

SUMMARY OF PROCEEDINGS

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

Regular Meeting
Monday, March 9, 2020
5:30 p.m.

PRESENT: Commissioners Agbalog, Holt, Price, and Rose

ABSENT: Commissioner Burrow

OTHERS: Bryan Alba, Michael Goulart, Maria Murbach, Keri Pharris, Mary Stewart, Brian Van Wyk, Brenda Villanueva, 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 Agbalog called the meeting to order at 5:30 p.m.

PUBLIC SESSION

1. **Public Presentations**

Veronica Vasquez, employee at the Department of Human Services, addressed the Commission and stated that she was a County employee, Local SEIU 521 Union President for the Kern County chapter, and also a shop steward. Ms. Vasquez’s account was as follows: she stated that she was recently retaliated against due to her union affiliation when she was on three months off on loss time. During that time, she was informed that her position would be put opened up. She asked if it would be permanent or temporary, and she found out it would be permanent. Then she found out a new role was created just for her, to get rid of her, when she returned on March 5, and she spoke with some of her peers. When she returned to her Child Protective Services (CPS) Staff Development Unit, she asked her peers if they had heard about this new role, that you can only be in that unit for three years, and not one person had a clue what she was talking about. A new employee had just been hired and she asked that person if during their interview process it had been mentioned to them and that person did not know what she was talking about.

Ms. Vasquez explained that since she had been gone for so long, it took a while for her to upload her computer. However, once her computer uploaded, it showed where she was being transferred and she showed her co-workers and they were in disbelief because they had not believed her. The only difference between her and her peers is that she is active in the union. She explained that the role has been created simply for her and what concerns her is that the person that she filed the Civil Service Rule 1800 complaint against is Shannon Ashburn. It is not the first, second, or third time that a complaint has been filed against her for people that have been active in the union. Her concern is why she is still allowed to treat the union members this way. Ms. Vasquez stated that she would remain optimistic that this governing body would help and take care of this situation. She stated that she had been with DHS for 13

years and she was a team player and asked the Commission to please take a look at this situation.

Commissioner Rose thanked Ms. Vasquez for attending and asked her to please explain what Loss Time meant. Ms. Vasquez stated that she was the first person in Kern County to do it, it meant, doing work with the union and the Department allowed her to do it. The union compensates the County for it. There is loss time and release time. The loss time is asked for 50 plus days in advance, release time does not need to be requested for that many days in advance notice. Loss time can be for longer absences and release time can be for shorter times such as meetings for half an hour or an hour, and the County either agrees to it or denies it.

Commissioner Rose asked Commission staff if it was possible to obtain a list of the terms to explain the difference between loss and release times.

Commissioner Rose asked if there was a commonality of practice throughout the departments for these release time usage. Ms. Vasquez stated it would be Kern County employees Local 521 non-safety employees. Commissioner Rose asked Ms. Vasquez how long she has been gone. Ms. Vasquez stated she was gone for three months and that is when she was notified that her position would be opened so that someone would be hired. It made sense if that person would be filling her position temporarily while she was gone but then she found out it would be permanent.

Commissioner Rose stated she would also like language on how a position like that is flown when there is someone in a position working under a contract of having loss time or release time.

Commissioner Price asked Ms. Vasquez if the "rule change" she referred to was a Civil Service Commission rule change or a rule change in the department. Ms. Vasquez explained it was a change within the department, involving, Devin Brown, Eric Nesbitt, and Arthur Valdivia. She stated that she had filed the complaint today and gave a list of witnesses. She did not file in December because she had wanted to speak with her peers and had wanted to wait and see if the change would be a universal change and how they would inform her peers.

***CONSENT AGENDA**

***2. Approval of Minutes**

Regular Meeting on February 10, 2020; NO PUBLIC COMMENT; **APPROVED**; Ro/Ho – 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/Ho – 4 ayes/1 ab (Bu)

7832) Aircraft Mechanic

7833) Building Services Worker III

7834) Supervising Appraiser-DP-Assessor

7835) Fiscal Support Specialist-DP-Assessor/Recorder

- 7836) Engineering Technician I
- 7837) Public Works Program Manager-DP
- 7838) Code Compliance Supervisor-DP
- 7840) Social Service Worker I
- 7841) Cook I-Ridgecrest
- 7842) Social Service Worker I-Bilingual-Department of Human Services
- 7843) Systems Analyst II-Department of Human Services
- 7844) Contracts Administrator
- 7845) Behavioral Health Program Supervisor
- 7846) Facilities and Services Manager
- 7847) Local Area Network Systems Administrator
- 7848) Billing Office Specialist II

4. **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**

- a) Technical Support Engineer I/II, Items No. 2440 and 2441; *Ho/Pri – 3 ayes/1 no (Ro)/1 ab (Bu)*

Keri Pharris, Deputy Chief Human Resources Officer, provided a brief overview.

Jim Starr, County employee, addressed the Commission and stated that this was a great change. He informed the Commission that this was pulled from their agenda one month ago. However, due to a clerical error, it appeared on the Board of Supervisors agenda in February, to be effective February 15th, and was not pulled from the Board of Supervisors' (BOS) agenda so it got voted on and approved, from that point on it was never rescinded. His only concern is that members believe this should be retroactive. If the Board approves it tomorrow it would be effective as of March 14th, but he believed that it should be approved as of February 15th. He stated he would also speak to the Board tomorrow.

Commissioner Rose asked what he meant by retroactive. Mr. Starr stated that it should go back to the original vote and the employees should get their pay back to February 15th. Commissioner Rose asked him to clarify, so, it got pulled from the Commission's agenda but not from the Board's agenda, and Mr. Starr stated that was correct.

Brian Van Wyk, Commission's Legal Counsel, stated this was not on Commission's agenda for a retroactive action. So if approved based on staff's recommendation, the approval for the Commission would take effect today and the approval for the Board would take effect tomorrow.

Commissioner Rose stated she was confused. She asked about the employees who assumed they were getting the retroactive pay from February 15th.

Ms. Pharris introduced Brenda Villanueva, HR, who informed the Commission the item had originally been approved by the Board of Supervisors effective February 15th, but that HR had indeed attempted to pull that item from the BOS agenda, but were unable to do so due

to a clerical error. They were taking the request to the BOS to modify the effective date as of March 14th. SEIU Local 521 Union had asked them to pull the specifications from the Commission agenda so that they could vote on the proposed changes. On February 26th, the Union notified them the members had approved those changes and so these are the changes that are occurring. Devin brown, Chief Human Resources Officer, notified Arthur Valdivia, SEIU representative that the item did not get pulled from the BOS agenda and as the union members approved, the effective date would be modified to March 14th.

Commissioner Rose asked if Mr. Valdivia was present. Ms. Villanueva stated he was not, but informed the Commission that Mr. Brown notified him of the error. Commissioner Rose asked how many people did this affect and Ms. Villanueva stated it involved 12 or 13 employees. Mr. Starr stated that the Board had every opportunity to rescind and they did not. His only concern was that there were many members asking why this cannot stand.

Commissioner Rose asked for a salary value on this matter. Keri Pharris stated she did not have the salary difference it would be to the change in the effective date at this time. She informed the Commission that the office was prepared to have the item in the agenda last month. However, at the request of SEIU they pulled it from the Commission's agenda to allow the membership to vote. She could not speak as to what happened with the Board's agenda but the matter that will be presented at the Board tomorrow will be to make the changes effective March 14th and that is with the knowledge of SEIU.

Commissioner Price asked Mr. Van Wyk, if the item goes into effect after the Board votes on it, or when the Commission votes on it. Mr. Van Wyk stated it would go into effect when approved by the Commission and the BOS. He explained, with this item, based on staff's recommendation to your Commission, and based on the proposed action by the BOS tomorrow, if the BOS takes that action, it would take effect based on tomorrow's Board action.

Vice President Holt motioned to receive and file, Commissioner Price seconded the motion.

- b) Technical Support Specialist I/II/III, Items No. 2450, 2449, and 2448; *Pri/Ro – 4 ayes/1 ab(Bu)*

Keri Pharris, Deputy Chief Human Resources Officer, provided a brief overview.

Jim Starr addressed the Commission and stated that his previous comments were actually more directed toward this classification. He apologized and stated he thought the Commission would be voting for both items at once and stated he is a Technical Support Specialist III. .

Commissioner Holt motioned to receive and file, motion died for lack of second.

Commissioner Rose stated that the decent thing would be to pay the employees. She understood that a mistake had been made and the item had not been pulled from the BOS agenda but the thing to do was to honor the people who work with us. She feels badly for

each employee who is not getting the money for that particular amount of time. She cannot vote for something that is going to take money away from County employees.

Commissioner Price echoed what Commissioner Rose stated. He would like to see the burden not be on the employees.

President Agbalog asked Mr. Van Wyk what was at the Commission's discretion. Mr. Van Wyk stated that another Commissioner could make a different motion, for example, if someone wished to make the motion to take this action retroactively that would be an option, it would still be subject to approval at the Board of Supervisor's level.

Commissioner Rose stated she would feel better as a Commissioner to be allowed to do that and then it would go to the BOS.

Motion by Commissioner Rose to approve retroactively to February, Commissioner Price seconded the motion.

Keri Pharris addressed the Commission, to make sure they understood that the reason why this item was pulled from the Commission's agenda was at the request of SEIU who represents these employees. They wished to conduct a vote prior to giving their approval for these job specification changes. That vote passed and their membership did not object to those changes. Mr. Brown will be at the Board meeting tomorrow. Her concern is because there is no controversy about the content of the specifications, if they are not approved tonight, then that delays the changes for these employees until your Commission is able to meet again. She cannot speak to the error that occurred between the HR office and when these items were placed on the BOS agenda, but she can let the Commission know, also based on the comments made by Mr. Starr, there is no controversy about the content on the job specification themselves.

Commissioner Rose stated that no one wants to halt this any longer and she does not want to add anymore burden to these employees, but because of the error, they feel they are entitled to that pay. She does not want to approve them not to get paid.

Ms. Pharris explained that the matter before the Commission tonight is really related to the job specifications themselves and deferred to Commission's legal counsel as it relates to the compensation and BOS matter tomorrow.

President Agbalog stated there was a motion on floor and asked Commissioner Rose if she would like to withdraw the motion. Commissioner Rose stated absolutely, she did not want to cause any more trouble.

Commissioner Price asked if the Commission approved this retroactively to February 15th and the BOS disagreed and wanted to approve the March 14th date, would that need to come back to the Commission again next month. Mr. Van Wyk explained no, the BOS would be able to approve tomorrow. They would also be able not take action and keep their February action in place.

Vice President Holt asked Mr. Starr if his comments tonight were made as a rank and file worker or on behalf of SEIU. Mr. Starr stated they were made as a rank and file worker.

Vice President Holt asked Ms. Villanueva if she would speak more about what Mr. Valdivia knew about this matter. Ms. Villanueva stated that Mr. Valdivia was notified by Mr. Brown that the item was not pulled from the BOS agenda. The members were voting on a salary increase, Mr. Brown notified Mr. Valdivia that once the members approved the salary increase and the specifications, he would bring it back with a modified effective date. Vice President Holt asked if SEIU made any comment about the retroactive date and Ms. Villanueva stated not at that time.

President Agbalog asked Mr. Van Wyk the process for withdrawing a motion. Mr. Van Wyk stated the moving Commissioner may withdraw their motion.

Commissioner Rose withdrew her motion. Commissioner Price withdrew his second.

President Agbalog announced the floor was open and he would consider a motion.

Commissioner Price thanked Mr. Starr for attending this evening's meeting.

Commissioner Price Made a motion to accept receive and file with a caveat, to send a note asking the BOS to consider a retroactive action back to February 15th, and the mistake that was not the part of the employees. Commissioner Rose and Vice President Holt seconded the motion.

5. **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/Ho – 4 ayes/1 ab (Bu)*

- Investigative Technician I/II, Items No. 4444 and 4443

Keri Pharris, Deputy Chief Human Resources Officer, provided a brief overview.

6. **Civil Service Commission Informational Pamphlet:** Civil Service Secretary to report on development of informational pamphlet for employees.

Maria Murbach, Commission Secretary, provided a brief overview of Information Pamphlet Draft.

7. **Civil Service Rule 1800 Update**

Brian Van Wyk, Deputy County Counsel, reported that rule 1800 investigations were current and up to date except for one complicated investigation that has been ongoing and is with outside counsel.

Commissioner Price asked what the timeline was with that case. Mr. Van Wyk explained, without discussing details of the investigation, that there have been issues and if the Commission would like, a status conference could be set at next month's meeting. Commissioner Price stated he would like to ask the President to set it for a status update at the next meeting.

President Agbalog asked if the Commission would hold a special meeting in a couple of weeks for a status update on this matter. All agreed to do so rather than waiting for another month.

8. Commission Secretary Monthly Report

Commission Secretary, Mrs. Murbach, reported since the last meeting, she was joined by Vice President Holt and SEIU representative Arthur Valdivia for a visit and tour of the Child Support Services Department. Elizabeth Chavez, Department Director, graciously took time off her busy schedule and she demonstrated the building's new safety alert system. Mrs. Murbach thanked the department for their hard work with the call center and all the services they provide to Kern County citizens.

9. Human Resources Division Items/Report:

Keri Pharris, Deputy Chief Human Resources Officer, with the coronavirus becoming so prominent, HR is currently working on notification to countywide employees and department heads to develop a strategy plan for Kern County

10. Commission Member Presentations or Announcements:

Commissioner Holt thanked Ms. Chavez and the Department of Child Support Services for their hard work. He stated he enjoyed his visit.

11. Adjourn to Closed Session: at 6:21 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)

12. PUBLIC EMPLOYMENT – Discipline/Dismissal/Release

Deputy Sheriff (Sheriff's Office) – Case No. 2019-0013; **CONTINUED TO THE NEXT REGULAR MEETING ON APRIL 13, 2020**

13. PUBLIC EMPLOYMENT – Discipline/Dismissal/Release

Deputy Sheriff (Sheriff's Office) – Case No. 2020-0105; **HEARING DATES SET TO June 1, 2, 3, and 4, 2020**

14. Reconvened from Closed Session. President Agbalog adjourned the meeting at 6:43 p.m. to Regular Meeting to be held on Monday, April 13, 2020 at 5:30 p.m.