district office staff.

Mrs. Hartley stated that Mr. Nero had cut the 49% salary of the Director.

Mr. Nero stated that had not yet been cut. Everything that has been discussed the Board has not acted on anything as yet.

Mrs. Hartley asked that if the Board does not cut the 49% then the Commission was back to the original budget.

Mr. Nero stated that the Commission would get the regular budget regardless. The District had to provide the same budget as this year.

Mrs. Hartley stated that now he was cutting 49% of the director's salary.

Mr. Nero stated that the District was going to have a certificated HRD director. One thing he had shared with the Board was that he was not going to continue doing part of HRD, part of business.

Mrs. Hartley stated that he was leaving the Commission without a director. and inquired if he was saying that Dr. Lin should be going part time.

Mr. Nero stated that he was not saying that. That was a decision that the Commission should make. Look at the amount of dollars that was given, that he had to live within his budget.

Sara Lopez, CSEA board member, asked Dr. Lin why he was not doing certificated HRD duties during the month of November through March.

Dr. Lin stated that he was simply told on November 1 by Mr. Nero that effective immediately he did not want Dr. Lin handling certificated functions anymore. Mr. Nero did not give any specific reasons for this decision. He verified with Mr. Nero a few times to be sure that he understood the decision, and each time he was told that was the case. No specific reasons were given to me.

Ms. Lopez asked who was going to be doing the certificated HRD function.

Dr. Lin stated that he had the same question, but that Mr. Nero should answer. However, as a good HR practice, he would respect Mr. Nero's decision, but he was hoping that by now there should be direction to start a recruitment process to get a really good person. It takes a cycle to find a good person and you don't pick just anyone. As he had told Mr. Nero a few times, he thinks the certificated side deserves equally good service and that it takes

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time to find someone and he worries that for the certificated side that there may be a part time person.

Ms. Lopez said that she agreed with everything that Ms. Quesada had said. The CSEA E-board has a good relationship with Dr. Lin and Mr. Maher. Things get done right.

Ms. Quesada said that she finds it hard to make sense taking away 49% of the certificated part of Dr. Lin's salary and then turning around and hiring a certificated director.

Mr. Nero said that without getting into the personnel side, Dr. Lin and he had many discussions with respect to who the Board hires on the certificated side. He assured the Commission when the new organization chart is completed, the Board will get that and that things aren't being done willy-nilly.

Ms. Quesada said that if the District was going to hire a certificated director, the budget wasn't as bad as it seems. A previous decision to appoint two directors with no salary "for the moment" but could be changed in 24 hours. The technology supervisor with no salary but could be changed in 24 hours. Then to hire a full time certificated director while trying to be convinced there is no money.

Dr. Lin said that everyone had heard what Mr. Nero indicated earlier about not having considered the full view of the governing board prior to full adoption of the budget. Mr. Nero talked to him that morning and there was a cautious understanding of that process. Based on research, staff had followed all the procedures outlined. The process of inviting the Board was open to interpretation. Staff, at the direction of the Commission always kept Mr. Nero informed of what has happened. The day after the April 29, 2003 meeting on the budget, he e-mailed Mr. Nero and said clearly the "Commission is going to propose a budget with the full level plus one full-time HR Technician." He further recommended to Mr. Nero that Board members would be invited to this meeting and asked him to inform the Board members. In the process, staff sent out the agenda with the form provided by the county to the Board members indicating that "You are being invited as the governing board to provide input." Understanding that there is a potential issue involved, he recommended that the Commission followed the course outlined earlier by Mr. Nero. He suggested that today there be a discussion and adoption of a tentative budget and he would then work with Mr. Nero to place this on the May 15 Board agenda for the Board to have a discussion on the budget. Then, in a week, the Commission have another open meeting and listen to the point of view of the Board as a full body and then make an adoption of the proposed budget.

Mrs. Alvarado stated in respect to the comments of Dr. Lin, she feels that he should have given them the March 10 information, and if they had read it the way its outlined there, the Commission might have acted differently. Then, she went on to say that the Commission would approve it tentatively, but that is not the way it is listed on the agenda. The agenda said that the Commission adopt the budget, but didn't say anything about tentative. She felt that was unfair for the Commission's office to withhold information from the Commission. At all times the commissioners must be informed of all correspondence that comes in. The information that has been supplied by the office led her to believe that the Commission does not have to consult anyone but themselves in the budget, but that clearly is not what this information states. If their office withheld information as important as this, who else knew what was being withheld. She was concerned about that.

Dr. Lin stated that he actually spoke to Ms. Dunn again. Staff receives lots of procedural information. There is never any intent to withhold information. Ms. Dunn agreed that staff and the Commission had done everything that the memo required. Nothing was done wrong. It was just an extra precaution after talking with Mr. Nero to hold an addition meeting. There was nothing wrong with the procedure. The Education Code is silent on how the hearing is conducted. So far, staff informed Mr. Nero about the procedure, informed all of the Board members that they were being invited as a Board member to provide input. He agreed with the idea from Ms. Dunn to have another meeting. That was shared with Mr. Nero today just to make sure everything was done smoothly. Staff followed everything the memo said.

Mrs. Alvarado stated, "Except to consider the views of the governing board." She asked if the invitation went out to the Board.

Dr. Lin stated that it had gone out personally with notice that they are invited to come. This is the way it was done for many years.

Mrs. Wallery stated that her interpretation of the letter was that the Commission "must consider the views of the governing board prior to adoption." Mr. Nero's presence reflected the Board's interpretation of the Board's views. He represents the Board of Education. She had attended many meetings and at Hacienda-La Puente, they hold their meetings the same way. The invitation goes out, the Board is invited to present their views, and they send someone to pass on the views of the Board. That was her interpretation of obtaining the Board's view and the Superintendent being present was their representation.

Mr. Nero stated that he was not there representing the Board and that the Board had not asked him to come. He came to share his concerns about the budget. The Commission can decide on its own course of action. He received

the March 10 bulletin today from the county. He spoke with Ms. Dunn. She shared the process, and quoted the Education code where it says "must." He shared with Dr. Lin that the District did not need a Board-Commission conflict. He could only share his recommendation. It is not uncommon for the county to grant an extension if more time is needed. Ms. Dunn recommended not acting on the budget until the Board has had input.

Mrs. Wallery stated that the Commission had waited to hear information from Mr. Nero and she received a letter dated May 13, with Mr. Nero's recommendations. She asked if that was sufficient notice for them to consider it when they are supposed to adopt the budget. She also received a budget today from Mr. Nero.

Mr. Nero stated that the Board of Education had not acted on that budget and had not received the letter he sent that day. That was information.

Dr. Lin said that he tried to listen to Mr. Nero's point of view, which is why he recommended that the Commission only adopt a tentative budget until the Board could give its point of view. Even though everything had been done and they were invited to come, to try one more time to get their point of view and then review the budget one more time.

There was discussion among the Commissioners about whether they should have another meeting, table the matter, or proceed with action.

Mr. Maher stated that under Robert's Rules of Order, the matter couldn't be tabled because tabling was just a temporary suspension. If they wanted to table it pending another meeting that was feasible. However, there was still the issue of how the Commission would communicate with the Board. Staff had a follow-up conversation with Ms. Dunn and they went over everything that was done, and she said that staff had complied with everything required by the Education Code and the county. The question was whether the Board could come. She responded that every district handles it differently so that there was no one right procedure and that the Education Code is silent on how to make the notice get the input. She gave half a dozen different possibilities various districts in the county follow. None of them require the kind of formal procedure that Mr. Nero is talking about. Staff communicated, according to the procedures, to each individual Board member, a copy of the agenda and a copy of the invitation on the county form, telling them what the proposed budget was, telling about the hearing, and informing them of the purpose. There could be no confusion on their part as to what was going on here or what had been done. Staff had communicated to Mr. Nero shortly after April 1, that the meetings had been set, and communicated to him shortly after the April 29 meeting, and this morning he said he had new information and started raising questions about the procedures. The problem

is that this was an interpretation and not an application of the statute from what Ms. Dunn had told staff. It was open to interpretation on how you go about doing that and it was open to agreement in each district. He asked Ms. Dunn whether the Commission should proceed to make a decision, and he suggested an alternative that was communicated to Mr. Nero at 3:00 p.m. with a request for a response by 4:00 p.m. but to his knowledge, there had been no response. Thus, the Commission was in a situation of trying to resolve this issue. Staff had communicated to Mr. Nero, who had been told about the process, but hadn't handled it with the Board. So it was being recommended that staff communicate formally to him and to the Board for its meeting on May 15. The Board could determine how and under what auspices it wished to communicate its concerns, desires, inputs, views, and perspectives back to the Commission. The Commission could then have a meeting on May 27, that way it would be sure that everything had been done. However, this would require some cooperation on the part of the Board and Superintendent to get back to the Commission to avoid this same situation in the future. However, he was not sure what the Superintendent or the Board would like the Commission to do to solve the problem.

Mr. Nero inquired about the 3:00 P.M. communiqué.

Dr. Lin said that after talking to Ms. Dunn in the morning, but that for the procedural questions, staff called her again right after lunch. After she assured staff that they had done everything right, but he sent an email informing Mr. Nero what he was going to recommend, but that if Mr. Nero had any alternatives, he needed to communicate them by 4:00 p.m. because of the need to prepare material for the Commission.

Mr. Nero said that he was tied up from 2:00 p.m. to about 4:15 p.m. and had not had time to look at his email, and would have appreciated a phone call. He did not know what transpired in the second conversation, but had he received the March 10 notification, he would have suggested that the Board hold a formal board meeting, because that is required, and to prepare proper notifications. He was not aware of the second paragraph until he read it today.

Mrs. Hartley said that she would rather go ahead and adopt the budget because it would come to the same point.

Mrs. Alvarado stated that she would like to table the item.

9. ADOPTION OF COMMISSION BUDGET FOR 2003-2004

On the motion of Mrs. Hartley, seconded by Mrs. Wallery, with a vote of 2 ayes by Mrs. Hartley and Mrs. Wallery, and a nay by Mrs. Alvarado, the Commission adopted the proposed budget for 2003-2004 as submitted.

Mrs. Alvarado stated that she felt it was unrealistic and irresponsible to ask the District to support an increase in excess of \$144,000. It was unclear if the cuts would be made and whose jobs it would affect, and she could not support the motion.

Mrs. Wallery said that the Superintendent had not discussed with the Commission the decision to remove the 49% funding of the director, leaving the Commission with the dilemma of not wanting to consult with the Commission prior to relieving Dr. Lin of certificated duties. He left the Commission without any prior notice or any discussion, so it raised a question about how concerned he was about these issues. As she had read at the beginning, he gives the Commission no information until the meeting, and she wonder how responsible that was of the Superintendent.

10. ADJOURNMENT:

On the motion of Mrs. Hartley, seconded by Mrs. Alvarado, and unanimously carried, the Commission adjourned the meeting at 6:01 p.m.