

SUMMARY OF PROCEEDINGS

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

Regular Meeting
Monday, May 14, 2018
5:30 p.m.

PRESENT: Commissioners Agbalog, Burrow, Price, and Rose

ABSENT: None

OTHERS: Brittany Bonilla, Devin Brown, Michael Goulart, Maria Murbach, Keri Pharris, Margo Raison, Mary Stewart, Brian Van Wyk, Brenda Villanueva, and others.

NOTE: Ag, Bu, Pri, and Ro are abbreviations for Commissioners Agbalog, Burrow, 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 5:30 p.m. and announced Commissioner Burrow would arrive in a few minutes.

Commissioner Burrow arrived at 5:37 p.m.

PUBLIC SESSION

1. Public Presentations

Monica Fitzgerald, Department of Human Services (DHS) employee, informed the Commission that she has been working in a hostile work environment, which includes harassment, retaliation, and discrimination since May of 2017. She reported the situation to the department at that time but nothing was done. She filed a complaint with Michael Goulart, Equal Employment Opportunity Officer (EEOO) on February 26, 2018. It is now well past sixty days and she has not yet received a response to her complaint. On March 9, 2018, she filed with the State of California Department of Fair Employment & Housing (DFEH) and had an interview with them last week. She informed Mr. Ryan Alsop, CAO, that she had met with DFEH last week and afterwards she received a letter stating that the complaint with the county is closed, as DFEH now becomes a neutral party to decide on her complaint. She is frustrated because it has been more than sixty days without a response, nothing has been done, and she thinks that rules have been violated. She is still working in a hostile work environment in Emergency Response and there is no clear process on how to file a complaint. She did not find anything online and the employee handbook has not been updated since 2014. She asked Mr. Goulart the day she filed the complaint what the expectations are but she does not know who is accountable for what. She previously brought her complaint to Debbie Davis, HR Manager at DHS, and nobody has talked to her about the matter. She is before the Commission, trying to get direction, as she does not know who to go to for help. She tried to get help but nobody is assisting her.

President Price asked Devin Brown, Chief Human Resources Officer (CHRO) to respond.

Mr. Brown stated that Ms. Fitzgerald did file a Civil Service Rule 1800 complaint with the Human Resources Division (HRD) office and then subsequently filed a similar complaint with DFEH and the Equal Employment Opportunity Commission (EEOC). It has been a long-standing practice of the previous Personnel Department, now HRD, that when those circumstances occur, HRD steps back and lets the neutral DFEH conduct their investigation as a neutral facts finder. The state agency also has a lot more authority to issue an opinion and make direction upon the county. We feel that investigation will provide Ms. Fitzgerald more impartiality than a county investigation would, and at that point address her concerns with her employment. If the Commission would like HRD to change track then it will certainly consider it. HRD will continue working with DFEH to respond to the allegations in her complaint as needed.

Vice President Agbalog reminded Ms. Fitzgerald this matter was not on the agenda and therefore would not go into the details. He thanked Mr. Brown for his explanation and asked if the investigation would have been completed had the employee not filed a complaint with the state. Mr. Brown confirmed the investigation would have been completed but now that the employee filed the complaint with the state, the county has stepped back. The state has its own process of investigation, separate from the county. Mr. Brown stated that the state has not yet completed its investigation and that HRD cooperates with any information requests from the state. Vice President Agbalog asked how long it takes the state to complete their investigation. Mr. Goulart stated it might take one year or longer for the state to complete an investigation.

Ms. Fitzgerald stated she filed the complaint with the EEOO on February 26, 2018 and sixty days passed without a response. She did not know how Mr. Brown would have been informed of her complaint with DFEH before she informed them last week. She is unclear why the county has not done anything. In addition, if she dropped her complaint with the state, the county would not even know she had filed a complaint with the state had she not brought it to their attention last week. Her concern is the accountability in the county for not conducting the investigation within sixty days.

Vice President Agbalog asked Mr. Brown if the state notified his office of their intent to conduct an investigation. Mr. Brown stated yes, they did, but he did not have the date in front of him. He noted that Civil Service Rule 1800 includes two separate investigation types; the first is the informal investigation with a 30-day period. If the EEOO is unable to resolve the complaint through that informal process, they begin the formal investigation process, which is 45 days in length. After that process, the investigation is finalized with findings of fact and recommendations made. The parties are then notified and they have 20 days to review and accept findings and recommendations. Mr. Brown stated it is not clear where the 60 days, referred to by Ms. Fitzgerald, are mentioned.

Commissioner Rose stated it was not clear to her how the county would know about the state investigation if Ms. Fitzgerald notified HRD only last week. She asked Ms. Fitzgerald if could check on the status of the state investigation online and Ms. Fitzgerald stated she was not aware that option was available.

President Price asked Ms. Fitzgerald for the date she originally filed a complaint with HRD and Ms. Fitzgerald stated it was February 26, 2018. President Price stated an informal investigation

should have taken 30 business days, and if not resolved, then the 45-day formal process should have started. The informal investigation should have been completed in the middle of April. Mr. Brown stated that Ms. Fitzgerald notified HRD that she had filed a complaint and that was the information they took and chose to close out the CS Rule 1800 complaint.

President Price stated that Ms. Fitzgerald was saying she notified HRD only last week; the informal investigation should have been completed sometime in April. It appears it was never done and asked Mr. Brown if that was correct. Mr. Brown stated that was correct, HRD has not yet responded to the parties related to the informal investigation, but noted that HRD is at the mercy of all the parties in receiving the information requested prior to making the findings of facts. Ms. Fitzgerald asked him to clarify who that would be and Mr. Brown explained it would be herself, the department, and anyone else HRD needed to provide information regarding the allegations in the complaint.

Vice President Agbalog stated that since this item was not on the agenda, he would refer to HRD staff to report at the next regular scheduled meeting with clarification as to the process. He would also like to see a timeline as to February 26, 2018, when Ms. Fitzgerald filed the complaint, and see the timeliness of response mapped out, when the department was notified of the state complaint, and where did the EEOO leave off in the process at that time.

President Price asked Ms. Fitzgerald if she was asking the county to complete the investigation. Ms. Fitzgerald would like the county to complete the investigation and she would like clarification in the difference between filing a verbal or written complaint because she complained verbally to the department back in May of 2017 on several occasions.

Vice President Agbalog amended his referral to include clarification if filing the complaint has to be submitted in writing or verbally. President Price explained that CS Rule 1800 states that the complaint is to be submitted in writing. Vice President Agbalog addressed Commission Legal Counsel Brian Van Wyk and stated that often times, folks appeal before the Commission and request certain things, and he asked what is at the discretion of the Commission. He would like to see some options for the next time the Commission meets.

Commissioner Burrow seconded Vice President Agbalog's motion to refer to staff to report at the next meeting. Approved – all ayes.

President Price stated there would be a report at the next meeting and let Ms. Fitzgerald know she was welcome to attend.

***CONSENT AGENDA**

***2. Approval of Minutes**

Regular Meeting on April 9, 2018; NO PUBLIC COMMENT; **APPROVED**; *Ro/Bu – all ayes*

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

- 7205) Program support Supervisor – Department Promotional – Aging & Adult Services - Bilingual
- 7206) Probation Division Director – Department Promotional – Probation
- 7207) Occupational therapist – Public Health
- 7208) Aircraft Pilot
- 7209) Office Services Specialist – Countywide Promotional
- 7210) Administrative Services Officer – Countywide Promotional
- 7211) Building Services Worker I/II – Shift
- 7212) Energy Coordinator
- 7213) Sheriff's Dispatcher I – Shift
- 7214) Child Support Officer IV
- 7215) Retirement Services Technician – Department Promotional – KCERA
- 7216) Retirement Services Manager – Department Promotional – KCERA
- 7217) AG Biologist/Weights and Measures Technician
- 7218) Clinical Supervisor – Behavioral Health
- 7219) Youth Prevention Specialist I/II
- 7220) Building Plans Technician
- 7221) Senior Office Services Specialist – Department Promotional – Planning and Natural Resources
- 7222) Housing Programs Manager – Department Promotional – Planning and Natural Resources
- 7223) Sheriff's Detentions Senior Deputy – Department Promotional – Sheriff
- 7224) Environmental Health Specialist – In Training
- 7225) Legal Secretary
- 7226) Maintenance Worker II
- 7227) Retirement Services Representative
- 7228) Retirement Services Specialist
- 7229) Sheriff's Detentions Sergeant – Department Promotional
- 7230) Patients' Rights Advocate – Shift – Bilingual
- 7231) Public Health Nurse III – Department Promotional – Public Health
- 7232) Air Quality Support Specialist
- 7233) Code Compliance Officer
- 7234) Supervising Road Maintenance Worker II – Department Promotional – Public Works Department
- 7235) Sheriff's Dispatch Assistant – Shift
- 7236) Fiscal support Supervisor – Department Promotional – Probation
- 7237) Senior Child Support Customer Service Representative
- 7238) Utility Worker

4. **Abolish Eligible List(s)**; Abolishment of the following eligible list(s) is recommended by the Chief Human Resources Officer and by the affected Department Head; **APPROVED**; *Ro/Ag – all ayes*

- Behavioral Health Unit Supervisor I/II, Exam No. 6641

Devin Brown, Chief Human Resources Officer, provided a brief overview. No Public Comment

5. **New Specification(s):** The following job specification(s) have been created and approved by the Chief Human Resources Officer and are submitted for the Commission's review in accordance with Civil Service Rule 204.21. **REVIEWED, RECEIVED, AND FILED;** *Ro/Bu – all ayes*

a) Public Health Laboratory Assistant III, Items No. 1712 and No. 1711

Devin Brown, Chief Human Resources Officer, provided a brief overview. No Public Comment.

6. **Revised Specification(s):** The following job specification(s) have been revised and approved by the Chief Human Resources Officer and are submitted for the Commission's review in accordance with Civil Service Rule 204.21; **REVIEWED, RECEIVED, AND FILED;** *Ro/Ag – all ayes*

a) Facilities and Services Manager, Formerly Human Services Facilities Manager, Item No. 0844

b) Behavioral Health Unit Supervisor I/II, Items No. 3704 and No. 3703

c) Assessment Technician, Item No. 4084

Devin Brown, Chief Human Resources Officer, provided a brief overview. No Public Comment.

7. **Proposed Establishment of 12-Month Probationary Period for Management and Mid-Management Classifications;** **APPROVED;** *Ag/Bu – all ayes*

Devin Brown, Chief Human Resources Officer, provided a brief overview. No Public Comment.

8. Second Reading of Amendment to Rule 700 of the Civil Service Commission; **WAIVED READING; APPROVED;** *Ro/Bu – all ayes*

Devin Brown, Chief Human Resources Officer, provided a brief overview. No Public Comment

9. Second Reading of Amendment to Rule 900 of the Civil Service Commission; **WAIVED READING; APPROVED;** *Ag/Ro – all ayes*

Devin Brown, Chief Human Resources Officer, provided a brief overview. No Public Comment

10. **Commission Secretary Monthly Report**

Mrs. Murbach provided a brief report about inquiries received in the Commission Office from County employees during the past month.

She also reported about her visit to the Kern County Animal Services Department where she met with Director, Nick Cullen. She learned that the department has a great group of volunteers who spend many hours caring for the animals on a daily basis. Mr. Cullen had also expressed his wish for some sort of career path where extra-help employees might eventually transition into permanent positions. Mrs. Murbach discussed the Merit System with Mr. Cullen and suggested he contact his HRD Talent Recruiter to review the classification specification requirements.

Commissioner Rose stated she had visited the Animal Services Department and she was aware that the employees do work in a different sort of environment. The volunteers are there all the time. She asked Mr. Brown if there was a pathway to assist the department.

Mr. Brown explained that HRD works with the County Departments to revise the testing/examination components of each classification when necessary within the rules.

President Price referred the Commission Secretary to reach out to Mr. Cullen and ask him to contact HRD.

11. Human Resources Division Items/Report:

Mr. Brown reported that on May 3, 2018, the California Employer Advisory Council (CEAC) awarded the California Veterans Employer of the Year award to Kern County. The CEAC is a division of the California Employment Development Department. Staff from HRD and Kern County Veterans Service Department Director, Dick Taylor, were present to receive the award. A presentation to the Board of Supervisors will take place on May 22, 2018.

Mr. Brown will meet with the County Counsel's office to discuss the County's sexual harassment and hostile work environment policies.

12. Commission Member Presentations or Announcements:

None

13. Adjourn to Closed Session: at 6:31 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)

14. PUBLIC EMPLOYMENT– Discipline/Dismissal/Release

Office Services Assistant (Child Support) – Case No. 2018-0003; **REQUEST DENIED**; *Ag/Ro*
– 3 ayes/1 no (*Bu*)

15. President Price adjourned the meeting at 6:39 p.m. to the next Regular Meeting to be held on Monday June 11, 2018 at 5:30 p.m.