

SUMMARY OF PROCEEDINGS

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

Regular Meeting

Monday, March 14, 2016

5:30pm

PRESENT: Commissioners Agbalog, Burrow, Price, and Prince

ABSENT: President Rose

OTHERS: Bryan Alba, Devin Brown, Nancy Lawson, Bob Lerude, Maria Murbach, Mark Nations, Renita Nunn, Keri Pharris, Debbie Rodriguez, Robb Seibly, and others

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

COMMISSIONER ACTION IS SHOWN IN CAPS AFTER EACH ITEM

Vice President Burrow called the meeting to order at 5:30 p.m.

Vice President Burrow announced a request had been made for item 09 to be heard immediately after item 05.

PUBLIC SESSION

1. Public Presentations

NONE

*2. Approval of Minutes

Regular meeting, February 8, 2016 and Special meeting, February 29, 2016. **APPROVED;**
Pr/Ag – 4 ayes/1 ab

*3. Examination Schedule: The following examinations have been scheduled in accordance with Civil Service Rules and established procedures. **APPROVED** *Pr/Ag – 4 ayes/1 ab*

- 6609) Wildland Fire Defense Planner
- 6610) Fiscal Support Supervisor-DP-Assessor/Recorder
- 6611) Veterinarian-Animal Services
- 6612) Office Services Coordinator-DP-ETR
- 6613) Engineer I
- 6616) Clinical Supervisor-Option II-Out Patient Services-Corrections-DP-KM
- 6617) Child Support Attorney I/II/III/IV/V
- 6618) Cook III-Taft-PT
- 6619) Senior Nutrition Site Coordinator-Bilingual-PT
- 6620) Senior Nutrition Site Coordinator-Shafter-PT
- 6621) Maintenance Carpenter
- 6622) Emergency Medical Services Coordinator
- 6623) Sheriff's Senior Support Specialist

- 6624) Information Systems Specialist I-Desktop Technician-Assessor-Recorder
- 6625) Traffic Signal Technician I/II
- 6626) Librarian I – Tehachapi
- 6627) Anesthesia Technician I/II-Shift
- 6628) Clinical Director-Shift-DP-KMC
- 6629) DNA Technical Lead Criminalist-DP-District Attorney
- 6630) Planner I
- 6631) Substance Abuse Specialist II-Shift
- 6632) Office Services Technician-DP-Airports
- 6633) Fiscal Support Supervisor-DP-Public Works
- 6634) Accountant III
- 6635) Social Service Worker I/II-DHS
- 6636) Senior Home Delivery Driver-PT-Taft
- 6637) Behavioral Health & Recovery System Administrator-DP-Mental Health
- 6638) Deputy Director of Mental Health Services-Clinical Services-DP-Mental Health
- 6639) Marketing and Promotions Coordinator
- 6640) Mental Health Planning Analyst
- 6641) Mental Health Unit Supervisor I/II
- 6642) Billing Office Specialist III-DP-Mental Health
- 6643) Mental Health Recovery Specialist I/II/III-Shift
- 6644) Office Services Coordinator-DP-Mental Health
- 6645) Help Desk Technician II
- 6646) Local Area Network Systems Administrator
- 6647) Technology Services Supervisor
- 6648) Legal Secretary-District Attorney
- 6649) Coordinator of Administrative & Legislative Analysis
- 6650) Senior Nutrition Site Coordinator-Shafter-Part-Time
- 6651) Group Counselor I/II-DHS-Shift
- 6652) Investigative Aide
- 6653) Officer Services Technician-Shift-Rosamond

*4. **New Specification(s):** The following job specification(s) have been created and approved by the Employee Relations Officer and are submitted for the Commission's review in accordance with Civil Service Rule 204.21. **REVIEWED, RECEIVED, AND FILED** *Pr/Ag – 4 ayes/1 ab*

- a) Cardiovascular Interventional Technologist, Item No. 7378
- b) Assistant Director of Planning and Natural Resources, Item No. 1974

5. **Revised Specification(s):** The following job specification(s) have been revised and approved by the Employee Relations Officer and are submitted for the Commission's review in accordance with Civil Service Rule 204.21. **REVIEWED, RECEIVED, AND FILED** *Ag/Pri – 4 ayes/1 ab*

- a) Agricultural Field and Equipment Specialist, Item No. 3950

Devin Brown, Employee Relations Officer, provided a brief overview and reported that the proposed revisions were presented to the affected employee organization, SEIU, for their

review and comment but HRD did not receive a response or objection in the 30 days allowed. No public comment.

- 6. Reclassification(s):** The following job reclassification recommendations are based upon analysis conducted by the Human Resources Division in accordance with Civil Service Rules and established procedures. **ITEM CONTINUED TO APRIL 11, 2016** Pri/Pr – 4 ayes/1ab

a) Schedule 4110 - One Health Educator – Public Health Services Department

RECLASSIFY

3400	1	Health Educator	R. 57.5	3826-4671
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TO

NO CHANGE

Devin Brown, Employee Relations Officer, informed the Commission that this request was submitted by Public Health employee, Nsele Nsuangani, for a reclassification review for his position as a Health Educator. Human Resources Division (HRD) staff conducted a desk audit and reviewed the work of the employee to determine whether or not he was performing the work of the current position or if the job duties had changed and no longer fit the current job specifications. During the desk audit, the Public Services Department lost a grant, due to Mr. Nsuangani's failure to submit timely, which funded a number of his tasks. The lack of this grant funding precipitated his reassignment from Environmental Health Services to Public Health Services and new job duties. During this time period, the department requested to delay the desk audit so that the new duties could be reevaluated by HRD. Upon completion of the desk audit and thorough review of all the documents provided by Mr. Nsuangani and the Public Health Services Department, it was determined that Mr. Nsuangani was performing within the scope of the duties of his current classification of Health Educator. HRD recommends no change and that he remain in his position as a Health Educator with the Public Health Services Department.

Mr. Nsuangani provided the Commission with a binder of information with examples of completed tasks he felt were outside the scope of his current classification of Health Educator. He informed the Commission that even though his job duties have now changed, he would like to be compensated for all the work he completed since 2010.

Commissioner Price asked HRD Senior Analyst, Debbie Rodriguez, if any of the duties performed previously qualified for a different job classification other than the current one, had the desk audit delay due to the reassignment not occurred. Ms. Rodriguez answered no. She explained that Mr. Nsuangani's job duties were expanded when his position was transferred to the Environmental Health Division, but they are the same job duties. He is doing community service under the tobacco grant and the same type of community surveys. The only difference under the retailer's permit is that a notice of violation is issued. However, that notice is issued by Mr. Constantine or his designee which would be Ms. Brynn Carrigan, the Deputy Director for the Department, not the employee. Mr. Nsuangani is required to prepare reports with

regard to the tobacco permitting side, which is the side he maintains he is doing higher level duties, and those reports are submitted to Mr. Constantine and utilized at the violation appeal hearing if necessary. The reports that he prepares under the tobacco grant are a higher level because he is reporting back to the State that they are working within the guidelines of that tobacco grant. However, everything is reviewed by his supervisor. He is supervised by a Senior Health Educator and the Department Director.

Commissioner Price asked if there are any other Health Educators in the department and if their work is consistent with what the employee is doing currently. Ms. Rodriguez answered yes, and they also perform community surveys and education under their different grants.

Vice President Burrow asked Mr. Nsuangani the size of the tobacco grant he was working with previously and if he was responsible for the loss of that grant. Mr. Nsuangani answered the grant was \$150,000 and he submitted the grant one hour late. Yes, it was his responsibility. Commissioner Burrow asked him if Mr. Constantine agreed he had been working out of class and Mr. Nsuangani said yes and explained that it was discussed at a meeting which Ms. Carrigan also attended and asked her to speak on the matter.

Brynn Carrigan, Public Health Department Deputy Director, informed the Commission that she had been in the presence of Mr. Nsuangani and Mr. Constantine. She explained that Mr. Constantine asked Mr. Nsuangani to submit some job descriptions that he felt were more closely related to what he was performing. Mr. Constantine did not indicate that he thought Mr. Nsuangani was working out of class.

Vice President Burrow asked if there is anything in writing showing Mr. Constantine indicated that there is a need for Mr. Nsuangani to be reclassified. Ms. Carrigan answered no. Vice President Burrow asked Mr. Nsuangani if he has applied for any of the other positions and Mr. Nsuangani answered no because he has not had the opportunity.

Commissioner Agbalog asked Mr. Nsuangani how far back he is seeking for this reclassification review. Mr. Nsuangani answered he wants it to go back to 2010.

Commissioner Prince asked Ms. Rodriguez, if Mr. Nsuangani asked for a reclassification to his duties since 2010, why did the review only cover the previous 6 months. Ms. Rodriguez explained that the process begins when HRD receives a position description questionnaire, through the department head or the employee. In this case, it was Mr. Nsuangani who requested it. The departments are instructed that if the job duties have dramatically changed to a higher level in scope of responsibility than the current classification, the individual should be performing them for at least six months before the review and that the responsibilities are going to continue on a permanent basis. In Mr. Nsuangani's case, he was in transition when she went out to review his job duties. She was not aware, until she sat with him, that he was claiming his request went back to 2010. In looking at his position description questionnaire, HRD also looks at the essential duties, job tasks, frequency of the task, and the percentage of time the task is performed. The frequency of the task should be daily, weekly, and the percentage of time should be at least 40% to 50%. Mr. Nsuangani's questionnaire notes the tasks are performed annually or 1%. The highest is job duty # 5, which is 15% annually and

that is not even 50% of his annual time. It is less than 10%. In looking at his position description questionnaire there is no need for a reclassification.

Commissioner Prince asked Ms. Rodriguez if she sat with the employee to discuss the frequency of his job duties. Ms. Rodriguez said she did and she ensured that they were correct and he stated that he completed these tasks from September to December yearly.

Commissioner Price asked Ms. Rodriguez how long an employee has to wait before the desk audit takes place. Ms. Rodriguez explained that general practice is six months. She was not aware Mr. Nsuangani had requested the review on June 17, 2013 until he handed her a copy of the memo in October 2015.

Vice President Burrow asked Mr. Nsuangani for highlights of specific job duties that he thinks are in a different classification or which duties are beyond those of a Health Educator. Mr. Nsuangani explained that enforcement is the duty that does not belong to a Health Educator and he was doing enforcement prior to 2015. He continues to do it but has been instructed to submit all his paperwork and reports to Ms. Carrigan's office, which will then follow up with the enforcement part of it by issuing all of the violation notices or suspensions if there are any. This is all based on the spreadsheets he prepares and his name is no longer on those letters. Vice President Burrow asked Mr. Nsuangani if the Public Specialist Position includes the enforcement piece and asked if he is currently working in the capacity of a Health Educator. Mr. Nsuangani answered yes it does. He explained that since he had not finished the enforcements he was working on prior to the end of 2015. He was asked to continue to do them until they are completed and is hoping to finish by the end of March.

Commissioner Prince asked Mr. Nsuangani why he was asked to return to the Public Department as a Health Educator in October. Mr. Nsuangani did not know and Ms. Carrigan informed the Commission that Mr. Nsuangani was responsible for two grants that the department received. These included the scope of work to get all the incorporated cities within the County of Kern to adopt a similar ordinance that the County had implemented, which provided the ability to suspend and add administrative penalties on facilities that demonstrated a willingness to sell tobacco products to youth. He was responsible for going out to all the tobacco retail facilities and perform that survey. He would return with that data and they would compile it and use the data for Mr. Constantine and Ms. Carrigan to implement some sort of penalty for the facility. Mr. Constantine and Ms. Carrigan also presented the data to other city councils to show them the results within their jurisdiction. It was used to convince them to adopt a similar ordinance. When Mr. Nsuangani failed to submit the grant on time, they lost half of the funding towards the grant piece that gets the other incorporated cities to adopt similar ordinances. The one remaining grant was transferred to Public Health and they had Mr. Nsuangani work with the other community wellness programs because the scope of work for a different grant aligned with the new scope of work for the tobacco grant. It was to implement policy throughout the county for second hand smoke and smoking in the parks. That was the impetus for moving Mr. Nsuangani back to Public Health. Commissioner Prince asked if the grant had been renewed, would he still have been performing those same duties. Ms. Carrigan explained that she did not know since they had already talked about moving the program in this direction. She began working with Mr. Nsuangani very closely the previous

year on this program and she had started to take over some of the administrative duties from Mr. Constantine. It would have transitioned this fiscal year.

Commissioner Agbalog stated he had heard sufficient information and moved to support the department's recommendation on this reclassification of no change. He stated that it is concerning this is the second case before the Commission where employees have requested a reclassification study and by the time the study is completed, it looks like some of the job duties they have been doing have been pulled back. He would like to see a timeline when a request comes in for a reclassification, with a reasonable amount of time to have that reclassification completed so employees are not showing up several months after the fact and making an argument that job duties have been pulled. He asked if there is some sort of mechanism that recognizes employees are working out of their classification and if they are compensated for it or if the position should be reclassified if the duties have changed to a much lower level.

Mr. Brown agreed that these reclassification reviews need to be completed more timely and HRD has endeavored to do that in the most recent past. He apologized for the delay, but it is important to get all the information right. There are provisions where if an employee is temporarily working out of class for a period of 30 days they get compensated at the higher rate. Usually those are in place intentionally by the department to cover someone who is out on a leave of absence. HRD does reclassify employees who are working at a lower level or if their duties have changed to a lower level of salary. Commissioner Agbalog moved to accept HRD's recommendation for this reclassification of no change. There was no second and Vice President Burrow surrendered the gavel and seconded the motion. *Ag/Br – 2 ayes/2 nays/1 ab*

Since this resulted in a tie vote, Commissioner Price moved to continue this item to the next meeting to speak with Mr. Constantine. He would like to ask why it takes two years to request a desk audit and get a decision. Vice President Burrow asked all the affected parties to attend the next meeting and directed the Commission Secretary to request Matt Constantine's presence. Item continued to April 11, 2015. *Pri/Pr – 4 ayes/1 ab*

Commissioner Prince thanked Ms. Rodriguez and asked for clarification on the desk audit. If the employee indicates he has been performing the job duties for a longer period of time, why is it that they only audit the past six months? Ms. Rodriguez informed the Commission that in this particular case, she did review all the way back to 2010. However, prior to the desk audit, HRD asks that the employee perform the tasks for at least six months and that those tasks will continue and become a permanent addition to the position.

Mr. Brown addressed Commissioner Price's request in his motion, and explained that he cannot answer why an email request was sent in 2013 and was not responded to by the Personnel Department. The person it was sent to is no longer part of the Human Resources Division. Typically that type of request is handed off to the Senior Analyst and that did not seem to have happened. No Public Comment.

- 7. Proposed Amendments to Civil Service Rule 1735:** Second reading - Approve Proposed Amendments. **APPROVED** *Ag/Pri – 4 ayes/1 ab*

Mark Nations, Assistant County Counsel, reported SEIU agreed with the changes and provided a brief overview of the revisions to the proposed amendments to Civil Service Rule 1735.

8. **Proposed Rules and Standards for Civil Service Commission Hearings: Second Reading** - Approve and Authorize Dissemination to All Parties with Scheduled Hearing Dates. **APPROVED** Ag/Pr – 4 ayes/1 ab

Mark Nations, Deputy County Counsel, provided a brief overview of the updates to the Proposed Rules and Standards for Civil Service Commission Hearings. Commissioner Prince thanked Mr. Nations for his presentation and work on the revisions.

9. **Budget:** update and general discussion about formulation of Civil Service Commission Budget. **Format B APPROVED** Pri/Pr 4 ayes/1 ab

Nancy Lawson, Assistant County Administrative Officer, addressed the Commission and reported on the alternatives for presenting a budget for the Civil Service Commission. She prepared budget samples and explained the following:

- Draft A – This budget sample is the HRD recommended budget that was presented this current year from the CAO's Office.
- Draft B – This budget sample keeps the CSC as a component of the HRD. All the yellow highlighted areas show how it would be presented in the formal recommended budget book. It adds a level of organizational chart for the Civil Service Commission and the Secretary associated to that component and some description as part of the major services under the HRD in addition to addressing the split out of the dollars and identifying those in the major expenditures and revenue for the year. All the samples do not include exact numbers and offer a picture of what it would look like.
- Draft C – This is a completely separate budget unit that specifically addresses the Civil Service Commission and it is a separate budget unit from the HRD.

Ms. Lawson explained that a separate budget unit would require separate administration and as Counsel indicated the Commission would need to have an approved budget and the Board of Supervisors (BOS) needs to approve that in the formal process so either of these scenarios would work.

Commissioner Price asked for clarification, if option B or C would meet the requirements. Mark Nations, Assistant County Counsel, answered yes.

Commissioner Prince asked where draft B shows the expense, the amount paid out to the Commission members for the Commission meetings. Ms. Lawson explained that assuming that the Commission budget is a component of the HRD, draft B is combined within the total dollars but it is broken down in the narrative.

Vice President Burrow stated that it seems that the format in draft B has the most visibility and transparency without taking it to a separate budget unit. The narrative would include more details about fees and expenses than the charts in the sample show and asked if the budget

would include a chart specifically for the Civil Service Commission. Ms. Lawson explained that, by law, these have to be combined for the BOS to approve if the Commission is a component of the HRD budget unit.

Commissioner Price asked about the possibility of the need to hire a hearing officer in the future. Mr. Brown confirmed that a hearing officer had been hired on two previous occasions. It was fairly expensive and the prior director submitted a request for additional funding, so there was a transfer of funds to cover that expense. It was not absorbed by the actual budget allocated by the BOS, and it was a budgetary adjustment that was made for that cost.

Commissioner Prince asked Ms. Lawson if there are any pros or cons in regards to both scenarios. Ms. Lawson explained that there is a formal process of which the Commission will receive on their agenda. It has to meet the timeline to have something brought to the Commission and it has to be supplied to her office where they will incorporate it into the approval process of the full recommendation. It is the same for either scenario. When there is a separate budget unit there are more administrative and budgetary duties.

Vice President Burrow thanked Ms. Lawson. Commissioner Price clarified that the Commission is not approving a specific budget, only approving the format in which the budget will be presented and made the motion to approve format B.

10. **Human Resources Division Items/Report:** Employee Relations Officer to present to the Commission and to the public, information, announcements, and items pertaining to the Human Resources Division that are pertinent to Commission business.

Devin Brown, Employee Relations Officer, addressed the Commission and thanked Mr. Nations for his work on the Rule 1735 revisions. They are very thorough and well needed. He also informed the Commission that he has enjoyed working with Commission Secretary, Ms. Murbach, the last couple of months and she is doing a good and thorough job. Mr. Goulart has also enjoyed working with her and they have all communicated well.

Updates for HRD – Mr. Brown reported the Lean Six Sigma project continues and it is now entering the last few stages of review. The requisition has been cut down to, at the very most, one day to complete all the steps necessary in requesting a recruitment to open and a list to be certified. The results reporting from the department has been pushed out to all the departments and they are getting familiar with NeoGov. They are entering that information directly into the system and they are either certifying more names based on those results or closing out the requisition based on a hiring decision. This cuts 6 to 7 days off the time on average spent on those two areas. They are also greatly improving the time it takes from the examination closing to creating a list. It takes very few days to promulgate an eligible list and to certify a list and it is a fast improvement. Staff is dedicated to making sure they are doing the right process. They have new staff coming onboard and they are being trained in that process as well. The activity has been tremendous and probably 90% of the recruitment staff is now trained to certify a list. They have done some online testing with a product called Biddle and have been successful with it. They are utilizing the test room with the computers connected to the internet to have the tests conducted on those computers and integrated directly into NeoGov with the test scores. They are also installing Wi-Fi in the testing room.

Through the Google project, they have 50 notebooks that have access to Wi-Fi internet. They are also looking at the option of testing outside the department so that it can be done at home or at a library. All of these things are planned in the future and most staff feels the changes are successful. Mr. Brown appreciates the support the Commission gives to the HRD.

Commissioner Prince thanked Mr. Brown for his report. The progress HRD is making is interesting. He asked how the off-site testing verification process works with verifying the identity of the person taking the test.

Mr. Brown agreed that is a first concern to make certain the person who signed up for the test is actually the person taking the examination. There will be other components to the examination process that will make up the total score and they will work with Biddle to develop that aspect.

11. **Commission Member Presentations or Announcements:** On their own initiative, Commission members may make a brief announcement or a brief report on their own activities.

Commissioner Price shared that he, Vice President Burrow, and Ms. Murbach, visited the Parks & Recreation Department and met with Mr. Bob Lerude. Their visit was very informative and he thanked Mr. Lerude for his gracious hospitality.

Vice President Burrow reported that, after meeting with Mr. Lerude, he, Commissioner Price, and Ms. Murbach, visited the Sheriff's Office and toured the Norris Rd. campus. These visits are the Commission's efforts to understand and help as much as possible in this capacity. After going through some of the Sheriff's items, there were a couple of things that the Commission Secretary followed up on. No public comment.

12. **Adjourn to Closed Session:** The Commission will adjourn to closed session to consider the appointment, employment, evaluation of performance, discipline, or dismissal of public employees or to hear complaints or charges brought against employees by another person or employee. If an employee chooses to have his or her matter heard in public session, it will be heard at this time, prior to adjournment to closed session.

CLOSED SESSION (Government Code § 54957)

13. PUBLIC EMPLOYMENT – Personal Necessity Leave
Park Ranger II (Parks) - Case 2016-0002; **DENIED WITHOUT PREJUDICE** Ag/Pri – 4 ayes/1 ab
14. Vice President Burrow adjourned the meeting at 7:02 p.m. to reconvene at the next Regular Meeting to be held on Monday, April 11, 2016 at 5:30 p.m.