

MINUTES  
BASSETT UNIFIED SCHOOL DISTRICT  
PERSONNEL COMMISSION MEETING  
PERSONNEL COMMISSION OFFICE – ROOM 12 – FLANNER  
JULY 7, 2009  
5:00 P.M.

1. The meeting was called to order by Vice-Chairperson Wallery at 5:10 p.m.

2. MEMBERS PRESENT

Vern Wallery, Vice-Chairperson  
Fred Lujan, Member

3. STAFF PRESENT

Patrick Maher, Personnel Director  
Brandon Tietze, Personnel Analyst

4. PRELIMINARY

A. Flag Salute

5. STAFF REPORTS

A. Personnel Director

Mr. Maher reported that for fiscal year 2008-09, the Commission had expended approximately \$237,700, leaving an under expenditure of approximately 18%. He stated that the exact amount will not be determined until all of the books are closed, but this is a pretty good estimate.

Mr. Maher further stated that his work for Inglewood USD under the interagency agreement to provide personnel director services brought in a total of \$23,736, which is included the calculation of total expenditures by offsetting other expenditures, mostly his salary. He noted that this income represents approximately 10% of his total salary and benefits for the fiscal year.

Mr. Maher reported that he will continue to work for IUSD through August, and likely for some period into September, resulting in more income to offset the Commission expenditures during the current fiscal year.

B. Personnel Commission

No comments were made.

6. APPROVAL OF AGENDA

On the motion of Mr. Lujan, seconded by Mrs. Wallery and unanimously carried, the Commission approved the agenda for the regular meeting of July 7, 2009 as submitted.

7. APPROVAL OF MINUTES

On the motion of Mr. Lujan, seconded by Mrs. Wallery and unanimously carried, the Commission approved the minutes for the regular meeting of June 3, 2009 as submitted.

8. REQUESTS TO SPEAK

A. Communications (Request to Speak Card not required)

1. Board/Superintendent

Robert Watanabe, BUSD Superintendent, stated that anticipating the ramifications of the continued state budget crisis remains difficult as information on specifics is hard to come by. He reaffirmed that the District will do whatever is necessary to remain financially solvent.

Mr. Watanabe stated that he will likely be retiring effective August 1, 2009, after 38 years of service to the District.

Mr. Watanabe thanked the Commission and wished them well. He noted the improved state of the current relationship between the District and the Commission.

2. CSEA

No comments were made.

9. JOINT APPOINTEE

The Commission discussed the process and schedule for making the joint-appointee to the Commission for the term of December 1, 2009 – December 1, 2012.

Mrs. Wallery noted that anyone who is qualified and interested is welcome to complete an application form, which will be available to through the Personnel Commission office by contacting Carol at (626) 931-7984.

Mr. Maher noted that the respective appointee nominations will be made at the August PC meeting and a public hearing will be held at the September meeting, which is typically followed by the formal announcement of the chosen appointee if the Commissioners are in agreement. He stated that if the appointment is not made by September 30<sup>th</sup>, the decision will go to the state superintendent to decide in order to have an appointment established by December 1<sup>st</sup>.

Mr. Watanabe questioned what would happen if the Commissioners don't agree on one nomination and instead nominate two different individuals.

Mr. Maher answered that the information for both applicants will be sent to the state superintendent for review and a subsequent decision.

Mr. Watanabe asked what the Board of Education's role is in the process.

Mr. Maher replied, "none," and explained that the decision is the responsibility of the two Commissioners.

10. REQUEST FOR ADMINISTRATIVE HEARING

Dominic Adamo, Director of Fiscal Services-Adult Ed, read the following statement:

"The Norton case is clear that an employee must be returned to his previous duties, the mere granting of former title and salary is not enough. Here are sections of the Ed Code that state the PC has the authority order the District to reinstate me to my old duties. In the Norton decision the Court clearly states the PC has the right to order the District to comply with its order that is not contested by the District. As I explained in my letter two people are being paid to do what one did. The District will claim that my duties are equivalent to prior duties, but let's examine the facts. These positions have never existed prior to my return from what the District has admitted was a wrongful termination. Who will replace me in Adult Education after my reassignment to Child Development?"

“An e-mail by Matt Smith asking if I or a clerk should complete a report. How important is the job if an Accounting Technician can complete the work? Here is a public school directory which lists every school district in Los Angeles County. Here is a list of School Districts, all with larger student populations, than Bassett; all of them have only one Director of Fiscal Services. Why does Bassett require two?”

Baldwin Park	32,500	Students
Mountain View	9,877	Students
Montebello	75,000	Students
Monrovia	12,200	Students
Lennox	6,500	Students
Glendora	7,400	Students
Alhambra	19,300	Students
Arcadia	9,800	Students

“The District will assert my work is extremely important, but what proof do they offer? What assignment have I been provided? What is the length of time between those assignments? If I had not been there who would have done the work?”

Mr. Adamo read the following legal decision from *Norton vs. San Bernardino Unified School District*:

*“ In opposition to the petition, the District neither offered any evidence to refute Norton's declaration nor challenged his credibility, with one exception--the District argued that Norton's new assignments were "extremely important" to the District. The District submitted the declaration of the District's "Assistant Superintendent, Human Resources-Classified/ Maintenance & Operations," who stated, "[i]t was felt because of Mr. Norton's experience and authority, that his attention should be directed toward DISTRICT's compliance with the Williams v. State of California class action education lawsuit settlement, and legislation passed thereafter. This assignment included visiting and reporting on all schools within the DISTRICT and other various duties. It was extremely important to DISTRICT, involving potentially millions of dollars, and is mandated by law." The District failed to produce any evidence explaining why it has failed to reinstate Norton to his former duties and responsibilities when they continue to exist. We do not construe the personnel commission's decision to vest the District with discretion to pick and choose which aspects of Norton's former position it would restore. We therefore conclude the record shows as a matter of law the District has failed to reinstate Norton to his former position as required by the personnel commission's decision. We remand the matter to the trial court with directions to issue a writ compelling the District to fully reinstate Norton to the title, salary, and duties and responsibilities of his former position as director of building services, as they existed on March 28, 2003.”*

“What clear and convincing evidence to they offer that shows two Directors of Fiscal Services are needed in Bassett? Why does the District continue to fight my reinstatement and is willing to risk heavy legal expenses to make sure I do not return to my old duties? If these new duties are so important why can’t they be assigned to Connie Wu and I take over my old responsibilities? The Norton case is clear, the facts are clear; there is no justification for this expense. The District will probably have to announce a new round of layoffs of both Classified and Certificated personnel, how many of these jobs could you save by simply ordering the District to follow the law? How many jobs could the District save by avoiding paying tens of thousands of dollars in unnecessary salary and legal expense?”

“This is the PC’s chance to serve Justice, to do what is right, do what is right for the classified employees of this District, to do what is right for the taxpayers who must pay the bills. Thank you for your time.”

Mrs. Wallery asked for Mr. Maher’s interpretation of the situation.

Mr. Maher advised that an administrative law judge is warranted due to the legal intricacies involved in the case. He summarized that Mr. Adamo was essentially denied a right that he did not know he had at the time he made a previous agreement with the District regarding a reassignment. Mr. Maher stated that he did not feel qualified to make a recommendation on the case as the motions, details, and interpretations involved are too complex. He noted that an administrative law judge would analyze the case and provide recommendations back to the Commission for them to consider in their decision on the matter.

Mr. Watanabe noted that the case is not a personal matter between the District and Mr. Adamo. He stated that a previous hearing was held four years ago in which a settlement was made. Mr. Watanabe stated that certain issues in the current case might have been addressed or settled sufficiently in the settlement, but he will review to verify. He warned that the legal fees involved could be substantial for the District.

Mr. Maher noted that the previous agreement may not properly have addressed the current issues. He stated that an administrative law judge would be beneficial for being able to sort that out.

On the motion of Mr. Lujan, seconded by Mrs. Wallery and unanimously carried, the Commission approved an Administrative Law Judge to conduct an administrative hearing and to hear all motions and other actions as to whether or not Dominic Adamo has had the duties of Director Fiscal Services restored to him following his reinstatement by the district and to determine if recent assignments are at the appropriate level for a Director of Fiscal Services.

11. NEXT COMMISSION MEETING

The next regular Personnel Commission meeting will be held on August 11, 2009 at 5:00 p.m. in the Personnel Commission office.

12. ADJOURNMENT

On the motion of Mr. Lujan, seconded by Mrs. Wallery and unanimously carried, the Commission adjourned the meeting at 5:40 p.m.