

MINUTES
BASSETT UNIFIED SCHOOL DISTRICT
PERSONNEL COMMISSION MEETING
PERSONNEL COMMISSION OFFICE – ROOM 12 – FLANNER
FEBRUARY 1, 2005
5:00 P.M.

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

2. MEMBERS PRESENT

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

3. STAFF PRESENT

Patrick Maher, Personnel Director
Kristin Olson, Personnel Analyst

4. OTHERS PRESENT

See Guest Register

5. PRELIMINARY

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6. STAFF REPORTS

A. Personnel Director

Mr. Maher reported that staff had implemented a new telephone job line for classified openings. Anyone calling the number at 931-7993 would receive information on all current open recruitments and how to apply, or information that there were no current openings if that was the case.

He also reported that he was planning on changing the annual report of the Commission from a fiscal year to a calendar year basis. This change would make it easier to compile data and other information, and it would provide the trustees with information on the Commission activities shortly before the Commission prepared and submitted its annual budget, making

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the report more meaningful. The first calendar report would include some information in the last fiscal year report, but the report would make it clear that such occurrence existed.

Mr. Maher reported that on behalf of the Commission he had invited all district site managers to send one classified employee to the CSPCA pre-conference workshop on February 10, 2005 with the Commission paying the workshop fee and the parking. Three classified employees had submitted a request to participate and the necessary paperwork had been submitted and the Board had approved their participation. In addition, a number of other classified employees had informed him that they plan to attend, but wanted to do so on their own time and at their own expense so that they could obtain professional growth credit.

He also reported that at the last Board meeting, Mr. Solano, the Board President, had expressed his satisfaction about the efforts being made between the Commission and the Board about improving their working relationship.

Mr. Maher also stated that the work of the intern (Marina Mihalevsky) to develop the structured interview for the Food Service Assistant I position was moving along and was nearing completion. Ms. Olson was overseeing the project and Ms. Mihalevsky had proved to be a very capable and hard worker. He expected the final project to be an excellent and very contemporary model that we would be adapting to other positions.

B. Personnel Commission

Ms. Hartley commented on the PCASC dinner that was attended by herself, Ms. Olson, and Mr. Maher and indicated that the presenter spoke on the topic of worker diversity and training.

7. APPROVAL OF AGENDA

On the motion of Mrs. Alvarado, and seconded by Mrs. Hartley, and unanimously carried, the Commission approved the agenda for the regular meeting of February 1, 2005 as submitted.

8. APPROVAL OF MINUTES

On the motion of Mrs. Hartley, and seconded by Mrs. Alvarado, and unanimously carried, the Commission approved the minutes for the regular meeting of January 6, 2005 as submitted.

9. REQUESTS TO SPEAK

Ms. Cyndy Byrd, Assistant Superintendent-Human Resources, commented that she enjoyed working with the Commission Office thus far during her tenure at Bassett USD.

Mr. Bob Watanabe, Superintendent, gave an update on the status of the bond that was passed this fall. Bassett USD was recently interviewed by the creditors and also presented bond-relevant material to insurance companies. This information will be taken to a five-member board to determine the bond credit rating. He also commented on starting a program to develop administrators internally.

Mrs. Hartley mentioned that the community was appreciative of the signs that were being placed in front of school sites indicating what improvements will be initiated as a result of the bond money.

Mrs. Wallery offered Bassett her congratulations on passing the bond.

Ms. Irma Quesada, CSEA President, extended a welcome from CSEA to Ms. Byrd. She indicated that CSEA had high hopes for a good working relationship.

10. APPROVAL OF EXPENDITURES TO ATTEND TRAINING

On the motion of Mrs. Alvarado, and seconded by Mrs. Hartley the Commission unanimously approved attendance at conferences, actual and necessary expenditures in the amount of \$2975.00 incurred by such attendance to be paid by the Commission unless otherwise specified, as attached, and in accordance with Education Code Section 45255.

11. AMENDMENT TO THE PERSONNEL COMMISSION RULES

On the motion of Mrs. Hartley, and seconded by Mrs. Alvarado, and unanimously carried, the Commission approved the revision to Commission Rule 2.4.6 as submitted (First Reading).

12. APPROVAL OF AGREEMENT FOR COMMISSION ATTORNEY

On the motion of Mrs. Hartley, and seconded by Mrs. Alvarado, and unanimously carried, the Commission approved the agreement for legal services by Michael Gennaco as submitted.

13. RECOMMENDED ORDER

The Commission received the proposed decision styled *Order on Motion to Dismiss* issued by the hearing officer on December 20, 2004.

14. EXAMINATIONS

The Commission received the following examination bulletin:

Instructional Assistant – Special Education Exam # 05-001

15. NEXT COMMISSION MEETING

The next regular Personnel Commission meeting will be held on March 1, 2005 at 5:00 p.m. in the Personnel Commission office.

16. CLOSED SESSION

Requests to Speak:

Ms. Quesada, speaking on behalf of CSEA membership, noted that CSEA has quite a few concerns in regard to this agenda item. The District asserted itself in respect to CSEA without any dialogue between the two parties, with the argument that the union members are not getting full representation from the union. CSEA demands that this unfair labor practice be stopped, since the District is acting as a representative of CSEA without any consent or notice. CSEA feels that the District is not correctly interpreting the union contract and insists that both parties are needed when interpreting a document that exists between both parties. CSEA should be the only entity that raises issues of fairness between its membership and its contract. CSEA wants it clearly understood that Bassett USD management is not covered under the CSEA contract.

Mr. Bill Trejo, District counsel, indicated that it was not the District's intent to argue for the CSEA membership; rather the intent is to demonstrate the nonsensical nature of the administrative law judge's recommendations. Mr. Trejo wanted it clearly stated that the motion of the administrative law judge is to be regarded as a recommendation only, as the Commissioners were the only body that could act on the issue before them. The District faces employee complaints of fairness treatment on a daily basis. Adopting the recommendations of the administrative law judge will create a two-class system, within classified employees. This is unfair because

under the CSEA contract, disciplinary matters can go back for two years for union members, however for senior managers disciplinary matter can only go back one year. This is also unlawful, because when the Personnel Commission adopted this rule, it did not look at the collective bargaining unit, as Education Code section 45260 states that a rule cannot be created if it is in conflict with the CSEA agreement.

Philip Maltin, counsel for Appellant Dominic Adamo stated that the essence of fairness was the ability to participate in discourse prior to passing rules, which is referred to as giving notice. This Commission adhered to fairness when passing rule 11.2.2, in that notice was given, inviting public commentary through two public readings prior to passing the rule. Within society different classifications exist for different occupations or functions, for example different rules are followed when dismissing a student as compared to when dismissing a lawyer. What happened in the administrative court, the presiding judge looked at the law and the PC rules and rendered a recommendation based on fairness and justice. The recommendation of the administrative law judge recommended that PC rule 11.2.2 is lawful.

The Commission adjourned to closed session at 5:46 p.m. pursuant to Government Code Section 54957 to discuss:

DISMISSAL/DISCIPLINE OF PUBLIC EMPLOYEE

Deliberation on accepting, rejecting, or amending any of the findings or recommendations in the hearing officer's proposed decision styled *Order on Motion to Dismiss*.

The Commission reconvened into open session at 7:05 p.m. and reported on the following action taken in closed session:

The Personnel Commission discussed oral presentations of counselors presented before the Commission today and read the transcripts from the Administrative Law Judge hearing, in regard to the *Order on Motion to Dismiss*, and made the following decisions:

- (a) The Commission unanimously agreed to adopt the Findings of Fact 1-5,
- (b) The Commission unanimously agreed to adopt the Conclusions of Law and Discussion 6, 7, 9, and 10,
- (c) The Commission, in a 2-1 vote, agreed to adopt the Conclusions of Law and Discussion 8 and 11, and

(d) The Commission, in a 2-1 vote, agreed to adopt the hiring officer's [administrative law judge] proposed Order.

17. ADJOURNMENT

On the motion of Mrs. Alvarado and seconded by Mrs. Hartley, the Commission unanimously adjourned the meeting at 7:06 p.m.