

SUMMARY OF PROCEEDINGS

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

Regular Meeting
Monday, September 12, 2022
5:30 p.m.

PRESENT: Commissioners Oliver, Price, and Rose

ABSENT: Commissioners Agbalog and Holt

OTHERS: Devin Brown, Maria Murbach, Keri Pharris, Kimberlyn Stillwell, Brian Van Wyk, Kate Zimmermann, and others.

NOTE: Ag, Ho, Ol, Pri, and Ro are abbreviations for Commissioners Agbalog, Holt, Oliver, Price, and Rose. For example, Ho/Pri denotes Commissioner Holt 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

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

PUBLIC SESSION

1. **Public Presentations**
None

PUBLIC REQUESTS

2. Request of Ryan Makaiwi to address the Commission regarding Recruitment for the position of Firefighter Recruit, Exam No. 8333.

Ryan Makaiwi stated that he was wrongfully disqualified from the recruitment background process for the position of Firefighter Recruit for the Kern County Fire Department (KCFD). He applied and tested for the position last year and ranked 75 out of several hundred and started the background process in June of this year. After submitting all required documents, he had his first background interview. All went well and was told near the end of the interview that he had passed. Two weeks later, he was called back for a second background interview, and he could tell that the atmosphere was more hostile than the first one. He was questioned about numerous things that had not been brought up during the first interview, but the main focus was on accusations of a co-worker and former significant other. He explained that the accusations had no truth to them, and his employer had conducted an investigation but had found nothing to support any of her accusations and neither were reprimanded in any way. He provided his personnel file to the Commission to show nothing was ever written on the record about the situation. He explained that if they had found any truth to her claims it would have been noted in his file and he would no longer be an employee there. He also included an email from her where she stated that she would contact KCFD to be “petty” and tell them about his drama. He did not bring this up during his first background interview because it had been months since he had contact with her, he did not believe she would continue to spread these false allegations, and he did not think it was relevant to the job he was applying for. He stated that the unfounded allegations of someone who had directly stated she was being “petty” should not have any bearing on his ability to be hired with KCFD and asked that the decision be reversed, and his employment be reconsidered as he had nothing to disqualify him, and he had worked years to prepare for this. Mr. Makaiwi thanked the Commission.

Commissioner Rose asked Mr. Makaiwi for clarification on what he would like the Commission to do. Mr. Makaiwi stated he would like to be reconsidered for hiring with KCFD because he was disqualified for an unfounded accusation. Commissioner Rose explained that the Commission did not know what types of accusations were made as the Commission did not have any documentation and could not go any further. Mr. Makaiwi explained that he had told the background investigator he would like to appeal their decision and he was told to appear before the Commission and that is why he was here this evening.

Commissioner Price stated that part of the challenge was that the KCFD stated that they were unable to disclose the specific information which led to this conclusion. He stated the Commission did not have any data which showed why their decision was made and asked how Mr. Makaiwi arrived at the conclusion that it was due to the accusations made by his ex. Mr. Makaiwi stated that it was based on the second interview. There were only two parties that were aware of this accusation, one was his company and this particular person so by process of elimination and the fact that the only way that any of this would have been able to be found is that this particular person had stated she would contact KCFD just to be petty. He stated he had included the email as proof and was here to stand up to defend his name because he thought it was wrong. Commissioner Price explained that even if he believed Mr. Makaiwi, the Commission has specific Civil Service Rules to follow and there are things that are appealable to the Commission. He explained that the Commission does not typically get involved background checks because there are many things that people are disqualified for and there could be multiple reasons and he asked Mr. Van Wyk to comment.

Bryan Van Wyk, Deputy County Counsel, stated this was general something that would not be appealed by the Commission, in some cases where exercising review over the departmental process, if your Commission has some particular concern with the departmental process, you might review that, but in general, no.

Commissioner Price asked what it would like if the Commission wanted to review that, because he had a concern if someone was accused of something, if there was no due process, no way for them to get clean once an accusation was made. He stated he would like to see that not being used by people in a petty way.

Mr. Van Wyk explained that in the past, where you have had application denials from departments and your Commission had a particular concern in what happened in that case, you have set the matter for consideration to review the department's process and make a determination if you thought that they did things correctly in that process. Price asked if there was anyone present from the department.

Mr. Brown informed the Commission that Mr. Makaiwi did apply for the recruitment process and was on the eligible list for potential appointment and has been certified to the department for consideration. That was what generally started the background process. At this point, the department had not requested to inactivate or remove his name from the eligible list pursuant to CS Rule 500. That is typically when an issue like this is adjudicated if a department is requesting to remove a name from an eligible list. they have not done that; they might do that. Otherwise, a department might choose to pass over his name for appointment which happens to many other candidates for a variety of reasons whether it is for a background check or not. his name at this point is still on the eligible list and still eligible for appointment if the department considered him and wanted to hire him for the particular position.

Kate Zimmermann, Deputy County Counsel on behalf of KCFD, stated that this was not an appealable issue per the CS Rules and not something the Commission should be involved in at this level. Across the County, there are a wide variety number of candidates who are disqualified or rejected in background for any number of reasons, and she would suggest that the Commission would spend most of its time reviewing backgrounds if they were called on to do so for everybody who was disqualified. Secondly,

he has not been removed from the list. He did not provide the information to the background investigators initially. In doing so, he prevented any factual determination to be made. Essentially, he made the decision unilaterally to hold information that may have been dispositive, depending on what those answers are from the background investigators, based on that alone, is sufficient to fail through background. He is now asking the Commission to come in on the backside and do a factual determination based on papers he handed in and said here is what is going on. At the end of the day, his own statement to the Commission proves his own unsuitability. If the entire ability of the Commission is restricted to only determining did the Fire Department act appropriately, she suggested they did, when the candidate himself provided information to the Commission that on its face would be sufficient to kick him out of background, that should be the end of the discussion. She asked the Commission to either decline to deal with this or deal with this on a very cursory matter because of the admission he failed to give this to the background investigators who were in the best position to do the investigation and determine truly what the facts were.

Commissioner Price stated he agreed he did not want the Commission to hear every single background check that has failed. He disagreed on omitting material facts. There was not always a reason to suspect someone would make spurious accusations. He could see her point and does not want to get into a position where the Commission reviewed all failed backgrounds, there were a variety of reasons for those and that was why it was left up to the departments. He also wanted to look at what do they do for an applicant if someone does make an accusation about them.

Commissioner Rose stated to Mr. Makaiwi that the Commission did not have the information and Commission's Counsel did clarify that did was not appealable to the Commission. She asked him if he had given this information to the background investigators. This was not under the Commission's jurisdiction.

Mr. Makaiwi stated that he was never given an opportunity to defend himself. He was treated with hostility as if he was guilty. He was here because the background investigator told him to appear before commission. Oliver asked him if he provided the paperwork to the background and Mr. Makaiwi stated that was not even asked of him and had they done their proper research they could have acquired them from his employer.

Commissioner Price stated he was concerned about the process, but the challenge was that there was no decision to appeal yet, if the department removed his name from the eligible list, then at that point he could appeal that decision. This was outside of the Commission's purview and thanked Mr. Makaiwi for appearing. Commissioner Rose agreed this was outside the Commission's purview.

Vice President Oliver stated that the Commission had to follow the CS Rules and Mr. Makaiwi was still on the eligibility list and until he was removed then there was nothing to appeal and thanked him.

***CONSENT AGENDA**

***3. Approval of Minutes**

Regular Meeting on July 11, 2022; NO PUBLIC COMMENT; **APPROVED**; *Ro/Pri – 3 ayes/2 ab (Ag/Ho)*

***4. Examination Schedule:** The following examinations have been scheduled in accordance with Civil Service Rules and established procedures; NO PUBLIC COMMENT; **APPROVED**; *Ro/Pri – 3 ayes/2 ab (Ag/Ho)*

- 8616) Animal Care Worker-Shift
- 8620) Public Works Maintenance Technician I/II
- 8621) Social Service Supervisor I-Mojave-DP-DHS

- 8622) Coordinator of Administrative & Legislative Analysis
- 8623) Supervising Appraiser-Department Promotional
- 8624) Auditor-Appraiser
- 8625) Office Services Assistant
- 8626) Agricultural Biologist/Weights & Measures Inspector I
- 8627) Human Services Program Director-DP-DHS
- 8628) Firefighter-DP
- 8629) Sheriff Records Unit Supervisor
- 8630) Librarian III-DP-Shift-Library
- 8631) Assistant Chief Information Technology Officer
- 8632) Social Service Worker I-Bilingual-Aging and Adult Services
- 8634) Staff Development Specialist
- 8635) Senior Groundskeeper-DP
- 8636) Program Coordinator-DP
- 8637) Supervising Staff Development Specialist
- 8638) Office Services Technician-Bilingual-Shafter
- 8639) Deputy Fire Chief-DP-Fire
- 8640) Fire Division Chief-DP-Fire
- 8641) Human Services Technician I
- 8642) Fiscal Support Supervisor-DP-Fire
- 8643) Airport Police Officer I/II Shift
- 8644) Legal Process Technician I/II
- 8645) Fiscal Support Specialist-Bilingual
- 8646) Technology Services Manager-DP-Probation
- 8647) Departmental Analyst I/II
- 8648) Supervising Therapist
- 8649) Paralegal
- 8650) Deputy Clerk of the Board II
- 8651) Environmental Health Technician I-DP-Public Health
- 8652) Heavy Equipment Mechanic
- 8653) Technical Support Specialist I/II
- 8654) Social Service Worker III-Aging and Adult
- 8655) Supervising Legal Process Technician
- 8656) Elections Process Clerk I/II/III
- 8657) Marketing and Promotions Associate II-DP-Library
- 8658) Real Property Agent III
- 8659) Sheriff's Senior Dispatcher-DP-Sheriff
- 8660) Job Developer I/II-Bilingual
- 8661) Office Services Technician-Mojave
- 8662) Office Services Technician-Lake Isabella
- 8663) Senior Groundskeeper
- 8664) Administrative Coordinator-DP-General Services
- 8665) Behavioral Health Recovery Specialist I/II

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**

- a) Victim Witness Program Supervisor, Item No. 0874; *Pri/Ro – 3 ayes/2 ab (Ag/Ho)*
Devin Brown, Chief Human Resources Officer, provided a summary.
Commissioner Rose stated that she was glad this classification was being created and

thanked Mr. Brown for his presentation. No public comment.

- b) KCERA Communications Manager and KCERA Senior Communications Manager, Item No. 0778 and 0777; *Pri/Ro – 3 ayes/2 ab (Ag/Ho)*
Keri Pharris, Deputy Chief Human Resources Officer, provided a summary. 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**

- a) Victim Witness Program Supervisor, Item No. 0874; *Pri/Ro - 3 ayes/2 ab (Ag/Ho)*
Kimberlyn Stillwell, Deputy Chief Human Resources Officer, provided a summary. No public comment.
- b) KCERA Communications Manager and KCERA Senior Communications Manager, Item No. 0778 and 0777; *Ro/Pri - 3 ayes/2 ab (Ag/Ho)*
Mr. Brown provided a summary. No public comment.
- c) Information Technology Services Manager and Deputy Chief Information Technology Officer Item No. 0480 and 0479; *Ro/Pri - 3 ayes/2 ab (Ag/Ho)*
Michelle Venegas, Human Resources Analyst, provided a summary. No public comment.

7. First Reading of Amendment to Rule 400 of the Civil Service Commission; **WAIVED READING; APPROVED and ADOPTED; Pri/Ro – 4 ayes/2 ab (Ag/Ho)**
Commissioner Price provided a summary. No public comment.

8. **Civil Service Rule 1800 Update:**

Brian Van Wyk, Deputy County Counsel, reported that there was one open investigation which has been delayed, and the Commission knows about, everything else is within its timelines.

9. **Civil Service Rules Revisions Update:**

Maria Murbach, Commission Secretary, reported that Commission legal counsel continued his research for CS Rule 200, staff was working on proposed revisions for CS Rule 500, and hoped to present drafts at a future meeting.

10. **Commission Secretary Monthly Report:**

Maria Murbach, Commission Secretary, announced that this would be her last Commission meeting as she was resigning her position effective September 23, 2022.

Commissioners Rose, Oliver, and Price thanked her.

11. **Human Resources Division Items/Report:**

Mr. Brown thanked Mrs. Murbach assisting the HRD with items prior to appearing before the Commission stating it had been a pleasure working with her.

Mr. Brown reported the HRD was busy preparing for the upcoming Kern County Career Expo at the 1115 Truxtun location on September 17, 2022, from 9 a.m. to 1 p.m. Staff was looking forward to the event as all of the County departments will participate and bring all of their open positions to offer and discuss with candidates who are interested in County careers. Something different this year will be that they are looking to use this event to interview and fill vacancies with temporary staff and launch that with more permanent roles. They are preparing rooms in the HR office area that will be used for that purpose. There

will be informational sessions set up to assist attendees with their resumes and help them with interviewing techniques. All were invited to attend and there were many vacancies throughout the County that they were hoping to fill.

12. Commission Member Presentations or Announcements:

None

Adjourn to Closed Session: at 6:14 p.m., the Commission adjourned to closed session to consider the appointment, employment, evaluation of performance, discipline, or dismissal of employees or to hear complaints or charges brought against employees by another person or employee.

CLOSED SESSION (Government Code § 54957)

13. Public Employee Appointment/Recruitment – Title: Civil Service Commission Secretary.
(Government Code § 54957(b)); **NO REPORTABLE ACTION.**

14. Vice President Oliver adjourned the meeting at 6:45 p.m. to the next Regular Meeting to be held on Monday, October 10, 2022, at 5:30 p.m.