

SUMMARY OF PROCEEDINGS

CIVIL SERVICE COMMISSION – COUNTY OF KERN 1115 Truxtun Avenue Bakersfield, California 93301

Regular Meeting

Monday, January 14, 2019

5:30 p.m.

PRESENT: Commissioners Agbalog, Holt, Price, and Rose

ABSENT: Commissioner Burrow

OTHERS: Devin Brown, Michael Goulart, Kendra Graham, Maria Murbach, Keri Pharris, Brian Van Wyk, and others.

NOTE: Ag, Bu, Ho, Pri, and Ro are abbreviations for Commissioners Agbalog, Burrow, Holt, Price, and Rose. For example, Bu/Pri denotes Commissioner Burrow made the motion and Commissioner Price seconded the motion. The abbreviations “ab” means absent and “abd” abstained.

COMMISSIONER ACTION IS SHOWN IN CAPS AFTER EACH ITEM

President Price called the meeting to order at 5:32 p.m.

PUBLIC SESSION

1. Public Presentations

None

***CONSENT AGENDA**

***2. Approval of Minutes**

Regular Meeting on December 10, 2018; Special meeting on December 17, 2018; NO PUBLIC COMMENT; **APPROVED**; Ro/Ag – 4 ayes/1 ab (Bu)

***3. Examination Schedule:** The following examinations have been scheduled in accordance with Civil Service Rules and established procedures. NO PUBLIC COMMENT; **APPROVED**; Ro/Ag – 4 ayes/1 ab (Bu)

7421) Technology Services Manager – DP - BHRS

7422) Legal Process Technician I

7423) Social Service Supervisor I – DP – DHS – Mojave

7424) Program Coordinator – CWP

7425) Supervising Investigative Aide – DP – District Attorney

7426) Microbiology Specialist – DP – Public Health

7427) Program Support Supervisor – DP – Public Health

7428) Legal process Technician

7429) Engineer II – DP

7430) Supervising Child Support Customer Service Rep

7431) Fire Prevention Inspector I

- 7432) Program Support Supervisor
- 7428) Warehouse Supervisor
- 7433) Business Manager – DP – Assessor
- 7434) CAO Manager – DP
- 7435) Senior Fiscal and Policy Analyst – DP
- 7436) Social Service Supervisor I – DP – Aging and Adult Services
- 7437) Assistant Division Director of Health Services
- 7438) Assistant Clerk of the Board – DP – County Clerk
- 7439) Groundskeeper III – Shift
- 7440) Park Supervisor – Department Promotional – General Services
- 7441) Fire Plan Examiner – Department Promotional
- 7442) Health Education Assistant I/II
- 7443) Sr. Systems Analyst – DP – ITS
- 7444) Chief Deputy Sheriff – DP – Sheriff
- 7445) Sheriff's Commander – DP – Sheriff
- 7446) Departmental Aide – Part Time - McFarland

4. **Election of 2019 Civil Service Commission Officers**

Motion made by Commissioner Agbalog, seconded by Commissioner Rose, nominating Jeremy Price as President. **APPROVED**; Ro/Ag – 3 ayes/1 abd (Pri)/1 ab (Bu)

Motion made by Commissioner Rose, seconded by Commissioner Holt, nominating Romeo Agbalog as Vice President. **APPROVED**; Ro/Ho – 3 ayes/1 abd (Ag)/1 ab (Bu)

5. **CS Rule 1800 Proposed Revisions Update; RECEIVED AND FILED REPORT**

Brian Van Wyk, Deputy County Counsel, provided an update on the proposed revisions to Civil Service Rule 1800, which outline the discrimination complaint appeals process. He stated that the proposed revisions would clarify the process and informed the Commission he had met with Ms. Murbach, Commission Secretary, and Devin Brown, Chief Human Resources Officer to discuss the proposed revisions. He also drafted an MOU, which includes informal processes that will help to identify issues at an earlier stage. He clarified that the proposed revisions are subject to the meet and confer process with the employee representative unions and no action would be taken at this time. Some of the proposed revisions include changing the Equal Employment Opportunity Officer (EEOO) to HRD's Diversity and Inclusion Team as there is no longer just one person assigned to processing these complaint investigations.

Commissioner Rose asked who would staff the Diversity and Inclusion Team and asked for more information. Mr. Brown explained that what was previously the Equal Employment Opportunity Officer position is no longer a solitary position. HRD has a number of activities that they conduct and oversee on a daily basis and they do not have the staff available to dedicate one person to this task. In addition, HRD has seen an intake increase in complaint investigations over the last year, which necessitated in bringing in additional staff to assist in this role. He explained that they have adopted a team approach throughout the division. They have a Talent Acquisition Team, a Health and Wellness Team, and an Employee Relations Team. A subset of the Employee Relations Team is the Diversity and Inclusion Team. This team does have two dedicated individuals assigned who are Principal Human Resources

Analysts. These positions are the third tier of the HR Management Team. These senior and seasoned employees are Michael Goulart and Brenda Villanueva. The idea is that County employees will have a dedicated resource team to reach out to for information or to file complaints if they need to. HRD is dedicated to not only establishing this team but to provide them with the resources and training needed in investigating these types of complaints.

Vice President Agbalog asked if only two members are assigned to the Diversity and inclusion Team. Mr. Brown explained that two managers are assigned to conduct the investigations and one additional staff member who assists by providing clerical and HR support.

Vice President Agbalog asked if the composition of the team is determined by the CHRO and if the members of the team would be a long-standing body or if they would be rotated from time to time. Mr. Brown explained that the intent is to keep the team staffed with HRD professionals who have the expertise to handle that type of work and felt that a more senior mid-management position is the right position for this role to ensure these investigations are done properly.

Vice President Agbalog asked Mr. Brown what he would do in a situation where an employee filed a complaint with the Diversity and Inclusion Team, but who objected to a member of the team investigating the complaint. Mr. Brown explained that one person would be assigned to handle the investigation and if there was an objection, they would assign another person. If the complainant objected to HRD handling the investigation, then perhaps this would not be the correct venue for their complaint. He explained that HRD would work with the Commission Secretary to make sure some other body would handle the investigation to ensure fairness and impartiality during the whole investigation process.

Vice President Agbalog asked Mr. Brown how he would address if an individual filed against a department, and using his discretion for whatever reason, changed one investigator to another but then the employee viewed that the change was made either to prejudice the outcome of the investigation or to make it more favorable to the department. Mr. Brown stated that every investigation and complainant would have his or her own expectations for how the investigation would be conducted. He believes staff is properly credentialed and experienced to conduct an investigation in any context and it would have to be some sort of abnormal circumstance for him to reassign an investigator. There would have to be some proof of impartiality from that complainant or the investigator could recuse him/herself from the investigation. He would attempt not to reassign investigators during the middle of an investigation.

Vice President Agbalog referred to the second page of the proposed revisions, section 1820.01, where the process timeline of 45 days remains in the rule unchanged. He explained that this details the same process, which has occurred but does not offer a remedy. There is nothing new in this process. Mr. Van Wyk explained that currently, the employees may not necessarily know to contact the Commission Secretary if they are having trouble with the processing of their complaint, by having a direct reference to the secretary in the rule, it lets employees know who to contact.

Vice President Agbalog stated that this does not provide a remedy. If an employee files a complaint, and for some reason, that complaint is not addressed or an investigation is not conducted, and that individual appears before the Commission to alert them that the timeline was not met, he asked Mr. Van Wyk to clarify why that individual would need to contact the Commission Secretary. Mr. Van Wyk explained that by contacting the Secretary, the matter could be placed at an earlier agenda whereas the individual might appear during public session at a Commission meeting but then the matter would have to be placed on a later agenda for discussion.

Commissioner Holt asked what actions could the Commission take if the timeline was not met. Mr. Van Wyk explained that the drafted MOU would detail a process whereby the Commission Secretary will meet with HRD monthly to coordinate their issues. If the issues are not able to be resolved informally at those meetings, it spells out process for having contact with the CAO's office, if the issues are not resolved at that level, then the Commission members may individually, or as a body, meet with the Board of Supervisors (BOS).

Commissioner Rose asked how the finalized changes would be made available to all county employees. Mr. Brown stated that the new policy related to harassment training will be a very well discussed topic with the employee unions. He explained that the employee handbook will be updated and all County employees have access. In addition, the information will be provided at the new employee orientation. The new policy includes information on how to file complaints, to make sure employees know the right process for any type of complaint filed with HRD or their department.

Vice President Agbalog asked Mr. Van Wyk to clarify the recommended actions for Item 04 about authorizing the President to sign the MOU. Mr. Van Wyk explained the recommended action for the Commission would be to receive and file the report. The second recommended action to sign the MOU was withdrawn. The MOU is under review by the CAO's Office and he would present it to the Commission at a future meeting.

Vice President Agbalog stated that Mr. Van Wyk alluded to a process regarding the timeline not being met, where Commission members may appear before the BOS to have concerns addressed, he asked if language in the MOU would address the powers of the Commission, to act unilaterally should the Commission feel it is appropriately to do so. Mr. Van Wyk explained that the MOU does indicate that the Commission has the power to issue recommendations to the BOS via a formal action of the Commission.

Vice President Agbalog stated that he was reluctant to enter into some sort of agreement, to follow a certain process, when the Commission had previously asked HRD to follow through on meeting the timelines and that did not occur. He thanked Mr. Van Wyk for his work on this matter and requested that he continue to work on these revisions. Mr. Van Wyk explained that should the Commission prefer to do this simply as a statement of policy or procedure, rather than an MOU, that would be something that the Commission could do.

President Price stated that the challenge is that timelines are already a part of the rules. There is no remedy in the rule so that the employee knows how the Commission is supposed to act and there needs to be something specifically written into the rules.

Commission Rose thanked everyone who has been working on this project.

6. Commission Secretary Monthly Report

None

7. Human Resources Division Items/Report:

Mr. Brown introduced Eric Nisbett, Deputy Chief Human Resources Officer. He stated Mr. Nisbett handles the complaint process and many other tasks in HR.

8. Commission Member Presentations or Announcements:

None

9. Adjourn to Closed Session: at 6:09 p.m., the Commission adjourned to closed session to consider the appointment, employment, evaluation of performance, discipline, or dismissal of public employees and/or to hear complaints or charges brought against employees by another person or employee.

CLOSED SESSION (Government Code § 54957)

10. PUBLIC EMPLOYMENT – Discipline/Dismissal/Release

Deputy Sheriff (Sheriff's Office) – Case No. 2018-0016; **HEARING DATES SET FOR MAY 16, 23, 28, & 30, 2019.**

11. PUBLIC EMPLOYMENT – Removal from Eligible and Certifications Lists

Librarian I-Delano (Library) – Case No. 2018-0017; **REMOVAL REQUEST APPROVED;**
Ro/Ho – 4 ayes/1 ab (Bu)

12. PERFORMANCE EVALUATION - Consideration of the evaluation of performance of the Civil Service Commission Secretary (Govt Code § 54957(b)(1)); **NO REPORTABLE ACTION**

13. President Price adjourned the meeting at 7:28 p.m. to the next special meeting to be held on Tuesday, January 22, 2019 at 5:30 p.m.

14. MISCELLANEOUS DOCUMENTS FILED WITH THE COMMISSION:

- a) Email dated 12/11/18 from Perla Davis - relating to complaint of violation of Rule 1810.01
- b) Email dated 12/11/18 from Devin Brown - response relating to complaint of violation of Rule 1810.01